

THE IMPORTED GOODS SYSTEM IN IRANIAN CUSTOMS CODE AND ARTICLE 07 OF GATT AGREEMENTS

تقييم نظام البضائع المستوردة في قانون الجمارك الإيراني والمادة 07 من اتفاقيات الجات

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Abstract:

Recently, some new articles have been added to Iranian Customs Code - 2011 and its implementing regulation regarding methods of determining value of imported goods. New articles are markedly different from the traditional practices of the former Customs Code. Former Customs Code has been amendment by government in the light of implementation of the GATT Article 7 but Customs interference as legal issue is still open to question. This research would examine role of such interference on sustainability of market and its equilibrium practices. Furthermore, the research would be concluded by identifying advantage and disadvantage of customs and other organizations interference through application new methods for determining value of imported goods and a legal proposal to reform.

Keywords: Customs, Market, Value of Imported Goods, equilibrium practices, GATT, determining the value

المخلص:

في الآونة الأخيرة، أضيفت بعض المواد الجديدة إلى قانون الجمارك الإيراني -2011 ولائحته التنفيذية بشأن طرق تحديد قيمة السلع المستوردة. تختلف المواد الجديدة بشكل ملحوظ عن الممارسات التقليدية في قانون الجمارك السابق. تم تعديل القانون الجمركي السابق من قبل الحكومة في ضوء تنفيذ المادة 7 من اتفاقية الجات، لكن التدخل الجمركي كمسألة قانونية لا يزال مطروحا للتساؤل. يخصص هذا البحث دور مثل هذا التدخل في استدامة السوق وممارسات توازنه. وعلاوة على ذلك، سيتم الانتهاء من البحث من خلال تحديد المزايا والحرمان من تدخل المنظمات الجمركية وغيرها من خلال تطبيق طرق جديدة لتحديد قيمة السلع المستوردة واقتراح قانوني للإصلاح.

الكلمات الرئيسية: الجمارك، السوق، قيمة السلع المستوردة، ممارسات التوازن، الجات،

تحديد القيمة.

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INTRODUCTION:

Membership in the world trade organization has many commitments in the various areas for the pledged members. Observing these obligations can even be associated with significant damages in some sectors of the economy for these countries. Some countries may also refuse to join this organization to prevent undesirable consequences of such possible damages. General agreement on tariffs and trade (GATT) involves various articles and several agreements have been made to implement the various articles of this original agreement. Despite direct connection of four articles of the general agreement on tariffs and trade with customs and related formalities, there are only three specific agreements on these articles that have paid attention to these issues. Although the Islamic Republic of Iran is not a member of the world trade organization, but the above mentioned issues in the Customs Act and the implementing bylaw of this law are almost inspired and affected by the agreements related to customs and customs procedures of the world trade organization.

Readdressing these issues in an exquisite method in the world trade organization's trade facilitation agreement demonstrates the importance and stability of these categories. One of the issues discussed in the GATT is the issue of "valuation", which is dealt with in Article 7 of the agreement. Considering the importance of the issue, another agreement is approved with article 7 of the GATT implementing agreement title and is implemented by the member countries of the world trade organization. The main purpose of this agreement is to create a fair, uniform, neutral system for valuation of goods for customs purposes, observing commercial realities and preventing the use of false customs values.

As already mentioned, Iran is not a member of the WTO (world trade organization), therefore, it does not need to observe with mentioned agreement. The fact is that the Iranian Customs Act has included articles on the valuation of imported goods which has remarkable differences with the usual methods in the former Customs Act. Besides, since aforementioned contents has been approved by the Islamic Consultative Assembly or the Council of Ministers and has been announced to be implemented, it is required to observe these published articles and announced methods.¹ The fact is that the new articles are markedly different from the traditional practices of the former Customs Code. Former Customs Code has been amendment by government in the light of implementation of the GATT Article 7 but Customs interference has been faced with legal issue and question: To what extent the interference of the government or other relevant authorities is

¹ - *Deputy Minister of Economic Affairs of the Ministry of Economic Affairs and Finance (1995). An analysis of trade, the practical experience of joining some countries to the World Trade Organization (WTO) and the economic effects of joining it. Tehran: Deputy Minister of Economic Affairs of the Ministry of Economic Affairs and Finance publication. P 142.*

efficient? Based on the aforementioned research question; this paper with Qualitative research method, it is attempted to address the interference of the government or other relevant authorities in the implementations of these articles as well as the compatibility of the existing regulations with GATT principles 1 and 2 on the unification of the procedure for the imposition of restrictions on the basis of tariffs.

