

Trade & Customs

Contributing editor
Gary N Horlick



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**GETTING THE
DEAL THROUGH**

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DEAL THROUGH 

Trade & Customs 2018

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Jordan

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Overview

1 What is the main domestic legislation as regards trade remedies?

The main legislation governing trade remedies in Jordan is the National Production Protection Law No. 21 of 2004. The law has two bylaws: the National Production Protection Regulation No. 55 of 2000, regulating safeguards investigations and measures, and the Anti-Dumping and Anti-Subsidies Regulation No. 26 of 2003, regulating anti-dumping and anti-subsidies investigations and measures. The rules of the law and regulations were derived from the WTO Agreements on Safeguards, Anti-Dumping and Subsidies and Countervailing Measures.

The law and regulations are published in Arabic at the website of the Ministry of Industry and Trade at www.mit.gov.jo/Pages/viewpage.aspx?pageID=137.

2 In general terms what is your country's attitude to international trade?

Jordan is an open market economy, and has been embracing market liberalisation policies since its accession to the WTO in April 2000. Today, Jordan has seven effective FTAs: the Greater Arab Free Trade Agreement (GAFTA), and bilateral agreements with Canada, EFTA, the EU, Singapore, Turkey and the US. It is in process of negotiating with Kenya and Mexico.

Jordan has a good track record of compliance with WTO decisions. To date, no Jordanian measures have been contested at the Dispute Settlement Body of the WTO. Also, Jordanian authorities and courts give due consideration to WTO's dispute settlement panel's decisions, as observed in various legal precedents concerning trade remedy and customs cases.

Trade defence investigations

3 Which authority or authorities conduct trade defence investigations and impose trade remedies in your jurisdiction?

The National Production Protection Directorate (NPPD) is the competent authority in Jordan investigating trade remedy complaints (ie, anti-dumping, subsidies and countervailing measures, and safeguards). The NPPD is not an independent governmental body; rather, it is a directorate within the Ministry of Industry and Trade, which investigates trade remedy petitions and recommends proper measures to the Minister of Industry and Trade.

As regards enforcement, the Customs Department is the competent authority imposing trade remedy measures against subject imports through the levy and collection of tariff rates (ad valorem or specific) and supervision of quotas.

The NPPD's web address is mit.gov.jo/Pages/viewpage.aspx?pageID=192.

The Customs Department web address is: www.customs.gov.jo.

4 What is the procedure for domestic industry to start a trade remedies case in your jurisdiction? Can the regulator start an investigation ex officio?

According to the law, trade remedy petitions should be filed by the domestic industry of a specific product as a whole, or a major proportion thereof, in order for such petition to be considered to have been

applied by or on behalf of the domestic industry. The NPPD is also entitled to self-initiate investigations if there is concrete evidence that imports are increasing in the market or being sold at dumped or subsidised prices, causing injury to the domestic industry producing like products or threat thereof.

As a requirement for initiating the safeguards investigation, the applicants of the safeguards petition must constitute not less than 25 per cent of the whole domestic industry. As regards anti-dumping and countervailing measures petitions, initiation shall be accepted by the NPPD if it has been supported by domestic producers whose production constitutes more than 50 per cent of the total production of the like product produced by the domestic industry expressing either support for or opposition to the application. However, no AD or SCM investigation shall be initiated if domestic producers supporting the petition account for less than 25 per cent of total production of the like product produced by the domestic industry.

The domestic industry may be represented by any relevant industrial union or chambers for filing SG, AD or SCM petitions.

As regards official fees, the filing of a trade remedy petition is subject to an official fee of 250 Jordanian dinars. Upon filing, the NPPD examines the petition and must decide whether or not to initiate the investigation within 14 days from the filing date of a 'complete' petition, subject to an extension for a similar period.

Evidence supporting the petitions usually constitutes financial statements of the domestic industry duly ratified by an authorised auditor, invoices, price lists, social security documents, and samples of the domestic product and the imported products.

If the petition is accepted for initiation purposes, applicants are required to pay initiation fees of 750 Jordanian dinars. Agricultural producers petitioning against agricultural imports are exempted from filing and initiation fees.

5 What is the procedure for foreign exporters to defend a trade remedies case in your jurisdiction?

The law requires the NPPD to give all interested parties, including foreign exporters, ample opportunity to participate in the investigation. In safeguards investigations, exporters are usually notified through Jordan's notification to the WTO on the initiation of investigation as required by law and the Safeguards Agreement, providing all relevant information concerning the petition, procedures and time frames of the investigation. The NPPD is also required to publish an initiation advertisement in two daily newspapers containing information on the petition in addition to procedures of the investigation and the deadlines for all interested parties to participate in the investigation. Additionally, in practice, the NPPD usually notifies the embassies of major exporting countries on the initiation of investigation.

