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# The Hashemite Kingdom of Jordan's Legal, Economic and Fiscal Empowerment Through Commerce and Active Trade Agreements

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# **Golden Gate University**

The Hashemite Kingdom of Jordan's  
Legal, Economic  
and  
Fiscal Empowerment  
Through Commerce and Active Trade Agreements

A Dissertation Submitted

to

The Committee of International Legal Studies

In Candidacy for the Degree

of

**Scientiae Juridicae Doctor (S.J.D.)**

Department of International Legal Studies

by

Thouqan Makableh

San Francisco, California

May, 2013

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## **Title**

The Hashemite Kingdom of Jordan's  
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and  
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## **Dedication**

This dissertation is dedicated to my father, who taught me that the best kind of knowledge is that which is learned for its own sake. This dissertation is also dedicated to my mother, who taught me that even the largest task can be accomplished if it is done one step at a time. I also dedicate this dissertation to my lovely Hashemite Kingdom of Jordan, which although I left it a long time ago, The Kingdom remains close to my heart.

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## Preface

In recent years my nascent passion for economics, as it relates to trade, has driven me to find any legal documents, books, or articles addressing the topic of Jordan's international trade agreements, legal framework along with economic policies, and determine whether these items were valid determinants of Jordan's economic growth. However, many of the published sources I discovered failed to discuss the important issues that deal with all of the diverse topics above. Therefore, I hope to uncover and present a new perspective on Jordan's organization of economic activities by further analysis, and determine whether the policies and legislation being implemented for international trade lead to efficient, and sustainable economic growth, and how this growth affects the Kingdom.

I have forever been an industrious individual caring not to set idle for even a moment for each instance of time is to be treated as a precious commodity; therefore, I began by establishing my own business in Jordan, and thereby gained enough experience to develop and expand my business throughout the region. I would purchase goods from bordering countries and export them to other countries. I then realized how important it was for any individual, company, or government, to create international bonds with many other countries in order to grow a business. I have encountered many governments with different legislation and policies and have had, sometimes begrudgingly, to comply with them all. It was a very difficult task and throughout the years my business suffered immensely due to the heavy restrictions and implementation of strict quotas and border

controls. This led me to leave my business to my brothers and travel to Egypt where I would graduate with a Bachelors in Law.

While in Egypt I focused immensely on the issue of international trade and was astonished by how closely related international trade and business are. International Law is the set of all rules in regards to creating a binding relationship between and among States or "Nations." The purpose of International Law is to set up a proper legal system for nations to comply with and follow in order to implement certain jurisdiction to the international body. International Law can be divided into three distinct disciplines (Public International Law, Supra-national Law, and Private International Law). Public International Law deals with the all concerns of developing a relationship between nations through treaties that are subject to International Law. Supra-national Law deals with regional agreements, and where the laws of the nation-States are held inapplicable in a case where the Supra-national legal system is evident and when the nation has a treaty obligation to a Supranational collective. Private International Law addresses the procedural rules that determine which legal system or jurisdiction can apply to a given dispute.

I began becoming increasingly interested in business and economics, as they relate to International Law, and traveled all over the world to see what opportunities there were to establish a global business. International trade has been a key element in facilitating growth in Jordan's economy, and with the various laws imposed by the government on foreign trade Jordan now has one of the fastest growing economies in the

region. Hence, international trade is a very important determinant to facilitate globalization. Without International Law, international trade would not be possible.

International Trade Law is practiced by almost every country in the world due to increasing globalization. Therefore, it is safe to say that a profession in law would create a safe ground-stone for any entrepreneur or business owner who aims to expand its business into the global market. Hopefully through the experience I have encountered, and highly rigorous academic preparation, I now fully understand international trade regulation, World Trade Organization (“WTO”) laws, and can investigate International Law and how it leads to the economic relations between countries, and further, with this knowledge, I can examine bilateral, regional, multilateral and free-trade treaties.

The experience and the subsequent thoughts I had some years ago, confirm that I belonged to both Business and Economics; other circumstances, however, propelled me towards law school, rather than post-graduate economics. It was shortly after my return to Jordan when, in early 1993, I decided to take my wife and son to San Francisco where I currently reside.

I wondered quite often if I had made the worst decision possible by coming to San Francisco; for some time immense regret set in. I was thinking of returning to Jordan when I purchased my first Lincoln Town Car and began shuttling clients from SFO Airport to San Francisco, and vice-versa. Two years later through a dogged determination, which have garnered both praise and some criticism, I owned a fleet of cars and had soon established my own transportation company: *Travelimo and Coach Service*. Soon after that, I was

directed to the study of Law at Golden Gate University in 2003, where I would pursue an L.L.M. in International Legal Studies.

After all the heavy burdens of having a family, and establishing a global transportation company, my number one goal remained to graduate. I graduated with a degree in L.L.M. in 2005, where naturally I was advised to apply to the S.J.D. program at Golden Gate University. Although I knew it was my goal in life to become a Professor in Legal Studies, I never thought it would ever be possible, but I was interested enough and devoted all the time and effort I could muster, and enrolled in the program. Now that I am nearing completion of the program, as is evidenced by this writing, I shall now set forth, very generally, the chapters of my dissertation.

Chapter I introduces the topic, and States the general and historic reasons for free-trade, which we shall define as the “unrestricted purchase and sale of goods and services between countries without the imposition of constraints such as tariffs, duties and quotas.” We shall explain one of the advantages of free-trade is that participating nations are enabled via free-trade to improve their economic well-being, and therefore, that of their citizenry, by those nations producing marketable goods more cheaply, and often more efficiently. This chapter also presents the historical foundation of the GATT/WTO, an organization established in the latter part of the 1940s, and whose aim was to liberalize trade. In large measure, the GATT and its successor, the WTO, have been instrumental in reducing restrictions of trade barriers between industrialized countries on one hand, and developing countries on the other. An especially significant benefit of the GATT/WTO has

been an increase in the per capital incomes of those nations yet undergoing development. Chapter I concludes with a discussion of the necessity of international trade agreements.

Chapter II discusses Jordan's economic development, and explains the economic need underlying the Kingdom's entry into the international free-trade markets, and thus, sets out a new national agenda towards that objective. Particularly, this chapter sets for the factors required for strong and sustainable economic growth, which include liberalization of governmental and administrative policies, the establishment of certain zones in which greater liberalization may take place, certain programs and laws, assuring the education of the populace, and removal of obstacles that may hinder economic growth. In the process of establishing that new agenda, much discussion within the Jordanian Parliament, and other branches of government have been required. To shed some light on these sometimes difficult processes, Chapter III presents a brief outline of the law making process that has been so essential to setting out the rules for the Kingdom's development through trade; thus, a brief and frank discussion of Jordan's legislative powers and processes is offered. The highlight of these processes has been Jordan's accession to the WTO, a piece of legislation called the "New Law," and a number of trade agreements, which are of two main sorts; one being multi-lateral, and the other bilateral.

Chapter IV turns to a discussion of Jordan's trade policies and the objectives of that policy; the WTO and the DOHA Development Agenda, the all-important Qualified

industrial Zones Agreement QIZ), the regional trade agreements between the Kingdom and its neighbors in the Middle-East; namely the Greater Arab Free Trade Area (GAFTA), and the AGADIR Agreement. Chapter V discusses the bilateral agreements Jordan has entered into with dozens of other nations, both around the Mediterranean, and across the Atlantic to the United States of America; these include agreements with the United States of America (US), Canada, Singapore, and Turkey. Chapter VI discusses the regulatory, fiscal and accounting environment; topics include exploring the factors that are essential to attracting investors by insuring political and economic stability, a well-established and high quality infrastructure, ease of setting-up and operating business, ready availability of a skilled workforce, ready access to overseas markets, a well-developed legal and regulatory framework, and a favorable operational environment in terms of taxes and customs and other tariffs; freedom of movement of capital and the repatriation of profits and the full protection of all property rights. The elimination of formal screening procedures for foreign investors has been aided by the GOJ implementation of the Investment Promotion Law of 1995. The chief goal of this law has been the easing of customs duties. One notable feature, among several, of the IPL is the exemption of fixed assets from fees and taxes provided that they are imported into the Kingdom for the use of the project exclusively. These assets include: the machinery, equipment and supplies used in the project including furniture and equipment for hotels and hospitals.

Chapter VII presents conclusions and recommendations, which I hope shall be helpful to present and future Jordanian heads of state, legislators and educators as they

look to further fortifying the foundations of Jordan's place in international trade. Please bear in mind, Dear Reader, as you make your way through the following pages with their numerous charts and references to economic output, input, and so forth, that business and economics, and trade practices, as they are governed by the law, have been the passion that I put second to that of loving and providing for my family. With that said, I wish you pleasurable reading as you embark upon this journey that lies between the covers of this dissertation.

Dr. Thouqan Makableh

San Francisco, California

May 1st, 2013

## Acknowledgements

First of all, I am grateful to **The Almighty God** for enabling me to complete this dissertation. Furthermore, I would never have been able to finish my dissertation without the guidance of my committee members, help from friends, and support from my family and wife. I express my deepest gratitude to my advisor, Professor Dr. Christian N. Okeke, for his excellent guidance, supervision, and advice from the very early stage of this research. Above all and most needed, he provided me unflinching encouragement and support in various ways. His truly lawyer intuition has made him a constant oasis of ideas and passion in law, which has exceptionally inspired and enriched my growth as a student, a researcher and a lawyer. I am indebted to him more than he knows.

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My special thanks go to Dr. Bob Frazier for his crucial contribution, which made him a backbone of this research. I thank him for agreeing to be my editor and teaching me that although a dissertation is a difficult task, it is possible; he always made the impossible task possible, and I am proud to record that I had several opportunities to work with an exceptionally experienced editor, and friend like him. I can honestly say that without his help this work would not have been possible. Bob's guidance and support deserve more than a special mention in this acknowledgments section.

Most importantly, I would like to thank my wife, Ahlam Nusairat. Her support, encouragement, quiet patience and unwavering love were undeniably the bedrock upon which the past twenty-two years of my life have been built. Her tolerance of my occasional shifting moods is a testament in itself of her unyielding devotion and love. I would also like to thank my parents, for their faith in me and for allowing me to be as ambitious as I wanted. Words fail me to express my appreciation. Moreover, I am extraordinarily fortunate and give special mention to my children; without their caring, love and support this thesis would have not been possible. First, to my most industrious, bright and eldest son, Saif, whom I owe immensely for his support and help in encouraging me to complete this work while managing my company when I thought it was impossible; special thanks to my eldest daughter, Natalie, whose intelligence, passion and

constant persistence of support and prayers, also made it possible to pursue complete this work, and to my youngest children Lara and Ahmed, for whom I hope I have been, and hope to forever, remain as an example for them, for now and forever more. Finally, I would like to thank everybody who has been immeasurably important to the successful realization of this thesis, and I do sincerely apologize that I could not have mentioned everyone by name.

\* \* \*

## **General Introduction**

This dissertation analyzes whether international trade agreements, to which the Kingdom of Jordan is a party, and its legal framework, along with economic policies, have an impact on Jordan's organization of economic activities, particularly with respect to patterns of international trade. This dissertation further analyzes whether Jordan's commitment and subsequent policies to increase its economic growth are important determinants of its comparative advantage in the region, and researches whether the policies implemented to build international trade actually lead to an efficient, growing, and sustainable economy.

This dissertation takes a close look at all those aspects of economic, financial, and commercial environments that make Jordan an attractive destination for global corporation, while examining resources available, and those sectors of the economy of interest given the level of foreign direct investment. This dissertation further examines Jordan's future opportunities to capitalize on trade and expand investment opportunities, and analyzes the role of trade in shaping economic development within the Kingdom. Moreover, this work accomplishes what we believe to be the first attempt to pull together any, and all, foregoing research in the above mentioned areas, and compile the same into one useful body of work that economists, legal professionals, politicians, scholars, and students in many disciplines should find useful for these times and far into the future.

# Chapter I

## The Case for Free Trade

and

### The Historical Foundation of the GATT/WTO

As a rich man is likely to be a better customer to the industrious people in his neighborhood than a poor, so is likewise a rich nation. [Trade restrictions,] by aiming at the impoverishment of all our neighbors, tend to render that very commerce insignificant and contemptible.<sup>1</sup>

#### I. Introduction

One issue that should have demanded the attention of many persons during the U.S. Presidential Campaigns of 2008, and 2012, and one that the U.S. presidential candidates managed to repeatedly skirt, was globalization.<sup>2</sup> President Obama, during one campaign stop did slip in one reference, which we might suspect was “missed” by the ever-insatiable news hounds, was the apparent fact that “globalization is here to stay.” While many people; *i.e.*, politicians favoring globalization, tend to emphasize

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<sup>1</sup> Smith, Adam; *The Wealth Of Nations, Book IV, Chapter III, Part II, p.495, para. c11.*

<sup>2</sup> An appropriate definition of “globalization” is provided within the following sentiment:

Over many centuries, human societies across the globe have established progressively closer contacts. Recently, the pace of global integration has dramatically increased. Unprecedented changes in communications, transportation, and computer technology have given the process new impetus and made the world more interdependent than ever. Multinational corporations manufacture products in many countries and sell to consumers around the world. Money, technology and raw materials move ever more swiftly across national borders. Along with products and finances, ideas and cultures circulate more freely. As a result, laws, economies, and social movements are forming at the international level. Available at Global Policy Forum, <http://www.globalpolicy.org/globalization.html> (last assessed 12/7/13).

primarily the positive effects, such as, for example, Americans are enjoying cheaper goods, among them being clothing, automobiles and various household items, only those among the ninety-nine percent, find reason to question the ultimate outcome of globalization, which is: many American manufacturing jobs have been outsourced over the past two decades, with one consequence being the gutting of major American cities, Detroit<sup>3</sup> being a prime example. Globalization to some people, might appear to have nothing to only a very little to do with free-trade; on the contrary, it is our contention that because of free-trade, we have globalization. Since free-trade is most seminal to the concerns of the many, the ninety-nine percent, we shall focus our attention there. First, however, let's avail ourselves of some historical perspective, which will provide a firm foundation from which to consider this matter of free-trade as it applies to nations in general, which will facilitate our discussion when we set our sights of the Hashemite Kingdom of Jordan and its policy formulations that have spawned certain trade agreements among other nations and itself.

Ever since Adam Smith<sup>4</sup> published *The Wealth of Nations* in early 1776, many government officials have accepted the idea that free-trade among nations across the globe would improve the overall economic welfare of all nations.<sup>5</sup> For economists around the world, from New York City, U.S.A. to Amman, Jordan, the notion that free-trade will improve the economic conditions of all nations has come to be something of a religious mantra, Smith as its harbinger of the ultimate truth of economic philosophy

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<sup>3</sup> With a population of 700,000, Detroit is the most populous city in the US state of Michigan.

<sup>4</sup> Smith, Adam; Scottish Philosopher, Educator, Journalist; b. 1723, d. 1790.

<sup>5</sup> Bhagwati, Jagdish, ed. *Going Alone: The Case for Relaxed Reciprocity in Freeing Trade*. Cambridge: MIT Press, 2002.

and practical application. But it was always this way; for hundreds of years before Smith wrote his famous book, espousing what at the time were ideas revolutionary in thought, gold and silver and a few varieties of precious gems were the marks of both national and personal wealth—at least in Western Europe where Smith’s influence was most pronounced. Hoarding these forms of wealth was the custom, allowing them to circulate only within closely knit circles. And it was most likely the propensity to hoard that royalty, the well-heeled, and others frowned upon the notion of importing goods from beyond their national borders because one would have to delve into their treasure chests to pay for these imports; on the other hand exporting was considered a desirable practice because foreigners would have to give up their precious metals and gems to pay for the exports; hence, the coffers of the exporting nation would, in theory, swell with more gold, silver, and other precious gems, and perhaps spices from India and silks from the Orient.

To prevent a potential wealth drain by heavily taxing those who wished to import goods, what would be the use of importing an item if your country was charging a tax several times the cost of the good? (In most countries, the majority of the cost of domestic alcohol and tobacco happens to be tax). To encourage exports, countries allowed subsidies<sup>6</sup> to be put into place. These were just some of the protectionist measures governments took to ensure that the majority of the wealth “stayed home.” Other protectionist measures included monopolies, wherein certain

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<sup>6</sup> Subsidy:

*a*: a sum of money formerly granted by the British Parliament to the crown and raised by special taxation;  
*b*: money granted by one state to another;  
*c*: a grant by a government to a private person or company to assist an enterprise deemed advantageous to the public.  
<http://www.merriam-webster.com/dictionary/subsidy>;(last assessed 12/7/13).

companies were allowed to dominate the market by controlling prices and means of production. And of course, these same companies held no favor for unions, or free lancers plying a similar trade.

The eventual consequence was a disparity in wealth among not only societal groups, but of nations as well; some nations remained poor, while a select few prospered. Enter Adam Smith, who exposed the flaws in this protectionist system, which protected a few at the expense of the many. In essence, he showed that, in a society where the mercantile system is based on the notion of free exchange, everyone is better off because, in part, nobody would trade if they expected to lose from it. The buyer profits, just as the

seller does. Imports are just as valuable to us as our exports are to others. Because trade benefits both sides, said Smith, it increases our prosperity just as surely as do agriculture or manufacture. A nation's wealth is not the quantity of gold and silver in its vaults, but the total of its production and commerce – what today we would call gross national product. The *Wealth of Nations* deeply influenced the politicians of the time and provided the intellectual foundation of the great nineteenth-century era of free-trade and economic expansion. Even today the common sense of free-trade is accepted worldwide, whatever the practical difficulties of achieving it.<sup>7</sup>

The term “free-trade” is defined as the following: “The unrestricted purchase and sale of goods and services between countries without the imposition of constraints such as tariffs, duties and quotas.” On one hand, free-trade appears to be a win-win proposition because it enables nations to focus on their core competitive advantages,

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<sup>7</sup> Adam Smith Institute. *Why Adam Smith is Important*. <http://www.adamsmith.org/adam-smith>; (Last assessed 4/30/13).

thereby maximizing economic output and fostering income growth for their citizens.<sup>8</sup> Furthermore, free-trade on the international level allows each country to improve its overall economic status by specializing and producing goods at a cheap and efficient manner that will enable the nation to evidently benefit from the overall proposition of the free-trade agreements.<sup>9</sup> Additionally, we can from everyday experience, deduce that tariffs added to goods, have the same effect as shoplifting; *i.e.*, the added costs are passed on to the consumer; we can also deduce that even competition—free of monopolization—result in lower prices as merchants compete for business; moreover, in a world where lasting peace is a fleeting thing, countries bound together by trade, free-trade, can establish precedents for cooperation that can extend into other areas, such as general diplomacy, immigration, and coming to one another’s aid in time of natural, or man-made disasters. These benefits, alone seem to make free-trade, or any kind of trade, something we all should strive to attain and maintain; however, there have been, and will always be downsides.

Let us consider a couple of examples; one from pre-modern times, the other more current, and the third is thankfully, much less egregious. For several thousand years, before fairly recent times, the fruit of the poppy plant had been processed into a narcotic called “opium.” The narcotic had been traded throughout the Mediterranean, and was enjoyed perhaps in moderation by Kings and other high-level dignitaries; however, in the mid-1700s, the British found a new market, China and her millions of inhabitants; consequently, Britain began exporting Opium into China in vast

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<sup>8</sup> Ricardo, David. "Free Trade." *Definition*. Investopedia, n.d. Web. 26 Apr. 2013.

<sup>9</sup> Taussig, F. W. *International Trade*, . New York: Macmillan, 1927. Print.

quantities.<sup>10</sup> Tens of thousands of Chinese became addicted, and this took a toll on Chinese society. The Chinese Emperor<sup>11</sup> outlawed the drug, and attempted to close China's borders to the British. This resulted in two wars, during which up to 20,000,000 Chinese died.<sup>12</sup> People are too often, exceedingly clever at rationalizing their wrongs, and in this event, the British did not fail: they cited "free-trade;" *i.e.*, "their (the British) right to enjoy free passage of goods among nations must not be impeded."<sup>13</sup> In the modern case, we observe the following:

Thailand, citing ample health warnings, decided to ban the importation of tobacco dangerous drug more addicting than heroin according to the U.S. Surgeon General. Thailand was forced [By the U.S.] to repeal their health legislation in the late 1980s to satisfy the requirements of the international trade bureaucrats who ruled that such laws cannot be allowed because they restrict trade."<sup>14</sup>

These two examples might be "comical" were it not for the fact that a few are sacrificing the health and lives of many millions under their own perverted notions of

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<sup>10</sup> Jonathan Larson (1993). The History of "Free Trade. <http://elegant-technology.com/TVAfretr.html> Web. (Last assessed 5/4/13).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* Also ; Thailand's Cigarette Ban Upset. PHILIP J. HILTS, Special to The New York Times October 04, 1990.

In a significant trade victory for the White House, an international trade panel has determined that Thailand's ban on imported cigarettes is illegal, although it upheld a ban on advertising, United States trade officials said today.

The United States and Thailand have tentatively agreed to talk in two weeks about opening the Thai market to foreign cigarettes, the trade officials said. The Office of the United States Trade Representative has been campaigning for years to have Asian markets opened to American cigarettes, and barriers in Thailand are the latest to be broken after those of South Korea, Taiwan and Japan.

The push to enter the Asian markets has caused concern among health advocates who fear that many people who do not smoke now may begin when American cigarettes backed by strong marketing tactics are available. The ban on advertising was seen as a victory in part for their side. <http://www.nytimes.com/1990/10/04/business/thailand-s-cigarette-ban-upset.html>. Web. (Last assessed 5/5/13).

“free-trade.” These examples also illustrate a few among less developed nations that upon entering any trade agreement with a larger, and more powerful nation—even when their entry appears consensual—they enjoy less leverage; *i.e.*, they can, for any reason—or no reason—have the rug snatched out from underneath them at a moment’s notice.

The final example, which demonstrates that free-trade, does “costs” someone something, has been alluded to in a previous paragraph; *i.e.*, free-trade usually means shifts within the economic sector, such that some industries downsize in one place, while in other places, those industries are enhanced; to put it another way: some people lose their jobs, while others obtain employment. If such changes were predictable enough to ensure the gainers a steady source of income, well, we might argue for the merits of such decisions; however, we have noticed that when workers at the “new location” decide they want more money, corporate powers might relocate to a place where workers are willing to work for less than the first “new” location.

A related issue occurs when foreign competitors flood local markets with “cheaper” goods, and, or cheap labor. This prompts many nationals to demand that their government adopt restrictions (protectionist seems to be a dirty four-letter word in some sectors of society) to protect local industry and workers from off-shore competition. With these concerns in mind, whether we view them as advantageous to free-traded, or otherwise, we return to the President of the United States assessment that globalization; and hence, free-trade is here to stay. And this is important to note, not only because it is a fact, but because international trade, sans barriers, allows all

nations to compete on the international stage of trade, where before they were not able to do so.

Trade that is truly international in scope has become imperative not only because it strengthens ties among nations, but also for an even more practical reason: there are six billion—and counting—people on the planet, all of whom need basic necessities for survival, such as potable water, food, transportation, lumber and fuel, and for their leisure, items of intellectual property and sporting goods, parks and recreational centers. No one nation has all these commodities within its border; therefore, the need for cross-boundary, international trade is indeed “here to stay.”

International trade also helps develop relationships with other countries and certain groups, which in the beginning seemed to be indifferent to the free-trade reforms, but that now are able to see the effects of the international trade on the government and the opportunities available. Ideas regarding free-trade, even if divinely inspired, require a structure for their embodiment, integrity and maintenance. Therefore, we find notions of free-trade embodied into a number of legal instruments, also known as agreements, or covenants, and being both national and international in scope.

Because free-trade covers a vast variety of products, and sometimes services, among different parties having various needs, there are dozens of agreements promulgated to meet these needs. Ideally, these said agreements must, of necessity, be monitored by a centralized organization; thus, over the years such organizations have been birthed by the international community and they are yet evolving as the needs of the international trading communities change. One of these centralizing organizations is known as the General Agreement on Tariffs and Trade, or GATT, which

later evolved into the World Trade Organization. We now turn to a discussion of the GATT, followed by an overview of the WTO.

#### **A. History of the General Agreement on Tariffs and Trade (GATT)**

Towards the end of World War II, many U.S. allies saw that it was critical to set up an international institutional to liberalize trade and payment. The formation of the world set up General Agreement on Tariffs and Trade (GATT) in 1947 was created to reduce the restrictions of trade barriers with other countries in regards to manufactured goods in the industrial countries. Initially the tariff was lowered from 40 percent to just below 5 percent in contemporary times.<sup>15</sup> The creation of the GATT has tremendously helped promote developing countries into the world market and also helps increase the real per capita incomes of the citizens of the countries who are members. Several dozen countries were initial signatories to the GATT;<sup>16</sup> Jordan was however, not among these earliest participants. The Preamble (Mission State?) to the GATT reads as follows:

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<sup>15</sup> Hallström, Pär. *The GATT Panels and the Formation of International Trade Law*. Stockholm: Juristförlaget, 1994.

<sup>16</sup> The Governments of the COMMONWEALTH OF AUSTRALIA, the KINGDOM OF BELGIUM, the UNITED STATES OF BRAZIL, BURMA, CANADA, CEYLON, the REPUBLIC OF CHILE, the REPUBLIC OF CHINA, the REPUBLIC OF CUBA, the CZECHOSLOVAK REPUBLIC, the FRENCH REPUBLIC, INDIA, LEBANON, the GRAND-DUCHY OF LUXEMBURG, the KINGDOM OF THE NETHERLANDS, NEW ZEALAND, the KINGDOM OF NORWAY, PAKISTAN, SOUTHERN RHODESIA, SYRIA, the UNION OF SOUTH AFRICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and the UNITED STATES OF AMERICA. . . WTO Legal Texts. The General Agreement on Tariffs and Trade (GATT 1947)[http://www.wto.org/english/docs\\_e/legal\\_e/gatt47\\_01\\_e.htm](http://www.wto.org/english/docs_e/legal_e/gatt47_01_e.htm).Web.(Last assessed 5/9/13).

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods, Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce,

Have through their Representatives agreed as follows: . . .

A total of thirty-eight articles follow the Preamble, and one of the most significant to international trade, and free-trade is the provision embodied in Article 2:

With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.<sup>17</sup>

This provision provides reciprocity between and among trading partners, and certainly attempts to create conditions where one party may not create for itself a trade imbalance; like for example, where one country, X, is flooding country Y's ports with its exports, while not being amenable to receiving the same in imports from country X. Recall that several hundred years ago when gold, silver, and sometimes

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<sup>17</sup> *Id.*

precious gems, and spices were the core of wealth for many nations, many of those nations balked at the idea of spending their wealth on acquisitions (imports) from the outside. Therefore, in modern times, it was through the GATT that nations of the world attempted to create an internationally balanced trade that would be beneficial for all players. In 1995, the GATT was renamed the WTO, which currently has more than 150 members.<sup>18</sup>

The WTO is in charge of regulating all trade agreements that take place in the international global market along with Intellectual property rights and trade related investment (TRIPS). The WTO also promotes the General Agreement on Trade in Services (GATS)<sup>19</sup> in regards to trade related matters to all its member countries to negotiate and comply with the restrictions listed to help reduce trade barriers. The WTO also serves as a mediator of any dispute that might take place between two member countries in regards to any trade related matters that are evident. The WTO also maintains the role of managing and encouraging all of its members to comply with the rules of conformity and determines whether or not a member is violating world trade rules if another country accuses that nation of such a violation.<sup>20</sup> The WTO will then set up a panel and discuss the accusations made and make a decision. Any nation who is an active member of the WTO upon accession is obligated to change all its legislation and policies and bring it into conformity with the rules of the WTO. In return if a member chooses not to comply with all rules and regulations made by the

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<sup>18</sup> Wilkinson, Rorden. *The WTO: Crisis and the Governance of Global Trade*. Abingdon: Routledge, 2006.

<sup>19</sup> General Agreement on Trade and Services.

<sup>20</sup> Raphael, D. D. *Adam Smith*. Oxford [Oxfordshire: Oxford UP, 1985.]

panel, it will be imposed higher duties and tariff rates in regards to all trade matters for failing to comply with the WTOs policies.

## **B. Customs Unions: GATT/WTO**

Article 24 of the GATT allows members of the WTO to form “custom unions” which permit members to establish a free-trade area with other non-member nations in the region to be free of all tariffs.<sup>21</sup> A custom union allows for the WTO member to eliminate all tariffs to all countries it wishes to trade with but is subject to maintain an external tariff with countries outside of the union.

### **Part III**

#### **Article XXIV**

##### **Territorial Application-Frontier Traffic-Customs Unions and Free-trade Areas**

2. For the purposes of this Agreement a customs territory shall be understood to mean any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories.

\* \* \*

4. The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories.

5. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a

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<sup>21</sup> Oleynik, Igor, and Natasha Alexander. *World Trade Organization Handbook*. Washington, D.C.: International Business Publications, 2001.

customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; Provided that:

(a) with respect to a customs union, or an interim agreement leading to a formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;

(b) with respect to a free-trade area, or an interim agreement leading . . .  
..

Note the significance of paragraph 4 of this section, the provision for allowing custom unions, where the Smithsonian concepts of free-trade can truly flourish; “a free-trade area should be to facilitate trade between the constituent territories and not impose barriers on other contracting parties with such territories.” Irrespective of this provision, one complaint against the WTO is the wait for admission. We shall discuss that next.

### **C. Lengthy Process for WTO Admission**

Although international trade and legislation, along with economic policies and reforms on international trade, all contribute to developing a nation’s economic growth, it is important to note that it takes a long time and requires consensus among all active WTO members to approve a nation’s application for membership in the

WTO. Therefore, many would-be applicant countries tend to turn away from the WTO, and thus, refuse to begin the process of trade liberalization.

The long process of entering the WTO could contribute to the deterioration of the world trading system. Since it is a long, and complicated process that deals with the complexity of goods from many nations, it results in discriminatory regional trading blocs, hence creating an operating global market that is nondiscriminatory a difficult task.<sup>22</sup> The reforms implemented furthermore, must be dealt with effectively and at a level in which all nations approve.

#### **D. Necessity for International Trade Agreements**

Much of the underdeveloped world grows and produces agricultural products. Because many of these underdeveloped nations have very little political clout with the rest of the world, and because farmers in wealthy nations have lots of political power, the goods from these poorer nations are tariffed and quota'd right out of the richer nations' markets.<sup>23</sup>

Despite all the complications that come with creating an open and liberalized trade market that calls for multilateral, bilateral and regional trade agreements, it is crucial in current times and remains a key feature in maintaining sustained development of the international economy. This liberalization is required despite the fact that many argue that international trade agreements favor a select, or "elite," few of the private sector, and serve the interests of individuals in multinational enterprises rather than the citizens of the country; however, time has shown that it actually helps

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<sup>22</sup> Sampson, Gary P. *The Role of the World Trade Organization in Global Governance*. Tokyo: United Nations UP, 2001. Print.

<sup>23</sup> Keith Brown, Free Trade and Foreign Policy. The Independent Institute.5/01/2000. Intellectual Take Out: Feed Your Mind.<http://www.intellectuالتakeout.org/content/quotes-trade-economic-development>>.Web. (Last assessed 5/9/2013)

raise the overall wellness of the nation to all of the citizens and accommodates economic performance in many ways. To establish and attempt to administer this to an entire nation, it is important that legislation be made to provide provisions and regulations to the firms and include labor standards along with the people's suggestions to serve the interests of all the citizens rather than the few private sector-owned enterprises.

Towards this objective, it is mandatory that—while legislative bodies may have their deep differences of opinion as to how to accomplish any given objective—those industries that are contingent upon vibrant trade, demand that legislators lay aside their sometimes petty political differences and engage in vigorous, but productive debate that put the interests of the majority first. Much too often legislation runs into a “bottle neck” within the halls of the legislative; however, it is our contention that knowing the “nuts and bolts” of how a legislative body operates can suggest solutions as to how to avoid, or resolve, these “bottle necks.” Therefore, in a later chapter, we shall briefly discuss Jordan's legislative body, the Parliament, and offer recommendations as how best to ensure that legislation doesn't run into a stalemate.

There is empirical evidence that with the safe implementations of international free-trade agreements and the imposition of proper legislation and economic reforms that help serve the domestic individuals within the industries interests, a nation's economy can indeed grow. Why is economic growth important? First, provided the growth benefits not just a select few, growth can translate into better living conditions for all citizens, or residents of any particular nation. Recall, that as Thomas Jefferson and others have written, we are all “entitled to life, liberty and the pursuit of

happiness.”<sup>24</sup> People who enjoy these benefits will then make better citizens in that they can contribute to the social robustness and prosperity of their nation. Numerous examples illustrate this latter truth as demonstrated by nations around the world. Most notably is the case example of the Hashemite Kingdom of Jordan (Hereafter “Jordan”) International Trade has helped Jordan’s economy by allowing full access to the broadening global markets and increasing economic growth as shown since Jordan accessed the WTO and called for liberalization on its trade. There is yet work to be done before Jordanians fully realize the benefits that come with liberalized trade, Jordan’s progress towards this idea has been steady.

## **II. Conclusion**

The latter half of the Twentieth Century was a major turning point in world history. World War Two had come to an end, and to ensure that such a horrific conflict would never happen again, the United Nations was founded, and over the next several years, a number of international agreements were adopted; among them the Geneva Conventions of 1949, the Universal Declaration of Human Rights and many others. It certainly seemed that the world was on pace to become a readily livable and prosperous place. However, somewhere in the world, smaller wars kept raging, and everywhere one looked, people were bound by the chains of poverty. Clearly then a world of peace would be only a dream if not everyone could share that dream;

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<sup>24</sup> The second paragraph of the United States Declaration of Independence declares, in part, the following:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -- . . . The Charters of Freedom, available at [http://www.archives.gov/exhibits/charters/declaration\\_transcript.html](http://www.archives.gov/exhibits/charters/declaration_transcript.html); (Last assessed 12/7/13).

therefore, by accident perhaps, someone hit upon the idea that global free-trade might improve the overall economic welfare of all nations. Contrary to this notion, however, is the belief that if a nation doesn't "protect" its financial sectors, they could be exploited with the result being job loss at home—because of limited manufacturing opportunities—and at the other end of the spectrum, exploitation of cheap labor in less developed countries. However, we have long suspected, and hope to illustrate in the coming chapters that when international agreements are carefully drafted, and monitored, the opportunities for such exploitation are minimized.

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# Chapter II

## The Hashemite Kingdom of Jordan's Economic Development

Every nation on the Earth that embraces market economics and the free enterprise system is pulling millions of its people out of poverty. The free enterprise system creates prosperity, not denies it.

Marco Rubio<sup>1</sup>

### I. Introduction

After our brief discussion about the merits of free-trade, about arguments showing how it can be perverted into something less than noble, and after considering the development of the international agreements and policy thought best to facilitate the same, we now focus our attention on the Hashemite Kingdom of Jordan's (also "Jordan") economic development. Our objective is to show Jordan's original status with respect to its economy, and its policies that have produced and maintained that status. In order to carry out this exercise, we decided to highlight the main economic factors, as well as legal and fiscal measures that lay behind Jordan's need for a liberalized entry into the international free-trade arena.

