

FORCE MAJEURE AT SEA: LESSONS FROM THE SUEZ CANAL AND THE STRAIT OF HORMUZ

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Few doctrines in shipping law are as commercially consequential, and as frequently misunderstood, as force majeure. In an era of sanctions regimes, chokepoint congestion and geopolitical instability, parties to charterparties and contracts of affreightment are invoking force majeure clauses with growing frequency.

Yet the scope of the ubiquitous "reasonable endeavours" proviso, which typically qualifies a party's right to rely on force majeure, remained surprisingly uncertain until the United Kingdom Supreme Court's decision in *MUR Shipping BV v RTI Ltd* (*MUR Shipping*).¹

This article examines that decision and considers its practical implications for two of the most significant sources of shipping disruption today: the disruption to the Strait of Hormuz arising from the US-Iran conflict, and the ongoing Houthi attacks on vessels transiting the Red Sea and the Suez Canal approaches it feeds. While neither of those chokepoints was in issue in *MUR Shipping* itself, the case's reasoning, the authors submit, is now the starting point for any analysis of whether, and how far, a party affected by such disruption must go before it can validly suspend performance.

(A) MUR Shipping

A.1 The facts

MUR Shipping BV (*MUR*), the owner, and *RTI Ltd* (*RTI*), the charterer, entered into a contract of affreightment on an amended Gencon form for the carriage of bauxite from Conakry, Guinea to Dneprobugsky, Ukraine, over a two-year period from 2016 to 2018. Freight was payable by RTI to MUR in US dollars. Clause 36 of the contract was a force majeure clause providing that neither party would be liable for loss, damage, delay or failure in performance caused by a force majeure event, defined to include, among other things, restrictions on monetary transfers, provided that the event "cannot be overcome by reasonable endeavors [sic] from the Party affected".

In April 2018, the US Office of Foreign Assets Control imposed sanctions on RTI's parent company, United Company Rusal plc. Although RTI itself was not listed, it was subject to the same restrictions as a majority-owned subsidiary. MUR served a force majeure notice, asserting that the sanctions prevented RTI from making US dollar payments and that performance was accordingly suspended. RTI rejected

¹ [2024] 2 WLR 1350. This decision was considered by the Malaysian High Court in *Blastone Asia Sdn Bhd & Anor v Tunas Rakyat Sdn Bhd* [2025] MLJU 1203 (HC) at [108]:

"In *MUR Shipping BV v RTI Ltd* (SC(E)) [2024] 2 WLR 1350, the Supreme Court in the United Kingdom held: "Force majeure clauses relieve a party from its obligation to perform under a contract on the occurrence of a specified event or state of affairs. Such clauses commonly provide, expressly or impliedly, that the clause cannot be relied upon if the effects of what would otherwise be a force majeure event or state of affairs could be avoided by the exercise of reasonable endeavours by the party affected."

the notice and offered to pay freight in euros instead, undertaking to bear any conversion costs or exchange losses. MUR refused, maintaining its contractual entitlement to payment in US dollars, and suspended the nomination of vessels. RTI was forced to charter replacement tonnage and claimed damages for the additional cost.

A.2 The central issue and the courts below

The dispute turned on a single question of principle: does the exercise of "reasonable endeavours" to overcome a force majeure event require the affected party to accept an offer of non-contractual performance from its counterparty? The arbitral tribunal held that it did on these facts, reasoning that MUR could have accepted euro payment without detriment, and awarded RTI damages in excess of USD2 million.

On MUR's appeal under Section 69 of the Arbitration Act 1996, *Jacobs J* in the Commercial Court reversed the tribunal, holding that reasonable endeavours did not extend to accepting a different mode of performance, or rather, a performance direction to achieving a different result which formed no part of the parties' agreement. The Court of Appeal, by majority (Males and Newey LJ), Arnold LJ dissenting), restored the tribunal's approach, holding that a force majeure event is "overcome" if its adverse consequences are completely avoided, even by non-contractual means causing no detriment to the party invoking the clause.

