



Source: Bustani, 13 June 2003, Agência Senado, photographer Márcia Kalume

BUSTANI, José Maurício de Figueiredo

Brazilian diplomat and first Director-General of the Organization for the Prohibition of Chemical Weapons (OPCW) 1997-2002

By **Dawisson Belém Lopes** · Version 19 January 2015

Was born in Porto Velho, Brazil on 5 June 1945. He is the son of Mauricio José Bustani, medical doctor, and Guajá de Figueiredo. On 1 June 1971 he married Janine-Monique Lazaro, diplomat. They have one daughter and two sons.

Biography

Bustani, the son of a doctor of Lebanese descent, spent his early childhood in Porto Velho, the capital city of Rondônia, the Northern federal state. The primary school classes he attended were held in poorly equipped rooms, with no school infrastructure whatsoever and an amateurish teacher who only undertook the position because her husband had been transferred to Porto Velho for professional reasons. Bustani associates his childhood in a small and precarious society in Northern Brazil with an almost idyllic multicultural atmosphere in the 1950s, when native indigenous people, blacks (mostly of Caribbean origin) and whites lived and worked together, without room for prejudice or racial discrimination (Lopes 2014). He remained in Rondônia until the age of nine, when the family moved to Niterói in Rio de Janeiro. Throughout his adolescence Bustani hoped to pursue a career as a classical pianist, but being a musician was not viewed as a promising professional path so Bustani opted for another, more secure, career path, although his younger sister Linda became a world-class pianist. Almost by inertia Bustani went to study law at the Pontifical Catholic University of Rio de

Janeiro, but international law classes led him away from the legal profession and during his third year he passed the national exam to become a Brazilian diplomat. In 1967 he graduated from law school and joined the Preparatory Course at the Rio Branco Institute, the Brazilian diplomatic school.

From 1967 until 1970 Bustani worked under the Secretary of Foreign Affairs for International Organizations, with a promotion in diplomatic rank from Third to Second Secretary in 1969. He had his first contact with the United Nations (UN) system in 1968-1969, when he took part in the Committee on the Peaceful Uses of the Seabed and Ocean Floor as part of the Brazilian delegation. His career abroad began at the Brazilian Embassy in the Soviet Union in Moscow, where he lived from 1970 to 1973. Before he left, he taught himself to speak Russian. From 1973 to 1975 he worked at the Brazilian Embassy in Vienna, Austria and was also Alternate Representative at the UN Industrial Development Organization located there. In 1975 Bustani became the special adviser to the Head of the Department of International Organizations of the Ministry of Foreign Affairs and was promoted to First Secretary by merit in 1976. Between 1974 and 1983 he participated in several UN Conferences on the Law of the Sea and was also present at the UN Conference on the Representation of States in their Relations with International Organizations held in Vienna in 1975. His official 'entry' at the UN took place in 1977, when he was posted to the Brazilian Mission to the UN headquarters. In 1978 he participated as a delegate at the Preparatory Committee for the First Special Session of the General Assembly devoted to disarmament in New York, and was promoted to the rank of Counsellor the following year. Between 1979 and 1982 he was a Brazilian delegate to the UN Disarmament Commission and in 1980 he was a delegate to the Emergency Special Session of the General Assembly on the situation in Afghanistan and the implications for international peace and security. Given his fluency in English, French, Russian and Spanish, he was commonly invited to join and lead political meetings in New York. In 1983 he was promoted to the rank of Minister-Counsellor. After this phase of working closely with the UN system, he was posted again to embassies, first in Montevideo, Uruguay (1984-1986) and then in Montreal, Canada (1987-1992), where he became Consul-General. He returned to Brazil after being appointed Head of Technological, Financial and Developmental Policies of the Ministry of Foreign Affairs (1992-1993). He then became Director-General of the Department of International Organizations (until 1997). In the meantime he was promoted again, receiving the title of Ambassador in 1995.

