

Japanese government prepares to protect TEPCO from liability

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As the radioactive contamination from the crippled Fukushima Daiichi nuclear power plant spreads to Tokyo's water supply, as well as milk and vegetables from numerous prefectures and fishing areas off Japan's eastern coast, the Japanese government is moving to shield the plant's owner, the Tokyo Electric Power Company (TEPCO), from liability.

Chief Cabinet Secretary Yukio Edano said this week that the government would "have TEPCO take responsibility" for compensating displaced residents, ruined farmers and other victims of the nuclear catastrophe. But he added that if the company were unable to do so adequately, "then by law the government will step in and guarantee the claims."

The Kyodo news agency this week reported that the government was examining the cost of TEPCO's obligations under the 1961 Act on Compensation for Nuclear Damage, which not only protects the interests of the private nuclear power companies but also of those, like the US giant General Electric, that have supplied and maintained its reactors.

Section 3 of that legislation states that the operator of a nuclear facility will not be responsible for any damage caused by a reactor if it was due to "a grave natural disaster of an exceptional character or by an insurrection".

Fearful of an adverse public response, the government has yet to confirm that it will classify the 9.0-magnitude earthquake and tsunami on March 11 as an "exceptional" disaster. Although the quake was the largest recorded in Japan, such events are to be expected in Japan, which sits above the collision zone of two tectonic plates, the Pacific and the Eurasian.

However, TEPCO's commercial insurers have already cited the Nuclear Damage Act, which was amended last year, to signal to international financial markets that TEPCO is unlikely to need to make any insurance claims.

Even if the government does not invoke section 3 of the Act, another provision in the legislation limits nuclear power generators' liability to 120 billion yen (about \$US1.5 billion) per plant, with the Japanese government assuming responsibility for any third-party damage or bodily injury claims beyond that amount. Such bailouts must be authorised by the National Diet.

The damage bill is currently estimated at more than 1 trillion yen (\$US12.3 billion).

To meet the requirements of the law, Japanese nuclear plant operators buy property and liability insurance from the Japan Atomic Energy Insurance Pool (JAEIP). However, JAEIP does not sell the utilities coverage for earthquake damage, tsunami damage or business interruption, which could leave the Japanese government responsible for those costs.

Chaucer, a major nuclear-risk insurer, said it expected the legislation to absolve TEPCO of liability. Zurich-based Swiss Reinsurance Co. stated: "Overall, there is unlikely to be a significant impact on the property/casualty insurance industry as a result" of the damage and possible radiation leaks.

The government's response to the nuclear disaster has been dominated by its preoccupation with protecting TEPCO and suppressing any popular challenge to the expansion of Japan's network of 55 nuclear reactors. Considerations of corporate profit have taken priority over the lives, health and safety of working people.

Just as the Obama administration did with BP, the transnational responsible for last year's US oil spill disaster in the Gulf of Mexico, the Japanese government has left TEPCO in charge of the emergency operations at the Fukushima plant. This is despite TEPCO's proven decades-long record of gross safety violations, falsification of inspection records and cover-ups of the extent of accidents (see: "Japanese government delayed nuclear emergency measures to protect TEPCO profits").

If a nuclear plant breakdown similar to that in Japan were to occur in the United States, which has 104 reactors at 65 sites—the largest number in the world—the owners would be financially protected also. The US Price-Anderson Act limits liability for nuclear power plant operators to \$12.6 billion. The legislation, first passed in 1957, further authorises the Nuclear Regulatory Commission or the Department of Energy to indemnify nuclear companies for damages that exceed any required insured amount. As in Japan, this law also covers the liability of suppliers, such as General Electric.

Any Japanese government payout to cover TEPCO's liability will add to the immense cost of the social and economic disaster left by the March 11 earthquake and tsunami. The official toll of dead and missing has now risen above 27,000. NHK, the state broadcaster, has confirmed that this total appears almost certain to increase "because of the absence of family members to report the dead and missing," adding that "in some areas, entire families appear to have perished." At least 56 hospital patients have died due to inadequate medical care, power outages and delays in deliveries of medical supplies.

Due to the inadequacy of the government's emergency response, more than 200,000 people remain in temporary shelters, where there are still acute shortages of food, water, electricity, heating and other essential amenities.

Without factoring in the nuclear compensation bill, the Japanese Cabinet Office this week estimated the costs from the collapse or damage to houses, factories and infrastructure such as roads and bridges at 16 to 25 trillion yen over the next three fiscal years. The upper estimate, equivalent to \$309 billion, is double the cost of the 1995 Kobe quake and nearly four times more than Hurricane Katrina in 2005.

The government's capacity to borrow to cover these costs is limited by the fact that Japan's public debt already stands at above 225 percent of GDP, the highest of the industrialised countries. Credit-ratings agencies Moody's and Standard & Poor's recently cut Japan's gradings, citing the political difficulties that have hindered the government's attempts to reduce the budget deficit.

With the tacit support of the opposition Liberal Democratic Party, the government has already indicated that much of the burden of reconstruction funding will be imposed on ordinary working people. It has announced a review of its spending plans, including promised childcare allowances and the axing of freeway tolls.

The human and financial costs of the nuclear disaster are sure to keep mounting. Despite repeated official claims that the Fukushima plant was being brought back under control, more fires and explosions have erupted throughout this week, forcing repeated evacuations of emergency workers. Yesterday, two plant workers were hospitalised after being exposed to high-level radiation.

At the same time, the nearly 40 million residents of the Tokyo Metropolis, as well as those of five other prefectures, are being given conflicting and contradictory information about their food and water supplies. Government officials insist that the tap water in the six prefectures is safe to drink, except for babies, even though radioactive iodine-131 levels have been detected up to twice as high as normally permitted.

While many victims of the disaster are focussed simply on coping, public anger over the government's inadequate relief effort and the possible bailout of TEPCO is certain to rise.



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