22ème Rencontres AMRAE DEAUVILLE

FERMA™ Federation of European Risk Management Associations

Conference Report

5/7 February 2014

Gilbert Canameras introduced the "Rencontres de l'AMRAE" with a perspective on globalization: from the beginning of time commerce has been the key driver of discovery.

The world as we know it now is "smaller": in distance and in resources, on the other hand it's never been so fast: a simple click may affect the entire planet.

This promotes the emergence of major risk: politics, catastrophic & digital with impact at human, economical and ethic levels.

More than ever risk management is at the centre of the agenda.

EXECUTIVE SUMMARY

1st round table - Mature Countries Views

Speakers:

- Robert Benmosche, President & CEO AIG
- Jean David Levitte, Diplomat
- Geoffroy Roux De Bezieux, Vice President MEDEF
- Ludovic Subran, Chief Economist EULER HERMES
- Bernard Spitz, President FFSA

When looking back at modern history the world has known different crises which switched the balance from a bi-polar to an apolar world.

1979 – History in action: beginning of the political Islam, oil shock and economical changes in China.

1989 – New world: fall of the Soviet Empire, US as sole global power, ideologies have been swept by the rules of the economy.

2001 – The shock wave: boundaries of American power, destabilisation, emergence of BRIC countries (Brazil, Russia, India and China).

The world around us is changing but in the end, nothing changes. Risks are always part of the landscape. Ancient risks are more important in terms of consequences and scope, new risks appears every day. Since the first human discoveries, risk is part of the evolution. Following Darwin's theory there is no adaptation without danger.

What is the situation of mature countries now? Jean David Levitte is not optimistic about Japan that has known several important crises, has been a country with an aging population and has faced the Chinese and internal nationalism. US are constantly reinventing themselves thanks to a large immigration and finally Europe has avoided a financial catastrophe thanks to the Euro but still needs to reform itself.

Robert Benmosche concluded by saying that after the AIG "near death" experience, "*you have to have faith in people and give them freedom to fix what's wrong*".

2nd round table – Emerging Countries Views

Speakers:

- Louis Habib Deloncle, President, Garant
- Stéphane Pallez, CEO, CCR
- Arnaud Vaissié, Chairman & CEO, International SOS
- Lionel Zinsou, President, PAI Partners
- Xin Wang, General Manager, Ping An

What appears from different analyses is that the difference between emerging and mature countries is less and less relevant. The economy is constantly changing with permanent evolution and specialization. Financial and technical hyper connectivity make it more difficult to clearly identify where the economical heart of the industries stands. The middle class is no longer an exception in emerging countries and is now looking for products other than first necessity.

However the investments growth and the globalization have seen a raise in risks:

- Multi directional deployment of human resources (the flow of personnel working and travelling) is now worldwide and not only starting from Europe and US.
- With significant harm, political risks and instability are still affecting emerging countries.
- Challenges in legal matters, protectionism and lack of appropriate laws: Emerging countries do not want to follow the standards set by mature countries.

Emerging countries are immersed in the global economy but they're still missing some important management tools. Mentalities have to change and instead of dictating the rules, mature countries should choose the option of partnership.

Eventually, what about Africa? Is it the new growth market after China?

If it does, the growth model will have to be completely different, otherwise the planet will simply die. Even though Western countries still have an old school picture of Africa, it's the continent that progress the most with the same level of sells as China for only ¼ of its GDP.

Workshop A2 - Covers for Political Risks, still an effort to be made

Moderator :

- Gaëtan LEFEVRE, Risk & Insurance Manager – Groupe CMI and President - BELRIM

Speakers :

- Mathilde LECOINTRE, Political Risk and Trade Credit Underwriter- BEAZLEY GROUP
- Frédéric CHAPLAIN, Commercial Director - Siaci Saint Honoré
- Bernard GROSCHTERN, Risk and Insurance Director - Precisium Solutions/Concept Auto Assurances

Political risks have an important weight when deciding to invest in emerging countries. In instable and uncertain environments those risks have important impacts but are difficult to anticipate.

What may risk managers do to avoid critical scenarios?

