Journal of Practical Business Law

J. Practical Buss. Law, 1(2): 45-52, 2020

Research Paper

A Comparative Analysis of the Principles of Interpreting International Commercial Contracts in Iranian and European Law with an Emphasis on the Energy Industry

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Received: 21 February 2020 Accepted: 25 March 2020 Published: 15 April 2020

Abstract

In the process of contractual interpretation, the in-text and also out-text categories are required to determine the intention of contract parties, including semantic dimensions and terms
supplied in text, through multiple readings. To interpret a contract, the fundamental is being conformity of the will of parties and not necessity of declaring and conveying it in special form, in international contract law and also Iranian law. To resolve the contractual ambiguity and to find the contract parties common intention, the purpose of this paper is explaining most important principles governing the interpretation of international commercial contracts with an Emphasis on the Energy Industry and the manner of adaption and entering these principles in the Iranian law system.

Keywords: The Interpretation Principles, A Good Faith Principle, The Validity Principle, Interpretation of Contract as a whole, Contra Proferentem Rule.

How to cite the article:
B. Behniai, N. Heidarpoor, A Comparative Analysis of the Principles of Interpreting International Commercial Contracts in Iranian and European Law with an Emphasis on the Energy Industry, J. Practical Buss. Law, 2020; 1(2): 45-52,

Introduction

Today, unprecedentedly spreading the commercial and economical agreements among countries and individuals over the world is increasing to enter into international commercial contracts.
Considering the differences between the laws and customs of various countries ,It might after entering into contract, require to allege a claim and disagreement, because of the ambiguity of words and expressions and sometimes the misunderstanding or interest-seeking of a contract parties, to refer to arbitration tribunals or courts in order to interpret and issue a decision for resolving the contractual problems.
In few last decades, considering to these issues, various countries are seeking to make the principles and rules for interpreting which they are seen as conventions, regulations, and documents; Including convention relating to a uniform law on the International Sale of Goods 1964 which has achieved successes in the ground, the Principles of European Contract Law and Principles of International Commercial Contracts-created by international institute for the unification of private law, UNIDROIT.
Interpretation means explaining the meanings of the word, clarification, explication, statement of ambiguity phrases, without considering the intention of the speaker, in other words, a way by which a person gives a particular meaning to what has announced in the form of word, hint, verb, ...
But in general the term "Interpretation" is to find a person intention through declaring his wills which

in this case the interpretation notion is approaching to the "construction" meaning.
Neglecting the slight difference between interpretation and construction, courts and arbitration tribunal in fact have applied two words "tantamount to" and "equivalent to" each other and do not consider a practical merit for it .
Additionally, these two words have used interchangeably both in Iranian law and common law, of course, where each two words have been used, each one means its own given meaning.
In addition to, "interpretation" in the common law uses to explain the words and symbols involved in contract, while "construction" is seeking the legal meaning of whole contract, the procedure of the intention of parties, and legal advantages resulting from it at the stage of executing, even though parties have not predicted it.
The principles reconsidered in the paper are only including the principles governing the interpretation of international commercial contract, and the fundamental discussion, based on the interpretation on the internationally conventions and documents is out of the current study.
The reason of addressing to international contract, separately, then internal contracts, is their being-international component although both international and internal contracts result from a consensus of wills.

