

## From the Editor's Desk: A Pandemic Is Overdue

by Mickey Brown, CPCU, ARM



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**T**he global marketplace allows businesses to seek more sophisticated products or services and lower cost alternatives on a worldwide basis. As foreign trade occurs with more regularity for companies of all sizes, insurance professionals must consider how global risks factor into each transaction. Therefore, an international mindset, involving insight into local regulations, cultures, and politics, is essential to take advantage of worldwide market opportunities.

In recently taking over as editor to this publication, one of my key objectives is to provide articles addressing global risk and insurance matters while promoting the CPCU Society's International Insurance Interest Group. Hence, as the world is now more interconnected than ever, with goods, people, and diseases all traveling rapidly along the same routes, I am pleased to focus this edition's introductory article on the ramifications that pandemics can have on business operations.

A recently issued report by Marsh and The Albright Group warns that the catastrophic impacts of a long-lasting pandemic are likely to happen and, in fact, may even be overdue. The study states that social and economic impact of a pandemic is likely to exceed what most corporate and governmental leaders have imagined. The report titled *Corporate Pandemic Preparedness: Current Challenges to and Best Practices for Building a More Resilient Enterprise* was funded through an educational grant by Roche to better gauge global market needs should a pandemic occur. The report was released in conjunction with

the Fifth International Bird Flu Summit held recently in Las Vegas, Nevada.

The scientific consensus theorizes that an avian pandemic could sicken 20 percent of the world's population, result in absenteeism of 40 percent of the global workforce, and kill tens of millions of people. The report goes on to say that outbreaks will likely move along modern transportation and distribution chains. Disruption at transportation hubs will be significant and could have a catastrophic impact on businesses. Corporations would face mass absenteeism and permanent loss of employees, customers, and suppliers. In comparison, the mortality risks generated by a severe pandemic far outweigh those associated with terrorism incidents.

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The report found very few companies adequately prepared to protect their people or ensure the continuity of their business in the event of a pandemic. "We cannot afford to develop pandemic 'fatigue' or a sense of complacency around this particular risk," said former Secretary of State Madeleine Albright. "With so many other pressing issues, preparing for a pandemic may not currently fall high on the list of priorities for businesses; but not doing so could result in devastating consequences for their operations." Added James O'Brien, principal of The Albright Group, "Less than 25 percent of businesses in Asia have a plan to keep operating when a pandemic happens. And if a pandemic starts in Asia, it will affect every global business."

In general, discussions with global companies reveal that many believe it's unlikely that a pandemic could strike their operations. Of course, this thinking does not take into account the global interdependencies of today's economy. For example, just a few years ago, an outbreak of SARS—which never reached pandemic status, but spread quickly from a single case in rural China—resulted in billions of dollars in economic damage. Since there is no effective risk transfer mechanism for a pandemic, the solution depends on collaboration between public and private sectors in continuity planning and mitigation activities. Refer to Figure 1 for a list of top 10 best practices on preparing for a pandemic. For a complete copy of the report, please contact [mickey.brown@marsh.com](mailto:mickey.brown@marsh.com).

In moving forward with this first 2008 issue of *International Perspectives*, we are pleased to feature country-specific articles concerning Vietnam, Korea, United Kingdom, and The Netherlands, in addition to the global concern surrounding kidnap and extortion risks. Feel free to contact me with your comments regarding this publication in addition to your ideas for future topics. ■

Figure 1

## 10 Best Practices to Improve the State of Preparedness for a Pandemic

1. Treating a pandemic as a truly catastrophic event versus a "manageable disruption."
2. Establishing pandemic planning committees, supported by an actual budget.
3. Identifying and pre-qualifying alternate sourcing capacity.
4. Incorporating the entire global supply chain—including critical suppliers, customers, and other key stakeholders—into the organization's threat and vulnerability profile.
5. Prioritizing critical products and services and preparing to protect those, even at the expense of other important elements of a business model.
6. Developing a plan that considers the spectrum of response, recovery, restoration, and resumption activities.
7. Identifying critical pharmaceutical and non-pharmaceutical interventions and procuring them now.
8. Focusing deeply on human resources issues, reviewing existing policies and procedures and, in most cases, updating them to provide reasonable accommodations for this special circumstance.
9. Including a communications strategy as a critical element in the pandemic preparedness plan.
10. Estimating and planning for post-pandemic changes, including shifts in demand patterns, in the availability and morale of staff, and in infrastructure, both locally and to vendors.

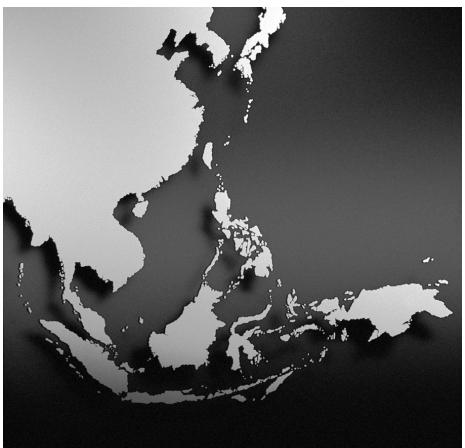
# Vietnam Political Risk: Forty Years after Tet

by John L. Linantud, Ph.D.



**John L. Linantud, Ph.D.**, is an assistant professor of political science at the University of Houston-Downtown. He received his Ph.D. in political science from Arizona State University, and a master's degree from George Washington University. Linantud's teaching and research interests include nation-building, American foreign policy, and East and Southeast Asia.

**Editor's note:** This is the first in a series of articles on Asian Country Political Risks commissioned by the CPCU Society's International Insurance Interest Group.