As for anti-dumping and anti-subsidies investigations, the law obligates the NPPD to notify known foreign exporters upon receipt of AD or SCM petitions. The law also requires the NPPD to publish an initiation advertisement in two daily newspapers containing all procedural timelines and participation requirements of the investigation, including the collection and submittal of questionnaires, deadlines for written submissions, and the public hearings.

The time frames of the investigations are not set by the law or the regulations; rather they are at the discretion of the NPPD to set. In the safeguards investigations conducted by the NPPD, such time frames

are usually set in the initiation decision, initiation notification and the newspaper advertisement. In practice, the NPPD usually gives all interested parties in a safeguards investigation 21 days to request participation and to collect questionnaires, one month to return the questionnaires from the receipt date and approximately two months to provide written submissions, whether in support of or against the petition.

The duration of a safeguards investigation, according to law, is six months from the initiation date, subject to extension in special circumstances for an additional period of two months. The duration of anti-dumping and anti-subsidies investigations is 12 months, subject to an extension of an additional period of eight months.

6 Are the WTO rules on trade remedies applied in national law?

Upon joining the WTO, Jordan conformed its national legislations with the WTO agreements including the agreements on safeguards, anti-dumping and subsidies and countervailing measures. The rules of the National Production Protection Law and its by-laws have been completely derived from said WTO agreements. On the other hand, the WTO agreements are superior to national laws in the Jordanian legal system, as most of the related national laws contain provisions giving the WTO Agreements and practise due consideration when interpreting the rules. Moreover, the Law for Ratifying the Accession of Jordan to the WTO No. 4 for the Year 2000 accords superiority to the WTO Agreements over national laws when a conflict arises, and this has been followed and considered by Jordanian courts and competent authorities.

Jordan has not treated any country as a non-market economy, and has not officially declared its position on same, especially since no anti-dumping investigation has yet been initiated in Jordan.

7 What is the appeal procedure for an unfavourable trade remedies decision? Is appeal available for all decisions? How likely is an appeal to succeed?

According to the law, only final decisions (determinations) can be appealed before the Administrative Court. An affected party may file a lawsuit before the Administrative Court within 60 days from the issuance date. The judgments of the Administrative Court can be appealed to the Higher Administrative Court.

Appeals before the Administrative Court usually succeed if there is a significant procedural violation committed by the relevant administrative institution in establishing the decisions or determinations.

8 How and when can an affected party seek a review of the duty or quota? What is the procedure and time frame for obtaining a refund of overcharged duties? Can interest be claimed?

With regard AD and SCM measures, any affected party may request review of the measures at any time after imposition provided that such party can present justified reasons to conduct the review. As for safeguards, the review request is not available for affected parties under the law. However, the law obligates the NPPD to conduct a midterm review provided that the duration of the Safeguards measure is not less than three years. Any trade remedy measure can be reviewed after six months of its application under competition law.

To obtain a refund of overcharged duties, the affected party should submit a refund claim, supported by the relevant customs statement, to the Department of Value Affairs at the Customs Directorate. Upon receipt and acceptance of the claim, the Value Affairs Department drafts a refund memo for examination by the Audit Office, the Department of Income Tax and the Finance and Collection Department within the Customs Directorate, and if the memo is approved by the three departments the Value Affairs Department issues cheque to the claimant for the amount of the extra duty paid.

9 What are the practical strategies for complying with an anti-dumping/countervailing/safeguard duty or quota?

A practical strategy for complying with trade remedy measures is typically to contest the measures and to seek review and refunds on a regular basis under the National Production Protection Law and Competition Law. Importers may also seek re-sourcing of the product from other countries or reformulating them.

Customs duties

10 Where are normal customs duty rates for your jurisdiction listed? Is there an exemption for low-value shipments, and if so, at what level? Is there a binding tariff information system or similar in place? Are there prior notification requirements for imports?

Customs duty rates are listed in the Harmonized Tariff Schedule published annually in the Official Gazette at the outset of each year. Also, modifications of tariff rates are published regularly in the same Gazette. The complete tariff schedule can be found at the Customs Directorate's website: www.customs.gov.jo.

Low-value shipments are exempted from customs duties if the value of the shipment does not exceed US\$150 per shipment.

The Customs Directorate has an information system for Jordanian companies to assess the tariff classification of products, which can be accessed at www.customs.gov.jo/ar/e_services.aspx (currently in Arabic, as the English version is under construction). The information system, however, is not binding.