The impetus behind all trade, since long before the time of Adam Smith, has been the need to acquire those commodities that were either lacking or in short

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<sup>1</sup> Marco Rubio, American politician, b. 1971 - Brainy Quote.  
<http://www.brainyquote.com/quotes/quotes/m/marcorubio418979.html#E2xWFtwebEbGJbtk.99>;  
(Last assessed 11/22/13).

supply in one's own land. Another reason is that trade provides jobs, both at home and abroad; jobs in turn provide incentive, which can nurture creativity, which in turn can provide more jobs. In other words, trade can lead to growth in many sectors. In the following sections, we consider the growth factors that are moving Jordan forward.

## **II. Growth Factors**

Jordan is undergoing a major transformation under the dynamic leadership of His Majesty, King Abdullah II. With the twin aims of creating increased opportunities for the Jordanian people and strengthening the country's competitive advantage in the global economy, big strides have been taken in creating a peaceful and stable domestic environment conducive to both local and foreign investment. The net result is Jordan's continued emergence as a nation of great promise. In the recent past, following the implementation of a succession of strategic economic adjustment programs, the Jordanian economy has been able to grow and diversify despite the political instability which has prevailed throughout the Middle East. Of course this has been facilitated by adopting new domestic laws, as well as International law as needed. First, we shall examine many of the factors that determine growth.

### **A. Factors for Strong Growth**

Expansionary fiscal and monetary policies, increasing inflows of remittances from Jordanians working overseas, and a marked rise in exports, have all been behind the strong growth, which reached five percent each year between 2007 and 2012. As a result of this, per capita income and the standard of living of Jordanians have been improving at a rate of 2.2 percent in real terms, a figure not seen for nearly two

decades.<sup>2</sup> The trigger to this growth has been the foreign direct investment (FDI) in the five sectors named in the Investment Promotion Law,<sup>3</sup> namely industry, agriculture, hotels, hospitals and maritime transport and railways, which has already exceeded U.S. \$5 billion; the market capitalization of the companies quoted on the Amman Stock Exchange, which had increased to U.S. \$11 billion by the end of 2012; and the value of exports, which had increased to more than U.S. \$2.3 billion during 2012.

These achievements are a direct result of the redefinition of the national economy as more liberal and market oriented, and therefore, more regionally and internationally competitive; the implementation of privatization schemes, and the rapid integration of Jordan into the world economy following accession to the WTO and the signing of A Free Trade Agreement (FTA) with the United States, a Partnership Agreement with the European Union and the Arab Free Trade Agreement (AFTA) with neighboring countries. The following section discusses this process of liberalization.

### ***1. The Liberalization Process***

Important facets of the liberalization process have been the gradual lifting of subsidies, the abolition of price regulation on non-essential products, the freeing up of

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<sup>2</sup> Kirby, Simon Whitworth, Rachel. "Prospects for the Jordanian Economy." National Institute Economic Review. Oct 2011.

<sup>3</sup> Law No. (16) of 1995, And its amendments for the year 2000, The Investment Promotion Law. Article (1) This Law shall be named "The Investment Promotion Law of 1995", and shall come into effect as of the date of its publication in the Official Gazette(1) .

Article (3) a) Any project falling within the following Sectors or Subsectors shall enjoy the exemptions and facilities provided by this Law:

1. Industry
2. The Agriculture Sector (without prejudice to any privileges provided by other laws).
3. Hotels.
4. Hospitals.
5. Maritime Transport and Railways.
6. Any other Sector or subsectors the Council of Ministers decide to add upon the Council's recommendations. . . .

monetary and trade policies and the adoption of fiscal reform. Other reforms to the financial markets have led to the establishment of the Amman Stock Exchange, the Jordan Securities Commission, and the Jordan Depository Centre, all of which taken together have ensured greater corporate transparency and a more open local securities market.

## ***2. Legal and Fiscal Measures***

Jordan has introduced legal and fiscal measures to intensify the attractiveness of investment. The former include laws and regulations that allow foreigners to have full ownership of projects—except in a few clearly defined sectors, full repatriation of capital and profits, equal treatment under the law for domestic and foreign investors and the enactment of legislation to cover copyright, including software piracy, e-commerce, e-signatures and telecommunications.<sup>4</sup> The fiscal measures provide a tax environment offering many exemptions for both local and foreign investors and a rate of corporate income tax among the lowest in the region.

## ***3. Privatization Programme***

The country's ambitious privatization programme, which sought to expand the role of the private sector in the national economy,<sup>5</sup> has increased the competitiveness of the underlying businesses and gives further impetus to the market economy. This programme has proved to be most successful, in that it has already generated proceeds approaching U.S. \$1 billion.<sup>6</sup> Nevertheless, strategic partners continue to be

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<sup>4</sup> Haddad, Nader. "The Legal Protection of Trade and Investment in the Jordanian Kingdom." June 2006.

<sup>5</sup> Abou Shnief, Heba, and Heba Handoussa. "The Middle East: Challenges and Development." Feb 2011.

<sup>6</sup> Central Bank of Jordan, Monthly Statistical Bulletin, Jordan 2012.

sought for a number of entities to be privatized, including the national airline and companies in the electricity sector.

#### **4. The Aqaba Special Economic Zone (ASEZA)**

A decision taken in 2001, with the full encouragement of His Majesty King Abdullah II, was to create the Aqaba Special Economic Zone (ASEZA) at the northern end of the Red Sea in the vicinity of Aqaba.<sup>7</sup> The ASEZA Authority is committed to creating, growing and developing the whole area under its control as a highly competitive locality for international investment, especially in industry, trade and tourism. Integral to the aim of ASEZA is the creation of 70,000 jobs by attracting investments of at least U.S.\$6 billion in the immediate future, of which U.S.\$2.5 billion has already been received in only three years.<sup>8</sup>

#### **5. Promotion Investment Law**

Industry, including mining, tourism and agriculture are all areas of focus under the Investment Promotion Law discussed *supra*. They are not, however, being contemplated in isolation as infrastructural and social development also enjoys attention as the government initiates its three-year National Social and Economic action plan 2004-2007. Most importantly, and from the point of view of the Jordanian government, is that the law encourages foreign investment in Jordan by stipulating the guidelines for foreign investment, and by offering the non-Jordanian investor the same rights as a Jordanian citizen; *e.g.*, Article 24. Article 26 addresses the fear many investors have when contemplating if they should enter into any particular country;

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<sup>7</sup> The ASEZA will be discussed *infra*, Chapter V.

<sup>8</sup> Jordan Ministry of Finance, Government Finance Bulletin, Dec 2004.

*i.e.*, is the leadership likely to change hands, thereby forcing a forfeit of my investment? These two Articles appear next.

**Article (24) Subject to the provisions of other Laws:**

a. The Non-Jordanian Investor may invest in the Kingdom through ownership or partnership or shareholding, in accordance with the provisions of a regulation to be issued for this purpose. Said regulation shall clarify the project sectors or subsectors thereof in which the foreign Investor may invest and the maximum percentage of ownership and the minimum Foreign Capital allowed therein.

b. Subject to the provisions of paragraph (a) above, the Non-Jordanian Investor investing in any Project governed by this Law shall be afforded the same treatment as the Jordanian Investor.

c. The Investor has the right to manage the Project in the manner he deems appropriate and through the person(s) chosen by the Investor for its management. The competent authorities shall provide the required facilities.

**Article (25)**

It shall not be permissible to expropriate any Project or to subject it to any measure that may lead to expropriation, unless such expropriation is done by way of compulsory purchase for the purposes of public interest, and in return for a just compensation to be paid to the Investor. The compensation paid to a Non-Jordanian Investor in such case shall be in a convertible currency.

[**Author's Comment.** Hopefully Article 25 provides a sense of comfort to any investor who is wondering about the safety of his or her investment.]

**6. Water as a Valuable Resource**

Water is vital to biological systems; in fact, it is the very basis of blood flowing through our veins; and as well, it is extraordinarily vital to social, economic and trade development. It is nearly impossible to think of anything that does not depend on

water, usually fresh water. For example, general electrical needs, transportation, manufacturing, transportation, agriculture, humans and their livestock; the list is endless. Though it is clearly indispensable, it is often in short supply, not only in Jordan, which is fairly arid, but many other places around the world have concerns about a ready supply of water.<sup>9</sup> Therefore, water for the sustenance of life, and transportation, is a vital ingredient of the Kingdom's plan for an investment driven and knowledge-based society.

### ***7. Education and a Superb Infrastructure***

Though short on natural resources, Jordan undoubtedly is blessed with a well-educated and trained population, as well as political and economic stability, high quality infrastructure, a well-developed legal and regulatory framework, uncomplicated procedures for initiating and opening a business favorable bureaucratic, fiscal and employment environments, and freedom to repatriate profits

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<sup>9</sup> FRESH WATER RESOURCES

Water as a resource is under relentless pressure. Due to population growth, economic development, rapid urbanization, large-scale industrialization and environmental concerns water stress has emerged as a real threat. The scarcity of water for human and ecosystem uses and the deteriorating water quality leads to "water stress" and intense socio-political pressures. Many areas in the country are already under severe water stress. Any addition to the intensity of water stress in the existing water scarcity areas, or addition of new areas to water stressed list, will only further push the problem in to the realm of a disaster.

Although about three-fourth of earth is water, the estimated volume of freshwater our rivers, groundwater, snow and ice, is about 2.5% only, the rest being the sea / salt water. Most of the freshwater are either in the form of ice and permanent snow cover in Antarctic/Arctic regions (about 69%) or is stored underground in the form of deep underground basins/aquifers, soil moistures etc (30%).

Total usable freshwater supply to ecosystem and humans from river system, lakes, wetlands, soil moisture and shallow groundwater is less than 1% of all freshwater and only 0.01% of all the WATER ON EARTH. As per WHO estimates only 0.007% of all water on earth is readily available for human world consumption. This indicates that Freshwater on earth is finite and also unevenly distributed. Kumar, C. P. National Institute of Hydrology. Roorke, 247667 (Uttaranchal), INDIA. <http://www.angelfire.com/bc/nihhrrc/documents/fresh.html>. Web. (Last assessed 5/9/13).

and capital and clearly defined property rights. Furthermore, the Kingdom has entered into a number of strategic trade agreements to ensure easy access for investors to large consumer markets not only within the Middle East but also in Europe and the United States. Together, these attributes make Jordan a destination of choice for international investors seeking business opportunities in the Middle East.

### ***8. Economic Hardship due to Natural Causes***

Since its inception as an independent monarchy in 1946, according to the World Bank, Jordan has suffered from chronic trade deficits and a narrow export base, with annual commodity imports typically amounting to more than double its exports. This has partly been due to the scarcity of natural resources; however, recurring droughts, a small manufacturing sector and the government's overly restrictive external trade policies, among other factors,<sup>10</sup> have also contributed to those deficits, which have also been exacerbated by persistently large food import bills, which have continued to grow with the growth of the population.<sup>11</sup>

Jordan has then relied on foreign aid and remittances from abroad to support its balance of payments. During the second oil boom, which occurred in the early 1980s, an overall decrement of economic activity in the neighboring Gulf countries took place, causing the gulf governments to immensely decrease their spending, which led in turn to a reduced demand for Jordanian exports, and thus, a decreased demand for Jordanian labor. The cutbacks also led to a decrease in Arab financial aid to Jordan.

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<sup>10</sup> World Bank Forums. June 23, 2009. [http://info.worldbank.org/about\\_jordan\\_social.shtm](http://info.worldbank.org/about_jordan_social.shtm).

<sup>11</sup> Economic Intelligence Unit. Jordan Country Profile. pp 25-26.

During the 1980's, a time in which the oil boom was at its peak, this surge in oil production led directly to a deepening recession in the Jordanian economy and an increase in foreign indebtedness.<sup>12</sup>

As a result, policy makers in Jordan came to realize that they could no longer rely on foreign aid to stimulate the Kingdom's economy. Jordanian government officials found the only possible solution that would create the best prospects to overcome the limited scale of domestic resources, Jordan would have to increase its productivity through specialization in the world economy. Prior to the 1990's, trade policy was traditionally "mercantilist," and the government depended on a wide range of high tariffs for revenue.<sup>13</sup> Reforms then took place with the aim of better integrating and promoting Jordan into the world economy; thus, trade liberalization gained in the late 1990s as non-tariff and tariff trade barriers were lowered, and were at times abolished entirely. The Government of Jordan has made substantial efforts to reduce the overall tariff levels in an attempt to create incentives conducive to outward oriented growth. The average tariff was reduced from 19 percent in 2000 to 11.5 percent in 2010.<sup>14</sup>

As a result of these and other measures, including Jordan's formal application to join the WTO in 1995, the simple averaged import tariff on trade was gradually brought down on agricultural goods in 2010, which was 18.1 percent at that time, and 10.4 percent on manufactured goods.<sup>15</sup> According to recent reports by the World

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<sup>12</sup> Mohamed, Bchr. "Ten years after implementing the Barcelona Process: what can be learned from the Jordanian experience." Volume 14, Issue 2, 2009 pp. 123-125.

<sup>13</sup> World Bank Institute. "Trade Policy Developments in the Middle East and North Africa." 2002, pp142-143.

<sup>14</sup> Assessment of Trade Policy in Jordan and Recommendations for Reform.

<sup>15</sup> Economic Intelligence Unit, Jordan Country Profile, pp 25-26.

Bank, compared to its neighboring States, Jordan now has the lowest average tariff rate and the highest zero duty. The rationalization and liberalization of import measures can therefore promote and exploit Jordan's comparative advantages,<sup>16</sup> create market access to export-led development, and generate new opportunities for the Jordanian economy as attempts to diversify and generate greater growth.

Given Jordan's relaxation of trade restrictions due to its implementations of measures aimed at diversifying internal trade policy, reforms have been designed to maximize potential allocation towards its imported goods and custom clearance. For example, customs administration procedures have been improved with the adoption of an Automated System of Customs Data Entry (ASCUDA) for valuation of imports in 1997.

### ***9. Foreign Trade Policy Department***

In 1998, The Ministry of Industry and Trade created the Foreign Trade Policy Department (FTPD) in hopes of assisting the government in formulating new reforms and trade policy. The FTPD played the main role in integrating Jordan's accession into the WTO and the country's negotiations to establish a FTA pact with the US in 2001.

### ***10. Regional Trade Reformation***

Trade reform measures in recent years have also emphasized the need to open up the Kingdom to other States in the region and the rest of the world, bilaterally or otherwise. Regionally, Jordan's relations with other Arab countries have moved forward in the past few years, particularly as bilateral ties with Saudi Arabia, Kuwait

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<sup>16</sup> Zank, Wolfgang. "The Dynamics of Overlapping 'Shallow' and 'Deep' Economic Review." July 2001.

and the UAE,<sup>17</sup> after political differences had kept Jordan and the six-GCC member States relatively distant for most of the 1990s.<sup>18</sup> In addition, Jordan's economic relations with Syria have become more important, as well as various forms of cooperation with Egypt. Key to Jordan's enhanced relations with its Arab neighbors has been the League of Arab Nations ("LAN"), which will be discussed more fully in a later chapter.<sup>19</sup> The LAN's charter characterizes itself as follows:

an all-embracing document that sets out a wide range of potential areas for joint Arab action, the Charter opened the door for member States wishing to develop further co-operation and closer ties inter to do so by concluding whichever accords they deem necessary to achieve those targets.<sup>20</sup>

Geographical proximity as well as strong cultural affinities and other factors mean that relations between Jordan and Iraq were always extensive. Strong socio-political and economic ties bind the two neighbors. Even after the imposition of UN sanctions, Iraq remained a considerably secure market for most of Jordan's manufacturing industry and transportation services. In addition, Iraq supplied most of Jordan's oil needs, half of which was given free to the nation as an annual grant and the other half was supplied at a discounted price, which in return was paid for in the form of Jordanian manufactured products under an annually agreed Trade Protocol.<sup>21</sup>

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<sup>17</sup> The Kingdom has signed an agreement for the progressive establishment of a free-trade zone; 2005.

<sup>18</sup> Abu-Hattamen, Z.S.H. "Utilization of Jordanian Oil Shale: Status and Future Prospects." Oct 1997, pp.18-19.

<sup>19</sup> Chapter IV.

<sup>20</sup> Ref World. <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=publisher&publisher=LAS&type=&coi=&docid=3ae6b3ab18&skip=0>. Web. (Last assessed 5/10/13).

<sup>21</sup> Report by Zawaya. May 26, 2010. <[www.Zawaya.com/story.cfm/sidZAWYA20030807045015](http://www.Zawaya.com/story.cfm/sidZAWYA20030807045015).

## **B. Relations in the Arab World**

The Kingdom's economic relations with other Arab countries have also improved in the past few years, with the Arab Free Trade Area (AFTA) agreement in particular promising to achieve a measure of pan-Arab economic and industrial co-operation. The AFTA, to which Jordan is a signatory, envisaged an annual across-the-board cut in tariffs and tariff-like charges among members until free-trade was finally achieved by the end of 2005, two years earlier than initially scheduled. On the extra regional and global levels, Jordan has been opening up quickly, with the Kingdom adding to its 1997 partnership accord with the European Union accession to the WTO in April of 2000, as well as recently sign up a free-trade pact with EFTA member States.<sup>22</sup>

Among Arab countries, only Jordan has so far signed a FTA agreement with the U.S. Now in tandem with the Jordan-U.S. FTA, the Kingdom has secured a unique position in the Middle East with respect to the outside world. Jordan is now able to differentiate itself from the region and embark upon new trajectory, benefiting for preferential trade arrangements with the U.S., the EU and other trade States that may help insulate it somewhat against the political and economic instability that has so often characterized life in that part of the world.

## **C. Trade Liberalization**

The Government of Jordan (GOJ) has remained highly committed to trade liberalization, and substantial progress has been made to clearly articulate trade policy

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<sup>22</sup> EFTA includes the following member States: Iceland, Liechtenstein, Norway, Switzerland.

strategy in formulating and implementing its private sector to enable the sector to exploit its comparative advantages for a growing share of the global market place. The GOJ is committed to the goals of the private sector-led growth, manufacture, and trade. With limited resources, Jordan relies heavily on trade for its expansion; thus, trade plays an important role in growing its economy, with a positive impact on both foreign and domestic markets. Trade helps build economies and facilitates access to cheaper and better imports while determining Jordan's position and its ability to improve and strengthen its private sector-led development. Trade policy promoted diversification of both products and markets. Opening new markets through bilateral, regional, or multilateral agreements provides Jordanians opportunities to expand and diversify their markets. An open trade environment with a dynamic and dense export sector is an important element for promoting a more innovative private sector in Jordan.

The structural reform policies and liberalization of the trade, along with investment and trade policies, have left Jordan's economy with an overall positive impact; therefore, Jordan's economy is one of the most important in the region. In major international rankings such as the 2013 Index of Economic Freedom, Jordan is ranked number 33 in the world, and 4th out of 15 countries in the Middle East/ North Africa region.<sup>23</sup> This has led investors and nations to begin developing relationships with the Kingdom in hopes of removing international trade barriers and services to and from the Jordanian market.

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<sup>23</sup> Jordan Development PDF File. [www.erg.org.eg/html/grp/GRP\\_SEP03/Jordan-develop.pdf](http://www.erg.org.eg/html/grp/GRP_SEP03/Jordan-develop.pdf).

#### **D. Growing Jordan's Economy**

Jordan has been taking significant steps in hopes of creating a Kingdom in which is economically stable and which has the potential to produce a modern state with social stability. Jordan has recently embarked upon creating a well-run private and public sector in which its top priority is to encourage growth and transform the Kingdom with economic reform and trade along with both political and social ties that is driven entirely by primary goods in an economy that is investment driven. In order to produce a modern state with both economic stability and social stability, Jordan must push for International trade. Trade liberalization and privatization of the Kingdom's own enterprises, both institutional and structural, must create an exchange rate policy that will in return stimulate the economic climate which allows room for growth in both nominal and per capita terms.

##### ***1. Towards a New National Agenda***

In 2006 a committee comprised of representatives from the Jordanian government, parliament, and society, along with private sector political parties and media, created the National Agenda that will focus on opinions of the Jordanian people in regards to the main objectives and concerns about certain programs being placed in the Kingdom. The main purpose of this committee is to develop and improve the standards of living for the Jordanian community and promote economic growth that is stable and conducive to the social welfare. The committee has been able to achieve rapid growth in the GDP recently, along with starting up new programs that will help create opportunities to increase income and reduce the public debt, while promoting national savings and reducing the unemployment rate to an all-time low. A reform

agenda implemented through plans had certain results that needed to be targeted, including both the Social and Economic Transformation Program (2006—10) and the Social and Economic Development Plan (2008—2012).<sup>24</sup>

## **2. Jordan's 3-Phase Plan for Economic Growth**

Jordan's social and economic development will be undergoing a series of three phases that will be consecutive. Each involves a specific purpose under the committee of the National Agenda:

- The first phase will begin 2007-12 in which the committee will undergo and implement certain policies to lower the unemployment rate which is the key to creating economic growth. The expanding of sectors has led to growth in education, infrastructure, mining, manufacturing and promoting of opportunities to employ. The policies being implemented will consist of legislation that will regulate and determine the political life within the Kingdom in aims to promote, and bring about
- the second phase which will begin in 2013-17) this phase will primarily focus on the industrial sector by strengthening its development to the highest value possible.
- The third and last phase will begin in 2018 onward to educate the population and bring about the evolving and changing of the economic sectors.

By the year 2020, according to the National Agenda, the Jordanian vision of a private sector will help bring about expanding the nation's economy and speed up its economic growth to a level in which all businesses will be able to have a concrete standing in order to give themselves a push to sustain growth themselves. The

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<sup>24</sup> Magableh, Ihab. "Economics of Microfinance and SMEs in Jordan: An Empirical Field Study." Jordan. Apr 2009.

National Agenda will join partnership with the government to start up twenty-seven business associations by the year 2020 and to advocate and inform necessary policies and reforms that will be needed to strategize and enhance Jordan's economic performance.

### **III. Conclusion**

The GOJ is firmly committed to building its economy with private sector-led growth that is highly dependent upon international trade, both within the Arab world, and beyond to Europe, the Americas and Asia. Economic development, however, will open trade competition to the Jordanian economy and will allow itself to undergo opportunities it has never been able to build before and exploit its existing comparative advantages with opportunities that may build upscale and strengthen supply chains that will integrate policies and strategies to lead Jordan into a position that it will finally be able to sustain its private sector led development with Jordan's accession and agreements.

Jordan's modernization and its new reform policies framework and progression towards international standards across wide range of markets access will eventually lead to an expansion of the Kingdom's trade and facilitate the creation of opportunities for the Jordanian people to exploit their advantages with other nations. This will lead in return to GOJ's projected vision for the year 2020 which will be an increase in employment and an expansion of the sectors along with overall economic growth. However, this projected growth, as bold as it might seem, must be guided and structured by both national and international legal guidelines, whose precursors lie within the policy decisions conceived and carried out by Jordanian lawmakers.

Therefore, this leads us to the discussion we promised a chapter or so ago; the lawmaking process of Jordan.

\* \* \*

# Chapter III

## Law Making Processes

### Favorable to

### Trade and Development

Understanding that policy may determine what will, or will not be done should be fairly easy; however, it requires a little more effort to understand that policy also determines what can or cannot be done, or what is thought possible or impossible; in other words, national policy may determine the course, and the subsequent fate of a nation; or personal policy may set the path and outcome of an individual's life. Much too often, the effects of policy selection, or non-selection, are attributed to the presence, or lack of inherent ability; . . . <sup>1</sup>

#### I. Introduction

The above quote sounds a universal and ageless theme, which is to basically say that the fate of nations and people may be found not so much in the patterns of the stars, or the whims of an often unpredictable creature such as man, but far more in choice we all make. Hence, as nations go about the business of making choices to determine their destiny, the resulting political processes serve as modes from which their fates may be determined. In this chapter, therefore, we set out the law making process of Jordan, and determine how that could determine the Hashemite Kingdom's ultimate fate in the 21st century as it improves the well-being of its citizens through a sustained

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<sup>1</sup> Frazier, B.H., S.J.D., *New Perspectives of Human Embryonic Stemcell Research*: p.250.Print.

economic development, behind which stands free-trade measures between itself and other nations.

## **II. Considerations in Economic Development: New Paradigms**

The depth of economic development of every country lies in its ability to harness and manage its resources well, and nurture economic growth by implementing and promoting the economic well-being of the country's decisions in law-making strategies and reform policies. Jordan's participation in international trade agreements in order to interact with other countries shows Jordan's consideration in expanding its foreign market access. Following these considerations, Jordan is a member of some multilateral, regional, and bilateral agreements to trade and commerce which we shall discuss more at length in chapter V of this dissertation.

Since Jordan has begun negotiating free-trade agreements with other nations in terms of potentially growing its economy and reaching out to both domestic and international "binding commitments" it has obtained a significant and potentially great relationship in terms of developing its nation's economic growth. Jordan has taken abundant measures in improving its nation's economic growth in terms of both fiscal and monetary policy along with its developing trade agreements and implementation of attracting international markets to invest in its nation's capital, especially foreign direct investment (FDI). Along with the Kingdom's signing of new free-trade agreements and amending existing laws, while introducing new laws, it has clearly undertaken important measures in legal reform process in enhancing its nation.

The Kingdom has begun announcing new legislation with the growing demand of complaints coming from the private sector in regards to the current existing legislation being inadequate and outdated. The government has also taken action in regards to implementing new laws and amending existing laws that will be responsive to the its needs in terms of regulating and enhancing its economic standing. External factors come into play when the government begins to implement new legislation. When initiating international economic cooperation with other countries that entail such matters as creating treaties or free-trade agreements, a government must refer to those nations' direct domestic legislation which derives from the countries previous law making. In conclusion, all the reasons stated above play an important role in the Kingdom's support for inducing new reform and its initiative to implement new legislation to help protect international institutions and the Kingdom's own substantive agencies from any inconsistent inadequacy.

During 1988—89, Jordan endured a major economic crisis in which the Kingdom was facing a never ending pile of external debt and the diminishing of its foreign exchange reserves. The government embarked on overcoming this crisis by amending existing policies of economic reform and promoting fiscal and monetary policies with aims of liberalizing its foreign trade and enhancing its private sector role. During this period Jordan initiated significant steps in enhancing its economy through its private sectors and developing a strong foreign trade market.

Because of a number of the Kingdom's public enterprises becoming privatized, the GOJ has taken important steps to create reform in public institutions that will govern the Kingdom's changing role and new orientation strategies being applied to its

privatization scheme. These efforts at reformation require a legislative process that is amenable to stepping away from any tradition that is less than sympathetic to the implementing of growth measures, and that is capable of enduring the growth pangs that come with adjusting to new relationships within the international community. We shall now examine the legislative processes behind the research, formulation, and adoption of measures that will enable Jordan to become and remain a significant player in the international market of trade.

#### **A. Legislative Powers and Processes**

As we have suggested, it is through the law that the wheels of society are kept oiled, and as well, it is the law, which to a considerable extent, dictates what policies are adopted; in short, with respect to daily affairs and economic well-being, it is the law that determines what may possibly be undertaken and accomplished. Just as the U.S. Constitution sets the tone for the manner in which Americans go about their personal and business affairs, the Kingdom's Constitution<sup>2</sup> is the authoritative law of

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<sup>2</sup> Jordan's Organic Law was instituted in April 1928 under the guidance of Emir Abdullah. It provided for a consultative parliament, . . . This document was transformed after Jordan gained full independence in May 1946, following the abolition of the British Mandate. A new constitution was formulated and adopted by the Legislative Council on 11/28/47. It was published as law in the Official Gazette on 2/1/47. A few years later, the Constitution was liberalized by King Talal and ratified on January 1, 1952. It is the one in current use today.

Jordan's constitution stipulates that the country is a hereditary monarchy with a parliamentary system. It outlines the functions and powers of the state, the rights and duties of Jordanians, guidelines for interpretation of the Constitution and conditions for constitutional amendments. It mandates the separation of the executive, legislative and judicial branches of government, and outlines the regulation of the government's finances, as well as the enforcement and repeal of laws. Importantly, the Constitution specifically guarantees the rights of Jordanian citizens, including the freedoms of speech and press, association, academic freedom, political parties, freedom of religion and the right to elect parliamentary and municipal representatives. [http://www.kinghussein.gov.jo/constitution\\_jo.html](http://www.kinghussein.gov.jo/constitution_jo.html) . Web (Assessed 5/1/13).

the land. Just as the executive power enumerated by the U.S. Constitution is vested in the U.S. President, and his or her cabinet, so does the Constitution of Jordan vests a comparable executive power in the King. Article 26 of Jordan's Constitution reads, "The Executive Power shall be vested in the King, who shall exercise his powers through his ministers in accordance with the provisions of the present constitution."<sup>3</sup>

Jordan has an entrusted body of individuals who conduct all affairs of the Kingdom, both externally and internally, and said individuals are responsible for each department under their charge. The Prime Minister and the Council of Ministries are all selected by the King himself. The King selects the Prime Minister based on the individual's portfolio and if indicators suggest that individual will do an impressive job in furthering the country towards international standards. The Council of Ministries is in constant consultation with the King and is his sole advisor along with other influential members of the Parliament. In regards to Economic Policy and all of its configuration and implementation of policies, it falls under the ministries discussed in the following sections.

The Ministry of Planning formally known as the Ministry of Planning and International Cooperation is solely in charge of any economic or social development that is to take place within the Kingdom. Any issue that develops in regards to investment, financing or economic growth will go to this Ministry. In return, the Ministry of Planning will then cooperate with international financial institutions and agencies to help mandate and fund such projects that will permit economic growth.

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<sup>3</sup> Jordan Constitution Article 26.

The Ministry of Industry and Trade is in charge of all of the Kingdom's binding agreements with other nations. It is evidently the most important Ministry for the Kingdom. It creates domestic and foreign trade policies that will help liberalize the trade system, and regulates the trade business while promoting investments and exports in the international climate pool. For lack of relevance to our topic, as mentioned in the beginning of this dissertation, the more generalized legislative process shall not be explained here, but we shall go right to those processes that affect treaties and the international agreements.

#### **B. Legislation Process in Terms of International Agreements**

International legislation agreements, which are a special type of legislation involving international partners, are concerned with how the legislation will benefit all countries involved in terms of economic and commercial interest. The legislation process for international agreements takes a completely different path than the domestic legislation process. This type of legislation has its own conduits and involves the involvement of various international organizations, such as the WTO. Any external rules that factor in the formulation of the development from the international arena go through various rules initiated with multilateral parties in terms of benefiting all governments. In agreements made with Jordan and external governments (GAFTA, EU Association) and numerous bilateral and regional agreements, the government of Jordan invites important private and public sector individuals along with international firms and civil society institutions to consult extensively on any measures or laws that are in the process of being ratified. Those invited are the ones who will ultimately

benefit or in parallel suffer from the agreements being made in regards to legislation ratification.

Any debate or discussion that takes place in regards to the implementation of agreements and or any proposed legislation is accompanied by all interested parties and takes place in negotiating and creating solutions to be taken into account before the legislation is then submitted to the Parliament for finalization. In terms of how domestic legislation differs from international legislation in the ratifying process, it is essential to note that any domestic legislation piece proposed to the Parliament can be modified in terms of adding or eliminating any material or subject matter. According to Article (74) of the Parliaments Rules of Procedure, however, in terms of international agreements it cannot change any proposed agreement,

in cases of international agreements reached as a result of government negation with foreign governments or international organizations, Parliament cannot introduce changes in a proposed agreement; it can decide either to ratify or reject it or in rare cases postpone the voting if the government sees its essential in doing so, further negotiations that would take the parliaments misgiving into consideration.

In efforts to being acknowledged as a key trading partner, and in its efforts to expand its trade in international markets, Jordan saw that joining the WTO would be a vital step necessary to reach that goal. The Ministry of Planning established a secretariat in hopes of joining the WTO. The committee prepared the Kingdom's Memorandum of Accession (CMA) which addresses Jordan's hopes in terms of liberalizing its trade and the context focused on Jordan's proposed tariff rates and barriers which at the time were very harsh. After the government agreed on the

proposed CMA it submitted the documents to the WTO. Meanwhile, many seminars were taking place in the Aqaba with the aim of raising public awareness of the Kingdom and explaining how important it was for Jordan to join the WTO.

### **C. Joining the World Trade Organization (WTO)**

The WTO has made its share of news, sometimes not very flattering, over the past ten years. Nonetheless, its reason for existing is to reach across international boundaries and make trade accessible to all nations that wish to participate in the global agreement, provided, of course, they are willing to wait out the lengthy application process. The WTO provides offices where nations meet, and under some international oversight, hammer out trade agreements amongst themselves. To use an old catch phrase: the WTO endeavors to level the playing field, whereby all participating members can enjoy a chance at economic growth and development. Without enforcement mechanisms, agreements are sometimes not worth the paper they are written on; therefore, anticipating disputes, the framers of the WTO established a means of monitoring participation of Member States, and provided for legal remedies to redress the needs of those Members who can provide evidence that their rights have been imposed upon.

The WTO monitors at least sixteen trade agreements, as of this day, which are multi-lateral (amongst more than two nations), and several other agreements to which only several WTO members are signatories. Over the past sixty years, the WTO, which was established in 1995, and its predecessor organization, the GATT, have helped create a strong and prosperous international trading system, thereby contributing to

unprecedented global economic growth. The WTO currently has 159 members, of which 117 are new developing countries, or separate customs territories. WTO activities are supported by a Secretariat of approximately 700 staff members, which are led by the WTO Director-General. The Secretariat is located in Geneva, Switzerland, and has an annual budget of approximately CHF 200 million (\$180 million, €130 million). The three official languages of the WTO are English, French and Spanish.

Jordan's procedure to join the WTO shows the steps taken to ratifying a proposed legislation or international agreement. The first step in proposing a piece of legislation internationally is to negotiate with the international partner by having the Secretariat form a memorandum in efforts to accede in the WTO. The mandated ministry in return is solely in charge of negotiating the agreement with international partners and to implement its process. Many members in both the public and private sectors represented the task force:

- Federation of Chambers of Commerce
- Amman Chamber of Industry
- Ministry of Agriculture
- Central Bank of Jordan
- Ministry of Industry and Trade
- Ministry of Finance/Customs Department

The purpose of the task force listed above is to develop important documentation that reflects the Jordanian government and its concerns for international issues and agreements that will be taken for consideration. The task force is also responsible for researching and analyzing all studies concerned with the stakeholders' drafting of issues to consider. In similar circumstances, the task force

also investigates previous nations who have joined the WTO and any lessons or precautions that Jordan should be aware of in order to avoid repeating any mistakes made by other nations in attempting to accede to the WTO.