**T**he Year of the Rat is a perfect time to assess how politics in Vietnam have changed since the Tet Offensive of 1968. In the Chinese Zodiac, the Rat stands for tenacity, cunning, and prosperity. After decades of war and revolution, Vietnam has earned a hard-fought reputation for the first two traits. Though the ruling communist party refuses to release its grip on power, Vietnam is starting to fulfill its vast potential on the third.

## The Tet Offensive

The Geneva Accords of 1954 created Cambodia, Laos, North and South Vietnam out of French colonial possessions. Led by Ho Chi Minh, and allied with China and the Soviet Union, North Vietnam, along with communists in the south, called the Viet Cong, worked to overthrow South Vietnam. This faction approached their objective through a mix of conventional and guerilla warfare, agitation, propaganda, covert operations, and diplomacy. The United States and other anti-communist countries, such as Australia, the Philippines, South Korea, Thailand, and New Zealand, backed South Vietnam. By 1968 there were more than 500,000 U.S. troops helping South Vietnam fight North Vietnam and the Viet Cong.

Saigon, capital of the South, was the primary target of the Vietnamese communists. During the new year celebrations known as Tet, North Vietnam and the Viet Cong launched a massive attack in the hopes of sparking a revolution against Saigon. The Tet Offensive became one of the turning points in the entire Cold War. On one hand, it failed to inspire a popular uprising and exposed the communists to allied counterattacks that crippled the Viet Cong. On the other hand, Tet discredited President Lyndon Johnson and convinced the balance of the American media and public that the war was either unwinnable or not worth the investments, in American lives and treasure. Tet thus led to the election of Richard Nixon, who began to pull

American troops out of the country in 1969. The war between North and South raged on until North Vietnam finally overran Saigon and created a single Vietnam governed from Hanoi. Today these final battles are remembered by posters of triumphant soldiers atop a Soviet-made tank of the kind that captured South Vietnam's presidential palace in April 1975.

## One Vietnam

The unification of Vietnam brought to power a hardline communist dictatorship that tried to cleanse their people of Western influence. Ex-South Vietnamese had several choices: assimilate, emigrate, or stay and make the best of it for themselves and their families. The most recalcitrant individuals, including military officers, government officials, clergy, and educators, were interred in political re-education camps. Many others in the former capital refused to abandon "Saigon" even after Hanoi officially renamed it Ho Chi Minh City. Today the two monikers coexist with each other, and Saigon/Ho Chi Minh City has once again become the commercial and tourist hub of Vietnam, and a symbol of rejuvenated foreign influence on the country.

Unfortunately, the end of the war against South Vietnam and the United States was merely a prelude to a new era in which communist states openly fought each other. In 1978, Vietnam actually invaded Cambodia and replaced the notorious Khmer Rouge with a rival faction backed by Hanoi and the Soviet Union. China, however, supported the Khmer Rouge and briefly invaded Vietnam. The new Indochina war dragged on until 1991 and placed a tremendous military, political, economic, and social burden on the Vietnamese people.

## Doi Moi

Things began to change in 1986 when Hanoi decided to follow Beijing and Moscow on the road to capitalism. The flurry of reforms known as Doi Moi, or *Continued on page 4*

# Vietnam Political Risk: Forty Years after Tet

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revitalization, aimed to replace Vietnam's command economy with property rights, free markets, and investments, designed to create jobs and bring in foreign currency. Indeed, by 2006 the United States had become Vietnam's largest overseas market, taking 21 percent of all exports, and economic growth had topped 6 percent for a decade. Vietnam joined the World Trade Organization in 2007.

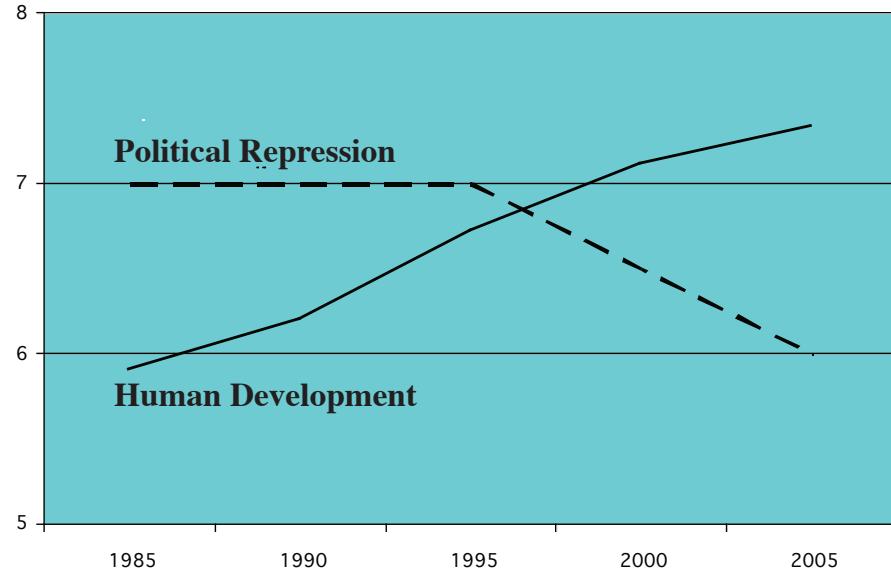
Some observers predicted that economic and property rights would lead to political rights. Figure 1 indicates that two decades of reform have indeed steered Vietnam in the right direction on both counts. The dotted line tracks Freedom House grades on democracy, including competitive elections and civil liberties: the higher the grade, the deeper the political repression. From 1985–1995, Vietnam received the worst possible score on the Freedom House scale. Since 1995, it has moved in a slight liberal direction, primarily because of greater freedom of religious assembly, but remained one of the most repressive states in the world. The solid line tracks the United Nations Human Development Index (HDI), a compendium of gross domestic product per capita, literacy, primary school enrollment, and life expectancy. The higher the HDI, the better the quality of life for the average person. The highest possible score is 10, so Vietnam has a lot of ground to make up, but over the last 20 years HDI has improved relatively quickly. Moreover, Vietnam's Freedom House and HDI scores covary—a clear signal that progress in democracy is related to progress in human development.

