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The Requirement to Renegotiate the Oil Contracts

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Abstract:
The balance of the oil contract is crucial to avoid disputes between the two parties, so the parties to the contract must create astate of balance between the objective of the oil company, which is that the contract remains as it is without prejudice to it on the one hand, and the requirements of sovereignty and basic development that the state is even to achieve to the maximum possible degree on the other hand, this is done by anticipating the issues on which disputes may arise, and determining means of preventing them, such as including conditions in the oil contract to deal with these issues, the most important of which is the re-negotiation clause, as the reality of oil contracts concluded between foreign companies and host oil states reveals the existence of means to avoid the disputes between them that may be raised by those contracts, including the re-negotiation requirement to ensure the maximum balance between the requirements of stability and development, as well as to maintain affair balance between the sovereignty of the host country over its oil resources and the protection of foreign investment.

Keywords:-1-Renegotiate. 2-International. 3-Amergency conditions. 4-national laws

Introduction:
The subject of the paper:
The weakness in the legal effectiveness of the requirement of legislative and contract stability in oil contracts has led to the inclusion of such contracts as a condition for renegotiation, as this requirement can provide adequate protection against the abolition or amendment by the oil state because it is a party to the contract as a result of the principle of state sovereignty. Despite the problems related to the renegotiation process, this does not prevent the recognition that, in the light of the particular nature of oil contracts, this condition can play an important role in avoiding disputes from these contracts are likely to provoke them by ensuring stability in the oil contract without clearly adhering to the practice of the host oil state, thus avoiding any sudden disruption, and contrary to the requirement of stability that obliges the state to exclude or not apply any new laws detrimental to the interests of the foreign oil company, the condition of renegotiation does not limit the sovereign privileges of the host oil state, however, there is room for renegotiation of some of the clauses of the contract, as these conditions provide for the obligation of the host oil country to compensate the oil company contracting it for any economic damage caused by new laws or regulations affecting the paragraphs of the oil contract.

The importance of paper:
The importance of studying this issue in oil contracts lies in the role played by the renegotiation clause in maintaining the contract bond between the parties to the oil contract and ensuring its continuation, since under this requirement the contract can be saved and corrected by mitigating the damage to those who have suffered it, in order to preserve the link and continued cooperation between the parties to the contract and otherwise the relations of

the parties will cease, the contract may be terminated after it has reached the point where it is impossible to implement the obligations, so the renegotiation clause plays an important role in reducing disputes that oil contracts are likely to raise as a result of changing the circumstances on which the contract was contracted, allowing the parties to the contract to negotiate directly with each other, with the aim of achieving the economic rebalancing of the contract by modifying some of its provisions.

The problem of paper:
The problem of researching the appropriateness of general rules in national legislation to address the problem of change in circumstances in general with the rules on the condition of renegotiation contained in oil contracts, international agreements or international arbitration provisions, the study of the requirement to renegotiate oil contracts raises many questions and needs to be resolved, are the solutions enshrined in national laws and international agreements long-term for contracts with foreign element to address the imbalance of the contract that occurs During the implementation of the contract in line with the requirements of the oil contracts? Does the inclusion of the renegotiation clause in oil contracts play a role in addressing this imbalance?

Methodology:
In our research, we relied on a comparative analytical approach, relying on a comparison between Iraqi legislation and a range of legislation of Arab and foreign oil countries, as well as the position of international agreements and institutions, without losing sight of the position of the hatchery. We have also adopted an analytical approach based on the analysis of the texts of laws and jurisprudence and a statement of our modest opinion, as well as the adoption of an applied approach based on strengthening legislative and doctrinal positions in the relevant oil contracts.

paper plan:
We will divide the research into the condition of renegotiation of oil contracts into two subjects, and then we will discuss in the first subject the concept of the requirement of renegotiation of oil contracts in two demands, we will discuss the first requirement to define the condition of renegotiation, and then we will go to the second research to study the terms of the obligation to renegotiate oil contracts and its implications, in two demands, we singled out the first requirement to discuss the conditions of commitment to renegotiate oil contracts, and allocated The second requirement for the implications of the renegotiation of oil contracts, and then we ended the discussion with a conclusion in which we show the most important results and recommendations that we believe are necessary to present.

First research:
The concept of a renegotiation clause in oil contracts.
The requirement to renegotiate oil contracts is a paragraph agreed upon by the parties to the oil contract for the purpose of committing to review the contract in the event of changes in circumstances beyond their control and expectations that would cause a breach of the contract balance, and the variation of national legal systems and international agreements in addressing the problem of changing circumstances and the imbalance of the nodal balance had the definite effect on the emergence of the spread of this requirement, and has received the attention of jurists, as well as the judiciary and international arbitration due to its critical importance in the settlement of disputes between the parties to the oil contract amicably, which maintains the contract and its continued survival, and for the purpose of highlighting the concept of renegotiation in oil contracts, we will divide this research into two demands,

we address in the first the definition of the condition of renegotiation, and in the second requirement to introduce oil contracts.

The first requirement:
Defining the renegotiation clause
In order to get acquainted with the renegotiation clause in all its details, we will discuss in this requirement the definition of this condition, as well as its legal basis, by dividing it into two branches in which we deal with all the details related to the subject:

First branch
Define a renegotiation clause
In this section, we will discuss the definition of the national judiciary, arbitration and international conventions for the renegotiation clause, then we will discuss the position of jurisprudence regarding the definition of this condition, in two paragraphs according to the following:

First - Definition of the national judiciary, arbitration and international agreements of the renegotiation clause: There are some provisions of the national judiciary and international arbitration and the texts of international agreements that define the renegotiation clause, and these definitions vary according to the nature of the dispute presented to the judiciary and arbitration bodies, and the subject of the agreement, including:
- The French Court of Cassation, in its ruling issued on March 30, 1982, defined the renegotiation clause as ((the obligation of the parties to discuss and exchange proposals in certain circumstances as a result of changes beyond their control that obstructed the contract during its implementation, leading to its reorganization, as happens in collective agreements for work)) (1).

In the Aminoil Case (1982), the arbitral tribunal defined a renegotiation clause as a clause "through which a new equilibrium is re-established for the contract, in place of the original equilibrium that was lost as a result of a change in circumstances" (2).
The first paragraph of Chapter Twenty-Second of the Unstrol Manual for the Drafting of International Contracts for the Construction of Industrial Facilities of 1988 defines the renegotiation clause as "a condition that is implemented in the event of a change in economic, financial, legal and technological factors that cause serious negative economic consequences for the contracting party, as it makes the performance of his obligations more difficult, which requires renegotiating the amendment of the contract according to the new situation created by the hardship.(3).

