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Abstract

The objective of this report is to research the legal basis in Jordanian law for a voluntary disclosure provisions in the Customs practice and the ability of Customs to issue joint and severable penalties. In the most modern Customs practice, a shift in identifying low risk shipments is a practice to facilitate legitimate trade. A key component of a low risk management strategy is the acceptance of voluntary disclosures of non-compliance, the topic of this report.

Research reveals that voluntary disclosure is a feature not allowed by law, whether implicitly or explicitly. Allowing such mechanism requires a legislative amendment. Amending the Civil Code is not an envisioned or realistic anticipation, whereas the Customs Law is less difficult to amend, keeping in mind that such amendments should not establish irregular new norms that may be challenged and later on repealed. It is recommended that Amicable Settlement provisions and procedures stipulated in the Customs Law are used to allow an alternative yet effective means for handling of customs violations and offences.

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Executive Summary

This report is a continuation of the efforts led by the USAID-funded AMIR Program to modernize customs operations in Jordan and transform Jordan Customs into an advanced organization based on international best practice. In the most modern Customs practice, a shift in identifying low risk shipments is a practice to facilitate legitimate trade. A key component of a low risk management strategy is the acceptance of voluntary disclosures of non-compliance, the topic of this report.

The right of voluntary disclosure is a foundational basis for informed, voluntary compliance. Four key elements are critical to a voluntary disclosure provision. These are:

1. Customs takes actions related to the specific act of non-compliance associated with voluntary disclosure.
2. The party making the voluntary disclosure tenders all duties, taxes, fees and interest due at the time of the voluntary disclosure.
3. The specific issue of the voluntary disclosure is not a repeated violation by the disclosing party.
4. The disclosing party submits an explanation of how the non-compliance occurred and submits a corrective action plan to demonstrate the steps taken to prevent a reoccurrence of the non-compliance.

In the research presented in this report, we elaborate on the applicability of Jordanian laws, the Jordanian legal norms and thresholds, and then describe in depth the concepts and available provisions under the pertinent laws, including any similar or alternative means. Finally, we suggest recommended changes and actions to work towards informed and voluntary disclosure.

The contour of findings in this study indicates, as a matter of principle, that voluntary disclosure is a mechanism not stipulated nor regulated. Quite the contrary, apparent articles of the laws prohibit such action. Article (270) of the Civil Code provides for the following: “Any conditions for exemption from the liability resulting from the injurious act shall be void”. In the Customs Law, several articles show that it is considered a common rule of law that all duties and taxes applicable on goods shall be collected, in addition to any fines and penalties associated with violations of that general rule. There is no room or legal foundation to assume that any waiver is allowed.

Regarding severable and joint liability, the Customs Law has apparently set advanced and well-structured provisions. Hence, it left little room for interpretation with regards to Customs offences committed by several people and how such people are regarded and treated.

Our recommendation in this regard is to avail from the articles available under the different laws, in particular the amicable settlement provisions, to compensate for the use of voluntary disclosure, which requires, if to be introduced, a legislative amendment. It would also be very useful to train the employees of the Customs Department to avail from the procedures pertaining to joint liability in full and optimum manner, and ensure that best practices in this field are regarded and adopted.

I. Background

The objective of this report is to research the legal basis in Jordanian law for a voluntary disclosure provisions in the Customs practice and the ability of Customs to issue joint and severable penalties.

As the current status in Jordanian law does not clarify whether voluntary disclosure is a mechanism known and applied by the Customs Department, this report focuses on the means of reading and understanding Jordanian legal norms in general, and the Customs Law and Civil Code in particular, to identify the availability, or the applicability of this low risk management tool, to effectively facilitate trade and legitimate customs and business practices.

In writing this report, researchers drew upon the background related to understanding the work and its context; specifically, IBLAW reviewed closely the AMIR Technical Proposal, and the report “Facilitation of Cross Border Trade Through Risk Management”.

