Clifford Chance

BRIEFING

GEOPOLITICAL RISK: MITIGATION BY INSURANCE

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In today's volatile world, businesses face evolving geopolitical risks, including conflict, state intervention and disruption to trade. These risks may result in assets being damaged or lost, transport routes closed, supply chains being disrupted, and business operations interrupted in a variety of ways.

Insurance can help businesses manage the financial consequences of these risks. In this briefing, we consider some of the current geopolitical risks and the types of insurance that may respond to resulting losses. Whether a particular loss is covered will depend on the facts, the policy wording and the applicable law.

Key issues

1. Geopolitical risks may give rise to losses covered by a range of types of insurance, including political risk, political violence, trade disruption, property, and others.
2. Policyholders should check not just the types of insurance purchased but their terms, including exclusions and key definitions, and that key risks do not fall between policies.
3. It is important to understand the amount of cover as limits, sub-limits, deductibles, and waiting periods can materially reduce recovery.
4. If an incident occurs, policyholders should preserve evidence of what happened, the cause of the loss and its financial effects, obtaining expert input where appropriate.

War and Conflict

Armed conflicts can have significant impact on businesses, causing property damage (e.g., from drone strikes) and business interruption. Disruption to key transport routes can also affect supply routes across a range of industries and have ripple effects around the world.

These issues may trigger cover under the following types of insurance policy:

- **Political violence insurance (PVI)**, whether standalone or included in a Political Risk policy may respond to property damage caused by specified perils, such as war and terrorism. PVI policies may also provide cover for business interruption which results from direct damage to insured property. Policies may also respond to indirect losses, for example where damage to others' property disrupts supply chains or prevents access to insured property.
- **Marine / marine war risks policies** may respond to physical damage to or loss (including constructive total loss due to detainment) of vessels while **marine cargo / marine cargo war risks** may respond to physical damage to or loss of cargo.
- **Trade disruption insurance** may cover specified disruption to an insured's trade routes and its financial consequences (e.g., increased costs as a result of rerouting to avoid inaccessible routes).

Threats to infrastructure

Onshore and offshore infrastructure, such as pipelines, undersea cables, data centres and onshore transport hubs, may be targeted by hostile actors, including states- whether openly or covertly. An incident of this type may result in costs of repairing the infrastructure, loss of inventory, and interruption to energy supplies or communication lines. It may be unclear whether the incident was accidental or deliberate and, if it was deliberate, who carried it out and why.

These issues may trigger cover under the following types of insurance policy:

- **Construction all risks insurance** (for infrastructure under construction), **operating all risks insurance** (for operational infrastructure), or other **property insurance** may respond to damage to insured property and resulting business interruption. Coverage may depend on the cause of the loss if, for example, the policy excludes losses caused by war but provides cover (potentially by a 'write-back') for losses caused by terrorism. In such cases, the identity and motives of those responsible for the loss may be central to determining whether cover is available.
- **PVI**, if available in respect of the assets, may respond to property damage and business interruption caused by specified perils, such as war, terrorism or political violence.
- For businesses which do not insure the affected asset but are interrupted by damage to it, **business interruption extensions** to

their property insurance may provide cover for business interruption losses caused by, for example, disruption to utilities.

Government action

Overseas investments and assets may be exposed to host government action, including during armed conflict (for example, the seizure of Western-owned aircraft in Russia in the context of the invasion of Ukraine- see here our briefing regarding the Russian aviation claims). Seizure, expropriation and restrictions on transferring funds can put investments and assets at risk, as can circumstances requiring their forced abandonment.

These issues may trigger cover under the following types of insurance policy:

- Industry-specific **marine and aviation war risks** policies may cover losses caused by specified risks, such as restraint or detention of insured assets by the host government.
- **Political risks insurance (PRI)** may cover losses affecting insured assets or interests arising from host government action, such as confiscation, expropriation, nationalisation, deprivation of assets, restrictions on currency conversion, contract frustration or licence cancellation.

What should policyholders be doing?

It is important to consider not just the types of cover purchased (e.g. PVI, PRI, terrorism cover) but also the scope of the insurance by reference to the insuring clause, exclusions and key definitions. This should allow policyholders to consider whether there are any key risks which fall between policies. It is also important to understand the amount of cover as limits, sub-limits, deductibles, and waiting periods can materially reduce recovery. The practical question is not simply whether insurance is in place, but how it would respond to the losses the business could face.

If an incident occurs, policyholders should preserve evidence of what happened, the cause of the loss and its financial effects, obtaining expert input where appropriate.

Reviewing cover in advance and preparing to substantiate any claim can help businesses better understand their insurance position and navigate the claims process.

Please also see our separate guide to claiming under political risk insurance policies here.

"Geopolitical risks have the potential to produce claims under a range of insurance policies. Policyholders should consider their insurance policies in the round and check their precise terms to ensure that key risks are covered adequately."

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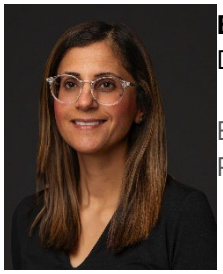

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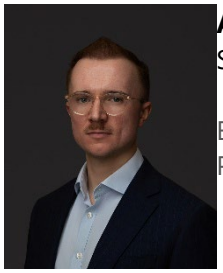

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