

THE IRAN WAR AND ENGLISH LAW: FORCE MAJEURE, SANCTIONS, FRUSTRATION AND RESIDUAL CONSIDERATIONS

Monckton Chambers — April 2026

This collection of three articles, prepared by members of Monckton Chambers, analyses the principal issues for English law contracts arising from the outbreak of hostilities between the United States, Israel and Iran in February 2026 and the resulting closure of the Strait of Hormuz. The first article examines force majeure under English law, addressing the critical distinction between “prevention” and “hindrance” thresholds and their application across the oil and gas, maritime and construction sectors. The second article considers the rapidly evolving sanctions landscape, the interaction between sanctions clauses and force majeure provisions, and the particular challenges that sanctions compliance poses for international arbitration. The third article addresses the residual English law doctrines — frustration, illegality, change-in-law and material adverse change — that may provide relief where force majeure clauses are absent or inadequate. Together, the articles are intended to provide a practical framework for solicitors and in-house counsel advising clients with English law-governed contracts affected by the crisis.

THE IRAN WAR AND FORCE MAJEURE UNDER ENGLISH LAW: CONSIDERATIONS ACROSS INDUSTRY SECTORS

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April 2026

INTRODUCTION

1. The outbreak of hostilities between the United States, Israel and Iran on 28 February 2026 has produced one of the most significant disruptions to global commerce in decades. The closure of

the Strait of Hormuz — through which roughly 20% of the world’s daily oil supply and a comparable share of global LNG exports ordinarily transit — has moved force majeure from a rarely invoked contractual backstop to an operational necessity across multiple industries. QatarEnergy, Kuwait Petroleum Corporation and Bahrain’s Bapco Energies were among the first major entities to declare force majeure in early March, and the cascade has since spread far beyond the Gulf’s national oil companies. For parties to contracts governed by English law, the legal landscape is nuanced and the precise drafting of force majeure clauses will determine winners and losers in the disputes that inevitably follow.

FORCE MAJEURE AS A CREATURE OF CONTRACT

2. The starting point under English law is that force majeure has no autonomous legal meaning. Unlike many civil law jurisdictions — including the UAE, Qatar, France and Saudi Arabia, where statutory doctrines may provide relief even where a contract is silent — English law treats force majeure as an entirely contractual mechanism. If the contract does not contain a force majeure clause, or the clause does not cover the event that has arisen, the affected party is left with the narrow common law doctrine of frustration: a remedy that requires proof that performance has become impossible or radically different from what was originally undertaken, and which, when triggered, discharges the contract in its entirety rather than suspending it. The bluntness of that outcome explains why commercial parties operating under English law frequently negotiate express force majeure provisions.
3. When a force majeure clause is present, English courts will apply it strictly in accordance with its terms. Although the wording of force majeure clauses varies from contract to contract, they are typically drafted so that a party invoking the clause must demonstrate that: (a) the event falls within the contractual definition of force majeure; (b) there is a clear causal link between the event and the failure to perform; (c) the event was beyond the affected party’s reasonable control; and (d) reasonable steps were taken to mitigate its effects. Crucially, increased cost of complying with an obligation will rarely suffice — even a severe economic downturn does not, ordinarily, amount to force majeure unless the clause expressly says so.

THE “HINDER” VERSUS “PREVENT” DISTINCTION

4. One of the most consequential drafting distinctions in force majeure clauses is the threshold of interference required before a party can claim relief. Clauses that require performance to have been “prevented” set a high bar: the affected party must, ordinarily show that the obstacle to performance is insurmountable, meaning that it is no longer physically possible or legally permissible to perform the relevant obligation.¹ By contrast, clauses that use the language of “hindrance” or “delay” import a materially lower threshold. Under such clauses, the affected party need not prove outright impossibility; it is sufficient to show that performance has been made significantly more difficult, although mere inconvenience or increased expense will still ordinarily fall short.

5. This distinction has acute practical significance in the present crisis. Consider a Gulf-based LNG seller with an obligation to load cargoes from a Qatari terminal on a CIF basis to a destination outside the Strait. Where the Strait of Hormuz is physically closed and vessels cannot transit, performance is genuinely prevented: no amount of expenditure or ingenuity can get the cargo through. A clause requiring “prevention” would likely be engaged. But consider a more marginal scenario: the Strait is nominally open, but war-risk insurance premiums have quintupled, the vessel’s flag state has issued an advisory against transit, and the crew is refusing to sail. Performance is theoretically possible but operationally impracticable. Under a clause requiring “prevention,” the seller may struggle to establish the requisite impossibility. Under a clause requiring only that performance be “hindered” or “delayed,” the seller’s position is considerably stronger.

