J. Appl. Environ. Biol. Sci., 5(9S)539-551, 2015

ISSN: 2090-4274
Journal of Applied Environmental and Biological Sciences
www.textroad.com

Free Trade Agreements in the light of World Trade Organization (WTO) documents and proposing the conclusion of a Farsi free trade agreement

Dr. Alireza Ebrahimgol[1], Mohammad Reza Mellat[2], Amir Khoda bakhshian[3]

[1]Assistant Professor, College of Farabi - University of Tehran,
[2,3]MA student in International Law; College of Farabi - University of Tehran

Received: March 26, 2015
Accepted: May 17, 2015

ABSTRACT

The free trade agreement is one of the determinants of trade liberalization process. Undoubtedly, the WTO is one of the most important organizations which are involved in these agreements and each of these agreements is the pieces of Free trade puzzle. There are implications in documents of this organization including GATT, GATS and DSU and even the governments can sign these agreements regardless of conditions set in Article 24 of GATT in the form of empowerment clause. Here, this question arises whether these agreements compete with the World Trade Organization (WTO) or not. This issue indicates that the terms of free trade agreements in WTO can lead to a model for signing Farsi free trade agreement which is a major development in the unification of persian countries.

KEYWORDS: Free trade agreements, World Trade Organization (WTO), GATT, GATS, Farsi free trade agreement.

INTRODUCTION

The trade is based on the supply and demand. The first sign of trade dates from 2500 BC at the time of Sumerian; and the existing trend towards the free trade is created after different periods. There was a theory of Mercantilism before including the free trade issues and it was common from the sixteenth century until the half of eighteenth century and had the greatest contribution to the creation of aggressive trait in the form of hostility, competition and colonization in capitalism economic system and provided a kind of political economy.(1) However, there was a strong advocacy of government intervention in economic affairs in this era and thus this thinking created the colonial vision under which the Europeans imported the raw materials and precious metals from their colonies and gave them their goods. As time passed, the thoughts led to the globalization and free trade and it was believed that the free trade promotes peace in the world; and the globalization, referring to the acceptance of new economic plan based on the circulation of goods and services, was unobstructed among qualified people. This led to the specialized exports in countries and pressure on the supported tariffs and other trade barriers. In 1860, the agreement between the Britain and France was among the first instances of free trade agreements (not according to the existing definition) until the twentieth century. The twentieth century is also called the American century when the situation of The United States was noticeably changed in two World Wars and it was considered as a superpower. After finishing the Second World War and establishing the United Nations, the countries demanded the creation of organizations for pursuing the economic goals which were not achieved at the United Nations, thus GATT 1947 was created from such those efforts and the United States was among the countries which reduced the tariff barriers and took great efforts to create GATT 1947; the free trade was so tangible at this stage of history. GATT 1947 supported these free trade

Corresponding author: Dr. Alireza Ebrahimgol, Assistant Professor, College of Farabi - University of Tehran, Islamic Republic of Iran.

agreements instead of elimination. A new wave of these free trade agreements occurred at the end of 1950s and the beginning years of 1960s when the Economic Community of Europe was established in 1957 and then the European Free Trade Agreement (EFTA) was signed to be a new beginning for these agreements. Another wave of these agreements was spread in Asia, the United States and Europe since the mid-1980s and the North American Free Trade Agreement (NAFTA) was probably the most famous agreement signed among the United States, Canada and Mexico from 1982 to 1994(2). According to the statistics of World Trade Organization in 2008, the *European Union*, NAFTA, and ASEAN (The Association of Southeast Asian Nations) played the role in 57% of exports and 63% of global trade and the United States received the maximum benefit of these agreements. 14 free trade agreements were signed among 20 countries until January 2014.

A new round of investigating these agreements began since the Doha Round of trade negotiations in WTO and the subsets of this organization were extremely involved in planning, negotiation, completion and more importantly the transparency of agreements outside this organization. Some of these agreements were bilateral or regional free trade agreements which have been enhanced in recent decade.

This paper investigates the dimensions of these free trade agreements from the perspective of the World Trade Organization (WTO) and responds to this question whether these trade agreements take steps contrary to globalization and trade liberalization or are themselves the steps in the way of trade liberalization and then utilizes the experiences of these agreements for offering a Farsi free trade agreement (FFTA).

1-Concept of free trade agreement:

Unlike the globalization, the economic integration is a voluntary demand and process. In today's era, it is started from the lowest level as the preferential trade agreement to the highest level as the Full Economic Unions like the European Union. There are the Customs unions and common markets at the interval between these two free trade agreements. The Article 24 of The General Agreement on Tariffs and Trade (GATT) considers the free trade agreements and customs unions as the exceptions to the MOST FAVORED NATION (MFN) clause. Therefore, their distinction is initially identified after defining each of these two. In customs unions, the member countries eliminate all tariff barriers and develop the common trade policies for dealing with other countries and thus formulate the Common external tariff (CET); for instance, the Mercosur is a customs union among the Spanish-speaking countries of Latin America(Mercosur was established by signing the Treaty of Asuncion in the Paraguayan capital among the Federal Republic of Brazil, the Argentine Republic, the Republic of Paraguay and Republic of Uruguay in March 1991 and it is expanding in the South America.). The Free Trade Agreements are a kind of international trade cooperation under which the member countries must eliminate the tariffs among themselves, despite the fact that the member countries are independent of non-member states in trade relations and are permitted to apply their tariffs. The North American Free Trade Agreement (NAFTA) is a good instance for this kind of integration trade agreements. Therefore, according to the difference between these two kinds of integration, the trade and non-trade barriers are eliminated between the members in the Free trade area. However, each of the member countries has its own tariffs compared non-member ones, but a common external tariff (CET) is adopted in Customs Unions in addition to elimination of trade barriers between members. The tariffs, import quotas and preferences of goods and services traded between member states are eliminated in free trade agreements. Here, we focus only on the free trade agreements by recognizing this distinction.