- Analyse your current situation: what are the potential interactions with your existing contracts, what are the different guarantees put in places
- Monitore the day-to-day situation

- Combine and harmonize your different covers: they are various grey areas in covers, no lawful definition, qualification problems, burden of proof… Don't hesitate to submit scenarios to your insurers and ask for validation

The goal is to obtain the lowest possible residual risk with suitable packages but also by sharing knowledge and good practice as well as creating bridges in your different department.

Workshop B10 – Serious Game a new crisis management tool?

Moderator :

- Françoise GAUCHER, Risk manager Groupe - Groupe La Poste

Speakers :

- Louis BERNARD, Founder and CEO - Layer Cake
- Serge BESANGER, Managing Director - ESCE

Have you ever heard of serious game? Created by the US Army, these video games are used for learning purposes by putting the audience in potential crisis situation.

Why does it work? Playing has always been an important part of the learning process, it's not theory the targeted audience makes its own experimentation; they're taking the final decision. It also gives the possibility to try indefinitely until the correct action is taken.

Disadvantages of this method:

- Important budget
- Not real interaction, no learning by the group
- Trend to be complicated with potential loss of 1st objective

Used mostly in:

- Sell and negotiations skills
- Decision taking management
- Human resources development
- Intercultural differences

Conclusion from the audience:

- Costs prevent smaller and medium structure to implement the tool
- Difficult to monitor the added value of the game specifically if it remains anonymous

Workshop A5 - The regulatory competition between the European Union and the rest of the World: David vs Goliath?

Moderator:

- Zaïella AISSAOUI, Insurance and Risk manager - Bollore Africa Logistics

Speakers:

- Philippe LOREC, Special Adviser of the Interministerial Delegate for business intelligence
- Yannis SAMOTHRAKIS, Associate lawyer – Clyde&Co
- Michel KAHN, Compliance Officer Holding - Total

Moderated by Mrs Zaïella Aissaoui, Insurance & Risk Manager for Bollore Africa Logistics, the workshop focused on a European paradox: the capacity of the European Union to produce regulations and technical standards with a tangible impact for the industry and the difficulties met by the French industry to have a real weight on the production of these numerous standards.

Philippe Lorec, special advisor for the French Government in Economic Intelligence, explained to the audience that today 90% of the information is open with only 10% of what he called “grey information”, still legally available but through different and informal channels.

To illustrate the regulatory battle happening within the EU itself, he took the example of the campaign around the choice for an EU wide technical standard to plug electric cars. Both French and German industries compete to impose their standard and the European Commission settled on a common plug for charging electric vehicles in favor of the German type, but only after months of negotiations.

Before becoming hard coded, any law goes through a phase where different entities can influence the design of the regulation. This is where trade associations, think tanks have a crucial role to play and where France is still lagging behind countries like the UK or Germany.

Soft law refers to these non-binding elements like guidelines, best practices that are influential and will shape the future binding regulations and standards. Never forget that regulations first start with discussions and that there are many ways to produce regulation.

Mr Lorec informed us that people in the UK are culturally well equipped to create the conditions to weight on regulations. Through the use of conferences, financing studies and think tanks, white papers and best practices, they initiate the discussions and lead the debate in one way or another. It is always more difficult to challenge an existing document. Once established, a consistent and solid position will tend to become the general understanding, this is the area where British lobbyists excel so well in Brussels, whether it is for financial or agricultural matters.

Mr Lorec reminded us that it is useless for the industry; 'right but late' is useless. Companies can’t remain passive in front of regulations.

Two things must be learnt from this workshop: first, every industry must know what the regulatory topics are important for their activities, and second they must ensure that their relevant national authorities are well aware of these priorities.

The European Union is one of the greatest producers of regulations and standards on a global scale but there is still a lot to be done internally to be aware of the impact on the competitiveness of the European industry globally.

Workshop B2 - Product liability: one EU law facing several national legal regimes

Moderator:

- Sophie Maguer, Risk Manager – Euro Disney S.C.A

Speakers:

- Guy Soussan, Associate lawyer - Steptoe
- Marie Puech-Roos, Managing Director RC, Environnemental risks - Marsh
- Céline Le Bars, Head Of Liability - Zurich

Mrs Sophie Maguer, Risk Manager for Euro Disney, led the debates around the last implications of the EU package on product safety and market surveillance, released by the European Commission the last 13 February 2013. The proposed regulations are still discussed at the European Parliament for a final vote in April 2014 before discussions with the Council of the EU, they will replace the current EU Product Safety Directive adopted in 2001.