Second - Defining the national laws for the renegotiation clause: Most of the national legislations did not regulate the renegotiation clause with explicit texts. Therefore, we will shed light on the position of some comparative national legislation that referred in one way or another to the renegotiation clause, whether explicitly or implicitly, as follows:-
- In the draft Thierry (le projet terre) of the third French Civil Code Reform Act of 2008, the French legislator stipulated an explicit renegotiation clause in Article 92 which stated: "The parties must fulfill their contractual obligations, even if their performance becomes more burdensome. The parties are obligated to renegotiate the contract in order to amend or terminate it when the performance becomes excessively burdensome for one of them due to the change of circumstances at the conclusion of the contract.(4).

Article (313) of the German Obligations Act (B.G.B) implicitly provided for the condition of renegotiation, stating ((when there is a significant change in circumstances after the conclusion of the contract as the parties to the contract would not have secured their contracts in these circumstances, the contract may be requested to be adapted, and when the contract cannot be adapted, the contract can be unilaterally avoided by the unapproved party).(5).
- The Egyptian Trade Law No. (17) of 1999 in force referred to the explicit renegotiation clause in Article (86), which stipulates that "each of the parties to a technology transfer contract may, after the expiration of five years from the date of the contract, request the termination of the contract or reconsideration of the Its conditions may be amended to suit the existing general economic conditions, and this request may be repeated whenever five years have elapsed, unless another period is agreed upon.(6).

Second - Fiqh's definition of the renegotiation clause: - Fiqh attempted to define the renegotiation clause, so it is necessary to refer to the most important of those definitions that defined this condition as:

- A condition inserted by the two parties to the oil contract - the oil state and the foreign company contracting with it - includes their agreement to re-consult and understand between them with the intent of amending the provisions of the contract when certain events determined by the two parties occur that would upset the balance of the contract and cause serious harm to one of the contracting parties (7).
The condition that the contracting parties include in the existing oil contract between them and they are obligated to negotiate to avoid any disputes that may arise between them regarding this contract before considering resorting to the judiciary or arbitration in this regard.(8)

- The commitment of the two parties to the oil contract to renegotiate the contract to meet the emergency circumstances that occurred with the aim of modifying the contractual obligations to a reasonable extent to remove the damage that one of the parties has incurred as a result of that (9).
A condition according to which the two parties to the contract, in case of a change in the circumstances that accompanied its conclusion, have a change that upsets the balance drawn by its two parties in a way that makes the implementation of one or both of their obligations cumbersome, the conformity of the contract with the new circumstances (10).
A text in the contract that requires both parties to return to the negotiating table and renegotiate the terms of the contract when a certain event or events occur (11).
Through the above definitions, it is found that they agree that the renegotiation clause assumes that a valid contract has been concluded in accordance with the law, such as the oil contract, and the parties to the contract agree that in the event of a change in the circumstances of the contract leading to a breach of its economic balance, they are obliged to review the provisions of this contract by renegotiating them, to develop the contract with the new circumstances and to mitigate the damages suffered by one of the parties, by modifying some of the provisions of the contract. Paragraphs, or replacing them with others that are more appropriate to the new circumstances, and it is clear to the researcher that the requirement to renegotiate all contracts with a foreign component, including oil contracts, is characterized by two things:

- It is a contractual agreement condition because its content depends on what the parties to the contract have agreed upon, and this condition is often regulated in detail, as the two parties to the contract show their concept of the condition, the events that are encountered and their

impact on the contract, the solutions that will be taken by both parties in the event of those events in addition to clarifying the fate of the contract during the negotiation period, and whether the two parties will continue to implement or announce the suspension of the implementation of the contract pending the outcome of the negotiation(12). Therefore, some jurisprudence holds that the renegotiation clause has no concept derived from a specific law, and its application depends on what It was agreed upon by the two parties, and the jurist (Uytvack) M. Uytvack refers to this by saying: ((The return clause refers to good faith, discussion and justice, and its application is not an easy thing, but it can be so when the parties give it importance and organize it well in their contracts)(13) .

2- It varies with different contracts and circumstances, meaning that the content of this condition is not the same in all contracts. The renegotiation clause in a contract may face economic conditions, while in another contract it faces financial or political circumstances, and the two parties may also agree to apply this condition simply One of the parties to the contract is harmed regardless of the severity of that harm, and they may stipulate that the damage be serious and unfamiliar to the application of the condition, and in some contracts it may agree to conduct negotiations between the parties to the contract in the light of understanding and good faith, and in other contracts they may agree to resort to specialized persons to supervise the process negotiation (14).

Re-negotiation is an agreement method that ensures that the contract remains in place and cannot be rescinded despite the change of subsequent circumstances for unexpected reasons at the time of the conclusion of the contract and a serious imbalance in the economic balance. An acceptable solution by amending some of the provisions and paragraphs of the contract to suit the new circumstances, and then the contract after its amendment continues until the end of its term. The renegotiation clause would maintain the balance between the two parties to the contract throughout the duration of the contract, which would help its continuity and that neither party would attempt to get out of it. In this way, it is an alternative to the conditions of stability.

After this presentation to define the renegotiation clause, whether in national legislation, international agreements, or at the level of the national judiciary or international arbitration bodies, or in jurisprudence, the researcher can define the renegotiation clause in oil contracts as a clause set by the two parties to the oil contract in the contract, they abide by it Re-negotiate in good faith, and within a reasonable period, when unforeseen events occur outside their control that materially affect the economic balance of the contract for the purpose of modifying the contract and making it more appropriate to new events.

second branch:

The legal basis for the renegotiation clause

The renegotiation clause finds its legal basis in the national laws of different countries, and in the international agreements concluded by those countries. This condition also finds its basis in rulings issued by national courts, and arbitration rulings issued by arbitral tribunals in disputes submitted to them, in addition to the fact that oil contracts The agreements concluded by the oil-producing countries are a legal basis for the renegotiation clause, and this is what we will discuss in four paragraphs, according to the following:

First - The legal basis for the renegotiation clause in national laws: Some national laws included texts that referred to the renegotiation clause, whether explicitly or implicitly:

- The French law issued on January 21, 1921, which authorized the judge to annul some contracts concluded before the First World War to restore the economic balance to it after it was lost due to the occurrence of events delaying the implementation of the contract (15).
- The text of the French Civil Code in Article (1104) (16), Provided that ((Contracts must be negotiated, concluded and implemented in good faith, and this provision is considered public order)). The position of the French law regarding its regulation of the renegotiation clause has evolved, as the French legislator issued a decree on February 10, 2016, according to which the civil judge made a third party to the contract mediating between the contracting parties. Which stated: ((If the agreement is not reached within a reasonable period of time, the judge may, at the request of one of the parties, review the contract or terminate it on the date and circumstances and according to the conditions he sets)).

- Article (86) of the Egyptian Trade Law No. (17) of 1999 in force stipulates that ((each of the parties to a technology transfer contract, after the lapse of five years from the date of the contract, may request the termination of the contract or a review of its terms by amending them to suit the general economic conditions. The list may be submitted again, and this request may be repeated whenever five years have elapsed, unless other periods are agreed upon.

