The American Chamber of Commerce in Jordan

Understanding the Rules of Origin in the Jordan US Free Trade Agreement (JUSFTA)

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U.S. - Jordan Free Trade Agreement Unit

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The Note contains general information and it is not meant to provide legal interpretation of the FTAs provision.

Introduction

Jordan-US Free Trade Agreement ("JUSFTA") was signed on October, 24th, 2000 and entered into force on December 17th, 2001.

The JUSFTA aimed at expanding the trade relationship between the two countries by; reducing tariffs on goods and barriers for trade in services; ensuring regulatory transparency, providing enhanced protection for intellectual property, and by requiring effective labor and environmental enforcement.

With respect to the market access liberalization of trade in goods, the JUSFTA contained a gradual reduction of customs duties and charges having equivalent effect over a transitional period of ten years from date of entry into force of the agreement, during which customs duties will be dismantled for both countries according to time schedule. Tobacco and products of Chapter 24 (Tobacco and manufactured tobacco substitutes) of the Harmonized System (HS) of Tariffs are excluded from any tariff reduction, while alcohol beverages are subject to special tariff reduction arrangements under the agreement. The full tariff dismantlement tool came into effect on January 1st, 2011.

Since JUFTA came into effect Jordanian exports to the USA have experienced a significant increase; reaching USD 1.6 billion in 2016, up from the USD 234.7 million registered in 2001 almost 580% increase for pre-FTA times. Today the USA is the destination of almost 20 per cent of all Jordanian exports, making Jordan the United States' 66th largest supplier of goods imports in 2016.[1]

A key contributor to the growth of trade among the two partners are specifically the Rules of Origin (ROO) set out in Annex 2.2 of the agreement.

The ROO embodied in the JUSFTA with Jordan have been used by the US Customs Service to administer its various trade preference arrangements such as its General System of Preferences (GSP) scheme, the Caribbean Basin Initiative, the Andean Trade Preference program and the Qualified Industrial Zone (QIZ) program, and as such they do not resemble the North American FTA with Canada & Mexico's ROO, which are characterized as difficult.

The reasons for these special ROO stem from political and developmental support considerations; this is next to the lack of any substantial adverse effects resulting from the application of the rules on the US economy.

1 https://ustr.gov/countries-regions/europe-middle-east/middle-east/north-africa/jordan#

This note is made up of two parts. In part I we will provide a brief explanation on the nature and importance of rules of origin, in part II will provide an overview of the JUSFTA ROOs followed with a detailed explanation of the provisions of Annex 2.2 (Article by Article).

Finally, Jordan also benefits from the Qualifying Industrial Zone (QIZ) arrangement, as well as from the US Generalized System of Preferences (GSP)[2]. Each scheme is a standalone arrangement, where Jordanian manufacturers of goods can choose under which rules to export to obtain the preferential tariff.

2 https://www.cbp.gov/trade/priority-issues/trade-agreements/special-trade-legislation/generalized-system-preferences

Part I Understanding Rules of Origin

Rules of Origin (ROO) are the set of provisions and procedures which determine the country in which a product will be deemed to have originated in. They are the rules that identify the **"economic nationality"** of a produce or a product in international trade.

Trade in goods involve either produce that are **wholly obtained** in the exporting country (such as agricultural produce or minerals extracted from the earth), or products **manufactured** in the exporting country which may in turn contain components from third countries. In the first type of goods a problem does not arise. For the second type of goods, it becomes essential to define the conditions, types, and amounts of imported components that these goods can contain to be considered as originating inside the exporting country.[3]

If countries were to apply **Most-Favoured-Nation (MFN)** treatment[4] to all imported products this, in theory, would lessen the problem of having to establish ROO to determine which country a product must be attributed to for customs/tariff purposes. Yet when countries grant trade preferences pursuant to Free Trade Agreements (FTAs)[5] , inter alia by establishing lesser tariff rates for products exported from the FTA partner country, the origin regime will be an important component of the FTA, as it will ensure that the market preferences made available to the other party(s) within the FTA, would only benefit products originating in that country(s).

ROO also have a practical importance beyond simply applying the tariff rate to imported products, when a country wishes to distinguish between the origin of foreign products for the purposes of applying trade remedies (safeguard, anti-dumping or countervailing measures); for enforcing health and safety standards or for statistical purposes. This is also true when countries wish to distinguish between foreign and domestic products, for example in the case of government procurement or when government investment subsidies are conditioned on the investor acquiring inputs of domestic origin.

3 In the case of trade in services and investment the most important criteria for determining the origin of the activity include the place of incorporation, the nationality of the owners, the location of the company head office and the places where business is actually conducted.

4 Under the WTO Agreement countries cannot normally discriminate between their trading partners, if a WTO Member grants another Member a special favor, such as a lower a customs duty rate for one of their products, and you have to do the same for all other WTO Members, however some exceptions are allowed.

5 The term FTA as used here is interchangeable with the term Preferential Trade Agreements (PTAs) or Regional Trade Agreement (RTAs).

Determination of origin has an important role in the implementation of trade policy; this is evident when the ROO regime is considered in association with the primary policy instruments which it supports, such as requiring all imports to bear a mark of origin, or collecting trade statistics, and application of tariff laws, trade remedies or quotes.

Within FTAs, the main purpose of ROO is to prevent what is known as **"Trade Deflection"**[6], which is a problem with trans-shipment, where a product is exported to a specific country, with the intention of taking advantage of the market preferences granted to that country under an FTA, by re-exporting the products, after minimal processing or assembly in the preference receiving country, to another country. Therefore; rather than simply deeming the last geographical location from which a product is shipped as its nationality - the **"geographic nationality"** of a produce or a product in international trade - the set ROO will determine the country in which the product will be deemed to have originated.

Sets of Rules of Origin

There are basically two sets of rules of origin depending upon application:

A. Non-preferential Rules of Origin: Where an importing country will apply ROO linked to non-preferential arrangements to imports from all countries. In principle a country is free to formulate its own criteria for determining which country will be the country of origin for a particular product.[7] However, the general approach taken in most jurisdictions is that the origin of a product is determined by the location where the last substantial transformation took place. Non-preferential ROO are applied for a variety of purposes, including quotas, anti-dumping, anti-circumvention, statistics or origin labeling.

B. Preferential Rules of Origin: These are special ROOs applied under preferential trade arrangements. Preferential ROO can either be under a bilateral agreement such as a FTA or customs union in

6 Also known as "trade diversion". One of the criteria used for the assessment of the impact of free-trade areas and customs unions. The creation of such bodies normally leads to the expansion of trade between its members, but economic theory postulates that a share of the increased trade experienced by participants is merely due to a redirection of their trade, and not increased trade due to the arrangement. This effect can be demonstrated convincingly in models. In practice, trade diversion has always been very difficult to isolate because of other factors. These include technological innovation, global reduction in tariffs, changes in investment policies, etc. (see, Dictionary of Trade Policy Terms)

7 When formulating and implementing non-preferential ROO, WTO Members are bound to respect the disciples agreed to pursuant to the WTO Agreement on Rules of Origin (see, Section 2 of this study)

which the importing country is a member, or unilaterally applied [8] by developed countries upon importation of particular products exported from developing/least-developed countries, as under the Generalized System of Preferences (GSP).[9] In the former case, the ROO regime would be negotiated and agreed to by the parties. In the case of the GSP it is placed independently by the importing country, as it is granting unilateral preferences. Accordingly, Preferential ROO can also be divided into (i) contractual rules of origin and (ii) unilateral rules of origin.

