

The Decade of Disputes

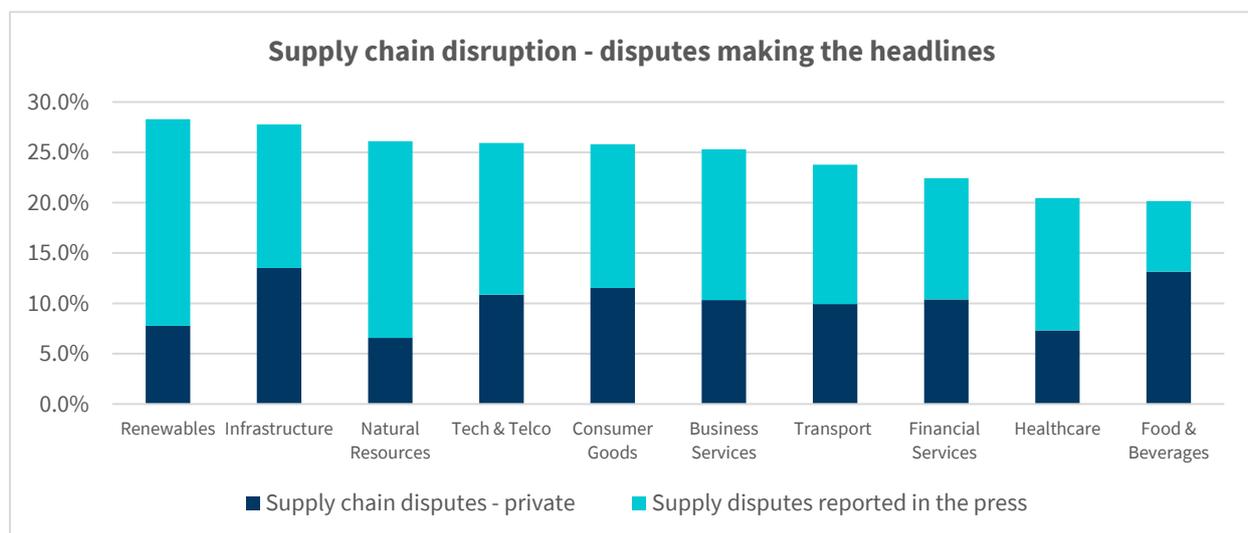
COVID-related business disruption highlights the law of supply and demand

The COVID-19 pandemic has prompted a surge of supply chain disputes, according to an FTI Consulting study carried out at the end of 2020. The research sought viewpoints from over 2,700 corporate leaders of large organizations with an aggregated total global turnover of \$36 trillion and employing 58 million people globally.

While business leaders started the new decade anticipating an increase in corporate disputes (see our initial Decade of Disputes report published in [January 2020](#)), COVID-19 has dramatically affected the nature of the global litigation market. While financial services organisations, consumer goods companies and big tech businesses indicated greatest preparedness for litigation at the start of 2020, they may not have anticipated that the most common disputes of the year would arise from supply-chain disruption.

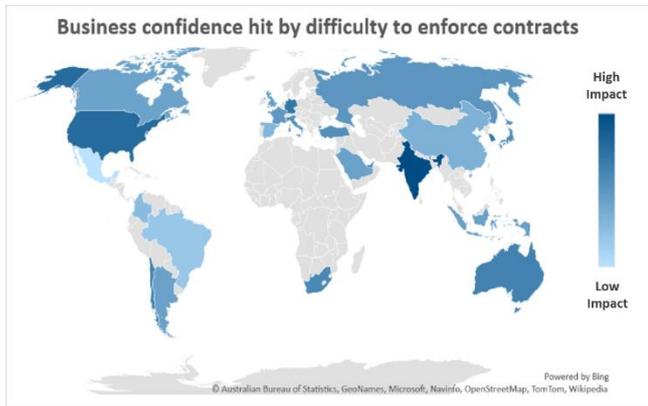
2020 supply chain disruptions drive disputes activity

The economic disruption caused by the COVID-19 pandemic has led to a surge in dispute activity across the G20 region. One in every four respondents to FTI Consulting's research indicated that since the beginning of the COVID-19 pandemic their business faced a supplier related dispute or disruption, compared to 15% of business that reported a customer contract dispute.



These supplier disputes accounted for, on average, 7.7% of lost turnover with the Healthcare sector most adversely affected (9.4% of turnover), followed by Consumer Goods (9.0%) – with clearly a greater business impact from supply chain disruption from a comparatively lower proportion of supplier contracts in dispute.

Business leaders are also increasingly concerned about the enforceability of contracts as a result of the pandemic. 24% of respondents to FTI Consulting's research strongly believe it will be difficult to enforce contracts in the current business environment, with a further 35% agreeing to a lesser extent with this view.



Disputes increase amid tough business conditions

As many businesses faced cash-flow constraints in 2020 caused by the pandemic and the necessary restrictions applied to control the spread of the virus, this environment evidently became a driving factor for increased litigation.

24% of respondents indicated that cashflow constraints were among the primary reasons for increasing dispute activity against third-parties. This was particularly common among Tech companies (28%) and Financial Services businesses (27%).

The United States was the most litigious market

When assessing the volume of commercial contracts in dispute, the United States was found to be the most litigious market geographically with businesses indicating an average 37% of supplier contracts in dispute. By contrast, European companies indicated an average of only 19%.

When it comes to preparedness and proactivity in managing supply chain disputes, unsurprisingly there was a direct correlation between countries whose business leaders reported the highest proportion of supply contracts in dispute and those who are most proactive at managing the supply chain disruption seen through the COVID-19 pandemic.

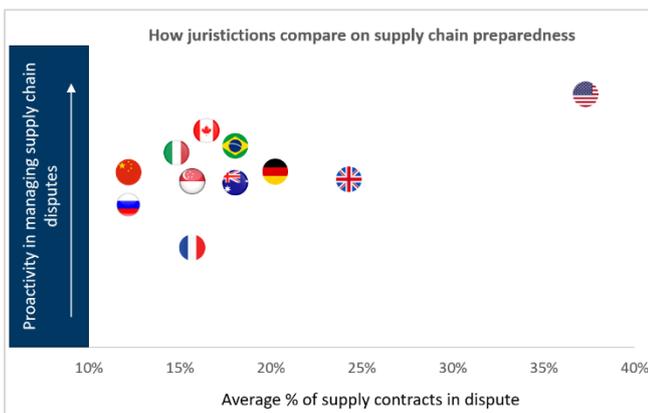
However, when asked about how businesses are managing this disruption, 44% of respondents indicated that their approach is still mainly reactive when supply issues arise, and a further 11% of respondents indicated that they still have not found a way to manage supply disruption since the beginning of the year. This was most common in the Food & Beverages industry (18%) and to a lesser extent also in the Healthcare industry (16%)

COVID-19 dents some M&A ambitions, but overall has triggered more.

In addition to a surge in supply chain disputes arising from the pandemic, business leaders across the G20 have also had to respond with agility in other areas. Since the COVID-19 outbreak, an average of 63% of corporate leaders across G20 economies report their company has been the target of aggressive M&A activity.

More broadly, corporate leaders regard COVID-19 as a driver of their future M&A plans, with an average of 39% across all G20 economies actively reviewing opportunities as a result of COVID-19. Balanced against this, 17% of companies indicated that since the start of the COVID-19 pandemic they are either now not considering M&A deals or their acquisition plans have been shelved.

Looking to the year ahead, global economic conditions may improve with vaccine rollout, but it may not necessarily dent activity in the litigation market in these early years of this decade of disputes.



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