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Jordan's Accession to the WTO: Retrospective and Prospective

Bashar H. Malkawi[1]
Associate Professor of Law, the Hashemite University, Jordan

Jordan acceded to the WTO in 1999. In its accession Jordan agreed, for example, to reduce tariffs on imported products and open its services market; it also modified its intellectual property regime. Jordan enjoyed special and differential treatment in few areas and was not able to designate olive oil as a good eligible for special safeguards. The WTO agreements required fundamental changes in the domestic laws and regulations of Jordan. The article concludes by arguing that Jordan's accession to the WTO was a lengthy and costly process. Jordan agreed to an arduous package of legal and economic reforms. Given that Jordan agreed to greater commitments compared to the obligations of the original WTO members, the multilateral trading system witnessed an accession saga.

Keywords: accession, free trade, intellectual property, Jordan, market access, WTO

Introduction

As a young democracy and fledgling market economy, Jordan's government has pursued policies designed to strengthen its economy. The cornerstone of the government's long-term economic objectives has been to increase trade and support economic growth via regional and global integration. Accordingly, Jordan actively pursued World Trade Organization membership.

This article's ultimate goal is not historical. Arab countries are attempting to broaden their engagement in the multilateral trading system in a manner that has many implications. Not only have some Arab countries either acceded to or entered the pipeline of acceding to the WTO, but also their new commitments coincide with reorientations in their economic strategies. Thus, Jordan's accession to the WTO serves as an ideal case study for other Arab countries contemplating acceding to the WTO.[2]

Membership, however, has not come without sacrifice. WTO accession was a lengthy and difficult process. The purpose of this article is to examine the major commitments Jordan undertook in its accession. The article outlines the accession framework and the political and economic factors that induced Jordan to accede to the WTO. It goes on to examine some of Jordan's specific WTO accession commitments and an array of issues raised during the accession. The article also takes into account and evaluates the trade policy review of Jordan conducted in 2008. In conclusion, the article argues that Jordan agreed to an arduous package of legal and economic reforms. Given that Jordan agreed to greater commitments compared to the obligations of the original WTO members, the multilateral trading system witnessed an accession saga.

The Mechanics of the WTO Accession Process

Before the WTO came into existence, a country became a contracting party to the GATT through the full accession procedure under article XXXIII and the sponsorship procedure under article XXVI.[3] Article XXXIII provided the general framework for accession to the GATT and established the process of accession for countries that are not founding members of the GATT. Article XXVI.5 (c) of the GATT created a different procedure of accession for customs territories that have gained full autonomy in the conduct of their external commercial relations.[4] An existing contracting party that has been responsible for the customs territory can sponsor it for membership.[5] Most Arab countries acceded to the GATT through the sponsorship procedure.[6] For example, if England had sponsored Jordan, Jordan would have been a contracting party to the GATT. Article XVII of GATT 1994, which refers to state monopolies, also

provided the basis for accession of countries with centrally planned economies.[7] Jordan also could have used this provision for its accession given its interventionist trade policy.

Now, article XII of the WTO Charter, which echoes article XXXIII of the GATT, governs the WTO accession process.[8] The WTO accession process is based on a case-by-case methodology. The accession process begins with an official notification to the office of the Director-General of the WTO of the intention to join by the country in question.[9] Any application for accession must first be approved informally by the General Council. Thereafter, the General Council formally establishes a working party of countries that are interested in evaluating the application.[10] The working party and the acceding country engage in round(s) of questions and answers in writing before the first meeting of the working party. After basic policies have been sorted out with the working party, interested WTO members enter into bilateral negotiations with the applicant over specific commitments that are prerequisites to joining the WTO. Once the bilateral negotiations are finalized, bilateral concession agreements are drafted. The best concessions for market access in goods and services obtained in the bilateral negotiations process extend to all other WTO members.[11]

Jordan wanted to become a WTO member for many reasons. Accession to the GATT/WTO would mean Jordan's exports would be subject to lower tariffs and other trade barriers. Consumers would enjoy a wide variety of products.[12] Jordan would be considered on the same footing as any other member of the WTO and would avoid becoming isolated in its relations with other countries, an important consideration in an increasingly interrelated world. It was prestigious for Jordan, as an Arab country, to accede to the WTO, especially in the Arab region, where WTO membership or effective participation in the WTO has been the exception rather than the rule.

