



Effects of International Conventions on Legal Trade Facilitation

Nasser Azad^{1*}, Ali Ghanbarzad²

¹ Faculty Member and Assistant Professor of Department of Management, south Tehran Branch, Islamic Azad University, Tehran, Iran.

² PhD student of Department of Business Management, South Tehran-Kish international branch, Islamic Azad University, Kish Island, Iran.

ABSTRACT

Foreign trade and export are two vital instruments for countries to reach their goals of economic prosperity and growth. Since export contributes in improving balance of payments, employment rate and quality of life, therefore, some nations are seeking to develop export and promote more exportation. On the other hand, Iran, despite neighborhood and cultural proximity to growing markets such as central Asia and Afghanistan, has not yet achieved the desired place in non-oil export scope. So attention paid to effective factors in legal trade facilitation could bring useful results for this country. Iranian Customs Organization, currently, is dealing with 45 rules and has been concluded 15 international treaties. In addition, customs practices have been increased to 14 procedures. With regard to cross border trade, Iran is in the world's 148 place and over 4000 export items are available in this country which has capacity to increase export potential to more than 100 billion dollars. In this paper, we try to examine effects of some international conventions on legal trade facilitation in this country.

Keywords: International trade, International conventions, Legal trade.

Corresponding author: Nasser Azad

INTRODUCTION

At present the world is moving from a natural resources -based industrial period to a knowledge- based period focusing on skills, education, research and development. Emergence of new communication technologies provides opportunity to shape global economy (Drzeniek et al, 2016). National economies are fading out to be replaced by a global economy. The review of historical evolutions in economics and trade show that most of the global crises originate from economic and commercial competitions. Since economy is a significant factor in flourishing a country, development of foreign trade is of great importance, particularly, preparing conventions facilitating the foreign trade (Esteban et al, 2015). The customs play vital role in booming foreign trade and development of international markets. Effective customs practices can efficiently affect competitive economy of the states. In a world of increasingly global competition, the international trade and investment flows toward efficient, supportive and facilitating places. At the same time, it flees from places where merchants and investors consider them bureaucratic, costly and risky. Customs process and systems should not act as obstacles in path of global trade and economic growth nor create such impressions. In this study, we try to examine effects of international conventions on legal trade facilitation. Therefore, these effects have been considered in viewpoint of customs employees in Imam Khomeini Airport of Tehran city.

H1: implementation of Kyoto Convention affects legal trade facilitation.

H2: application of temporary admission system affects legal trade facilitation.

H3: implementation of WTO agreement on customs valuation affects legal trade facilitation.

1. Literature review
- 1.1 International trade theories

International trade has long history in the world and from long time ago people carried on foreign exchange to meet their needs and to reach goods and services in other countries (Akhavi, 1994). In the past, meeting needs of society and seeking profit were the main motivations of the nations to enter in international trade scope, today, however, other important political and economic goals are considered in this regard too. Some economists believe that opening the nations' borders and expanding extraterritorial trade have conducted the nations' economic recourses to activities bearing higher productivity and have facilitated their growth and development. Advocates argue that expanding foreign exchanges is be considered as an economic development strategy which in last decades some nations including South Korea, Singapore, Taiwan, Malaysia, Indonesia, Brazil and a few more countries in East Asia and South America adhered to. In the following, some theories related to international trade are presented (Salvatore, 2006):

Mercantilism: is the first theory about international trade popularized in the mid 16th century. This theory recognized reserves of gold and silver as basics of national wealth and a

decisive factor in making foreign exchange. In that period, gold and silver were considered means of payment in foreign trade and obtaining them was possible through exporting goods to abroad. The main idea of mercantilism was that every nation should try to export more and import less to finally achieve surplus balance of trade (Tri-Dung, 2015). Since international payment means was silver or gold, hence, surplus balance of trade led to increase precious metals reserves that in return contributed in increasing national wealth and enhancing economic status of the nation in global level.

Absolute advantage: Adam Smith, in his well-know book 'The wealth of nations' at first upends mercantilism systems and then discusses reasons and effects of doing exchange among nations and describes input resources to enter into such trades. In Smith's view, the nations have different conditions with regard to efficiency in production of goods (Drzeniek et al, 2016). He believed that each nation needed to focus on producing goods in which it had absolute advantage compared to other nations, as well as, importing goods which other nations had advantage in. According to Smith, a nation should not produce a product in home when it can import it from abroad cheaply. He believed that specialization and focusing on products which nations had prominent advantage in would ultimately be in favor of these nations and this policy, that is, exchanging such products, would be beneficial for all party to transaction.