2. The interpretation based on an internal intention of parties and external aspects of contract

Some authors separate these two principles from each other but it does not seem to be right, i.e. in view of author of the paper. Because, when separating them, it might be seemed they aren't in one direction, and they are even conflicting together, while they are complementary.
The conventions that have arisen these principals are including: 1) The Hague conventions in 1964 (clause 3 of article 9 of ULIS, and clause 2 of article 13 of U.L.F): their writers have accepted the expression theory than the intention theory since it is more consistent with commercial contracts; 2) this principle was considered as a sub- measure in "Clause 2 of article 8 relating to vein convention[1] in 1980", that is if it was not declared the really intention of parties, the words used by one of the parties is interpreted in a manner how an ordinary person infers; and 3) as well as the clause 2 of the article 1- 4 of "Principles of European Contract Law" has accepted this principle as a secondary and additional criterion.
To be precise in the provisions of the conventions, this objection is arisen that this principle was accepted as a secondary one in conventions and documents ratified currently, while the interpretation principle based on appearance was accepted as first principle in Hague conventions that is older than two mentioned conventions.
While the theory in commercial agreements and contractors trust about external contract provisions, seemingly necessitate so that it is very important; however, this objection is able to be overcome, explaining that the first clause of article (8) make interpretation based on intention as a principle provided that the individual intention is obvious- this is recognized from the last part of this clause, stating "could not be unknowing"; and when his intention is not so obvious, it ought to interpret it proportionate to appearances and according to an ordinary person. So finally we are seeking to understand individual intentions.
Two another clauses existing in the convention of international good sale and relating to the principle of appearance -based interpretation are including: clause 1 of the 31 article of the Convention on international sales of good: " Every treaty ought to interpret on the basis of the ordinary and common meaning of terms"; and clause 4 of the very article that stating "Each terms will be used in a particular meaning if it was demonstrated that the intention of treaty's parties had been as such."
Some had attempted to provide another principle called "Avoiding an ambiguity and equivocation", from two above principles, but it seems unnecessary and it is better to consider it related to the interpretation based internal intention and the customary meaning of expressions.
In Imamie religious jurisprudence, they divide the say and conduct into two general sections, explanatory and compendium, in respect of severity and weakness of their implications on meaning .
Explanatory is the say and act that its implication on the meaning is either positive or conjectural; but compendium- which some know it the term allocated to words and also some other see it involving both word and act[2]- is a word or act in which the intention of its speaker is unknown.[3]
In the same manner, also in Iranian law, when the intention of parties is obvious, so we are not seeking their intention through assumptions .

[1]. Article 8: Clause 1- in view of the convention, the statements and other acts doing one party should be interpreted in accordance with his Intention whenever other party knows and even could not know it.
clause 2- if not containing above paragraph, statements and other acts doing one party should be interpreted according to an ordinary person induction from the very trade in other circumstances.

[2]. Mozaffar, M.R, "Osul'l feghhe", Pubication of the Center of the Islamic Science School,1998, p189.

[3]. Reshad, M, "Principles of Juriprudency", Eghbal publication, 1988, p 175.

Of course there is no doubt that the intention of individuals is hidden in their expressions used, if is not obvious (and their expressions used are compendium), then we must necessarily choose the same meaning from word by assumptions as an ordinary person understand.

3. Interpretation founded on custom

In international commercial law, the custom is a binding resource. Moreover, it is influential in accepting laws, regulation and conventions. Then, whatever the rules of a convention had been adapted from the international custom- not national customs- that convention was more accepted .

The term "custom" is entitled a conduct having two elements: 1- material element: developing habits among people within long period of time so that it is be permanent and public; 2- mental element: in opinion to who respecting it, it should be binding .

The concept of being binding of custom in international commercial law has been mentioned in Article 9 of the convention on international sale of goods[1]: In the article, when it is assumed that parties had been considered a given custom which: Firstly, that custom in international commerce has extensively been known for parties of similar contracts in relevant special business, secondly it was regularly observed, and finally, in contract, it had not been disagreed against it. Some authors have distributed the "custom" concept into two categories, Interpretative and Complementary. it appears that a custom entitled "Interpretative" had is the intention of parties on it; While, the "Complementary" custom is one that, even if parties have not willed it, it is imposed on them subject to the guild custom. In other words, it is increasing something to their intention on the assumption that parties have depended upon it.

Clause 1 is concerning with the interpretative custom because it addressed to what agreed by parties and clause 2 states the complementary custom. According to the Iranian law, it can be said that Article 220 of the civil law is complementary and Article 224 is interpretative.

However, it dares can be said that any sources as custom does not influence on its construction in international commercial law. Customs existing among businessmen, who today had been known binding entirely in the legal field, are so many and subtle that some of jurists of the international commercial law recognize this field unnecessary of the internal countries principles because of having a transnational law.