Jordan started negotiations to join the GATT in January 1994. In 1995, after the WTO was established, Jordan's application was transferred to a WTO working party.[13] At this time, Jordan imposed a self-declared deadline of 1999 for accession. The 1999 deadline was prescribed because 1999 was the year that the WTO would launch the "Millennium Round" at the WTO Seattle Ministerial Conference. Jordan wanted to accede by 1999 because the Millennium Round would raise the bar to accede and the terms of entry would become enormous. It was felt that the sooner Jordan acceded to the WTO the earlier it could have a say in future trade rounds.

Many Arab countries, including Egypt, Kuwait, and Morocco, urged other WTO members to accept Jordan at an earlier point in time. Additionally, the United States supported Jordan's accession to the WTO. The lifting of Jordan from the U.S. watch list of countries that do not adequately protect intellectual property rights also

provided momentum for Jordan's accession.[14] It was anticipated that Jordan's accession package would be ratified during the Seattle Ministerial Meeting of the WTO.[15] However, the meeting was interrupted and the approval was delayed. The General Council voted for Jordan's accession package on December 17, 1999. Jordan became a member on April 11, 2000.[16] Thus, Jordan met its self-imposed deadline for accession to the WTO. The following section discusses Jordan's commitments in its accession to the WTO.

Protocol of Accession and WTO Commitments

Jordan agreed to a broad range of obligations in areas such as tariff reductions, services, agriculture, and transparency. It is beyond the scope of this article to give a comprehensive analysis of the various commitments Jordan undertook. It will suffice to examine Jordan's major obligations in its accession to the WTO, the current status of implementation of these obligations, and the issues of concern that have surfaced related to Jordan's WTO membership.

A. Market Access in Goods

1. Tariff Reduction

When a country joins the WTO it enjoys market access rights, i.e., entry and exit. In return, an acceding country must offer equivalent market access concessions. For purposes of tariff reduction, products and their tariff lines are grouped together into several categories, in what can be seen as a sectoral approach.[17] Jordan made substantial market access commitments as part of its WTO membership negotiations.[18] Jordan has low average tariffs, with single- or two-digit rates, *ad valorem*–only duties with some exceptions where specific duties apply, and nearly 100 percent tariff bindings.[19] Jordan may have binding overhangs – the difference between bound tariff rates and applied tariff rates – in its tariff schedule.[20] To deal with sensitivities in tariff reduction, Jordan was granted staging and product-exclusion rights.[21] As Jordan has a lengthened implementation period for tariff reductions, the country made some degree of cuts in tariff rates several months after the date of accession, which had the effect of securing for WTO countries some immediate tangible results from the negotiations.

Since, Jordan has acceded to the 1997 WTO Information Technology Agreement (ITA), it has committed itself to reduce tariffs to zero, and it has bound tariffs at that level on IT products.[22] In other words, computer and computer-related products, including semi-conductor chips, are not subject to tariffs. Since Jordan is not a major exporter of IT products, the ITA provides Jordanians with access to a wide variety of

IT products at low cost. This should help build up Jordan's IT sector and other IT-related sectors such as telecommunications.

These tariff reductions did not require changes in Jordanian domestic law. The Customs Law of 1998 provides that goods entering Jordan are subject to customs duties as prescribed in the customs law. However, if there is a special provision for a tariff in an international agreement to which Jordan is a party, a tariff shall be imposed in accordance with the provisions of such agreement.[23] Additionally, the Council of Ministers will issue decisions related to tariff changes.[24] Regarding compliance with the WTO's ITA, Jordan included its amended tariff schedule in its WTO accession agreements, thus negating the need to make changes in its domestic law and submit a separate modification document that indicates its compliance with the ITA.

In total, Jordan made tariff concessions with regard to 2790 tariff lines for industrial products and 462 tariff lines for agricultural products.[25] The imbalance of tariff concessions between industrial and agricultural products is due to Jordan's emphasis on industrial products in international trade rather than on agricultural products.