1. GENERAL PRINCIPLES OF DETERMINING THE VALUE OF CUSTOMS IN THE WORLD TRADE ORGANIZATION AGREEMENT

It is necessary to discuss the general principles for valuation of customs in the world trade organization agreement before entering into the discussion of valuation and compliance of the customs regulations. Agreement of implementation of GATT article 7 contains an introduction, and 24 articles and three annexes. Articles 1 to 8, defines the customs value of the goods and provides different methods for calculating it. Articles 9 to 17 of the agreement are not original articles, but they are transparent and open and the general articles of the agreement. Articles 18 to 24 refer to aspects of Legal, administrative, and commercial valuation and membership, execution and withdrawal.¹ The valuation of customs in the WTO agreement is based on the following six methods:

¹ - *The GATT is a document with 38 articles and 4 chapters and a large number of annexes ... From these 38 articles, the following four articles can be read in conjunction with customs and customs formalities: Article 5: Freedom of Transit, Article 7: valuation of customs for customs purposes, Article 8: Pre-shipment inspection Article 9: Indications of origin. Currently, apart from the General Agreement on Tariffs and Trade (GATT), which is in fact the mother and primary agreement, there are several other agreements in the scope of commodity trade, each of which in some way intends to expand the articles of the GATT in the relevant scopes. These agreements are mainly established in different periods of the GATT negotiations, and at the end of these periods, they have joined the mother Agreement (GATT), of which three agreements of mentioned agreements are related to the above-mentioned issues. As noted, Article 7 of the GATT refers to the valuation for customs purposes, which, apart from that, the agreement of implementation of GATT article 7 is the result of the multilateral trade negotiations of the Tokyo Round, which was ratified in 1979 and implemented on January 1, 1981. Parts of this agreement were revised during the Uruguay Round of Multilateral Trade Negotiations and annexed to the Moroccan Agreement, which established the World Trade Organization on January 1, 1995, and thus was introduced a new valuation system. The main purpose of this agreement is to create a fair, uniform, neutral system for valuation of goods for customs purposes, observing commercial realities and preventing the use of false customs values.*

Kouhestani Pezouh (2013). Customs Valuation System (First Edition). Tehran: Law Publication, p. 102.

THE TRANSACTION VALUE OF THE IMPORTED GOODS

The Agreement stipulates that the basis for valuation of goods for customs purposes should, as far as possible, be the value of the transaction of the goods in question. The transaction value is defined in article 1 of this agreement.

THE TRANSACTION VALUE OF IDENTICAL GOODS

According to Article 15 of the Agreement, Identical Goods are the goods which, in all respects, has the same physical characteristics, quality, and reputation with the goods in question, and may differ slightly with the considered goods in evident. The goods is identical that manufactured in the same country only and, if possible, by the same manufacturer, with the desired product, and its value determined by the first method, and close to the date of issue for the product in question. Ultimately, if more than one transaction value is obtained for an identical good, the minimum should be the basis for determining the customs value of the imported goods.

THE TRANSACTION VALUE OF SIMILAR GOODS

According to article 3 of the agreement, a similar good is a goods which, although it is not identical in terms of all aspects to the considered product, but it has the same properties and components as it enables it to function in the same way with the considered goods and is commercially interchangeable. The quality, reputation and presence of a commercial brand are among the factors that should be considered in determining the similar goods.

THE DEDUCTIVE METHOD

The deductive method based on the price of sale unit of imported goods or identical goods or its similar in the country of arrival at the first commercial level after the import of the goods to unrelated parties to the seller.

