



The American Chamber
of Commerce in Jordan

GUIDE TO **EXPORTING SERVICES** TO THE U.S.



2018

Developed By:



U.S. - Jordan
Free Trade Agreement Unit



INVESTMENT
CONSULTING ASSOCIATES

EXPORTING SERVICES GUIDE 2018


Disclaimer

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FOREWORD

I am delighted to present to you the "trade guides" on doing business between USA and Jordan. The guides are the result of handwork by our good staff at AmCham and our associates, to whom we are truly thankful.

I trust that you will find them useful and appreciate your feedback which will help us to achieve continuous improvement on future releases.



Mohammed S. Bataineh

1	Introduction	7
	1.1 Jordan – United States Trade Relations	9
	1.2 Process of Exporting Services	15
	1.3 Exporters	29
	1.4 Buyers & Consumers	33
	Checklist	39
	Useful Sources	40
2	Liability	45
	2.1 General	45
	2.2 IT Services	46
	Checklist	49
	Useful Sources	49
3	Contracts & Payments	53
	3.1 General	53
	3.1.1 Contracts	53
	3.1.2 Payments	55
	3.1.3 Intellectual Property Protection	57
	3.2 IT Services	58
	Checklist	60
	Useful Sources	60
	About The Tijara Coalition	61

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1

INTRODUCTION

1 Introduction

The United States (US) and Jordan established diplomatic relations as early as January 31st, 1949, which paved the way for a solid and strong relationship of bilateral trade and investment. This was further reinforced by the signing of the Qualified Industrial Zones (QIZs) Arrangement in 1996 and the Bilateral Investment Treaty (BIT) in 1997 as well as the Free Trade Agreement (FTA), which was signed between the US and Jordan in 2000, making Jordan the first Arab country to sign a FTA with the US.¹ This favorable framework consolidated further in the 21st century.

1.1 Jordan – United States Trade Relations

The top reasons to export to the US include:

1. Single most **prosperous consumer market** in terms of economic size and purchasing power. The country is the third-largest country in the world in both population and size. The US provides a considerable market for nearly every product or service given the diversity and wealth of its 327 million consumers.² All states except Wyoming and Vermont are larger than Jordan's economy of \$38,65 billion in 2016.³ This large consumer market requires a considerable scale, volume, and supply.
2. Advantageous **favorable access to the US market** for Jordanian-based companies due to the QIZ Arrangement, BIT, and FTA – both for exporters as well as investors. This presents Jordanian businesses with greater opportunities to do business with the US and puts them at a competitive advantage vis-à-vis firms from other Arab countries. The agreements enable Jordanian firms who are able to sell high-quality products at more attractive prices, as tariff barriers on the majority of goods traded between the Jordan and the US have been eliminated.
3. Competitive and **investor-friendly business environment**. The US ranks high on international rankings that measure the ease of doing business and competitiveness of economies. For instance, the US ranks 6th out of 190 countries on the World Bank's Doing Business Index⁴ and 2nd out of 137 countries on the World Economic Forum's Global Competitiveness Index.⁵ The US' favorable business environment is driven by economic and political stability, strong innovation, business sophistication, continuous strive for liberalization and deregulation, readily available financing and equity, efficient labor market, highly educated and well-trained workforce, and stable financial market in combination with well-established marketing, supply, logistic, and distribution channels. Government regulation is generally lower compared to many other countries while the US historically has a welcoming policy towards investors.

These reasons make the US a very attractive market for Jordanian businesses, both for trade as well as investment.

1 Jordan Economic & Commerce Bureau (2018), "Jordan-US Economic Relations," available at http://www.jordaneceb.org/public/English.aspx?Lang=1&Page_Id=1372&Menu_ID=31

2 US Census Bureau (2018), "U.S. and World Population Clock," available at <https://www.census.gov/popclock/>

3 The World Bank (2018), "World Bank Open Data," available at <https://data.worldbank.org/country/jordan>

4 The World Bank (2018), "World Bank Doing Business Index – US," available at <http://www.doingbusiness.org/data/exploreconomies/united-states>

5 World Economic Forum (2018), "Global Competitiveness Index – US," available at <https://www.weforum.org/reports/the-global-competitiveness-report-2017-2018>

Introduction

States	50
Capital	Washington D.C.
Largest City	New York City
Area	9,147,593 km ²
Population (2017)	325,719,178
Arab Ancestry¹ (2013)	1,367,916
GDP (2017)	\$19.38 trillion
Median Income (2016)	\$55,322

Currency	Dollar (\$)
Languages	English, Spanish
Time Zones	UTC-5/-6/-7/-8

Country Code	001 or +1
ISO 3166 Code	US
Internet Code	.us



Demographics



Economy²

Households (2012-2016)	117.7 mln
Unemployment Rate (2017)	4.1%
Labor Force	160.6 mln
Persons >65 years (2016)	15.2%
Persons <18 years (2016)	22.8%

Real Estate	15.3%
Finance & Insurance	8.7%
Healthcare	8.4%
Professional/Scientific Services	8.1%
Durable Goods Manufacturing	7.2%



Key Imports³



Key Exports

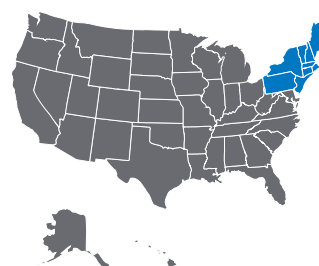
Passenger Cars	7.0%
Crude Oil	5.8%
Cell phones & Household Goods	4.7%
Other Vehicles Parts/Accessories	4.4%
Pharmaceutical Preparations	4.3%
Telecommunications equipment	3.3%
Computers	2.9%
Computer Accessories	2.7%
Semiconductors	2.7%
Industrial Machines	2.3%

Other Vehicles Parts/Accessories	3.8%
Other Industrial Machines	3.6%
Other Petroleum	3.6%
Civilian Aircraft	3.6%
Passenger Cars	3.5%
Semiconductors	3.2%
Pharmaceutical Preparations	3.1%
Electric Apparatus	2.8%
Engines-Civilian Aircraft	2.8%
Telecommunications Equipment	2.5%

Sources: US Census (2018), Bureau of Labor Statistics (2018), US Bureau of Economic Analysis (2018), and AAI (2015)

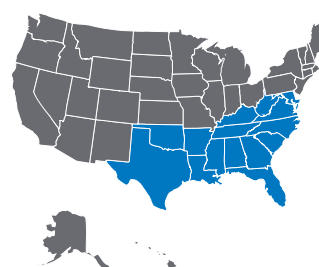
The US comprises 50 states, the capital city of Washington District of Columbia (DC), and various overseas territories including Puerto Rico, the US Virgin Islands, and areas of the Pacific Ocean. However, the regions and states that make up the US cannot be perceived as one single and homogenous market. States develop and implement their own regulations on doing business (e.g. registration and tax incentives) while consumer behavior, preferences, demographics, and culture differ across the US. Given this complexity in combination with the vast size of the US market, it is important to further segmentize the US market in order to optimize exports, become highly targeted, and identify the best mode to reach the right consumer. It should be noted the transfer of goods, money, and people between these regions and states is free. The table below provides an initial geographical segmentation of the US market though this should be further customized to reflect the specific nature of industries in which the exporter is active.

Northeast



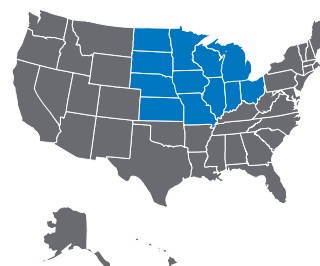
States	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont		
Area	419,357 km ²	Median Household Income (2016)	\$64,974
Population (2016)	56,209,510 (254,062 Arab ancestry)	Per Capita Income (2016)	\$35,758
Description	The Northeast is home to a number of prestigious educational institutions and universities, making it a hub for media, culture, technology, and medical institutions while New York City hosts a large cluster of companies active in the financial services and insurance.		

South



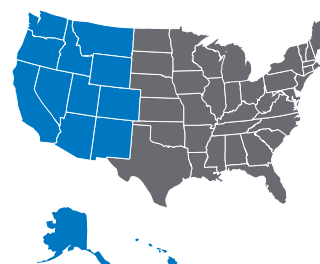
States	Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, Washington DC, West Virginia,		
Area	2,249,495 km ²	Median Household Income (2016)	\$52,678
Population (2016)	122,319,574 (300,281 Arab ancestry)	Per Capita Income (2016)	\$28,865
Description	Part of the South region is focused on public and Government services in the capital while corporate-friendly Delaware, Atlanta, Austin, Dallas, Houston, Miami, and Virginia have developed into centers of commerce and tourism. The petroleum sector is present in Texas.		

Midwest



States	Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin		
Area	1,943,880 km ²	Median Household Income (2016)	\$55,712
Population (2016)	67,941,431 (392,144 Arab ancestry)	Per Capita Income (2016)	\$30,293
Description	Warehousing, logistics, and manufacturing have long been the key sectors in the Midwest. The region still functions as transportation hub with a focus on (advanced) manufacturing and agriculture given its central location in the US.		

West



States	Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming		
Area	4,535,284 km ²	Median Household Income (2016)	\$63,202
Population (2016)	76,657,000 (412,429 Arab ancestry)	Per Capita Income (2016)	\$32,086
Description	Silicon Valley and Seattle are world-leading centers for advanced manufacturing, electronics, and information & communication technologies while the film, media, and tourism industries are strongly represented in Arizona, Los Angeles, and Nevada.		

Source: Census Reporter (2016) and AAI (2015)

The US remains by far the largest export market for Jordanian companies as a quarter of all Jordanian exports are directed towards the US, thereby representing a considerably larger share than Jordanian exports to regional markets such as Saudi Arabia (14.2%), Iraq (6.8%), the United Arab Emirates (5.6%), and Kuwait (5.1%).⁶

⁶ CIA World Fact Book (2016), "Exports – Partners," available at <https://www.cia.gov/library/publications/the-world-fact-book/fields/2050.html>

Data on trade in services between the US and Jordan is relatively scarce but available data indicates trade in services equalled approximately between \$1.2 and \$1.3 billion with a slight trade deficit for Jordan. The value of exported services from Jordan to the US equalled \$592 million in 2016 with most of the exports concentrated in travel (\$221 million in 2016), air transport of passengers (\$162 million in 2016), and air transport of freight (\$71 million in 2016) and indicates many exporting opportunities for other sectors and commodities.

In general, most services can be exported to the US with a few exceptions relating to professional services such as legal services and medical services, where qualifications need to be recognized and licenses need to be issued prior to offering the services. This guide covers services related to business but also puts specific emphasis on IT services as this is one of Jordan's most competitive exporting industries.

Figure 1.1 Jordanian – US trade in services (2013-2016)

Source: OECD Statistics (2018)



Source: University of Texas Libraries (2002)

Three vehicles that have boosted trade between Jordan and the US to unprecedented levels include the Bilateral Investment Treaty (BIT), Qualifying Industrial Zones (QIZs) Arrangement, and the Free Trade Agreement (FTA). The FTA and its specifics for exporting services is further explored below.

Free Trade Agreement

The bilateral Free Trade Agreement (FTA) between Jordan and the US entered into force in December 2001 with full phasing-out of duties completed by January 2010. The FTA eliminates virtually all tariffs and reduces trade barriers. The FTA furthermore provides cutting-edge protection for intellectual property (IP) and ensures regulatory transparency, further liberalizing, simplifying, and encouraging bilateral trade. The US - Jordan FTA Rules of Origin require that Jordanian exports to the US must have 35% Jordanian content in order to qualify for the FTA duty benefits. This implies no less than 35% of the customs value of the imported product must be attributed to Jordanian origin materials and/or Jordanian direct costs of processing.⁴

Certain conditions apply to services traded through this FTA. These are listed in the services schedule of the FTA and relate to limitations on market access and national treatment of the four modes of supply (i.e. cross-border supply, consumption abroad, commercial presence, and presence of natural persons). These commitments can take the shape of:

1. Horizontal commitments. Commitments applying to all (sub-)sectors of the FTA.
2. Sector-specific commitments. Commitments applying to specific (sub-)sectors of the FTA:
 1. Business Services.
 - A. Professional Services.
 - B. Computer and Related Services.
 - C. Research and Development Services.
 - D. Real Estate Services.
 - E. Rental and Leasing Service (without operators).
 - F. Other Business Services.
 2. Communication Services
 - A. Communication Services.
 - B. Courier Services.
 - C. Telecommunication Services.
 - D. Audio-Visual Services.
 3. Construction & Related Engineering Services.
 4. Distribution Services.
 5. Educational Services.
 6. Environmental Services.
 7. Financial Services.
 - A. Insurance and Insurance-Related Services.
 - B. Banking and other financial services.
 8. Health Related & Social Services.
 9. Tourism & Travel Related Services.
 10. Recreational, Cultural, & Sporting Services.
 11. Transport Services.
 - A. Maritime Transport Services.
 - B. Internal Waterway Services.
 - C. Air Transport Services.
 - D. Air Auxiliary Services.
 - E. Rail Transport.