The inconsistent implementation of the current Directive created a legal uncertainty for manufacturers, importers or retailers to know exactly where their liabilities are laying when they face a patchwork of 28 different product liability regimes. For instance, they will struggle to find the place to connect the damage: is it place where the product was made, was sold, was distributed?

For insurers like Zurich which participated to the panel, an international program is one of the first line of defense to ensure the compliance of the company's products in the operating countries and where the insurer have a local branch. Whether it will be under the Master policy or local policies, an international program is designed to make sure that a broad range of liabilities are covered like casualty, bans, withdrawals, recalls, or notification and information expenses.

According to Zurich, the current loopholes of the 2001 Directive could be overcome with the appropriate network of skills in every covered country, which are part of a master policy. This means lawyers, experts and local branches.

The new regulations on product safety and market surveillance are expected to enter into force in 2015 and are supposed to remove the weak spots created by some “softer” market surveillance in some parts of the Union than others leading to unfair market conditions.

They should lead to a coherent approach to product safety and market surveillance leading to lower compliance costs for economic operators. The thing that remains unclear is the impact on pricing of the new regulations regarding the number of future claims and the coverage of insured companies against the cost of a corrective action and the liability for product defects.

Workshop C4 - Class Actions in French and European framework, where are we going?

Moderator:

- Anne-Claire MANIEZ, Head of Insurance Department - Bouygues Telecom

Speakers:

- Stéphane CHOISEZ, Associate lawyer – NGO Cohen Amir-Aslani & Associés

- Anne-Gaëlle DUMAS, Deputy to the Office of procedural law and social law of the Directorate of Civil Affairs and the Seal
- Luc MAYAUX, Professor - Université Lyon III
- Christophe PARDESSUS, Claims Director for Continental Europe region - Marsh

Anne-Claire Maniez, Risk and Insurance Manager for Bouygues Telecom, conducted a reflection on the recent introduction of the class action into the French legal system. A representative from the French ministry for consumer affairs was among the panelists and explained how the new scheme was designed to avoid the excesses of the US class actions.

The text is filling a gap, long after other European countries like Spain, Italy, Netherlands or Germany. Under the new provision, small harms to multiple consumers are considered to create significant profits for companies on a European scale.

But only the retail consumer of good and services is targeted in the French legal proposition. Health for example has been explicitly excluded from the new regime and will remain under the current individual civil liability regime.

There won't be any direct action from victims. All suits would have to go through the intermediation of only 16 accredited consumer associations. The benefits from any court ruling will only go to an identified group of people. This is the principle of an "opt-in" system as opposed the "opt-out" system used in the United States where any victim can rely on the class action result even without having being part of the initial group of claimants.

Legal concerns were raised by the audience regarding the 2 years prescription. It is indeed still unclear when will be the starting point, especially in the specific case of serial claims where we are facing multiple damages but with one single source.

This is even more complex with the action of the representing association.

The association is not a victim so it will be interesting to see if the moment when the association will start the legal proceedings will remain neutral or not over the prescription period. The lawyers are expecting consistency from the courts on this side.

From an insurer point of view, it was noted that they won't be able to take the place of the victim because the victim himself won't be legally part of the action. Nevertheless no concerns for capacities were raised by the insurers so far, the prohibition of punitive damages that could go far beyond the compensation of damage. This deterrent tool has turned the US class action into a potentially devastating weapon for a company.

This won't be the case according the newly voted French scheme, more in line with the European concept of Collective Redress and achieving consumer protection through corrective and compensatory measures rather than massive and deterrent sanctions for companies.

Workshop A9: E-reputation: butterfly effect or Buzz

Moderator:

- Alain Gravier – Risk Manager, FDJ

Speakers:

- Françoise SANCE - Managing Director - Cap Sirius
- Jérôme Frizzera Mogli - Managing Director - DCRX
- Isabelle Bousquet - Senior Director Global Business Continuity and Crisis management, Carlson Wagonlit Travel

In theory, the e-reputation is the public common opinion on the web about an entity, brand, person, legal (business) or physical (individual), real (represented by a name or pseudonym) or imaginary. **In other words, it corresponds to the identity of the brand or person associated with the perception that people have.**

Chris Anderson said that "*your company (and/or brand) is not what it shows but what Google does*"! Therefore, Risk managers need to pay attention to

- the SOE (Search Engine Optimization) and the search engine results page (serps) and
- the SMO (Social Media Optimization) which corresponds to the "like" and "share".

