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COVID-19 as a *Force Majeure* in Joint Venture Agreements

by

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Honors Thesis

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April 2023

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INTRODUCTION

In March 2020, the World Health Organization (WHO) officially declared the coronavirus disease (COVID-19) a pandemic. [1] According to the WHO, globally, as of 29 March 2023, there are 761,402,282 confirmed cases and 6,887,000 deaths related to COVID-19. [2] Since its emergence in late 2019, COVID-19 has caused vast disruptions to daily life, including school and business closures, travel restrictions, and social distancing measures.

Most importantly, COVID-19 exposed significant underlying problems in the world. In the global economy, COVID-19 highlighted issues with the fragility of the workforce and the global supply chain. It also revealed significant disparities across nations and economies in the rate of economic recovery. [3] Consequently, there is little doubt that COVID-19 has profoundly impacted the global economy and affected businesses in unprecedented ways.

One important form of business that has been significantly impacted by the pandemic is joint venture agreements or joint ventures. [4] A joint venture is an agreement between two or more parties seeking to develop a single enterprise or project for profit while sharing the risks associated with its development. [5] Joint ventures are a common way for businesses to collaborate and share resources to achieve mutual benefits. However, the pandemic has created unforeseeable circumstances that have affected the ability of joint venture partners to fulfill their obligations. [4] This has led to the question of whether the pandemic can be considered a *force majeure* event. *Force majeure* is a contract provision that relieves parties from an obligation if an extraordinary event directly prevents one or both parties from performing. [6] It is intended to be used as an escape clause to excuse nonperformance or delay in performance in breach of contract cases.

The purpose of this thesis is to first determine whether COVID-19 is a *force majeure* event that could trigger the *force majeure* clause. Second, explore the impact of COVID-19 on joint ventures. Third, determine whether COVID-19 is still a *force majeure* event and affecting joint ventures today. This thesis will also aim to collect data from real-world working professionals to understand if the pandemic has affected joint ventures and whether they consider it a *force majeure* event. Furthermore, this thesis will attempt to compare functional areas presented in the survey to draw conclusions on the discrepancies of sentiments and factors behind them. Ultimately, this thesis aims to provide valuable insights into the legal and practical implications of COVID-19 on joint ventures.

METHODOLOGY

The primary approach used in this thesis is a survey conducted through Qualtrics. The survey was active from February 9, 2023, to March 9, 2023. The purpose of the survey is to provide data and analysis from real-world working professionals. The sole criterion for respondents is that they are working professionals. This criterion was met by sending the survey through anonymous links to the personal connections of Dr. Sime Curkovic Ph.D. and Mrs. Maya Sari Gunawan, SH, M.Kn. Both individuals are also working professionals at Western Michigan University and Bank Central Asia respectively. Dr. Curkovic and Mrs. Gunawan are also located geographically apart, which results in a diversified sample size. Mrs. Gunawan and her connections are mostly in Indonesia, whereas Dr. Curkovic and his connections are primarily in the United States. The difference in location reveals how working professionals in two different countries and economies answer the survey questions asked.

The survey consisted of five questions that took one to three minutes to complete. The survey questions used the Likert Scale model to reach a consensus on the sentiments of working professionals regarding the questions of the survey. Respondents were asked to rate their level of agreement or disagreement with a statement from the following choices: strongly disagree, disagree, neither agree nor disagree, agree, and strongly agree. A brief definition of a joint venture and *force majeure* was also provided to ensure that respondents had a basic understanding of the terms and could respond without misinterpretation or confusion. Appendix A contains the complete survey questions and answer choices.

A joint venture is an agreement between two or more parties seeking to develop a single enterprise or project for profit while sharing the risks associated with its development. [3]

Force majeure is a contract provision that relieves parties from an obligation if an extraordinary event directly prevents one or both parties from performing. [4]

In addition to the survey, this thesis uses a conceptual approach to develop a legal framework for the analysis. The conceptual approach is derived from the legal concepts found in relevant laws governing joint ventures and *force majeure*s. The legal concepts in this thesis are mainly taken from US common law with several civil law concepts thrown in to compare the different legal systems. The conceptual approach will be used to analyze the survey results, which will help in identifying any gaps between the legal framework and the actual practice of joint ventures and *force majeure*s during and after the pandemic. Along with the conceptual approach, this survey will present secondary data derived from a literature review through news articles and academic journals. Overall, the combination of approaches will provide a thorough analysis of the legal framework as well as practical issues concerning joint ventures and *force majeure*s in the onslaught and aftermath of COVID-19.

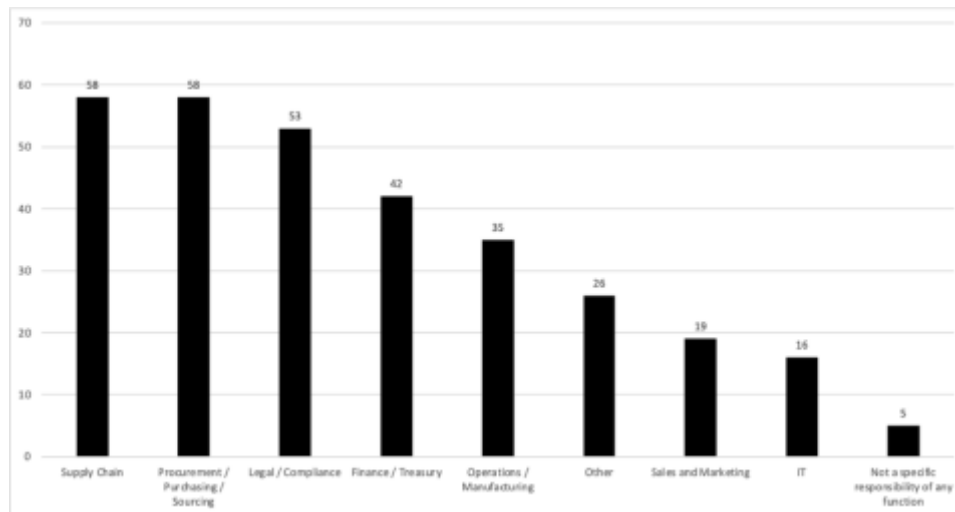
SURVEY FINDINGS AND RESULTS

The survey included a total sample size of 228 respondents. A recurring theme in the findings and results below is that not all the counts or answers in each question totaled the number of 228 respondents. This could be because respondents did not attempt certain questions or did not save their answers before submitting them.

1. Functional areas

The survey's first question asks respondents to choose a functional area that best fits their current line of work. This question was designed to provide context for what different industries think about COVID-19 and its impact on joint ventures. Because respondents could answer more than one functional area in which they work, a total of 312 answers were gathered from a total of 228 respondents.

Figure 1: Question 1 Results



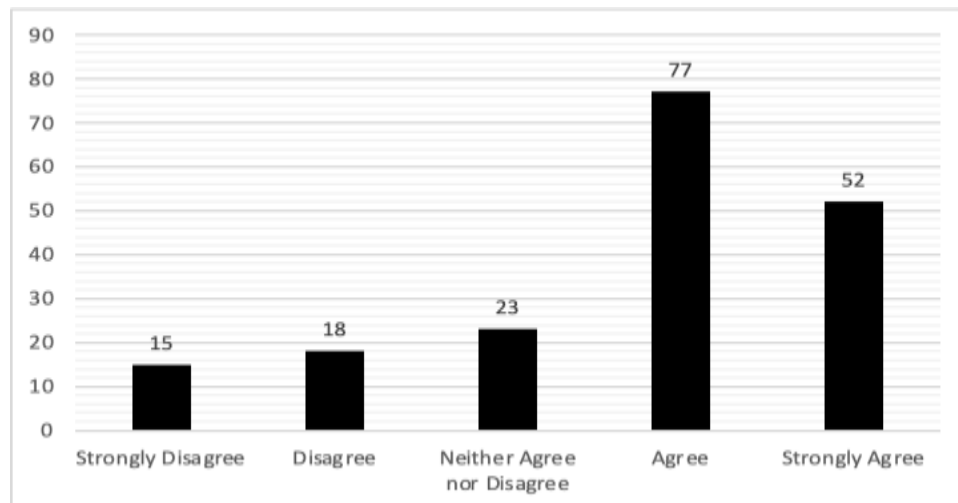
The two major functional areas in the sample size are professionals that are in the supply chain management and legal/compliance industries. Supply chain management includes the following functional areas: supply chain, procurement, purchasing, and sourcing. This outcome was not surprising given how the survey was distributed to Dr.

