# Limits of Force Majeure Clauses in Shipping Contracts

Due to recent global events, “force majeure” clauses are frequently revisited in all commercial contracts, with the shipping industry no exception. Professionals within the industry have been paying close attention to one case in particular, and on 15th May 2024, the Supreme Court gave its ruling on it. This is the case of MUR Shipping BV (“MUR”) v RTI Ltd (“RTI”) [2024]. See our previous article on the matter, authored by Philippa Langton, head of our LA Marine team in Southampton: MUR v RTI – Force Majeure and Reasonable Endeavours.

## Background

This case focuses on a freight contract where RTI ships, and MUR carries, a cargo of bauxite from Guinea to Ukraine. The contract stipulates that RTI must pay the hire in US dollars. It includes a force majeure clause that relieves parties from their contractual obligations when uncontrollable events, like a pandemic, war, or sanctions, arise. The clause specifies that the parties will only be excused if the affected party cannot overcome the obstacle despite using reasonable endeavours.

When the US imposed sanctions on RTI’s parent company during the charterparty, MUR claimed that paying in USD would violate these sanctions. MUR argued that force majeure excused them from payment obligations. In response, RTI offered to pay in Euros to demonstrate reasonable endeavours, but MUR rejected the offer and insisted on payment in USD.

## Judgments

Before the Supreme Court’s ruling, the earlier courts had mixed judgments. The first instance tribunal and the Court of Appeal deemed the proposed payment in Euros to be within the remit of “reasonable endeavours.” The Commercial Court ruled that paying in Euros exceeded what the contract stipulated.

The Supreme Court has shared the view of the Commercial Court – overturning the decision of the Court of Appeal. The Supreme Court clarified that while parties must use reasonable endeavours to overcome force majeure, this does not extend to accepting non-contractual performance. Parties do not need to forgo contractual rights, such as payment in a specified currency, unless the contract explicitly states otherwise.

The ruling means that parties invoking force majeure do not need to accept alternative



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performance if it deviates from the contract terms. Contracting parties could overcome this principle by explicitly including provisions for accepting non-contractual performance under certain conditions but must consider how these provisions might apply and limit them appropriately.

This judgment emphasises the fine balance between adhering to contractual terms and using reasonable efforts to mitigate force majeure events, reinforcing the principles of contractual freedom and predictability in commercial dealings. The overall takeaway of this saga is the increased importance of careful and accurate drafting for such agreements.

Please contact our Shipping & Logistics team at online.enquiries@LA-law.com should you like to discuss the judgment further or require advice on a similar agreement you wish to enter into.



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