

TERRORISM COVER IN FRANCE FOR PROPERTY DAMAGE INCLUDING NUCLEAR RISKS

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ABSTRACT

The obligation to include terrorism cover in all Property Damage policies issued on the French Market is ruled by an Act of 1986 and introduced under Section L 126-2 of the French Code of Insurance. This section prescribes that Property Damage policies must provide cover for damage resulting from acts of terrorism, with the same deductible and the same limit than that of the other perils covered in the policy.

Soon after the dramatic events of September 11, 2001 in the United States and although reinsurers worldwide restricted their offer of capacities, French insurers considered that they had to do their best in order to maintain this global terrorism cover for the benefit of their insureds.

After difficult discussions between insurers, reinsurers, brokers, risk managers and representatives of the State, the creation of a new Pool dedicated to terrorism cover, backed with a State guarantee, was decided in less than three months.

Effective January 1, 2002 and called "Gestion d'Assurance et de Réassurance des Risques Attentats et Actes de Terrorisme" (GAREAT), this Pool offers a multiple layers stop-loss cover for Property Damage only, i.e. excluding TPL policies.

Considering that nuclear risks should be treated in the same way as other industrial risks, it was decided that they would be covered by GAREAT as well.

In the meantime, by a Decree of December 28, 2001 modifying Section R 126-2, a special provision, aiming at reducing the limit and thus the price of this cover, was introduced in the Code.

The purpose of this paper is to expose the present situation applying through GAREAT and, after two years of operation to discuss future developments, including other sources of capacity for the coverage of acts of terrorism in nuclear risks insurances.

INTRODUCTION

As we can imagine, the creation of Pool GAREAT entailed very tough and complicated discussions. Nevertheless it was created in less than three months, with the aim to cover terrorism for all industrial risks located on the French Territory and for which the sum insured exceeded € 6 million, smaller risks being maintained in the normal reinsurance arrangement.

On the other hand, the decision to accept nuclear risks within GAREAT was taken quite easily based on the idea of a complete "mutualisation" of all the risks on the French territory.

Obviously doing so, negotiators had to take into account a possible accumulation for insurers and reinsurers, as Members of GAREAT covering property damage resulting from a terrorism attack on a nuclear installation, and being at the same time, Members of ASSURATOME covering terrorism risk on the Nuclear Operator TPL policy.

1 SCOPE OF COVER

The original feature of Pool GAREAT lies in the fact that it covers all types of terrorist acts, whatever their origin, national or international and for nearly all their manifestations, fire, explosion, falling aircraft, vehicles, bomb attacks including NBC (nuclear "dirty", biological, chemical).

This cover applies for all property damage risks concerned whatever the type of their exposure, including nuclear industries, provided they are located on the French Territory.

The cover follows the original conditions of the policy with no other limit for terrorism risks than that of the original policy, unless when the insured has requested a specific terrorism limit (cf. R 126-2).

At this stage, it is worth mentioning that the security of the Pool is optimum thanks to a full solidarity clause between insurers of the first layer, the other lines being placed with a panel of first rated international reinsurers and some insurers of the first layer, the fourth layer being reinsured by Caisse Centrale de Réassurance (CCR) which is itself backed by a State guarantee.

2 WHO ARE THE MEMBERS OF GAREAT?

Members can be split into two categories depending on their membership of the French Federation of insurers or not.

For the first category, that is to say for the Non-life companies depending on the Fédération Française des Sociétés d'Assurances (FFSA) or Groupement des Entreprises Mutuelles d'Assurances (GEMA) which are about seventy companies, membership of the GAREAT is compulsory.

For the second category, that is to say for those companies which operate under the EU regulation, in freedom of service or for industrial captives representing about thirty-five companies, the membership of GAREAT is optional.

3 MANAGEMENT AND ADMINISTRATION

GAREAT is managed by a board of ten representatives from insurance and reinsurance companies and CCR representing the State.

The administration of the Pool is under the authority of an executive committee composed of five members including the chairman of GAREAT.

Finally the technical committee is in charge of technical matters, cessions of risks and pricing.

4 PRICING

GAREAT applies reinsurance rates on property insurance premiums according to the sums insured as follows:

- if the sum insured is under € 20 million = 6% of the policy premium
- if the sum insured is under € 50 million = 12% of the policy premium
- if the sum insured is above € 50 million = 18% of the policy premium

As an example, if the rate of the policy is 1‰ and the sum insured is under € 50 million then the GAREAT rate will be 12% of 1‰ = 0.12‰.

For special risks over € 750 million, for captives or for nuclear risks, a specific rate is applied according to the risk analysis and the decision of the GAREAT Technical Committee composed of representative of the main members of GAREAT as said before.

Finally it must be stressed that in pursuance of the provision of the Decree of 28th December, 2001 the introduction of a specific limit for terrorism risks is possible.

