

Nuclear liabilities

UK progress towards CSC membership

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We celebrated the start of 2022 with the long-awaited news that the 2004 protocols amending the Paris and Brussels Conventions have finally been implemented. This year, we look forward to the UK's planned accession to the Convention on Supplementary Compensation for Nuclear Damage ("CSC").

This will be a significant step. It will finally connect the UK nuclear liabilities regime with those of existing CSC members - including the US, Canada, India, Japan and the UAE.

UK accession to the CSC is hopefully indicative of a wider shift, with more Paris Convention countries following. None of the eleven existing CSC members are Paris countries, although five (including Romania and the UAE) are also members of both the Vienna Convention and the Joint Protocol linking the Vienna and Paris Conventions.

The objective of the CSC is to establish a global regime, bringing together countries that are party to the Vienna, Paris and Brussels Conventions or that have their own stand-alone liabilities regime meeting threshold requirements for CSC membership.

The CSC establishes a regime for members to contribute to a fund providing supplementary compensation in the event of a nuclear incident in a member country.

Crucially, CSC members also agree that if a nuclear incident occurs in a member country the courts of that country have exclusive jurisdiction over resulting compensation claims.

Exclusive jurisdiction is particularly important for nuclear industry participants operating internationally. Without mutual recognition of exclusive jurisdiction, there is a risk that claims may be brought in different jurisdictions under different law. If this happens, expected allocation of nuclear liability risks and financial limits on liability are unlikely to apply. This re-creates uncertainties that nuclear liabilities conventions were intended to remove.

The further amendments now proposed to the UK statutory nuclear liabilities regime (contained in the Nuclear Installations Act 1965) are tucked away in Schedule 19 to the wide-ranging Energy Bill currently working its way through Parliament. The bill was introduced in the House of Lords and has yet to reach the House of Commons.

Although most of the amendments are concerned with creation and application of a supplementary compensation pool, the real prize here is the exclusive allocation of jurisdiction over claims to the member country in which an incident occurs - something that will be an important consideration for any industry participant working between an existing CSC member country and the UK.



Rupert Cowen
Solicitor and Director

M: +44 7957 201707
D: +44 20 8064 0698
E: rupert.cowen@vectlaw.com



Jonathan Leech
Solicitor and Director

M: +44 7825 171093
D: +44 20 8064 0719
E: jonathan.leech@vectlaw.com