Certain types of imports are subject to non-automatic licensing under Imports and Exports Law No. 21 of 2001 for reasons of protection of health, safety, the environment, national security, public order and morals, and the conservation of natural resources. Importers of products subject to non-automatic licensing are required to obtain prior approvals from certain governmental agencies to obtain an import licence from the Ministry of Industry and Trade. Non-automatic licences are issued within 15 working days of submission of documents. The licensee has the right to import the quantity specified in the licence during the period of its validity. The web portal for inquiring about prior approvals is e-service.mit.gov.jo:8888/E-Services/faces/administration/maintainInstituteAims.jsp.

11 Where are special tariff rates, such as under free trade agreements or preferential tariffs, and countries that are given preference listed?

All tariff rates, whether preferential or normal, are listed on the Customs Directorate's website at services.customs.gov.jo/JCcits/sections.aspx. The system also lists countries enjoying tariff preferential treatment. The system is in Arabic and the English version is under construction.

12 How can GSP treatment for a product be obtained or removed?

Jordan does not participate in the Global System of Trade Preferences (GSTP). Jordan receives trade preferences under the Generalized System of Preferences schemes of Japan, New Zealand, Belarus, Kazakhstan, Australia and the Russian Federation. Also, Jordan has established Qualified Industrial Zones (QIZs) under the Jordan-US Free Trade Agreement where most QIZ factories export their products to the US with preferential trade preferences.

To obtain GSP treatment for a certain product, importers should apply to the Industrial Development Directorate (IDD) at the Ministry of Industry and Trade by completing a form provided by the IDD for this purpose.

13 Is there a duty suspension regime in place? How can duty suspension be obtained?

Duty suspension is possible under Jordanian Customs Law No. 20 of 1998, as it can be requested for temporary admission imports, imports destined for free trade zones and raw materials imported to manufacture products in Jordan for exportation purposes. Duty suspension can be obtained by applying to the Customs Directorate provided the applicant provides a bank guarantee or cash guarantee as required by article 88 of the Customs Law.

14 Where can customs decisions be challenged in your jurisdiction? What are the procedures?

Under Article 80 of the Customs Law, affected parties may file administrative appeals of decisions pertaining to the value of the goods, their origin, their standards or their tariff classification to a dispute settlement committee established within the Customs Directorate. The Committee reviews the dispute and then recommends proper measures to the Customs General Director. The decisions of the General Director can be appealed to the Customs Court of First Instance.

Update and trends

- As the economic situation has been generally deteriorating in the region over recent years, trade remedy measures are expected to be on the rise in Jordan, especially since Jordanian industry has lost significant market share in the export markets of Syria, Iraq and the GCC due to political instability in the region.
- Jordan has recently imposed a safeguards measure on imported aluminium, making it the ninth safeguards measure applied by Jordan since joining the WTO. The major affected exporting countries subjected to the measure were the UAE, Bahrain, China and Egypt; the remaining non-exporting countries were excluded from the measure.
- Jordan has recently signed the WTO's Trade Facilitation Agreement.

Brexit

These developments do not seem to have had any direct effects on Jordan so far. There has not been any official comment on these developments, and there are no indicators that the Jordanian government is holding back from its free trade expansion policies, given the essential need to find new markets for Jordanian exports, in addition to the fact that Jordan relies heavily on imports in many sectors, especially food.

Jordan is currently negotiating free trade agreements with Mexico and Kenya, and has recently signed the WTO's Trade Facilitation Agreement. However, if free trade withdrawals become a trend in global economy it may be expected that Jordan would consider revisiting the rules and concessions provided in some of its multilateral and bilateral free trade agreements.

As for judicial appeals, affected parties may challenge any customs decision by filing a lawsuit before the Customs Court of First Instance. The Customs Court has jurisdiction to review any violation to the rules of customs law, free trade agreements, standards and metrology law, investment law and sales tax law.

The judgments of the Customs Court of First Instance can be appealed to the Customs Appellate Court. The judgments of the Customs Appellate Court can be appealed to the Cassation Court.

Trade barriers

15 What government office handles complaints from domestic exporters against foreign trade barriers at the WTO or under other agreements?

There is no specific office or procedure set forth by Jordanian law for complaining about foreign trade barriers under the WTO or free trade agreements. However, in practice, complaints are usually filed with the Ministry of Industry and Trade, which examines the complaints and conducts the necessary communications with the concerned agencies in the relevant foreign countries through Jordanian embassies, delegations and commercial attaches.

16 What is the procedure for filing a complaint against a foreign trade barrier?

See question 15.

17 What will the authority consider when deciding whether to begin an investigation?

The ministry does not conduct an investigation, but would ask applicants to provide documents supporting their allegations of the existence of technical barriers against their exports.

