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Will a Nuclear Insurance Pool Suffice to Tame India's Civil Liability for Nuclear Damage Act?

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After a gap of forty years Canada has finally agreed to ease the nuclear fuel restrictions by supplying uranium to India. This is one of the many ventures that the Modi-led government is pushing to meet the growing need of power supply via nuclear energy. With Canada's rekindled interest as an example, other countries might be encouraged to invest in the Indian nuclear market. This would create possibilities for abundant uranium fuel. However, setting up of new nuclear reactors by foreign companies is being stalled in India and remains a stumbling block due to the Civil Liability for Nuclear Damage Act (CLNDA), 2010.

With the launch of India's nuclear insurance pool, new opportunities can be anticipated. Against this background, a few questions can be raised. First, is India finally being perceived as a responsible player in the global nuclear commerce, as Canada changes its position by easing its export of uranium? Second, will this trend of foreign investors continue to increase, as India seeks to expand its civil nuclear plans? Finally, will the recent launch of a nuclear insurance pool break the deadlock of the CLNDA?

It is often debated that the CLNDA has deterred foreign players from investing in the Indian nuclear market because it makes the suppliers liable in the event of a nuclear accident. India's CLNDA is viewed as an obstacle for foreign investors as it presents an array of clauses that could be construed as making suppliers liable. This would incur losses



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on the suppliers.¹

At present, there continues to be a lack of initiative from the Indian side to amend the Act. Recently, the government has launched a nuclear insurance pool with a limit of Rs. 1,500 crores. The nuclear insurance pool has been made mandatory under the CLNDA. The purpose of the pool is to keep a check on the liability of foreign nuclear suppliers in the event of a nuclear accident.

A nuclear insurance pool is basically a mechanism set up by a state in which a number of insurers and/or investors agree to pool in assets so as to provide cover for the developing nuclear industry.

In early June 2015, the government had announced that it would contribute Rs. 600 crores, out of the required Rs. 1,500 crores, to the proposed nuclear insurance pool.

Apart from the government, insurers such as New India, Oriental Insurance, National Insurance and United India Insurance have also announced their contribution to the insurance pool and to have many private insurers like ICICI Lombard General Insurance, Tata AIG General, Reliance General Insurance, Chola MS General Insurance, etc.

As the total investment fell short of the 1500 crores, in mid-June 2015, a UK-based insurer Marsh, (a global leader in insurance broking and risk management) announced its contribution of Rs. 600 crores. The British insurer's interest as a foreign player is interesting. This could be viewed as a reflection of a growing interest of foreign players in investing in India's civil nuclear power projects.

Many experts, however, consider the limit of Rs. 1,500 crores as relatively low as compared to other countries. However, this amount must be understood as representing a "step-by-step" approach and higher limits could be built gradually as the nuclear industry



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expands.²

The insurance pool is indeed a good idea, especially while the CLNDA acts as a stumbling block for India to seal the deal with American nuclear power companies. With the launch of this nuclear insurance pool, there is a possibility of breaking the deadlock between India and foreign investors.

Prior to the US President Barack Obama's Republic Day visit in 2015, India and the US met in London to resolve the liability issue. While there continues to be positive trend for a concrete Indo - American civil nuclear deal, a blueprint for cooperation under the CLNDA is still lacking.

The insurance pool would likely open various opportunities to strengthen US-India civilian nuclear partnership. However, it is premature to predict the effectiveness of the launched nuclear insurance pool. In view of the growing need of energy supply, the existence of the nuclear insurance pool is an indication of moving forward for India. Yet, the operationalisation of the nuclear insurance pool remains vague. Perhaps a detailed statement explaining the mechanism of India's nuclear insurance pool would be helpful not only for India's public domain, but also for international suppliers and investors. Greater clarity cannot but be beneficial.

Prime Minister Modi's government over the last year has indeed attracted global investors and insurers. The government appears committed to continue to work towards diluting the impact the CLNDA may have on future nuclear commerce involving India. This is a good omen for our civil nuclear industry.

(Disclaimer: The views and opinions expressed in this article are those of the author and do not necessarily reflect the position of the Centre for Air Power Studies [CAPS])



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End Notes

¹Clause 17 (b), Chapter IV, The Civil Liability For Nuclear Damage Act, 2010, No. 38.of 2010, 21 September, 2010, p. 8.

²Sitakant Mishra, "Self Score In Nuclear Trade," *Geopolitics*, Volume IV, Issue VI (November 2013): Page No. 66.