## Xenophobia versus Democracy

The main obstacle to even deeper economic and political change is the proud but xenophobic communist party. Two dramatic events, associated with the end of the Cold War gave the leaders in Hanoi cause for concern. The first was the violent suppression of democracy activists at Tiananmen Square in Beijing, China in 1989. The second was the dissolution of the Soviet Union in 1991.

Figure 1

### Vietnam Political Repression and Human Development 1985-2005



Notes: For easier comparability the chart averages Vietnam's two Freedom House scores for political and civil rights, and multiplies its Human Development Index scores by 10. The best possible Freedom House rating is 1. The best possible Human Development Index score is 10.

Sources: United Nations, Human Development Report 2007/2008, "Table 2: Human Development Index Trends," p.235 ([hdr.undp.org/en/](http://hdr.undp.org/en/)); Freedom House, "Freedom in the World Country Ratings, 1972–2006" ([freedomhouse.org](http://freedomhouse.org)).

Simply put, Hanoi would like to avoid a repeat of these events in Vietnam. So like China, Vietnam is trying to modernize its economy without jeopardizing the communist party's historic monopoly of power.

Hanoi would prefer that all Vietnamese remember history as it does. Ho Chi Minh, who died in 1969, still watches over the country from billboards and monuments. Old-school propaganda posters urge Vietnamese to remember the pivotal battles in their nation's history and to wage war on current problems like overpopulation and AIDS. Likewise, visitors should be ready for brutal depictions of U.S. soldiers as casualties and war criminals in the thriving heritage-tourist venues that surround Saigon/Ho Chi Minh City.

Hanoi, however, knows that it must earn the support of younger people who did not live through the wars of the past. One option is to preserve the illusion of democracy. In May 2007, for instance, in an article titled, "Celebratory atmosphere marks elections," the English language Vietnam news reported that 50 million people had voted for the national assembly, including a 99.86 percent voter turnout in Saigon/Ho Chi Minh City. The report seems fanciful given the lack of long lines on election day in many parts of the city. Just a week earlier, for instance, the Philippines reported 75 percent turnout for its own congressional elections, during which precincts in Manila were surrounded by long lines of voters. The point is moot regardless: every one of the 500 seats went to the communist party or a handful of groups subject to its approval.

Perhaps the lack of political freedom is good for business. Violent crime and high-stakes kidnapping, for instance, are not as problematic here as in the Philippines or Latin America. Unfortunately, the unhealthy combination of one-party dominance, low accountability, bureaucratic sloth, and the rapid influx of new wealth has created massive graft and corruption. In the most recent assessments by Transparency International, Vietnam ranked 111 out of 179 states, tied for fifteenth place in the Asia-Pacific and just .01 points better than the violence-prone Philippines. Likewise, the World Bank ranks Vietnam 91 out of 178 countries in terms of business friendliness.

Why is the party so rigid? One answer is that communist officials, many in their seventies and eighties, fought against imperial Japan and France in the 1940s, South Vietnam and the United States in the 1950s, 1960s, and 1970s, and the Khmer Rouge and China in the 1970s and 1980s. These veterans believe that politics, war, and national liberation are one and the same, and that any challenge to the status quo poses a threat to national security. The state therefore imprisons Catholic priests, restricts the movement of foreign reporters, and represses the universities, media, and Internet. A second reason is that history has left the Revolution behind. As “perfect spy” Pham Xuan An told an American journalist “You won World War III. So you lost a skirmish here—so what?” Indeed, a good reason to avoid free elections is that the communist party might not win them, which is what happened in Eastern Europe and the Soviet Union in the 1980s and 1990s. And except for China and Singapore, Vietnam’s biggest trading partners are wealthy democracies, from the United States, Japan, and Australia to Taiwan and South Korea. From that perspective little has changed: 40 years after Tet, Vietnam’s communists are still fighting an uphill battle. ■



■ 1975 tank banners that are located throughout Saigon/Ho Chi Minh City.



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# Kidnap and Extortion: A Global Concern

by Kevin Henry



## Kevin Henry

is an assistant vice president for AIG's crisis management division in Philadelphia, specializing in kidnap, ransom, and extortion insurance. Henry has spent more than 14 years working in the international risk assessment and insurance field. He is a U.S. Navy veteran and holds a B.S. in economics from West Chester University, and a M.B.A. from Wilmington College. He holds a certificate degree in terrorism and national security management from Kaplan University and is a graduate of the U.S. State Department's Security Overseas Seminar and the FBI's Citizen's Academy.

**K**idnap, ransom, and extortion (KRE) has become a global industry. Don't believe me? Recent press reports document kidnap and extortion incidents in places as diverse as China, India, Nigeria, Italy, Russia, Japan, Indonesia, Argentina, and even the United States and Canada. Of course, there are plenty of kidnap examples from the traditional kidnapping capitals of Colombia, Mexico, Philippines, Afghanistan, Brazil, and Venezuela. There are more than 20,000 reported kidnap for ransom incidents annually, with 48 percent of them occurring in Latin America. Notice the use of the word "reported" incidents—the vast majority of kidnap and extortion incidents are never reported. Experts estimate the actual number of annual kidnap and extortion incidents worldwide is five to six times the reported number, worth hundreds of millions of dollars annually. Incidents affect organizations as varied as small businesses, large corporations, wealthy families, churches, relief organizations, media groups, and universities. There is no country or organization on earth immune to kidnap, ransom, and extortion incidents.

