# Silcher and Duffy in Hellenic Shipping News: Force Majeure in the Age of Geopolitical Shock and Energy Security

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Haynes Boone Partner **Andreas Silcher** and Counsel **Mette Duffy** co-authored an article for *Hellenic Shipping News* examining how force majeure clauses under English law apply to ongoing geopolitical disruptions like the Strait of Hormuz closure and why companies in the shipping and energy sectors must carefully draft contracts to address evolving risks.

Read an excerpt below.

*As the Strait of Hormuz enters its eleventh week of effective closure with hundreds of vessels at anchor and roughly one-fifth of the world's seaborne oil trade at a standstill, a recurring question asked by industry leaders globally is: does this trigger force majeure? The answer is that it depends on the precise wording of the force majeure clause and the context in which the contract was concluded. We take a closer look at the position under English law, which governs a large proportion of the world's shipping and energy contracts.*

## *Ongoing Geopolitical Disruption – A New Normal*

*The Strait of Hormuz crisis did not arrive in a vacuum. It follows the Houthi attacks on Red Sea shipping, the rerouting of global trade around the Cape of Good Hope and the cascading effects of the Russia-Ukraine conflict on energy supply chains.*

*For shipowners, charterers, commodity traders and energy companies alike, the instinct is to reach for the force majeure clause. QatarEnergy and Bapco Energies have declared force majeure on deliveries, with several major energy traders in turn invoking force majeure in their downstream supply.*

## *A Higher Bar Than You Might Think*

*Under English law, there is no freestanding doctrine of force majeure. Force majeure only exists to the extent that the contract expressly provides for it and everything relies on the precise drafting of the force majeure clause and the context in which the contract was concluded, including: what events qualify as force majeure, what level of impact is required, what obligations the claiming party must satisfy and what relief is available.*

*A force majeure clause will typically define force majeure events as those events beyond a party's control and provide a list of force majeure events (for example: war, epidemics and natural disasters), often followed by a catch-all provision, such as 'or any other event or circumstances beyond the reasonable control' of the party seeking to rely on the clause. The party invoking the force majeure clause bears the burden of proof. Suspension of performance under a force majeure clause may be contingent on the affected party giving notice to the other party and mitigating the*

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*effects of the force majeure event. Force majeure clauses may also allow either or both parties to terminate the contract if the suspension continues beyond a 'longstop' period.*

Read the full *Hellenic Shipping News* article **here**.

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