THE COMPUTED VALUE

In accordance with article 6 of the agreement, the computed value is obtained from the sum of the following components: The materials price and construction or more operations that are used in the production of imported goods; Amounts as profits and total costs equal to those normally added to the price of the goods in the sale of the considered goods in the country of export by the producers for export to the country of import; Other related costs, such as delivering costs, according to the customs valuation system of the country of import. None of the member states can force a person who is not resident in his country to provide an invoice or a record that is required to process and determine the computed value.

THE FALL-BACK METHOD OR OTHER REASONABLE MEANS METHODS

Article 7 of the agreement does not provide any specific method for valuation, but states that customs values should be consistent with the compatible logical solutions and coincident with the regulation of the agreement and article 7 of the GATT 1994, and based on the information available in the country of import.

It should be noted that in determining customs values, none of the parties, i.e. importers and customs offices, is not allowed to choose the method and the numerical ordering observance of the above methods, is obligatory except for the fourth and fifth methods (to the importer's choice).¹ Now we must see which Iran's customs valuation system is compatible with these methods.

2. IRAN'S CUSTOMS VALUATION SYSTEM IN THE FRAMEWORK OF THE IMPLEMENTATION OF ARTICLE 7 OF THE GATT AGREEMENT

The system of customs valuation in during more than three decades since its ratification in 1971 and due to lack of coordination with the needs of the day of the community and international trade was not comparable to the world trade organization agreement that by the ratification of the new Customs Act in 2011, attempts were made that the valuation issues in the framework of the WTO's system as well as to be consistent in accordance with adaptation with rules and regulations and customary and universal procedures. For this adaptation, the axis of analysis should be based on the basis of the customs valuation of imported goods and items that are not specified or accepted by the customs, which are ultimately analyzed and evaluated in the form of articles 14 and 15 of the law of customs, which will be reviewed as follows.

A - CUSTOMS VALUATION SYSTEM EQUIVALENT TO THE CUSTOMS VALUE OF THE IMPORTED GOODS (ARTICLE 14 OF THE CUSTOMS ACT):

Thus, Article 14 of the Customs Act states that: the customs value of imported goods in all cases is the value of the cost of purchasing the goods at the origin, in addition to the cost, insurance and freight (C.I.F), in addition to other costs which include that goods until entering to the first customs office, which is determined from the purchase list or other delivery documents of the owner of the goods and stated on the basis of the exchange rate equality declared by the central bank on the statement day. In accordance with Article 14 of the Customs Act, the value of the C.I.F must first be determined by the purchase list or the delivery

¹ - Jamal Arohnaghi, Mehrdad (2010). *Max Pedia (Third Edition)*. Tehran: Publisher, pages: 329-331.

documents of the owner of the goods. In addition, in accordance with the content of note 1 of above article, in the customs valuation, the following shall be added in the if paid: Moral property rights, design and engineering costs in other countries, boxes and containers, materials, parts and equipment used in the production of the imported goods and supplied by the buyer, each section of the revenues from resale and dividend revenues assignment to the seller is direct or indirect. In this regard, it has been noted in the Customs Act that it can be analyzed that if the customs value of imported goods is different from the price specified in the documents presented, it does not include costs or the following:

1) Construction costing, installing, mounting, maintenance or technical assistance for goods such as devices, machinery and equipment after their import
2) Freight cost after import of the goods
3) The cost of usual profit of the purchase of goods by the seller or a third party
4) The cost of the buyer's actions outside the terms of the transaction, such as marketing activities for the goods
5) the right to reproduce and internal produce of the imported goods
6) The value or cost of the information and instructions recorded in the software or on the carriers of information such as a diskette, compact disc and the like for use on computers; in this cases the value of the bearer is calculated as raw (Note 2 Article 14 of the Customs Code). Of course, "information and instructions" include sound, cinema, video records, commercial software's, as well as "information carriers" including integrated orbits, semiconductors and similar devices are exception.

The result of this review is that, in any case, according to article 14 of the customs code, only the costs added to the value of the goods which are done until the time of entry into the first customs office and the costs after customs clearance such as fare of shipments costs, unloading, loading, installation, assembly and triggering of machinery for the production line and keeping and maintenance of them, costs related to the training and dispatch of foreign experts by the seller foreign goods are costs that, due to their realization after import, should not be added to the value of the goods.