Curkovic and Mrs. Gunawan's connections. Considering Dr. Curkovic's vast connections to Western Michigan University's Department of Integrated Supply Chain Management students and alumni, most of his connections are almost probably working in the supply chain management industry. Ms. Gunawan's connections to the legal department of Bank Central Asia also enabled a significant number of legal/compliance professionals to the sample size.

2. COVID-19 as a *force majeure* in joint ventures (2020-2022)

Question 2 addresses the first major problem of this thesis: whether COVID-19 is considered a *force majeure* event in joint ventures. Question 2 specifically asks respondents how strongly respondents agree with the statement that COVID-19 is a *force majeure* on joint ventures from the years 2020-2022.

Figure 2: Question 2 Results



With a total of 185 respondents, the majority of 77 respondents (41.62%) agreed that COVID-19 constituted a *force majeure*. Furthermore, 52 respondents (28.11%) also strongly agreed with the statement in the question. This concludes that over half of the respondents (69.73%) fell into positive sentiments of agreeing or strongly agreeing with

the statement that COVID-19 is considered a *force majeure* in joint ventures over the last three years (2020-2022).

3. Impact of COVID-19 on joint ventures (2020-2022)

Question 3 addresses the second major problem of this thesis which is the impact of COVID-19 on joint ventures. Respondents are asked how strongly they agree with the statement that COVID-19 has threatened or negatively impacted supplier-buyer relationships in joint ventures over the past three years (2020–2022). This could imply that one partner in a joint venture failed to perform its responsibilities or that the joint venture had to be renegotiated or even terminated.

Figure 3: Question 3 Results

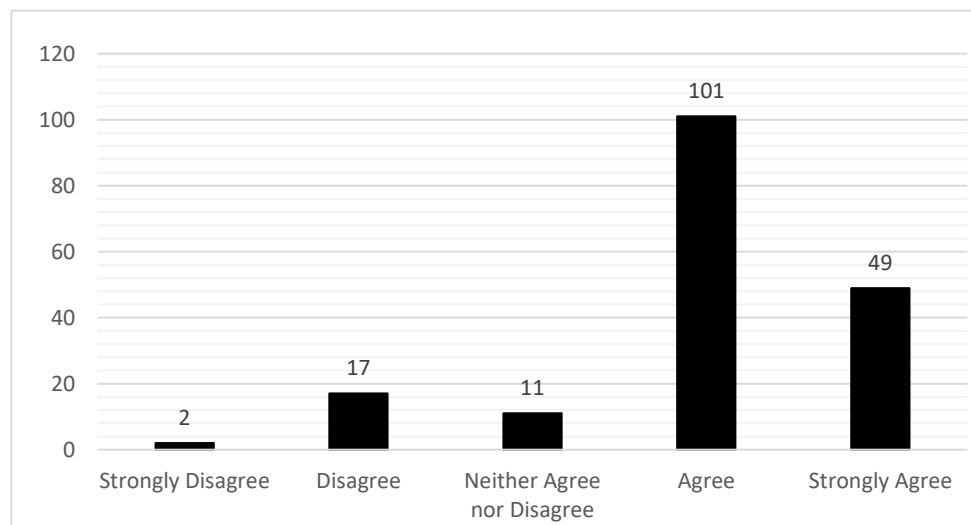


Figure 3 reveals a substantial number of respondents answering “agree”. Of 180 respondents, 101 respondents (56.11%) concur with the question's statement. The second largest data with 49 respondents (27.22%) also demonstrates a positive sentiment of strongly agreeing. This indicates that working professionals generally agree that COVID-19 did, in fact, threaten or negatively impact joint ventures in 2020–2022.

4. COVID-19 as a *force majeure* in joint ventures (2023)

Question 4 is the exact same as question 2 with the only difference being one crucial factor: time. Time is a key factor in this thesis because this thesis aims to discover what working professionals believe about COVID-19 both during and after the pandemic. This question asks respondents how strongly they agree with the statement that COVID-19 is still considered a *force majeure* in joint ventures at our present time (2023).

Figure 4: Question 4 Results

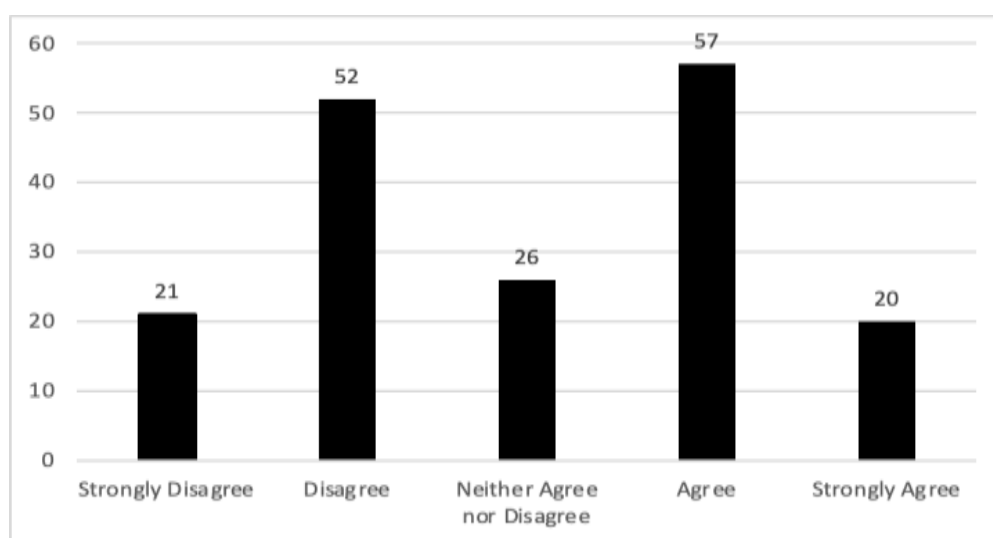
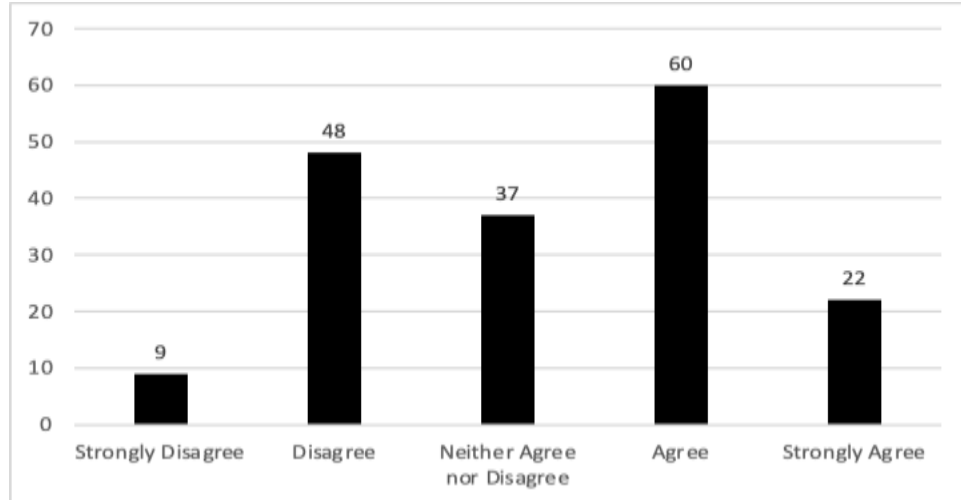


Figure 4 stands out from Figures 2 and 3 immediately. In Figures 2 and 3, the majority answered “agree” or “strongly agree.” This shows that respondents generally agreed with the statements in Questions 2 and 3. Here, Figure 4 depicts a more diverse answer pool. Of 176 respondents, 57 respondents (32.39%) agree that COVID-19 is still considered a *force majeure* in joint ventures today. However, 52 respondents (29.55%) appear to be on the opposing side, disagreeing that COVID-19 is still a *force majeure* event today. The very close difference between those who agree and those who disagree reveals the conflict that working professionals have regarding the statement in question.