Both combined, will have an impact on the position in the search engines such as Google, Safari and Firefox for example.

Nowadays, there is not only one official message that comes from the company (and/or brand) anymore. Social media has allowed an exchange, a conversation between people and the company. *"50 to 80% of conversations about your company (and/or brand) are taking place in the cloud, meaning out of your website or official channels controlled by the company. And in the clouds, there are your customers!"*

Cyber risk is worldwide and can bring multifaceted issues because you can neither control it nor predict what will be published.

<u>Operational management and social media</u>: case study : air transportation

This sector of industry operates 24 / 7 in the entire world and is regularly disrupted by operational uncertainties. Disruptions have been traditionally managed by the operational and commercial department in the airport's call centers. The social media arrival has changed the game and the relationship between clients and travelers.

A few examples illustrate the rise of this phenomenon in the last 5 years:

- Air crash of the Flight US Airways 1549 on the Hudson River: The information was published almost in real time on Twitter and the company had to match its communication around it. In this case, the happy ending helped the company to raise its image.
- An airline targeted by soldiers returning home: Soldiers returning from Afghanistan were ordered to pay 200 dollars for each excess luggage on domestic flights operated by the U.S. company. Most soldiers had to bring back 3 to 4 instead of 2 luggages regulatory. During the flight, soldiers filmed a video explaining their situation naming the airline company and published it on Youtube.
  At first, the airline company remained clear and firm about its statement until the video went viral and created the buzz! To save face, the airline company eventually reimburses the soldiers.

To conclude,

- Community Managers should be linked with the risk management and the communication departments in order to react quickly, properly and adequately. The more the reaction takes time, the most expensive it could become.
- **Anticipation and preparation are the key**. To do so, key opinion leaders and detractors need to be identified. Conversation and exchange with those persons have to be engaged beforehand and material for communication available.

Workshop C2: ERM and Country Culture: Reliability and Adaptability of the Process

Moderator:

- Alain Aubignat - Group Risk Manager, Michelin

Speakers:

- Francis Miard – Associate, Advisory Risk EMEIA – E&Y
- Alexandra Arango- Larche - Risk Manager, Region A, Technip
- Philippe Noirot - Group Risk Manager, Orange

The implementation of an ERM program throughout multinational organizations encounters some challenges such as the language, the perception of risks, the ERM maturity and the culture which can all differ from country to country.

To illustrate differences that exist between European countries, Mr. Miard explained the results of the last FERMA Risk Management Benchmarking survey 2012 which gathers respondents from all industries. An analysis per country had been made for France, Germany, Italy, Great Britain and Benelux. The results showed a difference regarding the 8th directive: France has been the most impacted by it whereas Germany had already a strong level of awareness and was consequently less impacted. Regarding the level of maturity, it is clear from the results that there is a difference between northern and southern countries (Germany vs Italy). Eventually, the risk priorities and appetite (which were identified as followed:

competition, regulation, financial, reputation and planning) vary a lot for all five countries. For more information about the results of FERMA Risk Management Benchmarking survey 2012, go at http://bit.ly/1cYwlRJ

To implement an ERM program in an international group, Mrs. Arango-Larche advised to

- stay open-minded and develop a culture awareness. Risk Managers must see culture differences as an opportunity rather than an obstacle;
- create minimum guidelines to homogenize templates and
- be flexible because a methodology cannot be imposed. There should be a balance between customization vs corporate guidelines when spreading out company ERM through different countries.

The ERM must be adaptable to fit each entity needs.

Finally, Mr. Noirot finished the session by giving examples of differences present in the French company "Orange" and how they deal with it to implement an ERM program. A chart has been established stating big principles (definition of risk, risk governance, roles and responsibilities,…) with a methodology, tools have been proposed to local agencies without being imposed and quarterly conference calls have been organized to exchange information via a dashboard. Finally, administrators set up yearly reports to ensure the efficiency of the process in place.