For example, in the case of the United States, its Bureau of Customs and Border Protection (Customs) stated that rules of origin are divided into "non-preferential" and "preferential", explaining that "non-preferential" rules are those that generally apply to merchandise in the absence of bilateral or multilateral trade agreements. The US's non-referential ROO are based on a case law (i.e., court judge ruling) and nowhere defined in a statutory law. However, the established interpretation by the court is that "It occurs when, as a result of manufacturing process, a new and different article emerges, having a distinctive name, character, or use, which is different from that originally possessed by the article or material before being subject to the manufacturing process." It is, therefore, prudent to obtain a binding advance ruling that the product in question is conferred the country of origin from the customs service of the US before exportation.[10] While "preferential" rules are those that apply to merchandise to determine eligibility for special treatment under various trade agreements or special legislation. The "Non-Preferential Rules of Origin" apply to the following subjects: Most-Favored-Nation or Normal-Trade-Relations Treatment, Country of Origin Marking, Government Procurement, Textile and Textile Products and Legislation and Implementing Regulations. The "Preferential Rules of Origin" apply the following subjects: African Growth and Opportunity Act, Andean Trade Preference Act, Andean Trade Promotion and Drug Eradication Act, Automotive Products Trade Act, Caribbean Basin Economic Recovery Act, Compact of Free Association Act, Generalized System of Preferences, Insular Possessions of the United States, North American Free Trade Agreement Implementation Act, **Products of the**

8 This definition may also be extended to cover ROO contained in non-reciprocal but contractual agreements such as the Cotonou Agreement concluded between the EU and ACP countries.

9 The General System of Preferences (GSP), authorized by the "Enabling Clause" adopted in a 1979 GATT Decision (see, GATT, 26th Supp. Basic Instruments & Selected Documents (BISD) 203 (1980)).

10 ERD Working Paper No. 89: Rules of Origin: Conceptual Explorations and Lessons from the Generalized System of Preferences, Teruo Ujiie, December 2006 (http://www.adb.org/Documents/ERD/Working_Papers/WP089.pdf)

West Bank, the Gaza Strip or a Qualifying Industrial Zone, United States-Caribbean Basin Trade Partnership Act, United States-Chile Free Trade Agreement Implementation Act, **United States-Israel Free Trade Agreement Implementation Act, United States-Jordan Free Trade Area Implementation Act**, United States-Singapore Free Trade Agreement Implementation Act, Preferential Duty Trade Initiatives Eligible Products and Preferential Rates of Duty in the HTSUS and Legislation and Implementing Regulations.[11]

Methods for Determining Origin

The 1974 Convention on the Simplification and Harmonization of Customs Procedure - also known as the Kyoto Convention- contains many annexes, each setting out procedures related to a particular area of customs administration. Each member decides which of these it will adhere to. Not all of the annexes have entered into force. Among them is an annex on rules of origin (Annex D I), which formed the first substantial step towards dealing with ROO on a multilateral level.[12] Despite the significant flexibility that the Kyoto Convention gives to signatories regarding their choice of origin system, only a limited number of countries signed it, some accepted to only parts of it (for example the U.S has partially ratified it and has not accepted the provisions regarding rules of origin)[13] this meant that the annex became little more than a general guidance used in determining origin at the national level.

The Kyoto Convention defines ROO as "the specific provisions, developed from principles established by national legislation or international agreements (origin criteria), applied by a country to determine the origin of goods".[14] It provides a list of ten types of products that should be considered to originate in a country because they are wholly produced or obtained there, these are largely natural resource-based products extracted or obtained from the territory of the country. When two or more countries are involved in the production of a product, the Kyoto Convention states that the country of origin of the product is the one in which the last substantial transformation took place, that is, the country in which the significant manufacturing or processing occurred most

11 http://www.customs.ustreas.gov/xp/cgov/toolbox/legal/informed_compliance_pubs/

12 The Kyoto Convention entered into force in 1974 and was revised in June 1999. The Revised Convention entered into force on February 2006. This convention creates a framework and includes recommendations and best practices for simplifying and harmonizing customs procedures and is administered by the World Customs Organization (http://www.wcoomd.org).

13 Trade Laws and Institutions: Good Practices and World Trade Organization, Bernard M. Hoekman, 1995, World Bank Publications.

14 Chapter 1: Specific Annex K to the Kyoto Convention 1999.

recently. Significant or substantial in this respect is defined as sufficient to give the product its essential character, but it is not a precise concept; and there are at least three different methods (tests) which can be employed in the determination of origin:

A. Change in tariff classification (CTC):

The Harmonized Tariff System Classification (HS Code)[15] is an international standardized numerical method of classifying traded products, which assigns number to each product, it is used by more than 200 countries and Customs or Economic Unions (124 of which are Contracting Parties to the HS Convention a World Customs Organization (WCO) instrument), as a basis to determine the duties, taxes, and regulations that apply to the product and for the collection of international trade statistics.
As such, the HS is organized into 99 chapters arranged in 22 sections. Each section generally covers an industry and the chapters cover the various products and materials of the industry. The HS Code is organized in a ten-digit numbering system; the basic HS code contains a 4-digit heading and 6-digit subheading that builds upon the previous digits. The first 6-digits are universal. Digits 7 to 10 vary from country to country and are purely for statistical and tariff purposes. For example:

- **Chapter 40** is for "RUBBERS & ARTICLES THEREOF" (product)
- Heading **"4001"** (4-digits) is the HS code for "natural rubber, balata, chicle etc, prim form etc." and
- Subheading **"400110"** (6-digits) is for "Natural Rubber Latex".[16] [17]

The change in tariff classification (CTC) requires a change in the tariff chapter, heading (CTH), or subheading (CTS) in the HS Code. Simply, substantial transformation is attained if the tariff classification of the manufactured good differs from that of the foreign components or materials imported from a third countries which have been used in the production process, generally CTC method prohibits the use of non-originating materials from a certain subheading, heading, or chapter.

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15 The latest version of the HS entered into force on 1 January 2007. The WCO amended the HS code (Harmonized Commodity Description and Coding System) to include more than 350 sets of amendments to the code mainly related to: Recording Technological progress in the nomenclature; adapting the Nomenclature to reflect current trade practices, Clarifying the texts of the nomenclature to ensure uniform application, and catering for social and environmental concerns in the nomenclature.

16 http://exportvietnam.googlepages.com/harmonizedsystem

17 The EU has a Combined Nomenclature (CN) the Harmonized System (HS) nomenclature with further Community subdivisions. The basic regulation is Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff. (See, http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/combined_nomenclature/index_en.htm)

For example: a manufacturer produces beer in country A, to be exported to country B. The malt is imported from country C - a third country - which makes it non-originating material in country A, however all other materials used in the production are from country A. The CTC ROO for beer would read something like this: production from material other than those of heading 2203, meaning that the non-originating material used to produce the beer has to have a 4-digit tariff classification different from the malt.

While the CTC method has the virtue of being a simple comparison between intermediate materials and the final products, the problem with the application of this method is that the HS Code was not designed to serve as an instrument for determining the origin of goods as it is for trade classifications rather than for industrial classifications (i.e. the absence of sufficient elements for determining those specific changes in tariff classification that guarantee an equivalent "substantial transformation" in the production of each and every item in the tariff universe).

B. Minimum value added threshold (VA or "ad valorem"):

In order to meet the substantial transformation text, the VA method requires a minimum value of national content[18] to be incorporated in the final product. The VA criterion suffers from several shortcomings, as it disadvantages the use of more efficient, cost-saving techniques and is highly sensitive to changes in the factors that determine a country's production costs (such as exchange rates, interest rates, wages, and workers' fringe benefits). It can also increase the cost of compliance, given the need for laborious and demanding accounting, operational, and financial procedures to be carried out by customs authorities and manufacturing firms, this cost basis problem has led to using an alternative way to apply the methodology, by setting a maximum foreign content threshold.

The value-added content requirement in a manufactured product is represented by a percentage of the ex-works price of the product, which is left for each country to decide. For example, the VA ROO may read: manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product.

FTAs may introduce multiple methods for calculating, but generally speaking, there are three methods of calculating the local value added in a good:

18 In case of regional FTA, the content may be calculated regionally, such as the Regional Value Content (RVC) unused under NAFTA.

