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# **CRISIS IN DE OPCW**

## DE VERWIJDERING VAN DIRECTEUR-GENERAAL BUSTANI

PENN – NL Facts and Reports Nr. 6

Mei 2002

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Werkgroep Eurobom

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PENN-Nederland

CRISIS IN HET OPCW

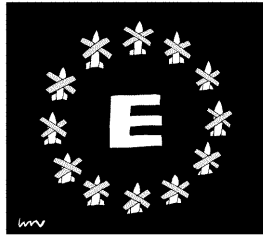
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- \* officiële discussies over de toekomst van kernwapens in Europa nauwgezet te volgen en deze te verhelderen;
- \* analyses van en commentaren op deze ontwikkelingen te publiceren;
- \* verdere maatregelen voor kernontwapening in Europa en substantiële Europese bijdragen aan kernwapenbeheersing, ontwapening en non-proliferatie te stimuleren;
- \* te ijveren voor de volledige naleving van het Non-Proliferatieverdrag door de NAVO, de Europese Unie, en haar leden;
- \* politieke belemmeringen op te werpen tegen ontwikkelingen die zouden kunnen leiden tot een Europese Unie met kernwapens;
- \* te bevorderen dat de Europese Unie en al haar leden uiteindelijk niet-nucleaire leden van het NPV worden.

Deze publikatie is mogelijk gemaakt door de W. Alton Jones Foundation

Working Group Eurobomb/PENN NL  
Obrechtstraat 43  
3572 EC UTRECHT  
THE NETHERLANDS  
TEL (+31) (0)30 271 4376  
(+31) (0)30 272 2594  
FAX (+31) (0)30 271 4759  
e-mail: k.koster@inter.nl.net  
logo: Len Munnik



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**FACTS AND REPORTS**

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## INLEIDING

Het chemisch wapenverdrag werd de afgelopen jaren in politiek Den Haag graag aangehaald als een voorbeeld van het succes van de nieuwe multilaterale orde, waarin de internationale veiligheid wordt gegarandeerd door een stelsel van verdragen. Het hoofdkantoor van OPCW, de organisatie voor het de controle op de naleving van het chemisch wapenverdrag is immers al een paar jaar in die stad gevestigd. De waarde van het verdrag is echter de afgelopen maanden sterk aangetast door een conflict over de positie van directeur-generaal Bustani, de Braziliaan die de jonge organisatie als eerste heeft geleid. Een klein half jaar geleden ontstond er een controverse rondom zijn persoon, voornamelijk omdat de Amerikaanse regering zijn rol als directeur ter discussie stelde. Dit conflict, dat eind april jl. uitmondde in het ontslag van directeur Bustani op een speciaal daarvoor georganiseerde conferentie, heeft als gevolg dat de OPCW naarstig op zoek is naar een plaatsvervanger. Zoals blijkt uit de door ons bijeengebrachte stukken zal dat niet meevallen, aangezien door de Amerikaanse regering om zijn doel te bereiken zware diplomatieke druk achter de schermen uitoefende. De redenen daarvoor zijn onduidelijk: er zijn suggesties gedaan dat directeur Bustani, tot het ongenoegen van de Amerikaanse regering, te veel toenadering tot Irak had gezocht om dat land bij het verdrag te betrekken. Andere bronnen spreken van wanbeleid door een zeer impopulaire directeur, die geen behoefte had aan overleg met de belangrijkste deelnemende landen.

Volgens sommigen werd bedreigd met drastische verminderingen in de Amerikaanse bijdrage aan de begroting van de organisatie als Bustani aan zou blijven. Dit zou de toch al bestaande financiële crisis van de OPCW organisatie nog verder hebben verslechterd. Als de verwijten van eenzijdig optreden door de VS waar blijken te zijn, dan kan dat niet anders betekenen dan dat er wederom een multilateraal verdrag is gesneuveld omwille van de eisen van de Amerikaanse buitenlandse politiek. Zo een stap, het is bekend, past in een zo langzamerhand lange rij van unilaterale stappen door de Amerikaanse regering die systematisch het concept van internationale verdragen ten gronde richten.

Karel Koster  
Mei 2002

# THE CHEMICAL WEAPONS CONVENTION - A SYNOPSIS OF THE TEXT

(OPCW External Relations Division – Fact Sheet 2, July 2000)

The Convention itself is a complex document nearly 200 pages long. It consists of a preamble, 24 articles, and three annexes—on Chemicals, on Implementation and Verification, and on the Protection of Confidential Information.

## The convention in brief

**The Preamble** states the intent of the States Parties to prohibit and eliminate all types of weapons of mass destruction. It recalls the 1925 Geneva Protocol (prohibiting the use of chemical and biological weapons in war) and the 1972 Biological and Toxin Weapons Convention (outlawing biological and toxin weapons and requiring their destruction), both of which are multilateral instruments pertinent to the Convention.

The Preamble also recognises the prohibition, embodied in agreements and relevant principles of international law, of the use of herbicides as a method of warfare, and expresses the desire of States Parties to enhance their economic and technological development for peaceful purposes.

## The articles

**Article I (General Obligations)** prohibits the development, production, acquisition, retention, stockpiling, transfer and use of chemical weapons. It requires each State Party to destroy chemical weapons and chemical weapons production facilities (CWPFs) under its jurisdiction or control, as well as any chemical weapons it abandoned on the territory of other States Parties. All States Parties are prohibited from engaging in military preparations to use chemical weapons, from assisting or encouraging other states to engage in activities prohibited by the CWC and from using riot control agents such as tear gas “as a method of warfare.”

**Article II (Definitions and Criteria)** defines terms critical to the CWC. “Chemical weapons,” defined in three parts, are identified first as all toxic chemicals and their precursors, except those intended for purposes allowed by the CWC. Such purposes include peaceful uses, protection against toxic chemicals, military purposes not related to the use of toxic chemicals as a method of warfare, and law enforcement. Second, the definition includes munitions and devices specially designed to release these toxic chemicals. Third, it refers to any equipment specifically designed for use with such munitions or devices.

“Toxic chemicals” are defined as chemicals which through chemical action on life processes cause death, temporary incapacitation or permanent harm to humans or animals. “Old chemical weapons” are those chemical weapons produced before 1925 or those produced between 1925 and 1946 that have deteriorated to the extent that they are unusable.

“Abandoned chemical weapons” are those left by one State Party on the territory of another State Party without its consent at any time after 1 January 1925. “Chemical weapons production facility” covers, with three exceptions, all buildings or equipment designed, constructed or used since 1 January 1946 to produce or fill chemical weapons. Riot control agents are chemicals not listed in the Convention’s Annex on Chemicals that rapidly produce in humans sensory irritation or disabling effects which disappear shortly after exposure.

Under **Article III (Declarations)** each State Party shall, not later than 30 days after the Convention enters into force for it, submit to the OPCW detailed declarations with respect to chemical weapons (including old and abandoned chemical weapons) and CWPFs, providing a general plan for their destruction. States Parties are also required to declare facilities used in the past for CW development, and chemicals held for riot control purposes.

**Article IV (Chemical Weapons)** and **Article V (Chemical Weapons Production Facilities)**, together with the Annex on Implementation and Verification (or Verification Annex), contain detailed provisions regarding the destruction of chemical weapons and CWPFs and the verification of such

destruction. Weapons and facilities must be completely destroyed within 10 years of the entry into force of the Convention, i.e. by 29 April 2007. Under extraordinary circumstances, the final deadline for the destruction of chemical weapons may be extended up to five additional years, if approved by the States Parties. In exceptional cases, CWPFs may be converted for peaceful purposes, with the approval of the OPCW. Each State Party must also pay for OPCW verification of destruction of its own chemical weapons and CWPFs.

**Article VI (Activities Not Prohibited under the Convention)**, along with the Verification Annex, describes the comprehensive regime for routine monitoring of chemical industry through declarations and on-site inspections. Due to the possible commercial application of many toxic chemicals and precursors, the CWC categorises them into three Schedules. The declaration and inspection requirements for each Schedule varies depending on the risk its chemicals pose to the object and purpose of the Convention. Inspections of facilities which produce unscheduled discrete organic chemicals began in May 2000. Declaration and inspection requirements apply to chemical industry facilities if the amounts of chemicals handled by them exceed the relevant thresholds specified in the Convention.

**Article VII (National Implementation Measures)** deals with measures and legislation that States Parties must enact in order to ensure national implementation of the CWC and the establishment or designation of National Authorities to serve as contact points for the OPCW.

**Article VIII (The Organisation)** provides for the establishment of the OPCW with its headquarters in The Hague. Each State Party is automatically a member of the OPCW and cannot be deprived of membership. The OPCW consists of three principal organs. The Conference of the States Parties is its highest decisionmaking body, with one regular session convened annually, and special sessions when necessary. The Executive Council, composed of representatives of 41 States Parties from five regional groups, supervises the activities of the Secretariat and is responsible to the Conference. The Secretariat carries out the practical work of the Organisation. The largest portion of the Secretariat's resources is devoted to verification activities. The Director-General is appointed by the Conference and is responsible to it and the Council, inter alia, for the work of the Secretariat.

**Article IX (Consultations, Cooperation and Fact-Finding)**, together with the Verification Annex, provides for short-notice challenge inspections by the OPCW upon request from a State Party of any facility or location on the territory, or anywhere under the jurisdiction, of any other State Party, to clarify and resolve questions regarding possible non-compliance. A State Party cannot refuse a challenge inspection, but may provide "managed access", using measures to protect sensitive installations and information unrelated to chemical weapons. Article IX also provides for consultation and clarification if concerns about possible non-compliance arise.

**Article X (Assistance and Protection against Chemical Weapons)** permits States Parties to conduct research into protection against chemical weapons. States Parties commit to the fullest possible exchange of equipment, material and information concerning protection. In addition, each State Party is to make resources available to the OPCW for use in assisting States Parties attacked or threatened by attack with chemical weapons. This may be done in at least one of three ways: by contributing to the Voluntary Fund for Assistance, by concluding an agreement with the OPCW concerning the procurement of assistance, or by declaring the kind of assistance it might provide. Article X mandates that the OPCW maintain a data bank of open-source information on protection against chemical weapons. Along with the Verification Annex, it also outlines the procedures for investigations of alleged use. States Parties (and only States Parties) can trigger investigations of alleged use of chemical weapons by requesting assistance under Article X, just as they can by requesting a challenge inspection under Article IX.

**Article XI (Economic and Technological Development)** encourages the fullest possible exchange of chemicals, equipment and scientific and technological information relating to the development and application of chemistry for peaceful purposes. States Parties must review their existing national regulations on trade in chemicals to ensure they are consistent with the object and purpose of the Convention.

**Article XII (Measures of Redress to Ensure Compliance, Including Sanctions)** states that the Conference may impose, in a manner consistent with information provided to it by the Executive Council, measures of redress or penalties against a State Party that fails to uphold its treaty obligations. The Conference may, upon the Council's recommendation, invoke sanctions or restrict or

suspend a State Party's rights and privileges. The Conference shall bring cases of particular gravity to the attention of the United Nations General Assembly and the Security Council.

**Article XIII (Relation to Other International Agreements)** states that the CWC does not limit or detract from any State's obligations under the 1925 Geneva Protocol or the Biological and Toxin Weapons Convention.

**Article XIV (Settlement of Disputes)** allows for the settlement of disputes concerning the application or interpretation of the CWC. When a dispute arises between States Parties, or between any State Party and the OPCW, the parties involved commit to consult together to resolve differences quickly and peacefully. The parties may enlist the aid of the Executive Council, the Conference or the International Court of Justice.

**Article XV (Amendments)** states that the articles and annexes of the Convention can be amended by an Amendment Conference. Such a conference shall be convened if at least one-third of all States Parties notify the Director-General within 30 days of a proposed amendment's circulation that they wish to give it further consideration.

**Article XVI (Duration and Withdrawal)** declares that the CWC is of unlimited duration. A State Party can withdraw from the CWC only if it decides its supreme interests have been jeopardised by extraordinary events. A withdrawing state must provide advance notice of 90 days to the OPCW, the UN Secretary-General and Security Council, explaining how the said events have jeopardised these interests.

**Article XVII (Status of the Annexes)** stipulates that the annexes are an integral part of the CWC.

**Article XVIII (Signature)** states that the CWC is open for signature before its entry into force.

**Article XIX (Ratification)** notes that signatories to the Convention shall ratify it according to their respective constitutional processes.

**Article XX (Accession)** allows States that did not sign the CWC before its entry into force to accede to it at any time thereafter.

**Article XXI (Entry into Force)** declares that the CWC will enter into force 180 days after the deposit of the 65th instrument of ratification. For States which deposit their instrument of ratification or accession after entry into force, the Convention enters into force 30 days after their instrument is deposited.

**Article XXII (Reservations)** states that the articles shall not be subject to reservations and that the annexes shall not be subject to reservations incompatible with the CWC's object and purpose.

**Article XXIII (Depositary)** designates the UN Secretary-General as the person who receives all instruments of ratification or accession.

**Article XXIV (Authentic Texts)** stipulates that the Arabic, Chinese, English, French, Russian and Spanish texts of the CWC are equally authentic.

### The annexes

The **Annex on Chemicals** contains three Schedules, or lists, of toxic chemicals and their precursors. The chemicals listed in each of the Schedules are subject to different levels of verification activity. Guidelines for amending the Schedules are also provided.

The **Annex on Implementation and Verification (the Verification Annex)** contains eleven parts pertaining to the destruction of chemical weapons and CWPFs, and verification procedures for chemical weapons, CWPFs and chemical industry facilities. It also includes measures for challenge inspections and investigations of alleged use and restrictions on trade in scheduled chemicals with States not party to the CWC.

The **Annex on Protection of Confidential Information (the Confidentiality Annex)** articulates the principles for the handling of confidential information and for the employment and conduct of OPCW staff members. It also describes procedures and measures to ensure the confidentiality of sensitive information and installations in the course of inspections and outlines procedures to be followed in the event of a breach of confidentiality.

### Signed and ratified

Albania	El Salvador	Malawi	San Marino
Algeria	Equatorial Guinea	Malaysia	Saudi Arabia
Argentina	Estonia	Maldives	Senegal
Armenia	Ethiopia	Mali	Seychelles
Australia	Fiji	Malta	Singapore
Austria	Finland	Mauritania	Slovak Republic
Azerbaijan	France	Mauritius	
Bahrain	Gabon	Mexico	South Africa
Bangladesh	Gambia	Micronesia	Spain
Belarus	Georgia	Monaco	Sri Lanka
Belgium	Germany	Mongolia	Suriname
Benin	Ghana	Morocco	Swaziland
Bolivia	Greece	Namibia	Sweden
Bosnia and Herzegovina	Guinea	Nepal	Switzerland
Brazil	Guyana	Netherlands	Tajikistan
Brunei Darussalam	Holy See	New Zealand	Tanzania
Bulgaria	Hungary	Nicaragua	Togo
Burkina Faso	Iceland	Niger	Tunisia
Burundi	India	Nigeria	Turkey
Cameroon	Indonesia	Norway	Turkmenistan
Canada	Iran	Oman	Ukraine
Chile	Ireland	Pakistan	United Arab Emirates
China	Italy	Panama	United Kingdom
Colombia	Jamaica	Papua New Guinea	United States
Cook Islands	Japan	Paraguay	Uruguay
Costa Rica	Kazakhstan	Peru	Uzbekistan
Côte d'Ivoire	Kenya	Philippines	Venezuela
Croatia	Kuwait	Poland	Viet Nam
Cuba	Lao People's Dem. Republic	Portugal	Yemen
Cyprus	Latvia	Qatar	Zambia
Czech Republic	Lesotho	Republic of Korea	Zimbabwe
Denmark	Liechtenstein	Republic of Moldova	
Dominica	Lithuania	Romania	
Ecuador	Luxembourg	Russian Federation	
		Saint Lucia	

### Acceded

Botswana	Jordan	Mozambique
Eritrea	Kiribati	Sudan
FR of Yugoslavia	Macedonia	Trinidad and Tobago

### Signed

Afghanistan	Congo	Honduras	Saint Kitts and Nevis
Bahamas	Democratic Republic of Congo	Israel	Saint Vincent and the Grenadines
Bhutan	Djibouti	Kyrgyzstan	Samoa
Cambodia	Dominican Republic	Liberia	Sierra Leone
Cape Verde	Grenada	Madagascar	Thailand
Central African Republic	Guatemala	Marshall Islands	Uganda
Chad	Guinea-Bissau	Myanmar	
Comoros	Haiti	Nauru	
		Rwanda	



## DOCUMENTEN EN ARTIKELEN

### Beantwoording Kamervragen Van Bommel (SP)

DVB/NN-487/01, 21 december 2001

Zeer geachte Voorzitter,

Graag bied ik u hierbij de antwoorden aan op de schriftelijke vragen gesteld door het lid Van Bommel over de houding van Nederland ten opzichte van de Chemische Wapens Verdragorganisatie (CWV). Deze vragen werden ingezonden op 30 november 2001 met kenmerk 2010203060.

De Minister van Buitenlandse Zaken

Antwoord van de heer Van Aartsen, Minister van Buitenlandse Zaken op vragen van het lid Van Bommel (2010203060)

Vraag 1:

Is het waar dat door een vergadertechnische verandering de OPCW<sup>1</sup> niet langer de mogelijkheid heeft zich tijdens de Algemene Vergadering (AV) van de Verenigde Naties rechtstreeks tot alle afgevaardigden te richten?<sup>2</sup>

*Antwoord:* Neen. Op 6 december jl. heeft de Directeur-Generaal van de OPCW, dhr. Bustani, de Algemene Vergadering in plenaire zitting toegesproken. Ook tijdens de 57e AVVN in 2002 zal deze mogelijkheid bestaan. Op grond van een dit jaar door de Algemene Vergadering aangenomen resolutie inzake de revitalisering van de Algemene Vergadering zal na de 57e Algemene Vergadering ondermeer het agendaonderwerp inzake het Samenwerkingakkoord tussen de VN en de OPCW tweejaarlijks worden geagendeerd. De Directeur –Generaal van de OPCW kan bij die gelegenheden de Algemene Vergadering in plenaire zitting toespreken. Aangezien het onderwerp Chemische wapens jaarlijks wordt besproken in de Eerste Commissie van de Algemene Vergadering (inzake ontwapening en internationale veiligheid), bestaat ook daar de mogelijkheid voor de Directeur-Generaal van de OPCW zich tot de afgevaardigden te richten.

Vraag 2:

Is het waar dat de OPCW in het verleden juist door rechtstreeks aan de AV te rapporteren vele landen wist te overtuigen de Chemische Wapens Conventie te tekenen en/of ratificeren?

*Antwoord:* Op 17 oktober 2000 werd de samenwerkingsovereenkomst tussen de VN en de OPCW ondertekend. Rapportage van de OPCW aan de VN onder die overeenkomst heeft voor het eerst plaatsgevonden op 6 december 2001. Op dat moment waren al 143 landen partij bij het Chemische Wapensverdrag (CW-verdrag). De grote toename in het aantal partijen bij het CW-verdrag lijkt in het verleden met name het gevolg van intensieve diplomatieke actie, waarbij de EU en Nederland een voortrekkersrol hebben gespeeld.

Vraag 3:

Is het waar dat Nederland, als gastland van de OPCW, geacht is het initiatief te nemen om deze situatie te wijzigen, indien dat gewenst is?