One of the most common discussion points relate to the current top 10 most risky areas in the world for KRE incidents. Since we know that most KRE incidents are not reported (usually due to distrust or outright participation by local law enforcement), the top 10 list changes month to month, depending on reported incidents, underground reports, local security conditions, and local political conditions. Some areas are consistently known as "kidnap hotspots." These areas include Mexico, Brazil, Colombia, Venezuela, Philippines, Nigeria, Chechnya region of Russia, and Afghanistan. These areas have a long history of using kidnapping for ransom to further tribal disputes, fund separatist movements, fuel organized criminal gangs, and fill the coffers of drug cartels. Incidents in areas like Iraq, Haiti, South Africa, Argentina, Nepal, and Chechnya region of Russia ebb and flow, depending

on the security and political situation on the ground and the criminals' need for funds. The newest area to be welcomed to this distinguished list is India, with the Indian government acknowledging more than 700 active kidnap for ransom gangs. The Indian gangs range from separatist and jihadist movements located in the rural parts of the area to highly organized crime groups operating in the major cities. Organizations around the world are turning to comprehensive kidnap, ransom, and extortion insurance programs for financial protection and expert advice on how to successfully mitigate these incidents.

It's not often you can say that insurance saves lives—literally. But, in the case of KRE insurance, thousands of lives are saved annually by the coverage, training, and response services provided by such insurance policies. The key to obtaining full value from a KRE policy is to verify that the coverage and response fit the exposure presented by the policyholder.

Two long-standing myths surrounding KRE insurance should be dispelled immediately. One, KRE policies do not directly pay the ransom or extortion demand for the client. All KRE policies are reimbursement forms, designed to reimburse the policyholder for ransoms and expenses incurred during a covered incident. Secondly, KRE policies do not provide for the services of a Special Forces team to rescue the victim. Russell Crowe is not going to swoop down and pull the victim to safety (sorry, leave that to Hollywood). KRE policies do provide for the services of very specialized consultants, who assist the client in negotiating a kidnap or extortion incident. That might sound less exciting, but negotiation is much safer and more successful than rescue attempts where the first person injured or killed is often the victim.

It is important to confirm who is insured under a KRE policy and when coverage applies. Most KRE policies cover all

employees, officers, directors, and relatives. Often guests and residents of the household are covered. But, what if the organization has students, volunteers, independent contractors, and consultants? Those categories may need to be endorsed onto the policy. Many, but not all, KRE policies provide coverage 24 hours a day, 7 days a week, both business and non-business related incidents. Criminals do not ask their victims if they are traveling on vacation or business before kidnapping them, so organizations must double check that their coverage responds to both business and non-business related events.

Although it might seem obvious, it is important to confirm the KRE program provides coverage for the specific risks facing the organization. The largest risk facing companies doing business in the United States is not kidnapping, but extortion. Many companies across the United States have received e-mail and phone messages threatening to kidnap an employee or child of an employee if a ransom or extortion demand is not paid. Increasingly, criminals are resorting to computer virus threats—the release of a computer virus into a company's system if a ransom or extortion demand is not paid. Not all KRE programs automatically provide coverage for such ransoms or computer virus-related extortion demands. Non-governmental organizations (NGOs), media companies, relief groups, and religious groups face an increasing risk of wrongful detention (detention without a ransom demand, often political in nature) in countries like Venezuela, Zimbabwe, Afghanistan, Iran, China, Russia, and many of the former Soviet Republics. These groups need to confirm that their KRE program will respond to incidents of wrongful detention. Finally, it is important to confirm that broad expense coverage is provided by the KRE policy. Many policyholders have to take out loans to pay a ransom or extortion demand—interest costs and related fees should be covered by the KRE policy. Other

expenses that should be covered are travel, salaries of the victim and replacement employee, business interruption, rest and rehabilitation, informants, extra security, and job retraining.

The most important parts of any KRE policy (and most overlooked) are the preventative and response services included within the policy. This is the part of a KRE policy that most directly saves lives. All KRE policies contain the specialized services of a response firm. These firms employ consultants who respond to a threat or incident and assist the policyholder in negotiating the safe release of a kidnap victim or the successful resolution of an extortion attempt. These consultants are usually retired law enforcement, military, or intelligence officers with specific country and language skills. Their maturity, local country knowledge, local contacts, and negotiation experience ensure the vast majority of kidnap victims are released unharmed. Negotiation tactics surround one common goal—the safe release of the victim. If negotiations are held correctly, the victim, victim's family, and victim's company will be less likely to be targeted in the future.

Finally, many KRE policies contain preventative services (i.e. "loss control") from the response firm. These preventative services vary depending on the nature of the exposure, but can include safe travel training, country-specific briefings, site security surveys, kidnap simulations, kidnap prevention briefings, and crisis management plan creation. One important point to note—the fees for the response consultants are most often paid directly by the insurance company, so the client does not have to be concerned about paying for response services in the event of an incident. Some preventive services may also be covered by the insurance company.

