

Hilton Amsterdam  
January 2013

*The conference was held under the Chatham House Rule which means that participants may use and repeat what was said but they may not attribute anything by name or company. For this reason, the full report is available only to participants.*

*This summary outlines the plenary sessions and the topics discussed in breakouts.*

## Thursday 24th January

### 1. Welcome and introductions

The conference was opened by introductions from the four organising groups. ECOA was the hosting partner this year.

**Yves Medina**, President, CEA

**Luc Van Liedekerke**, ex-President, EBEN

**Tim C. Mazur**, Chief Operating Officer, ECOA

**Philippa Foster Back**, Director, IBE

**YM** welcomed all to the 10th Forum and thanked the Organising staff. He announced that EBEN-France had recently merged into CEA.

**LvL** described how engagement between academics and business had grown in the past 10 years. Largest fines on corporate were handed out in 2012 and legal pressures have been increasing. But legal clarity does not prevent unethical things happening and the need for an ethics programme is as great as ever. There are challenges as big companies seek to spread their ideas through the supply chain to smaller companies.

**TM** pointed out that, compared to ten years ago, public policy leaders are talking more and more about the relevance of business and are consulting.

**PFB** suggested that following on from the difficult financial backdrop, there was now much more discussion of culture and values and ethics in the mainstream.

### 2. Plenary 1 - Thurs am: Ethics and Compliance as a Key to Improving Business Performance

**Speaker: Major General Jeff Mason, MBE, Managing Director, Supreme Group UK who was joined by Emma Sharma, Director of Ethics & Compliance, Supreme Group**

The Major General's described how E&C provides Supreme with a competitive advantage. Supreme is a global company working in challenging environments (inc Sudan, Afghanistan). It partners with active defence forces and assists international organisations. It operates in 25 countries providing catering services, logistics, and vehicle fleets for example. It works with third parties, sometimes in places where there is no record keeping, has to maintain relationships with governments whose administration demands bribes and facilitation payments. Supreme has to ensure that its employees are clear on how to refuse them while continuing to operate. It is aware that not all staff appreciate that strict values and rules are required. What is more, security restraints mean that it cannot always know where staff are, and e-learning opportunities are not always possible.

The company recognises that to survive into the future it has to have a robust ethics and compliance programme. Its customers demand it. The scrutiny is strong. Integrity is one of its core values.

The Director of E&C reports to the Group Compliance Committee. She meets monthly with the owner to discuss ethical issues. Some examples of the E&C programme activities include:

- All employees receive a code and face to face training which is renewed regularly.
- Specialist training workshops are given
- E&C staff attend management meetings to spread the message.
- Performance related bonus schemes mean that all employees are required to demonstrate ethical behaviour.
- Key suppliers have to attend mandatory ethics training.

"We have to be genuine in these efforts in order to reap the business value added". This includes when something goes wrong. When a procurement team member was found to have engaged in corruption, investigations and mandatory disclosure to the US authorities was extremely costly, but could have involved even more time and expense if it hadn't been so much in control of its EC processes and understood its challenges so well. It could also have made business relationships vulnerable. Retaining existing customers is as important as finding new ones. Supreme recognises that the viability of the company is utterly dependent on its reputation for a genuine commitment to EC standards. An ethical culture has commercial value.

## **Discussion – a selection of the questions and comments**

*Q: What is the true cost of the rogue bribery case? Companies always want to know how much misconduct could cost.*

A: It is difficult to quantify but roughly \$5-6m. The cost in employees' time to deal with it is immense and we cannot quantify possible lost business.

*Q: How do you deploy training to individuals in remote parts of the world speaking different languages?*

A: We try to capture them in a safe secure area before they deploy. But people rotate all the time and we do have to send teams out to carry out briefing sessions. That is potentially an issue where we are taking up space in military aircraft of our customers that could be used for freight. The slides are done in different languages and our trainers speak local languages and can engage culturally. Employees are asked to sign so that we can check that everyone has been captured; and we get suppliers too.

*Q: On the ground, how do you explore the expectations of your customers about your behaviour in advance?*

We could do better at this. Our focus is on getting OUR own values across to our staff and suppliers. But hopefully our values are not too different from customers. We do respond to specific customer requirements but we could be more proactive.

*Q: Can you say about more about how the staff performance programme encourages ethical behaviour?*

A: This is new. It doesn't incentivise as such but does penalise if ethical values have not been adhered to and is proven. It does have to be robust.