Jordan can use its tariff rates for several goals. For one, it can rely on tariff rates as bargaining leverage in future multilateral trade rounds. However, there is a potential pitfall for relying on tariffs as bargaining leverage in negotiations: as a result of several trade rounds, a large number of countries might lower their tariffs, thus depriving Jordan of its bargaining power.[26] This is a scenario where the law of diminishing returns would apply to Jordan. A different goal would be for Jordan to rely on tariffs as a method by which to protect some domestic industries and raise revenue.[27]

In approaching future rounds of trade negotiations, Jordan should argue in favour of a mathematical formula (linear cuts) in which the tariff rate applies across the board with lower tariff cuts per tariff line. The reason for favouring linear cuts is because of the nature of Jordan's current tariff schedule. Close to 2131 tariff lines are above the 20 percent tariff rate while about 7110 tariff lines are set below that percentage. Therefore, a harmonization formula, which applies for higher cuts on higher tariffs and lower cuts on lower tariffs, may not be desired. In addition, there is a need to exempt certain imported inputs from tariffs and other domestic taxes. The tariff exemptions would reduce production costs for domestic producers and give them much-needed competitiveness through cost savings.

2. Agriculture

The agriculture sector in Jordan has been a recipient of government subsidies.[28] As a result of an economic crisis in the late 1980s, Jordan adopted a structural adjustment

program to reform the agriculture sector.[29] In addition, Jordan passed a new law that would abolish the Agricultural Marketing Organization (AMO).[30] This law dismantled the AMO authority over import and export sales.[31] Additionally, Jordan abolished the system of fixed prices and allowed the private sector for the first time to import almost any agricultural product.[32]

Jordan's abolishing of the AMO and also of the Ministry of Supply were partially motivated by WTO accession. The policies of the AMO and the ministry may have violated article XVII of GATT 1994 or article 4 of the WTO Agreement on Agriculture. However, these possible violations do not mean that the AMO or the Ministry of Supply themselves were invalid, but rather that their respective practices and policies may have been invalid. Rather than abolishing these entities, Jordan could have streamlined their operations by resolving internal disputes, removing stalemated bureaucracy and budget constraints, and changing their practices.

Jordan has made several commitments to bring its agricultural practices in line with WTO rules. The country has eliminated quotas and other restrictive measures on imports of agricultural products.[33] In addition, Jordan has committed itself to abolishing double inspection of carcasses.[34] It has also agreed to reduce domestic support for agriculture, which previously amounted to JD1.5 million, to 13.3 percent over a seven-year period.[35] Jordan does not have a history of export subsidies, since it does not have the money to support its domestic agricultural production or agricultural exports as do the United States and the EC.[36]

WTO accession has led to the establishment of different bureaucracies in Jordan. Jordan's current food safety and inspection network consists of several government agencies, including the Ministry of Health, the Ministry of Agriculture, and the Jordan Institute of Standards and Metrology.[37] The establishment of the Jordan Food and Drug Administration, which is similar to the U.S. Food and Drug Administration, could lead to an overlap in inspection, a lack of coordination, and the deployment of different enforcement tools.[38] It is unclear where the lines can be drawn between the jurisdictions of these various entities. The jurisdictional issues between these entities must be addressed through internal regulations.

Issues that affect trade in food products include shelf life, i.e., how long a product can stay on the shelf, reclassification (chilled vs. frozen), and other requirements. U.S. exporters have often in the past cited short shelf-life standards in Jordan and other Arab countries as an important non-tariff barrier to trade in processed fruits and vegetables.[39] Pre-existing shelf-life requirements in Jordan were considered inconsistent with the WTO agreements.[40] For example, it had been the practice in Jordan that imported foodstuffs must have half their shelf life remaining at the time of

importation. This practice could amount to a restriction on the import of fresh food products because of the time required for processing, shipment, and customs clearance, which can take several days or weeks. Jordan has agreed to phase out the government-mandated shelf-life requirements for shelf-stable products.[41] Therefore, Jordan would accept manufacturers' use of their own "sell by" dates or open dating.[42]

Jordan requires that the percentage of imported ewes or yearlings, i.e., female sheep of one to one and a half years of age, cannot exceed 10 percent of the total number of imported sheep. This age restriction was justified on the grounds that imported female sheep of old age are usually more prone to carrying diseases.[43] A WTO member can challenge the age restriction unless it is proven that there is a scientific basis upon which to distinguish between female sheep imported under or at the age of one to one and a half years, and older female sheep. In other words, Jordan's age restrictions claim must be scientifically supportable. Otherwise, the distinction could be considered arbitrary.