It is strongly advised to check the applicable chapters of these horizontal and sector-specific commitments before a company seriously considers to undertake exporting activities.

Source: *US Customs & Border Protection (2015)*

1.2 Process of Exporting Services

The services sector in the US accounts for nearly 80% of the country's gross domestic product (GDP) and supports more than 90 million jobs.⁷ Business expansion in this segment of the economy is strong and particularly driven by small- and medium-sized enterprises (SMEs). These SMEs, of which more than four million are involved in providing services, account for more than 16 million jobs. The US imported a total of \$503 billion worth of services over 2016 while it exported \$752 worth of services in the same year. This demonstrates the appetite for foreign services to be imported into the US.

Exporting services goes hand in hand with exporting goods. The exports of products and goods are facilitated by many accompanying service activities such as banking, insurance, and transportation, which are critical in maintaining the international transaction of goods.⁸ The key difference between the export of products and goods on the one hand and services on the other concerns tangibility and customer involvement. As services need to be tailor-made to customers' needs and requirements, it typically requires customers' direct participation, engagement, and cooperation. This, in turn, requires professional interpersonal and communication skills as well as a sense for cultural sensitivity on the part of the exporting company. Moreover, many goods increasingly contain an element of technology that requires installation, troubleshooting, maintenance, and repairs.⁹ The emergence of the internet as a commercial platform and cloud-based communication has enabled information and communications technology services to become borderless.

Some challenges may possibly hinder the process of exporting services despite this huge potential of exports. These challenges concern export compliance, value-added tax (VAT) and income tax, work visas and immigration, tariffs and duties, and data privacy considerations.¹⁰ Moreover, as services are abstract, invisible, and intangible, it may be more challenging to market a service and find the right buyers.¹¹ Obtaining finance can be challenging as financial institutions may not be necessarily convinced to provide companies exporting services financial support due to the intangibility of a services proposition. In fact, no form of collateral is involved. The exact way in which these challenges impact a company's export potential depend on the type of service(s) the company provides.

Considerations for Exporting Services

Because services are intangible and invisible and furthermore require involvement of customers, three key considerations should be kept in mind:

- Traveling - Marketing intangible and invisible services that needs to be tailor-made requires more traveling in order to prove credibility and the company's profile.
- Labor requirement - Marketing services requires traveling from Jordan or hiring local works for which it is necessary to be aware of legal obligations.
- Market research - Market intelligence, data, information, and statistics are typically widely available for goods and products but not necessarily for services. This requires more intensive market research.

Source: US Department of Commerce (2016)

⁷ US Department of Commerce (2016), "A Basic Guide to Exporting," Chapter 9 – Exporting Services, available at https://2016.export.gov/missouri/build/groups/public/@eg_us_mo/documents/webcontent/eg_us_mo_097311.pdf

⁸ Ibid

⁹ TradeReady (2016), "What are service exports, and why are they suddenly so important?," available at <http://www.tradeready.ca/2016/trade-takeaways/service-exports-suddenly-important/>

¹⁰ Ibid

¹¹ US Department of Commerce (2016), "A Basic Guide to Exporting," Chapter 9 – Exporting Services, available at https://2016.export.gov/missouri/build/groups/public/@eg_us_mo/documents/webcontent/eg_us_mo_097311.pdf

Just as the process of exporting goods and product, the process of exporting services should not be underestimated, certainly not when it comes to the enormous, diverse, and complex US market. Exporters need to be prepared as exports require a considerable degree of planning, processes, and compliance. Exporting can turn into a costly and time-consuming process without a careful export plan.

The basics of the exporting services process are quite similar to that of the process of exporting goods and products. In general, exporting services is easier because services don't have to pass through as many procedures such as customs, transportation, regulation, and labelling that are required for exporting goods and products.¹² Exporting services should, on the other hand, not be underestimated as it requires a fine understanding of the client's culture and business savvy. The process of exporting services can be separated into five subsequent steps that any exporter needs to carefully consider and complete before initiating exports.¹³ These five steps, that ensure your business is export-ready, include:

1. **Conduct Export Planning** – Evaluate the motivations to export and investigate the market for exports.
2. **Identify Export Opportunities** – Evaluate the most profitable market in order to target potential consumers for your service(s) based on accurate market intelligence and data.
3. **Select the Market Entry Strategy** – Determine the best option to enter the US market according to your particular service(s) and target market.
4. **Create an Export Development Plan & Obtain Exporting Finance** – Define the company's exporting goals, objectives, milestones, challenges, and status in order to obtain export financing assistance and ensure legal compliance.
5. **Deliver the Exported Service(s)** – Assess the most favourable method to deliver, price, and promote your service(s) to consumers in the identified target market.

Step 1 – Export Planning

As mentioned, the US is open for Jordanian exports, as trade in services between the US and Jordan accelerated over the last 20 years. The US-Jordan Free Trade Agreement (FTA) considerably eases accessibility to the US market, expanding the market reach of Jordanian companies with more than 327 million affluent US consumers.

Jordanian service providers wishing to grow and expand their business exports is the way forward as the Jordanian market is small and has limited purchase power. Globally services are the fastest type of growing exports, in this context, the US market hold promising export potential. Typically there are four ways to export or supply services that depend on the territorial presence of the supplier and the consumer, as follows:

1. Cross-border (i.e. finding a buyer)

Definition: services supplied from the territory of one WTO Member State into the territory of any other Member State.

Example: A user in country A receives services from abroad through its telecommunications or postal infrastructure.

¹² Business Development Bank of Canada (2018), "5 tips to successfully export your services," available at <https://www.bdc.ca/en/articles-tools/marketing-sales-export/exportation/pages/exporting-services.aspx>

¹³ US Department of Commerce (2018), "Export Education," available at <https://www.export.gov/article?id=Export-Education>

2. Consumption abroad (i.e. US citizens travelling to Jordan and get the service)

Definition: services supplied in the territory of one WTO Member State to the service consumer of any other Member State.

Example: Nationals of country A have moved abroad as tourists, students, or patients to consume the respective services.

3. Commercial presence (i.e. investing on the country or acquiring a company)

Definition: services supplied by a service supplier of one WTO Member State, through commercial presence, in the territory of any other Member State.

Example: The service is provided within country A by a locally-established affiliate, subsidiary, or representative office of a foreign-owned and — controlled company (bank, hotel group, construction company, etc.).

4. Presence of natural persons (i.e. services are provided by professionals and in this case the person travels to offer the service in the US)

Definition: services supplied by a service supplier of one WTO Member State, through the presence of natural persons of a Member State in the territory of any other Member State.

Example: A foreign national provides a service within country A as an independent supplier (e.g. Consultant, health worker) or employee of a service supplier (e.g. consultancy firm, hospital, construction company).¹⁴

Some reasons why companies still do not engage in exporting, however, relate to limited experience and knowledge of the US market and associated risks related to the process of exporting services in terms of finding credible and trustworthy partners, buyers, and representatives as well as issues concerning liability, contracts, intellectual property protection, and export payments. Companies may still perceive exporting their service(s) to the US as time-consuming, and complicated while exporting requires a considerable amount of resources and time, particularly for small companies. The secret to successfully exporting and mitigating fear and risks is to carefully consider whether your company should be engaged in exporting and, if so, how to define your company's competitive position to determine the best way forward in order to make new export sales.

Exporting should be considered as part of your company's strategy to achieve sustainable and profitable growth:

- Expand your bottom line in terms of profitability and consumer base.
- Optimize your business cycles to adjust for seasonal differences.
- Acquire global management and intercultural expertise.
- Rationalize your internal production by fully exploiting production capabilities.
- Defend your position in the Jordanian domestic market.
- Increase your competitiveness in all markets due to exposure to new and innovative business models.

¹⁴ UN International Trade Statistics knowledge (2016), "Modes of Supply," available at <https://unstats.un.org/unsd/tradekb/Knowledgebase/50665/Modes-of-Supply>

- Increase the value of your intellectual property.
- Increase the value of your business.

The following table presents typical factors that determine whether your business is ready for exporting. These factors could be used as a checklist to diagnose your reasons for exporting to the US, thereby balancing advantages and disadvantages.

Table 1.1 Factors in favour of global exports and US exports

Factor	Application to Global Exports	Application to US Exports
Demand	Competitors are increasing their global market shares as more than 7.6 billion consumers are located outside of Jordan.	With 327 million consumers and a 48 states with a GDP larger than that of Jordan, it provides Jordanian companies an export opportunity that can't be ignored.
Access	Exporting is now available for even the smallest businesses through internet, improved logistics channels, free trade agreements, and e-commerce.	The US - Jordan FTA provides Jordanian businesses direct export access to the US market through streamlined customs procedures and reduced or eliminated tariffs. This puts Jordanian business at a unique competitive advantage.
Profitability	Exporters, on average, improve their profitability as sales grow faster, more jobs are created, and employees earn more than in non-exporting firms.	The favourable combination of high demand and strong accessibility makes it relatively cost-competitive for Jordanian businesses toe export to the US, thereby improving their profitability.
Competitive Advantage	Companies engaged in exporting are exposed to new and innovative business practices, ranging from expertise, knowledge, skills, production techniques, and capabilities to business models and marketing.	The US' business environment, high quality, innovative goods and services, customer service, and sound business practices are well-renowned, supporting Jordanian companies to be exposed to these best practices, eventually improving their competitive advantage .
Risk Mitigation	Companies that export are spreading their risks as they are not solely dependent on the domestic Jordanian market and seasonal fluctuations.	The US is one of the least risky foreign markets to do business due to its political and economic stability as it ranks high on many international rankings for doing business and competitiveness.
Export Assistance	Jordan's diplomatic network of 44 embassies and 11 consulates around the world provide Jordanian businesses looking to export with support.	AmCham-Jordan, the Jordan Investment Commission (JIC), as well as the Jordan Embassy in Washington D.C. and Honorary Consulates in California, Illinois, and Michigan can provide Jordanian business with export assistance.

Source: US Department of Commerce (2018)

Step 2 – Export Opportunities

Once a business has decided exporting suits the business' strategy, the next step is to conduct careful research and gather market intelligence to identify the most profitable market(s) for companies' service(s). A company needs to understand its export market so it can optimize and target its efforts.

A business should consider the following issues when identifying its export opportunities:

1. **Prioritize and segmentize export markets.** It is vital not to choose too many export (or foreign) markets. A maximum of three foreign markets is a rule of thumb for small companies. However, given the complexity and vastness of the US market, it is advised to prioritize and segmentize within the US market (e.g. regions, states, or even cities). The US market is often perceived as one single market but should be viewed as a heterogeneous and very diverse market in terms of consumer tastes, preferences, and behaviour. Focusing on regional or geographic clusters (e.g. population with Arab ancestry) can also be more cost-effective than choosing markets scattered around the US.
2. **Test with one market.** A good practice is to test with one export market (e.g. region, state, or city) before expanding exporting operations into other secondary markets.
3. **Collect market intelligence.** It is vital to conduct proper research and have a sound understanding of the US market and its consumers. This requires businesses to get customized market research (e.g. order a customized market research report) or access publically available trade and country reports, market surveys, trade statistics, and resources. AmCham-Jordan's Doing Business in the US Guide may be valuable. Market intelligence and research should be used to find markets with the largest and fastest growing potential for your service(s) after which export markets you intend to pursue can be defined and narrowed. This should also include an assessment of existing competitors present in your intended export market – both domestic and foreign competitors. Sources to contact include local chambers of commerce, world trade centers, or clubs and trade associations but also personal interviews with private and government officials and experts (e.g. Jordanian companies already exporting to the US).

