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The Role of Renegotiation in Commercial Disputes under Iranian and Iraqi Law

Hossein. Mahmoudi[1*], Leila. Javanmard[1], Mohammad. Hatam Hatef Al-Khafaji[2]

[1] Assistant Professor, Department of Law, Lorestan University, Khorramabad, Iran
[2] Master's Student, Department of Law, Lorestan University, Khorramabad, Iran

*** Corresponding author email address**: Mahmoodi.h@lu.ac.ir

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This study examines the role of renegotiation in the prevention and resolution of commercial disputes under Iranian and Iraqi law. Renegotiation has become increasingly important in long-term and complex commercial relationships in which economic, political, legal, or regulatory developments may substantially alter the circumstances existing at the time of contract formation. The study focuses on the legal foundations, binding effect, triggering conditions, consequences, and dispute-resolution function of renegotiation, while distinguishing it from arbitration, mediation, conciliation, and force majeure. Using a descriptive-analytical and comparative method, the research evaluates the extent to which the general principles of contract law in Iran and Iraq can support the validity and enforceability of renegotiation clauses despite the absence of a comprehensive statutory framework specifically governing them. The findings indicate that party autonomy and the binding force of contracts provide the principal legal foundations for recognizing renegotiation in both systems. Renegotiation is most appropriately characterized as an obligation of conduct rather than an obligation to achieve a specific result, meaning that parties are required to participate genuinely and seriously in the process but are not ordinarily compelled to reach an agreement. The study also finds that successful renegotiation may preserve contractual relations by allowing adjustments to price, performance schedules, payment mechanisms, contractual duration, and other affected terms. In contrast, unsuccessful renegotiation may lead to arbitration, litigation, consensual termination, or other agreed dispute-resolution mechanisms. The comparative analysis demonstrates that clearer legal standards are needed in both Iran and Iraq concerning the triggering threshold, good-faith participation, continued performance during renegotiation, remedies for breach, and the procedural effect of mandatory renegotiation clauses. The study concludes that carefully drafted renegotiation clauses can strengthen contractual stability, reduce unnecessary disputes, and provide an effective mechanism for adapting commercial relationships to exceptional changed circumstances.

Keywords: *Renegotiation; Commercial Disputes; Contractual Adaptation; Changed Circumstances; Good Faith; Iranian Law; Iraqi Law; Arbitration*

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1. Introduction

The increasing complexity and duration of contemporary commercial relationships have transformed the manner in which contractual disputes arise and are managed. Commercial contracts, particularly those involving long-term performance, cross-border transactions, infrastructure projects, investment, energy, supply, construction, and continuing commercial cooperation, are concluded on the basis of a particular economic, legal, and political environment. That environment, however, is rarely static throughout

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the entire contractual period. Inflation, currency fluctuations, regulatory changes, trade restrictions, sanctions, war, political instability, disruptions in transportation networks, exceptional increases in the price of raw materials, and other unforeseen developments may alter the assumptions on which the original allocation of contractual obligations was based. The legal difficulty becomes particularly significant when such developments do not make performance objectively impossible but nevertheless render it excessively burdensome or substantially disturb the economic equilibrium originally contemplated by the parties. The traditional principle of contractual stability requires parties to honor their agreements, yet the rigid application of contractual terms in radically altered circumstances may itself undermine the economic purpose for which the contract was concluded. The theory of changed circumstances has consequently become important in determining how legal systems reconcile contractual certainty with the need for adaptation when extraordinary developments materially affect performance (Zouak, 2023). Similar concerns have led scholars of international commercial transactions to distinguish ordinary commercial risks, which remain with the party that assumed them, from exceptional circumstances that may justify some form of contractual adjustment (Sharif, 2010). Renegotiation emerges within this context not as a rejection of the binding force of contracts but as a technique for maintaining the contractual relationship by adapting it to circumstances that were not adequately reflected in the original agreement.

Renegotiation must be distinguished from ordinary negotiation preceding the formation of a contract. Pre-contractual negotiation concerns the process through which parties determine whether a contractual relationship should be created and, if so, on what terms. Renegotiation, by contrast, presupposes an existing contractual relationship and normally arises when subsequent events create a need to reconsider some aspect of that relationship. It may occur voluntarily after a dispute has emerged, or it may be required by an express contractual clause that identifies the events capable of triggering a duty to return to negotiations. The renegotiation clause has therefore developed as an adaptation mechanism particularly suited to continuing and long-term commercial agreements. Its principal purpose is to permit the parties themselves, rather than a judge or arbitrator, to reassess their obligations and determine whether changes in price, performance schedules, payment methods, quantities, duration, risk allocation, or other contractual terms are necessary to preserve the viability of the transaction. The literature on contractual adaptation emphasizes that long-term agreements cannot always anticipate every future contingency and that adaptation clauses provide a method of preserving the economic function of an agreement without prematurely terminating it (Matray & Vidts, 2005). Renegotiation has accordingly been described as an important means of restoring contractual balance where subsequent circumstances significantly alter the economic assumptions underlying performance (Husam al-Din, 2022). The mechanism is especially important because the parties themselves generally possess better information than an external adjudicator concerning the commercial objectives of the transaction, the technical possibilities for modifying performance, and the compromises necessary to preserve cooperation.

The role of renegotiation becomes particularly significant when a commercial disagreement has already begun to develop. Commercial disputes are not always binary conflicts in which one party has clearly performed and the other has clearly breached. Many disputes emerge gradually from disagreements over the allocation of new costs, the consequences of economic changes, the interpretation of clauses drafted under different circumstances, the effect of regulatory intervention, or the feasibility of continuing performance on the original basis. In such situations, immediate recourse to litigation or arbitration may intensify the conflict and transform an adaptable contractual problem into an adversarial legal dispute. Negotiation is generally more flexible because it leaves the authority to shape the solution with the contracting parties themselves. Shiravi and Kazemi's economic analysis of negotiation emphasizes the importance of negotiation as a comparatively efficient means of resolving commercial disputes, particularly because consensual settlement may reduce the financial and temporal costs associated with adjudicatory procedures (Shiravi & Kazemi, 2019). Renegotiation can therefore serve both a preventive and a remedial function. Preventively, it provides an institutionalized opportunity to address changed

circumstances before they amount to a serious breach. Remedially, it may allow parties whose relationship has already deteriorated to reconstruct their obligations and avoid termination, damages proceedings, or formal dispute resolution. Its value lies precisely in the fact that it does not require the relationship to be treated as irreparably broken merely because its original terms have become difficult to maintain.

This function is especially relevant to commercial relationships involving Iranian and Iraqi parties. Iran and Iraq are neighboring jurisdictions with substantial possibilities for cross-border trade and continuing contractual cooperation, while both legal systems belong broadly to civil-law traditions in which contractual obligation, party autonomy, and legally recognized methods of settlement have major importance. Nevertheless, renegotiation has not been developed in either legal system as a comprehensive and autonomous statutory institution governing commercial disputes. The absence of a detailed legislative regime does not necessarily mean that renegotiation lacks legal effect. Rather, its position must be reconstructed from broader principles of contract law, particularly freedom of contract, binding force, consent, contractual conditions, responsibility for non-performance, and the legal recognition of settlement and consensual dispute resolution. Amini and Pilvar's comparative analysis of the renegotiation clause demonstrates that its effects must be examined not only between the contracting parties but also in relation to courts and the admissibility or timing of formal proceedings (Amini & Pilvar, 2023). The issue is therefore more complex than determining whether parties are free to discuss changes to their contract. The essential questions concern whether a contractual undertaking to renegotiate is legally binding, what type of conduct it requires, whether the parties must merely participate or must also reach an agreement, how good faith affects their conduct, what happens to the original obligations during the renegotiation period, and what consequences should follow from unjustified refusal or deliberate obstruction. The comparative significance of the Iranian and Iraqi approaches also lies in the tension between stability and flexibility. Commercial law requires predictable enforcement because businesses must be able to rely on contractual commitments when organizing investment, financing, supply, pricing, and performance. At the same time, strict contractual rigidity may produce commercially irrational outcomes when the economic structure of a long-term transaction changes dramatically. The problem is therefore not whether contracts should be binding, but how binding contracts should respond to events that fundamentally alter their expected equilibrium. Scholarship on hardship clauses has long treated contractual renegotiation as one method of reconciling these competing objectives (Carneiro, 2013). Similarly, research on changed circumstances in international trade contracts recognizes that hardship differs from impossibility: performance remains legally or physically possible, but the burden has become substantially different from that originally assumed (Ashour, 2018). This distinction is central to the role of renegotiation because force majeure may excuse or suspend performance where an obligation cannot be performed, whereas renegotiation is generally directed toward saving performance when continuation is possible but requires adaptation.

The contractual basis of renegotiation is particularly important where legislation does not comprehensively regulate the institution. Parties may anticipate future instability by defining triggering events, procedural obligations, time limits, information requirements, continuation of performance, and the consequences of unsuccessful negotiations. The flexibility of contractual drafting allows renegotiation clauses to range from broadly formulated obligations to consult after a material change to highly detailed hardship mechanisms specifying objective thresholds and adaptation procedures. Marouk emphasizes the importance of renegotiation clauses in international trade contracts as instruments designed to respond to serious changes affecting the contractual framework (Marouk, 2019). Ben Driss likewise examines renegotiation through the interaction of national legislation and the UNIDROIT Principles, illustrating that the contemporary concept is supported by a wider movement toward contractual adaptation in circumstances of hardship (Ben Driss, 2021). This broader comparative experience is relevant to Iran and Iraq because the legal effectiveness of renegotiation may be strengthened by interpreting domestic principles consistently with internationally recognized techniques of commercial contract management.

