

# *Prospects for CWC Universality*

*Daniel Feakes*

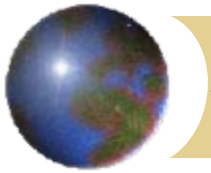
*Harvard Sussex Program*

*Open Forum*

*Second CWC Review Conference*

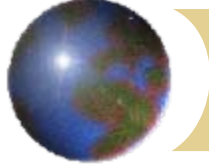
*The Hague*

*9 April 2008*



## *The Harvard Sussex Program*

- Academic NGO based at University of Sussex in the UK and Harvard University in the US
- Led by Professors Matthew Meselson (US) and Julian Perry Robinson (UK)
- Established in 1990 building on two decades of earlier collaboration
- CWC RevCon related publications



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# THE CBW CONVENT

News, Background and Comment on Chemical Weapons

ISSUE NO. 78

Quarterly Journal of the Harvard Sussex Program

IS THE OPCW IMPLEMENTING THE CWC D

Julian Perry Robinson, Harva

The CWC Tenth Anniversary celebrations last year raised expectations of a world free of chemical weapons. Thanks to the OPCW – its Member States, its policy organs and its Technical Secretariat – that world is drawing closer. Easing its arrival is an outcome that many people are anticipating, rightly or wrongly, from the Second CWC Review Conference.

The first essential for a world free of chemical weapons is elimination of CW stockpiles and the factories once used for making them. That is happening. But it conceals a second essential, preventing resurgence of chemical weapons born out of ‘dual use’ technology. Technology that can find application for beneficial purposes as well as in chemical weapons is becoming more varied and more widespread as science-based enterprise advances within industrial economies that are becoming increasingly globalized.

Besides globalization, other pressures are pushing resurgence. Above all there are the new utilities, and therefore new value, for chemical weapons due to the changing nature of warfare and other forms of violent conflict: counterterrorist chemical weapons, for example, and terrorist ones too. These and other utilities may increase as technology advances.

Because the negotiators were far-sighted, protection against resurgence in fact exists in the terms of the Chemical Weapons Convention and therefore in the regime run by the OPCW. It comes from the provisions that set the comprehensive nature of the treaty, in particular from the way in which the Convention defines ‘chemical weapons’. In practice the protection follows from the manner in which states parties organise their implementation of the Convention around that definition. The key question now is whether the definition, in the way it is being used, is still good enough for the task.

The Convention uses two characteristics to specify the weapons to which its provisions apply: toxicity and purpose. The purpose element gives the definition its breadth and hence sets the comprehensive character of the treaty. The toxicity element sets objective bounds.

*Toxic chemicals and their precursors, except when intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes – holdings of toxic chemicals (or of any chemical from which a toxic chemical can be made) that do not satisfy that test of purpose are thus chemical weapons in the sense of the Convention. That is Article II.1(a).*

Munitions or devices that have been specifically

*designed for the employment of such munitions and devices – those too are chemical weapons in the sense of the treaty. That is Article II.1(b).*

The Convention defines what it means both by *purposes not prohibited* and by *toxic chemical* in later paragraphs of Article II. So its scope is clear. That purpose-based, toxicity-bound definition of chemical weapon underlies certain of the positive obligations set forth in the treaty, which are the actions that states parties are required to undertake – to destroy their chemical weapons, for example, or to participate in the compliance-verification system, or to take certain specified ‘necessary measures’. And it is also used in the negative obligations: the prohibitions of activities involving chemical weapons, including development, production, stockpiling, use and the other activities identified for prohibition in Article I.

It is that test of purpose enunciated in Article II.1(a) that allows peaceful activities involving dual-use chemicals to continue unconstrained by the Convention. The same device prevents the Convention from being locked into the technology that prevailed at the time of its conception a quarter of a century ago. It is the means whereby the negative obligations – the prohibitions – are made sufficiently forward-looking to cope with novel types of chemical weapon neither anticipated by nor otherwise known to the original negotiators. Such novelties are coming along right now and more must be expected, given technological change.