A.3 The Supreme Court's decision

The Supreme Court unanimously allowed MUR's appeal, restoring *Jacobs J*'s judgment. Lord Hamblen and Lord Burrows, with whom the remaining Justices agreed, rejected the Court of Appeal majority's characterisation of the appeal as one of narrow contractual interpretation turning on the word "overcome". Instead, the Court treated the case as raising a question of general application: whether, absent clear wording, a reasonable endeavours proviso requires acceptance of non-contractual performance.

The Court's reasoning rested on several established principles of English contract law:

First, the object of a reasonable endeavours proviso is to secure the continuation or resumption of contractual performance, not some substitute for it; the causal inquiry is to be assessed by reference to the contract's own terms.

Second, freedom of contract encompasses the freedom not to contract, and a party cannot be compelled to accept a bargain it did not make.

Third, clear words are required before a party is treated as having given up a valuable contractual right, here, the right to payment in the specified currency.

Fourth, and of particular importance in this context, certainty and predictability of outcome are paramount values in English commercial law; a test turning on open-ended assessments of "detriment" to the counterparty

would generate exactly the kind of factual dispute and litigation risk that force majeure clauses are meant to avoid.

Notably, the Supreme Court also addressed, and rejected, an analogy drawn by RTI from the historic "Suez cases" on the doctrine of frustration, namely *The Massalia*,² *The Eugenia*³ and *The Captain George K*,⁴ all arising from the 1956 and 1967 closures of the Suez Canal. RTI argued that, just as those cases held that charterers were bound to accept the longer route via the Cape of Good Hope rather than treat the contract as frustrated, MUR should have been bound to accept euro payment as an alternative means of performance.

The Court disagreed, for two reasons. First, frustration and force majeure address different questions: frustration is a narrow common law doctrine with the drastic consequence of automatic termination, whereas a force majeure clause can cover a far wider range of circumstances with more flexible consequences, including temporary suspension, so the two bodies of case law cannot simply be read across. Second, and in any event, the Suez cases did not actually hold that the charterers had to accept a non-contractual substitute; rather, the courts found that the contract had never required passage via the Suez Canal specifically, only via the customary route at the time of performance, so sailing via the Cape was itself contractual performance, not a substitute for it.

The result is now settled English law: absent clear wording to the contrary, a reasonable endeavours proviso in a force majeure clause does not require the affected party to accept an offer of non-contractual performance, however commercially sensible that offer may appear, and however slight the detriment to the party invoking the clause.

(B) Practical Implications

B.1 The Suez Canal Corridor (Red Sea Disruption)

Since late 2023, Houthi attacks on commercial vessels transiting the Red Sea and the approaches to the Suez Canal have caused sustained disruption, with numerous carriers suspending Red Sea transits or rerouting via the Cape of Good Hope.⁵ This has generated exactly the type of dispute *MUR Shipping* now governs. Where a charterparty or bill of lading contains a force majeure clause referencing war, hostilities, terrorism, blockade or governmental restriction, and an owner invokes it to justify suspension, delay or rerouting, *MUR Shipping* confirms that the owner's reasonable endeavours obligation is confined to steps that secure the contractually agreed performance. It does not require the owner to accept, or offer, some different mode or route of performance merely because that alternative would avoid the disruption at little or no cost to the counterparty.

This has particular force where the charterparty specifies a route or where, as in many liner trades, the Red Sea passage is the customary route at the time of fixing. The Supreme Court's decision in *The Polar*, concerning a general average contribution following the seizure of a vessel by Somali pirates in the Gulf of Aden, illustrates a related but distinct tension.⁶ There, the Court held that because the charterparty specifically

² *Societe Franco Tunisienne D'Armement v Sidermar SpA, The Massalia* [1961] 2 QB 278.

³ *Ocean Tramp Tankers Corp v V/O Sovfracht, The Eugenia* [1964] 2 QB 226.