The distinction between renegotiation and other dispute-resolution mechanisms must also remain clear. Arbitration involves the submission of a dispute to a third party empowered to issue a binding determination; mediation involves third-party assistance intended to facilitate agreement; conciliation and settlement similarly operate through consensual processes but ordinarily presuppose an identified disagreement. Renegotiation, in contrast, may begin before a fully developed legal dispute exists and usually operates directly between the contractual parties. It is therefore capable of functioning as a preliminary stage in a multi-tier dispute-resolution clause. Masoumi's examination of arbitration and alternative methods of dispute resolution demonstrates the practical importance of mechanisms that may operate before or alongside arbitration in international commercial practice (Masoumi, 2012). Yahiaoui similarly situates consensual alternatives within the broader architecture of commercial dispute resolution outside public and private adjudication (Yahiaoui, 2019). Renegotiation should accordingly be viewed neither as a substitute for every form of adjudication nor as an informal discussion devoid of legal significance. Its proper place is that of a contractual mechanism that can prevent a disagreement from becoming a formal dispute, resolve an existing dispute consensually, or prepare the parties for subsequent arbitration or litigation when agreement proves impossible.

Against this background, the objective of the present study is to analyze the legal role of renegotiation in commercial disputes under Iranian and Iraqi law, with particular attention to its conceptual foundations, contractual basis, binding effect, relationship with changed circumstances, obligations imposed on the parties, consequences of failure, and interaction with arbitration and judicial proceedings. The study adopts a descriptive-analytical and comparative legal approach. It focuses on those aspects of renegotiation that are directly relevant to commercial disputes and deliberately excludes extensive treatment of general arbitration procedure, mediation, conciliation, and investment law except where those subjects clarify the distinctive function of renegotiation. The central argument is that both Iranian and Iraqi law possess sufficient contractual foundations for recognizing renegotiation clauses, even though neither system has developed a complete statutory framework governing their operation. This creates both opportunity and uncertainty: opportunity because contractual autonomy enables sophisticated parties to design flexible adaptation mechanisms, and uncertainty because inadequate drafting may leave unresolved questions concerning triggering conditions, standards of conduct, continued performance, remedies, and the relationship between renegotiation and formal dispute resolution. The analysis therefore proceeds from the conceptual and legal foundations of renegotiation to the specific position of Iranian and Iraqi law and finally to its practical function in the prevention and resolution of commercial disputes.

2. Conceptual and Legal Foundations of Renegotiation in Commercial Disputes

Renegotiation is best understood as a process through which parties to an existing contract reconsider one or more elements of their contractual relationship after circumstances affecting performance have changed. Its defining characteristic is therefore not simply the existence of negotiation but the presence of a pre-existing contractual framework that the parties seek to preserve, modify, or rebalance. In international and long-term commercial contracts, the need for renegotiation arises because the contractual allocation of rights, obligations, costs, and risks is necessarily based on assumptions prevailing at the time of conclusion. The longer the contractual duration, the greater the possibility that economic or legal developments will cause those assumptions to lose their practical relevance. Renegotiation responds to this problem by allowing the parties to revise their agreement without treating every substantial change as a ground for termination. Berge's analysis of renegotiation and adaptation in international investment contracts illustrates the broader contractual rationale for permitting parties to respond flexibly to subsequent developments while preserving the underlying transaction (Berge, 2003). Bernardini similarly treats renegotiation as a significant mechanism in long-term contractual relations in which the continuing viability of the transaction may require adjustment rather than mechanical adherence to initial terms (Bernardini, 1998). Although much early literature developed in the investment context, the underlying logic applies equally

to commercial contracts whose performance extends over time and whose economic balance may be altered by extraordinary events.

The contractual renegotiation clause differs from a simple agreement to discuss future matters because it is ordinarily linked to defined circumstances that materially affect the contract. A well-constructed clause may specify that significant currency depreciation, extraordinary inflation, legislative change, new taxes, sanctions, war, restrictions on international transfer, exceptional increases in production costs, interruption of supply chains, or other serious developments trigger an obligation to reconsider the relevant terms. The exact trigger depends on the commercial transaction and the risks the parties have already allocated. Renegotiation should not ordinarily be activated by every unfavorable development, because commercial contracting necessarily involves risk. If an ordinary increase in market price automatically entitled a party to renegotiation, contractual certainty would be seriously weakened and inefficient parties could seek to transfer risks they had consciously accepted. Husam's analysis of hardship renegotiation in international trade contracts stresses the relevance of a substantial change rather than ordinary commercial inconvenience (Husam, 2023). Kamal's comparative examination of changing economic circumstances similarly indicates that legal intervention becomes relevant when economic developments significantly affect contractual transactions rather than merely reducing expected profitability (Kamal, 2022). The threshold for renegotiation must therefore be connected to material disturbance of the contractual equilibrium.

The idea of contractual equilibrium does not imply that every contract must remain economically equal in a mathematical sense. Commercial parties often accept asymmetric obligations, speculative risks, variable returns, and uncertain costs. Contractual equilibrium instead refers to the fundamental economic relationship that informed the bargain and the allocation of risks upon which the parties agreed. A subsequent event becomes legally significant when its effects exceed the normal range of risks contemplated or allocated by the contract and place an extraordinary burden on one party. Boukhalfa describes renegotiation as a mechanism capable of restoring economic balance in international investment contracts when subsequent changes disrupt the original relationship between obligations and expected benefits (Boukhalfa, 2019). Husam al-Din similarly connects renegotiation with restoring balance rather than guaranteeing profitability to either party (Husam al-Din, 2022). This distinction is critical because renegotiation should not become an instrument for revising a poor bargain merely because one party later regrets its commercial decision. Its legitimate function arises where changed circumstances materially transform the basis on which contractual performance continues.

The theory of unforeseen circumstances provides an important doctrinal background for understanding renegotiation. The central problem addressed by that theory is whether and how the legal system should respond when circumstances arising after conclusion of the contract render performance excessively burdensome without making it impossible. Zouak explains the relevance of unforeseen circumstances in international contracts as a response to exceptional developments that disturb the assumptions underlying contractual performance (Zouak, 2023). Sharif distinguishes these circumstances from force majeure in examining the effect of changed conditions on international trade contracts (Sharif, 2007). The distinction has direct consequences for renegotiation. Force majeure typically concerns an obstacle that prevents performance and may excuse liability, suspend obligations, or terminate the contract depending on the legal system and contractual provisions. Hardship or unforeseen circumstances, by contrast, assumes that performance remains possible. The problem is that insisting on unchanged performance would impose an exceptional burden or produce a serious imbalance. Renegotiation is therefore particularly appropriate in hardship situations because adaptation, rather than discharge, addresses the underlying problem.

A renegotiation clause also reflects the principle of party autonomy. Commercial actors are generally entitled, within mandatory legal limits, to structure their contractual relationship and allocate future risks. If they agree in advance that specified circumstances will require consultations or negotiations, the legal significance of that agreement derives from the same principle that gives binding effect to the other contractual provisions. Ghanbari and Mohammadi treat renegotiation clauses in foreign investment contracts as

contractual mechanisms grounded in the parties' capacity to anticipate future changes and determine procedures for restoring workable relations (Ghanbari & Mohammadi, 2025). Heni likewise addresses the limits of renegotiation from a comparative perspective, indicating that the contractual mechanism must operate within the general boundaries imposed by the applicable law (Heni, 2016). Party autonomy therefore provides the primary basis for recognition, but it does not answer every question. The precise content of the obligation depends on the wording of the clause, the circumstances in which it is activated, and the broader legal principles governing contractual performance.

The relationship between renegotiation and the binding force of contracts is sometimes misunderstood. At first sight, a contractual mechanism allowing terms to be reconsidered may appear inconsistent with pacta sunt servanda. In reality, an expressly agreed renegotiation clause is itself part of the binding contract. Enforcing such a clause does not weaken the principle of contractual obligation; it gives effect to the form of obligation the parties actually chose. Where the parties have agreed that defined circumstances require reconsideration of contractual terms, fidelity to the contract includes fidelity to the renegotiation mechanism. Even in the absence of an express clause, debates surrounding hardship reflect a deeper question concerning whether absolute insistence on original terms remains compatible with the underlying purpose of the contractual relationship after extraordinary changes. Sharif's analysis of changed circumstances shows that contractual stability and adaptation need not be treated as mutually exclusive principles (Sharif, 2010). The law may preserve stability precisely by creating controlled methods for adaptation rather than leaving parties with the binary choice between literal performance and termination.