6. The Court of Appeal’s decision in *Classic Maritime Inc v Limbungan Makmur Sdn Bhd* [2019] EWCA Civ 1102 remains instructive on causation. That case confirmed that where a force majeure clause requires the event to have “prevented” performance, the claiming party must show that the event was an effective cause of non-performance — not merely that the event occurred during a period

¹ Although depending on the specific wording of the clause, this threshold might be lower than physical or legal impossibility. For instance, if the clause requires that the event ‘prevents’ performance but *also* indicates that party must use all ‘reasonable efforts’ to avoid that event, one could argue that this envisages a scenario where the event in question is *not* physically or legally impossible but made significantly harder (hence the inclusion of the reasonable efforts provision); otherwise in circumstances where it is physically or legally impossible to perform the obligation, the ‘reasonable efforts’ clause is redundant (since no amount of effort could overcome the event).

when the party also failed to perform for other reasons. Parties invoking force majeure in relation to the Iran conflict should therefore ensure that they can demonstrate a direct causal nexus between the specific disruption and the specific obligation that has not been fulfilled.

SECTOR-SPECIFIC CONSIDERATIONS

Oil and Gas

7. The oil and gas sector has been at the epicentre of force majeure activity since the conflict began. The closure of the Strait of Hormuz represents the largest disruption to the energy supply chain since the 1970s oil crisis, with Brent crude surging past \$126 per barrel at its peak. Long-term supply and offtake agreements in this sector typically contain detailed force majeure provisions, often listing “war,” “hostilities,” “blockade” and “government action” as qualifying events. Many also contain take-or-pay commitments, availability guarantees, and strict delivery windows, making the consequences of non-performance severe.
8. The immediate question for sellers is whether the physical closure of the Strait constitutes an event that prevents delivery. Where the loading port is located within the Gulf and the only viable export route passes through Hormuz, the answer is likely yes. However, the position becomes more complex where alternative export infrastructure exists. Saudi Aramco’s East-West pipeline, for example, can reroute crude oil from the Gulf coast to Yanbu on the Red Sea. A buyer facing a force majeure declaration might argue that the seller has not been “prevented” from performing if alternative routes, however costly, remain available. The seller would then need to show that the alternative route was not reasonably available — whether because of capacity constraints, contractual restrictions, or the sheer impracticability of diverting volumes at scale.
9. A further complication arises from the interaction between force majeure and sanctions. If the US, EU and/or UK impose additional sanctions in connection with the conflict, a sovereign prohibition on dealing may independently render performance unlawful. But whether this constitutes a force majeure event or triggers a separate change-in-law clause will depend on the specific contract. The two regimes carry different notice periods, different consequences, and different cost allocations.

Maritime

10. Shipping contracts governed by English law are experiencing significant disruption. Charterparties — both voyage and time charters — are being tested against a range of contractual risk-allocation mechanisms, including force majeure clauses, war risk clauses, and liberty clauses permitting deviation from contractual routes.
11. In the charterparty context, the “hinder” versus “prevent” distinction is particularly salient. A voyage charterer whose vessel is contractually bound to load at a Gulf port may argue that force majeure prevents performance where the Strait is closed. But a time charterer who has ordered a vessel into the Gulf may face a different analysis: the charterer’s obligation is to give employment orders, not to perform the physical transit, and the question becomes whether the owner is entitled to refuse a potentially unsafe order. Many modern charterparties contain “safe port” warranties or war risk clauses — such as BIMCO’s CONWARTIME 2013 — which permit the owner to refuse to proceed to a port or area that it considers dangerous. These provisions may offer owners a contractual route to relief that does not depend on force majeure at all.
12. War-risk insurance has become a critical issue. Premiums for Strait of Hormuz transit surged from around 0.125% to as high as 0.4% of insured vessel value per transit, and many underwriters invoked 72-hour cancellation clauses in the immediate aftermath of the strikes. For vessels already laden and en route, the withdrawal of insurance cover may itself constitute a “hindrance” — but whether it constitutes “prevention” is debatable, and will depend on whether the contract treats the availability of insurance as a condition of the obligation to perform.