4. Good faith principle in interpretation of contracts

Good faith principle is a conscientious one which has been inferred in the law from mortality gradually and the law has been approached to mortality through its existence. Furthermore, contemporaneously, it has been created the sanctions of breaking the principles. Parties cannot rescind this principle, although freedom of contract is one of the fundamentals, the necessity of observing the principle is not to be inconsistent with the principle of freedom of contracts .Increasing the commercial contracts and transactions causes to complicated problems which the requirement of dissolving problems by parties and also the prevention of interfering courts makes unavoidable a familiarity with this principle.[2]

Although "Equity" has been defined as considering the humanity and conscientious aspect of affairs, Good faith in contracts was described as: Existing good faith of a person indicates that his intention in legal acts is truthfully and regardless of an awareness taint about subjects that bring an accusation that person[3]; as well as it was said that good faith is really the same intrinsic belief of a person about the authentication of himself/herself legal act.

It needs to mention that a custom is a means for discovering manifestations. On its basis, hesitated details in contract can be cleared, while good faith is regulator subject which is able to be determined as the basis of recognizing general regulations.

Moreover, the elements making these two principles do not inevitably accord with together. In the principles of international commercial contracts, good faith principle has also been accepted, and is used in the stage of interpretation of a contract.

Moreover, most important form of influencing good faith in contact interpretation, as parties' obligation is so that had been mentioned in Article 2-5 of the principles of internationally commercial contracts.

The definition of good faith in UCC:

“Good faith in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.”

But, in Franc law, good faith has two meanings: Firstly, honesty in entering into and executing a contract, and secondly, unawareness and faultless prior to an existence or non-existence of an event which in the sense a good faith is a basis for protecting the unwary person. [7] For example with respect to the first meaning, it can be inferred to

[1]. Bahrami, H, "A Abuse of Right", Etelaaat publication, Second edition, Tehran, 1991, p 226.

[2]. Jafari langroodi, M.J. "Law of Property", Ganje-Danesh, 1994, p150.

[3]. Habibi M. "An Interpretation of International Commercial Contracts", Mizan, First edition, 2010, p 382.

the second part of Article 306 in the Iran civil law in which appears to "NOT acquiring permission" is an indication on an absence of good faith, and as a result, a person cannot refund the expenses of the period of controlling from its owner.

It seems that Article 1239 in the very law is an exemplification of second meaning. From the opposed concept of the last part of this article it is induced that if executer had not had any malice aforethought in the considered act, it is a basis for protecting him and therefore, he is not deposed. In addition to, similarly, not being referable of objections in commercial documents against to a person having good faith is for this reason.

This principle has also been stated in clause 1 of Article 7 of the convention of international sale of goods. How this article states made hesitate for law theorists whether these principles are special for an interpretation of the convention context, or these were also performed about contracts involving convention?

To answer this question, two various approaches has been created that one of them, emphasizing on the article appearance and a historical precedent, is that many had disagreed to ratifying it because of being ambiguity of a good faith notion and not having any sanction, then it is better to limit it to an interpretation of convention regulations sufficiently; yet, another approach makes it governing in both interpretation of convention and contracts, accepting this historical precedent, referring that the principle in contractual area is consistent with international commercial occasions.

It seems to be more acceptable the second approach because limiting it to the area of convention regulations cause to the mistake mentality in courts, which observing good faith in contracts is not obligatory .therefore, the good faith principle has an application in interpretation contracts which can be summarized at three sort: 1- interpreter is obligatory to observing good faith in contracts, 2- observing good faith against the contracting party and not abusing mistakes of other party, and 3- in interpretation it ought to be adopted a contingency according to the conduct of a person of/having good faith. The considerable point is that in all of these cases, the standard is in general, meaning that we make what is fundamentally understood from the expression of the contrary party as a basis of the interpretation of contract.

Another issue is able to arise; it has not been determined no sanctions in this clause[1] for not observing it, so what to do? The answer is that the issue should be settled by courts and with respect to the circumstances of each of them.

Involving the principle is only for the reason that tribunals note to must exist a high conduct standard in commercial agreement. However, in the history of Iran legislation, it was less addressed to good faith principle but, in practical and in custom, pays considerably attention to it, and the need of observing the principle is obvious in legal acts.