The legal nature of the duty created by a renegotiation clause is another fundamental issue. The most persuasive approach treats the obligation ordinarily as an obligation of conduct rather than an obligation to produce a particular result. The parties undertake to enter into genuine negotiations and to make a serious effort to consider appropriate adaptation, but they do not normally guarantee that agreement will be reached. Amini and Pilvar emphasize the legal significance of distinguishing the effects of a renegotiation clause on the contracting parties from the outcome of the negotiations themselves (Amini & Pilvar, 2023). If every obligation to renegotiate were interpreted as a duty to agree, the parties' freedom of consent would be undermined because one party could effectively be forced to accept contractual terms to which it had never assented. Conversely, treating the clause as purely aspirational would deprive it of legal effect. The more balanced interpretation is therefore that each party must participate seriously, exchange relevant information where appropriate, consider proposals, refrain from deliberate obstruction, and remain engaged for the period or procedure specified in the clause, while retaining the freedom ultimately to reject a proposed modification.

Good faith is consequently central to the practical effectiveness of renegotiation. A party can formally attend a meeting while deliberately ensuring that no meaningful negotiation occurs. It may refuse to provide information indispensable for assessing the changed circumstances, repeatedly delay meetings, submit manifestly unrealistic proposals, insist that no adjustment is conceivable before examining the problem, or use the renegotiation period solely to postpone arbitration or payment. Such behavior demonstrates why mere physical participation cannot exhaust the contractual obligation. Ben Driss's study of renegotiation in light of the UNIDROIT Principles and national legislation highlights the importance of contemporary contractual standards that require cooperative and meaningful engagement when hardship mechanisms are invoked (Ben Driss, 2021). Hassan and Fatima similarly examine renegotiation mechanisms in international trade contracts as structured methods of managing changed circumstances rather than empty procedural formalities (Hassan & Fatima, 2018). The requirement of good faith does not require a party to sacrifice its legitimate commercial interests, but it does require conduct consistent with the genuine purpose of the agreed renegotiation process.

Renegotiation should also be distinguished from judicial adaptation. In renegotiation, the parties retain control over whether and how the contract will be modified. A judge or arbitrator may become involved later if the negotiations fail and the applicable law or contract permits adjudicatory adaptation, termination, damages, or another remedy. The distinction preserves consensual

autonomy. Matray and Vidts' work on contractual adaptation clauses shows that commercial agreements may employ several techniques for responding to changing circumstances, ranging from automatic adjustment formulas to renegotiation and third-party determination (Matray & Vidts, 2005). A renegotiation clause occupies a specific position within this spectrum because it creates a process rather than predetermining the substantive adjustment. This procedural flexibility is one of its strengths, as the parties may devise a solution that could not easily have been predicted in advance.

The relationship between renegotiation and dispute resolution is equally distinctive. Arbitration transfers decisional authority to arbitrators; adjudication transfers it to courts; mediation introduces a neutral facilitator; renegotiation leaves the process primarily in the hands of the contractual parties. Yahiaoui's discussion of alternatives to public and private adjudication illustrates the importance of consensual procedures within commercial dispute management (Yahiaoui, 2019). Masoumi's treatment of alternative dispute-resolution methods alongside international commercial arbitration similarly demonstrates that commercial disputes often benefit from staged mechanisms rather than immediate adjudication (Masoumi, 2012). Renegotiation may consequently be inserted as the first stage of a multi-tier clause requiring negotiation before arbitration. Its purpose in such a structure is not merely procedural delay. It gives the parties a defined opportunity to preserve their relationship before invoking an adversarial mechanism.

The outcome of successful renegotiation may take several forms. The parties may adjust price, extend deadlines, revise payment schedules, alter quantities, redistribute additional costs, change technical specifications, suspend certain obligations, extend the duration of the contract, modify guarantees, or adopt temporary arrangements until market conditions stabilize. What matters is that any substantive alteration ultimately derives from agreement. The renegotiation itself does not ordinarily modify the contract merely because one party proposes new terms. Al-Ajuz's analysis of renegotiation in response to changed circumstances illustrates the adaptation function of the mechanism while preserving the contractual foundation of the resulting modification (Al-Ajuz, 2018). Where negotiations fail, the original contract ordinarily remains applicable subject to the consequences provided by the governing law and the dispute-resolution clause. This feature confirms that renegotiation is both a contract-preservation mechanism and a disciplined process for determining whether consensual adaptation is possible before the parties resort to more coercive forms of dispute resolution.

3. Legal Status and Effects of Renegotiation in Iranian and Iraqi Law

The legal position of renegotiation in Iranian and Iraqi law is characterized by an important common feature: neither legal system has developed a fully independent and comprehensive statutory regime that regulates all aspects of commercial renegotiation, yet both possess contractual principles capable of supporting its recognition. The legal validity of the mechanism should therefore be approached primarily through general contract law rather than through the search for a single legislative provision entitled “renegotiation.” In both systems, the parties' agreement remains the central source of the obligation. Where commercially competent parties expressly provide that specified developments will trigger a duty to renegotiate, the resulting clause forms part of the contractual structure and should generally be treated according to the rules governing contractual obligations. This contractual foundation is especially significant because renegotiation is intrinsically flexible: parties may determine the events that activate the clause, the notice procedure, the matters open to reconsideration, the duration of negotiations, the continuation or suspension of performance, and the consequences of failure. Ghanbari and Mohammadi emphasize the significance of renegotiation clauses as mechanisms deliberately incorporated into sophisticated contracts in anticipation of changes that may affect performance (Ghanbari & Mohammadi, 2025). The comparative question is therefore not whether Iran and Iraq possess an identical statutory institution, but whether their general contractual doctrines permit such clauses to produce binding legal consequences.

In Iranian law, the principle of contractual binding force occupies a central position. A valid contract creates obligations that parties cannot ordinarily disregard merely because performance has become less convenient or profitable. This principle is essential for

legal certainty because commerce depends on the expectation that agreed obligations will be performed. At the same time, Iranian contract law recognizes the importance of contractual consent and the ability of parties to organize their relationship within the permissible boundaries of law. These two ideas can operate together in relation to renegotiation. Where a contract contains a renegotiation clause, enforcing the obligation to renegotiate is not an exception to contractual binding force but an application of it. The parties have agreed in advance that their continuing obligations will include a particular adaptation procedure if specified circumstances occur. Amini and Pilvar's analysis of the nature and effects of renegotiation clauses is particularly relevant to this point because it considers the clause as a source of obligations not only between the parties but also in relation to subsequent recourse to courts (Amini & Pilvar, 2023). The Iranian legal approach can therefore recognize the clause without abandoning the broader principle that contracts must be respected.

The more difficult issue arises where the agreement contains no express renegotiation clause. In such cases, changed circumstances do not automatically establish an unrestricted right to rewrite the contract. Iranian law has traditionally approached the binding force of contracts with caution, and the thesis underlying this study likewise treats explicit contractual drafting as especially important. The doctrine of unforeseen circumstances may offer an intellectual basis for discussing adaptation, but it should not be assumed that every hardship situation automatically produces a judicially enforceable duty to negotiate. The distinction between an express contractual duty and a general claim based on hardship must therefore remain clear. Zouak's treatment of unforeseen circumstances demonstrates that the theory is concerned with exceptional changes affecting performance rather than the routine fluctuation of commercial conditions (Zouak, 2023). Sharif similarly shows that changed circumstances require careful differentiation from ordinary business risk and force majeure (Sharif, 2007). Under Iranian law, the strongest legal basis for renegotiation is thus an express and sufficiently definite clause negotiated by the parties themselves.

The effectiveness of such a clause depends substantially on its precision. If the parties merely state that they "may discuss" changed circumstances, the clause may be interpreted as permissive rather than mandatory. If, by contrast, they provide that the parties "shall renegotiate" following a defined material change, specify notice requirements, identify the contractual matters affected, and establish a reasonable negotiation period, the obligation becomes more readily enforceable as a contractual undertaking. Heni's comparative study of the limits of renegotiation indicates that the legal operation of the institution depends upon identifying the scope of the commitment assumed by the parties (Heni, 2016). Marouk likewise treats the renegotiation clause as a specific contractual mechanism whose effectiveness is connected to its formulation in international trade contracts (Marouk, 2019). This drafting issue is especially important in Iran because the absence of detailed statutory regulation means that much of the practical content of the mechanism must be supplied by the contract itself.

Good faith presents a more nuanced issue. In many contemporary instruments governing international commercial relations, good faith functions as a central standard for interpreting and performing renegotiation obligations. Iranian law does not necessarily formulate a generalized commercial doctrine of good faith in exactly the same manner as all international instruments, but conduct during contractual performance can nevertheless be evaluated through established principles governing obligations, abuse, cooperation, and the intended effect of the parties' undertaking. Where the contract expressly requires good-faith renegotiation, the standard becomes part of the contractual obligation. Even without such wording, the purpose of a mandatory renegotiation clause would be frustrated if a party could comply formally while deliberately obstructing every meaningful discussion. The economic analysis offered by Shiravi and Kazemi supports the broader proposition that negotiation derives much of its utility from meaningful participation capable of producing efficient settlement rather than from ritualistic procedural compliance (Shiravi & Kazemi, 2019). Accordingly, Iranian law can distinguish between unsuccessful negotiations conducted genuinely and the refusal or deliberate frustration of a binding contractual process.