Construction

13. Construction and infrastructure projects in the Gulf region, many of which are structured around FIDIC-based contracts governed by English law, face a different but no less complex set of challenges. The conflict has disrupted supply chains for materials, reduced cargo and shipping availability, restricted labour mobility, and in some cases threatened direct physical damage to project sites.
14. Under the FIDIC 2017 Rainbow Suite, the force majeure clause (rebranded as an “Exceptional Event” at Clause 18.1) requires the affected party to show that performance has been “prevented” — a deliberate choice of the higher threshold. FIDIC does not define “prevention,” leaving the term to be interpreted in accordance with the contract’s governing law. Under English law, this

means the contractor must demonstrate that the event has made it impossible to perform, not merely more expensive or more difficult. Where a contractor can still procure materials via alternative, albeit costlier, routes — for example, shipping via the Cape of Good Hope rather than through the Strait — a claim that performance has been “prevented” may be difficult to sustain.

15. In many bespoke EPC and project finance agreements, however, the parties will have negotiated away from the FIDIC default position. It is increasingly common for force majeure clauses in major infrastructure contracts to distinguish between “political” force majeure (including war, hostilities and blockade) and “natural” force majeure. Political force majeure events frequently attract both time and cost relief, on the basis that the employer is better placed to bear the risk of sovereign or geopolitical disruption. Moreover, some clauses adopt the lower “hinder” or “delay” threshold rather than the FIDIC default of “prevention,” significantly widening the scope of relief available to the contractor. Contractors working under such clauses will be in a materially stronger position than those bound by unamended FIDIC terms.
16. Strict notice requirements add a further layer of risk. Under FIDIC, notice must be given within 14 days of the party becoming aware of the event. Failure to comply can be fatal to a claim, regardless of how compelling the substantive merits may be. Contractors and employers should be issuing protective notices now, even where the full impact of the conflict on project performance has not yet crystallised.

PRACTICAL STEPS

17. Regardless of the sector, parties to English law contracts affected by the Iran conflict should undertake an immediate and granular review of their force majeure provisions, paying close attention to the definition of qualifying events, the threshold of interference required (prevention, hindrance or delay), notice and evidence requirements, and mitigation obligations. Protective notices should be issued at the earliest opportunity — courts and arbitral tribunals have generally accepted contingent or precautionary notices pending full legal assessment. All communications, operational decisions and efforts to mitigate should be documented contemporaneously. Finally, parties should be alive to the risk that an incorrect or premature declaration of force majeure may, depending on the wording of the declaration, constitute a repudiatory breach of contract, entitling the other party to terminate and claim damages.

18. The conflict in Iran is far from over, and the contractual disputes it generates will likely occupy English courts and international arbitral tribunals for years to come. The parties that emerge best will be those that understood their contracts, acted promptly, and recognised that the precise words on the page — not the severity of the crisis — will ultimately determine their rights.

SANCTIONS AND DISPUTES: ARBITRATION CONSIDERATIONS

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THE SANCTIONS LANDSCAPE

1. Internal Iranian dissent in early 2026 followed by the war between the United States, Israel and Iran resulted in a rapid intensification of sanctions regimes on both sides of the Atlantic was enacted. Indeed, following the Iranian regime’s crackdown on domestic protests, the UK government moved, in early February 2026, designating further Iranian persons and entities under the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 and the broader framework established by the Sanctions and Anti-Money Laundering Act 2018.² Similarly, the EU, for its part, formally designated the Iranian Revolutionary Guard (“IRGC”) as a terrorist organisation. And, within days of the initial strikes in late February 2026, the US Treasury’s Office of Foreign Assets Control (“OFAC”) designated additional Iranian entities under Executive Order 13846, expanding the scope of secondary sanctions targeting non-US persons engaged in significant transactions with the Iranian energy, shipping and financial sectors. Notwithstanding the recent fragile ceasefire, the practical result is a multi-layered web of prohibitions that affects not only direct dealings with Iranian counterparties but also ancillary transactions involving Iranian-origin goods, vessels flagged or owned by designated entities, and financial institutions that facilitate payments connected to Iranian trade.

