

# **How can Russian legislation, rules and practice facilitate international co-operation on management of SNF and radwaste legacy.**

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## **1. Background**

For more than 10 years there has been extensive international co-operation<sup>1</sup> to the Russian efforts to manage the spent nuclear fuel and radioactive waste that is the result of cold war era and to remediate the sites where those materials were/are handled and stored. The support has been provided via bilateral national co-operation projects and via projects funded by the Commission (the Tacis program), EBRD (NDEP-NW), IAEA and other organisations. Most of the co-operation is done under the umbrella of the G-8 Global Partnership.

There are many constraints associated with international co-operation in Russia. First of all it needs to be done in full compliance with Russian legislation. This is a very prescriptive legislation with many details in the documents and less freedom for the competent authorities to make interpretations. There are also a very large number of legal documents that are applicable. In 2007 the Strategic MasterPlan identified the following number of legal documents of relevance: 22 international treaties and other international documents, 74 Federal Laws, 28 Presidential Decrees, 191 Governmental Orders, 443 Federal regulations, rules, standards and provisions and 113 Departmental regulations, rules and standards. Since there at present is a rapid development of Russian legal documents those figures are not correct today, but they illustrate the very large number of document to comply with. The legal documents, to which compliance is necessary, does not only cover safety and security of SNF and radwaste management; often the most troublesome requirements are related to other issues like administrative procedures.

International co-operation must also be done in compliance with regulations of the Donor country where the regulatory system may be very different from the Russian. Work funded by international Donors should also be in line with good international safety practice.

The funds for the international Donors are coming from taxes in the Donor country. Like all other spending of public money, also spending in co-operation with Russia must be justified and transparent. Donors have a responsibility towards their taxpayers to ensure that projects are implemented in an efficient and effective way. It is thus necessary to monitor all projects, identify and - if needed - help to remove obstacles that unduly hinder an efficient implementation.

It is not possible for a non-Russian project manager to have an overview and understanding of the Russian regulatory requirements due to its complexity and it may also be difficult for Russian experts.

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<sup>1</sup> In this document we use only the word “co-operation” even if it in some cases is called “support” or “humanitarian aid”

For implementation of internationally funded nuclear projects in Russia it is necessary to have engagement both from the operator(s) – the organisation(s) responsible for undertaking the activity – and the regulator(s) – the authorities controlling and supervising that the work is done in compliance with the national legislation. Although they have different roles in the projects, they have a joint responsibility towards the Russian people to give their contribution to reduce the risks from the SNF and radwaste subject for the projects.

This presentation will highlight a number of observations and problems we have observed during 10 years of planning and implementation SNF and radwaste related projects in Northwest Russia, problems which often are related to implementation of Russian legislation. We will discuss the impact and in some cases what could be done in order to eliminate or reduce the problems although we are fully aware that there in many cases might be reasons beyond effective use of international funding that has an impact on the actions taken from the Russian side.

Since the presentation is focused on problems it may give a more negative impression of the situation than it really is; there could also be given many examples where problems have been solved in efficient and non-bureaucratic manners.

## **2. Example of problems affecting international co-operation**

The examples given bellow are based on our experience and there are other persons with other experiences.

### Complexity of legislation.

There are so many legal documents to consider when implementing a project in Russia that it is not possible for a foreigner to get an overview and even for Russian experts it is difficult. There are even legal documents to consider which are secret documents and can therefore not be revealed for international participants of a project. The very prescriptive regulatory approach in Russia results in very detailed requirements in the legal documents that can cause problems to find the optimal solution. With so many documents and so many detailed requirements it is also almost impossible to ensure full harmonisation and unavoidable to have contradictions within the system.

Complexity of a national legal system is not a unique situation for Russia, but it makes it very difficult for a Donor to be able to foresee requirements and constraints from Russian legislation that needs to be considered when planning and implementing a co-operation project. Constructive support from Russian project partners is necessary.

### Military and civilian activities

In Russia, as in many other countries, there are different rules for military/defence and civilian activities. SNF and radwaste from the Northern Fleet is generated within the military/defence sector but at some time the material is transferred to the civilian sector for further processing. Although the material itself is transferred, the full information of the material, including its history is not transferred since it is considered as military classified information and the Russian rules prohibit release of the information.