⁴ *Palmco Shipping Inc v Continental Ore Corp, The Captain George K* [1970] 2 Lloyd's Rep 21.

⁵ Denamiel T., et al. (2024, January 22). *The Global Economic Consequences of the Attacks on Red Sea Shipping Lanes*. Center for Strategic & International Studies. Site accessed from

<https://www.csis.org/analysis/global-economic-consequences-attacks-red-sea-shipping-lanes>; on 19 th Aug 2026.

provided for the voyage to proceed via Suez, and the risk of piracy in the Gulf of Aden was well known and specifically contracted for at the time of fixing, the shipowner could not have invoked the general war risks clause to refuse to transit that route. Read together with *MUR Shipping*, the two decisions point to the same underlying principle: reasonable endeavours and war risk provisions are assessed strictly by reference to the bargain the parties actually struck, not by reference to what a tribunal might, with hindsight, consider a more prudent or convenient course. An owner who fixes a charterparty for the Red Sea route after the Houthi attacks became widely known may accordingly find it harder to invoke force majeure or war risk in respect of that same risk than an owner whose charterparty predates the crisis. *MUR Shipping* strengthens the position of the party invoking force majeure or war risk provisions in the latter case by making clear that reasonable endeavours is not a backdoor mechanism for compelling acceptance of a bargain the parties did not make, but it does not assist a party seeking to escape a risk it specifically agreed to bear.

That said, the decision cuts both ways for disputes lawyers advising in this space. Because the Court's reasoning is explicitly anchored to the absence of clear wording, parties who wish to impose a broader obligation, for example, requiring a shipowner to accept a reasonable alternative route, port or currency of payment when disruption arises, remain free to do so by express drafting. The post-*MUR Shipping* generation of force majeure clauses, and BIMCO's own updated model clauses, increasingly spell out what "reasonable endeavours" is and is not intended to capture, precisely to avoid the interpretative uncertainty that plagued three tiers of the English courts in this case. Advising on the drafting, and later the interpretation, of such bespoke clauses is likely to be a significant source of instructions as Red Sea disruption persists.

B.2 The Strait of Hormuz

The Strait of Hormuz presents the more acute of the chokepoints considered in this article. Since late February 2026, escalating conflict between the United States, Israel and Iran has led to a de facto closure of the Strait, with the Islamic Revolutionary Guard Corps (IRGC) issuing warnings that transit is forbidden, hundreds of vessels anchoring on both sides of the waterway, and reports of Iran operating a selective passage regime under which transit is permitted only with IRGC approval, reportedly on payment of a substantial fee.⁷ Several major producers and traders, including state-owned entities and long-term liquefied natural gas suppliers, have declared force majeure across a broad range of contracts, from charterparties to commodity sale agreements and offtake arrangements.⁸

As with the Red Sea, the critical point of English law is that the Strait remains technically navigable, at least as a matter of international law, since United Nations Convention on the Law of the Sea (UNCLOS) does not permit Iran to obstruct transit passage through an international strait, and UK and US maritime authorities have expressly stated that VHF broadcasts purporting to close the Strait are not legally binding.⁹ This creates the same structural difficulty *MUR Shipping* addresses: a party invoking force majeure must show not merely that the region is dangerous or that costs have risen sharply, but that the specific event falls within the clause's defined triggers and has actually prevented, or sufficiently

⁶ *Herculito Maritime Ltd and others v Gunvor International BV and others, The Polar* [2024] UKSC 2.

⁷ Meade, R., Diakun, B., & Raanan, T. (2026, March 18). Iran establishes 'safe' shipping corridor for approved and paid for transits. *Lloyd's List*. Site accessed from <https://www.lloydslist.com/LL1156656/Iran-establishes-safe-shipping-corridor-for-approved-and-paid-for-transits>; on 18 th Aug 2026.