When reviewing response firms and their services, it is important to make sure the consultants match the exposure presented by the policyholder. For example, a relief organization with employees in Iraq and Nigeria does not benefit by a response company that does not have local representation, language capabilities, contacts, or experience. A manufacturing company with operations in China receives no value from a response firm, which doesn't have consultants in Asia. For a company with an office in Brazil, KRE coverage provides no value if the response company doesn't have local representation with Portuguese speakers and experience dealing with Brazilian kidnap gangs. Finally, a financial institution in the United States with a large exposure to extortion needs to ensure its response consultants have U.S.-based law enforcement background, as well as access to computer extortion experts. Insurance professionals and clients should not be afraid to ask pointed questions about the consultants, their expertise, worldwide locations, language capabilities, and negotiating tactics.

Kidnapping for ransom is an ancient crime and continues to be a frequent and profitable offense. Technology and political events around the world have allowed criminals involved in kidnapping for ransom to branch out into related crimes such as extortion and wrongful detention. Organizations of all sizes and shapes have a responsibility to protect their assets, especially their employees. A kidnap, ransom, and extortion insurance policy can help prevent and respond to such incidents through appropriate coverage, training, and response services. ■

# Development of Korean Insurance Marketplace

by Don Chang, Ph.D., CPCU, ARM



**Don Chang, Ph.D., CPCU, ARM, is president of the CPCU Society's Korea Chapter, professor of risk management and insurance at KonKuk University in Seoul, Korea. He received his Ph.D. from the Wharton School of the University of Pennsylvania in risk management and insurance, and taught at Pennsylvania State University.**

## Property and Liability

In 2006, the Korea property and liability (P&L) insurance industry remained the eleventh largest market in the world. With premium per capita recording U.S. \$1,706, Korea posted fifth place in Asia, following Japan, Hong Kong, Taiwan, and Singapore. According to Swiss Re Sigma, the Korean market posted seventh place (with premium size of U.S. \$82.9B) in the insurance industry as a whole, including Life. As for the ratio of insurance premium to GDP, Korea ranked seventh place in the global insurance market with 10.7 percent.

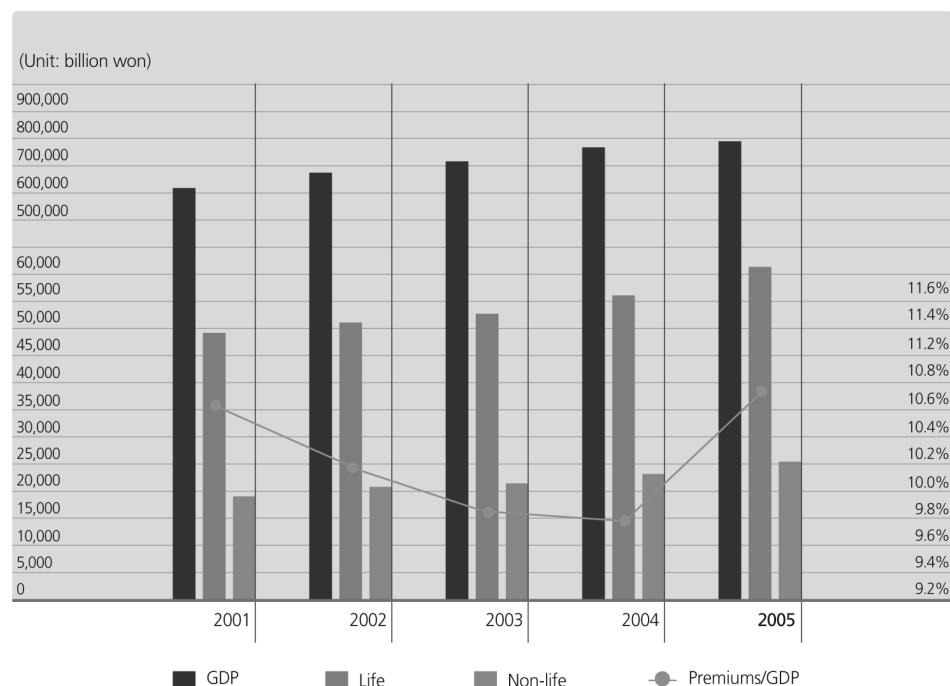
As of December 2006, there are approximately 30 P&L insurers writing business in Korea, including many foreign branch offices.

General Insurance Association of Korea Key figures (FY 2005) are as follows.

1. Shares of Direct Premiums by Line: Long-term (45.5 percent), Auto (34.6 percent), Casualty (9.5 percent), Guarantee (4.1 percent), Annuity (2.8 percent), Marine (2.1 percent), Fire (1.3 percent).

**Figure 1**

GDP by Year and Growth Trend of General Insurance



**Figure 2**

Annual GDP and Growth Trend of General Insurance

(Unit: billion won)

	2001	2002	2003	2004	2005
GDP	622,123	684,264	724,675	779,381	806,622
Life	47,364	49,067	50,393	53,751	61,472
Premiums	18,409	20,181	20,873	22,528	24,732
Non-life					
Total	65,774	69,248	71,266	76,278	86,204
Premiums/GDP	10.6%	10.1%	9.8%	9.8%	10.7%

2. Shares of Direct Claims Paid by Line: Auto (64.7 percent), Long-term (16.1 percent), Casualty (7.2 percent), Guarantee (7.4 percent), Annuity (0.2 percent), Marine (3.0 percent), Fire (1.5 percent).
3. Shares of Net Operating Expenses by Line: Auto (46.5 percent), Long-term (34.5 percent), Casualty (10.7 percent), Guarantee (3.1 percent), Annuity (1.3 percent), Marine (1.6 percent), Fire (2.4 percent).