- As for Iraq, it is noted that the Iraqi law is devoid of any text referring to the renegotiation clause, but the problem of changing circumstances is addressed through the theory of emergency conditions organized by the legislator in Article (146/2) of the Civil Code (17).
From the above it is clear that the treatments brought by national legislation do not fit this problem in contracts with a foreign party, including oil contracts, which led to a completely different position in international agreements when regulating the condition of renegotiation, as it gave it great attention, and this is what we will explain in the next paragraph.

Second - the legal basis for the renegotiation clause in international agreements: Most of the agreements concerned with contracts with a foreign element, especially oil contracts, dealt with the renegotiation clause with a kind of flexibility, to ensure its survival and continuity for a long time in the face of changing circumstances. ,as follows : -

The Rome Institute for the Unification of Private Law in 1994 approved the renegotiation clause in a set of guiding legal principles that it set regarding international trade contracts, as it was stated in the third paragraph of Article (6/2) that “in the event of a change of circumstances (hardship) the party shall have the aggrieved party requested the reopening of negotiation, and the request must be submitted without delay and must be justified.(18).

- The principles of the 2002 European Contracts (PECL) explicitly referred to the requirement of renegotiation in article (111/6), providing (1) the contracting party is obliged to obligations, even if performance becomes more costly, whether the cost of performance increases or the value for performance has been reduced. 2. Parties must commit to entering into negotiations with a view to adapting or terminating their contract if performance becomes too high for one of them due to changing circumstances ... 3- In the event that the parties do not agree within a reasonable period, court a may avoid the contract... (b) Contract adjustment where losses and profits arising from changing circumstances are distributed between the parties to the contract fairly and equitably.(19).

- The report of the International Chamber of Commerce (ICC) for the year 2003 clarified the concept of the renegotiation clause that when the implementation of contractual obligations

becomes very expensive due to events beyond the control and unforeseen at the time of the conclusion of the contract, and it was not possible to avoid or overcome them or their effects, the parties to the contract they will undertake within a reasonable period and after this condition is adhered to, to negotiate and redevelop the terms of the contract, taking into account the results and effects of the emergency events in a fair and equitable manner.(19)
- The report of the United Nations Conference on Trade and Development (UNCTAD) of 1984 referred to the condition for renegotiation, as it stated: ((Contracts and agreements concluded between countries and transnational companies must be negotiated and implemented in light of considerations of good faith. Their implementation in a long-term technical framework must include the condition for them to re-review their terms, or renegotiate them, and if the conditions that were stipulated for re-reviewing their terms or renegotiating have changed, and if the conditions under which these contracts were concluded have changed fundamentally, the must Multinational corporations must act in the light of good faith considerations and should cooperate with the relevant governments to review and renegotiate these agreements.(20).

Third - the legal basis for the renegotiation clause in the national judiciary and international arbitration: The renegotiation clause was present in the rulings of the national judiciary in some countries, as well as in some rulings of international arbitration bodies, including:
- The judgment of the American Court (Digtrict) in its ruling in the (south western) case, as this court examined the dispute between the (south western) company and the (Burlingt on Northre) company, which binds them to an oil supply contract for a period of 25 years, and this contract includes a condition for renegotiation between the two parties, and that the said company has focused in the merits of the judgment against it on the renegotiation clause stipulated in the contract concluded between the two parties (21).

- The Court of Appeal of Nancy, in its ruling issued on 9/26/2007, referred to the renegotiation clause, as it stated: “The duty to renegotiate exists if one of the parties’ performance of its obligations becomes excessively burdensome, and then there is a radical change in the balance of the original contract.”(22).

- Decision of the French Council of State in the Bordeaux gas case dated 8/2/1916, which indicated the possibility of amending and revising the contract due to the nodal imbalance (23).

- Reference was made to the renegotiation clause in Arbitral Case No. (2508) for the year 1976, as it stated: “The parties to the contract, especially the beneficiary party, in the event of new circumstances arising and in the absence of a renegotiation clause, should meet and negotiate in good faith for the purpose of adapting the contract to those circumstances.” (24).
Fourth - the legal basis for the renegotiation clause in oil contracts: The renegotiation clause in oil contracts is at the heart of the contractual will, and without it is not possible to imagine the existence of its application, so the contractual will and the agreement of the two parties to the oil contract are the basis for the commitment to apply the condition, and at the level of oil contracts we find that There are many contracts that stipulate the principle of renegotiation, including:-

Article (34/12) of the Model Agreement for a Production Sharing Contract for the State of Qatar for the year 1994, as it states ((As the investor’s financial position or position is based on the laws and regulations prevailing at the time of signing, it is agreed that if a law or regulation is issued affect the financial position of the investor, especially if the customs rate

exceeds ... During the validity of the agreement, the two parties are obliged to enter into negotiations with the aim of reaching an equal position that preserves the economic balance in the agreement, and in the event of failure to agree on an equal and balanced solution, one of the parties may refer The matter is referred to arbitration in accordance with Article (31) of the Convention).
- Article (19) of the contract concluded between the Arab Republic of Egypt on the one hand, the Egyptian General Petroleum Corporation, Repsol Exploration Egypt Egypt S-A and Mobil Exploration Egypt Inc. states that ((in the event of any legislative or regulatory amendment that leads to a reduction or increase The rights of the parties, it allows ninety days for negotiation, after which the parties may refer the matter to arbitration if the negotiations are unsuccessful.(25).

Article (16/6) of the Turkmenistan Oil Contract of 1997 stipulates that (if or there will be Turkmen laws or regulations or any demands imposed by the Turkmen authorities on the contractor or subcontractors, including any conditions not expressed under the Agreement whose implementation adversely affects the interests of the contractor, the parties are then obliged to make the necessary amendments to the agreement to ensure that the contractor receives the expected gains under the terms and conditions of the agreement).(26).

- It was stated in the contract between the State Oil Company of the Republic of Azerbaijan and a group of oil companies that ((It is not permissible at all to modify or change in any way the rights granted to the contractor or subcontractors under the agreement without the prior consent of the contractor and if the government hints at the issuance of a new law or signing a treaty or issuing a decision that contradicts the terms of the agreement or negatively or even positively affects the rights and interests of the contractor, including, but not limited to, any changes in tax legislation, administrative practices or judicial changes related to the field of the contract, then it is necessary to reset the agreement to re-create the economic balance between the parties, and if the negative impact on the rights and interests of the contracting party is proven, the state or the governmental entity shall compensate the contractor or those who represent him for any losses or damages in the economic conditions and the consequent losses. A conflict between that treaty, law or administrative decision issued on the one hand, and the agreement concluded on the other hand.(27).

The second requirement:
Introduction to oil contracts
After we got acquainted with the renegotiation clause, we must deal with oil contracts by definition by dividing this requirement into two branches. In the first we deal with the definition of oil contracts, while we dedicate the second section to the types of those contracts.