² Regulation (EU) No 267/2012, as retained and amended in UK domestic law by the Sanctions and Anti-Money Laundering Act 2018 and the Iran (Sanctions) (EU Exit) Regulations 2019.

2. The legal effect of these designations on existing contracts is immediate and, in many cases, absolute. Where a party to a contract becomes a designated person, any performance that would involve making funds or economic resources available to that person is prohibited as a matter of law. This prohibition operates regardless of the parties' contractual intentions: a contractual obligation to pay, deliver or perform does not override a statutory prohibition. The result is that many contracts with Iranian counterparties — or with counterparties that have since been designated — have become unlawful to perform, whether or not the contract contains a force majeure clause, a sanctions clause, or any other risk-allocation mechanism. These statutory prohibitions operate alongside, and are reinforced by, well-established common law principles of illegality. In *Ralli Brothers v Compania Naviera Sota y Aznar* [1920] 2 KB 287, the Court of Appeal held that where performance of a contract would be illegal under the law of the place of performance, the obligation is discharged — even if the governing law of the contract does not prohibit it.³ The principle was extended in *Foster v Driscoll* [1929] 1 KB 470, in which the Court of Appeal held that English courts will not enforce a contract whose object or performance involves a violation of the law of a friendly foreign state.⁴ Both authorities have direct application to the present crisis. Where parties to an English law contract are required to perform in a jurisdiction subject to US secondary sanctions, the *Ralli Bros* principle may discharge the relevant obligation even though English law does not itself prohibit the transaction; and the *Foster v Driscoll* doctrine may prevent enforcement of contracts whose performance is designed to circumvent the sanctions of a friendly state.

SANCTIONS CLAUSES AND THEIR INTERACTION WITH FORCE MAJEURE

3. Modern commercial contracts governed by English law, particularly those in the energy and commodities sectors, frequently contain dedicated sanctions clauses distinct from their force majeure provisions. A well-drafted sanctions clause will typically provide that neither party shall

³ *Ralli Brothers v Compania Naviera Sota y Aznar* [1920] 2 KB 287 (CA). The Court of Appeal held that a contract for the carriage of goods from Calcutta to Barcelona was discharged to the extent that performance (payment of freight above a statutory cap) would have been illegal under Spanish law as the law of the place of performance.

⁴ *Foster v Driscoll* [1929] 1 KB 470 (CA). The Court of Appeal declined to enforce a contract for the shipment of whisky to the United States during Prohibition, on the ground that an English court will not enforce a contract whose object or performance involves a violation of the law of a friendly foreign state.

be required to perform any obligation if to do so would expose it to sanctions risk, and may include a contractual right to suspend or terminate the contract in the event of a relevant designation. The critical distinction between such clauses and force majeure provisions is that a sanctions clause operates as a standalone compliance mechanism: it does not require the party to demonstrate causation, mitigation or the other preconditions typically associated with force majeure relief. Where both a sanctions clause and a force majeure clause are available, the sanctions clause will generally provide a more straightforward route to relief, because the question of whether performance is prohibited by law admits of a binary answer in a way that the question of whether performance has been “prevented” or “hindered” by an external event does not.

4. Difficulties arise, however, where the contract contains no dedicated sanctions clause, or where the sanctions clause is narrowly drafted. In such cases, the affected party may need to rely on the force majeure clause to cover the effect of sanctions designations. Whether “sanctions” or “government action” falls within a particular force majeure definition is a question of construction. Where the clause lists “sanctions” or “embargoes” as qualifying events, the position is relatively clear. Where it does not, the party must argue that the designation falls within a broader catch-all provision (or refuse performance on the basis that it thinks the contract is frustrated and/or performance of a specific obligation is illegal and seek to avail itself of the *Ralli Bros* or *Foster v Driscoll* line of cases).

