LOOKING FORWARD TO TOMORROW'S WORLD
MANAGING THE WIDER SUPPLY CHAIN: THE LOGISTICS CHALLENGE

by Jeb Clulow & Matthew Knowles

Takeaways

- Freight and logistics markets have been upended by the COVID-19 pandemic
- Disruption has included widespread container congestion, changing consumption patterns, and Suez Canal closure in March 2021
- Much of the passenger aircraft fleet, responsible for nearly half of all global air freight, has been grounded

For a long time, logistics have been taken for granted. Users have relied on the efficiencies of logistics providers to run lean inventories with "just in time" ordering. They have also counted on them being inexpensive. Additionally, in the past, consumption patterns were more predictable. The pandemic has upended all of this. For many clients, this has brought logistics and logistics contracts into the spotlight.

Starting with the third factor, consumption patterns have changed totally, and that has wrong-footed retailers. For example, following the closing of UK gyms in 2020, John Lewis launched Peloton concessions in nine of their stores. However, their regular logistics provisions were unable to keep pace with demand, forcing them to resort to more expensive air freight (reportedly more than 10 times the ordinary cost).

Due to COVID-19, changes in consumption patterns, and the closure of the Suez Canal in March 2021, the containership industry has been significantly affected. Containers have ended up in the wrong countries and there have been huge delays for containerships in places like Long Beach in the United States and Ningbo-Zhoushan in China. A record 100 ships of all types were at anchor or in holding outside the ports of Los Angeles and Long Beach, with 70 of them being containerships, including the 16,000 TEU CMA CGM Alexander von Humboldt and CMA CGM Jules Verne. In China, 154 containerships awaited loading off the ports of Shanghai and Ningbo, with delays arising from heavy export volumes, Typhoon Chanthu, and a two-week shutdown in August to quarantine dockworkers.

Consequently, ocean freight rates have seen as much as an eight-fold increase.

The position with air freight also has challenges. Almost all passenger aircraft carry freight, which accounts for approximately half of global air freight. With flying significantly reduced (there are still only 6,000 of 25,000 aircraft operating), that freight component has generally been unavailable.

We have helped clients to formulate solutions, such as:

a. Avoiding ocean transport from East Coast America to West Coast America via the Panama Canal by rerouting cargo by truck over-land.

b. Changing from ocean freight to air freight with a view to meeting specific pinch points in the retailer calendar, such as "Prime Day".

c. Revisiting and revising logistics contracts so they are fit for purpose where there is high price volatility and where delays are often the norm.

d. Reselling excess capacity.

Issues that arise from moving from one mode to the other include considering the ongoing obligations to the carrier under the original mode contract (such as volume commitments), different transit times for the carriage, and coordinating multi-modal arrangements with the changed leg (such as replacing ocean with air freight).

In terms of the contracts themselves, the liability provisions have some similarity between ocean, air, and international transport by truck, with the air being the most generous for the cargo interest. Accordingly moving from ocean to air is generally advantageous, and it generally comes with an automatic add-on to cover any associated land leg.

Clients have also found themselves facing potential issues arising out of reselling excess capacity, including any risks arising under competition law, as well as managing the resold capacity.

Unlike with the Peloton bike, there is no one-size-fits-all solution for logistics issues in a pandemic. However, much can be done to alleviate pinch points in the logistics chain and to ensure contracts are appropriate to manage transportation risk.

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