18 What measures outside the WTO may the authority unilaterally take against a foreign trade barrier?

Jordan may suspend concessions provided under free trade agreements if a technical barrier is unjustly imposed against certain Jordanian exports by a free trade partner country, and in accordance with the rules of such free trade agreements. Also, the government may apply different measures against non-WTO members, such as prohibition and quantitative restrictions.

19 What support does the government expect from the private sector to bring a WTO case?

Jordan has never raised any dispute with member countries at the WTO level. However, whenever there is a claim by any affected Jordanian exporter against technical barriers applied by member countries against Jordanian imports the government expects claimants to cover lawyer's fees and all associated expenses, and to provide the necessary data, information and evidence supporting their allegations. The same applies to trade remedies issues.

20 What notable trade barriers other than retaliatory measures does your country impose on imports?

Under Import and Export Law No. 21 of 2001, the government can impose prohibitions or restrictions on imports. Some imports are prohibited by reason of public safety, health and environment, or protection of national resources, or to implement UN Security Council resolutions.

Import licences, both automatic and non-automatic, are issued mainly by the Ministry of Industry and Trade. Importation Decree No. 109 of 2015 lists the products subject to automatic and non-automatic licences.

Non-automatic import licences are used for the protection of health, safety, national security, public order, the environment, morals and the conservation of natural resources. They may also be issued for products subjected to quantitative restrictions.

The Ministry of Agriculture is responsible for SPS measures to protect animal and plant health against pests and diseases.

Export controls

21 What general controls are imposed on exports?

Export controls on certain products take the form of export prohibitions, restrictions and licensing as regulated under the Import and Export Law No. 21 of 2001.

Export prohibition can be imposed on certain products to fulfil international obligations, such as for nuclear weapons and chemical products. Some products can also be subjected to export fees or temporary fees to prevent shortages of certain products in the local market.

22 Which authorities handle the controls?

Generally, exports prohibitions and licensing arrangements for all products are handled by the Ministry of Industry and Trade, except for agricultural products, which are arranged by the Ministry of Agriculture. Such controls are enforced by the Customs Directorate.

Export fees are applied by different governmental agencies. For example, export fees on mining and quarrying products are collected by the Natural Resources Authority, and on agricultural products by the Ministry of Agriculture.

23 Are separate controls imposed on specific products? Is a licence required to export such products? Give details.

There are separate controls imposed on specific products such as wheat flour and dual-use materials. For example, wheat flour and other wheat products are subject to export licensing arrangement to ensure that the consumer subsidies granted to these products are reimbursed by exporters when the products are exported.

Also, some controls are imposed to fulfil international obligations, such as for nuclear weapons and chemical products, and those on endangered species. Jordan is a contracting party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and a signatory to the Chemical Weapons Convention and the Treaty on the Nonproliferation of Nuclear Weapons.

24 Has your jurisdiction implemented the WCO's SAFE Framework of Standards? Does it have an AEO programme or similar?

Yes. Jordan does implement the WCO's SAFE Framework of Standards. The Customs Directorate has applied an AEO programme since 2005. The programme title is the Golden List designed to enhance the security and facilitation of international trade.

25 Where is information on countries subject to export controls listed?

Export controls are not specific to certain countries. However, they are published in the Official Gazette. Information on export controls can be requested from the Directorate of Trade of the Ministry of Industry and Trade (www.mit.gov.jo/Pages/viewpage.aspx?pageID=191).

26 Does your jurisdiction have a scheme restricting or banning exports to named persons and institutions abroad? Give details.

Yes. However, the information is not publicly available, but can be requested by importers from the Central Bank of Jordan.

27 What are the possible penalties for violation of export controls?

The penalties for violating export controls vary according to the type of control applied. Violations of export prohibitions are subject to criminal liabilities under customs law, where the penalty for exporting a product prohibited from exportation is a fine not less than 50 Jordanian dinars up to 1,000 Jordanian dinars, and if such violation is repeated the violator would face imprisonment from one month up to three years. Fees violations are subject to different fines regulated under the different laws organising export fee payments for each concerned institution.

Financial and other sanctions and trade embargoes**28 What government offices impose sanctions and embargoes?**

The Central Bank of Jordan (www.cbj.gov.jo).

29 What countries are currently the subject of sanctions or embargoes by your country?

Such information is not published publicly, but may be requested by importers from the Central Bank of Jordan at www.cbj.gov.jo.

30 Are individuals or specific companies subject to financial sanctions?

Such information is not published publicly, but may be requested by importers from the Central Bank of Jordan at www.cbj.gov.jo.

Miscellaneous**31 Describe any trade remedy measures, or import or export controls not covered above that are particular to your jurisdiction.**

Not applicable.



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