First branch:
Definition of an oil contract
In order to define the oil contract in a clear and integrated manner, it is necessary to clarify its definition in the jurisprudence, and before that its definition in the national legislation of the oil countries, and among the arbitration bodies, so we will divide this section into three paragraphs. In the third paragraph, we discuss its fiqh definition, according to the following:
First - Defining the oil contract in the national laws: At the level of the national oil laws, there are many definitions of oil contracts. Article (3/c) of the Indian Oil Act of 1999 defines the oil contract as ((any agreement concluded on or after January 1, 1999 from by the Government of India with any person authorized by it in any business related to the

exploration, extraction or production of petroleum.(28), As for Article (1) of the Iranian Oil Law No. (2) of 2002, the oil contract is defined as ((the contractual obligations concluded between the Ministry of Oil or any executive unit or any natural or legal person to implement and achieve part of the oil operations in accordance with the laws and regulations in force in The government of the Islamic Republic of Iran and on the basis of the provisions of this law))(29), Under Article (5) of the Petroleum Law of the Republic of South Sudan for the year 2012, the oil contract was defined as ((the oil agreement concluded between the government and the contractor in accordance with this law for the purposes of exploration, development and production of oil)).(30), While we find that Article (2) of the Ugandan Oil Act of 2013 defined the oil contract as ((the agreement concluded between the competent governmental authority with any natural or legal person under this law for the purpose of regulating the terms and conditions of oil operations)).(31).

Under section (5/3) of Vietnam's Oil Act No. (15) of 2004, the oil contract was defined as a written agreement that comes into force by or between the Vietnamese Oil and Gas Company and any organization or individual in order to carry out the oil works.)(32), The oil contract under Article 5 of the Algerian Hydrocarbons Act No. (5-7) of 2005 was defined as a research and/or exploitation contract or a contract allowing the completion of research activities and/or exploitation of hydrocarbons in accordance with this law.(33).

By looking at the previous definitions of oil contracts, we note that the legislator left the issue of defining oil contracts in detail for jurisprudence, after it was one of the issues that fall within the tasks of jurisprudence and not the tasks of legislation.

Second - Definition of the oil contract at the arbitral tribunals: The arbitration court considered many disputes arising from oil contracts, through which it was presented to the definition of those contracts, including the arbitration ruling in the (Texaco) case against the Libyan government in 1977. Oil contracts were defined as “economic development contracts.” It has importance for the host state, and it creates a kind of long-term cooperation between the contracting state and the foreign party, and it includes texts aimed at achieving legislative stability and not violating the contract and subjecting it to international law to protect the private party contracting with the sovereign state that may use this sovereignty to terminate the contract by its unilateral will. (34). The arbitrator (Cavin) in the case (Shappir) against the National Iranian Oil Company defined oil contracts as “a contract concluded between a national company that takes the form of a public project, and a foreign commercial company subject to the civil law of a foreign country, and this contract does not focus on current operations, as It gives the foreign company the right to exploit natural resources for a long period of time and obliges the foreign company to make huge investments and permanent establishments))(35).

Third - Defining the oil contract according to jurisprudence: After the legislative texts, whether at the national level or at the level of international conventions, have abandoned providing a clear and detailed definition of the oil contract, it has become necessary to tread the footings of jurisprudence in the field of defining this contract, and despite all that it says Researchers have definitions, but they did not agree on a unified definition of the oil contract, but each one of them knew it according to the angle from which this contract is viewed, a trend of jurisprudence defined it as the agreement concluded by the host oil state or one of its public bodies or bodies with one of them. Foreign private persons to carry out an oil operation on a part of its territory for a specified period of time (36), while some of them

defined it as the agreement between the oil-producing state or one of its public institutions and the foreign oil company on research, exploration and production of oil (37).

At the time when another aspect of jurisprudence went to define the oil contract in a broader way, it includes, in addition to research and production agreements, the contracts prior to the discovery, such as contracts for drilling works and contracts for geological studies. It also includes contracts for the sale of crude oil and petroleum products, as well as the establishment and exploitation of oil refineries (38). Also part of the jurisprudence went to define oil contracts as contracts concluded between the oil-producing state and the foreign company with the intent of granting it the right to research, explore and produce oil within its territory, with the right to exploit these resources and dispose of them during a period of time in exchange for the state obtaining a certain financial consideration.(39).
In light of the foregoing and through the definitions that were presented, despite their differences in terms, they are similar in meaning, so this study should be enriched with a comprehensive and expanded definition, by defining the oil contract as a contract concluded between the oil-producing state or one of its institutions or public bodies affiliated with it, And between a foreign oil company, often, for the purpose of searching for oil, exploring and producing it in certain places, for a specified period in the contract, in return for a certain consideration or a share of oil production, depending on the type of contract.

second branch:
Types of oil contracts
Oil contracts have taken different forms according to time and place, so it is necessary to know these types of contracts, and the most important characteristic of them by dividing this section into four paragraphs, we deal in each of them with one of those types, according to the following:
First - Concession contracts: The oil concession contract is defined as the contract concluded between the oil-producing country and a foreign oil company, according to which the foreign oil company has the right to exploit oil for a certain period of time.

In return for the concession granting state some sums of money (40). The concession contracts covered most of the country’s area, if not the entirety of it. In some concession contracts, it was even stipulated that the concession area covered the maritime and land territory of the producing country (41), the foreign company was dealing with the fact that the concession area on which the oil search and exploration operations are conducted is not an investment right, but rather the property of the foreign company (42). The most important right of foreign oil companies in the oil concession contract is the ownership of the produced oil and its disposal for the duration of the contract, and the ensuing other rights without any restrictions (43), and the duration of long-term oil concession contracts ranges from (60-75) years (44), for example the period of Iran's privilege with the millionaire (Darcy) was (60) years (45), The concession period was set for (75) years in the agreement concluded between the Iraqi government and (Turkish Oil Company) in 1925, starting from the date of its contract. It has the right to recover it from the producing country, after which it is the sole owner of the oil produced, and then the largest percentage of the profits will be from the share of the foreign company(46). In light of this, the benefits that the oil-producing country obtains under the concession contract are very weak compared to the profits of foreign contracting companies. Second - Musharaka contracts: - The Musharaka contract is a contract between the oil-producing country and a foreign oil company, with the aim of establishing a project usually called the name of the operating company or the company executing the operations, and it carries out oil investment operations in the producing country in a specific

region for a specific period (47), and includes contracts Participation in large areas, but it is much less than those covered by the oil concession contracts. These contracts no longer cover the entire producing territory of the state. Rather, certain areas have been specified that the oil companies cannot deviate from (48), and according to the oil partnership contract, the ownership and disposal of the produced oil is a right The two parties to the contract (49), that is, the producing country and the foreign company, according to the percentage of participation agreed upon in the contract (50). Musharaka contracts are characterized by their short duration compared to concession contracts, as the duration of these contracts in the Middle East did not exceed (forty-five) years (51).
The contracts for participation in its provisions include that the foreign partner shall bear the expenses of oil research and exploration with a minimum value of these expenses and distribute them over successive periods of time until the oil is discovered in commercial quantities, in which case all operations agreed in the contract are transferred to the company to which the parties are established, and each party will bear all expenses spent on the development of the discovered oil fields and exploit them each according to their share in participation .(52).