*Antwoord:* Het is gebruikelijk dat een gastland van een specifieke internationale organisatie in de AVVN de ontwerp-resolutie indient die zich uitspreekt over de samenwerkingsovereenkomst tussen de VN en die organisatie. Nederland heeft een dergelijke resolutie met betrekking tot de samenwerkingsovereenkomst tussen de VN en de OPCW zowel tijdens de 55e als tijdens de huidige (56e) AVVN ingediend.

Vraag 4:

Is het waar dat de OPCW van 20 lidstaten de toezegging heeft gekregen dat ze een resolutie zullen steunen die oproept om de OPCW opnieuw de mogelijkheid te geven jaarlijks rechtstreeks aan de AV te rapporteren? Om welke reden weigert Nederland een dergelijke resolutie in te dienen?

Vraag 5:

Deelt u de mening dat deze houding de missie van de OPCW, om te komen tot een wereldwijd erkend verbod op productie, bezit en gebruik van chemische wapens en de eliminatie van alle chemische wapens, bemoeilijkt?

Vraag 6:

Bent u bereid alsnog een initiatief te nemen om ervoor te zorgen dat de OPCW zich rechtstreeks tot de AV kan richten? Zo neen, waarom niet?

*Antwoord:* Om het functioneren van de VN te stroomlijnen, zet de EU zich al jaren in voor rationalisatie van de werkzaamheden van deze organisatie. In het kader hiervan worden bijvoorbeeld resoluties over bepaalde onderwerpen niet elk jaar, maar eens in de twee of zelfs drie jaar ingediend. In september jl. nam de AVVN met consensus een resolutie aan, waarbij de samenwerkingsovereenkomsten met onder meer de OPCW, de OVSE en de Voorbereidende Commissie van de Organisatie van het Kernstopverdrag (CTBTO) na de 57e AVVN (die in september 2002 begint) elke twee jaar in de AVVN aan de orde komen.

Nederland heeft niettemin aan de OPCW medegedeeld in beginsel bereid te zijn een resolutie in te dienen die jaarlijkse rapportage wederom mogelijk zou maken. Voorwaarde daarvoor was wel dat de steun die de OPCW op dit punt waarnam bij de leden van de OPCW ook bij indiening in de AVVN gegarandeerd zou zijn, aangezien alle VN leden enkele maanden geleden de resolutie voor tweejaarlijkse behandeling nog ondersteunden. Nederland heeft hierover vervolgens in New York intensief overleg gevoerd, waaruit echter bleek dat voor een terugkeer naar een jaarlijkse resolutie niet of nauwelijks steun bestaat bij de VN delegaties. Nederland heeft daarop een resolutie ingediend die slechts het onderwerp samenwerking tussen VN en OPCW voor volgend jaar agendeert en waarin dus niet wordt ingegaan op de vraag of daarna jaarlijks dan wel tweejaarlijkse agendering dient plaats te vinden.

Wanneer deze kwestie volgend jaar wederom in de AVVN aan de orde komt, zal Nederland nagaan of de steun voor jaarlijkse behandeling alsdan zodanig is toegenomen, dat een VN-resolutie daartoe voldoende steun in de AVVN ondervindt.

<sup>1</sup> OPCW = Organisation for the Prohibition of Chemical Weapons

<sup>2</sup> Trouw, 28 november jl.

### Non-Paper United States

March 6, 2002 - Unclassified

#### PRESERVING THE CHEMICAL WEAPONS CONVENTION: THE NEED FOR A NEW OPCW DIRECTOR-GENERAL

This paper outlines many of the serious concerns that the United States has with the actions and overall management of the current Director-General of the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons (OPCW), Ambassador José Bustani, and the reasons that it believes that immediate action to replace the Director-General is essential to preserve the effectiveness of the Chemical Weapons Convention (CWC).

Despite widespread concerns over his performance since he was appointed in 1997, the United States supported the reappointment of Ambassador Bustani (May 2000), in the absence of alternative candidates or compelling evidence of mismanagement, and in the hope that his managerial performance would improve. This hope has not been realized. Since his reappointment, Ambassador Bustani's performance, and his relationship with member states, has failed to improve. In fact, it has deteriorated even further, to the point where effective implementation of the Chemical Weapons Convention - and political and financial support for the OPCW - is in jeopardy. To survive, the OPCW Technical Secretariat must have a Director-General who has the confidence of all. This will require departure of the Director-General without delay.

The United States had hoped that the change in OPCW leadership that is necessary to preserve the credibility of the CWC could be accomplished quietly, thereby avoiding confrontation and damage to

the OPCW. Now that Ambassador Bustani himself has made the issue public by circulating a paper widely among delegations, the United States' feels it an unfortunate necessity to make known to its own concerns about Ambassador Bustani's leadership.

#### United States Concerns

The most important concerns of the United States about the performance of the current Director-General fall into three general categories: 1) the polarizing and confrontational conduct of the Director-General, 2) mismanagement issues, and 3) advocacy of inappropriate roles for the OPCW.

#### Polarizing Conduct; Disdain for the Executive Council

Ambassador Bustani has failed to work constructively with the Executive Council (EC) and many member states. His conduct has seriously undermined the functioning and authority of the Executive Council. These acts have been deliberate, and have continued despite private expression of concern by OPCW members. He has also repeatedly been an advocate of a particular point of view on issues where opinions differ substantially among member states, rather than providing a balanced and professional detachment from such positions. He has humiliated OPCW delegates and antagonized senior United Nations officials through abrasive conduct. For example, Ambassador Bustani has:

- Repeatedly taken an adversarial stance to the Executive Council. As early as July 1999, Ambassador Bustani criticized the Executive Council for its "present inability to make decisions" which meant that he was "often placed in the position of having to take action without the benefit of the Council's political guidance". Despite repeated attempts to clarify the role of the Director-General, there has been no improvement.
- During and following the 2001 financial crisis, failed to keep the Executive Council informed of actions taken to stabilize OPCW finances, keep expenditures in check, improve financial controls, and otherwise demonstrate capacity to manage the budget during such times of financial stress.
- Refused to consult in capitals of key member states at the level customary for international organizations. Ambassador Bustani has also refused to meet with representatives of States Parties who did not have ambassadorial rank, including representatives of the United States.
- Regularly embarrassed the OPCW by his conduct at United Nations, such as refusing to address the First Committee unless given a place on the dais and his public dispute over this issue with the UN Legal Adviser. For example, in a statement prepared for the First Committee of the United Nations (October 26, 1999), he stated the following:  
- "... The OPCW is neither a delegate nor simply an observer to the First Committee. It is a child of the Conference of Disarmament and, as such, has a direct connection to the First Committee. Therefore, if I, as Director-General of the OPCW, make myself available to report to you on the progress made and concerns faced by the organization, it is because I believe that the relevance of our mandate to the work of the First Committee requires my presence at this August gathering. It would appear, however, that in the minds of the UN Secretariat and its legal advisers, that this is not the case. Let me assure you Mr. Chairman and distinguished delegates, that I remain ready to return to address the First Committee whenever the OPCW is accorded the recognition and the place it deserves. It would appear that for this to happen, however, there will need to be a breath of fresh air sent through the bureaucratic corridors of the United Nations Secretariat ...."
- On numerous occasions directed his staff to refuse requests for technical support from facilitators and friends of the chair.
- Ignored the Executive Council. Examples include decisions on the treatment of unscheduled salts of scheduled chemicals and the requirement to hold 30 posts vacant in 2001.
- Allied himself with specific political views held only by a minority of States Parties, polarizing the OPCW and trying to make the Technical Secretariat a political body rather than technical implementation body. This is an example of the Director-General's propensity to divide States Parties over controversial issues, rather than moving the OPCW as a whole toward consensus.
- Arbitrarily, without prior consultations with member states, reorganized the Technical Secretariat staff at a time when the impact of his arbitrary staff reshuffling unduly strained resources beyond their limit. This has further marginalized remaining competent staff members and will, by excluding them from their appropriate decision-making role, injure the overall capabilities of the Technical Secretariat and drive competent staff away from the Organization.

- In spring 2001, threatened punitively-targeted industry inspections in five States Parties that had collectively demarched him over financial and verification issues. He backed off only after strong protests. The Director-General sought to use the inspection regime that is at the very heart of the CWC for political ends, as a punitive tool to coerce member states into acceding to his demands.
- During the December 2001 session of the Executive Council, delivered a diatribe against both the Executive Council members and specific delegations over the 2002 budget. He concluded his presentation by saying, "I have to pretend we are fulfilling our duties. Please spare me further complaints."
- Contributed to gridlock in the Executive Council by introducing new issues and refusing to consult. (The United States was astonished that he would propose a resolution on the September 11 terrorist attacks without substantial coordination with the State Party that suffered those attacks.) This is one concrete example of his habit of refusing to consult regularly with Executive Council Chairmen - a key to the Executive Council becoming more effective.

#### Mismanagement Issues

The Director-General's management of the Technical Secretariat's personnel and finances has been disastrous, and the absence of real transparency on these matters has undermined the Executive Council's treaty-mandated responsibility to oversee the functioning of the Technical Secretariat. For example:

- The Organization's financial crisis in 2001 was caused primarily by the Director-General's failure to match spending to income in 2000. The multi-million euro 2000 deficit set the stage for severe cutbacks in verification activity in 2001. If this situation developed within the Technical Secretariat without the Director-General's knowledge, it demonstrates gross negligence on the part of the Director-General regarding internal controls, and the failure to move effectively to limit the damage.
- Executive Council efforts to understand and address the situation were blocked by months of obfuscation, finger-pointing, and conflicting explanations by the Director-General - none of which acknowledged this deficit spending as a core problem.
- The Director-General has repeatedly sought double-digit budget increases without adequate justification and without the political consultations that are a necessary and normal part of building support for a budget, seriously undermining the credibility of the Organization in capitals, and any ability to obtain from legislative organs the magnitude of financial support that could have been justified.
- The Director-General has transferred funds and personnel within the Organization to such an extent that the program and budget approved by member states effectively was altered substantially without their knowledge or approval.
- The OPCW's Financial Regulations provide the Director-General with more management flexibility and authority to transfer funds than almost any other international organization of comparable size - yet he has routinely rebelled against their application of those regulations, when even their flexible limits were being stretched to the limit, as "micromanagement".
- The Technical Secretariat under Ambassador Bustani's leadership has failed for the fourth year in a row to accurately estimate actual salary requirements. This underbudgeting for a fixed expense will likely lead to the near-evisceration of the industry verification regime in 2002.
- Five years after entry into force, key administrative directives on personnel and financial matters are still lacking. This has been sharply criticized by the Office of Internal Oversight in its last two annual reports without apparent effect.
- In January 2002, the Director-General fundamentally reorganized the senior management of the Technical Secretariat to strip his deputy, a highly-respected professional, of any executive authority. This arbitrary and vindictive action was taken without appropriate consultation with member states and was totally unjustified.
- Technical Secretariat morale is at an all-time low. Many of the best personnel are leaving the Organization. Staff are reassigned without any consultation and without regard for their expertise, in effect violating the provisions of the Convention.
- The Director-General's failure to follow basic procedures and due process in handling dismissals and disciplinary actions has provided grounds for numerous staff complaints - largely successful (and costly approximately 1-2 million euro) before the ILO Administrative Tribunal.

- The Director-General's mishandling of a flawed job classification exercise conducted in 1998 provided the basis for a successful ILO Administrative Tribunal appeal which will cost at least EUR 1 million per year for the foreseeable future.
- The Director-General has politicized the staff (and especially the Inspectorate) through excessive use of one-year renewal contracts handed out at the last minute.
- Blatant favoritism has been displayed with respect to which employees get the coveted "hired abroad" vs. "hired locally" benefits.

#### Advocacy of Inappropriate Roles for the OPCW

Ambassador Bustani has sought to expand the role of the OPCW beyond the core functions envisioned in the CWC. In particular, he has sought to downplay the primary objective of the CWC - to increase security against chemical weapons - and instead to substitute a vision of the CWC as a means of promoting economic development and combating terrorism. Both are worthy goals. In both cases, however, there are existing structures and institutions to pursue these objectives. It makes no sense at all to try to turn a still fledgling organization, which has a major challenge to meet its own initial mission, into a rival to existing bodies in these areas. For example, he has:

- Through his many attempts to build an overtly political role for the Technical Secretariat, Ambassador Bustani distorted what the Convention intended as the support staff for the real Policy-Making-Organs - The Executive Council and the Conference of the States Parties.
- Pressed for an OPCW standing committee to coordinate international financial assistance for Russia's CW destruction, despite donors' clear preference for using existing mechanisms that are external to the OPCW.
- Volunteered OPCW inspectors for UNSCOM or UNMOVIC tasks in Iraq over objections member states. Continues to attempt to impose the OPCW, and CWC limitations, on what is a United Nations Security Council (UNSC) matter: the mandate for WMD inspections in Iraq that flows directly from a UNSC resolution. Thus, he would supplant the UN inspection regime in Iraq and undercut the Security Council.
- Seized on September 11, 2001 terrorist attacks to promote costly initiatives - clearly outside of the Organization's primary mission - verification. For example, he proposed creation of a "credible response team" of experts and equipment (i.e. "field hospitals" as well as specialized medical staff to deal with chemical attacks") to deal with the aftermath of the terrorist attacks. Many of these proposals also had very little connection to terrorism, the genuine competencies of the OPCW staff, or the financial capabilities of an OPCW already embroiled in a financial crisis.
- Increasingly downplayed importance of OPCW's verification regime. His own statements, which once characterized verification as "the central task of the OPCW, " have increasingly portrayed verification as simply one of a number of "pillars" of the Convention. He views verification as a secondary mission for the Organization. For example, in his statement on the financial situation of the Organization of January 26, 2001, in which he announced the suspension of most inspection activity due to lack of funds, he announced his intent to continue to fund the OPCW Associate Program - at well above the budgeted level - on the grounds that "programs of this nature are the most constructive, positive, and advanced form of non-proliferation measures we can pursue." This downplaying of the OPCW's nonproliferation and verification roles found its ultimate expression in his statement to the 55th UNGA: "from an organization created to rid the world of chemical weapons, the OPCW would ultimately evolve into an organization to promote the use of chemistry to the benefit of all nations."

#### Concluding Remarks

All CWC States Parties have an important stake in the organization that implements the treaty. All must believe that the organization is serving their national interests. The day-to-day task of ensuring that this is in fact the case falls to the head of the Technical Secretariat, the Director-General. The current situation, in which many member states believe that he is failing in this regard, threatens not only to undermine the effectiveness of the OPCW, but also the financial and political support on which the continued viability of the CWC itself depends. Already, states that provide more than fifty percent of the OPCW's funding have reluctantly come to the conclusion that they can no longer work with the Director-General and have called for his replacement.

## Reactie directeur-Generaal Bustani op Non-Paper VS

### RESPONSES TO THE ALLEGATIONS AGAINST THE DIRECTOR-GENERAL OF THE OPCW

1. Having reviewed in detail the allegations brought against him by a Member State, the Director-General wishes to correct some of the information that is being circulated.
2. Unsubstantiated allegations against the Director-General compound the present shortage of funds and further weaken the Organisation at a time when it must be strengthened and put to full use to safeguard global chemical weapons disarmament and non-proliferation, and also to protect against new challenges to international security, including chemical terrorism.
3. The Director-General sees no reason to comment on those allegations which date back to before May 2000 – the date of his re-election by acclamation for a second term. He will also not comment on selective quotations from his statements. His statements are on record in their entirety and attest to his balanced and even-handed approach, as well as to his deep commitment to the preservation and strengthening of the Chemical Weapons Convention, which is at the core of his mandate. He will, however, as requested, provide substantive comments as regards all allegations brought against him.
4. In making these comments the Director-General again wishes to emphasise that it was never his preference to bring the issue, even informally, to the members of the Executive Council. His efforts to address the US concerns, brought to his attention by the US for the first time on 28 February, are on record. He reluctantly decided to inform the Chairman and Vice-Chairmen of the Council about his position on this matter, only after he was officially told by the US Alternate Representative on March 1<sup>st</sup>, speaking on instructions, that the US was launching demarches in the capitals of all the members of the Executive Council calling for his resignation. His actions are nothing more than a balanced and proportionate response to the campaign launched against him. Indeed, faced with various compilations of allegations circulated to certain Member States, these delegations themselves have turned to the Director-General for clarification.
5. In May 2000, one year before the expiration of his first term, Ambassador Bustani was re-elected by consensus for a second term of office. Such a re-election has no precedents in the history of international organisations, and testifies to member States' evaluation of the Director-General's performance in office. Just eight months ago, in May 2001 the US Permanent Representative, on behalf of the US Government, publicly thanked "the Director-General for his tireless work in promoting implementation of, and compliance with, the Convention". It is, therefore, highly surprising to refer to any "further deterioration" of the Director-General's performance either before or during the past year.
6. In fact, the Director-General considered his relationship with all Member States, in particular the major contributors, to be excellent and had no reason to think otherwise. It came as a surprise to him that the US was harbouring grievances. The Director-General had not been informed by any of the principal financial contributors, now with the exception of the United States, of any concerns with regard to the nature of his relationship with them. In fact, all major contributors, again with the exception of the US, realise the extent to which the OPCW is underbudgeted. This understanding has been reflected in their clear support for additional funding both in 2002 and 2003.
7. The United States says that it strongly supports the Chemical Weapons Convention and the worldwide ban that it embodies. The OPCW, indeed, can and must benefit from the involvement of the USA in a key leadership role. However, statements of support must be backed up by real actions. In 2001 the United States imposed on the OPCW a budget which was insufficient to fully implement the programme of work. The US also currently has arrears of EUR 1.6 million and opposes any measures needed to rectify the 2002 budget deficit against the wishes of the great majority, if not all other members of the Executive Council.
8. In spite of the Director-General's efforts to focus the work of the Council on resolving issues of substance, its work was consistently hampered by disagreements among some States Parties. Discussions on financial issues are the clearest example of this. Much of the work of the Council over the last two years has, indeed, focused on financial and budgetary issues. This was not the Director-General's choice. In fact, all these discussions could have been avoided if just a few

Member States had joined the vast majority of members of the Executive Council which supported concrete action to provide adequate funding for the OPCW. Members of the Council will recall that only the US single-handedly blocked attempts in the spring of 2001 to provide the Secretariat with at least some assurances that funding would be forthcoming which would have allowed the Director-General to restore the programme of work. Yes, these actions did draw criticism from the Director-General, who firmly believes that the OPCW must be provided with the means to implement its verification mandate. And inspections cost money.

