



National Implementation Measures for the Biological and Toxin Weapons Convention

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Annual Asia-Pacific Biosafety Conference: “Moving Towards One World One Health”

Nusa Dua, Bali, Indonesia

26-27 April 2012



What is VERTIC?

VERTIC is an independent, non-profit making, research organization located in London, United Kingdom, that promotes the effective verification and implementation of arms control, disarmament and environment agreements.

VERTIC's National Implementation Measures (NIM) Programme, with funding and in-kind assistance from Canada, the United Kingdom and the United States, has been developed to assist States in understanding what measures are required at the national level to comply with the prohibitions in a wide range of nuclear, chemical and biological weapons treaties and UN Security Council resolutions and how to implement them.



Implementing the BWC

- Basics about the Biological Weapons Convention (BWC)
 - The Convention entered into force on 26 March 1975
 - It has 165 States Parties and 12 Signatory States
 - The BWC Implementation Support Unit (ISU) supports States Parties in implementing the Convention through co-ordination of assistance activities, confidence-building measures, and convening treaty meetings
 - Bi-annual thematic meetings have taken place during 2003-2005 and 2007-2010; the 7th Review Conference took place in 2011
 - The convention website is: www.unog.ch/bwc
- Under Article IV of the BWC...

Each State Party shall, in accordance with its constitutional processes, take *any necessary measures to prohibit and prevent* the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention



National Implementation Measures

Which measures do States need to adopt in order to implement the BWC?

- 1) Definitions
- 2) Prohibitions and penalties
- 3) Jurisdiction
- 4) Enforcement
- 5) Biosafety and biosecurity
- 6) Export Control



National Implementation Measures

- 1) **Definitions** (biological weapon, biological agent, toxin, etc.)
- 2) **Prohibition** of certain activities
 - development, production, acquisition, stockpiling, retention, direct or indirect transfers, and use of biological weapons
 - preparations (attempts, conspiracy, threats, financing, etc.) related to biological weapons
 - unlicensed activities involving controlled pathogens (such as anthrax, botulinum, Ebola, plague, salmonella, etc.)
- 3) **Extending the reach** of the prohibitions
 - to natural and legal persons
 - extraterritorially (e.g. on the basis of nationality of perpetrator, nationality of victim, impact on State interests)



National Implementation Measures

- 4) **Legislative enforcement** to ensure non-proliferation of biological weapons:
 - National Authority (and States are strongly encouraged to designate a national point of contact to the BWC's Implementation Support Unit)
 - National inspections of laboratories and other facilities where controlled pathogens may be found (as there is no regime in place for international inspections)
 - Training and special powers for law enforcement officials including customs and other border officials, sea and air port authorities, police
 - Disease surveillance; response capability in the event of a natural, accidental or intentional outbreak (and co-operation among law enforcement; health officials and doctors; Ministries of Health, Environment and Agriculture, etc.)
 - International co-operation on judicial and criminal matters

- Also:
 - Codes of conduct
 - Training and education

National Implementation Measures

- 5) **National biosafety and biosecurity** measures play a key role in preventing biological weapons proliferation.
- Biosafety measures help prevent unintentional exposure or accidental release of pathogens
 - Biosecurity measures help prevent unauthorized access, loss, theft, misuse, diversion or intentional release of pathogens
 - The Second, Third and Fourth Review Conferences noted *the importance of... legislation regarding the physical protection of laboratories and facilities to prevent unauthorised access to and removal of microbial or other biological agents, or toxins.*
 - The Sixth and Seventh Review Conference called *upon States Parties to adopt, in accordance with their constitutional processes, legislative, administrative, judicial and other measures, including penal legislation, designed to... ensure the safety and security of microbial or other biological agents or toxins in laboratories ...*

National Implementation Measures

- 5) **National biosafety and biosecurity** measures play a key role in preventing biological weapons proliferation.
- Specific measures are:
 - Controlled (or select) agent lists based on threat to public health and safety and national security (e.g., WHO risk-based approach; Australia Group lists for biological agents, animal and plant pathogens and dual-use technology)
 - Notification of loss or theft
 - Comprehensive record-keeping
 - Biosafety and biosecurity training for personnel
 - Physically secure labs (externally and internally)
 - Personnel background checks
 - Secure transportation (approved carriers, secure containers and packaging, labelling, shipment tracking, etc.)



National Implementation Measures

6) Export Control:

- Controlled (or select) agent lists based on threat to public health and safety and national security (e.g., WHO risk-based approach; Australia Group lists for biological agents, animal and plant pathogens and dual-use technology)
- Internal and international transfer controls through permits (as well as customs/border controls and checks of documentation, end-use certificates, and detection equipment)

H5N1, Erasmus Study & Export Control

- Researchers in the Netherlands have been able to make avian flu transmissible between mammals.
- The researchers need to apply for an export permit before sending their article to the publishers in the United States (because it is an intangible transfer).
- European Union Regulation 428/2009 on ‘setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items and technology’.
 - The Regulation requires an export permit for exports outside of the EU of dual-use items, including exports of technology.
 - Avian flu is one of the animal pathogens listed as a dual-use item, including technology related to avian flu.
- Dutch law implements the EU Regulation at the national level:
 - Decree on Strategic Goods, Law on Strategic Services
 - Law on Economic Offenses
- EU Regulation does not require an export permit if the technology in question is ‘basic scientific research’.
 - Definition: ‘experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective.’



VERTIC's Drafting Tools

- ICRC-VERTIC sample legislation: 'A **Model Law**: The Biological and Toxin Weapons Crimes Act'
- VERTIC's '**Sample Act** for National Implementation of the 1972 Biological and Toxin Weapons Convention and Related Requirements of UN Security Council Resolution 1540' (*also available in Bahasa Indonesian*)
- VERTIC's '**Regulatory Guidelines** for National Implementation of the 1972 Biological and Toxin Weapons Convention and Related Requirements of UN Security Council Resolution 1540'
- VERTIC's BWC National Implementation **Database** (at www.vertic.org)
- We have **fact sheets** on the nuclear, biological and chemical weapons treaties as well as a BWC National Authority fact sheet
- All are available at www.vertic.org and on CDs distributed at this conference



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VERTIC wishes to thank the governments of Canada (Global Partnership Program, DFAIT), the United Kingdom (Strategic Programme Fund, FCO) and the United States (Biosecurity Engagement Program, Department of State) for their financial and in-kind support for this programme. The views expressed by VERTIC do not necessarily reflect those of these governments or agencies.