

# VERIFICATION RESEARCH, TRAINING AND INFORMATION CENTRE

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## **Expert Meeting on the National Legislation Implementation Kit on Nuclear Security Yogyakarta, Indonesia 20-21 November 2013**

Good morning Ladies and Gentlemen. My name is Scott Spence and I am the Senior Legal Officer at the Verification Research, Training and Information Centre, also known as VERTIC. It is a pleasure to be back in Yogyakarta – it remains as wonderful and vibrant a city as I remember it from two decades ago.

I would first like to take a moment to warmly thank the Government of the Republic of Indonesia for organising this meeting, and in particular Indonesia's Sherpa and Sous Sherpa for the Nuclear Security Summit, Ambassador Hasan Kleib and Mr Andy Rachmianto, as well as their staff who have worked so hard to make this event possible. I would also like to thank our funders for their generous financial support towards our work on the National Legislation Implementation Kit on Nuclear Security: the Global Partnership Program of Foreign Affairs, Trade and Development Canada and the Strategic Programme Fund of the Foreign and Commonwealth Office of the United Kingdom. And I join Indonesia in thanking those twenty-six countries around the world who supported Indonesia's proposed gift basket to the 2014 Nuclear Security Summit.

For those of you who are unfamiliar with VERTIC, we are a non-governmental, not for profit organisation based in London. Our work is organised through two programmes: the National Implementation Measures or NIM Programme and the Verification and Monitoring Programme. I am responsible for implementing the strategic vision and technical delivery of the NIM Programme, and work with a Programme Director and three Legal Officers, one of whom has joined us here for this meeting, Dr Sonia Drobysz.

In January this year, VERTIC agreed in principle to a request by the Government of Indonesia to develop their gift basket for the third Nuclear Security Summit in The Hague in March 2014, namely, a National Legislation Implementation Kit on Nuclear Security, or Kit. Such a Kit would have two objectives:

- to help States develop comprehensive national legislation on nuclear security, in accordance with their own respective legal cultures and internal legal processes; and
- to provide States with references to a wide array of consolidated elements and provisions contained in relevant international legal instruments and guidance documents that together establish the global framework for nuclear security.

VERTIC subsequently prepared a concept paper for the Government of Indonesia's consideration on how we would go about preparing the Kit, including project deadlines. It was agreed that:



- the model legislation in the Kit would not be a ‘one size fits all’ proposition as, ultimately, States have the discretion to draft and adopt nuclear security legislation adapted to their national circumstances and in line with their legislative and regulatory structures;
- the Kit would take into account existing documentation related to nuclear security legislation, including IAEA publications such as the 2003 and 2010 Nuclear Law Handbooks;
- the Kit would include model legislative provisions to implement the following instruments, and draw from and acknowledge existing material where available:
  - the 1980 Convention on the Physical Protection of Nuclear Material (CPPNM) and 2005 amendment;
  - the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT);
  - the 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (Beijing Convention);
  - the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation as amended by the 2005 Protocol;
  - the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf as amended by the 2005 Protocol;
  - the 1996 Comprehensive Nuclear Test Ban Treaty;
  - the 1997 International Convention for the Suppression of Terrorist Bombings;
  - as well as the non-legally binding Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct) and Supplementary Guidance on the Import and Export of Radioactive Sources.

Though we did not include the Terrorist Bombings Convention in the current draft of the Kit, we are revisiting whether to do so.

First and second drafts of the Kit were sent to the Government of Indonesia on 27 June and 25 July. This followed expert review by Mr Carlton Stoiber, an independent consultant in international and nuclear law, with experience in drafting key US legislation and regulations in the field. He is a co-author of Volumes I and II of the IAEA Handbook on Nuclear Law, and more recently was Chairman of an IAEA Technical Meeting which produced a final draft of a new Nuclear Security Series document “Implementing Guide for Implementing the Legislative and Regulatory Framework for Nuclear Security through Regulations, Arrangements and Associated Administrative Measures”. He agrees that the Kit needs to be as consistent as possible with other important guidance documents addressing nuclear security developed in other forums, primarily the IAEA, and is prepared to participate in further drafting to include revisions that address issues identified in the continuing review.

The current draft includes five sections:

- a foreword, which reiterates the two primary objectives of the Kit;
- an introduction, which explains the background and structure of the Kit;
- a model law for nuclear security;
- a description of the process for developing nuclear security legislation, based on an article written by Carlton Stoiber for the *1540 Compass*; and
- acknowledgments.

The model law contains eight sections:

- overview of the law;
- definitions;
- national regulation of nuclear security;
- accounting for, securing and physically protecting nuclear and other radioactive material;
- transfer controls;
- offences and penalties;
- jurisdiction; and
- national criminal enforcement and international co-operation.

The Government of Indonesia's non-paper to the second Nuclear Security Summit in Seoul acknowledged that: "The main challenge in developing [...] comprehensive model legislation is the fact that there are many international legal instruments and frameworks in nuclear security that exist under the aegis of the UN, IAEA and other international organizations. Some of them are internationally legally binding in nature, while the rest are voluntary or non-legally binding. Meanwhile, at the national level, the implementation of instruments and frameworks on nuclear security involve a wide range of national stakeholders."

In response to this, the Kit's model law was developed in such a way that it harmonizes the overlap of national implementation obligations among the instruments noted earlier, especially in the areas of definitions, jurisdiction and national enforcement and international co-operation.

The Government of Indonesia has now circulated the Kit to relevant international organisations and interested national governments for their review. VERTIC aims to consider and incorporate comments by the end of January in time for translation in February into Arabic, Bahasa Indonesia, Chinese, French, Portuguese, Russian, and Spanish, for which funding has now been secured.

I would like to close my remarks with the following observations. Until last year, VERTIC's NIM Programme had focused largely on working with governments on national legislation for the implementation of the Biological and Chemical Weapons Conventions, and related provisions of UN Security Council Resolution 1540. However, in response to the needs expressed by a number of States, we expanded our work programme to provide assistance with national implementing legislation across the international CBRN legal framework, including nuclear security. Towards this objective, we have:

- begun preparing State-specific nuclear security legislation surveys, which are available on request to the respective State's government officials;
- developed Fact Sheets on the national implementation of the CPPNM, ICSANT and Code of Conduct, in Arabic, English, French, Russian and Spanish; and
- developed a Nuclear Security Legislation Database, which will be launched next month on our website.

We, therefore, view Indonesia's gift basket to the 2014 Nuclear Security Summit as an important complement to our work with States on implementation of their international CBRN treaty obligations into

national law. We look forward to its official launch at the upcoming Nuclear Security Summit in The Hague next March, to our continued co-operation with the Government of Indonesia and to using the Kit during our assistance activities with States.

Finally, we look forward to building strong lines of co-ordination and co-operation with other assistance providers in the nuclear security area, including the IAEA, UNODC and CTBTO, as we have done with the BWC Implementation Support Unit, BWC Action and OPCW in the context of the Biological and Chemical Weapons Conventions.

Thank you for your attention.