In its accession negotiations, Jordan attempted to apply to have certain agricultural products such as olive oil, sheep, and poultry meat designated as eligible for special safeguards (SSGs).[44] If Jordan had been able to designate those agricultural products as SSG eligible, the SSG provisions of the WTO Agreement on Agriculture would have applied to them.[45] However, Jordan was not able to achieve the SSG designation for olive oil, sheep, and poultry. Instead the decision was made that WTO working party members were to determine whether a product of an acceding country such as Jordan merited designation as SSG; it was not a designation that the country itself could make. Other WTO members were concerned that if Jordan were able to designate certain agricultural products as SSG, it would set a precedent for future acceding countries, who would request designating their own agricultural products as SSG. This would have created a situation unacceptable to members of the working party on Jordan's accession to the WTO.

3. Customs Law

Customs laws and procedures are considered an important part of the trade system in Jordan. These laws and procedures regulate the flow of goods across the borders. One of the main functions of the Customs Department is the clearance of goods. Importers seeking to introduce goods into Jordan must file the appropriate documents and follow certain procedures and entry techniques. In some instances, traders have faced opaque procedures associated with customs transactions.[46] For example, Jordan requires consularization or legalization of commercial bills by Jordanian consulates and chambers of commerce in the country of exportation for goods intended for export to

Jordan.[47] Consularization or legalization of commercial bills may not be warranted, as it adds to traders' costs and could be considered, in effect, a non-tariff trade barrier.

Because of the WTO, the Customs Department of Jordan has been aggressively overhauling its customs procedures by upgrading its customs facilities and automating some aspects of the paper-based customs system. Moreover, the Customs Department has adopted many concepts and practices of trade facilitation. For example, the department provides green-lane treatment to companies through expedited shipments free of or with de minimis inspections upon arrival at ports of entry.[48] Movement and clearance of imported articles is to be based on a risk-management system, which is essentially a methodical process for identifying high-risk shipments.[49] The risk-management system allows for the speedy clearance of low-value or low-volume imports. The risk-management system also allows for the speedy clearance of articles imported by a reliable company that has a long history of compliance with Customs Department rules.

Although the adoption of risk-management techniques is a step in the right direction, it will take time and resources to truly activate these techniques. Additionally, since Jordan depends to a certain degree on tariffs, the role of the Customs Department would be devoted largely to collecting revenue for the Treasury. Customs officials may delay imported articles for hours or days while awaiting verification as to classification and valuation.[50]

The Customs Department makes available customs-related laws, regulations, administrative rules, information on customs processes, conditions for importation, charges applicable under customs law, tariff rates, tariff classification opinions, and bilateral and regional trade agreements.[51] The Customs Department provides advance rulings based on requests from traders who seek clarification on specific matters, such as classification and applicable tariff rates. Advance rulings prior to importation provide certainty and reduce delays. Advance rulings may also help small and medium-sized companies ascertain their respective risks before they enter into commercial transactions.

4. Pre-shipment Inspection

Jordan, in its protocol of accession to the WTO, indicated that it is a non-user of WTO Pre-shipment Inspection (PSI).[52] However, Jordan agreed that if in the future it uses PSI services, it will comply with PSI.[53] This would involve hiring PSI companies to carry out their activities in a non-discriminatory manner and ensuring that such inspections do not result in less favourable treatment for the inspected goods as compared to treatment of like domestic products.[54] Furthermore, PSI services should take place in the exporting country or, if that is not possible, in the country where the

goods are manufactured.[55] Moreover, Jordanian hired PSI companies would have to apply pre-shipment inspection services in a transparent manner.[56]

No obvious reason exists to explain why Jordan is not a user of the PSI procedure. Pre-shipment inspection involves an inspection by a private firm in the country of export before exportation to Jordan.[57] Such inspection would help alleviate some of the bottlenecks in customs procedures. It is possible that Jordan felt that its Customs Department and other government agencies have the administrative institutional capacity to undertake the same functions that PSI companies would undertake, and there have been few cases of corruption of customs officials or customs duty fraud.

In 2003, Jordan contracted with Bureau Veritas/BIVAC International to conduct pre-shipment inspection and issue certificates of conformity for products that meet the required standards.[58] Products subject to mandatory pre-shipment inspection include vehicles, electrical and electronic products, toys, and personal safety devices.[59] Food products are subject to voluntary pre-shipment inspection. Pre-shipment inspection of these products had led to shipping delays.[60] The pre-shipment inspection program operated by Bureau Veritas was terminated in August 2007.

