

# THE INTERNATIONAL SCIENCE AND TECHNOLOGY CENTER: BUREAUCRATIC GAMES

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Among more than a dozen U.S.-Russian Cooperative Threat Reduction projects, the International Science and Technology Center (ISTC) in Moscow stands somewhat apart. On the U.S. side, the legal basis for its creation appeared later than for many other programs. On October 23, 1992, Public Law 102-484 "The Department of Defense Authorization Act" for the first time sanctioned additions to the initial three areas of cooperation between the United States and the Russian Federation, which were outlined in the Nunn-Lugar program of December 12, 1991. Paragraph 1412 of Public Law 102-484 allowed the U.S. Department of Defense to establish science and technology centers in the new independent states. The main goal was to prevent further proliferation of technologies, special know-how, and personnel through the creation of non-military employment for scientists and technicians, who had earlier worked in the field of military industry.

The agreement to establish the ISTC was signed on November 27, 1992, by the European Atomic Energy Community (EURATOM), the European Economic Community (EEC) (acting as one party), the United States, Japan, and the Russian Federation. Finland, Sweden, Canada, Armenia, Belarus, and Georgia joined in 1994, and Kazakhstan joined in June 1995. Ukraine opted for a center of its own, the Science and Technology Center in Ukraine (STCU). The three donors were prepared to spend about \$60 million, with the United States and the EEC/EURATOM each providing \$25 million, and Ja-

pan contributing the rest. The principle objective of the ISTC was "to give weapon scientists and engineers, particularly those who possess knowledge and skills related to weapons of mass destruction or missile delivery systems...opportunities to redirect their talents to peaceful activities..." (Article II(B)(i) of the agreement).

However, this key document—the agreement of 1992—remained unratified by March 3, 1994, when the ISTC finally began its operations in Moscow on a sort of provisional basis. In fact, it still has not been brought into full legal force. A decree issued by Russian Federation President Boris Yeltsin on December 17, 1993 gave the ISTC a temporary legal foundation. However, this decree could not solve all the long- and short-term obstacles that appeared in the way of the ISTC.

To come into full legal force, the agreement to establish the ISTC (signed on the governmental level) had to be ratified by the Supreme Soviet of the Russian Federation, where it was sent in early 1993. The discussions in the Committee on International Affairs (which was headed by Evgeniy Ambartsumov) demonstrated the mixed reactions of the parliamentarians. While no one fixed his position or was quite outspoken about it, a tally of the votes would likely have been split evenly between proponents and opponents of the agreement. Among the main actors in the Committee itself, Ambartsumov, Tolstoi, and Dzasokhov tended to be in favor of the ISTC, while Andronov and Pudovkin tended to be opposed.

The ensuing events of September to October 1993 have made this correlation of forces an academic question. However, at least some of the arguments which were heard in the Supreme Soviet may surface, directly or indirectly, during the future debates in the Federal Assembly of the Russian Federation. At present, the 1992 agreement is officially in two committees of the State Duma: the Committee on International Affairs (headed by V. Lukin) and the Committee on the Budget, Taxes, and Finance (headed by M. Zadomov). Both men represent the "Yabloko" political alliance. There seem to be no visible opponents to the ratification of the agreement in general. The real problem is that the ratification of the document is not considered "a burning issue" in the State Duma; it is unlikely to come to a vote before the general elections, due to be held in December 1995.

The discussion in the Supreme Soviet indicated the following lines of criticism:

- the agreement could be described as a "cheap sale of Russian scientific personnel and know-how";
- the tax exemptions, provided for in the agreement, might be considered unacceptable (Article X); and
- the privileged status of foreign employees of the ISIC may be criticized as overly generous (Article XII).

While the first point is of a general political nature, the second and the third are connected with the text of the 1992 agreement and its implementation. The main bones of contention seem to be in Articles X and XII of the document. Article X stipulates, among other provisions, that:

In the Russian Federation:

- (i) ... (d) Personnel of the Center who are not Russian nationals shall be exempt from payment of the income tax in the Russian Federation for physical persons; ...
- (iii) Personnel of non-Russian organizations taking part in any Center project or activity... shall be exempt from the payment of any customs duties and charges upon personal or household goods imported into, exported from, or used in the Russian Federation...