Free trade agreements have two types: A: The regional free trade agreements which are signed among the neighbouring countries like the NAFTA. B: The trans-regional free trade agreements each side of which can be a country, a trade block or a formal group of countries such as The ASEAN–India Free Trade Area (AIFTA)(3). The aim of these agreements is to reduce or eliminate the barriers to trade exchanges in line with economic growth and development of members in these agreements. Despite the facts that the government lose a part of their budgets, which is based on receiving these tariffs, due to

these agreements, these government tend to development of these agreements, so that according to the report of World Trade Organization (WTO) in 2011, all member states of this organization (except for Mongolia) have been members at least in a free trade agreement. It should be noted that these free trade agreements have not been equally successful and some of them have achieved the long term economic goals, while others not achieved. All these cases depend on the appropriate domestic policies to attract the investors and strong infrastructures and the contribution of this agreement in WTO and reliable dispute settlement system, which is considered in these agreements, as well as the political solidarity of its members. For instance, the Southern Africa Customs Union (SACU) has had the maximum growth in the regional portion of world trade over years. (4) This organization was put in the first place in terms of purchasing power parity (PPP) throughout the world.

Numerous comments are made in investigating these agreements by experts who have studied them based on their viewpoints.(5) These agreements are signed for following reasons: achieving the economic credit, enhancing the economic growth, increasing the size and scope of economic markets in countries, pointing out to investors based on the open doors of a country for investment, and creating the competition for increasing the quality. The efforts in line with completing the globalization and the possibility to come to an agreement in these agreements is much easier than an agreement in the World Trade Organization (WTO) due to the low numbers and common interests and it is possible to modify the rules in these agreements. The agreement for easier access to the markets of members in these agreements is another benefit of these agreements. Politically, these agreements enhance the political power of its members.

However, these agreements also have the opponents who argue that these agreements may impact adversely on the local manufacturer and they may lose their strength in free competition and may lead to the problems such as the unemployment and economic crises for some countries and this agreement may lead to the unequal fragmentation of global economy; for instance, most of the Canadians are against the NAFTA. After establishment of NAFTA, they lost their jobs. The company, wherein they previously worked, preferred either moving to Mexico and employed the cheaper Mexican labor instead of Canadians or moving to America where they can benefit from the savings of production scale. The negative effect of these agreements due to the dominance over the small countries can be considered as the other factor which led to the pessimism about these agreements. The environmentalists have also critiqued these free trade agreements due to its members' neglect of environment and have preferred the achievement of economic to environmental benefits. According to the most important critique, the World Trade Organization (WTO) will lose its central position in policy-making of multilateral trading system and this area will enter a period of chaos and diversity of policy-making centers.

According to the investigation of these views, we should pay attention to what the members gain and lose by these agreements in order to reach a conclusion by this comparison; and they have different situations depending on whether they create the trade or deviate it.(6) However, both groups consider the preservation of sovereignty as the basis if these trade relations. Certainly, the dramatic increase in these agreements has been an agenda in discussed World Trade Organization except for the negotiations at the level of World Trade Organization including the Doha Round of trade negotiations on this issue. These agreements, as we refer to, are also investigated in documents of World Trade Organization.

2.Free Trade Agreement and GATT:

2.1. Free trade agreement and Article 1-1 of GATT (MOST FAVORED NATION (MFN) clause)

The General Agreement on Tariffs and Trade (GATT) is achieved by Bretton-Woods Conference and two other documents, the Agreement on the International Monetary Fund and the International Trade Organization, are signed in addition to this document. However, the International Trade Organization was never established, but the fund was established and is still active. Bretton-Woods Conference was established after World War II with the aim at managing the global economy after the war. The General

Agreement on Tariffs and Trade, known as GATT, was developed in 1947 and its main purpose was to provide the facilities and concessions for reducing and eliminating different trade tariffs between member states in order to achieve the free trade. The MOST FAVORED NATION (MFN) clause is one of its clauses.