Since Jordan is still a developing country whose agriculture products are finally being open to the international market, negotiations by the deputies and senior officials of Jordan, in the interest of safeguarding Jordanian exporters from any processes made that might directly hurt them, emphasized their peculiar rights in the export business. The legislation proposed, and the agreements and documentations made to the international organization under the Parliament, then reached an agreement. Due to the campaigning and constant lobbying that was taking place within the Kingdom, there was no reason why the Parliament would view succession to the WTO as a negative move for the Kingdom and its people. The Parliamentary influences by private sector individuals, and raising awareness of the accession to the WTO and its benefits, finally resulted in an agreement. A similar process took place with the agreement between Jordan and the EU Association, in which it set up fair rules with Arab countries in the region not to allow for cumulative rules of origin<sup>4</sup> that

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<sup>4</sup> Determining the country of origin of a product is important for properly assessing tariffs, enforcing trade remedies (such as antidumping and countervailing duties) or quantitative restrictions (tariff quotas), and statistical purposes. Other commercial trade policies are also linked with origin determinations, such as country of origin labeling and government procurement regulations.

Rules of origin (ROO) can be very simple, noncontroversial tools of international trade as long as all of the parts of a product are manufactured and assembled primarily in one country. However, when a finished product's component parts originate in many countries—as is often the case in today's global trading environment—determining origin can be a very complex, sometimes subjective, and time-consuming process.

were negotiated and finally set forth in the AGADIR agreement, which sought diagonal accumulation to their exports into EU countries. This led to a free-trade agreement being created amongst the four countries and its EU relationship.

When the Parliament is in session, the process entails a law being ratified under the Cabinet and reviewed by the Parliament for further changes. When the Parliament is not in session the government issues a law with the King's consent that will remain as a temporary law and will remain in force until a new law under the Parliament is promulgated, or if the Parliament subjects a due process whether the law will be ratified or repealed. It is necessary to note that many individuals feel as if the "temporary law" serves as a misleading mandate in terms of the Jordanian Constitution and the legislative authority's rights.

In the 1952 Constitution, Article 25 provides the executive authority or power to issue temporary laws if needed necessary. The powers to implement any piece of legislative material are vested in both the Parliament and by the King.

### **Article 25**

The Legislative Power shall be vested in the National Assembly and the King.

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U.S. Customs and Border Protection (CBP) is the agency responsible for determining country of origin using various ROO schemes. Non-preferential rules of origin are used to determine the origin of goods imported from countries with which the United States has most-favored-nation (MFN) status. Preferential rules are used to determine the eligibility of imported goods from certain U.S. free-trade agreement (FTA) partners and certain developing country beneficiaries to receive duty-free or reduced tariff benefits under bilateral or regional FTAs and trade preference programs. Preferential rules of origin are generally specific to each FTA, or preference, meaning that they vary from agreement to agreement and preference to preference. Jones, Vivian C., Michael E. Martin. Congressional Research Service (CRS). January 5, 2012.< <http://www.fas.org/sgp/crs/row/RL34524.pdf>.>Web.(Last assessed 5/9/13).

The National Assembly shall consist of a Senate and a House of Deputies.<sup>5</sup>

The Parliament on the other hand consists of many subdivisions such as the House of Deputies who are chosen individuals elected into office by the Jordanian people by Electoral Law, and the Senates who are directly chosen by the King himself. In order for legislation to be ratified as mentioned earlier the legislative material must be approved by both the King and the Parliament. If either fails to come to an approval it will be put off for further consideration until a mutual agreement is made, unless if the King fails to approve the legislation the Parliament can override and veto the King's vote if two-thirds of the Parliament approves the legislation. [Constitution Chapter V].<sup>6</sup>

Any legislation that pertains to economic reform is presented by the government to the Parliament. The next section surveys the forces that may clash in the Parliamentary body as attempts are made to enact and enforce trade legislation.

#### **D. Competing Forces in Parliament and Trade Legislation**

It is without a doubt safe to say that mostly all of the members of the Parliament's committees are prominent business men of the private sector who only joined the committee for their own interests. Jordan does not offer the solid foundation of drawing a committee of individuals from diverse areas of the Kingdom. This oversight leads to wide-spread corruption in the government itself. The committee members play a key role in maneuvering the Kingdom's decision-making process. Many rich individuals have the access to promote and manipulate the Jordanian government in approving certain legislation and trade agreements to their

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<sup>5</sup> Jordanian Constitution; Article 25.

<sup>6</sup> Prior to July 1988, the membership of each of the two houses of Parliament was divided equally between representatives of the East Bank and the WEST Bank parts of the Kingdom.

own interest because of the money and status they possess. Many of the committee members, especially the FEC, use the committee as a way to access and promote their own business even if such action only benefits them and hurts other public sector or private enterprises of the Jordanian people in the process. Through the process of heavy campaigning and lobbying, there is without a doubt bribery taking place. After speaking to a number of Jordanian officials in June of 2011, we encountered the same responses over and over again.

The following questions were addressed to Jordanian government official members of the research study:<sup>7</sup>

Describe and explain how proposed international legislation is integrated into your department and what is done in order to accomplish its goals and objectives of passing the legislation?

Interviewee: "Complaints are filed and later studies are done to conduct research by consultants. Recommendations are made to both benefit the domestic and international partner, and informal consultations are made. The directorate contacts the ministry who sets up meetings and discusses the legislation which is later proposed as draft law, which eventually leads to it becoming ratified in the Parliament."

Why do you think all government officials (ambassadors, ministers, Parliament members, judges, etc.) all come from wealthy families and own private companies?

Interviewee: "That is not true by any means. Many of our government officials were educated prior to entering the office and have worked

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<sup>7</sup> The people interviewed asked not to be named. The interviews were conducted in the week of June 7<sup>th</sup> 2011 to 3 various officials in the Ministry of Industry and Trade. Many chose not to answer questions 2, 3.

hard to get to the place they are currently in now; take me for example". (I would like to add that the person being interviewed owns property in Amman alone that exceeds 5 million USD.

What legislation can you come up with that will help close the gap of future corruption that is currently taking place in the legal framework of the private sector?

Interviewee: "Our country may have corruption but it does not come from the government or the people involved in the government it comes from external sources".

What are the external sources you talk about? Are you talking about individuals from the private sector to be exact?

Interviewee: "I would like to end this questioning here"

Do you think Jordan's current law making process for trade and investment promotion in Jordan is enough?

Interviewee: "Of course when it comes to the law making process, Jordan can always do more. Both trade and investment are vital to Jordan's economy and allows for opportunities that were once not available before. Jordan is currently trying to aim for a *laissez faire* approach in creating a free market when it comes to transactions being made with private parties and free from government restrictions".

It is clear that the private sector is playing a key role in the government and is helping itself in getting legislation ratified. Although the Jordanian Constitution grants freedom of assembly and speech within the limits of the law, it is safe to note that the Jordanian civil society organizations are benefiting from the political environment. Not only are the organizations protected under the Constitution, but they are also

subjected to special charters, such as the 1989 Charter on Civil Liberties which outlines the general guidelines between the executives and legislative organs, as well as between decision makers and governmental officials concerning questions of authority. The law has also given Jordanian leaders an insurance policy against outbidding by unrestrained groups, and a degree of predictability in political affairs. Since December 1990 the Jordanian National Charter has provided Jordanians the right to form organizations; however, it prohibits the organization to benefit from any partisan associations.

#### **E. Other Influences on Policy Making**

There are a handful amount of private business and professional sectors created entities that will influence the government policy making:

- The Professional Unions<sup>8</sup>
- The Federation of Chambers of Commerce
- Chambers of Industry

All the entities above contain members with strong interest groups and many influential individuals who are active members. These entities, moreover, have the proper funding to conduct further research on account of the members being significantly wealthy, and said entities may also conduct campaigns around the world. Now, let us consider the impact of political unions.

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<sup>8</sup> There are 14 professional (non-labor) unions in Jordan whose total membership in August 2003 was put at 120 thousand members. The more important of them are, in order of influence: Engineers, Lawyers, Journalists, Physicians, Dentists, Pharmacists, Contractors, Agricultural Engineers, Geologists, Veterinarians and Accounts Auditors.

## **1. Influence of Political Unions**

In regards to professional unions, it is evident that many union members seem to influence the interests of their members with respect to the political platform. The unions' effect of expressing public opinion and emphasizing and debating on policy issues, shows that the representative process of the unions is completely inadequate. In many cases, the government has accused the unions of ignoring their official duties and only primarily serving their own interests in regards to matters of their own business interest. The constant engagement in politicization has led the government to accuse the unions of constant illegal actions and the abusing of their powers to benefit the private sector for their own net gain.

Businesses can voice their opinions in many cases to the King's advisory economic council (CEC), which presents cases to the royal family in terms of creating solutions. It has become absolutely necessary in recent times for the government to consult business owners of any new economic policies in regards to business that will directly affect them. The members of the King's economic council have been directly elected by the King ever since 1999. Successful campaigning can be very effective as shown in the 2003 Parliamentary elections that took place when a temporary law was proposed by the Ministry of Industry and Trade to remove the Federation of the Chambers of Commerce and set up a JCC (Jordan Chamber of Commerce) to replace it. This action was viewed by businesses as strengthening the influence of the JCC and weakening the FCC. The temporary law was then withdrawn with the successful campaigning of the Amman Commercial business.

In 1954 *The General Federation of Workers Unions of Jordanian workers* was

created. It consisted of seventeen categories with specific goals as outlined in its “basic constitution.” The Jordan Constitution called for basic rights of workers, and for improved working conditions, as well as protection of rights and freedom. The General Conference which takes place once every four years consists of management boards that are governed by the Central Council and the Executive Committee to represent each union and play a key role in helping the workers get their rights.<sup>9</sup>

Although the Kingdom’s Constitution calls for the basic rights for workers, the workers cannot voice their opinions relating to economic legislation even though if doing so might encourage the labor markets to provide more jobs and possibly an increase in income. The only way the unions can get such rights is if the unions themselves have a strong and prominent figure backing them up.<sup>10</sup> In contrast to this, it is not mandatory for the workers to join any unions and it is entirely up to them whether to seek membership. The Land Transport Workers Union (LTWU) is one of the largest unions in the country and took part in riots and strikes throughout the Kingdom due to the government’s decision to raise the price of petroleum and remove food subsidies when the Kingdom issued and proposed the 1989 structural adjustment policies.

The main purpose of the unions is to provide a stable working environment for the workers and to make sure their rights are not taken away from them. It is also

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<sup>9</sup> Each union consists of six representatives composed from the Central Council.

<sup>10</sup> Haider Rashid in the 1980s proved to be a strong leader for the Union of Banking Sector Workers in which he negotiated and fought for the interests of the workers working in Petra Bank.

important to note that the main concern of the members of the union is to prevent unemployment from rising and the laying off of workers and relocating them to areas in which the employee would suffer causing a decrease in productivity, and in return less profit for the company which all in all will always affect the workers and will force the company officials to fire them due to the shortage of demand of the company's resources such as which were exhibited in 1982 by the Jordan Phosphates Company in which mining workers were laid off.

With the Jordanian secret service, "El-Mokhaberat," it has been increasingly difficult for the unions to continue their strikes and riots. The heavy interference of the Directorate of Intelligence (DOI) on the union members has brought their activities to an all-time low. To this day the workers' unions in regards to economic legislation have no say in any of the major economic reforms. Whenever a piece of legislation is announced the General Federation is restricted from protesting and issuing any criticism in regards to the context of the legislation. The General Federation for example protested and rioted when the Sales Tax Law was issued. However they couldn't campaign or get involved in lobbying to affect the course of the relevant legislation.

In regards to the process of law-making, many civil society organizations take part in seminar sessions to voice their opinions of the proposed legislation and to suggest ways to modify it. The GOJ supports this as a way to avoid any future issues that may arise from the proposed legislation. Civil society organizations (CSOs) take part in the process of law-making in two distinct stages. The first being the case in which the members of the CSOs meet and discuss solutions with individuals and

institutions to take the necessary steps in drafting the proposed legislation. The second stage is when experienced individuals of the institution research and provide further analysis to the law and any recommendations needed before the draft is made public. A third party outside of the institution is then hired to conduct thorough studies of the proposed law and determine how it may affect the members of the CSO along with certain social groups. The CSO also prepares seminar sessions in which representatives of various institutions share recommendations in support of their demands and voice their opinions to influential representatives of the social media to demand that their recommendations be taken for close consideration. Parallel to this, the Amman Chamber of Commerce along with the Amman Chamber of Industry both played important roles in the process of creating and introducing the Sales Tax Law that will reduce import restrictions in an outlined and professional legislation proposal.

### **III. Foreign Investment**

In regards to the laws for foreign investment, complaints have been issued by both foreign and domestic investors about the current investment climate in Jordan. The procedures deemed by the investors have been said to be cumbersome; however, lately the government has been improving the legal environment hoping to encourage investment in the Kingdom. Jordan's neighbors have all been able to develop attractive laws to promote investment in their countries. So the need for Jordan to step it up and encourage its private sector participation to be removed from all barriers in regards to foreign direct investment (FDI) is absolutely necessary for new legislation to be passed to help promote the growth within the private sector.

There were many objectives when it comes to the proposal of new legislation for the encouragement of investment. The first being is to entirely simplify the rules to a bare minimum which grants investors easy access to create incentives to undertake investment in the Kingdom; the second is to reform the current legal framework for investment and monitor the investments being made and provide information to the investors in regards to all the services provided. Later, Jordan created the Investment Promotion Corporation in which helps those who wish to invest in Jordan may be provided certain information. The following section discusses the World Bank and a number of studies which it conducted.

#### **A. World Bank's Comprehensive Studies**

Prior to revising the existing legislation provisions, the World Bank conducted comprehensive studies to identify the main problem currently afflicting the Kingdom and ways to improve them by developing the Encouragement of Investment Law of 1987 which is the overall legal framework affecting investment. The study also provided the Jordanian government with reasons as to why their current promotion for investment isn't working in regards to the Jordanian laws. Further, its disadvantages were examined in the regional context and highlighted for further analysis.

The World Bank in 1988 clearly exhibited all the existing legal provisions affecting the investment climate as follows:<sup>11</sup> "A reform is desirable to do away with the discretionary aspects, reduce the administrative and information demands of its

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<sup>11</sup> Jordanian Policies and Prospects for Small and Medium Scale Manufacturing Industries 1988 World Bank report. Number 668-48-JO.

implementation, and remove the bias against small investors.” The report continued to recommend in the existing legislation all the complex provisions and ways to improve it by reducing the tariff rate to an all low minimum on all capital goods; and allow for tax exemption to certain sectors in regards to all the projects being developed in the Kingdom. All the changes recommended by the World Bank were ratified in the new law. The next section discusses private consultants.

## **B. Private Consultants**

Along with the World Banks’ recommendations to increase foreign investment, private consultants were also researching possible methods to improve the procedural issues that all investors had to go through in order to get the approval to begin investment in the Kingdom. The process was previously a slow one which sometimes would take months to years to get approved. The suggestions made for the law were to create an independent department that encourages investors to invest in Jordan. The new department would then manage and control all foreign investors and link them directly to the Prime Minister’s office for approval rather than having to go through multiple parties and individuals. This will in return help the investors get a response rather quickly and will promote potential investors to want to invest in the Kingdom since the process is relatively a smooth one. This department is also in charge of the direct link between the dominated private sector whom are members of the Consultative Economic Council (CEC) and the government.<sup>12</sup> Parallel to this the CEC

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<sup>12</sup> The Economic Consultative Council is appointed by the king. Its members are from the private sector and business elites. It has no legislative authority as its name suggests, but the government usually consults with the ECC since it reflects the private sector point of view.

is also in charge of any issues that might interfere with the investors decisions to invest in Jordan and ways to solve them immediately rather than the previous bureaucratic procedures.

### **C. New Law**

1987 was the year in which the old law was thrown out and the new law went into full force. The Directorate of Investment managed the drafting of the law under the Ministry of Industry and Trade. During the ratification of the law, copious studies were done prior to learning from mistakes by governments such as Egypt, Syria and Israel as to how their investment laws both benefited and not benefited them. Multiple meetings took place within the Amman Chamber of Industry and the Federation of Commercial Chambers to ensure that the legislation would reflect the private sectors' interests. The Ministry of Finance also discussed the provisions of the laws with the Ministry of Industry and Trade. The proposed legislation was then passed to the Secretary General of the Ministry of Industry and Trade, who discussed it with the Minister of that mandate, and in return submitted it to the Council of Ministers for final approval.

The subcommittee of the Council of Ministers, called the "Development Committee," later discussed the provisions of the legislation with the Director of Investment and the Ministry of Trade who had created the original law. The subcommittee later examined the draft law with both parties, and took suggestions for improvement before it was sent to the Cabinet. The Cabinet after thorough examination and suggestions approved the proposed law and its clearance with the Development Committee and sent it to the Parliament for enactment. During this

entire process, both the Director of Investment, who had drafted the original legislation, attended all meetings and discussions that took place in both the upper and lower house of Parliament. The Director of the Investment Directorate later managed the Department of Encouragement and Investment in accordance to the new legislation.

During the process of ratifying the law, a couple of issues were raised by the House of Deputies whose focus was primarily how the new law would affect the current investors in Jordanian companies. The Parliament suggested major amendments to the legislation which was later approved by the government as follows:

- Parliament wished to add the agriculture mandate to the list of sectors in which would take part in the tax holidays. The Parliament also suggested that the Cabinet had full authority to add any additional sectors to the list if proposed so by the House of Deputies.
- In the previous amendment, foreign investors were allowed to own the entire enterprise if desired. In accordance to the new law the Parliament amended that provision so that the investor could only own a certain percentage of the foreign investment holdings.
- Foreign capital would now mean that capital entered into the Kingdom under the new legislation, rather than the original article.

The process to approve the Parliaments suggestions went rather smoothly considering the House of Deputies was present in all of the discussions and were interested in the amended law. Most of the stakeholders were rather supportive of the Encouragement of Investment Law that was newly enacted; this was partly because of the government's constant consulting with all individuals involved. Since the

Encouragement of Investment Law was enacted, only minor amendments were added due to the account of importing sectors emerging with potential room for great foreign investment, such as the service sector and telecommunications sector.

#### **D. Economic Reform**

Economic reform in Jordan has been taken into full force ever since the Kingdom's economic crisis, which had triggered a failure in the way the Kingdom was running the economy and the financial system. The law-making processes that regulated the economic reforms in the Kingdom were formed by the Constitutional Monarchy where all reforms and policies were undertaken by appointed government officials who were solely responsible for the legislative procedures and provisions that came with it. The government initiative to begin implementing new trade policies, legal framework and economic policies has led the economy to achieving growth never seen before. Overall the legal framework and implantation of new policies in regards to international trade has benefited not only foreign investors and domestic businessmen, but also, the government as a whole, to encounter an expanded economic growth in the Kingdom. Policies and legislation created by both the lower and upper house went through various stages of approval as we have touched upon above. This shows that every piece of legislation was thought out thoroughly and researched following the lead set by other countries in order to learn from their mistake, and in hopes of enacting a policy that would work to benefit both Jordan and its international partners.

The legislation and Jordan's accession to the WTO has opened doors for Jordan

in ways that have left the kingdom as a prominent investment destination for investors in the entire region. Jordan openness to foreign investment has encouraged foreign investment and has transformed its economy into an outward oriented, market based and globally competitive one.<sup>13</sup> The laws also allow the Cabinet's flexibility in offering investment incentives to other sectors. General legal provisions have been taken, and are taken under the Civil Code which governs the nature of international trade relationship in regards to commercial activities. Along with the Civil Code, The Commercial Code also governs and protects foreigners in terms of bankruptcy and insolvency which were presented by the Parliament in early 2011.

The government of Jordan is constantly implementing new policies to improve the competition in the market and to contain transparency with hopes of influencing affiliations and ties with foreign individuals. The New Competition Law, passed in 2011, aims to improving Jordan's economic environment by attracting foreign investors by the law's provisions that were designed to improve market competitiveness by providing consumers with relatively cheap and competitive prices. In return, the Ministry of Industry and Trade, constantly reports to the judicial system any reports of complications within the market and conducts research to examine those complaints.

Jordan has also promoted its e-government strategy of 2010 which aims at improving and promising its investors that it will make sure its procurement procedures along with regulations are accessible and easily obtained. It also allows for investors to view the tax records along with any pending legislation and complaints online. As of February 2008, a 24-hour on-call center is also available to answer any of

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<sup>13</sup> 2011 Investment Climate Statement- Jordan, March 2011.

the people's needs.

#### **E. Right to Private Ownership and Establishment**

Foreign companies may open both regional and branch offices within the Kingdom. The branch offices have full authority to carry out all business activities, while the regional offices are primarily serving as intermediary communication between the head of the enterprise and Jordanian cliental. The Ministry of Industry and Trade manage all aspects of the regional office in terms of policy. The laws on investment and property ownership primarily serve as a domestic and foreign front to those wishing to establish or engage in business activities within the Kingdom. They are subject to provisions and procedures in which the Ministry is in charge of implementing upon engagement.

No enterprise residing in Jordan may import any products unless having an appointed agent, representing the enterprise, contacts the Jordanian Ministry and be registered. The agent can be anyone from the firm who has certain limitations of ownership in the enterprise. Law is the base of contract between the Commercial Agents and Intermediaries. Any individual entitled to a business under foreign ownership, whether they are licensed or not, or are of joint venture, compete on an equal basis in all measurements of law as to the local companies.

All foreign firms are permitted to own or lease property in the Kingdom for investment purposes. The property intended to be used for investment should be developed and running within five years from the date of approval, which is solely depended on the size of the infrastructure, its location and the Lands and Surveys

Department, along with the Ministry of Finance, or the authorities that have full authority to approving the foreign ownership of any land or property. All foreign individuals who are investing in Jordan are allowed up to one residence, if permitted by the home country of the individual. Any foreign company that is investing in a Jordanian company is automatically given national treatment in regards to ownership of the property, or where the enterprise objectives require it in which the foreign individual is allowed to own the real estate.

#### **F. Protection of Intellectual Property Rights (IPR)**

All interests in property are recorded and enforced through legal entities that are reliable and protect the acquisition of disposition of all property rights through an active legal system for all sorts of property. Since Jordan's accession to the WTO, it has fully embarked on new laws and policies to comply with the WTO standards in regards to Intellectual Property Rights (IPR), as provided by TRIPs, which fully outlines all the necessary protections for patents, trademarks, plant varieties, and copyrights. Along with Jordan's compliance to the WTO it must also register all of its copyrights with the Ministry of Cultures National library. In parallel, The Ministry of Industry and Trade is in charge of managing all the registered patents and trademarks.

As of March 2006, however, 150 nations of the approximately 192 had acceded to membership in the WTO.<sup>14</sup> Part of the WTO's mission is to "increase international trade by promoting lower trade barriers." In support of its mission, the WTO has promulgated a number of international treaties, the most pertinent of them to IP

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<sup>14</sup> As of 2 March 2013, 159 nations had become WTO Members. WTO website.<  
[http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm).>.Web. (Last assessed 5/9/2013)

being the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). TRIPs sets forth minimum standards to which all WTO members must comply else face, in case of infringement, court action. The preamble to TRIPs reads as follows:

[d]esiring to . . . reduce distortions and impediments to international trade, and taking into account the need to promote effective and adequate protection of intellectual property rights, and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade; . . . and recognizing the underlying public policy objectives of national systems for the protection of intellectual property, including developmental and technological objectives; . . .

Article 1 of TRIPs presents the nature and scope of the obligations members assume under the agreement:

[m]embers shall give effect to the provisions of this Agreement. Members may, but shall not be obliged to, implement in their law more extensive protection than is required by this Agreement, provided that such protection does not contravene the provisions of this Agreement. Members shall be free to determine the appropriate method of implementing the provisions of this Agreement within their own legal system and practice.

Prior to TRIPs, Jordan's pharmaceutical industry was profiting greatly from the unlicensed and copying of all its pharmaceuticals. Since Jordan adopted TRIPs, which provided for laws against pirating, and patent laws, along with registering all of the patents and trademarks to the various Ministries, the GOJ is now committed to enforcing IPR in all sectors of industry and is firmly seeking international agreements and joint ventures to assure that their profitability is in good standing under the new patent enforced regime.

Despite Jordan's process of improving its IPR legislation, the active enforcement

and mechanisms of legal procedures that have taken place all throughout the Kingdom have yet to be fully enforced and established. Pirating and copying still does exist and it is the government's job to record IPR protection and ensure that all industries comply with all of its laws or be subjected to a fine. The majority of software and DVDs, along with videos, being produced and sold to the marketplace continues to be pirated. Enforcement action against audio/video and its piracy is on the track to improvement but still remains heavily independent of all copyright laws being enforced on the current legislation towards copyrights and infringement.

#### **IV. Conclusion**

The depth of economic development of every country lies in its ability to harness and manage its resources well, and nurture economic growth by implementing and promoting the economic well-being of the country's decisions in the form of law making strategies and reform policies. Jordan's participation in international trade agreements, in order to interact with other countries, shows the Kingdom's intent to expand its foreign market access. Following these considerations, Jordan is a member of multilateral, regional and bilateral agreements to trade and commerce all of which we shall discuss in Chapter V of this work.

Since Jordan has begun negotiating free-trade agreements with other nations in terms of potentially growing its economy and reaching out to both domestic and international "binding commitments" it has obtained a significant and potentially great relationship in terms of developing and promoting its economic growth. Jordan has taken great measures in improving that growth in terms of both fiscal and monetary

policy along with its developing trade agreements and implementation of attracting international markets to invest in its national capital, especially with respect to foreign direct investment (FDI). Along with the Kingdoms signing of new free-trade agreements and amending existing laws while introducing new laws, it has aggressively undertaken important measures in the legal reform process.

The government has begun articulating new legislation with the growing demand of complaints coming from the private sector in regards to the current existing legislation being inadequate and outdated. The government has also taken action to implement new laws and amending existing laws that will be responsive to the government's need in terms of regulating and enhancing its economic standing. External factors come into play when the government begins to implement new legislation. When initiating international economic cooperation with other countries that entail such matters as creating treaties or free-trade agreements, a government should refer to those nations' direct domestic legislation, which derives from previous law making. In conclusion, all the reasons stated above play an important role in the Kingdom's support for inducing new reform and its initiative to implement new legislation to help protect international institutions, as well as, the Kingdom's own substantive agencies from any inconsistent inadequacy.

During 1988—89 Jordan endured a major economic crisis in which the Kingdom was facing a never-ending stack of external debt and the diminishing of its foreign exchange reserves. The government embarked upon overcoming this crisis by amending existing policies of economic reform and promoting fiscal and monetary policies with aims of liberalizing its foreign trade and enhancing its private sector role.

During this period Jordan took significant steps towards enhancing its economy through its private sectors and developing a strong foreign trade market. Due to a number of the Kingdom's public enterprises becoming privatized, the GOJ has taken important steps to create reform in public institutions in order to govern the context of the Kingdom's changed role and new orientation strategy being applied in its privatization scheme. These efforts at reformation require a robust legislative process that is amenable to changing as the need arises.

Jordan has an entrusted body of individuals who conduct all its affairs, both externally and internally, and are responsible for each department they are in charge of. The Prime Minister and the Council of Ministries are all selected by the King himself. The King selects the Prime Minister based on the individual's portfolio, and upon the King's assessment that said individual would be competent in furthering the Kingdom towards international standards. The Council of Ministries is in constant consultation with the King and advises him along with other influential members of the Parliament. In regards to Economic Policy and all of its configuration and implementation of policies, it falls under the following ministries discussed in the following sections.

The Ministry of Planning, formally known as the Ministry of Planning and International Cooperation, is solely in charge of any economic or social development that is to take place within the Kingdom. Any issue that develops in regards to investment, financing or economic growth, will be handled by this Ministry. In return, the Ministry will then cooperate with international financial institutions and agencies to help mandate and fund such projects that will allow for economic growth. The

Ministry of Industry and Trade is in charge of all the Kingdom's binding agreements with other nations; this is evidently the most important Ministry to the Kingdom.

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# Chapter IV

## Jordan's Trade Policy and Agreements

with

### its Neighbors

Smith's great contribution to human progress was that he recognized that the fewer impediments to trade there were, the richer everyone would become. He blasted them all royal charters, tariffs, cartels, monopolies. His opposition to restraints on trade made Smith free trade's progenitor.<sup>1</sup>

#### I. Introduction

Prior to beginning a thorough and vigorous study of the trade agreements into which Jordan has entered both regionally and non-regionally, we shall provide the political and legal background that actually set the foundations, as well as, the incentives, for those agreements. Namely, the most prominent component of that background is the League of Arabic States, or "The Arab League," or here, for sake of brevity, (the "League"). Expectedly, the League is comprised of Arab States that are located in North Africa and South West Asia. The League, which currently has twenty-two members, came into formal existence in March of 1945.<sup>2</sup> Any independent Arab State that wishes to join the League should petition the Secretary General who will submit said

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<sup>1</sup> Jonathan Larson, 1993, *Elegant Technology: economic prosperity through environmental renewal*; <http://elegant-technology.com/TVAfretr.html>

<sup>2</sup> The original and founding members were Egypt, Iraq, Jordan, Lebanon, Saudi Arabia, and Syria. Yemen became a member two months later, in May of 1945.

petition to the General Council at the first meeting after the petition is received by the Secretary General. The primary objective of the League is to enhance the “relations between Member States and co-ordinate collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries.”<sup>3</sup>

The League utilizes several political vehicles for accomplishing the foregoing goals; for example, ALECSO, or the “Arab League Educational, Cultural and Scientific Organization;” and CAEU, also the “Council of Arab Economic Unity.” Through these organizations, and others, the League “facilitates political, economic, cultural, scientific and social programs designed to promote the interests of the Arab World.”<sup>4</sup> More specifically, the League has been instrumental in resolving inter-Arab disputes, including the 1958 crisis in Lebanon, and continues to serve as a forum for the formulation and propagation of economic principles by which Arab nations may

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<sup>3</sup> Mapping Global Media Policy. <<http://www.globalmediapolicy.net/node/777>>Web. (Last assessed 5/5/13).

<sup>4</sup> “Each member state has one vote in the League Council, while decisions are binding only for those States that have voted for them. The aims of the league in 1945 were to strengthen and coordinate the political, cultural, economic, and social programs of its members, and to mediate disputes among them or between them and third parties. Furthermore, the signing of an agreement on Joint Defense and Economic Cooperation on April 13, 1950 committed the signatories to coordination of military defense measures.

The Arab league has played an important role in shaping school curricula; advancing the role of women in the Arab societies; promoting child welfare; encouraging youth and sports programs; preserving Arab cultural heritage and fostering cultural exchanges between the member States. Literacy campaigns have been launched, intellectual works reproduced, and modern technical terminology is translated for the use within member States. The league encourages measures against crime and drug abuse, and deals with labor issues—particularly among the emigrant Arab workforce.”  
<http://arableaguesummit2013.qatarconferences.org/arab-league.html>..Web.(Last assessed 5/5/13).

conduct business among themselves, and on beyond the Arab world. One embodiment of those principles is the Joint Arab Economic Action Charter, which was “[e]stablished on June 3, 1957 by the CAEU, and sets out the principles for economic activity in the region of the League of Arab States.<sup>5</sup>

The League’s Charter (also “Charter”), itself, consists of twenty articles that both expressly define the League’s general mission, as stated *supra*, and the methodology to be taken to achieve the aims of that mission. The League’s Charter proclaims a broad spectrum of activities that require joint action by all members, and is open-ended in allowing members to develop further relationships as needed to achieve the objectives set out in the Charter,<sup>6</sup> as well as others that might be later envisioned. This provision for amending the Charter as necessary is an extraordinary feature, which, much like the United States Constitution, recognizes that as times change, and human needs evolve, any governing or regulatory law should be considered for modification, and or omission.<sup>7</sup> A number of the more significant

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<sup>5</sup> Mapping Global Media Policy. <http://www.globalmediapolicy.net/node/777>>Web. (Last assessed 5/5/13).

<sup>6</sup> *E.g.* Article IX: States of the League which desire to establish closer co-operation and stronger bonds than are provided for by this Charter may conclude agreements to that end. Treaties and agreements already concluded or to be concluded in the future between a member-state and another state shall not be binding or restrictive upon other members.

<sup>7</sup> For example; the U.S. Constitution in its original form, as fully adopted in 1789, contained seven articles, and no amendments; in 1791 the first ten amendments, or “Bill of Rights,” were added. Over the next 200 years, seventeen more amendments were added. Among the more notable were the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Amendments, which, respectively, forbade slavery and involuntary servitude; guaranteed Equal Protection, among other rights; and guaranteed voting rights. The 18<sup>th</sup> Amendment outlawed the recreational use of alcohol, nation-wide, but proved so unpopular, that it was repealed by the 20<sup>th</sup>

provisions of the Charter are presented below in the following articles, of which there are twenty.

#### **Article I**

The league of Arab States is composed of the independent Arab States, which have signed this Charter. An independent Arab state has the right to become a member of the league. If it desires to do so, it shall submit a request which will be deposited with the Permanent Secretariat General and submitted to the Council at the first meeting held after submission of the request.

#### **Article II**

The league has as its purpose the strengthening of the relations between the member-States, the coordination of their policies in order to achieve co-operation between them and to safeguard their independence and sovereignty; and a general concern with the affairs and interests of the Arab countries. It has also as its purpose the close co-operation of the member States, with due regard to the organization and circumstances of each state, on the following matters: 1st. Economic and financial affairs, including commercial relations, customs, currency, and questions of agriculture and industry.

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#### **Article V**

Any resort to force in order to resolve disputes between two or more member-States of the League is prohibited. If there should arise among them a difference which does not concern a state's independence, sovereignty, or territorial integrity, and if the parties to the dispute have recourse to the Council for the settlement of this difference, the decision of the Council shall then be enforceable and obligatory.

In such case, the States between whom the difference has arisen shall not participate in the deliberations and decisions of the Council. The Council shall mediate in all differences which threaten to lead to war between two member-

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Amendment. Most notably, women had no voting rights in the U.S. until the nation adopted the 19<sup>th</sup> Amendment, in 1920.

States, or a member-States and a third state, with a view to bringing about their reconciliation. Decisions of arbitration and mediation shall be taken by majority vote.

#### **Article XIX**

This Charter may be amended with the consent of two thirds of the States belonging to the League, especially in order to make firmer and stronger ties between the member-States, to create an Arab Tribunal of Arbitration, and to regulate the relations of the League with any international bodies to be created in the future to guarantee security and peace. Final action on an amendment cannot be taken prior to the session following the session in which the motion was initiated. If a State does not accept such amendment it may withdraw at such time as the amendment goes into effect, without being bound by the provisions of the preceding article.<sup>8</sup>

In addition to the basic Charter, other complementary documents have been adopted more recently; for instance, the Treaty for joint Defense and Economic Co-operation, 13 March, 1950, and the Charter for National Economic Action, on 26 November 1980. All League member-States have become parties to both instruments. In much the same manner that the European Union (EU) through diverse institutions and comprehensive policies, has increased stability and predictability among its members, and has further instilled a sense of regional pride in those European nations that have come into the that organization, the League has likewise gathered the diverse interests of the Arab world and has given focus and purpose, especially in the areas of politics, culture and economics. With Jordan being one of the original members and founders of the League, Jordan's influence within the League has been

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<sup>8</sup> Riks Platform Data Bases. < <http://www.cris.unu.edu/riks/web/arrangement/show/id/39>>

significant, especially as the Kingdom goes about the business of developing and maintaining sound trading policies with its neighboring States, and the rest of the world. In the following sections, we shall make a close examination of that policy.