B - CUSTOMS VALUATION SYSTEM AT THE TIME OF THE CHALLENGE OF ACCEPTING OR REJECTING VALUE (ARTICLE 15 OF IRAN CUSTOMS CODE):

According to Article 15 of the Customs Code: If the owner of the goods does not submit the purchase list to the customs or the value indicated in the documents of owner of the goods is not to be accepted by the customs on the basis of reasons and acceptable documents, the value of the goods is determined on the basis of one of the following methods: 1. Identical Goods clearance records simultaneous from the same country of origin 2. Similar Goods clearance records simultaneous from the same country of origin 3. The price of selling the same goods in the domestic market after the necessary adjustments 4. The value of the calculation based on the factors involved. 5. Goods valuation of based on

available evidence and information and with the flexibility to apply the above methods. Note- It is necessary to observe the precedence and regency in application of the above methods and the order of application of the third and fourth methods is interchangeable only on request from importer.

With a little scrutiny in the provisions of the above article, the customs can apply in two cases to the clearance records of identical goods or similar to disputed goods, the inquiry of the price of the goods from the domestic market, the computational value and ... to determine the value of imported goods: A) the buyer does not submit the purchase list to the customs; b) the value indicated in the documents of owner of the goods is not to be accepted by the customs on the basis of reasons and acceptable documents; Therefore, in the two above cases, the customs must act in order to determine the value of the goods in the base of the appointed procedures in Article 15 of the Customs Code.¹

The criterion of the customs value of the imported goods in accordance with article 14 of the law is the price actually paid or payable for goods sold between non-related individuals for export to the customs territory which is determined on the basis of the purchase list and other documents submitted by the goods owner and in accordance with the terms and conditions stipulated in the mentioned article.² Of course, in declaring the customs value of the imported goods and customs investigations, any adjustments to the price actually paid or payable must be based on objective, measurable and documented information and with observance of accounting accepted generally principles.³ It has already been mentioned that in the case of a commodity which is declared without the submission of a purchase list or the value stated in the purchase list and other submitted documents of the goods owner is deemed by the customs to be inappropriate on the basis of documentary and acceptable reasons and documents, the customs should determine the value of the customs value of the identical goods and the construction of the same country of origin, which, has been sold at the same time with the purchase date (Preform) of the mentioned goods, for export to the customs territory and has been accepted by the customs, which can be considered from the examples of the another valuation system.

C - CUSTOMS VALUATION SYSTEM BASED ON IDENTICAL AND DEDUCTIVE GOODS AND OTHER METHODS:

If the customs value of the imported declared goods is not accepted in accordance with article (15) of the Law and article (11), its value of customs will determine based on the customs value of the identical goods and the construction

¹ - Article 10 of implementing bylaw of customs code

² - Article 11 of implementing bylaw of customs code

³ - The following not of article 11 of implementing bylaw of customs code

of the same country of origin, which, has been sold at the same time with the purchase date (Preform)¹ of the mentioned goods, for export to the customs territory and has been accepted by the customs, which can be considered from the examples of the another valuation system.²

Regarding the customs value of goods that could not be determined on the basis of articles (11) and (13), its value of customs will determine based on the customs value of the similar goods and the construction of the same country of origin, which, has been sold at the same time with the purchase date (Preform) of the mentioned goods, for export to the customs territory and has been accepted by the customs, which can be considered from the examples of the another valuation system.³

It is worth noting that in the implementation of materials (13) and (14), the terms and conditions of trade and the amount of purchase must be taken into account and the necessary adjustments should be made for possible differences in the manner and / or distance of the carriage of identical or similar goods. If the value of the imported goods could not be determined on the basis of (11), (13) and (14), the value of that commodity in the implementation of paragraph (c) of article (15) of the law (The deductive value) is determined as follows:

1. In the case of access to the internal sales records of the importer, based on the sales price of each item of imported goods, the same situation and the state of entry in the domestic market that is sold at the same time as the item valued as a wholesaler (with the highest priority) to unrelated parties to the seller (the wholesaler price of Importer), with the deduction of the following: General profit and expenses for the sale of the same type of goods of the same class or type (class or commodity group), which is added to the price in accordance with the pricing standards approved by the consumers and producers protection association; the usual costs after clearance, such as shipping and insurance, incoming and other payments paid to the entry or sale of the goods. However, in the absence of precedent of domestic sales, at the same time as the entry status, the value is determined on the basis of the selling price of the identical or same imported goods, at the closest date after the goods arrived and at most 90 days from the date of arrival of the goods.

