

ADAPTATION
AND RENEGOTIATION
OF CONTRACTS
IN INTERNATIONAL TRADE
AND FINANCE

EDITED BY

NORBERT HORN

PROFESSOR OF LAW, UNIVERSITY OF BIELEFELD (GERMANY)
CENTRE FOR INTERNATIONAL TRADE AND INVESTMENT
CONTRACTS (CITIC), BIELEFELD

B 48 6 31

**Juristische Gesamtbibliothek
der Technischen Hochschule
Darmstadt**

KLUWER – DEVENTER/THE NETHERLANDS
ANTWERP – BOSTON – LONDON – FRANKFURT

Table of Contents

FOREWORD	v
ABBREVIATIONS	xi
TABLE OF CASES	xv
INTRODUCTION	1
NORBERT HORN The Concepts of Adaptation and Renegotiation in the Law of Transnational Commercial Contracts	3
I. THE REVISION OF CONTRACTS BY OPERATION OF THE APPLICABLE LAW: FRUSTRATION, <i>FORCE MAJEURE</i> AND IMPRACTICABILITY IN VARIOUS LEGAL SYSTEMS	
NORBERT HORN Changes in Circumstances and the Revision of Contracts in Some European Laws and in International Law	15
RICHARD BUXBAUM Modification and Adaptation of Contracts: American Legal Developments	31
HORACIO A. GRIGERA NAÓN Adaptation of Contracts: an Argentine Substantive and Private International Law Outlook	55
ENRIQUE P. SYQUIA The Revision and Adaptation of Contracts in Philippine Law. With a Comparative Outlook at the Law of Other ASEAN Countries.	79
FATH EL RAHMAN ABDALLA EL SHEIKH Legal Criteria for the Revision and Adaptation of International Commercial Contracts: The African and Arab Perspective	99
II. ADAPTATION AND RENEGOTIATION ACCORDING TO THE TERMS OF THE CONTRACT	
NORBERT HORN Standard Clauses on Contract Adaptation in International Commerce	111
	vii

TABLE OF CONTENTS

FLORENTINO P. FELICIANO The Role of Investment Agencies in Developing Countries in the Negotiation and Management of Contracts	141
PAUL FRESLE Variation and Escalation Clauses	149
KARL HEINZ BÖCKSTIEGEL Hardship, Force Majeure and Special Risks Clauses in International Contracts	159
III. THE PROCEDURES OF ADAPTATION AND RE- NEGOTIATION	
NORBERT HORN The Procedures of Contract Adaptation and Renegotiation	173
OTTOARNDT GLOSSNER Third Party Intervener in Contract Adaptation: The Réferee Arbitral	191
ERNST MEZGER The ICC Rules for the Adaptation of Contracts	205
GEROLD HERRMANN The UNCITRAL Conciliation Rules: An Aid also in Contract Adaptation and Performance Facilitation	217
J. BARRIGAN MARCANTONIO ICSID as a Forum for the Renegotiation and Adaptation of Contracts	235
IV. ADAPTATION AND RENEGOTIATION OF CONTRACTS IN INTERNATIONAL FINANCE	
TOBIAS M.C. ASSER The World Bank and the Renegotiation and Adaptation of Long-term Loans	253
ALBERT S. PERGAM Eurocurrency Credits: Legal Questions and Documentation	271
NORBERT HORN The Crisis of International Lending and Legal Aspects of Crisis Management	295

TABLE OF CONTENTS

KLAUS KOHLER	
Private Banks and the Renegotiation of Public and Private Sector Exposure	317
ALBERT S. PERGAM	
Eurobonds: Trustees, Fiscal Agents and the Treatment of Default	335
V. MATERIALS	
LÜHR CHRISTIAN HINSCH	
A Collection of Standard Clauses	349
ICC Adaptation of Contracts	385
ICC The International Centre for Technical Expertise	393
ICC Rules of the ICC Court of Arbitration	397
UNCITRAL Conciliation Rules	409
INDEX	417