Comparative advantage: although absolute advantage theory of Adam Smith had helped to understand behavior of nations in international trade, it posed many questions in minds of post-Smith economists. One question was that if a nation had absolute advantage in production of all goods, what was its role in international trade? Smith believed that such nation could not gain advantage in foreign transactions; therefore it likely would not engage in such transactions. Later, David Ricardo in 1817 published 'principles of political economy and taxation' and criticized absolute advantage theory. He answered to the above question as follow: when a nation has absolute advantage in production of all goods, then it may produce and export those products in which it has the highest efficiency and in return, it can import from abroad the products in which it has less efficiency. Through executing such policy, this nation can gain benefit from foreign transactions. This point of view accompanied by more robust economic arguments, was popularized as theory of comparative advantage which could interpret it as developed form of Adam Smith's theory. Ricardo believed that difference in comparative advantage was due to difference in agents of production's productivity (Kahler, 2006). **Hechsher – Ohlin theory:** despite what Ricardo believed, Hechsher and Ohlin in a theory established in the first half of 20 century stated that difference in comparative advantage was attributed to difference in the degree nations endowed with natural factors of production. They showed that when functions of production in two countries were the same, both countries still had comparative advantage and for each of them, the advantage was in production of the products for which factors of production were abundant in that country. For example, if a country is richer in labor than capital, in the fixed technological conditions, its comparative advantage is in labor-intensive products. The reason is that in such a country the factor of labor should be normally cheaper than factor of capital, in terms of efficiency of demand-supply forces in the market. On the contrary, if a country is richer in capital than labor, it should focus more on capital-intensive products, because generally speaking, in such a country the capital should be cheaper than labor (Kahler, 1996).

Technological Gap theory: in modern era, comparative advantage doesn't necessarily mean endowment of the nations from natural resources; instead it means possession of knowledge and technology which is considered as advantage

and formative factor for success in global scope. Concurrent with developments in information technology, new theories have been emerged in international trade and Technological gap theory is one of them. According to this theory, when a new product is produced by an innovative enterprise using modern technology in a country, that country gains an exclusive situation in producing such product and because of comparative advantage resulted from new technology, it begins to produce and export that product to other countries. When other countries informs about profit of the enterprise, they try to imitate it and take action to produce the same product, in doing so, due to access to low-cost labor they may supersede foreign markets, even markets of the innovative country so that comparative advantage of producing a product is transferred from the country of origin to other countries. Meanwhile, it is possible some producers of initiative country can invent new products applying modern technology and export these goods using comparative advantage resulted from produced technological gap (Carlo & Jian, 2001).

Product life-cycle: expansion of technological gap theory resulted in development of product life-cycle by Raymond Vernon in the mid 1960s. According to this theory, every product has three stages. **Infant:** in this stage a new product is produced using innovation and skillful labor, and the innovative country has temporary monopoly in the market. **Growth:** in this stage, other countries enter the market and begin to produce similar product imitating technology of original country and employing semi-skilful labor, the number of producers increase. **Maturity:** in this stage volume of production is high and production is totally out of monopoly of initiative country (Akhavi, 1994).

First – mover advantage theory: according to this theory, every country may focus on producing commodities whose producer firms in that country are considered as leading companies in the industry and gain leading advantage. On the other words, the advantage a country obtains in international trade scope is resulted from situation of producer companies of that country which gain a kind of competitive or strategic advantage due to being pioneer in the considered industry. These companies usually have entered the market earlier than other companies and because in the industry the share of production fixed prices are high, they could have exploited the advantages resulted from economies of scale and finally gained advantage of pioneering (Akhavi, 1994).

National competitive advantage theory: based on this theory developed by Michel Porter, in each country four major factors including economic resources and primary productive factors, demand conditions, related and supporting industries and type of strategy, structure and rivalry of companies create an environment in which local companies could compete, and these factors increase or decrease competitive advantage of the considered country. Porter called these factors components of diamond, that is, his competitive model. He argues that companies are being able to compete well in industries or industrial subdivisions when this diamond is in good position. He, moreover, believes this diamond is a self-reinforcing or counter-reinforcing system, it means that position or state of each element affects position of other elements (Kahler, 1996).