At present, there is only one Article which has explicitly been inferred to good faith, that is Article 3 of the electronic business law passed 1382.[2]

Of course, the Articles 11,12, and 13 of the insurance law passed 1316 can also be examples of good faith principle in Iran legal system in which has "Implicitly but not Explicitly" been inferred.

The term of deception intention was used in the article 11[3] of the insurance law, that is, a person not only has been undertaken good faith, also has been had malice aforethought. In fact, not only he has not fulfilled an obligation positively, also has taken away doing an obligation negatively.

The Article 12[4] of the insurance law states that telling lie or not telling a truth intentionally causes to annulment of an insurance contract, of course, with the difference that at here the effect of annulment is in proportion to future, which is against the main effect of annulment.

But, the benefit of insurer offers such case because if its effect was in proportion to past, insured can refund the premiums paid yet. Here, a malice aforethought of a person has formed two sorts, act and in act. In Iranian law, an absence of good faith, in misrepresentation conversation, cause to a right of contract termination for contrary party, in addition to an annulment.

Good faith in international commercial law is defined with regard to commercial custom; Its sanction has been deposited to courts; and having good faith is necessary in all of the stages. But the need of existing good faith is not as specified explicitly as international commercial law, and it ought to be induced among its provisions but has a given sanction.

1. Clause 1 of Article 7 of Vein convention.

2. Article 3 of Iran's the Electronic Business Law: it is necessary to pay attention with international characteristic, the necessity of agreeing these countries in its application, and the requirement of observing good faith.

3. Article 11: if an insured or his representative has paid a property surplus to the price agreed in contract, an insurance contract is void a premium paid is not refundable.

4. Article 12: whenever insured intentionally avoids telling subject-matters or tells lie and his statements are so that changes the subject of a risk, or decreases its importance in view of insurer, then an insurance contract would be void even though the mentioned cases have not had an influence on contract. In this regard, premiums paid by insured is not refundable, rather insurer can repay insurance instalments delayed can obligate insured to repay

Finally, it can be probably told that good faith which has a close relationship with the concepts of equality and rationality in law means doing according to commercial custom and is the same form anticipated by the contrary party. Principle of prima facie validity of contracts (The presumption of law is that all contracts are valid unless proved otherwise)[1].

5. The principle of validity in the interpretation of a contract

Here, we regard the meaning of "Validity" and at this meaning, the word is against invalidity and annulment. From other interpretation principles has a very important role on explaining contract provisions is the validity rule. This principle in Iranian law - accepted and passed in Article 223 of civil law- is, in meaning and application term, different from what is known as a principle of validity in the international commercial law entitled "The absence of termination of contractual phrases". In religious jurisprudence sources, it was inferred and analyzed considerably and is applied when was doubted a validity or invalidation of a contract which its customary occurrence is indisputable. On the other hand, in France and Britain legal system and as well as in contractual interpretation, it consists of a meaning which cause not terminating a contract.[2]

It seems the scope of this principle is at where a contract has been made in terms of custom and at present, there is a doubt in existence or absence of legal impediments which is said to ought to assume on a contract validity and also on the absence of legal impediments, as the article 223 also starts with the provision of "Each contracts which was entered into ..." then the principle is not in where the fundamental circumstances of a contract is doubted.

There is a distinction between the validity principle in religious jurisprudence and the validity in western countries's rights; in religious jurisprudence, the principle has a more extensive scope than western rights and its scope is when its occurrence and after that, while the western meaning of the same principle is after contract occurrence. And its subject is expressions involving in a contract, for this reason, it was well-known as "The absence of termination of contractual phrases". Because the assumption is that any expressions applied to parties in contract consist of a meaning; good faith principle requires that contract provisions and clauses was assumed on their proper meaning.

Several stages are in a contract; sometimes, the intention of parties is discoverable from contract words and if parties allege contradictory, it ought to be proved.

But occasionally words do not indicate the intention of parties, so it must discover it through inferential evidence. In this investigation, it maybe not confirms the consent of parties where is not the validity principle and a meeting of two wills must be confirmed, but, sometimes the intention is ascertained and an action has taken place outside that we do not know about its essence. At here we must adopt a meaning with respect to the validity principle to result in the validity of contractual terms. Then the discussed principle applies in interpretation when it cannot be achieved to purpose by other principles such as interpretation based on real intention and cannot determine the meaning of terms.