Tip 1.1

Various sources of market intelligence and market research exist. This is a combination of publically available as well as paid-for sources (e.g. registration, one-off fee, or subscription).

- **Multilateral Organizations.** Multilateral organizations like Development Banks, the World Trade Organization (WTO), and the Organization for Economic Cooperation and Development (OECD) may provide studies and reports on issues related to trade.
 - The WTO's Trade Policy Review of the US is a good example in this context.
 - The OECD promotes Member Countries (trade) policies and produces country-by-country reports that can be searched for and ordered online.
- **International Trade Center (ITC) Market Access Map.** The ITC's Market Access Map is an online tool that enables users to retrieve information on customs, market requirements, advanced comparative analyses of multiple products, and country analyses though free of charge registration and/or subscription may be required for certain pieces of data.
- **International Trade Center (ITC) Trade Map.** The ITC's Trade Map complements the Market Access Map as it provides statistics and data on trade between countries.
- **USA Trade® Online.** This online tool provides users access to US import and export data though a small subscription is required.
- **TradeStats Express™.** Quarterly data on US merchandise exports, imports, trade balances, and state-level exports are available through this tool, which is published by the US Department of Commerce International Trade Administration.
- **US Census Bureau.** This unit tracks US data on a wide number of topics, including population, economy, business, business, international trade, and employment.
- **US Bureau of Economic Analysis (BEA).** This US Department of Commerce division provides economic accounts on a variety of levels, including international, national, regional, and industry.
- **US Bureau of Labor Statistics (BLS).** This division under the umbrella of the US Department of Labor offers statistics focus on the labor market and employment in the US and state-wide.
- **American Chambers of Commerce.** Am-Cham Jordan's Doing Business Guide may provide further information on items such as starting up a business, running a business, finance, taxation, incentives, immigration, and legal liability.
- **Jordan Development Enterprise Corporation (JEDCO).** JEDCO provides assistance to Jordanian-based businesses. It provides a directory of current exporters, researches, and market studies.
- **International consultants.** International consultants supporting companies with market entry into the US could be a source of customized market intelligence though frequently charge high rates for their services. They may evaluate an exporter's sales potential in a market, choose the best new markets for their products and services, establish effective marketing and distribution strategies in their target markets, identify the competition, determine which factors are most important to overseas buyers, pinpoint impediments to exporting, and understand many other pieces of critical market intelligence.

Source: Investment Consulting Associates – ICA (2018)

4. Understand trade barriers and leverage the benefits of the US - Jordan FTA. Most FTAs include clauses which simplify selling services on a non-discriminatory basis.¹⁵ For exporting services, (non-tariff) trade barriers in the form of laws or regulations that the US enacts to protect domestic industries against foreign competition are most relevant. These barriers typically include regulations and standards “behind the border” that discriminate against foreign services suppliers as they may feature requirements for specific types of legal entities (e.g. joint ventures), restrictions on the number of foreign services suppliers, requirements for a commercial presence, and restrictions on obtaining a licence.¹⁶ Other barriers to trade in services include subsidies for domestic services and restrictions against foreign firms participating in a slew of domestic service industries.¹⁷ Anticipate on the benefits provided by the bilateral FTA between Jordan and the US that may mitigate these trade barriers and that may address a lack of transparency.

Step 3 – Market Entry Strategy

The identified export opportunities and market research conducted in the previous step pave the way for the development of a market entry strategy. This strategy should reflect how the business addresses specific considerations for the targeted export market(s). The business should become aware as to what it takes to actually make an export sale to the target market and how the business should prepare accordingly.¹⁸ Finding the right market entry strategy for exporting services simply means setting up the most effective ways to obtain and manage contracts in the US.¹⁹

A business should consider the following issues when developing a market entry strategy:

- What are regulations and licenses that apply to the exporting company’s service(s)?
- Does the service(s) need to be tailored or modified to specific consumer preferences, standards, trade barriers, market environment, or regulatory environment of the target market(s)?
- What steps need to be taken to actually export into the US?
- Are there certain risks, obstacles, or challenges associated with doing business in the target markets for which the business should prepare?
- What are the pros and cons of exporting?

This requires market research from the previous step to be leveraged in order to learn about the target market’s industry standards, consumer preferences, and trade environment. Moreover, Jordanian regulations regarding export requirements must be followed too.

¹⁵ US Department of Commerce (2016), “A Basic Guide to Exporting,” Chapter 9 – Exporting Services, available at https://2016.export.gov/missouri/build/groups/public/@eg_us_mo/documents/webcontent/eg_us_mo_097311.pdf

¹⁶ Government of Canada (2018), “Is a trade barrier holding back your export business?,” available at http://www.international.gc.ca/gac-amc/campaign-campagne/trade_barriers-barrieres_commerciales/index.aspx?lang=eng

¹⁷ Cato Institute (2018), “Services Trade and Non-Tariff Barriers,” available at <https://www.cato.org/research/services-trade-non-tariff-barriers>

¹⁸ US Department of Commerce (2018), “Export Education,” available at <https://www.export.gov/article?id=Export-Education>

¹⁹ The Canadian Trade Commissioner Service (2011), “Step-by-Step Guide to Exporting,” available at <http://www.exportt.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

Based on these considerations, the exporting business needs to define which market entry strategy or “sales channel” will best support the successful introduction of its service(s) into the target market(s). This may be through engagement with Jordanian manufactures (as described in the box above) or through affiliation with a US company in the form of an agent, representative, or joint venture.²⁰ The most common market entry strategies and corresponding considerations are summarized in the table below.²¹

Marketing Services Abroad

A typical approach taken by many services exporters is to follow their key clients that are exporting products and/or goods. Given the fact product exports and services exports are complementary, many service companies have exported by following their major international clients abroad in order to continue to support them with international activities. The same is true for small service providers that work closely with manufacturing companies that are exporting their goods and/or products. These small service providers aim to provide service support for these manufacturing companies abroad.

Source: US Department of Commerce (2018)

It is important to remember marketing services requires a different approach as compared to marketing goods and products. This frequently involves traveling by the firm’s principal(s) to demonstrate and present the capabilities of the firm to potential US buyers and partners.²² It is important to demonstrate the credibility and uniqueness of the exported service(s) in terms of real added value. This can be done by preparing project summaries or testimonials to support the credibility of a services offering.²³

Table 1.2 Market entry strategies

Strategy	Description	Considerations
Domestic Partnership	Using a Jordanian manufacturing company and follow its exporting path.	<ul style="list-style-type: none"> • Good approach to test the market on a short-term basis without too much risk. • Availability of domestic partner depends on whether the business is planning to sell to specific US states or the entire country. • Requires existing relationship with Jordanian company. • Dependent upon exporting strategy and market entry strategy of Jordanian partner.

²⁰ US Department of Commerce (2016), “A Basic Guide to Exporting,” Chapter 9 – Exporting Services, available at https://2016.export.gov/missouri/build/groups/public/@eg_us_mo/documents/webcontent/eg_us_mo_097311.pdf

²¹ UK Department for International Trade (2016), “Exporting to the USA,” available at <https://www.gov.uk/guidance/exporting-to-the-usa>

²² The Canadian Trade Commissioner Service (2011), “Step-by-Step Guide to Exporting,” available at <http://www.exporth.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

²³ Business Development Bank of Canada (2018), “5 tips to successfully export your services,” available at <https://www.bdc.ca/en/articles-tools/marketing-sales-export/exportation/pages/exporting-services.aspx>

Local Representation	Using a US-based agent, representative, distributor, or dealer to conduct direct export sales.	<ul style="list-style-type: none"> • Good approach to test the market on a short-term basis without too much risk. • Time-consuming to find the appropriate partner(s) and conduct due diligence through a US lawyer. • Availability of local representation depends on whether the business is planning to sell to specific US states or the entire country. • Important to ensure a good contract with the local representation through non-binding summaries of key terms (NB-SOTs) or letter of intent.
Local Branch or Subsidiary	Establishing and using a US subsidiary or trading company to conduct direct export sales.	<ul style="list-style-type: none"> • Ensuring own control and ownership while showing long-term commitment to the US market. • Very resource-intensive and time-consuming to set up a local branch or subsidiary. • Location of the branch or subsidiary is vital to successful export operations so it is suggested to engage a US lawyer or accountant to identify the best location and taxation package.
Joint Venture or Strategic Alliance	Exporters, on average, improve their profitability as sales grow faster, more jobs are created, and employees earn more than in non-exporting firms.	<ul style="list-style-type: none"> • Time-consuming to find the appropriate partner(s) and conduct due diligence through a US lawyer. • Availability of local partner depends on whether the business is planning to sell to specific US states or the entire country. • Important to ensure a good contract with the local representation through non-binding summaries of key terms (NB-SOTs) or letter of intent.
Online Selling	Sell your service(s) through your own website or an online marketplace.	<ul style="list-style-type: none"> • Relatively cheap market entry strategy as little resources are involved and risks are relatively low. • The website needs to be adapted to support US electronic payments/credit cards, US addresses and zip codes.
Licensing & Franchising	Granting an independent US company the use of your asset or intellectual property.	<ul style="list-style-type: none"> • Good approach to test the market on a short-term basis without too much risk. • Time-consuming to find the appropriate local licensee partner(s) and conduct due diligence through a US lawyer. • Availability of local partner depends on whether the business is planning to sell to specific US states or the entire country. • The company's intellectual property (IP) should be protected before an agreement with a local licensee partner is negotiated. • Important to ensure a good contract with the local licensee partner through non-binding summaries of key terms (NB-SOTs), protecting the company's rights in any trademark and stipulating its choice of tribunal and law.

Virtual Presence	Using a virtual office or staff who represent the exporting company's interests (e.g. '1-800' toll-free phone number or US mailing address through post office box services).	<ul style="list-style-type: none"> • Good approach to test the market on a short-term basis without too much risk. • Relatively cheap market entry strategy as little resources are involved and risks are relatively low. • Facilities need to be adapted to support US electronic payments/credit cards, US addresses and zip codes.
Sales Consultants	Hiring sales consultants (e.g. marketing consulting firm, contract sales force, or marketing organization) to identify leads in the US market.	<ul style="list-style-type: none"> • Good approach to test the market on a short-term basis without too much risk. • Relatively cheap market entry strategy as little resources are involved and risks are relatively low. • Time-consuming to find the appropriate sales consultant(s) and conduct due diligence through. • Availability of local sales consultant(s) depends on whether the business is planning to sell to specific US states or the entire country.
Acquisition	Obtaining direct access to the US market by acquiring an existing independent local company (e.g. competitor or supplier).	<ul style="list-style-type: none"> • Ensuring instant presence and direct own control and ownership while showing long-term commitment to the US market. • Very resource-intensive and time-consuming to acquire a local company. • Location of the local company is vital to successful export operations.

Source: US Department of Commerce (2018)

Step 4 – Export Development Plan & Export Financing

An export development plan fits both internal as well as external purposes. On the one hand, it may support the exporting company defining its present status and internal export goals and commitments while, on the other hand, the export development plan can be used to seek export financing assistance (e.g. bank loans). A well-defined export development plan assists the exporting company with focusing its efforts, anticipating on future objectives, gathering relevant data and statistics, and identifying potential obstacles and challenges the company needs to anticipate on.

The point-of-departure for creating an export development plan is to basically "audit" the exporting company to assess how exports will impact the company's strategic and financial position as well as practical operations. This requires the exporting company to consider operational and management issues related to exporting, approaches to exporting (i.e. selected market entry strategy), sales and sales channels, and other important considerations. The export development plan may therefore overlap your regular business or sales plan but should not be longer than a few pages.