The MOST FAVORED NATION (MFN) clause dates from 1778 when a trade agreement was initially signed between France and the United States. According to the Article 2 of this agreement, if the United States grants a new patent for the third country, France will benefit from it. This clause was stagnated during the world wars until reconsidered in GATT 1947 and this clause was transferred from the goods trade to service and intellectual property.(7) What we refer to as the free trade agreements are the explicit exceptions of one of the GATT clauses, the MOST FAVORED NATION (MFN) clause. Article 1-1 of GATT which prohibits the WTO members from discriminating between other members in commercial relations, defines this clause as follows:

any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties. The same product is one of the most important interpretational differences defined in different theorems based on the tariff classification, morphological feature, application, and consumer preferences. Without any reservation means that implementing this clause does not depend on the mutual behavior(8)

This case law of organization has prohibited the overt and covert discrimination.(9) The WTO member countries have benefited from the free trade agreements in their trade in order to create the subjectivity of MOST FAVORED NATION (MFN) clause and this issue and thus these agreements are gradually changed from an exception to a rule and they grant the patents as the exceptions for each other through the free trade agreements and thus all of them should benefit from those patents. Obviously, this clause is still a powerful tool in free trade because the MFN clause helps to create the economic welfare, but due to the agreements the states buy the more expensive goods in addition to lost tariff revenue. Furthermore, this clause requires no difficult mechanism and prohibits the misuse of trade policies for political or non-commercial purposes. This clause is more appropriate for developing countries with less economic power because it guarantees the access to a level of market at the global scale and thus the member countries of WTO can utilize this clause regardless of economic power and these governments preserve their domestic industry by access to foreign markets. In general, the MOST FAVORED NATION (MFN) clause has not theoretically and practically lost its position in free trade yet.

It is probably important that the GATT conditions do not allow these agreements to uncontrollably reject the MFN clause. According to one of the conditions, the foreign tariffs and trade regulations should not be established for non-members of agreement with duration more than the time of these agreements since it initially guarantees the access of other countries to global market; furthermore, it should not be considered these agreements as the impenetrable castle. According to another condition, the limiting trade rules should be eliminated at a rational time interval and all member countries should cover this agreement because this clause exception should be utilized when the free trade is the real demand of countries. According to the last condition, these agreements should be delivered to the WTO and its members for evaluating and offering the suggestions since the members evaluate their situations in these agreements and the agreement members will not violate the obligations towards the WTO.(Ibid)

To regulate the significant increase in these agreements, the Uruguay Round made attempts at clarifying the evaluation criteria and procedures as well as the transparency of new or big agreements. The rules and institutions were established for these clauses in WTO including the general guidelines of the Committee on Trade and Development about the information in free trade agreements in 1998, the approval of a simplified common information plan for these agreements by this committee in 2007, and the approval of a transparency mechanism by goods trade council in 2006. In 1996, the World Trade Organization established a committee in regional and free trade agreements with the aim at investigating the effects of these agreements.

According to the World Trade Organization procedure and about the exceptional free trade agreements than the MOST FAVORED NATION (MFN) clause, basis-centered research rejected the citation of Canada for the exception of MFN clause in the discussion about the issue of Canada and Vehicles complaint by Japan because on the one hand Canada did not grant the customs exemptions in NAFTA for America and Mexico and on the other hand the other countries, except for America and Mexico, benefited from this customs exemption in NAFTA.

2.2. Free Trade Agreement and Article 24 of GATT

These allowed to be reached in Article 24 unlike the MFN clause. Several conditions are required to put the free trade agreements in accordance with Article 24 of GATT: 1- Customs duties and other restrictive trade rules should be eliminated, 2- A significant part of trade should be agreements take steps in line with the global trade development and they are covered in these agreements. There is no definition of this term in GATT for this condition. The group work has considered both quantitative and qualitative factors for this case. 3- The same rules should be applied by each member in trading with non-member states. 4- The interim agreements should have a plan to achieve these goals in a reasonable time when is referred in clause 3 of section 5 in Article 24. It is more than ten years only in certain cases and if the parties consider it insufficient, they should announce the Council for Trade in Goods in WTO by giving their reasons. When the WTO received the information about these agreements, a work group should prepare a report on issuing the recommendation by the Council for Trade in Goods in WTO. 5- Clause 4 of Article 24 refers to the following case: "The agreement should not impose the restrictions on the trade with other contracting members". In the field of dispute between Turkey and India about textiles, basis-centered research argues that these agreements and the free trade zones facilitate the trade, but they are not the barriers to the third countries.

These five cases create the desired transparency and investigate several points. The first step is to announce these agreements and this announcement should not be late. The WTO has pointed out that this period should not last more than ten weeks after signed free trade agreements. Furthermore, it should not be more than twenty weeks for involving developing countries. After announcing this agreement for investigation, the review of this agreement by work group should not last more than a year from ratification of agreements and the Secretary-General determines a timeline after consultation with members. These cases are investigated based on the review by agreement members and if it seems that they are inadequate, the Secretary-General can investigate other sources in an actual presentation. In the case of change, modification, appendix or new protocol, the agreement members should announce the organization. If the group work comes to conclusion that these free trade agreements cannot lead to a free trade zone or do not follow the conditions of Article 24 of GATT, they should dismiss that agreement or refuse to implement it.(Clause 7, Article 24 of GATT) As mentioned earlier, the Committee on Regional Trade Agreements (CRTA) and the Committee on Trade and Development (CTD) are responsible for fulfilling this transparency. According to the comparative study of these agreements, there have been disputes among the group works due to different commentary of this Article 24 and numerous group works could not achieve a unit report due to the members' benefits, thus we investigate some of the important difference terms and points in this Article.