9. While the Council was deadlocked on budgetary matters, other issues of substance could not be adequately addressed and resolved. It is a fact that the number of decisions taken by the Executive Council has dropped in the past two years compared to 1999. At the Twenty-Seventh Session of the Council only 5 decisions were taken while 27 decisions were deferred, some of which had been pending for more than a year. Attempts by many delegations to reinvigorate the work of the Council have been, and continue to be, blocked, not by the Director-General, but by a few of its own members. As a matter of fact, no Director-General could block the Council from taking any decisions it wishes to take.
10. The Director-General has visited many capitals in the last four years. He hopes to visit other capitals, including Washington. He would gladly have accepted any other invitations had they been addressed to him. Nevertheless, on all occasions of his visits abroad the Director-General benefited from meeting with those officials, with whom he would not have had an opportunity to meet in The Hague during sessions of the Conference and the Council.
11. He has never refused to meet with any Permanent Representative of any State Party who did not have ambassadorial rank, and those representatives can attest to that. In particular, he has never closed his door to the US Alternate Representative. The Director-General had excellent relationships with the Chairmen of the Executive Council from India, Republic of Korea, Mexico, and the Sudan. Moreover, they have become personal friends of the Director-General.
12. The Director-General could never have directed his staff to refuse requests for technical support from delegates. He did once object to the distribution of a document which would have withdrawn from the Secretariat its function as regards inspection planning. The objection was understood by all, the document was changed and distributed on time. The Director-General did not hide this fact, and referred to it in his statement to the Twenty-Seventh Session of the Council when he said: "Risk assessment and the methodologies for the selection of facilities for inspection are, in accordance with the Convention, the clear responsibility of the Secretariat. Attempts to regulate these issues beyond a certain degree of detail may undermine the fundamentals of the verification regime by allowing States parties to influence, and even predict, the periods when inspections might occur". No objections to this statement were made.
13. It is difficult to understand the allegation by the United States of financial mismanagement, since the chief financial and administrative officers, from the days of the Preparatory Commission in 1993 through to today, have been successive American Directors nominated by the United States Government. In successive years, OPCW accounts have been audited by auditors appointed by the States Parties. At no time have auditors reported financial mismanagement or impropriety. The latest External Auditor's Report, as approved by the Conference of the States Parties, can be found on the OPCW Web Site.
14. The Director-General is not responsible for the so-called deficit in 2000. To start with, the OPCW budget is different from the budgets of other international organisations. It includes as income funds which may or may not arrive -projections of costs for inspections which chemical weapons possessor states are obliged to reimburse to the OPCW. The 2000 deficit occurred because one Member State could not carry out chemical weapons destruction activities as planned and listed in the budget. Because destruction activities did not take place, the OPCW therefore could not be reimbursed by the State Party for the costs of inspections that consequently also did not take place. This resulted in less actual receipt of income than was projected in the approved budget. The reasons for this were explained to the satisfaction of the Conference of the States Parties in May 2001. The Conference did not hold either the Director-General, or the Secretariat, responsible for the deficit and decided to apply the surplus of 1999 against the deficit of 2000. The matter was thus closed. In addition, the preliminary closure of 2001 accounts shows that the remaining deficit of the year 2000 has been essentially covered by the payments pertaining to prior years but

received during 2001. This confirms the fact that the deficit was caused by the late payments and structural problem of Article IV and V, not by actions of the Director-General. As long as the inherent problem in the Financial Regulations is not addressed, every budget will be underbudgeted as far as income is concerned; and every year programme delivery will be negatively affected. This will continue unless the inherently deficient and unworkable regulations are corrected. This problem is not of the Director-General's making.

15. The allegation that "dramatic cutback" in inspections in 2001 was the result of the 2000 deficit cannot be substantiated. To start with, the deficit of one year has nothing to do with the budget and programme of work for the next year. The reduction of inspections in 2001 occurred because not all States Parties had paid their dues to the OPCW on time and in full.
16. The Director General cautioned on many occasions that the delayed payments of assessed contributions, and of reimbursements of costs of inspections as well as the strict application of Regulation 4.7, would adversely affect the programme delivery. The Director-General specifically mentioned in this regard that the late payments received after December 2001 could not, according to the rules, be used for the activities of 2001; they would simply go back to the Member States as surplus. The initial closure of the accounts of 2001 confirmed this grim prediction – last year the OPCW was able to spend only EUR 56 million out of accrued EUR 59.6 million and thus will return (!) 3.6 million, when received, as surplus to the Member States. These funds, if received on time, could have rescued the entire programme of work.
17. All actions of the Director-General in 2001 with regard to the budget were fully transparent, based in their entirety on decisions of the policy-making organs and fully consistent with Financial Regulations and, in particular, with Regulation 4.7 which requires expenditure to be limited by the availability of cash. The Director-General reported exhaustively to Member States every month on the status of delivery of programmes and on the insufficiency of approved resources due to non-payment by some Member States, and acted strictly in accordance with the guidance from policy-making bodies given during numerous meetings and consultations. Many Member States praised the Director-General for his complete transparency on financial matters. In addition, in its statement at the September 2001 session of the Council, the European Union stated that it "commends the Director-General on the austerity measures he has taken ... that may result in real cuts of about 5.4 million euros, which exceeds the 4.6 million euros of cuts as announced to the Conference of the States Parties".
18. The Director-General was under no formal obligation to keep 30 posts vacant in 2001. In spite of this the Director-General instituted stringent restrictions on recruitment as a result of which the number of fixed term vacant posts in the Secretariat in December 2001 reached a total of 44. However, this obligation to keep 30 posts vacant is, unfortunately, included in the 2002 budget and will have a serious impact on programme delivery.
19. Anticipated reductions in inspection activities in 2002 are the direct result of underbudgeting of the OPCW and of anticipated non-payments by some Member States. They are not the responsibility of the Director-General. In his closing remarks at the Conference in May 2001, the Director-General openly stated: "I am concerned ... because the adopted budget is again – for the third year in a row – inadequate to complete the programme of work". The ceiling for the funding authorised in the 2002 budget was arbitrarily determined by one Member State. No clarification was given to justify the amount proposed. Other members of the Council were simply advised to "take it as a cold fact". 2002 funding was, accordingly not based on cost projections for the programme of work for that year. It was determined on the basis of the "acceptable level of increase" for one Member State. The great majority of Member States were at that time calling for a larger increase in the budget. 2002 salary costs were accurately estimated by the Secretariat, but assumptions used to calculate these costs were subsequently altered at the insistence of a few States Parties bent on reducing the budget at all costs.
20. Simple fairness dictates an unequivocal conclusion: verification cutbacks are no fault of the Director-General. They are the result of the chronic underfunding of the OPCW in the past three years.
21. It is surprising that the Director-General is being accused of double-digit budget requests. By now every Member State has realised that these requests are the inevitable result of successive underfunded budgets of the Organisation at a time when its fixed costs and its workload are



increasing. These increases are beyond the control of the Director-General and of Member States. All members of the Council are aware of the reasons for such double-digit requests and are working to solve this problem. Every activity has a pricetag and there is nothing the Director-General can do to get a discount.

22. All budgetary transfers in the OPCW are carried out in accordance with the Financial Regulations and are reported. The auditors have not made any complaints regarding the way in which transfers were managed. In times of financial strain and insufficient budgets transfers became inevitable but were always done strictly according to the rules. Transfers were the only instrument for the Director-General to maximise programme delivery and achieved their objective. He used this instrument on the advice of the Deputy Director-General and of the Director of Administration.
23. The absence of administrative directives in place upon entry into force and delays in developing them after 1997 have always been a major concern of the Director-General and he has himself expended considerable effort in having them drafted and enforced. He was pleased to note that the Office of Internal Oversight reported to the Director-General in February 2002 that, as of 31 December 2001, 91% of all its recommendations issued between 1998 – 2000 were fully implemented. It said that “the total rate of implementation of the OIO’s recommendations substantially increased during the year 2001”.
24. The Director-General of the OPCW has one Chief of cabinet and three assistants. There is nothing unusual about this. Respectful of the principle of equitable geographical distribution, the Director-General, himself from GRULAC, has appointed staff in his office from each of the other four regional groups – Asia (Pakistan), Africa (Zimbabwe), Eastern Europe (Russian Federation), and WEOG (Canada). None of these “assistants” has any power to overrule the Deputy Director-General or Directors.
25. The allegation that the Director-General has marginalised his senior staff and his Deputy is not sustainable. The Director-General’s trust in his Directors, including the former Director of Verification Mr Ron Manley, is known to all. Those who visited the OPCW’s Ron Manley Library can attest to that. If he could not rely on the expertise and advice of his Directors, he would not have extended their contracts. All policy decisions have always been and are taken in the presence of Directors and with their consent at the Management Board meetings and at regular meetings of individual Directors with the Director-General. The Deputy Director-General is present at all such meetings and participates actively in all decision-making. This has been the procedure since 1997, and it has never changed.
26. Furthermore, the previous organisational chart of the Secretariat erroneously showed four of the nine Divisions reporting to the Director-General without the involvement of the Deputy Director-General. The chart created the wrong impression that the Deputy was not involved in the work of these four divisions at all. The new chart corrects this incorrect perception. It also reflects the actual practice which has been in use since 1997, whereby the Deputy Director-General has always been involved in monitoring the work of all nine divisions.
27. The Deputy Director-General is directly in charge of a considerable number of key functional areas of the Secretariat. He is chairman of the Committee on Contracts and of the Investment Committee, which supervise all financial operations of the Secretariat. He chairs the Information Systems Committee that charts IS strategy and monitors its implementation. He is the chairman of the Contracts Renewal Board which has key responsibility over the management of human resources, and of the Provident Fund Management Board. His signature and approval are mandatory on key verification documents – including the inspection plans. Finally, at the personal request of the Director-General, the Deputy Director-General (in addition to his normal duties) agreed to oversee the entire process of preparations for the First CWC Review Conference – the most politically significant event in the history of the OPCW since the entry into force of the Convention in 1997.
28. All staff matters have been and are handled in accordance with the Staff Regulations. Reports of the Office of Internal Oversight attest to that. The Director-General supports the interests of the Organisation’s staff. He withstood considerable external pressure in 2001 to get rid of staff in an arbitrary manner, which would have been damaging to the operational needs of the OPCW and would have been in violation of the Staff Regulations.

29. Nothing in the Convention regulates reassignment of staff. When authorised posts cannot be filled, and when the Secretariat is consequently understaffed, reassignments become inevitable to ensure the functioning of the Secretariat. All staff who were reassigned were consulted and their permission was obtained. And most reassignments were needed to make it possible for inspections to be adequately prepared.
30. The Director-General has, in accordance with the recommendations of the Office of Internal Oversight, duly allocated the budget function to the Budget and Finance Branch. This measure was, in fact, long overdue because the budget preparation was, since the Preparatory Commission, left with a staff member with absolutely no qualification or professional expertise in the field. The budget was being wrongly prepared outside the control of the Administration Division, let alone the Budget and Finance Branch. The staff member in question was offered to take up the functions of the Secretary to the Review Conference Working Group but declined.
31. The Director-General also allocated the Health and Safety Branch and the Office of Confidentiality and Security to the Division of Special Projects which until then existed only on paper. This allowed both him and the Deputy Director-General to focus more on managing the Secretariat, not its individual units. No personnel resources were reshuffled in the process.
32. The first classification exercise was commissioned and funded by Member States, not by the Director-General. All funding authorised was used for the purposes of the study. The study was conducted by an independent consultant in accordance with the ISCS classification standards. The Director-General was not informed about the recommendations of the consultant until the study was completed. As expected, the study recommended upgrading of a number of posts. This was the natural consequence of an arbitrary decision taken during the Preparatory Commission to downgrade posts by one grade compared with organisations in the UN system. When the Conference decided to prevent the Director-General from implementing the study, it was clear that the ILO lawsuit by staff would succeed. The Director-General warned Member States of this possibility, but he was left with no choice pursuant to the Conference decision.
33. Contract renewals are the responsibility of the Contract Renewal Board. The Director-General follows the recommendations of the board, and so far has disagreed only in very exceptional cases, when he believed that performance of staff members was underrated, not overrated. The Contract Renewal Board is chaired by the Deputy Director-General. The Chairman of the Staff Council is a member. The Director of the Division is always present when contract extensions for staff in his Division are being discussed. Any one-year renewal of contract is recommended by the Board on the basis of performance of a staff member, not by the Director-General.
34. Responsibility for GS contracts has always rested with the Director of Administration and with the Deputy Director-General. The Director-General is responsible for contracts of staff in professional and higher categories.
35. Proportionate to the size of the Organisation, it is a wonder that in 4.5 years of the Organisation's existence only 14 cases have been taken to the ILO Tribunal. Four of these cases are yet to be heard by the ILO Tribunal. By comparison, over the same period, the WHO had 68 cases heard by the Tribunal. 16 judgements were passed on cases brought by UNIDO in the last 3 years.
36. Out of the ten cases decided by the ILO Tribunal, the Organisation won 4 and lost 6. Four cases were brought by staff members against policy decisions taken by the Conference of the States Parties, and had nothing to do with any actions of the Director-General. Three were challenges by staff members to the decision of the Conference of States Parties which took away the authority of the Director-General to classify posts. The Conference gave itself this power and stopped the Director-General from implementing the results of the classification already completed. One case was brought by a staff member because a State Party refused to reimburse him taxes it levied against his OPCW income, contrary to the international civil service principles and the privileges and immunities granted to the international staff of the OPCW.
37. The total cost of the six cases lost so far by the Organisation is USD 408,936, not "millions of dollars". The cost of the cases relating to the classification of posts rests with Member States, not with the Director-General.
38. The first and most expensive case – two months into the Director-General's first mandate - had to do with a violation of confidentiality procedures. While the Director-General's decision to

terminate the staff member's contract was correct in substance, the case was, regrettably, lost on procedural grounds.

39. Unfortunately, several tax reimbursement cases may soon come forward unless one State Party reverses its refusal to reimburse certain aspects of the taxes levied.
40. Statistics show that few staff are leaving the OPCW. In 2001 only 6 percent of fixed-term staff left the OPCW. The overall turnover for fixed-term staff in 2001 was 8%, which was below the target of 15% reflected in the budget.
41. Overall staff morale is, indeed, sometimes low but not because of action of the Director-General. Staff do not feel that some countries have lent their full weight to the work of the Organisation and believe that their unique expertise is not valued and is underutilised. Staff worry about the continuing financial instability of the OPCW caused by chronic underbudgeting, and about pressure from some Member States to cut staff (contrary to operational requirements). Staff also do not enjoy many of the benefits enjoyed by staff in organisations of the UN system (the OPCW has no pension fund and has a limited tenure policy). As a consequence of the tenure policy there is no system of promotions or other incentives for the best possible performance. This is widely experienced as a source of intense frustration.
42. Some US nationals are leaving the OPCW because of the inability of the United States to resolve problems with the taxation of the Provident Fund. This reduces considerably the financial incentives for US nationals to work at the OPCW.
43. The Director-General early on suggested that Member States give some thought to the relationship between the Australia Group and the OPCW. He has suggested that further thought be given as to how export controls and related matters could be addressed through the Convention. Although still of the view that such an approach deserves to be explored, the Director-General has left it to Member States to come to grips with this issue. During the past year, the Director-General has not raised the issue of informal export control regimes at all.
44. The Director-General's principle, which he has stringently adhered to since 1997, is to apply the Convention in an even-handed way. In fact, the Permanent Representative of the United States only eight months ago at the Conference of the States Parties congratulated the Director-General on his "compliance with the Convention". For any allegation of bias, facts from the past eight months must be put on the table. Until now this allegation has never been expressed to the Director-General by any representative of any Member State.
45. The Secretariat's structure itself, its policy-making mechanism, and staff culture of non-discrimination and even-handedness which the Director-General worked hard to establish, prevents anyone, including the Director-General himself, from inflicting a biased application of the Convention's provisions on any State Party.
46. The allegation of bias presumes that bias is targeted against those who make this allegation. It is simply untenable to argue that the implementation of the Convention is biased against the United States, for example. The Deputy Director-General and the Director of Verification have always been WEOG nationals and both have always played a key role in high-level decision-making on the implementation of the verification regime. Until three months ago, three of the four branch heads in the Verification Division were from WEOG (including the Head of Industry verification Branch who is the US national). In fact all these staff have been applying the Convention in an even-handed way which is a tribute to their integrity.
47. Policy decisions in the Secretariat are taken by consensus. Inspection plans require signatures of the Director-General, the Deputy Director-General, and the Directors of Verification and the Inspectorate and are not valid if any of these signatures are missing. All conclusions with regard to inspections, prior to being submitted to the Director-General, require the approval of both the Director of Verification and of the Deputy Director-General. All verification-related documents submitted to the States Parties or to the Executive Council are cleared by the Director of Verification before being sent to the Secretariat for the Policy-Making Organs and to the Director-General.
48. In recent past the Director-General expressed the Secretariat's views on the following outstanding verification issues – boundaries of production, transfers of Schedule 3 chemicals to States not Party, and on low concentrations of Schedule 2A and 2A\* chemicals. The Director-General's views are aimed at preserving the credibility of the verification regime and were based on advice

given by the then Director of the Verification Division, and the Deputy Director-General. According to the Verification Division, the Secretariat's positions expressed by the Director-General reflect the views of the majority, not minority of Member States.

49. The Director-General does not have the power to "punitively target[ed] industry inspections". Inspection plans, as has already been made clear, require four signatures. Selection of sites for inspections in 2001 was done by the Verification Division focusing, in light of the budgetary shortfall, on initial inspections of riskier facilities. The Director-General does not, and cannot, choose inspection sites himself. When the Director-General decided in March 2001 – long after the inspection plan for the year was finalised - to conduct all 25 industry inspections planned for 2001 in two months remaining before the conference, his sole desire was to enhance programme delivery. The Deputy Director-General and the Director of Verification both agreed with his approach. Its implementation was delegated to the Head of Industry Verification Branch. Only one change to the already existing plan was made – the number of inspections planned in the United States was reduced to ensure that inspection activity in that country could be supported by the National Authority. It should also be borne in mind that in 2001 the US indeed was subject to a considerable number of industrial inspections – a logical consequence of the three-year delay in its submission of the chemical industry declaration.
50. Following the September 11<sup>th</sup> tragedy and in the light of concerns about chemical terrorism, it should be noted that the statement made by the Chairman of the Executive Council, and which was negotiated by all members of the Council, was front page news at the UN. The Director-General's appeal was compassionate, timely, and a responsible action on his part in regard to the concerns being expressed. The Director-General is proud of having taken this initiative, as was indeed done by the majority of other international organisations.
51. The Executive Council and the Conference debated the definition of "core activities" for a long time. The Director-General follows the guidance provided by the policy-making bodies. This guidance has been that any cuts in programme delivery must focus on areas other than verification and international cooperation, and that these two areas should be cut as a last resort and should receive equal cuts percentagewise. The funding for verification has always been more than 50% of the budget. Funds for ICA are only 6 % of the budget. The Director-General also believes, as do many other Member States, that the OPCW's unique capabilities should not be discarded by the international community in responding to new challenges, such as chemical terrorism. Allegations that the Director-General downplayed the need for ridding the world of chemical weapons simply do not reflect reality.
52. The timely destruction of chemical weapons is paramount. Measures to accelerate the destruction of chemical weapons in Russia are critical to the implementation of the CWC. The Director-General has always said that any efforts to coordinate assistance to Russia cannot be legally integrated with the OPCW. However, he offered the premises of the OPCW and the Secretariat's logistical support for meetings of donors with Russia. If such meetings were to be open to the Secretariat and to other Member States, it would have increased transparency of the Russian destruction programme and would have been beneficial for the optimal planning of verification activities in Russia. Incidentally, this idea was first proposed by Western participants at the conference on CW destruction in Russia in 1999, but did not – at that time - receive a positive response from the Russian side. The positions of the sides were apparently reversed after Russia accepted the idea.
53. The Director-General provided OPCW assistance to the UN Secretary-General at the request of the UN Security Council to eliminate the health and safety risks resulting from toxic chemicals stored at the UNSCOM laboratory at the UN compound in Baghdad when UNSCOM inspectors were not allowed back by the Iraqi Government. The Director-General suggested that the members of the Security Council could consider, through accession by Iraq to the CWC, OPCW involvement as a means to unblock the impasse over inspections in Iraq. He did this keeping in mind the specific provision of Resolution 687 calling on Iraq to accede to the CWC and his mandate to promote the Convention's universality. He cannot impose anything on either the Security Council or Iraq, for that matter. But he can and should offer his advice on matters where the OPCW capabilities are relevant and were recognised as such by the Security Council itself.

