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Mining and the global supply chain:

The sulphuric acid crisis

China has permitted its first outbound shipment of sulphuric acid since May, despite wider export restrictions remaining in place.[1] The 32,000 tons shipment, which left Nanjing for Chile, is a small fraction of the approximately four million metric tonnes of sulphuric acid that Chile annually imports, and it is unclear whether further shipments will follow.[2]

Sulphuric acid is essential to the production of copper, lithium, nickel, cobalt and uranium.

The restriction of China's exports of sulphuric acid since May, is part of a wave of global protectionism that has arisen out of the ongoing Middle East conflict. Prior to the conflict, the Middle East accounted for one third of global sulphur production. Half of the world's seaborne sulphur trade transited through the Strait of Hormuz. Since then:

- 7 April 2026, Turkey imposes export restrictions on sulphur exports
- 1 May 2026, China, producer of more than 40% of the world's sulphuric acid, introduces restrictions on most exports to protect domestic supply
- 31 May 2026, Russia extends its own sulphur export ban through June 2026

The commercial effect is significant. Chile's CFR Mejillones spot prices doubled in under seven weeks, from US$190 per metric ton on 25 February 2026, to US$380 per metric ton by 15 April 2026.[3]

Sulphuric acid's share of hard-rock lithium processing costs has reportedly increased from around 3% to 11%, while sulphur's share of costs in certain nickel operations has risen from 26% to approximately 42%.[4] Some refiners have already reduced production because of limited physical supply.[5]

From a legal perspective, the below contractual considerations may be relevant when considering who will bear the immediate additional cost and supply risk of the ongoing export bans.

1 "China Ships Out First Sulfuric Acid Cargo Since Halt on Exports", Julian Luk, *Bloomberg*, September 2026.

2 "China's Sulfuric Acid Restrictions Set to Squeeze Miners", Kip Keen, *S&P Global*, April 2026.

3 "No Quick Sulfuric Acid Fix for Chilean Copper Sector: Analysts", Kip Keen, *S&P Global*, April 2026.

4 "What the Sulphuric Acid Supply Crunch Means for Critical Minerals", Matthew Bird, *Benchmark Minerals*, May 2026.

5 Ibid.

Force majeure

Under English law, *force majeure* can only be relied upon where expressly provided for in the contract. Often the clauses extend to government or export bans or embargoes, which depending on the wording of the clause, may be of relevance to the current sulphuric acid export restrictions.

When reviewing the *force majeure* clause, the following questions should be considered:

- Does the event fall within the categories set out under the clause?
- Was the event causative?
- Has the threshold (delayed, prevented or hindered etc.) been met for relief?
- Could the event or impact of the event be avoided or mitigated?
- Are there notice provisions, and have they been met?
- What are the consequences of relying on the force majeure clause?

This last question is important. Invoking force majeure does not simply exclude a party's liability – it may trigger rights, such as:

- Termination rights after prolonged nonperformance
- Suspension of exclusivity or supply commitments
- Obligations to implement contingency measures

The short-term benefit of *force majeure* may therefore be outweighed by the long-term contractual or commercial risks. Parties must consider whether invoking *force majeure* could inadvertently give a counterparty a strategic advantage. For example, a supplier may rely on a *force majeure* clause to evade the immediate repercussions of their inability to supply, but could find itself permitting the buyer to exit an otherwise profitable long-term agreement.

It should also be noted that *force majeure* relates to unforeseeable events, which are not in contemplation when the parties contracted, therefore for contracts recently entered into, the ability to rely on *force majeure* for sulphuric acid export bans/government restrictions, may become much more difficult.

Price adjustment or indexation provisions

Parties to long-term supply agreements may link the contract price to a published benchmark, that reflects how they allocated the risk of market movements. These clauses may therefore be of assistance where there is considerable price volatility. Depending on the wording of the clause, parties should consider:

- Are prices tied to a specific benchmark or third-party assessment process?
- Does the clause contain a cap, floor or threshold before being triggered?

Hardship clauses

Hardship clauses seek to protect parties against the risk of hardship caused by unforeseen changes that impact the economic equilibrium of the contract. Such clauses have been described as the "ultimate safety net" or "manual override". Once triggered, they typically permit renegotiation or arbitration to adjust the contract terms to alleviate the hardship, or termination if such adjustment cannot be agreed or accommodated.

Under English law, the meaning of "hardship" will depend on the terms of the particular clause. The initial questions will be:

1. What is the definition of hardship under the clause?
2. Is the clause linked to any assumptions?
3. Are there any exclusions?
4. Does the clause need to be triggered, and if so, are there notice provisions?
5. What are the consequences, negotiation, arbitration and/or termination?
6. What are the continuing performance obligations?

Looking across the contractual chain

The immediate supply agreement should not be reviewed in isolation. A shortage may also affect offtake agreements, mineral sales contracts, financing documents, joint venture arrangements and project delivery obligations.

The same event may have different consequences under each agreement. A miner might receive *force majeure* relief from a supplier, but remain liable to its offtakers or purchasers for any resulting failure to supply contracted volumes. Equally, a temporary shortage may not justify terminating a commercial contract, but could affect production commitments, delivery obligations, financial covenants or access to further funding.

Businesses should therefore assess their position across the contractual chain and ensure that statements made to suppliers are consistent with those made to offtakers, purchasers, lenders, insurers and other project counterparties.

Practical steps

- **Review the contractual risk allocation** – This includes reviewing the events covered by *force majeure*, the applicable causation threshold and any hardship, price adjustment, termination or dispute resolution provisions.
- **Check the notice requirements** – This includes when it must be given, how it must be served and what information it must contain.
- **Comply with any reasonable endeavours or mitigation requirement** – Investigate alternative suppliers, sources, products and shipping routes, as well as recording why any option was not commercially or operationally viable.
- **Preserve evidence of causation and impact** – This includes government measures, supplier communications, shipping data and operational records.
- **Assess the wider contractual chain** – Particularly assess customer and offtake contracts, financing arrangements and insurance policies, where the same event may have different legal consequences.
- **Engage counterparties early, while preserving existing rights** – Explore temporary pricing, revised volumes, deferred deliveries or alternative sourcing arrangements, as well as considering any consequences of invoking formal relief.

A commercial response

The recent shipment from China shows that market conditions can change quickly. If your business is preparing to issue a force majeure notice, or if you need to review your price adjustment clauses to manage the price volatility or simply want to consider what options may be available, we would be happy to assist.

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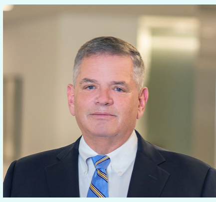

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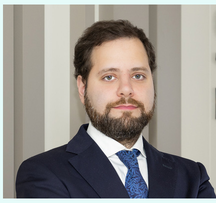

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