The clause 4 of Article 24 refers to these agreements and the Clauses 5-9 represent the certain conditions. A question rises about this article whether the conditions of Clause 4 are completed when other conditions of clauses 5-9 are fulfilled or not? If the response to this question is positive, it indicates that we have not considered independent conditions for clause 4 and if the response is negative, it means that the clause 4 can be considered different from other clauses. The European Union indicates in its procedure that if the conditions of clauses 5-9 are fulfilled the clause 4 is implemented automatically and no independent identity is considered for Article 4, but others have considered an independent role for clause 4. However, the difference in these views is due to the difference in offered commentaries of this

Article, but the attention to the whole available conditions in this Article is what is considered in this Article. For textiles issue in Turkey, Basis-centered research has considered no independent status for clause 4 and mentioned the announcement of clauses and conditions of Article 24 as the aim of this Article.

In section A of Clause 8 in Article 24, this topic is presented: It should include "substantially the whole trade" between the lands for liberalization. This question arises: To what extent the liberalization is sufficient and whether the quantitative conditions are sufficient or there is a need for qualitative conditions? In other words, for instance the trade in agricultural sector among the contracting states is not free until this trade is free among the contracting states in terms of totality. According to the qualitative aspect, the totality of trade in that area is not free until an agricultural sector is not free.

The difference in this commentary dates from before 1994 at the time of European Free Trade Agreement (EFTA) in which Sweden excluded the agricultural sector from trade liberalization. The group work investigated this agreement and declared that there was a need for both quantitative and qualitative conditions in these agreements for trade liberalization. The representatives of parties in this agreement claimed that the Article 24 allows some exceptions by giving the term of "substantially the whole trade" instead of "substantially the whole goods". Despite the fact that no consensus was achieved on this case in group work, both qualitative and quantitative terms were required according to the prevailing view.

The free trade agreement between the economic community of Europe and Finland in 1973 is another case which can be considered for clarifying the subject. In this agreement, the group work mentions that this topic should be interpreted in a way that it covers all free products and it should not be interpreted for excluding just a sector, thus it is opposite to Article 24 of GATT regardless of quantitative coverage of this sector in the whole trade.

According to a report by the WTO Secretary-General in 1989 after investigating 65 free trade agreements, 56 agreements out of the whole number exclude some of the agricultural products and 2 agreements exclude the whole agricultural products and he considered the agriculture issue as an Achilles Heel for WTO and Free Trade Agreements.

At Session 8 of negotiating group about the rules of world trade organization in March 2005, the team members focused on the proposal of Australia based on interpreting the term of "substantially the whole trade". According to this commentary, the freetrade agreements trade should cover 95 percent of tariff barriers between trade parties and at the same time eliminate 70 tariff barriers as soon as entry into force. Furthermore, the sectors with high trade turnover are excluded according to this commentary. Chile and New Zealand supported this proposal as well as expressing the hope that this commentary can create the real free trade agreements. Other team members such as Hong Kong argued that the assessment of free trade agreements should not be limited to the tariff and the effects of mentioned agreements should be considered on the trade flow.

Norway and Switzerland proposed that the trade topics such as the trade rules and compensation should be also considered.(10)

In the field of Turkish textiles issue, basis-centered research argues that the term of "substantially the whole trade" is a standard for domestic trade of countries in a free trade agreement and this term is the moderate and high level of trade and as a flexible term. In Canada and Vehicle Industry Issue, in which Canada granted the NAFTA countries the import exemptions, basis-centered research considered it against the Article 24 of GATT. According to what are mentioned about the "substantially the whole trade" term, it can be concluded that the Clause 8 of Article 24 in GATT has been based on both quantitative and qualitative conditions, and it can include not the whole trade.

The trade restriction is the questionable issue of Article 24; according to the first part of clause 5:

with respect to a customs union, or an interim agreement leading to a formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of

commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement .

According to this sentence, the mean tariffs should be compared before and after signing the free trade agreements. The trade restriction is the questionable issue and raises this question whether this sentence refers to the rules of origin or not. Despite the fact that some individuals consider the rules of origin as the trade restrictions, this argument has serious opponents. The rules of origin are defined as the rules which are applied by a country of origin for a product with the aim of international trade and are classified into the preferential and non-preferential rules of origin. The preferential rule of origin is what we consider in this study.

Investigating the NAFTA agreement, the United States argues that these rules of origin have not the same concept of trade restriction and there is no consensus on this case in the same group work. However, it was believed that the rules of origin may be applied as the trade restrictions. The Uruguay Round also investigated this term, but achieved no conclusion and the basis-centered research had been the only reference for solving this issue. However, no cases were seen in this regard and thus the issue remained unanswered.

The article 19 of GATT should be compared with Article 24 GATT. The protective measures, considered in article 19 of GATT, allow the contracting members to impose the temporary restrictions on the imports. The Article 2,1 of protective measure agreement is as follows:

> Each member can impose a protective measure on a product if only it is approved according to the mentioned regulations that importing this product in such these volumes is enhanced either absolutely or compared to the domestic product, and thus the product is imported under such these conditions which have caused serious damages to the domestic industry of similar or direct competitive products and made the risk for such this prejudice.