2. In the absence of domestic sales history by the importer, the customs value based on the price of the wholesale (distributors and vendors) of the imported goods, like or similar of that or the retail, and after deduction of the usual profit for selling that type of goods, and according to the level of trade, is the basis of wholesaler price of Importer's and will be determined after the deduction of the items in paragraph (a). The coefficients and percentages of the

¹ - In cases where the import of the goods is exempt from the order, the date of the invoice (purchase list) will be the comparison criterion for the examination of synchronization conditions.

² - Article 13 of implementing bylaw of customs code

³ - Article 14 of implementing bylaw of customs code

wholesale and retail profits of goods are determined according to the approval of the Supreme Supervisory Board, subject of article (10) of the guilds system law of the country approved in 2003.

3. If the imported goods or like or similar of that is not sold in the same state of entry, the value will be determined on the basis of the price which, after processing (construction, completion, processing, packaging and repair), will be sold as a wholesaler (with the highest priority) to unrelated parties, after deducting the value added task for processing and deducting the items in paragraph (a).¹

It should be noted that the value of a commodity that could not be determined on the basis of materials (11) and (13) to (15) shall be determined in accordance with paragraph (d) of article (15) of the law (computing value) of the sum of the following: 1. the value of the materials and costs of manufacturing or processing used in the producing or manufacturing of goods in the country of origin; 2. total profits and expenses (direct and indirect costs related to the production and sale of valuables that are not included in clause (1)) that exporter has considered at the selling price of the goods in the country of origin; 3. Other costs, which, in accordance with Article 14 of the law, must be added to the actual paid or payable price.²

It seems that customs can conclude the agreement of customs information exchange with the customs of the contracting parties in the implementation of this article. Finally, "if the customs value of the goods could not be determined in accordance with Articles 11 and 13 to 16, its customs value will be determined in accordance with note (e) of article 15 of the law on the basis of available information and documents and with the flexibility to apply the provisions of the abovementioned articles in the following cases:

1- The flexible methods of materials (13) and (14) are: a. the condition of simultaneity or closeness of the time of export of the identical or similar goods can be applied flexibly b. Identical or similar imported goods that produced in a country other than the producer country may be the basis for a customs valuation; c: The customs value of identical or similar imported goods, previously determined in accordance with the provisions of Articles 15 and 16, may be used.

2- The flexible methods of article (15) are as follows: a. The condition that the goods will be sold as they have been, can be flexibly used, b. the condition of sale before the expiration of the 90 days can be applied flexibly.

3- If the sale price of goods is the basis for determining the value in the domestic market of the producer country or in the market of other countries or on-line stores, the basis for valuation will be with a fraction of profit of 20% from the list of wholesale prices and a fraction of the profit 40% of the list retail sales and taxes and related costs in the seller's country.

¹ - Article 15 of implementing bylaw of customs code

² - Article 16 of implementing bylaw of customs code

4- In cases where the value is determined on the basis of export prices or on the basis of the prices list of origin country, minus the rebate or righteous export awards, or the tax and customs refunds, the cited listing must be issued directly to the creators of the goods and have a general aspect and the correctness of its contents is certified by the competent authorities of the origin country (chamber of commerce) and the commercial advisor of the Islamic Republic in the origin country (if available) or the Ministry of Economic Affairs and Finance of the country and endorse on behalf of the consular officers of the government or the notary public of the verification place.¹

The value of the car, the road machinery, the crane, the forklift truck, the combine and the tractor and the similar machinery are determined according to the export prices of the origin country. Each year, these lists will be reviewed, determined and published, after a written inquiry from the relevant agency and comparison with the global prices of the same commodity or similar, by the working group on the subject of note (6) of the single article of the Law on how to calculate and collect customs duties, commercial profits, and taxes on various types of vehicles and imported road construction machines and their parts and components approved in 1992 or customs for those items not covered by the law.²