The legal effects of breach must likewise be linked to the nature of the obligation. If renegotiation is principally an

obligation of conduct, damages should not automatically be measured as though the omitted negotiations would certainly have produced a particular amendment. It may be difficult to prove that an agreement would have been reached and what its exact economic terms would have been. Nevertheless, where one party completely refuses to participate despite a clear contractual requirement, the breach itself may have consequences. Amini and Pilvar's work is relevant because it addresses how the existence of a renegotiation clause may affect both the contracting parties and judicial recourse (Amini & Pilvar, 2023). Depending on the clause, one possible effect is procedural: a claim or arbitration commenced before completion of a mandatory renegotiation stage may be considered premature. Another possible effect is substantive: demonstrable losses directly resulting from refusal to follow the agreed process may support contractual responsibility where the applicable requirements are satisfied. The precise remedy should therefore depend on the wording of the clause, the causal connection between breach and loss, and the governing principles of Iranian contract law.

Iraqi law provides a similarly significant foundation through contractual autonomy, while its treatment of exceptional circumstances also makes the problem of contractual adaptation particularly relevant. The general structure of Iraqi contract law permits parties to define their obligations through agreement, subject to mandatory limitations. A renegotiation clause may accordingly be understood as an agreed mechanism through which the parties organize their response to subsequent events. This is particularly important in contracts exposed to economic, political, or regulatory instability. Hussein's comparative study of contractual guarantees for investment reflects the importance of contractual mechanisms designed to protect continuing transactions against changes that may affect their economic assumptions (Hussein, 2018). Awad likewise analyzes contractual guarantees in foreign investment, demonstrating the broader role of contractual risk-management mechanisms where long-term commitments are exposed to changes in the surrounding legal and economic environment (Awad, 2019). Although investment contracts represent only one context, the principle is transferable to commercial contracts more generally.

The Iraqi approach to changed economic circumstances provides a particularly useful context for understanding renegotiation. Where exceptional developments disrupt contractual balance without making performance impossible, the underlying legal problem is similar to that addressed by hardship doctrine. Kamal's comparative examination of changed economic circumstances highlights the need to distinguish extraordinary developments from ordinary commercial fluctuation (Kamal, 2022). Ashour likewise addresses the legal response to changed circumstances in the performance of international trade contracts (Ashour, 2018). Renegotiation can operate alongside such doctrines by providing the parties with a private contractual method of responding to difficulty before judicial remedies become necessary. Rather than immediately asking a court to determine the legal effect of changed circumstances, the parties may first seek to redesign the affected aspects of performance. In this sense, the renegotiation clause gives contractual form to the principle that preservation of the transaction may be preferable to termination or externally imposed modification.

The Iraqi legal context is also important because commercial and investment relations frequently include arbitration and other consensual mechanisms. A renegotiation clause may therefore form the first stage in a broader dispute-resolution architecture. Mohammed and Ali analyze legal mechanisms for avoiding investment disputes and emphasize the value of mechanisms designed to prevent disagreements from escalating into formal proceedings (Mohammed & Ali, 2018). Al-Asaad's discussion of investment contracts and dispute-settlement methods likewise demonstrates the importance of party-designed procedures in cross-border economic relations (Al-Asaad, 2007). When transferred to the broader commercial context, the underlying lesson is that renegotiation is most effective when its relationship with subsequent arbitration or litigation is defined in advance. Parties should know whether renegotiation is mandatory, how long it lasts, and when the dispute may proceed to the next stage.

A particularly significant comparative issue concerns continued contractual performance during renegotiation. The commencement of negotiations should not ordinarily be interpreted as automatically suspending the underlying contract. Otherwise, a party

could invoke renegotiation simply to obtain a unilateral moratorium on performance. The more coherent rule is that the contract continues to operate unless the parties have agreed to suspension, the nature of the affected obligation makes continuation impossible, or the applicable law provides another consequence. Contractual adaptation scholarship recognizes the importance of maintaining the underlying relationship while the adjustment mechanism operates (Matray & Vidts, 2005). In both Iranian and Iraqi settings, this principle protects contractual stability while allowing targeted reconsideration of the terms genuinely affected by changed circumstances. The parties may, however, expressly agree that specific obligations will be suspended during negotiations if continued performance would defeat the purpose of the process or create irreversible harm.

The effects of successful renegotiation are broadly similar in both legal systems because the resulting modification is ultimately consensual. The parties may modify financial terms, payment methods, performance schedules, quantities, technical obligations, guarantees, contractual duration, or other provisions affected by the changed circumstances. The new agreement does not arise merely because negotiations occurred; it arises because the parties reached a new consensus. This distinction protects contractual autonomy and prevents the renegotiation clause from being transformed into an undefined power of unilateral modification. Boukhalfa's work on restoring economic balance through renegotiation supports the view that the mechanism facilitates consensual adjustment rather than granting one party automatic authority to impose new terms (Boukhalfa, 2019). Al-Ajuz similarly treats renegotiation as a technique for confronting changed circumstances through reconsideration of the existing contractual relationship (Al-Ajuz, 2018). The validity and binding force of the resulting amendment will therefore depend on the usual rules governing contractual modification.

Where renegotiation fails, the comparative position again converges. Failure to agree does not itself mean that either party necessarily breached the renegotiation clause. Two parties may negotiate seriously and in good faith yet remain unable to reconcile their legitimate interests. In that situation, the dispute should move to whatever mechanism the contract or applicable law provides. Arbitration, litigation, settlement, termination by agreement, or another procedure may follow. Masoumi's work on arbitration and alternative dispute resolution illustrates the practical utility of sequential dispute-resolution procedures in commercial relations (Masoumi, 2012). The legal consequence should therefore depend not on the mere absence of agreement but on whether the parties complied with the procedural and behavioral obligations imposed by the renegotiation clause.

The principal comparative conclusion is that Iranian and Iraqi law both possess sufficient foundations to recognize contractual renegotiation, but both also leave substantial issues to contractual drafting. In each system, party autonomy supports the validity of the clause, contractual binding force supports enforcement of the obligation that the parties actually assumed, and principles of consensual settlement provide a favorable context for using renegotiation before adjudication. At the same time, the lack of a detailed and uniform regime creates uncertainty concerning the exact threshold for triggering renegotiation, the content of good-faith participation, the availability and measurement of damages, the effect of premature arbitration or litigation, and the power of adjudicators following failed negotiations. The comparative analysis therefore suggests that the practical success of renegotiation in Iran and Iraq depends less on whether the institution is theoretically admissible and more on whether parties formulate the clause with sufficient precision to transform contractual flexibility into a legally workable process.

4. The Role of Renegotiation in Preventing and Resolving Commercial Disputes

Renegotiation occupies a distinctive position in commercial dispute management because it can operate before a dispute becomes fully adversarial, while a dispute is developing, or after conflicting claims have already been articulated. This temporal flexibility differentiates it from procedures whose principal purpose is to determine a mature legal controversy. A commercial relationship may begin to deteriorate when one party announces that extraordinary economic developments have made performance substantially more costly, when new legislation changes the regulatory framework, when currency movements affect payment obligations, or when political and logistical

events undermine the assumptions on which the transaction was priced. If the contract provides no structured response, each party may immediately retreat to a rigid legal position: one insists on literal performance, while the other invokes impossibility, hardship, termination, or another defense. Renegotiation creates an intermediate stage in which the parties are required or encouraged to examine whether the transaction can be preserved through consensual adaptation. Shiravi and Kazemi's economic analysis of negotiation demonstrates why direct settlement may be advantageous where parties can avoid the transaction costs associated with prolonged commercial adjudication (Shiravi & Kazemi, 2019). This is especially significant in continuing commercial relationships, where a legally successful dispute may nevertheless destroy a commercially valuable partnership.

The preventive function of renegotiation depends first on clearly identifying the conditions that trigger the process. An excessively broad clause may encourage opportunistic invocation whenever market conditions become unfavorable, while an excessively narrow clause may fail precisely when adaptation is most needed. Commercial practice therefore benefits from criteria that connect the trigger to a substantial alteration of the circumstances affecting performance. Husam explains the application of hardship renegotiation clauses in international trade contracts through the effect of serious changed circumstances on the contractual relationship (Husam, 2023). Carneiro's treatment of hardship clauses similarly reflects the importance of defining the type and intensity of change required before contractual adaptation becomes relevant (Carneiro, 2013). In the Iranian and Iraqi context, clauses may identify specific events but should also consider a general threshold for unforeseen or exceptional developments whose economic effects are equivalent to the listed examples. This avoids the danger that an unforeseeable event will fall outside the clause merely because it was not expressly named.

Causation is equally important. The occurrence of an extraordinary event does not by itself justify renegotiation if it has no significant effect on the invoking party's obligations. A war in one region, a change in tax law, a regulatory restriction, or severe inflation may be extraordinary in the abstract but irrelevant to a particular contract. A credible renegotiation claim therefore requires a connection between the event and a material alteration of contractual performance. Zouak's analysis of unforeseen circumstances underscores the importance of the effect of the event on the contractual relationship rather than its exceptional character alone (Zouak, 2023). Kamal likewise focuses on the consequences of changed economic circumstances for contractual transactions (Kamal, 2022). This requirement protects the stability of contracts by preventing renegotiation from becoming an automatic response to every macroeconomic difficulty.

