

**Fourth Meeting
Geneva, 10-14 December 2007**

**Meeting of Experts
Geneva, 20-24 August 2007**

Items 5 and 6 of the provisional agenda

**Consideration of ways and means to enhance
national implementation, including enforcement
of national legislation, strengthening of
national institutions and coordination among
national law enforcement institutions
Consideration of regional and sub-regional
cooperation on implementation of the Convention**

**BUILDING CAPACITY TO IMPLEMENT THE BIOLOGICAL AND
TOXIN WEAPONS CONVENTION: SUMMARY OF A VERTIC
PROJECT¹**

Submitted by the Netherlands and the United Kingdom of Great Britain and Northern Ireland

Introduction

1. The UK and the Kingdom of the Netherlands believe that further work needs to be done to help build the capacity in many States Parties to implement fully and effectively obligations under the BTWC. The UK has provided assistance on request to some States Parties on national implementation matters. In order to promote best practice and an improvement in global national implementation, the UK and the Kingdom of the Netherlands have also provided financial support to assist VERTIC's work on WMD treaty related implementation matters. This paper summarises this project's main BTWC related activities and results to date and outlines future plans. It also draws attention to information/resources available from VERTIC, and offers a number of conclusions.

Background

2. VERTIC had earlier surveyed BTWC States Parties (April 2002 to October 2003) to examine the extent and status of national measures, especially penal legislation, to enforce the treaty. A report highlighting comparative approaches to national implementation taken by States

¹ This paper was prepared by the Verification Research, Training and Information Centre (VERTIC) at the request of the Netherlands and the United Kingdom of Great Britain and Northern Ireland.

Parties was presented to the November 2003 Meeting of States Parties.² This report and the legislative texts collected during the survey are available on VERTIC's website.³ This survey identified significant gaps in BTWC States Parties' national implementing legislation.

3. After a pilot study VERTIC began a two-year project in August 2006, with funding from the UK Foreign and Commonwealth Office's Global Opportunities Fund (GOF) and the Ministry of Foreign Affairs, Kingdom of the Netherlands. This is addressing the difficulties that many States Parties, especially developing countries, encounter in understanding, drafting and enforcing the measures needed at the national level to comply with the BTWC. Under this project VERTIC is:

- (i) developing information materials, including model legislative provisions and summaries of sample approaches to national implementation;
- (ii) holding regional information seminars;
- (iii) participating in information and training seminars organised by relevant international organisations;
- (iv) responding to States' requests for information and advice; and,
- (v) facilitating legislative assistance activities.

4. A review of the information materials and legislative advice and assistance arising from this project thus far follows.

Information materials

Model Laws

5. VERTIC co-operated with the International Committee of the Red Cross to draft a model implementing law for the Convention.⁴ This model law is intended to assist States Parties with common law systems, particularly small States with little or no biotechnology industry, to develop appropriate legislation to enforce the Convention. Its provisions are largely based on proven practice in a selection of States Parties. VERTIC also worked with Interpol to draft a model law with more extensive provisions on law enforcement, biosafety and biosecurity.⁵

Website

6. The *VERTIC National Implementation Measures Website* brings together a variety of resources to assist States to implement the BTWC, CWC, NPT, CTBT and CPPNM as well as

² Time to lay down the law: National legislation to enforce the BWC: VERTIC, London 2003.

³ www.vertic.org/NIM. All VERTIC documents referred to in this paper are available from this website.

⁴ A Model Law: The Biological and Toxin Weapons Crimes Act; An Act to implement obligations under the 1972 Biological and Toxin Weapons Convention and the 1925 Geneva Protocol, International Review of the Red Cross, Vol.87, Number 859, September 2005, pp 573-586.

⁵ DRAFT: Interpol's Model Legislation to Prohibit Biocrimes and to Promote Biosafety and Biosecurity, 2006.

UNSCR 1540.⁶ It also includes a compilation of material available from related international organisations (including the Organisation for the Prohibition of Chemical Weapons, the International Atomic Energy Agency and the Comprehensive Nuclear Test Ban Treaty Organisation). The website contains:

- (i) treaty and resolution texts;
- (ii) secondary, authoritative analysis of implementation requirements;
- (iii) model laws and legislative provisions;
- (iv) examples of implementation approaches taken by States Parties with different legal systems;
- (v) information on seminars and workshops;
- (vi) contact details of international organisations and other entities offering legislative and other implementation assistance; and,
- (vii) other relevant reference materials.