After all, the best expertise available in the chemical weapons area is undeniably with the OPCW. The Security Council is free to either accept or reject such advice.

54. Assistance to States Parties which may suffer chemical weapons attacks is an integral part of Article X of the Convention. This obligation existed prior to the September 11<sup>th</sup> attacks. The Secretariat's concept of assistance is in full accordance with the provisions of the Convention, and its timely adoption by the Council is particularly urgent in current circumstances. The fact that such assistance should be available in case chemical weapons are used by terrorists is unquestionable when two thirds of Member States of the OPCW may not have a national capacity to protect against such threats. The Convention does not differentiate between victims of attacks by governments versus by terrorists. Effective and timely assistance, in full accordance with the CWC, will, indeed, come at a cost.
55. Indeed, the Director-General does believe that once all chemical weapons have been destroyed, the OPCW will have to focus on its non-proliferation mandate and on those clear-cut provisions of the Convention which deal with international cooperation and the promotion of peaceful chemistry as contained in Article XI. He believes that this course of action – inclusive not exclusive – is the best possible way of promoting the non-proliferation objectives of the Convention. And he is convinced that the Associate Programme, which only cost EUR 242,000 in 2001, is key to ensure further progress toward universality. There is nothing criminal in this forward-looking vision of the OPCW, which can only materialise, if all Member States agree with it, long after the expiration of the Director-General's term of office.
56. The Chemical Weapons Convention is a non-discriminatory Convention par excellence, and has been applied and respected as such. It is because of this aspect and character, and because of its implementation along these lines by the Director-General, that it shows such a fast-growing membership (from 87 to 145 States Parties) unlike any other international organisation of its type. It includes all five permanent members of the Security Council, all countries with developed chemical industries, and countries which, in some instances, are not parties to other comparable multilateral agreements. These unique achievements are much too precious to be put into jeopardy.
57. Allegations against the Director-General have materialised suddenly and at the last minute. Allegations are presented as though they are facts.
58. No other State Party saw any reason to argue in favour of removing the Director-General of the OPCW from office until – in January 2002 – this campaign was launched by one Member State.
59. In the context of international organisations, as far as the Director-General is aware, there has never been any comparable attempt to unseat an elected head in the absence of a crime or malfeasance, and in the absence of a clearly defined process to ensure that all participants, including the elected individual in question, have an opportunity to air and discuss any concerns in an atmosphere of openness and fairness.
60. Attempts to oust the Director-General of the OPCW seek to establish a dangerous international precedent where any Director-General of any international organisation from now on will always be conscious of the fact that his future in that job depends in its entirety on the attitude, whims, and perceptions of one, or a few, major contributors to the budget, irrespective of the rest of the Organisation's membership. This is hardly an approach which would guarantee the independence or impartiality of any Director-General.
61. More than 50% of the OPCW budget is provided by a few Member States. They represent just a small percentage of the OPCW membership. Each member of the OPCW has one vote in the Organisation, irrespective of the amount of its budgetary contribution. And the weight of each of these votes is equal. The Director-General does his job in the interest of each and every member of the Organisation. He cannot and will not provide special treatment to those Member States which together contribute more than 50% of the budget. Withholding funding to impose the will of a small percentage of the membership on the entire Organisation would be in fundamental contradiction with the democratic principles of work of international organisations.

## CWC: U.S. to Seek Special Conference if Bustani Stays

NTI – Global Security Newswire  
25 March 2002

Tensions within the Organization for the Prohibition of Chemical Weapons are likely to continue as the United States has vowed to continue its efforts to remove the organization's director general, Jose Mauricio Bustani, O Globo reported today..

A U.S. motion calling for Bustani's resignation failed Friday, as did a Brazilian motion to resolve the U.S.-Bustani dispute through negotiation and an outside audit of the OPCW. At an OPCW Executive Council meeting Friday in The Hague, 17 countries - including Japan, Poland, Cameroon, Nigeria, Canada, Slovenia, South Korea and most of the European Union - voted in favor of the U.S. no-confidence motion, leaving it 10 votes shy of a two-thirds majority. Brazil, Cuba, China, Iran and Russia voted against the proposal, and 18 countries — including India, Pakistan, Mexico, South Africa, Sudan and France — abstained, ensuring neither side could claim victory.

Brazil's motion for an outside audit might have given Bustani, himself a Brazilian, an opportunity to defend himself against U.S. accusations of mismanagement, according to Folha de Sao Paulo. The motion was voted down 17-14 with 8 abstentions.

"This vote demonstrates clearly that Mr. Bustani can no longer lead the OPCW and should clearly resign," U.S. State Department deputy spokesman Philip Reeker said Friday of the outcome of the U.S. motion. "The large majority of countries demonstrated that they had no confidence in him by supporting our request for his resignation or abstaining," he said. "It sent a powerful signal that the loss of confidence in him is widespread. ... We hope the director general will understand and accept this clear signal and act on it."

If Bustani does not resign, Reeker said, the United States will seek a special conference of the 145 signatories to the Chemical Weapons Convention in an attempt to oust the OPCW chief. According to OPCW rules, such a conference may be called within 30 days if 49 of the signatories agree. A two-thirds majority of the parties would then be needed to force Bustani out.

Bustani said he will fight to retain his position and accused the United States of undermining the independence of international organizations. The OPCW head is concerned about the "precedent" that the U.S. no-confidence motion "could create in other international organizations," OPCW spokesman Gordon Vachon said. "Only one country, the United States, is criticizing my management," Bustani told Jornal do Brasil. "The others are afraid that the United States will withdraw from the organization should I continue."

"There is no pressure that can make me resign," he said, vowing to fight to "the end". "I cannot resign simply because one country does not like my style," Bustani said. "I was elected by 145 countries. When these countries decide that I should go, I will"

The director general said his resignation would plunge the OPCW into crisis. He added that member states would look on OPCW Vice Director General John Gee, a potential replacement as director general, as a tool of Washington; that nonpayment of dues by the United States and other countries is behind the organization's financial problems and that U.S. opposition arose with the "unilateralist" administration of President George W. Bush.

Jornal do Brasil reported this weekend that Washington's stances toward Iraq and several other countries could be behind tension with Bustani. "I would say that Iran is more a central issue" than Iraq, one expert in Washington said, recalling U.S. Undersecretary for State for Arms Control and International Security John Bolton's January identification of Iran as a principal chemical weapons producer.

A former State Department official said U.S. officials "do not like one bit what they see as Bustani's proselytizing in relation to the Russians." "Besides that, after Sept. 11, Bustani began to want to augment his role in the war against terror," the State Department official said. "The United States saw this as opportunism on behalf of a person that could not even keep the accounts straight. ... In any case, this type of action is very atypical. ... Now the thing is public. It has become a political dispute, which was not really the case before, and that makes it more difficult".

## Chemical coup d'état

The US wants to depose the diplomat who could take away its pretext for war with Iraq

George Monbiot

Guardian

Tuesday April 16, 2002

On Sunday, the US government will launch an international coup. It has been planned for a month. It will be executed quietly, and most of us won't know what is happening until it's too late. It is seeking to overthrow 60 years of multilateralism in favour of a global regime built on force.

The coup begins with its attempt, in five days' time, to unseat the man in charge of ridding the world of chemical weapons. If it succeeds, this will be the first time that the head of a multilateral agency will have been deposed in this manner. Every other international body will then become vulnerable to attack. The coup will also shut down the peaceful options for dealing with the chemical weapons Iraq may possess, helping to ensure that war then becomes the only means of destroying them.

The Organisation for the Prohibition of Chemical Weapons (OPCW) enforces the chemical weapons convention. It inspects labs and factories and arsenals and oversees the destruction of the weapons they contain. Its director-general is a workaholic Brazilian diplomat called Jose Bustani. He has, arguably, done more in the past five years to promote world peace than anyone else on earth. His inspectors have overseen the destruction of 2 million chemical weapons and two-thirds of the world's chemical weapon facilities. He has so successfully cajoled reluctant nations that the number of signatories to the convention has risen from 87 to 145 in the past five years: the fastest growth rate of any multilateral body in recent times.

In May 2000, as a tribute to his extraordinary record, Bustani was re-elected unanimously by the member states for a second five-year term, even though he had yet to complete his first one. Last year Colin Powell wrote to him to thank him for his "very impressive" work. But now everything has changed. The man celebrated for his achievements has been denounced as an enemy of the people.

In January, with no prior warning or explanation, the US state department asked the Brazilian government to recall him, on the grounds that it did not like his "management style". This request directly contravenes the chemical weapons convention, which states "the director-general ... shall not seek or receive instructions from any government". Brazil refused. In March the US government accused Bustani of "financial mismanagement", "demoralisation" of his staff, "bias" and "ill-considered initiatives". It warned that if he wanted to avoid damage to his reputation, he must resign.

Again, the US was trampling the convention, which insists that member states shall "not seek to influence" the staff. He refused to go. On March 19 the US proposed a vote of no confidence in Bustani. It lost. So it then did something unprecedented in the history of multi lateral diplomacy. It called a "special session" of the member states to oust him. The session begins on Sunday. And this time the US is likely to get what it wants.

Since losing the vote last month, the United States, which is supposed to be the organisation's biggest donor, has been twisting the arms of weaker nations, refusing to pay its dues unless they support it, with the result that the OPCW could go under. Last week Bustani told me, "the Europeans are so afraid that the US will abandon the convention that they are prepared to sacrifice my post to keep it on board". His last hope is that the United Kingdom, whose record of support for the organisation has so far been exemplary, will make a stand. The meeting on Sunday will present Tony Blair's government with one of the clearest choices it has yet faced between multilateralism and the "special relationship". The US has not sought to substantiate the charges it has made against Bustani. The OPCW is certainly suffering from a financial crisis, but that is largely because the US unilaterally capped its budget and then failed to pay what it owed. The organisation's accounts have just been audited and found to be perfectly sound. Staff morale is higher than any organisation as underfunded as the OPCW could reasonably expect. Bustani's real crimes are contained in the last two charges, of "bias" and "ill-considered initiatives".

The charge of bias arises precisely because the OPCW is not biased. It has sought to examine facilities in the United States with the same rigour with which it examines facilities anywhere else. But, just like Iraq, the US has refused to accept weapons inspectors from countries it regards as hostile to its

interests, and has told those who have been allowed in which parts of a site they may and may not inspect. It has also passed special legislation permitting the president to block unannounced inspections, and banning inspectors from removing samples of its chemicals.

"Ill-considered initiatives" is code for the attempts Bustani has made, in line with his mandate, to persuade Saddam Hussein to sign the chemical weapons convention. If Iraq agrees, it will then be subject to the same inspections - both routine and unannounced - as any other member state (with the exception, of course, of the United States). Bustani has so far been unsuccessful, but only because, he believes, he has not yet received the backing of the UN security council, with the result that Saddam knows he would have little to gain from signing.

Bustani has suggested that if the security council were to support the OPCW's bid to persuade Iraq to sign, this would provide the US with an alternative to war. It is hard to see why Saddam Hussein would accept weapons inspectors from Unmovic - the organisation backed by the security council - after its predecessor, Unscm, was found to be stuffed with spies planted by the US government. It is much easier to see why he might accept inspectors from an organisation which has remained scrupulously even-handed. Indeed, when Unscm was thrown out of Iraq in 1998, the OPCW was allowed in to complete the destruction of the weapons it had found. Bustani has to go because he has proposed the solution to a problem the US does not want solved.

"What the Americans are doing," Bustani says, "is a coup d'état. They are using brute force to amend the convention and unseat the director-general." As the chemical weapons convention has no provisions permitting these measures, the US is simply ripping up the rules. If it wins, then the OPCW, like Unscm, will be fatally compromised. Success for the United States on Sunday would threaten the independence of every multilateral body.

This is, then, one of those rare occasions on which our government could make a massive difference to the way the world is run. It could choose to support its closest ally, wrecking multilateralism and shutting down the alternatives to war. Or it could defy the United States in defence of world peace and international law. It will take that principled stand only if we, the people from whom it draws its power, make so much noise that it must listen. We have five days in which to stop the US from bullying its way to war.

### Konflikte in der Abrüstungsorganisation gefährden Überprüfung chemischer Abrüstung

von Dr. Walter Krutzsch  
www.BITS.de

Im Jahre 1993 unterzeichnet, vor fünf Jahren in Kraft getreten, ist sie heute, trotz ihrer 145 Mitgliedstaaten, in Schwierigkeiten: die Konvention über das Verbot chemischer Waffen (Chemiewaffen-Konvention). In einer Zeit, in der Militärexperten vor anwachsenden Gefahren durch die Weiterverbreitung chemischer und biologischer Waffen warnen und die USA die Anwendung militärische Gewalt gegen Irak wegen Verdachts auf Herstellung oder Besitz solcher Waffen erwägen, zieht eine Krise für die Konvention herauf: Der Generaldirektor der Organisation für das Verbot chemischer Waffen wurde von Washington zum Rücktritt aufgefordert.

Diese Organisation wurde geschaffen, als die Chemiewaffen-Konvention in Kraft trat. Sie soll darüber wachen, daß keine chemischen Waffen angewandt und alle chemischen Waffen und deren Produktionsanlagen unter internationaler Aufsicht vernichtet werden. Durch Datenaustausch und Kontrolle der chemischen Industrie soll verhindert werden, daß neue chemische Waffen auftauchen. Die Konvention überträgt dem Technischen Sekretariat die Kontrollaufgaben der Organisation. Der Generaldirektor der Organisation ist Chef des Technischen Sekretariats. Botschafter Bustani (Brasilien) war der erste, der dieses Amt übernahm. Er wurde im Mai 2000 von der Konferenz der Mitgliedstaaten für eine zweite Amtsperiode einmütig gewählt. Die Bilanz der ersten fünf Jahre der Organisation weist positive Ergebnisse aus.

Entsprechend den Bestimmungen der Chemiewaffen-Konvention wurden in vier Mitgliedstaaten bereits 10% aller gemeldeten Vorräte chemischer Waffen vernichtet. 61 Produktionsanlagen für chemische Waffen wurden deaktiviert; bereits die Hälfte davon entweder zerstört oder für friedliche Zwecke umgebaut. Das Technische Sekretariat der Organisation hat in über 1.000 Inspektionen



geprüft, ob die Staaten die vereinbarten Verpflichtungen einhalten. Zwei Drittel der Inspektionen betrafen CW-Lager und CW-Produktionsstätten, ein Drittel Anlagen der chemischen Industrie in 42 Mitgliedstaaten.

Die Bush Administration verlangt die sofortige Auswechslung des Generaldirektors mit der Begründung, nur so könne die Effektivität der Chemiewaffen-Konvention erhalten werden. Ein möglicher Nachfolger wird nicht genannt. Ein von den USA unter den Mitgliedstaaten zirkuliertes Papier enthält eine Liste von Vorwürfen über seine Amtsführung. Sie beziehen sich auf „polarisierendes und konfrontatives Verhalten, Fälle von Mißwirtschaft, Eintreten für unpassende Rollen der Organisation“. Im März wurde dem Rücktrittsverlangen dadurch Nachdruck verliehen, daß die USA ihre Zahlung von Beiträgen an die Organisation einstellen will, solange der Generaldirektor im Amt ist. Es hat den Anschein, daß sich auch die Bundesrepublik an dem angedrohten Zahlungsboykott beteiligen könnte.

Generaldirektor Bustani hat die gegen ihn erhobenen Vorwürfe zurückgewiesen. Er besteht auf einer sachlichen Prüfung und schlägt ein Verfahren zur Klärung und Lösung der Konfliktpunkte vor. Er betrachtet den gegen ihn gerichteten Schritt als eine Gefährdung der Integrität dieser Organisation und ihres höchsten Beamten.

Inzwischen hat der Exekutivrat der Organisation über einen Mißtrauensantrag gegen Bustani entschieden. Von den 41 Mitgliedern dieses Gremiums haben 17 den Antrag unterstützt, fünf abgelehnt und 18 haben sich der Stimme enthalten. Gegen den Mißtrauensantrag stimmten, u.a., China, Frankreich und Rußland. Entsprechend den Bestimmungen der Chemiewaffen-Konvention hätte der Antrag, um angenommen zu werden, von 28 Staaten unterstützt werden müssen. Jetzt wird auf Antrag der USA eine außerordentliche Tagung der Konferenz der Mitgliedstaaten der Organisation vorbereitet. Sie soll am 21. April stattfinden.

Es ist zu befürchten, daß dieser Konflikt, der durch Drohung mit einem völkerrechtlich unzulässigen Zahlungsboykott verschärft wurde, den Zielen der Organisation ernsthaften Schaden zufügt. Er bricht zu einer Zeit aus, in der neben den Kontrollmechanismen die politisch-moralische Kraft des weltweiten CW-Verbots gefordert ist.

Die Drohung mit Zahlungseinstellung gefährdet den Hauptzweck der Organisation: Die Mitgliedstaaten sollen ihre strikte Vertragseinhaltung demonstrieren, indem sie diese durch internationale Inspektionen überprüfen lassen. Das soll ausreichende Garantien dafür schaffen, daß die Gefahr jeglicher Anwendung chemischer Waffen durch Staaten oder Terroristen beseitigt wird. Wenn die Mitgliedstaaten der Organisation aber nicht mehr ausreichende Mittel für Inspektionen zur Verfügung stellen, wird das Prinzip der zuverlässig kontrollierten Abrüstung, das erstmalig in der Geschichte verwirklicht werden soll, zerstört. Bereits in den letzten zwei Jahren konnte durch eine Verknappung der zur Verfügung gestellten Finanzmittel ein Teil der erforderlichen Inspektionen in militärischen oder industriellen Einrichtungen nicht durchgeführt werden.

Andere Elemente des Konzepts der kontrollierten Abrüstung wurden bereits zu einem früheren Zeitpunkt beschädigt: In der Chemiewaffen-Konvention ist festgelegt, daß das für die Verifikation zuständige Organ, das Technische Sekretariat, seine diesbezüglichen Aufgaben selbständig und unabhängig erfüllt. Keinem Vertragsstaat ist es gestattet, dem Generaldirektor oder einem Inspektor oder einem anderen Mitarbeiter des Technischen Sekretariats Weisungen für die Ausübung seiner Pflichten zu geben, noch ist es diesen Personen erlaubt, derartige Weisungen entgegenzunehmen. Die Konvention verbrieft speziell die Rechte und Immunitäten der Inspektoren der Organisation. Sie sind hinsichtlich der Unverletzlichkeit ihrer Person, ihrer Aufzeichnungen und Geräte, Diplomaten gleichgestellt.

