

Amendment in EPC contracts

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Abstract: Contracts with the long-term implementation may always be faced with a series of events that disrupt the balance of the initial contract and make heavy the commitment of one side and there are ways for the mess balance, called moderated contract. Doing such an action may be realized by both parties, the court or the judge that called legal, contractual amendment. Contractual amendment has been accepted in view of Iran's rights and has exceptions that limits authority of the parties in doing Amendments, Many cases can be found in the field of legal adjustment, adjustment recognizes Iran's rights is not judicial. Thesis entitled "Amendment of EPC contracts » collected by Library method this research is analysis and applied type. The research is divided into two parts, respectively, in the first part, it paid to the concept and fundamentals of EPC contracts, this section is divided into two chapters as well as the second part is divided into two chapters.

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Introduction

EPC contract is a contract that all its agents or enforcement is done by the contractor to design and to engineer, procure and construct it, and even in its advanced contracts be operated it and then be delivered to the client. The letter E is Summary of the Engineering and P is Procurement and the letter C is a short word construction that means design and engineering construction and the purchase of goods and implementation of the project. Adjusting means the financial balance of the contract between the parties to the contract. Because when it makes conditions, however, it cannot be predicted and disgusted consequently the financial balance. This research seeks the ways to achieve financial balance in unanticipated case. EPC contracts, including contracts that a few decades ago, found its position in the oil industry, sealants and subway, but as we know the interpretation of such an agreement due to the occurrence of such consequences is not easy. In addition, Article 40 of the law of landlord and tenant year56 found its first burden in addition to the adjustments was mentioned in Article 179 of the Law of the Sea, in addition to the legislator in Article 16 of the Insurance Act accepted amendment. But the law also amendment due to consider the parties of contracts is focused on it, but it has been considered as a kind of modification of the contract, "and that is why it is said that even the modified contract is a contrary move to the principle of autonomy and the common intention of the parties. Adjustment as additional verbal abuser means to restore and put in the right place. Thus, "modulation" each of the Funds or contractual conditions (eg, time adjustment or

modification of the amount) under necessity found license that the issue is extracted from " its right place. One way to reduce the possibility of deviating from justice out of justice or that the limited and reasonable changes specified in the contract shall be determined as a negligible range, as well as with respect to change contractual conditions amends the contract in the same direction of change and again closes justice conditions under construction. One of the ways out of the range and create the need for modification of the contract is the contract price adjustment. Price I is n fact a bilateral contract. Therefore, if a fundamental change is made in the real value of any consideration it is the need for a price adjustment. This change in the real value may be in the form of unfair increase or decrease in the price of this transaction or it is as the real value of the currency (inflation) of course the second form is in the form of increase or decrease sharp in the general level of prices, inclusive of the first subparagraph is considered. The long-run contracts or ongoing agreements, including contracts with economic development and increase of the impact of external factors in this contract are encountered with a new implementation problems and questions have been raised. The main feature of EPC contracts is that between the time of conclusion and their implementation is time distance, Thus, during the time of the conclusion and implementation of the unforeseen and unexpected events cause hardship and poverty on the one hand side and the wind advantage and technology contracting party is unthinkable.

History and research literature

About The adjustment of contracts there isn't effective enough to dampen EPC contracts have been paid, there is only the general issues or issues related to the adjustment has been adjusted, including the modified book written doctor's Bigdeli to discuss the amendment and its variants. Also in the master's thesis of Mr. Seyed Hassan Mousavi Hashemi as amended contract has been talked. Also, in an article titled Comparative Study of hardship work in the principles of the European Convention on the compensation that has been paid to the theory of hardship.

Research Methodology

The study is applied research and gathering materials is by taking notes and using library resources and related Web sites.. And researchers seek to demystify the possibility of an adjustment in EPC contracts attacked by employers and contractors and to achieve the objectives and results is used descriptive - analytic method. Thus, first of all refers to the adjustment and EPC contracts and collecting existing data, and then reviews them.

Hypotheses

The hypothesis of this study is as following:

1. There is legal and contractual amendment in rights of Iran, legal adjustment EPC contract EPC contract, there are also possible.
- 2-modified Rican EPC contract is made by the parties, the amendment of the EPC contract in accordance with the law and justice will be done according to the will of the parties.
3. there is The possibility of adjustment in accordance with the EPC contract of the parties.
4. Amendment of EPC contract is early effect of changing circumstances and it is not anticipated.
5. Amendment of contract law is the same rule subsidiary.