⁸ Chow, E. & Rashad M. (2026, July 23). QatarEnergy extends LNG force majeure and charters out tankers into October, sources say. *TheEdge*. Site accessed from <https://theedgemalaysia.com/node/811835>; on 18 th Aug 2026.

⁹ Ship & Bunker News Team. (2026, February 28). Ships Being Warned Strait of Hormuz 'Has Been Closed': UKMTA. Ship & Bunker. Site accessed from <https://shipandbunker.com/news/world/540728-ships-being-warned-strait-of-hormuz-has-been-closed-ukmta>; on 18 th Aug 2026.

hindered, the particular obligation in question, and that reasonable endeavours to overcome that impediment, properly understood by reference to the contractually agreed performance, have been exhausted.

MUR Shipping is directly relevant to two recurring issues in the current Hormuz disruption. First, where a charterer or buyer proposes an alternative means of performance, for example, discharge at a different Gulf or Indian Ocean port, payment of the reported IRGC transit fee to preserve the contractual route, or acceptance of a different delivery mechanism, *MUR Shipping* confirms that the party invoking force majeure is not obliged to accept that alternative merely because it would avoid the disruption, unless the clause's wording, or a separate cooperation obligation of the kind considered in *Gravelor Shipping Ltd v GTLK Asia M5 Ltd*, requires it.¹⁰ Owners and sellers relying on force majeure should resist any suggestion that paying a ransom-like transit fee to a party such as the IRGC forms part of their reasonable endeavours obligation, not least because doing so may itself raise sanctions and illegality concerns entirely separate from the force majeure analysis. Second, and conversely, counterparties seeking to resist a force majeure declaration should scrutinise whether any reasonable, contractually consistent alternative was actually available and improperly refused, since *MUR Shipping's* reasoning still permits an argument that reasonable endeavours were not exhausted where the alternative would have secured the same contractual performance rather than a substitute for it.

It is worth noting, in passing, that the availability of US military escort for commercial vessels passing through the Strait¹¹ raises its own reasonable endeavours question. The authors will only submit that reasonable endeavours must be assessed by reference to what is genuinely reasonable in the circumstances, particularly given the IRGC's demonstrated willingness and capability to strike escorted vessels. It would therefore be unreasonable to require a party to accept protection from a foreign navy as a precondition to invoking force majeure, particularly where that protection has itself proven capable of failure.

The Hormuz disruption also illustrates why *MUR Shipping's* emphasis on certainty is likely to be tested most severely at the margins. Many force majeure clauses are drafted with discrete events at the loading or discharge port in mind, not disruption occurring mid-voyage in transit, and causation disputes are already emerging as to whether performance was truly prevented or merely rendered more difficult, slower or more expensive, a distinction *MUR Shipping's* insistence on contractual, rather than commercial, impossibility makes decisive. Strict compliance with notice provisions, often a condition precedent to reliance on the clause at all, is proving to be an equally significant source of dispute. Given the scale of the disruption and the number of contracts affected, the Strait of Hormuz is likely to generate the next wave of English law force majeure litigation and arbitration applying *MUR Shipping's* framework, and dispute resolution practitioners should expect these issues to be tested in the Commercial Court and in LMAA arbitration.

(C) Applying The Lessons Learned: The Straits Of Malacca And Singapore (SOMS)

The Straits of Malacca and Singapore present a structurally different, but increasingly

¹⁰ [2023] EWHC 131 (Comm).