5. Impact of COVID-19 on joint ventures (2023)

Question 5 has a similar concept to Question 4 and only differentiates the time in question. Question 5 asks what respondents think about the statement that COVID-19 is still threatening or negatively impacting joint ventures at our present time (2023).

Figure 5: Question 5 Results



Out of 176 respondents, 60 respondents (34.09%) agreed with the statement that COVID-19 is still threatening or negatively impacting joint ventures at the present time. In contrast, 48 respondents (27.27%) disagreed with the statement. As a result, the majority of respondents agreed that COVID-19 is still threatening or negatively impacting joint ventures at our present time.

Figure 5 illustrates a diverse answer pool, similar to Figure 4, but with a larger difference between the first and second largest data. This finding indicates that respondents appear to agree more with the statement that COVID-19 is still threatening or negatively impacting joint ventures, rather than the statement that COVID-19 is still considered a *force majeure* in joint ventures at our present time.

LEGAL FRAMEWORK

When determining whether a *force majeure* clause may excuse a party from nonperformance or delay in performance, the governing law applicable to a given joint venture must be considered. A governing law clause in a joint venture agreement must be written clearly so that parties know which law they must argue and frame their arguments on in the event of a dispute. The two major legal systems for governing law are common law and civil law.

Force majeure stems from a civil law concept and is presently adopted by civil law countries such as France, China, and Indonesia. [7] Consequently, common law countries (such as the United Kingdom and the United States) do not typically codify *force majeure*. However, it is also worth noting that *force majeure* is still frequently addressed in contracts regulated by common law jurisdictions.

When it comes to contractual nonperformance, common law jurisdictions generally recognize three main defenses: doctrines of impossibility, commercial impracticability, and frustration of purpose. [6] The three doctrines, like a *force majeure* clause, excuse a party from performing its obligations due to an unforeseeable event beyond reasonable control. These three doctrines differ from a *force majeure* clause in that they do not require a specific *force majeure* clause to argue against nonperformance or delay in performance. Nonetheless, it does give protection to excuse nonperformance caused by certain listed extraordinary and unexpected events.

In most cases, common law jurisdictions require a *force majeure* clause to be written into a joint venture for one party to invoke it. [8] As a result, parties to a joint venture agreement must use good faith to ensure mutual protection in writing a *force majeure* clause. [9] Parties to a prospective joint venture agreement would ideally draft a *force majeure* clause that (a) identifies

the nonperformance or delay in performance that will be excused, (b) defines the *force majeure* event (often by a laundry list of qualifying events but it can be by a functional description), (c) specifies the causal connection between the *force majeure* event and the delay/nonperformance and (d) provides the result (for example, is the time for performance simply suspended until the *force majeure* event has ended). [10] The following is an example of a *force majeure* clause in a joint venture:

Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including but not limited to fire, floods, embargoes, war, acts of war, insurrections, riots, strikes, lockouts or other labor disturbances, or acts of God; provided, however, that the party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either party shall provide the other party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure.

[11]

Under civil law, *force majeure* clauses are written in a country's codes. For example, Articles 1244 and 1245 of the Indonesian Civil Code ("ICC") govern *force majeure*s in Indonesia.

Article 1244: An Obligor shall be required to provide compensation for costs, losses, and interest if Obligor cannot prove that the nonperformance or the late performance of the Obligor's obligation is the result of an unforeseen event for which the Obligor was not responsible, provided Obligor was not acting in bad faith.

Article 1245: No compensation for costs, losses, and interest shall be payable if Obligor, because of an act of God or an accident, was prevented from delivering or performing an obligation that Obligor was obliged to deliver or perform, or Obligor was compelled to do something that it was prohibited from doing. [12]

Codes alone are insufficient to invoke a *force majeure* clause. Codes define specific circumstances under which a party may invoke a *force majeure* clause. As a result, judicial systems continue to play a significant role in determining whether a party may invoke a *force majeure* clause under these codes. This is where, despite their differences, civil and common law

intertwine. A common thread between civil and common law is that to successfully invoke a *force majeure* clause, one must pass a three-part test (“*force majeure* test”):

1. A *force majeure* event has occurred (an unforeseeable event beyond the reasonable control of the parties involved).
2. The *force majeure* event has rendered that party unable to perform its obligations under the contract.
3. The party invoking the clause has made reasonable efforts to mitigate both the event and its effect. [13]

The first two parts of the *force majeure* test are similar to the doctrines of commercial impracticability and impossibility under US common law. Commercial impracticability is defined as “some unexpected event has made it extraordinarily difficult and unfair for one party to perform its obligations,” and impossibility is defined as “some event has made it impossible to perform an agreement.” [14] The definitions of both doctrines coincide with the first two requirements of the *force majeure* test. However, the two doctrines are not necessary requirements to successfully invoke a *force majeure* clause. If the contract at issue has a *force majeure* clause that is being litigated, it is very possible (probably even likely) that commercial impracticability and “impossibility might not be mentioned.

The third part of the *force majeure* test has significant roots in the doctrine of “good faith and fair dealing.” The doctrine of good faith and fair dealing is required in all contracts under the US common law. [15] According to the Restatement (Second) of Contracts, § 201, “every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement.” [16] In addition to the common law, the Uniform Commercial Code (UCC), defines good faith and fair dealing as, “honesty in fact and the observance of reasonable commercial standards of fair dealing.” [14] It is still possible under the doctrine of good faith and fair dealing for one to not make reasonable efforts to mitigate nonperformance. Consequently, the third part of the *force majeure* test requires all parties to a contract or joint venture to not only exercise

good faith and fair dealing but also to take reasonable steps to fulfill their obligations and to mitigate the harm incurred by a potential *force majeure* event. A party who invokes the *force majeure* clause must have taken all reasonable steps to ensure their performance and avoid nonperformance altogether.

ANALYSIS

1. Legal analysis

a. Introduction

According to the Qualtrics survey, most working professionals agreed that COVID-19 is a *force majeure* in joint ventures from 2020-2022. In 2023, most professionals still agreed that COVID-19 is a *force majeure*, but there are far more respondents who disagree. The data presents the real-life legal dilemma that happens when deciding whether COVID-19 could still invoke a *force majeure* clause in the present time.

Nonetheless, this legal analysis concludes that COVID-19 was a *force majeure* event in joint ventures during the onslaught of the COVID-19 pandemic (2020-2022) and will continue to be a *force majeure* event in the aftermath of the pandemic (2023). In addition to the legal framework discussed, this section will investigate previous court decisions (precedents) to see if a pandemic has ever been declared a *force majeure* event in the past and how courts interpret *force majeure* clauses. The precedents below are selected as illustrative examples and not an exhaustive canvas or summary of applicable law.

b. Precedents

Citrus Soap Co. v. Peet Bros. Manufacturing Co. (1918)

The following case occurred during The Spanish Influenza or Spanish flu (1918-1920), a pandemic with symptoms similar to COVID-19 that also wreaked havoc on the global economy. This case also established the three-part *force majeure* test, which is still used today. The case involves Citrus Soap which promised to deliver glycerin in several installments to Peet Bros. Under the contract, Citrus Soap was to deliver the final installment of glycerin to Peet Bros. before December 31, 1918.

However, the Spanish flu struck San Diego, where Citrus Soap had its factory. The city also imposed a quarantine, further disrupting the factory's production process. A few days after the quarantine was announced, Citrus Soap notified Peet Bros. that the final installment of glycerin would be delayed but would be delivered “in a timely manner.” The final installment was finally delivered to Peet Bros. a week after the deadline. Unexpectedly, Peet Bros. filed a lawsuit seeking damages for the delivery’s delay. Both trial and appellate courts agreed that Peet Bros. was not entitled to damages due to the *force majeure* clause. The following parties had the following *force majeure* clause:

This contract is made subject to suspension in case of fire, flood, explosion, strike or unavoidable accident to the machinery or the works of the producers or receivers of this material, or from any interference in plant by reason of which either buyers or sellers are prevented from producing, delivering or receiving the goods and in such event the delivery thus suspended is to be made after such disabilities have been removed; otherwise to be fulfilled in good faith. Notice, with full particulars and the probable term of the continuance of such disability, shall be given to the other party hereto, within ten days of the date of the occurrence of such disability. [17]

Applying the *force majeure* test, the courts determined that: (1) The Spanish flu and San Diego quarantine was an “unavoidable accident” and became an “interference in plant” triggering the *force majeure* clause above. (2) The quarantine

“prevented from production, delivering, or receiving” the final installment of glycerin. It made it impossible for Citrus Soap to deliver on time for the December 31 deadline. (3) Although Citrus Soap did not give notice with “full particulars” (exact date) to Peet Bros., the courts found that Citrus Soap still acted in good faith by providing notice of the delay and delivering the final installment as soon as possible.