Diese Rechte und Immunitäten werden bereits seit längerem nicht entsprechend respektiert. Inspektoren werden z.B. veranlaßt, Photokopien ihrer Notizbücher, in die sie ihre Beobachtungen während der Inspektion eintragen, der inspizierten Seite am Ende der Inspektion auszuhändigen. Das ist unvereinbar mit dem Grundsatz der Unverletzlichkeit von Unterlagen und Berichten und gefährdet die Unabhängigkeit des Inspektionsergebnisses: Es ist von einem Inspektor kaum zu erwarten, daß er sich Notizen über mögliche Anhaltspunkte für eine geheime CW-Produktion macht und die Photokopien davon denjenigen aushändigt, von denen er annimmt, daß sie ein derartiges Verbrechen gewagt haben könnten. Außerdem wird das Recht auf Zugang der Inspektoren zum Inspektionsobjekt oder zu den darin befindlichen Dokumentationen mehr und mehr aufgeweicht.

Die Chemiewaffen-Konvention verpflichtet das Technische Sekretariat alle Fälle dem Exekutivrat zu melden, in denen Zweifel und Unsicherheiten aus Inspektionsergebnissen oder Erklärungen nicht in Zusammenarbeit mit den betreffenden Mitgliedstaaten ausgeräumt werden konnten.

Für den Generaldirektor gab es oft Anlässe, auf ernste Mängel bei der Einhaltung der übernommenen Verpflichtungen hinzuweisen. Das ist, für sich betrachtet, noch kein Zeichen einer Krise. Oft blieben jedoch die erwarteten Reaktionen des Exekutivrates aus, zumal dann, wenn die Kritik Staaten traf, die selbst einen Sitz in diesem Gremium innehaben. Es geschah nichts. Die Berichte des Generaldirektors und die Ergebnisse der Sitzungen wurden vom Exekutivrat einfach für vertraulich erklärt, so daß sie nicht an die Öffentlichkeit gelangen konnten. Ausbleibende Aktionen des Exekutivrates wiederum hatten eine kritische Reaktion des Generaldirektors zur Folge.

So bauten sich über die Jahre Spannungen und Animositäten auf. Unter solchen Bedingungen wird es immer schwerer, Mängel und Mißstände zu überwinden. Der notwendige Lernprozeß für die Umsetzung einer Maßnahme der Friedenssicherung ist gestört. Er muß aber fortgesetzt werden, um die Verwirklichung der Chemiewaffen-Konvention, einer humanen Alternative zum Einsatz militärischer Gewalt, zu erreichen. Überzogene Polemik und politische Machtdemonstrationen sind dabei nicht hilfreich. Noch weniger hilfreich wäre es, eine Persönlichkeit, die unangenehme Fakten unter den Teppich kehrt, für das Amt des Generaldirektors auszuwählen.

Eine für 2003 geplante Konferenz soll die bisherige Umsetzung der CW-Konvention überprüfen und Schlüsse aus den Erfahrungen der ersten fünf Jahre ziehen. Das ist eine Gelegenheit, die Konvention zu stärken und ihre universelle Geltung voranzutreiben. Diese Chance sollte nicht durch Politik der Stärke und Dominanzstreben verspielt werden.

#### Chemical weapons: Bustani expects to be voted out as OPCW Head

UNWire 18 April 2002

Organization for the Prohibition of Chemical Weapons Director General Jose Mauricio Bustani told Jornal do Brasil in an interview yesterday that he does not expect to retain his position after Sunday, when a special session of the conference of state parties convened on the request of the United States is expected to vote him out of office.

To call the special session, the United States mustered 48 of the OPCW's 145 member states to request the meeting, including most of the European Union, Japan and Latin America. While many countries abstained, only five countries -- Brazil, China, Cuba, Iran and Russia -- voted against the convening of the special meeting.

According to Jornal do Brasil, Bustani has already conceded defeat. "Only the valid votes will count," he said. "Abstentions don't count." To oust Bustani, two-thirds of the OPCW's member states must vote for the U.S. proposal to remove him from office (Rodrigo Rosa, Jornal do Brasil, April 18, UN Wire translation).

O Globo Online reports that Bustani's chances of retaining his office are decreasing on a daily basis. Countries that previously abstained from voting against Bustani are now considering joining the United States on Sunday, including Eastern European countries, France and some Latin American countries. Brazilian Foreign Affairs Minister Celso Lafer said, however, that it is not yet a lost cause, as it is unclear how African and Asian countries will vote (O Globo Online, April 18, UN Wire translation).

#### Brazilian Minister Defends Bustani On Basis Of Multilateralism

Earlier this week, Lafer said that the Brazilian government had done everything it could to support Bustani, while insisting that its support for Bustani centered on "multilateralism" and that the OPCW head does not "represent the Brazilian government."

"From the beginning," Lafer said, Brazil believed that the issue of Bustani's tenure at OPCW should be handled on a multilateral and not a bilateral basis. "Defending him, we are not defending a person, but multilateralism." Lafer added, however, that Bustani's "personality" has made things more difficult and that his impeachment is virtually irreversible (Luiz Orlando Carneiro, Jornal do Brasil, April 17).

Speaking to Jornal do Brasil, Bustani refused to comment on Lafer's comments, instead saying that Brazilian "President Fernando Henrique [Cardoso] has always given me complete support."

Earlier this week, London Guardian columnist George Monbiot referred to U.S. efforts to oust Bustani as an "international coup" that "will be executed quietly, and most of us won't know what is happening until it's too late." The United States, Monbiot wrote, "is seeking to overthrow 60 years of multilateralism in favor of a global regime built on force" (April 16).

The United States argues that Bustani's administration is rife with financial incompetence, but diplomats have confirmed that the tensions are the result of Bustani's attempts to send a chemical weapons inspection commission to Iraq that is not dominated by the United States. In order to end the sanctions regime which has been in place since 1991, Iraq must relinquish all of its weapons of mass destruction (Rosa, Jornal do Brasil).

In other OPCW news, Brazil paid its contribution to the organization this week, bringing to 66 the number of countries that have fulfilled their dues this year, including Russia, China, Australia, the United Kingdom and France. Over 79 states have not yet met their contributions, including the OPCW's major donor, the United States, leaving 60 percent of the 2002 assessed contributions to the organization outstanding (OPCW release, April 16).

#### Beantwoording vragen Belgisch Parlement van Peter Vanhoutte (AGALEV)

19 april 2002

Mondelinge vraag aan Minister Michel (gesteld 13 april 2002)

Betreft: de houding van België aangaande het behoud van dhr. Jose Bustani als directeur-generaal van de OPCW (Organisation for the Prohibition of Chemical Weapons).

Sinds geruime tijd trachten de VS dhr. José Butani, directeur-generaal van de OPCW van zijn post te laten verwijderen. De Braziliaan Butani werd eerder nochtans unaniem na een eerste periode herbevestigd in zijn functie. Het zit de VS vooral dwars dat Butani hard werkt om Irak te overtuigen de Conventie inzake chemische wapens te ondertekenen en daarvoor de steun zoekt van de VN Veiligheidsraad.

Aanstaande zondag zal op een bijzondere bijeenkomst nogmaals gepoogd worden Butani uit zijn functie te onttrekken.

- Welke houding zal ons land op die bijeenkomst aannemen? Is ons land bereid de positie van Butani zonder voorbehoud te verdedigen? Zal ons land ook de EU tot een eensluidend standpunt trachten te bewegen?
- Welke stappen zal ons land zetten indien dhr. Butani onverhoopt toch uit zijn functie wordt onttrokken?

*Antwoord (19 april 2002):*

1. België heeft in deze kwestie vanaf het begin een gemeenschappelijke EU-aanpak bepleit.
2. De EU betreurt ten zeerste de ernstige crisis waarin de Organisatie voor het Verbod op Chemische Wapens (OPCW) zich bevindt; deze dreigt het hoofdobjectief van de OPCW, namelijk de totale vernietiging van chemische wapens en de verificatie ervan, te ondermijnen.
3. De EU had bij voorkeur een confrontatie hierover tijdens de laatste zitting van de Uitvoerende Raad van de OPCW (maart jl.) vermeden.
4. De EU verkiest ook nu tijdens de komende bijzondere Algemene Conferentie een nieuwe confrontatie te vermijden en is bereid steun te geven aan een eerbare oplossing voor de huidige crisis, waarbij een nieuw management team voor de OPCW zo snel mogelijk zou kunnen aangeduid worden.
5. De EU is van mening dat de heer Bustani zou moeten aftreden voor het behoud van de OPCW.
6. De EU is op dit moment bezig haar stemgedrag af te spreken. Nu reeds blijkt echter dat een ruime meerderheid binnen de EU zal aandringen op het aftreden van de heer Bustani tijdens de komende

bijzondere Algemene Vergadering. Het is ook evident dat een grote meerderheid van andere OPCW-lidstaten, ongeacht of zij van Noord of Zuid komen, dit aftreden wensen. Men kan derhalve vaststellen dat er binnen de OPCW een dusdanige vertrouwensbreuk bestaat met betrekking tot de heer Bustani dat hiervoor geen andere oplossing voorhanden is dan diens aftreden.

#### Persbericht Forum voor Vredesactie

19 april 2002

### BELGISCHE REGERING STEUNT PUTSCH VS IN VERIFICATIEORGANISATIE OP HET VERBOD OP CHEMISCHE WAPENS

Komende zondag zal de VS trachten de directeur-generaal Bustani van het OPWC, de Organisatie voor het Verbod op Chemische Wapens, af te zetten. Hiermee wil de VS deze organisatie beter kunnen inlijven in haar oorlog tegen terrorisme en meer bepaald tegen Irak. Het Forum voor Vredesactie betreurt het dat de Belgische regering de VS slaafs volgt, zoals blijkt uit het antwoord van minister Michel. Hiermee wordt het vertrouwen geschonden in het internationale verificatieregime, dat gesteund is op gelijkwaardigheid van de verdragsondertekenaars.

De Organisatie voor het Verbod op Chemische Wapens (OPWC) kijkt toe op de naleving van de Chemische Wapens Conventie, dat de productie en het bezit van chemische wapens totaal verbiedt. Daarbij heeft het recht om wereldwijd controles uit te voeren in chemische fabrieken en kijkt het toe op de vernietiging van de bestaande stocks. Dit internationale verificatieregime steunt op gelijkwaardigheid van alle ondertekenaars. Bijgevolg zijn alle ondertekenaars onderworpen aan dezelfde controles.

Dit laatste is niet naar de zin van de VS. De VS weigert wapeninspecteurs de controles op sites volledig te laten uitvoeren en weigert tevens inspecteurs uit landen die haar niet aanstaan. Een gedrag dat van een land als Irak tegenover de VN-inspecteurs als totaal onaanvaardbaar wordt beschouwd.

Irak is de tweede reden van het Amerikaanse ongenoegen. Het OPWC voert controles uit op een neutrale wijze waarover de VS momenteel geen controle heeft. Op de VN-wapeninspecties heeft de VS daarentegen veel meer grip. De vroegere wapeninspecties werden door de VS voor spionagedoeleinden misbruikt. De directeur-generaal Bustani heeft de Veiligheidsraad voorgesteld de inspecties door de OPWC te laten gebeuren en zo Irak over te halen om de Chemische Wapen Conventie te ondertekenen en inspecties toe te laten.

Om het OPWC naar haar pijpen te doen dansen, wil de VS directeur-generaal Bustani doen afzetten. De Braziliaanse diplomaat Bustani heeft de organisatie succesvol geleid waardoor het aantal ondertekende landen is gestegen tot 145. Hij werd algemeen gewaardeerd en in mei 2000 unaniem herkozen voor een tweede ambtstermijn. Met de oorlog tegen terrorisme veranderde dit. Plots beschuldigt de VS Bustani van financieel mismanagement, partijdigheid en slecht overwogen initiatieven. Deze twee laatste beschuldigingen berusten op het hierboven geschetste ongenoegen. Van financieel wanbeheer is geen sprake. Wel zit de OPWC in een financiële crisis omdat de VS weigert zijn deel te betalen.

Komende zondag wil de VS op de bijzondere Algemene Vergadering van het OPWC de afzetting bekomen. Uit het antwoord van Buitenlandse Zaken op de vraag van Peter Vanhoutte blijkt dat de EU, en België volgt braaf, deze putsch zal slikken. Reden is de vrees dat de VS anders de hele Conventie zou opblazen.

Het Forum voor Vredesactie betreurt deze houding. Het is de zoveelste stap waarmee de VS multilaterale mechanismes voor vrede en ontwapening ontwricht en uitholt. Door het OPWC in haar greep proberen te krijgen, besmeurt de VS de broodnodige neutraliteit en het daaruit voortvloeiend vertrouwen waarop internationale verificatiemechanismen berusten.

## VS steekt lont aan in OPCW

Haagsche Courant  
20 april 2002  
door Rob Goor

De positie van directeur-generaal José Bustani van de OPCW in Den Haag wankelt. Een spoedvergadering morgen moet duidelijk maken of de Verenigde Staten voldoende macht hebben om hem aan de kant te zetten. Een sinister machtsspel van de Amerikanen lijkt de reden van het interne conflict.

Den Haag – Het tijdstip is wat bizar. Morgenmiddag om vijf uur komen de 145 lidstaten van de OPCW in Den Haag bijeen om te beslissen over het lot van directeur-generaal José Bustani. Het uur heeft alles te maken met het moment, vorige maand, waarop de Verenigde Staten deze speciale plenaire vergadering hebben aangevraagd. Er geldt een ‘deadline’ van dertig dagen voor. Een stemming over het al dan niet aanblijven van Bustani zal volgens de regels op z’n vroegst maandagavond kunnen plaatshebben.

De Amerikanen gooiden eind februari de knuppel in het hoenderhok. Ze zegden plotseling het vertrouwen in de Braziliaan op. Ze hadden bezwaren tegen diens ‘managementstijl’. De directeur-generaal – tot vorig jaar gelauwerd als de perfecte aanvoerder van de organisatie voor de controle op afschaffing van chemische wapens – kreeg een maand later van de VS een motie van wantrouwen aan zijn broek wegens ‘verkeerde initiatieven’, ‘vooordeel’ en ‘demoralisatie van zijn technische staf’.

Bustani overleefde de stemming van het dagelijks bestuur volgens ingewijden met gemak: zeventien lidstaten waren voor de motie, achttien onthielden zich van stemming (wat als tegen wordt geteld) en vijf landen stemden tegen. De tegenstemmers waren Rusland, Cuba, China, Iran en Brazilië.

De Verenigde Staten zijn goed voor zo’n twintig procent van het 62 miljoen euro tellende budget van de OPCW, en daarom de belangrijkste partner binnen dit VN-orgaan.

Volgens geruchten waren de Amerikanen al niet zo blij met Bustani’s oproep na 11 september om internationaal meer samen te werken om het mogelijk gebruik van chemische wapens door terroristen te voorkomen. Bustani had hierover namelijk niet eerst met de VS overlegd.

Helemaal niet blij zou Washington inmiddels zijn met de vooruitgang die Bustani heeft geboekt in de onderhandelingen met Irak om weer wapeninspecties in dat land te kunnen uitvoeren. Want uitzicht op succes hierbij zou de Amerikanen hinderen bij het vinden van de nodige steun voor een militaire operatie tegen de Iraakse leider Saddam Hoessein.

Dat die geruchten niet zo gek zijn, bevestigde Bustani afgelopen woensdag zelf in Parijs. In een interview zei hij het eens te zijn met de stelling dat de OPCW een obstakel vormt voor de Amerikaanse politiek, omdat de VN-organisatie de kwestie van de wapeninspecties in Irak vreedzaam wil oplossen.

### Opofferen

De Amerikanen hebben overigens ook al weinig op met de inspecties door de OPCW in eigen land. Net als Irak weigert Washington inspecteurs toe te laten uit landen die het als vijandig beschouwt. En nieuwe wetgeving stelt president Bush zelfs in staat om onaangekondigde inspecties te blokkeren. Intussen dreigt de OPCW aan de politieke controverse over Bustani ten onder te gaan. De VS heeft de afgelopen maand steun gezocht bij een reeks van lidstaten. Omdat de OPCW financieel zo sterk afhankelijk is van de VS, zou het een ramp zijn als Washington – met in het kielzog een rij medestanders – uit de organisatie stapt. Bustani ziet het gevaar. “De Europeanen zijn zo bang dat de VS er uitstappen dat zij bereid zijn mij op te offeren om Amerika binnenboord te houden”, verklaarde hij dinsdag tegenover de Britse krant The Guardian. Volgens die krant is Groot-Brittannië Bustani’s ‘laatste hoop’.

Andere bronnen wijzen erop dat de Europeanen vooral bang zijn voor een Amerikaans vertrek uit de OPCW, omdat dan vermoedelijk ook de Russen zich terug zullen trekken. En daarmee zou ’s werelds grootste voorraad aan chemische wapens aan het oog van internationale inspecteurs worden onttrokken.

Volgens Bustani's woordvoerder Gordon Vachon gaat de directeur-generaal 'realistisch' de komende vergadering in. "Maar hij hoopt zeer dat het probleem kan worden opgelost." Vachon kan verder weinig zeggen over de kansen van Bustani. "Voordat er echt gestemd kan worden, moeten er nog wat vragen worden beantwoord. Zo hebben we een quorum van 73 stemgerechtigden nodig. En natuurlijk een ontwerp-tekst waarover de lidstaten kunnen stemmen. Het vreemde is dat de Amerikanen daar nog steeds niet mee zijn gekomen."

Nederland stelt zich als 'gastland' neutraal op. Woordvoester Helen Gorter van het ministerie van buitenlandse zaken benadrukt dat 'de toekomst van de OPCW niet op het spel mag worden gezet' en dat Nederland zich niet uitlaat over de klachten van de VS aan het adres van Bustani. Een Nederlandse stemverklaring blijft krampachtig achterwege.

### Statement of Douglass Scott addressed to the delegates attending the Special Meeting

Director of the Markland Group  
The Hague, 21 April 2002

The Markland Group is an organization of academics and other concerned citizens working for the protection and strengthening of disarmament treaties

### INTRODUCTION

This statement is submitted to you for your consideration prior to the meeting of the Conference of the States Parties on 21<sup>st</sup> April 2002. We hope you find it helpful in your deliberations on the important issue to be decided at that time.

The opinions presented in this statement are those of the author. The author wishes to acknowledge the assistance and advice provided by Jocelyn Clerckx, Ph.D. (University of Le Havre, France).

### II. ABOUT THE AUTHOR

Douglas Scott is a retired lawyer living in Ancaster, Ontario, Canada. He is the founder and president of The Markland Group whose mandate is to address the problem of ensuring compliance with disarmament treaties ([www.hwcn.org/link/mkg](http://www.hwcn.org/link/mkg)) meeting regularly in Ottawa. The Markland Group's Consultants Committee is comprised of international lawyers, retired diplomats and other experts on the compliance aspects of disarmament. Scott is the co-author of two papers (with Walter Dorn, Ph.D.):

- "The Compliance Regime Under the Chemical Weapons Convention – A Summary and Analysis" in *Treaty Compliance – Some Concerns and Remedies*, eds: Canadian Council on International Law and the Markland Group (Kluwer Academic Publishers, London 1998).

- "Compliance Mechanisms for Disarmament Treaties" in *Verification Yearbook 2000*, Trevor Findlay, ed., published by Verification Research Training and Information Centre, (VERTIC), London, 2000.

He is the author of numerous articles including "Getting the Inspectors Back Into Iraq" in *Disarmament Diplomacy* issue No. 44 (November 1999) and "The Practical Effect of the Iraqi Oil-for-Food Program" in *Disarmament Diplomacy*, issue No.25 (April 1998).