The important point is that "the customs value is not determined on the basis of the following methods: a. the price of sales of identical and similar goods produced in the country; b. unrealistic and documentation lacking values."³ "It should be noted" In the following cases, the customs value inserted in the purchase list or other documents submitted by the owner of the goods, will not be acceptable:

1. Being any restrictions on the right to seize or use the goods for the buyer, exception of legal restrictions such as geographical restrictions and restrictions imposed by the government or those that do not affect the price of the goods; 2. Being sale or price of goods subject to conditions or considerations that does not can determine the value of the imported goods; 3. Being part of the proceeds of the resale or disposal or subsequent use by the buyer directly or indirectly for the seller, unless required adjustment done in accordance with article 14 of law; 4. The buyers and sellers are related.⁴ If the customs, based on the information provided by the importer or in any other way, has reasons for the effect of the buyer and seller relationship to the price, it should inform its reasons to the importer, in accordance with article (23), and give him a thirty-day opportunity to answer. If the importer proves that his said value is close to one of the following methods at the same time, it will be acceptable:

¹ - Article 17 of implementing bylaw of customs code

² - Note 1 of article 17 of implementing bylaw of customs code

³ - Note 2 of article 17 of implementing bylaw of customs code

⁴ - Article 18 of implementing bylaw of customs code

1. The selling price of the identical or similar goods for the purpose of exportation to the customs territory to unrelated purchasers; 2. The customs value of the identical or similar goods that has already determined in accordance with the provisions of article 15 (Deductive); 3. The customs value of the identical or similar goods that has already determined in Article 16 (Computed).¹

The mentioned values in the above paragraph should be used at the request of the importer and for the sole purpose of comparison, and about the use and comparison of the mentioned values (or the value of the disputed goods) consideration should be given to the differences between the commercial and quantitative levels, the elements mentioned in article 14 of the law, and the costs incurred by the vendor in sales that are not related to the seller and the buyer, and the costs not provided by the seller in sales that the seller and the buyer linked together.²

However, "Customs can use internationally valid sources (sources of information) and international markets to check the transaction value of goods that are constantly changing prices (exchange), and determine the customs value on the basis of that."³ Also, "importers upon written request can understand the manner of their imported goods valuation by customs."⁴ It is worth noting that "the Customs is allowed to use qualified international inspection and technical services and a contracting party to pay expert fees and inspections in checking the value of customs (as a supplement).⁵ According to the above, it is possible to reconcile the contents of the articles of the Customs Code enactment in 2011 and its implementing bylaw with the contents of GATT article 7 agreement of implementation.⁶

3. DISCUSSION, ANALYSIS, SHORTCOMINGS AND ASSETS:

After presenting a picture of the principles of value determination in the World Trade Organization agreement and reviewing the relevant laws and regulations in the Iranian legal system, it seems that by analyzing and explaining the shortcomings and assets, the following strategies can be expressed.

Article 15 of the Customs Code states: "If the purchase list has not been submitted from the goods owner to the customs ..."; Therefore, the law considers the status in the matter of customs valuation that purchase list or invoice not provided from the goods owner but what actually happens is that, despite the text

¹ - Note 1 of article 18 of implementing bylaw of customs code.

² - Note 2 of article 18 of implementing bylaw of customs code.

³ - Article 19 of implementing bylaw of customs code.

⁴ - Article 20 of implementing bylaw of customs code.

⁵ - Article 21 of implementing bylaw of customs code.

⁶ - For more information on this topic, refer to chapter 9 of the Fourth Edition (March 2016) of the Max Pedia Book by the same author.

of the law if the goods owner do not submit the invoice or the purchase list to the customs he does not can act on the declaration and implementation of customs formalities of his goods. Therefore, it can be seen in many cases that the asserive of the goods to the customs acts to prepare the invoice and subsequently declare his goods with the forgery or using of illegal or informal methods; In addition, Article 15 of the Customs Act (with reference to the GATT Valuation Agreement) specifies the methods of determining value, and the mentioned article following note has said frankly: "It is imperative to observe the primacy and regency in the using of the abovementioned methods and ..." However, in some cases, this primacy and regency has not been respected, and the subject of "value" review usually seen with the view of earning money, which itself is examples of interventions.