The Korea P&L insurance industry is undergoing rapid changes with intensified competition in other financial sectors as well as the trend to level up the financial market to meet advanced standards, including the Capital Market Integration Act. Internally, the loss ratio of automobile insurance, continually rising since 2003, presents a significant challenge to the industry. Externally, the Free Trade Agreement between Korea and the United States and opening of financial markets are expected to have a significant effect on the Korean insurance marketplace. In such rapidly changing market environments at home and abroad, the Korea P&L insurance industry is formulating medium and long-term innovation measures to enhance competitiveness and strengthen its capabilities to develop new markets.

Recent trends are marked by rapid convergence of financial businesses and services with the introduction of composite financial products. With the enactment of the Capital Market Integration Act, functional integration of the capital market is expected to gain further momentum. Revision of the Insurance Business Act is expected to relax regulation on the insurance industry, enhancing its capability to respond to convergence of financial businesses, and to establish systems enabling the Korean insurance industry to emerge as a comprehensive risk management industry.

### The CPCU Society's Korea Chapter

The CPCU Society's Korea Chapter was granted permanent chapter status in September 2007 at the CPCU Society's Annual Meeting and Seminars in Hawaii. The Korea Chapter has been working hard to become a permanent chapter since 2003 when 20 some members got together at the year-end party. We know that today's insurance industry needs to develop in terms of specialization, IT, and globalization. Close connection with a global power unit like the CPCU Society is a requirement for the success of Korea P&L insurance.

The Korea Chapter has 52 members (as of December 2007) and its membership composition is unique: 32 from primary P&L insurers (mainly Samsung and Hyundai), nine from reinsurers, six from brokerages, one from academics, one from a financial supervisor, and three others. We have a growing number of CPCU students and we expect to have more than 100 Korean CPCUs in two years. The Korea Chapter can be a powerhouse of insurance professionals.

Activities of the Korea Chapter include two seminars and two general meetings a year with unofficial gatherings on occasion. Subjects of past seminars are pension reform, ART, D&O liability, environmental liability, and risk-based financial supervision. In addition to those activities, the Korea Chapter plans to focus on CPCU/IIA education, publication, and consulting in the future. Our vision is clear: contribute to the development of the Korean insurance industry by providing professional advice with global CPCU network. Also, we are very much ready to cooperate with international CPCU Society friends for our mutual interests. ■



■ Members of the CPCU Society's Korea Chapter

# Association of Dutch Insurers' Code of Conduct

by Anthony L. Cabot, CPCU, ARM



**Anthony L. Cabot, CPCU, ARM, is the country manager for XL Insurance in Milan, Italy. He has held various positions within the XL Group, including sales and marketing manager in Los Angeles and client relationship manager—East Coast.**

Cabot is a member of CPCU Society's Board of Governors, a long-time member of the International Insurance Interest Group Committee, and a founding member of the CPCU Society's Europe Chapter. He is a representative to the United Nations' Environmental Program Financial Initiative and the Insurance Working Group, which promotes the Principles of Sustainable Insurance (people, planet, and profit).

Cabot is also an active member of the Italian Academic and Risk Management Association, and a guest lecturer at the University of Verona for its master's in risk management program.

**Author's note:** Issued by the Association of Insurers' The Hague, September 2002. There is much more to the Code of Conduct of the Association of Dutch Insurers. You can find more at (<http://www.verzekeraars.nl/english.aspx>) but suffice it to say that this is an admirable step by a group of business people that clearly (and early on) recognized that setting the boundaries and identifying what it means to be socially responsible and ethical will provide positive and lasting results both to the bottom line and to their community.

**W**ith ethics being one of the fundamental pillars of the CPCU Society, the International Insurance Interest Group thought it would be beneficial to share with you an example of how some of our non-U.S. insurance colleagues are dealing with the question of social responsibility and ethics.

In this article we have taken an extract from the Code of Conduct for Insurers from the Association of Dutch Insurers. This formal code signed by all insurers present in the Dutch market is an example of how ethics could be embedded in the insurance industry.

## Introduction

The Association of Dutch Insurers is the organization representing the interests of Dutch private insurers and plays a vital role as a link between the insurance sector and a wide range of other parties within society.

The issue of socially responsible business has attracted considerable attention and been widely discussed in recent years in the Netherlands. This has resulted at both a national level (the Social and Economic Council) and an international level (OECD and the European Commission) in efforts to define socially responsible business in a new, broader way. Businesses and their representatives are also increasingly being invited to participate in discussions of the term "socially

responsible business" and how it applies to their specific businesses and sectors.

This Code of Conduct should not be seen as merely the start of insurers' discussions of their social responsibilities. These responsibilities have been translated into various codes of conduct that reflect the agreements that have been reached and rules that have been agreed.

The purpose of this Code is to set a framework within which insurers can, both individually and with regard for the applicable rules on competition, translate into practice our wish for our businesses to operate socially and responsibly.

For us as insurers, socially responsible business means, therefore, that we will reflect basic values such as reliability, professionalism, solidarity, social responsibility, and transparency in our actions, and will apply them in all our decisions.

Insurance is based on trust. On the one hand, consumers need to be able to trust that we as insurers can and will meet our financial obligations. On the other hand, we ourselves need to be able to trust that consumers will pay their premiums on time and provide information and submit any claims honestly and reliably.