¹¹ Christou, W. (2026, July 31). Iran strikes tankers under US escort in Hormuz strait as Trump gathers cabinet to discuss war. *The Guardian*. Site accessed from <<https://www.theguardian.com/world/2026/jul/31/iran-strikes-tankers-us-escort-hormuz-strait-trump-gathers-cabinet>> on 19 th Aug 2026.

pressing, risk profile; one that is bound up with the geopolitical stakes of the strait itself. Since 2003, Chinese strategists have referred to the “Malacca Dilemma,” a term coined by then President Hu Jintao to describe China’s strategic vulnerability arising from its heavy reliance on the Strait of Malacca. In particular, over 83% of China’s oil imports passes through the Straits of Malacca, being the shortest and most cost-effective sea route connecting East Asia to the Middle East and Africa.¹² This strategic chokepoint is one that the US has long sought to dominate, for it would signal, to a large extent, control of the lifeline of China’s petroleum supply.¹³

Now, unlike the Red Sea or the Strait of Hormuz, there has been no single dramatic closure event; the strait remains open and, as an international strait under UNCLOS, coastal states cannot lawfully suspend transit passage. The live legal risk instead arises from the cumulative effect of chronic congestion and a marked resurgence in piracy and armed robbery. More than 102,500 vessels transited the strait in 2025, up sharply from the prior year, and the SOMS recorded a rising number of piracy and armed robbery incidents in 2025, with reports of a near-tripling of incidents compared with the same period in 2024 as vessels are forced to slow down or wait in congested anchorages, making them easier targets.¹⁴ Congestion has itself been aggravated by the diversion of Red Sea traffic into Asian transshipment hubs such as Singapore, Port Klang and Tanjung Pelepas, compounding the two risks.

These conditions do not, on their own, constitute the kind of discrete prevention event that classic force majeure clauses are drafted around. Congestion and slow transit typically sound in demurrage and laytime disputes rather than force majeure: as English authorities confirm, laytime does not commence without a valid notice of readiness¹⁵ and once a vessel is on demurrage, the “once on demurrage, always on demurrage” principle generally continues time running even through subsequent delay, save where the charterparty expressly excepts force majeure or a defined event from the computation.¹⁶ Piracy incidents, by contrast, may be capable of engaging force majeure, war risk or safe port provisions, though this depends entirely on the specific wording of the clause in question. The leading standard clauses, namely the BIMCO Force Majeure Clause 2022, defines force majeure events to include acts of piracy and/or violent robbery and/or capture/seizure, a formulation which should, in principle, extend to the lower-level armed robbery incidents that dominate current SOMS statistics.¹⁷ However, whether a given incident is in fact captured still turns on the precise wording adopted, more so since the risk of piracy in SOMS is now well known and, following *The Polar*, parties fixing charterparties for SOMS trades today can less readily argue that such risk was unforeseen or fell outside the bargain they struck.

Applying *MUR Shipping*’s reasoning to this setting produces a coherent, if commercially demanding, framework. First, an owner facing congestion-related delay or a piracy incident in the Straits cannot treat reasonable endeavours as open-ended; the inquiry remains fixed to what is needed to secure the contractually agreed performance,¹⁸ for example, the agreed route, port or timetable, not to whatever alternative a tribunal might later consider commercially sensible with hindsight. This approach finds a close parallel in Malaysian and Singaporean jurisprudence, which requires that an obligor act reasonably to procure the contractually stipulated outcome, and which recognises that very much falls on to

12 Dosson, R. (2025, July 8). *The Malacca Dilemma: China’s Achilles’ Heel*. *Modern Diplomacy*. Site accessed from https://modern diplomacy.eu/2025/07/08/the-malacca-dilemma-chinas-achilles-heel/ on 19 th Aug 2026.

13 Academy of Chinese Studies. (2026, March 3). *What is the “Malacca Dilemma”?* | *China Petroleum VI*. *Our China Story*. Site accessed from https://www.ourchinastory.com/en/16563/What-is-the-“Malacca-Dilemma”/ on 19 th Aug 2026.

14 London Maritime Academy. (2026, January 17). *Armed Robberies & Piracy Reach a 19-Year High in the Straits of Malacca & Singapore*. *London Maritime Academy*. Site accessed from https://lmitac.com/news/piracy-and-robbery-surge-in-malacca-singapore/ on 18 th Aug 2026.

15 *Glencore Grain Ltd v Flacker Shipping Ltd, The Happy Day* [2002] EWCA Civ 1068.