Article XII further outlines the privileges to be accorded to three groups of foreigners present in Russia in connection with the ISIC or its projects and activities. Under XII(A), personnel of the governments of

the states-parties or the European Union (E.U.) shall be accorded "status equivalent to that accorded to administrative and technical staff under the Vienna Convention on Diplomatic Relations of 18 April 1961." Foreign personnel of the ISIC itself shall enjoy "the privileges and immunities usually accorded to officials of international organizations" (Article XII(B)). Finally, "representatives of the Parties on the Governing Board, the Executive Director, and the Deputy Executive Directors shall be accorded... the privileges, immunities, exemptions, and facilities generally accorded to the representatives of members and executive heads of international organizations..." (Article XII(D)).

Representatives of the ISIC indicate that there are only 15 foreign employee-members in its secretariat, only three of whom enjoy "diplomatic status." These three are granted various privileges, including immunity from the omnipotent "master of the highways"—the State Autoinspection of the Ministry for Internal Affairs. But the small number of personnel actually possessing diplomatic status may make this argument against the ISIC unsupportable.

While the "cheap sale" and the "privileged status" arguments appear to attract the most public interest, the question of taxes and tariffs may turn out to be more critical, as far as the real interests of the ISIC are concerned.

ISIC personnel, such as Vladimir Kruchenkov, first deputy of the executive director of the ISIC, put this issue foremost among the numerous and diverse obstacles to the operation of the Center. He believes that the taxation problem is a reaction to the unquestionable success of the ISIC, which initiated direct financing of scientific research nationwide at extremely low incremental cost and was exempted from taxes and tariffs even under the most stringent presidential decrees of December 1994.

According to Kruchenkov, the executive branch in Moscow fully supports the special status of the ISIC among other institutions. In particular, he cites support for the ISIC from such governmental bodies as the Ministry of Atomic Energy (MINATOM) (which under Article IX(B) of the agreement, provides the second floor of one of its buildings near the "Tsaritsyno" subway station for the ISIC's office, "along with maintenance, utilities, and security for the facility"), the Ministry of Foreign Affairs, the Ministry of Labor, and the Ministry of Finance. Bureaucrats in Moscow are also better acquainted with the question of "double taxation"

and generally respond benevolently to apparent problems. However, the ISIC will have to deal with the local offices of several governmental bodies and it is there that the problems begin to accumulate.

The body that first comes to mind is the Federal Tax Inspection, better known under its Russian acronym "GNI". The ISIC has to deal with its local offices in a number of cities of the Russian Federation, such as Novosibirsk, Chelyabinsk, St. Petersburg, and others. Article X of the agreement states unequivocally: "(i) (a) ...funds received by the Center from its founders and sponsors... and any interest arising from keeping those funds in banks of the Russian Federation, shall be excluded [from taxation]; (b) The Center, or any branch thereof, shall not be subject to any taxation on property...." Nevertheless, the local officials tend to give more heed to the internal instructions of the Federal Tax Inspection, which authorize them to tax every activity and do not specifically mention the exemptions for the International Center. Whenever particular questions pop up locally, the regional Tax Inspection claims ignorance of any exemption practices and defers to the respective regional or republican authorities. Given the well-known "tendency to sovereignty" in certain areas, this may raise a host of new problems. So far, ISIC personnel have managed to solve all potential problems on a case-by-case basis.

The ISIC has more than once appealed to the Federal Tax Inspection in Moscow to issue an internal instruction that would govern local bureaucracies. It seems that the strategy of the tax inspection is to wait until the ratification process of the 1992 agreement bears some legal fruit. In general, the relationship between the ISIC and the Federal Tax Inspection could be described as satisfactory.

The issue of crossing the borders of the country, though not as acute as it used to be during the Cold War, still remains high on the list of the difficulties for the ISIC activities. The shift to a market economy has moved the focus to goods crossing international borders. The main actors here are not the border guards, as it used to be, but the customs officials.