Yet whether this ‘General Purpose Criterion’ (as the device is known) will actually protect, whether it can actually guard against adverse new technology, and whether it can also block malign application of duality while at the same time leaving benign applications unconstrained, all of that depends on how adequately one particular operational feature of the Convention can be made to work. That feature is the division of labour implicit in the Convention that entrusts to the OPCW

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### National statements

Posted on April 8, 2008 by dfeakes | [Edit](#)

The OPCW has begun to post the national statements given during the General Debate on its website. At the moment, there are only four statements available ([Bangladesh](#), [Serbia](#), [Switzerland](#) and [Tunisia](#)). I have added links to these statements at the appropriate places in my running commentaries of today’s morning and afternoon sessions. The [US statement](#) is also available, but on the Department of State website, rather than the OPCW website. As more statements become available I will update my running commentary posts.

In addition, today’s Global Security Newswire has three stories related to the RevCon, on [universality](#), [destruction](#) and the [status of old chemical weapons in Iraq](#).

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### CWC RevCon, Day 2, afternoon session

Posted on April 8, 2008 by dfeakes | [Edit](#)

After lunch, the RevCon continues with the General Debate. During lunch we viewed a presentation put on by the Society for Chemical Weapons Victims Support (SCWVS) from Iran (see OPCW picture below). Copies of some of the statements given should

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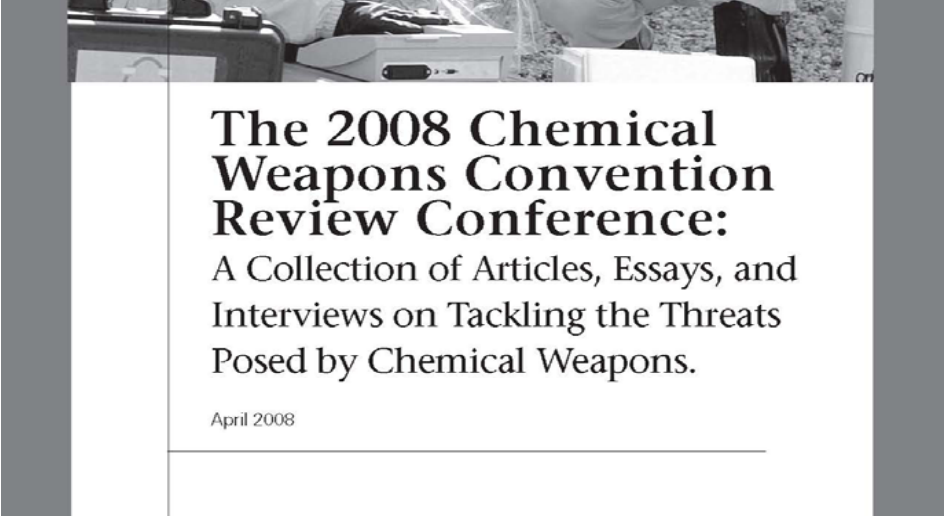