Of course, it needs to say that assuming a proper meaning must not result in changing the contractual terms, and what the intent of parties has not been was imposed on them.

The validity principle arisen here has been regarded in its western meaning. The purpose of the validity principle in international commercial law is to give the legal effect to all of the terms as Article 4-5 of international commercial contracts has enacted:

"Contract terms shall be interpreted so as to give effect to all the terms rather than to deprive some of them of effect".

As a result, the principle is from the generally and fundamentally principles which can specify the situation, even if an absence of other principles .

6. Interpretation of contract as a whole

In the interpretation of contracts, it ought to be considered the principle of an interpretation as a whole. An accurate interpretation is that the term or phrase supplied in contract was not evaluated individually and independent of other components of a contact, rather an interpreter try to remove ambiguity, considering whole terms involved in a contract and even its content and ground. Although it was not referred to the rule in the convention of international sale, it ought to mention that with respect to the position of convention about the requirement of establishing the really intention of contract parties, the principle of the unity of contract components is indisputable. Because, neglecting it, it has been conduct against the really intention of persons[3]. Therefore, all of the

1. Ebrahimi, Y, "Comparative Study of the Concept and Effects of Good faith in Interring into, Interpret, and Executing Contracts", International Law journal, 2009, No. 41, p 65.

2. Tabatabaii, S.M.S., "Comparative Study of the Notion of the Validity Principle in Interpreting Contract", The journal MOFID, No. 88, 2011, p 147.

3. Yazdani, hooman, "The Principles and Criteria of Contract Interpretation in Convention of International Sale of Goods and Comparing it with Iran", The Faculty

components in contract can be used in justifying or removing ambiguity of other sections.[1]
To prove the principle of interpretation of a contract as a whole, the religious jurisprudence of "Contracts is subject to intentions" can be used.[2]
As a result, in Iranian law, the intention of parties in contract is shown as a unique set, and to remove its ambiguity, whole contract and all of its surrounding circumstances would be considered.[3]
This rule has been enacted in various laws including the article 1363 of the Italy's civil law, article 1161 of Franc's civil law, art 1285 of Spain's civil law, the Portuguese's law 464/1985 passed 15 October 1985, and the art 1-205 and 2-208 of the American's UCC.[4]
On the subject of the rule, Art 4-4 the principles of commercial contracts indicate "Terms and expressions shall be interpreted in the light of the whole contract or statement in which they appear;
As well as, Article 5-105 of the European legal principle announce: "Term are interpreted in the light of the whole contract in which they appear".

7. Contra Proferentem rule

Contra proferentem rule was not entered in Emamiah jurisprudence, which is the basis of Iranian law, but whit respect to all of the judicial rules, it can result that award of the rule is current in jurisprudence. For instance, a defendant and claimant person has recognized, and evidently burden of proof of a claim undertake on defendant, and if he not be able to prove a claim or present a document, the commitment of a defendant will accept.[5]
Due to the rule, if an ambiguity appears in contract, it is resolved so that cause to loss of the regulator of contract draft or the considered terms.
To apply the rule, it is necessary to firstly determine the beneficiary of that obligation or term supplied.
It necessity to express that, about the various components of contract, the notion of obliger and obligee will be able to change. The rule only is applicable when the ambiguity of a contract could not resolve using another reasons.
Therefore, if it can remove the ambiguity of contract by acknowledging the common intention of both sides in any manner, it is not possible to document to that rule because its execution is in fact the last solution of contract interpretation.
In Britain law it was accepted that if it was doubted about the notion and scope of obligations, removing ambiguity is done against person who supplied it and attributed to it. In England, contra proferentem rule mostly applies about restrictive or exempting terms of responsibility.

