

Force majeure refers to unexpected, disruptive events that may excuse a party from performing duties under a contract.



Force Majeure

Mark Steyvers



Force Majeure:

Force Majeure and Hardship Under General Contract Principles Christoph Brunner, 2009-01-01 Lawyers involved in international commercial transactions know well that unforeseen events affecting the performance of a party often arise. Not surprisingly, exemptions for non-performance are dealt with in a significant number of arbitral awards. This very useful book thoroughly analyzes contemporary approaches, particularly as manifested in case law, to the scope and content of the principles of exemption for non-performance, which are commonly referred to as force majeure and hardship. The author shows that the general principles of law approach addresses this concern most effectively. Generally accepted and understood by the business world at large, this approach encompasses principles of international commercial contracts derived from a variety of legal systems. Its most important restatements are found in the 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) and the UNIDROIT Principles of International Commercial Contracts (UPICC). Establishing specific standards and case groups for the exemptions under review, the analysis treats such recurring elements as the following: contractual risk allocations, unforeseeability of an impediment, impediments beyond the typical sphere of risk and control of the obligor, responsibility for third parties, subcontractors, suppliers, legal impediments, acts of public authority, and effect of mandatory rules, involvement of states or state enterprises, interpretation of force majeure and hardship clauses, hardship threshold test, frustration of purpose, irreconcilable differences, comparison with exemptions under domestic legal systems, impossibility of performance, frustration of contract, impracticability. The book is a major contribution to the development of the use of general principles of law in international commercial arbitration. It may be used as a comprehensive commentary on the force majeure and hardship provisions of the UPICC as well as on Art. 79 of the CISG. In addition, as an insightful investigation into the fundamental question of the limits of the principle of sanctity of contracts, this book is sure to capture the attention of business lawyers and interested academics everywhere.

The International Law Commission's Articles on State Responsibility United Nations. International Law Commission, James Crawford, 2002. In 2001, the International Law Commission completed its work on State responsibility, begun 40 years previously. The Articles on Responsibility of States for Internationally Wrongful Acts marks a major step in the codification and progressive development of international law, comparable in significance to the Vienna Convention on the Law of Treaties. The Articles cover such topics as attributing conduct to the State, defining when there has been a breach of international law, and the excuses or justifications for breaches, reparation for injustices, the invocation of responsibility, especially standing of States in the public interest, and the rules relating to countermeasures. The Articles develop basic concepts of international law, in particular, peremptory norms and obligations to the international community as a whole. They signal definitively how international law has moved away from a purely bilateral conception of responsibility to accommodate categories of general public interest: human rights, the environment, etc.

Negotiating and Drafting Contract Boilerplate Tina L. Stark, 2003. This resource serves

to educate lawyers and business professionals on how to draft the many types of boilerplate provisions a legal term that refers to the standardized one size fits all provisions of a contract Each chapter tackles one of 20 provisions and analyzes why it is important the key legal and business issues raised and how to draft the provision to suit a particular transaction Such analysis not only helps readers better understand how to draft these provisions in their contracts but also helps them better understand the other party's process

Law and Practice of Investment Treaties Andrew Paul Newcombe, Lluís Paradell, 2009-01-01 The book focuses on the substantive protections accorded to investors and investments and on the variations among jurisdictions Among the many specific issues and topics that arise in the course of the discussion are the following problems of transparency and conflict of interest the recent growth in IIAs between and among developing nations the effect of new model bilateral investment treaties BITs the ability of non disputing parties to participate in investor state arbitration theories of the interaction of foreign direct investment FDI and BITs investor state arbitration as an evasion of public regulatory authority the role of investment funds in international investment fork in the road provisions and institutional versus ad hoc arbitration International business and other investors will greatly appreciate the in depth information and insightful guidance in this solidly useful book It will also be welcomed by jurists and students as a significant milestone in the development of principles in a quickly growing field of practice that is still plagued with inconsistencies

Independent Power Projects in Developing Countries Henrik M. Inadomi, 2010-01-01 For developing countries a stable and secure supply of electricity is crucial for development and for their populations well being Since the early 1990s the main mechanism for constructing power generation facilities in developing countries has been the independent power project IPP model where a foreign investor enters into long term investment contracts with the national utility This model has succeeded in attracting investment but raises complex regulatory and contractual challenges in addition to public concerns This book drawing on project contracts the author's interview sources case law and literature analyzes in detail the legal investment protection used by IPP investors to ensure sufficient returns and protect their contracted revenue stream The author examines how the model's corporate financial structure interlocks with strong contractual rights and with a number of measures used to improve the host country's creditworthiness in the short and long term including investment guarantees The second part of the book identifies that the IPP model normally leads to six main consequences for the host developing country The IPP model has led to private investment which has increases reliability modernization and introduced private standards It contains an intrinsic structural weakness in times of economic downturns It has shown a tendency to lead to overinvestment in generation capacity It has shown a tendency to lead to expensive and suboptimal solutions regarding choice of design and technology The model and its institutional surroundings contains insufficient disincentives against moral hazard and exploitative behavior including corruption and The IPP model does not facilitate a further development of the host country's power sector The author argues that these consequences for development can be improved without detrimentally

compromising the private sector's willingness to continue to invest. While pursuing this analysis, the author also explores such issues as the following: the web of parties and contracts constituting the IPP model including the model's risk allocation; an analysis of political risk including to what extent foreign investors also are protected against commercial and credit risks; the competing needs of predictability and flexibility in long-term contracts; how investment arbitration tribunals have reacted both to the change in macroeconomic circumstances caused by the East Asian Crisis of 1997-98 and to numerable and credible allegations of corruption during procurement; identification of factors reducing or increasing the IPP model's tendency to fail during severe economic recessions.