Once the company has more experience with exporting, the export development plan can be expanded and become more complete and comprehensive. In fact, the export development plan is flexible and dynamic and should be adjusted based on proper monitoring and evaluation

of plan objectives. The pre-defined objectives should be compared with actual results to gauge the success of different export strategies. A very detailed export development plan is only recommended for companies that intend to export directly (i.e. selling to an end-user in the US) while companies exporting through third parties may create much simpler export development plans.

Tip 1.2

It is important to be aware of the key elements of a export development plan, which, in turn, determines data, statistics, and information the exporting company is required to collect in order to start writing the export development plan. There is no "one-size-fits-all" export development plan though some of the most common pieces of information include:

- Introduction to Service(s)
- Pricing Considerations
- Promotion
- Management Issues
- Operational Issues
- Experience
- HR Capacity
- Financial Capacity

The US Department of Commerce provides an example template and outline based on these pieces of information.

Source: US Department of Commerce (2018)

Once the exporting company has identified its financing needs, it may look to secure export financing by means of its export development plan. Two types of key financial instruments – each with their own terms and conditions - exist:

- Guarantee program. This instrument requires the participation of an approved lender.
- Loans and/or grants. This instrument provides loans or grants to a foreign Government or to the exporter.²⁴

Such typical export financing options may be available through the following financial institutions:

- **Jordanian banks.** A variety of Jordanian banks offers specialized trade finance programmes to support Jordanian companies with international trade. Such banks provide the following services and export financing packages:
 - o Letters of Credit – Provides Letters of Credit, which are the most common arrangement used by global banks for settling international commercial transactions.
 - o Letters of Guarantees – Provides Letters of Guarantee as a customized bank guarantee for specific purposes.
 - o Bills for Collection – Offers Bills for Collection to clients who do not require the full protection of a Letter of Credit, but seek enhanced protection when transacting their business in open account terms.
 - o Export Loans – Provides loans to Jordanian companies looking to export in order to gain the liquidity they need to carry out export transactions at competitive rates, and with flexible terms.²⁵
- **Multilateral Development Banks.** These together provide a combined total of almost \$50

²⁴ US Department of Commerce (2016), "A Basic Guide to Exporting," Chapter 9 – Exporting Services, available at https://2016.export.gov/missouri/build/groups/public/@eg_us_mo/documents/webcontent/eg_us_mo_097311.pdf

²⁵ Capital Bank Jordan (2018), "Trade Finance," available at <http://www.capitalbank.jo/corporate/trade-finance>

billion in loans, grants, and investments to the public and private sectors for economic and social development in developing markets. The most applicable to Jordan is the World Bank.

- **US Export-Import Bank.** The main focus of the US Export-Import bank is to support US exporters but several programs also exist for international buyers that therefore may be of relevance to Jordanian businesses engaged in importing from and exporting to the US.
 - o Loan Guarantee Program – Provides term financing to creditworthy international buyers, both private and public sector, for purchases of US goods and services.
 - o Direct Loan Program – Provides fixed-rate loans to creditworthy international buyers, both private and public sector, for purchases of US goods and services.
 - o Finance Lease Guarantee Program – Provides lease financing to creditworthy international buyers as an alternative to traditional installment loans.
 - o Credit Insurance – Allows US exporters to offer competitive open account terms to foreign buyers while minimizing the risk of non-payment. When foreign accounts receivable are insured, lenders are more willing to increase the exporter’s borrowing capacity and offer more attractive financing terms.²⁶

Moreover, exporters insuring their accounts receivable against commercial credit and political risk loss are typically qualified to secure financing from commercial banks and other financial institutions at lower rates on a more relaxed basis.²⁷

Step 5 – Export Service Delivery

Delivering export services is mostly done through one – or a combination of – the following methods:²⁸

- Exporting company visits client – Delivery of services by means of the Jordanian exporting service provider meeting the US customer repeatedly on site.
- Client visits exporting company – Delivery of services by means of the US customer visiting the exporting services provider in Jordan (e.g. tourism industry).
- Establishment in the market – Delivery of services through actual presence in the US (mostly conducted by large legal and accounting firms).
- Electronic delivery – Delivery of services through e-business applications.

Delivering the services to the US is dependent upon a wide variety of considerations. The exporting company needs to evaluate the most effective way in terms of traveling and visa, pricing, taxation, and payment in order to ensure its service(s) is provided to its potential customers in the target market(s) in an efficient way and in full compliance with both Jordanian and US regulatory environments. Such strategic matters include:

- **Visa.** Exporting service(s) abroad may require workers to physically cross the border to deliver it (e.g. installation or demonstration). The exact visa that is required depends on the nature of the service and work, the type of workers the exporting company is sending, and the duration of the trip. It is advised to check with a lawyer who specializes in the US to avoid disruption and delay.²⁹ The specific form of visa determines the procedure

²⁶ US Department of Commerce (2018), "Export Financing," available at <https://www.export.gov/article?id=Export-Financing>

²⁷ US Department of Commerce (2016), "A Basic Guide to Exporting," Chapter 9 – Exporting Services, available at https://2016.export.gov/missouri/build/groups/public/@eg_us_mo/documents/webcontent/eg_us_mo_097311.pdf

²⁸ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exportt.ca/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

²⁹ Business Development Bank of Canada (2018), "5 tips to successfully export your services," available at <https://www.bdc.ca/en/articles-tools/marketing-sales-export/exportation/pages/exporting-services.aspx>

for obtaining a visa and should be sought through the US Citizenship and Immigration Services (USCIS). The table below summarizes the most common types of visas of interest to non-immigrant investors. Jordanian nationals can benefit from the Jordan – US FTA as they are eligible for visa E-1 and E-2 types.

Table 1.3 Most common non-immigrant visas

Type	Description	Costs	Maximum Stay	Renew
B-1	Available for a business visitor who needs to be in the US for temporary business purposes and who has an established residence in Jordan to which the visitor intends to return. The visa may not be extended for a period in excess of four years and employment under this visa is not accepted.	\$160	6 months	Yes
E-1 E-2	Available for a visitor (and spouse and/or children) from a country with which the US has signed a commerce and navigation treaty. Such a treaty exists between the US and Jordan. Purpose of the visit must be to either engage in direct trade or direct operations in an establishment in which the visitor has invested a considerable amount of capital.	\$205	2 years	Yes
H-1 H-2	Available for a visitor intending to remain a permanent resident in Jordan but looking for temporary employment in the US where this employment can't be performed by a US resident. This typically involves skill and recognition substantially above that of the ordinary individual.	\$190	3 years	Yes
J	Available to visitors participating in programs promoting cultural exchange (i.e. medical or business training). Visitors must be sponsored by either the private sector or a Government program and need to comply with strict legibility criteria.	\$160	End of exchange program	No
L	Available for a visitor intending to render managerial or other specialized services at a branch, parent, affiliate, or subsidiary of the current employer. The individual must have been employed by the same employer abroad continuously for one year within the three preceding years.	\$190	3 years	Yes
O	Available for a visitor with extraordinary ability or achievement in a particular field. These fields include sciences, arts, education, business, athletics, motion picture and television fields. The extraordinary ability or achievement must be demonstrated by sustained national or international acclaim.	\$190	3 years	Yes

Source: *BKD International Tax Services Division (2017) and US Department of State – Bureau of Consular Affairs (2018)*

- **Pricing.** Normally, the exporting company needs to decide on the currency exchange rate. An unfixed exchange rate implies prices in US dollar may fluctuate according to the currency exchange rate. However, the Jordanian dinar is pegged to the US dollar. When setting the price for services, it is important to first consider the prices of competitors and include a certain margin for additional costs (e.g. insurance). It is also important to take the objective into account (e.g. new market penetration or long-term growth). Several pricing strategies exist:
 - o Static pricing – One price for all customers.
 - o Flexible pricing – Different prices for different customers.
 - o Full cost-based pricing – Covering the fixed and variable costs of the export sale.
 - o Marginal cost – Covering only the variable costs while fixed costs are paid from sales in Jordan.
 - o Penetration pricing – Relatively low prices in order to quickly obtain a certain market share.
 - o Market skimming – Relatively high prices in order to only sell to the high-end segment.
- **Taxation.** It is not always straightforward how exported services are categorized and taxed accordingly. Therefore, it is advised to contact a US fiscal expert who help to determine how exporting services will affect taxes and which category exported services fall into.³⁰

The extent to which services can be delivered also depends on a number of factors³¹ specific to the US, including:

- Extent and reliability of internet and telecommunications infrastructure.
- Frequency and convenience of air connectivity between Jordan and the US.
- Technological sophistication, receptivity, and flexibility of US customers.
- Potential support on behalf of the Jordanian Government and international development agencies.
- Ability to satisfy legal regulations governing work permits or professional certification.
- Potential to enter into a local partnership.

The exporting process is not finished once the export sale has been made. Communications tools (e.g. website, brochures, and any other marketing materials) need to be translated while after-sales services for anything that may not serve new clients need to be evaluated.³²

³⁰ Business Development Bank of Canada (2018), "5 tips to successfully export your services," available at <https://www.bdc.ca/en/articles-tools/marketing-sales-export/exportation/pages/exporting-services.aspx>

³¹ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exporth.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

³² Business Development Bank of Canada (2018), "5 tips to successfully export your services," available at <https://www.bdc.ca/en/articles-tools/marketing-sales-export/exportation/pages/exporting-services.aspx>

1.3 Exporters

Understanding the competitive position of Jordanian exporters requires performing the following analyses:

1. **Evaluating the US trade balance.** This will illustrate for which services demand in the US is currently high as a negative trade balance shows the US is importing more of these services than it domestically produces, which is an indicator of export opportunities.
2. **Evaluating Jordan's trade balance.** This will illustrate the current supply of Jordanian services to the global market as a positive trade balance indicates services Jordanian businesses have a competitive advantage given the positive export track record of these services.

Matching the results of the previous analyses gives a first impression of the export potential of the US market for Jordanian companies as it looks to match US demand, current Jordanian supply, and Jordan's competitive industries. It integrates the findings of the previous analyses identifies to what extent Jordanian businesses are missing out on US export opportunities and demand (identified in Step 1), thereby leveraging competitive advantages Jordan has in specific services (identified in Step 2). In fact, this approach forms the blue-print to any initial market research that Jordanian export companies should undertake and customize according to their market(s) and service(s).

Step 1. US Trade Balance

The US imported a total of \$503 billion worth of services over 2016 while it exported \$752 worth of services in the same year. This implies a trade surplus of \$249 billion. Looking at specific services, it seems the US's biggest imported service relates to travel, equalling \$121.5 billion, followed by transport services (\$97.2 billion), other business services (\$96.1 billion), and insurance and pension services (\$48.4 billion). On the contrary, the US exported \$206.8 worth of travel services, followed by other business services (\$136.1 billion), charges for the use of intellectual property (\$122.2 billion), financial services (\$96.7 billion), and transport services (\$84.6 billion).

On the whole, the US largest trade deficit exists in insurance and pension services as it recorded a negative trade balance of \$30.7 billion in 2016. This indicates export potential exists particularly for this type of services. Export potential for other services include transport services, government goods and services, construction services, and telecommunications, computer, and information services. An exception is other business services. This type of services is one of the US' main exported services but also represents nearly 20% of all services imported into the US.

Table 1.4 Services with a negative US trade balance (2016)

Service(s)	Imports		Exports		Balance
	Value (\$ million)	Relative (%)	Value (\$ million)	Relative (%)	Value (\$ million)
Insurance and pension services	48,399	9.6%	17,742	2.4%	-30,657
Transport	97,176	19.3%	84,634	11.2%	-12,542
Government goods and services	21,096	4.2%	19,860	2.6%	-1,236
Construction	2,563	0.5%	2,053	0.3%	-510
Telecommunications, computer, and information services	37,527	7.5%	37,262	5.0%	-265
Personal, cultural, and recreational services	2,015	0.4%	2,513	0.3%	498
Maintenance and repair services	8,699	1.7%	26,485	3.5%	17,786
Other business services	96,076	19.1%	136,049	18.1%	39,973
Financial services	25,232	5.0%	96,752	12.9%	71,520
Charges for the use of intellectual property	42,743	8.5%	122,226	16.2%	79,483
Travel	121,527	24.2%	206,835	27.5%	85,308

Source: International Trade Centre Trade Map (2018)

Step 2. Jordan Trade Balance

The next step is to evaluate the export potential of services in which Jordanian businesses enjoy a competitive advantage. Jordan exported services with a value of \$6.23 billion in 2016 while the Kingdom only imported for \$4.44 billion worth of services in the same year. This indicates a trade surplus of \$1.79 billion.