The ISIC imports a great deal of scientific equipment "from far abroad" (that is, from countries other than the former Soviet republics). An unexpected development is that since June 1994 the ISIC has had contracts involving scientific institutions from former Soviet republics; consequently, it has had to "export" or, rather, re-export this equipment to some CIS states,

which creates new problems. This development involves a complex relationship between federal and local customs authorities.

Alexander Korotayev from the Contracts and Acquisitions Division of the ISIC believes that these issues will be solved with time. Some aspects of this problem could have been settled long ago, had the 1992 agreement been ratified. That agreement unambiguously stated that "commodities, supplies, and other property provided or utilized in connection with the Center and its projects and activities may be imported into, exported from, or used in the Russian Federation free from any tariffs, dues, customs duties, import taxes, and other similar taxes or charges imposed by the Russian Federation" (Article X(C)).

The Federal Customs Committee in Moscow has not informed its regional branches about the establishment and specific features of the ISIC. An internal directive (No. 01-12/157 of March 9, 1994) signed by First Deputy Chairman of the Federal Customs Committee V. F. Kruglikov, obliges the Customs Local Offices (CLOs) to let the ISIC items through free of charge. However, the local offices of the Customs Committee obviously have not received this document. In 50 to 60 percent of cases, the CLOs demand that the internal directive also be sealed by the General Division of the Federal Customs Committee. To complicate this matter further, the directives of the Customs Committee usually remain in force for a period of one year, unless authorized otherwise. Thus, the term of the March 1994 directive has expired. The CLOs have a better understanding of the presidential decrees to strip all agencies of preferential treatment, compared to the unratified international agreement, which is too abstract from their point of view.

In practice, the ISIC imports the necessary equipment primarily through the Sheremetyevo-2 airport, as well as through six Moscow auto-CLOs (Butovo, Solntsevo, Maryina Roscha, and others). To get the goods, the ISIC representatives have to make written statements that the imported items are the property of the ISIC. However, the equipment actually is intended to go elsewhere to dozens of on-going projects all over Russia and other CIS republics. The same legal contradictions occur when the equipment goes directly to the research institutions in Chelyabinsk, Sverdlovsk, Leningrad, Novosibirsk, or Ulyanovsk areas. Until now all questions have been successfully settled. However, the ISIC has to pay \$300 to \$600 a day for each ton of

equipment that stays with the CLOs for more than three days. This money could be better utilized for projects.

"Export problems" appeared almost simultaneously with the first contracts with the Georgian, Armenian, and Belorussian partners. The question of export duties is only part of a broader problem. In October 1994, the ISIC had to send equipment for making colored copies to Georgia in connection with Project CIS-10, "Building Blocks for Semiconductors Based on Gallium Arsenide and Related Compounds," financed by the E.U. The Russian CLO in Vnukovo described this equipment as a dual-use item, which could be utilized both for civilian and military purposes. Therefore, an export license was demanded under the laws of the Russian Federation. Such licenses are issued by the Ministry for External Economic Relations following the application by a Russian resident agency or company. The ISIC, however, is not a Russian resident, and the equipment had to be acquired through another party. In this case, the solution was found in the form of the ISIC obligation to bring the equipment back from Georgia at a later date. Unfortunately, such a solution cannot be considered a long-term precedent. The shipments to Belarus are expected to begin in the near future in connection with Project CIS-3, "Evaluation of Actinide Nuclear Data," financed by Japan. Up to 30 percent of these shipments may consist of equipment that could be described as "dual-use." The experts from the ISIC suggest a twin-track approach to this problem: a) all ISIC exports should be exempted from duties (under the 1992 agreement); and b) export licenses should be promptly issued whenever necessary.

