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 +
- BWC
- CWC
- Nuclear Security
- IHR & Codex Alimentarius
- IAEA Safeguards
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
  • Sherloc 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:
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- IAEA Safeguards:
  - Larry MacFaul, Programme Director for Verification and Monitoring (larry.macfaul@vertic.org)