Many internationally funded projects are dealing with SNF and radwaste of military background and if basic information about the material is not made available, additional efforts, including funding, have to be spent on characterisation of the material as part of the preparatory work and/or more expensive methods and procedures have to be implemented in the projects to compensate for the lack of sufficient input data. The result is delay in implementation and higher cost for the project.

Another problem in this context is that although the material is transferred to the civilian sector, the place and facilities where it is located may still be under military control. Access is therefore restricted.

A more liberal view on release of input data from the military section should be welcomed as also more co-operations between the military and civilian sectors

#### Many authorities

As a result of the complex legislation there is also a complex structure of authorities with different and partly overlapping responsibilities. There are federal as well as regional/local authorities and there is sometimes different responsible authorities for military/defence and civilian activities. Even if SNF and radwaste is transferred to the civilian sector for further processing it may still be located on military territory and therefore not accessible for surveillance by the civilian authorities. It can also cause confusion regarding which legal documents are applicable.

Norway has for many years co-operated with both the military and civilian nuclear safety authorities and it is very encouraging to note that they are making progress in bringing them together. In March this year there was for example a workshop with participation of the authorities from both the military and civilian sectors involved in storage of radwaste resulting from the decommissioning of Lepse. As a result of the workshop there will be co-operation for the development of necessary regulations.

The upcoming IAEA review of the civilian authority Rostekhnadzor later this year will provide qualified international comments on this subject that hopefully will result in further improvements.

#### Interaction/co-operation between operator and authority

The authorities and the operators have different roles although they have partly the same objective (to ensure that the work is done in a safe and efficient way). The operator makes the proposals on how to implement a project in line with the constraints of the legislation and the authorities make independent review of the proposals and give their approval when they are satisfied. The Russian legislation often requires complex internal procedures for approving documents that may result in unnecessary delays.

It is important that the authorities are fully independent from the operators. It is also important that both parties recognize and respect the role of the other. However, the independency does not mean that parties should not co-operate to find solutions of problems that occur. Both the operators and the authorities (together with their Technical Support Organisations) have highly qualified experts in all relevant areas which makes it possible to have technical discussions to find solutions to arising problems while maintaining independence. Jointly they have a responsibility towards the Russian people and the environment.

Informal contacts between operators and authorities during planning stage of a project can avoid unnecessary delays in a project schedule. We have seen good examples where authority representatives participate in project meetings and we hope there will be more such participation for the benefit of efficient project implementation.

#### Access to information

When implementing projects, it is necessary for the project manager and funding organisation to get access to project information in order to monitor progress and, if needed, take corrective actions. Reports prepared within internationally funded projects can not be released to western participants until they have been cleared by the appropriate Russian organisations

which can take months, which cause delay and thus also increased cost. Presentations made at project meetings may not be distributed to the participants, although the participants can write down all the information given.

We have full understanding for the need to protect classified information, but we have a feeling that within the Russian system there is much information unnecessarily classified. It ought to be possible to find a more efficient system for clearance of project reports for release to foreign partners in international projects.

#### Approval of companies and equipment

A detail in the Russian legislation that can cause problems is the requirement to approve companies that should perform services and deliver goods to the nuclear industry. This also applies to foreign companies. There are two concerns in this respect. One is that a prior approval of a company may be a reason for not making a critical and independent review because the company is in advance approved by the authority to do the job or deliver the equipment. The other is that such a prerequisite may exclude or discourage companies from participating in bidding and as a result may increase the cost for the service or equipment to be purchased and it may even result in the most appropriate equipment and method not being used.

#### Lack of organisation with an overall responsibility

An obstacle for developing and implementing an efficient system for managing SNF and radwaste in Russia has been the lack of a federal waste organisation. The issue has been discussed and analysed for many years and there is now a draft federal law on radioactive waste management that gives the legal base for such an organisation. The law has been in the process of being enacted for some time. We really hope that it soon will be signed because it defines the establishment of the National Operator “RosRAO” and also clarifies a number of other issues related to safe and efficient management of SNF and radwaste.

### **3. Conclusion**

The Russian legislation is an important tool to ensure that also internationally funded projects on management of SNF and radwaste are done in a safe way. However many of the legal documents were not prepared in order to also contribute to efficient implementation of internationally funded projects and there are many examples where they cause unnecessary delays. Even if the Russian legal system is very prescriptive there is always some room for interpretation. It is up to our Russian partners to interpret Russian legislation but we would appreciate more help from the Russian side to find practical and pragmatic solutions to problems that appear in order to improve the efficiency of our internationally funded projects.