## **II. Jordan's Trade Policy and its Objectives**

Jordan's foreign trade policy rests on two main matters; the first and foremost is that it creates access to open markets and allows Jordan to build bilateral, regional, and multilateral relationships with other nations, both regional, and extra-regional, in which products of Jordanian origin can be better disseminated throughout those areas. The second is that with the help of foreign trade policies and agreements, the kingdom can grow and encompass a positive economic path that will provide mutual interest to both or all parties to an agreement. Jordan has also taken part in creating numerous reforms, policies, agreements, and rules and regulations to implement this growing change into reinforcing, elevating and liberating its market oriented economy into an active role in both its public sector and its private sector. Jordan's outward growth has been made possible through ratifying intensive reform and bringing a modern approach to international standards, and regulating its environment in terms of investment, business, and trade.

In current times, Jordan is ranked 4th out of fifteen countries in the Middle East/North Africa region in terms of economic standing.<sup>9</sup> Today, Jordan is making its way to becoming one of the most liberal economies in the region and is surely gaining international recognition for its efforts in this regard. Jordan's approach to reforms and economic endeavors, despite a challenging policy environment that reflects its

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<sup>9</sup> 2013 Index of Economic Freedom

formation, clearly indicates it to be an efficient and competitive nation. In fact, Jordan is cited as a nation that has tackled and managed resource scarcity rather efficiently in a very short time. Moreover, Jordan has also been able to create economic ties with international countries in little less than a decade. Upon joining the Greater Arab Free Trade Area (GAFTA) and the signing of numerous bilateral, multilateral and regional trade agreements and its accession to the WTO in 2000, Jordan has increasingly become very attractive to foreign and domestic investors.

Moreover, in an effort to enhance the Jordanian economy and bring it to international standards trade-wise, Jordan has established, with multiple nations, over forty agreements on protection and promotion of investments, and a little less than thirty-five agreements on double taxation.<sup>10</sup> In establishing economic ties with other nations, Jordan is now able to expand its open market access around the world. This expansion allows for an increase in its exports, and enhances the Kingdom's ability to supply other nations with certain trade cooperation agreements and committees that meet regularly to provide further research/analysis in which both nations can mutually benefit from the agreements made, seek how to further expand the trade relations and strengthen personal connections to better advance its business standing.

Trade has always been seen as a way to improve the lifestyle of Jordanians currently living in Jordan. The government relies on trade heavily, as well as, its export potential to complement its economic growth and the general welfare. If Jordanian ties with other nations are strengthened, it also allows investors to take a look into the

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<sup>10</sup> Raphael Patai, *The Kingdom of Jordan*, Princeton University Press, Princeton, New Jersey, 1958.

Jordanian economy and begin investing, which in parallel provides more job opportunities for the Jordanian people.

Jordan's free regulatory processes are relatively efficient and competitive with its trade policy and legal framework. Since its accession to the WTO, the first review of the nation came on October 2008 in which the WTO addressed the trade policy review and Jordan. Jordan's promoting of principle transparency, and well written policies, reforms, and mechanisms in promoting international trade partnership, played an important role in shedding light onto the Kingdom's trade practices. The revision by the WTO was conducted and implemented on condition that Jordan continue liberating its economy despite the certain challenges it would face to substantially promote its economic development, to critically strengthen its economy with the adoption of rules and regulations, to fully integrate into the world economy, and to honor its commitment to fulfill all the obligations necessary as listed in the WTO. Jordan's main issues are poverty, high unemployment, as well as inflation, and an ever dependent economy that relies on international aid and remittances from expatriates. Since its accession to the WTO, Jordan has successfully increased in exports and raised its GDP standards.

Since its accession, many members of the WTO have praised Jordan and its quick approach in making its economic openness and liberalization of trade regime an important issue for the government. Many of the members also commended King Abdullah II, for the progress Jordan has made in attracting key investors to the Kingdom, along with the rising rate of the GDP, and the export of its merchandise along with the steady growth of paying off some its public deficit. King Abdullah has

been especially commended for his role in promoting trade and economic relations with several visits to other nations and regions of the world, and his persistent effort in influencing the economy to keep promoting both economic and political relations with countries worldwide. Jordan's trade policy was carefully reviewed by the WTO's Chairman of Trade Policy and review body, in which they praised Jordan for quickly implementing economic reforms and policies that will help the nation expand. With the results of all these measures showing advancement upon the international stage of trade, it would hardly be possible without Jordan's entry into a number of agreements with other nations, both regionally and extra-regionally. We now turn to a discussion of these agreements, of which there are several categories; we shall also discuss the advantages and disadvantages of each, if any, for Jordan.

#### **A. Multilateral Agreements**

As the term itself suggests, multi-lateral agreements are those that three or more member States have adopted. As one would expect, unlike Bilateral Agreements, having just two agreeing partners, Multi-Lateral Agreements, have many partners whose differences may be such that consensus is difficult to achieve; therefore, enter the WTO, or the Arab League (in case of Arab nations, both of which offers negotiating forums intended to alleviate, or remove obstacles to international trade, while ensuring all have a "bite at the apple." These provisions for negotiating differences among potential trading partners contribute immensely to economic growth and development. These partners may also depend upon the WTO, or the League—in the case of Arab nations—to provide the legal basis for the implementation and

monitoring of said agreements; moreover, the WTO provides dispute settling mechanisms. As of this writing, the WTO is currently monitoring a total of sixteen Multi-Lateral agreements, to which all WTO members are parties. The following sections examine a few of these agreements.

### **1. *WTO and DOHA Development Agenda (DDA)***

Jordan's successive accession to the WTO was an effort to promote various trade agreements the Kingdom had at the time with other nations, and to adopt legislative adjustments. The GOJ has also made it clear that it would like to impose and implement the WTO requirements with all its current bilateral partners to comply with protocols both Arab and non-Arab parties. However, as noble as the intentions of the WTO might have seemed, at its founding in 1995, it had some growing pains to endure; thus, for nations like Jordan, which had high aspirations to jump quickly onto the world stage, events in Seattle, in November and December of 1999, might have left them wondering about the viability of the young WTO.

To those who have kept abreast of the WTO's activities; its successes as well as the failures, the year 1999 stands out as one to remember. They would recall that in late 1999, the then four-year old WTO was holding its ministerial meeting in Seattle, Washington. On the first couple of days, people turned out in peaceful protest against what they claimed to be labor, environmental, and human rights abuses by the WTO. On the last day of November, however, the protests turned violent, and as a consequence, the WTO didn't get much done; the meeting was considered a failure, and likewise, many thought the WTO was finished; however, any misgivings about the

WTO were laid to rest two years later at the 2001 ministerial meeting in Doha, Qatar. That gathering marked a turning point in the history of the WTO, for it was there, at Doha, that

[T]he WTO was given an important new negotiating mandate by ministers. The Doha Development Agenda places development issues and the interests of poorer members at the very heart of [WTO] work. Thereafter, nations like China, Chinese Taipei, and Lithuania came into the fold, followed by Albania, Croatia, and several others, including the Hashemite Kingdom of Jordan.<sup>11</sup>

That Development Agenda contains fifty-two Articles, a few of which are produced below. Towards this objective, a number of countries met in late 2001 and outlined measures that would further facilitate the international trading system, under the WTO.<sup>12</sup>

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2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration.

Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of

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<sup>11</sup>THE DOHA DEVELOPMENT AGENDA: Reflections on the Road Ahead. Mike Moore. Asia-Pacific Review, Vol. 9, No. 1, 2002  
<http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN014345.pdf>. Web. (Last assessed 5/5/13).

<sup>12</sup> World Trade Organization; MINISTERIAL CONFERENCE; Fourth Session; Doha, 9 - 14 November 2001.  
[http://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm). Web (Last assessed 5/3/13).

world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well-targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.<sup>13</sup>

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**10.** Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all Members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.<sup>14</sup>

**11.** In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system.

Those “challenges” are incorporated into what the DDA refers to as the “Work Programme,” which is designed to address issues related to implementation in the areas of agricultural, general services, non-agricultural products, and TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPs). We shall now consider several of these issues we find most relevant to Jordan’s industry sector; among these are agriculture, services, and non-agricultural products.

**a. Agriculture**

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<sup>13</sup> *Id.* at 1.

<sup>14</sup> *Id.* at 2.

With respect to agriculture, the DDA States, in part,

We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.<sup>15</sup>

This provision is especially significant for Jordan because agriculture in Jordan is not only confined to a very limited area, but is also subject to limited water supply, exacerbated by intermittent and variable, indeed frequently negligible, levels of rainfall. Nevertheless, the sector continues to grow and develop with agricultural output reaching JD 486.4 million in 2012.<sup>16</sup> In a country with a total surface area of 8 million hectares, just over 14 percent or 1.12 million hectares is arable land, a majority of which is in the Jordan Valley and the highlands of the north-west of the country.

Even so, a substantial majority of this area is suitable only as range-land with only 258,630 hectares or 3.3 percent being used for agricultural purposes.<sup>17</sup> In 2002, The Council of Ministers unanimously approved a strategy for the agricultural sector with its main emphasis on building capacity to ensure optimum utilization of the Kingdom's agricultural resources while ensuring enhanced efficiency in the use of the

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<sup>15</sup> Doha Ministerial Declaration, Section 13.

<sup>16</sup> Kardoosh, Marwan. *"Jordan: Sector Analysis and its contribution to economic growth"* Feb 2012.

<sup>17</sup> Ministry of Agriculture government website 2012.

nations limited water resources. The strategy seeks also to attract businessmen to agriculture by introducing modern technology into farming.

The principal produce of the highlands and Jordan Valley are cash crops such as vegetables, olives, oranges and bananas, while on the rain-fed lands to the east of this area, cereals, olives, tobacco and fruits such as grapes, apples, and nuts are grown. In recent past, however, a number of attempts have been made at broadening the range of produce by introducing dates, cactus fruit, pistachios, asparagus, mangoes and avocados.<sup>18</sup> Herb production is also being pursued and, if found to be successful may well prove lucrative internationally as well as in Jordan itself, where consumption is really high.

Total land given over to field crops has fallen in recent years largely due to the government's desire to contain water consumption,<sup>19</sup> following the major drought of 1999, by paying farmers to leave their lands fallow. The 1999 drought had a serious impact on crops, such as barley and wheat, the production of which fell to record lows of 4,900 tons and 9,300 tons respectively, although that year corn production actually increased to 12,500 tons. Since then some recovery has taken place with increased production of clover, wheat and barley, while that of tobacco, corn and lentils fell. Tomatoes, potatoes, cucumbers, courgettes<sup>20</sup> and aubergines<sup>21</sup> are the major

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<sup>18</sup> Ministry of Agriculture "The Hashemite Kingdom of Jordan: Sources of Growth", unpublished report, October 2001.

<sup>19</sup> Water Sector Planning and Associated Investment Programme 2002-2011, Ministry of Water and Irrigation, February 2002.

<sup>20</sup> A courgette is "a small variety of vegetable marrow, cooked and eaten as a vegetable U.S., Canadian, and Austral. name zucchini. <http://www.thefreedictionary.com/courgette>. (last assessed 11/19/13).

vegetable crops being produced in addition to citrus, olives, grapes, apples, peaches and bananas being the primary fruits under cultivation.<sup>22</sup> The Jordan Valley, the most fertile region in the Kingdom, boasts a warmer climate throughout the year than the rest of the country; thus, year-round agricultural production is possible. The fertile soil allied to the provision of extensive irrigation in both summer and winter has resulted in the valley becoming Jordan's food basket.

Agricultural produce accounted for about 9.5 percent of all exports in 2003, with 63 percent of the agricultural total being vegetables. Jordan's membership of the GAFTA has resulted in member countries accounting for 42 percent of all agricultural exports with the largest market for such exports being the Gulf States. Attempts have also been made to export to the EU, but so far has had very limited success. At the same time competition is increasing from Jordan's northern neighbors such as Syria, and Lebanon. Investors seeking to become involved in the agricultural sector in Jordan are given every encouragement under the Investment Promotion Law as agricultural projects enjoy income, social services, and customs tax exemptions, while imports for use in such projects are exempt from custom duties. The Agricultural Credit Corporation provides short, medium and long term loans for such projects on preferential terms.

The long term future of agriculture is very much interrelated with the availability of ample resources of water. Given the implementation of a number of

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<sup>21</sup> An aubergine is a "tropical Old World solanaceous plant, *Solanum melongena*, widely cultivated for its egg-shaped typically dark purple fruit U.S., Canadian, and Australian name eggplant. *Id.*

<sup>22</sup> Ministry of Agriculture "The Hashemite Kingdom of Jordan: Sources of Growth", unpublished report, October 2001.

dam and waste water projects, and sufficient rainfall, further such water is expected to become available. However, if the Peace Conduit, the Red Sea-Dead Sea Canal, were to be implemented, it would have a major impact on the sector within the Jordan Valley, enhancing the potential for Jordan to become increasingly self-sufficient in food and products and creating the opportunity of enhancing agricultural exports. The next several sections discuss services, which are just as essential to establishing and maintaining free-trade as are agricultural goods. These may include transportation, telecommunications, and tourism.

**b. Services**

The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. . . . We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement.<sup>23</sup>

This provision is most beneficial to Jordan because trade in services accounts for thirty-four percent of Jordan's total exports, through the sector and sixty-four for GDP. During the past few years immense strides have been made in pursuing economic reform in Jordan, as indicated by a series of favorable results: real GDP growth has been positive and evidenced a further 3 percent growth in the following months, external debt has been reduced to 74.9 percent of GDP by October 2003, compared with 80.4 percent a year earlier; merchandise exports continued to grow to reach

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<sup>23</sup> Doda Ministerial Declaration, Section 15.

U.S.\$2,153.3 million at the end of 2002 AND U.S.\$1,845.7 million for the first 10 months of 2003; and official foreign exchange reserves had reached U.S.\$4.9 billion by late Nov 2003, and increase of 41 percent over the end of the previous year. Moreover, financial services liberalization has led to the establishment of numerous foreign and domestic banks in Jordan.

There are twenty-one private banks operating in Jordan, Including nine commercial banks, five investment banks, two Islamic banks, and five branches of foreign banks. During 2003, three foreign banks were given the approval of the Central Bank of Jordan to start their operations in the Kingdom with a capital of JD20 million each. The National Bank of Kuwait and the Lebanese Bank, Banque du Liban ET d'Outre Mer, will open one branch each, while the other Lebanese bank, Audi Bank, will start a network of ten branches. The Jordanian banking sector relies heavily on traditional banking services, specifically the extension of direct credit facilities, as their main source of income.

### **(1) Air Transportation**

Air transport plays an important role in Jordan's economic development and especially in support for the country's developing tourism industry, in which substantial investment has been made in recent years. Integral to the sector Jordan has two airlines and three airports. Royal Jordanian Airlines (RJA), the national carrier, is in the process of privatization. In 2001 the RJA became a corporate entity wholly owned by the government, which is how it remains today. Strategic alliances have been sought in the interim, but events in September 2001 saw tourism slump worldwide and other more recent events, to both the east and the west of the

Kingdom, have dampened international interest in the short term. Nevertheless, some progress has been made in selling off non-core interests, while other business such as Jordan Aircraft Maintenance Limited, remains under offer under the RJA Restructuring and Privatization Programme. A service, or service industry, is tourism, and it is closely related to air transportation; after all they share a very symbiotic relationship that reaches beyond a nation's borders. Jordan, especially the cosmopolitan area of Aqaba, is a popular tourist destination, which means air travel and tourism contribute heavily to international trade, and benefit from that trade as well.

## **(2) Tourism**

Tourism is a flourishing service that Jordanians have provided enthusiastically to the international market. Tourists have been visiting Jordan for many years but it was only in the early 1990s that the government's approach to tourism took on more formality and systematized structure. At that time the troubles which had prevailed in the immediate vicinity of the Kingdom all seemed resolved, or at least, close to resolution. The Lebanese Civil War had come to an end, the threat from Iraq had been minimized by the Gulf War, and the Israelis and Palestinians appeared to be making meaningful progress towards a lasting peace. Then it was perceived in Jordan that stability was returning to the region and that the opportunity existed to seek to derive maximum benefit from Jordan's undoubted tourism potential. In the event such a situation did prevail, but was to prove short-lived.

Jordan's is a country with real potential for attracting tourists. Be the attraction history, archaeology, religion, the natural environment, relaxation by the sea receiving medical attention, attending business meetings or simply deriving the

therapeutic value of the health and beauty products offered by the Dead Sea, the opportunities are considerable, as the following chart depicts.

**Major statistical indicators for the tourism industry in Jordan 2004-2012**

Year	Total number of tourists*	Revenues** million JD	% of GDP
2004	857,610	406.40	9.02
2005	1,073,549	462.50	9.07
2006	1,102,752	527.20	10.06
2007	1,127,028	548.80	10.07
2008	1,256,428	548.05	9.08
2009	1,357,822	564.00	9.08
2010	1,426,879	512.04	8.54
2011	1,477,697	496.01	7.93
2012	1,621,850	557.03	8.46

Sources: \*Ministry of Tourism and Antiquities Statistical Department, \*\* Central Bank of Jordan

As the Ministry of Tourism and Antiquities continually promoted Jordan, efforts at attracting tourists in the 1990s were to prove most successful from within the Arab World, neighboring countries and from the West. According to figures published by the ministry, tourist numbers increased every year from 857,610 in 1994, to 1,621,850 in 2002. This increase represented an average yearly growth of about 9.9 percent, while

revenue rose from JD 406.4 million in 1999 with only 1998 showing a slight decline. The contribution to the GDP of tourism during those years varied between 9.02 percent and 10.07 percent.

The ministry works to developing tourism through a comprehensive and integrated approach to express the nation's legacy, culture, history, heritage, inheritance, successive civilizations and economic prosperity. In fulfillment of these aims the ministry seeks to:<sup>24</sup>

- Develop an advanced tourism industry capable of utilizing its comparative and competitive advantages through highly developed infrastructure facilities and superstructure services.
- Develop archaeological and tourism sites and resources to enhance the tourism product, and extend length of stay to achieve higher tourism revenues, and create new job opportunities.
- Expand the role of the private sector in tourism and investment and capital attraction within a framework of mutual cooperation between public and private sectors.
- Upgrade the quality of tourism services to the highest international standards.
- Develop awareness of the Kingdom's culture, heritage, civilization, archeological resources and harmony of local communities and non-government organizations.
- Strengthen the institutional set-up of the tourism sector by upgrading legislation, laws, regulations and human resources development.

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<sup>24</sup><[www.mit.gov.jo/portals/0/the%20study%20-%20all%20parts.pdf](http://www.mit.gov.jo/portals/0/the%20study%20-%20all%20parts.pdf)>

- Establish and lead marketing and promotion campaigns in international and regional markets

Jordan established its own Tourism Board that was launched in early March 1998 with the aim of promoting partnership, and utilizing market strategies to promote brands and positions. The tourism sector has become increasingly important for Jordan's economy and contributes to 68 percent of total receipts of the services account in the balance Of payments (2007) and the largest private sector employer (directly and indirectly). The Declaration of Petra as one of the new Seven Wonders of the World is expected to attract tourists from all over the world.<sup>25</sup>

### **(3) Telecommunications**

The first telephone service in Jordan was initiated by Cable and Wireless during the 1930s and continued to be managed by that company until the operation of the service passed to the Ministry of Post, Telegraph and Telephones in 1966. Later in 1971, The Telecoms Corporation of Jordan (TCJ) was formed as an independent entity to take over all of Jordan's telecommunications operations. In the event, this company effectively operated as a part agency until the 1990's when it was recognized that private sector involvement would markedly benefit the private sector in what had become a rapidly changing global market. Until 1995, TCJ operated as a monopoly but that year competition arrived in the form of Jordan Mobil Telephone Services (Fastlink), with a 15- year license to setup and run a mobile phone service. This situation provoked a comprehensive restructuring of the telecommunications sector in Jordan and the introduction of the Telecommunication Law, which involved further

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<sup>25</sup> <http://www.mit.gov.jo/portals/0/g206.pdf>>Web. (Last assessed 5/4/13).

private sector involvement. Under the law, the Ministry of Information and Communications Technology and Telecommunications Regulatory Commission came into being, the former to formulate government policy and the latter to oversee the sector.

As to the future, the GOJ committed to the liberalization of all telecommunication services, with mobile services coming first during 2011 and fixed line services in 2012, with the ultimate aim of encouraging the maximum use of the existing infrastructure while allowing the benefits of increased competition that would ultimately benefit Jordanian consumers. Liberalization of the data communications sector has already taken place but Internet subscription is reported to remain low at about 1.5 percent of the population. Therefore efforts are being made to reduce the cost of internet access to both ISP's and consumers. Another area in which liberalization has produced results is that of healthcare, which we shall discuss next.

#### **(4) Health Care**

Jordan is one of the major spenders on healthcare in the MENA region with total public and private sector expenditure amounting to between 4 percent and 5 percent of the GDP. This percentage is one of the highest in the world. Such a major commitment to health care, allied to the level and quality of services provided, has resulted in the Kingdom becoming a destination for medical tourism. There are six providers of health care services in the country, these are the Ministry of Health, Royal Medical Services (RMS), United Nations Relief and Works Agency, Jordan University Hospital, King Abdullah the Founder of University Hospital, and the private sector.

The Ministry of Health provides primary, preventative and curative care in ten of Jordan's twelve governorates, the remaining two being served by Royal Medical Services. Twenty-seven hospitals with 3,462 beds, 37 percent of the total, are operated providing subsidized Medicare to an estimated 23 percent of the population. Royal Medical Service runs ten hospitals with a total of 1,791 beds. Established to provide medical care to the military, the Royal Medical Services today now serves an estimated 33 percent of the population.

Jordan University Hospital provides medical care to university students and their families and provides medical students with the opportunity to carry out research and obtain practical experience. King Abdullah the Founder University Hospital is a 650 bed facility that opened in 2002 as an affiliate of the Jordan University of Science and Technology, and serves patients from the northern governorates as well as provides research and training facilities for medical students.

The private sector provides primary and curative care for those willing to pay, including those covered by medical insurance. There are presently 56 private hospitals, with 3,402 beds, operating in the kingdom. A substantial majority of all private hospitals are in the Greater Amman area with others in Irbid, Zarqa, Karak, Madaba, and Aqaba. The sectors' success is reflected in the 300,000 overseas patients who came to Jordan to be treated in 2002.

Public expenditure on the health care sector reached JD 136.7 million in 2002, about 5.8 percent of the total government budget. Two years earlier, expenditure on healthcare in Jordan had been estimated by the Partnership for Health Reform, a U.S. Aid project, to amount to approximately JD550 million or JD 109 per capita . Life

expectancy in Jordan has been estimated at 71.5 years which is higher than elsewhere in the Middle East, with infant mortality at 22 deaths per 1000 births. This is partly due to the staff and medical sector in relation to the total population is higher than in most neighboring countries.

#### **(5) Vocational Training**

Trade-in-services accounts for thirty-four percent of Jordan's total exports, through the sector and sixty-four for GDP. During the past few years immense strides have been made in pursuing economic reform in Jordan, as is indicated by a series of favorable results: real GDP growth has been positive and evidenced a further 3 percent growth in the following months, external debt has been reduced to 74.9 percent of GDP by October 2003, compared with 80.4 percent a year earlier; merchandise exports continued to grow to reach U.S.\$2,153.3 million at the end of 2002 AND U.S.\$1,845.7 million for the first 10 months of 2003; and official foreign exchange reserves had reached U.S.\$4.9 billion by late Nov 2003, an increase of 41 percent over the end of the previous year.

Financial services liberalization has led to the establishment of numerous foreign and domestic banks in Jordan. There are twenty-one private banks operating in Jordan, including nine commercial banks, five investment banks, two Islamic banks, and five branches of foreign banks. During 2003, three foreign banks were given the approval of the Central Bank of Jordan to start their operations in the Kingdom with a capital of JD20 million each. The National Bank of Kuwait and the Lebanese Bank, Banque du Liban et d'Outre Mer, will open one branch each, while the other Lebanese bank, Audi Bank, will start a network of ten interrelated branches. The Jordanian

banking sector relies heavily on traditional banking services, specifically the extension of direct credit facilities, as their main source of income. In the following section the discussion turns to the marketing of non-agricultural products.

### **c. Market Access for Non-Agricultural Products**

We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII bis of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.<sup>26</sup>

The following sections discuss a number of non-agricultural products and services, some of which are exportable, and some of which contribute heavily to international trade through facilitating the methods by which that trade can occur; these include, mining and the products thereof, natural gas, railways, manufacturing, and electricity production.

#### **(1) MINING**

Conditions in the mining industry have diverged significantly from those in the rest of the economy in recent years. After several years of strong performance during the mid-1990s, with an average annual rate growth of 9.8 percent, the industry faced a

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<sup>26</sup> *Id.* Section 16.

sharp downturn in the face of the Asian economic crisis, resulting in reduced external demand and lower commodity prices; this of course had an adverse impact Jordan's international trade and an adjustment in policies

The result was that mining output was markedly reduced between 1998 and 2000, coinciding with historically low world prices for potash and phosphate. Since that time recovery has been seen in the sector with positive GDP growth rates in the mining and quarrying sector of 4.7 percent in 2010 and 1.0 percent in 2011, although there was a further marked slowdown in the first half of 2009. Integral to this turnaround in 2010 and 2011 were restrictions within potash and phosphate sectors, integral to which in turn were the setting up of a number of joint-venture downstream industries with foreign trade partners and investment.

Nonetheless, the mining sector remains a vital element of the national economy comprising as it does the extraction of phosphate and the harvesting of potash plus the raw material for the cement industry. The first two resources mentioned are in the hands of just two companies: Jordan Phosphate Mines Company (JMPC) and the Arab Potash Company (APC). Exports of these companies production of phosphate and potash represent twenty-five percent of domestic exports and 66 percent of the mining sector as a whole.

Of particular importance to all Jordanian industries in recent years has been the series of international agreements entered into by the government, including those which have seen Jordan become a member of the WTO, the *Jordan-U.S. Bilateral Free Trade Agreement* and the *Jordanian- European Free Trade Agreement*, both of which have led to a rapid rise in the country's industrial exports. The net result is that

Jordanian industry today continues to thrive and grow, such that according to the Amman Chamber of Industry, there were at the end of 2012 an estimated 28,000 companies operating in the industrial sector, of which 11,000 were considered to be industrial services firms as compared with 9,958 manufacturing firms only a few years earlier, with employment in the sector estimated to have risen by 49,000 to 160,000.

The overall outlook for industry in Jordan is favorable with performance in the manufacturing sector being closely tied to continuing success in the clothing and pharmaceuticals sectors and in the mining sector which are allied to strong export growth and higher returns from phosphates and potash. Additionally, industries are being established downstream of the mining companies and from new facilities being formed in the QIZs and the Aqaba Special Economic Zone. Continued pursuit by the Jordan Investment Board of Potential Industrial Investors, and efforts by the government to divest itself of shareholding, such as those in the Jordan Cement Company, provides opportunities for further industrial development in Jordan, with the aim of enhancing industry's role in the national and international economies. Jordan's mining sector accomplished growth in their contribution to GNP was 10.3 percent during the year compared with 9.4 percent in 2010 and 8.3 percent in 2009; this was a direct result of the special policies and facilities applied by the government to encourage local industries. Mining industry revenues alone contributed 10.3 percent to GNP during 2011, and 54.36 percent to total mining revenues, while mining related manufacturing industries contributed 4.6 percent to GNP and 45.64 percent to total mining sector revenues.

The Jordanian government established the Natural Resources Authority with the aim of focusing attention on the country's natural resources by carrying out investigations into its mineral resources, undertaking geological mapping and maintaining the continuity and systematic work so essential in this field of activity. As a result of the exploration, many minerals and their deposits have been studied and explored in detail. Numerous feasibility studies have also been prepared. The available minerals have been divided into five mineralogical groups, industrial minerals, metallic minerals, decorative stones, radioactive minerals and hydrocarbons. Oil shale deposits have been identified over wide areas of the Kingdom. Those in central Jordan have been studied and is said to be more than forty billion metric tons, with the proven reserves of the El-Lajun deposit, which lies close to the surface, being estimated at 1.2 billion metric tons. With such available and easily accessible natural resources, Jordan's role as an international trading partner is firmly set far into the foreseeable future. For instance, mining sector export revenues reached JD 1,551.2 million during 2011 compared with JD 1,330.2 million in 2010. Likewise, Jordanian domestic exports, as a whole, recorded an increase of 32.5% at the end of 2011, compared with 31.5% recorded in 2010.<sup>27</sup> The increase in mining export revenues was a direct result of growth in the export of most products of the sector, but especially of phosphates, potash, cement and phosphoric acid. However, and in contrast, the contribution of the mining sector to total domestic exports actually declined by 4.6 percent compared to 2008 with a contribution of 32.5 percent compared with 37.1 percent. Yet this shows a very positive result that derives from the many Bilateral and Multilateral trading

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<sup>27</sup> [Nra.gov.jo/images/stores/pfd.files/2011%20mining%20sector.pdf](http://Nra.gov.jo/images/stores/pfd.files/2011%20mining%20sector.pdf)

agreements Jordan has so aggressively pursued with its neighbors and non-continental trading partners. Another item vital to Jordan's economy is natural gas.

## **(2) Natural Gas**

Jordan has a limited resource of natural gas, which comes from the Risha Gas Field,<sup>28</sup> which is used for the generating of electricity at the nearby power station. To overcome this deficiency, Jordan entered into a number of agreements with Egypt as early in 2004. The first of these provided for the formation of a joint venture to be owned by Egypt, Jordan and the UAE, and was to be known as Al Fajr. The plan was to run the natural gas pipeline project between the two countries on a build, own, operate and transfer (BOOT) basis. This pipeline foresaw construction of a 270 kilometer long pipeline between the two countries and is the first phase of a larger regional project that aimed at linking the gas fields of Egypt with Turkey and Cyprus by 2006. The second project was phase two of the Arab gas pipeline which is designed to supply Egyptian gas to Jordan, Syria, and Lebanon. This phase entailed construction of a 390 kilometer pipeline from Aqaba to Rihab power plant in northern Jordan. Subsequently the plan was that the pipeline will be extended to the Syrian port of Baniyas and to the Zahrani power plant in Lebanon and possibly ultimately, as mentioned, to Turkey and Cyprus. On completion, the pipeline was to have a capacity of 10 billion cubic metres a year; thus, were the plans, initially; however, things didn't quite work out as Jordan had hoped. Since the gas originates in Egypt, there have been delays, shortages, and temporary stoppages of gas flow because of deliberate sabotage. For example, consider the following article:

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<sup>28</sup> Located in north east Jordan close to the Jordan-iraqi border

**Amman** — Jordan’s Egyptian gas supplies have returned to “normal levels”, according to energy officials, after nearly two years of reduced supply due to political and technical setbacks. According to a Ministry of Energy source, the country’s Egyptian gas supplies returned to their full levels of 240 million cubic feet (mcf) per day on Wednesday, after hovering around 150mcf over the past week and an average of 40mcf for most of 2012.

The increase in supply comes in light of a recent breakthrough in negotiations between Cairo and Amman over the countries’ 10-year gas agreement and marks the first time pumping has resumed in full since a series of sabotage attacks on the Arab Gas Pipeline in February 2011.

Following several technical and security setbacks, Egypt announced in October 2011 that it would reduce supplies designated for export in order to meet a spike in domestic demand, prompting a drawn-out dispute with Jordan.

The disruption in Egyptian gas supplies, Jordan’s primary energy source, pushed the national energy bill to a record JD4 billion and drove the cost of energy subsidies to over JD1.2 billion in 2012, officials said. . . .<sup>29</sup>

The uncertainty of being supplied with gas from Egypt puts Jordan in a very unenviable position, especially given the politically volatility of the region. One can easily imagine that such partnerships “conjoin nations at the hip” such that one would not dare do anything to destroy the well-being of the other; to be a bit more cynical, these alliances can draw one partner into a conflict that must necessarily implicates the other; in short, alliances that derive from trade connections can also be disastrous if used in the fashion of a carrot and stick. From this concern, we move on now to that

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<sup>29</sup> The Jordan Times. Taylor Luck. After two years of delays, Egyptian gas supplies resume ‘in full’ Jan 13, 2013. <http://jordantimes.com/after-two-years-of-delays-egyptian-gas-supplies-resume-in-full>>.Web.(Last assessed 5/05/13).

mode of transportation that has served as an arterial system of many nations, linking its own cities one to another, as well as, linking nations together through transfer of commerce and persons; this system is the railway, and long before the airplane “made the world smaller,” the railway was there to pull together the vast and plains and woodlands of the United States, and the desert lands of Jordan.

### **(3) Railways**

Railway transport has long been a feature of Jordan, dating back more than 100 years to 1901, when the Hejaz Railway was built. When constructed, the line was to run from Damascus, Syria to Al Madinah in Saudi Arabia, a distance of 1,303 kilometers, of which 425 kilometers passed through what is modern-day Jordan.<sup>30</sup> The line was destroyed during the First World War and while consideration has often been given to renovating, the economic benefits have been deemed questionable.

Nevertheless, in 1975, 292 kilometers of the Jordanian section was renovated and extended to transport phosphate from the Al-Hasa and Al-Abyad mines to Aqaba. This line today is managed and operated by the Aqaba Railway Corporation (ARC), which the government has sought to privatize but so far without success. The ARC runs six trains a day and was able to transport 2.5 million tons of phosphate in 2003, a figure that increased to 2.96 million tons in 2004.<sup>31</sup>

The northern part of the Hejaz Railway is controlled by Islamic Waqf Properties, a charitable body. This line, which runs from Al-Hasa to the Syrian border, is used as a tourist attraction transporting passengers along an historical route evocative of earlier

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<sup>30</sup> Russian-Jordanian Business Council on 25<sup>th</sup>-31<sup>st</sup> March 2011 in Jordan statistics bulletin.

<sup>31</sup> Ministry of Transport Russian-Jordanian Business Council.

days. In 1995, consideration was given to extending the rail network to include lines between Amman and the Syrian border; Zarqa and the Iraqi border; and Amman and Aqaba. Implementation of these lines has been estimated as likely to cost some U.S.\$1 billion, but as of early 2013 no meaningful progress had been made, although a number of international companies have examined their potential. Yet, under the provisions, and encouragement set out in the Arab League, WTO and Doha Declarations, we may expect these railway routes to extend across the Arab world someday. For is it not the underlying policy behind these agreements that make this a feasible notion? And moreover, a nation's commitment to the same?