(i) Ex- factory cost:

Local value added (%)

=

Local raw material cost + **Direct labor cost** + **Direct overhead cost x 100 (%)**

=

Ex-factory cost

(ii) Ex-factory price:

Local value added (%)

=

Local raw material cost + **Direct labor cost** + **Direct overhead cost** + **Profit x 100%**

=

Ex-factory price

(iii) Free-on-board (FOB)

Local value added (%)

=

Local raw material cost + **Direct labor cost** + **Direct overhead cost x 100(%)** + **Profit** + **Inland transportation cost x 100%**

=

FOB price

VA method may be simple, transparent and easy to check, however, it does sustain a number of shortcomings as it tends to penalize the use of more efficient cost-reduction techniques; it is highly sensitive to changes in determining factors of the cost of production between countries, such as, relative exchange rates, wages and labor costs; it increases the cost of the administrative compliance procedure, given the need for strict and expensive accounting, operational and financial procedures, both at the national customs level and at the level of the

producers themselves; it reproduces inequalities in the distribution of benefits between countries, not only by favoring countries with more vertically integrated, and generally more complex production facilities – as in the case of industrialized countries– but also by relatively penalizing those countries with low wages and salaries, such as those that are relatively less developed as well as having a problem related to reliable classification, according to its specific origin of intermediate materials and inputs used in production, and with the precise accounting of their respective values in the regional content value of the final product, to avoid inappropriately considering all of the input as originating or non-originating.[19]

C. Specific Processing (SP):[20]

To satisfy the **substantive transformation** text the SP method requires the use of a specific predefined set of local operations or technical process in the manufacturing of the product.
For example, the fabric used in the garment must be woven locally.

The SP method is an objective rule but it is technically difficult to keep updated with the comprehensive inventory of the productive processes available at any given time and which are constantly changing. Also, this criterion is discretionary, because of the absence of classification elements that impartially guarantee the equivalence of different degrees of transformation in the production of different goods, leading to high compliance cost.

These three methods / tests are the primary origin-determining mechanisms most countries currently use, each having its advantages and disadvantages; in practice ROO regimes will employ the methods in combination with each other and for each good at its tariff item level depending on a number of elements.

From the economic perspective, ROO will have certain characteristics, which act to ensure that production is within a certain competitive framework, by incorporating conditions of pricing and/or quantity, leading to a possible shift in production patterns from low cost third country suppliers to higher cost sources.[21] For example, the European Community's (EC) ROO governing treatment of imports of semiconductors

19 Market Access in FTAs: Assessment Based on Rules of Origin and Agricultural Trade Liberalization, Inkyo Cheong and Jungran Cho, RIETI Discussion Paper Series 07-E-016, 2006-11-16.

20 Also sometimes referred to as "Technical Requirement".

21 This may very well lead to trade diversion, as the shifts will focus on the overall profitability element by taking advantage of the trade preference, rather than reduction of costs or improvement of profitability.

conferred origin based on the place of assembly, in February 1989 the EC changed its practice, and began to confer origin based on the place of diffusion. Thus, if diffusion is undertaken within the EC, then origin is granted and importation to another EC country is duty-free, however, if diffusion is undertaken abroad, then the chip is treated as having been produced outside the EC and the common external tariff applies. This change would promote investment in the EC by Japanese and US firms who might otherwise have only assembly operations in the EC and would grant origin to EC producers who assembled their products abroad. [22]

Accordingly, one of the most important areas in implementation of ROO is the choice of method/text for determination of origin, which is appropriate to the level of economic development of each country. The methods which are already adopted by developed countries would not be appropriate to developing countries because, each origin method has its own merits and demerits. For example, VA method would have merits for localization of production and inward processing, and thus seemingly could create more jobs in domestic market with trade diversion or creation effect, by encouraging the establishment of production facilities within the FTA partner to take advantage of the ROO, however, the VA method is not appropriate to the economies in which the production cost and currency rate is fluctuating severely, and computerization necessary for correct calculation of the value added percentage is not well elaborated.

From a trade policy point of view ROO should play a neutral role, however, they are sometimes used for protectionist ends: origin rules that are too restrictive or are enforced arbitrarily can expand improperly the coverage of trade restrictions.[23] This is next to the political elements that remain present in most ROO regimes "because they affect who gets what, when and how".[24]

22 Understanding Rules of Origin, Kala Krishna, NBER Working Paper Series 11150, February 2005.

23 See, http://www.meti.go.jp/english/report/downloadfiles/2007WTO/2-9RulesofOrigin.pdf

24 Destler, I.M. (2003). US Trade Politics and Rules of Origin: Notes Toward A Paper. Workshop on Rules of Origin. Paris, France May 24.

Administration of ROO

ROO are administered by the customs authority of a country. In the administration of ROO, there are two main aspects to consider, the first relates to the determination of origin, this is linked to the rules themselves, and the method/criteria (CTC, VA and SP) used to ascertain on which treatment the imported goods would qualify to enter under (i.e. MFN or FTA). This assertion requires certain verification and accounting procedures (such as review of the manufacturing processes; the calculation of values, cumulation and minimum requirement), undertaking both by the customs authority as well as the manufacturer,[25] which contribute to cost of application and make them burdensome. Additionally, the involvement between the manufacturer/exported and the custom authorities in the application of the rules, necessitates strong capacities and capability, both for customs authorities as well as enterprises.[26]

The second is the question of certificates. When exporting goods the documentary standard require that adequate documentation of origin and consignment also be submitted.[27] Countries will require giving written proof of the country of origin of imported goods, usually this is in the form of a Certificate of Origin (CO) which is the document used in international trade to identify the origin of goods being exported, and is one of the key basis for applying tariff rates, depending on the customs regulation of the importing country. However; as early as 1953, the GATT Contracting Parties[28], considering that the CO may be used as a barrier to international trade, agreed that CO should only be used where they are strictly indispensable.

The purpose of the CO is to authenticate the country of origin of the goods being shipped, as well as identify the exporter, the producer and the importer, and contains a full description of the exported goods. Failure to supply the CO may result in a delay in shipping and processing of shipments, as well as potential extra duty charges. In most cases, a specific formal document is required; below is an example of a CO: [29]

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25 This is particularly problematic for small and medium size enterprises that are the driving force for export-led economic development.

26 Kunio Mikuriya, Deputy Secretary General, WCO, Keynote Speech for the ADB/WCO Regional Seminar on Rules of Origin, 8-12 March 2004, ADB, Manila, Philippines.

27 Traditionally, ROO take into consideration different components: origin component; consignment standards and documentary standards. Compliance with consignment standards satisfies authorities that products shipped from beneficiary countries are the same at the port of disembarkation (such that no manipulation, exchange, dilution or third country trade of products has taken place).

28 The formal term for members of the GATT 1947, GATT Contracting Parties are now WTO Members.

29 See, http://www.wtcdn.com/pdf/cert_of_origin_us.pdf

CERTIFICATE OF ORIGIN

SHIPPER/EXPORTER	DOCUMENT NO.
	EXPORT REFERENCES
CONSIGNEE	FORWARDING AGENT REFERENCES
	POINT AND COUNTRY OF ORIGIN
NOTIFY PARTY	DOMESTIC ROUTING/EXPORT INSTRUCTIONS
PIER OR AIRPORT / DATE OF SHIPMENT	
EXPORTING CARRIER (Vessel/Airline) / PORT OF LOADING	ONWARD INLAND ROUTING
AIR/SEA PORT OF DISCHARGE / FOR TRANSSHIPMENT TO	

PARTICULARS FURNISHED BY SHIPPER

MARKS AND NUMBERS	NO. OF PKGS.	DESCRIPTION OF PACKAGES AND GOODS	GROSS KILOS	GROSS WEIGHT (LBS.)	MEASUREMENT

The undersigned .....(Owner or Agent), does hereby declare for the above named shipper, that the goods as described above were shipped on the above date and consigned as indicated and are products of the United States of America.

Dated at ..... on the ..... day of ..... 20..... .