This Article 19 is not considered as an exception to the free trade agreements in Article 24. The WTO members have expressed different opinions in this regard. A group has argued that since such this exception is not included in Article 24, these protective measures cannot be imposed against the free trade agreement members. The second group argues that such these measures should be based on the most favored nation (MFN) clause because the protective measure agreement is applied for that product in Article 2.2 regardless of source [offer] of imported product. The third group argues that the protective measures among the free trade agreement members are allowed until the non-members' rights in agreements are not violated.

Despite not being in Article 24, this relationship is identified in group works, committees and basis-centered research and it is concluded that the protective measures can be imposed if the imports are even damaged by the free trade agreement. For wheat import issue, the United States provided the protective measures for wheat import and excluded Canada which was a member of NAFTA. The committee initially assumed that America did not act in violation of Article 2 of protective measure agreement. Then the basis-centered research commented in contrary to the committee's view and clarified that these measures could be applied in free trade agreements.

The empowerment condition is another issue under the GATT agreement in this regard. This condition is rooted in the European Union and it is adopted in rounds about GATT as well as Tokyo round in 1979. In Article 2,1 of this clause, the Generalized System of Preferences (GSP) was created for 10 years up to June 30 and it was again extended for June 2019.(Preferential Tariff Treatment for Least-Developed Countries; Decision on Extension of Waiver2009) The Empowerment Condition means that the developed countries can have the behavior based on the Generalized System of Preferences (GSP) towards the countries with origins in developing countries and it enables the developed countries to have more appropriate behavior with developing and developed countries and thus the developed countries can utilize the iinteraction instead of the contrast. The developed countries should apply this preferential behavior towards the developing and developed countries, but if not accomplished, no violation of

commitments to GATT documents is done and they will be able to establish the customs unions or free trade zone or any other regional arrangements regardless of conditions in Article 24 of GATT.

In preferential behavior system adopted by the European Union with African, Caribbean, and Pacific Group of States (ACP), the committee made the conclusion while investigating the Banana imports from these countries by the European Union that this preferential behavior is neither according to the empowerment condition nor the GATT agreement. The European Union demanded the committee to ignore this case until the expiration of Lome Agreement. After this Lome Agreement, the European Union took efforts to replace it by an agreement which was in accordance with GATT provisions and thus it led to adopted Cotonou agreement. It was supposed that the negotiations of economic partnership agreement of the European Union with these countries would lead to the adopted free trade agreement under Article 24 of GATT. The first round of negotiations between these countries and European Union was done in October 2003 on key issues such as the access to market, service, trade-related areas and aspects of target agreement development.(11) According to the empowerment condition of developing countries, they are able to establish the customs union, the free trade zone or any regional arrangements regardless of the provisions in Article 24 of GATT; this is another form of exceptions to most favored nation (MFN) clause. (12)

2.3. Article 5 of GATS and free trade agreements:

The General Agreement on Trade in Services is one of three main agreements attached to the first World Trade Organization establishment agreement which develops the rules governing the goods trade to service trade by adjustments. According to this agreement, the countries are committed to the gradual liberalization in order to expand access to service market. The most favored nation (MFN) clause in GATS is considered as a principle in service trade. The clause 1 of Article 2 in GATS Agreement is as follows:

For any measure(Consisting of four types of service delivery: crossing the borders, commercial presence, consumption abroad and displaced natural people). including in this agreement, each member will show the behavior towards the service and service suppliers of another member instantly and without any constraint and condition and it should not be more adverse than the behavior towards the similar services and service suppliers in any other countries.

The Article 5 of this agreement performs the exceptions to MFN clause with regard to the economic integration. Article 5 also indicates that this agreement does not prevent any member from signing or joining the membership in General Agreement on Trade in Services between two parties of among the parties of this agreement under the conditions.

Unlike the Article 24, which separately refers to both customs unions and free trade agreements, Article 5 Agreement on Trade in Services covers both these issues under the topic of economic integration. According to one of the conditions for acceptance of agreements, they should have significant coverage including the number of sections, the volume of trade and methods of service supply. Another condition is the basic elimination of all discrimination on the basis of national treatment. These free trade agreements should not make the barriers to non-member countries in agreement. According to the clause 3 of Article 5 in this agreement, there is the flexibility for developing countries, so that these countries are more flexible in doing the condition of covering the significant part of service and also the discrimination measures. The parties of any free trade agreements should quickly announce these agreements and any main extension or change in them to Council for Trade in services and the council can create the group work for investigating such this agreement or its extension or change and report its adaption to this article to council.(13) For the way of announcing these agreements to WTO, the Committee on Regional Trade Agreements (CRTA) adopted a simple and comprehensive information form in October 2006 and it was approved by the Council for Trade in Services in November 2007.