JN Contemporary Art LLC v. Phillips Auctioneers LLC (2022)

This is a recent case that took place during the onslaught of the COVID-19 pandemic. It involves Phillips, which had an agreement with JN to auction the Stingel painting. As a result of the COVID-19 lockdown in the state of New York, which was announced on March 20, 2020, Phillips postponed the auction until June 22, 2020. After the notice of postponement, Phillips reassured JN that the auction would happen. On June 1, however, Phillips sent a letter of termination to JN, stating that Phillips would be unable to fulfill its obligations to conduct the auction. In retaliation, JN filed a breach of contract lawsuit against Phillips. According to JN, Phillips terminated the agreement because the market for the Stingel painting had weakened. Phillips would ultimately lose money on the sale in addition to paying JN the guaranteed minimum. Phillips filed a motion to dismiss in response to the suit. Phillips claimed that the *force majeure* clause in the joint venture agreement allowed them to terminate the agreement without consequence. According to the *force majeure* clause:

In the event that the auction is postponed for circumstances beyond our or your reasonable control, including, without limitation, as a result of natural disaster, fire, flood, general strike, war, armed conflict, terrorist attack or nuclear or chemical contamination, we may terminate this Agreement with immediate

effect. In such event, our obligation to make payment of the Guaranteed Minimum shall be null and void and we shall have no other liability to you. [18]

The court found that the COVID-19 and New York lockdown were both considered a *force majeure* event. Although the pandemic was not specifically mentioned in the *force majeure* clause, it was included in the catch-all phrase “circumstances beyond our or your reasonable control.” Phillips acted in accordance with the *force majeure* clause, which states that “in the event that the auction is postponed due to circumstances beyond our or your reasonable control...we may terminate this Agreement with immediate effect.”

The court also did not address the issue of impossibility under the second part of the *force majeure* test. Phillips could still perform its obligations after the lockdown and implement a form of an online auction, proving that it was not impossible to perform its obligations. When asked about Phillips’ pretextual motive for terminating the agreement, the court ruled that because Phillips properly “exercise[d] its contractual right to terminate the Stingel Agreement, its motives for doing so are irrelevant.” [16] The court has now consistently held that Phillips acted within its contractual right to terminate, and it appears that the same argument would be made against the doctrine of impossibility.

In re Hitz Rest. Grp. (2020)

This is another recent case that occurred during the onslaught of the COVID-19 pandemic. This case is distinct from the previous two in that it is filed in the United States Bankruptcy Court for the Northern District of Illinois. The landlord, Kass Management Services Inc. (“Kass”), filed a lawsuit seeking post-petition rent for its

tenant's restaurant building. The tenant, Hitz, claimed that the *force majeure* clause in the lease excused its obligations to pay the rent owed to Kass.

Landlord and Tenant shall be excused from performing its obligations or undertakings provided in this Lease, in the event, but only so long as the performance of any of its obligations are prevented or delayed, retarded or hindered by... laws, governmental action or inaction, orders of government... Lack of money shall not be grounds for Force Majeure. [19]

Hitz argued that the *force majeure* clause was triggered on March 16, 2020, when an executive order was issued by Governor Pritzker of the state of Illinois. The same order was extended twice to April 30, 2020, and then to May 20, 2020.

Beginning March 16, 2020 at 9 p.m. through March 30, 2020, all businesses in the State of Illinois that offer food or beverages for on-premises consumption—including restaurants, bars, grocery stores, and food halls—must suspend service for and may not permit on-premises consumption. Such businesses are permitted and encouraged to serve food and beverages so that they may be consumed off-premises, as currently permitted by law, through means such as in-house delivery, third-party delivery, drive-through, and curbside pick-up. In addition, customers may enter the premises to purchase food or beverages for carry-out. However, establishments offering food or beverages for carry-out, including food trucks, must ensure that they have an environment where patrons maintain adequate social distancing. [17]

Kass argued three main points on why Governor Pritzker's executive order was not considered a *force majeure* event: (1) Because the executive order did not shut down the Illinois banking system or post offices, Hitz was able to write and send checks to Kass. (2) Hitz's failure to perform is merely due to a "lack of money," which is not supported by the lease's *force majeure* clause. (3) Hitz could have applied for a Small Business Administration loan and received funds to pay the rent.

The three arguments were all rejected by the court. The first and second arguments were ruled irrelevant to Hitz's argument in the case. Hitz argued that the *force majeure* clause could be used to excuse its obligation to pay rent due to Governor Pritzker's executive order, rather than its inability to send money and its

lack of funds. The third argument, while raising concerns about the doctrines of impossibility and good faith in the second and third parts of the *force majeure* test, is not based on the lease's *force majeure* clause. The clause only excuses nonperformance in the event that "performance of any of its obligations are prevented or delayed, retarded or hindered by... laws, governmental action or inaction, orders of government."

The court determined that Governor Pritzker's executive order constitutes a *force majeure* event. According to the lease's *force majeure* clause, the executive order was a "governmental action" and "order of government." The court also found that due to not being able to open for business normally, the executive order and its extensions "hindered" Hitz's ability to perform its obligations. However, the court determined that the order did not fully relieve Hitz of its obligation to pay rent. The court did not find circumstantial evidence in the second and third parts of the *force majeure* test. According to the court, the executive order did not prohibit all restaurant operations in Illinois. The order even encouraged restaurants to do take-out, curbside pickup, and delivery. Hitz could still have fulfilled or attempted to fulfill its obligations by offering take-out, curbside pickup, and delivery. As a result, the court ordered Hitz to pay 25% of its past-due rental payments.

c. Application of legal framework and precedent

The legal framework and precedents discussed above can be used to draw several conclusions about how courts handle *force majeure* claims. To begin with, courts generally interpret *force majeure* clauses "as is." In other words, courts will interpret *force majeure* clauses based on what the parties have already written and agreed

upon. For example, the court simply followed the *force majeure* clause in *JN Contemporary Art LLC v. Phillips Auctioneers LLC (2020)* to grant Phillips termination without any prior action because of COVID-19 and the New York lockdown.

Second, even if the legal framework requires courts to follow common law doctrines of impossibility, commercial impracticability, and frustration of purpose, courts will follow what a joint venture's *force majeure* clause says. Based on *In re Hitz Rest. Grp. (2020)*, if an argument falls outside the bounds of a joint venture's *force majeure* clause, courts will generally not acknowledge it.

Third, courts have generally been consistent in establishing the pandemic as a *force majeure* event, beginning with the Spanish flu in 1918-1920 and now with COVID-19. This also implies that if a pandemic were to strike us again in the future, it would still be considered "unforeseeable and beyond reasonable control," and thus a *force majeure* event.

From 2020-2022, courts would almost certainly have agreed with a party invoking the *force majeure* clause due to the COVID-19 pandemic. An accused party would generally be subjected to circumstances like those described in the precedents mentioned, making it easier for both courts and parties to draw parallels and form arguments. The COVID-19 outbreak was clearly an unforeseeable event beyond the reasonable control of any of the joint venture parties. Most countries have also imposed some kind of lockdown or distancing restriction, which has further disrupted general business operations. Countries gradually lifted these bans from 2020-2022 as vaccines spread and cases decreased, but it remained a relevant circumstance.

In the present, circumstances have changed. Most lockdown and social distancing restrictions have been lifted. The COVID-19 pandemic also does not appear to be unforeseeable or beyond the reasonable control of parties in a joint venture. As impossible as it may seem, a *force majeure* clause can still be invoked due to the COVID-19 pandemic at this time. Keep in mind that each case is unique, and courts evaluate it on a case-by-case basis. Even in 2020-2022, courts will consider each case on its own merits. Several strategies have been developed based on the conclusions summarized at the beginning of this section to ensure that courts will grant the right to invoke a *force majeure* clause due to the COVID-19 pandemic.