Sworn to before me this .....day of ..... 20.....

.....

.....

Certificates of Origin are also important for import quota purposes; statistical purposes, and for apply health and safety regulations.

As ROO are utilized to identify the "economic nationality" of goods in international trade, then it can be said that the CO is the "passport" of the goods, which is submitted by an exporter listing the goods to be imported and stating their place of origin. Like ROO, origin certificates are also classified into two sets:

A. Non-preferential CO (or ordinary): The CO document is used to satisfy the customs authorities of the importing country that the goods being exported are wholly obtained, produced or manufactured in the exporting country or in another country, depending on the rule.

B. Preferential CO: The CO document will attest that the goods being exported are of a certain origin under the definitions of a particular FTA (or customs union or the GSP), in order to benefit from the preferential treatment granted under the FTA. **There may be a number of preferential ROO schemes applied depending on the various FTAs which a country may be party to.**

The term **"originate"** in a CO will mean the country where the goods are actually made; this will differ depending on the ROO scheme applied. An often used practice is that if the percentage of national content is more than 50% of the goods then that country is acceptable as the country of origin. In various ROO schemes applied in FTAs, other percentages of national content will be specified, **which requires that for each exported good the specific origin rule for that good has to be examined and satisfied in order for the good to obtain origin, whether preferential or not.**

The CO is a formal document, where the importing country will require that it be confirmed by an official body in the exporting country, this is normally the customs authority but in some cases the latter may authorize other bodies to issue the CO, in other cases it may be an informal document issued by the exporter. The main methods for obtaining a CO are:

- Self-certification by the exporter.
- Certification by the exporting county government (customs authority).
- Certification by an industrial umbrella group to which the exporting county government/customs authority has delegated that task of issuing a CO to it (such as the chamber of industry).
- A combination of the "private" self-certification and the "public" governmental certification.

The ROO regime within a FTA will stipulate the form of CO required. Therefore; before concluding a transaction, the exporter and importer should always clarify whether a CO is required, and if so, agree on exactly the form and content of the CO depending on the ROO scheme, that is to say, that they must first identify the country of destination of the goods and which ROO scheme appliers as between the exporting country or country of manufacture/origin and the importing country, and accordingly apply and obtain the appropriate CO, following the set procedure.

Generally speaking, if the party wishing to obtain a CO is the manufacture, this will normally entail that s/he submit an application to the customs authority. A customs officer will then arrange to inspect the factory to see that it has the machinery and manpower to manufacture the product and that it keeps proper books and records of its operations. Upon successful application, the manufacturer will receive an official letter of approval from customs authority. Thereafter, the manufacturer will also be required to submit the manufacturing cost statement of their product to customs for verification that the goods in question meet the necessary ROO; the submission should be made in the respective formats for the application of a CO under the various ROO schemes. Upon successful verification of the manufacturing cost statement, then this statement will be valid for a certain period of time, for example one year. Then the manufacturer will be able to obtain a CO for the exported goods.

If the party wishing to obtain a CO, is an exporter who purchased the goods from a manufacturer, then s/he should also apply for a CO, provided that when doing so all other necessary supporting documents (such as a declaration by the manufacturer that the goods are made by him and that the manufacturer has a valid manufacturing cost statement) are also supplied, to show that the goods satisfy the ROO scheme for the CO that s/he want to obtain[30].

The administrative procedures required for obtaining a CO place costs not only on the exporter but also on the customs authority of the importing country, who will in turn incur cost for the verification of the origin of the goods. These costs, which are essentially book-keeping costs, vary from country to country depending on the method employed for obtaining the CO. In Brazil, for instance, the cost of obtaining certification for a single shipment from a certifying agency is estimated to range between 6 and $ 20; in Chile, the cost is $ 7. [31]

30 Manufacturer's Guide to Rules of Origin under Free Trade Agreements, Singapore Customs, June 2007 (http://www.customs.gov.sg/NR/rdonlyres/B5C01C21-1B57-4E1B-B766-18F7C4170E1B/17167/manufacturerguide28June.doc)

31 Rules of Origin: The Emerging Gatekeeper of Global Commerce, Antoni Estevadeordal and Kati Suominen, UN 2005 (http://www.unctad.org/en/docs/ditctncd20047ch5_en.pdf)

Feature of ROO Regimes

ROO regimes often include some additional regime-wide clauses to facilitate their administration and the verification of origin requirements, these are:

A. De minimis rules ***(Tolerance rules)*****:** This allows a specified maximum percentage of non-originating materials to be used without affecting origin. The de minimis rule inserts leniency in the CTC method by making it easier for products with non-originating inputs to qualify. In most cases, the De Minimis rule is applied to less than 10% of total value of final products to be sourced from non-member countries, an exception to this is the EU-South Africa FTA, where the De Minimis rule is set at 15% and at 7% in NAFTA.

B. Roll-up rule or absorption principle: This allows initially non-originating materials that have acquired origin by meeting specific processing requirements to be considered originating when they are used as inputs in a subsequent transformation. In other words, the non-originating materials are no longer taken into account in calculating value added. The roll-up or absorption principle is used in most PTAs (in particular the EU's GSP and Cotonou), although a few have exceptions for the automotive sector.

Thus a subcomponent of a product which is imported from country A to country B, provided it has obtained origin in country B; is used in the manufacture of the final product the value of the imported subcomponent as a whole will be counted as a FTA content; its whole value will be added to the local content acquired in country A to fulfill the preferential ROO requirement of the FTA, for the complete final product. Reversely, when the subcomponent does not acquire originating status the whole value of the subcomponent would be counted as foreign, and will be represented as a percentage of the content of the final product, which may not lead to conferring of origin on the final product, thereby preventing benefit from the preferential ROO under the FTA, this is known as the ***roll-down rule.***

C. Cumulation of Origin: This allows the treatment of product components obtained from within the FTA members as locally produced, even though they are not originating in the member that has produced the final product.

There are three types of cumulation:

(i) Bilateral Cumulation: Which operates between the two FTA parties and allows them to use products that originate in the other FTA party as if they were their own when seeking to qualify for the FTA-conferred preferential treatment in that partner.

(ii) Diagonal Cumulation: Where countries tied by the same set of preferential origin rules can use products that originate in any part of the common ROO zone as if they originated in the exporting country. Diagonal cumulation is almost exclusively a matter of the European preferential trading arrangements.[32]

(iii) Full Cumulation: Which provides that countries tied by the same ROO regime can use goods produced in any part of the common ROO zone even if these were not originating products: any or all of the processing carried out in the zone is calculated as if it had taken place in the final country of manufacture.

For example, both the US and El Salvador, two parties in Central American Free Trade Agreement (CAFTA), have separate FTAs with Mexico, a nation that is not in CAFTA. Consider a specific Mexican raw material that can be exported, tariff free, to both the US and El Salvador, thanks to those other agreements. Tariff cumulation would be allowing, then, for that Mexican raw material to be counted as Salvadorian, when assessing whether a product containing that material, and processed in El Salvador, meets the CAFTA rule of origin to enter the US.

32 It may also be noting here, that the EU also has whit it refers to as "Regional Cumulation", which is a form of Diagonal Cumulation, but only exists under the Generalized System of Preferences (GSP) and operates between members of a regional group of beneficiary countries.

