

Second Session  
1 - 5 December 1997

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## **REPORT OF THE EXECUTIVE COUNCIL ON THE PERFORMANCE OF ITS ACTIVITIES (13 May - 31 October 1997)**

### **1. Organisational matters**

- 1.1 On 12 May 1997, in accordance with Article VIII, paragraphs 23 and 24 of the Convention and with Rule 83 of the Rules of Procedure of the Conference, as well as with due regard to the established numerical proportions as described in Article VIII, paragraph 23 of the Convention, the following 41 States Parties were elected members of the Council by the Conference of the States Parties at its First Session, for the following terms of office:

Africa: Algeria, Kenya, Morocco, and South Africa (1 year); Cameroon, Côte d'Ivoire, Ethiopia, Tunisia, and Zimbabwe (2 years);

Asia: Bangladesh, Oman, Philippines, and Sri Lanka (1 year); China, India, Japan, Republic of Korea, and Saudi Arabia (2 years);

Eastern Europe: Belarus, Bulgaria, and Romania (1 year); Hungary and Poland (2 years);

Latin America  
and the Caribbean: Ecuador, Peru, Suriname, and Uruguay (1 year); Argentina, Brazil, Chile, and Mexico (2 years);

WEOG: Australia, Malta, Netherlands, Norway, and Spain (1 year); France, Germany, Italy, United Kingdom of Great Britain and Northern Ireland, and United States of America (2 years).

- 1.2 During its First Session the Council on 13 May 1997 elected Ambassador Prabhakar Menon of India as its Chairman. At the same meeting the Council elected Cameroon, Chile, Poland and Spain as its Vice-Chairmen.

- 1.3 The Council elaborated its Rules of Procedure, and submitted them to the Conference at its First Session for approval. The Rules of Procedure of the Council were subsequently adopted by the Conference on 23 May 1997 (C-I/DEC.72, dated 23 May 1997).
- 1.4 The Council held six sessions in the period under review, on the following dates:  
13 - 23 May, 23 - 27 June, 28 July - 1 August, 1 - 4 September,  
29 September - 1 October, and 28 - 31 October 1997.
- 1.5 In accordance with Rule 4 of the Rules of Procedure, the credentials of representatives on the Council were examined by the Director-General and reported to the Council for approval. The result of the most recent examination of credentials as of the date of the latest report (EC-VI/DG.10 and Add.1, dated 30 and 31 October 1997 respectively) was that the credentials of all representatives on the Council were in conformity with the Rules of Procedure of the Council.
- 1.6 At its Second Session the Council decided to establish, in accordance with Regulation 15.1 of the Financial Regulations of the OPCW approved by the Conference of the States Parties at its First Session (C-I/DEC.3, dated 14 May 1997), an Advisory Body on Administrative and Financial Matters to fulfil the functions specified in Regulation 15.1 of the Financial Regulations (EC-II/DEC.1, dated 30 June 1997). In accordance with this decision of the Council, this body should be open-ended and without decision-making powers. At the request of the Council, the Director-General subsequently circulated a Note inviting States Parties to appoint experts of recognised standing in the administrative and financial fields to serve on the advisory body. These experts were provided at no cost to the Organisation. The Council also decided to review the operation of this body after some experience of its functioning had been gained. The advisory body held its first meeting from 15 - 19 September and elected Mr Arnold Cals as its Chairman. The report of this first meeting of the advisory body was noted by the Council at its Fifth Session (EC-V/ABAF.1, dated 23 September 1997).
- 1.7 In accordance with the decision of the Conference of the States Parties at its First Session delegating to the Council the authority to appoint and decide the term of appointment of the first External Auditor of the OPCW (C-I/DEC.73, dated 23 May 1997), the Council appointed the Auditor-General of India, Mr V.K. Shunglu, as the first External Auditor of the OPCW for a single period of three years (EC-II/DEC.2, dated 30 June 1997). In accordance with its mandate from the Conference, the Council reports to the Conference of the States Parties at its Second Session the decisions taken in relation to the appointment of the External Auditor and to the duration of his term of appointment.

## **2. Substantive matters**

### **Recommendation to the Conference on the appointment of the Director-General**

- 2.1 The first decision adopted by the Council was the recommendation that the Conference appoint José Mauricio Bustani as Director-General of the OPCW for a term of office beginning on 13 May 1997 and ending on 12 May 2001 (EC/DEC.1, dated 13 May 1997). The Conference subsequently acted upon the recommendation of the Council (paragraph 10 of C-I/9\*, dated 23 May 1997).