B. Market Access in Services

Jordan has agreed to extensive liberalization undertakings under the General Agreement on Trade in Services (GATS); these undertakings would open some sectors that were previously closed or were restricted with regard to foreign investment and participation.[61] Jordan has undertaken horizontal commitments with respect to the cross-border movement of individuals and commercial presence covering all types of services. For example, in cross-border movement of individuals, Jordan attached requirements related to duration of stay, pre-employment conditions, recognition of professional qualifications, economic and labour market needs tests, and work permits.[62]

Jordan has made specific commitments in 11 major service sectors and 128 subsectors and activities. For example, in the business sector, Jordan has agreed to eliminate restrictions on market access and national treatment in legal services in the four modes of supply.[63] Thus, Jordan eliminated its rules, if any, that could restrict the rights of Jordanian and foreign lawyers to enter into partnerships or that could impose restrictions on the nationality of a foreign law firm. However, legal services of foreign law firms are limited to "advice" on "foreign law" only.[64] As a result, a U.S. law firm can advise or consult on international or U.S. law, but it cannot advise clients on Jordanian domestic law.[65] Other fields of legal services, such as domestic litigation, are not open to foreign lawyers.[66] Only Jordanian lawyers are allowed to litigate or plead before Jordanian courts. Although at first glance it may seem that Jordan has

opened its legal service sector to foreign lawyers, closer scrutiny reveals that most legal activities remain off limits to foreign law firms.[67]

Jordan has granted limited market access to foreign auditing firms.[68] Auditing of financial records or verification reports of domestic companies by foreign auditors is restricted. Auditing must be performed by resident Jordanian auditors who pass qualification tests. Foreign accounting firms can, however, give opinions on company results, open representative offices in Jordan, or invest in joint ventures. These activities should help enhance transparency and improve accountancy standards.

Jordan has also made concessions in architectural, engineering, urban planning, and landscape architectural services by allowing up to a 50 percent ceiling on foreign shareholding.[69] Foreign firms, however, are required to train and upgrade the technical and management skills of local employees. This seems to be an offset requirement for Jordan's undertaking of commitments in these service areas. In the field of medical services and health care, Jordan has removed all foreign equity restrictions, which means that foreign-owned medical service providers can offer medical services without these restrictions.[70] As a result, Jordan has a two-tiered health care system: the state-run medical system, provided through state-owned enterprises or directly by the state, and the private sector, which specializes in rich clients and high-end services.

Jordan has provided market-opening commitments in telecommunication services by opening its government-controlled telecommunications system to unfettered competition and foreign telecommunications companies.[71] In audio-visual and related delivery services, Jordan has made commitments regarding market access and national treatment in motion picture and videotape production services, motion picture projection services, and sound recordings.[72] The country has, however, imposed foreign ownership restrictions and a nationality requirement for distribution services in this sector. It is unclear whether the commitments scheduled by Jordan in this sector cover radio and television services or not.

Jordan has imposed several restrictions on distribution services, defined as commercial agency, wholesaling, retailing, and franchising services. Some of the restrictions include commercial presence requirements for cross-border trade, restrictions on the type of corporate entities that may be established, and foreign ownership restrictions.[73] Despite these restrictions, foreign wholesalers and retailers, through joint ventures, may be able to establish outlets, chain stores, and wholesale operations in Jordan in which they may sell their goods.

Jordan has removed and reduced obstacles to the transmission of educational services across its borders and the establishment of educational facilities including schools and offices.[74] Thus Jordan has created favourable conditions for suppliers of

higher education and adult education services. Additionally, education consumers can purchase their education abroad. Jordan has hoped that education liberalization may help lure foreign universities into establishing branches in Jordan. It is my belief, however, that education in Jordan is and must be a government function. Liberalization of educational services should not erode the government's ability to regulate education. Private education services ought to supplement, and not displace, public education. For example, private education could offer services that are not currently offered by government schools. Permitting private and public education to coexist in Jordan may help inject competition in the education system; but universities should not act like commercial firms rather than academic institutions.