Lastly, the following specific tasks were taken, in order to reach the conclusions explained in this report:

1. Conduct legal research in the Customs law and civil code of Jordan regarding voluntary disclosure provisions.
2. Make recommendations as to what is the lowest level where the provisions for voluntary disclosure can be introduced into Jordanian Customs practice. As an example, can the initiation, based on current law and regulations be introduced at a policy level?
3. Research the legal ability of Jordanian Customs to issue penalties under a joint and severable provision and to make recommendations on the initiation of this practice.

II. Jordanian Legal Structure and Hierarchy

Jordan has well-established legal building blocks, bases and foundations for each legislative tool. The extent of each is well defined and commonly known.

The first layer and most fundamental principle is the sovereignty of the Constitution. The Constitution of Jordan for the Year 1952 sets out basic rights and legal arrangements, and regulates certain matters of importance. In the Constitution, there are Articles that stipulate the following:

- 1- Taxes and charges must only be stipulated by law; exemption there from must also be by law.
- 2- All taxes incurred or other returns of state must be remitted to the Public Treasury and included within the state’s budget, unless the law otherwise stipulates. No portions of Public Treasury funds shall be designated nor expended for any reason except as regulated by law.

- 3- Administrative divisions of the Kingdom; formations of government departments, their levels, names and method of administration; and appointment of public servants, their dismissal, monitoring and authorities and jurisdictions are matters that are governed by regulations issued by the Council of Ministers and endorsed by the King.
- 4- Laws are endorsed by the King, who shall also issue them and order the promulgation of necessary regulations to implement the laws, provided however that such regulations do not include any provisions contradictory to the law.

Those are core-underlying dictates that should not be violated. In the case they are violated, in form or content, any following legal instrument is deemed “unconstitutional” and therefore, rendered null and void.

Moreover, and likewise, regulations must not contradict with laws, and instructions with regulations and laws. Each successive instrument should be in line with the spirit and actual stipulation of its higher legal base. This results in several applications, as described hereunder:

- 1- Where contradiction is between a law and a regulation or instructions, the law supercedes. Contradiction can be by explicit stipulation of contradictory provisions, or by restricting the provisions of the law whereas the law itself is less stringent “stating more than what the interpretation of the law bears”.
- 2- If contradiction is between two laws, the later law applies, unless the former one is a special law (“*lex special*”). This is a sensitive statement, as determining the former versus later and special versus general tends to bear different interpretations depending on the piece of legislation at hand. Nonetheless, the basic criterion is that old laws are usually repealed by new laws explicitly abolishing old ones, or implicitly regulating same topics differently, without prejudice of course to laws of special application.
- 3- Content of each legal tool must be considered; e.g. financial and taxation matters should not be regulated by other than laws, or when the law refers such matters to regulations, conservatively regulate such and to the extent close to the law as possible. Also, actions of legal effect on public liberties must not be regulated by regulations or instructions unless the law explicitly permits so. There are numerous examples that are non-ending; it is our intention however to portray the basic legal norms, which we believe are very pertinent to our research.

Other sources and interpretation of the different legislative applications can be found in courts rulings and jurisprudence. Courts often include in their rulings and orders an explanation of the pertinent articles of law, which makes the process of understanding the jest of laws and regulations at hand in a compact, integrated and holistic manner.

Lastly, the Constitution also provides for the establishment of the Bureau of Interpretation of Laws, whose decisions are considered part of the law they interpret, and consequently, such decisions should not be violated.

III. Voluntary Disclosure under Jordanian Legal Regime¹

A. Civil Code

Jordan's Civil Code was issued in 1976. This Law, heavily based on Ottoman Justice Gazette (Civil Code) and Muslim jurisprudence, constitutes a cornerstone to almost every day-to-day contractual obligations and legal effects of individual practices, and is still the primary reference of legal codification of civil rights, obligations, and procedures.

Of the Civil Code, there exists one very important provision relating to liability for injurious acts. This provision states the following:

Article 270- Any conditions for exemption from the liability resulting from the injurious act shall be void.