8. A course of dealing and conduct pursuant to contract parties

Today, it was entirely accepted that a contract does not draw up an independent environment separated from evidences and relationship of the parties, rather is a conclusion of relations which was established between parties and it ought to interpret considering it.
One of the methods to find the will of parties in the procedure of a contract interpretation is a course dealing. The procedure forms in in transactions which the relation of its parties has continued for a relatively long time, and in the meantime, procedures and methods establish that its continuation causes parties commit it in next transactions. On the basis, the validity of the procedure would be based on allocating the parties intention to it, and on implicitly consensus about it.
Consequently, it can suppose that "A course of dealing" is a set of conducts which anticipates commonly to continue, and as long as its removing has not been explicated by parties, it applies to the fulfillment of a contract and the determination of the intention of parties. Of course, if circumstances change so that trust to a precedent procedure counts more rational, it cannot reconsider reliable a course of dealing.
The scope of a course of dealing is only on parties relationship; its obligatory power would limit to them; and it ought not to consider similar to custom including all individuals of one trade.[6]
As a result, the importance of attributing it to the parties has been more than customary, and if being a conflict, it has priority over customary.
Article 1-205 of the USA's UCC has described a course of dealing as following:
"A course of dealing is a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other document".

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of Law and Political Science of Tehran University, Iran,2000, p 143.

1. Emami, A., "The Role of Will in Contracts", The quarterly journal of "Hagh", no. 4, 1985, p 5.

2. Maraghi, M.F, "The Titels", Vol. 2, Ghom, 1968, p48.

3. Shoaarian, E. and Torabi, E., "The Principles of European and Iranian Law, Forozesh, Tabriz, 2000, p 233.

4. Mosavi, S. F., and others, "Comparative Study of the Principles of Contract Interpretation" The quarterly research journal of private law, no. 1, autumn 2012, p 206 .

5. Ghasghaii, H, "The method of Interpretation of Private Contracts in Iran Legal system and other contemporary legal systems, Ghom, First publication, 1999, p167.

6. Some of the writers, "The Interpretation on International Sale of Goods Law, translated by Darabpur, mehrab, Ganj-danesh, First edition, Tehran, 1995, p150.

With respect to that definition, a course of dealing is valid if its sequence in parties of relationship is some extent that can infer to whether, in similar circumstances, will not change the conduct of parties, or each of them can be expected to continue it in a common form, considering its presence.

With respect to the article 225 of civil law, it can be also accepted that a course of dealing determines and recognizes in view of commercial custom.[1]

As well as the clause 3 of article 8 in the convention of international sale has declared that: "In determining the intent of a party or the understanding a reasonable person would have had, due consideration is to be given to all relevant circumstances of the case including the negotiations, any practices which the parties have established between themselves, usages and any subsequent conduct of the parties."

On the basis of the clause, in contract interpretation must not consider to only the document and its expressions, also the surrounding reasons would be effective in finding the common intention of parties".

Also clause 1 of article 9 in determining the binding resource of contract parties has inferred to any practices which they have established between themselves, in addition to any usage to which they have agreed.

Of course, the convention has not addressed to when can regard the conduct of parties as a course of dealing, but considering to cases arisen in this ground, it ought to note that to ascertain common methods between parties, it requires to continue the considered practices for some time and consequently several numerous contracts have established.

The clause (b) of article 3-4 of the principles of international commercial contracts, which states reasons used to a contract interpretation, has considered the practice agreed between parties as one of the circumstances instances.

Moreover, article 5-102 of the principle of the European contract law, mentioning the general rule based on the need of considering the circumstances of entering into a contract, has declared the conduct of parties and the common practices between them as one of the resources of contract interpretation.

It needs to say that the current theory in England legal system is that the subsequent conduct of parties cannot interpret the previous contract because basically it cannot be used a next resource to interpret and remove ambiguity of what has been created previously.

The subsequent conduct ought to be comprehensible in the light of contract and considering it, so that the reason of its doing has been the same considered contract and without it, that conduct does not appear.

In spite of contradictions involving in the convention on international sale of goods and other international goods, it was accepted that the subsequent conduct of parties can resolve an ambiguity in a contract, and the next conducts and practices of parties has been explicitly useful to interpret a contract and remove a contract ambiguity.

Furthermore, although it does not state explicitly in Iranian law, we can accept that the subsequent conduct of parties is attributable in a contract interpretation, if those discussed terms was attained.