Research Methodology:

The method is a set of rules, tools, reliable and systematic way to review the facts, to explore the unknown and to achieve a solution to the problems. Adopt scientific method is the only way to achieve an acceptable and scientific achievements. In general research methods in the behavioral sciences can be classified on the basis of two criteria:

- method of data collection
- based on objective

Scientific research on how to obtain the required data (for research) can be divided into the following categories:

A) a descriptive research includes a set of methods that aim to describe a situation or the studied

phenomenon. Descriptive research can be run only "to better understand the situation or to help the decision making process. Descriptive research can be divided into the following categories:

Survey research is to investigate the distribution of the characteristics of a population.

Solidarity researches: in this type of research the relationship between the variables based on the purpose of the research and the analysis that was divided into three categories bivariate correlation, regression analysis and analysis of covariance or correlation matrix.

Action research (scientific research), which aims to describe the conditions and phenomena related to the system.

- Methods of gathering research: This study is collected by library method of databases and also in addition it has been used scientific and research papers published in this area.

- Research tool:

By referring to the research and previous studies, is used the jack-up tools to collect data in this study.

EPC contracts

EPC is result of putting together the first letters of Engineering, Procurement and Contracts Construction that in Iran is known as engineering contracts, logistics performance. Another name for this type of contract, is the key in hand that equivalent of the Turn Key Contract as after completion of the project, the client just by turning a key operation of the facility can begin running.. Engineering or design alone can be a huge contract that has the different stages of feasibility studies or zero, primary studies, basic and detailed studies and these studies will be very time consuming because of the need of a previous study to study, delayed on it But also a supply is a separated contract completely related to engineering. And in the field, and after preliminary studies contractor begins planning and supply contracts with multiple companies and this process is also very time consuming and prices of supply is as a function of the time ebbs and flows.

EPC contracts

It will be adjusted based on the adjustment that takes place within the framework of the contracts and other contracts generally will be subject to adjustment and with same divisions of the famous trilogy places in the rest of the current contracts. but what that has distinguished EPC contracts is the conclusion and signing of rather severe conditions as well as the implementation of the EPC contract, which has a unique feature of the EPC contract and it

can be made of other big and small contracts, the long run of this type of contract allows the adjustment of the EPC contract be as a necessity. The EPC contract that is a large contract may a main contractor be executive of a consortium or the Joint Venture and implements the EPC contracts practically. But this is not the subject of partnerships as main contractors in various subjects for secondary sub-contractors of their choice, depending on the subject or study design or different execution and even the subcontractors for the targeted implementation in a timely manner their work again choose other third-party contractors. so it can be acknowledged that many problems arise in the implementation of an EPC project and this project will be very complex and time consuming and because the project is long, EPC contractors actually not be able to fulfill their obligations so that the contract could not have been authorized In particular, market manipulation and inflation and manpower will be the main factors making project, especially in countries that suffer from economic instability, and an agent of change throughout the project process, is why EPC projects require changes in price due to changes in commodity prices and the time factor. Or the goods or technology required for the project to be imported and the currency needed to buy these goods are continuously changing and it needs adjusting prices that are a function of changes in currency price.

EPC contracts before the contract amendment

Call an EPC contracts before the conclusion of a long and wide process of preliminary negotiations with EPC contractors bidding for the work and also the different stages and eventually draft a contract to your employer will be given to consideration of the process. So, if the law before the contract is approved and committed the parties of the agreement are subject to adjustment after the law, the contract called amendment to the contract. And in this type of adjustment, before signing the contract, the legislature passed a law, and then the parties with one another s agreement will conclude a contract whether were aware of the law or were not aware that this contract has been moderated and the good will of the legislator, due to social, political and economic balance is imposed in the contract to the parties.

EPC contracts after the contract amendment

Law is supervisor of the future that laws don't include contracts that were set before But it must be acknowledged that this type of legislation mentioned examples of them such as circulars related to the modification in EPC contracts to avoid disrupting contracts that were subject to unpredictable disasters

and legislator s interference, the continuity of contracts in line with the continued commitment by the parties to the contract was established. If the legislator, after the contract, approved a law that commits the parties to obligation to the contract and the contract is subject to adjustment, this adjustment after the contract amendment is called.. The legislator, according to the circumstances and conditions of the contract or social interests and to maintain public order and to excuse that such support may impose your will on both sides and if the law after signing contract was approved the intervention of the legislature in this contract, legal adjustment after the contract is called. Here legislator will also imposehis former contracts.