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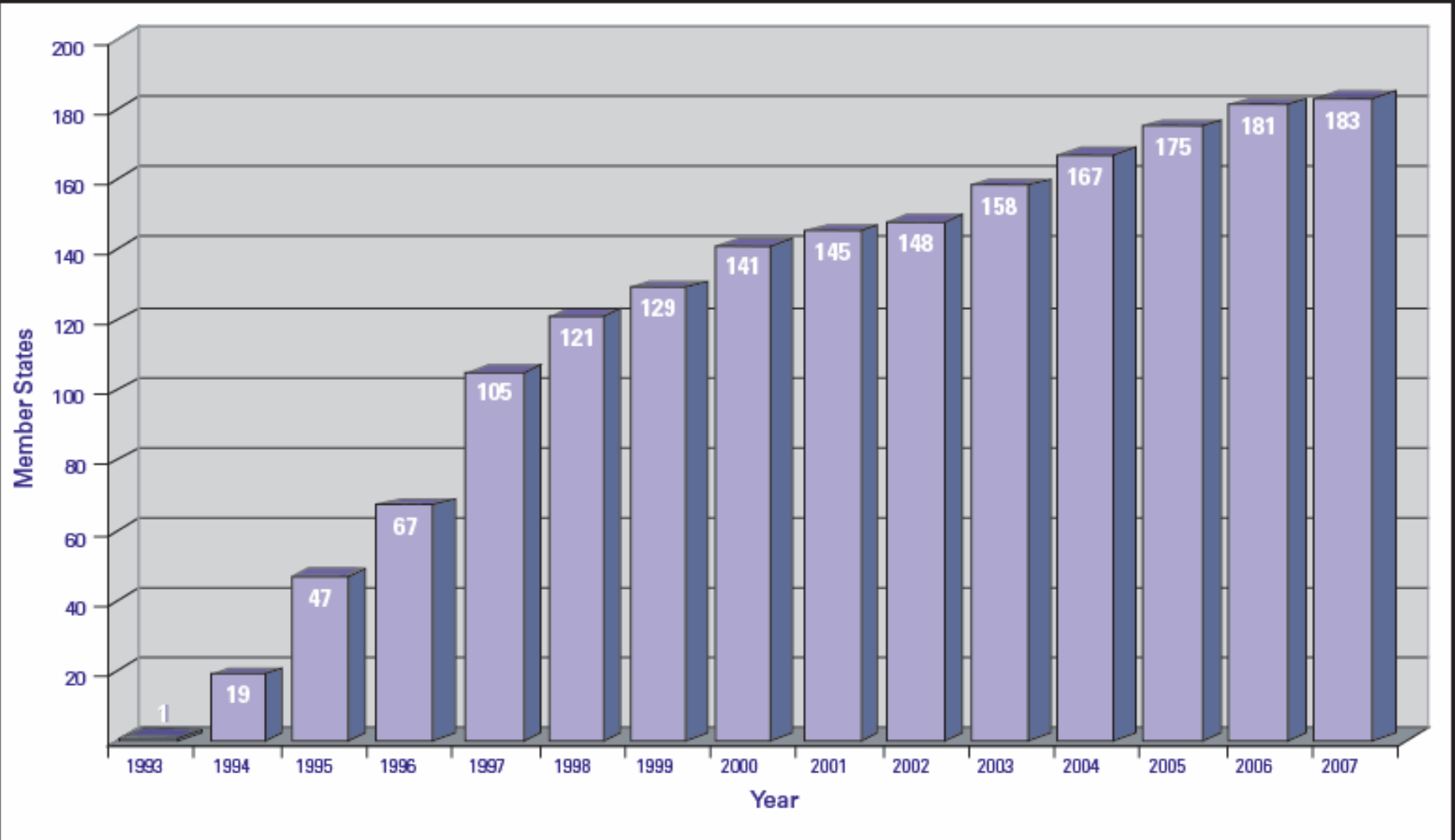


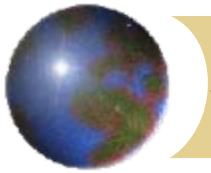
## *Why Does Universality Matter?*

- Strengthens norm against CW by demonstrating its acceptance in different political, cultural, religious, economic and legal settings
- Contributes to CWC becoming accepted as a part of international criminal law
- “Weakest link” argument – possible safe havens or trans-shipment points for terrorists or proliferation networks

**Figure 1: Chemical Weapons Convention Membership 1993-2007**

The Chemical Weapons Convention has won support at an unprecedented rate for a multilateral arms control agreement. Membership jumped rapidly after the treaty entered into force in 1997 and after the convention's first review conference in 2003.