The application of this Article entails that whenever there is an act that resulted in damages, the liability incurred on such act cannot and may not be subject to waiver. However, and in order to read this provision correctly, it is important to identify what constitutes an injurious act. An injurious act is one that involves damages that inflict on the injured party. This is a general provision that includes all forms of injurious acts, whether or not intentional, due to negligence or gross negligence, or by sheer mistake.

Other articles of the same Law indicate other pertaining concepts on injurious acts, their determination, amount, and calculation.

The former analysis can be summarized as the following:

- 1- A person causing civil injuries is liable for damages thereon. And damages are due irrespective of reason, foundation or rationales.
- 2- Civil injuries may not be waived or set aside, and any exemption, waiver or stipulation otherwise is prohibited and turned null.
- 3- The court may decrease the amount of damages or may not grant any damages if the injured person has contributed by his act to the causing of the damage or to its increase.
- 4- If injurious acts are committed by more than one person, each shall be liable for his share therein and the court may rule between them equally.
- 5- Civil liability does not affect criminal liability when such fulfills its prerequisites. The criminal penalty does not also affect the limitation of the extent of the civil liability and the estimation of damage.

¹ Voluntary disclosure is, for the purposes of this document, taken to mean the definition explained in The ABC's of Prior Disclosure, A Basic Level Informed Compliance Publication of the U.S. Customs Service, issued in May, 1998 and provided by the AMIR Program Customs Subcomponent Leader.

In an example of the of the above, one court ruling states that the plaintiff is deemed liable for damages incurred by the defendant as a result of the clerical mistakes on the customs declaration for the vehicles' engine number.

Notwithstanding all of the above, it is also important to review the other pertinent laws in this matter, and as one ruling states, a customs violation is viewed pursuant to the Customs Law, and not the Civil Code, where the lawsuit relates to customs violations.

Conclusions:

It seems that a voluntary disclosure act by the wrongdoer does not allow the waiver of the penalty affected thereon, since exemption from liability of injurious acts is prohibited.

B. Customs Law

The Customs Law No. (20) of 1998 is rather silent on the issue of voluntary disclosure. It has no articles indicating that such act is prohibited, but none as well to allow such. The most pertinent articles on this issue are the following:

***Article 78:** Duties and fees shall be levied on the basis of the contents of the declaration. However, discrepancies between the inspection results and the declaration contents shall be taken into account in determining duties and taxes and without prejudice to the Department's right to prosecute, if necessary, for the collection of due fines, according to the provisions of this Law.*

***Article 80:** A- A special committee of three senior officials shall be formed by the Minister and shall investigate disputes regarding the value, origin, and specification of goods and the applicable tariffs thereupon.*

B- Disagreements between the persons concerned and the Department shall be referred to the said committee which may seek the assistance of those with expertise and technical competence.

C- The Director's decision shall be issued upon the committee's recommendation.

D- The Director's decisions may be challenged before the Customs Court within 15 days from the notification date.

E- The goods may be delivered before settlement of the disagreements mentioned in paragraph (A) of this Article. However, samples of the goods in question shall be kept with the Department according to the terms, procedures, and guarantees specified by the Director.

F- Customs duties and other fees and taxes which are not disputed shall be levied as revenue, while a deposit or a bank guarantee shall be placed against disputed duties and other fees and taxes until settlement of the dispute.

Article 82: A- Goods are held as a pledge for duties and taxes and shall not be withdrawn except after the completion of customs formalities and the payment of duties and taxes in accordance with the provisions of this Law.

B- Without prejudice to the principle of joint and several liability provided for in this Law, customs duties and other set duties and taxes shall be paid by the importer.

C- The withdrawal of goods before payment of duties and taxes in cases of emergency, the terms of withdrawal, the required guarantees, the assessment of taxes and duties thereupon, and the receipts against which duties and taxes are collected and other related matters shall be provided for in instruction issued by the Minister.