Certainly, the service liberalization in trade in service agreements and also the free trade agreements has a high portion in trade in services, and even it can argue that a huge portion of service liberalization is

done in such these agreements rather than the GATS agreement, but there are differences between these two. For instance, there is a difference between the views of these two in covering different sectors. However, there is only a negative view on free trade agreements, so that it is argued that all services are covered unless they are exceptional, but there is appositive view in GATS indicating that the commitments are imposed only to listed services (There is a national plan in positive view of service sectors, so that whatever in this plan is subject to the liberalization of trade in services, but there is no national plan for service sectors in negative view because all services are subject to liberalization. The negative view is clearer than another).

In the case of relationship between two articles of 5 and 7 in trade in service agreement, it can argue that these measures are considered in target regional integration of Article 5, despite the fact that these measures are not clearly identified in this article.

2.4. Free trade agreements and dispute settlement system in WTO

According to the report of WTO in 2011, a large number of disputes among the members of these agreements are referred to the dispute settlement system, so that 30% of existing in dispute settlement system are related to the preferential trade agreements; and thus we provide an overview of dispute settlement in free trade agreements.

The dispute settlement mechanisms in regional agreements are classified into three groups: political, judicial and quasi-judicial. The political mechanism is as follows: 1- It has no dispute settlement mechanism, 2- It refers to a political organization for settlement, 3- This settlement system is created only for members of agreement, 4- The dispute may be referred to the third party, but the agreement can still reject the judge's opinion.(14)

According to the quasi-judicial mechanism, there is a right for self-measure in referring to judgment of third party. In this mechanism, there is a temporary judgment indicating that this judgment is made for special dispute settlement. A small number of agreements have the two-stage investigation (temporary judgment and basis-centered research) under this mechanism. According to the conducted studies, 65% of mechanisms in reported agreements to WTO are based on the quasi-judicial system.(15)

In terms of referring to the judgment of third party, judicial mechanism is similar to the quasi-judicial mechanism, but there are differences between them; for instance, there is a more independent and permanent judiciary in judicial mechanism and thus it has higher administrative independence and productivity in terms of legal personality and budget.

The main rules refer to the dispute settlement among the GATT members in articles 22 and 23 which cover the utilization of political and legal tools of dispute settlement. According to the Article 22 of GATT 1947, the member countries should consult with each other and exchange their ideas. The article 23 of GATT includes a kind of dispute settlement. The clause 1 of article also refers to the violation and non-violation complaints. According to the violation complaint, the complaining country can refer to the violation of a certain obligation under GATT by other country; and according to the non-violation complaint, despite not occurred specific case, it is claimed that the measures of violating country have excluded the complainant from some privileges and benefits which assumed to be provided for it under GATT agreement. Therefore, the investigation committee is established according to the request of parties after complaint and if the consultation does not result in conclusion. The basis-centered research, which represents the survey of issued vote by committee, is performed after this stage. The existence of basis-centered research and its international sanction are the important points in survey of WTO.

The annual trade report of WTO in 2007 clarified that the existence of a dispute settlement mechanism in agreements helped its implementation. The article 24 of GATT does not refer to the dispute settlement of these agreements. The paragraph 12 of agreement in Article 24 of GATT indicates that the issues arisen from the free trade agreement apply the WTO mechanism for dispute settlement. Turkey textiles issue is seen in WTO trend and the basis-centered research gives the committee the right of

investigating the compliance of free trade agreements with Article 24 of GATT. Numerous agreements have the dispute settlement mechanism such as the free trade agreement between the United States and Singapore, Australia and also the European Union and Chile. A dispute settlement mechanism is also predicted in Article 11 of NAFTA.

The investigation of dispute settlement mechanisms in free trade agreements comes to this conclusion that there is no special innovation in WTO compared to the existing dispute settlement system and this is due to the reasons such as greater experience in dispute settlement mechanism of organization, the existence of basis-centered research in order to appeal for adopted vote, and preventing the repeated trials and errors. It should be noted that the dispute settlement mechanism of this organization or more explicitly the dispute settlement Understanding (DSU) is not imposed in implementing the deep obligations of these agreements and areas which are out of the rules of WTO.

3.Proposing a Farsi Free Trade Agreement (FFTA)

The language and speaking is undoubtedly a main tool of communication. Three countries, Iran, Tajikistan, and Afghanistan, have an important commonality as Farsi language. The Turkic-speaking countries of Central Asia established the Cooperation Council of Turkic-Speaking States (CCTS) after the collapse of the USSR and the first session of this council was held in Astana City of Kazakhstan in 2011. Here this question raises that to what extent it is possible to establish a free trade agreement for Farsi-speaking countries. Undoubtedly, different political, economic, cultural, religious, and geographical factors should be investigated in establishment of this free trade agreement.

According to one of these factors, these countries have a long cultural and historic history, but these commonalities are reduced over time. Holding *Nowruz* celebrations is the first step in demonstrating the commonalities of Farsi-speaking countries and they are held in one of the countries every year. Undoubtedly, despite the fact that Farsi language is a good context for holding this agreement, it is not sufficient and other factors should also be investigated.