### III. THE PRINCIPLE AT STAKE

In the face of extraordinary pressure, Mr. Bustani has steadfastly refused to resign. His determination is to be admired and is worthy of support. At stake is the multilateral nature of the machinery used for monitoring compliance with the Convention. The multilateral element is essential in order to ensure that the verification rules and procedures are applied equally to all member States with no preferential treatment. The office of Director General represents the Convention's multilateral community. The US does not.

An important feature of the multilateral machinery is the arrangement whereby the Director General is required to make decisions on potentially sensitive issues, and in so doing, to exercise his judgement

in a quasi-judicial manner. In such cases, he is obviously required to act independently and free of any undue influence.

One of the complaints lodged by the US seems to challenge this principle. By taking exception to “punitively-targeted industry inspections in five State Parties”, the complaint implies that the US itself was one of the States Parties involved. Assuming this to be the case, it is apparent that the US is complaining about a decision as to the Director General’s choice of inspection targets within US territory.

Surely by now, it is a widely accepted principle that where sensitive issues need to be decided, such as the selection of inspection targets, the Director General must be expected to exercise his judgement independently and free of any undue influence. There should be little argument that such decisions ought to be made under quasi-judicial conditions.

In addition to the selection of targets for inspection, there are many other instances in the Convention where the Director General is required to make decisions on sensitive issues. For example, he may be required to determine whether a given factual situation raises doubts or uncertainties as to compliance whether they are serious enough to warrant informing the Executive Council<sup>1</sup>. In the same vein, in the event that inspectors encounter resistance to their efforts to inspect particular items, the Director General could be called upon to decide whether or not to instruct them to insist on proceeding with the inspections.

The US sometimes gives the impression that it views the Director General and the Secretariat as existing solely for the purpose of providing support staff for the Executive Council and the Conference. Providing support staff, no doubt, is their primary role. But they have an important secondary role – one in which they are expected to act in a quasi-judicial manner. When functioning in that role, the Director General and his staff should be expected to act independently and free from any attempts being made to influence their decisions, except when made under conditions of open dialogue or due process.

The US complaint about the manner in which the Director General decided on inspection targets should therefore be considered invalid. In fact, the matter is more serious, because the wording of the complaint indicates that the US brought pressure to bear on the Director General to alter his decision. Such behaviour is prohibited by Article VIII, paragraph 47: Each State Party shall respect the exclusively international character of the responsibilities of the Director General, the inspectors and other members of the staff and not seek to influence them in the discharge of their responsibilities.

In Mr. Bustani’s response to this complaint, it is encouraging to note that he refused to alter his decision except to reduce the number of inspections to a level that the National Authority could accommodate.

#### IV. THE NATURE OF THE COMPLAINTS

In addition to the complaint relating to the selection of inspection targets, there are many others that need to be considered. Let it be said at the outset that the paper distributed by the US dated 6<sup>th</sup> March 2002 listing some thirty different complaints against Mr. Bustani contains nothing that could be classified as legal grounds for his dismissal. Actions taken by a Director General could become grounds for dismissal if he were guilty of corrupt practice, or if he were to disregard directions given to him by the Conference of the States Parties or the Executive Council, or if his actions exceeded his legal powers. Nothing in the US list of complaints has alleged behaviour of this nature.

Furthermore, there is no provision in the Convention that allows for dismissal of a Director General during his term of office.

Many of the issues raised by the US in its list of complaints are of a nature that could be dealt with by the Executive Council, which is entitled to give the Director General any directions it sees fit, in which case he would be obliged to carry them out. Just over half the complaints are of this type. Referral of outstanding problems to a committee of the Executive Council was indeed proposed in a motion introduced by Brazil immediately following the defeat of the US motion of non-confidence. The US, with the support of the western bloc, voted against the motion and it was defeated. A plausible explanation as to why the US opposed the motion would be that the US very likely had already attempted, without success, to persuade the Executive Council to address its complaints and to adopt

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<sup>1</sup> Article 8, paragraph 40

policy rulings that would require the Director General to take action in accordance with US agenda. It could be, that having failed in the Council, the US is now attempting to achieve its ends by other means.

About one-quarter of the complaints put forward by the US point to problems whose source can be traced to an inadequate budget for the Organization, for which the US itself is very much to blame. At the meeting of the Conference of the States Parties in May 2001, it was apparent that a large majority of the delegates favoured a substantial increase in the budget, but the US insisted on a figure of 61.9 million euros. Since decisions in the Council are almost always made by consensus, the US figure had to be adopted.

As for other complaints, a former senior policy officer employed by OPCW has written

“I have reviewed carefully the US allegations against Mr. Bustani, and I recall the circumstances of some of the facts mentioned there. I do not, however, find any evidence of fault in Mr. Bustani’s leadership of the OPCW which could be the basis of serious accusations justifying such an attack on him by the US.”<sup>2</sup>

#### V. WOULD TERMINATION BE LEGAL?

Even if there were a widespread feeling from the delegates that, all things considered, Mr. Bustani should be dismissed if he refuses to resign, there is serious doubt as to whether the Conference would be legally entitled to terminate his appointment. It appears that the US intends to take the position that the Conference has the right to dismiss Mr. Bustani on the grounds that it is the organ that appointed him – arguing that what the Conference can do, it can also undo. Specifically, the US has let it be known that it intends to rely on the provision in the Convention empowering the Conference to appoint the Director-General – arguing that the reverse is true by implication:

*The Director General shall be appointed by the Conference on the recommendation of the Executive Council for a term of four years, renewable for one further term, but not thereafter.* (Article VIII. Paragraph 43)

But even if this argument were accepted, the provision clearly stipulates that the Conference can act only on the recommendation of the Executive Council. The US has failed to obtain such recommendation. Accordingly, the Conference has no power to act.

Some may argue that the terms of paragraph 19 of Article VIII confer the necessary power upon the Conference to act in the circumstances:

*The Conference shall be the principal organ of the organization. It shall consider any question about matters or issues within the scope of this Convention, including those relating to powers and functions of the Executive Council and the Technical Secretariat. It may make recommendations and take decisions on any questions, matters or issues related to this Convention raised by a State Party or brought to its attention by the Executive Council.*

But this provision does not specify the legal effect of the decisions or recommendations made by the Conference. Clearly, not every decision or recommendation adopted by the Conference would be valid and effective. For instance, a decision to permit certain States Parties to retain certain chemical weapons permanently and to use them at will would be of no legal effect. Similarly, a decision to appoint a person as Director General for life would be a nullity – as would a decision to appoint a person without the recommendation of Council.

The Convention does not empower the Conference to terminate an appointment once made, and even if such power is somehow to be assumed, it can only be on the basis that the power given to the Conference under paragraph 43 of Article VIII can be assumed to extend to termination of an appointment. But if the power to dismiss rests on paragraph 43, obviously the restrictions in paragraph 43 would apply. Accordingly, any decision to terminate, in order to be effective, would need the prior recommendation of the Council.

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<sup>2</sup> Jean-Nicolas Gilliquet: letter dated 11 April 2002 – to be seen on the “CBW Discussion Forum” operated by SIPRI: cbw-sipri@sipri.se



In these circumstances, the most that the Conference can do would be to adopt a decision requesting the Director General to resign voluntarily. Any decision adopted by the Conference going beyond that point would be a nullity – in the same way as would be a decision to extend his term for life.

#### VI. IS SUPPORT BY THE US NECESSARY?

It is significant that Canada's explanation for supporting the US offers only one reason, namely the importance of avoiding a long and damaging leadership debate. This statement, in its context, can only mean that Canada believes that US support for the Director General is essential and that the Convention cannot be administered except on terms acceptable to the US. Possibly, the same view would explain the support given by other countries for the US position.

Certainly, there would be many problems to be faced as a result of outvoting the US and incurring its ongoing hostility. Indeed, according to a recent article in the New York Times, the US is planning to discontinue its financial contributions to the Organization altogether unless Bustani is terminated.<sup>3</sup> This would be serious, but the alternative is worse. Capitulating to US pressure would solidify and greatly extend the degree of control that the US exercises over the verification and compliance operations under the Convention. This would seriously weaken the authority of the Organization and diminish the support that the Convention now enjoys in the world at large.

Countries that are supporting the US on this issue may think they are compelled to do so in order to save the OPCW from collapse. Admittedly, there would be additional expense if the US withdraws or reduces its financial contribution, and there could be many problems encountered in the search for new ways to operate the Organization without the support and cooperation of the US. It may even be necessary to face active opposition from the US. But it is hard to believe that these problems are insoluble.

What appears to be needed is leadership from a group of States Parties – possibly following the model of the New Agenda Coalition, which was so successful in preventing the collapse of the 2000 NPT Review Conference.

The Organization is currently facing a crucial test – whether it can withstand the machinations of a powerful member to gain control of its operations. Mr. Bustani gives every indication that he is the very type of person needed to demonstrate that the OPCW can operate as a truly multilateral body. If he were to be dismissed or persuaded to resign, the Organization's multilateral element would be gone in all but name. It would soon get the reputation of being the hand-maiden of the US.

With the US in control, it can be expected that the Organization's activities would be seriously curtailed. In recent years, the US has insisted that the budget of the Organization be curtailed to the point where a significant percentage of the inspections called for in the Convention cannot be performed.<sup>4</sup> Furthermore, in the discussions relating to the Protocol for the BWC, the US made it clear it could see no need for any inspections that would be performed under the Protocol by an international organization. When asked recently during a press briefing whether the US had the same view of inspections under the CWC, the US representative refused to answer the question.<sup>5</sup> With inspections curtailed, the effectiveness of the OPCW can be foreseen as being significantly weakened. The OPCW is the most advanced organization of its type operating in the field of disarmament. It is truly a trailblazer for similar organizations having a mandate to monitor compliance with disarmament treaties. The world is looking to the OPCW to demonstrate that treaties, once signed, can be implemented effectively, uniformly and impartially. To allow the OPCW to fall under the control of the US would be a serious blow not only to the CWC but also to the future of disarmament generally.

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<sup>3</sup> Amy Smithson "The Failing Inspector", New York Times, 8<sup>th</sup> April 2002

<sup>4</sup> Douglas Scott "OPCW lacks Funds for Inspections": The Markland Group Newsletter No. 16-  
[www.hwcn.org/link/mkg/issue\\_no.\\_16.html](http://www.hwcn.org/link/mkg/issue_no._16.html)

<sup>5</sup> John R Bolton in a press conference at the Palais des Nations, Geneva, 19<sup>th</sup> November 2001.

## Statement by the Director-General at the Special Session of the Conference of the States Parties

21 April 2002

Mr Chairman,  
Excellencies,  
Distinguished delegates,

1. Back in 1997, when I decided to accept the request of the Brazilian Government to submit my candidature for the position of Director-General of the OPCW, I considered it, and I still consider it, an honour to be granted the unique opportunity to contribute to the first EVER TRULY global attempt to abolish an entire category of weapons of mass destruction.

2. But more than anything, I decided to run for the post of Director-General because the Chemical Weapons Convention represents the international community's biggest ever achievement in the area of disarmament and non-proliferation. It is the first - and only - truly non-discriminatory multilateral disarmament treaty in existence - it is a treaty which places equal responsibilities on, and gives equal rights to, all States Parties.

3. Countries possessing chemical weapons that embraced the Chemical Weapons Convention have been divesting themselves of those travesties of history because they are assured that stockpiles of those weapons existing elsewhere are also being destroyed, under a stringent verification regime. The Convention establishes no special treatment for countries with a large chemical industry. Developing countries, when they declare themselves ready to enhance international security by joining the Organization, have, in their vast majority, little understanding of chemical weapons; yet, they immediately see the benefit in participating, through the greater access to technology and technical assistance to which they become entitled. Indeed, the Convention declares itself to be in favour of the broadest possible cooperation among States Parties in respect of peaceful uses of chemistry. Furthermore, the Convention requires us all to make every effort to extend its regime universally - with no exceptions. As a result, during my first five years as Director-General, no Member State was considered "more equal" than others. And I have never subscribed to the theory that "equality" is proportional to the size of any one state's budgetary contribution.

4. Those were the promises inherent in the Convention - as I saw them at the time, and as I continue to see them today. That was the basis of the "vision" that I brought to the Organisation on my very first day on the job. That was the vision that was amply clear to all, and not challenged by anyone, when my term was extended by acclamation in May 2000, one year ahead of schedule. That was the vision that I vowed to uphold back in 1997, and that is the vision that I intend to keep intact as long as I remain Director-General. Yet - if I am to believe the various allegations of my "ill-conceived initiatives" - that vision is now being rejected by some members of this Organisation.

5. Of course I was always aware that the job of Director-General of the OPCW would not be an easy one. I knew that I was going to face considerable pressures, and that my integrity might be put to the test. I realised that immediately after I was elected Director-General, when I had to fight in order to put together a team of trusted colleagues, on the basis of their competence and ability, and not of the political pressures brought to bear upon me. I realised this again shortly thereafter, when one Member State tried - unsuccessfully - to force me to provide it with copies of each and every inspection report. I realise it even more deeply now, when one Member State is leading the campaign for my immediate departure from the OPCW, allegedly because of my "management style". Yet, I am as convinced now as I was then, that the Chemical Weapons Convention will survive only if the principles of genuine multilateralism, true fairness, and equal treatment are preserved. And those are the principles that I have been trying to uphold every day of the last five years.

6. I am truly proud of the OPCW's achievements in those five years. I am proud of the staff of the Secretariat. Member States should be grateful to every one of those 500 hard-working professionals

for what the OPCW has been able to accomplish. I am proud of the unprecedented growth in the membership of the Organisation - which is the clearest evidence of the respect for the OPCW amongst its States Parties, as well as amongst the ever-dwindling number of States not party. I am proud that we have established a sound and impartial verification regime, and that we are fortunate to have inspectors who have placed impartiality, decency, and ethics above everything. Their loyalty is to the Organisation, and not to individual Member States. I am proud of the more than 1,100 inspections we have conducted in more than 50 Member States; and of the non-discriminatory and unbiased way in which we conducted them. I am proud of the proposal which is now before the Executive Council for the provision of effective and timely assistance to victims of chemical weapons attacks, including attacks by terrorists. And I am proud of the modest, yet extremely significant, effort we put into our international cooperation programmes, which, I firmly believe, are critical to the struggle against the proliferation of chemical weapons. I have faith that the OPCW will ultimately succeed in its mission to completely destroy the world's chemical weapons arsenals. As I have stated before, once its disarmament mission has been accomplished, the OPCW should become an "organisation for the promotion of chemistry for peaceful purposes", in full accordance with the spirit of the Convention.

7. Against the backdrop of these achievements, I can only see the attack launched against me as an attack on the OPCW itself, and, in particular, on those key principles which have been guiding my work, and which have become the hallmark of my "management style". Indeed, the unprecedented effort that has been put into ensuring my dismissal suggests the intention to change much more at the OPCW than the personality of its Director-General, or his "management style". And this would explain why my appeals for dialogue and cooperation have been repeatedly rejected. Contrary to the path of stonewalling and hostility which my critics have chosen, I still believe that dialogue and cooperation offer the best way out of any crisis, including the current one, for the benefit of the Convention and all States Parties. Let me repeat again that, even at this very late stage, and in spite of the many slanderous remarks that have been made about me in the course of the last few months, I still stand ready and willing to follow the path of dialogue and cooperation.

8. No one can disregard the fact that the OPCW works, and works well. And it has the respect and support of the vast majority of its 145 States Parties. The OPCW has become too strong to be destroyed from the outside. This may explain the current attempt to implode it from within, together with its underlying principles of fairness and non-discrimination. The culture of non-discrimination and equal treatment that I have fought hard to establish in the Secretariat is now under attack. That culture is being challenged by one of silent and unquestioning obedience to one or a few "major contributors". If this "new culture" is to prevail, then those members of staff who act with integrity and are committed to fairness will have to be the first to go - starting with the Director-General.

9. Those of you who have been closely following the work of the OPCW certainly realise what it is about my management style that appears to be causing discomfort in some quarters. I could have been just a figurehead, as some Member States wanted. Instead I have chosen, as the Convention requires, to take my responsibilities seriously, amongst other things by being actively involved in the everyday work of the Organisation. I refused to defer to those individuals who some Member States want to be in charge.

10. Ironically enough, because I have stood in the way of decisions that would have established a double standard in the Organisation, I am now accused of being biased. What is bias for some, is in reality my commitment to "equal treatment for all". I insist that the scope of access for our inspectors should be the same in all countries. I also insist that States Parties cannot pick and choose those areas which inspectors may or may not verify. I insist that the verification effort, in full accordance with the Convention, should be aimed at inspectable facilities, rather than at certain countries. I insist on measures that will ensure that OPCW inspectors verify those weapons and equipment which the OPCW must verify, rather than merely those which might be volunteered by a State Party for verification. In other words, I trust, but I also verify, everywhere, in full accordance with the Convention. I do criticise attempts to water down the verification regime. I do criticise the continuing attempts of a small number of States Parties to stonewall long-awaited solutions to critical issues out

of perceived national preferences. And I am now facing this current ongoing ordeal because I should not, perhaps, have drawn the attention of other Member States to these matters, as the Convention requires.

11. What else about my management style is not liked that might require changing? Let us examine the list of my "ill-conceived initiatives".

12. I am blamed for seeking Iraq's membership of the CWC, even though this effort is in full accordance with the decisions of the UN Security Council, and with the mandate issued to me by all of you, to ensure the Convention's universality WITHOUT EXCEPTION. Does dissatisfaction with my actions mean that the universality of the Convention should include some countries, but not others, not Iraq, for example?

13. I am blamed for seeking to establish, in full accordance with Article X of the Convention, a credible system to protect States Parties from an attack, including a terrorist attack, with chemical weapons. Should as many as two thirds of Member States remain defenceless against such a threat, while the ability of a small number of other States to protect themselves and their allies remains robust?

14. I am blamed for holding out the OPCW's hand to the international community in its fight against terrorism, simply because the OPCW has unique expertise in chemical weapons to offer in this regard. Is that a crime? Or is it a compassionate and rational offer, on the basis of my assessment of the very real contribution which the OPCW, in close consultation with other international organisations, will have to make in the post September 11th context?

15. I am now reproached for fully funding in 2001 one single international cooperation programme which amounted to just 0.4 percent of the OPCW budget for that year, yet which meant a great deal to the many developing countries. This programme represents the vital link between disarmament and development that has been recognised and endorsed by the United Nations. Do Member States seek to further reduce the international cooperation and assistance programmes at the OPCW, which at present account for a meagre 6% of its budget?

16. Finally, I am blamed for wishing to keep all States Parties informed of progress in the destruction of Russia's chemical weapons, and for suggesting that Russia's utilisation of international assistance be scrutinised by the international community. If those are my ill-conceived initiatives, then I plead guilty as charged.

17. I believe that any abandonment of such sound policies will have extremely serious consequences for the Organisation and for you, the Member States. This is why I insisted that my fate should be decided by all of you, the States Parties, and not by one, or a few "major contributors", which, in supporting the US draft decision, appear to share the US perception of my "errors of judgement".

Mr Chairman,

18. I will be frank - a major blow is being struck against the OPCW. And the perpetrators would have preferred it to take place behind closed doors. They were absolutely confident that they could move any piece on the global chessboard ad libitum, without consultation or explanation to the rest of the world and, in particular, to the rest of the Organisation's membership. This is why, in flagrant violation of the letter, not to mention the spirit, of the Chemical Weapons Convention, the Brazilian Government was unilaterally approached with the demand that I resign and be "reassigned". Much later, I was approached unilaterally with ultimatums to step down. And the campaign did not stop, even when a clear majority of the 41 members of the Executive Council declined to support the US "no-confidence motion" requesting me to stand down.