*Q: How do you get you values to work in countries where different cultures allow or expect practices that we don't?*

A: We want to and do employ indigenous individuals - dealing with a completely different understanding of right and wrong, who cannot write, who see women in the way they do, who expect stealing not just facilitation payments - we have to get them to understand what the company expects. Middle management has to be managed correctly to ensure that values do percolate down. It can be helped by nurturing them internally. For example, following an investigation, local people are given a brief on why something happened and what the consequences are. Sitting down with them in this way helps the light go on and helps spread the message. We identify local people who show insight and can act as champions.

*Q: In challenging environments, re due diligence, what do you do when you are working with real local companies with no expats and perhaps no awareness of E&C?*

A: We start by explaining what is required under the letter of the law. But we are about to re-evaluate all our suppliers. We have a document that is culturally translated to help them. We want our values to be passed down the chain and want evidence of it, and we say that if they don't do that we cannot work with them. Once we have removed a company for not doing what we ask, their competitors will soon sit up and rise to the challenge. That sort of message travels fast.

*Q: A new topic is social media. How can you respond when incorrect things are said about your company?*

A: Sites like Facebook, Youtube and Twitter have privacy rules that are hard to use. When a fake site was set up concerning one of our owners it was really challenging to get it removed, and involved months of legal process.

*Q: What happens when government requirements conflict with what a local province demands? Do you ever have to violate one law in order to follow another?*

A: Governments can have a very different idea of right and wrong to us, and they have significant clout over the operations that we are involved in. They can make life difficult. In Afghanistan, we are exempt from income tax on the goods we bring in, but we have been asked for significant tax payments and we have refused because we believe it is not legal. The Afghanistan government are adamant that we own them the money. They put things in place to make it difficult for our staff to operate - such as restrictions on freedom of movement and intimidation. We are there to help this government but our staff are on their arrest list. It is not an isolated case.

*Q: How many calls does your helpline receive and do you have local language suppliers?*

*A:* We use Navex Global and have no issues with their interpreting. Every country has a freephone number. We have had to supply land phones in some places to make it free to use. Within minutes there is access to every language that we need. 20% of referrals come through the ethics hotline. But the ethics programme has people embedded into the business who are approachable.

*Q: Where are harassment type issues handled, and human right issues? Is it in E&C?*

They are handled in the E&C team and we have team members with those specific skills. We are not limited to dealing with bribery and corruption.

### 3. Breakout sessions 1 - Thurs am

Three sessions of five simultaneous breakout groups followed over the course of the conference. EBEF regulars will know that the idea of these sessions is for participants to share highs, lows, and lessons learnt, rather than to give a platform to "experts."

#### 1.1 When Stakes are High: Ethics and Crisis Management

**Introduced by:** Jean-Daniel Laine, Senior VP, Ethics and Compliance, Alstom

**Moderated by:** Marie Agnes Vieitez (CEA)

**Rapporteur:** Cédric Dubar (CEA / Group Compliance Officer, Dassault Systèmes)

#### 1.2 Values-based Ethics as a Competitive Advantage

**Introduced by:** William Mathieson, Group Risk Director & Head of Compliance, Mott MacDonald

**Moderated by:** Simon Webley (IBE)

**Rapporteur:** Sandra Lau, Flowserve

#### 1.3 Social Media Risk and Rewards

**Introduced by:** Graham Luck, Director of Ethics, Lockheed Martin UK

**Moderated by:** Rebecca Ream (ECO)

**Rapporteur:** Roz Bliss, Northrop Grumman Corporation

#### 1.4 How to Create a Speak-up Culture

**Introduced by:** Françoise Rost van Tonningen, Manager, Ethics Office, Rabobank Group, and Karin de Kroes, Assistant Manager, Ethics Office, Rabobank Group

**Moderated by:** Tim C. Mazur (ECO)

**Rapporteur:** Tim C. Mazur (ECO)

## 1.5 Working with Business Partners across Borders

**Introduced by:** Ludmilla Ivashina, Zone Compliance Officer Eastern Europe, Siemens Industry Software

**Moderated by:** Luc Van Liedekerke (EBEN)

**Rapporteur:** Tobias Goesling, Executive Committee, EBEN

## 4. Breakout sessions 2 - Thurs pm

### 2.1 Ethics and Compliance Officer in Europe: A New Profession Seeking Status and Recognition

**Introduced by:** Philip Jordan, Senior VP, Ethics, and Chairman of the Ethics Committee, Total Group; Richard Lanaud, Expert, Ethics and Compliance, CEA