Article 84: A- The customs authorities, by the Director's permission, may review the declaration and the commercial documents pertaining to the exportation and importation of goods which are already released. Goods in the premises of the person concerned or any other person directly or indirectly involved in the business transaction may be inspected and tested within a period not exceeding three months from the date of release of the goods.

B- If it is established through post - clearance inspection and examination that the customs procedures provided for in this Law have been applied incorrectly or on the basis of false or incomplete information, the customs authorities may take the measures necessary to rectify the mistake in the light of available information and in accordance with the procedures stipulated in this Law.

Article 188: A- Smuggling crimes may be verified and proven by all means of evidence, and not necessarily on the basis of seizure of goods within or outside the customs territory. Declared goods which are inspected and cleared without comment or reservations by the Department regarding smuggling, may, nonetheless be subject to investigation for smuggling subsequently.

B- Customs offenses may be verified and proven by all means of evidence, and the importer shall bear liability for such offenses.

Article 194: The customs fines and confiscation provided for in this Law shall be considered as compensation to the Department, and shall not be subject to the provisions of General Amnesty Laws.

The Articles mentioned above are not clear on the possibility of enforcing, or even detailing in a lower legal tool the concept of voluntary disclosure. On the contrary, these articles seem to forbid such forgoing of duties or fines. The reading of these articles in light of the Jordanian legal norms and indicators described above, will inevitably lead us to the following conclusions:

- 1- Fines, penalties and forgone duties on customs transactions are “always and forever” due. The Law is clear in prohibiting any waiver of duties, by stating that such duties should be collected at anytime, should and when the violation be intercepted, in addition to fines and penalties imposed on the wrongdoer. The articles dealing with penalties are also clear on the violation and its description, but unclear whether such fines and penalties are “waiver-able.”
- 2- Thus, the Customs Department is not allowed to waive any penalties or forego any duties, if not allowed by law.
- 3- In a more specific perspective, the Customs Law included special provision on customs penalties (please refer to Article 194), which considers such fines and monetary penalties as a civil compensation. A civil compensation means that these are collected as damages for injurious acts, rather than being collected as penal consideration pursuant to the Law. This leads us back to the description and analysis provided for in section II of this paper.
- 4- Another important effect is understood from Article (188/B), where it states that importers bear the liability of customs offences. A custom offence can be proven by any means of verification as per the said Article, but which was also silent on the issue of waiving such offences. Therefore, it is considered within the understanding of law that offences, even if voluntarily disclosed by the importer or whom he delegates, cannot be subjected to waiver.

The analysis drawn above is closely linked to our understanding of voluntary disclosure, which is a system that provides reduced penalties to parties who advise Customs of noncompliance with import laws and regulations before Customs discovers and notifies the party of the noncompliance. This is basically interpreted as the availability of alternative means for dealing with a violation that has occurred, irrespective of the reason behind the violation and irrespective of intent. We believe that, under the current law, this option is not available, or rather so, illegal.

Conclusions:

Neither the Customs Law, nor the established interpretive practices, indicates that a person who voluntarily declares defaulting actions is allowed reduced or preferential treatment in the form of waiver of penalty.

C. Amicable Settlement: Is it an Alternative?

The Customs Law, however, provides for that which seems similar to the technical proposition on voluntary disclosure. Amicable settlement is a mechanism whereby customs fines are somewhat “waived” upon an agreement reached by the Customs Department and the violator. It allows for the Director General of the Customs Department to conclude a written agreement with the person(s) liable for a customs violation (under a certain threshold). In that agreement, any legal or judicial actions taken pursuant to the customs offence are dropped, and the violator is acquitted from that offence. Please consider the articles hereunder on amicable settlement:

Article 212: A-The Minister or a mandatory thereof may conclude an amicable settlement regarding smuggling crimes or the amounts thereto, whether before action is instituted, or during proceedings, but

not after the judgment of first instance is reached. The settlement may be concluded with all or some of those liable for smuggling, for the entire crime, and at the terms stipulated in the settlement contract.

