

VIDEO WEBINAR SERIES on
IMPACT OF FORCE MAJEURE

**Impact of
Force Majeure on
Construction Contracts**

April 30, 2020
11:00 am-12:15 pm

**Impact of Force Majeure
on Financial Agreements
for Infrastructure Projects**

May 4, 2020
3:00 pm-4:15 pm

**Impact of
Force Majeure on the
Power Sector**

May 6, 2020
11:00 am-12.15 pm

Organisers:

**Indian
Infrastructure**

POWERLINE

RenewableWatch

IMPACT OF FORCE MAJEURE ON CONSTRUCTION CONTRACTS

The Covid-19 pandemic has adversely impacted the execution of contracts. The Ministry of Finance recently issued a clarification with respect to the invocation of force majeure for government contracts facing supply chain disruptions. The government also clarified that firms can invoke the clause and treat Covid-19 a “natural calamity”.

In order to obtain relief, contracting parties are invoking force majeure for extension of timelines and insulation from financial damages. However, it is expected that contracts will continue to face disruptions even after the nationwide lockdown is lifted. Limited availability of raw material, labour and funds will make project delays rampant. In this context, there is a need to revisit contractual terms and identify potential routes for discharging obligations during and post the Covid-19 phase.

The mission of this webinar is to provide an understanding of the force majeure clause in light of the contractual disruptions, discuss the potential safeguards and strategies, and examine the need for long-term contract renegotiations.

The webinar will provide a platform for a very useful exchange of information and ideas about both the challenges and the strategies to meet those challenges.

The webinar will feature a 15 minute presentation by a sector consultant and have a 70/75-minute moderated panel discussion featuring three to four senior representatives from implementing agencies, EPC contractors and legal experts.

The panel will address questions such as:

- ❖ What will be the impact of invoking force majeure on construction contracts across infrastructure sectors?
- ❖ What are the contractual provisions covered by the clause?
- ❖ What will be the process of renegotiation?
- ❖ What are the measures being put in place to handle disputes arising out of such renegotiations?

IMPACT OF FORCE MAJEURE ON FINANCIAL AGREEMENTS FOR INFRASTRUCTURE PROJECTS

Covid-19 is expected to have significant financial implications for infrastructure projects. While firms are looking at the invocation of force majeure to claim relief, the financial agreements may or may not cover the exclusion of debt service obligations in such cases. The nationwide lockdown has adversely impacted cash flows of developers and made debt servicing difficult. For lenders, a payment default by a borrower could trigger a number of other events of default based on covenants in the financing documents. It is in this context that the lenders and developers need to arrive at suitable mitigation strategies for refinancing, restructuring and rescheduling of financial obligations. With regard to projects awaiting financial closure, a suitable mechanism around the extension of time period needs to be deliberated on.

The mission of this webinar is to provide an understanding of how the invocation of force majeure by infrastructure players will impact financial obligations in the case of both revenue generating projects and those awaiting financial closure, as well as discuss potential solutions for risk sharing in light of the current disruptions.

The webinar will provide a platform for a very useful exchange of information and ideas about both the challenges and the strategies to meet those challenges.

The webinar will feature a 15 minute presentation by a sector consultant and will have a 70/75-minute moderated panel discussion featuring three to four experts from legal firms, transaction advisers and banks/NBFCs.

The panel will address questions such as:

- ❖ What will be the impact of invoking force majeure on the financial agreements of infrastructure projects? What are the potential mitigation strategies?
- ❖ What are the refinancing and restructuring measures being looked at?
- ❖ What is the lenders' stance on the evolution of the financing scenario on account of the current disruptions?
- ❖ What are the strategies likely to be adopted to resolve the issues around fund raising for projects awaiting financial closure?

IMPACT OF FORCE MAJEURE ON THE POWER SECTOR

The Covid-19 pandemic has resulted in a severe strain across most sectors, including the power sector. The demand for power has reduced by as much as 30 per cent, particularly as commercial and industrial activity has come to a standstill. This has constrained the discoms' power offtake ability, leading to curtailment of generation from power plants. To justify non-payment to gencos, discoms have tried to invoke the force majeure clause, citing liquidity constraints. According to gencos, by invoking this clause, discoms have tried to absolve themselves from paying even fixed charges, thus leading to a violation of PPAs. However, the Ministry of Power and the Ministry of New and Renewable Energy have both clarified that discoms will not be allowed to do so and that they will have to continue to meet their payment obligations. The application of force majeure is extremely nuanced, considering the layered and complex nature of the power sector, and can have long-drawn financial and operational repercussions.

The mission of this webinar is to understand, assess and analyse the on-ground impact of force majeure on various stakeholders in the power sector.

The webinar will provide a platform for an impactful assessment of information and ideas about both the challenges and the strategies to meet those challenges.

The webinar will feature a 15 minute presentation by a sector consultant and have a 70/75-minute moderated panel discussion among key power sector stakeholders featuring a conventional power producer, a renewable power producer, a public discom and a public sector generation company.

The panel will discuss questions such as:

- ❖ What are the implications of force majeure across various segments of the power sector?
- ❖ What are the contractual provisions for gencos to invoke force majeure?
- ❖ How are conventional and renewable power producers and discoms dealing with force majeure? What measures are being put into place to handle the disputes arising out of renegotiation?

REGISTRATION FEE

- The fee per participant for all the three webinar series is **Rs. 10,800** (USD 170), for any two webinars is **Rs. 8,400** (USD 130) and one webinar is **Rs.5,000** (USD 80). There is also a **20 percent** for those registering before **April 25, 2020**.
- For group subscriptions (upto 5 logins), the price will be twice that of a single login.
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Organisers

The conference is being organised by India Infrastructure Publishing, the leading provider of information on the infrastructure sectors through magazines, newsletters, reports and conferences. It publishes Indian Infrastructure (a magazine devoted to infrastructure policy and finance), as well as Power Line, Renewable Watch and tele.net magazines. The group also produces a series of reports on finance and infrastructure sectors. It organises almost four dozen conferences in a year. Its recent conferences in finance have included: Private Equity in Infrastructure, Real Estate Investment Trusts and Infrastructure Investment Trusts, Infrastructure Finance in India, Insolvency and Bankruptcy, Bonds Financing, External Commercial Borrowings, Legal Issues in Infrastructure, PPP in Infrastructure and Debt Restructuring: SDR & SAA.

The participating organisations at our previous related conferences include: ABB, Adani Ports, Adani Power, Aditya Birla Finance, Aditya Birla Insurance Brokers, AECOM, Afcons, Alon Capital, Alchemist ARC, ALMT Legal, Almus Risk Consulting, Anand Rathi, Anoma Legal Advocate, APIIC, Apprise Insolvency Professionals, ARCIL, ATC Telecom, Axis Bank, Axis Capital, Axis Private Equity, AZB & Partners, B S R & Co. 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