19. As I wrote to your Foreign Ministers, there is a more important and fundamental point to consider. Much more than the person of the Director-General - and, please, forget Jose Bustani now - or even the OPCW itself, is at stake here. No Director-General, of any international organisation in history, has ever been dismissed during his or her term of office. Moreover, no Director-General should be dismissed without due process, without any evidence of malfeasance being produced by the accuser, and without, at the very least, an open discussion and an independent investigation of the allegations. Those of you who have been following developments at the OPCW know that I have committed no crime. You know that the so-called allegations against me are trumped up charges. You know that there is no mismanagement of the OPCW's budget, and that every cent has been spent on activities that were properly budgeted for. The latest report by the External Auditor - on the 2001 financial year - is the clearest possible indication of this. It will be formally issued in the next few days, but has already given us a perfectly clean bill of health, once again, for 2001. You know that my offer of a full and independent inquiry into my performance as the Director-General was rejected because such an inquiry would simply expose the allegations as absolutely unfounded, and confirm that there has never been any wrongdoing. The US draft decision, in fact, establishes a precedent whereby the Director-General or Secretary-General of any international organisation can be removed from office at any time during his or her tenure, simply because one Member State, with or without other "major contributors", doesn't like his or her "management style", or has "lost confidence" in him or her, whatever this might mean. And to establish such a precedent within an organisation such as the OPCW, which is not in the public eye of the international community as are some of its cousins, is easy. This is what this Conference is about. These are the choices you face.

20. Now let me say a few words to those who are concerned about the OPCW's survival, should one very important Member State not pay its budgetary contribution to the Organisation. I fundamentally disagree with those who may think that it is better to surrender the OPCW to that Member State, than to maintain a truly multilateral OPCW at minimal additional cost. I will never agree that the façade of multilateralism is more important than its substance. This would not be a compromise - it would be capitulation. Why? I will explain. This Member State's contribution to this year's OPCW budget is 12 million euros, six million of which have already been paid. Is six million euros too high a price to pay for ensuring the independence and effectiveness of the Organisation? Is six million euros (or even 10 or 12 million euros, should other like-minded Member States also refuse to pay their dues) too high a price to pay to avoid ousting the sitting head of an international organisation, something never yet attempted in international law? Is the OPCW's independence this cheap?

21. Now, let me say a few words about the immediate future. Those who believe that, if I leave, the Organisation will be flooded with money, are sadly mistaken. The OPCW has already suffered three years of underbudgeting. As a result, in 2003, just to keep up with the significant increase in the verification workload determined by yourselves, we will have to recruit 47 staff. To pay for this, the 2003 budget will have to be increased by more than 20 percent. This increase is simply non-negotiable. In full knowledge of this, major contributors have already made it clear that they will not agree to more than a 10 percent increase in 2003, which is not enough even to pay the salaries of existing staff. As a consequence, next year, regardless of the identity of the Director-General, you will see a shrinking, not an expanding, OPCW, and an unavoidable reduction in its staff. And this will be the next step towards the Organisation's demise, because funding is being determined by political agendas, and, in a few capitals at least, the OPCW seems to be a very low priority.

22. Yes, there is too much at stake here - for the OPCW, for other international organisations, and for the international community. It is time to rise to the challenge. It is time to set priorities as they are perceived by all of you, and not just by a few so-called "major players". This is why I refused to resign under pressure from a small handful of Member States. I did so in order to give you all the opportunity to make your choice - to determine what future, if any, multilateral organisations have in this increasingly dangerous, complex, and unstable world.

23. You may be surprised to hear that, had I resigned and agreed to walk away, then my executioners would have granted me a "dignified" departure, and that my accomplishments over five years of

stewardship would even have been applauded. However, let me tell you: I do not need a hero's departure. But if I do go - something that is now in the hands of all of you - it will be with honour. I will have been faithful to the principles of integrity by which I have tried to live my professional and personal lives - principles which are shared by my family, my foreign service and my country's foreign policy. Please understand that, in refusing to resign, I chose the most arduous of the two paths. One that brought threats, risks, stress, and insecurity, but which I chose to follow. First of all, because that is the call of my conscience. Secondly, because the bulk of my 36 years in the Foreign Service have been devoted to the elaboration and strengthening of multilateral instruments, without which, I firmly believe, peace and harmony among nations will not be achieved. I therefore refuse to resign, NOT because I want to cling to my position; but because, in not resigning, I will be preserving the right of each one of you - of even the smallest Member State amongst you - to publicly state your position on this very serious issue and to conscientiously take responsibility for your decision. I consider it my duty to give you all, and not only the most powerful amongst you, the right to oust me.

24. Although this unprecedented, ruthless and arbitrary procedure is taking place away from the public limelight, beneath the low skies of the subdued city of The Hague, the decisions to be taken here over the next few days will leave an indelible mark on the history of international relations. I hope that all of you, the Member States, will confront this historic challenge in full awareness of the implications of your decision. The choices that you make during this session of the Conference will determine whether genuine multilateralism will survive, or whether it will be replaced by unilateralism in a multilateral disguise.

25. Excellencies, the responsibility for this decision rests with you.

Thank you.

#### OPCW Press communique

The First Special Session of the Conference of the States Parties to the Chemical Weapons Convention Adjourns in The Hague

The Hague, 24 April 2002  
Number 35/2002

The first special session of the Conference of the States Parties to the Chemical Weapons Convention, convened as of 21 April 2002, has adjourned.

113 States Parties registered for participation in the special session, which considered the tenure of the Director-General of the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons, as well as any further action regarding the Technical Secretariat.

The Chairman of the Conference, H.E. Ambassador Dr Heinrich Reimann of Switzerland, summarised the developments of the Conference thus far:

"After the Conference considered the proposal to end the tenure of the Director-General of the Technical Secretariat for the requisite 24-hour period, in an effort to reach a consensus decision, a roll-call vote was held on 22 April 2002. Over a two-thirds majority of those States Parties present and voting supported the proposal.

Following the decision of the Conference, I thanked the out-going Director-General for his many years of dedicated service to the Organisation. Under Mr Bustani's leadership, this Organisation has become one of the foremost multilateral disarmament Organisations, setting standards of excellence and equal treatment.

The Conference considered the process for the selection and appointment of a replacement for Mr Bustani and has decided to suspend its deliberations until the Executive Council meets and provides a recommendation on the appointment of a new Director-General, no later than 10 June 2002."

## Directeur-generaal OPCW weggestemd

Haagsche Courant  
23 april 2002  
door Rob Goor

Den Haag – Directeur-generaal José Bustani van de OPCW, de VN-organisatie tegen chemische wapens in Den Haag, is gisteravond in een speciale vergadering van de lidstaten ontslagen. Met slechts zeven stemmen in zijn voordeel en 48 stemmen tegen werd Bustani op voorstel van de Verenigde Staten weggestemd.

Het ontslag hing al een maand boven het hoofd van de Braziliaan nadat de VS zich met name had geërgerd aan Bustani's poging om hernieuwde wapeninspecties in Irak mogelijk te maken.

Bustani kreeg uiteindelijk geen enkele steun meer van de westerse lidstaten. Alleen Rusland, Wit-Rusland, China, Cuba, Brazilië, Iran en Mexico bleven de directeur-generaal trouw.

Bustani liep – zonder iets te zeggen – meteen na de stemming weg uit de vergadering die voor deze buitengewone gelegenheid voor het eerst achter gesloten deuren plaatsvond. De Nederlandse ambassadeur bij de OPCW, M. Gevers, zei dat Nederland zich bij zijn standpuntbepaling heeft laten leiden door het belang van de organisatie en het efficiënt functioneren ervan. Het was duidelijk dat de directeur-generaal het vertrouwen van een groot aantal landen had verloren, aldus Gevers.

De leiding van de OPCW is nu voorlopig in handen van de plaatsvervangend directeur-generaal, de Australiër John Gee. De procedure die moet leiden tot de benoeming van een nieuwe chef wordt vandaag wel opgestart, maar kan geruime tijd duren.

De diplomaat Bustani was sinds de oprichting in 1997 directeur-generaal van de 'Organisation for the Prohibition of Chemical Weapons'. Hij werd in mei 2000 nog unaniem herkozen voor een tweede ambtstermijn. De Verenigde Staten verwijten Bustani officieel 'slecht beleid' en zeggen dat de organisatie een andere managementstijl nodig heeft. Op de vraag wat zij daarmee concreet bedoelen, wilde de Amerikaanse ambassadeur bij de OPCW, D. Mahley, gisteravond na de stemming niet ingaan.

Ook Europese diplomaten willen inhoudelijk weinig kwijt over het functioneren van Bustani. "Wij wilden geen crisis die maanden zou duren", zegt er een. "Sommige landen hadden geen kans onder omstandigheden van Realpolitik", zegt een ander.

## America forces out UN arms director

By Michael Binyon  
The Times  
23 April 2002

JOSÉ BUSTANI, the embattled director-general of the world body monitoring chemical weapons, was dismissed yesterday when most of the member states supported an American move to oust him.

Forty-eight of the 145 members of the Organisation for the Prevention of Chemical Weapons (OPCW) voted to dismiss Senhor Bustani, the first head of the organisation, who was re-elected for a further four years last May. Only seven countries supported him; a further 43 abstained.

A stormy two-day meeting in The Hague heard lengthy accusations against him by the Americans, although the US delegate was booed when he failed to produce the promised evidence. After the vote a devastated Senhor Bustani stormed out of the conference hall, threw his hands in the air and said he had lost his job.

The Americans accused the Brazilian head of the OPCW of a "habit of refusing to consult with member states" and cited his proposed new anti-terrorism measures after September 11, which were not first cleared with the US.

The State Department called his management disastrous and blamed him for not resigning after losing a vote of confidence last month. It accused him of threatening inspections in five unspecified countries for political ends.

Senhor Bustani gave an impassioned defence of his tenure. He called the US accusations against him false and said that the meeting would decide "whether genuine multiculturalism will survive, or whether it will be replaced by unilateralism in a multilateral disguise". He added: "I refuse to resign under pressure from a small handful of member states." He said before the vote that his dismissal would be illegal because "the convention does not allow for such a dismissal".

America called the special session of the OPCW to force him out and was supported by Britain, Germany and all European Union and Nato countries, with most of Eastern Europe and several former Soviet states.

Those supporting him were Russia, China, Iran, Cuba, Belarus, Mexico and his own country, Brazil. Most of Africa, Asia and Latin America abstained.

The United States had co-sponsored Senhor Bustani for re-election, but the change of Administration in Washington led to a swift reappraisal. The Bush Administration, determined not to be bound by multilateral agreements, has resented the restrictions of the Chemical Weapons Convention. It was particularly angered by Senhor Bustani's moves to woo Iraq, which Washington hardliners believe will make any military attack on Baghdad more difficult.

Senhor Bustani accused the White House of trying to push him out because of his independence from Washington. He said that he had been blamed for seeking Iraq's membership of the Chemical Weapons Convention, even though that was in full accordance with the United Nations Security Council decision.

American officials have briefed intensively but anonymously against Senhor Bustani. One said that his lapses "are not legal crimes; nonetheless they are severe mismanagement policies, which significantly impede the effectiveness of the organisation".

Several EU countries said privately they feared that unless they voted with the United States, America, which pays more than a fifth of the budget, would walk out of the UN body. The US has paid only half this year's dues and the OPCW is deeply in debt.

A senior member of the OPCW said after the vote that the American arm-twisting was clearly horrendous. He said: "We are now living in a completely different world

### US diplomatic might irks nations

A senior UN chief who policed the chemical weapons ban was voted out Monday night.

By Peter Ford | Staff writer of The Christian Science Monitor  
Christian Science Monitor, 24 April 2002

THE HAGUE - The United States scored an unprecedented diplomatic coup here on Monday evening, ousting the head of the organization policing an international chemical weapons ban who had tried to bring Iraq into the group.

It marked the first time that the director general of a United Nations agency had been fired in midterm. His removal, following the dismissal of a UN scientist last week who disagreed with the US position on global warming, is prompting concern among some countries about the way Washington is able to influence the fate of international officials who fall foul of its policies.

Jose Bustani, the Brazilian head of the Organization for the Prevention of Chemical Warfare (OPCW) was dismissed immediately, following a vote in the 145 member body called by the United States. US officials had accused him of mismanagement and "ill conceived initiatives."

Forty-eight countries, mainly from Europe, voted against Mr. Bustani. Seven, including Russia, China, Cuba, Mexico, and Iran, voted for him, while 43 abstained.

A senior US official says he was "gratified" by the vote, which he says "clearly demonstrates the breadth of understanding in the organization that the kinds of things we were talking about were indeed life threatening" to the OPCW.

Bustani, however, attributed the result to US pressure on developing countries to abstain. "My independence and my refusal to take orders" were behind the US bid to sack him, he claimed in an interview hours before his dismissal.



The OPCW was set up in 1997 to oversee the implementation of the Chemical Weapons Convention, a treaty banning such weapons and providing for the destruction of stockpiles. The organization runs inspections of military and industrial facilities to guard against proliferation.

The United States, which voted for Bustani's reelection in May 2000, began campaigning openly for his dismissal last February, accusing him of budgetary mismanagement, taking on tasks outside the convention, and of what the senior US official called "impetuous and arbitrary" decisions.

#### Bustani's push for Iraq

Several OPCW officials and delegates to this week's special session at OPCW headquarters here agreed that Bustani had displayed a secretive and abrasive management style, offending a number of key governments in the organization.

The United States was also angered by Bustani's attempts to persuade Iraq to join the OPCW, which Washington argued would undermine the UN Security Council resolutions demanding that Iraq submit to inspection by the UN Monitoring, Verification and Inspection Commission, (UNMOVIC) of any nuclear, biological and chemical weapons facilities it might still possess.

Critics of US policy have suggested that hardliners in Washington feared Iraq's membership in the OPCW, which would subject it to the organization's own chemical weapons inspections, might undercut their plans to topple Saddam Hussein on the grounds that he was keeping international weapons inspectors out.

President Hussein has refused to allow UNMOVIC weapons inspectors into Iraq since they were withdrawn in 1998.

The senior US official dismissed such arguments as "an atrocious red herring," saying Washington would welcome Iraq's membership of the OPCW so long as it also accepted UNMOVIC inspections.

But the US campaign against Bustani, which turned into an ugly row involving allegations of slander and the publication of private diplomatic correspondence, has raised fears in some quarters about the future of the multilateral system in the face of US determination to pursue its own interests.

Bustani's dismissal marks the second time in less than a week that Washington has won the removal of a senior UN official with whom it disagreed. Last Friday, after intense US lobbying, a US scientist who favors vigorous action to slow global warming lost his job as head of the Intergovernmental Panel on Climate Change.

Robert Watson was replaced by Rajendra Pachauri of India. Mr. Watson is a strong supporter of the Kyoto Protocol, a treaty to reduce most industrial nations' emissions of greenhouse gases. Washington has refused to join the pact, arguing that complying with its provisions would endanger US economic growth.

#### A slippery slope

Bustani argued that his fate would also be a pointer to the future. "The choices that you will make during this session ... will determine whether genuine multilateralism will survive or whether it will be replaced by unilateralism in a multilateral disguise," he told delegates at the opening of the special OPCW session on Sunday.

The senior US official denied that Washington's action set a precedent. But he added that he hoped "it will instill a greater sense of responsibility in international organizations."

Some delegates shared Bustani's disquiet. "Multilateralism is based on the independence of international organizations and their leaders," says Anne Gazeau-Secret, the ambassador of France, which abstained in Monday's vote.

If other governments followed the US lead and sought to remove United Nations officials whom they disliked, she worried, "a chain reaction risks leading to the destruction of the multilateral system."

"This is grave as a matter of principle," says an official from one country that abstained. "If one delegation threatens blackmail, saying it will not pay its contributions unless the director general goes ... where does that leave us?"

US officials had hinted that if Washington lost the vote on Monday, the US would cease contributing to the OPCW's \$60 million annual budget, which depends on the US for 20 percent of its funds.

The US still owes half of its 2002 contribution.

In the wake of Bustani's departure, the senior US official says, "I am confident we will pay that in the immediate future."

## Streit über Kontrolle der C-Waffen

Tageszeitung, 24 April 2002  
Aus Genf Andreas Zumach

Der Generaldirektor der Überwachungsorganisation für das Verbot chemischer Waffen verliert seinen Posten. Dahinter stecken vor allem die USA. Er hatte sich um Kooperation mit dem Irak bemüht. Dies hätte die Begründung eines Angriffs erschwert.

Auf Druck der USA ist am Montagabend der Generaldirektor der Überwachungsorganisation für das Verbot chemischer Waffen (OPCW) in Den Haag, der Brasilianer Jose Bustani, vorzeitig aus seinem Amt entfernt worden. Die politischen Hintergründe wie die formale Rechtmäßigkeit dieses in der Geschichte multilateraler Institutionen bislang beispiellosen Vorgangs sind unter den Beteiligten heftig umstritten.

Die OPCW hat die Aufgabe, das 1997 in Kraft getretene Abkommen zum Verbot von Chemiewaffen zu überwachen, darunter die Vernichtung aller noch existierenden C-Waffen-Bestände bis spätestens 2007. Die Überwachung geschieht durch regelmäßige Routineinspektionen sowie durch unangekündigte Verdachtskontrollen in den 145 Vertragsstaaten. 100 dieser Staaten bilden den OPCW-Exekutivrat. Auf seiner ersten, von den USA beantragten Sondersitzung unterstützte der Rat am Montagabend nach zweitägiger Debatte hinter verschlossenen Türen die Forderung Washingtons nach Abwahl Bustanis mit 48 gegen 7 Stimmen bei 43 Enthaltungen. Auch Deutschland und 10 weitere EU-Staaten votierten gegen den Brasilianer.

Die Bush-Administration hatte Bustani "finanzielle Misswirtschaft", "Parteilichkeit" und "Überschreiten seiner Kompetenzen" vorgeworfen. Unter anderem habe er aus "unzulässigen politischen Gründen" Inspektionen der OPCW in fünf (von Washington zumindest öffentlich nicht namentlich genannten) Staaten angekündigt.

Nach Informationen der taz handelt es sich bei einem der fünf Staaten um die USA. Washington hat - bereits zu Zeiten der Clinton-Administration - mehrfach gegen Bestimmungen der C-Waffen-Konvention verstoßen: OPCW-Inspektoren durften bestimmte Einrichtungen nicht betreten; Inspektoren mit den USA nicht genehmer Nationalität wurde die Einreise gänzlich verweigert; ein inzwischen vom Kongress verabschiedetes Gesetz ermächtigt die Administration, Verdachtskontrollen der OPCW völlig zu verhindern und den Inspektoren die Entnahme verdächtiger chemischer Substanzen zwecks Untersuchung zu untersagen. Washingtons Vorwurf der "Parteilichkeit" falle auf die USA zurück, erklärte Bustani vor dem OPCW-Exekutivrat. Es habe sich strikt an den Auftrag gehalten, den Überwachungsauftrag seiner Behörde in allen Mitgliedsstaaten gleichermaßen durchzusetzen.