16 *Union of India v Compania Naviera Aeolus SA, The Spalmatori* [1962] 2 Lloyd’s Rep 175.

17 BIMCO. (n.d.). *Force Majeure Clause 2022*. BIMCO. Site accessed from https://www.bimco.org/contractual-affairs/bimco-clauses/current-clauses/force-majeure-clause-2022/ on 19 th Aug 2026; *Steamship Insurance Management Services Ltd*. (2025, April 28). *Piracy & Sea Robbery – Straits of Malacca & Singapore (SOMS)*. *Steamship Mutual*. Site accessed from https://www.steamshipmutual.com/publications/articles/piracy-sea-robbery-straits-malacca-singapore-soms/ on 19 th Aug 2026; *Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)*. (n.d.). *Classification of Piracy and Armed Robbery against Ships Incidents*. ReCAAP ISC. Site accessed from https://www.recaap.org/classification_of_incidents/ on 19 th Aug 2026.

18 *Intan Payong Sdn Bhd v Goh Saw Chan Sdn Bhd* [2005] 1 MLJ 311 (HC): “It is trite that a party relying upon a force majeure clause...must further prove that...there were no reasonable steps that he could have taken to avoid or mitigate the event or its consequence (*Chitty on Contracts* (28th Edition) Vol 1 at 273-274).”

the words of the clause, what was present to the minds of the parties, and what is necessary to give the clause sensible legal and practical effect.¹⁹

Second, where a charterer proposes an alternative performance to avoid delay, for example, discharge at a different, less congested port, or acceptance of a different notice of readiness protocol, *MUR Shipping* confirms the owner is not obliged to accept that alternative merely because it would reduce or eliminate the disruption, unless the charterparty's force majeure or exceptions clause expressly says so. Third, and conversely, disputes lawyers acting for charterers exposed to demurrage accruing during a piracy-driven slowdown should scrutinise the precise wording of any force majeure or exceptions clause for language broader than *MUR Shipping*'s default position, since only clear wording will assist a charterer seeking to argue that the owner should have taken some alternative reasonable step.

Given that Singapore and London remain the principal seats for maritime arbitration in disputes touching this region, whether under Singapore Chamber of Maritime Arbitration or LMAA terms, *MUR Shipping*'s emphasis on certainty and predictability is likely to be persuasive before tribunals applying English law even where the seat is Asian. Parties trading regularly through the Straits would be well advised to review their standard force majeure, laytime exception and safe port clauses now, before a serious incident forces the issue, and to consider whether bespoke wording is needed to allocate the risk of the region's specific hazards, congestion, piracy and the possibility of coastal state action, rather than relying on the default position *MUR Shipping* now confirms.

Conclusion

MUR Shipping resolves a long-standing uncertainty in the interpretation of reasonable endeavours provisos, restoring a bright-line position that favours contractual certainty over ad hoc fairness assessments. For dispute resolution practitioners in shipping, its significance extends well beyond the sanctions context in which it arose. As Red Sea and the Strait of Hormuz disruptions continue and as congestion and piracy in the SOMS intensify, *MUR Shipping* will be the first port of call whenever a party's entitlement to rely on force majeure, or a counterparty's insistence that some alternative performance should have been accepted, is in dispute. The decision does not resolve every question these chokepoints raise, particularly where congestion, rather than a discrete prevention event, is the source of delay, or where a risk such as piracy in the SOMS has become so well known that a party may struggle to characterise it as unforeseen or outside the bargain it struck, but it supplies the interpretative framework within which those questions must now be argued, and a strong incentive for parties to address these risks expressly in their contracts rather than leave them to the default position the Supreme Court has now settled.

¹⁹ *The New Straits Times Press (M) Bhd v Aideah Communication Sdn Bhd* [2025] 3 MLJ 240 (FC) at [79]-[81], [120]; *Ng Koon Yee Mickey v Mah Sau Cheong* [2022] SGHC(A) 33 at [104].

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