Commercial Law and Commercial Practice Sarah Worthington, 2003-12-31 This book contains essays by legal experts which aim to prompt a critical and constructive reassessment of current commercial law and its practices.

Project Finance Graham D. Vinter, 2006 Published in association with the Intellectual Property Institute, this title provides a focal point for discussion of policy issues in intellectual property law and their effects on industry. It provides emphasis on interdisciplinary issues of policy, drawing together legal, economic, industrial, technical, managerial, and statistical viewpoints.

Force Majeure and Frustration of Contract Ewan McKendrick, 2013-12-13 This updated edition includes an examination of force majeure in French law, the drafting of force majeure clauses, its usage in shipbuilding contracts, and the application of commercial impracticality under article 2-165 of the Uniform Commercial Code.

Hardship and Force Majeure in International Commercial Contracts Fabio Bortolotti, Dorothy Ufot, 2019-07-15 Force majeure and hardship are commonly invoked in international trade when unforeseen events occur, making performance impossible or impracticable. Most national legislators provide rules to deal with these issues, but the specific solutions adopted in domestic laws vary substantially from one country to another. In recent years, the growing complexity of trade in a globalized world has greatly increased the number of situations where a party can invoke force majeure or hardship. Parties need to be able to analyse the nature and characteristics of force majeure and hardship and look for contractual clauses which can regulate these issues in conformity with their needs. Written by international practitioners, this dossier explores the evolution of the rules on hardship, the ICC Clause on Hardship, and the perspectives of contract adaptation by arbitrators. The section on Force Majeure includes an overview of recent arbitral case law, impediment beyond sphere of control, and risk of the obligor, foreseeability, causation, notice requirement, analysis of the ICC 2003 Force Majeure Clause, and an update on its revision. Two other important themes are included: the relationship between force majeure and applicable law, general principles of law, and trade usages, as well as the impact of economic sanctions.

The Belt and Road Initiative Permanent Forum of China Construction Law, 2019-08-22 The Belt and Road initiative, designed to enhance trade flows and spur long-term regional economic growth through infrastructure projects, has expanded China's overseas construction market. This book, written by prominent adjudicators, lawyers, scholars, entrepreneurs, and consultants with extensive first-hand experience in global construction matters, will assist Chinese contractors in

identifying managing and mitigating the inherent risks involved including those arising from the political social economic and legal contexts of the foreign jurisdiction Drawing on real life experiences of project managers lawyers arbitrators and others and including summaries of both successful and unsuccessful cases the book comprehensively covers the variety of risks facing Chinese contractors of international engineering projects and provides useful advice on how to address them The issues and topics covered in this book are understanding the political social and market environment of the host country cost and scheduling impacts of host country regulation dispute resolution mechanisms site security health and medical environment availability of local goods and materials appointment of local subcontractors public relations and social responsibility and insurance Questionnaires and interviews covering a wide variety of Chinese overseas construction projects provide expert perspectives on risk analysis and management best practices precautions issues to be adjudicated in arbitrations and much more Addressing all the practical difficulties and problems encountered before and during an overseas construction project the book will help in house counsel for Chinese enterprises and those who interact with them improve management reduces risks and protect rights and interests It will also serve as a general guide for international engineering contractors given that the risks Chinese enterprises face in their overseas operations are shared by their international counterparts Others welcoming this book include international lawyers scholars and researchers specializing in construction law arbitrators arbitral institutions and international project owners [Elgar Encyclopedia of Comparative Law](#) J. M. Smits,2006 This is a very important and immense book Single handedly Smits has reviewed and checked this immense work to bring it to its final high standard in quality and accuracy and selection of laws The Criminal Lawyer This is a very important and immense book The Elgar Encyclopedia of Comparative Law is a treasure trove of honed knowledge of the laws of many countries It is a reference book for dipping into time and time again It is worth every penny and there is not another as comprehensive in its coverage as Elgar s I highly recommend the Elgar Encyclopedia of Comparative Law to all English chambers This is a very important book that should be sitting in every university law school library Sally Ramage The Criminal Lawyer The entries are written in a lucid and accessible style with appropriate references being given for further research All in all a substantial work which will delight enthusiasts of comparative law The Commonwealth Lawyer The breadth of topics plus the bibliographies allows a reader to use the Elgar Encyclopedia as an initial entry into a field of law a specific topic or a legal system Any law library business library large public library or academic library supporting the study of international law or international business will want to have it in its collection This work is highly recommended Ladyjane Hickey American Reference Books Annual Comparative law is the comparison of law and legal systems from around the world At one time it was a field of limited interest and academic participation However increasing globalization whether of commerce or culture makes it imperative that citizens learn more about the law of other countries That is the premise of this comprehensive new research tool designed for general readers Some 70 articles address topics as diverse as accident

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