The first step is to look at the *force majeure* clause itself. As previously stated, this is where courts will critically examine whether the *force majeure* clause can be invoked. Courts will look for language in a joint venture's *force majeure* clause that states what circumstances constitute a *force majeure* event and can trigger the clause. Most *force majeure* clauses will not specifically mention "pandemics," but pandemics are increasingly being included in *force majeure* clauses. [20] The term pandemic would help courts identify it as a *force majeure* event, but courts would then critically examine the second and third parts of the *force majeure* test. Courts would give significant weight to investigating whether the performance was truly impossible and what an alleged party did to avoid terminating the joint venture. A boilerplate *force majeure* clause will typically include catch-all phrases like "circumstances beyond our or your reasonable control" which will enumerate a far larger number of *force majeure* events.

The second step relates to the second and third parts of the *force majeure* test. An accused party must ensure that they have substantial evidence showing that they have taken reasonable steps to perform their obligations and mitigate the cause of nonperformance or delay in performance. The following paragraph demonstrates a scenario that would most likely pass this second step:

Annie is the owner of a hair salon chain. In 2018, Annie entered a joint venture with Sally. Sally provides Annie with salon products in exchange for a monthly payment. COVID-19 struck in 2020 and government restrictions forced Annie to close all her salons. To stay afloat, Annie began selling Sally's products online which generated some revenue. In 2021, restrictions were relaxed, and Annie opened her salons again. She realized that a lot of her customers were not coming back, so she increased her marketing efforts, emphasizing the safety measures her salons had put in place and offering discounts to attract more customers. Despite her efforts, Annie is still struggling to make ends meet in 2023.

Assuming that Annie and Sally are in the United States, the language of the *force majeure* clause in the agreement will be important. Furthermore, depending on the language of the *force majeure* clause and the posture of the case, Annie may not be affirmatively deciding to invoke the *force majeure* clause and may instead be raising it as a defense to a suit against her for breach of contract due to her nonpayment or underpayment of the monthly fees. In any case, by demonstrating that Annie has taken reasonable steps to perform their obligations and mitigate the cause of nonperformance or delay in performance, Annie will accumulate sufficient surrounding circumstances to serve as a defense to a suit and a reason to invoke the joint venture agreement's *force majeure* clause.

Finally, even if a party is unable to invoke a *force majeure* clause, they can still invoke doctrines of impossibility, commercial impracticability, and frustration of purpose. Some courts may not consider these doctrines if there is an explicit *force majeure* clause, but they may consider them if the parties do not address the concerns

at all in the joint venture agreement. Under doctrines of impossibility and commercial impracticability, one can argue that the COVID-19 pandemic has set in motion a chain of events that rendered a party unable to perform obligations. In some cases, the doctrine of frustration of purpose may be invoked, which occurs “when an unexpected event renders a contract completely useless to one party.” [18] If the pandemic caused a chain of events that resulted in a business closing and no longer being useful, the doctrine of frustration of purpose might be invoked. Although these doctrines are not specific *force majeure* clauses, they can still grant excuses for nonperformance.

2. Supply chain analysis

a. Introduction

According to the Qualtrics survey, most working professionals agreed that COVID-19 threatened or negatively impacted supplier-buyer relationships in joint ventures between 2020-2022. When asked if they still agreed with the same statement in 2023, most respondents said yes. However, a comparison of Figures 2 and 5 shows that more professionals agree with the statement during the years 2020-2022.

This section of the thesis will attempt to investigate the practical implications and reasons behind COVID-19's impact on supplier-buyer relationships in joint ventures. The global supply chain accounts for a significant portion of the analysis, so this section will concentrate on that aspect. Another major reason COVID-19 is having an impact on supplier-buyer relationships in joint ventures, particularly in 2023, is the global supply chain's reliance on China.

b. Supply chain disruption

According to the United Nations (UN), “About 90% of the world economy has been placed under some type of lockdown, disrupting supply lines, reducing consumer demand, and putting millions of people out of work.” [21] This meant that all channels of the global supply chain were affected in one way or another from supplier, manufacturer, distributor, and consumer. [22] A study on COVID-19 and supply chain disruption presents an interesting illustration of the impacts of COVID-19 on all supply chain channels.

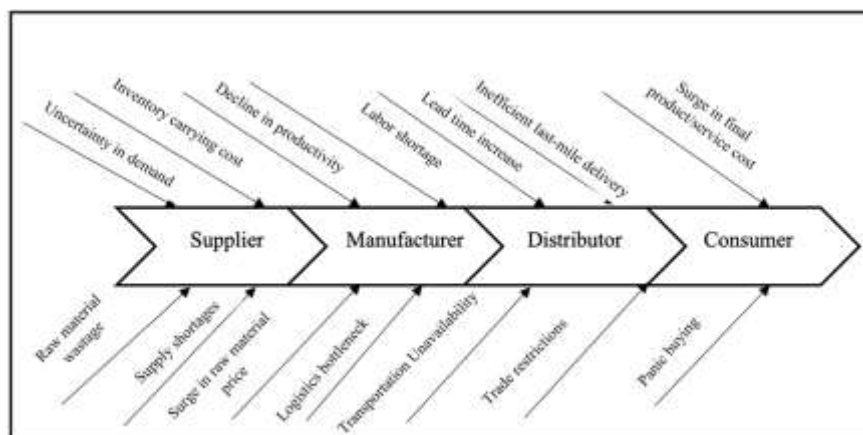


Figure 6: Impact of COVID-19 on Supply Chains
Source: <https://doi.org/10.1108/IJORM-06-2021-0161>

The COVID-19 pandemic increased demand for essential goods such as personal protective equipment (PPE), masks, food, and medicine. [20] To meet that demand, suppliers with joint ventures or other cooperative agreements with manufacturers and distributors would begin calling their partners for increased production. Meanwhile, manufacturers faced several production challenges in 2020, including raw material shortages, labor shortages, and work restrictions. These challenges create bottlenecks in the production and manufacturing processes, resulting in lower overall productivity and longer lead times. [23]

The manufacturers then ship whatever they can to their distributors, but the challenges do not end there. In the distribution channel, logistics and transportation present additional challenges. [24] International logistics and transportation were in a precarious state in the business of exports and imports. The majority of countries imposed bans and took extra precautions in sanitizing goods. If some goods manage to come into a country, local distributing channels were also affected by these challenges. Due to labor shortages, a local distributor with truck and train transportation would face the same logistics and transportation issues. [25] With the number of workers working to deliver to the end consumer, there would still be an increase in lead time. Finally, end consumers are confronted with low stock levels and high prices for essential goods, resulting in panic buying. [26]

In retrospect, COVID-19 effectively shut down demand for some non-essential goods, such as the automotive industry. [27] People are unlikely to have the desire to buy cars amid rising inflation and global economic crash. It would make sense for some consumers to completely abandon their interests in certain markets of non-essential goods. However, for the supplier, manufacturers, and distributors, this meant no revenue while still paying operating expenses.

The challenges outlined above reaffirm the survey respondents' sentiments that COVID-19 threatened or negatively impacted supplier-buyer relationships in 2020-2022. Based on the scenarios described above, a supplier may face delivery delays and missed deadlines, which could jeopardize their joint venture with a buyer. A buyer, on the other hand, may not have enough revenue to pay suppliers in 2020-

2022 because they are unable to operate normally due to social distancing restrictions.

c. Dependence on China

Most countries began gradually lifting COVID-19 restrictions and reviving their economies between 2021 and 2022. With the spread of COVID-19 vaccines, COVID-19 mortality rates decreased, and more people felt safe going outside. [28] Businesses are open in 2023, and manufacturing plants appear to be operating at full capacity. This implies that COVID-19 should have no effect on supplier-buyer relationships in joint ventures in 2023. However, not all countries have quickly lifted their COVID-19 restrictions. China is one country that has only recently lifted its COVID-19 restrictions, and the country has undoubtedly slowed the global economy's full recovery.