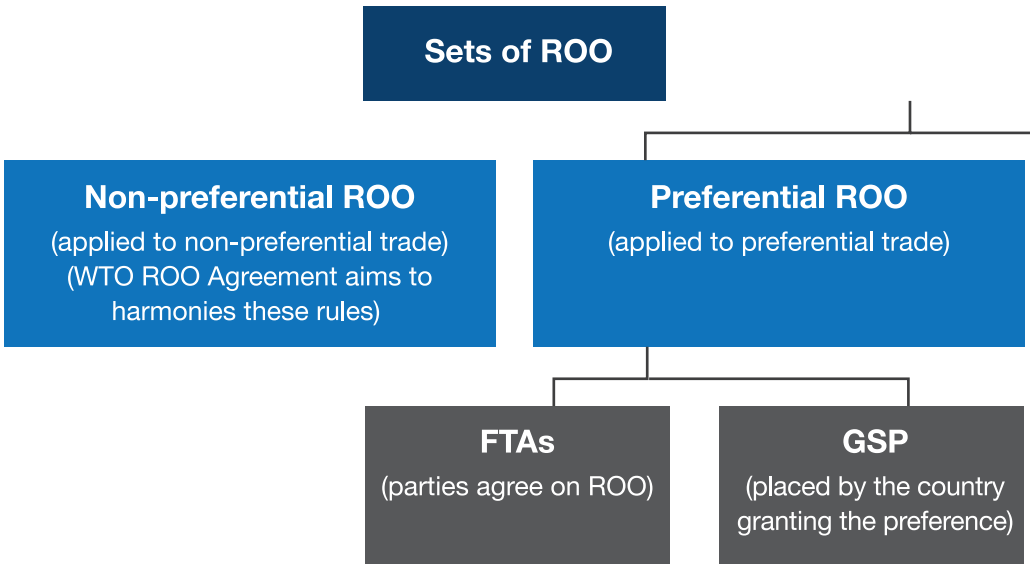
Importance of ROO

The globalization of the means of production, which has made origin determination increasingly difficult and dispute prone, and the increasing use of discriminatory trade policy tools (such as trade remedies) has resulted in the need to determine the country of origin so that they can be effectively targeted, these as well as the growing tendency to make use of ROO as protectionist tool per se, instead of using them as devices supporting primary trade policy instruments,[33] are some of the main factors which have generally attributed to the raise of the importance of ROO, and has necessitated the WTO ROO Agreement that aims to minimize the trade distorting effects of recent ROO schemes, by establishing harmonized non-preferential rules for the determination of origin.

The principles underpinning the WTO are that of non-discrimination, the MFN treatment requires a WTO Member to give the same level of treatment to all WTO Members, with certain exceptions like that **of a free trade agreement pursuant to GATT Article XXIV..**

The proliferation of FTAs and thereby the various ROO schemes contained therein, that form an essential part of the agreement, has also contributed to the importance of ROO.

Countries will have both sets of ROO, Non-preferential rules which apply to imports from countries where it does not have free trade agreements with, and different preferential ROO, depending on the agreed ROO scheme contained in each FTA.



33 Rules of Origin: Evolving Best Practices for RTAs/FTAs, Dorothea C. Lazaro and Erlinda M. Medalla Philippine Institute for Development Studies, Discussion Paper Series No. 2006-01, January 2006 (http://www3.pids.gov.ph/ris/dps/pidsdps0601.pdf)

To better understand the importance of ROO, it is necessary to address the effects that these rules have on international trade.

From an economic point of view, it is assumed, under the comparative advantage theory,[34] that removing and minimizing trade restrictions will produce an economically efficient allocation of resources. If ROO schemes within FTAs are used as protectionist instruments this will lead to the placing of obstacle to overall world trade and therefore the non-optimal allocation of resources. However, if industries are generally characterized by economies of scale, strategic protection can be used to help industries gain such economies, in such cases ROO within an FTA can be constructed in a way that the rule is applied to ensure "helpful" trade policy measures.

Equally, if unfair trade[35] is distorting the market so that the result is not an efficient distribution of production and trade according to comparative advantage, then discriminatory counter measures (i.e. anti-dumping or countervailing measures) may be justified. In this case, strictly defined ROO requirements can reinforce the counter measure designed to correct this market distortion. However, the way that the ROO are actually implemented, even for justified counter measures, might be doing more than just correcting a distortion through diverse interpretation of ROO.

ROO also effect investment flows, when artificially encouraging inward investment by causing excessive investment in the territories of major importers to satisfy local content requirement of those importer country, which may lead to a raise in prices due to the lack of effective competition, or conversely; due to over investments in segmented markets, may cause either overproduction or underutilization of the production capacity leading to losses.

ROO may lead to the localization of the final stage of production, by assuming that current origin rules are predominantly based on the criteria of the substantial transformation (especially, change in tariff classification), ROO on this concept can be imagined to prefer the stage of final production to that of intermediate production which essentially represents component production. Therefore, origin requirement might cause the localization of the last stage in the whole production process rather than the consideration of comparative advantage. In turn, this might further cause less allocation of recourses towards research and development activities as the first stage of production.

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34 See, International Trade Theory and Policy, by Steven M. Suranovic (http://internationalecon.com/Trade/Tch40/T40-0.php).

35 Under the GATT "unfair trade" refers to exports that are subsidies or dumped (See, Deardorff's Glossary of International Economics).

Part II JUSFTA Rules of Origin

An Overview

JUSFTA Rule of Origin have three criteria:[36]

A. Wholly Obtained/Substantial Transformation Requirement: To qualify for duty-free treatment under the FTA, goods imported to either Party must be made entirely in one of the FTA parties or, if any third-country materials are used, those materials must be "substantially transformed" into Jordan/US origin products as a result of manufacturing or processing operation. For textile and apparel products, the FTA has a special set of "substantial transformation" rules.

B. 35% Domestic Content Requirement: The Jordan-US FTA requires that 35% of the customs value of the imported product must be attributed to Jordan/US origin materials and/or to direct costs of processing carried out in the FTA partner. However, the cost or value of either Jordanian-origin materials or US-origin material incorporated in the imported product can be counted, but only up to 15% of the customs value of the good.

C. Direct Transport Requirement: This requirement is included to ensure that qualifying goods are not mixed with non-qualifying goods while en route to Jordan/US. This will require proof that the goods are shipped directly from the US to Jordan, or vis versa, with two exceptions:

(i) The exporter ships the goods via a third countries, in this case the shipping documents (invoice, bills of lading) must show Jordan/US as the final destination, and the goods must not enter the commerce of the third countries en route,[37] meaning that the shipment, when passing through the third countries, must remain under customs control.

(ii) The exporter ships the goods to a third country, where the goods are placed in a customs warehouse or a customs-controlled free trade zone prior to shipment to Jordan/US. The goods may not be processed or manipulated while in the third-country, except for operations that may be necessary to preserve the goods, such removal of dust that accumulates during shipment, ventilation, replacing damaged packing

36 U.S. - JORDAN Free Trade Agreement: Rules of Origin Manual, USAID AMIR Program, Brian J. O'SHEA and Sheri ROSENOW, August 2001.

37 A limited exception to the "no sale" rule is where the sale is one other than at retail, and "the articles are imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent".

materials and containers or removal of units of the good that are spoiled or damaged and present a danger to the remaining units in the shipment. [38]

A Certificate of Origin is not required under the agreement, the importer will **"self-certify"** that the goods are eligible for duty-free treatment, by marking the Customs Declaration Form to indicate that the goods are imported duty-free under the agreement and meet the ROO requirements. However, in certain specific cases customs may require the importer to prepare, sign and submit a detailed "declaration." The circumstances in such a "declaration" may be requested are as follows:

- Where Customs has reason to question the accuracy of the importer's claim.
- Where Customs, applying risk criteria, determines that further verification of the importer's claim are warranted (but not however for other reasons such as health, safety, or incorrect tariff classification).
- Where Customs conducts a random verification.

The Agreement further specifies that the Declaration contain all pertinent information concerning the production or manufacture of the article, as a minimum, it should include the following details:

(i) a description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading;
(ii) a description of the operations performed in the production of the article in a Party and identification of the direct costs of processing operations;
(iii) a description of any materials used in production of the article which are wholly the growth, product or manufacture of either Party, and a statement as to the cost or value of such materials;
(iv) a description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in a Party so as to be materials produced in that Party, and
(v) a description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in a Party.

Though the Declaration is not mandatory, and in general should not be requested, the Agreement goes on to states that "the information necessary for the preparation of the declaration shall be retained in the files of the importer for a period of 5 years", this is to ensure that the information remains available should it be requested by customs.