The allocation of contractual risk must also be considered before a renegotiation clause is activated. If the contract expressly assigns a particular risk to one party, that party should not ordinarily escape the agreed allocation simply because the risk materializes. A supplier who assumes the risk of ordinary input-price fluctuations, for example, cannot necessarily demand renegotiation merely because prices increased within the contemplated range. Renegotiation becomes more persuasive when the event or its magnitude falls outside the contractual allocation. Sharif's analysis of changed circumstances in international commercial contracts demonstrates the importance of separating normal contractual risk from exceptional hardship (Sharif, 2010). This distinction is vital in both Iranian and Iraqi commercial law because contractual certainty would be undermined if a hardship mechanism operated as a general guarantee against loss.

Once the triggering conditions are satisfied, the legal character of the renegotiation duty becomes decisive. As noted above, the most coherent approach is to classify it ordinarily as an obligation of conduct. The debtor of the obligation must engage in the process required by the contract, but the substantive outcome remains dependent on mutual consent. Amini and Pilvar's analysis of the effects of renegotiation clauses supports the distinction between the enforceability of the procedural undertaking and the freedom of the parties regarding ultimate agreement (Amini & Pilvar, 2023). The practical consequences are substantial. A party breaches the clause if it refuses to attend required negotiations, ignores a valid notice, terminates the process immediately without meaningful consideration, or deliberately obstructs the agreed procedure. It does not necessarily breach merely because it refuses a particular price adjustment or ultimately concludes that

the proposed modification is commercially unacceptable.

Good faith provides the principal qualitative standard for distinguishing meaningful renegotiation from formal but ineffective participation. Although the precise doctrinal status of good faith differs among legal systems, the logic of renegotiation requires a minimum standard of sincerity and cooperation. Ben Driss's analysis in light of the UNIDROIT Principles illustrates how good faith informs contemporary approaches to renegotiation and hardship (Ben Driss, 2021). Hassan and Fatima similarly present renegotiation as a functional mechanism in international trade contracts whose success depends on an actual process of reconsideration (Hassan & Fatima, 2018). Good-faith participation may require timely responses, attendance by representatives with sufficient authority, disclosure of information reasonably necessary to demonstrate the claimed hardship, serious consideration of proposals, and avoidance of tactics designed solely to delay subsequent proceedings. It does not require a party to abandon legitimate interests, accept disadvantageous terms, or disclose confidential information unrelated to the dispute.

The exchange of information deserves special attention because renegotiation usually arises from circumstances known more fully to one party than the other. A party claiming that performance has become extraordinarily burdensome may possess detailed evidence concerning cost increases, regulatory restrictions, supply disruption, financing difficulties, or other effects. The counterparty cannot rationally evaluate a request for adjustment without access to sufficient supporting information. At the same time, the disclosure obligation should remain proportionate and sensitive to commercial confidentiality. The objective is not unrestricted discovery of business records but enough transparency to allow the parties to assess whether the contractual trigger has genuinely occurred. The broader literature on renegotiation recognizes that adaptation works most effectively where the parties can evaluate the changed factual basis of the contract (Matray & Vidts, 2005). This practical requirement is especially important where the parties' future commercial relationship depends on preserving trust.

A further question concerns performance while renegotiation is underway. The general principle should favor continued performance because the existence of a renegotiation process does not itself extinguish or suspend the contract. If invocation automatically suspended obligations, parties could use hardship allegations strategically to delay performance. Continued execution also supports the central objective of renegotiation, which is preservation rather than abandonment of the transaction. However, the parties may design exceptions. Where continued performance would cause disproportionate harm, or where the disputed obligation itself is the subject of renegotiation, temporary suspension or partial performance may be commercially necessary. Contractual adaptation mechanisms therefore benefit from explicit provisions identifying which obligations continue and whether temporary measures are permitted. Berge's analysis of adaptation in long-term contracts reflects the broader importance of maintaining the contractual relationship during periods of adjustment (Berge, 2003).

Successful renegotiation may resolve the dispute more effectively than adjudication because the parties are not limited to legal remedies that a court or tribunal could order. They may restructure the transaction creatively. A contractor facing extraordinary increases in material prices may accept a reduced price adjustment in exchange for an extension of time; a buyer may accept revised delivery schedules in exchange for new guarantees; parties may alter payment currency, divide additional costs, extend contractual duration, revise quantities, suspend certain obligations temporarily, or redesign performance altogether. Boukhalfa emphasizes the role of renegotiation in restoring economic balance when circumstances materially affect the contractual relationship (Boukhalfa, 2019). Al-Ajuz likewise treats renegotiation as a response that can address changed circumstances without necessarily terminating the contract (Al-Ajuz, 2018). These solutions demonstrate why renegotiation is not merely a cheaper version of litigation. It can produce outcomes unavailable through conventional adjudication because the parties retain control over the economic redesign of their relationship. The dispute-prevention function of renegotiation is particularly strong when the clause is invoked before an actual breach occurs. Parties often recognize that future performance will become problematic before the due date arrives. A regulatory change may take effect in several months, a dramatic currency movement may already have altered future payment economics, or a

supply interruption may make compliance with upcoming deadlines unrealistic. If parties wait until non-performance occurs, the legal relationship becomes more adversarial and claims for damages, termination, penalties, or guarantees may arise. By requiring early notice and negotiation, a well-drafted clause enables the parties to manage risk before breach crystallizes. Mohammed and Ali's discussion of legal means for avoiding disputes supports the broader principle that preventive mechanisms are preferable where they permit parties to address emerging difficulties before formal conflict develops (Mohammed & Ali, 2018). In Iranian–Iraqi commercial relations, where cross-border enforcement itself may involve additional cost and complexity, the preventive value of such mechanisms is especially pronounced.

When renegotiation fails, the distinction between failure and breach must be maintained. Failure means that the parties could not reach agreement despite complying with the process; breach means that one party failed to perform the renegotiation obligation itself. This distinction determines subsequent consequences. If both parties negotiated genuinely but no acceptable compromise emerged, they should ordinarily proceed to arbitration, litigation, termination, or another remedy according to the contract and governing law. If one party refused to negotiate despite a binding clause, the other may argue that the dispute-resolution process has been affected by that non-compliance. Amini and Pilvar specifically address the relationship between renegotiation clauses and judicial proceedings, showing that procedural consequences may arise from the parties' prior commitment to negotiate (Amini & Pilvar, 2023). The drafting of multi-tier clauses therefore becomes critical: the contract should make clear whether negotiation is a mandatory condition preceding arbitration or merely an optional opportunity.

The relationship between renegotiation and arbitration requires particular care. Arbitration differs fundamentally because the arbitrator has adjudicatory authority, whereas renegotiation preserves the parties' control over the result. Masoumi's examination of ICC arbitration and alternative dispute-resolution methods reflects the importance of distinguishing consensual settlement mechanisms from adjudicative procedures (Masoumi, 2012). Where the contract requires renegotiation before arbitration, a tribunal may need to determine whether the procedural step was sufficiently fulfilled. Problems arise where clauses use vague expressions such as "the parties shall attempt amicable settlement" without specifying duration or procedure. Such wording may generate a secondary dispute about whether the pre-arbitration requirement is enforceable. Greater precision can prevent this result. Parties may specify a written notice, commencement date, meetings between authorized representatives, a fixed negotiation period, and a clear statement that arbitration may begin when that period expires without agreement.

Renegotiation is also distinct from mediation. In mediation, an independent third party facilitates communication and may assist in identifying settlement options. Renegotiation ordinarily involves direct interaction between contractual parties. However, the two procedures can be sequential. If direct renegotiation fails, mediation may provide a second consensual stage before arbitration. Yahiaoui's consideration of alternatives to judicial dispute resolution illustrates the variety of consensual techniques available in commercial disputes (Yahiaoui, 2019). The usefulness of renegotiation lies in beginning with the least institutionalized intervention: parties first attempt to solve the contractual problem themselves, preserving external mechanisms for situations in which bilateral communication proves insufficient.

The potential remedies for breach of a renegotiation clause remain one of the most difficult areas. Specific performance of an obligation to attend negotiations may be conceptually possible, but compelling physical participation cannot guarantee meaningful engagement. Damages may be available where loss caused by breach can be established, but courts should avoid assuming that successful renegotiation would certainly have occurred. Lost opportunity, unnecessary dispute-resolution costs, or other directly attributable losses may be more plausible than an award based on the economic terms the claimant hoped to obtain. Heni's work on the limits of applying renegotiation underscores that legal recognition must be accompanied by careful boundaries regarding what the mechanism can realistically compel (Heni, 2016). The central legal objective should be to protect the integrity of the agreed process without transforming an obligation to negotiate into compulsory substantive consent.

The practical effectiveness of renegotiation ultimately depends on drafting. A clause should identify the qualifying change, require causal impact on the contract, address allocation of assumed risks, establish notice and evidence requirements, define the negotiation period, specify the required level of representation, address confidentiality, regulate continued performance, and explain what happens if agreement is not reached. It may also provide for escalation to senior management, mediation, expert determination, arbitration, or court proceedings. Lamari's work on legal security in international investment contracts highlights the broader importance of predictability and carefully designed contractual mechanisms in relationships exposed to changing conditions (Lamari, 2021). The same concern applies to ordinary international commerce. Renegotiation is most valuable when it increases legal security by providing a predictable adaptation pathway rather than creating an additional source of uncertainty.