Two years after the world's "great lockdown," the world appeared to be entering a new normal phase, but China remained the same. In March 2022, a COVID-19 variant called Omicron placed the country into another lockdown. [29] The country's "zero-COVID policy," a series of policies made to prevent and contain the spread of COVID-19 to target a zero number of infections, was still in full effect. [22] Now, after 3 years of lockdown, China has declared "a decisive victory over COVID-19" and ended its zero-Covid policy." [30]

The International Monetary Fund emphasizes the importance of China in 2023's World Economic Outlook. "China's sudden re-opening paves the way for a rapid rebound in activity. We see growth rebounding to 5.2 percent this year as activity and mobility recover." [31] The World Economic Outlook went as far as to state that

“China’s recovery could stall amid greater-than-expected economic disruptions from current or future waves of COVID-19 infections,” [24] reiterating the fact that China controls much of the global economy and the importance of it to global economic growth. Why is China so important to the global economy? Why does China severely control how global supply chains and supplier-buyer relationships work throughout the world?

China is a mega powerhouse of the global economy both as a supplier and a buyer. [32] “The country became the world’s largest exporter of goods in 2009, and the largest trading nation in goods in 2013. It exported \$2.2 trillion in goods in 2017, making it the world’s largest exporter.” [25] As if that was not enough, China has also emerged to be the leading manufacturing country in the global economy. “China’s share of global manufacturing value added soared from only 1 percent in 1990 to 28 percent in 2018.” [25]

Most goods are manufactured in China, and there is no one to blame except our own businesses. When Premier Dengxiao Peng opened the country to foreign investment in the 1970s and 1980s, countries from all over the world began investing and building businesses in China. [25] China adopted the Japanese business model with lower labor costs. The Japanese business model was to offer lucrative trade deals to the countries in the West in exchange for foreign investment and technology. [33] Businesses in the West were subject to labor unions, employment laws, high taxes, and complex environmental regulations. China and Japan provided countries with cheap labor, free land, low-interest rates, and essentially little to no environmental regulations. [26] All of these factors became very appealing to foreign

businesses, particularly in the West, and most foreign businesses began to build factories in China, thus centering their supply chain and business around China.

In a 2019 report titled *China and the World: Inside the Dynamics of a Changing Relationship* by McKinsey & Company, McKinsey predicted that “if trade flows between China and the world were to contract, a number of economic drivers could lead to a negative impact on GDP.” [25] The report originally predicted what would happen if the US-China war continued, but the COVID-19 pandemic made the prediction a reality. McKinsey also predicted that if China fell, many supply chains that included China would be disrupted, and consumers would have to pay higher prices. [25]

When it comes to supply chains, the lockdown in China has created severe supply chain problems following [Figure 6](#). The prolonged lockdowns in China, especially concerning Shanghai, have devastated the global supply chain. With the lockdown in Shanghai, the world’s largest supply chain hub, the global supply chain has been severely affected by delays in shipments and production. [25] As supply chains all over the world fail, “multinational corporations with substantial Chinese operations and joint ventures between foreign and Chinese firms could be damaged.” [25] This prediction reiterates the previous argument that COVID-19 threatened and negatively impacted supplier-buyer relationships in joint ventures in 2020-2022. As a context, there were 540,000 foreign-funded enterprises operating in China in 2017 and 40% of China’s exports are from such enterprises and foreign joint ventures. [25]

According to [Figure 6](#) and the previously mentioned supply chain disruption analysis, a disruption in the supply chain will eventually result in higher prices for

customers. Consumers all over the world have benefited from lower prices because of Chinese imports. Businesses have also enjoyed the cost of Chinese imports in their production process. “For instance, 77 percent of China’s exports to the United States are intermediate and capital goods used to produce finished goods.” [25] What if the prices of Chinese imports increase? This would almost certainly destabilize the major economies that have built their business infrastructure with Chinese imports in it.

Due to China’s late reopening, the challenges highlighted in the supply chain disruption section have been ongoing for the past three years and will continue until China resumes normal trade flows with the rest of the world prior to COVID-19. With most superpowers implementing their own economic recovery strategies since 2021, China is falling behind in terms of economic recovery and fully functionalizing its power plants. However, there is great hope that China will recover quickly, and if we know anything about China, we know that it can create economic miracles. For the time being, circumstances will remain the same, and supplier-buyer relationships in joint ventures will still be impacted.

3. Comparison of legal/compliance and supply chain professionals

a. Introduction

This section compares the survey’s two major functional areas: legal/compliance and supply chain management. Supply chain management, as previously stated, encompasses the following functional areas: supply chain, procurement, purchasing, and sourcing, but this section will shorten it to “supply chain.”

To preface the following paragraphs, supply chain professionals outnumber legal/compliance professionals. There are 77 supply chain respondents and 53

legal/compliance respondents. The data was obtained by filtering the responses to Question 1. Supply chain respondents were filtered to anyone who selected “supply chain” and “procurement/purchasing/sourcing.” Legal/compliance respondents were filtered to those selecting “legal/compliance.”

This analysis compares the two functional areas to gain insights into the differences and similarities of overall sentiments and to further investigate what factors influence their answers. According to the analyses, factors such as different legal systems, COVID-19 policies, and economies influence respondents’ sentiments. As previously stated, the survey anticipates the two functional areas to generate from two different countries through the personal networks of Dr. Curkovic and Mrs. Gunawan. After thorough research on the survey’s metadata, the locations were indeed different and point out to be from the United States and Indonesia.

b. Common law and civil law

When comparing the two major functional areas for Question 2, both legal/compliance and supply chain professionals agreed to the statement that COVID-19 constitutes a *force majeure* event in joint ventures during the years 2020-2022.

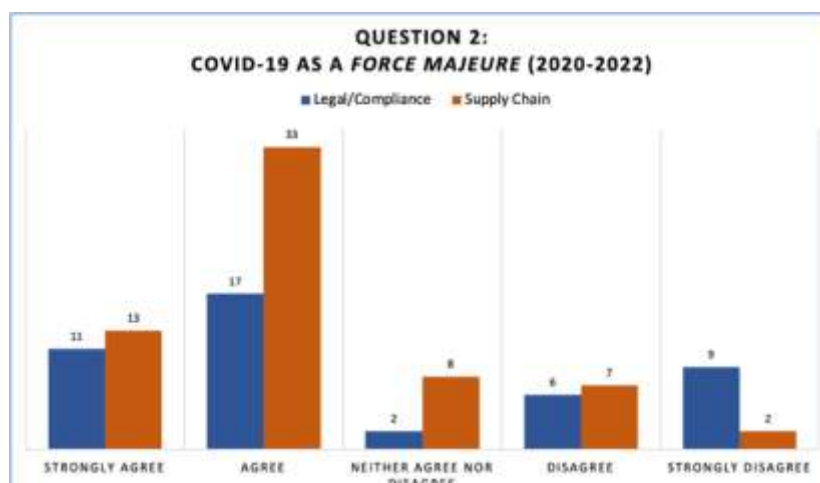


Figure 7:

Comparison of Legal/Compliance and Supply Chain Professionals on Question 2

In 2023, supply chain professionals changed their sentiments and disagreed that COVID-19 was still considered a *force majeure event* in joint ventures. There were still many supply chain professionals who agreed with the statement, and only two respondents made the difference for the majority. It could be argued that supply chain professionals experienced more conflict and mixed sentiments on this topic. In contrast, there was a more definitive answer that most legal/compliance professionals still agreed with the statement.

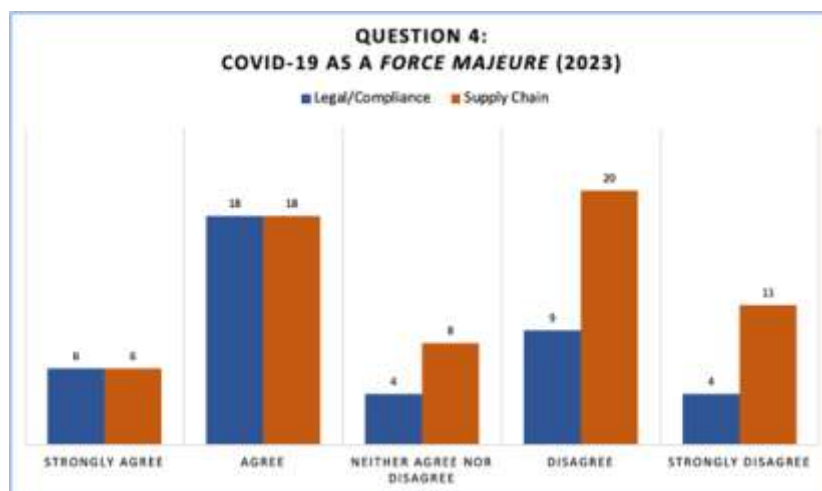


Figure 8:
Comparison of Legal/Compliance and Supply Chain Professionals on Question 2

In general, *force majeure* clauses are easier to invoke in civil law countries. [34] Since Indonesia is a country with a civil law system, all the legal/compliance professionals are more likely to concur with the statement. Under common law, an alleged party must have a *force majeure* clause within their joint venture agreement to invoke it. On the other hand, civil law recognizes *force majeure* in all contracts and agreements between parties (including joint ventures). [35]

According to Articles 1244 and 1245 of the Indonesian Civil Code, one can invoke the force majeure clause due to “an act of God or an accident [that] prevented from delivering or performing the obligation.” In contrast, US common law, as

discussed in the legal analysis section of this thesis, takes much more into account, and there is no set law that defines it.