38 There are special origin rules for textiles and apparel products (Article 9 of Annex 2.2 of the Jordan – US FTA).

A closer look at the rules

Annex 2.2. Article	Explanatory Note
1. This Agreement shall apply to any article if: (a) that Article is **wholly** the growth, product or manufacture of a Party or is a new or different article of commerce that has been grown, produced, or manufactured in a Party; (b) **that article is imported directly from one Party into the other Party;** and (c) the sum of (i) the cost or value of the materials produced in the exporting Party, plus (ii) the direct costs of processing operations performed in the exporting Party is not less than 35 percent of the appraised value of the article at the time it is entered into the other Party.	The annex applies to “Goods». Goods are defined to be all those commodities which are classifiable under the Harmonized System (HS). JUSFTA benefits apply to tariff items listed in the Harmonized Tariff Schedule and identified by “JO” in the Special column. Available at: *https://hts.usitc.gov/current* The agreement does not apply to services, or intellectual property. The JUSFTA have **these basic rules** **The goods must be either** - "wholly obtained"; or - "substantial transformation", and/ or - the %35 domestic content requirement these rules determine the product’s country of origin another important requirement for obtaining the tariff preference is the - **"direct transport" rule** - this rule is intended to reinforce the country of origin requirements The provisions of the annex go on to explain what is meant by these rules. The annex also provides the process that customs authorities from both parties will follow as well as the process to be followed by importers’ for filing their duty free treatment claims.

Annex 2.2. Article	Explanatory Note
2. No article shall be considered a new or different article of commerce under this Agreement and no material shall be eligible for inclusion as domestic content under this Agreement by virtue of having merely undergone (a) simple combining or packaging operations or (b) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.	**Simple transformation processes** such as combining or packaging operations or mere dilution with water or with another substance does not confer origin.
3. For purposes of this Agreement, the expression **"wholly the growth, product, or manufacture of a Party"** refers both to any article which has been entirely grown, produced, or manufactured in a Party and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in a Party, as distinguished from articles or materials imported into a Party from a non-participating country, whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into the Party.	Goods produced wholly in a given country shall be taken as originating in that country. The following only shall be taken to be produced wholly in a given country: a) mineral products extracted from its soil, from its territorial waters or from its seabed; b) vegetable products harvested or gathered in that country; c) live animals born and raised in that country; d) products obtained from live animals in that country; e) products obtained from hunting or fishing conducted in that country; f) products obtained by maritime fishing and other products taken from the sea by a vessel of that country; g) products obtained aboard a factory ship of that country solely from products of the kind covered by paragraph (f) above; h) products extracted from marine soil or subsoil outside that country's territorial waters, provided that the country has sole rights to work that soil or subsoil; ij) scrap and waste from manufacturing and processing operations, and used articles, collected in that country and fit only for the recovery of raw materials; k) goods produced in that country solely from the products referred to in paragraphs (a) to (ij) above. Source: Revised Kyoto Convention, Specific Annex K / Chapter 1 Also you can visit the US Customs and Border protection at: https://www.cbp.gov/trade/nafta/guide-customs-procedures/rules-origin/wholly-obtained

Annex 2.2. Article	Explanatory Note
4. For the purposes of this Agreement, "country of origin" requires that an article or material, not wholly the growth, product, or manufacture of a Party, be substantially transformed into a new and different article of commerce, having a new name, character, or use distinct from the article or material from which it was so transformed.	If an imported product consists of components that are from more than one country, a criterion known as **substantial transformation is used to confer origin.** In most cases, the origin of the good is determined to be the last place in which it was substantially transformed into a new and distinct article of commerce based on a change in name, character, or use. For determining origin, the JUSFTA provides for one or more of the following factors: - the character/name/use of the article; - the nature of the article's manufacturing process, as compared to the processes used to make the imported parts, components, or other materials used to make the product; - the value added by the manufacturing process (as well as the cost of production, the amount of capital investment, or labor required) compared to the value imparted by other component parts; and - whether the essential character is established by the manufacturing process or by the essential character of the imported parts or materials.
Footnote No. 1: For the purposes of this Agreement, the processing of goods imported under Harmonized Commodity Description and Coding System (HS) subheading 0805 into goods classified under HS subheadings 2009.11 through 2009.30 does not satisfy the requirements of paragraph 1(a).	The footnote ensures that the production of citrus juice from fruit may not be considered a substantial transformation, and does not benefit from the tariff preference. Citrus juice would only be originating if the fruit was grown in Jordan / U.S. and made into juice there.
5. For purposes of determining the 35 percent domestic content requirement under this Agreement, the cost or value of materials which are used in the production of an article in one Party, and which are products of the other Party, may be counted in an amount up to 15 percent of the appraised value of the article. Such materials must in fact be products of the importing Party under the country of origin criteria set forth in this Agreement.	The JUSFTAs also require a local content test. A local content test requires a product to contain a minimum percentage of domestic value-added (as reflected by the origin of physical components or parts, as well as labor and manufacturing processes) that originated in one of the partners. The amount of local content required under the JUSFTA is at least %35 of the appraised value of the product. 15 percentage of U.S. content may count toward meeting the content test. This is referred to the "Shared Production" or Accumulation Rule.

Annex 2.2. Article	Explanatory Note
6. (a) For purposes of this Agreement, the cost or value of materials produced in a Party includes: (i) The manufacturer's actual cost for the materials, (ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant, (iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap, and (iv) Taxes and/or duties imposed on the materials by a Party, provided they are not remitted upon exportation. (b) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of: (i) All expenses incurred in the growth, production, or manufacture of the material, including general expenses, (ii) an amount for profit, and (iii) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant. (c) If the pertinent information is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.	Articles 6 and 7 of the Annex go on to elaborate the cost or value of the materials produced for the calculation of the local contention requirement.
7. Direct costs of processing operations (a) For purposes of this Agreement, direct costs of processing operations	

Annex 2.2. Article	Explanatory Note
performed in a Party mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of the specific article under consideration. Such costs include, but are not limited to the following, to the extent that they are includible in the appraised value of articles imported into a Party: (i) all actual labor costs involved in the growth, production, manufacture, or assembly, of the specific article, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel; (ii) dies, molds, tooling and depreciation on machinery and equipment which are allocable to the specific article; (iii) research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific article; and (iv) costs of inspecting and testing the specific article. (b) Those items that are not included as direct costs of processing operations are those which are not directly attributable to the articles or are not costs of manufacturing the product. These include, but are not limited to: (i) profit; and (ii) general expenses of doing business which are either not allocable to the specific article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.	

Annex 2.2. Article	Explanatory Note
8. For purposes of this Agreement, "imported directly" means: (a) direct shipment from one Party into the other Party without passing through the territory of any intermediate country; or (b) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents, show the other Party as the final destination, or (c) if shipment is through an intermediate country and the invoices and other documents do not show the other Party as the final destination, then the articles in the shipment, upon arrival in that Party are imported directly only if they (i) remain under the control of the customs authority in an intermediate country; (ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, provided that the articles are imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent; and (iii) have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition.	**DIRECT SHIPMENT RULES** The **JUSFTA direct shipment rules requiring goods to be shipped directly from the Jordan to the U.S. or from the U.S. to Jordan.** For example: direct air flights or sea shipments **Exception are provided, whereby:** Good are shipped through third countries, in such a case: - the shipping documents (invoice, bills of lading) accompanying the shipment must show the U.S / Jordan as the final destination, and - the goods must not enter the commerce of the third countries en-route. This means that the shipment must remain under customs control and may not «enter the commerce» (i.e. be sold or offered for sale in the country of transit). The goods in shipment while in the intermediate country may only be subjected to activities necessary to preserve the goods such as removal of dust that accumulates during shipment, ventilation, replacing damaged packing materials and containers, or removal of units of the good that are spoiled or damaged and present a danger to the remaining units in the shipment.