The role of renegotiation in Iranian and Iraqi commercial disputes can therefore be understood as both substantive and procedural. Substantively, it enables the parties to restore a workable balance when changed circumstances affect their obligations. Procedurally, it creates an organized stage through which the dispute may be prevented, narrowed, or resolved before adjudication. Its greatest strength is preservation of contractual relationships; its principal weakness is dependence on cooperation. The law cannot guarantee successful agreement, but it can recognize the parties' decision to establish a renegotiation process, require compliance with that process, discourage bad-faith obstruction, and define the interaction between negotiation and subsequent dispute-resolution mechanisms. These features make renegotiation particularly suitable for long-term and cross-border commerce in which the economic value of continuing cooperation may exceed the value of obtaining a formal judgment after the relationship has collapsed.

5. Comparative Evaluation of Renegotiation in Iranian and Iraqi Commercial Relations

A comparative evaluation of renegotiation in Iranian and Iraqi commercial relations demonstrates that the two systems share more structural similarities than differences regarding the basic legitimacy of contractual renegotiation. Neither requires the creation of a wholly separate legal institution before parties may incorporate a renegotiation clause into their commercial agreement. In each system, the most persuasive basis for the clause is the autonomy of the contracting parties and the general binding force of valid agreements. The absence of comprehensive legislation therefore does not necessarily create a legal vacuum in the strict sense; rather, it produces a regulatory gap concerning the detailed consequences of the mechanism. This distinction is important. If renegotiation were incompatible with the basic contract law of either jurisdiction, legislative intervention would be necessary simply to validate it. The more accurate conclusion is that party autonomy permits the mechanism, while statutory clarification would improve certainty concerning its operation. Ghanbari and Mohammadi's study of renegotiation clauses confirms the broader significance of contractual drafting in establishing the mechanism in sophisticated economic agreements (Ghanbari & Mohammadi, 2025). Marouk similarly emphasizes the contractual character of renegotiation in international trade practice (Marouk, 2019).

The Iranian approach is comparatively cautious where renegotiation is not expressly provided. The strong role of contractual binding force means that changed economic conditions cannot ordinarily become an unrestricted basis for unilateral alteration. This caution protects commercial certainty and prevents hardship arguments from undermining the allocation of contractual risks. Yet the same principle supports an express renegotiation clause because the parties have incorporated flexibility into the contract itself. In this sense, the Iranian position illustrates an important theoretical point: contractual flexibility need not be opposed to contractual stability. A clause that defines how adaptation will occur can make a long-term agreement more stable because it reduces uncertainty about how extraordinary circumstances will be managed. Sharif's treatment of changed circumstances demonstrates that the practical problem is not whether the contract remains binding but how the binding relationship responds when its economic context is transformed (Sharif, 2010). The greater the precision of the renegotiation clause, the easier it becomes to reconcile these considerations.

Iraqi law similarly recognizes the importance of contractual autonomy but provides an especially relevant doctrinal environment through its concern with exceptional circumstances affecting contractual performance. The possibility of legal responses to extraordinary developments makes renegotiation a natural contractual complement to judicial doctrines of adaptation. Instead of waiting for a court to intervene after the contractual imbalance becomes severe, parties can create a preliminary obligation to seek their own solution. Kamal's comparative analysis of changed economic circumstances is relevant because it demonstrates the importance attached to the effects of exceptional economic developments on contractual obligations (Kamal, 2022). The Iraqi context therefore offers a particularly strong functional justification for renegotiation: it allows commercial actors to address the same economic problem through consensual adjustment before seeking judicial or arbitral intervention.

The difference between contractual renegotiation and judicial adaptation must nevertheless remain clear in both systems. Judicial intervention derives from law and depends on the legal conditions for the remedy concerned. Renegotiation derives primarily from agreement and leaves the ultimate modification to mutual consent. This distinction protects private autonomy. Even where the legal system recognizes exceptional circumstances as potentially relevant to the fate of a contract, the existence of such circumstances does not mean that one party may dictate new terms. Al-Ajuz's examination of renegotiation as a response to changed circumstances illustrates the consensual adaptation function of renegotiation (Al-Ajuz, 2018). Boukhalfa similarly emphasizes restoration of contractual equilibrium through a renegotiation mechanism rather than unilateral revision (Boukhalfa, 2019). For Iranian and Iraqi commerce alike, this characteristic makes renegotiation especially suitable where the parties wish to preserve their commercial relationship while maintaining control over substantive changes.

A comparative assessment also reveals substantial similarity regarding the triggering threshold. In both jurisdictions, the strongest justification for renegotiation occurs where circumstances have changed substantially and the resulting effects extend beyond ordinary commercial risk. A minor increase in costs, a predictable seasonal fluctuation, or a market development inherent in the transaction should not ordinarily justify reopening the contract. Husam's treatment of hardship clauses emphasizes the exceptional nature of the circumstances required to activate renegotiation (Husam, 2023). Ashour similarly focuses on changes that materially affect performance of international trade contracts (Ashour, 2018). The practical implication is that Iranian and Iraqi contracts should distinguish objective changes in external conditions from ordinary deterioration in one party's commercial position. A company should not obtain a renegotiation right merely because its internal costs were poorly managed or its profit expectations proved unrealistic.

Unforeseeability is relevant but should not always be treated mechanically. Parties may foresee that inflation, exchange-rate change, regulatory intervention, political instability, or transportation disruption could occur without being able to predict their magnitude. A rigid requirement that the category of event itself be completely unforeseeable would therefore exclude many genuine hardship situations. The more useful inquiry concerns whether the event and its effects fell within the risks reasonably assumed when the contract was concluded. Zouak's analysis of unforeseen circumstances supports attention to exceptional changes affecting international contracts rather than an artificial distinction based solely on whether the possibility of change was conceivable (Zouak, 2023). In practice, careful drafting can avoid uncertainty by defining thresholds based on material impact rather than relying exclusively on abstract foreseeability.

Good faith is another area in which the comparative systems may converge functionally even where doctrinal formulations differ. The purpose of renegotiation cannot be fulfilled if a party is entitled to participate only symbolically. The duty should therefore require conduct reasonably directed toward evaluating whether consensual adjustment is possible. Ben Driss's treatment of renegotiation under the UNIDROIT Principles and national legislation demonstrates the international importance of good faith in this context (Ben Driss, 2021). Good faith should not be interpreted as a duty to concede. A buyer may reasonably refuse a proposed price increase that transfers all hardship to it, and a seller may reject an adjustment that leaves performance economically destructive. What good faith requires is

openness to the process, not surrender of bargaining position. This distinction is equally valuable in Iranian and Iraqi law because it preserves the enforceability of the process without undermining consent.

The comparative treatment of remedies requires greater caution. The most straightforward remedy arises where the contract itself specifies consequences for refusal to renegotiate. Parties may provide that arbitration cannot commence until the negotiation period expires, that certain contractual rights are suspended during the process, or that unjustified refusal constitutes a breach. In the absence of express provisions, legal consequences become less predictable. Amini and Pilvar's analysis is particularly important because it examines how renegotiation clauses affect both contractual parties and courts (Amini & Pilvar, 2023). Their framework supports the view that courts and tribunals should first determine the content of the obligation before identifying a remedy. Where the clause merely requires consultation, the remedy should not assume an obligation to reach agreement. Where the clause establishes a clear mandatory procedure, refusal to comply should not be treated as legally irrelevant.

The procedural interaction with arbitration is especially important in cross-border Iranian–Iraqi contracts. Commercial actors frequently prefer arbitration because of neutrality, specialized adjudication, and the possibility of enforcing awards internationally. Yet arbitration can be expensive and may irreversibly alter a continuing business relationship. A mandatory renegotiation stage may therefore provide an efficient filter. Masoumi's discussion of arbitration and alternative dispute-resolution mechanisms illustrates the value of procedures that precede or complement arbitral adjudication (Masoumi, 2012). If renegotiation resolves some issues but not others, the subsequent arbitration may also become narrower, reducing complexity and cost. The clause can therefore create value even when it does not eliminate formal proceedings completely.

At the same time, mandatory pre-arbitration renegotiation must not become a device for obstruction. A party that has no intention of settlement may exploit vague negotiation requirements to delay adjudication. This risk can be reduced through fixed periods and clear procedures. For example, the clause may require written notice identifying the changed circumstances, a meeting within a defined period, negotiation for a specified number of days, and automatic release to arbitration if no written amendment is concluded. This type of structure preserves a genuine opportunity for settlement without allowing indefinite delay. Yahiaoui's broader analysis of alternatives to judicial resolution supports the value of structured consensual methods within commercial dispute management (Yahiaoui, 2019). The lesson for Iranian and Iraqi contracts is that procedural clarity is as important as substantive recognition.