Travel services as segment is the main driver behind Jordan's trade surplus. Jordanian businesses clearly enjoy a competitive edge with regards to travel services as exports of this type of services equalled about \$4.04 billion in 2016. Despite the import of travel services of \$1.26 billion in 2016, Jordan realized a trade surplus in travel services of \$2.79 billion in 2016.

Travel services is followed by a number of other services in which Jordanian companies enjoy a clear competitive advantages. These include other business services such as research and development, technical, trade-related, and other business services, and professional and management consulting services, with a surplus of \$88.6 million. This services sector is followed by Government goods and services (\$54.4 million), construction (\$8.39 million), and charges for the use of intellectual property (\$7.74 million).

Despite a value of \$1.29 billion worth of transport services exports, Jordan imported for \$2.40 billion worth of transport services in 2016. The services segment for which Jordan is most dependent on foreign service providers is the insurance and pension services segment as it barely exported any of these services while imports nearly equalled \$376 in 2016. More export potential exists for the telecommunications, computer, and information services as well as for personal, cultural, and recreational services as Jordan already exports some services in these services (\$6.9 million and \$50.5 million, respectively) though these are currently outperformed by larger import values.

Table 1.5 Services with a positive Jordan trade balance (2016)

Service(s)	Imports		Exports		Balance
	Value (\$ 1,000)	Relative (%)	Value (\$ 1,000)	Relative (%)	Value (\$ 1,000)
Transport	2,399,870	54.1%	1,287,150	20.7%	-1,112,720
Insurance and pension services	375,794	8.5%	0	0.0%	-375,794
Telecommunications, computer, and information services	52,138	1.2%	6,929	0.1%	-45,209
Personal, cultural, and recreational services	58,583	1.3%	50,620	0.8%	-7,963
Charges for the use of intellectual property	29,085	0.7%	36,833	0.6%	7,748
Construction	14,118	0.3%	22,506	0.4%	8,388
Financial services	55,351	1.2%	109,705	1.8%	54,354
Government goods and services	102,535	2.3%	191,127	3.1%	88,592
Other business services	92,451	2.1%	484,216	7.8%	391,765
Travel	1,257,746	28.3%	4,043,521	64.9%	2,785,775

Source: International Trade Centre Trade Map (2018)

Synopsis

Finally, it is key to identify whether services in which Jordanian businesses enjoy a competitive advantage (Step 2) match with the US export opportunities and demand (Step 1). Integrating the findings of the previous steps results in the matrix below. This matrix plots the competitiveness of a number of Jordanian services. It plots the global export competitiveness (Step 2) for the services for which there is a high demand in the US (Step 1). The four quadrants determine the export-readiness of Jordanian services:

- **Strong US Demand & Strong Export Competitiveness** - These services enjoy the highest export - readiness as their export competitiveness is strong-enjoying advantages unique to Jordan - while demand in the US for these services is high. This scenario may be challenged, however, as the export may gradually become saturated due to a high export supply from Jordan. This is the case for services related to the Government as well as construction.

- **Strong US Demand & Modest Export Competitiveness** – These services enjoy a considerable degree of export-readiness as the demand for these services in the US is high though Jordanian exporters do not necessarily enjoy unique competitive advantages. Challenges, however, may relate to exclusive dependency on the US market (requiring spreading risks) and market saturation. This is the case for transport services and telecommunications, computer, and information services.
- **Modest US Demand & Strong Export Competitiveness** – These services enjoy a considerable degree of export-readiness as they enjoy advantages unique to Jordan. However, demand in the US for these services is not as high as for the previous scenarios. This may nevertheless indicate US export potential as this market has not been accessed and penetrated yet. The specialization of Jordanian exporters in these services may also provide an additional incentive for US exports. This is the case for other business services (including research and development, technical, trade-related, and other business services, and professional and management consulting services), financial services, and intellectual property charges.
- **Modest US Demand & Modest Export Competitiveness** – These services enjoy a modest degree of export-readiness as their export competitiveness is modest while demand in the US for these services is moderate. However, opportunities exist to improve the export readiness of these services. Improving the quality or scale of provision of these services may increase their export potential for the US market given the fact considerable demand exists in the US market for services. This is the case for personal, cultural, and recreational services.

Table 1.6 Overview of export-readiness of Jordanian services with high US demand

		US Demand	
		Modest	Strong
Export Competitiveness	Strong	<ul style="list-style-type: none"> • Other business services • Financial services • Charges for the use of intellectual property 	<ul style="list-style-type: none"> • Government goods and services • Construction
	Modest	<ul style="list-style-type: none"> • Personal, cultural, and recreational services 	<ul style="list-style-type: none"> • Transport • Telecommunications, computer, and information services

Source: *Investment Consulting Associates – ICA (2018)*

It should be noted these identified services have been identified based on their market potential, not on their market access. Tariffs and non-tariff measures may be in place on the US side that prevent certain Jordanian services from being exported to the US market, hence the current low rates of market penetration. This undermines the need for further market intelligence and research on behalf of the Jordanian exporter.

1.4 Buyers & Consumers

Once the competitive position of Jordanian exporters and the US market demand for their services has been identified, it is necessary to get a better picture of who these consumers are and how they can be reached. The first step is to refine the market entry strategy. This depends on the initial market entry strategy or sales channel selected as explained in Section 1.2.

The most common methods to reaching US consumers and buyers depends on whether the Jordanian exporting company prefers to export directly, indirectly, through partnerships, or through investment or acquisition. The choice depends on desired level of involvement in the exporting process, which, in turn, is based on the company's level of resources, size of the company, tolerance for risk, opportunity costs, nature of the service(s), previous export experience and expertise, and business conditions in the US.³³ It should be noted a hybrid mode is also an option, whereby the Jordanian company sells directly through its own website but indirectly through e-commerce platforms, agents, or intermediaries.

1. Direct Exporting

Direct exporting grants the Jordanian exporter to directly negotiate, contract, and work with the US client. The Jordanian company can set (lower) prices to be more competitive and maintain close contacts with its clients.³⁴ This method is, however, the most complex and risky as the Jordanian company is responsible for the entire exporting process, from market research and planning to providing the exported service(s) and payment collections. A lot of resources are involved in order to plan, manage, and execute the exporting process and should therefore be considered as a long-term approach.³⁵ Finally, it may take longer for clients and customers to get to know the foreign services provider as the exporting company is not directly using the network of an intermediary.

2. Indirect Exporting

Indirect exporting implies the exporting company contracts an intermediary who then negotiates and contracts on behalf of the exporting company.³⁶ Control over the export process is with another party, granting the Jordanian exporter access to the US buyers and consumers without the potential complexities and risks associated with direct exporting. Exporting through intermediaries involves contracting intermediaries and representatives such as export management companies, export trading companies, international trade consultants, commission agents, and other intermediaries (e.g. distributors and online marketplaces) that are capable of finding US buyers.

The advantage of indirect exporting is that Jordanian exporters retain a considerable control over the exporting process while simultaneously learning more about foreign technologies, practices, consumers, and competitors. The risks and complexities lie with an independent export intermediary, that has the responsibility for finding overseas buyers and getting paid. Alternatively, an agent may be engaged on a commission basis to find US buyers. Recently, online marketplaces (e.g. eBay, Amazon, and Alibaba) have also become involved in providing indirect export services – for a fee.

³³ US Department of Commerce (2018), "Approaches to Exporting," available at <https://www.export.gov/article?id=Approaches-to-Exporting>

³⁴ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exporthq.ca/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

³⁵ US Department of Commerce (2018), "Direct Exporting," available at <https://www.export.gov/article?id=Direct-Exporting>

³⁶ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exporthq.ca/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

Table 1.7 Intermediaries for indirect exporting of services

Intermediary	Description	Considerations
Sales Representative	On-site representative specialized in a certain geographic area using the exporting company's marketing materials to present to potential buyers.	<p>Sales representative typically works for a commission.</p> <p>Sales representative may or may not operate on an exclusive basis.</p> <p>Requires clearly defined contract covering territory, terms of sale, method of compensation, reasons and procedures for terminating the agreement, and other details.</p>
Sales Agent	A representative who looks to secure orders from foreign customers and who enjoys the authority to make commitments on behalf of the exporting company.	<p>Sales agent typically works for a commission.</p> <p>Sales agent may or may not operate on an exclusive basis.</p> <p>Requires clearly defined contract covering territory, terms of sale, method of compensation, reasons and procedures for terminating the agreement, the legal authority to obligate the exporting company, and other details.</p>
Distributor	A merchant who purchases service(s) the Jordanian exporter (often at a discount) and resells them for a profit in the US.	<p>A distributor generally provides (after-sales) support and service, relieving the exporting company of those responsibilities.</p> <p>End-users typically do not buy directly from a distributor but from a retailer or dealer.</p> <p>Requires clearly defined contract covering the terms and length of association between the exporting company and the foreign distributor.</p>
Trading House	Jordanian intermediaries that market the service(s) in the US (e.g. export merchants or principals).	Trading houses may be responsible for great many aspects of exporting, including market research, transportation, appointing distributors or agents, exhibiting at trade fairs, and preparing advertising and documentation.
End-User	Final consumers of the service(s) such as US Government institutions, businesses, or final consumers.	<p>The exporting company is responsible for providing the service(s), payment collection, and product servicing unless other arrangements are made.</p> <p>Requires marketing materials and website adapted to US standards to enable online sales.</p>

Source: The Canadian Trade Commissioner Service (2011)

3. Partnerships

An alternative approach to direct or indirect exporting is to establish a partnership with a US company. For a successful partnership, both companies need to complement each other's strategic positions. The benefits of such a partnership include:

- Leveraging the US partner's expertise, network, and insights of the local market.
- Specialization of activities while simultaneously multi-tasking.
- Risk-sharing.
- Cost-sharing.
- Economies of scale through pooling resources.
- Increased competitiveness in terms of technology, human capital, financial resources, and market access.

Different forms of partnerships exist. When selecting a partnership, it is important to evaluate whether a partnership is of value-added in the first place or whether needs can be satisfied in-house.³⁷ This choice depends on the exact needs and requirements in terms of finance, expertise, and local market presence. Evaluating the exporting company's export ambitions, goals, its ability to achieve them, and where support is required should identify gaps that may be overcome by means of establishing a partnership. This, in turn, should be the basis for the form, structure, and objectives of the partnership. A partner that meets these criteria is a suitable partner.

Table 1.8 Partnerships for indirect exporting of services

Partnership	Description
Licensing	Granting a foreign independent business the right to legally use the exporting companies' proprietary technology and/or intellectual property. Requires a license agreement.
Franchising	Granting a foreign independent business the right to legally use the exporting companies' proprietary technology and/or intellectual property as well as the right to legally use a set service delivery processes, along with established business systems or trademarks. Requires a license agreement.
Cross-Licensing	Each foreign independent business licenses services to the other foreign independent business for sales purposes.
Cross-Marketing	Each foreign independent business grants the other offering independent business to take advantage of existing distribution networks and domestic markets for sales purposes. A fee or percentage of sales is typically agreed on.
Co-Production	Joint provision of services, enabling both foreign businesses to use each other's skills and resources to provide most cost-effective services

³⁷ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exporthq.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

Joint Venture	Two foreign independent businesses set up a newly created businesses that is operated together. Requires a joint venture agreement.
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Source: *The Canadian Trade Commissioner Service (2011)*

4. Acquisition

Acquisition involves the Jordanian exporting company to obtain direct access to the US market by acquiring an existing independent local company (e.g. competitor or supplier). This method ensures instant presence and direct control and ownership while showing long-term commitment to the US market. The disadvantage of this method is that it is very resource-intensive and time-consuming to acquire a local company.

