

Chapter 9: Direct Shipment Requirement

1. "This Agreement shall apply to any article if:

...

(b) that Article is imported directly from one Party to the other Party.

...

(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 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 control of the customs authority in an intermediate country;

(ii) do not enter the commerce of an intermediate country except for the purposes 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."

Purpose of Direct Transport Rule

9.1 The direct shipment rule is intended to reinforce the country of origin requirements of the FTA. By requiring goods to be shipped directly from the United States to Jordan, without transshipment through a third country, the rule reduces the chance that eligible goods will be mixed with non-eligible goods.

9.2 However, due to exigencies of trade, it is not possible in all circumstances to ship directly from one country to another, without passing through a third. For that reason, the FTA general direct shipment rule has 2 exceptions. The general rule and its two exceptions are described below.

Three Permitted Shipments

9.3 The FTA "direct shipment" rule allows the following three kinds of shipments:

- ◆ The U.S. exporter ships the goods directly to Jordan without passing through any other country. This would include direct air flights from the

- U.S. to Jordan and ocean shipments direct from the U.S. to the port of Aqaba.
- ◆ The U.S. exporter ships the goods to Jordan via third countries. The shipping documents (invoice, bills of lading) accompanying the shipment must show Jordan as the final destination, and the goods must not enter the commerce of the third countries en route. Generally, this means that the shipment must remain under customs control (under a customs transit procedure, for example) when passing through the third countries. This would include, for example, air or ocean shipments from the U.S. to European or Gulf countries which are then carried by truck or rail in-transit or under TIR Carnet to Jordan on a through bill of lading.
 - ◆ The U.S. 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. The goods may not be processed or manipulated while in the third-country, except for operations that may be necessary to preserve the goods.
 - ◆ Examples of permitted activities necessary to preserve the goods might include (i) removal of dust that accumulates during shipment, (ii) ventilation, (iii) replacing damaged packing materials and containers, or (iv) removal of units of the good that are spoiled or damaged and present a danger to the remaining units in the shipment.

Example

An U.S. manufacturer ships aluminum car wheels by ocean container to Hamburg, Germany for delivery to Jordan by truck. In Germany, the aluminum wheels will be unloaded from containers and transferred to a customs bonded warehouse, where the wheels will be inspected for transportation damage. If any damage is found, the wheels may be sanded, painted, deburred, and polished. The wheels will then be loaded back into the containers and shipped to Jordan.

The wheels are NOT imported directly. The operations performed in the warehouse in German exceed those permitted to "preserve the article in good condition."

- ◆ In addition to remaining under customs control, the goods may not "enter the commerce" of the intermediate country. Generally this means that the goods may not be sold or offered for sale while in that intermediate country.
 - ◆ The only exception to this "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." The language of this exception is taken from the U.S. Customs regulations applicable to the Generalized System of Preferences. In that context, the exception was intended to describe a very specific type of

transaction, that is, the method by which Cameroon tobacco is typically marketed. The exception may have limited or no application under the U.S.-Jordan FTA.