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1° SCIENTIFIC INTERNATIONAL CONFERENCE ON CBRNE

# VERTIC's approach to CBRN legal analysis and outreach



# VERTIC's Approach

- Focus on national legal and regulatory framework
- Analysis of national implementation of international obligations
- Goals:
  - Provide in-depth implementation assistance to countries
  - Build capacity and promote ratification/adherence to international agreements
  - Facilitate experience-sharing
  - Build confidence and transparency



# Areas of activity

VERTIC Analysis + Assistance

1540 Implementation  
+

IHR & Codex  
Alimentarius

IAEA  
Safeguards

BWC

CWC

Nuclear  
Security



# VERTIC's Open Source Research

- Our research focuses on national legislation:
  - Laws/Decrees/Acts
  - Regulations, schedules, control lists
  - Other official documents related to implementation:
    - Application forms, licenses, terms and conditions documents, guidelines, bulletins, declarations, etc.
    - Drafts of new legislation
- Main requirements during research:
  - Identifying all relevant pieces of legislation
  - Gaining access to documents



# VERTIC's Open Source Research – cont'd

## Key sources:

- Government resources: official gazettes, national legal databases, information services, etc.
  - Especially useful to obtain documents
- Reports to IGOs and international committees:
  - 1540 Committee, UN CTC
- Presentations and papers by national experts
- Direct contact with government officials



# VERTIC's Open Source Research – cont'd

- Legislation databases and information services run by IGOs and international agencies:
  - ICRC
  - Ecolex (IUCN/UNEP/FAO)
  - WHO
  - Sherlock and IMoLIN (UNODC)
- Databases and information services aimed at private legal practice



# VERTIC's Analysis

- Analysis of how obligations stemming from treaties and international regimes have been translated into national legislation
- Key steps:
  - Survey of legislation through proprietary analytical templates (BWC, CWC, nuclear security, Additional Protocol)
  - Analytical overview of main characteristics and issues
  - Review by government officials and revision by VERTIC



# VERTIC's Legislation Surveys

- VERTIC's legislation surveys identify key definitions, prohibitions and other requirements that must be put in place at the national level to give effect to the international treaties and regimes
- Each survey template collects all the provisions in the laws and regulations related to a treaty or regime: 90-250+ criteria
- VERTIC legal officers and researchers look for provisions in the national legislation that match the provisions required by the survey





# Sample Criteria from VERTIC's Surveys

CWC (+1540): Offences and penalties

- *Transfer Schedule 1 chemicals to another State Party without prior notification to the National Authority; penalties (Article VI (2), (3); Article VII (1))*
- *Transfer Schedule 2 chemicals to or from a State not Party, unless an exemption applies; penalties (Article VI (2), (4); Article VII (1); C-V/DEC.16)*

BWC (+1540): Definitions, transfer controls

- *Definition of 'biological weapon' (Article I)*
- *Authorisation for exports and imports of dangerous biological agents and toxins (e.g., general or single licenses, permits) (Article III\*)*
- *Requirement for end-user controls for dangerous biological agents and toxins (Article III\*)*



# Sample Criteria from VERTIC's Surveys

Nuclear Security (+1540): Definitions, offences and penalties

- *Definition of 'nuclear material' (CPPNM, Article 1(a))*
- *Unlawfully and intentionally possess a [nuclear explosive or radioactive material dispersal or radiation emitting] device with illicit intent; penalties (ICSANT, Article 2(1)(a))*

IAEA Safeguards:

- *Nuclear activities or activities involving nuclear materials require authorisation and/or licenses*
- *IAEA inspectors are allowed to discharge their duties within the State*



# Overview of Survey + National review

- Survey overview document:
  - Analytical summary of survey findings, general look at the legislative framework, its structure and evolution
  - Can be used to highlight effective practices found at the national level, as well as gaps in legislation
- National review:
  - Verifies that our survey is correct and complete, that all relevant legislation has been considered and included
  - Can provide further information on how implementation is managed in practice
  - Can shed light on the evolution of the framework



# Applications of our Analysis

VERTIC's analysis of national legislation can be leveraged for assistance and outreach, which may include any or all of these:

- In-depth implementation assistance to countries
- Capacity-building and promotion of ratification/accession to international instruments
- Knowledge- and experience-sharing
- Confidence-building and transparency



# Applications of our Analysis – Implementation assistance and capacity building

- In-depth review of legislation survey can be used to identify strengths and weaknesses of legislative framework
- The analysis can inform an internal review of practices and the drafting of new legislation (with VERTIC's assistance if requested)
- Co-operative process between VERTIC and the country; survey results are kept confidential
- Useful to build internal capacity and support the ratification of/accession to new agreements



## Applications of our Analysis – Knowledge and experience sharing

- Countries are often interested in co-operating and learning from their peers, such as other countries in their region, countries sharing a similar legal system or language
- Information collected through our surveys and analysis can be used to prepare case studies to:
  - Explain different national approaches to implementation
  - Showcase best practices and examples of successful implementation
  - Demonstrate how key requirements are implemented across different countries



# Applications of our Analysis – Confidence-building and transparency

- Demonstrating cases of successful implementation is a powerful way to build confidence in treaties and regimes
- Information gathered through VERTIC surveys can be used by States to fulfill their self-reporting obligations (1540, CPPNM, BWC CBM Form E, etc.)
- Some information may also be shared directly through a dedicated platform:
  - Show how requirements are met in each state
  - Provide states with the ability to demonstrate progress
  - Provide access to full legislation and other documents
  - VERTIC would contribute with initial analysis + updates



# VERTIC's track record

This approach has already been applied with success by VERTIC to several areas. Some numbers for 2012-2016:

- BWC, CWC, nuclear security + UNSCR 1540: Awareness-raising and assistance to over 70 States:
  - Assistance to over 50 States to make progress on drafting national legislation to implement BWC, CWC, nuclear security instruments + UNSCR 1540 requirements
  - Assistance to over 20 States to approve and adopt new legislation and other measures to improve their implementation of UNSCR 1540 requirements
- IAEA Safeguards: safeguards assistance to several countries in Africa and Asia





# Potential application to Export/Trade Controls regimes

- UNSCR resolutions, such as DPRK sanctions
- Many regimes establish guidelines and best practices:
  - Australia Group, Hague CoC, MTCR, NSG, PSI, Wassenaar Arrangement
- National implementation of legislation is still vital for many of these regimes, even when they are non-binding
- VERTIC's approach could be used to facilitate effective national implementation, build confidence and capacity



# Questions/Contacts

- BWC, CWC and nuclear security + 1540; IHR and Codex Alimentarius:
  - Scott Spence, Programme Director for National Implementation ([scott.spence@vertic.org](mailto:scott.spence@vertic.org))
- IAEA Safeguards:
  - Larry MacFaul, Programme Director for Verification and Monitoring ([larry.macfaul@vertic.org](mailto:larry.macfaul@vertic.org))