#### **(4) Manufacturing**

In recent years two manufacturing sectors have enjoyed particular growth: Pharmaceuticals and Apparel and Textiles. The pharmaceutical industry has not only grown exponentially with total sales rising from U.S.\$68 million to U.S.\$275 million in 2002, of which exports rose from U.S.\$49 million to U.S.\$202million, but also has earned a reputation in the region as a producer of high quality products.

As a member of the WTO, Jordan has the need to abide by the TRIPS agreements (Trade Related Aspects of Intellectual Property Rights) which protect companies, including those in pharmaceutical sector, from the copying of their products. However, under the terms of licensing agreements a local manufacturer may be allowed to copy a patented product for the domestic market. Also, in compliance with the Bolar-Roche Provision, which Jordan has signed, companies in the Kingdom are allowed, under license, to develop and test a drug before its patent expires, thereby enabling Jordanian products to be in the market as soon as the patent expires.

Such a provision helps Jordanian companies penetrate international markets while acting as an incentive to multinational companies to invest in Jordan.

While the pharmaceutical sector is dominated by just five companies, which are reported to have more than 90 percent of national production, there are eighteen local producers. Between them, these companies export to more than sixty countries. Today, after conforming to international standards by obtaining FDA and EU approvals, some local producers have succeeded in registering their products globally, including in Europe and the U.S. Such recognition has ensured continuing international interest in the development of new alliances with local producers.

The second sector which has seen major export growth in the recent past is Apparel and Textiles. Ever since Jordan received preferential treatment in the U.S. under the provisions of the QIZs programme, interest in this sector has far surpassed original estimates, predominantly in the apparel sector, where the number of operating factories today numbers in excess of 2,100 compared with 1,306 in 1994. A major reason for such growth has been the Free Trade Agreement with the U.S. which permits quota and custom-free entry of apparel produced in Jordan and which has ensured the QIZs have become highly attractive to major international clothing manufacturers. Further attractions have been the low start-up-capital requirement in Jordan and the ready availability of a cost-competitive labour force.

Exports of apparel have increased substantially in recent years to reach JD478 million in 2003, mainly to the U.S. This makes the sector the leader to export with 29 percent of the total. Further growth in the sector is anticipated but increased competition will ensue from the elimination of all quota restrictions on textile and

clothing imports worldwide in 2005 under the terms of the WTO Agreement on Textiles and Clothing.

A third sector of Jordan's economy which has had excellent growth is information technology (IT). The country's IT sector has emerged as a dynamic value-added sector for the economy, especially since the government's promulgation of a 1999 law which allows for the establishment of public and private IT parks. These enable local and international investors to establish manufacturing and technical facilities for software development, research and development, and electrical and electronic industries. Among the commercial application, Jordanian companies specialize in Arabisation and localization accounting packages, religious software, logistics and military software, and computer based training.

The IT sector now employs more than 5,000 people, a substantial majority of whom are skilled Jordanians, working in more than 200 companies. Among the activities of these companies is support for the government's unique and challenging strategy to connect all Jordanians through schools, universities and community centers and post offices, in which a number of global leaders in the IT industry are participating.

Other successes include the local production of Arab versions of established software operating systems; the undertaking of e-government programmes in Jordan and Qatar; the development of software to monitor the hydro-electric power systems of China's Three Gorges Dam project; development and production of innovative software for the healthcare, finance and insurance sectors; as well as state-of the art

security systems. The successes are many; however, strong potential remains for further growth.

While the defined sectors are vital to the national economy in terms of both value added and foreign exchange earnings, other sectors are vital to the nation's earnings as well. These include refined petroleum products with by far the largest gross output but with only limited added-value due to the need to import all feedstock, tobacco, fertilizers, and nitrogen compounds, cement, lime and plaster and basic iron and steel manufactures.

#### **(5) Electricity**

The development of the electricity sector in Jordan can be traced back to 1947 when a group of private investors established the first local company to generate and distribute electricity under the name *Jordan Electrical Power Company* (JEPCO). Fourteen years later a second such company was formed to serve the northern area of the Kingdom, *The Irbid District Electricity Company* (IDECO).

However, it was to be later in the 1960s that serious attention was to be given to the nationwide provision of electricity, but overall costs were proven to be beyond the financial resources of JEPCO and IDECO. As a result the government formed the *Jordan Electricity Authority* (JEA) in 1967, as an independent government utility to provide electricity to all areas outside JEPCOs and IDECOs concession areas. In due course, in 1984, The Ministry of Energy and Mineral Resources was formed whose role has been to formulate coherent national policies aimed at achieving energy security for the Kingdom through raising efficiency in the electricity sector, diversifying the

sources of supply, and ensuring the efficient reliable operation for the entire energy system.

Later in 1996, JEA became a corporate entity wholly owned by the government and was renamed the *National Electric Power Company (NEPCO)*, which in the recent past was divided into three operating companies ready for privatization. These are the *Central Electricity Generating Company*, responsible for electricity production from existing power stations; NEPCO, responsible for transmission and control activities, and inter-connection with neighboring countries, and the *Electricity Distribution Company*, responsible for the distribution of electricity in the areas outside the concession of the two existing private distribution companies, mainly in the southern programme has been the sale of the governments shares in IDECO. Offers for shares in CEGCO (60 percent of the equity), CEDCO (100 percent) and IDECO (55.4) were expected to be made during 2004. Overseeing the whole sector is the Electricity Regulatory Commission.

Jordan's accession protocol<sup>32</sup> to the WTO makes a wide range of bold commitments, including the following: cutting the maximum tariff rate to no more than 25 percent by 2005 and by 20 percent by 2010; eliminating the exemption of export profits from income taxes by the end of 2002; and where certain companies have been granted tariff exemptions under their concessions, not to renew these

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<sup>32</sup> PROTOCOL OF ACCESSION OF THE HASHEMITE KINGDOM OF JORDAN TO THE MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION; [http://www.wto.org/english/thewto\\_e/acc\\_e/completeacc\\_e.htm](http://www.wto.org/english/thewto_e/acc_e/completeacc_e.htm) Web. (last assessed 5/2/13)

exemptions when the concessions expire.<sup>33</sup> The following excerpted material depicts the agreement under which Jordan joined the WTO agreement.

**Part I - General**

1. Upon entry into force of this Protocol, Jordan accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.

2. The WTO Agreement to which Jordan accedes shall be the WTO Agreement as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall include the commitments referred to in paragraph 248 of the Working Party Report, shall be an integral part of the WTO Agreement.

3. Except as otherwise provided for in the paragraphs referred to in paragraph 248 of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Jordan as if it had accepted that Agreement on the date of its entry into force.

Acting pursuant to agreements of the WTO, in Jordan the maximum import tariff on 3,140 items was brought down to 30 percent in April 2000, with a 10 percent ceiling on materials used as industrial inputs.<sup>34</sup> Commodities in Jordan now fall under one of five different tariff rates: 0, 5, 10, 20 and 30 percent, with the exception of tobacco and alcoholic beverages, which are still subject to tariffs of up to 180 percent, and

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<sup>34</sup>Kardoosh, Marwan. Article in Newspaper "Time to Invest" Dec 2007

unwrought gold, which is subject to a 0.5 percent tariff.<sup>35</sup> Accordingly, the weighted average most favored nation (MFN) tariff rate in Jordan has fallen from 19.7 percent in 2000 to 13.2 percent in 2001.

A minimum tariff rate of zero percent is applied in the Harmonized System (HS) in seventeen of the twenty-one sections and the average tariff added to all the sections is subjected to a 30 percent charge which is applied to all but one of the twenty-one sections. In regards to liquor and tobacco a 180 percent tariff is applied and other imports that are subjected to high tariff than the average sections include footwear,<sup>36</sup> arts and antiques,<sup>37</sup> miscellaneous manufactured articles<sup>38</sup> and arms and munitions,<sup>39</sup> at an average rate of 25 percent or higher. At lower than the average cost, one finds chemicals, machinery and electrical equipment, mineral products, motor vehicles, and wood products. Thus, we can say that Jordan's adherence to the requirements of the WTO is commendable; however, these reductions are not all one, and to Jordan's detriment. Keep in mind that as Jordan is a WTO participant, its citizens also enjoy lowered costs of goods purchased from elsewhere. The next agreement we shall study is the Qualified Industrial Zone Agreement (QIZ Agreement).

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<sup>35</sup> *Id.*

<sup>36</sup> HS Section 4

<sup>37</sup> HS Section 19

<sup>38</sup> HS Section 20

<sup>39</sup> HS Section 19

## 2. Qualified Industrial Zones (QIZ) Agreement

Qualified Industrial Zones, or “QIZs,”<sup>40</sup> are found in both Jordan and Egypt.<sup>41</sup>

They are zones of free-trade, and are established with the help of the United States and Israel. The purpose of QIZs is to ensure that Jordan and Egypt may vicariously enjoy the free-trade agreements that are established between the U.S. and Israel.<sup>42</sup> Pursuant to agreements between Jordan and the U.S., and as dictated by the U.S., and subject to express conditions, goods produced in QIZ designated areas can enter U.S. markets sans tariff or quota restrictions.<sup>43</sup>

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<sup>40</sup> The brainchild of Jordanian businessman Omar Salah, the first QIZ was authorized by the United States Congress in 1997. The Al-Hassan Industrial Estate in Irbid in northern Jordan was designated as the world's first QIZ under the agreement. Since 1998, several other QIZ locations have been set up in Jordan, and later in Egypt. The idea behind the establishment of QIZs was to foster a sense of prosperity and stability in Middle East through economic cooperation and employment. QIZ Egypt. Qualifying Industrial Zones. [http://www.qizegypt.gov.eg/About\\_QIZ.aspx](http://www.qizegypt.gov.eg/About_QIZ.aspx). Web. (Last assessed 5/05/13).

<sup>41</sup> QIZ Egypt. Qualifying Industrial Zones. <[http://www.qizegypt.gov.eg/About\\_QIZ.aspx](http://www.qizegypt.gov.eg/About_QIZ.aspx)>

<sup>42</sup> As of January 2009, there are five Qualifying Industrial Zones in Jordan and four QIZ designated regions in Egypt. *Id.*

<sup>43</sup> Since 1998, the United States has designated thirteen QIZs in Jordan; On March 6th, 1998, the United States Trade Representative (USTR) designated Jordan's Al-Hassan Industrial Estate in the northern city of Irbid as the world's first QIZ.

Other industrial parks designated by the U.S. government as QIZs in Jordan include; the Al-Hassan Industrial Estate (Irbid), and Al-Hussein Ibn Abdullah II Industrial Estate (Al Karak), both owned and operated by the Jordan Industrial Estate Corporation. Also, the now privately owned and operated Al-Tajamouat Industrial Estate (Amman), Ad-Dulayl Industrial Park (near Zarka), Jordan Cyber City (Irbid), Al-Qastal Industrial Zone (Amman), and El-Zai Ready-wear Manufacturing Co. sub-zone (Zarqa).

Other QIZs expected to be operational in the near future include the Gateway QIZ (northern Jordan-Israel border), Aqaba Industrial Estate (Aqaba), and the Mushatta International complex (Amman).

Another qualifying criterion is that goods from QIZ areas must contain a small portion of Israeli input;<sup>44</sup> herein is one of those ironies of politics and political and military alignments: Jordan and Israel had been enemies from the very inception of the Jewish State; however, the arrangement was brokered by Israel's most powerful ally, the United States. Arguably, therefore, bargaining from a position of lesser leverage, Jordan accepted the agreement. This brings up a point to which we have alluded before: more powerful nations have the greater leverage when negotiating international agreements. Of course, however, Jordan does benefit, to a degree that many find acceptable.

A more clarifying definition of QIZs is the following:

Qualifying Industrial Zones differ from other trade zones as they are stand-alone entities within one country and [are] not directly connected to other countries. In addition, QIZ products are for exports and domestic consumption in any country, not limited to specific countries, and most importantly operate only under the authority and conditions laid down by the host government.

The following excerpts are from the agreement establishing a QIZ between Israel and Jordan. Notice that like a vigilant chaperon at a teen party, the U.S. is monitoring the activities between Israel and Jordan.

An Agreement Between The Government Of The State Israel And The Government Of The Hashemite Kingdom of Jordan on Irbid Qualifying Industrial Zone

In recognition of the requirements in Section 9 of the United States-Israel Free Trade Area Implementation Act of 1985, as amended (the "legislation"), and Proclamation No, 6955 of the President of the United States of America (the

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<sup>44</sup> In addition, a minimum 35% must be added to the value of the finished product. *Id.*

"Proclamation"), the Government of the State of Israel and the Government of the Hashemite Kingdom of Jordan (the "Parties") hereby agree to the creation of the "Irbid Qualifying Industrial Zone" (the "QIZ"), and request that the Government of the United States designate it as a "Qualifying Industrial Zone" under the legislation and proclamation.

#### **Article I: Geographic Boundaries**

The Government of the State of Israel and the Government of the Hashemite Kingdom of Jordan hereby designate the following territory of their respective countries as enclaves where merchandise may enter without payment of duty or excise taxes, no matter what the country of origin of the merchandise,

*A. For the Government of the State of Israel: An area under Israeli customs control within the boundaries of the land crossing border at "Sheikh Hussein-Nahar " Hayarden Bridge, shown on the map attached as Exhibit A,*

*B. For the Government of the Hashemite Kingdom of Jordan: the Irbid duty-free area, shown on the map attached as Exhibit B,*

On the basis of the respective national legislation of the parties, the customs authorities of Israel and Jordan shall establish special customs procedures for the purpose of assuring the speedy flow of goods into and out of the zone, The purpose of these procedures is to ensure the strict enforcement of the principles of duty and taxation pursuant to this Agreement. In the case of the State of Israel, where factories lying outside the zone will contribute part of the 35 percent minimum content required by the Legislation and Proc1amation, the Israeli customs authority will ensure that inputs imported from abroad incorporated into goods shipped into the zone will be exempt from duty.

## **Article II: Economic Cooperation**

A. Recognizing that one of the primary purposes of the legislation and proclamation is to encourage economic cooperation in the region, the Government of the State of Israel and the Government of the Hashemite Kingdom of Jordan hereby agree to the establishment of a Joint Committee which will have the responsibility outlined below of identifying those businesses located within the Irbid Qualifying Industrial Zone which involve substantial economic cooperation between Israel and Jordan, Goods processed in the zone by businesses identified by the Committee will be eligible for duty-free entry into the United States if the goods meet the requirements of the Legislation and Proclamation.

B. A representative of the United States shall have the right to participate in meetings of the Committee as an observer.

**[Author's comments: Is the U.S. representative a mere "observer," a "mediator" between traditional enemies," or there to "protect" U.S. interests?]**

C. The Committee may determine that a business involves substantial economic cooperation between Israel and Jordan:

1. If the manufacturer on the Jordanian side of the QIZ and the Israeli manufacturer each contribute and maintain at least one third of the minimum 35 percent content required under the legislation and proclamation for duty-free treatment in the United States.

Or:

2. If the manufacturer on the Jordanian side of the QIZ and the Israeli manufacturer each contribute and maintain at least 20 percent of the total cost of production of goods eligible for duty-free treatment, excluding profits, even if the costs cannot be considered as part of the 35 percent minimum content requirement. For this purpose, costs may include originating materials, wages and salaries, design, research and

development, depreciation of capital investment, overhead including marketing expenses, etc.

D. The Joint Committee shall have the authority to approve those businesses whose products will be eligible for duty free entry into the United States based on the requirements of paragraph C and to cancel this eligibility if these requirements are no longer met. Approval of eligibility for duty-free privileges will be reconfirmed by the Joint Committee on an annual basis.

E. The Joint Committee will promptly transmit to U.S. Customs (Trade Compliance Office, Office of Field Operations) the names of those businesses whose products are eligible for duty-free treatment and identify the products produced or processed in the QIZ by those businesses which comply with the rule of origin requirements set out in the "outline for designations of qualifying industrial zone under Proclamation No. 6955" attached to the July 28, 1997 letter from the U.S. Trade Representative to the Israeli and Jordanian Ministers of Industry and Trade.

### **Article III: Rules of Origin**

The Government of the State of Israel and the Government of the Hashemite Kingdom of Jordan agree that origin of any textile or apparel product that is processed in the Irbid Qualifying Industrial Zone, regardless of the origin or place of processing of any of its inputs or materials prior to entry into, or subsequent to withdrawal from, the zone, will be determined solely pursuant to the rules of origin for textile and apparel products set out in Section 334 of Uruguay Round Agreement Act, 19 U.S.C. 3592.

### **Article IV: Customs Cooperation**

The Government of the State of Israel and the Government of the Hashemite Kingdom of Jordan will assist United States authorities in obtaining information, including by means of verification, for the purpose of reviewing transactions for which duty-free access into the U.S. is claimed in order to verify compliance

with applicable conditions, and to prevent unlawful transshipment of articles not qualifying for duty-free access into the U.S.<sup>45</sup>

These Articles listed here first show the high specificity of the QIZ with respect to customs rules, tariffs, and location. They also hint at the complex and interwoven nature of relations between the U.S., Israel and Jordan. As discussed in Chapter I, one advantage of free-trade, or trade in general, is that it lessens the likelihood of aggressive conflict, creating mutually beneficial experiences in other areas, such as culture for example. The next section lists the benefits both the U.S. and Jordan enjoy because of their relationship forged through the Jordan-Israel QIZ.

### ***3. Benefits of QIZs for Jordan***

The following are positive benefits Jordan has derived from the QIZ agreements.

- Exports from Jordan to the United States grew from \$15 million in 1997 to more than 1 billion Dollars in 2004.
- Jordan's QIZ's are the country's strongest engine of job growth. Jordan estimates that more than 40,000 jobs have been created within its QIZs. Investment in Jordan's QIZs is currently at between \$85-100 million and is expected to grow to \$180 to \$200 million.
- Following the QIZ, The United States and Jordan negotiated a full FTA that the U.S. Congress approved in 2001.
- A Qualifying Industrial Zone (QIZ) benefits Jordan since the U.S.-Israel FTA Implementation Act of 1985, provided there is an element of Israeli added-value in their manufacture. More specifically, the QIZ rules require that 35 percent of any exported goods of Jordanian origin must be subjected to

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<sup>45</sup> Kingdom of Jordan <http://www.moital.gov.il/NR/exeres/0877EB42-FE1B-403E-9CEC-F3811D06C7F9.htm>. Web. (Last assessed 5/05/13).

11.7 percent of local content and must be 7 to 8 percent from Israeli origin; the remainder of the product can come from any of the four parties (U.S., Israel, Jordan, West Bank and Gaza). In return no more than 15 percent of the appraised value of the good can come from the United States and still be counted into the GDP of the Jordanian economy. This adds revenue to Jordan's economy and of course provides jobs.

- There are 13 QIZ's in Jordan alone that consists of one factory zone. Most of these QIZ's are owned and operated by private individuals. Three of the 13 zones are owned and run by the government. Recently, seven zones more zones have been open and will be operational, perhaps as of this writing. Two are in the north; four are in the center, leaving only one designated QIZ in the south of the country.
- As the number of zones is increasing so has their impact on the Jordanian economy deepened. One of the ways in which this is being promoted is through the models export performance. According to certificated of origin issued by the Jordanian authorities, QIZ exports rose dramatically; from U.S. \$2.4 million in 1999 to U.S. \$25.2 million in 2000, to U.S. \$150.1 million in 2001, and nearly to U.S. \$381 million in 2002. In 2008 export figures showed a dramatic increase from the 1<sup>st</sup> of January up until the end of December close to U.S.\$586.6 million dollars.

These dramatic increases in exports indicate that the QIZs are working well to Jordan's benefit, as well as that of its partners, the U.S. and the State of Israel. Again, for a developing, but resource-poor country, such as Jordan, embracing certain international agreements have a tremendous upside, that include not only creating a better life for its citizens through the economic measure of free-trade, but also maintaining friendly relations with a one-time enemy. Our next topic of discussion relates to regional agreements that Jordan has entered and has maintained with its neighbors.

## **B. Regional Agreements**

As the term suggests, “Regional Agreements” are those to which nations in a particular area of the world have agreed to be bound to. In addition to location, other factors for forming these types of agreements may include culture, language, and shared goals. In this section we examine several such agreements that exist between Jordan and a number of its neighbors.

### **1. Council of Arab Economic Unity:**

In June of 1957 the Council of Arab Economic Unity agreements were established and in created the Arab Economic Social Council of the Arab League. The Council’s main goal was to stimulate economic integration amongst neighboring Arab countries to establish a free Arab Common Market. The first session was held in Egypt in June of 1967 where the Council of Arab Economic Unity was responsible for implementing and regulating the Agreement on which the Arab Economic Unity would supervise;<sup>46</sup> portions of the agreement follows:

#### **States of the Arab League (1)**

**The Governments of:** The Hashemite Kingdom of Jordan

- The Republic of Tunisia
- The Republic of Sudan

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<sup>46</sup><[http://www.cris.unu.edu/riks/web/treaties/constituent\\_treaties/19\\_The\\_Economic\\_Unity\\_Agreement\\_Among\\_States\\_the\\_Arab\\_League\\_establishing\\_the\\_Council\\_of\\_Arab\\_EconomicXX3June1957.pdf](http://www.cris.unu.edu/riks/web/treaties/constituent_treaties/19_The_Economic_Unity_Agreement_Among_States_the_Arab_League_establishing_the_Council_of_Arab_EconomicXX3June1957.pdf)>. Web. (Last assessed 5/05/13)

- The Republic of Iraq

Desiring to organize and consolidate economic relations among the States of the Arab League on bases that are consistent with the natural and historical links among them; and to provide the best conditions for flourishing their economies, developing their resources and ensuring the prosperity of their countries, Have agreed on the establishment of a complete economic unity among themselves, and on the achievement of such unity in a gradual way and as fast as possible such that the transfer of their countries from the status quo to the future status is accomplished without rendering any damage to their basic interests, in accordance with the following provisions:

## **Chapter I: Objectives and Methods**

### **Article 1**

A complete economic unity shall be established among the States of the Arab League. It shall guarantee for these States and their nationals in particular the following freedoms and rights on equal footing:

1. Freedom of personal and capital mobility.
2. Freedom of exchange of national and foreign goods and products.
3. Freedom of residence, work, employment and exercise of economic activities.
4. Freedom of transport, transit and use of transport, ports and civil airports.
5. Rights of possession, bequeath and inheritance.

**[Author's Comment: We might consider Article 1, the equivalent of an "equal rights" provision.]**

### **Article 2**

For attaining the unity mentioned in Article (1) the contracting Parties shall endeavor to accomplish the following.

1. Merging their countries into a single customs area subject to a unified administration, and unification of customs' tariffs, legislation and regulations that are applied in each of them.
2. Unification of import-export. Policies and regulations.
3. Unification of transport and transit. Regulations.
4. Concluding jointly trade and payments agreements with other countries.
5. Co-ordination of policies related to agriculture, industry, and internal trade; and unification of economic legislation in a manner that would guarantee equivalent conditions for all nationals of the contracting countries working in agriculture, industry, and other professions.
6. Co-ordination of labor and social security legislation.

\* \* \*

- a. Co-ordination of legislation concerning government and municipal taxes and duties and all taxes pertaining to agriculture, industry, trade, real estate, and capital investments in a manner ensuring equivalent opportunities.
  - b. Avoidance of double taxation of nationals of the contracting parties.
8. Co-ordination of monetary and fiscal policies and regulations in preparation for the unification of currencies of the contracting parties.
  9. Unification of statistical methods of classification and tabulations.
  10. Adoption of any other measures that are necessary for the achievement of the goals specified in Articles (1) and (2). It is, however, possible to make some exceptions to the principle of Unification in special cases and countries subject to the approval of the Council of Arab Economic Unity as mentioned in Article (3) of this Agreement.

\* \* \*

#### **Article 14**

1. The implementation of this Agreement shall be carried out in stages and in the shortest possible time.
2. The Council of Arab Economic Unity, upon its formation, shall draw up a practical plan for the stages of implementation and shall specify the legislative, administrative and technical procedures for each stage, taking into consideration the annex concerning the steps that are necessary for the achievement of Arab Economic Unity, which is attached to this Agreement and which constitutes an integral part thereof.
3. The Council, upon exercising its functions that are specified in this Agreement, shall take into consideration special circumstances in some of the contracting countries without prejudice to the objectives of the Arab Economic Unity.
4. The Council, together with the contracting parties, shall carry out the procedures that are specified in paragraph (2) of this article according to the provisions of this Agreement.

#### **Article 15**

Any two or more of the contracting parties may conclude economic agreements that aim at realizing broader unity than that provided for under this agreement.

\* \* \*

#### **Special Annex Concerning Bilateral Economic Agreements with a Non-contracting Party Of This Agreement:**

The contracting parties have agreed that the provisions of this agreement shall not prejudice the right of any contracting party to conclude individually bilateral economic agreements for special political or defense purposes with a non-contracting party of this agreement, providing that the objectives of this agreement shall not obstructed.

Establishing Countries of The Council of Arab Economic Unity:	
1. Jordan	7. Somalia
2. Egypt	8. Iraq
3. Sudan	9. Tunisia
4. Yemen	10. Syria
5. Mauritania	11. Emirates
6. Palestine	12. Libya

Members of the Council of Arab Economic Unity:	
1. Jordan	6. Palestine
2. Egypt	7. Somalia
3. Sudan	8. Iraq
4. Yemen	9. Syria
5. Mauritania	

To encourage a number of Arab Investments the Council has implemented a number of agreements:<sup>47</sup>

- Non-Double Taxation, Tax Evasion, and Establishing Common Rules on Income and Capital Agreement, signed on Dec. 3rd 1997. Members up to date are: Jordan, Sudan, Egypt, Syria, Iraq, Libya and Yemen.<sup>48</sup>

<sup>47</sup> Article 26: The Council of Arab Economic Unity handbook May 1967.

- Non-Double Taxation and Income Tax Evasion Agreement, signed on Dec. 6th 1998. Members up to date are: Jordan, Sudan, Egypt, Syria, Iraq, Libya and Yemen.<sup>49</sup>
- Investment Promotion and Protection Agreement, signed on June 7th 2000. Members up to date are: Jordan, Sudan, Egypt, Syria, Iraq and Libya.<sup>50</sup>
- Investment Dispute Settlement in Arab countries, signed on Dec 6th 2000. Members are: Jordan, Egypt, Syria, Iraq and Libya.<sup>51</sup>

About forty years after the adoption of the CAEU, Arab nations adopted another international agreement, which focused primary on trade. This agreement is known as the Greater Arab Free Trade Area Agreement, or GAFTA.

## **2. Greater Arab Free Trade Area (GAFTA)**

Since 1998 Jordan has been a party to GAFTA, which is one of the most important economic achievements in the area of Arab cooperation. It has, furthermore, contributed to establishing the Arab Common Market. As of January 1st, 2005, the agreement reached full-trade liberalization of goods by fully exempting from customs, duties, and charges among all Arab countries that are members of the GAFTA; the exception being the Sudan and Yemen, which are less developed countries where customs duties and the charge-shaving affect will be reduced by 16% annually as of January 1st , 2005, and reach full exemption by the end of 2010 (pursuant to the resolution of the Arab League Council at its 14th meeting in Beirut regarding offering less developed Arab countries preferential treatment). Also, Arab countries would not

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<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

require authenticating certificates of origin, and accompanying documents issued by embassies and consulates. GAFTA includes the following countries shown in the chart below:

1. Jordan	7. Morocco	13. Kuwait
2. United Arab Emirates	8. Syria	14. Tunis
3. Bahrain	9. Lebanon	15. Libya
4. Saudi Arabia	10. Iraq	16. Sudan
5. Oman	11. Egypt	17. Yemen
6. Qatar	12. Palestine	

GAFTA is Jordan's largest export market as Jordanian manufacturing exports to the region have kept pace with rapid growth. Jordanian manufacturing exports to the region are growing at a phenomenal rate with its pharmaceuticals, inorganic chemicals, fertilizers, electric equipment and household goods. Although Jordan's manufacturing apparently benefits from the GAFTA, its agriculture sector benefits not as much. To illustrate, Jordan's agricultural exports have been losing their market share in key export segments, including livestock, and organic vegetables. Not only has it not been able to keep up with a growing demand, but has actually seen a decline with a negative growth rate.<sup>52</sup>

On 1 January, 2005, GAFTA reached full trade liberalization of goods through the full exemption of custom duties and charges. Custom duties and charges will be

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<sup>52</sup> SABEQ: Assessment of Trade Policy in Jordan and Recommendations to Reform

reduced by 16% annually, from the date GAFTA went into force, to reach full exemption by the end of 2010. The GAFTA agreement formerly did not include a services schedule despite the importance of this market for many of Jordan's existing service exports, including construction and medical services. However, to further contribute to economic integration among the Arab countries through liberalizing trade in both goods and services, members of the GAFTA are currently engaged in negotiation to liberalize services and investments among themselves.<sup>53</sup> This concludes the section on regional agreements; we now take up a discussion on those agreements Jordan has with many of its non-continental neighbors.

### **C. Non-Continent Bilateral and Multilateral Treaties**

#### ***1. Jordan EFTA Free Trade***

Jordan and the EFTA States, consisting of Iceland, Liechtenstein, Norway, and Switzerland, signed an agreement on the 21<sup>st</sup> of June 2001 that will outline and create favorable tactics to develop and promote diversification of trade within both regions, and which will build economic cooperation on the basis of mutual benefit and nondiscrimination. On the 1<sup>st</sup> of September 2002, the agreement went into force and it covers the economic cooperation and technical assistance required to promote a wide range of custom matters and implement technical regulations of intellectual property. Certain sectors in Jordan that face difficulty in achieving prosperous growth, due to the lack of structural adjustment to the liberalization of its economy, will be given special attention and a chance to grow. A short list of the provisions follows:

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<sup>53</sup> Ministry of Industry & Trade Foreign Trade Policy .

**Preamble:**

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation (hereinafter called the EFTA States), on the one part,

And the Hashemite Kingdom of Jordan (hereinafter called Jordan), on the other,

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Considering the importance of the links existing between the EFTA States and Jordan, in particular the Declaration on Co-operation signed in Geneva in June 1997, and recognising the common wish to strengthen these links, thus establishing close and lasting relations,

Reaffirming their commitment to the principles of the United Nations Charter, in particular pluralistic democracy based on the rule of law and political and economic freedoms and observance of human rights, including rights of persons belonging to minorities, Recalling their intention to participate actively in the process of economic integration in the Euro-Mediterranean region, Conscious of the need to associate their efforts to strengthen political stability and economic development in the region through the encouragement of bilateral and regional co-operation, Firmly convinced that this Agreement will contribute to the creation and strengthening of an enlarged and harmonious free-trade area between European and Mediterranean countries, thus constituting an important contribution to Euro-Mediterranean integration, Considering the political and economic developments, which have taken place in Europe and in the Middle East in the past years, in particular the Middle East peace process,

Considering disparities in economic development between Jordan and the EFTA States, Desiring to create favourable conditions for the development and diversification of trade between them and for the promotion of commercial and economic co-operation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law,

Considering the commitment of the EFTA States and Jordan to free-trade, building on their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization, (hereinafter referred to as "the WTO"), and under other multilateral, regional and bilateral instruments of co-operation, . . .

Also convinced that this Agreement will by establishing the conditions for the progressive liberalisation of trade in goods and eventual liberalisation of trade inservices, encourage economic, trade and investment relations between them, HAVE DECIDED, in pursuit of the above, to conclude the following Agreement (hereinafter called "this Agreement"):

**Article 1: Objectives**

1. The EFTA States and Jordan shall establish a free-trade area in accordance with the provisions of the present Agreement.

2. The objectives of this Agreement, which is based on trade relations between market economies and on the respect of democratic principles and human rights, are:

(a) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between the EFTA States and Jordan and thus to foster in the EFTA States and in Jordan the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability;

(b) to provide fair conditions of competition for trade between the Parties;

(c) to contribute in this way, by the removal of barriers to trade, to Euro-Mediterranean economic integration and to the harmonious development and expansion of world trade;

(d) to foster the development of balanced economic relations between the parties through co-operation.

**Article 2: Scope**

This Agreement shall apply:

(a) to products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (HS), excluding the products listed in Annex I;

(b) to products specified in Protocol A, with due regard to the arrangements

provided for in that Protocol;

(c) to fish and other marine products as provided for in Annex II; originating in an EFTA State or Jordan.

**Article 3: *Economic co-operation and technical and financial assistance***

1. The Parties declare their readiness to foster economic co-operation, in accordance with national policy objectives, noting that particular attention should be given to sectors facing difficulties in Jordan's process of structural adjustment to the liberalisation of its economy.

2. In order to facilitate the implementation of this Agreement the Parties shall agree upon appropriate modalities for technical and financial assistance and cooperation of their respective authorities in particular in the field of intellectual property, customs matters, technical regulations and other fields, where the necessity arises. To this end, they shall co-ordinate efforts with relevant international organisations.

**Article 4: Rules of origin and co-operation in customs administration**

1. Protocol B lays down the rules of origin and methods of administrative cooperation.

2. The Parties shall take appropriate measures, including reviews by the Joint Committee and arrangements for administrative co-operation, to ensure that the provisions of Articles 5, 7, 8, 9, 14 and 23 of this Agreement and Protocol B are effectively and harmoniously applied, and to reduce, as far as possible, the formalities. . .<sup>54</sup>

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<sup>54</sup> <http://www.mit.gov.jo/Portals/0/efta/EFTA.pdf>.

The Jordan-EFTA agreement, which appears to provide for all contingencies, benefits both parties, and contributes to strengthening and creating free-trade areas between the Mediterranean and the named European countries, thus, leading to an important alliance with the integration of both parties. The free-trade area between Jordan and these Euro-countries will be put into full operation with the help of progressive liberalization that will extend over a period of twelve years. The agreement will consist of strengthening the main significant sectors that promote economic growth (industry, agriculture and fish and marine products).

The Jordan-EFTA Free Trade agreement was designed to complete trade liberalization by the end of the twelve-year frame. Jordan in return will help speed up this process by gradually reducing its customs duties and charges that are imposed on the imports of the sectors from the EFTA countries origin, while in return, once the agreement has gone into full force, the goods produced on Jordanian soil will be exempted from custom duties and charges when exporting the goods to EFTA countries. The Jordan-EFTA has three schedules associated with the dismantling of Jordanian imports that originate in any of the participating EFTA States:

A) The first schedule concerns goods that don't have similar production in Jordanian soil and customs duties. These goods are subjected to be dismantled over four years after the signing and entry of the agreement.<sup>55</sup>

<b>Date of implementation from date of entry into force of the agreement</b>	<b>Customs duties are reduced to:</b>
On date of entry into force of the	80% of basic duties

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<sup>55</sup> Appendix 3 of the Jordan- EFTA

agreement	
After one year	60% of basic duties
After two years	40% of basic duties
After three years	20% of e basic duties
After four years	0% of basic duties

B) The Second schedule that is proposed in Appendix 3 or the Jordan-EFTA consists of similar production that is produced in Jordanian soil and customs duties will be subjected to dismantle over a period of 12 years since the signing and entry of the agreement:

<b>The date of implementation from the date of entry into force of the agreement</b>	<b>Reducing customs duties to:</b>
After the end of the fourth year	90% of basic duties
After the end of the fifth year	80% of basic duties
After the end of the sixth year	70% of basic duties
After the end of the seventh year	60% of basic duties
After the end of the eighth year	50% of basic duties
After the end of the ninth year	40% of basic duties
After the end of the tenth year	30% of basic duties
After the end of the eleventh year	20% of basic duties
After the end of the twelfth year	0% of basic duties

C) The third schedule as listed in Appendix 3 of the Agreement requires that any goods of industry that are being created in terms of textiles, carpets, or clothing, be negotiated and conducted between both parties after four years of the agreement being signed, to later decide which tariffs must be ratified and dismantled with respect to these goods.