Third- Oil Service Contracts:- The oil service contract is a contract whereby the producing country or the national oil company pledges to a foreign company the task of carrying out oil operations for its account in a specific area and in return for a specific consideration (53), and service contracts include relatively small areas that vary from one contract to another (54). The oil service contracts are also characterized by their short duration compared to concession contracts and other forms of contracts, for example, the service contract for the development and production of the Iraqi Majnoon field (DPSC) concluded between the South Oil Company on the one hand, Shell-Iraq Petroleum Development Limited (BV) and Petronas Karikali Company on the one hand. Private Limited (SDNPHD) on 17/1/2010 set the duration of research and exploration at (7) years, while the period of exploitation was set by the contract at (20) years, extendable for a maximum period of (5) years at the request of the company Foreign oil (55), as for the ownership of oil(56), the oil service contracts differ in this regard from previous oil contracts, as they do not include the division of certain percentages of oil revenues between the foreign company and the producing country, and the state is the sole owner of the oil produced, as well as the receipt of revenues Financial from the contracting foreign company, represented by the signature bonus (57), discovery bonus (58), production bonus (59). Training Grant (60).
As for the financing in the oil service contract, the foreign company is obligated to provide the necessary funds to cover the expenses of research and exploration for oil, and these funds are considered as interest-free loans to be paid by the producing country in the event that oil is discovered in commercial quantities, but in the event that oil is not discovered in commercial quantities, the foreign company alone bears these expenses Without receiving any compensation, the contracting company is also obligated to provide the necessary funds to finance production and operation operations, and these funds are loans with interest that the producing country is obligated to pay within a specified period and the payment is either in kind or in cash (61), In the event of a non-commercial discovery, the National Company is not obliged to compensate Arab for the losses it suffered as a result of these operations, while the funds for development and exploitation, which amount to interest loans, are obliged by the national company to pay them either in kind or in cash within 5 years.(62). Fourth - Production-sharing contracts: The latest types of oil contracts, defined as an agreement between the oil-producing country or one of its national companies, and the foreign investing company, according to which the foreign company has the right to explore, prospect for and exploit oil in return for a tax-exempted share of production at a cost price when oil is

discovered in quantities commercial (63). The production sharing contracts are characterized by that their area is less than the area of the traditional concession contracts and the Musharaka contracts, and in this feature it is close to the oil service contracts, and this area varies from one contract to another, (64). As for the duration of production-sharing contracts, it is shorter than concession contracts and partnership contracts, as the duration of oil exploration and exploration in production-sharing contracts ranges between (2-10) years, while the period of development and exploitation ranges between (25-40) years (65).

In the production sharing contract, the state, the national company, the institution or its affiliated bodies contracting with the foreign company remains the sole owner of the oil produced and all fixed assets, and the movable assets used by the foreign oil company, and its cost is calculated at the expense of the national company because the foreign company is just a contractor working for the account The producing country or its oil institution(66),

However, the oil-producing state is obligated under the production-sharing contract to give the foreign oil company a percentage of the oil produced to cover its expenses called (cost oil), and give it a percentage of the oil after recovering production expenses called (profit oil) in exchange for the services provided by the oil company, as well as The oil-producing state's share of the profit oil, it obtains other financial returns, often represented by fees and rent, and these amounts are not refundable, in addition to the taxes stipulated in some contracts. By looking at the production-sharing contracts concluded by the oil-producing countries, we find that the foreign party - the contracting oil company - bears all the expenses of oil exploration and exploration, with a stipulation of a minimum value of the expenses that the foreign party undertakes to spend and distribute over successive periods of time (67). If the discovery of oil in commercial quantities is not achieved, the foreign party shall bear all the expenses alone without having the right to obtain any compensation. The contract varies from one contract to another.(68).

The second topic:

Conditions of commitment to renegotiate oil contracts and its implications

The change of circumstances on the basis of which the oil contract was concluded means the emergence of a realistic situation that leads to the entry of the parties to the contract to the negotiation stage, and accordingly, the renegotiation clause relates to the conditions in which the circumstances surrounding the contract are subject to a certain change, which requires the availability of certain conditions to implement the renegotiation clause, so we will divide this requirement into two sections. In the first section, we will deal with the conditions of implementation, while the second section will be devoted to the effects of the renegotiation clause, according to the following:

The first requirement:

Terms of commitment to renegotiate oil contracts

The implementation of the renegotiation clause in oil contracts requires the availability of certain conditions related to the nature of the circumstances justifying renegotiation, which is that the change in circumstances is unexpected, and the will of the parties to the contract does not interfere in its occurrence, and that this change in circumstances leads to an economic imbalance of the oil contract, and accordingly Therefore, studying the conditions of the commitment to renegotiation requires dividing this requirement into three branches, in each of which we deal with one of these conditions, according to the following:

First branch

Not expecting a change in circumstances

The condition of not expecting a change in circumstances is a main condition for the implementation of the obligation to renegotiate contracts with a foreign element, including oil contracts. It is impossible to happen, rather it means the circumstance that is not expected to happen at the time of the contract according to the circumstances, presumptions, the nature of the contract and its duration (69). Also some fiqh defined it as the improbability of an accident occurring if it could be imagined (70), The French Court of Cassation also defined the unexpected as "the impossibility of an event occurring, for every possible event is foreseeable" (71), and the Government Commissioner defined the unexpected circumstance in his comment on the decision of the French Council of State issued on December 3, 1920 in the case of (FORMASSEL) as ((that event that contradicts all the calculations made by the parties to the contract during its conclusion, and which exceeds the maximum limits that were expected by the parties)) (72). From the above definitions, it is clear that not expecting a change of circumstances means that there is a likely possibility that an incident did not occur, or that it did not appear during the term of the contract, or that its occurrence will not affect the implementation of the contract.