Besides these major problems, there are a number of smaller, though no less contentious ones:

1. Until recently, communication with scientific communities outside Moscow was very difficult for the ISIC. Before the authorization of contracts, the ISIC had no right to pay for the technical side of communicating with the prospective partners. Bad postal service, inadequate fax communication services in some areas, and lack of funds for internal flights within Russia all contributed to this bottleneck (almost half of the 160 contracts, authorized by July 1, 1995, are with partners from small towns far from the main centers). Moderate means to establish and maintain links with future contractors have been allocated recently within the administrative budget of the ISIC.

2. The amount under contract in a little over one year—\$60 million (about 300 billion rubles at the present

exchange rate)—is comparable to the total state expenditures for the Academy of Science of the Russian Federation. Over half of that money (\$32 million) goes directly for grants to some 9,500 scientists and engineers. Their financial status is in sharp contrast with the standing of the vast majority of their colleagues, who in many cases work in the same offices and buildings. This is a source of serious social tension. The wages of scientists and engineers involved with ISIC projects are five to seven times higher than the regular paycheck of a specialist in this field, and exceed by two or three times even the average wages of specialists in the best paid MINATOM closed centers. (The terms of the 1992 agreement exclude the possibility of contracts with the open institutes; they may participate only as subpartners, supplementing the main projects). One should also keep in mind the provisions of Article X(i)(f) of the 1992 agreement: "Funds received by persons, in particular scientists or specialists, in connection with the Center's projects or activities, shall not be included in those persons' taxable income," as well as the fact that there are no payments from the money received under contracts to the social security funds of respective research institutions.

3. Social tension manifests itself, among other places, in the position of directors of contracting research institutes. Although in most institutes the ISIC projects are given the "most favored project status," in many cases directors would like to have more say in distributing the money received. The ISIC demands (as a *sine qua non*), that the project participant must open a special hard currency bank account for each contract, so that all the spending can be accounted for separately. Not all directors, to say nothing of book-keeping divisions, welcome such practices. They would like to limit the independent role of ISIC-financed groups of scientists, or at least to have them make more contributions to other research projects and the diverse needs of the institutes. So, the contractors try to make the best internal use of the fact that they may pay for institutionally-provided material and energy necessary for their ISIC projects from these special bank accounts.

4. Sometimes the directors of the ISIC partners include cars on the lists of equipment necessary for fulfilling research projects. In this case, the ISIC faces a peculiar problem: the cars are considered its property and, given its "diplomatic" status as an international organization, the ISIC has to register the cars in a special Moscow "diplomatic" division of the State

Autoinspection. This fact has two consequences: a) the ISIC has no right to transfer the ownership rights to anybody else; and b) such cars cannot be moved to areas with special legal status—which are exactly where MINATOM weapon centers are located.

5. The name "International Science and Technology Center" once might have been considered a prestigious and telling one. But now there are dozens of "international," "Russian-American," "Science and Technology," and other similarly named companies, most of which have nothing to do with technology or production as such. They are generally regular "buy and sell" firms, often registered in some area in the Caucasus. This creates minor and not so minor problems with the CIOs and other state agencies. The name should more clearly reflect the role of the ISIC as an intergovernmental organization.

6. The initially-designated \$60 million of officially allocated money is already under contract. The "supply" of scientific personnel within the weapons complex in Russia and some CIS countries far exceeds the "demand" side of the equation, so the useful payback may be great (as well as the negative "fallout," if this discrepancy persists). The ISIC representatives have suggested raising additional funds; private capital would be especially welcome. Given the understandable reluctance of donating governments to invest substantially more before the results of existing contracts are clearly seen, the idea of private financing seems all the more attractive.

According to the specialists on both sides of the Atlantic whom I consulted, the ISIC operation has been a success so far. In light of the numerous problems that have been overcome to date, the difficulties listed above are not insurmountable. On the Russian side, the pivotal problem is to get the 1992 agreement ratified; this cannot happen until 1996 and depends on the composition of the new Duma. On the U.S. side, it might be useful to remove the ISIC allocations from the Nunn-Lugar "umbrella legislation" in order to prepare a fallback position in case of Congressional objections to the Comprehensive Threat Reduction program in general. All things considered, the pluses of the program outweigh its minuses in the eyes of the ISIC participants, and the organization is likely to continue fulfilling its goals.