The comparative analysis also shows why renegotiation is particularly valuable in cross-border trade between parties whose legal and commercial expectations may differ. The parties may operate under different currencies, regulatory systems, banking restrictions, licensing requirements, customs procedures, and enforcement environments. Political or economic developments affecting one jurisdiction may therefore alter the performance of a transaction even when the other party's domestic environment remains stable. Lamari's analysis of legal security in international investment contracts highlights the importance of mechanisms that provide predictability in economically sensitive cross-border relationships (Lamari, 2021). Although commercial contracts differ from investment agreements, the underlying need for legal security is comparable. A renegotiation clause can establish a neutral contractual process for addressing changes without requiring the parties immediately to debate which domestic doctrine governs the consequences.

The importance of renegotiation increases further where sanctions, currency restrictions, or banking constraints affect payment and performance. Such circumstances may not always make performance absolutely impossible. Funds might be transferable through alternative lawful channels, deliveries might remain possible at substantially increased cost, or performance might be delayed rather than permanently prevented. These are precisely the circumstances in which the distinction between impossibility and hardship becomes operationally important. Sharif identifies the different legal consequences associated with force majeure and hardship in international contracts (Sharif, 2007). A renegotiation clause allows the parties to address the practical consequences before their legal characterization becomes the subject of contentious proceedings.

Long-term commercial contracts also involve sunk costs that make termination economically unattractive. Construction projects, energy supply agreements, distribution arrangements, technology transfers, and continuing manufacturing relationships may require substantial initial investment. If the relationship collapses, both parties may lose more than they would through reasonable adaptation. Bernardini's analysis of renegotiation emphasizes the relevance of preserving long-term economic relationships exposed to changing circumstances (Bernardini, 1998). Berge similarly treats contractual adaptation as a means of maintaining transactions whose continuing value may justify revision rather than abandonment (Berge, 2003). These considerations are highly relevant to Iranian and Iraqi trade, where commercial actors may have developed specialized supply chains and relationships that cannot easily be replaced.

The article's comparative perspective also indicates that renegotiation should not be confined conceptually to foreign investment agreements. Much of the international literature developed in investment contexts because those contracts are long-term and especially sensitive to political and regulatory changes. Al-Asaad examines investment contracts and their dispute-settlement mechanisms in private international relations (Al-Asaad, 2007), while Hussein analyzes contractual investment guarantees from a comparative perspective (Hussein, 2018). However, the underlying rationale applies to ordinary commercial agreements whenever their duration, complexity, or economic exposure creates similar vulnerability to changed conditions. The central criterion should therefore be the structure of the contractual risk rather than the formal classification of the agreement as an investment contract.

Similarly, the clause should not be reduced to a mechanism concerned only with price. Economic imbalance may arise from changes in the timing, method, technical requirements, regulatory burden, security arrangements, or logistical conditions of performance. Matray and Vidts' work on contractual adaptation illustrates the wider variety of terms that may require adjustment in changing commercial circumstances (Matray & Vidts, 2005). A sophisticated renegotiation process should therefore allow the parties to consider the contract as an integrated economic relationship. A temporary extension of performance may solve a problem more efficiently than a price increase; a change in quantity may preserve profitability without altering unit price; modification of security or payment arrangements may reduce financial pressure. This flexibility is one of renegotiation's principal advantages over predetermined adjustment formulas.

The Iranian and Iraqi systems would benefit from clearer legal standards regarding the effect of failure to comply with a mandatory renegotiation clause. The most useful legislative or judicial development would not necessarily prescribe one substantive outcome for all contracts. Rather, it could clarify that sufficiently definite renegotiation clauses are binding, that compliance ordinarily requires genuine participation rather than guaranteed agreement, that the contract continues during negotiations unless otherwise agreed, and that unjustified refusal may produce contractual or procedural consequences. Such clarification would strengthen legal certainty while preserving party autonomy. Heni's comparative work concerning the limits of renegotiation shows why such boundaries are important: legal recognition must neither render the clause meaningless nor transform it into compulsory substantive revision (Heni, 2016).

The parties themselves can address much of the current uncertainty through careful drafting. The clause should define material change, specify any threshold of economic impact, identify excluded risks, require prompt notice, provide evidence of the alleged hardship, establish representatives and time limits, regulate confidentiality, determine whether performance continues, and specify escalation after failure. It should also state whether renegotiation is a condition precedent to arbitration or litigation. Awad's examination of contractual guarantees illustrates the broader importance of allocating and managing risks expressly in long-term economic agreements (Awad, 2019). Detailed drafting reduces the possibility that the renegotiation clause itself will generate a new dispute.

Ultimately, the comparative evaluation demonstrates that renegotiation can perform three interconnected roles in Iranian and Iraqi commercial relations. It can function as a risk-management device by anticipating serious future changes, as a contract-preservation device by allowing adaptation before the relationship collapses, and as a dispute-resolution device by creating an

opportunity for consensual settlement before arbitration or litigation. These functions explain why renegotiation deserves recognition as more than informal commercial dialogue. Properly constructed, it becomes an enforceable procedural commitment embedded in the contract and directed toward maintaining the economic viability of the transaction. Its legitimacy derives from agreement; its effectiveness depends on precision, cooperation, and good faith; and its ultimate value lies in enabling the parties to preserve commercially productive relationships without sacrificing the certainty that contract law is designed to provide.

6. Conclusion

Renegotiation has developed into an important mechanism for managing the tension between contractual stability and the need for flexibility in long-term and complex commercial relationships. Modern commercial contracts are frequently performed in economic, political, legal, and regulatory environments that may change considerably after conclusion. Although ordinary market fluctuations and foreseeable business risks must remain part of the contractual allocation accepted by the parties, exceptional developments can substantially disturb the economic assumptions on which continuing performance depends. In such circumstances, an inflexible choice between literal performance and termination may fail to protect either contractual security or commercial efficiency. Renegotiation provides an intermediate mechanism through which parties can preserve the original transaction while reconsidering those contractual terms that have become seriously affected by changed circumstances.

The analysis demonstrates that renegotiation should be understood as a distinct contractual mechanism rather than as a synonym for negotiation generally. It presupposes an existing contract and is directed toward the reconsideration, adaptation, or restoration of that relationship following circumstances that materially affect performance. Its purpose is not to permit a dissatisfied party to escape an unfavorable bargain. Commercial risk remains an inherent feature of contracting, and not every loss, increase in cost, reduction in profitability, or market change can justify reopening contractual terms. The legitimate domain of renegotiation arises where the parties themselves have established a contractual trigger or where circumstances of exceptional seriousness create a genuine need to examine whether the contractual relationship can continue on its original basis.

The comparative study of Iranian and Iraqi law indicates that neither system provides a comprehensive and autonomous statutory regime governing renegotiation in commercial disputes. This absence, however, does not make renegotiation legally unavailable. Both systems possess general contractual principles capable of recognizing a renegotiation clause, particularly where the parties have clearly incorporated it into their agreement. Party autonomy provides the principal foundation for the clause, while the binding force of contracts supports its enforcement. Once parties have agreed that specified circumstances require renegotiation, compliance with that procedure becomes part of their contractual commitment. Contractual flexibility created by agreement is therefore not inconsistent with the principle that contracts must be performed; it is itself one aspect of the contract that must be respected.

The legal character of the obligation is crucial. A renegotiation clause should ordinarily create an obligation of conduct rather than an obligation to achieve a predetermined result. Parties may be required to return to negotiations, exchange relevant information, examine the consequences of changed circumstances, consider reasonable proposals, and participate genuinely in the agreed process. They should not ordinarily be forced to conclude an amendment. Treating renegotiation as an obligation to reach agreement would undermine the consensual character of contractual modification and could permit one party to demand substantive terms never accepted by the other. Conversely, treating the clause as merely aspirational would deprive it of meaningful legal effect. The appropriate balance is achieved by requiring genuine performance of the process while preserving each party's ultimate freedom to accept or reject proposed modifications.

Good faith has an important functional role within this framework. Formal attendance at negotiations should not be enough where a party deliberately prevents the process from operating. Unjustified refusal to meet, systematic delay, refusal to provide information necessary for assessing the claimed change, proposals

designed solely to make agreement impossible, or use of the process merely to postpone adjudication may indicate non-performance of the renegotiation obligation. At the same time, good faith cannot require commercial self-sacrifice. Parties remain entitled to protect their legitimate interests and to reject proposals they reasonably consider unacceptable. The relevant distinction is therefore between hard bargaining, which remains legitimate, and deliberate frustration of a contractual process, which may amount to breach.

The comparison further demonstrates that the conditions triggering renegotiation should be defined with particular care. The occurrence of an unusual event is insufficient unless it materially affects the contractual relationship. A causal connection must exist between the changed circumstances and the burden placed on performance. The event should ordinarily exceed the range of risks allocated to the affected party under the contract. These requirements protect contractual certainty and prevent renegotiation from becoming an instrument through which parties routinely transfer unfavorable commercial consequences to their counterparties. They also reinforce the distinction between hardship and force majeure. Where performance becomes impossible, rules relating to impossibility or force majeure may become relevant; where performance remains possible but has become excessively burdensome, renegotiation is more naturally directed toward adaptation.

The continuation of contractual performance during renegotiation should ordinarily remain the governing principle. Invocation of a renegotiation clause should not automatically create a right to suspend all obligations because such a rule could invite strategic use of the mechanism. The parties are nevertheless free to provide that particular obligations will be temporarily suspended or adjusted during negotiations when continued performance would cause disproportionate harm or frustrate the purpose of the adaptation process. Express drafting is therefore especially valuable. A detailed clause can determine whether performance continues, what temporary arrangements apply, and how the parties are to behave while negotiations remain unresolved.