Both civil and common law must still prove that an alleged party was genuinely prevented from performing due to the COVID-19 pandemic and took reasonable steps to mitigate it. The surrounding circumstances assist a party in proving its case. Most of the precedents discussed in this thesis are accompanied by circumstances that explain force majeure and nonperformance. In the *Hitz* case, for example, an executive order from the governor of the state of Illinois required restaurants to close and only be open for takeout, pickup, or delivery. The circumstances in the United States and Indonesia during the outbreak were similar, but the two countries have different approaches to COVID-19 and their background, which will be discussed in the following paragraphs.

c. Policies

The different policies countries impose in response to the COVID-19 pandemic also influence the answers of legal/compliance and supply chain professionals on Questions 3 and 5. The answers to both Questions 3 and 5 follow similarly to the answers to Questions 2 and 4. Both legal/compliance and supply chain professionals agreed that COVID-19 threatened or negatively impacted joint ventures during 2020-2022. Most supply chain professionals disagreed with the statement in 2023, but as shown in Figure 8, many of them also agreed with the statement. This time, the difference between supply chain respondents answering “disagree” and “agree” was only one respondent. Meanwhile, legal/compliance professionals consistently agreed that COVID-19 threatened or negatively impacted joint ventures in 2023.

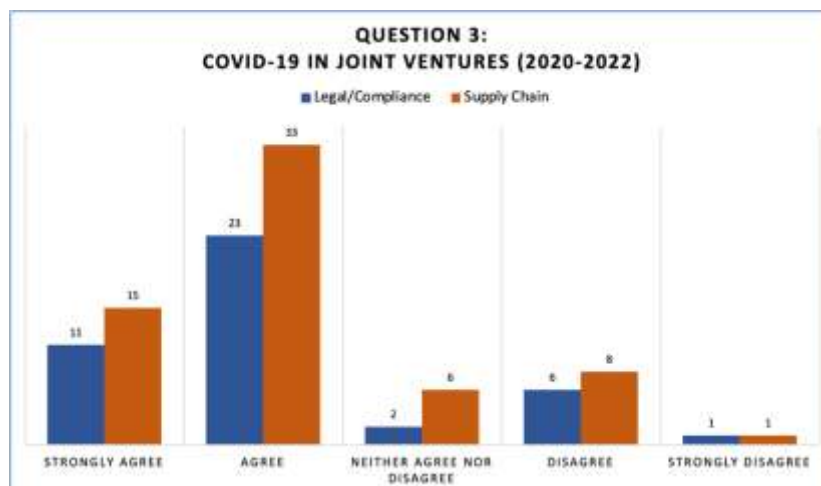


Figure 9:
Comparison of Legal/Compliance and Supply Chain Professionals on Question 3

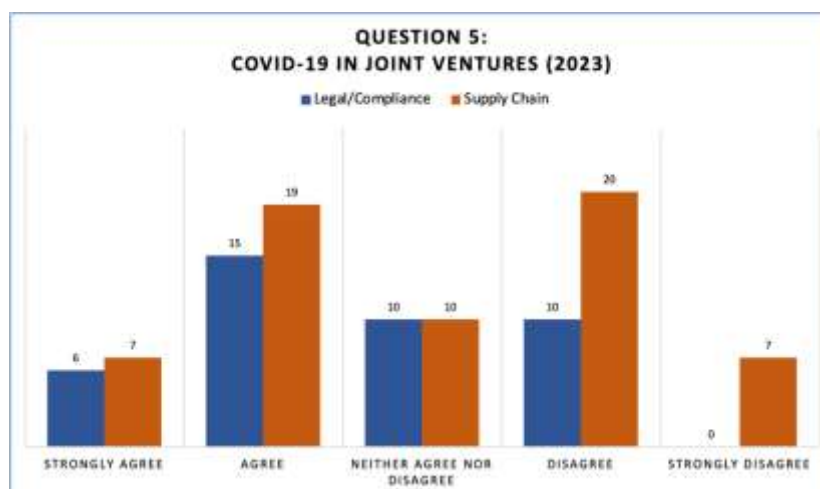


Figure 10:
Comparison of Legal/Compliance and Supply Chain Professionals on Question 5

Most countries experienced comparable circumstances during the outbreak of the COVID-19 pandemic in 2020. COVID-19 was at that time truly unforeseeable. Nobody could have ever predicted that COVID-19 would have such a profound impact on the world. Nobody predicted that in March 2020, most countries in the world would start enforcing stay-at-home orders, wrecking the global economy. [36]

The supply chain analysis section of this thesis highlights the significance of such

circumstances on the global supply chain. As a result, there are similar sentiments between both functional areas and countries in 2020.

To overcome the pandemic, COVID-19 policies were put into place by governments starting in 2021–2022. [37] This was the new normal phase where most countries were still dealing with similar circumstances as they attempted to remove lockdowns and distribute COVID-19 vaccinations. Nonetheless, the varying economic and political backgrounds of the different nations determine how quickly they recovered from the pandemic.

In July 2021, almost all 50 states in the United States removed lockdown, social-distancing, and mask mandates, with only a few states, including New York and Illinois, still requiring indoor masks. [38] On the same day in Indonesia, President Joko Widodo announced the Emergency Community Activity Restrictions Act (*Pemberlakuan Pembatasan Kegiatan Masyarakat Darurat (PPKM)*) after surges of COVID-19 cases suddenly erupted following a national holiday. [39] Before the surges of COVID-19 cases, President Joko Widodo enacted the Micro Community Activity Restrictions Act (*PPKM Mikro*) which relaxed major COVID-19 restrictions in the country, allowing restaurants and businesses to open with strict sanitizing and capacity protocols. [30] In this emergency version of the act, only 50% of employees from essential businesses were permitted to work from the office, while 100% of employees from non-essential businesses were required to work from home. All restaurants were closed for dine-in but may accommodate takeout orders. [40]

The example above exemplifies that leading up to 2023, discrepancies in COVID-19 policies between the two countries influence how professionals in the

respective countries perceive COVID-19 on *force majeure*s and joint ventures. In early 2022, all US states lifted full COVID-19 restrictions, while mask restrictions in public transportation in Indonesia are still in place. [41]

Indonesia lifted the remaining restrictions on gatherings and mobility in late December 2022, and businesses are now open without any more restrictions. [42] However, just like China, it is reasonable to conclude that the government's prolonged restrictions and policies have placed the country in prolonged difficulties with COVID-19-related issues. [43] As a result, professionals in Indonesia are more likely to agree that COVID-19 still impacts supplier-buyer relationships in joint ventures today. These prolonged circumstances will also support a case where the alleged party is hindered or prevented from fulfilling their obligations because of COVID-19. In contrast to the United States, which had a faster start in reopening the economy, professionals in the country would face more difficulty in agreeing to the statements in Questions 4 and 5.

d. Economies

It is critical to understand that economic differences between countries significantly impact the sentiments of working professionals toward COVID-19. The United States is a high-income developed economy, while Indonesia is a middle-income emerging economy. [44] In general, middle-income and emerging market countries have been more vulnerable to the COVID-19 pandemic than high-income and developed economies. [34] Because of its stronger economy and healthcare system, the United States has been better prepared to deal with the pandemic's challenges.