The impact of price increases and other factors on EPC contracts

Based on opinions collected from experts and scholars of oil industry, because of rising prices and the uncertain trends in the 4-year period, providing original equipment required in new projects faced with serious challenges as below.

A) the cost of unforeseen growth in the supply of the product.

B) reducing the duration of the validity of the price of goods.

C) problems related to the set schedule Receiving Equipment.

D) a significant reduction in the quality of customer service due to lack of the needed resources.

E) an increase in the amount of advance payment for order of equipment.

And) decline in manufacturing efficiency in most factories.

The foreign orders, goods and equipment for oil and gas and petrochemical projects in Iran, in addition to being influenced by changes in the price of base metals, the following factors were also affected.

- Changes in currency exchange rates relative to each other
- Problems associated with economic sanctions

Belong contract for EPC (contract)

In the EPC contracts Fidik conditions in the matter referred can by the employer up to 25% of the contract increase or reduce and this is from the powers of the employer. In addition, it can be so good as to help better execute EPC contracts, the contractor increases the term to the term of the contract Another type of legislative intervention method in contract is, extending the term of the contract. Thus, the legislator intervened during the contract period, and extended the amount of time,

with the new conditions, or the same condition between the parties.

Shorten the term of the EPC contract

As mentioned in the second article, the stipulation of the contract or reduce the term of the contract giving rise to 25% was carried out by the employer properly and major projects is the EPC contracts.

As EPC contracts have macro features in terms of price and in terms of the size of the executive as well as the price and the price. And finally computation of time like the contract size is subject to the running time is affected by the fall in inflationary conditions. So the legislature has intervened in the term of the contract on the contrary will reduce the term of the contract increase and thus modify of the contract by reducing the contract is performed. An obvious example of this approach for the amendment of the contract, is Legislator s intervention in reducing the duration of the contract in the evacuation of buildings leased by the ministry and the companies and government agencies that have been approved by the Council is manifested.

Price adjustment in the contract of EPC

According to the anticipated contract, price adjustment is necessary due to the issue should be how to adjust the price for the Rial and currency and it is mentioned separately in the text precisely. In EPC contracts, one of stipulation in the contract referred to Treaty in general terms and fidik conditions to modify the contract amount that can be adjusted to increase or decrease the amount of the contract price.

Reducing the amount of the EPC contract

In the method, The modification of the contract, legislator with the involvement of the amount determined in the Terms and amend contracts with the reduction and the reduction of the contract sum. Examples of this approach can be modified in Article 14 of the Landlord and Tenant, Act introduced in year 62 that the legislator determines the amount of rent for residential property and dominates in this Article that if the landlord receives more than the price announced, by asking the tenant and the court's ruling pays extra money in favor of the tenant, and as seen, the legislator with intervening to reduce the amount of the lease and the amount of rent has modified the landlord and the tenant's contract.

Increasing the amount EPC contract

In the method, the legislator with intervening in the contract or by adding the amount of the contract amends the contract. And in this way of adjustment

on the contrary reducing the amount of the contract, dose the adjustment.

A clear example of this type is in the legislator intervention adjustment in Article 4 the Act is amended in the forecast balance between labor and management contracts and the minimum wage for different points is appointed and This article determines that the employer undertakes for work done during the hours set by law, any worker I is not ' paid less than the minimum specified new. In case of violation, the employer is responsible to pay the difference between the wages paid and as seen legislator with intervening in contract between worker and employer increases amount and thus creates a balance in the employment contract.

Fixed sum of EPC contract

In the method, The modification of the contract, legislator with determining and fixing price of contract adjusts contract. An obvious example of such price-fixing regulations is the price of rent for residential premises with the Ministries of Housing and Urban Development and of Justice, according to the order of Article 14 of the Landlord and Tenant Relations of Act year 62, that two months after the adoption of this matter government approved it that in accordance this law determines residential property prices, according to local needs and regional stabilization and both parties were obliged to comply with the provisions of the fixing of rent. It is not useless that mentioned methods listed in this paper are not exclusive and can name other ways of modifying the existing case-law cited in the legal contract. Like modified contract with changing the theme of commitment and modified by eliminating the disproportionate and also amended the terms of the contract with the combined approach.

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