



A presentation by

HILL DICKINSON

The Post Brexit Landscape - Recent Trends in Logistics and Supply Chains

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Overview

- Re-engineered supply chains – planting a flag
- Contract risk management – price, delay and liability
- Customs clearance services – indirect representation
- Consumer returns – who pays?
- DDP import model – market friction

Re-engineered Supply Chains

- Increased stock holding
 - Inventory held in EU and UK
 - Effects
 - Increased demand for warehousing space
 - UK vacancy rate 5.6% in 2020 (cf 24% in early 2010s)
 - Static supply / capacity
 - increase in price
 - reduction in choice and flexibility (quality, location, supplier, volume)
- Establishing multi-channel distribution model and rise of e-commerce

Contract Risk Management

- Delay at the border
 - Time is no longer of the essence!
 - Consider service level and KPI commitments
 - Limit or exclude liability
 - Extend force majeure and/or incorporate hindrance provision to manage liability and carve out customs clearance related delay
 - Consider “material adverse change / effect” provision to manage increased cost of performance and right of suspension or termination
 - Review insurance cover for delay

Contract Risk Management

- Price
 - Warehousing
 - Limited capacity and increased demand = increase in price
 - Price review mechanism – scope and duration
- Payment Terms
 - Tax and duty – immediate payment
- Duration of contract
 - Balance flexibility, security and certainty of supply

Customs Clearance

- Indirect representation
 - Issues
 - Increase in IR post Brexit
 - Liability exposure - customs agent jointly and severally liable to customs authority
 - Solutions
 - Contract manage exposure
 - Indirect representation agreement
 - » Limit / exclude liability to customer
 - » Indemnity from customer to cover exposure to customs authority
 - » Guarantee?
 - Insurance – scope of cover

Consumer Returns (e-commerce)

- Traditional returns (size, fit, colour, quality etc) and now.....
- Rejection due to demand to pay import duty / tax
 - Who pays LSP?
 - Responsibility and price for returns/rejections must be agreed in advance with customer (retailer)
 - LSP more exposed in C2C transactions (online auction sites and sales platforms)

DDP Import Model

- Moves to DDP model for EU imports
- Friction – who is the importer of record?
 - EU domiciled customer requesting LSP to act as IOR
 - Push back from LSP – why?
 - Liability exposure to customs authority as IOR
 - Insurance cover?

Questions





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