

THE QATARI RESTRICTIONS: IMPLICATIONS FOR THE CONSTRUCTION SECTOR



Recent events in the region raise certain considerations for employers, contractors and consultants involved in construction projects in Qatar. We take a brief look at some of the issues likely to affect construction in Qatar in the near future.

What is happening?

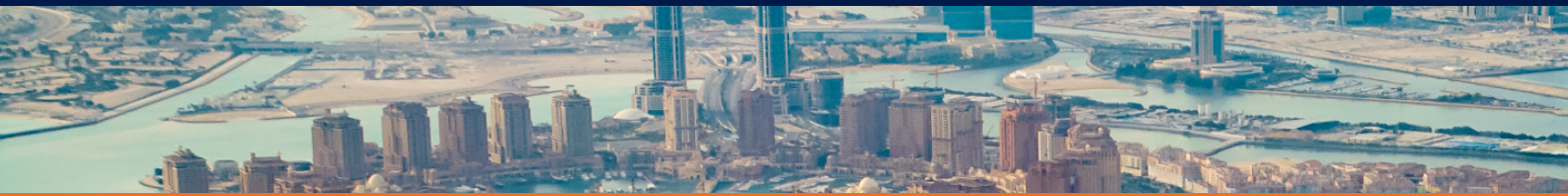
Several of Qatar's neighbouring states, including Saudi Arabia, the UAE, Egypt and Bahrain, have cut diplomatic ties with Qatar and closed or restricted their borders, ports and airspace to Qatari-linked travel and traffic.

Why is this important?

Qatar is currently experiencing a boom in construction, driven in large part by the preparations for hosting the FIFA World Cup in

2022. The current border and travel restrictions are likely to impact many of the construction projects currently underway or planned in the state.

For existing projects, an immediate difficulty is likely to be the availability and delivery of materials required in construction. Much of this material is transported into Qatar by land from Saudi Arabia, across Qatar's only land border, or by air or sea. However, that land border is, for the time being closed, while air travel into Qatar from these countries is restricted and the UAE port of Fujairah – an important and widely-used regional shipping hub – is closed to Qatari-flagged vessels and vessels bound for and coming from Qatar. These measures are likely to disrupt material supply chains and delivery timelines for Qatar projects.



Aside from complications in importing construction materials and supplies, the restrictions could also affect staff and labour supply, as well as management of projects. Many projects in Qatar rely on the use of regional staff, for whom unrestricted travel to and from Qatar is imperative. If the current restrictions remain in place (or become more severe), projects may suffer from a lack of available staff to manage and progress the works.

At the moment, Qatar is not completely inaccessible; other routes into the state by air and sea remain open despite the current restrictions. Similarly, there will be staff available from other countries available to work in Qatar. However, managing the changes in procurement, supply, logistics and workforce will likely take additional time and involve additional costs, both of which may be significant.

For current projects, likely consequences could include periods of delay, potentially leading to suspensions of work and possibly even termination, as well as claims in respect of additional time and increased costs by contractors and consultants. For planned projects, bidders will almost certainly need to consider the current restrictions carefully when deciding whether to tender for Qatari projects, at least in the short term. For example, a consideration may be the availability of financing and funding opportunities if regional banks take a more cautious approach in relation to Qatar projects while these restrictions remain in place. Contractors and consultants that do tender for work in Qatar are likely to factor in the increased logistical burden into their programmes and contract prices, leading to longer project durations and higher costs for employers.

What should you be doing?

Contractors, consultants and employers alike should consider whether and how their existing contracts are set up to respond to this situation and make themselves aware of the remedies and relief available to them under their respective contracts and at law. For example:

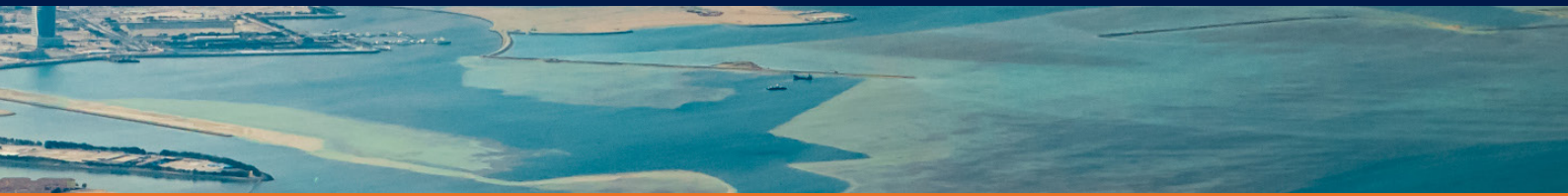
- Many contracts allow for adjustments to the contract price for changes in the cost of materials, staff and labour.
- Contracts might also excuse or limit performance of contractual obligations in the event of “exceptional risks” or “force majeure” which, depending on how these terms are defined, could apply in this scenario.
- The contract may provide for relief where there is a “change in law”, though careful consideration will need to be given as to whether the current restrictions properly constitute a change in law for the purposes of the contract.
- Where contracts are silent or do not provide a complete remedy, provisions of Qatari (or other applicable) law may provide relief. For example, certain provisions of the Qatari Civil Code may provide relief to contractors where performance of the contract is rendered impossible, whether in full or in part.

Parties should also be alive to any obligations to notify their counterparties if it appears that a project is or is likely to be adversely affected by these restrictions. While any required notice of these events and their potential consequences should be given as soon as possible (and followed by regular updates on the on-going

effects as required under the contract), we recommend that parties first seek legal advice to clarify and confirm the contractual or other basis on which any relief may be sought.

The situation remains fluid and we shall provide further updates as more information becomes available.

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