B- Upon the Director's recommendation, the Minister may, upon justification, overlook smuggling crimes or the amounts thereto, before action is instituted, or during the proceeding, but not after the judgment of the first instance is reached, and only if the fines involved do not exceed 500 JDs. However, justifications shall be admitted only in cases pertaining to travelers and the personal effects thereof.

C- Upon the Director's recommendation, the Minister may overlook customs cases involving transactions by official entities.

Article 213: *A- In concluding amicable settlements, the Minister or a mandatory thereof may substitute the penalties and customs fines provided for in Article (206) of this Law by the following:-*

1- A customs fine not less than 50 percent of the compensation

2- Confiscating the ascertained prohibited goods or goods whose importation or exportation is prohibited.

3- The amicable settlement contract may provide for returning the seized goods, and collecting the customs duties and other fees and taxes thereupon in return in the case of imported or exported goods, or restricted goods that are subject to the approval of the restricting authority.

4- The amicable settlement contract may provide for returning the means of transport and materials used in the smuggling in return for a fine not less than 20 percent of the value of the smuggled goods and not exceeding 50 percent of the value of the means of transport.

B- A guide for amicable settlements shall be issued by the Minister and shall be published in the Official Gazette.

Article 214: *Action shall abate upon amicable settlement.*

This scheme is somewhat close to the definition of voluntary disclosure, only the Law did not presume that the violator is the person to approach the Customs Department and advise on his violation. Please refer to the table annexed to this report to draw upon a comparison between voluntary disclosure and amicable settlement.

Conclusions:

Amicable settlement mechanism seemingly prove to be an effective tool for reducing the number of violations referred to court, and allows the wrongdoers to settle offenses outside lengthy judicial proceedings. Amicable settlement, however, does not allow for down-to-zero waiver of penalties, nor is it construed to waive the fines and duties, but only imprisonment.

IV. Severable and Joint Liability

The Customs Law has provided specific provisions on the treatment of severability and joint liability for Customs offences. The Law is clear on when, how and where joint liability is accounted for. Please refer to the articles laid down hereunder:

Article 82: *A- Goods are held as a pledge for duties and taxes and shall not be withdrawn except after the completion of customs formalities and the payment of duties and taxes in accordance with the provisions of this Law.*

B- Without prejudice to the principle of joint and several liability provided for in this Law, customs duties and other set duties and taxes shall be paid by the importer.

Article 215: *A-Smuggling offenses and civil liabilities arising therefrom shall be constituted if the elements of the crime are present. Those who prove that they are victims of a force majeure, or that they did not commit any of the actions that are constitutive of, or that lead to the smuggling crime or offense, shall be absolved from liability.*

B-In addition to perpetrators of offenses and smuggling crimes, owners of the goods that are the subject of the offence or the smuggling crime, accomplices, financiers, sureties, brokers, constituents, volunteers, carriers, possessors, beneficiaries and consignors of the goods shall all be subject to civil liability, each to the extent commensurate with responsibility for the action.

Article 216: *Investors in private shops and places, in which the smuggled goods or goods subject of an offense are deposited, shall be held responsible for such goods. Investors in public shops and places, and employees thereof, as well as the owners of public transport vehicles, and drivers and assistants thereof shall also be responsible unless they prove their ignorance about the presence of the goods involved in the offense or the smuggling crime, and lack of direct or indirect interest therein.*

Article 217: *Sureties shall bear, within the limits of their suretyship, the same liability as the principal undertakers with regards to payment of fees, duties, fines and other due amounts.*

Article 218: *Offenses in customs declarations, whether committed by the agent or by authorized employees thereof shall be the agents liability. Offenses that lead to a smuggling crime shall be adjudicated, and liability therein determined by court. The Customs clearance agent shall not be liable for the undertakings incorporated in the customs declaration unless the agent guarantees the undertakings or acts as surety for the guarantors.*