### **Programme and budget of the OPCW**

- 2.2 During its First Session the Council considered and recommended that the Conference approve the Draft OPCW Programme and Budget for 1997 (EC/CRP.2 and Add.1, both dated 23 May 1997). The Conference subsequently approved the OPCW Programme and Budget for 1997 (C-I/DEC.74\*, dated 23 May 1997, and Corr.2, dated 3 September 1997).
- 2.3 The Draft OPCW Programme and Budget for 1998 and the Draft Medium-Term Plan 1999 - 2004 were introduced to the Council at its Fourth Session. At its Fifth and Sixth Sessions the Council considered these drafts, which will be further considered during the next session of the Council, which is scheduled for 18 - 20 November 1997.

### **External Auditor's reports on the financial statements and the Provident Fund of the Preparatory Commission**

- 2.4 The Council noted the reports of the External Auditor for the Preparatory Commission, Mr Manzur Hussein, Auditor General of Pakistan, on the financial statements and the Provident Fund of the Preparatory Commission (EC-VI/DG.1 and EC-VI/DG.2, both dated 16 October 1997). The Council referred these reports to the Conference of the States Parties at its Second Session.

### **Report of the Council on the performance of its activities**

- 2.5 At its Sixth Session, the Council considered and approved the Report of the Executive Council on the Performance of its Activities (EC-VI/4, dated 31 October 1997).

### **Status of implementation of the Convention**

- 2.6 Beginning with its Second Session, the Council at each session reviewed the status of implementation of the Convention on the basis of reports submitted by the Director-General. The Council recognised the vital importance and urgency of the full and effective implementation of the Convention and the necessity for the States Parties to fulfil, without exception, their obligations under the Convention. The Council expressed and reiterated its concern, most recently in its latest report (EC-VI/3 dated 31 October 1997) that, despite the number of months which had

elapsed since the mandatory deadline for the submission of declarations prescribed by the Convention, and since the entry into force of the Convention, the number of national declarations and/or obligatory notifications submitted remained alarmingly low. The Council urged those States Parties which had not yet submitted their declarations or which had submitted incomplete declarations, to fulfil their obligations without further delay.

- 2.7 The Council requested the Secretariat to provide, on a regular basis, a status report containing, per Member State, information about the submission of the initial declarations and notifications required and relevant for the implementation of inspection and verification activities, including all notifications pertaining to Schedule 1 transfers and the dates of submission, in conformity with the provisions of the Convention.
- 2.8 At its Sixth Session the Council considered and referred the Draft Report of the Organisation on the Implementation of the Convention for consideration and approval by the Conference of the States Parties at its Second Session (EC-VI/2, dated 31 October 1997).

#### **Transitional verification arrangements and facility agreements**

- 2.9 At its First Session the Council adopted the guidelines for transitional verification arrangements (TVAs) for chemical weapons destruction facilities operational during the first 390 days after EIF (EC/DEC.2, dated 21 May 1997).
- 2.10 At its Third Session the Council considered and approved three such arrangements for the following facilities in the United States of America: the Tooele Chemical Agent Disposal Facility, the Johnston Atoll Chemical Agent Disposal System, and the Chemical Agent Munitions Disposal System Activity Deseret Army Depot, Utah (EC-III/DEC.1, dated 5 August 1997).
- 2.11 At its Fifth Session the Council considered and approved two further TVAs in the United States of America: for the destruction of chemical weapons warfare material at the chemical transfer facility at Aberdeen Proving Ground, Maryland (EC-V/DEC.2, dated 30 September) and for the demilitarisation of M687 155mm Projectiles at Hawthorne Army Depot Hawthorne, Nevada (EC-V/DEC.3, dated 30 September 1997).
- 2.12 At its Sixth Session the Council deferred, until its Seventh Session, its consideration of two facility agreements for Schedule 1 facilities in Sweden and Australia respectively (EC-VI/DEC/CRP.1, and EC-VI/DEC/CRP.2, both dated 17 October 1997). The Council also deferred, until its Seventh Session, its consideration of one facility agreement under Part IV(B) of the Verification Annex for a facility in Italy (EC-VI/DEC/CRP.3 and Corr.1, dated 17 and 23 October 1997 respectively).

**Requests for conversion of chemical weapons production facilities for purposes not prohibited under the Convention**

- 2.13 At its Fifth Session the Council, acting on a request from the United States of America, considered and recommended that the Conference of the States Parties at its Second Session approve the use of the chemical weapons production facility, owned by the Marquardt Company, Van Nuys, California, United States of America, for purposes not prohibited under the Convention (EC-V/DEC.1, dated 1 October 1997). The Council further encouraged the Conference to decide on the recommendation as a matter of priority, in accordance with paragraph 75 of Part V of the Verification Annex.
- 2.14 At its Fifth Session, at a closed meeting, the Council also reviewed a status report on a request by a State Party for conversion of CWPF for purposes not prohibited under the Convention and approved the recommendation of the Director-General in this regard.
- 2.15 At its Sixth Session the Council deferred, until its Seventh Session, its consideration of a request by the United Kingdom of Great Britain and Northern Ireland to use a CWPF for purposes not prohibited under the Convention (EC-VI/DG.6\*, dated 29 October 1997).