Als "Kompetenzüberschreitung" kritisiert die Bush-Administration auch die intensiven Bemühungen des bisherigen OPCW-Chefs, den Irak zur Ratifizierung des C-Waffen-Verbots zu bewegen. Denn - so wird in Bustanis Umgebung vermutet - nach einer Ratifizierung könnte Bagdad OPCW-Inspektoren zulassen und damit den Vereinigten Staaten "die Begründung militärischer Aktionen gegen Irak erheblich erschweren".

Es fällt auf, dass die Bush-Administration ihre Kampagne zur Abwahl Bustanis erst Anfang dieses Jahres startete, zeitgleich mit Beginn ihrer öffentlichen Erwägungen einer Militäraktion gegen Irak. Noch im Herbst letzten Jahres hatte US-Außenminister Colin Powell in einem Schreiben an den OPCW-Generaldirektor dessen "sehr eindrucksvolle Arbeit" gelobt. Jetzt ist von einigen EU-Regierungen zu hören, schon seit über zwei Jahren habe man kritische Einwände gegen Bustanis Arbeit. Vor der Absetzung des Generaldirektors am Montagabend hatten die USA gedroht, die Zahlung ihrer vertraglichen Pflichtbeiträge an das OPCW ganz einzustellen. Laut Statut muss Washington 22 Prozent des OPCW-Budgets finanzieren, das sich derzeit auf knapp 60 Millionen Dollar beläuft.

## US unilateralism claims another victim

Guardian

Wednesday April 24, 2002

Exactly why the Bush administration insisted on sacking the head of the Organisation for the Prohibition of Chemical Weapons this week remains unclear. But on the face of it, it looks like yet another example of disdainful American unilateralism, of US contempt for and bullying of international bodies and officials who decline to toe Washington's line. If that interpretation of events is incorrect, it would be helpful if one of the US government's many representatives in Britain were to deign to tell us why.

The US accused OPCW boss Jose Bustani of financial mismanagement. This charge was loyally repeated last week in the House of Lords by Baroness Symons. She said that as a result, the OPCW had failed to maintain an "appropriate level" of worldwide inspections. But as Lord Rea pointed out, this shortfall was exacerbated, if not caused, by the failure of state parties, principally the US, to pay their financial dues. US officials claimed that Mr Bustani was planning inspections in five unspecified countries without proper, prior consultation. What they do not say is that one of these five countries is assumed to be the US - and that the Bush administration and defence industry interests are firmly opposed to intrusive inspections on US soil. That was a principal reason why they torpedoed the enforcement protocol envisaged for the Biological Weapons Convention last year. US readers, aware that anthrax used in last autumn's postal attacks most likely originated in an insecure US government laboratory, may be forgiven for thinking at this point that external inspections would be a jolly good thing.

The US denies a conspiracy to unseat Mr Bustani. But some OPCW members, such as close ally Mexico, say it ignored the organisation's rules. One account reports a senior US envoy telling American OPCW staff that the US will "screw" the organisation if it does not get its way. It is widely believed that the US warned other countries, including Britain, that failure to support Mr Bustani's sacking could destroy the Chemical Weapons Convention. How is such venomous animosity to be explained? The only persuasive answer is that Mr Bustani, by proposing that fears over Iraq's weapons be assuaged by having it join the OPCW, stepped between powerful Washington hawks and their prey, Saddam Hussein. They want a war and Mr Bustani's talk of peace threatened to spoil it. Is this true? The US owes everybody an explanation.

## 'VS wilden ontslag Bustani om oorlog met Irak'

De Volkskrant, Buitenland, 25 april 2002

Van onze buitenlandredactie

De Verenigde Staten hebben met het ontslag van de directeur van de Organisatie voor het Verbod op Chemische Wapens (OPCW) in Den Haag, José Bustani, willen voorkomen dat Irak de kans zou worden geboden toe te treden tot de OPCW. Toetreding zou een aanval van de VS op Irak bemoeilijken of op zijn minst vertragen.

Dit stellen analisten in Washington, aangehaald in Amerikaanse kranten. Bustani zelf is die mening ook toegedaan. De dinsdag ontslagen directeur wilde Irak laten toetreden tot de OPCW, om inzicht te krijgen in het arsenaal chemische wapens in het land.

De organisatie ziet toe op de naleving van het verdrag dat de productie en het gebruik van chemische wapens verbiedt. In de vijf jaar dat Bustani leiding heeft gegeven aan de OPCW heeft hij het aantal landen dat het verdrag heeft ondertekend bijna weten te verdubbelen tot 145. Vorig jaar werd Bustani unaniem herkozen voor een nieuwe termijn van vier jaar. Bij die gelegenheid prees de huidige Amerikaanse minister van Buitenlandse Zaken Colin Powell zijn 'zeer indrukwekkende werk'.

Sinds een paar maanden zette de VS Bustani onder druk op te stappen. Officieel vanwege zijn stijl van leiding geven. Analisten echter menen dat de mening van de VS over Bustani sinds 11 september is gewijzigd. Zo zouden zij zich hebben gestoord aan diens oproep het terrorisme te bestrijden, zonder dat hij eerst de VS had geconsulteerd. Later kwam er het argument bij dat Bustani Irak wilde laten

toetreden tot de OPCW. Als dat was gelukt, zou Irak weer internationale wapeninspecteurs hebben kunnen toelaten, waarmee voor de VS een belangrijk argument zou zijn weggevallen om Irak aan te vallen.

De Braziliaan verzette zich van meet af aan tegen de pogingen van de VS hem weg te krijgen van zijn post. Afgelopen zondag dreigden de Amerikanen met stopzetting van de contributie aan het OPCW, die 20 procent van het budget beslaat.

Bustani werd maandag tijdens een speciale zitting ontslagen. Bij de stemming steunden 43 landen die lid zijn van de OPCW het Amerikaanse voorstel, zeven stemden tegen, 43 onthielden zich van stemming.

Bustani liet bij zijn vertrek een verklaring achter waarin hij stelde altijd gestreefd te hebben naar gelijke behandeling van alle landen bij wapeninspecties.

### Kamervragen Karimi (GroenLinks)

2010209770

2 mei 2002

Vragen van het lid Karimi (GroenLinks) aan de minister van Buitenlandse Zaken over de OPCW en Irak. (Ingezonden 2 mei 2002)

1

Kent u het artikel «VS wilden ontslag Bustani om oorlog met Irak»?<sup>1</sup>

2

Is u in uw contacten met de VS gebleken dat toetreding van Irak tot de OPCW een aanval van de VS op dit land zou bemoeilijken, en dat dit een van de redenen is voor de VS om het ontslag van Bustani te eisen? Hoe serieus was de optie van toetreding van Irak tot de OPCW? Werden er al voorbereidingen voor deze specifieke toetreding getroffen?

3

Wat vindt u van het dwangmiddel dat de VS gebruikten, namelijk om de contributie met 20% te verlagen indien de directeur van de OPCW niet zou opstappen?

4

Bent u, uitgaande van het idee dat alles in het werk gesteld zou moeten worden om de wapeninspecties in Irak te hervatten, van mening dat het juist het doel zou moeten zijn om Irak toe te laten treden tot de OPCW? In hoeverre verhoudt het doel van de OPCW om zoveel mogelijk landen te laten toetreden zich tot de weigerachtige houding van de VS om Irak tot deze organisatie te laten toetreden?

5

Wat was het stemgedrag van Nederland in de OPCW toen het voorstel van het ontslag van Bustani aan de orde was en welke argumenten deden u tot deze conclusie komen? Heeft de EU in deze kwestie een gezamenlijke lijn getrokken? Is er door de VS druk uitgeoefend op Nederland en/of andere EU-lidstaten om het voorstel voor ontslag te steunen?

6

Vindt u dat de strijd tegen het terrorisme een terrein beslaat dat louter aan de VS toebehoort? Zo ja, waarom? Zo nee, waarom waren de VS ogenschijnlijk geïrriteerd over vermeende uitlatingen van Bustani over de strijd tegen het terrorisme en de rol van chemische wapens hierin?

Toelichting:

Deze vragen dienen ter aanvulling op eerdere vragen ter zake van het lid Hoekema, ingezonden 24 april 2002.

1 Volkskrant, 25 april jl.

## Beantwoording Kamervragen Hoekema (D66) en Koenders (PvdA)

DVB/NN-137/02

6 mei 2002

Zeer geachte Voorzitter,

Graag bied ik u hierbij de antwoorden aan op de schriftelijke vragen gesteld door de leden Hoekema (D66) en Koenders (PvdA) over de OPCW en Irak. Deze vragen werden ingezonden op 24 april 2002 met kenmerk 2010209630.

De Minister van Buitenlandse Zaken

Antwoord van de heer Van Aartsen, Minister van Buitenlandse Zaken, op vragen van de leden Hoekema en Koenders over de OPCW en Irak

Vraag 1

Is het waar dat de Directeur Generaal van de OPCW (organisatie voor het verbod op chemische wapens), Bustani, door de lidstaten van de OPCW is weggestemd als Uitvoerend Directeur? 1)

*Antwoord:* Op maandag 22 april heeft de Speciale Conferentie van Verdragspartijen een besluit aangenomen, waarin het contract van Directeur Generaal Bustani met de OPCW met onmiddellijke ingang werd beëindigd. Dit besluit is aangenomen met de vereiste tweederde meerderheid van aanwezige en stemmende partijen (48 voor, 7 tegen, en 43 onthoudingen, welke niet als uitgebrachte stemmen werden meegerekend).

Vraag 2

Welke positie heeft Nederland hierbij ingenomen en waarom?

*Antwoord:* Nederland heeft voor het besluit gestemd, evenals nagenoeg alle EU-partners. Nederland meende dat de crisis rond de DG dusdanig ernstig was geworden dat deze het effectief functioneren en zelfs voortbestaan van de Organisatie bedreigde en trok daaruit de conclusie dat het vertrek van de DG de enig mogelijke oplossing voor de crisis kon zijn.

Vraag 3

Is het vertrek van de heer Bustani uitsluitend te wijten aan managementproblemen of speelt hier ook, zoals eerder door hem gesuggereerd 2) een conflict tussen hem c.q. de OPCW en de VS?

*Antwoord:* De VS verweet de heer Bustani dat zijn stijl van management onder andere heeft geleid tot de penibele financiële situatie van de OPCW in 2001. Ook verweet de VS Bustani dat hij extra taken voor de OPCW zocht, waar hij zich in Amerikaanse optiek beter had kunnen concentreren op de hoofdtaken van zijn organisatie.

In contacten met de Verenigde Staten is mij duidelijk geworden dat de door de heer Bustani en anderen gesuggereerde link tussen het aftreden van de DG en diens pogingen om Irak over te halen verdragspartij te worden bij het Chemische Wapens Verdrag niet op waarheid berust. De VS is, evenals Nederland en vele andere landen, voorstander van universaliteit van het Chemisch Wapens Verdrag.

Vraag 4

Welke positie heeft Nederland ingenomen op deze twee aspecten? Hoe denkt Nederland over de relatie OPCW-Irak?

*Antwoord:* Nederland is van mening dat de kritiek op de DG dusdanig was, dat hij het vertrouwen van een groot aantal verdragspartijen, waaronder bovendien een aantal grote contribuanten, had verloren en dat zijn positie niet langer houdbaar was. Het aanblijven van de heer Bustani vormde in die situatie, waarvan Nederland het ontstaan betreurde, een directe bedreiging voor het vermogen van de OPCW effectief haar taken uit te voeren en mogelijk zelfs voor het voortbestaan van de Organisatie zelf.

Nederland is voorstander van de universaliteit van het Chemische Wapens Verdrag. Het zou een lidmaatschap van Irak in de OPCW verwelkomen. Dit zou Irak overigens niet ontslaan van de

ontwapeningsverplichtingen vastgelegd in VR resolutie 1284, waarin wordt gesteld dat Irak op alle punten aantoonbaar medewerking dient te verlenen aan de uitvoering van het mandaat van UNMOVIC en de IAEA.

Vraag 5

Welke gevolgen zal het vertrek van de heer Bustani hebben voor de positie van de OPCW incl. de financiële positie?

*Antwoord:* Nederland hoopt dat na het vertrek van de heer Bustani de OPCW in staat zal zijn haar werkprogramma, dat op de Conferentie van Verdragspartijen in mei 2001 is aangenomen, volledig uit te voeren. Hiervoor zullen additionele financiële middelen moeten worden gevonden. Nederland is voornemens een extra bijdrage te leveren, alsook andere landen daartoe aan te sporen.

Vraag 6

Heeft Nederland als gastland nog bijzondere beperkingen in acht moeten nemen bij deze discussie?

*Antwoord:* Nederland heeft zich in deze zaak zoveel mogelijk laten leiden door de terughoudendheid, die een gastland in dergelijke zaken traditioneel dient te betrachten. Voorop bleef echter het belang van het voortbestaan van de Organisatie staan.

1) Trouw, 23 april jl.

2) International Herald Tribune, 18 april jl.

#### Beantwoording Kamervragen Van den Doel (VVD)

DVB/NN-142/02, 8 mei 2002

Zeer geachte Voorzitter,

Graag bied ik u hierbij de antwoorden aan op de schriftelijke vragen gesteld door het lid Van den Doel (VVD) over de Organisatie voor het Verbod op Chemische Wapens (OPCW). Deze vragen werden ingezonden op 9 april 2002 met kenmerk 2010209010.

De Minister van Buitenlandse Zaken

Antwoord van de heer Van Aartsen, Minister van Buitenlandse Zaken, op vragen van het lid Van den Doel over de Organisatie voor het Verbod op Chemische Wapens

Vraag 1

Wat is momenteel de stand van zaken rondom de financiering van de OPCW? Welke landen kennen een betalingsachterstand in de jaarlijkse bijdrage? Voor welk totaalbedrag?

Antwoord

Op dit moment hebben 68 verdragspartijen van de OPCW hun contributie volledig voldaan. 15 landen hebben hun contributie gedeeltelijk betaald. In totaal heeft de OPCW thans 55,8 % van de contributies voor het jaar 2002 ontvangen. Dit komt overeen met een bedrag van € 35.210.435,90.

Vraag 2

In hoeverre is het de Uitvoerende Raad gelukt om uitgavenposten in te vullen met vrijwillige additionele fondsen?

Antwoord

Nederland en het VK hebben eind 2001 een grote vrijwillige bijdrage geleverd aan het Voluntary Fund for Assistance van de OPCW. Dit is een fonds dat operationeel wordt indien een verdragspartij een beroep doet op assistentie van de OPCW in geval van een aanval op die verdragspartij met chemische

wapens. Voor het overige heeft de OPCW nog geen vrijwillige bijdragen ontvangen ter aanvulling van uitgavenposten.

#### Vraag 3

Wat is het resultaat geweest van het onderzoek van de regering over een mogelijke aanvullende nationale bijdrage? Gaat de Nederlandse regering deze aanvullende nationale bijdrage leveren en zo neen, waarom niet?

#### Antwoord

Nederland heeft in december 2001 € 200.000 gestort in het Voluntary Fund for Assistance. Bovendien heeft de regering een bijdrage in natura geleverd aan de organisatie van de Tiende Laboratory Proficiency Test van de OPCW met een waarde van € 51.730,94.

#### Vraag 4

Is het waar dat de Verenigde Staten en Europese Unie het vertrek van directeur-generaal Bustani hebben geëist? Wat zijn de bezwaren van de VS en de EU tegen DG Bustani? Deelt de Nederlandse regering deze opvatting? Wat is haar standpunt in deze?

#### Antwoord

De Speciale Conferentie van Verdragpartijen, die van 21 tot en met 24 april werd gehouden, heeft een besluit aangenomen, waarin het contract van Directeur Generaal Bustani met de OPCW met onmiddellijke ingang werd beëindigd. Nederland heeft dit besluit gesteund, evenals nagenoeg alle EU-partners. Daar de DG het vertrouwen van een belangrijk aantal verdragpartijen had verloren bedreigde diens aanblijven het effectief functioneren en zelfs het voortbestaan van de Organisatie. Nederland heeft daaruit de conclusie getrokken dat het vertrek van de DG de enig mogelijke oplossing voor de crisis kon zijn.

Voor het overige moge ik U verwijzen naar mijn antwoorden op de vragen gesteld door de leden Hoekema en Koenders aangaande de OPCW en Irak.

#### Vraag 5

Bent u tevreden over het functioneren van de OPCW? Zo neen, welke activiteiten ontplooit de Nederlandse regering om ervoor te zorgen dat de OPCW naar behoren kan functioneren?

#### Antwoord

De regering is tevreden over het functioneren van de OPCW. De OPCW is een jonge, internationale organisatie die in korte tijd sterk is gegroeid (145 verdragpartijen in 5 jaar bestaan). Zoals iedere startende organisatie heeft ook de OPCW te maken met een aantal problemen. Over het algemeen heeft de OPCW evenwel goed werk gedaan in het streven naar een wereld zonder chemische wapens.

#### Vraag 6

Welke resultaten heeft de OPCW afgelopen jaar geboekt? Gaat Rusland de deadline van 29 april 2002 voor de vernietiging van alle categorie 2 en 3 chemische wapens halen? Zo neen, in hoeverre niet?

#### Antwoord

Op het moment van beantwoording van deze vragen is het jaarrapport van de OPCW over het jaar 2001 nog niet beschikbaar. Er zijn slechts cijfers beschikbaar over het eerste half jaar van 2001.

Alle vernietigingsactiviteiten in 2001 zijn uitgevoerd in aanwezigheid van inspecteurs van de OPCW. In de eerste zes maanden van 2001 zijn er 83 inspecties uitgevoerd op 69 verschillende plaatsen in 19 verdragslanden voor een totaal van 4365 inspecteurdagen. Van deze inspecties hadden er 46 betrekking op verificatie van vernietiging van chemische wapens. OPCW inspecteurs hebben in het eerste half jaar van 2001 de vernietiging van 312.351 ton chemische agentia geverifieerd, waarvan het overgrote deel categorie 1 chemische wapens betrof.

Op 6 maart 2002 heeft Rusland de vernietiging van alle categorie 2 en 3 chemische wapens voltooid. Dit feit is bevestigd in een verklaring van de 28e Uitvoerende Raad van de OPCW.

#### Vraag 7

Welke mogelijkheden heeft de OPCW om (het bezit van) chemische wapens te bestrijden in landen die niet tot de verdragsorganisatie zijn toegetreden? Is de OPCW momenteel actief in of jegens landen die niet bij de verdragsorganisatie zijn aangesloten? Zo ja, welke?

Antwoord

De OPCW is een internationale verdragsorganisatie die slechts kan optreden in die landen die het verdrag hebben geratificeerd en aldus volwaardig verdragspartij zijn bij de organisatie. De OPCW kan derhalve (het bezit van) chemische wapens in landen die geen verdragspartij zijn niet bestrijden. Zij kan zich slechts ervoor inspannen dat deze landen partij worden bij het verdrag.

1) Crisis in wapenorganisatie VN, NRC Handelsblad, 20 maart jl.

2) Zie uw antwoord van 11 juni 2001 op vragen van het lid Van den Doel over de OPCW (Aanhangsel bij Handelingen 2000-2001, nr. 1307)

3) Zie uw antwoord van 12 oktober 2001 op vragen van de leden Hoekema en Koenders (Aanhangsel bij Handelingen 2001-2002, nr. 110)



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