In this regard, it can be analyzed that the Customs Code and its implementing bylaw, in accordance with the text of GATT Agreement, apply to the definition of terms such as the identical or the similar, and then declares in article 17 of the bylaw. "The imported identical or similar goods that produced in a country other than the producer country can be the basis for customs valuation" that this subject is in contradiction to the above definitions because the objective goods could not be produced in other country, whereas, in accordance with the article 20 of implementing bylaw of customs code "importers upon written request can understand the manner of their imported goods valuation by customs" However, the goods value has not declared documented to the owners of the goods at the time of the declaration or before that, and this lack of knowledge of the value of the goods and the presentation of the goods at a value which results in a difference of value may cause the fine to be imposed on the owner of the goods or his legal representative.

It must be analyzed and noted that in the following of the shortcomings of the law in connection with the issue of the determination of the customs value in accordance with the agreement of the implementation of Article 7 of the GATT if there is not any confirmed exchange rate, the conversion rate used will reflect the real value of such a currency in trading transactions. Due to the multi-currency system that currently exists in the currency system of the country and the significant difference between the exchange rate of the banking system and the free market is complicated by the adaptation of the current situation with the terms of the GATT memorandum, which requires the establishment of a harmonized and single currency exchange rate system for the purpose of determining the value of the customs. Also, it can be considered that in the following note of article 10 of implementing bylaw of customs code, those who are related by business and one of them is an exclusive representative, exclusive distributor or owner of the other license. However, in the matter of importing the goods and determining the value of the goods in some executive customs, the

monopoly representative or distributor is not relevant and is an influential factor, while it plays a significant role in determining the value of the goods; the following note of article 16 of implementing bylaw of customs code has been acknowledged "the customs can conclude a memorandum of the customs information exchange with the customs of the contracting parties in the implementation of this article." An important issue that has not yet been realized and the reasons for this are well known; of course, if this is to be done, the necessary control and supervision should be carried out so as not to result in undesirable results and effects.

One of the other shortcomings to be noted is that the materials of the Iranian Customs Code and its implementing regulations has argued explicitly provide tariff protections and specific restrictions on the type of goods involved, the determination of the customs value and the special effects that is in conflict with GATT articles 1 and 2 in according to unified procedure for imposing restrictions on tariff preferences. (Although some exceptions are considered to supportive policies in GATT articles 14, 20, and 21, but these exceptions are not general.) There is no doubt that facilitating trade in a country like Iran seeking to attract foreign investments would lead to more producer coordination with its global manufacturing and trading partners and prevent competitive disadvantages in global production and trade chains. The global production chain means the production of parts and components in several countries. In this way, parts used in a single good can be produced simultaneously in different countries. During the production and exchange of parts, they crossed the customs of different countries and eventually become the final consumer goods in an industrial unit. Lack of customs facilitation in parts producer countries has caused additional costs for final production, which may make the final product more uncompetitive and more expensive than usual. The Trade Facilitation Agreement (TFA) is an effective way to prevent this. Accordingly, countries will try to achieve trade facilitation in their countries in the framework of a set of uniform regulations in order to reduce transaction costs ultimately. Some studies have shown that the implementation of the Trade Facilitation Agreement will reduce transaction costs in the range from 12.5 to 17.5 percent. This will lead to improved customs, and it will make it easy to attracting foreign investment and the participation of domestic producers in global value chains. It is found that national production will lead to higher competitiveness. Without a doubt, acceding to this agreement will play a major role in opening up the economy and increasing the production and export of intermediate goods in particular, and the growth of industry and commerce in general and accelerating in this important matter will cause benefiting from it.