In 1996 Bustani attended the meetings of the Preparatory Committee set up in 1993 to prepare for the entry into force of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 1992, also known as Chemical Weapons Convention (CWC). The Brazilian delegation contributed to the preparation of the document by proposing articles that elaborated international cooperation on the pacific uses of chemical substances. The convention entered into force in April 1997 and the next month the International Organization for the Prohibition of Chemical Weapons (OPCW) opened its headquarters in The Hague, The Netherlands to carry out the terms of the Convention. In early 1997 the Brazilian government successfully promoted Bustani's candidacy for Director-General of the new international organization. On 13 May he took up the post. Amongst the organization's main objectives are the destruction of existing chemical arsenals in the world, as well as their production facilities, the verification through routine inspections of the accuracy of information submitted by states parties about their activities (public or private), the carrying out of challenge or surprise inspections at the request of a state party (as a last step in cases of suspected illicit activity), the regulation of international transfers of sensitive chemical goods, the promotion of assistance in cases of catastrophe resulting from chemical attack and the encouragement of international scientific cooperation in chemistry. As Director-General Bustani was responsible for ensuring the efficient management of the Secretariat, the effective relationship between Secretariat and member states and promoting universal membership, in addition to his review of inspection reports and safeguarding the confidentiality of information provided by member states. He advocated the use of international organizations as mechanisms for the resolution of problems in a multilateral and peaceful manner and sought the organization's democratization by ensuring that all states could be

heard and would be equally represented. He opposed the idea of ascribing different roles within the organization to member states, based on their financial contributions, as had occurred with the Nuclear Non-Proliferation Treaty of 1970. Although the OPCW is not a UN agency, Bustani and UN Secretary-General Kofi Annan developed a practice of coordinating activities between the two organizations. On 1 September 2000 this was formalized in a relationship agreement between the two organizations that had been under negotiation since 1997 (EC-MXI/DEC.1). The final text comprised mandates of mutual consultation between the two organizations and close cooperation ties with regard to inspections, even in states that are not OPCW members. The agreement was later used as a blueprint for the inspection mission that took place in 2013 to eliminate Syria's chemical weapons.

During his first term of office Bustani was chiefly responsible for establishing OPCW's organizational culture by setting political standards and legal procedures, including the code of conduct for over 210 inspectors. The code ensured that the organization's work would be motivated by its founding principles, rather than by the orientation and interests of powerful member states. He furthermore promoted international cooperation programmes for the peaceful use of chemical technology, which was a critical pillar of the CWC, especially for developing countries. On 19 May 2000 Bustani was unanimously re-elected for a further four-year term. He credited his re-election to the support of the Pentagon in Washington DC, which was responsible for proposing his second-term candidacy, after understandings with the authorities in Moscow (Lopes 2014). During his time as Director-General the organization performed more than 1,200 inspections across the member states and increased the number of signatories to the CWC from 87 to 145, including the 'usual suspects' for chemical weapons such as Iran, Pakistan, Sudan and Saudi Arabia. He believed that the participation of these countries in the OPCW would contribute to the organization's greater effectiveness and would advance the fight for disarmament through control over the world's chemical weapons arsenal. Bustani insisted that no member states should hamper inspections, including the United States (US), one of the largest repositories and manufacturer of weapons in the world. However, inspections of the US were not carried out successfully over this period due to obstacles placed by the US government, including refusing to admit inspectors from countries that were considered hostile and not permitting the collection of chemical components for analysis. Although accounts in the specialized press reinforced that the OPCW inspections in the US were conducted with the same rigour as in any other country (despite their relative lack of success), the US government accused Bustani of promoting biased inspections. US dissatisfaction grew after the inauguration of President George W. Bush in 2001, in particular when Bustani proposed to admit Iraq to the OPCW, which would have meant sending the organization's inspectors to the country and pursuing peaceful resolutions to problems related to possible chemical armaments. However, this approach would have undermined the US argument that Iraq was a regional threat as well as the justification for US-led military action. In June 2001 US Under-Secretary of State for Arms Control and International Security, John Bolton, accused Bustani of interference with US foreign policy by seeking peaceful solutions to avoid a military conflict between the US and Iraq. He rejected Bustani's efforts to persuade Iraq's President Saddam Hussein into signing the CWC. Hussein would not accept inspections conducted by UN inspectors, who would have been acting under the tutelage of the UN Security Council, but seemed open to OPCW inspectors. Out of dissatisfaction with Bustani's behaviour, the US government requested the Brazilian government to summon Bustani and, in January 2002, called for his dismissal from the OPCW by the states parties to the CWC. In March 2002 Bolton issued a white paper, informing the international community about the OPCW's inappropriate role in Iraq. Bustani was initially able to withstand American pressure to resign from office, but on 21 March 2002 the US proposed a no-confidence motion on Bustani, claiming that the OPCW's Director-General's interference in the affairs concerning Iraq breached the principles of international defence and also asserting that the organization was no longer functioning properly. The US lost this vote and then threatened to cut off its funding to the organization, which corresponded to 22 per cent of the OPCW's total budget. Once again the US called for a Special Session of the Conference of States Parties, tabling a motion for Bustani's dismissal. Bustani fought for his position, claiming that there