DISPUTE RESOLUTION: ARBITRATION IN A SANCTIONS ENVIRONMENT

5. Many disputes arising from the present crisis will be resolved through international arbitration, rather than national court litigation. For example, energy and commodities contracts most directly affected are often subject to arbitration agreements providing for institutional arbitration under the ICC, LCIA, or regional institutions such as DIAC or the ADGM Arbitration Centre. This presents its own set of challenges. Sanctions regimes may restrict not only substantive performance but also the ability of a designated party to participate in arbitral proceedings. OFAC’s licensing framework does permit certain legal services to be provided to designated persons, but the scope of those licences is narrow, and legal advisers must satisfy themselves that

the provision of arbitration-related services — including payment of arbitrator fees, institutional deposits and legal costs — does not inadvertently breach sanctions.⁵

6. Arbitral institutions have developed some experience in navigating these issues, not least from the prolonged sanctions regimes affecting Russia and Iran over the past decade. However, the current conflict has raised the stakes considerably. The sheer volume of contracts affected, the breadth of the new designations, and the speed with which the sanctions landscape is evolving have created acute practical difficulties for tribunals, institutions and parties alike.

7. The identification of the place of performance is also critical to any analysis. In *Libyan Arab Foreign Bank v Bankers Trust Co* [1989] QB 728, Staughton J held that US presidential sanctions against Libya could not excuse Bankers Trust from its obligation to repay a Eurodollar deposit where that obligation was performable in London under English law.⁶ The decision illustrates that the mere existence of sanctions in one jurisdiction does not automatically excuse non-performance of an obligation governed by and performable under the law of another; the relevant question is which mandatory rules engage the place of performance. In the current environment, where US secondary sanctions purport to reach transactions with no direct US nexus, this distinction is of acute practical importance for parties seeking to enforce judgments or awards through London or other non-US seats.

8. Finally, the intersection of sanctions and arbitration raises important questions of public policy. Where an award is made at a foreign seat and a party seeks to enforce it in England & Wales under the New York Convention, the court may refuse recognition or enforcement under section 103(3) of the Arbitration Act 1996 if enforcement would be contrary to public policy. An award that would, if enforced, require a party to act in breach of UK sanctions legislation may engage that

⁵ See the ICC Guidance Note on Possible Measures for Addressing the Impact of Sanctions on ICC Arbitration (originally issued 2020, updated periodically); and Article 37 of the ICC Rules 2021 (Advance to Cover the Costs of the Arbitration), which is of particular practical significance where a designated party is unable to transfer funds to satisfy the ICC’s advance on costs. See also Article 24 of the LCIA Rules 2020 (Deposits) and Article 36 of the DIAC Rules 2022 (Deposits), which raise equivalent difficulties.

⁶ *Libyan Arab Foreign Bank v Bankers Trust Co* [1989] QB 728. Staughton J held that US presidential sanctions against Libya could not excuse Bankers Trust from repaying a Eurodollar deposit where the obligation was performable in London and governed by English law; the US executive order, though it froze the bank’s New York account, did not affect the London obligation.

exception — not because the underlying obligation is itself unlawful (that is the separate illegality point considered above), but because giving the court’s imprimatur to an award with that effect would offend English public policy.

RESIDUAL ENGLISH LAW CONSIDERATIONS

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FRUSTRATION

9. Where a contract governed by English law contains no force majeure clause, or where the clause does not cover the events that have occurred, the affected party’s principal recourse is the common law doctrine of frustration. Frustration operates where a supervening event, which is not the fault of either party and for which the contract makes no sufficient provision, renders performance impossible, illegal, or radically different from what was originally undertaken. As to the latter, the doctrine is notoriously narrow: English courts have repeatedly emphasised that it requires a fundamental change in the nature of the obligation rather than merely making performance more onerous or expensive.⁷
10. The present crisis may, however, present circumstances in which the doctrine is engaged. Where a contract requires delivery through the Strait of Hormuz and the Strait has been physically closed by military action, with no realistic prospect of reopening within the contractual timeframe, the obligation may have become impossible in a sense that satisfies the frustration test. In this regard, analogies can be made and guidance can be drawn from the Suez Canal closure cases of the 1960s, which are instructive but which must be treated with caution. The House of Lords in *Tsakiroglou & Co Ltd v Noblee Thorl GmbH* [1962] AC 93 held that the closure of the Suez Canal did not frustrate a CIF sale of Sudanese groundnuts, because the goods could still be shipped via the Cape of Good Hope at greater cost. The Strait of Hormuz closure presents a potentially distinguishable

⁷ Although the circumstances in which this will arise are limited: see *Canary Wharf (BP4) T1 Ltd v European Medicines Agency* [2019] EWHC 335 (Ch), where Marcus Smith J held that Brexit did not frustrate a 25-year lease.

scenario: for many Gulf producers, there is no practicable alternative route at all, or the alternatives are so limited in capacity as to be unavailable for the volumes required.