**Moderated by:** Yves Medina (CEA)

**Rapporteur:** Richard Lanaud, Expert, Ethics and Compliance, CEA

### 2.2 Risk Management: From Assessment to Response

**Introduced by:** Chad Fentress, VP, Chief Ethics and Compliance Officer, Nokia

**Moderated by:** Philippa Foster-Back (IBE)

**Rapporteur:** David Harris, Head of Business Conduct, BAE Systems Plc

### 2.3 Revitalizing Your Ethics Programme: breaking out of the Silo

**Introduced by:** Jennifer Guethoff, Global Deputy Chief Ethics Officer, Deloitte

**Moderated by:** Tim C. Mazur (ECO)

**Rapporteur:** Tim C. Mazur (ECO)

### 2.4 When Values and Interests Collide

**Introduced by:** Dominique Lamoureux, VP, Ethics and Corporate Responsibility, Thales Group

**Moderated by:** Celine Pires (CEA)

**Rapporteur:** Roz Bliss, Northrop Grumman Corporation

### 2.5 Ethics in Corporate Governance

**Introduced by:** Richard Ellis, Director of CSR, Alliance Boots

**Moderated by:** Harriet Kemp (IBE)

**Rapporteur:** Mark Farrow, Head of Transparency & Business Ethics, Network Rail

## 5. Plenary 2 - Thurs pm: The Intersection of Ethics & Compliance and Human Rights

**Speaker: Allan Lerberg Jorgensen, Department Director for Human Rights and Business, Danish Institute for Human Rights (DIHR)**

(Summary by EBEP)

**About DIHR:** Is an independent state institution established by parliament.

- It monitors how the host government implements its human rights (HR) commitments.
- Works with state agencies, civil society and businesses. HR is seen as a 'rule of law' problem. DIHR has a corporate engagement programme to help companies and support human rights. Business is part of the solution as well as posing problems.
- DIHR has tools such as the HR Compliance Assessment Tool and the Global Compact Assessment Tool (see [www.humanrights.dk](http://www.humanrights.dk))
- Provides contextual information for companies about challenges in different countries and what approaches to HR will work.

The implications for business ethics - make sure that the company is geared to meet the expectations of society around human rights as they go about their core business purpose.

### 1. State of Play - HR development

HR and business is now at a watershed. It's about walking the talk and everyone doing their bit including government and business. Companies need to be ahead of the game in order to benefit from regulation. During 80s and 90s there was a naming and shaming game going on. And although this continues today and is necessary, the discussion moved into the UN with Ruggie's Norms of *Protect, Respect, Remedy* which significantly was unanimously endorsed by the UN Human Rights Council, i.e. not simply western lead. It is a global framework so all businesses have the same responsibility separate from national legal requirements. Now the focus is on how to implement that agreed framework – for states and business.

Some issues that business faces are due to failure of government and lack of political will. Companies need to know how they directly AND indirectly impact on the all rights set out in the Universal Declaration. The due diligence and remediation needs to be done only on a risk basis. There is guidance which focuses on process rather than outcome which has been incorporated into OECD's Guidelines. Some governments are developing National Action Plans for HR to assess whether adequate regulation of business operations overseas is in place.

The change during the past decade has been surprisingly fast.

### 2. Examples from practice

Companies are expected to piggy back HR on to existing systems rather than build something new. DIHR has worked with...

Nestle: DIHR did a gap analysis using our tool and helped them fill those gaps. Then did country assessments, developed a training programme including e-learning and integrated HR in to their risk management system.

Total: DIHR, combined with GoodCorp's ethics based tool, developed a specific extractive sector assessment tool.

## Discussion – a selection of the questions and comments

*Q: Impact of the financial crisis on HR agenda in business?*

A: We haven't seen them pulling back. It's not a big cost to do this so cuts have not been felt. On the contrary, the need for new markets has brought HR more on to the radar. There seems to be an expectation on companies from NGOs to provide remedies. Companies are expected to have grievance mechanisms in place for communities and individuals to access, but they also need to work with other existing channels ... such as union or local court based channels.

*Q: Are we asking companies to advance the human rights agenda when it should be states and international organisations to do it?*

A: HR problems are first and foremost government and rule of law issues. The first thing governments often do is be tougher on business. We do not want the privatisation of HR. Business can stand up and say although it is our responsibility not to cause them, it is not our responsibility to deal with HR problems, though we can contribute.