Article 219: *The owners of goods, employers, and carriers shall be responsible for the actions of their employees and all those acting in their interest with regards to the duties and taxes levied by the Department and the fines and confiscations prescribed by law and resulting from such actions.*

Article 220: *Liability for the sums due upon the deceased shall pass on to the heirs in proportion to their respective shares of the inheritance.*

Article 221: *The duties, taxes and set fines or fine sentences shall be collected jointly or severally from the offenders, or those liable for smuggling, according to the procedures applicable to the collection of Dominial (state) funds. Available or seized goods or means of transport shall serve as a guarantee for the required sums.*

In our reading and understanding, severable and joint liability is a norm of law, and is well-structured and adequately handled by the Customs Law and the other legal proceedings legislation of Jordan. The courts always remain a very reliable and valuable source of interpretation and application of joint liability, in addition to the available provisions under the national customs law.

Conclusions:

Severable and joint liability is an established principle and procedure under the Customs Law.

V. Major Findings and Recommendations

- 1- Voluntary disclosure is a feature not allowed by law, whether implicitly or explicitly. Allowing such mechanism requires a legislative amendment.

- 2- Amending the Civil Code is not an envisioned or realistic anticipation, whereas the Customs Law is less difficult to amend, keeping in mind that such amendments should not establish irregular new norms that may be challenged and later on repealed.
- 3- Avail from the Amicable Settlement provisions and procedures stipulated in the Customs Law, to allow an alternative yet effective means for handling of customs violations and offences.
- 4- Joint liability is available under the law, hence, there is no need to amend the Customs Law in this respect. However, it might be important to train the employees of the Customs Department to avail from such allowed procedures in full and optimum manner, and ensure that best practices in this field are regarded and adopted.

Annex (1)

Table of Major Differences between Voluntary Disclosure and Amicable Settlement

	Voluntary Disclosure	Amicable Settlement	Major Differences
Purpose	<ul style="list-style-type: none"> - Save money, resources and efforts in inspecting and investigating violations. - Increase awareness and compliance with the law, by simplifying methods of rectification offences. - Enhance the role of Customs Department as a service provider and not only revenue collector. 	<ul style="list-style-type: none"> - Save money, resources and efforts in proceeding with actions and lawsuits on violations. - Increase awareness and compliance with the law, by cutting down on court's cumbersome and prolonged proceedings. - Enhance the role of Customs Department as a service provider and not only a revenue collector. 	Resources utilized: while both aim to save money and resources, and to enhance the role of the Customs Department, voluntary disclosure is based on inspection and investigation of violations before they occur. In contrast, amicable settlement is based on compliance with the law once a violation has occurred.
Legal Basis	<ul style="list-style-type: none"> - Not available under Jordanian laws and legal norms. - Might be illegal when violations are completely relieved. 	<ul style="list-style-type: none"> - Available under Jordanian laws and legal norms. - A tested and commonly used feature that has proven well-noted results. 	Availability under Jordanian laws: voluntary disclosure does not appear to be available, whereas amicable settlement is available and commonly used.
Procedures	<ul style="list-style-type: none"> - A prior disclosure is made if the person concerned discloses the circumstances of a violation to a Customs officer before, or without knowledge of, the commencement of a formal investigation of that violation, and makes a tender of any actual loss of duties. - If the documents that provide the disclosing information are sent by registered or certified mail, return-receipt requested, and are received by Customs, the disclosure shall be deemed to have been made at the time of mailing. - Upon receipt of a prior disclosure, the Customs 	<ul style="list-style-type: none"> - Amicable settlement allows the violator to approach the Customs Department to conclude an agreement with respect to violations/offences before he was found guilty by the Department. - The Agreement is signed by the Director General or his delegate and the violator. This agreement either allows for the payment of customs duties without any fines (depending on the type, severity of offence and/or the violator himself). - Amicable settlement is available for smuggling offences or what amounts thereto when such an offence is intercepted and known to the Customs 	Scope of coverage: although amicable settlement is originally available under Jordanian law, the process does not seem wide adequately enough to encompass incidents where the violator approaches the Department to rectify his default actions voluntarily. Amicable settlement apparently applies only in case the violation is intercepted/came to the knowledge of the Customs Department. Quite the opposite, voluntary disclosure,