Along the lines for trade in the agricultural sector, each party arranges to produce fresh produce originating in either party's territory, but to be exact, Jordan can export fresh produce to any EFTA member, free of access and in terms of lower tariffs and taxes, to all of the EFTA markets. In the agreement certain rules of regulation and administrative methods of rules of origin were taken into account as annexed to the agreement. In order for Jordan to fully integrate itself with its neighboring EFTA States, it must thus incorporate materials originating in Palestine, Egypt and Israel in their products when trading with any EFTA country for the purposes of PAN-EUROMED Rules of Origin System that were incorporated in the agreement in early 2006. In the upcoming section, the topic of discussion will focus on another FTA; that between Jordan and the EU.

## **2. Jordan EU Association Agreement (AA)**

Jordan signed on 24 November 1997 an Association Agreement with the EU, becoming the first Mashreq<sup>56</sup> country to join a group of diverse nations, which the EU hopes will eventually become a Mediterranean free-trade area.<sup>57</sup> The agreement became effective on 1 May 2002, after legislative procedures were completed and all 15 EU national parliaments ratified it.

The Agreement allows entry of Jordanian industrial exports into EU-member countries free of customs duties and other charges having equivalent effect from date of entry into force of the Agreement. Also, EU industrial exports are

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<sup>56</sup> Mashreq PSC is a financial institution in the United Arab Emirates (UAE).

<sup>57</sup> The agreement was concluded within the framework of the Barcelona Process 1995, the goal of which is to create a larger area of peace and economic prosperity in the Mediterranean Basin. The agreement entered into force on May 1st, 2002 to substitute the Jordan-EU Economic Cooperation Agreement signed in 1977. See *infra*, n.54.

allowed entry into Jordan free of customs duties and charges having equivalent effect over a transitional period of 12 years starting from date of entry into force of the Agreement, except for a list of specific products<sup>58</sup>

The AA between the EU and Jordan creates a framework for regular political discussions between the Kingdom and the EU. The commercial aspects of the deal include talks on economic cooperation aimed at progressive liberalization of trade in goods and services by 1 May 2014. In addition, the AA will include provision addressing the following trade and trade-related topics, among other issues:

- Freedom of capital movement
- Right of commercial establishment in all areas of economic activity, specifically excluding those listed by the EU and Jordan
- Enhancing competition
- Dispute settlement
- Protection of intellectual, commercial and industrial property rights; and
- Financial, industrial and technical cooperation.

Outside the trade sphere, the pact pledges both sides to respect international rules on anti-terrorism measures, money laundering and drug smuggling. The AA consists of four protocols and seven annexes that clarify the various details of the legal text and explain the agreed mechanisms of implementation. A brief summary of the major provisions follows:

**D. Euro;Mediterranean Agreement:**

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<sup>58</sup> <http://www.mit.gov.jo/Default.aspx?tabid=706>.Web.(Last assessed 5/05/13).

[E]stablishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, [on] the other part

THE KINGDOM OF BELGIUM, THE KINGDOM OF DENMARK, THE FEDERAL REPUBLIC OF GERMANY,

\* \* \*

CONSIDERING the importance of the existing traditional links between the Community, its Member States and Jordan, and the common values that they share,

CONSIDERING that the Community, its Member States and Jordan wish to strengthen those links and to establish lasting relations based on reciprocity and partnership and to further integrate Jordan's economy into the European economy,

CONSIDERING the importance which the Parties attach to the principles of the United Nations Charter, particularly the observance of human rights, democratic principles and political and economic freedoms which form the very basis of the Association,

CONSIDERING the political and economic developments which have taken place in Europe and in the Middle East in the past years,

CONSCIOUS of the need to associate their efforts to strengthen political stability and economic development in the region through the encouragement of regional cooperation,

DESIROUS of establishing and developing regular political dialogue on bilateral and international issues of mutual interest,

CONVINCED of the need to strengthen the process of social and economic modernisation that Jordan has undertaken with the objective of the full integration of its economy in the world economies and of its participation in the community of democratic countries,

CONSIDERING the difference in economic and social development existing between Jordan and the Community,

DESIROUS of establishing cooperation, supported by a regular dialogue, in economic, scientific, technological, cultural, audiovisual and social matters with a view to improving mutual knowledge and understanding,

CONSIDERING the commitment of the Community and Jordan to free-trade, and in particular to compliance with the rights and obligations arising out of the General Agreement on Tariffs and Trade (1994) (GATT),

CONVINCED that the Association Agreement will create a new climate for their economic relations and in particular for the development of trade, investment and economic and technological cooperation, . . .

**Article 1**

1. An Association is hereby established between the Community and its Member States, of the one part, and Jordan, the other part.

2. The aims of this Agreement are:

— to provide an appropriate framework for the political dialogue, allowing the development of close political relations between the Parties,

— to establish the conditions for the progressive liberalization of trade in goods, services and capital,

— to foster the development of balanced economic and social relations between the Parties through dialogue and cooperation,

— to improve living and employment conditions, and understanding and solidarity.

--to enhance productivity and financial stability,

- to encourage regional cooperation with a view to the consolidation of peaceful coexistence and economic and political stability,
- to promote cooperation in other areas which are of particular on those issues likely to have substantial effects<sup>59</sup>

In addition to those more general provisions above, the Jordan-EU ETA contains other provisions regulating trade in industry and agriculture; competition, intellectual property rights, capital expenditures, transportation, telecommunications, energy, science and technology. The ETA also eliminates tariffs and other custom duties. Within the ETA, moreover, the “EU the EU has pledged to set up a Special Fund to assist in improving the export capacity and competitiveness of Jordanian industries.”<sup>60</sup> Per this agreement, then, Jordan exports agricultural products to EU countries free of customs duties or quota requirements; but seven goods are excepted from this list. One feature of this ETA is its provisions for financial cooperation, and assistance from the European nations to those of the Mediterranean. This assistance is provided through the MEDA Program, the next topic of discussion.

## **1. MEDA Regulation**

The MEDA Program<sup>61</sup> is an instrument of economic and financial cooperation under the Euro-Mediterranean partnership. Under the auspices of MEDA, the EU may provide financial and technical assistance to the countries in the southern Mediterranean: Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, the Palestinian Territory, Syria, Tunisia and Turkey. Actions under the MEDA program aim to fulfill the objectives of the three sectors of the Euro-Mediterranean partnership:

- reinforcing political stability and democracy;
- creating a Euro-Mediterranean free-trade area and the development of economic and social cooperation;
- taking due account of the human and cultural dimension.

The MEDA Programme supports the economic transition of Mediterranean non-member countries (MNCs) and the establishment of a Euro-Mediterranean free-trade area by promoting economic and social reforms for the modernization of enterprises and the development of the private sector, paying particular attention to:

- support for small and medium-sized enterprises (SMEs) and job creation;
- the opening-up of markets;
- promotion of private investment, industrial cooperation and trade between the various partners;
- upgrading of economic infrastructure, including the financial and taxation systems;

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<sup>61</sup> Europa: Summaries of EU Legislation. MEDA Programme.<  
[http://europa.eu/legislation\\_summaries/external\\_relations/relations\\_with\\_third\\_countries/mediterranean\\_partner\\_countries/r15006\\_en.htm](http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/mediterranean_partner_countries/r15006_en.htm)>.Web.(Last assessed 5/06/13).

- consolidation of the major financial balances and creation of an economic environment favourable to accelerated growth (support for structural adjustment).<sup>62</sup>

The MEDA Programme also supports sustainable socio-economic development, in particular through the following provisions:

- the participation of civil society and populations in the planning and implementation of development measures;
- the improvement of social services (education, health, housing, water, etc.);
- harmonious and integrated rural development, including agricultural development;
- the strengthening of democracy, human rights and the rule of law;
- the protection and improvement of the environment;
- the upgrading of economic infrastructure, especially in the sectors of transport, energy and the information society;
- the promotion of youth exchanges and cultural cooperation;
- the development of human resources (vocational training, improvement of scientific and technological research).<sup>63</sup>

In addition, MEDA supports regional, sub-regional and cross-border cooperation, in particular through:

- the establishment and development of structures for regional cooperation between Mediterranean partners and between them and the EU and its Member States;
- the establishment of the infrastructure necessary for regional trade in the areas of transport, communications and energy;

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

- exchanges between civil society in the Community and the Mediterranean partners within the framework of decentralised cooperation through the networking of civil society actors (universities, local communities, associations, trade unions, the media, private business, non-governmental organisations, etc.).<sup>64</sup>

Towards the attainment of its objectives, the MEDA II Programme was allocated EUR 5 350 million for the 2000-2006 period. The activities financed under MEDA may take the form of technical assistance, training, institution-building, information, seminars, studies, projects for investment and action designed to highlight the Community nature of the assistance. MEDA financing takes the form of:

- grants managed by the European Commission and used to finance or cofinance activities, projects or programmes that contribute to the realisation of the MEDA programme's objectives;
- risk capital provided and managed by the European Investment Bank (EIB) to strengthen the private sector, especially the financial sector;
- interest rate subsidies for EIB loans within the framework of environmental cooperation, not exceeding a subsidy rate of 3%.<sup>65</sup>

Overall, the MEDA commitments to Jordan since the launch of the Barcelona process reached 552 million Euros, and when this is added to the bilateral commitments of the EU members, total European assistance to Jordan in 1996-2000 surpasses 1.5 billion Euros, making the EU the largest provider for financial aid in the

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<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

Kingdom in recent years.<sup>66</sup> Under the MEDA Programme in 1996-2000, Jordan received 269 million Euros in grants and 283 million in European Investment Bank loans.<sup>67</sup> The funding concentrated on structural adjustment and operation, the promotion of small and medium-sized enterprises, the water sector and the protection of Jordan's cultural heritage.

MEDA II, a new financial assistance package running until 2006, focuses on facilitating smooth implementation of the AA. The 2002-04 programme for Jordan included in 2002, support for the implementation of the AA, regional development of Aqaba and economic reform; for 2003 it included, support for the implementation of a comprehensive social development and poverty reduction strategy; participation in the EU higher education programme, and for 2004 it was expected to include support for re-installing workers that have been displaced in the economic process. As far as the liberalization of trade between Jordan and the EU is concerned, there are a number of important issues:

- The agreement makes a clear distinction in how it determines the terms of trade between Jordan and the EU as regards agricultural products, on the one hand, and industrial products ( including those that contain and agricultural component), on the other hand
- Both parties will continue to exclude products from the list of items on which they waived tariffs and quota restrictions the day the agreement came into force (i.e., from 1 May 2002). In addition, both Jordan and the EU have agreed to retain import duties on all products included in the treaty establishing the European Community in 1957.

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<sup>66</sup> Raphael Patai, *The Kingdom of Jordan*, Princeton University Press, Princeton, New Jersey, 1958.

<sup>67</sup> Magableh, Ihab. "Economics of Microfinance and SMEs in Jordan: An Empirical Field study" *Jordan* Apr 2009

- The EU will apply an “agricultural calendar” on its imports of agricultural products from Jordan. The purpose of this calendar is to protect EU markets from cheaper imports. Tariffs on agricultural commodities originating in Jordan and imported into the EU will tend to be higher than “normal” during each products peak harvesting season. After the agreed timetable ends, tariffs on such products will revert to their previous level.
- In any case, both parties have pledged to gradually implement greater liberalization of their reciprocal trade in agriculture products (as stated in Article 15).

Broadly speaking, quantitative restrictions and tariffs on a large number of industrial items will be abolished immediately after the AA comes into effect; for other categories of products, tariffs will be phased out over a 12-year period, although an ad valorem duty may be maintained proportional to the content of non-liberalized agricultural inputs in certain goods. Comprehensive trade liberalization is not predicted for agriculture. Only selective and phased-in reductions of tariffs for agricultural products are projected. For specific agricultural products, the AA consolidates, and in some cases improves, the existing preferential mutual access.

To protect local manufacturers, Article 13 of the agreement gives Jordan the right to take the exceptional measures of limited duration in the form of an increase or reintroduction of customs duties to protect infant industries, or certain sectors undergoing restructuring or facing serious difficulty, particularly where major social problems occur. Such measures may not exceed 25 percent ad valorem and the yearly imports of the products subject to these measures may not exceed 20 percent of the yearly value of imports of the product. No such measure may be introduced in respect of a product if more than four years have elapsed since the elimination of all duties

and quantitative restrictions or charges concerning that product. The agreement also gives Jordan and additional three years after the stated transitional period to take the exceptional measures concerning industries established during that time. The question of the probable effect on the Kingdom's economy is next discussed.

## **2. Probable Effects on The Kingdom's Economy**

The Jordan-EU ETA is likely to have a profound impact on the Jordanian economy, although both the sector changes it is likely to produce and their precise timing are difficult to predict. On the employment front, reallocation of labor and capital in Jordan toward sectors of comparative advantage could entail transitional unemployment, since a few, or many, existing enterprises in the manufacturing sector could disappear through liquidation or mergers, while others could survive only after undergoing strong adjustment.<sup>68</sup>

### **E. The AGADIR Agreement**

The 25<sup>th</sup> of Feb 2004 marked the signing of the Agadir Agreement,<sup>69</sup> which declared the common grounds that the partners of the agreement (Morocco, Egypt, Tunisia, and Jordan) would share within the context of their bilateral trade agreements. The purpose of the Agadir Agreement, whose original name was the *Arab Mediterranean Free Trade Agreement*, was to create a common Arab Market that would include free access and joint cooperation in establishing the Greater Arab Free Trade Area (GAFTA), thereby encouraging new trade, and enhancing economic

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<sup>68</sup> See Chart Figure 3-4—3-6; Jordan's Exports to the EU, appendix.

<sup>69</sup> The Agreement was named after a city in Moroccan, Agadir, where the Agreement was signed in February of 2004, and became effective in March 2007.

development, and integration of economic policies among the four founding members. These goals would be accomplished by implementing new rules of origin, and negotiating with the EU for Foreign Direct Investments. These founding nations have as one of their major industries, textiles; but also, transportation and leather goods are among their major commodities.

Being on friendly terms with Europe, with respect to international trade concerns and development, Agadir Member States have provided that other States in the region may, when they are ready, accede to the agreement. In light of the success that the current Member States are enjoying, we may expect any State that is still “waiting on the sidelines” to accept this implied offer, sooner rather than later. As one commentator<sup>70</sup> notes:

The figures prove [success of the Agreement]. Each country’s export and import volume has increased, which helped some of them reduce their negative balance of trade, while others managed to increase their positive balance of trade. Everyone is a winner; especially that South-South cooperation is considered the main growth factor in the 21st century. Not to mention that the EU offers large trade and investment opportunities, hence the importance of the Agadir Agreement.<sup>71</sup>

Speculation abounds as to why the Agadir Agreement has been so successful in such a relatively short time. The reasons for that success include a step-by-step approach to implementing the Agreement; each partner to the Agreement is allowed to “cumulate” productions and exports to the EU; it relaxed those sometimes “pesky” rules of origin rules.

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<sup>70</sup> Rania Nabil, Monitor of the Agadir Agreement at the Egyptian Ministry of Trade and Industry.

<sup>71</sup> *Id.*

**Step by Step:** In keeping with the EU policy of “taking small steps,” the Agadir Agreement doesn’t require that its members rush head long into the agreement; rather, they may, if they wish, test the waters by setting small and manageable goals. Frankly, we may agree that sudden change can make people leery. But if allowed to take incremental steps and building on those, they are not only emboldened to go further, but at the same time, may become more efficient incrementally, which in the long run, leads to greater overall efficiency.

**Cumulation:** Means members are allowed to “pool” their various commodities, which are related in some way, into a conglomerate of export items. As Rania Nabil explains, “Egypt is known for its leather and tannery sectors, whereas Tunisia is known for its shoes and leather finished products.” This statement suggests that Egypt and Tunisia should be collaborating on the manufacture and subsequent export of these items so as not to create conflicts among themselves. Nabil observes that this “possibility leads to the egalitarian principle, allowing each of the four member countries to benefit from its partners’ production, transformation and export capacities. As Rania Nabil points out, Egypt is known for its leather and tannery sectors, whereas Tunisia is known for its shoes and leather finished products.”<sup>72</sup>

**Rules of Origin Modification:** Designed to skirt the rules of origin provisions that are embodied in other free-trade agreements, the Agadir Agreement allows Jordan and Egypt with opportunities to seek new free-trade opportunities with the EU by modifying the rules of origin between the EU and its trading partners. Nabil explains that, “The establishment of Euro-Mediterranean trade standards has undoubtedly

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<sup>72</sup> *Id.*

facilitated the implementation of the Agreement. The “EUR-MED movement certificate” allows identifying a product manufactured within the zone, which facilitates exchanges.”<sup>73</sup>

A few of the major provisions on the Agadir Agreement are as follows:

**1. *Agadir Agreement (2004)***<sup>74</sup>

Agreement for the Establishment of a Free Trade Zone between the Arabic Mediterranean Nations. The Hashemite Kingdom of Jordan, the Tunisian Republic, the Arab Republic of Egypt, and the Kingdom of Morocco ; In implementing the "Agadir Declaration", . . . for the establishment of the free-trade zone of the Arabic Mediterranean nations; And with the brotherly Arabic bonds which tie the societies of these nations and the strong relationship between them as a foundation; And desiring the development of economic and commercial cooperation between them, . . . and the economic unification between them, and supporting the development and advancement of their people; And believing in the importance of freeing trade between them, . . .<sup>75</sup>

And being in harmony with the Covenant of the Arab League, and acknowledging the importance of supporting Arabic cooperation, and moving towards the accommodation of the greater Arabic free-trade area and its development, and participation in the exerted effort for the establishment of a joint free Arabic market; And desiring the development of commercial trade relations and free-trade, and supporting Mediterranean Arabic cooperation (Al-Masharaka), and encouraging reciprocal investment between them, and having its economic light be an attraction to foreign investment; . . . And in harmony with the foundation and requirements of the World Trade Organization agreements which the member States to this agreement have joined;<sup>76</sup>

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<sup>73</sup> *Id.*

<sup>74</sup> Agreement for the Establishment of a Free Trade Zone between the Arabic Mediterranean Nations. (Agadir Agreement, signed in Rabat on 25 February 2004, for entry into force on 1 January 2006)

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

Have decided the following:

\* \* \*

**Article One: Introduction**

1- Under the requirements of this agreement a free-trade zone shall be established between Hashemite Kingdom of Jordan, the Tunisian Republic, the Arab Republic of Egypt, the Kingdom of Morocco and the Arabic Mediterranean nations which may later be annexed and those in the region that may be later motioned to join.<sup>77</sup>

\* \* \*

**Article Two: The Goals of the Agreements<sup>78</sup>**

1- The Member States shall form between them a free-trade zone, in a gradual fashion, during the transitional period lasting no longer than 1/1/2006 and beginning at the time of this agreement's entry into force in conformation with its text, and agreeing to the text of the General Agreement of Trade Tariffs and Customs of 1994 and other agreements related to the agreement for the creation of the World Trade Organization.

2- The free-trade zone will be created in order to develop economic activity, support employment, increase production, and improve the standards of living within the Member States.

3- To unify the public and private economic policies of the Member States in areas dealing with: external commerce and agriculture, industry, the tax system, the financial system, services, customs and that which facilitates competition between the member States.

4- To bring closer the economic legislations of the Member States in hopes of producing an adequate climate for the conditions of merger between the Member States.

\* \* \*

**Article Three: Manufacturing goods<sup>79</sup>**

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

Manufacturing goods that are exchanged between the Member States and that are subject to the removal of "customs fees and other tax fees that resemble such in imports" are subject to them in the following manner:

A. Immediate trade, on the entry of the agreement into force, the complete included lists of exemptions from the immediate freeing of trade with the European Union are as follows: . . .

The schedule mentioned in appendix (3) (the gradual freeing over the period of five years) the completely exempt commodities at the time of the implementation of the agreement in accordance with the Association Agreements between the Tunisian republic and the European Union.

The schedule mentioned in appendix (3) (the gradual dismantling during the period of three years) and the completely exempt commodities at the time of the implementation of the agreement in relation to the cooperation agreement between the Kingdom of Morocco and the European Union. The first list in the schedule for the freeing commodities that is attached to the Association Agreement between the Arab republic of Egypt and the European Union (and it includes the commodities subject to gradual freeing during the period of 3 years). The schedule contained in the third appendix (which includes the commodities subject to gradual freeing during the transitional period, which will last 4 years) and the exempt commodities at the time of the implementation of the agreement and in accordance with the Association Agreements between the Hashemite Kingdom of Jordan and the European Union.

#### **Article Six: Rules of Origination**

1-The rules within the country of origin of the materials and merchandise produced should be in accordance with the Pan European Protocol and any future alterations to it.

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<sup>79</sup> *Id.*

2- Accompanying products with a local base and source, exported from one of the Member States to another, will be a source certificate from the responsible official agency within the country of origin, in accordance with the special rules of origination found in this agreement.

[**Author's comment:** the Agadir Agreement is that it uses the EU's rules of origin, rules that are unlike those of the U.S. This creates a conflict that forces Mediterranean countries to often choose between opposing sets of rules of origin.]

\* \* \*

**Article Seven: Restricting Customs fees and Fees and Taxes Associated With Customs and their Calculation**

1- The term customs fees is meant to encompass customs fees as indicated in the tariff list in accordance to the applicable fee percentages in the Member States as of 12/31/1997 as well other fees and taxes associated with customs applicable on the afore mentioned date that are imposed by any of the Member States on imported commodities to which the Member State's commodities are not subject to.

2- No new customs fees, or fees and taxes associated with customs, may be imposed on any commodities traded between Member States after the entrance into force of this treaty.

\* \* \*

5- The Member States shall at the time of signing this agreement, exchange their records dealing with setting the "customs fees and other fees and taxes associated with customs" on the date mentioned in paragraph (1), in agreement with the tariff schedule referred to in paragraph (4) of this Article.

[**Author's Comments:** This provision appears to be a form of the "Trust, but verify rule."]

**Article Eight: Non-Customs Restrictions**<sup>80</sup>

The Member States shall persist on the immediate elimination of all non-customs fees restrictions, including regulations and measures, which the members Member States use for the control of imports, including restrictions on amounts, cash, administrative restrictions, pending restrictions. It is also not allowable to place any new non-customs fees restrictions, in accordance with the special rulings of the World Trade Organization and the Tisir Agreement,<sup>81</sup> and the nurturing of commercial exchanges between Arabic States, and the arrangements for a . . .

**Article Nine: Customs Rates**<sup>82</sup>

The Member States in setting the customs rates for imported commercial goods adopt the provisions on customs valuations found in the World Trade Organization's Agreement.

**Article Ten: National Treatment**<sup>83</sup>

Commercial goods produced and emanating from other Member States shall receive national treatment.

**Article Eighteen: Payment Imbalance**<sup>84</sup>

If any Member State faces perils or problems in balancing payments or is threatened by such perils, the State may take the appropriate steps, in accordance with the regulations of World Trade Organization, and shall inform the Ministerial Commission of the actions taken and set the time-table for their cancellation.

**Article Twenty: Protecting Public Order**<sup>85</sup>

All of the goods traded between the Member States must comply with the security and health laws, as well as laws for protecting morals and public order, or national, historical, archeological, and artistic heritage, or for the protection

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<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

of the environment, of the Member States but it is not allowable to use these measures as non-customs obstacles for commercial trade between the Member States.

**[Author's Comment:** This is a very significant provision, for it answers the questions: "If I enter this agreement with you, do I have to sacrifice any tradition? Will my livelihood be imperiled in anyway? Would you make demands that would force me to put my environment at risk; like for example: would I have to cut trees to make a certain quota? Or dig extra oil or gas wells?" On the other hand, a balance must be found; one can imagine a nation claiming it cannot perform, or adhere to a certain provision because doing so would be morally corrupting; for example, being required to import clothing that's too provocative, or perhaps importing alcoholic beverages, or the ingredients necessary to manufacture them. Here, we may think of the Opium Wars referred to in the first chapter.]

**Article Twenty-One: Health and Agricultural protective Measures<sup>86</sup>**

The Member States may take necessary health and agricultural protective measures to protect the health and life of people and animals or to maintain any plants/agriculture, under the condition that these measures do not contradict or violate the requirements of this agreement. And the products traded between the Member States should comply with the applicable agricultural and veterinary quarantine rules of the members on imports, but such rules and measures shall not be used as non-customs obstacles to the commercial trade between the Member States, and should not violate the Agreements on Technical Impediments and Agricultural Health included in the World Trade Organization or agreements with other Member States to this agreement.

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<sup>86</sup> *Id.*

**[Author's Comments:** Note that this provision, similar to the just before, shows humanitarian concerns, in that it provides for “protective measures to protect the health and life of people and animals. Such provisions certainly make entering such international agreements more palatable, and perhaps enhance the probability that such agreement will be successful.]

### **Article Twenty-Two: Intellectual Property<sup>87</sup>**

The Member States are committed to protecting intellectual property rights including copyrights, patents, and trade-marks, origination marks, and also in protecting art and literary works as well as computer programs, and implementing these protections without ignoring the Member States' responsibilities under the agreements emanating from the World Trade Organization and the effective laws and regulations of the Member States to this Agreement.

\* \* \*

Though the Agadir Agreement is most current and comprehensive in terms of cultural sensitivity,<sup>88</sup> not more than two weeks after its adoption, conflicts that were legal and political in nature arose. For example, some of its provisions were thought to conflict with those of the U.S.-Morocco FTA. Pursuant to the U.S.-Morocco FTA, Morocco had agreed not to lower tariffs on particular listed agricultural imports from third parties that are not net exporters of those products. If Morocco agrees to abide by its earlier commitment to the U.S., doing so will without doubt affect Arab countries

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<sup>87</sup> *Id.*

<sup>88</sup> One element protest against the WTO voiced by protesters in Seattle, Washington, was that the WTO abused environmental rights.

who were expecting to sell farm products, tariff-free, to Morocco under the Agadir deal.

In implementing the Agadir Agreement, the following takes place in embarking upon the development of economic and commercial cooperation between the Member States signed, and in support of equality, and hopes of creating wide range of benefits for each state and the advancement and development of its people. The general regulations consist of multiple articles that outline the main context of the agreement and the goals it wishes to embrace. The agreement requires EFTA countries to comply with the required rules of origin for the purpose of exported goods to the EU markets that are excluded from customs duties under which the Agadir Agreement outlines with the EU.

The agreement also hopes to use its comparative advantages within the participating States sector economic policies in relations to industry, agriculture, financial taxation, services, and most importantly foreign trade. The agreement also calls for full liberalization of trade in industry and agriculture goods as of its date of entry into force. The members are also committed to eliminating all non-tariff barriers and quantitative quotas that restrict financial and administrative technical barriers that may be imposed on the imports received from foreign trade.

To further develop the capacity of the Agadir Agreement a Technical Unit was established in Amman, Jordan to help supervise and implement the rules and regulations of the agreement and to offer any technical support for the four current partner countries, and potential future signatories. The next set of agreements on our radar comes under the heading of *Bilateral Agreements*. Unlike the Agadir, and other

agreements, which we have studied, all of which have four, five or more signatories, Bilateral Agreements are characterized by having two partner nations sit down at a table, decide what their respective needs are, and embodied them in tangible form. Chapter V discusses these agreements that are currently extant between Jordan and a number of other nations.

\* \* \*

### **III. Conclusion**

This chapter has presented an overview of Jordan's trade policy and free-trade agreements with its neighboring countries. We have seen that the political and legal background is provided, in part, by the League of Arab States that came into existence in 1945, and whose primary objective is to enhance the "relations between Member States and co-ordinate collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries. The League utilizes several political vehicles to accomplish its goals; for example, ALECSO, or the "Arab League Educational, Cultural and Scientific Organization;" CAEU, also the "Council of Arab Economic Unity." Through these organizations, and others, the League "facilitates political, economic, cultural, scientific and social programs designed to promote the interests of the Arab World." Most significantly, the Arab League has been instrumental in fostering the resolution of inter-Arab disputes, and provides a forum for the design and propagation of economic principles that are relevant to the Arab world; one such example is the Council of Arab Economic Unity (CAEU).

A number of other regional agreements were presented and discussed, among them the DOHA Development Agenda (DDA), the agreement, which in a sense, made the WTO relevant, as an arbiter of free-trade. Under the DDA development, issues and the interests of poorer members, were placed at the very core of [WTO] work. Arguably for this reason, nations like China, Chinese Taipei, and Lithuania came into WTO, followed by several other nations, including Jordan. A couple of other important international agreements to which Jordan is a party, include the GAFTA, which provides for full trade liberalization of goods by fully exempting from customs, duties, and charges those goods traded among members of GAFTA. Another agreement provides for Qualifying Industrial Zones (QIZs), which allow Jordan and Egypt to take advantage of trade agreements between Israel and the U.S. Another important regional agreement is the Agadir Agreement to which Morocco, Egypt, Tunisia and Jordan have signed on. This agreement's purpose is to create a common Arab Market that will include free access and joint cooperation in establishing the Greater Arab Free Trade Area (GAFTA), thereby encouraging new trade. Jordan, has in fact, participated in creating numerous reforms, policies, agreements, and rules and regulations to implement this growing change into reinforcing and liberating its market oriented economy into an active role in both its public sector and its private sectors. The following chapter presents a discussion of another type of international agreement: the Bilateral Agreement.

\* \* \*

# Chapter V

## Bilateral Agreements

### Between

### Jordan and Other Nations

Trust is the glue of life. It's the most essential ingredient in effective communication. It's the foundational principle that holds all relationships.

— Stephen R. Covey

#### I. Introduction

Within the context of International Law, Bilateral Agreements, literally meaning “two-sided,” are agreements forged between only two nations. Since there are only two parties to Bilateral Agreements, these types of agreements are the easiest to assemble and ratify. Further, because there are only two parties to please, these agreements are more easily tailored to the requirements of each partner; thus, is the likelihood for fewer disagreements, which could lead to litigation, or alternatively, arbitration. As one would expect, therefore, if countries X, Y, and Z are located in the same region, and even share some part of each other’s borders, as does Jordan with Syria and Iraq, each nation may find that its needs, with respect to one of the other nations, differ from those needs with respect to the other; thus, X’s agreement with Y could be substantially different from X’s agreement with Z. And if X enters into an agreement with a State, say “A,” but “A” is 10,000 miles away, the substance of the Bilateral

Agreement between X and A could have very little correlation between the agreements with X's local neighbors, Y and Z. In short, the Bilateral Agreement can be powerful and highly useful because of its specificity, and because it is far easier for two parties to have a meeting of the minds, both in terms of forging the agreement, and enforcing its provisions where necessary. The following sections discuss a number<sup>1</sup> of Bilateral Agreements that currently exist between Jordan and other nations; some of which are neighbors of the Kingdom and others that are located on different continents. In terms of forging Bilateral Agreements, the Kingdom has truly become an international player on the field of free-trade.

## **II. The Kingdom's Bilateral Agreements**

The following table illustrates Jordan's Bilateral Agreements with other nations. This shows Jordan's constant fight for trade liberalization and formulation of policy to enable the expansion of its market access in hopes of promoting trade, investment, and economic relationships with other governments, and as well, to build its economic standing and develop a harmonizing relationship as a key figure in the region. Below the table, we shall set out a number of these agreements that Jordan has entered with other nations, which include the United States, Canada, Singapore, the European Union, and Turkey. The Bilateral Agreements we shall consider in the following sections are called "Free-Trade Agreements" (FTAs).<sup>2</sup> Not only do FTAs eliminate or reduce import tariffs, but may have provisions for providing preferential treatment or

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<sup>1</sup> Jordan has signed bilateral economic-cooperation agreements with 45 countries; these are non-preferential agreements aimed at discussing further ways to enhance economic and trade relations.

<sup>2</sup> FTAs can exist between two countries, or among three or more.

access to special sectors of a nation’s economy or business sectors; they may modify investment rules, they may provide for financial assistance; they may contain provisions for environmental protections; they may provide for dispute settlement methods; and may also set regulations pertaining to intellectual property. In fact, FTAs may be viewed as a type of contract wherein the parties can set and agree to any provisions, so long as those provisions are legal in the eyes of the International Law.

<b>Jordan’s Bilateral Agreements with Arab Countries</b>	<b>Jordan’s Bilateral Agreements with Non-Arab Countries</b>		
Algeria	Argentina	Greece	Norway
Po	Brazil	Hungary	Poland
Djibouti	Congo	Iran	Singapore
Egypt	Ecuador	Liechtenstein	Kazakhstan
Iraq	Germany	North Korea	Uruguay
Kuwait	Honduras	Philippines	EU
Lebanon	Indonesia	Russian Federation	Belarus
Libya	Korea	Switzerland	China
Morocco	Mexico	Ukraine	Czech
Oman	Paraguay	Vietnam	France
Palestine	Romania	Bosnia &	Holland

		Herzegovina	
Qatar	Spain	Austria	India
Saudi Arabia	UK	Canada	Italy
Somalia	Uzbekistan	Cyprus	Malaysia
Sudan	Azerbaijan	Finland	Pakistan
Syria	Australia	Georgia	Portugal
Tunis	Bulgaria	Iceland	Sire Lanka Tanzania
UAE	Croatia	Israel	Turkey
Yemen	Ethiopia	Lithuania	USA

Source: Ministry of Trade & Industry

#### **A. Jordan-U.S. FTA**

The first FTA we shall consider here is that to which Jordan and the U.S have agreed. First, however, we shall present the historical context within which current diplomatic and trade relations with Jordan have evolved. The U.S. and Jordan's relations were established in 1949. Jordan's value to the U.S. is both because of its strategic location and its political leanings; for instance, as the U.S. State Department notes:

The United States appreciates the special leadership role that Jordan plays in advancing peace and moderation in the region. The United States and Jordan share the mutual goals of a comprehensive, just, and lasting peace in the Middle East and an end to violent extremism that threatens the security of Jordan, the region, and the entire globe. The peace process and Jordan's opposition to terrorism parallel and indirectly assist wider U.S. interests. U.S.

policy seeks to reinforce Jordan's commitment to peace, stability, and moderation. Through economic and military assistance and through close political cooperation, the United States has helped Jordan maintain its stability and prosperity. The United States encourages Jordanian efforts to implement reforms that will secure a better future for the Jordanian people.<sup>3</sup>

As the U.S. has perhaps realized Jordan's value as a moderate and politically stable Arab state, able to help mediate differences in a region of sometimes extraordinarily diverse ideologies, the "economic and military assistance" alluded to in the U.S. State Department's statement above has been crucial to Jordan's development of various infrastructure components, such as roads and telecommunications, and hundreds of schools, and other institutions.<sup>4</sup> In short, neither the U.S., nor Jordan should underestimate the value of one to the other, as the U.S. pursues its purported goal of helping maintain peace in the area—so as to protect its interests there, and Jordan having an even greater interest in maintaining a regional peace, and a sustained economic prosperity which is clearly in the best interest of its citizens.

