Saudi Arabia: Introduction of new National Rules of Origin

July 2021

Insights
Tax and Legal Services
PwC Middle East

In brief

The Saudi Arabian Minister of Finance has issued the Ministerial Decree no. 3852, dated 22/11/1442 (02/07/2021), approving the new set of National Rules of Origin that apply to GCC manufactured products, and the conditions to be met by those products to qualify as national goods, when imported into the KSA, for the purpose of the application of the GCC preferential treatment, based on the GCC Unified Economic Agreement.

The new set of National Rules of Origin entered into force on the 2nd of July, 2021 and is expected to be applicable until the entry into force of the GCC Unified Rules of Origin. We recommend importers in KSA and GCC exporters/manufacturers to assess the impact of this new set of rules and re-evaluate whether their goods can be imported into KSA free of customs duty. We expect that this development will lead many GCC businesses to introduce changes in their manufacturing process and supply chains to ensure preferential treatment to enter the KSA market.

In detail

National Rules of Origin ("RoO")

The KSA Minister of Finance, the Chairman of the Zakat, Tax and Customs Authority ("ZATCA") Board of Directors has issued the Ministerial Decree no.3852, dated 22/11/1442 (02/07/2021), approving the new National Rules of Origin Regulations. The Ministerial Decree is based on the KSA Cabinet Decision no.620 dated 20/10/1442 (01/06/2021) that authorises the Minister of Finance to issue and approve all decisions related to National, Arabic and GCC RoO.

The new RoO are effective immediately and valid until the Unified GCC RoO are issued and become effective. We summarise below the key aspects of the KSA National RoO, which apply to the imports of goods manufactured in the GCC into KSA.

Application of preferential treatment

The RoO set out clear conditions for GCC manufactured goods to qualify as GCC national goods, for the purpose of the application of the GCC preferential treatment, based on the GCC Unified Economic Agreement (i.e. customs duty exemption). The main conditions can be summarized as follows:

- The goods should be accompanied by a valid Certificate of Origin ("CoO");
- The goods should be transported directly from the manufacturing GCC country to KSA [can also transit through non-GCC countries if under Customs control];
- The requirements of GCC origin labelling have to be considered;
- For products that are not wholly obtained, the manufacturing process shall represent at least 40% of added value on the ex-factory final product price, calculated as per specific *formulae* (see below details);
- The GCC manufacturing entities should achieve a localization rate of national workforce of not less than 25% of the total workforce of the factory.

Added value and localization rates

The 40% added value condition is calculated as the difference between the value of the final product (ex-factory) and the CIF value of the non-originating materials. To determine these values, the following needs to be considered:

- The non-originating materials' CIF value excludes applicable taxes and duties, local transportation or any other charges that are not directly related to the production process;
- The final product ex-factory value does not include customs duties or local production charges applied on the product or any of its inputs.

A critical aspect to consider is that the RoO provide for certain flexibility by introducing the possibility to offset the added value and localisation rates, meaning that if a manufacturer has achieved a localisation rate above 25% and added value of less than 40%, or *vice versa*, the shortfall in one of the variables can be offset with the excess of the other, as long as:

- The localisation rate is not less than 10%;
- The added value is not less than 20%;

The RoO include practical examples to illustrate how to still meet the conditions when one of the rates is below the standard threshold. We encourage manufacturers to analyse these examples carefully to ensure that the qualifying conditions can be met in practice.

Treatment of free zones

The RoO clarify that goods manufactured in GCC free zones are considered foreign goods and consequently subject to customs duty. This is in line with the existing provisions in the GCC Common Customs Law. However, the RoO additionally establish that goods transported through free zones or according to invoices or shipping documents issued by free zones or an entity established in a free zone cannot qualify for preferential treatment as the direct transport rule would not be met in these cases.

Preferential CoO

There are important provisions governing one of the key conditions to avail the preferential treatment; a valid certificate of origin issued by the competent authorities in each GCC country, as per the template provided in the Ministerial Resolution. Some of the key areas for consideration include:

- The validity of the CoO is 180 days from the date of issuance, with some exceptions where the authorities can accept it after the expiry of the validity period.
- Mandatory CoO content where the goods are exported by a 3rd party exporter located in a different GCC country than the manufacturing country, in which case the CoO should include the name and the country of the 3rd party exporter, in addition to the number and date of the 3rd party invoice in the marks column.
- The possibility to issue CoO retrospectively if it was not issue at the time of export due to specific circumstances, and in certain cases only.
- Issuance of a partial CoO against a “master” CoO, for shipments that are deconsolidated.