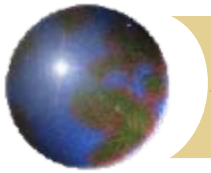
## *“Hold-out” States*

### Signatory States:

1. Bahamas
2. Dominican Republic
3. Guinea-Bissau
4. Israel
5. Myanmar

### Non-signatory States:

1. Angola
2. Egypt
3. Iraq
4. Lebanon
5. North Korea
6. Somalia
7. Syria



## *Angola, Bahamas, Dominican Republic and Guinea-Bissau*

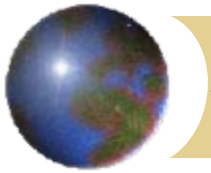
- Fairly small countries, no history of CW possession, no serious external security threats and small chemical industries
- But reasons for not joining:
  - Mainly logistical and resource constraints
  - Other priorities (HIV/AIDS, desertification and drought, poverty, debt etc)
- All fully support CWC and will likely join with the necessary encouragement and assistance





## *Iraq*

- Special case given previous history of CW use, UN verification, invasion and fruitless WMD search
- Presidential Council endorsement in November 2007
- Participation in OPCW meetings and OPCW training for Iraqis
- Only remaining step appears to be deposit of accession instrument in New York



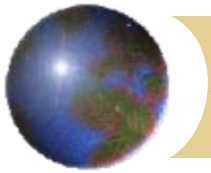
## *Lebanon, Myanmar and Somalia*

- Disparate group but share serious internal political tensions
  - Lebanon at an advanced stage but political problems have slowed accession
  - Myanmar had been on track but efforts now seem to have paused
  - Lack of functioning government in Somalia and current humanitarian crisis



## *Egypt, Israel and Syria (1)*

- Middle East is most serious obstacle to CWC universality, appears unfavourable to any form of arms control
- But CWC most needed in Middle East
  - Suspected CW possession by Egypt, Israel and Syria
  - Past history of use in Yemen (1960s) and Iran and Iraq (1980s)
  - Existing tensions
- Region most likely to witness CW use



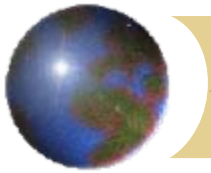
## *Egypt, Israel and Syria (2)*

- Main obstacle is linkage of CW with NW
  - Arab League position
  - Israeli deterrence posture
  - CW are “hostage” to NW
- OPCW attempts to “de-couple” CW and NW
- All three have become more engaged since 2003, and Egypt and Israel have kept the door open for a “constructive dialogue”



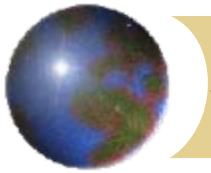
# *North Korea*

- Also suspected of CW possession
- No response to any OPCW overtures
- International focus on Six-Party Talks and nuclear disablement
- CW could be addressed separately
  - Example of South Korea's CW disarmament
  - UNSCR 1718 requires NK to abandon "all other existing WMD programmes"
  - "Libya model"



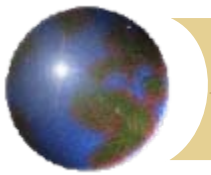
## *Future Approach*

- “Tailored” strategies for each holdout state
- Need for higher level of political engagement, especially for Middle East and North Korea
- Use of all tools by states parties including linkages to trade
- Consideration of Schedule 3 transfers ban
- Enhancement of OPCW programmes under Articles X and XI



# *NGO Contribution*

- Possibility of an NGO universality campaign
  - Links in non-states parties
  - NGO “bottom-up” approach can complement state and OPCW “top-down” approach
  - NGOs skilled at awareness-raising and outreach
- Would require more equitable relationship between NGOs and the OPCW
  - Ongoing process (follow-up to Academic Forum)
  - Improved access to OPCW and to OPCW information
  - Encouraged by positive words from DG and some states parties



## *Second RevCon and Beyond*

- Commend and renew Action Plan
- Targeted pressure and assistance for
  - Angola, Bahamas, Dominican Rep., Guinea-Bissau, Iraq, Lebanon, Myanmar and Somalia
- Further isolation of Middle East and NK:
  - Increased suspicions about possession of “illegal and immoral” weapons
  - Erosion of Arab League “linkage” policy
  - High-level negotiations for a stage-managed, reciprocal process modelled on Libya’s accession
- Emphasise link between universality and national implementation and overlap with UNSCR 1540





*Thank You*

*d.feakes@sussex.ac.uk*

*www.cwc2008.org*

*<http://www.sussex.ac.uk/Units/spru/hsp/index.html>*