**Request for delay in the start of destruction of a chemical weapons production facility**

- 2.16 At its Sixth Session the Council deferred, until its Seventh Session, its consideration of a request from Japan for the suspension of the application of the provisions of the Convention in relation to the start of destruction of chemical weapons production facilities for a chemical weapons production facility located in Japan (EC-VI/DG.8, dated 29 October 1997).

**Confidential information and declaration processing**

- 2.17 The Council, at its Third Session, considered the Report by the Director-General entitled "Confidential Information and Declaration Processing" (EC-III/DG.7, dated 22 July 1997). The Council noted the measures taken by the Secretariat to restrict, within the Secretariat and without prejudice to subparagraph 2(b) of the Confidentiality Annex, access to declarations of any State Party containing confidential data to the least possible number of staff members. The Council requested a subsequent report from the Office of Internal Oversight on the implementation by the Secretariat of administrative directives and policy related to confidential information and declaration processing.

**Information management system - electronic document management system**

- 2.18 A confidentiality audit was carried out on the electronic document management system (EDMS) in June 1997 and a security audit report was subsequently issued, together with comments by the Secretariat. During its Third Session the Council

endorsed the Director-General's plan of implementation for the recommendations of the EDMS security audit team (EC-III/DG.1 and EC-III/DG.9, dated 7 and 24 July 1997 respectively). The Council noted several recommendations of the audit that led to decisions not to load declaration data into the EDMS until the security environment for the EDMS was brought up to the appropriate level and also to revise the IABG security study for the security-critical network. In his report to the Council at its Fifth Session, the Director-General provided an update on the status of the revised security study of the EDMS security audit team (EC-V/DG.5, dated 25 September 1997). The Council noted the revised security study which was issued on 16 October (annex to EC-VI/DG.4).

#### **Proposed mechanism for updating the OPCW Central Analytical Database**

- 2.19 At its Fourth Session the Council adopted the decision on the Proposed Mechanism for Updating the OPCW Central Analytical Database (EC-IV/DEC.2, dated 5 September 1997). In this decision the Council recommended that, following the approach identified in paragraph 4 of the above-mentioned decision, the Conference of the States Parties at its Second Session consider adopting the spectra referred to in paragraph 4 of this decision and approve their incorporation into the OPCW Central Analytical Database. The Council also recommended that the Conference of the States Parties at its Second Session approve the consultative mechanism for updating the OPCW Central Analytical Database as outlined in paragraphs 1 to 3 of its decision.

#### **Provisional Interim OPCW Staff Rules**

- 2.20 The Council considered the Provisional Interim OPCW Staff Rules at its First, Second, Third, Fifth and Sixth Sessions. At its Sixth Session, the Council received the final report of the consultations on this issue (EC-II/DG.2/Add.1/Rev.4, dated 31 October 1997), and recommended that, in accordance with Interim Staff Regulation 12.3, the Director-General should provide the Council with a full text of the revised Provisional Interim Staff Rules.

#### **Draft Financial Rules of the OPCW**

- 2.21 The Council considered the Draft Financial Rules of the OPCW (C-I/CRP.3, dated 20 May 1997) at its First, Second Third, and Sixth Sessions, but has yet to complete its work. Informal consultations were held during the intersessional periods and progress is reported in document C-I/CRP.3/Rev.2, dated 24 July 1997.

#### **Status of contributions**

- 2.22 At each session held in 1997 the Council urged those Member States which had not yet fully met their financial obligations for the 1997 budget and the Working Capital Fund to do so forthwith. In accordance with the request of the Council, the Director-General reported to the Council at each session on the status of contributions.

**Scale of assessment of the Organisation contained in Article VIII, paragraph 7, of the Convention**

- 2.23 At its Fourth Session the Council adopted a decision making the following recommendations to the Conference of the States Parties at its Second Session in relation to the scale of assessment of the Organisation (EC-IV/DEC.1, dated 5 September 1997): that the Organisation would calculate the scale of assessment for States Parties by adhering to the ceiling of 25% and a floor rate of 0.01% of the regular budget for 1997; that the above-mentioned ceiling and floor rates would be applied retroactively to the 1997 budget; that no State Party shall receive an increase in its assessed contribution for 1997 as decided by the Conference of the States Parties at its First Session; and that any possible shortfall would be met within the approved appropriation for the 1997 budget. This recommendation would not prejudice whether or not to apply the ceiling or floor rates to the future budget. The Council requested that this issue be given priority attention by the Conference of the States Parties at its Second Session.