Jordan has also scheduled several commitments that cover areas such as life insurance services and other insurance services (e.g., transport, aviation, and accident insurance) and banking and other financial services (e.g., derivative trading and the provision and transfer of financial information).[75] There are no limitations on the number of service suppliers in the form of quotas, exclusive providers, or economic needs tests, local currency lending restrictions, restrictions on geographical expansion, or capital requirements. Jordan has, however, imposed several other restrictions, such as the type of establishment allowed.[76] Therefore, suppliers do not have the freedom to choose a preferred form of commercial presence, be it branch, subsidiary, or joint venture. Other restrictions include the level of equity participation and permitted business lines. Liberalization of financial services may allow suppliers to supply certain financial services on a cross-border basis in reinsurance and retrocession services, insurance intermediation services, and services auxiliary to the provision of insurance.

Under article II of GATS, Most-Favoured Nation (MFN) treatment means that measures should be applied to all service transactions without discrimination among countries. However, members are permitted to list MFN exemptions in the service sector. Jordan listed twelve MFN exemptions.[77] Four of these are cross-sectoral exemptions related to movement of natural persons, for example to do with work permit fees, or related to investment, for example preferential measures and purchase of land. Eight of the exemptions are sector-specific exemptions. These sector-specific exemptions are related to professional services, audiovisual services, travel-related services, press services, and land-based transport services.

Jordan made market-opening commitments across a whole range of services ranging from business and telecommunications to education and transportation. The coverage of the service sector is relatively complete. However, there are differences in terms of broad liberalization and full bindings in different service sectors. For

example, Jordan liberalized its education, telecommunications, and recreational services while it imposed limits on financial services, auditing services, and architectural and engineering services. Many of Jordan's limitations on market access are in the form of residency limits, form of legal entity, foreign equity, and nationality.

GATS provided some flexibility to Jordan in scheduling its commitments to liberalize trade in services. However, this flexibility may be challenged based on recent WTO dispute settlement cases such as Mexico's telecom case and the U.S. gambling case.[78] Jordan must take care, therefore, in scheduling future commitments. Alternatively, Jordan can liberalize its service sectors without such liberalization being written into its schedule of specific commitments. Moreover, Jordan could modify or withdraw some of its commitments under GATS, but if it were to do so other countries would seek compensatory trade concessions. Jordan is building a new economy based on knowledge-based industries. Trade in services may offer to Jordanian service providers, which are small and medium-sized businesses, great potential for opportunities. At the same time, liberalization of the service sector in Jordan could harm service firms, since they have weaknesses in resources, management, and know-how.

C. Protection of Intellectual Property in Jordan

The intellectual property regime in Jordan proved to be a stumbling block for the country's accession to the WTO. Jordan committed in its accession to the WTO that it would comply fully with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) from the date of accession, without recourse to any transitional period.[79] The question of Jordan's compliance has gained importance given the decision in 1999 by the Office of the U.S. Trade Representative to remove Jordan from its Special 301watch list.[80]

Protection of well known marks in Jordan was an area where some reform was needed to ensure compliance with the obligation under TRIPs to protect such marks. Due to the lack of explicit provisions preventing the registration of well known marks, many local Jordanian companies filed applications to register well known marks in their own names.[81] The simplistic approach to registering trademarks in Jordan contributed to the registration of hundreds of trademarks, most of which are well known. In addition, trademark rights were granted to the persons or entities that were the first to register in Jordan, without regard to prior use in Jordan or elsewhere.

Many foreign owners of well known marks had to fight their way into Jordan because of registration by Jordanian persons or entities. For example, Shaheen International Corporation Co. filed an application to register the mark "PILLSBURY" in its name in Jordan.[82] In another example, Hani Al-Qudsi & Partners, a Jordanian

Company, filed a trademark application to register the mark "7ELEVEN" in class 16. In other cases, foreign owners of well known marks were unable to prevent registration of similar marks by Jordanian persons or entities. For example, a Jordanian company, Jordanian Trico & Yarn Factory Co., filed a trademark application for the "AL TIMSAH" mark (which means "crocodile" in Arabic) in class 32 similar to the application filed by La Chemise Lacoste, a French company. The registrar rejected Lacoste's opposition to the registration of the "AL TIMSAH" mark on the basis that the two marks, AL TIMSAH and LACOSTE, were in different classes. Thus, there is no likelihood of confusion.