Meeting Intermediaries, Partners & Buyers

If the exporting company chooses to use foreign intermediaries, various options exist to meet foreign intermediaries (and/or buyers) during major foreign trade shows or trade missions, events, and incoming trade missions hosted within the Kingdom of Jordan. Another, less-time consuming option concerns e-commerce platforms. Ultimately, company representatives may need to travel to the US to identify, evaluate, and sign up US intermediaries. Nevertheless, exporting companies can save time by first conducting background research on the US market. It is important to remember the success of these options depends on the nature of the service(s) as some of them may be more difficult to sell in the US unless potential overseas partners have an opportunity to examine the items in person and engage with service representatives.

- Trade Fairs – Trade fairs are events that are organized for and attend by companies from a certain industry or sector that attend the trade fair to exhibit and display their products and goods as well as services. In that sense, trade fairs function as a direct marketplace where sellers and buyers can meet. It may also be advisable to attend trade fairs that do not necessarily take place in the US. Useful resources include:
 - o m+a ExpoDatabase.
 - o Absolute Exhibits 2017-2018 Trade Show Calendar.
- Trade Missions – These can be both inbound trade missions consisting of a delegation of US Government officials, businesses, and other intermediaries that visit Jordan in order to look for trade and investment opportunities in the context of international politics. Vice-versa, Jordanian trade missions to the US are frequently organized. It may be worthwhile for Jordanian exporting companies to attend these trade missions, not only to engage with potential buyers and intermediaries in the US but also to get familiar with exporting procedures by networking with diplomats, trade officials, and other Government officials (e.g. US Customs and Border Protection). Trade missions are typically more specialized and customized than trade fairs as they frequently feature briefings, roundtables, site visits, one-on-one meetings with pre-screened participants, and matchmaking sessions. Useful resources include:
 - o AmCham-Jordan.
 - o Jordan Investment Commission.

Tip 1.3

One of the largest events for international business directed towards the US is the SelectUSA Investment Summit, which is an annual event organized in Washington, DC. Though not necessary aimed at incoming exporters, it may be worthwhile to attend this event as it is specifically geared towards foreign businesses looking to do business in the US. In addition, it provides potential exporting companies with first-hand knowledge and insights into the most dynamic US industries and which key opportunities for growth and success they offer. Economic developers and federal, state, and local investment and trade promotion agencies attend this event, enabling potential exporters to meet with officials and diplomats who may support their endeavors.

Source: SelectUSA (2018)

Evaluating & Selecting a Representative or Buyer

The next step once a foreign intermediary or buyer has been identified is to evaluate and select whether this partner is equipped to facilitate indirect exporting.³⁸ It is vital to pay attention to the following criteria:

- Size of Sales Force – Number of salespeople, short- and long-term objectives, and expansion.
- Sales Record – Track record, growth, ambitions, and trends.
- Territorial Analysis – Markets covered, branch offices, plans to open additional offices.
- Service Mix – Number of service lines, compatibility with exporters' service line(s), conflict of interest, and representation of competitors.
- Facilities and Equipment – Adequate communication facilities and facilitative to exporters' service line(s).
- Marketing Policies – Number of sales staff, quality of sales staff, and monitoring sales performance.
- Customer Profile – Type of customers served, key accounts, and compatibility with exporters' customers.
- Promotion and Intelligence – Market research, social media, promotional materials, marketing budget, and professionalism of marketing efforts.

The exporting company should evaluate for each of these principles to what extent the principles of the representative or buyer are compatible with the exporting company's principles. This may require to perform additional investigation into the intermediaries':

- Current status and track record (including background on principal officers).
- Approaches to introducing new services into the sales territory
- References of banks and trade partners.
- Data on whether the exporting firms' special requirements can be met.

This can be investigated by directly meeting the potential intermediary or buyer or schedule several conference calls.

Negotiating an Agreement with an Intermediary or Buyer

A foreign sales agreement should be negotiated when the exporting company has decided on

³⁸ US Department of Commerce (2018), "Choosing a Foreign Representative," available at <https://www.export.gov/article?id=Choosing-a-Foreign-Representative>

the buyer or intermediary. From the perspective of the buyer or intermediary, key components of this sales agreement should include the exporting company's pricing structure, service(s) profit potential, terms of payment, service(s) regulation, the amount of support provided by the exporting company (e.g. sales aids, promotional materials, and advertising), training for the sales and service staff, and the exporting company's ability to deliver as per agreed on agreements.

The exporting company, on the other hand, may look to include certain provisions that specify the actions of the US buyer or intermediary. This could include business dealings with competing companies, conflicts of interest, confidentiality, exclusiveness, and performance requirements to monitor and measure the sales performance of the buyer or intermediary. This highlights the need for mechanisms that should feature in the sales agreement that protect the exporting company's interests in case the intermediary or buyer proves less than satisfactory with regards its sales performance or services delivery. An escape clause should define what constitutes a "just cause" for ending the agreement and the term in which this should be notified. Such escape clauses and other provisions should be in compliance with US legal requirements, which requires obtaining qualified legal counsel in preparing the contract.³⁹

Tip 1.4

When negotiating and drafting a sales agreement, a few considerations are relevant to exporting companies that require further attention.

- **Accountability.** The US buyer or representative should be hold accountable in the agreement. This requires defining and including performance requirements (e.g. minimum sales volume and expected rate of increase).
- **Termination.** The agreement should cover mechanisms that stipulate on which reasons and when the agreement can be ended. This should protect the exporting company in terms of under-performance of the US buyer or representative and typically includes an escape clause.
- **Legal Jurisdiction.** The laws of the buyer's or representative's country may take precedence. This means US laws should be applied. The agreement should define what laws apply to the sales agreement. Frequently used sources for the resolution of contract disputes include the International Court of Arbitration of the International Chamber of Commerce.

The International Chamber of Commerce also provides useful guidelines for drafting a sales agreement.

Source: US Department of Commerce (2018)

Keeping an Intermediary or Buyer

Managing and keeping an intermediary or buyer may be challenging. For instance, buyers and intermediaries may drop foreign exporting companies and exchange them for domestic supplier in case of fluctuations in domestic demand and currency exchange rates. Though the latter may not be applicable to Jordanian exporters given the Jordanian dinar which is pegged to the US dollar, they may face uncertainties.

³⁹ US Department of Commerce (2018), "Negotiating Agreements," available at <https://www.export.gov/article?id=Direct-Exporting>

This requires keeping a good relationship with the US intermediary or buyer. This could be achieved by a number of strategies:

- Showing the exporting company's value to and appreciation of the US intermediary or buyer.
- Providing the US intermediary or buyer with a certain discount or a trimmed margin.
- Incorporating a degree of flexibility in terms of payment terms.
- Optimize and diversify the exporting company's service provision to anticipate on fluctuations in demand.

Checklist

- Do you see the US as part of a wider approach to enter the North American market?
- What are the strengths and weakness for your service(s)?
- Do you know if there is demand for your service(s)?
- Do you have the right market expertise in terms of consumer attitudes, buying habits, and styling nuances?
- Do you know your business' competitive advantage in the US?
- Are your competitors already operating in the US?
- Can you supply the desired scale, volume, and supply to the US market?
- Have you segmented the US market and/or identified your niche market?
- Do you know how to best reach potential customers in your segmented and/or identified niche markets?
- Have you conducted proper export planning and evaluated your motivations to export?
- Have you evaluated the most profitable export opportunities based on accurate market intelligence?
- Have you determined the most appropriate market entry strategy to penetrate the US market?
- Have you created an export development plan in order to obtain exporting finance?
- Have you made arrangements in terms of payment, insurance, and pricing to deliver the export service?
- Have you decided whether you will be exporting directly or indirectly?
- Have you decided which channels of (in)direct selling you will use to market your service(s) in the US?
- Have you decided what types of intermediaries you will use to bring your service(s) to the US market?
- Have you explored the services schedule of the FTA listing horizontal commitments and commitments applicable to your (sub-)sector?

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02 LIABILITY

2 Liability

Trade and business has now become a practice that can span the entire globe for a single company. Conceivably, country borders do not hold as a company's borders anymore. There are now abilities to send someone your company's product on the other side of the world. These added opportunities also come with added risks. There are more ways in which the company can falter and possibly hurt its own business. However, understanding risks and liabilities a company can be exposed to can aid in the prevention of succumbing to such issues. This Section will cover key liabilities that may cross an exporting company's path so that the company can properly plan to proactively prevent such things from happening.

2.1 General

Exporting companies may be prone to general risks and liabilities that arise as a result of naivety and a lack of proper research. The most common risks and liabilities companies that export services may be exposed to, include:

- **Market Size** – One of the most common risks is the size of the desired foreign market the company wants to become a part of. As mentioned before, making sure there has been economic research done to evaluate whether the size of the desired market is viable to survive and hopefully thrive on. Companies should not assume the market is the same as their domestic market.⁴⁰
- **Assume Economic Swings** – It may be difficult to predict a change in a company's local economic environment. This shock will have global implications. Therefore, companies should not have the ability to survive only in the best possible economic environment but also in different economic scenarios. As such, companies should prepare to survive in a less-than-ideal environment.⁴¹
- **Currency Exchange Fluctuations** – Currency exchange rates do not stay the same. Therefore, an exchange rate shift can be a detriment to the daily sale price of products or services. In order to cushion from this risk, exporting companies should look into exchange rates, collect on transactions immediately, and pay indigenous organizations to hedge the risks.⁴² An advantage for Jordanian exporters, however, is that the Jordanian dinar is pegged to the US dollar.
- **Basic Infrastructure Quality and Services** – Exporting companies should understand there is a cost of doing business on the companies end. If there is a desire to ship products or bring services throughout the US, then confirming lower costs to get this completed will not only help the customer but also the exporting company itself. Other factors include energy, technology, and financial services. Confirming that these liabilities can be covered will be important. Each area has different rates.⁴³
- **Political Climate and Operational Processes** – Some companies have a great company idea but local Government culture and regulations will prevent commercialization of the idea and the success of the business. Researching that a product or service does not violate key Government regulations will aid in the continual support and survival of the company.⁴⁴

⁴⁰ Forbes (2016), "Key Risk Factors when Scaling a Business to Global," available at <https://www.forbes.com/sites/martinzwillig/2016/04/07/6-key-risk-factors-when-scaling-a-business-to-global/#18e239a02a89>

⁴¹ Ibid

⁴² Ibid

⁴³ Ibid

⁴⁴ Forbes (2016), "Key Risk Factors when Scaling a Business to Global," available at <https://www.forbes.com/sites/mar->

- **Honor Cultural Assumptions and Sensitivities** – Each country has different verbal cues or ways of doing business that are appropriate and inappropriate. Researching certain language or actions to lean towards and lean away is needed. There may be things said or done that can jeopardize agreements or deals being made.⁴⁵

One of the best methods to protect against and cover for potential liabilities, however, is to include provisions on liability in a contract or sales agreement under the terms of which the client requests the service provider to supply certain services. This will be further explored in Section 3.

2.2 IT Services

This section will explore, state-by-state, the risks and liabilities related to conducting IT services. Recently, the internet and access to it has become much more easily available. It is easier for any person to get on a computer and commercialize an idea, product, concept, or service that supports others. However, it has also become easier for someone to gain unlawful access to secure sites and information. From there, they can shut down sites, take control of them, or steal valuable information from them, which leads to destruction of helpful information. There have been laws put into place to halt this practice, yet there is still some uncertainty to whether someone could still gain access to files or sites. Each state can have different risks and different laws to protect businesses against attacks.

Jordanian companies looking to export IT services need to take notice of these risks and liabilities specific to their industry and be prepared to be exposed to these liabilities as well as address them. Some of the key risks and liabilities related to cybercrimes. Some cybercrimes⁴⁶ are sanctioned on the Federal level, including:

- **Computer/Network Intrusions** – When a person hacks into a computer or system in order to disable its operations, shut down the company's operations, or gain some information to get ahead of competition.
- **Ransomware** – This is malware that encrypts or locks valuable digital files. The attacker will disguise the code in an email with an attachment. When the victim opens the attachment, it locks the victim out and the hacker sends instructions to pay a ransom to get the files unlocked.