	Voluntary Disclosure	Amicable Settlement	Major Differences
	<p>officer shall notify Customs Office of Investigations of the disclosure. In the event the claimed prior disclosure is made to a Customs officer other than the concerned Fines, Penalties and Forfeitures Officer, it is incumbent upon the Customs officer to provide a copy of the disclosure to the concerned Fines Penalties and Forfeitures Officer. The disclosing party may request, that the Office of Investigations withhold the initiation of disclosure verification proceedings until after the party has provided the information or data within the time limits specified. It is within the discretion of the concerned Fines, Penalties and Forfeitures Officer to grant or deny such requests.</p> <ul style="list-style-type: none"> - A formal investigation is deemed to have commenced as to additional violations not included or specified by the disclosing party in the party's original prior disclosure on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received that caused the Customs Service to believe that a possibility of such additional violations existed. - Additional violations not disclosed or covered within the scope of the party's prior disclosure that are discovered by Customs as a result of an investigation and/or verification of the prior disclosure shall not be entitled to treatment under the prior disclosure provisions. 	<p>Department.</p> <ul style="list-style-type: none"> - A guide published by the Minister of Finance in the Official Gazette is used to determine the scope and type of amicable settlement contract to be concluded. - When a contract is signed, any legal actions that were initiated shall abate and be ceased. - A formal investigation is deemed to have commenced as to additional violations not included in the amicable settlement contract on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received that caused the Customs Service to believe that a possibility of such additional violations existed. - Additional violations not disclosed or covered within the scope of the party's contract on amicable settlement that are discovered by Customs as a result of an investigation shall not be entitled to treatment under the amicable settlement provisions. 	<p>although not stipulated by Jordanian law, is a low risk management strategy, aimed to handle those cases where the violation is disclosed by the violator, upon his own initiative, and voluntarily proposes a ratification measure, before the Customs Department is even aware of the violation that occurred.</p>
Effects	- If a party elects to make a complete “disclosure”	- If a party concludes an amicable settlement	Means of concluding the case:

	Voluntary Disclosure	Amicable Settlement	Major Differences
	<p>of a violation – before or without knowledge of a formal Custom investigation of the violation - the party receives reduced penalties, and the penalty is “zero” if the importations involve unliquidated (i.e., “open”) Customs entries and no fraud is involved. If the entries are liquidated (i.e., “closed or finalized”) and no fraud is involved, the penalty is the interest on the loss of duties. If a fraudulent violation is disclosed, the penalty is reduced from the normal assessment of the domestic value of the goods to 1 times the duty loss - or if the violation involves no duty loss the penalty is reduced to 10 percent of the dutiable value of the merchandise.</p> <p>- In all cases involving liquidated entries and duty loss violations, a person must tender this duty loss to Customs.</p>	<p>contract and pays off all due taxes and duties, in addition to complying with any specific terms notified by the Amicable Settlement Contract, he is then acquitted from criminal charges and all actions initiated or undergoing court proceedings are ceased. However, this assumes that criminal or court proceedings are in fact initiated.</p>	<p>although both are intended to conclude or “settle” a violation, voluntary disclosure undertakes doing so before such violation is officially intercepted, whereby the person voluntarily declaring violations is not considered a violator in the true sense of it. The violator would be merely someone innocently on the default. Hence, intent is largely depended upon to determine whether such person is an offender deserving penalty or simply a person entitled to a second chance. Under amicable settlement however, a person is firstly proved an offender, irrespective of intent, and consequently dealt with on that assumption. This entails that concluding a violation occurs exclusively after declaring the person who committed the offence an offender.</p>