Indonesia, on the other hand, has suffered substantial economic issues because of a poorer economy and a less established healthcare system. [34]

Because of their robust healthcare and economy, high-income and developed countries recovered and reduced the severity of COVID-19 quickly, especially in terms of COVID-19 vaccines. A few countries, including the United States and the United Kingdom, invested substantially in the research and development of COVID-19 vaccines. These countries have made vaccines more accessible to their citizens and boosted herd immunity. [45] “Although it is not guaranteed that a vaccinated person will be COVID-19-free, vaccines have been shown to reduce disease severity, and thus lessen the burden on healthcare facilities.” [46] Middle-income and emerging market economies, on the other hand, lack the capital and technology to engage in the research and development of COVID-19 vaccines. As a result, they rely heavily on the help of these high-income developed economies. While countries such as the United States and the United Kingdom prioritized distributing vaccines to their citizens first, countries such as Indonesia had to ensure their citizens that the next supply of vaccines would come soon. In comparison, just 7.48% of Indonesia’s total population has been fully vaccinated as of August 1, 2021. [36] On June 27, 46.1% of the US population had been fully vaccinated. [47]

High-income and developed countries have also provided better financial support to their citizens. The Biden Administration implemented the American Rescue Plan, a \$1.1 trillion plan to support households, unemployment benefits, corporate loans, and more modern healthcare systems to help offset the economic downturn caused by the pandemic. [48] Due to fewer resources and poorer fiscal conditions, middle-income

and emerging countries have failed to give the same degree of financial support to their citizens. Indonesia enforced similar plans to the Biden Administration, allocating 699.43 trillion Indonesian *Rupiahs* (about 46.85 billion USD), although it has not been as effective as the US in assisting households and unemployment benefits. [49]

Along with diverse legal systems and COVID-19 policies, differences in economic backgrounds are factors to consider when analyzing the survey answers of professionals. Middle-income and emerging economies could not contribute much to initiatives that may have helped their country to recover quicker such as COVID-19 vaccinations and financial support. The economic backgrounds of these economies contribute to the narrative that COVID-19 is still a *force majeure* event affecting supplier-buyer relationships in joint ventures from 2020 to today. In high-income and developed economies where everything seems to be free of COVID-19 implications, working professionals have greater reason to be uncertain about the current legalities and circumstances of *force majeures* and supplier-buyer relationships.

CONCLUSION

The purpose of this thesis is to investigate the legal and practical implications of the COVID-19 pandemic's impact on joint ventures. This research looks at how COVID-19 impacts *force majeure* clauses and supplier-buyer relationships in joint ventures. This thesis also gathers information from real-world professionals. While most professionals believe that COVID-19 was a *force majeure* event that impacted supplier-buyer relationships in joint ventures from 2020 to 2022, the number of professionals who disagree is increasing in 2023.

The legal framework and precedents show that courts interpret *force majeure* clauses based on what the parties have already agreed upon. Although the common law doctrines of impossibility, commercial impracticability, and frustration of purpose may apply, courts will normally follow what the *force majeure* clause in a joint venture specifies. Although the pandemic has been regularly recognized as a *force majeure* event, courts will consider each case on its own merits as circumstances evolve. Parties should analyze their *force majeure* clause, gather significant evidence to mitigate nonperformance and consider invoking doctrines of impossibility, commercial impracticability, or frustration of purpose to guarantee that courts give the right to excuse nonperformance.

The global supply chain has been significantly disrupted by the COVID-19 pandemic, which has affected all channels from suppliers to consumers. Because of the increased demand for essential goods, bottlenecks in production and manufacturing processes have resulted in lower productivity and longer lead times. Logistics and transportation issues have only exacerbated the problem, generating delays and shortages in the distribution chain. As a result, end consumers face limited supply levels and high costs for essential goods, leading to panic

buying. The pandemic has also reduced demand for several non-essential goods, causing suppliers, manufacturers, and distributors to lose revenue.

Between 2021 and 2022, most nations progressively loosened restrictions and restored their economies. China, on the other hand, has only recently loosened its restrictions early this year. China's role in the global economy as the world's largest exporter and manufacturer cannot be understated, and disruptions in China's supply chain because of COVID-19 lockdowns have significantly impacted the global supply chain, causing delays in shipments and production. This disruption might lead to increased consumer costs and the destabilization of major economies that have built their corporate infrastructure around Chinese imports. As a result, China's reopening will likely pave the path for a swift recovery in the global economy.

The thesis also compares the answers of legal/compliance professionals with supply chain management professionals. Multiple factors impact the answers of these two functional areas, including various legal systems, COVID-19 policies, and economies. The analysis finds that in civil law nations such as Indonesia, *force majeure* clauses are simpler to invoke. Furthermore, most countries suffered similar circumstances during the pandemic's outbreak in 2020, however, the diverse economic and political histories of the nations affected how soon they recovered from the COVID-19 pandemic.

APPENDIX A

Table 1: Qualtrics Survey Questions

No.	Questions		
1.	<p>Please select a functional area that best applies to you. Check multiple boxes if necessary.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> • Supply Chain • Procurement/Purchasing/Sourcing • Finance / Treasury • Legal / Compliance • Sales and Marketing </td> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> • IT • Operations / Manufacturing • Not a specific responsibility of any function • Other </td> </tr> </table>	<ul style="list-style-type: none"> • Supply Chain • Procurement/Purchasing/Sourcing • Finance / Treasury • Legal / Compliance • Sales and Marketing 	<ul style="list-style-type: none"> • IT • Operations / Manufacturing • Not a specific responsibility of any function • Other
<ul style="list-style-type: none"> • Supply Chain • Procurement/Purchasing/Sourcing • Finance / Treasury • Legal / Compliance • Sales and Marketing 	<ul style="list-style-type: none"> • IT • Operations / Manufacturing • Not a specific responsibility of any function • Other 		
2.	<p><i>Force majeure</i> is a contract provision that relieves parties from an obligation if an extraordinary event directly prevents one or both parties from performing.</p> <p>A joint venture (JV) is an agreement between two or more parties seeking to develop a single enterprise or project for profit while sharing the risks associated with its development.</p> <p>Over the last three years (2020-2022), how strongly would you agree that the COVID-19 pandemic is considered a <i>force majeure</i> in joint ventures?</p> <ul style="list-style-type: none"> • Strongly Disagree • Disagree • Neither Agree nor Disagree • Agree • Strongly Agree 		

3.	<p><i>Force majeure</i> is a contract provision that relieves parties from an obligation if an extraordinary event directly prevents one or both parties from performing.</p> <p>A joint venture (JV) is an agreement between two or more parties seeking to develop a single enterprise or project for profit while sharing the risks associated with its development.</p> <p>Over the last three years (2020-2022), how strongly would you agree that the COVID-19 pandemic has threatened or negatively impacted supplier-buyer relationships in joint ventures?</p> <p><i>For example: one party did not perform its responsibilities, terms in the JV had to be renegotiated, the JV was terminated, etc.</i></p> <ul style="list-style-type: none"> • Strongly Disagree • Disagree • Neither Agree nor Disagree • Agree • Strongly Agree
4.	<p><i>Force majeure</i> is a contract provision that relieves parties from an obligation if an extraordinary event directly prevents one or both parties from performing.</p> <p>A joint venture (JV) is an agreement between two or more parties seeking to develop a single enterprise or project for profit while sharing the risks associated with its development.</p> <p>In our present time (2023), how strongly would you agree that the COVID-19 pandemic is considered a <i>force majeure</i> in joint ventures?</p> <ul style="list-style-type: none"> • Strongly Disagree • Disagree • Neither Agree nor Disagree • Agree • Strongly Agree
5.	<p><i>Force majeure</i> is a contract provision that relieves parties from an obligation if an extraordinary event directly prevents one or both parties from performing.</p> <p>A joint venture (JV) is an agreement between two or more parties seeking to develop a single enterprise or project for profit while sharing the risks associated with its development.</p> <p>In our present time (2023), how strongly would you agree that the COVID-19 pandemic has threatened or negatively impacted supplier-buyer relationships in joint ventures?</p>

For example: one party did not perform its responsibilities, terms in the JV had to be renegotiated, the JV was terminated, etc.

- Strongly Disagree
- Disagree
- Neither Agree nor Disagree
- Agree
- Strongly Agree

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