was no legal basis for his dismissal or the Special Session. Under US threat to practically disable the organization, the conference decided to terminate Bustani's tenure effective immediately on 22 April. The decision was taken with 48 votes in favour, six against (Brazil, China, Cuba, Iran, Mexico and Russia) and 43 abstentions (including all other Latin American countries). The European countries supported the American initiative to remove Bustani from office, although France abstained. Whereas Brazil's Minister of Foreign Affairs, Celso Lafer, claimed that Brazil had supported Bustani's fight against the US campaign to debunk him, it is now known that President Fernando Cardoso's administration provided no effective backing to Bustani and did not give him any assignment afterwards, which created the perception in foreign capitals that Brazil had also tacitly disapproved of Bustani's actions. In his own words, 'if Brazil had decided to seek the official support from (which was already unofficially stated by) Latin-American, African and Asian countries, I wouldn't have been sacked from the post and, in the end of the day, multilateralism would have won an important battle. Had Brazil acted in full accordance with its foreign policy records, this unique chance to embolden multilateralism wouldn't have been missed' (Juca interview 2014: 39).

After the OPCW decision to remove Bustani from office, the US resumed full contribution support to the organization and on 26 July Rogelio Pfrter, the former Under-Secretary of Foreign Affairs of Argentina, took over as second Director-General of the OPCW. Bustani appealed to the Administrative Tribunal of the International Labour Organization (ILO) to ascertain the unlawfulness of the session that had ousted him from his post as OPCW Director-General. He asserted that the termination of his contract was illegal and that an incompetent authority had taken the decision. In July 2003 the Administrative Tribunal found in his favour that the decision of the Special Session of the Conference of States Parties had been unlawful and invalid. In reaching this conclusion, the Tribunal affirmed the significance of the independence of international organizations and their secretariats. In Judgement No. 2232, the Tribunal set aside the Special Session's decision of 22 April 2002 and ordered the OPCW to pay Bustani compensation for moral and material damages. Despite this ruling the OPCW did not comply with the decision within the legally required timeframe and Bustani was forced to ask the Administrative Tribunal to order the execution of the original ruling, which occurred in the further Judgement No. 2327 in July 2004, thereby contributing to an important body of international jurisprudence on the legality of acts that violate basic principles of international organizations. Another several months passed before the OPCW complied with the Administrative Tribunal's second decision. In his complaint to the ILO Administrative Tribunal Bustani had never sought reinstatement to his post. He donated the entire award to the OPCW's Department of International Cooperation with Developing Countries.

In 2003 Bustani was nominated for the Nobel Peace Prize for his achievements at the OPCW. For many this nomination represented acknowledgement of an effective management of the organization as well as of his commitment to the neutrality and independence of the OPCW Secretariat. Bustani's practical emphasis on the multilateral character of the organization reflected on the stance for a non-discriminatory treatment of member states, the broadening of OPCW's membership and the relentless pursuit of pacific means to settle controversies. However, Bustani did not receive the prize in 2003 (the OPCW as an organization won the Nobel Peace Prize in 2013). In late 2003 he was finally given a new role, following the election of Lula da Silva as President of Brazil, as the Brazilian Ambassador to the United Kingdom, a position he would hold until 2008. In that year he was appointed as the Brazilian Ambassador to France and, in 2011, also to Monaco, positions he still holds as of January 2015. More than once foreign policy experts and media considered Bustani a good candidate to take over as Minister of Foreign Affairs in Brazil under the government of President Dilma Rousseff, but this appointment never came to fruition. Throughout his diplomatic career, and especially over the last 20 years, Bustani has managed to fulfil (at least in part) his musical aspirations by performing in concerts once or twice a year in Brazil, France, Hungary, Lebanon and The Netherlands.

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