We come into contact with an extremely wide range of people, groups, institutes, businesses, organizations, and governmental bodies when developing, providing advice on, selling, and managing insurance products. And these are whom we regard as our stakeholders. We believe that the reputation and credibility of our business activities benefit from a certain degree of balance between insurers' and their various stakeholders' rights of control and opportunities to achieve influence. We have, therefore, adopted a proactive stance in this respect and will enter into dialogue with society, wherever appropriate. We divide our stakeholders into six different groups:

1. Parties with an interest in the insurance contract.
2. Governmental and non-governmental organizations.
3. Providers of capital.
4. Own employees.
5. Insurance companies.
6. Umbrella organisations e.g., Association of Dutch Insurers.

The Code is based on a set of five core values that insurers regard as the basis of our activities. These values are reliability, professionalism, solidarity, social responsibility, and transparency. In order to make these values meaningful to everyday practice, each value has been translated into specific rules of conduct. These rules represent the framework that each one of us will incorporate into our individual business policies.

Rules of conduct: translating core values into practice (abbreviated version):

## Reliability

- R.a) We will uphold the good name of the sector.
- R.b) Our actions will reflect the trust that has been vested in us and the trust that we have in each other.
- R.c) We will refrain from any improper sales activities. In other words, sales methods and forms that could damage the trust that consumers, authorities, and organisations in society have in the insurance sector.
- R.d) We will not conduct business with persons, institutions, or businesses performing activities that are forbidden by law or generally regarded as socially unacceptable.

## Professionalism

- P.a) We will inform our employees of the Code of Conduct and will expect them to comply with it when performing their professional duties. Compliance with the Code of Conduct will constitute an integral part of employees' jobs and, therefore, the evaluation of their performance. Similarly, our employees will also be entitled to expect us to comply with the Code. We will ensure that our employees act in accordance with the spirit of this Code of Conduct and any other applicable codes of conduct and will do all we can to ensure that intermediaries also act in this manner. We will involve our employees in the way in which we incorporate the Code of Conduct into our business policies.
- P.b) We will manage premiums entrusted to us carefully and responsibly.
- P.c) We will only work with intermediaries who approach and perform their activities in a professional manner.
- P.d) We will ensure that consumers are provided with all relevant and available information before they enter into an insurance contract. Once terms have been accepted, the insured party will be provided with a cover note or the insurance policy as soon as possible.
- P.e) We will cooperate loyally with intermediation by the Insurance Complaints Ombudsman. We will also accept applicable rulings by the Insurance Supervisory Board, the Code of Conduct Review Board and, obviously, the civil-law courts.

## Solidarity

- S.a) Within the terms of the applicable policy conditions we will accept the financial risks of future, uncertain events, and events where the only uncertainty is the time at which they will happen in the future. We will make every effort to prevent applicants being uninsured against their will.<sup>1</sup>
- S.b) In the firm belief that prevention is better than cure, we will use our knowledge and resources in consultation with others to promote effective prevention of loss.
- S.c) We will work constructively to incorporate this Code into our business policies in a meaningful manner.

## Social Responsibility

- SR.a) We will strive to ensure that our business activities are conducted in an economically, socially, and ecologically responsible manner and, therefore, reflect our responsibilities to society.
- SR.b) We will make efforts to resolve any bottlenecks in legislation and regulations in liaison with the legislators and regulators. If new forms of regulation or additions to existing regulation are needed, we will strive to identify solutions in the form of self-regulation.
- SR.c) Since bona fide policyholders can become victims of fraud and fraud undermines the mutual trust on which insurance is based, we will strive to prevent and combat fraud. We will consequently report insurance fraud to the authorities.

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# Association of Dutch Insurers' Code of Conduct

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SR.d) Wherever possible, we will expressly devote attention to environmental issues and possible environmental risks. We will, therefore, strive to develop, support, and apply good environmental policies within our organisations. We will also promote insurance products and services that encourage good environmental practices. Wherever possible, we will involve insured parties, business partners, and suppliers in our care for the environment.

## Transparency

- T.a) We will provide clear information so that consumers and other users of our products understand the products they purchase, the applicable conditions, and the period for which the contract will apply.
- T.b) We will sell clear products. We will ensure that all parties' rights and obligations are explained clearly and in a balanced manner. We will ensure that our acceptance and claims handling processes are transparent. This obligation will include ensuring that the information we require and the reasons for this are clearly specified.
- T.c) The reasons for an applicant for insurance being rejected will be explained clearly and comprehensibly and preferably in writing, while the applicant will be advised of possible other opportunities for insurance and/or professional opportunities.
- T.d) We will strive to apply investment criteria that are transparent for insured parties, shareholders/members, and the public.



The Association of Dutch Insurers and its members will all sign the Code individually. In due course, signing of the Code will be a precondition of membership of the Association of Dutch Insurers. We, the signatories of this Code, hereby declare that we commit ourselves to the values and norms outlined in this Code and undertake to act in accordance with the letter and the spirit of this Code. As signatories of the Code, the individual insurance companies will be accountable for their compliance with this Code of Conduct. ■

## Endnote

1. If people choose to be uninsured voluntarily and within the scope of the law, the insurers will strive both individually and jointly to make the said people aware of the risks to which they are exposed as a result of being uninsured. Insurers will liaise with the authorities to identify alternative solutions in the event of certain categories of people in society being involuntarily uninsured.

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# United Kingdom's Corporate Manslaughter Act

by Michael A. Leinenbach, CPCU, AIM, ARe, ASLI, ARM, ARM-P



**Michael A. Leinenbach, CPCU, AIM, ARe, ASLI, ARM, ARM-P**, is a senior underwriter in the International Casualty unit of Zurich North America. He has 20 years of industry experience, including seven years with Chubb and seven years with a regional agency.

**Editor's note:** This is the first in a series of articles on the United Kingdom's Corporate Manslaughter Act of 2007 commissioned by the CPCU Society's International Insurance Interest Group.