Annex 2.2. Article	Explanatory Note
9. Textile and apparel products (a) General rule. A textile or apparel product shall be considered to be wholly the growth, product or manufacture of a Party, or a new or different article of commerce that has been grown, produced, or manufactured in a Party; only if (i) the product is wholly obtained or produced in a Party; (ii) the product is a yarn, thread, twine, cordage, rope, cable, or braiding, and, (1) the constituent staple fibers are spun in that Party, or (2) the continuous filament is extruded in that Party; (iii) the product is a fabric, including a fabric classified under chapter 59 of the Harmonized Commodity Description and Coding System, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in that Party; or (iv) the product is any other textile or apparel product that is wholly assembled in that Party from its component pieces. (b) Special rules. (i) Notwithstanding subparagraph (a)(iv), and except as provided in subparagraphs (b)(iii) and (b)(iv), whether this Agreement shall apply to a good that is classified under one of the following HTS headings or subheadings shall be determined under subparagraphs (i), (ii), or (iii) of subparagraph (a), as appropriate: ,6209.20.50.40 ,5811 ,5807 ,5609 ,6304 ,6302 ,6301 ,6214 ,6213 ,6307.90 ,6307.10 ,6306 ,6305 6308, or 9404.90.	The JUSFTA contains specific rules for determining the country of origin of textile and apparel products. They must be applied when determining origin for textile and apparel products. They are intended to ensure The purpose of the special textile rules is to ensure that minimal assembly or pass-through operations will not qualify a product for duty-free treatment. There are two components to the textile and apparel origin rules: a “general rule” (Annex 2.2., Article 9(a)) and “special rules” (Annex 2.2, Article 9(b)), which are exceptions to the general rule. Under these special rules, the origin of a textile or apparel product is defined as the country in which a specific processing or assembly operation takes place. The general rule of origin for textile and apparel articles is as follows: - ¨If the imported good is yarn, then the origin is that country in which the constituent fibers are spun into the yarn. - “Similarly, if the imported good is thread, twine, cordage, rope, cable, or braiding, the country of origin is that country in which the constituent fibers are spun or the constituent fibers are extruded, as the relevant manufacturing technology requires. - ¨ If the imported good is fabric, then the origin is that country in which the individual yarns, fibers or filaments were combined (by a process of weaving, knitting, or otherwise) to form the imported fabric. - If the imported good is clothing or other finished article, then the origin is that country in which the article was wholly assembled by sewing and/or tailoring of all the cut component pieces of fabric into the imported garment (for example, the complete assembly and tailoring of all cut pieces of a suit-type jacket, suits, or shirts).

Annex 2.2. Article	Explanatory Note
(ii) Notwithstanding subparagraph (a)(iv), and except as provided in subparagraphs (b)(iii) and (b)(iv), this Agreement shall apply to a textile or apparel product which is knit to shape in a Party. (iii) Notwithstanding subparagraph (a)(iv), this Agreement shall apply to goods classified under HTS heading 6117.10, 6213.00, 6214.00, 6302.22, 6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85, or 9404.90.95, except for goods classified under such headings as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, if the fabric in the goods is both dyed and printed, when such dyeing and printing is accompanies by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing. (iv) Notwithstanding subparagraph (a)(iii), this Agreement shall apply to fabric classified under the HTS as of silk, cotton, man-made fiber, or vegetable fiber if the fabric is both dyed and printed in a Party, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing. (c) Multi country rule. If the application of this Agreement cannot be determined under subparagraphs (a) and (b), then	The exception to the general rule are articles Produced from Yarns/Articles Produced from Fabric. - The first exception to the general rules applies to the textile and apparel products described in the list below. This exception applies a stricter rule of origin for the listed products than the general rules. - If the imported article falls on this list, then its country of origin will be that country in which the individual yarns are spun (articles of Heading 5609) or the country in which those yarns are formed into a fabric (articles of the remaining headings on the list below). - The reason for this exception is that these articles are generally complete or their intended commercial use once the fabric is formed. Once the fabric is formed, only minor finishing operations (cutting to length or width or hemming, for example) are required to complete these kind of articles. The articles subject to this exception are as follows: - 5609: Articles of yarn, strip or the like of heading - 5404 or 5405: twine, cordage, rope or cablesnesi - 5807: Labels, badges and similar articles of textile materials, in the piece, in strips or cut to shape or size, not embroidered - 5811: Quilted textile products in the piece, composed of one or more layers of textile materials assembled with padding by stitching or otherwise, other than embroidery in the piece, in strips or in motifs - 6209.20.50.40: Cotton diapers for babies - 6213: Handkerchiefs - 6214: Shawls, scarves, mufflers, mantillas, veils and the like - 6301: Blankets and traveling rugs - 6302: Bed linen, table linen, toilet linen and kitchen linen - 6304: Bedspreads, furnishings

Annex 2.2. Article	Explanatory Note
this Agreement shall apply if (i) the most important assembly or manufacturing process occurs in a Party, or (ii) if the application of this Agreement cannot be determined under subparagraph (c)(i), the last important assembly or manufacturing occurs in a Party.	- 6305: Sacks and bags of a kind used for packing goods - 6306: Tarpaulins, awnings and sun blinds; tents; sails for boats, sailboards or land craft; camping goods - 6307.10: Floor cloths, dust cloths, dusters and similar cleaning cloths - 6307.90: Labels, cords, tassels, corset and footwear lacings, toys for pets, wall banners, surgical towels, surgical drapes, tufted towels, pillow shells, quilt and comforter shells, national flags, moving pads, and other made-up textile articles not specifically provided for elsewhere in the Harmonized System - 6308: Needlecraft sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered tablecloths or napkins, or similar textile articles, put up in packings for retail sale - 9404.90: Bedding articles (pillows, cushions, quilts, comforters) In certain cases, articles on this list may undergo significant additional processing after the fabric has been formed. In such cases they may be considered as originating. Articles Knit to Shape products will be considered as originating if the parts are knitted or crocheted directly to the shape used in the finished product. Minor cutting, trimming or sewing does not affect whether component materials are knit to shape. Knit-to-shape applies when 50 percent or more of the exterior surface area (not including patch pockets, appliques, etc.) is formed by major parts that have been knitted or crocheted directly to the shape used in the good.» The JUSFTA allows for exceptions to the general rule with respect to the items listed below if they have undergone significant processing after the fabric was formed

Annex 2.2. Article	Explanatory Note
	These items are: - 6117.10: Knitted or crocheted shawls, scarves, mufflers, mantillas, veils and the like - 6213.00: Handkerchiefs, not knitted or crocheted - 6214.00: Shawls, scarves, mufflers, mantillas, veils and the like, not knitted or crocheted - 6302.22: Printed bed linen, not knitted or crocheted, of manmade fibers - 6302.29: Printed bed linen, not knitted or crocheted, of other textile materials (but not cotton) - 6302.52: Table linen made of flax - 6302.53: Table linen made of man-made fibers - 6302.59: Table linen made of other textile materials (but not cotton) - 6302.92: Toilet and kitchen linen made of flax - 6302.93: Toilet and kitchen linen made of man-made fibers - 6302.99: Toilet and kitchen linen made of other textile materials (but not cotton) - 6303.92: Curtains (including drapes) and interior blinds, and curtain or bed valances, not knitted or crocheted and made of synthetic fibers - 6303.99: Curtains (including drapes) and interior blinds, and curtain or bed valances, not knitted or crocheted and made of other textile materials (but not cotton) - 6304.19 Bedspreads - 6304.93: Furnishing materials other than blankets and traveling rugs, bedspreads, or those kind of articles that are listed above from Headings 6302-6303, made of synthetic materials and not knitted or crocheted - 6304.99: Furnishing materials other than blankets and traveling rugs, bedspreads, or those kind of articles that are listed above from Headings 6302-6303, made of synthetic materials and not knitted or crocheted - 9404.90.85: Quilts, eiderdowns, comforters and similar articles (but not cotton)