Conclusion

It was accepted the intention theory both in international commercial law and Iranian law. Clause 1 of Article 8 the mentioned convention specify this provision " ... whether other party know or could not know it". The notion and application of the custom considered in the international commercial law is the same with the custom in Iranian law.

About good faith principle, it ought to mention that the necessity of having good faith exists in Iranian law but it was explicitly more less addressed to it in Iranian law, the lack of good faith makes void the contract or causes to termination right for the other party of contract by deception, due to the insurance regulation of Iranian law.

However, in international commercial law, having good faith, more than any things else, means to conduct in accordance with international custom, and it is necessary, in maintaining the commercial and professional secrets, to observe it in whole stages of one contract including primary negotiating, entering into contract, interpreting, and executing it even after its rescinding; and its guarantee depends on a court decision. Another principle studied here is the validity principle which has an extensive concept in Iranian law than in Western legal systems and international commercial contracts because in Iranian law the principle considers the contract effects rightful, unless an explicitly contradiction is not. Of course, the place of executing this principle where we do not have any doubt in a customary appearance of a contract, that is, we have the confidence on which a contract having the legal and customary circumstances is necessary.

Nonetheless, the scope of the principle entitled as the validity principle in international commercial law than Iran is narrower. That is to say, a judge has been bound to interpret words in contract in

[1]. Safaii S, H and others, International Sale Law, Comparative study, The institute of Tehran university publication, Second edition, 2008, p35 .

some manner that has legal effects. Because parties had been sought to a proper legal effect, i.e., it is no doubt about the validity of whole contract but we encounter to a word in a contract which is ambiguity and has two meanings, one of them has a legal effect and another without effect.

Here, an interpreter ought to give a meaning having a legal effect to that word, after reconsidering whole contract and other its customary requirements, in order to recognizing the intention of parties.

To sum, it can acknowledge that it has been accepted in Iranian law the principles mentioned in describing and explaining interpretation rules including a contract interpretation as a whole, contra proferentem rule, a course of dealing and a subsequent of a contract parties.

References

[1] Bahrami, H, *"A Abuse of Right",* Etelaaat publication, Second edition, Tehran, (1991).

[2] Ebrahimi, Y, *"Comparative Study of the Concept and Effects of Good faith in Interring into, Interpret, and Executing Contracts",* International Law journal, (2009), No. 41.

[3] Emami, A., *"The Role of Will in Contracts",* The quarterly journal of Hagh, no. 4, (1985).

[4] Ghasghaii, H, *"The method of Interpretation of Private Contracts in Iran Legal system and other contemporary legal systems",* ghom, First publication, (1999).

[5] Habibi M. "*An Interpretation of International Commercial Contracts*", Mizan, First edition, (2010).

[6] Jafari langroodi, M.J. "Law of Property", Ganje-Danesh, (1994).

[7] Maraghi, M.F, "The Titels", Volum 2, Ghom, (1968).

[8] Mosavi, S. F., and others, *"Comparative Study of the Principles of Contract Interpretation", The* quarterly research journal of private law, no. 1, autumn (2012).

[9] Mozaffar, M.R, *"Osul'l feghhe",* Pubication of the Center of the Islamic Science School,(1998).

[10] Reshad, M, *"Principles of Juriprudency"*, Eghbal publication, (1988).

[11] Safaii S.H. and others, *"International Sale Law, Comparative study"*, The institute of Tehran university publication, Second edition, (2008).

[12] Shoaarian, E. and Torabi, E., *"The Principles of European and Iranian Law"* , Forozesh, Tabriz, (2000).

[13] Some of the writers, *"The Interpretation on International Sale of Goods Law"* , translated by Darabpur, mehrab, Ganj-danesh, First edition, Tehran,(1995).

[14] Tabatabaii, S.M.S., *"Comparative Study of the Notion of the Validity Principle in Interpreting Contract"*, The journal MOFID, No. 88, (2011).

[15] Yazdani, hooman, *"The Principles and Criteria of Contract Interpretation in Convention of International Sale of Goods and Comparing it with Iran"*, The Faculty of Law and Political Science of Tehran University, Iran, (2000).