California

There are some cybercrimes that are more pronounced in California⁴⁷ than in other states. Therefore, Jordanian companies exporting IT services to California should be aware of the following potential risks and liabilities:

- **Internet Fraud** – This term means that there is a deception in order to get someone to give up something they value, usually money. There are two major types of internet fraud:
 - o Non-delivery Merchandise Fraud is when a person orders something, pays before getting

[tinzwilling/2016/04/07/6-key-risk-factors-when-scaling-a-business-to-global/#18e239a02a89](https://www.tinzwillig.com/2016/04/07/6-key-risk-factors-when-scaling-a-business-to-global/#18e239a02a89)

⁴⁵ Forbes (2016), "Key Risk Factors when Scaling a Business to Global," available at <https://www.forbes.com/sites/martinzwillig/2016/04/07/6-key-risk-factors-when-scaling-a-business-to-global/#18e239a02a89>

⁴⁶ FBI (2018), "What we Investigate – Cyber Crime," available at <https://www.fbi.gov/investigate/cyber>

⁴⁷ Wallin & Klarich (2013), "California Cyber Crime Law – Types of Cyber Crimes," available at <https://www.wklaw.com/cyber-crime-types/>

the product or service, while the product or service is not actually real and/or does not get delivered to the payer.

- o Advanced Fee Fraud is when a larger and/or more expensive product is marketed to be available across the world. However, in order to obtain the product or service, an extra fee should be paid in advance of shipping the product or delivering the service. The criminal has no intent to send the product or deliver the service, will keep the fee, and never send the product or deliver the service. A best practice approach is to look for confirmation the website or company is valid.

California's Criminal Law Penal Code 484(e) applies here.

- **Phishing and Identity Fraud** – The term “phishing” relates to a person tricking a victim by disclosing their personal or confidential information via email or other ways. The information is either a credit card number or a Social Security Number (SSN). The personal or confidential information is subsequently used for purchases. The victim can persecute the criminal in a civil case only if they successfully “phish” the victim. If the criminal only had the intention to “phish” but did not actually carry out “phishing”, then it is not considered “phishing” and therefore not punishable. California's Criminal Law Penal Code 530.5 applies here.
- **Hacking** – Hacking is the practice of gaining access to a computer and/or computer data without permission. The information will then be used for illegal purposes. California's Criminal Law Penal Code 502I applies here.

Illinois

There are some cybercrimes that are more pronounced in Illinois⁴⁸ than in other states. Therefore, Jordanian companies exporting IT services to Illinois should be aware of the following potential risks and liabilities:

- **Computer Tampering** – Gaining access to a computer without permission as well as creating and then distributing viruses throughout computers. These are milder forms of tampering, yet still considered unlawful.
- **Aggravated Computer Tampering** – This form of tampering is of a significantly severe nature as it is aimed towards disrupting state or local Government services or operations. It may also be used to cause bodily harm to other individuals in some way.
- **Computer Fraud** – Computer fraud encompasses all deceptive acts that will be used to gain others' personal or monetary valuables.
- **Identity Theft** – This is the theft of personal information such as Social Security Number or a full name in order to commit fraud such as applying for credit, gaining access to medical services, or making large or significant purchases.
- **Embezzlement** – This can be considered a cybercrime when a computer is used to track and transition money. This crime is when someone is entrusted with managing either another's personal or organization's money. The person inappropriately handles the money for their own personal gain, may put some money in their own account, or never deposit the money and spend it for their own benefit.

Michigan

There are no specific variations, titles or content, of crimes from the cybercrimes typically present at Federal level.

⁴⁸ Azhari LLC (2017), “Your Guide to Federal and Illinois State Cyber Crimes,” available at <https://azharillc.com/your-guide-to-federal-and-illinois-state-cyber-crimes/>

New York

There are some cybercrimes that are more pronounced in New York⁴⁹ than in other states. Therefore, Jordanian companies exporting IT services to New York should be aware of the following potential risks and liabilities:

- **Computer Trespass** – Knowingly using a computer to which a person does not have permission with the intent to commit a felony with the stolen material.
- **Computer Tampering** – The use of a computer - even with permission – with the objective to intentionally alter or destroy data or a program without permission to actually do so. Computer tampering in the fourth degree is a class A misdemeanor that can be prosecuted if it is successful.
- **Unlawful Duplication of Computer-Related Material** – The duplication of computer data or records that are considered computer materials. The duplication is without permission. The information must be related to medical records.

Tip 2.1

A useful tool to support IT companies with assessing their risks, is the Small Business Information Technology Risk Assessment created by the Premier Community Bank. It looks to protect both customers, employees, and the business as well as to ensure compliance with the applicable law(s).

Another useful tool that exists to take preparations a step further is to create a risk management plan or risk management matrices, which are particularly applicable to smaller services firms:

- Small Business Administration of the US Government.
- Investopedia.
- American Express.
- Smartsheet.

Source: Premier Community Bank (2018)

⁴⁹ HG.org Legal Resources (2018), "Computer Crimes in New York City," available at <https://www.hg.org/article.asp?id=7547>

Checklist

- Have you assessed that your assets will cushion a possible economic swing or currency exchange rate change?
- Have you researched risks, liabilities, and regulations that may pertain to your service(s)?
- Have you researched about the culture and assumptions of your desired business location?
- Have you researched any software or services that could protect you from any cybercrime-related liabilities?
- Are you paying more attention to the specific cyber risks of the state you decide to export to?
- Have you gone through a business risk assessment to map risks and liabilities you may be exposed to?

Useful Sources

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03

**CONTRACTS
& PAYMENTS**

3 Contracts & Payments

As mentioned in Section 1, once the exporting company has selected the appropriate intermediary or has found a client for its services, it is vital to reach mutual consensus and sign a contract that clearly stipulates the roles and responsibilities of each party involved in delivering the exported service(s). Service contracts can range from a simple handshake between two parties to a comprehensive agreement elaborating on a wide number of legal and technical specifications. One of the most important aspects of any service contract concerns the conditions and methods of payment. This Section explores aspects that need to be taken into account when drafting sales contracts for exporting services and highlights various considerations regarding payments.

3.1 General

Three aspects require legal attention before a company can commence delivering its services abroad: contracts with buyers and/or intermediaries, payment arrangements, and intellectual property protection.

3.1.1 Contracts

Before any company gets engaged in delivering its services through an intermediary or to a client in the US, it is essential both parties agree on the exact scope of service(s) to be provided. Both parties should have a mutual understanding of the following components:

- **Staff.** The personal who will be involved in delivering the service(s).
- **Equipment.** The facilities and infrastructure (e.g. ICT, Skype, conference call facilities) that will be used in order to successfully deliver the service(s).
- **Timing and Planning.** The date on which the delivery of the service(s) is commencing and the date on which the delivery of the service(s) is terminating.
- **Conditions.** Conditions should cover a number of elements:
 - o The circumstances that may lead to termination of the contract and any implications this may have in terms of delivery of the service(s), completion of the work, handing over the completed work, partial payment, and penalties in case of non-compliance.
 - o The procedures in case the US client is not making sufficient commitment in terms of staff, information, and/or facilities.
 - o Conditions for holdbacks.
 - o Conditions for the return of bid.
 - o Conditions for performance bonds or guarantee.
- **Dispute Settlement.** Procedures for resolving disputes. Resolving disputes concerns issues that may become controversial in international trade transactions.⁵⁰ Examples include:
 - o Disputes with agents, intermediaries, and/or clients.
 - o Collection of payments due.
 - o Breach of contract or warranty.
 - o Secured creditors' rights (e.g. seizure of assets).
 - o Enforcement of foreign judgements.

⁵⁰ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exportt.ca/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

If required, it is advised to seek legal counsel in the jurisdiction of the contract in order to explore options for dispute settlement. Disputes can also be settled through arbitration or alternative dispute resolution. This form of dispute settlement uses a tribunal to consider the issue(s) that has become controversial and over which the parties are in conflict. This tribunal then suggests how to resolve them.

- **Payment.** The terms, nature, and the exact schedule of payment(s) (e.g. date(s) when payment(s) will be made) according to the delivery of certain deliverables or achieving certain milestones.

In case of a contract between a Jordanian exporting company and an US-based intermediary, some additional components need to be included in the contract. These include the exporting company's pricing structure, service(s) profit potential, service(s) regulation, the amount of support provided by the exporting company (e.g. sales aids, promotional materials, and advertising), training for the sales and service staff, and the exporting company's ability to deliver as per agreed on agreements.

Negotiating a Contract with an Intermediary or Buyer

A contract should be negotiated when the exporting company has decided on the buyer or intermediary. The usual business practice in the US is to negotiate a transaction and then build a buyer-seller relationship around it.⁵¹ Negotiating a contract is of particular importance when contracting an intermediary. The exporting company may look to include certain provisions that specify the actions of the US intermediary. This could include business dealings with competing companies, conflicts of interest, confidentiality, exclusiveness, and performance requirements to monitor and measure the sales performance of the buyer or intermediary.

This highlights the need for mechanisms that should feature in the contract that protect the exporting company's interests in case the intermediary or buyer proves less than satisfactory with regards its sales performance or services delivery. An escape clause should define what constitutes a "just cause" for ending the agreement and the term in which this should be notified. Such escape clauses and other provisions should be in compliance with US legal requirements, which requires obtaining qualified legal counsel in preparing the contract.⁵²

⁵¹ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exportht.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

⁵² US Department of Commerce (2018), "Negotiating Agreements," available at <https://www.export.gov/article?id=Direct-Exporting>

Tip 3.1

When negotiating and drafting a sales agreement, a few considerations are relevant to exporting companies that require further attention.

Accountability. The US intermediary should be held accountable in the agreement. This requires defining and including performance requirements (e.g. minimum sales volume and expected rate of increase).

Termination. The agreement should cover mechanisms that stipulate on which reasons and when the agreement can be ended. This should protect the exporting company in terms of under-performance of the US intermediary and typically includes an escape clause.

Legal Jurisdiction. The laws of the buyer's or representative's country may take precedence. This means US laws should be applied. The agreement should define what laws apply to the contract. Frequently used sources for the resolution of contract disputes include the International Court of Arbitration of the International Chamber of Commerce.

The International Chamber of Commerce also provides useful guidelines for drafting a contract.

Source: US Department of Commerce (2018)

3.1.2 Payments

Several methods exist as to collect international payments. Other considerations related to opening an international bank account, money transfers, and insurance coverage.

- **Method of Payment.** Another important aspect to consider is international methods of payment.⁵³ The most common methods of payment are summarized in the table below. If there is any dispute regarding the payment, an exporting company will need to go through the US legal system for resolution. This generally takes place in the US state specified in the contract and abides by state laws.⁵⁴

- **Bank Account.** In order to receive a payment, it may be necessary to open a bank account in the US. This may be complicated as foreign companies do not have a credit record. It is advised to contact a local branch and inquire about options for opening a US account.

- **Money Transfer.** There are no restrictions in the US as to moving capital in and out the country. Sums over a certain amount, however, may be flagged by the exporting company's bank. A Currency Transaction Report is normally filed by the bank to the Financial Crimes Enforcement Network (FinCEN) for the transfer of a sum of over \$10,000.⁵⁵

Insurance. Jordanian insurance companies may not cover your requirements due to the extent of US litigation and the complex liability law. Nevertheless, you consider a US insurer or broker even if you don't have a physical US presence. To protect against non-payment of services, you may opt for Accounts Receivable Insurance (ARI) in Jordan.⁵⁶

⁵³ US Department of Commerce (2018), "How to Get Paid," available at <https://www.export.gov/article?id=How-to-Get-Paid>

⁵⁴ UK Department for International Trade (2016), "Exporting to the USA," available at <https://www.gov.uk/guidance/exporting-to-the-usa>

⁵⁵ Ibid

⁵⁶ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exportt.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

ARI typically covers up to a certain percentage of losses resulting from a wide variety of commercial and political risks.

