



TRENDS IN INTERNATIONAL TRADE AND WHAT THEY MEAN FOR BUSINESS AND SUPPLY CHAINS

International trade has experienced extreme supply and demand shocks over the last 18 months as a result of COVID-19, the temporary closure of the Suez canal, a lack of workers to move trucks in and out of ports and increasing nationalism.

In this summary of a recent Clifford Chance PLC Forum webinar, we explore emerging trade trends and their impact on business.

Vaccines – signalling a more pragmatic approach to trade?

The roll out of more than 7.63 billion vaccines (to date) highlights the complexities of global trade. There have been examples of nationalist protectionism – the EU took an interventionist approach and introduced the Vaccine Export Transparency and Authorisation Mechanism to secure delivery of vaccines to Europeans and India followed a similar path. "However, international and national regulators began to take a more pragmatic line – the US, for example, deployed the 1950 Defence Production Act to broker a deal between two competing pharma companies, and regulators generally tried to smooth the distribution of vaccines on a global basis, for example, by waiving strict requirements for local language labelling, so that was something positive that came out of Covid-19," says Clifford Chance Partner, Stephen Reese, who specialises in IP and Life Sciences.

Supply chain resilience is crucial

COVID-19 and the other trade shocks we have seen since 2020, demonstrate the fragility of global supply chains. Businesses need to focus on scenario planning and take a much closer look at potential weaknesses in their global supply chains. A single sets of trade rules, whether that is at the World Trade Organization, the World Customs Organization (WTO) or elsewhere, is increasingly important.

The rise and rise of digital trade

"I think the heyday of trade policy expansionism is behind us. Digital trade is happening despite, rather than because of, governments," says guest speaker, Edward Bowles, Global Director for Public Policy at Facebook. "Accelerated by Covid, digital protectionism is now being cast for political purposes as data protection but it is much more about national sovereignty," as some countries are obliging companies that want to operate out of those markets to localise and onshore data services and data servers. He says the world is in an awkward place in terms of trade policy history and that the

protectionism seen in supply chains and manufacturing may start to be replicated in the digital sphere.

Can the WTO keep pace?

Trade rules have not kept up with the growth of the digital economy and there are significant barriers to trade from fragmented national rules and regulations on data privacy, data governance, WTO is attempting to update the rules and has made some progress on e-contracts and electronic signatures, but broader issues such as data flows, data localisation and privacy remain challenging. "The key question is whether broad agreement can be reached on these issues and whether we will see the development of digital trade rules amongst certain countries to the exclusion of others."

Trade is increasingly important in tackling climate change

Discussions at COP26 reinforced the need for a global approach to climate change across all policy areas including trade. Businesses will play an essential role – many are already committing to climate action and those efforts can be bolstered by trade measures domestically, plurilaterally and globally. However, trade certainty is essential for the green transition. "A level playing field is also crucial if we are to achieve ambitious emissions reductions. Countries are moving towards decarbonisation at different speeds and in different ways, so there is a risk that domestic climate regulation could be undermined by emissions embedded in traded goods that are imported from countries with lower climate regulations. Trade related climate responses should be based on open non-discriminatory architecture and insofar as possible aligned with the WTO framework," says Whittaker. Other measures in which trade could support climate action include targeted subsidies to support green technology and infrastructure and reducing tariffs on climate-friendly goods and action on digital trade because much climate action depends on cross border data flows. "Climate change provides an opportunity for the international trading system to demonstrate that it can respond effectively to new challenges and trade policy could play an essential role," says Whittaker.

Increasing protectionism and the end of multilateralism?

Nationalism and protectionism show few signs of abating, and if the global economy faces tougher times ahead, then this may only increase. "Multilateralism, still exists but it's quite broken," says guest speaker Penelope Narz, UPS President for Public Affairs & Sustainability. "We are moving into a very regional and bilateral world and the question is what do we do in that context where multilateralism isn't going to be the force that it was in the past? Companies need to think about trading in such a world."

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