1.2 international conventions

Different countries have specific culture, language, rule and commercial systems and effect of these variations are evident in arising trade disputes. Sometimes, different interpretations from obligations and responsibilities of parties which is affected

by aforesaid disputes might lead to international commercial legal actions (Hartwich & Peet, 2003). Furthermore, international trade entails sophisticated process and doing it is much harder, riskier and with more responsibilities for both parties than domestic trade. Therefore, in this process, in addition to prices, issues such as obligations, responsibilities and risk are of great importance. Naturally, United Nation is the most prominent international organization which other organizations or international conventions become officially valid after being registered in it. This organization that declares its goal peace and global safety, has not directly engaged in customs matters, however, the study of its subset units reveals such engagement (Andrew, 2005).

Single window: is one the most successful programs of UN-ECE in facilitating international trade. In this procedure which also is called service in single unit, traders resort to a single organization determined by public authorities (usually customs) in order to do import, export and customs clearance of the cargos. Therefore, all concerned organizations are present in a single location and organizational procedures to obtain permits or clearance formalities of all applications and documents submitted to a single entity, the required controls performed and clearance permits are issued (Jaddish, 2004).

TIR Convention: UN customs convention associated with international transportation of commodities under cover of "TIR Carnets" is one of the most significant and comprehensive customs regulations in road transit system which applies to relationship between carrier, customs and guarantor institution. According to this convention, transportation of commodities from one point in customs of origin to a point in target customs is allowed via territory and other countries which passing through them is necessary, without customs inspection during the path. In Iran, Chamber of commerce, industries, mines and agriculture acts as guarantor institution and transportation companies get required facilities of TIR Carnet by providing guarantor institution with the required guarantees. World trade organization (WTO) is the most important and effective international organization in scope of international trade. This organization which deals with adjustment and supervision of trade between nations replaced general Agreement on Tariffs and Trade (Gatt) on 1 January 1995. Compared to Gatt, specific sectors have been added to this organization and WTO covers three main areas: trade in goods, trade in services and Trade-related aspects of intellectual property rights. To achieve goals and principles, WTO has codified some agreements aiming to create commercial facilities, and has introduced world customs organization as responsible for execution and management of such agreements. In the following, two examples of these agreements are discussed:

Agreement on rules of origin: many commodities traded in cycle of international trade involve components and materials which have produced in more than one country and may have completed the production cycle in different countries. This problem challenges the importer country in terms of origin determination (Hoekman, 2005). Moreover, there may be times when importing a specific commodity from a given country be subjected to anti-dumping actions, compensations or quantity restrictions due to measures of protection.

In these situations, the first condition to apply aforesaid commercial policies is to know the origin of concerned commodity. Then, rules of origins are those standards and criteria required in determining the origin where commodity is manufactured or produced in and shall be applicable (Kapstein, 2007).

Harmonized Commodity Description and Coding System (HS): or harmonized system is used as a basis to recover customs duties and adjust statistics of international trade, almost by all

countries. Application of harmonized system ensures that statistics obtained from customs is matched exactly with international standards. Although HS is an instrument to ensure customs revenues are recovered correctly, the primary motivation in its codification was using innovation in facilitating trade; since then the harmonized system has been transformed to real language of trading (Sally, 2000).

1.3 customs conventions

Kyoto convention: The International Convention on the Simplification and Harmonization of Customs procedures entered into force in 1974. Since then, growth of international transportation, unbelievable advancement of Information Technology, and intensely competitive environment of international trade focusing on qualitative services and customer satisfaction are considered as effective factors which have been produced dispute and ineffectiveness in traditional customs procedures and methods. Therefore, world customs organization revised and updated articles of Kyoto convention to ensure that it meets demands and current requirements of global trade (Sevilla, 2007). The WCO Council adopted the revised Kyoto Convention in June 1977 as the blueprint for modern and efficient Customs procedures in the 21st century. Revised Kyoto convention is an instrument which helps to develop international customs procedures and once implemented widely, it will provide international commerce with the predictability and efficiency that modern trade requires. Customs is bound to use risk management techniques in order to cooperate with other concerned agents and trading staff members as well as implementation of international standards. Revised Kyoto convention promotes trade facilitation through legal requirements in terms of chapters, annexes, and special clauses. These requirements detail application of simple yet efficient procedures in order to maximize facilitation for goods and passengers. General annexes of revised convention contain the following principles which should be adopted by advanced customs:

- simplified procedures – standard procedures
- continuous development and improvement of technologies related to customs controls
- maximum use of information technology
- partnership between customs and commerce

Temporary admission system (ATA): is a system which allows the tax-free and duty-free temporary import of goods across the borders and in customs territories. Carriage of goods is made under cover of a single document bearing A.T.A and guaranteed by an international system (Steger, 2007). With respect to useful role of such system, the international trade community has remarkably benefited from simplification of customs formalities. So long as the goods are imported temporarily under cover of this system, no duties or tax are due, because ATA Carnet is internationally guaranteed. Moreover, the national institutions issuing ATA Carnet are internationally reliable. These national institutions meet with customs' approval and are dependant to an international voucher chain called 'international bureau chambers of commerce'. During 1975-1994 the number of international conventions, protocols, agreements and other instruments associated with temporary admission increased remarkably that led to confusion of international trade community and complicated work of customs. At beginning of 1990s WTO drafted out a broader convention in international level related to temporary admission of commodities so that 43 existing agreements on temporary admission integrated as a single international text. The convention related of temporary admission adopted in 1974 in Istanbul and was known to 'Istanbul convention'.

Principles and objectives of this convention are as follows (Sutherland et al, 2004):

- Designing a single instrument for simplification and harmonization of temporary admission formalities and replacing it by all recommendations and related conventions on temporary admission. In the other words, all subject covered by previous conventions now are under cover of ‘annexes’ in Istanbul convention.
- Each ‘annex’ permits one temporary admission of goods imported for a specific purpose. For example, annex covers all goods imported to offer in markets or fairs.
- The goods imported without customs duties and as temporary admission are not allowed to stay in the territory for indefinite period. The given period for their re-exportation is laid down in each annex.
- The goods shall be returned in original state. These goods shall not be undergone any change during staying in the country of temporary admission, except normal depreciation due to use made of them.
- Economic restrictions or prohibitions in definite import shall not be applicable on goods of temporary admission, because definite imported goods generally are cleared for home use and application of import restrictions or prohibition shall be granted to support national production (Sutherland et al, 2004).

Customs valuation agreement: this agreement provides customs valuation system that primarily bases the Customs value on the transaction value of the imported goods, which is the price actually paid or payable for the goods when sold for export to the country of importation, with certain adjustments. The Agreement is intended to provide a single system that is fair, uniform and neutral for the valuation of imported goods for Customs purposes, conforming to commercial realities and outlawing the use of arbitrary or fictitious Customs values. The Agreement, by its positive concept of value, recognizes that Customs valuation should, as far as possible, be based on the actual price of the goods to be valued. The strategic program of World Customs Organization in terms of this agreement enforcement provides three objectives for members (Sevilla, 2007):

- Assist to less developed and developing member states to complete enforcement of WTO Valuation Agreement
- Encourage the members to interpret and execute this agreement in predictable, clear and uniform way.
- Ensure that members are agreed to principles dominated on WTO Valuation Agreement through application of proper working methods (Sevilla, 2007).

METHODOLOGY

This research is an applied survey. To ensure content validity, research indexes for considered variables were constructed based on previous studies and with respect to opinions of elites and academicians. Moreover, 5-item likert scale (completely disagree to completely agree) was determined for all analytical items in questionnaire. The population of this research consists

of 132 customs employees and experts in Imam Khomeini Airport in Tehran city. The sample size obtained using Cochran formula (confidence coefficient 95%). The researcher-made questionnaires developed based on 5-item likert scale. Furthermore, data obtained from the questionnaires analyzed by SPSS software. Value of reliability determined 0.90 using Cronbach’s alpha method.

RESULTS

The relations between variables were analyzed using multivariable regression statistical technique. In this section, the research hypotheses (H1-H3) are tested using regression analysis.