The minimum authorized limit is 20% of the policy limit applying to other perils and until now, GAREAT accepted in this case, to reduce the premium by 20%.

The pricing is compulsory for all the members and can be checked policy by policy, nevertheless, when appropriate, insurers may apply different rates to original insureds, provided they pay to GAREAT the normal premium as defined above.

5 FULL TERRORISM COVER

The comprehensive definition of terrorism used by GAREAT is based on the French Criminal Code including NBC as said above (nuclear “dirty”, biological, chemical).

The main exclusions are the following :

- War,
- nuclear weapons and devices (“dirty”bombs covered),
- malicious damage
- sabotage,
- riots,
- strikes and civil commotion,
- theft,
- looting and fraud,
- bodily injury,
- personal lines,
- liability policies,
- pure financial loss arising out of technical risks,
- risks covered by transport marine and aviation policies.

WAIVER OF RECOURSE AGAINST MOTOR INSURERS

Considering that about half of the more important terrorist attacks known throughout the world implicate motor vehicles GAREAT concluded a waiver of subrogation with motor insurers, allowing transfer of unlimited terrorism motor damage to GAREAT. This very important decision released motor insurers from an unlimited exposure (typical for France) in case of a possible legal implication of a vehicle in a terrorism attack.

6 REINSURANCE SCHEME FOR 2004

The type of cover is an annual aggregate of € 2,000 million in three layers covered by the insurance industry and a fourth unlimited layer covered by the State.

First layer :	Market retention :	€	400 million
Second layer :	Reinsurers and insurers :	Reinsurance :	€ 1,250 million
Third layer :	Reinsurers and insurers :	Reinsurance :	€ 350 million
			€ 2, 000 million

Fourth layer : Unlimited State cover through CCR

(The 2004 estimated premium income is € 235 million all layers combined).

7 POSSIBLE FUTURE DEVELOPMENTS OF GAREAT

The reinsurance arrangement of GAREAT as described above was renegotiated with the State for a three years period, incepting on 1st January, 2004, thus it should remain stable until the end of 2006.

Nevertheless the evolution of the insurance market is likely to modify the original scheme, for example to facilitate the coverage of insured sister companies outside the French territory which are not currently covered by GAREAT or to adjust the pricing according to the trend of the insurance market on the one hand and, of course, according to the claims experience on the other hand.

8 SOME OTHER EXAMPLES OUTSIDE FRANCE

France is not the only country having established a specific pool dedicated to the cover of terrorism risks but there are slight differences from one country to another and we can mention for instance :

CONSORCIO DE COMPENSACION DE SEGUROS (CCS) in Spain which was created in 1941 and extended since 1986 to extraordinary events. It covers all types of industries, including nuclear installations but with a specific exclusion for radioactive contamination. This exclusion can be insured through the Spanish Nuclear Pool.

Pool RE NUCLEAR in the UK created in 1993 after a wave of terrorist attacks, is providing a cover for nuclear risks but limited to fire and explosion. This item is developed by our colleague Mark Tetley.

EXTREMUS in Germany was born on 3rd September, 2002 and is exclusively dedicated to the coverage of terrorist acts but excluding nuclear risks.

TRIA in the States covers nuclear installations but with a coverage limited to terrorist attacks committed by foreign interests, meaning that domestic acts of terrorism continue to be covered by other sources.

Some other more recent terrorism Pools, like in Austria and in the Netherlands, (Dutch NHT Pool) exist but few information are available and it is unlikely that they will cover nuclear installations.

Other countries do not have a specific pool dedicated to the coverage of terrorism risks but it does not mean that they have no solution to provide a terrorism cover for Nuclear Installations. In fact, for Nuclear Installation it is through the Nuclear Pooling System that the solution was found and allowed them to respond, as far as possible, to the needs of their Nuclear Operators' clients. Of course, generally speaking, this solution provides limited capacities when compared to countries having established ad hoc solutions for the coverage of damage resulting from a terrorist attack including in nuclear installations.

9 CONCLUSION

At the end of 2001 and during all the year 2002 a Terrorism Sub-Committee (TSC) established by the nuclear Pools spent some time discussing the need for any specific terrorism schemes worldwide, in view of the potential shortage of capacity in 2003. Hopefully, in the meantime, local satisfactory solutions had been found on the different markets and the TSC decided to leave this matter dormant for the time being.

In France, nuclear operators are aware that GAREAT is the only way to get a safe and reliable cover for the full policy limit but, at the same time they tend to complain about the cost of such a cover which is presently depending on a case by case decision of the GAREAT Technical Committee.

If we consider that different prices may apply to different insurance protections and to different types of risks, then we should admit that nuclear risks being priced by GAREAT differently from other risks, nuclear operators could claim for more flexible options in terms of limits and their corresponding reinsurance premium.