It was not until 1999 that well known marks were expressly protected. The Trademarks Law of 1999 sets out special provisions to protect such marks. The law defines well known trademarks as marks that are widely known to the relevant public in Jordan and that enjoy a high international reputation.[83] Therefore, in judging whether a mark is well known, one would consider whether the mark has surpassed the borders of its country of origin and whether the mark is well known to the relevant consumer segment in Jordan. Article 8.12 prohibits the registration of a trademark that constitutes a reproduction or translation, liable to create confusion, of a well known mark on identical or similar goods. Moreover, article 26.1 prohibits the use of a well known but unregistered trademark on dissimilar goods and services, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the trademark, and provided that the interests of the owner of the trademark are likely to be damaged by such use. Thus, a well known mark may be defended even if it is not registered or the owner does not carry on a business in Jordan. However, it might be better to register such marks to avoid any dispute.

Problems related to intellectual property protection in Jordan have also been acute in the pharmaceutical sector, where patented drugs were being manufactured without licence. The Patents and Designs Law of 1953 was deemed to be inadequate.[84] This state of affairs led to patent infringements in the area of pharmaceuticals. Jordanian companies have applied for or registered 70 unauthorized copies of internationally patented pharmaceutical products, more than half of which are of U.S. origin. U.S. pharmaceutical companies lose between $25 and $50 million annually due to Jordanian pirate production, much of which is exported to other countries in the region.

The change in Jordan's Patents Law of 2001 permits the granting of patents for foodstuffs and pharmaceuticals.[85] These provisions came into effect three years after Jordan became a WTO member. During that time, provision was made for securing a

filing date for applications for these types of inventions, but no action was taken until three years after WTO accession. Additionally, it was possible to obtain exclusive marketing rights during that period. Jordan's Patent Law of 2001 bars domestic firms from copying patented drugs. Jordanian drug firms no longer are permitted to reproduce patented medicines simply by using a different process. In sum, pharmaceuticals, drugs, and agricultural chemicals, previously not patentable, are now patentable under the law.

Having laws that comply with the TRIPs Agreement is only half the story. The second half is the enforcement of these laws. Effective enforcement of an intellectual property regime can increase confidence among foreign investors and businesses.[86] Enforcement of intellectual property rights in Jordan is an area affected by many factors. Enforcement is not cheap.[87] It requires appropriation of millions of dollars, which would eat up a good portion of the annual budget of Jordan. Any action plan, be it raids, seizures, arrests, perp walks, or education campaigns, to reduce intellectual property rights infringement is constrained by limited financial resources and cultural and educational gaps. Additionally, if Jordan's manufacturers desire to register their patents and trademarks abroad, such registration would require huge investment, which some of these enterprises lack.

The Industrial Property Protection Directorate at the Ministry of Industry and Trade has 35 professional trademark and patent examiners, and support staff equipped with computers.[88] Until recently, examiners were not required to be lawyers with intellectual property rights knowledge and expertise, have background in science and technology, or take a bar-like exam to do with patents. They have been more or less generalists. However, legal and scientific knowledge and experience can be acquired through on-the-job training. There is no special payment system for examiners. The budget allotted for the directorate, which is derived in part from patent and trademark fees, is part of the ministry's budget. On the other hand, the U.S. Patent and Trademark Office is totally funded by and dependent on fee income such as patent statutory fees, issue fees, public search fees, and certified copy fees.

The problem of piracy or counterfeiting in Jordan is a problem of small and medium-sized companies, who produce these products to gain profit, and/or crime syndicates. Among all products that could be subject to violations, such as movies, computer software, clothing, pharmaceuticals, and counterfeited luxury handbags, music is most significant.[89] Although officials at the National Library in Jordan, as part of enforcement of intellectual property rights, may seize or impose fines on pirated CDs, DVDs, production equipment for same, or warehouses used to store

those pirated products, it is unclear to what extent there have been instances where such products or equipment have been destroyed.

There are political and cultural factors that contribute to the difficulties associated with enforcement of intellectual property rights in Jordan. There is a sentiment among many Jordanians that religiously based law is a necessary bulwark against Westernization and the domination of Western culture.[90] There is mistrust among Middle Eastern countries of the West. This mistrust is based on many years of experience, especially during colonialism.

D. Commitments of Jordan in Relation to Transparency

The concept of transparency is a core component of the WTO. Article X of GATT 1994, which is based to a large extent on the U.S. Administrative Procedures Act, forms the basis for commitments on publication of laws, regulations, judicial decisions, administrative rulings, and trade agreements. Moreover, article X requires the administration of laws, regulations, and administrative and judicial decisions that affect international trade in a uniform, impartial, and reasonable manner.