Table 1. Regression test

Hypotheses	Variable	Significance	T	β	Results
H1	Kyoto convention	0.000	3.97	0.85	Supported
H2	Temporary admission system	0.000	4.91	0.81	Supported
H3	WTO Valuation Agreement	0.000	3.30	0.77	supported

CONCLUSION

Considering the modern and classical theories in the field of international trade, the necessity of transaction and exchange between nations seems inevitable. From long time ago nations had tended to carry on extraterritorial trades and accelerated their economic development besides meeting their needs and reaching to other goods and services available in different parts of the world (Andrew, 2005). Since beginning of industrial revolution, with attention to technical and economic advancements, particularly increasingly development of communications, the volume of global transactions has been constantly increased and international trade has been continued in an advanced and modern form compared to the past. Using communication tools such as internet has facilitated interaction between parties in different parts of the world in the shortest possible time; on the other hand, huge commercial ships some of which carry up to 10222 containers have been facilitated international trade. Parallel to the population increase and economic growth in the countries throughout the world, volume and value of nations’ export and import is progressively increasing. Start of this huge movement dates back to early years of 20th century, and in current period is growing with ever increasing speed. Since in such transactions at least two parties from separate countries are dealt with, the complexity is high. Since the beginning, creating a single procedure and common language in different stages of work was among primary concerns of international organizations, so that each tried to organize parts of this process with regard to its specialty and create international common procedures. In this study, research literature and opinions of elites suggest that Kyoto convention, temporary admission system and WTO valuation agreements are three effective agreements for trade facilitation. According to the findings it can be claimed that null hypothesis is rejected for all hypotheses and alternative

hypothesis is supported. The findings show that the Kyoto convention has the significant impact on legal trade facilitation. At the end it is worth noting that the following recommendations can improve legal trade facilitation and finally improve business in the 20th century:

- Encourage authorities in using international trade agreements
- Customs should try to take positive steps in direction of customers satisfaction through expansion the customer respect programs
- Customs should expand and develop information management systems in their organizations and enforcement agencies are obliged to provide them with required facilities.
- It's better the executive customs and inactive border markets being dissolved and integrated in active neighboring customs and markets.
- The organizational structure and human resources should be re-designed in a way that goes toward shrinkage and specialization.

REFERENCES

1. Andrew, Mitchell.(2005). A Legal principle of special and differential treatment for W.T.O disputes, World Trade Review, Vol. 5, No.
2. Button, Catherine.(2006). The power to protect trade, Health and uncertainty in the W.T.O, World Trade Review, Vol. 5, No.2. - General Agreement on Tariffs and Trade, at: <http://www.worldtradelaw.net/uragreements/gatt.pdf> -
3. Drzeniek Hanouz, M. and Geiger, T. and Doherty, S. (2016), "The Global Enabling Trade Report 2014", World Economic Forum
4. Esteban, Mario, and Miguel Otero-Iglesias (2015), What are the Prospects for the New Chinese-Led Silk Road and Asian Infrastructure Investment Bank? , Real Instituto Elcano, April.
5. Hartwich, E. & Peet, R.(2003). Neoliberalism and nature, The Annals of the American Academy. -
6. Hoekman, Bernard.(2005). Expanding W.T.O membership and heterogeneous interests, World Trade Review, Vol.4, No.3. -
7. Jagdish Bhagwati.(2004). In defense of Globalization, Oxford University press.
8. Kapstein, Ethan.(2007). Economic Justice in an Unfair World: towards a level playing field, World Trade Review, Vol. 6, No.1.
9. Sally, Razeen.(2000). Developing country trade policy reform and the W.T.O, Cato Journal, Vol. 19, No.3
10. Sevilla, Christina.(2007). Why liberalize trade? , eJournal USA, - January, at: <http://usinfo.State.Gov/Journals/itee/0107/ijee/sevilla.htm>
11. Steger, Debra.(2007). The Culture of the W.T.O: why is need to change, Journal of International Economic Law, vol. 10, No. 3.
12. Sutherland, et. al.(2004).The future of the W.T.O, W.T.O publications, Geneva. - W.T.O, Principles of the trading system, revised at 2007, P.13. At: <http://www.wto.org/English/thewto-e/whatis-e/tif-e/fact2-e.htm>.
13. Tri-Dung Lam. (2015), "a Review of Modern International Trade Theories", American Journal of Economics, Finance and Management, Vol. 1, No. 6, PP. 604-614