11. The consequences of frustration differ materially from those of force majeure. Where a contract is frustrated, it is discharged automatically — the parties are released from future obligations, but there is no suspension mechanism and no obligation to resume performance if the frustrating event ceases. The remedial consequences are governed by the Law Reform (Frustrated Contracts) Act 1943, which provides a statutory framework for the recovery of money paid and compensation for benefits conferred prior to the frustrating event. However, the 1943 Act contains some notable omissions: it does not apply to certain categories of contract (including contracts for the carriage of goods by sea or voyage charterparties)⁸. In circumstances where it does not apply, the common law will be left to determine what follows once a contract has been frustrated.

ILLEGALITY

12. A distinct but related ground of relief arises where performance of the contract has become illegal. Where UK sanctions legislation prohibits the making of funds or economic resources available to a designated person, any contractual obligation requiring such performance is rendered unenforceable to the extent of the prohibition. The affected party is not merely excused from performance; it is positively prohibited from performing, and any attempt to do so would constitute an offence.⁹
13. The illegality analysis is in some respects simpler than frustration, because it does not require the party to show that performance has become radically different — only that it has become unlawful. But it raises its own complexities. First, the scope of the prohibition must be precisely identified: UK sanctions do not always prohibit all dealings with a designated person, and the specific licensing regime may permit certain categories of performance to continue. Second, where the contract is governed by English law but involves performance in a jurisdiction whose sanctions

⁸ By contrast, time and demise (bareboat) charterparties are included within its scope.

⁹ See *Patel v Mirza* [2016] UKSC 42, in which the Supreme Court reformulated the test for illegality, adopting a multi-factorial approach that considers the policy underlying the prohibition, any other relevant public policy, and whether denying relief would be a proportionate response.

regime differs, English courts will generally give effect to prohibitions imposed by the law of the place of performance, whether or not those prohibitions form part of the governing law. Third, the illegality doctrine operates prospectively: it excuses future performance but does not generally entitle the affected party to recover sums already paid.

CHANGE-IN-LAW AND MATERIAL ADVERSE CHANGE CLAUSES

14. Many sophisticated commercial contracts, particularly in the project finance and energy sectors, contain change-in-law clauses that operate independently of force majeure provisions. Such clauses typically entitle a party to relief where a change in applicable law materially affects its ability to perform or the economics of the transaction. The imposition of new sanctions clearly constitutes a “*change in law*” for these purposes, and parties should consider whether such clauses provide a more targeted route to relief than force majeure. Change-in-law clauses often carry specific cost-allocation consequences — in project finance, the risk of political or regulatory change is frequently allocated to the public-sector counterparty — and may entitle the affected party to compensation rather than mere suspension.
15. Material adverse change (“MAC”) and material adverse effect (“MAE”) clauses, common in financing agreements and M&A documentation, may similarly be triggered by the economic consequences of the conflict even where performance has not become impossible or illegal. Whether such a clause is engaged will depend on the precise definition adopted, and in particular on whether it is limited to changes affecting the borrower or target specifically or extends to broader geopolitical developments. Lenders and acquirers should review their MAC/MAE definitions carefully and take early advice on whether the current crisis gives rise to a right of termination or drawstop.

GOOD FAITH

16. A further point of note is that English law does not recognise a general duty of good faith in commercial contracts. Accordingly, unless (a) there is a specific “good faith” obligation that has been expressly drafted into an English-law governed contract or (b) the contract is a relational contract and such a term is implied, a counterparty will not be able to avail itself of civil law good faith concepts when trying to insist on contractual performance.

CONCLUSION

The ongoing crisis in the Gulf is threatening businesses across a range of industry sectors. Business leaders and stakeholders are needing to adapt swiftly, day-by-day to an environment which is fluid and highly unpredictable. In many cases that involves understanding the legal position at a detailed level with fact patterns that are also evolving constantly. These three articles are intended to provide some high-level guidance to those affected. However, it is recognised that in many cases, more specific case-specific advice will need to be tailored to a specific contract and specific clauses. In which case, we and our partners, remain on hand to assist.

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