The Islamic Republic of Iran is a system based on the religious democracy. Islam is the dominant religion in this country. It has a population of 77 million and is still one of the most important economic players in region and its main export is based on the oil. Afghanistan is a 30-million-population country with Islamic Republic-based government system and Islam is governing in this country. Economically, Afghanistan is a country with low rate of development, but it has been grown recently and it exports in agricultural and carpet sector. Tajikistan is a republic-system-based country with a population of 8 million people in Central Asia and the majority of people are Muslim in this country. It is not considered as a strong country in terms of economy among the countries which are independent after the collapse of the USSR, but its position has been significantly developed by its efforts. The agriculture and aluminum are the main exports of this country.(16)

It is important to note that the Islamic Republic of Iran has a free trade agreement with Syria and is the observer member of WTO. The parliament of Afghanistan has also adopted the free trade agreement of South Asia and has completed the conditions of membership in WTO and has formally south to join this international organization.(Afghan Voice Agency (AVA)2014)It is also the member of free trade agreement in the south Asia. Tajikistan is the newest member of WTO and all these three countries are the members of Economic Cooperation Organization (ECO) and have signed the ECO Trade Agreement (ECOTA). Under these conditions, it can be concluded that these three countries are not unfamiliar with the concept of free trade and have the appropriate context for adopting this free trade agreement.

After the overview of these three countries, it can argue that there are proper conditions and links for adopting a free trade agreement.

After providing the conditions for adopting a Farsi free trade agreement, we pay attention to the provisions of a free trade agreement as mentioned in WTO documents. In Article 24 of GATT, the provisions of a free trade agreement are as follows. First, a mechanism is formed for rules of origin in this agreement. Furthermore, according to the important issue that where the goods is produced, the rules

of origin should be established to make the uniform principles for applying the regional trade preferences, regional arrangements, anti-dumping, countervailing and protective measures and other quantitative restrictions and tariff quotas and to avoid that the numerous rules of origin in countries are become the barriers to their trade as well as ensuring that the rules of origin are prepared and applied clearly, predictably, logically and impartially. The main applications of rules of origin refer to the applied regional trade preferences and arrangements, the protective and countervailing measures, quantitative restrictions, and tariff quotas.(17) After preparation of these rules of origin, we should eliminate the customs tariffs and other restrictive trade regulations. The gradual elimination of tariffs is what the experience shows in free trade agreements. For instance, a new free trade agreement was signed among the Latin American countries in 2013 and eliminated the tariff of 92% of goods and services and the remaining 8% would be eliminated in future years. (18) A majority of trade tariffs for agricultural products was eliminated between America and Mexico in NAFTA and the 6% tariff of agricultural products (including the corn, sugar and some fruits and vegetables) will be eliminated in 15 years. The grocery and textiles tariffs are going to be eliminated in all three countries in 10 years. Therefore, these three countries should gradually eliminate the tariffs and then eliminate them with a gentle slope.

According to the third factor, this agreement should cover a large volume of trade in goods and services to enhance the success of this agreement; in other words, the countries should utilize the whole or majority of its existence in these agreements, but not exclusive to their own major export products.

The fourth factor is to create a mechanism for dispute settlement due to these agreements. The best decision is to establish a commission consisting of the experts from all three countries for dispute settlement. IF the problem is not solved here, the dispute is referred to the judiciary which is pre-considered in this agreement, and an international sanction is observed for its decisions.

The fifth factor is to establish a joint security commission for protecting the situations of this region due to the critical security status of this region because the drug trade is common in Afghanistan and this agreement and its conditions may tempt the abusers to develop their trade on this basis and thus this joint commission controls the presence of Americans in Afghanistan as it has threatened the strategic interests of Tajikistan and Iran.

The sixth factor is to provide the domestic contexts in these three countries especially in Afghanistan and Tajikistan. First, we should resolve the conflicts of legal standards and modify the economic infrastructures. In general, the investment in economic infrastructures may enhance the economic production and growth by increasing the productivity of production factors, extending the range of market, balancing the supply and demand, creating the side effects, making better competitive conditions as well as enhancing the level of welfare.(19) We should also consider the economic infrastructures and in the case that they resistant to changes of development as usual, we cannot achieve the proper results. Therefore, the education and culture-making are essential to prepare the individuals' thinking about this agreement in these three countries. The modification of agreement according to the conditions when it is necessary is among the important cases which should be considered in agreement because the economic situations of these countries are unstable and changing and thus this agreement should also be flexible to these changes.

You should understand the benefits and disadvantages of this agreement for our country. This agreement has benefits for three active trade groups, the government, producer and consumers. According to the consumers' benefits, they have access to cost-effective goods which are produced in Afghanistan and Tajikistan. For producers' benefits, they can access to the cost-effective raw materials for production in these countries; and for government's benefit, since the Islamic Republic of Iran is a trade partner for these countries in terms of exporting to them, the government will have easy access to their markets and the presence of Iran in these two countries may increase the security and supervision of our country in eastern and north eastern boundaries which have been always the government's concern.

The lost some part of tariff sources in government is among its disadvantages. Furthermore, some economic powers may take the control of our market by their products due to unstable structures in those countries especially Afghanistan and thus the domestic producers may fail. According to another disadvantage, this free trade agreement may lead to the drug traffickers' misuse.