Other guidance materials

7. VERTIC has prepared a checklist to assist legislators to identify BW-related obligations that require implementation through national measures.⁷ A concise fact sheet on BTWC implementation is also under preparation.

Seminars and workshops

8. Seminars and workshops are a valuable and cost effective way of disseminating information to explain and clarify BTWC, CWC, NPT, CTBT and UNSCR 1540 implementation requirements. VERTIC has held three such seminars for the diplomatic communities in Geneva (December 2005), New York (April 2006) and London (June 2006).

9. Two regional workshops were held to discuss national implementation requirements and issues affecting the adoption and enforcement of appropriate effective national implementing measures with a wide range of national stakeholders. A Gulf regional workshop on “Laying the foundations for a WMDFZ in the Gulf: approaches to national legislation for WMD agreements”, was held in Dubai, United Arab Emirates in May, 2006 in co-operation with the Gulf Research Center. A Middle East regional workshop on “Approaches to national legislation for nuclear, biological and chemical weapons agreements” took place in Amman, Jordan in August 2006, in co-operation with the Co-operative Monitoring Centre-Amman. The speakers for the seminars and workshops were drawn from relevant international organisations, from

⁶ Chemical Weapons Convention (CWC), the Nuclear Non-Proliferation Treaty (NPT), the Comprehensive Nuclear Test Ban Treaty (CTBT), the Convention on the Physical Protection of Nuclear Materials (CPPNM) and UN Security Council Resolution 1540 (2004).

⁷ This can be found in General obligations under the 1972 Biological and Toxin Weapons Convention and UN Security Council Resolution 1540 (2004) (pertaining to biological weapons) and related tasks: Prioritised checklists for states, VERTIC, November 2004.

States and research centres working on nuclear, chemical and biological weapons non-proliferation issues.

10. VERTIC convened an informal consultative meeting for legal advisors from international organisations and government ministries in November 2005 in London to consider approaches to providing effective legislative assistance for the BTWC, CWC and nuclear weapons treaties and lessons learned from the conduct of legislative drafting activities. A follow-up workshop will be held later in 2007, the results of which will be published in due course.

Legislative advice and assistance

Legislative Surveys

11. VERTIC is preparing detailed surveys of legislation already in force to implement the BTWC in certain States Parties. This will be used to prepare summaries of sample approaches to effective enforcement of the Convention in States of different sizes, with different legal systems and with variations in the nature and extent of biotechnology industries. These will help other States Parties to see whether existing legislative measures could be used to implement BTWC obligations and what additional measures will be required.

Legislative assistance activities

12. VERTIC will facilitate in-country workshops on BTWC national implementing measures to raise awareness of requirements among a wide range of national stakeholders, and develop legislative drafting guidance and plans, on request. Where appropriate, these activities will co-ordinate with, and draw upon, expertise and assistance provided by relevant international organisations and other entities providing assistance.

Conclusion

13. Through its surveys of BTWC-relevant legislation and discussions with States, VERTIC has identified that many States Parties lack comprehensive penal provisions covering all activities prohibited under the Convention. Penal provisions are required, for example, for breaches of biosafety, biosecurity and transfer control requirements and preparatory and assistance activities that would violate the BTWC's Article I. Moreover, States are frequently unaware that legislation already in force is relevant to implementing the Convention, particularly on biosafety.

14. Discussions at VERTIC's seminars and workshops highlighted certain issues that impact on the adoption and enforcement of appropriate effective BTWC implementing measures. These include:

- (i) the low priority afforded to BTWC implementation by many States, especially those for whom human security and economic development are more pressing concerns;
- (ii) insufficient knowledge and a shortage of expertise and capacity to develop and institute BTWC implementation plans, including a scarcity of legislative drafters,

- (iii) the need to raise awareness about BTWC compliance with a wider range of national stakeholders than are targeted by standard diplomatic and other assistance activities;
- (iv) the benefits of conducting assistance activities at the sub-regional and national level among States that share language, legal and cultural traditions, have similar biotechnology industries and have a history of co-operation.

15. Finally, **all** BTWC States Parties need to assess regularly the adequacy and effectiveness of their existing national measures to enforce the Convention and adopt and enforce any additional measures that may be required. Tasking a national focal point with BTWC implementation requirements, as called for by the BTWC Sixth Review Conference, would greatly facilitate this process.