Towards pursuing the objectives thus mentioned, the U.S. and Jordan have entered into several important trade and business agreements. For example, in 2008, the U.S. and Jordan expressly agreed that the U.S. would provide assistance to Jordan for a five-year period, so long as funds are available. Recall from Chapter IV, *supra*, that

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<sup>3</sup> U.S. Department of State: Diplomacy in Action. U.S. Relations With Jordan. U.S. Relations With Jordan. Fact Sheet. June 29, 2012.< <http://www.state.gov/r/pa/ei/bgn/3464.htm>>. Web. (Last assessed 5/8/13).

<sup>4</sup> Current focus areas include education, access to water, resource management and conservation, energy, youth and poverty alleviation programs, maternal/child health, energy, governance, macroeconomic policy, workforce development, and competitiveness. A strong U.S. military assistance program is designed to meet Jordan's legitimate defense needs, including preservation of border integrity and regional stability through the provision of materiel and training.

Qualified Industrial Zones, or “QIZs,” are zones of free-trade, and are established with the help of the U.S and Israel, and these zones ensure that Jordan (and Egypt) may take advantage of the free-trade agreements that are established between the U.S. and Israel. Under the QIZ agreements, goods produced in QIZ designated areas can enter U.S. markets from Jordan (and Egypt) without tariff or quota restrictions. Another key agreement is the U.S. Jordan Free-Trade Agreement (FTA) that the U.S. and Jordan adopted in 2009, and came into full force on January 1, 2010. Portions of the U.S.—Jordan FTA appear immediately below:

**AGREEMENT BETWEEN THE UNITED STATES OF AMERICA  
AND THE HASHEMITE KINGDOM OF JORDAN  
ON THE ESTABLISHMENT OF A FREE TRADE AREA**

**PREAMBLE**

The Government of the United States of America (“United States”) and the Government of the Hashemite Kingdom of Jordan (“Jordan”),

*Desiring* to strengthen the bonds of friendship and economic relations and cooperation between them; *Wishing* to establish clear and mutually advantageous rules governing their trade; *Aspiring* to promote their mutual interest through liberalization and expansion of trade between their countries; *Reaffirming* their willingness to strengthen and reinforce the multilateral trading system as reflected in the World Trade Organization, and to contribute to regional and international cooperation; *Recognizing* that Jordan's economy is still in a state of development and faces special challenges; *Recognizing* the objective of sustainable development, and seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development; *Recognizing* that their relations in the field of trade

and economic activity should be conducted with a view to raising living standards and promoting economic growth, investment opportunities, development, prosperity, employment and the optimal use of resources in their territories;

*Desiring* to foster creativity and innovation and promote trade in goods and services that are the subject of intellectual property rights; *Recognizing* the need to raise public awareness of the challenges and opportunities offered by trade liberalization; *Wishing* to raise the capacity and international competitiveness of their goods and services; *Desiring* to promote higher labor standards by building on their respective international commitments and strengthening their cooperation on labor matters; and *Wishing* to promote effective enforcement of their respective environmental and labor law;

**HAVE AGREED AS FOLLOWS:**

**ARTICLE 1: ESTABLISHMENT OF A FREE TRADE AREA AND RELATIONSHIP TO OTHER AGREEMENTS:**

1. The Parties to this Agreement, consistent with Article XXIV of *the General Agreement on Tariffs and Trade 1994* ("GATT 1994") and Article V of the *General Agreement on Trade in Services* ("GATS"), hereby establish a free-trade area in accordance with the provisions of this Agreement.

\* \* \*

3. The Parties reaffirm their respective rights and obligations with respect to each other under existing bilateral and multilateral agreements to which both Parties are party, including the *Marrakesh Agreement Establishing the World Trade Organization* ("WTO Agreement"). . . .

\* \* \*

4. Nothing in Article 17 shall be construed to authorize a Party to apply a measure that is inconsistent with the Party's obligations under the WTO Agreement.

## **Article 2: Trade in Goods**

1. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods of the other Party in accordance with Annex 2.1 and its schedule<sup>1</sup> to Annex 2.1.

3. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes. To this end, Article III of GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, subject to Annex 2.3.

4. A Party may not introduce a new customs duty on imports or a new quantitative restriction on imports in the trade between the Parties, other than as permitted by this Agreement, subject to Annex 2.3.

## **Article 5: Environment**

1. The Parties recognize that it is inappropriate to encourage trade by relaxing domestic environmental laws. Accordingly, each Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws as an encouragement for trade with the other Party.

2. Recognizing the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws, each Party shall strive to ensure that its laws provide for high levels of environmental protection and shall strive to continue to improve those laws.

3. (a) A Party shall not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties, after the date of entry into force of this Agreement.

(b) The Parties recognize that each Party retains the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of

resources to enforcement with respect to other environmental matters determined to have higher priorities. Accordingly, the Parties understand that a Party is in compliance with subparagraph (a) where a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources.

4. For purposes of this Article, "environmental laws" mean any statutes or regulations of a Party, or provision thereof, the primary purpose of which is the protection of the environment, or the prevention of a danger to human, animal, or plant life or health, through:

(a) the prevention, abatement or control of the release, discharge, or emission of pollutants or environmental contaminants

(b) the control of environmentally hazardous or toxic chemicals, substances, materials and wastes, and the dissemination of information related thereto or

(c) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas in the Party's territory,

\* \* \*

#### **Article 7: Electronic Commerce**

1. Recognizing the economic growth and opportunity provided by electronic commerce and the importance of avoiding barriers to its use and development, each Party shall seek to refrain from:

(a) deviating from its existing practice of not imposing customs duties on electronic transmissions

(b) imposing unnecessary barriers on electronic transmissions, including digitized products. . . .

## **Article 8: Visa Commitments**

1. Subject to its laws relating to the entry, sojourn and employment of aliens, each Party shall permit to enter and to remain in its territory nationals of the other Party solely to carry on substantial trade, including trade in services or trade in technology, principally between the Parties.

2. Subject to its laws relating to the entry, sojourn and employment of aliens, each Party shall permit to enter and to remain in its territory nationals of the other Party for the purpose of establishing, developing, administering or advising on the operation of an investment to which they, or a company of the other Party that employs them, have committed or are in the process of committing a substantial amount of capital or other resources. 12

\* \* \*

## **Article 13: Economic Cooperation and Technical Assistance**

\* \* \*

(a) the Parties declare their readiness to foster economic cooperation and

(b) in view of Jordan's developing status, and the size of its economy and resources, the United States shall strive to furnish Jordan with economic technical assistance, as appropriate.

## **Article 15: Joint Committee**

1. A Joint Committee is hereby established to supervise the proper implementation of this Agreement and to review the trade relationship between the Parties.

2. The functions of the Joint Committee shall include, inter alia:

(a) reviewing the general functioning of this Agreement

\* \* \*

### 3. Structure of the Joint Committee

(a) The Joint Committee shall be composed of representatives of the Parties and shall be headed by (i) the United States Trade Representative and (ii) Jordan's Minister primarily responsible for international trade, or their designees. . . .

#### **Article 16: Consultations**

1. The Parties shall at all times endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

2. Either Party may request consultations with the other Party with respect to any matter affecting the operation or interpretation of this Agreement.

...

#### **Article 17: Dispute Settlement**

1. (a) The Parties shall make every attempt to arrive at a mutually agreeable resolution through consultations under Article 16, whenever

(i) a dispute arises concerning the interpretation of this Agreement

(ii) a Party considers that the other Party has failed to carry out its obligations under this Agreement or

(iii) a Party considers that measures taken by the other Party severely distort the balance of trade benefits accorded by this Agreement, or substantially undermine fundamental objectives of this Agreement.<sup>5</sup>

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<sup>5</sup> <http://www.insaps.org/FTA/Readings/Treaties&Agreements/JordanFTA.pdf>

The Jordan-U.S. FTA, which came into force on 17, December 2001, will eliminate duties and commercial barriers to bilateral trade in goods and services originating in the U.S. and Jordan. Under the pact, effective U.S. tariffs on imports from Jordan will come down almost immediately, while Jordanian tariffs will be phased out over a 10-year period. The FTA agreement provides for the staging of tariff cuts, with the U.S. products not initially covered by the agreement being cigarettes, such alcohol and automobiles. Annex 2.1 to the agreement defines five general staging Categories, A to E. For products covered by the categories A to D, the progressive reduction of tariffs is to be implemented in four stages. Typically, the higher the base rate of the tariff, the longer the FTA allows for its elimination. Tariffs of less than 5 percent will be phased out two years from the day the agreement becomes effective; in addition, those between five and ten percent will be eliminated in four years; those between ten and twenty percent will be out in five years, and for those of more than twenty percent, ten years.

For goods within the fifth group, Category E, tariffs will be eliminated per each country's respective commitments under the WTO. Of these, one area of special interest to Jordan is pharmaceuticals, which now comprise about ten percent of Jordan's merchandise exports. In general, duties on Category E products have already been eradicated by 1 January 2005. What this means is that the FTA agreement is somewhat irrelevant to Jordanian exporters of products that fall under category E, since such products already have duty-free access to the U.S. markets, and on less harsh terms. In addition to the general staging categories set out in Annex 2.1 to the agreement, the pact also includes special staging categories: some with accelerated

tariff reduction schedule and some with a delayed tariff reduction schedule. These are sorted under eight groups, Categories F to M. Examples of products subject to a delayed tariff reduction are beer, wine, and certain spirits; certain textile products, poultry, apples and automobiles.

In contrast, the list of goods identified for accelerated tariff reduction by the FTA includes agricultural products, quota-class goods and GSP exports from Jordan. Under the FTA, effective U.S. tariffs on in quota imports of agricultural products from Jordan will be eliminated immediately. Likewise, Jordanian exports under the Generalized System of Preferences (GSP) will be absorbed into the FTA and made duty-free from the day the agreement goes into effect. The pact also includes safeguards to determine whether the FTA has caused serious injury to local producers as a result of a dramatic rise in competing imports. The safeguards allow industries, which can prove they are being harmed by the trade agreement with the U.S., to invoke protection for a period of not more than four years, or the ten-year transitional period.

To receive duty free treatment under the FTA, three conditions must be met. First the article must be a product originating in Jordan or, if any third country materials are used, those materials must be substantially transformed into a Jordanian origin product through a manufacturing or processing operation. The objective of this rule is to prevent third countries from simply passing their goods through Jordan to capitalize on the duty free provision upon entry to the U.S. Second, it must be imported directly into the U.S. This is to ensure that qualifying goods that originate in Jordan are not mixed with non-qualifying items while enroute to the U.S. Third, eligible products must satisfy a value-added content requirement. This stipulates that the sum

of (1) the cost or value of the materials produced in Jordan, plus the direct costs of processing operations performed in the beneficiary country, must represent at least 35 percent of the appraised value of the article upon entry to the U.S.

The FTA, however, provides for the accumulation of inputs between Jordan and the U.S., whereby the cost or value of materials used in the production of an article by one party, and which are precuts of the other, may be counted towards the 35 percent minimum content requirement. The maximum contribution of one country to the production of an article at the other may not exceed 15 percent of the appraised value of the good. The appraised value of a product is the price actually paid by the U.S. buyer to the Jordanian seller (QIZ) for the merchandise, plus other expenses incurred by the buyer when not included in the original price. By allowing for U.S. inputs to contribute cumulatively to the required Jordanian added value needed under the FTA, American or Jordanian producers are encouraged to source from each other, rather than from a third party, thereby intensifying bilateral trade between the two countries. It is hoped that this will also make it easier for investors to do business under the FTA.

Though there is no doubt that the Jordan-U.S. FTA agreement will eventually make the QIZ program irrelevant, there will still be room for the latter at least over the next five to ten years. This is because of the long, ten-year phase out of U.S. duties on Jordanian textile and apparel products. Under the Jordan-U.S. FTA agreement, U.S. tariffs on Jordanian exports of textile and apparel will be reduced only gradually. In fact, four of Jordan's top five exports to the U.S. by value in 2003 will see no reduction

in duty at all for 10 years.<sup>6</sup> The next bilateral agreement to be discussed is the Jordan-Singapore agreement.

## **B. Jordan-Singapore FTA**

On the 16th of May 2004, Jordan and Singapore signed an agreement to establish a free-trade area between both countries. The main purpose of this agreement was to establish an economic relationship with the country and to promote a partnership that will benefit both parties in economic development, technology, industry, trade, manufacturing and investment, and to further promote a bilateral relationship between both countries related to goods and services as well as export and import opportunities, and establish a possible “accumulation of origin” with countries that have both concluded trade agreements with both Jordan and Singapore.

The agreement accordingly allows for Jordanian originating goods to enter the market of Singapore exempt from custom duties and charges from the day the agreement went into force. The same applies for goods of Singaporean origin that are imported to Jordan, but in contrast, they are only subjected to gradual reduction of customs duties to reach full exemption over transitional periods ranging from five to ten years since the adoption of the agreement. The agreement also calls for provisions against anti-dumping measures and safeguards that will allow for liberalization of any kind that will cause injury to domestic industries. The Jordan-Singapore FTA, at the time of its promulgation, was Jordan’s first FTA with an Asian Country, as well as Singapore’s first FTA with a Mediterranean country. Like all FTAs, the Jordan-Singapore

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<sup>6</sup> See Chart TOP TEN U.S domestic exports to and U.S. Imports from Jordan by HTS chapters, 2007-2011, appendix...

FTA purports to enhance and encourage economic engagement and participation between Jordan and Singapore, while hopefully fostering some exchange of cultural ideas, and providing a platform for political dialogue. A number of the more significant provisions follow:<sup>7</sup>

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## **ESTABLISHMENT OF A FREE TRADE AREA**

### **Article 1.1: Establishment of a Free Trade Area**

1. The Parties to this Agreement, consistent with Article XXIV of the WTO General

Agreement on Tariffs and Trade 1994 (hereafter, "GATT 1994") and Article V of the WTO General Agreement on Trade in Services (hereafter, "GATS"), hereby establish a free-trade area in accordance with the provisions of this Agreement.

2. The Parties reaffirm their existing rights and obligations with respect to each other under existing bilateral, regional and multilateral agreements to which both Parties are party, including the Marrakesh Agreement establishing the World Trade Organization (hereafter, "WTO Agreement").

3. This Agreement shall not be construed to derogate from any international legal obligation between the Parties that entitles a good or a service, or the supplier of a good or service, to treatment more favourable than that accorded by this Agreement.

### **Article 2.1: National Treatment**

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994. To this end, the provisions of Article III of the GATT 1994 are incorporated into and shall form part of this Agreement.

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<sup>7</sup> [http://www.fta.gov.sg/sjfta/fta\\_sjfta\\_chp1.pdf](http://www.fta.gov.sg/sjfta/fta_sjfta_chp1.pdf). Web. (Last assessed 5/5/13).

## **Article 2.2: Elimination of Duties**

1. Each Party shall eliminate its customs duties and charges having equivalent effect on originating goods of the other Party in accordance with Annex 2A.

2. Neither Party shall increase an existing customs duty and charges having equivalent effect or introduce any such new duties on imports of originating goods of the other Party.

3. Upon request by any Party, the Parties shall consult each other to consider the possibility of accelerating the elimination of customs duties and charges having equivalent effect as set out in Annex 2A. An agreement by the Parties to accelerate the elimination of customs duties and charges having equivalent effect on a good, when approved by each Party in accordance with its applicable legal procedures, shall supersede the terms established for the good in this Article and Annex 2A.

4. Nothing in this Chapter shall prevent a Party from imposing at any time on the

importation or exportation of any good of the other Party:

(a) a charge equivalent to an internal tax, such as excise duties and other taxes, levied at the time of importation or exportation, imposed consistently with Article 2.1; or

(b) fees or other charges such as charges levied for a specific service such as demurrage, warehousing, transport, loading and unloading charges that:

(i) are limited in amount to the approximate cost of services rendered;

and

(ii) do not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes.

## **Article 2.3: Customs Value**

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of the GATT 1994 and the WTO Agreement on Implementation of Article VII of the GATT 1994.

**Article 2.4: Transparency**

1. Each Party shall ensure that its laws, regulations and administrative rulings of general application respecting any matter covered by this Chapter are promptly published or otherwise made available in such a manner so as to enable interested persons and Parties to become acquainted with them.

2. Each Party shall, upon request by the other Party, promptly respond to specific questions from, and provide information to, the other Party with respect to matters referred to in Article 2.4.1.

**Article 2.5: Non-Tariff Measures**

1. Neither Party shall adopt or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party except in accordance with its WTO rights and obligations.

2. Each Party shall ensure the transparency of its non-tariff measures permitted under Article 2.5.1 and that they are not applied with a view to or with the effect of creating unnecessary obstacles to trade between the Parties.

**Article 2.6: Subsidies and Countervailing Measures**

The rights and obligations of the Parties in respect of subsidies shall be governed by Articles VI and XVI of the GATT 1994, the WTO Agreement on Subsidies and Countervailing Measures and the WTO Agreement on Agriculture.

**Article 2.7: Safeguard Measures**

*Imposition of Bilateral Safeguard Measures*

1. If as a result of the reduction or elimination of a customs duty<sup>1</sup> under this

Agreement, an originating good of a Party (“the first Party”) is being imported into the territory of the other Party (“the second Party”) in such increased quantities, in absolute terms, or relative to domestic production, and under such conditions that the imports of such good from the first Party alone constitute a substantial cause of serious injury to the domestic industry of the second Party producing a like or directly competitive good, the second Party may, in accordance with this Article:

- (a) suspend the further reduction of any rate of duty provided for under this Agreement for such good; or . . .

## **CHAPTER 7: DISPUTE SETTLEMENT**

### **Article 7.1: Scope and Coverage**

1. The provisions of this Chapter and Annex 7A shall apply with respect to the avoidance or settlement of disputes between the Parties concerning their rights and obligations under this Agreement.
2. The rules, procedures and timeframes set out in this Chapter and Annex 7A may be waived, varied or modified by the mutual written agreement of the Parties.
3. Where a dispute regarding any matter referred to in Articles 7.2.2(a) and (b) arises under both this Agreement and the WTO Agreement and any amendments thereto, the complaining Party may select the forum in which to settle the dispute.
4. Once dispute settlement procedures have been initiated by a complaining Party, the forum selected shall be used to the exclusion of the other.
5. For the purposes of Article 7.1.4, a Party shall be deemed to have selected a forum when it has requested the establishment of, or referred the matter to, a dispute settlement panel or arbitral tribunal.

### **Article 7.2: Consultations**

1. The Parties shall at all times endeavour to agree on the interpretation and

application of this Agreement, and shall make every attempt possible to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

2. A Party may make a request for consultations with the other Party whenever it considers:

(a) that a measure of the other Party is inconsistent with the provisions of this

Agreement; or

(b) that a benefit accruing to it under this Agreement, either directly or

### **Article 7.3: Reference of Disputes to the Joint Committee or the Arbitral Tribunal**

1. If the Parties fail to resolve a dispute within 30 days of the commencement of consultations under Article 7.2, either Party may refer the matter to the Joint Committee, which shall convene and endeavour to resolve the dispute as it deems appropriate.

2. If a matter referred to the Joint Committee has not been resolved within a period of 45 days after the dispute was referred to it, or within such other period as the Joint Committee has specified, the complaining Party may make a written request to the other Party to appoint an arbitral tribunal, which should include a statement of the claim and the grounds on which it is based.

3. Any matter relating to the arbitral tribunal, including its constitution and functioning is governed by Annex 7A.

The Jordan-Singapore FTA also calls for further liberalization into both parties service sectors within the WTO. Its aim is to attract joint investors in establishing services in research and development, natural sciences, social sciences, human sciences and advertising, along with setting up manufacturing, industry, and water treatment services in the Singaporean community. In return Singapore on the other

hand, to Jordan Singapore will offer extra liberalization in a number of service sectors from computer-related services to management consultancy, real estate services, such as renting and leasing, technical testing and analysis, and packaging services. The third FTA we shall examine is the Jordan-Canada FTA that became effective on 1 October, 2012.

### **C. Jordan-Canada FTA**

The Jordan-Canada FTA, signed on 28, June 2009,<sup>8</sup> is the second such agreement that Jordan has forged with a North American country; the other country being the United States, as previously discussed. According to one source, this FTA will “expand Canada-Jordan trade and help further strengthen and deepen our bilateral relationship. An FTA with Jordan also demonstrates the importance that Canada places on further developing relations with Jordan, especially given its role as a moderate Arab state that promotes peace and security in the Middle East.”<sup>9</sup> On the 28<sup>th</sup> of June 2009, Jordan signed with Canada an agreement that will later be put into full force on the 1<sup>st</sup> of October 2012. Along with a Bilateral Investment Treaty, a Labor Cooperation Agreement, and the Environment Cooperation Agreement, the FTA is the first trade agreement Canada has ever signed with an Arab country.<sup>10</sup>

The Jordan-Canada FTA permits Jordan numerous opportunities for enumerated goods to be diversified in non-traditional markets through the cumulation of origin with countries that have already signed joint trade agreements with both

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<sup>8</sup> The agreement took effect on 1 October, 2012.

<sup>9</sup> <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/jordan-jordanie/index.aspx> >

<sup>10</sup> Ministry of Industry and Trade 2012 Bulletin on official website

Jordan and Canada. With the signing of this agreement, Jordan can now expand its origin goods into various Canadian markets. As the case with most FTAs we have thus far discussed, the Jordan-Canada Agreement, which follows, covers a fairly predictable list of provisions.

## **Jordan-Canadian Free Trade Agreement**

### **Preamble**

Canada and the Hashemite Kingdom of Jordan (“Jordan”), hereinafter referred to as “the Parties”, resolved to:

- Strengthen the special bonds of friendship and cooperation among their peoples;
- Contribute to the harmonious development and expansion of world and regional trade and to provide a catalyst to broader international cooperation;
- Build on their respective rights and obligations under the *Marrakesh Agreement Establishing the World Trade Organization* and other multilateral and bilateral instruments of cooperation;
- Create an expanded and secure market for the goods produced in their territories, as well as promote new employment opportunities and improved working conditions and living standards in their respective territories;
- Reduce distortions to trade;
- Establish clear, transparent and mutually advantageous rules to govern their trade;
- Ensure a predictable commercial framework for business planning;
- Enhance the competitiveness of their firms in global markets;
- Undertake each of the preceding in a manner that is consistent with environmental protection and conservation;
- Enhance and enforce environmental laws and regulations, and strengthen cooperation on environmental matters;

- Protect, enhance and enforce basic workers' rights, and strengthen cooperation on labour matters and build on their respective international commitments on labour matters;
- Promote sustainable development;
- Encourage enterprises operating within their territory or subject to their jurisdiction, to respect internationally recognized corporate social responsibility standards and principles and pursue best practices; and
- Preserve their flexibility to safeguard the public welfare; while
- Recognizing that States must maintain the ability to preserve, develop and implement their cultural policies for the purpose of strengthening cultural diversity, given the essential role that cultural goods and services play in the identity and diversity of societies and the lives of individuals;
- Affirming their commitment to respect the values and principles of democracy and promotion and protection of human rights and fundamental freedoms as proclaimed in the *Universal Declaration of Human Rights*; and
- Recognizing the difference in the level of economic development existing between the Parties and the benefit of promoting economic development;
- Have agreed as follows:

## **Section I - National Treatment**

### **Article 2 - 1: Scope of Application**

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994 and to this end Article III of the GATT 1994 is incorporated into and made part of this Agreement.

2. Paragraph 1 does not apply to the measures set out in Annex 2 - 2. Each Party shall make available to the other Party any amendments to these measures.

## Section II - Tariffs

### Article 2 - 3: Tariff Elimination

1. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty, or adopt any customs duty, on an originating good.
2. Each Party shall eliminate its customs duties on originating goods in accordance with Annex 2 - 3, except as otherwise provided in this Agreement.
3. On the request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules to Annex 2 - 3 or incorporating into a Schedule goods that are not subject to tariff elimination. An agreement between the Parties to accelerate the elimination of a customs duty on a good or to include a good in a Schedule shall supersede any duty rate or staging category determined pursuant to their Schedules for that good when approved by each Party in accordance with its applicable legal procedures.
4. For greater certainty, a Party may:
  - (a) consistent with the WTO Agreement, modify its tariffs outside this Agreement on goods for which no tariff preference is claimed under this Agreement;
  - (b) raise a customs duty to the level established in its Schedule to Annex 2 - 3 following a unilateral reduction; or
  - (c) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO in a dispute between the Parties under the WTO Agreement.
5. For purposes of this Article: **duty-free** means free of customs duties.

### Article 2 - 4: Goods Re-Entered after Repair or Alteration

1. Neither Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been exported from its territory to the territory of the other Party for repair or alteration, regardless of whether

such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration.

2. Neither Party may apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

3. For the purposes of this Article, repair or alteration includes the repair or alteration of parts or pieces of a good, but does not include an operation or process that either:

(a) destroys the essential characteristics of a good or creates a new or commercially different good; or

(b) transforms an unfinished good into a finished good.

4. Paragraph 1 does not cover goods imported in bond, into foreign trade zones, or in similar status that are exported for repair and are not re-imported in bond, into foreign trade zones, or in similar status.

### **III - Non - Tariff Measures**

#### **Article 2 - 5: Import and Export Restrictions**

1. Except as otherwise provided in this Agreement, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994, and to this end Article XI of the GATT 1994 is incorporated into and made a part of this Agreement.

2. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, that Party may:

(a) limit or prohibit the importation from the territory of the other Party of such good of that non-Party; or

(b) require as a condition of export of such good of the Party to the territory of the other Party, that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

3. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party as contemplated by paragraph 2 of Article 2 - 6, on the request of the other Party, the Parties shall consult with a view to avoiding undue interference with or distortion of pricing, marketing, or distribution arrangements in the other Party.

4. Paragraphs 1 through 3 do not apply to the measures set out in Annex 2 - 2. Each Party shall make available to the other Party any amendments to the measures set out in its Annex 2 - 2.

The Jordanian-Canadian agreement also outlines and ensures that Jordanian goods can access the Canadian market free from custom tariffs from the effective date of the FTA, while Canadian goods in return can access Jordanian markets with a gradual decrease in customs tariffs over a span of three to five years. Nevertheless, limited commodities from both parties will be subjected to exclusion from custom tariff elimination.

This agreement includes provisions that will ensure fair competition with both parties, and safeguarding along with national laws and regulations in accordance to any monopolistic action that will be taking place. The agreement's rules of origin adopt the same guidelines of harmonized system (HS) for the purpose of origin. The rules are simpler than those adopted in Jordan's other FTAs that consider the comparative advantages of both parties and the competitive capabilities of both domestic industries. Both parties have also reconfirmed their obligations in the agreement by which each would respect the anti-dumping, subsidies, and sanitary provisional

measures as well as intellectual property rights and government procurement given from the WTO. The next FTA to discuss is the one between Jordan and Turkey.

#### **D. Jordan-Turkey FTA**

On the 12<sup>th</sup> of January 2009, Jordan signed with Turkey a free-trade zone agreement which requires that both parties develop bilateral trade relations and establish a free-trade zone in the scope of tariff dismantling, quotas, standards, sanitary provisional measures of anti-dumping and rules of origin along with intellectual property protection, economic and technical cooperation, and dispute settlement of both agricultural and industrial goods. The agreement went into force on the 3<sup>rd</sup> of January 2011 when Turkey finished the procedures needed to ratify the agreement. The FTA includes specific measures required for specific aspects of trade. Accordingly, it provides that effective from the day the ETA went into force, any goods of Jordanian origin that enter the Turkish market will be exempt from custom duties; the exception being the few items listed in Annex A II of the FTA. In contrast, Turkey will be able to export goods of Turkish origin into the Jordanian market, while enjoying the elimination of tariffs and custom charges over a transitional period of eight years.

The FTA also adopts three lists, in which each group of goods<sup>11</sup> is distributed into three equal dismantling processes for each list that has been identified. A

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<sup>11</sup> Goods that shall apply to this Agreement must fulfill the rules of origin adopted in the agreement, which was based on both parties' regional obligations. Hence, the Agreement has adopted Pan-Euro-Med Cumulation of Origin for the purposes of bilateral trade as well as for exporting to the European Union, since the Pan-Euro-Med Cumulation of Origin allows multilateral signatories to the Association Agreements with the European Union to cumulate to export to the European market, which provides

provision also adopted by the agreement is that any sensitive good being imported into the Jordanian market of Turkish origin will be subject to a dismantling process. The agreement consists of a limited number of commodities, including agricultural, industrial, and food products that are subject to the quota system of partial reduction of tariffs; these items have been identified in Protocol (1) of the agreement. The agreement has the adopted Pan-Euro-Med Cumulation of Origin for the purposes of bilateral trade, as well as for exporting to the EU. The Pan Euro Med Cumulation also allows for multilateral signatories, which in return give additional advantages for the Jordanian industries to benefit with this agreement with Turkey. Jordan's summary of signed international and regional trade agreements that have merged its economy with the world economy, is depicted in the chart immediately below. Following the chart is the section on recent policy reforms.

#### **Group trade agreements signed by Jordan**

The agreement	Signing Date	Remarks
Greater Arab Free Trade Agreement (GAFTA)	19 February 1997 (Became effective as of 1 January 1998)	Free Trade with Arab countries during a transitional period of ten years, to be completed on 1 October 2007
Qualifying Industrial Zones (QIZs)	16 November 1997 (Became effective as of date)	Free trade with the U.S. within qualifying industrial zones
Euro-Jordanian Partnership (EU-JOR)	24 November 1997 (Became effective as of 01 May 2002)	Free trade with the European Union within a transitional period of 12 years, to be completed on

additional advantage for the Jordanian industries to benefit from the Association Agreement with Turkey.

		01 January 2014
World Trade Organization (WTO)	17 December 1999 (Became effective as of April 2000)	Allowing custom duties of a maximum of 20 percent during a transitional period of ten years
Free Trade Agreement with the United States (FTA)	26 October 2000 (became effective beginning of 2002)	Free trade with the United States during a transitional period of ten years, to be completed on 01 January 2010
Aqaba Special Economic Zone Authority (ASEZA)	May 2001	Customs and tax privileges since its establishment
Free Trade Agreements with EFTA countries (European) which includes Iceland, Switzerland, Norway, and Liechtenstein	21 June 2001 (Became effective as of 01 January 2002)	Free Trade agreement for 12 years

### III. Recent Trade Policy Reforms

#### A. The Aqaba Special Economic Zone Authority (ASEZA)

Aqaba is a beach resort town in north eastern Jordan. Its location on the Red Sea, its warm beaches and beautiful coral reefs, make it is an idea target destination for vacationers seeking rest and relaxation, scuba diving and other water sports. Not only are Jordanians attracted to Aqaba, but thousands of international visitors as well. These are among the many reasons that the Jordanian launched the Aqaba Special Economic Zone in 2001 to ensure that Aqaba's commercial and cultural prominence continues into the twenty – first century. In charge of this project is the Aqaba Special Economic Zone Authority (ASEZA).<sup>12</sup>

The ASEZA was established to balance competing interest of regional

<sup>12</sup> <http://www.aqabazone.com/?q=node/233>

development, human development along with economic growth and national interest. The ASEZA can not only serve as an engine of growth for the rest of the Kingdom, but will also help make Jordan a valuable location in which to invest. The ASEZA is without a doubt undergoing immense pressure from the government to realize its mandate. Not only is the government expecting the ASEZA to be the source of growth for the nation, but the King himself is also investing and keeping a close on the project.<sup>13</sup>

The ASEZA has already attracted many international investors into purchasing property in Aqaba along with creating enterprises, businesses, education and a distribution of manufacturing and infrastructure development in hopes that Aqaba will be the significant growth asset needed for the Kingdom to flourish. With tourists flooding into the region every day, and commercial advertising, along with the proper legal framework for private sector participation, there is little chance that the ASEZA project could fail as it pursues development in infrastructure projects, real estate, and various other projects.<sup>14</sup>

In order to make sure that the ASEZA will not ultimately fail, the GOJ has set up and established the Aqaba Development Corporation (ADC) in which it is responsible for making sure the ASEZA will follow through with its mandate for development. The ADC will also be responsible for any implementation of law and guidelines that need to be taken to maximize opportunities for private sector participation in the Zone.<sup>15</sup> The ADC is also in charge of integrating the ASEZA's development in a holistic manner that

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<sup>13</sup> Alaiwah, Saber *"The Legal Framework for Red Sea development"* Sep 2012

<sup>14</sup> Hoffmann, David *"Aqaba, Jordan City Travel"* Feb 2013

<sup>15</sup> As cited in a power point presentation entitled *"Desalination Options in Aqaba Special Economic Zone Aqaba: Demands, Challenges & Technology Solutions"*, ASEZA Mövenpick Dead Sea 8-19 August, 2004

will lead to a fully operational port, the ASEZA Board of Commissioners would be in place of any rules or regulations that were to be taken affect.

Looking ahead, it is essential that the ASEZA is clearly an important port for the Aqaba region and anything needed to order to accomplish and help this port grow must be taken into account through the ASEZA. Aqaba is beginning to become a hot topic of conversation when it comes to being an essential port for military use transfer. Ever since the U.S. and Iraq went to war, Aqaba has been a key sea port in transferring military equipment, as well as an essential supply line.

Chief Commissioner of the ASEZA, Imad Fakhoury, who, almost immediately after taking office began to restructure and privatize the management of the port, described the step as “strategically very important to Jordan, its economy and its in-transit trade.” In order to boost enterprise confidence throughout the port and speed up infrastructure, the winning company will be required to ultimately computerize all operations of the container port in translation. This will help speed up the work load into a process and measure that will be carefully evaluated.<sup>16</sup> Although this seems as a good idea, it has been postponed rapidly and it’s partly because the port’s operations seem not to be going as smoothly as planned. In March of 2003, the ADC chose APTM Terminals of Denmark, the world’s third largest terminal operator, to operate and develop the Aqaba container port over the next few years.<sup>17</sup>

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<sup>16</sup> Hoffmann, David *“Aqaba, Jordan City Travel” Feb 2013*

<sup>17</sup> Ministry of Industry and Trade 2003 Bulletin on official government website

## **B. Memorandum of Understanding (MOU)**

Along with the ADC and APM Terminals, Jordan and Denmark have both agreed upon and signed a Memorandum of Understanding (MOU) that will lead to a Strategic Partnership following the two-year management contract that will help bring the Aqaba port up to international standards and will begin to operate and manage the port for the next twenty-five years; in return, however, the APM must fulfill the conditions of this agreement and target the agreed upon measures that will be needed for the performance as expressed by the agreement between both parties.