The issue of unpredictability is a relative issue that varies according to people, places and professions, as well as the nature and duration of the contract, and thus there is no expected circumstance and another unexpected in nature, or there is no so-called absolute non-expectation of the event (73), except that some jurisprudence went to that as a result of scientific development, especially In oil contracts, he made almost all events predictable, or at least made the field of unpredictability confined to a narrow field, and Professor (Tanak) says in this regard (according to this concept, there will be nothing unexpected, not wars, floods, or lightning strikes...)(74), However, another aspect of jurisprudence and we support it did not agree with this trend because it is not based on an accurate perception of the meaning of non-expectation, since it is not intended after expectation to represent it in the mind and in a passing way at the moment of concluding the contract, but rather it is the expectation of its occurrence in the future to a sufficient degree that prompts the contracting party to refrain the conclusion of the contract in the original, or the conclusion of the contract, but under different conditions (75). In this direction, we note that the Unidroit Principles (PICC) clearly stated that the difficult circumstances that necessitate the application of the terms of renegotiation must be unforeseen, as it stated: "The events cannot be taken into account in a reasonable manner by the party who was exposed to them when concluding the contract.") (76). The Guide of the International Chamber of Commerce (ICC) for the year 1985 stipulated that the renegotiation clause should not be complied with in the first paragraph of its report prepared by it, as it stated ((in the event of unexpected events from the parties)). Also, the arbitration decision issued by the International Chamber of Commerce (ICC) in Case No. 5617 of 1989 emphasized the need for the circumstance to be unexpected for the implementation of the renegotiation clause. Unexpected and not applicable and the current situation, because the legal effects as shown in the facts cannot be considered unpredictable in the general sense (77). The researcher believes that the problem of anticipating or not anticipating conditions after the conclusion of the contract, can only be imagined in long-term contracts, including oil contracts, which makes it possible for the foreign oil company to expect during the implementation of the oil contract to change the circumstances, because the conditions of life are in continuous development, albeit in a way slow, but in the long run it will lead to the overturn of the contract economics on the basis of which the parties to the contract build their accounts at the time of the contract.

second branch

Independence of the unexpected circumstance from the will of the parties to the contract

The occurrence of an unexpected circumstance is not sufficient for the renegotiation between the two parties to the oil contract. In addition, this circumstance should be outside the will of the two parties (78), and the independence of the circumstance from the will of the parties to the contract is intended as the cause of hardship and imbalance of the contract outside and independent of the party adhering to adapting the contract with changed circumstances by renegotiation clause(79), and some jurisprudence went to that the independence of the circumstance from the will of the parties to the contract means that the event is outside according to the nature of things as a material departure from the parties to the contract(80), while some defined it as the lack of connection between the emergency event that caused the change of circumstances and the will of the parties to the contract, rather its origin is an order outside of it and from their activity or field of work (81).

From this it becomes clear that the incident that one of the parties to the contract requests to renegotiate as a result of its occurrence must be independent of the will of the two parties to the contract, it cannot be issued by one of them, and then he is allowed to demand that the contract be amended in his favour, at the expense of the other party(82), and the unexpected circumstance is independent of the will of the parties to the contract if three conditions are met, which are as follows (83):

1- The unexpected circumstance should not have occurred due to the contracting party or the activity of his subordinates who were assisted in implementing the contract, as their error in implementing the contract is the same as the error of the original contractor.
2 - That the contractor not behave negatively by failing to take the necessary preventive measures to prevent the occurrence of the unexpected circumstance.
3 - That the contractor has not refrained from taking the natural, necessary and possible measures to avoid the consequences of the unexpected circumstance or neglected to use modern technology and techniques that avoid loss and economic imbalance of the contract.
The French Civil Code stipulates the condition that the circumstance is independent of the will of the two parties in Article (1531) of the French Civil Code, which states: “The impossibility of performing the performance acquits the debtor within the limits of the impossibility if it arises from a case of force majeure and is final unless it is agreed to bear it or has been given a prior warning.” (84), as for the Egyptian legislator, it stipulated the condition that the unexpected circumstance be independent of the will of the parties in Article (215) of the Egyptian Civil Code, as it stated: ((If it is impossible for the obligor to perform the obligation in kind, he shall be sentenced to compensation for not fulfilling his obligation unless it is proven that the impossibility of implementation arose. for a foreign cause that he has no control over) and also Article (373) of the same law, as it states: “The obligation lapses if the debtor proves that fulfillment of it has become impossible for him for a reason beyond his control.”(85). As for the Iraqi legislator, it stipulated this condition in several places, including Article (168) of the amended Iraqi Civil Code No. (40) of 1951 (86), It states: “If it is impossible for the obligor of the contract to perform the obligation in kind, he shall be ordered to pay compensation for non-fulfillment of his obligation, unless it is proven that the impossibility of implementation arose due to a foreign cause in which he had no influence.” Also, Article (211) of the same law which states that ((If he proves that The person states that the damage has arisen from a foreign cause that he has no control over, such as a celestial calamity, a sudden accident, force majeure, or the fault of the injured person...)).

In the field of international agreements, we find many of them have stipulated this condition, as in the 1980 Vienna Convention (CISG), as it stipulated in Article (79/1) that ((no one of the parties shall be asked about the non-performance of any of its obligations if it is proven that the non-implementation it was due to an obstacle due to circumstances beyond his control...)). In the same direction went the report of the International Chamber of Commerce (ICC) for the year 2003 on the model formulation of the force majeure condition and renegotiation, as the evidence clarified ((that the implementation of the contract if it becomes very difficult and costly due to an event outside the control of the injured party...)). (87).The PICC principles also expressed this element when talking about the conditions that must be met in the event that causes a state of hardship and fatigue in the implementation of the contract and that requires renegotiation, in Article (6-2-3/c) which states that (That these events are beyond the control of the party who was exposed to them).(88).

third branch

Economic imbalance of the decade due to changing circumstances

In addition to the previous two conditions, it is stipulated for renegotiation between the two parties to the oil contract that the change of circumstances outside the will of the two parties to the contract will lead to an economic imbalance of the oil contract, which makes the foreign company's implementation of its contractual obligations in accordance with the oil contract a difficult and cumbersome matter that exposes it to heavy losses, and it has defined an aspect of jurisprudence imbalance The economic balance of the contract is that it is the disturbance that occurs in the contractual relationship due to unforeseen circumstances that lead either to a substantial increase in implementation costs, or to a decrease in the corresponding performance (89), while another aspect defined it as a disturbance and change in the economics of the contract in a fundamental and unfair way, as the implementation of the contract becomes The one who owes her a difficult and stressful matter threatens him with a heavy loss (90).

The UNCITRAL Manual on Drafting International Contracts for the Construction of Industrial Facilities for the year 1988 has explicitly organized the economic imbalance condition of the contract as one of the business requirements of the renegotiation clause in the first paragraph of Part (B) of Chapter 22 of this guide, as it was expressed as ((the change that It leads to negative and dangerous economic consequences for the party adhering to the provisions of the condition). The report of the International Chamber of Commerce (ICC) for the year 2003 is preparing for the model formulation of the renegotiation clause that the economic imbalance becomes an important element in the application of this condition, and the contractors cannot be obligated to re-negotiate Negotiating without verifying its existence, as it states: ((If the implementation of the obligations becomes very expensive and costly, the parties pledge to adhere to the current condition and renegotiate)).(91).

It is required in the economic imbalance of the contract to implement the provisions of the renegotiation clause that it fulfills two conditions, namely that it be effective, and that it be unfair, and this is what we will address in two points:

First – That the economic imbalance of the contract be effective:- It is stipulated in the economic imbalance that requires renegotiation to amend the oil contract that it leads to great harm to one of the contracting parties, that is, it leads to serious damages and heavy losses to one of the parties (92), therefore, the mere economic imbalance of the contract is not sufficient alone to implement the renegotiation condition, but rather it must be a serious impact on the implementation of the contract significantly. Despite the importance of this condition, the contracts in general, and oil contracts in particular do not express it uniformly.