**Universality of the Convention**

- 2.24 At its Fifth Session the Council emphasised the importance of ensuring the universality of the Convention, in particular by encouraging those States which had neither ratified nor acceded to the Convention to do so as soon as possible. For this purpose, the Council endorsed the decision of the Director-General to meet, during his visit to the United Nations in October 1997, representatives of those States which had neither ratified nor acceded, in an effort to enhance the universality of the Convention. The Council recognised the importance of universality to all States Parties and further recognised that it has special relevance to States with serious security concerns.

**Information from the Chairman of the Committee of the Whole about the progress made in the consultations of the facilitators**

- 2.25 In accordance with the procedure for addressing unresolved issues during the first intersessional period established by the Conference of the States Parties at its First Session (C-I/DEC.70, dated 22 May 1997), the Chairman of the Committee of the Whole, Ambassador Figueroa of Argentina, informed the Council about the designation of facilitators and the assignment of issues.

**Draft Agreement concerning the Relationship between the United Nations and the OPCW**

- 2.26 At its Fourth, Fifth and Sixth Sessions the Council considered the Draft Agreement concerning the Relationship between the United Nations and the OPCW. The Council deferred further consideration of this issue until its Seventh Session.

### **Provisional Agenda for the Second Session of the Conference of the States Parties**

- 2.27 Pursuant to Rule 12 of the Rules of Procedure of the Conference, the Council at its Fourth Session drew up the provisional agenda of the Second Session of the Conference of States Parties (subparagraph 12.2 of EC-IV/1, dated 5 September 1997, and C-II/1, dated 8 September 1997).

### **OPCW building**

- 2.28 At its Fourth Session the Director-General reported on the status of the new purpose-built OPCW building (EC-IV/DG.12, dated 3 September 1997). The Director-General reported that the date for completion of the building remained on target for January 1998 and that the costs also continued to be within the budgeted amount. The contract with the sole supplier was considered and approved by the Council.

### **Dates for future sessions of the Conference of the States Parties**

- 2.29 At its Third and Fourth Sessions the Council considered and referred, for consideration and approval by the Conference of the States Parties at its Second Session, the following sets of dates for the regular sessions of the Conference in the period 1998 to 2005 (inclusive): 16 - 20 November 1998; 28 June - 2 July 1999; 15 - 19 May 2000; 14 - 18 May 2001; 13 - 17 May 2002; 12 - 16 May 2003 (with the possibility of one extra week from 5 - 9 May); 10 - 14 May 2004; and 23 - 27 May 2005.

### **OPCW logo**

- 2.30 In accordance with the proposal submitted by of the Director-General (paragraph 25 of EC-IV/DG.9, dated 1 September 1997), and on the basis of the revised design without words contained in the annex to EC-IV/DG.7/Add.2, dated 3 September 1997, the Council recommended that the Conference of the States Parties, at its Second Session, should consider and adopt this revised design for use by the OPCW. In making this recommendation, the Council understood that, pending a decision by the Conference, the Secretariat would use the revised logo in its documentation, on the condition that this would not have any significant financial implications, and if no objections from any Member State were received by 19 September 1997 (subparagraph 14.1 of EC-IV/1, dated 5 September 1997).

### **Application of the Rules of Procedure of the Council**

- 2.31 When the Conference at its First Session adopted the Rules of Procedure of the Council, the delegation of Ireland, speaking on behalf of the delegations of Austria, Canada, Greece, Ireland, Switzerland and New Zealand, stated that, in agreeing to join consensus in the Conference's adoption of the Rules of Procedure of the Executive Council of the OPCW, these delegations wished to state that they considered that Rule



22 and Rule 57 of the said Rules were so drafted as to be potentially open to a restrictive interpretation and could, in practice, inhibit the ability of members of the Organisation - which were not at that time members of the Council - from the opportunity of making their views known to the Council in an appropriate way. These delegations stated that by the words "The Chairman with the concurrence of the Council may invite observers to present their views" is meant that in the absence of such concurrence, the Chairman shall be bound by the decision-taking rules of these Rules of Procedure (subparagraph 15.3 of C-I/9\*, dated 23 May 1997). These delegations also requested that the Council should report on the application of the above-mentioned Rules of Procedure.

- 2.32 In this regard it is noteworthy that the ability of members of the Organisation which were not members of the Council to make their views known to the Council in an appropriate way, was, in practice, not inhibited during the period under review. Of the six sessions of the Council held so far, only two involved a brief closed meeting. All other sessions were open, with an average number of about ten observers in attendance. Each request of observers to present their views in accordance with Rule 22 was satisfied. On one occasion a paper submitted by an observer delegation was circulated as an official document of the Council. At the request of the same observer delegation an agenda item was included in the agenda of a session of the Council.

#### **Regular sessions of the Council**

- 2.33 The Council decided on the following schedule for regular sessions of the Council for 1998: 27 - 30 January; 21 - 24 April; 16 - 19 June; 1 - 4 September; 6 - 9 October; and 8 - 11 December.

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