**T**his article will provide an overview of The Corporate Manslaughter Act of 2007, in Scotland, The Corporate Homicide Act legislation in the United Kingdom (UK), which is designed to enable the prosecution of an organization, such as a corporation or partnership, whose management caused a fatality through gross negligence. While there are already mechanisms in place to prosecute individuals, this new law has the effect of enabling the authorities to target prosecutions at an organization, or really its management structure and activities, without necessarily citing specific individuals.

While the Corporate Manslaughter Act is becoming well known within the UK business community, it hasn't had a great deal of publicity elsewhere, and insurance professionals acting in an advisory capacity for their clients should be prepared to discuss the act. Risk managers outside of the United Kingdom may not have even heard of the act, so it is important for brokers and underwriters alike to become aware of the exposures that this law brings companies who have operations in a jurisdiction covered by the act.

What are the implications of the act? The short answer is that we really don't know yet. It's April 6, 2008, effective date is still a couple of months away, so there can't be any precedents to offer guidance relative to the use of the act by prosecuting authorities or the coverage implications under the different policy forms. Since the prosecution process involves a series of judgments, it is also difficult to foresee exactly how prosecutors will apply the law. However, we can use past experience with similar situations as a basis for a coverage discussion.

We should first discuss the intent of the act. The UK Ministry of Justice web site provides us with guidance there:

The Corporate Manslaughter and Corporate Homicide Act introduces a new offence, across the UK, for

prosecuting companies and other organizations where there has been a gross failing, throughout the organization, in the management of health and safety with fatal consequences.

So the law targets organizations and not individuals. It essentially makes it a crime for corporate management to cause a death through "gross" negligence. The fact that prosecution under the act is directed at the organization and not a person does not minimize the potential costs of a criminal proceeding nor certainly a conviction.

An important aspect of the law is the jurisdiction. The law covers any corporation or business entity operating in the United Kingdom with very few exceptions for public policy makers and public safety operations. These exceptions are also limited, so in reality almost any organization can be subject to the act. For a prosecutor to bring charges under the act, the alleged crime must be committed within the bounds of UK prosecutorial jurisdiction. Since the act defines the offense as gross negligence that results in a death, where that death occurs is of great importance, though it's not the only jurisdictional issue. It is conceivable that an accident could occur within the act's jurisdiction that ultimately leads to a death, with the actual death occurring outside the jurisdiction. So a company based in Florida that has operations in the United Kingdom is subject to the act when the incident that results in a death occurs within the United Kingdom.

There is no wording that restricts indictment under the act to crimes against citizens of the United Kingdom. One could therefore make an argument that if a U.S. citizen, working in the United Kingdom for a U.S. corporation, dies after returning to the U.S., but as a result of an accident that occurred while working in the United Kingdom, that such an occurrence is subject to the act. While it remains to be seen

whether there would be an interest in prosecuting in such situations, current guidance indicates that the difficulty in prosecution would make it improbable. This is due to the primary evidence, i.e. the circumstances immediately surrounding the death, would be difficult if not impossible to investigate by UK officials as it is outside their jurisdiction. Also note that the UK jurisdiction also extends to territorial waters, offshore installations such as oil rigs, and on British ships. So operations that service cruise ships or other waterborne exposures are subject to the act.

An interesting facet of this new regulation is that it doesn't actually initiate any additional laws relative to corporate safety. Its purpose is only to make it possible for the prosecutor to proceed against the corporate body itself. So operations in the United Kingdom need to be aware of this new method of prosecution and the penalties for conviction so they understand the implications of management's failure to properly and continuously address existing health and safety mandates.

Once jurisdiction is established, the key issue is what constitutes "gross" failing or negligence under the law. Since the law is not yet in effect, we cannot rely on precedents specific to the act. But it is clear that defining gross negligence under this act will not be substantially different from that in other situations such as civil proceedings. We will hear familiar questions such as, "Was a duty of care owed to the victim?" "Was that duty breached?" "By whom and to what extent?" This is really up to those authorized to prosecute an organization under the law and as such can be, at least in part, subjective. The lawmakers have provided some guidance to prosecutors regarding the commencement of criminal prosecution and as with all criminal proceedings the legal process provides for a defense and ultimately a jury trial. The decision to seek an indictment ultimately rests with the Crown Prosecution Service



in England and Wales, the Public Prosecution Service in Northern Ireland, and the Procurator Fiscal in Scotland. They will likely work in concert with health and safety regulators to decide whether or not the death was caused by a failure to adhere to existing regulations and to what extent.

The penalties for a conviction can be severe. The act provides for penalties in three categories: publicity, fines, and remediation. Fines are self-explanatory though it should be noted that there is no limit to fines that can be imposed by the court, and this is by design. Remediation involves court-mandated changes to correct deficiencies that led to the conviction. This could include changes to the management structure, additions or changes to workflows, premises alterations, etc. Of course, one would hope that the death alone would have created an immediate reaction by the defendant organization's management to make changes in their operations, without waiting for a court mandate. The publicity is apparently a new type of penalty wherein the court will specify a method and venue in which the convicted

company is required to publicize certain facts surrounding their conviction. This could be the least burdensome penalty financially, but could be the most costly by way of its intangible effects on a convicted corporation, especially to operations whose very existence relies on their public image or strong public trust, such as childcare facilities, educational institutions, and manufacturers of consumer goods for home use.

While we all understand the tenet that criminal conduct is not insurable as against public policy, an insured should generally expect to be covered for negligence. So what happens when the line is blurred between run-of-the-mill covered negligence and criminal activity? ■

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