

Independent Study Paper Title : Force Majeure in Commercial Law Case Study of  
Economic Crisis

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### ABSTRACT

The objective of this research is to study cases of Force Majeure in Commercial Law only a performance after economic crisis occurred such as what Thailand had encountered the economic crisis in year of 1997. The value of Baht reached its lowest point of 58 Baht to the US dollar. It was the cause of many companies that import goods from foreign countries had to close down or faced a problem about liquidity. The dispute came to the court, one of the defenses was the impossibility of obligation. However, Thai court ruled that the economic crisis was not force majeure and the parties had to perform as agreed. It is a situation in which the disadvantaged party still has ability in exercising under a contract. But there is a supervening event occurred after the conclusion of the contract was made. As a result, the burdensome of performance party must pay too much debt or the other party may excessively receive the payment. This causes unfairness to both parties if they still oblige to follow that contract. Thus, this research focuses on change of circumstance (Supervening Event) which except to Principle of Sanctity of Contract and English law, German Law, French Law and United Nation Convention on Contracts for the International Sale of Goods or CISG about Force Majeure in Commercial Law.

After the research, it is found that, in Thailand, the Civil and Commercial Code states only Force Majeure provision in Section 8 but it is not found for Force Majeure in Commercial Law, if there is any problem relating to the breach of contract or default of the debtor in whole or in part caused by reason of the economic crisis. The burdensome of performance of party has to pay much more than they ought to because the Force Majeure in Commercial Law is not stated in the Civil and

Commercial Code. As a result, the parties will have no right to the court may reduce or increase the outstanding amount under that contract.

As a result, proposal for amending the Civil and Commercial Code in Section 8 by adding the Force Majeure in Commercial Law provision clearly in Section 8 paragraph 2 and 3 should be recommended to Thai legislative. Therefore, when there is a problem regarding the Force Majeure in Commercial Law, the parties will have the specific provision to resolve the problem.

