

5 KEY TAKEAWAYS

Contractual Approaches to Supply Chain Disputes: Is it Time for a New Paradigm?

[Thomas Allen](#), [Kilpatrick Townsend](#) Partner and Global Lead for International Disputes, recently presented “Contractual Approaches to Supply Chain Disputes: Is it Time for a New Paradigm?” at the Asia Annual International Arbitration & Corporate Crime Virtual Summit. Mr. Allen discussed supply chain disputes and provided strategies for managing future contracts.

Key takeaways from the presentation, include:

1

Global supply chain problems persist in 2022 as new coronavirus variants and other stresses have yet to abate. Companies are experiencing a variety of issues such as: Labor Shortages, Limited Shipping Capacity, Increased Shipping Costs, Regulatory Delays, Material and Component Shortages and Transportation Bottlenecks.

2

Supply chain disruptions can give rise to a variety of monetary claims for delayed or missed deliveries. Excuses for non-performance typically sound in force majeure, frustration of purpose, commercial impracticability and like concepts.

3

Companies are exploring both legal and non-legal solutions to gain relief from supply chain stresses. Non-legal approaches include: vertical Integration of supply chain, geographic re-balancing closer to market, flexible provisions for port of entry and transport mode, looking for partners that are newer or lesser known that may be willing to trade lower pricing for volume/term, and looking for alternate cost savings within the supply chain.

4

Legal strategies have included revisions to force majeure clauses and other risk allocation provisions within the contract, adoption of price review and other variable contractual mechanisms, and pursuing claims in court and arbitration.

5

Flexibility, communication, and understanding your contractual rights and legal recourse are critical to managing this fluid business challenge.

To view the presentation, click [here](#).

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