CROSS-BORDER INSURANCE CONSIDERATIONS

By **Sergio F. Oehninger and Teri J. Diaz**

Supply chain disruptions, economic uncertainty, and political instability around the world have interrupted global business operations and led to multibillion-dollar losses, highlighting the need for corporations doing business across borders to scrutinize their insurance programs for coverages designed to mitigate against corporate exposures and losses. Relevant insurance coverages may include:

Supply Chain Insurance: Supply chain insurance coverage, sometimes called contingent business interruption (CBI) coverage, provides coverage for lost profits and expenses caused by supply chain disruptions to a business. Some insurers offer specialty supply chain coverage. Other insurers include CBI under commercial property insurance policies with varying sub-limits depending on whether a direct or indirect supplier suffers property loss or damage. Supply chain insurance may cover events often faced by cross-border businesses, such as: political instability, production issues, industrial accidents, financial problems; and disruptions to transportation infrastructure.

Business Interruption Insurance: Commercial property, and business interruption insurance policies provide "all-risk" coverage for physical loss or damage to the business property. This insurance often also covers extra expenses and business income losses resulting from the inability of the business to access or otherwise utilize the property that experienced loss or damage for its intended purpose.

Political Risk Insurance: Political risk insurance is designed to protect businesses operating abroad from losses resulting from political events. Coverage may extend to physical loss or damage, or to insured assets, or loss of business income caused by unrest, war, or government action. For example, such insurance may cover losses for property impacted by invasion, war, hostilities, expropriation, or nationalization, the impairment or deprivation of assets and interests, and losses resulting from forced abandonment, forced divestiture, or other government action.

Marine Cargo Insurance: Marine cargo insurance typically covers the risk of loss or damage to goods or merchandise in transit across the ocean. Cross-border businesses involved in international trade may consider such policies, which may also extend coverage to losses incurred when goods are delayed at warehouses or at port.

Cyberinsurance: Cyberinsurance covers losses from cyber events incidents such as ransomware attacks, which cross-border businesses are facing at an ever-growing rate. These policies typically cover the cost of responding to a cyber incident including, for example, data recovery costs, notification costs, and the cost of paying a ransom. Some cyber policies also provide business interruption coverage.

Corporations that engage in cross-border business will want to analyze all of the above coverages, among others, to confirm coverage terms, exclusions, and notice and proof of loss requirements, and consult counsel in connection with insurance recovery efforts.

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