## **C. Government Procurement Agreement**

Since Jordan's accession of joining the WTO it has taken numerous steps to facilitate the establishing of trade links to the open market, along with its implementing policy reforms to effect trade agreements with other nations. Towards this objective, Jordan has successfully negotiated the Government Procurement Agreement (GPA) that will allow Jordan to fully access potential markets. The GPA is essential to Jordan's long-term ambitions towards a sustainable economy that relies heavily on free-trade, because government is usually the biggest spender, as well as the greatest source of revenue. Thus, not surprising, government spending is, in terms of economics, quite significant on both the international and domestic levels.

Domestically, government spending provides public services, such as telecommunications, schools and universities, certain utilities, interstate roads, and railways, and it may help fund large business that get into financial trouble. On the international level, government spending provides for upkeep of ports, the military forces, the maintenance of embassies and consulates, and so on. These activities,

however, would be difficult to manage without a trusted procurement system in place. These systems are known to affect the efficiency of the use of public funds, which in turn can affect citizens' faith in the competence of government. Additionally, anyone, especially individuals of foreign origin, would be cautious of a government that didn't have sound procurement principles in place. Such principles are best codified in the form of an express agreement. This brings us to the point where a brief presentation of the GPA is required. Jordan has taken large steps towards fulfilling the requirements of joining the GPA and has revised its domestic procurement legislation to allow succession to the GPA.

#### **D. Uruguay Round Agreement**

##### Agreement on Government Procurement

Recognizing the need for an effective multilateral framework of rights and obligations with respect to laws, regulations, procedures and practices regarding government procurement with a view to achieving greater liberalization and expansion of world trade and improving the international framework for the conduct of world trade; Recognizing that laws, regulations, procedures and practices regarding government procurement should not be prepared, adopted or applied to foreign or domestic products and services and to foreign or domestic suppliers so as to afford protection to domestic products or services or domestic suppliers and should not discriminate among foreign products or services or among foreign suppliers; Recognizing that it is desirable to provide transparency of laws, regulations, procedures and practices regarding government procurement;

\* \* \*

Recognizing the need to take into account the development, financial and trade needs of developing countries, in particular the least-developed countries;

Hereby agree as follows:

**Article I: Scope and Coverage**

1. This Agreement applies to any law, regulation, procedure or practice regarding any procurement by entities covered by this Agreement, as specified in Appendix I.

2. This Agreement applies to procurement by any contractual means, including through such methods as purchase or as lease, rental or hire purchase, with or without an option to buy, including any combination of products and services.

\* \* \*

4. This Agreement applies to any procurement contract of a value of not less than the relevant threshold specified in Appendix I.

\* \* \*

**Article III: National Treatment and Non-discrimination back to top**

1. With respect to all laws, regulations, procedures and practices regarding government procurement covered by this Agreement, each Party shall provide immediately and unconditionally to the products, services and suppliers of other Parties offering products or services of the Parties, treatment no less favourable than:

(a) that accorded to domestic products, services and suppliers; and

(b) that accorded to products, services and suppliers of any other Party.

2. With respect to all laws, regulations, procedures and practices regarding government procurement covered by this Agreement, each Party shall ensure:

(a) that its entities shall not treat a locally-established supplier less favourably than another locally-established supplier on the basis of degree of foreign affiliation or ownership; and

(b) that its entities shall not discriminate against locally-established suppliers on the basis of the country of production of the good or service being supplied, provided that the country of production is a Party to the Agreement in accordance with the provisions of Article IV.

3. The provisions of paragraphs 1 and 2 shall not apply to customs duties and charges of any kind imposed on or in connection with importation, the method of levying such duties and charges, other import regulations and formalities, and measures affecting trade in services other than laws, regulations, procedures and practices regarding government procurement covered by this Agreement.

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#### **Article V: Special and Differential Treatment for Developing Countries**

1. Parties shall, in the implementation and administration of this Agreement, through the provisions set out in this Article, duly take into account the development, financial and trade needs of developing countries, in particular least-developed countries, in their need to:

(a) safeguard their balance-of-payments position and ensure a level of reserves adequate for the implementation of programmes of economic development;

(b) promote the establishment or development of domestic industries including the development of small-scale and cottage industries in rural or backward areas; and economic development of other sectors of the economy;

(c) support industrial units so long as they are wholly or substantially dependent on government procurement; and

(d) encourage their economic development through regional or global arrangements among developing countries presented to the Ministerial Conference of the World Trade Organization (hereinafter referred to as the “WTO”) and not disapproved by it.

2. Consistently with the provisions of this Agreement, each Party shall, in the preparation and application of laws, regulations and procedures affecting government procurement, facilitate increased imports from developing countries, bearing in mind the special problems of least-developed countries and of those countries at low stages of economic development.

The Parties to the agreement include most, but not all, WTO Members. The EU is represented in negotiations by the Commission (DG Internal Market and Services). The GPA sets out the entities and purchases covered by the agreement. The EU strongly supports accession of new members to the GPA – a recent new member is Chinese Taipei (July 2009). Negotiations with China, Jordan, the Republic of Moldova and Armenia are ongoing. An essential aspect of trade rights involves the treatment of Intellectual Property (IP) that has been increasingly finding its way across international borders. The following section takes consider IP rights.

#### **E. Strengthening IP Rights**

Jordan has established an effective legal framework with institutional policies set up of modern IPR to help legislate and promote innovation in the country. Great progress has been made in strengthening intellectual property rights (IPR) with respect to the TRIPS agreement and other bilateral, regional, and multilateral trade agreements of the WTO. The Kingdom has established legislation covering trademarks, patents, copyrights, industrial designs, integrated circuits, geographical

indications, and trade secrets.<sup>18</sup> Jordan has also adopted many trade agreements and treaties and is currently in the process of adopting a handful of more such as the Patent Cooperation Treaty for international protection of patents.<sup>19</sup> It is previously a party of the WIP Copyright Treaty and WIPO Performances and Phonograms Treaty in which calls for international registration of trademarks along with the Madrid Protocol.<sup>20</sup> However, as the following statement acknowledges, Jordanian legislators must proceed with caution as they embark upon implementing laws that while favorable to the more economically established members of the international

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<sup>18</sup> Hoffmann, David *"Aqaba, Jordan City Travel"* Feb 2013

<sup>19</sup> Jordan Investment Board:

Intellectual property rights (IPR) protection can be considered as a powerful tool for economic growth in many sectors. In Jordan, for example, recent intellectual property reforms have greatly benefited the country's economy in general and its pharmaceutical sector in particular. Jordan's pharmaceutical sector has gained new export markets and has started to engage in innovative research as a result. New health sectors, such as contract clinical research, have emerged, and health-sector employment has grown as well.

Jordan joined the World Trade Organization (WTO) in 2000, becoming its 136th member. In 2001, it entered the U.S.-Jordan Free Trade Agreement (FTA), the first such agreement between the United States and an Arab trading partner. Through these agreements, the government of the Hashemite Kingdom of Jordan continued a process of comprehensive economic reforms that had been underway for about a decade. In fact, Jordan passed several new laws to improve protection of intellectual property rights prior to its accession to the WTO.

Laws consistent with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) now protect trade secrets, plant varieties, and semiconductor chip designs in Jordan. Registration of copyrights, patents, and trademarks is required. Copyrights are registered at the National Library and patents are registered with the Registrar of Patents and Trademarks, which is part of Jordan's Ministry of Industry and Trade. Jordan has signed the Patent Cooperation Treaty and the protocol relating to the Madrid Agreement concerning the registration of marks, but ratification was still pending in early 2005. Jordan has also acceded to the World Intellectual Property Organization (WIPO) treaties on copyrights (WCT) and performances and phonograms (WPPT).

<http://www.jordaninvestment.com/BusinessandInvestment/Taxation/IntellectualPropertyLaw/tabid/116/language/en-US/Default.aspx>. (last assessed 11/27/13).

<sup>20</sup> "Desalination Options in Aqaba Special Economic Zone Aqaba: Demands, Challenges & Technology Solutions", ASEZA Oct, 2012

community, such as the U.S. and the U.K., might be less than advantageous to the Kingdom's interest.

Finally, it should be noted that the current standards of IP protection in Jordan might be problematic in some areas. The rush to adopt these laws and accelerate their maturation to levels found in developed countries raises a series of questions regarding their effects on vital sectors such as public health and education. Another forensic issue is whether developing countries should adopt standards of IP protection consistent with their level of economic and technological development and to gradually improve alongside their economic capacity. This point of view should be taken seriously by Jordanian policy makers in any further steps to increase the level of IP protection. Another serious issue would be the cost of enforcing IP laws. It is widely accepted that enforcing such laws is a costly process that requires huge financial and human resources. This could only be justified if the economy can achieve benefits that would outweigh these costs.<sup>21</sup>

Closely allied to the notion of Jordan's IP protection is the Kingdoms forging a policy of mutual recognition with the United States. This topic is next for discussion.

#### **F. Mutual Recognition with U.S.**

In order to speed up the process of enforcing protection of patents and registration of trademarks, the GOJ plans to establish an IPR entity that will fully be responsible for coordinating and managing all of the IPR agencies in the country.<sup>22</sup> The GOJ's Police Department has also stepped up in established an IPR Division which enables the relevancy of IPR agencies as an ex-official authority in market surveillance.<sup>23</sup>

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<sup>21</sup> Jordan Investment Board.

<http://www.jordaninvestment.com/BusinessandInvestment/Taxation/IntellectualPropertyLaw/tabid/116/language/en-US/Default.aspx>. (last assessed 11/27/13).

<sup>22</sup> Alaiwah, Saber *"The Legal Framework for Red Sea development"* Sep 2012

<sup>23</sup> Terrill, Andrew. *"Jordanian National Security and the Future of Middle East Stability"*. November 1 2012

To implement the WCO Framework of Standards to secure and Facilitate Global Trade through the “Golden List”<sup>24</sup> program, Jordan has set forth important policies to help enhance trade facilitation and develop standards that certify operators. July 2008 marked the signing of the Mutual Recognition Agreement with the United States Customs and Border Protection. The signing helped propose the beneficial and compatibility with Golden list program and the U.S. C-TPAT. The final trade policy reform we shall examine is the ASYCUDA System.

#### **G. The ASYCUDA System**

Currently, Jordan is working to establish a quicker way to import and export goods with a quicker clearance time and reduce the burden of having to deploy customs houses. To enhance the risk management procedures and ensure that further agreements will be made to help reduce clearance times, the ASYCUDA system is being upgraded to ASYCUDA World, which has already taken affect and will eventually be spread out through the entire country.<sup>25</sup> In order to promote development throughout the Kingdom, Jordan has taken intensive strives in utilizing trade policies while yet having low custom tariffs on environmental goods, and being able to establish a free sales tax and custom duties on renewable energy.

#### **IV. Conclusion**

The number of bilateral and other agreements Jordan has entered indicates its level of commitment to trade liberalization and formulation of policy to enable the expansion

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<sup>24</sup> Krdoosh, Marwan. Research Report “Jordan and the IPR” Apr 2007

<sup>25</sup> Ministry of Industry and Trade Annual Published Report: Dec 2012

of its market access in hopes of promoting trade, investment, and economic relationships with other governments, and as well, to build its economic standing and develop mutually beneficial relationships in the Middle-East, and far beyond its shores to the Americas, Europe and Eastern Asia. As has been observed earlier, but is well worth re-emphasizing, “not only do FTAs eliminate or reduce import tariffs, but they may provide preferential treatment or access to special sectors of a nation’s economy or business sectors; they may modify investment rules; they may provide for financial assistance; they may contain provisions for environmental protections; they may provide for dispute settlement methods; and they may also set regulations pertaining to intellectual property. In fact, FTAs may be viewed as contracts wherein the parties can set and agree to any provisions, so long as those provisions are legal in the eyes of the International Law.

As suggested, a noteworthy feature of these bilateral treaties is the diversity of their individual provisions, their emphasis on environmental concerns, providing for financing where required, providing for dispute settlement, and sometimes for rules of origin modifications. These provisions and features proclaim not only Jordan’s commitment to create a robust and sustainable economy, but also speaks to the resolve of the international community to bring Jordan, and other willing nations of the Middle-East, into the international community of free and unobstructed trade, while of course, respecting cultural norms of all participating parties to these trade agreements. In summary, we can affirm that Jordan’s entry into these international trade instruments has been a “win-win” for all concerned. We further anticipate that as the positive results of these international agreements catch on in the Middle-East

and elsewhere around the world, and if as some claim, poverty is one case of human conflict, then it follows that the chances of armed conflict will be lessened.

The trade policies and the subsequent agreements we've been discussing over the past several chapters may hopefully lead to agreements whereby trade is simplified; however, these components of an amazingly intricate economics jigsaw puzzle would fall short were it not for an investor-friendly environment. Thus, in the following chapter, we shall examine a number of specifics of the current investment environment in Jordan.

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# Chapter VI

## The Regulatory, Fiscal, and Accounting Environments

Emergencies have always been necessary to progress. It was darkness which produced the lamp. It was fog that produced the compass. It was hunger that drove us to exploration. And it took a depression to teach us the real value of a job.<sup>1</sup>

### I. Introduction

The key to attracting investors to any country are a whole range of factors including political and economic stability, a well-established and high quality infrastructure, ease of setting-up and operating business, ready availability of a skilled workforce, ready access to overseas markets, a well-developed legal and regulatory framework, and a favorable operational environment in terms of taxes and customs and other tariffs; freedom of movement of capital and the repatriation of profits and the full protection of all property rights. A close examination of the situation in Jordan will confirm full compliance with most of these factors, thus making the country an attractive proposition for investment and the pursuit of business.

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<sup>1</sup> Victor-Marie Hugo, 1802 – 1885; French poet, playwright, novelist, essayist, visual artist, statesman, human rights campaigner, and perhaps the most influential exponent of the Romantic movement in France.

## II. Nature of the Investment Programs and the Law

Integral to the creation of such a positive environment in the kingdom has been the adoption during the past decade of substantial economic reform, trade, and structural adjustment programs, which have transformed the economic environment in the Kingdom to ensure self-sustaining activity. As part of the underlying process, Jordan's economic and legal environments have adapted to create an increasingly market-oriented economy encouraging the full participation of both the local private sector and foreign investors.

Many economic tactics that have been introduced to the Kingdom are primarily focused on the liberalization of the economy, on enhanced competitiveness in the international marketplace and on greater integration with the world economy. These have meant the removal or easing of subsidies, and abolishment of regulations on products that are being imported and liberalization of fiscal reform and monetary policies that were earlier adopted. The inter-related legal measures began to be made in the mid-1990s with the introduction of laws and regulations permitting foreign ownership of projects in most sectors, the full repatriation of all capital and profits and equal treatment under the law for local and foreign investors alike. The establishment at that time of the Jordan Investment Board<sup>2</sup> was also integral to the overall process as

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<sup>2</sup> The Jordan Investment Board ("JIB")

Our Vision: The Jordan Investment Board is a world class agency entrusted with promoting Jordan as a unique destination for foreign direct investments and sustaining investments to achieve economic prosperity.

Our Mission: The Jordan Investment Board is a government institution committed to working with the private sector to promote Jordan for its unique and friendly business environment and diverse investment opportunities. The JIB presents state-of-the art services for facilitating registration and licensing procedures for projects, and offers all possible simplified procedures for investment.

it became responsible for the provision of exemptions and one-stop services to potential investors.

Furthermore, in a move to encourage foreign investors and to increase their confidence in Jordan's commitment to reform, the government has eliminated any formal screening procedure for foreign investment in those sectors covered by the Investment Promotion Law of 1995.<sup>3</sup> The Investment Promotion Law (IPL) has as its goals the following:

### **Freedom from Custom Duties**

- Fixed assets are exempted from fees and taxes provided that they are imported into the Kingdom for the use of the project exclusively. These assets include: the machinery, equipment and supplies used in the project including furniture and equipment for hotels and hospitals.
- Imported spare parts for the project shall be exempted from fees and taxes provided that their value does not exceed 15% of the value of the fixed assets for which they are required.
- Fixed assets required for the expansion, development and modernization of the project shall be exempted from fees and taxes if such expansion, development or modernization shall result in an increase in the production capacity of the project by no less than 25%
- Hotel and hospital projects shall be granted exemption from fees and taxes once every seven years for the purchase of furniture and supplies required for modernization and renewal
- Any increase in the value of fixed assets which are imported for the project shall be exempted from fees and taxes, if such an increase is a result of a rise in the price of such assets in the country of origin, a rise in freight charges applicable thereto, or of changes in exchange rate.

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<http://www.jordaninvestment.com/AboutJIB/tabid/54/language/en-U.S./Default.aspx>. Web. (Last assessed 5/9/13).

<sup>3</sup> [www.zef.de](http://www.zef.de)

## **Investment Guarantees**

- The different laws governing investment in Jordan offer equal treatment to both Jordanian and non-Jordanian investors, thus allowing the non-Jordanian investor to own any project in full or part, or to engage in any economic activity in the Kingdom, with the exception of some trade and contracting services which require a Jordanian partner.
- Except for participation in public shareholding companies, the non-Jordanian investment may not be less than fifty thousand Jordanian Dinars (JD 50.000 or \$ 70.000)
- The investor has the right to manage the project in the manner he/she deems appropriate, and through the person(s) chosen by the investor for this purpose.
- The non-Jordanian investor shall be entitled to remit abroad without delay, and in a convertible currency, the invested capital together with any returns and profits accrued, the proceeds of liquidation of the investments as well as the proceeds of the sale of all or part of the project.
- Non-Jordanian technicians and administrators working in any project may transfer their salaries and remuneration abroad.
- Investment disputes between an investor of foreign capital and Jordanian governmental agencies shall be settled amicably. If no amicable settlement can be reached within a period not exceeding six months, either party may resort to litigation or may refer the dispute to the International Center for the Settlement of Investment Disputes (ICSID)
- Any investor whose investment is guaranteed by his country or by an official agency thereof, may assign to that country or agency any returns on his investment or other compensation to which he is entitled.
- With approval of the Incentives Committee, the investor may re-export the exempted fixed assets.
- With approval of the Incentives Committee, the investor may sell the exempted fixed assets or relinquish them to another investor or project not

covered by the provisions of this law after paying the fees and taxes due on such fixed assets.

A further element of the liberalization programme was the government's decision to embark on an ambitious privatization programme to encourage greater private sector participation in the national economy while ensuring increased competitiveness. The success of this programme is best evidenced by the receipt by the government of approximately U.S.\$1 billion from proceeds of sales made, while further entities remain to be privatized over time.

The Jordanian government has sought to eliminate legal barriers to foreign investment and ownership in most areas of the economy,<sup>4</sup> with the specific exceptions of construction and commercial services, where foreign ownership may not exceed 50 percent; publishing and aircraft maintenance, which are capped at 60 percent; and activities related to military and national security, sport clubs, stone quarrying for construction purposes, customs clearance and land transportation, in which foreign ownership is not permitted at all.<sup>5</sup>

Article 4 of this law divided the country into three development areas: Zones, A,B, and C. Investments in the last, the least developed areas of Jordan, benefit from exemptions offered under the law at the highest level. All agricultural or transportation investments are classified at Zone C investments, not respective of their location. The Qualifying Industrial Zones (QIZs) are all to be treated as Zone B projects unless stated if they seem to fall into Zone C:

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<sup>4</sup> Medibtikar Investing in Jordan Article .

<sup>5</sup> [www1.usatrade.gov](http://www1.usatrade.gov).

#### **Article (4)**

a. For the purposes of this Law, the (geographical) areas which enjoy tax exemptions are classified into three development areas (A,B,C); subject to the degree of the economic development of such areas in each of the Sectors listed in Article (3) of this Law, pursuant to a regulation to be issued for this purpose.

b. The Subsectors and the investment activities listed in paragraph (a) of this Article, along with the eligibility conditions for the enjoyment of the privileges provided by this Law in each of the development areas designated hereunder, shall be specified in a regulation to be issued for this purpose.

The process for making a foreign investment in Jordan was also simplified. Regulations NO.39 of 1997 and its amendment for 1999 the Non-Jordanian Investment Promotion Regulation in which it provides opportunities for the Kingdom to lift certain restrictions on any foreign markets who wish to trade in Jordan for opportunities of trade participation. Consider the following provisions:

#### **Article (39)**

The Prime Minister and the Ministers are entrusted to implement the provisions of this Law

Regulation No. (39) of 1997; And its amendment for the year 1999

Non-Jordanian Investment Promotion Regulation; Issued Pursuant to Article (24) Of the Investment Promotion Law No. (16) of 1995

#### **Article (3)**

The Non-Jordanian Investor may own any project in full or in part or any economic activity in the Kingdom except the following projects and activities in which his ownership or participation therein may not exceed fifty percent (50%).

- a. Construction Contracting Sector.
- b. Commercial and Commercial Services Sector.
- c. Mining Sector

In the above instance, the law makes it more enticing for Non-Jordanian Investors, especially those interested in investing the three sectors mentioned above, to invest time, money and resources in Jordan. This law is a positive for Jordan in that it encourages investments, which in turn encourages production of services and products that could enter into the trade arena.

All nations are allowed to trade with Jordan unless stated and are open to a 100 percent participation allowance. Any investor or market wishing to invest in Jordan is required to invest in U.S. \$70,000 to be exempt from any restrictions to participate in commercial activity in the Kingdom. These restrictions only apply to new investors wishing to promote capital or invest in the Kingdom current ownership of state owned enterprises and not exempt from these restrictions since there are already agreements and contracts signed between both parties. The Ministry may also intervene as written in Article 5, and implement the same policies and regulations go for any foreign investor wishing to participate in investing in the Jordanian Economy as well as any domestic investors wishing to invest.

In order to further boost investor confidence to begin business relationships within the Kingdom the government has proposed numerous screening procedures and many rules and regulations as listed in the Investment Promotion Law throughout the Kingdom to be approved and a prelude to ensure success in the investors projects as a way of providing safety for both the investor and the economy in which it is

invested in. As of 2012 there was no case of expropriation taking place within the Kingdom. Article 25 of the Investment Promotion Law States that any investor wishing to participate in Jordan's investment is prohibited, "unless such expropriation is done by the way of compulsory purchase for the purpose of public interest."<sup>6</sup> The Law also States that the investor must comply with "just" compensation to all matters of investment.

The Jordanian Investment Promotion Law, as written in Article 30, also guarantees the rights of foreign investors to repatriate in foreign currency.<sup>7</sup> Workers in nation are also free to transfer any money without prior authorization to any region outside Jordan:

**Article (30):** The Non-Jordanian Investor shall be entitled to remit abroad without delay and in a convertible currency the Foreign Capital transferred to the Kingdom for investment pursuant to the provisions of this Law or any previous legislation, together with any returns and profits accrued thereon, and also, the proceeds of liquidation of the investment, or the proceeds of sale of all or part of his Project.

The Jordanian Investment Promotion Law as written in article 33 allows for third party arbitration investment disputes as provided by the Jordanian government's domestic law in any case:

**Article (33):** Investment disputes between an Investor of Foreign Capital and

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<sup>6</sup> Jordanian Investment Promotion Law: Article 25.

<sup>7</sup> 100 percent of profits and capital, including proceeds from the sale of shares or liquidation of the company, and allows for unrestricted reinvestment of profits.

Jordanian governmental agencies shall be settled amicably. If no amicable settlement can be reached within a period not exceeding six months, either party may resort to litigation or may refer the dispute to “The International Center for the Settlement of Investment Disputes” (ICSID) for settlement by conciliation or arbitration in accordance with the provisions of the Agreement on the Settlement of Investment Disputes between States and Nationals of other States, which has been signed by the Kingdom.

The investor should also note that any dispute shall be settled in local courts as noted by the dispute in which Jordan is signatory to and procedures are always consistent with the WTO requirements. The legal provisions just explained, illustrate Jordan’s commitment to be an investment friendly place for would-be investors. Hand in hand with the trade agreements discussed in the last several chapters, they provide evidence of Jordan, though it is one of the smallest, and least populous countries in the Middle-East, its path to economic stability seems well charted. The following, chapter, which is the last, provides summarizing remarks.

### **III. Conclusion**

The most vital ingredient to a nation’s overall well-being is a strong and dynamic economy. Such is achieved not only by the efforts of the principals of a nation, but by an influx of persons from beyond the borders of that nation. We have discussed the importance of tourism to Jordan, but must also give stock to those individuals coming into Jordan as investors willing to set up businesses or contribute their resources to existing businesses. We did note the plethora of factors, which are key to attracting said investors, and these are well-worth emphasizing yet again: political and economic

stability, a well-established and high quality infrastructure, ease of setting-up and operating business, a skilled workforce, quick access to overseas markets, a well-developed legal and regulatory framework; a favorable operational environment in terms of taxes and customs and other tariffs; freedom of movement of capital and the repatriation of profits and the full protection of all property rights. Unto these factors, we have seen that Jordan is in a full and aggressive compliance, creating conditions that make the Kingdom very attractive to those wishing to establish a foothold in the Kingdom. The Jordanian Investment Promotion Law so guarantees the rights of foreign investors to repatriate in foreign currency. Workers in nation are also free to transfer any money without prior authorization to any region outside Jordan

To entice foreign investors to the Kingdom, the GOJ no longer requires formal screening procedure for foreign investment in those sectors covered by the Investment Promotion Law (IPL) of 1995. One of the most significant provisions of the IPL has been its elimination of customs duties, and another, certain investment guarantees that provide a number of incentives to investors. In order to further boost investor confidence to begin business relationships within the Kingdom the government has proposed numerous screening procedures and many rules and regulations as listed in the IPL throughout the Kingdom to be approved and a prelude to ensure success in the investors projects as a way of providing safety for both the investor and the economy in which it is invested in. A vital aspect of the liberalization programme has been the GOJ's putting in place a privatization programme that would encourage private participation in the national economy while ensuring increased competitiveness. The following, chapter, which is the last, provides summarizing and concluding remarks.

## **Chapter VII**

### **Summary of Issues**

**and**

### **Concluding Remarks**

We have now arrived at a point of brief summation, which fittingly returns to a point parallel to that at which we began, which was recognizing that most of the 190 or so recognized nations of the world can no longer exist and sustain themselves in isolation, but only as participants within a global economy wherein not only financial instruments, commodities, and services are exchanged in an historically unprecedented manner, but also at a warp speed, if we were to compare the rate of today's global exchanges to that which was taking place in Adam Smith's day. Speaking of Adam Smith, we must remember that the driving force behind all international trade since long before the birth of Smith has been the need to acquire those goods and services that were either lacking, or in short supply in one's own land; or in a few instances, there was the need to establish valuable trans-boundary alliances.

While trade, especially free-trade, sometimes produces shifts in the economy that causes some jobs to seem to vanish like a cool mist on a hot summer day, those jobs usually have undergone a modification, or may simply reappear elsewhere across the globe. In a strong sense, an exchange of goods and or services, does more than "level out the economic playing field," it provides an equilibrium across the globe,

perhaps with respect not to only finances and take-home pay, but we may suspect that there is also a better than even uplifting of the entire human race on account of the probable fact that when people can better make ends meet, they have less time to dwell in the doldrums of misery, from which unspeakable evils usually arise.

Within the course of this research, we, with considerable diligence, scrutinized economic policies, international trade and investment theory, and applied the results of those to processes taking place within the various industrial sectors of the Kingdom of Jordan. Most notably, it was clear that the economic performance of those sectors have improved quite measurably through the integration of international trade principles. What's rather unique here is that in laser-like fashion, we turned a sharpened focus on all aspects that lead to economic growth, whereas other scholars have merely only focused only on one. We also examine not only the brighter side of Jordan's growth, but dared to look into how the Kingdom slipped into an economic crisis in 1989.

Thereafter, we argued that the implementation of policies and proper legislation, Jordan's accession to the WTO and a number of Bilateral Agreements, provided Jordan the means to climb out of the economic doldrums, and reach with certainty and conviction towards economic heights it had never seen before. We also focused on the public and private sectors, and revealed what other scholars failed to show as to how individuals from private sector enterprises play a pivotal and powerful role in policy and legislation formulation. Irrespective of the fact that sometimes government and influential people can sometimes stand in the way of progress,

private sector individuals have been, and forever will be, indispensable to a nation's growth.

The Jordanian government is firmly committed to assist in the building of its economy with a private sector-led growth that is highly dependent upon international trade, both within the Arab world and rest of Africa, and beyond to Europe, the Americas and Asia. Jordan's modernization and its new reform policies framework and progression towards international standards across wide range of markets access will eventually lead to an expansion of the Kingdom's trade and facilitate a shift for opportunities for the Jordanian people to exploit to their advantage. All this cannot be accomplished solely by the Jordanians, however. Many of the international agreements to which Jordan is a party, provide incentives for Non-Jordanian investors, who might have been reluctant to enter Jordan in the not too distant past; today, however, the government has been improving the legal environment hoping to encourage investment in the Kingdom, and as we noted in Chapter VII, this governmental action has paid rewards.

In topics of this nature, people usually set out to discover if there are any hidden flaws that might be potentially crippling; we are pleased to report here that Jordan has been a quick learner, preferring to learn from any mistakes it might have made in the past, and moving on towards a brighter future of political and economic stability, both of which are grounded partly in innovative thinking, and judiciously entering only those trade agreements that it believes are amenable to its future objectives of attaining and sustaining a robust economy based on the efforts of its citizens, and a politically stable environment.

Finally, Jordan is undergoing a major transformation under the dynamic leadership of His Majesty, King Abdullah II. With the twin aims of creating increased opportunities for the Jordanian people and strengthening the country's competitive advantage in the global economy, big strides have been taken in creating a peaceful and stable domestic environment conducive to both local and foreign investment. The net result is Jordan's continued emergence as a nation of great promise. In the recent past, following the implementation of a succession of strategic economic adjustment programs, the Jordanian economy has been able to grow and diversify despite the political instability which has prevailed throughout the region.

### **The Future Direction of Trade Policy**

Economy is the basis of society. When the economy is stable, society develops. The ideal economy combines the spiritual and the material, and the best commodities to trade in are sincerity and love.<sup>8</sup>

As the saying goes, the future looks bright for Jordan. As discussed, the government has been taking steps to stabilizing the economy and creating outward growth for economic improvement and lowering unemployment rates throughout the Kingdom, by pursuing new policies and free-trade agreements. Each new agreement the Kingdom signs, allows Jordan's economy to rapidly grow in both its public and private sector and provides unlimited opportunities for future agreements with other nations. Although the current context of the agreements cannot be evaluated, since it's not complete, it's fair to say that Jordan has developed immensely and is becoming quite

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<sup>8</sup> Morihei Ueshiba. 1883 – 1969; Japanese martial artist; best known for his founding of Aikido. <http://www.brainyquote.com/quotes/keywords/trade.html#dMbJkWorWKOUTDZD.99>; (last assessed 12/01/13).

familiar with establishing trade agreements from previous agreements made and learned lessons that will be carefully evaluated and maybe add to new suggestions of the new agreements that will implement new policies or considerations that will be carefully taken into account for later decisions in which Jordan and its partner nations will be a part of.

Many factors must be taken into account before enacting a new agreement. Jordan should focus primarily on the risk of creating an agreement in which it considers the impact on Jordanian producers. Therefore, Jordan must carefully study the impact of its existing agreements within the Kingdom along with any future impacts that may occur if any agreements are made with a private sector party. Jordan must carefully approach each agreement with an awareness of the potential gains and losses of signing such an agreement; for example, considering how that agreement could the economy and its people. The methodology provided by the World Bank (2002) and the MIT Manual for Evaluating Potential Future FTA (developed by SABEQ and the MIT, 2007) will provide some insight as to what the risks are. The negotiations and rules of origin must be congruent with other agreements.

Not only should Jordan focus on its structural reform, along with newly enacted policies to establish a strong economy, but it should also conduct an active trade liberalization policy, which will focus on creating multilateral, bilateral, and regional trade agreements that will seize opportunities for the Jordanian economy to flourish and build throughout the region while improving its market access and place in the trade market. The GOJ is well aware of the long road ahead it must travel in order to become a nation with a strong, stable and sustainable economy. However, to speed

up the process, the Kingdom should adopt the National Trade Strategy which sets reliable and predictable guidelines for policy makers, as well as business and the general public, while creating a safe climate for individuals or companies desiring to invest their time and resources in the nation. Jordan also carries a competitive advantage in its location as a prosperous nation with a well-educated young population, and a mostly stable economy that contains a legal and social infrastructure that will help in transforming the Jordanian economy into an open entity with the help of the Jordanian administrative staff and regulatory procedures that contain discrete notions for expanding its trade and investment. In setting up a climate in which Jordan will be able to develop and create a comfortable export and import market, the government will broaden its market access and unleash its competitive advantages, thereby moving forward to a more dynamic approach, which contains a well-educated population whose industry and services will take advantage of this and create opportunities for the kingdom to flourish while increasing the overall economic welfare and raising the standards of living along with the GDP per capita of the Jordanian people.

Along with Jordan's industrial policy, it is currently undergoing a strategic reorientation and refocusing of its policy that does not follow bias or favoring certain manufacturing sectors over other sectors that are deemed more promising than the others. This way it will allow for equal opportunity for each manufacturing sector to expand its open market access, and on a parallel track emphasize measures to increase the competitiveness of both large and small size enterprises that account for most of the Kingdom's employment. In terms of investment and promotion, the GOJ will

develop and strategize where it should invest, and in which enterprises, in the hope of creating more opportunities for job openings for the Jordanian people.

Deregulation along with more reforms will take place and continue on behalf of the administrative staff in which the GOJ will be aware of any important business activity, and decide to whether invest and establish new business, or alleviate the regulatory burden to promote, or expand already existing business that seem to be favorable for both the economy and the people. In regards to establishing an ease on regulatory procedures from the government and its administrative staff, the GOJ can test industrial states/zones throughout the Kingdom to exercise the practicality of the situation. If the administrative facilitation sees that this has shown a favorable outcome for both the people and the economy, it will go ahead and have this policy applied throughout the country. The Jordanian government has set out for fiscal reform policies made by the government to help maintain budgetary maneuverability. Due to the decline of tariffs from income, and the broadening of tax base while the reduction of tax rates is very much applied, it is appropriate to say that this will be the most prosperous route for the Kingdom to follow. On the expenditure side, the abolishment of fuel subsidies accompanied by a large support for personal incomes has been a major, and perhaps a very evident important step the GOJ has taken in this direction.

Due to the ever increasing privatization that is taking place in the Kingdom, the GOJ should carefully monitor and keep an eye opened for privatization while maintaining control of minority stakes in major industries. Privatization of state-owned economic assets, including transportation, communication and real estate, along with

the energy sectors, has proven to be beneficial so far as it has increased the efficiency of the product and allowed for managerial capabilities of the respective industries and has also attracted FDI and improved the competitiveness of the industries throughout the region. Further privatization will surely take place and will also take into account the current market conditions and stability of the economy and the GOJ will have to take certain measures to make sure an adequate degree of domestic value added is achieved. Kingdom-owned projects will also remain but will primarily pursue wider economic projects that serve substantial positive impact of externalities for the nation. Taking all the above points into consideration, then we may say that with respect to international trade Jordan does have a bright future.

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