Damage borne by one of the contractors in general, including what was stipulated in one of the contracts for the sale of natural gas, where the parties to the contract agreed that the renegotiation clause will be implemented ((if the circumstances change and result in the effects, results and desired objectives of this contract have fundamentally different from what they were available at the time of contracting)(93), Including what determines the percentage of damage required to implement the condition of renegotiation, from that condition which states that ((if the price of oil increases or decreases by more than six francs per ton, the parties will meet with the aim of discussing the adjustments in the price)).(94).
Second - That the economic imbalance be unfair: It is required that the economic imbalance be unfair to one of the parties to the contract (95). The concept of injustice is broad and flexible, and therefore subject to different interpretations and interpretations, which may cause problems in the process of verifying the existence or absence of the imbalance that is required to implement the renegotiation clause.

The second requirement
The implications of renegotiating oil contracts
The renegotiation of the oil contracts has two consequences. The first is to stop the implementation of the oil contract for a specified period, and then the contract resumes its normal validity. The second is to renegotiate in good faith, and this is what we will address in two branches according to the following:

First branch
Suspending the implementation of the oil contract
The suspension of the implementation of the oil contract is one of the effects of the inclusion of a renegotiation clause when unexpected circumstances or events occur that lead to an economic imbalance of the contract in order to maintain the contract between them. As for the second, it is that the contract is allowed to enter into force again after its suspension, and these two benefits are evident by defining the suspension of the implementation of the contract as suspending the implementation of the contract for a temporary period, as a result of an unexpected circumstance out of the control of the parties with the aim of preserving the contractual bond during the interruption period, and then resuming the contract again after disabling it (96).

The suspension of the implementation of the oil contract may find its basis in the will of the two parties to the contract, as they may agree to stop its implementation for a certain period after the occurrence of the circumstance until a joint agreement is reached, including a contract for the installation of an oil refinery in which the two parties agreed to stop the delivery of oil and extend the contract as much as the number of working days lost the company contracting the installation due to force majeure (97), the suspension of the implementation of the oil contract may find its basis in international agreements and arbitration rulings, including the United Nations Convention on Contracts for the International Sale of Goods in Vienna in 1980, which states in Article (79/3) that ((...the exemption provided for in this Article shall take place. effect during the period during which the obstacle remains in place.(98), The UNCITRAL Guide to Drafting International Contracts for the Construction of Industrial Facilities for the year 1988 also confirmed that the parties can agree to stop the implementation of the contract when the renegotiation clause works, as it stipulates that ((when the parties are obligated to amend the contract through renegotiation, they may adopt a two-pronged approach Either to continue to perform and implement the obligations allegedly affected by hardship... or to agree to grant the party adhering to the condition of renegotiation the right to stop the implementation and

performance of the obligations...)). The same is true of the report of the International Chamber of Commerce (ICC) on the model formulation of the force majeure and renegotiation clauses for the year 2003, as it stipulated in paragraph (6) of it that ((when the effect of the ban or the event adhered to is temporary, the results stipulated in paragraphs 4) will apply. (5), but only within the duration of this event.(99), Among the arbitration decisions that included a stay of execution, was the decision issued by the International Chamber of Commerce in Case No. (1703) of 1971 in which the arbitral tribunal recognized the existence of a force majeure case during the period in which hostilities began and until their end and twenty days later, and that the force majeure situation leads to the impossibility of executing the contract temporarily and not permanently, and then the contract returns to its normal validity after this temporary period, and the matter does not differ with regard to the renegotiation condition, as the majority of jurisprudence considers that renegotiation leads to the suspension of the implementation of the contract automatically without the need for the parties to agree on that.(100).

Suspending the implementation of the contract during renegotiation does not affect the existence of the contract, but rather remains in place with all its effects, and all that is in the matter is that the implementation of these obligations stops during this period (101), and it also includes only the original obligations that were affected by the accident, as well as other obligations whose implementation depends on the implementation of these obligations As for other obligations whose implementation is not related to the implementation of the suspended obligations, they remain in force and are not covered by the stay (102), and the suspension of implementation imposes several obligations on the contracting parties, including the obligation to take the necessary care to remove the cause of the suspension, and the obligation to maintain the contract (103). Finally, it must be pointed out that the suspension of the implementation of the contract expires either by resuming the implementation of the contract when the reason for the suspension ceases, and it may expire at the end of the contract term unless its period extends for a period equal to the term of the suspension, and in other cases the suspension expires with the agreement of the parties to the contract (104).
second branch

renegotiation in good faith
Re-negotiation according to the principle of good faith is due to the need to reconcile two conflicting interests, namely the interest of the beneficiary of changing circumstances and the one harmed by changing circumstances. Every reasonable and possible effort is made to preserve and control the economic balance of the relationship that has been out of balance at his expense due to changing circumstances, and this effort is made through negotiation and dialogue with the beneficiary of changing circumstances.
Also part of the jurisprudence went to the effect that the two parties to the oil contract are obliged to renegotiate based on the principle of good faith when there is an imbalance in the economic balance of the oil contract even before resorting to the court and arbitration (105).
Commitment to the principle of good faith in renegotiation is defined as the commitment of the contracting party to take into account the interests and expectations of the counterparty in order to ensure the integrity of legal transactions and to represent the interests of the parties to the contractual relationship in a balanced manner (106). Thus, the obligation to observe the principle of good faith in renegotiating constitutes a significant restriction on the freedom of the parties in the negotiating process, which derives its provisions from the principle of the authority of the will and the contract of the Shariah of Contracting Parties (107).

The two parties to the oil contract are obligated under the condition of renegotiation in the event that it is stipulated in the contract to review the contract when the change of circumstances leads to upsetting the economic balance of the contract by sitting at the negotiating table and reviewing the contract concluded between them, and the French judiciary has confirmed the commitment of the parties to the oil contract to enter into negotiations after the occurrence the event justifying the actions of the renegotiation clause, in a case whose facts are summarized in the fact that the (shell) company has concluded with (E.D.F) a long-term contract for the supply of one of the oil derivatives, and the contract contained a clause stating that ((…… it will examine The parties must make the adjustments to be made, whether with regard to the price or any other condition, if the material to be imported states an increase in the price of more than 6 francs compared to the original value))(108), and the court before the dispute went when interpreting the condition that the parties only wish to amend the paragraphs of the contract according to the circumstances in order to preserve it, the court invited the parties to renegotiate and appointed an observer to follow up the negotiations and prepare a report in the event of their failure (109), so the negotiations are a direct connection between the host oil state and the oil company. These negotiations are characterized by the fact that they are not bound by any kind of formalities or objective rules and take place in an oral or written form (110).
Among the practical contractual practices of oil contracts, the production-sharing contract concluded by the State of Qatar with a foreign oil company in 1994 referred to this condition, as Article (12) of it stipulated that ((considering that the current agreement was made in accordance with the financial and legal situation and the regulations in force at this time, it will be agreed that if any law or decree is issued in the future that affects the financial position of the investor... the parties will enter into negotiations and renegotiate in good faith in order to reach a just solution that maintains the economic balance of the contract)) (111). As well as the condition contained in one of the contracts concluded in 2001 with one of the oil-producing countries, which stipulated in Article (13) that ((the parties must act in good faith and renegotiate all or some of the terms of the contract in the event of a change of circumstances...)) (112).