Cumulation

In terms of cumulative origin, the RoO stipulate that any material that is qualified as a national product in any GCC country will be deemed as a national product of another GCC country, when it is used as an input for the production of a product in the other GCC country, as long as the value added is more than the value of the product used as an input. The National RoO include important cumulation provisions that are of particular interest for manufacturers that source raw materials and semi-finished goods in different GCC countries.The use of the cumulation rules need to be indicated in the CoO.

Transitional provisions

It is important to note the new RoO apply on goods that are in transit at the date the rules come into force (2nd of July, 2021), as well as goods placed in customs warehouses in one of the GCC countries under supervision of the relevant customs authority. Importers in KSA will be required to submit the CoO and other supporting documents retrospectively, following the implementation of the new rules within 4 months from the date they become effective.

There are of course other areas that are relevant to consider when exporting GCC goods to KSA as per the new RoO. We have summarised the key developments in this article, but there may be aspects that are important for your business that are not specifically covered in this publication. We include herein the link to the Ministerial Resolution and the complete set of RoO for your reference: KSA National Rules of Origin, and we remain at your disposal to discuss further any aspect of your interest.

The Takeaway

The issuance of the National Rules of Origin by KSA represents a major development in the context of the functioning of the GCC Customs Union. It is critical for importers in KSA and manufacturers/exporters in the rest of the GCC countries to carefully assess their manufacturing activities and associated supply chains against the conditions established.

We expect that these assessments will lead to cases where the RoO may not be met, and consequently the goods shipped to KSA may be subject to customs duty (up to 25% for certain products). In view of this, businesses need to evaluate potential changes in their activities to accommodate the new rules and continue to access KSA on duty free basis.

Let's talk

For a deeper discussion on how this issue might affect your business, please contact:

Leadership and Customs & International Trade contacts

Mohammed Yaghmour
Tax & Legal Services Lead
+971 56 406 3384
mohammed.yaghmour@pwc.com

Carlos Garcia
Partner – Middle East Customs and International Trade Leader
+971 56 682 0642
c.garcia@pwc.com

Jeanine Daou
Middle East Indirect Tax Leader
+971 56 682 0682
jeanine.daou@pwc.com

Ahmed Abdelmaksoud
Senior Manager – Middle East Customs and International Trade
+966 56 677 1358
ahmed.abdelmaksoud@pwc.com

Mohammed Al-Obaidi
KSA Tax & Legal Services Leader
+966 54 621 5555
mohammed.alobaidi@pwc.com

KSA partners

Dr. Yaseen AbuAlkheer
Partner, Zakat and Tax
+966 54 425 0540
yaseen.abualkheer@pwc.com

Fayez Al Debs
Partner, Zakat and Tax
+966 54 400 1037
fayez.aldebs@pwc.com

Mugahid Hussein
Partner, Zakat and Tax
+966 54 425 6573
mugahid.hussein@pwc.com

Fehmi Mounla
Partner, Zakat and Tax
+966 56 271 3073
fehmi.mounla@pwc.com

Chadi Abou Chakra
Partner, Indirect Tax
+966 56 068 0291
Chadi.Abou-Chakra@pwc.com

Ebrahim Karolia
Partner, Tax
+966 56 890 3663
karolia.ebrahim@pwc.com

Mohammad Amawi
Partner, Zakat and Tax
+966 55 800 9697
mohammad.h.amawi@pwc.com

Mohammad Harby
Partner, Zakat and Tax
+966 56 907 2618
mohamed.harby@pwc.com

Wael Osman
Partner, Zakat and Tax
+966 56 699 4653
wael.osman@pwc.com

Suleman Mulla
Partner, International Tax
+966 54 122 8051
suleman.mulla@pwc.com

Maher ElAawar
Partner, Indirect Tax and Fiscal Policy
+971 56 216 1109 maher.elaawar@pwc.com