Successful renegotiation can produce a wide variety of commercial solutions. The parties may alter price, payment schedules, currencies, quantities, deadlines, technical specifications, guarantees, performance methods, allocation of additional costs, or contractual duration. The breadth of available solutions is one of the mechanism's principal advantages. Courts and arbitral tribunals are generally required to operate within the remedies permitted by law, the contract, and the claims presented to them, while contracting parties can redesign their commercial relationship in ways responsive to their specific economic needs. A solution that combines several modest adjustments may preserve the transaction more effectively than a single judicial remedy.

Failure of renegotiation must be distinguished from breach of the duty to renegotiate. Parties may participate genuinely and still fail to reach agreement. That outcome does not necessarily establish fault. In such circumstances, the dispute should proceed according to the next stage established by the contract or applicable law, whether arbitration, litigation, mediation, settlement, consensual termination, or another mechanism. Breach arises instead where a party fails to comply with the renegotiation procedure itself. This distinction should guide courts and arbitral tribunals when determining procedural and substantive consequences.

Renegotiation has particular value when integrated into a multi-tier dispute-resolution clause. Requiring parties to negotiate before commencing arbitration or litigation can prevent premature escalation, preserve business relationships, narrow disputed issues, and reduce the cost of subsequent proceedings. However, such provisions must be sufficiently precise to avoid becoming sources of procedural uncertainty. A mandatory renegotiation clause should ideally define the triggering notice, the representatives required to participate, the period allowed for negotiations, the principal procedural duties of the parties, and the event that authorizes commencement of the next dispute-resolution stage. Indefinite requirements to seek an amicable solution can encourage disagreement over whether the procedural condition has been satisfied.

The comparative analysis also reveals that renegotiation is especially relevant to commercial relations between Iranian and Iraqi parties. Cross-border contracts may be exposed simultaneously to currency volatility, regulatory change, restrictions on payment, transportation disruption, political developments, and

differing legal expectations. Such circumstances increase the probability that performance will be affected without necessarily becoming impossible. A contractually defined renegotiation process can give parties a common framework for addressing these difficulties before they become questions of breach, termination, or liability. This function is particularly valuable where the parties have invested substantially in a continuing relationship and where replacing the contractual partner would itself impose major economic costs.

The current absence of detailed statutory regulation in both systems also creates a need for greater doctrinal and legislative clarity. Iranian and Iraqi law would benefit from clearer recognition that a sufficiently definite renegotiation undertaking can produce binding legal effects. Greater certainty is also needed regarding the standard of conduct required during negotiations, the relationship between renegotiation and continued performance, the consequences of unjustified refusal, and the procedural effect of a mandatory renegotiation stage on subsequent litigation or arbitration. Such clarification should not prescribe the substantive result of renegotiation, because the principal value of the mechanism lies in contractual autonomy. The law should facilitate and enforce the agreed process rather than replace the parties' judgment concerning the commercial terms of adaptation.

Until such clarification develops, careful contractual drafting remains the most effective means of ensuring that renegotiation operates predictably. Parties should specify the circumstances that activate the mechanism, distinguish extraordinary hardship from ordinary commercial risk, identify the information required to substantiate a request, establish time limits and authorized representatives, regulate continued performance and confidentiality, and define the procedure following unsuccessful negotiations. Where the parties intend renegotiation to be mandatory before arbitration or litigation, that intention should be stated unambiguously. Where they wish merely to create an optional opportunity for discussion, the contract should make that distinction equally clear.

The central conclusion is that renegotiation should be regarded as a contract-preserving and dispute-management mechanism positioned between rigid performance and adversarial dispute resolution. It does not displace the binding force of contracts, nor does it guarantee that commercial losses will be redistributed whenever circumstances change. Its purpose is narrower and more defensible: to provide a legally meaningful process through which parties may reconsider an existing contractual relationship when exceptional developments seriously disturb its practical or economic foundations. In both Iranian and Iraqi law, party autonomy supplies a sufficient conceptual foundation for this function. The principal challenge is not recognition of the possibility of renegotiation but development of clearer standards regarding its operation and consequences. Properly structured, renegotiation can reduce unnecessary disputes, encourage contractual cooperation, preserve economically valuable transactions, and provide a more proportionate response to changed circumstances than immediate termination, litigation, or arbitration. It therefore deserves a more explicit and systematic position within the contemporary law and practice of commercial dispute resolution in both Iran and Iraq.

Authors' Contributions

Authors contributed equally to this article.

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In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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References

Al-Ajuz, A. M. M. M. (2018). Renegotiation to Address Changed Circumstances in Administrative Contracts.

Al-Asaad, B. M. (2007). *Investment Contracts in Private International Relations: Their Nature, Applicable Law, and Means of Dispute Settlement*. Al-Halabi Legal Publications.

Amini, A. M., & Pilvar, R. (2023). The Nature and Effects of a Renegotiation Clause with Respect to the Court and the Contracting Parties: A Comparative Study. *Legal Research Quarterly*, 313-336.

Ashour, F. (2018). Addressing Changed Circumstances in the Performance of International Trade Contracts. *Scientific Research Notebooks, Tipaza University Center*, *13*(13).

Awad, S. M. H. (2019). Contractual Guarantees for Foreign Investment in the Kingdom of Saudi Arabia: A Comparative Study. *Journal of Research of the Faculty of Arts, Prince Mohammad Bin Fahd University*, *30*(17).

Ben Driss, H. (2021). Renegotiation in Contracts: A Study in Light of the UNIDROIT Principles and National Legislation. *Judicial Ijtihad Journal, Mohamed Khider University of Biskra*, *13*(2).

Berge, K. P. (2003). Renegotiation and Adaptation of International Investment Contracts. *Vanderbilt Journal of Transnational Law*, *36*(4).

Bernardini, P. (1998). The Renegotiation of Investment Contract. *FOREIGN INVESTMENT LAW JOURNAL*, *13*(2).

Boukhalfa, A. (2019). The Renegotiation Clause as a Mechanism for Restoring Economic Balance in International Investment Contracts. *Journal of Legal and Economic Research, Aflou University Center*, *3*(1).

Carneiro, L. (2013). *Les Clauses de Hardship dans les Contrats Maritimes*

Ghanbari, M., & Mohammadi, M. (2025). *Renegotiation Clauses in Foreign Investment Contracts under International Law* 21st International Conference on Legal and Judicial Studies,

Hassan, A. K., & Fatima, A. M. D. (2018). Renegotiation Mechanisms in International Trade Contracts. *Risalat al-Huquq Journal, University of Karbala*, *10*(13).

Heni, A. L. (2016). *Limits of Applying the Concept of Renegotiation in Contracts: A Comparative Study*

Husam al-Din, M. H. (2022). The Renegotiation Clause as a Mechanism for Restoring Balance in Investment Contracts. *Journal of Legal and Economic Research, Mansoura University*, *32*(3).

Husam, S. A. a.-R. (2023). Application of the Hardship Renegotiation Clause in International Trade Contracts. *Journal of Legal Studies, Assiut University*, *49*(3).

Hussein, I. A. a.-H. (2018). Contractual Guarantees for Investment: A Comparative Study. *Kufa Journal of Political and Legal Sciences, University of Kufa*, *10*(23).

Kamal, M. A.-S. A. a.-Q. A. (2022). The Effect of Changed Economic Circumstances on Contractual Transactions: A Comparative Study. *Journal of Legal and Economic Research, Menoufia University*, *40*(1).

Lamari, W. (2021). Legal Security in International Investment Contracts. *Journal of Research in Contracts and Business Law, Mentouri Brothers University Constantine*, *6*(7).

Marouk, A. (2019). *The Renegotiation Clause in International Trade Contracts*

Masoumi, P. (2012). ICC Arbitration Rules and Alternative Dispute Resolution Methods. *Special Issue of the International Law Review*, 25-32.

Matray, D., & Vidts, F. (2005). *Les Clauses d'Adaptation de Contrats* 55th Seminar of the Commission Droit et Vie des Affaires, Belgium.

Mohammed, A. S., & Ali, G. A. (2018). Legal Means for Avoiding Investment Disputes: A Comparative Legal Study. *Al-Nahrain University Journal*, *31*(12).

Sharif, M. G. (2007). *The Effect of Changed Circumstances on International Trade Contracts: The Effect of Force Majeure and Hardship on the Performance of International Contracts* (1 ed.). Fujairah National Printing Press.

Sharif, M. G. (2010). *The Effect of Changed Circumstances on International Trade Contracts*. Dar al-Jami'a al-Jadida.

Shiravi, A., & Kazemi, M. J. (2019). Economic Analysis of Negotiation in the Settlement of Commercial Disputes. *Majles and Strategy*, *26*(99), 227-247.

Yahiaoui, S. (2019). *Alternative Means to Public and Private Judiciary in Resolving Commercial Disputes*

Zouak, N. (2023). The Theory of Unforeseen Circumstances and Its Applications in International Contracts. *Academic Journal of Legal and Political Research, Amar Telidji University of Laghouat*, *7*(2).