CONCLUSION:

As previously stated, in the Uruguay Round negotiations between 1986 and 1994, the GATT laws and its related agreements were revised to respond to the changing world trade. The text of the GATT and the adopted decisions based on it and as well as many of the other agreements have been introduced and known as GATT 1994 that have been improved and expanded in this Uruguay Round. Separate agreements were established in fields of Implementation of the Article 7 (Customs Valuation), Pre-Shipment Inspections (PSI) and the Rules of Origin, which these agreements are directly related to customs and related procedures. Despite the fact that the Islamic Republic of Iran is not a member of the World Trade Organization, the provisions of these agreements are in some texts of the Customs Act on and its implementing regulations. Perhaps this is a kind of consideration for the necessary arrangements for joining the World Trade Organization. While four articles of the GATT articles are directly related to customs, there are only three separate agreements on this topic which the issue of valuation is explained in this article. In the light of the above, it can be concluded that the interference of customs or other organizations in this topic can directly result in unequal and unbalanced conditions in the market, therefore, it is necessary for the relevant institutions to considered the carefully observing of legal contents and the supposition is also acceptable that the existing rules are in compliance with mentioned agreement and the referred explanation in previous discussion (discussions and shortcomings) must be tried to resolve it by identifying the shortcomings.

REFERENCES:

- 1- Berkeshlee, Fereydown (1994). *General Agreement on Tariffs and Trade (GATT). Economic Research and Policy*, No. 2.
- 2- Mousavi Zenouz, Musa and Rouhani, Hamed. *A study on the trend of globalization of trade in agricultural products on the basis of the Agricultural Agreement of the World Trade Organization-articles abstracts of the agricultural and national development Conference*, Tehran.
- Mousavi Zenouz, Musa (2013). *The Transformation of International Trade Law in the World Trade Organization*. Tehran, Mizan Publishing
- 3- Salvatore, Dominic and others, *Gatt and theories of Renewal of International Business*, Selection and Translation by Ahmad Akhavi, Tehran, Institute for Business Studies and Research, 2000.
- 4- Musavi Zenouz, Musa (2014). *Relationship of National Security and International Trade, Case Study, Economic Security of the Islamic Republic in the Light of International Trade. Quarterly Journal of Strategic Policy Studies*, Vol.5, no 14.
- 5- Firoozi, Mehdi (2006). *Accession to the World Trade Organization and its implications for export and import regulations*. Baztab Andisheh, No. 75.
- 6- Jamal Aronaghi, Mehrdad (2010). *Max Pedia (Third Edition)*. Tehran: Author's Publisher.
- 7- Shishechiha, Mojtaba (1999). *Determination of customs value of imported goods (third edition)*. Tehran: Qanoun Publication.
- 8- Kouhestani pajouh (2013). *Customs Valuation System (First Edition)*. Tehran: Qanoun Publication.
- 9- Jamal Aronaghi, Mehrdad (2010). *Max Pedia (Third Edition)*. Tehran: publisher of the author.

10- Belicel, Dennis and Amka Aniyoko, Chief. *World Trade System Guide*. Translated by Mohammad Khan, Morteza and Shishechiha, Mojtaba (2006). Tehran: Sound and Television of the Islamic Republic Publication (Soroush).

11- Kouhestani pajouh, Rasool (2016). *Inspection before shipment and its requirements. The world of economics, number 3920.*

12- Mohammad Hosseini, Naser (1390). *Customs affairs in international law and law*. Tehran: Vakil Publishing.

13- Shishechiha, Mojtaba (2015). *WTO Facilitation Agreement*. Gomrok Publications.

14- Belicel, Dennis and Amka Aniyoko, Chief. *World Trade System Guide*. Translated by Mohammad Khan, Morteza and Sakchiha, Mojtaba (2006), Tehran: Islamic Broadcasting Company (Soroush).

15- *Customs Act (approved by Parliament in 2011).*

16- *Implementing bylaw of the Customs Act (approved by the Council of Ministers in 2012).*

17- Deputy of Economic Affairs of the Ministry of Economic Affairs and Finance (1995). *An analysis of trade, the practical experience of joining some countries to the World Trade Organization (WTO) and the economic effects of joining it*. Tehran: Deputy of Economic Affairs of the Ministry of Economic Affairs and Finance Publications.

