

## **The consolidation of the legal Brazilian nuclear structure and the creation of the Regulatory Nuclear Agency**

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**Abstract:** According to the governmental action plan for Science and Technology, the retaking of the Brazilian Nuclear Program requires consolidation and an adequation of the legal structure in the nuclear area by creating a new organ, separating the licensing activities and control in a Regulatory Agency. The challenges of public options and the construction of a legal text in accordance with the Brazilian Constitution and with the recommendations of the international organisms are necessary.

### **1. Action Plan**

The Brazilian Government through the Ministry of Science and Technology, elaborated its Action Plan 2007-2010, whose title is Science, Technology and Innovation for National Development, which has the following synthesis: investing and innovating in order to grow.

*1.1 - There are 21 lines of action which are focused basically on the following points*

- a) Expansion and Consolidation of the National System of S&T&I.
- b) Stimulation of the Technological Innovations in companies
- c) Research, Development and Innovation in Strategical Areas
- d) Science, Technology and Innovation aiming at Social Development

*1.2 - On the areas of research and development and innovation on strategical areas, the plan brings the Nuclear Program which includes the following points:*

- a) Consolidation of the legal structure in the nuclear area
- b) Enlargement of the nuclear fuel cycle in Brazil
- c) Conclusion of the pilot plant of production of UF6 (conversion)
- d) Capacitation and adequation of the local installations in order to produce components of new nuclear Power plants.
- e) Implementation of a new Brazilian policy of management of radioactive waste
- f) Actions of R&D&I and capacitation focused on the retaking of the Nuclear Brazilian Program - PNB.

### **2. Program**

The Program of Consolidation of the Legal Structure in the Nuclear Area aims at restructuring the legal basis of the Nuclear Area harmonizing the laws and the existing norms and also adjusting the structure of the sector to the political and economical national and international realities.

*2.1 Objectives of the program*

- a) Elaborating the national policy for radioactive waste management
- b) Identificating and proposing the necessary adequations in the Brazilian Law for the nuclear area

c) Reviewing and harmonizing the Regulatory Norms of the National Nuclear Energy Commission - CNEN, interacting with the other organs in the environmental, public safety and health areas.

### **3. Description of the text in study**

The Brazilian legislation in nuclear area was established in the moment the nuclear activities were being initially developed. Besides being modified along the years, adequations are necessary, mainly with the principals brought by the Brazilian Constitution dated from 1998 and also the legislation that came later.

The retaking of the Nuclear Program must be considered due to the increase of nuclear plants, new stages of the fuel cycle carried out in the country, increase in the activities on extraction of nuclear ore, the construction of radioactive waste repositories, the increase of research and use of new nuclear techniques in many sectors of the economy.

In this scenario, the review of the nuclear legislation becomes an urgent requirement which searches for a more democratic management and adequate to the new reality, focusing on the neutrality of the public institutions and with transparent performance in the areas of regulamentations, research and production which are established in international documents.

Such adequation leads to the separation of the functions of licensing and production, which has been the objective of governmental studies, which updating the laws of national policy for the nuclear area, would create a Brazilian Nuclear Regulatory Agency

Moreover, we would have in the new Project the incorporation of general norms of nuclear and radiological safety and the creation of a procedure for administrative punishments as well.

These procedures would attend the crescent demand of non-governmental "actors" in the nuclear area, requiring then more clear and precise mechanisms which need more analysis of complex questions, being the federal government responsible for the fiscalization activities, control and even in the sense of repressing and punishing performance deviations severely.

The Federal Brazilian Constitution, places the use of nuclear energy as an option and its use only for pacific purposes and also the creation of an autonomous organ would contribute a lot for the fiscalization of the Brazilian society and of the international organisms involved in the nuclear activity.

Clear norms, showing the real objective of the State in the development of nuclear activities serves as a basis for the legal and correct interpretation by the population and also by the state authorities who will find coherence in a more organized system.

It would be also created a Council of Nuclear Policy which would be linked to the President of the Republic and to the Agency and in a similar way to other regulatory agencies already created in other areas, model which has shown efficient as in the quality of work technically developed as in its independence.

The designation of performance of each governmental organ in the whole process will be clear and will show that the state policies of assistance, recommendations, and supervising will give limits and adequate power to the new state organisms.

With the new model, the Agency will have more efficiency in the execution of the penalties applied from the behaviour previously specified considering the criteria essentially technical focused on nuclear and radiological safety of the workers of the population in general and of the environment as well.

Another important fact is that there will be harmony with the recent legislation which flexibilized the production of radioisotopes of medical use requiring then legal norms of fast execution which include safe transportation of such materials in the Brazilian territory.

Preventive actions in relation to the nuclear and radiological installations beyond the penalties that did not exist in the legislation in force, searching for more effectiveness and modernity in the state actions giving significant value to the principle of efficiency that regulates the actions of the public Brazilian administration.

All these actions show a big advance to what exists today at the National Nuclear Energy Commission – CNEN. Graduated sanction in values, according to the seriousness, loss of properties, cancelling of the authorization for operation, penalties which will be executed after the process, guaranteed the whole defence and the possible contradictory.

It will be possible to be required by the future Agency, financial guarantees that assure the whole useful life of the installation since its beginning until its decommissioning, assuring to the new generations of Brazilians a healthy and free environment.

The part related to the staff will also be treated in the Project, since a graduated technician until the support, with compatible payment, making possible a transition of employees with the employees from CNEN.

#### **4. Conclusion**

The General Attorney of the Union – AGU, through the Federal Attorney Office at CNEN represented by its Federal Attorney, contributed in decisive way in order to transform an ancient wish of the Brazilian nuclear community into reality, offering a modern model of performance of regulation in a strategic area to Brazil.

#### REFERENCES

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