Annex 2.2. Article	Explanatory Note
	- 9404.90.95: Bedding articles, other than mattresses, or pillows, cushions and similar furnishing or quilts, comforters and similar articles (but not of cotton) Goods listed above, even if not wholly assembled in one partner, or even if the fabric is not formed in one partner, will be eligible for duty-free treatment if the fabric is both dyed and printed and undergoes two or more specified operations in the one of the partners. This exception applies if such articles are not made either of wool or cotton or not made of fiber blends containing 16% or more by weight cotton. The required processing for such products is the following: fabric used in garment or article is printed and dyed + fabric is subjected to two or more of the following finishing operations: ► Bleaching ► Shrinking ► Fulling ► Napping ► Decating ► Permanent stiffening ► Weighting ► Permanent embossing ► Moirering Dyed and Printed Fabrics in such products a substantial transformation will be recognized if the fabric (regardless where it is formed) undergoes the following processing in the one of the partner countries, if the following process is applied:

Annex 2.2. Article	Explanatory Note
	fabric is both dyed and printed in a partner + fabric is also subjected to two or more of the following finishing operations in that country: ► Bleaching ► Shrinking ► Fulling ► Napping ► Decating ► Permanent stiffening ► Weighting ► Permanent embossing ► Moirering "Multicountry" or Fall Back Rule: if a determination of origin cannot be made through application of the general or the special rules, a residual or fall-back rule is required in order to determine country of origin of the imported good. This residual rule provides that the country of origin is that country in which the most important assembly or most important manufacturing operation takes place. This is a decision that must be made on a case-by-case basis. If the most important assembly or manufacturing operation cannot be determined, then the country of origin is the last country in which an important assembly or manufacturing operation occurred.
10. Whenever an importer enters an article as eligible for the preferential treatment provided by this Agreement – (a) the importer shall be deemed to certify that such article qualifies for the preferential treatment provided by this Agreement.	This provisions outlined the procedure to be followed by exporters / importers when claiming duty-free treatment. The JUSFTA does not require presentation of a certificate of origin. The exporter must make a preference claim under a Declaration (a model form is made available at the end of this document)

Annex 2.2. Article	Explanatory Note
(b) the importer shall be prepared to submit to the customs authorities of the importing country, upon request, a declaration setting forth all pertinent information concerning the production or manufacture of the article. The information on the declaration should contain at least the following pertinent details: (i) a description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading; (ii) a description of the operations performed in the production of the article in a Party and identification of the direct costs of processing operations; (iii) a description of any materials used in production of the article which are wholly the growth, product, or manufacture of either Party, and a statement as to the cost or value of such materials; (iv) a description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in a Party so as to be materials produced in that Party; and (v) a description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in a Party.	The declaration sets forth the pertinent information concerning the article's production or manufacture and all supporting documentation upon which the declaration is based. The exported is expected to "self-certify". Failure to provide the declaration and/or sufficient evidentiary documentation will result in the claim's denial. This information must be retained for five years. The JUSFTA provides no exemption from payment of the merchandise processing fee. This document also contains the US Customs and border control Jordan - Us FTA summary table.

Annex 2.2. Article	Explanatory Note
This declaration shall be prepared, signed, and submitted by the importer upon request by the importing Party. A declaration should only be requested when the importing Party has reason to question the accuracy of the certification that, by operation of subparagraph (a), is deemed to have occurred, or when the importing Party's procedures for assessing the risk of improper or incorrect entry of an imported article indicate that verification of an entry is appropriate, or when a random verification is conducted. The information necessary for the preparation of the declaration shall be retained in the files of the importer for a period of 5 years.	
11. In order to further the administration of this Agreement, the Parties agree to assist each other in obtaining information for the purpose of reviewing transactions made under this Agreement in order to verify compliance with the conditions set forth in this Agreement.	
12. The Parties will consult from time to time on the interpretation of these provisions and on any practical problems which may arise with a view to prevent unnecessary barriers to trade which are inconsistent with the objectives of this Agreement. In this connection, amendments of the present rules could be proposed.	

Annex 2.2. Article	Explanatory Note
13. Within six months of the entry into force of this agreement, the Parties shall enter into discussions with a view to deciding the extent to which the cost or value of materials which are products of a territory contiguous to Jordan may be counted in the appraised value of the Article for purposes of determining the 35 percent content requirement under this Agreement.	

Source: https://www.cbp.gov/trade/free-trade-agreements/Jordan

Model FTA Declaration

DECLARATION

I,_____ (name), hereby declare that the articles described below were produced or manufactured in _____ (country) by means of processing operations performed in that country as set forth below and incorporate materials produced in the country named above:

Number and date of invoices	Description of articles and quantity	Processing operations performed on articles		Materials Produced in Jordan or the U.S.	
		Description of processing operations and country of processing	Direct costs of processing operations	Description of material, production process, and country of production	Cost or value of material

Date_____
Address_____
Signature_____
Title_____

Jordan FTA Summary

Provision	JORDAN (JOFTA)
GENERAL INFO & DATES	
Agreement Name	US-Jordan Free Trade Area Agreement
Implementation Date	December 17, 2001
Expiration	None
Duty Phase-Out	January 1, 2010 (10 years)
Merchandise Processing Fee (MPF)	No Exemption
Imported Directly	May NOT enter the commerce of a 3rd country except for non-retail sale where the importation is the result of the original transaction, may not undergo furthur production in a 3rd country; 19 CFR 10.711, GN 18(c)(vi)
Primary Responsibility for Compliance	Importer
CITATIONS	
HTSUS General Note (GN)	GN 18
US Code	19 USC 2112 note
CFR	19 CFR 10.701-712 (Subpart K)
Marking Rules	19 CFR 134
Special Program Indicator	"JO"
Verification Authority	Annex 2.2(10); 19 CFR 10.712
ORIGINATION, ETC.	
Rules of Origin	"Wholly the growth, product, or manufacture" or value Content + Substantial Transformation
Tarrif Shift Rules	No
Tarrif Shift Rules Updated to Comply with 2007 HTSUS	N/A

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ORIGINATION, ETC.	
Tarrif Shift Rules Updated to Comply with 2012 HTSUS	N/A
Chemical Reaction and Related Rules of Origin	No
Special Origination Rules	No
Drawback Restrictions	No
Repair & Alteration Provision	No
Documentation required in the importer's possession at the time of claim	No, freeform "Declaration" with the elements in 19 CFR 10.704 upon request by CBP
VALUE	
Regional Value Content (RVC) Citations	19 CFR 10.710; GN 18 (iv), (v)
Regional Value Content (RVC) Calculation Methods and Most Common Thresholds	Jordanian materials + direct cost of processing must at least equal 35% of appraised value (up to 15% US content)
Special Regimen for Automotive Goods	No
De Minimis Provision	No
De Minimis and Sets, Non-Textile	No
INVENTORY MANAGEMENT METHODS	
Fungible Goods & Materials	No
CLAIMS & DETERMINATIONS	
Post-Importation Claims	Post Entry Amendment (PEA) or Post Summary Correction (PSC)
Reconciliation Claims	No
Determinations Communicated to Exporter	Yes, if correspondence with exporter
Pattern of Conduct Clause	No

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The American Chamber of Commerce in Jordan

AmCham-Jordan is a member of the United States Chamber of Commerce. Established in 1999 as a voluntary not-for-profit member-based organization that contributes to economic development through the promotion of US-Jordan trade and investment development, policy advocacy, human resources development and business community outreach.

U.S. - Jordan Free Trade Agreement Unit

Based at AmCham-Jordan, the **Free Trade Agreement (FTA) Unit** was established in 2017 with support from the United States Agency for International Development's (USAID) Jordan Competitiveness Program (JCP). The FTA Unit services as Secretariat to the National Tijara Coalition serving Jordanian and American businesses to better understand and utilize the trade and investment opportunities made available under the JUSFTA and the BIT.