One of the important issues in which international arbitration stressed the importance of having the obligation to observe the principle of good faith in the renegotiation process is the decision issued in the (Aminoil) case in 1982 regarding the dispute arising between the State of Kuwait and the American Oil Company. Very significantly, which led to an increase in the profits of the oil companies, which called for three Arab oil countries to meet in the city of Abu Dhabi and came up with a formula to restrict these profits. As a result, the American company (Aminoil) demanded the necessity of renegotiating with the government of the State of Kuwait for the purpose of reviewing the percentage of profits. Profits, but the negotiations failed. As a result, the government of Kuwait unilaterally terminated the concession agreement concluded with the oil company and offered to pay compensation. As a result, the matter was referred to arbitration. Article (9) of the contract concluded between the two parties, and the arbitral tribunal reached several conclusions, the most important of which is that the parties to the oil contract must abide by the negotiating process and that those negotiations be in good faith and the principle of good faith the following is taken into account:

1- Continuing the negotiations within the appropriate and reasonable period of time.
2- Awareness of the interests of the other party.
3- Diligent work to reach an acceptable compromise (113).

It is worth noting that the commitment of the two parties to the oil contract to renegotiate is an obligation to take care and not an obligation to achieve a goal. In accordance with the requirements of good faith, which is one of the important principles that most civil laws have been keen to stipulate, from the French Civil Code in Article (1134/3) as it stated "Agreements must be implemented in good faith", corresponding to Article (148) of The Egyptian Civil Code(114), which states: ((The contract must be executed in accordance with what it contains and in a manner consistent with what is required by good faith)), as stipulated by many international agreements, including the Vienna Convention on the International Sale of Goods in Article (7/1)(115), as stated In it ((take into account in the interpretation of this agreement... as well as to ensure good faith in international trade)).
The obligation to inform and cooperate between the two parties to the contract is one of the most important obligations associated with good faith in the implementation of contracts with a foreign party, including oil contracts, because the principle of good faith no longer stops at the negative behavior of refraining from fraud and bad faith, but rather it includes a positive behavior represented by cooperation between the two parties (115), the obligation to inform and cooperate is a logical result of the principle of good faith in transactions, which requires each party to inform the other party of all the data, information and facts it has related to the negotiation, and to embody this, the International Chamber of Commerce in Paris has obligated the negotiator to inform the other party about what It has special provisions in the applicable law of domicile, as it ruled in its ruling issued in 1981 that the contractor cannot adhere to the inadmissibility of arbitration on the grounds that this condition was not issued by a government decree as long as the negotiator has failed to inform the other party of this condition (116), and the notification is done in different ways this may be by submitting written data, which is known as (pure notification), and the notification may be made in the form of alerting or warning the other contracting party that there is a set of physical or legal risks in order to be able to put this mind Frameworks in its calculations when negotiating, and this image is called (warning notification), and finally the notification may be in the form of providing advice and guidance to the other contracting party in certain issues in which one of the parties has experience as a result of concluding other previous contracts similar to the current contract, and this image is called (Notification of advice) (117).

Conclusion:
After we finished the study on the subject of our research tagged (the condition of renegotiating oil contracts), we reached a number of results and a set of recommendations, represented by the following:

First - the results
In the context of researching the condition of renegotiating oil contracts, we reached the following results:

1 - The condition of renegotiating oil contracts is a paragraph agreed upon by the two parties to the oil contract for the purpose of committing to review the contract when changes occur in circumstances outside their will and expectations that would cause an imbalance in the contractual balance.

2 - The renegotiation clause finds its legal basis in the national laws of different countries, and in the international agreements concluded by those countries, and this clause also finds its basis in judgments issued by national courts, and arbitration rulings issued by arbitral tribunals in disputes submitted to them, in addition to the fact that The oil contracts concluded by the petro-states are a legal basis for the renegotiation clause.

3 - The implementation of the renegotiation clause in oil contracts requires the availability of certain conditions related to the nature of the circumstances justifying renegotiation, which is that the change in circumstances is unexpected, and that the will of the parties to the contract does not interfere in its occurrence, and that this change in circumstances leads to an economic imbalance of the oil contract .

4 - The renegotiation of the oil contracts has two consequences. The first is the suspension of the implementation of the oil contract for a specified period, and then the contract resumes its normal validity. The second is renegotiation in good faith.

5- The idea of renegotiation came in response to contracts with a long-term foreign element, including oil contracts, which are not satisfied by solutions approved by national laws, whether they refuse to amend the contract or allow it, as the condition of renegotiation is a contractual idea, that is, the product of economic practices in long-term contracts , including oil contracts, seeks to maintain the economic objective of the contract, as no one can be more familiar with the economic objectives of the contract than its two ends.

6- Most of the national legislation, international agreements and oil contracts have stipulated each of them the necessity of observing the principle of good faith, whether explicitly or implicitly, and whether at the stage of concluding or implementing the contract. The requirement to observe the principle of good faith at the stage of contract implementation may apply to the condition of renegotiation, especially since the implementation of this condition is only at the stage of contract implementation.

7- The success of the negotiating process emanating from the renegotiation clause is achieved in the two parties to the oil contract reaching appropriate amendments to the contractual performances through which the economic rebalancing of the contract can be reached through proportionality and parity between the corresponding rights and obligations of the two parties to the contract.

Second:Recommendations

The most important recommendations that we reached in the subject of our research are as follows:

1- Ensure that the oil contracts that Iraq concludes with foreign oil companies include as a condition for renegotiating all its clauses, and that this is done through a joint committee between the two parties, so that this committee meets every three years to reconsider the clauses of the contract, given the speed of political changes and economic issues that occur in the world in general and in the countries of the Middle East in particular, which affects the rights and obligations of the parties in general, which would be better to reconsider and agree on them again rather than disputes between them in connection with them, as this condition can be given in the light of the special nature of administrative contracts with The foreign element, including oil contracts, can play an important role in avoiding disputes that may erupt between the two parties to the oil contract.

2- Opening centers and institutes specialized in preparing and training competent negotiators who can be referred to in the negotiation process, especially in long-term contracts of great importance in the country’s economy, the most important of which are oil contracts.

3- Explicitly specifying the conditions for applying renegotiation in oil contracts, which leaves no room for doubt or interpretation, as well as indicating the binding nature of this condition, as it imposes specific obligations that the parties to the oil contract must fulfill without having the right to choose.

Margins:

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