*Q: Where does the work on this get picked up inside companies? Human Resources or Sustainability or E&C?*

A: I have seen it in all those places. It is not obviously owned by one particular function. Some have formed human rights working groups, both groups bringing together and getting buy-in from the different relevant functions. In TOTAL, HR is part of the code of conduct, so it is the charge of the Ethics Office which then brings together all the other departments with HR concerns. Certain internal stakeholders have taken hold of different areas of HR. There is an externally available guide to HR. Our HR focus is around Work place, Local Communities and Security.

*Q: What were the takeaways from the UN Annual Forum on Business and Human Rights in 2012?*

First of all the Forum drew around 1,000 participants, which was extremely positive. Among them were many governments and national human rights institutions. The Forum showed good progress in reaching out to new audiences who have perhaps not previously been part of the global discussions on business and human rights. However, a huge task remains in reaching out to companies. For most companies, the discussions at the UN is not on the radar screen. However, it is important that businesses remain involved in these discussions since increasingly this is where the rules of the game are established. The Forum touched on a great variety of issues. However, climate change was not mentioned, which for me was a disappointment as this will be a key human right issue for the future.

**Friday 25th January**

## **6. Plenary 3 - Fri am: Developing Ethics and Compliance Programmes and Building Organisational Culture: Practical Issues**

**Introduced and moderated by:**

**Speakers: 1. Gerard Kuster, VP, Group Business E&C, GDF SUEZ**

2. Deanna Newcomb, Director, E&C Corporate Operations and IST Central Team, BP
3. Robert Smith, Director, Business C&E, Serco Group plc
4. Xian Zhu, Vice President and Chief Ethics Officer, World Bank Group

## 7. Breakout sessions 3 - Fri pm

### 3.1 Conducting Internal Investigations and Responding to External Ones

**Introduced by:** Pedro Montoya, Chief Compliance Officer, EADS

**Moderated by:** Cédric Dubar (CEA / Group Compliance Officer, Dassault Systèmes)

**Rapporteur:** David Morris, Boeing

### 3.2 Ethics and Remuneration

**Introduced by:** Nicky Khurana, Business Partnering and Capability Development Manager, Diageo PLC

**Moderated by:** Nicole Dando (IBE)

**Rapporteur:** Emma Sharma, Director of Ethics and Compliance, Supreme Group

### 3.3 How to Engage Management in Your Ethics Message

**Introduced by:** Nancy Higgins, VP and Chief Ethics and Compliance Officer, Bechtel

**Moderated by:** Rebecca Rehm (ECO A)

**Rapporteur:** Carolyn Johnston, Corporate Responsibility Executive, Belron

### 3.4 Enforcement Tools Available to E&C Officers

**Introduced by:** Patrick Donovan, Chief Ethics and Compliance Officer, Airbus SAS

**Moderated by:** Tim Mazur (ECO A)

**Rapporteur:** Lucie Domingo, Ethics Projects Manager, L'Oreal

### 3.5 Bribery, Corruption and Adequate Procedures: will they be Effective?

**Introduced by:** David Lawrence, Compliance and Ethics Programme Director, Diageo Plc

**Moderated by:** Simon Webley, Research Director, IBE

**Rapporteur:** Karin de Kroes, Ethics Officer, Rabobank

## 8. Plenary 4 – Fri pm: Launch of first EBEF Report

*The Evolving Liability and Responsibilities of Ethics Representatives*

**Speakers:** Dr Nicole Dando, IBE

Philippa Foster Back, IBE  
Tim Mazur, ECOA

## 9. Plenary 5 – Fri pm: Looking Ahead to 2014: Key Issues for Ethics and Compliance Practitioners

Speakers: Joan Dubinsky, Director, Ethics Office and Chief Ethics Officer,  
United Nations

Philip Jordan, Senior VP, Ethics and Chairman of the Ethics  
Committee, Total Group

David Harris, Head of Business Conduct, BAE Systems

### Forum Diner

Dinner on Thursday evening was held at the Westerkerk.

Presentations were made in honour of Yvan Biefnot and Patrick du Besset who are retiring from their roles at Cercle d'Ethique des Affaires. They were thanked as founders of EBEF and for their central role in its growing success.

The 2014 conference will be held in London, 5<sup>th</sup> – 7<sup>th</sup> February.

Registration with an “early bird discount” will open soon. Please check the EBEF website for details: [www.ebef.eu](http://www.ebef.eu).