Table 3.1 Most common methods of payment for international trade

Method of Payment	Description	Considerations
Cash-in-Advance	Receiving payment through wire transfers and credit cards before service is delivered.	<ul style="list-style-type: none"> • Avoidance of credit risk as payment is received in advance. • Small export transactions can be performed through internet escrow services. • Least attractive option for the buyer as it creates unfavorable cash flow while concerned service(s) may not be delivered if payment is made in advance. • Common approach for services is to include a retainer paid upon signing the contract.
Letter of Credit	Commitment by a bank on behalf of the buyer that payment will be made to the exporter, thereby assuming conditions and terms in the Letter of Credit will be met.	<ul style="list-style-type: none"> • One of the most secure methods of payments, particularly when reliable credit information about a foreign buyer is difficult to obtain, but is compensated by the creditworthiness of the buyer’s foreign bank. • Protects the buyer since no payment obligation arises until the services have been provided as promised. • Verification through the presentation of all required documents is required.
Open Account	Services are delivered before payment is due (30, 60, or 90 days).	<ul style="list-style-type: none"> • Most advantageous options to the importer with regards to cash flow and cost but highest risk for exporter. • Exporters reluctant to extend open account options may lose a sale to their competitors due to fierce competition. • Exporters can offer competitive open account terms while substantially mitigating the risk of non-payment by using one or more of the appropriate trade-finance techniques and seeking extra protection using export-credit insurance.

Source: US Department of Commerce (2018)

3.1.3 Intellectual Property Protection

Another critical aspect that requires legal attention and needs to be in place before the company starts to export its services concerns intellectual property protection. Typical challenges related to intellectual property faced by exporting services companies include:

- No coverage of intellectual property in contracts (e.g. with outsourcing partners or clients).
- Infringing others' intellectual property right(s).
- Holding up the assumption intellectual property rights are universal.
- Using inappropriate branding of materials that qualify for intellectual property right(s).
- Not checking trade-mark registrations or regional/international systems to streamline the registration process of intellectual property.

Intellectual property rights protect various aspects of intellectual activity in the industrial, scientific, literary, and artistic fields.⁵⁷ Intellectual property rights typically come in four forms. For companies exporting services, trade-marks and copyrights are the most relevant forms of intellectual property rights. Intellectual property rights are considered "property" in that they have the legal basis to exclude others from using the property. These property rights must be acquired, maintained, accounted for, valued, monitored, and managed in order to extract their full value while the ownership of these intellectual property rights is transferable.

Table 3.2 Most common methods of intellectual property rights

Intellectual Property Right	Description	Marking
Trade-Mark	Branding and goodwill.	"®" (registered), "TM" (trade-mark) or "SM" (service-mark).
Patent	Technology and improvements therein.	"Patent Applied For" or "Patent Pending".
Copyright	Original forms of creative works and their expressions.	"©".
Industrial Design	The shape, configuration, and/or look of a product.	"D" in a circle.

Source: *The Canadian Trade Commissioner Service (2011)*

A typical roadmap to seeking intellectual property in the US is as follows:

1. Get a basic understanding of the US' intellectual property rules and laws.
2. Evaluate your intellectual property assets and their value as they may become important in case of partnership agreements, merges, and joint ventures.
3. Design a strategy on how the company's intellectual property can support realizing certain business targets and goals.

⁵⁷ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exportt.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

4. Conduct research into potential US competitors, partners, and markets while anticipating on changes in the marketplace and avoiding possible infringement.
5. Look for professional advice (e.g. intellectual property specialists, lawyers, patent agents, or trade-mark agents) to formally protection the company's intellectual property.
6. Mark the services' materials according to the intellectual property right.
7. Prevent from infringement or try to remedy actual infringement by negotiating a settlement rather than complex, resource-intensive, and time-consuming intellectual property litigation.⁵⁸

Tip 3.2

One or multiple national intellectual property offices regulate a country's intellectual property system and register intellectual property rights. In Jordan, several institutions are responsible for administering the national intellectual property system. These include:

- Copyright Office under the Ministry of Culture's Department of the National Library.
- Industrial Property Office under the Ministry of Industry and Trade's Industrial Property Protection Directorate.

A common mistake is that exporting companies assume their domestic (i.e. Jordan) intellectual property rights protect them worldwide. However, intellectual property rights are geographically bound. This means they are recognized and enforceable only within the country or region where they were granted. It is therefore advisable to contact the following US intellectual property offices:

- Copyright Office under the Library of Congress.
- United States Patent and Trademark Office (USPTO) under the Department of Commerce.

Source: The Canadian Trade Commissioner Service (2011) and World Intellectual Property Organization (2018)

3.2 IT Services

Every contract or sales agreement includes a series or "menu" of possibilities depending on the background and the nature of the service(s). Many provisions may not be relevant to the particular contract and should, if not relevant, be deleted. On the other hand, provisions specific to IT services should be included in the contract in order to customize the contract, its conditions, and its terms.

As mentioned under Section 3.1.1, there is a number of elements of a contract that should be included regardless of the specifics of the service delivery. This concerns staff, equipment, timing and planning, conditions, dispute settlement, and payment.

In addition to these components, operative provisions could be added that further customize the contract or sales agreement according to the nature of IT services while simultaneously covering for risks and liabilities as explored in Section 2.2. These operative provisions concern:⁵⁹

- **Supply of the service – Qualifications of the Supplier.** Description of services to be provided by the IT services provider to the client together with place(s), date(s),

⁵⁸ The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at <http://www.exportt.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

⁵⁹ International Trade Centre (2010), "ITC Model Contract for the International Supply of Services," available at http://www.intracen.org/uploadedFiles/intracenorg/Content/Exporters/Exporting_Better/Templates_of_contracts/08%20-%20International%20Supply%20of%20Services.pdf

and time(s) of performance. Services could be further defined in an appendix or schedule attached to the contract.

- **Late payment and interest.** Percentage of interest charged on the outstanding amount in case the payment is not made on the due date.
- **Warranties and liability.** The IT services provider warrants to the client that the service(s) will be provided using such care and skills as is customary for the provision of similar services on the client's market (i.e. the US). Where the IT services provider supplies in connection with the provision of the service any goods supplied by a third party, the IT services provider does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise. This part should furthermore stipulate the IT services provider shall not be liable to the client for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of the IT services provider, its servants or agents or otherwise) which arise out of or in connection with the provision of the service(s) or their use by the client, and the entire liability of the IT services provider under or in connection with the contract shall not exceed the amount of the IT services provider's fees for the provision of the service(s). Finally, the IT services provider shall have no liability to the client for any loss, damage, costs, expenses or other claims for compensation arising from any material or instructions supplied by the IT services provider which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the client, provided the IT services provider has duly notified the client within a pre-defined time window of receipt of such material or instructions.
- **Confidentiality.** Both parties should acknowledge that they will not at any time, either before or after the termination of the present contract, and either directly or indirectly, disclose, divulge or make unauthorized use of any confidential information.
- **Force majeure.** The contract could elaborate on "force majeure" events (e.g. war, emergency, accident, fire, earthquake, flood storm, industrial strike or other impediment) that are out of control of the IT services provider but that impact its service delivery. The contract should stipulate its obligations in terms of non-performance in the event of force majeure.
- **Assignment and subcontracting.** The conditions under which parts of the contract may be subcontracted (or not).
- **Effect of invalid or unenforceable provisions.** If any provision of the contract is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the contract shall continue to be valid as to its other provisions and the remainder of the affected provision, unless it can be concluded from the circumstances that, in the absence of the provision found to be null and void, both parties would not have concluded this contract.
- **Dispute resolution procedure.** Any dispute, controversy, or claim arising out of or relating to the contract should be finally settled under the rules of an arbitration Institution that needs to be specified by a specific number of arbitrators (e.g. sole arbitrator or, if appropriate, three arbitrators) appointed in accordance with the said rules. The contract should furthermore specify the place and language of arbitration.
- **Applicable law.** This section of the contract should specify the national law which shall be applied to the contract.

It is essential these components of a contract reflect the nature of the specific IT services.

Checklist

- Have you paid attention to staff considerations when drafting a contract?
- Have you paid attention to equipment considerations when drafting a contract?
- Have you paid attention to timing & planning considerations when drafting a contract?
- Have you paid attention to specific conditions relating to termination, holdbacks, return of bid, and performance of bonds and guarantees when drafting a contract?
- Have you paid attention to dispute settlement considerations when drafting a contract?
- Have you paid attention to payment considerations when drafting a contract?
- Have you selected the right method of payment for your exported service(s)?
- Have you considered to set up a bank account in the US?
- Do you have the right facilities and arrangements in place to facilitate international transfer of money?
- Do you need insurance to cover for certain commercial and business risks such as nonpayment?
- Have you explored to file your intellectual property or assets as intellectual property rights?
- Have you conducted sufficient research into the four different forms of intellectual property rights?
- Have you explored to file your intellectual property rights in Jordan?
- Have you explored to file your intellectual property rights in the US?

Useful Sources

International Trade Centre (2010), "ITC Model Contract for the International Supply of Services," available at:

http://www.intracen.org/uploadedFiles/intracenorg/Content/Exporters/Exporting_Better/Templates_of_contracts/08%20-%20International%20Supply%20of%20Services.pdf

The Canadian Trade Commissioner Service (2011), "Step-by-Step Guide to Exporting," available at:

<http://www.exportt.co.tt/sites/default/files/StepbyStepGuidetoExporting2011%20-Canada.pdf>

US Department of Commerce (2018), "How to Get Paid," available at:

<https://www.export.gov/article?id=How-to-Get-Paid>

US Department of Commerce (2018), "Negotiating Agreements," available at:

<https://www.export.gov/article?id=Direct-Exporting>

World Intellectual Property Organization (2018), "Country Profiles," available at:

<http://www.wipo.int/directory/en/>

About The Tijara Coalition

Established in 2001, the Tijara Coalition is an alliance of key Jordanian business chambers and associations together with government agencies dedicated to promoting bilateral trade and investment through enhancing the opportunities of the U.S.-Jordan Free Trade Agreement (JUSFTA).

The successful conclusion of its 2004-2007 Tijara Strategy was instrumental in supporting the implementation of JUSFTA.

In 2008, Members decided to revamp "Tijara" to give it a more focused agenda within the following areas of activities:

- Serve as a platform for dialogue and exchange of ideas.
- Conduct broad-based awareness and information campaigns.
- Represent the interests and concerns of Tijara members through effective advocacy.
- Establish linkages with U.S. based trade and investment institutions.
- Facilitate the development and delivery of capacity building activities.

Over the past years, the coalition was dormant, due to; the smooth progressive implementation of the JUSFTA.

At the same time, Jordan's trade liberalization policy of entering into both bilateral and regional free trade arrangements with key trading partners, including the EU and Canada, next to the GAFTA, contributed to focusing business's export efforts on neighboring markets, as well as to lack of specific resources being dedicated to support the initiative's growth activities.

Today, the continued regional unrest and the spillover effect that has had on Jordan's traditional export markets of Iraq, Syria, Yemen and Libya, has placed urgency on the businesses community and government to act to better utilize the potentials and opportunities available to them as a result of the unique economic relations between Jordan and the U.S. supported by the free trade and investment treaties.

With support from the USAID Jordan Competiveness Program, the Tijara Coalition was relaunched in 2017, under the patronage of the Minister of Industry, Trade and Supply and the Chargé d'Affaires of the | U.S. Embassy in Jordan.

Tijara Coalition sets the platform for joint work to unlock the benefits embodied within the legal instruments in force between the two trading partners, with a view to creating a competitive and enabling environment that encourages two-way investments, exports and employment generation.

(Footnotes)

- 1 Includes American ancestry from Algeria, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Palestine, Oman, Qatar, Saudi Arabia, Syria, Tunisia, the UAE, and Yemen.
- 2 Top-5 sectors contributing to US' Gross Domestic Product for 2017 (excl. Government).
- 3 Top-10 commodities imported/exported into US in percentage of total value of imports/exports for 2017.
- 4 If this product also has US content, up to 15% of the US content can count toward the requirement of 35% Jordanian content
- 5 US Department of Commerce (2018), "Customized Market Research," available at: <https://www.export.gov/article?id=Customized-Market-Research>



**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.