

# WebMemo



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## Congress Must Implement CSC Treaty to Reinvigorate U.S. Nuclear Industry

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September 29 marked the 10-year anniversary of the United States signing the Convention on Supplementary Compensation for Nuclear Damage (CSC).<sup>1</sup> The House of Representatives has failed to pass legislation to implement the treaty. As it stands, U.S. firms are exposed to unlimited liability in U.S. courts, virtually barring them from competing for nuclear energy projects abroad.

Participating in the CSC will better enable U.S. companies to engage in peaceful international nuclear commerce. Congress should quickly adopt implementing legislation that will increase American competitiveness, demonstrate American leadership, and come at no cost to taxpayers.

**Background.** With the President's support,<sup>2</sup> the Senate approved CSC by unanimous consent on August 3, 2006, and has twice unanimously passed implementing legislation (most recently as an amendment to its version of H.R. 6, The Clean Energy Act of 2007).<sup>3</sup> The House of Representatives, however, has yet to act.

For the treaty to go into effect, the Department of State must file the treaty's instruments of ratification with the International Atomic Energy Agency.<sup>4</sup> However, the State Department will not do so until Congress passes implementing legislation that identifies a funding source for America's treaty obligation.

**American Competitiveness.** The importance of the CSC will grow as the global nuclear market evolves.<sup>5</sup> Today, approximately 30 reactors are under construction outside of the United States. Additional orders are already being placed, and The

American Council on Global Nuclear Competitiveness estimates that more than 150 reactors are being proposed.<sup>6</sup> Without the CSC in place, U.S. suppliers will be at a serious disadvantage in competing for that business—if they can compete at all. Industry sources estimate that 60,000 to 120,000 jobs would be created if American companies built even half of the reactors planned for the next 25 years.

The existing U.S. liability system for nuclear operations only covers activities inside the United States and does not apply to international commerce. As a result, competing for projects abroad exposes U.S. companies to unlimited liability in U.S. courts. In cases where U.S. firms do compete abroad, they do so with increased risk or within the context of additional regulation, adding cost and undermining competitiveness.

In contrast, many foreign countries provide liability coverage for their nuclear firms or cap their liability exposure. This enables foreign companies to operate freely in the United States (or elsewhere), because they do not risk their entire business by participating in a specific project. The protection offered by other nations puts U.S. companies at a disadvantage in the global marketplace.

This paper, in its entirety, can be found at:  
[www.heritage.org/Research/EnergyandEnvironment/wm1658.cfm](http://www.heritage.org/Research/EnergyandEnvironment/wm1658.cfm)

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The CSC would fix this problem. It establishes an international liability regime that creates common, international standards for handling nuclear facility accident claims. In addition to providing supplemental international funds to pay victims, the treaty would keep liability in the country where the accident occurs. This would help protect U.S. companies from frivolous lawsuits. Under the current system, when a U.S. company engages in international commerce, it potentially risks the entire company.

**U.S. Leadership.** Many nations are waiting to join the CSC until the United States joins. Without U.S. participation, CSC would be meaningless, since 104 of the world's approximately 440 power reactors operate within the United States.

Failure to engage in the commercial nuclear market risks undermining U.S. leadership on related issues, such as nonproliferation. Other nations will simply work amongst themselves to achieve their nuclear objectives. Countries such as Russia, France, and China will fill the policymaking void left by the United States.

The United States once led the world in commercial nuclear technology but has ceded that capability to countries such as France, Japan, Great Britain, and Russia over the past three decades. A more competitive American industry would provide opportunities for the United States to re-emerge as a leader in the global commercial nuclear market. Furthermore, CSC implementation will signal that the U.S. government is committed to the expansion of nuclear power. This commitment by the federal

government is essential to attracting the massive private investment required to rebuild the domestic capabilities needed to support America's growing commercial nuclear activities.

**No Cost to Taxpayers.** As a CSC party, the United States would be responsible for contributing to the CSC fund in the event of an accident. Initially, the U.S. contribution would amount to \$62 million. This amount is determined by a formula based primarily on the level of a country's installed nuclear capacity and the United Nations' scale of assessment (the percentage of the U.N. budget that the organization charges its member states). The implementing legislation, which is supported by the nuclear industry, places all financial responsibility associated with the treaty on those companies that engage in export activities. In the event that a company would not meet its obligations, the U.S. government would take appropriate action, as directed by the implementing legislation, to recover owed funds from the companies.<sup>7</sup>

**Conclusion.** It has been a decade since the United States signed the CSC. While the Administration and Congress have done much to promote nuclear energy, few near-term actions would be as significant as finally passing CSC implementing legislation. Congress has waited long enough. The time to act is now.

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1. Full text of the convention can be found at [www.iaea.org/Publications/Documents/Conventions/supcomp.html](http://www.iaea.org/Publications/Documents/Conventions/supcomp.html) (September 27, 2007).
2. President George W. Bush, "Message to the Senate of the United States," November 14, 2002, (September 27, 2007).
3. For a critical assessment of The Clean Energy Act of 2007, see Ben Lieberman, "S. 1419: Bad News for Any Energy Consumer," *Webmemo* No. 1506, June 13, 2007, at [www.heritage.org/Research/EnergyandEnvironment/wm1506.cfm](http://www.heritage.org/Research/EnergyandEnvironment/wm1506.cfm).
4. For a full analysis of global nuclear liability, please see Omer Brown, "Nuclear Liability: A Continuing Impediment to Nuclear Commerce," Twenty-Fourth Annual International Symposium, The Uranium Institute, 1999, at [www.world-nuclear.org/sym/1999/brown.htm](http://www.world-nuclear.org/sym/1999/brown.htm) (September 27, 2007).
5. R. Michael Gadbow, "Civilian Nuclear Energy and U.S.-India Strategic Cooperation," testimony before the Committee on Energy and Natural Resources, U.S. Senate, July 18, 2006, at [http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Testimony&Hearing\\_ID=1578&Witness\\_ID=4472](http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Testimony&Hearing_ID=1578&Witness_ID=4472) (September 27, 2007).
6. Bengelsdorf, McGoldrick and Associates and Energy Resources International, Inc., "The U.S. Domestic Civil Nuclear Infrastructure and U.S. Nonproliferation Policy," American Council on Global Nuclear Competitiveness, May 2007, p. 18–19, at [www.nuclearcompetitiveness.org/images/COUNCIL\\_WHITE\\_PAPER\\_Final.pdf](http://www.nuclearcompetitiveness.org/images/COUNCIL_WHITE_PAPER_Final.pdf) (September 28, 2007).
7. Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation Act, S. 1653, 110th Congress, 1st Session.