

## FURTHER REFLECTIONS ON THE INTERNATIONAL NUCLEAR LAW ASSOCIATION GATHERING IN ABU DHABI

The reports from the [International Nuclear Law Association \(INLA\)](#) gathering in Abu Dhabi, from my colleague at Prospect Group [William Wilson](#), have made for interesting reading. At the INLA conference there was a whole session on nuclear liability and insurance which covered interesting and pertinent topics, but some of the other papers also caught my eye.

### Nuclear Damage Compensation

Professor Dagauchi of Japan's Waseda University highlighted the current state of compensation following the Fukushima nuclear accident.

He reported that to date, the amount of compensation paid to accident victims had reached approximately \$80 billion. The entity established to handle claims was the [Nuclear Damage Compensation Facilitation Corporation](#) and its funds have largely been provided by the Japanese Government, with repayment due over time with future recoveries from the Japanese nuclear operators.

Although there is certainly more compensation to be paid out, Professor Dagauchi notes that 85% of cases so far have been settled largely without dispute, and this is attributable to, in part at least, [TEPCO's 'positive attitude towards proposals for settlement'](#). However, part of this positive attitude includes leaving the way open to claims against TEPCO from the existing claimants for any further damage occurring in future. TEPCO had little choice but to accept this future potential liability in order to ensure claims were settled.

### Radiation Measurements

In another INLA paper by [Roger Coates](#) (President of the International Radiation Protection Association), entitled "[A Practitioner's View of Radiation and the Law](#)", the complexity of the current radiation measurements are noted as being confusing and maybe contradictory, with dose limits for man-made radiation often much lower than actual doses received by the public from natural sources.

Mr Coates points out that this has resulted in operators and authorities spending vast resources on achieving compliance so that small numbers of people receive tiny doses, whilst hundreds of thousands of people can go on vacation in high radon areas and receive higher doses. This confusion matters because, as the paper points out, although the risk from low doses is assumed to be very small, there remains scientific uncertainty as to the level of risk from radiation at low doses.

### Nuclear Accident Insurance

From the perspective of an insurer, both these papers demonstrate some of the uncertainties that exist for the providers of [financial security to the nuclear industry](#). This uncertainty is one of the reasons why a financial gulf exists between the \$80 billion plus cost of a nuclear accident at Fukushima and the c. \$1.2 billion statutory financial security available in Japan.

Not having a clear understanding of how much compensation will be paid, and when it will be paid, holds back insurers, who cannot easily estimate the loss scenarios required for their capital models.

**Prospect Law Ltd**  
23 Berkeley Square, London W1J 6HE  
T +44 (0)20 7947 5354

Regus House, Pegasus Business Park, Castle  
Donington, Derbyshire DE74 2TZ  
T +44 (0)1332 818 785

 @prospectupdate  
E [info@prospectlaw.co.uk](mailto:info@prospectlaw.co.uk)  
[www.prospectlaw.co.uk](http://www.prospectlaw.co.uk)

If [political or public pressure](#) leads to a wider scope of compensation being paid after the event (as in Japan), this can make a material difference to the insurers' commitment.

Similarly, if inconsistent dose limits mean much greater expenditure is required to remedy nuclear damage, nuclear exposure compares unfavourably to other classes of insurance with more certain claim patterns.

Clarifying these (and other) issues in advance of a future accident will help to attract more insurance support to the nuclear sector. With greater certainty, over time the level of private insurance available for severe nuclear accidents could begin to catch-up with the tens of billions of dollars readily available for other more regularly occurring catastrophes.

**Mark Tetley**  
**Prospect Law Ltd**

### About the Author

*Mark Tetley has wide experience gained from senior positions across the London insurance market as both an underwriter and a broker, in a variety of sectors. He provides advice and assistance on a wide range of insurance and risk issues, including comprehensive nuclear liability and property insurance assistance, complex infrastructure project programme design and review, claims and policy reviews, assistance with project insurance design and implementation in developing countries, and many other aspects of risk mitigation.*

*Prospect Law is a multi-disciplinary practice with specialist expertise in the energy and environmental sectors with particular experience in the low carbon energy sector. The firm is made up of lawyers, engineers, surveyors and finance experts.*

*This article remains the copyright property of Prospect Law Ltd and Prospect Advisory Ltd and neither the article nor any part of it may be published or copied without the prior written permission of the directors of Prospect Law and Prospect Advisory.*

*This article is not intended to constitute legal or other professional advice and it should not be relied on in any way.*

*For more information or assistance with a particular query, please in the first instance contact Adam Mikula on 020 7947 5354 or by email on [adm@prospectlaw.co.uk](mailto:adm@prospectlaw.co.uk).*

### Articles by William Wilson

- [Part 1](#)
- [Part 2](#)
- [Part 3](#)
- [Part 4](#)
- [Part 5](#)
- [Part 6](#)
- [Part 7](#)

**Prospect Law Ltd**  
23 Berkeley Square, London W1J 6HE  
T +44 (0)20 7947 5354

Regus House, Pegasus Business Park, Castle  
Donington, Derbyshire DE74 2TZ  
T +44 (0)1332 818 785

 @prospectupdate  
E [info@prospectlaw.co.uk](mailto:info@prospectlaw.co.uk)  
[www.prospectlaw.co.uk](http://www.prospectlaw.co.uk)