According to the investigation of advantages and disadvantages of these free trade agreements and assessment of free trade agreements among other countries, it can be concluded that these positive effects are higher for our country and thus a proper model can be created for Farsi free trade agreement through the mentioned mechanism.

Conclusion:

The free trade agreements can play an effective role in global trade and give objective meaning to free trade along with the WTO. These agreements have no similar efficiencies and effects and perhaps this depends on the reasons such as the market extension of these agreements, the integration of members, etc, not indicating that these agreements are without loss, but it refers to the investigation of effects by these agreements towards their members in different situations. No significant steps are taken in documents of WTO during the compiling these agreements and this organization has focused on these agreements more by regulatory perspective and these committees and basis-centered research clarify this relationship between the WTO and free trade agreement by their opinions and commentary. The increasing numbers of these free trade agreements require the development of rules in WTO and other relevant international economic institutes such as the United Nations Conference on Trade and Development (UNCTAD).

The MOST FAVORED NATION (MFN) clause still plays role as an applied principle in world trade and the allowed exception to this clause, the free trade agreements, also plays the role in free trade along with the MFN clause and it has the terms and conditions. These free trade agreements may observe the conditions in Article 24 of GATT and Article 5 of GATS, despite the fact that they can ignore these rules in the form of empowerment principle. However, the member countries have different interpretations of conditions in these articles and the views of group works, committees and basis-centered research have been useful in this regard. About the dispute settlement mechanisms in these agreements, it is clarified that these agreements are either referred to the dispute settlement system of WTO or there a dispute settlement mechanism in agreements themselves and the existence of these mechanisms helps the better implementation of these agreements. Here, we can respond to the hypothesis of this research under which despite being intentional unlike the globalization, they complement piece by piece the puzzle of free trade and globalization in any part of the world and it is completely found in investigation of WTO that if not considering this agreements as the assistance to free liberalization by organization, they were neglected, but obviously not only the WTO has not neglected these agreements, but also have paid attention to them and even monitor them to take proper steps in trade liberalization in order to complement each other. However, each of them have no similar contribution in this process and play different roles in it.

The provided an applied model is the advantage of any discussion. According to the advantages and disadvantages of free trade agreement in Farsi-speaking countries, it can be concluded that despite not existing high economic regional power in these agreements, the adoption of these agreements is a development in the economic growth of these countries and as one of the best ways for utilizing the trade opportunities of each other. This Farsi free trade agreement should be adopted within a mechanism which considers the rules of origin, dispute settlement mechanism, and economic security and status of these countries, thus its advantages will be superior to its disadvantages.

REFERENCES

1.Wikipedia. www.wikipedia.org. Accessed 14/01/2014.

2. World trade report ,2011,p6.

3.Edward Zhu, The Case for Free Trade Agreements: Historical Perspectives and a Projection for China, Japan, and Korea, May 2013, Theses, Stanford University ,p3.

4.Akhavi, Ahmad; Rahmani, Mitra Comparative evaluation of success in selected regional trade integration, 2010, Quarterly journal of Trade studies, No. 58.p218.

5.Garshasbi, Alireza; Sagheb, Hassan; The perspective of trade interests for creating a free trade zone with Persian gulf cooperation council (PGCC) for Iran; 2010,Quarterly Journal of trade studies.p

6.Mirzaeinejad, Mohammadreza, Dehghan, Mitra, Investigating the effects of preferential agreements between Iran and Venezuela; ,2010, Quarterly Journal of Economic Sciences ,p118.

7.Yanai-akikomarch , The function of mfn clause in the global system,2002,apec study center,p4.

8.Houshang Fathizadeh, AmirThe MOST FAVORED NATION (MFN) clause in WTO , 2009, special issue on WTO,p168.

9. Interpretation and Application of Article I,1994.

10. Plenipotentiary Representative of the Islamic Republic of Iran2005; publications- monthly journal-arrangements- No. 69; Ninth year,p30.

11.Plenipotentiary Representative of the Islamic Republic of Iran; 2004Publications, quarterly journal, regional trade arrangements, No. 64, Eighth year,p25.

12.Houman, Faldaran Zaydel, translated by Zamani, Seyed Ghasem, 2012, International Economic Law-Shahr-e Danesh- Fifth Edition.p110.

13. Clause 7 of Article in GATS.

14. World Trade Organization Economic Research and Statistics Division-2013

15.ROSENBERG ,JERRY M.1995, Encyclopedia of the North American Free Trade Agreement, the New American Community and Latin-American Trade ,Greenwood Publishing Group,p18.

16.H. Cooper- William -Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. 2007,Trade Policy-crs report for congress,p12.

17. Information Center of Iran trade law, http://farsi.irantradelaw.com/index.php?option=com_content&view=article&id=47:rules-oforigin&catid=15:gatt&Itemid. Accessed 12/03/2014.

18.quarterly journal of Plenipotentiary Representative of the Islamic Republic of Iran, September 2013.seventieth year, No. 170,p32.

19. Akbarian, Reza; Ghaedi, Ali, Investment in economic infrastructures and investigation of its effect on economic growth; 2011, Economic development and growth studies.p12.