The purpose of article X of GATT 1994 is to ensure predictability in an open multilateral trading system, as it embraces the rule of law. The rule of law, *siyadat al-qanun* in Arabic, means authority would be exercised in a fixed and predictable way, rather than based on unlimited personal discretion. In other words, rule of law means that the government would act according to a set of rules promulgated in advance. Rule of law is a necessary foundation for free trade and economic development. It undercuts corruption and cronyism. Absence of rule of law discourages investment and commerce. Therefore, free trade and rule of law not only are linked but also ought to be used interchangeably.

Jordan has committed in its accession to the WTO to publish all laws, regulations, and judicial decisions and administrative rulings of general application as they pertain to international trade.[91] Currently, there are three journals that publish laws, regulations, and judicial and administrative decisions.[92] In some instances, laws, regulations, and judicial and administrative decisions could be published in daily newspapers.[93]

The administration of laws, regulations, and administrative decisions affecting international trade in a uniform, impartial, and reasonable manner could prove difficult in Jordan. Discrepancies in the interpretation and application of laws and regulations involve several factors. Areas of jurisdiction among agencies and ministries may overlap. Moreover, some laws and regulations are drafted in such a way as to leave some terms ambiguous. Authorities could exploit ambiguity to implement laws and regulations as they see fit.

The circumstances and the level of development of the legal system in Jordan affect the rule of law. The constitution may not be considered a living legal document.[94] Usually, laws emanate from the executive authority, which has extensive control over the drafting of laws.[95] Judge-made law does not exist in Jordan; therefore, judges do not make public policy statements. Additionally, Jordan needs to revise and improve the legal profession, which includes more than 8,000 lawyers, some of whom are poorly trained and underpaid.

Publication of laws and regulations, though important, is not enough. Consistent and fair application of existing laws and regulations is of utmost importance. Transparency and rule of law commitments will improve the trading system in Jordan. Moreover, transparency and rule of law are effective modes by which to limit government abuses that would disrupt trade.

E. Other Selected Commitments

The WTO working party accession report for Jordan covers, among other areas, fiscal and monetary policy, foreign exchange and payments, privatization, and price policies.[96] Price rationalization and privatization policies are not explicitly covered in the WTO agreements. Moreover, Jordan undertook commitments in trading and distribution rights.[97] Trading and distribution rights allow private Jordanian and foreign companies to import, export, set up after-sale networks, and sell goods throughout Jordan.[98] These trading rights will enable U.S. companies to import and export goods without using Jordanian trading companies. Distribution services will allow U.S. companies to sell their goods without establishing joint ventures with Jordanian companies.

Jordan committed itself to observe the requirements of article XVII of GATT 1994 that govern state trading enterprises.[99] Currently, there are five state trading enterprises that have the exclusive right to import or export.[100] These state trading enterprises must observe the conditions stipulated in article XVII of GATT 1994 in their purchases or sales. For example, purchases by state trading enterprises must be conducted in a non-discriminatory way, be based on commercial considerations, and afford enterprises of other countries the opportunity to compete in such purchases or sales based on customary business practice.

Jordan agreed in its accession protocol to the WTO that it would request observer status under the WTO Government Procurement Agreement (GPA).[101] Moreover, Jordan confirmed that upon accession to the WTO it would initiate negotiations for membership in the GPA.[102] It also confirmed that, if the results of the negotiations were satisfactory to the interests of Jordan and the other members of the agreement, it would complete negotiations for membership within a year of accession. However,

Jordan is not a member of the GPA yet, and it has yet to offer a detailed plan or timetable.

In its accession to the GPA, Jordan will weigh the possible benefits to its budgetary efficiency and its industries as a result of opening its government procurement sector to foreign competition. First, the share of Jordan's industries in the government procurement market of other countries is negligible. Moreover, Jordan's industries lack experience in competing in contract tendering. Therefore, the benefits from joining the GPA are marginal. U.S. companies are not interested in the small Jordanian government procurement market. Rather, U.S. companies are interested in major projects that are worth billions of dollars, such as the Kansai airport in Japan, or valuable procurement markets such as that of Hong Kong. A further consideration is that in acceding to the GPA Jordan would have to modify its current practices, which give preference to domestic suppliers of goods and services.[103] Jordan acceded to the WTO multilateral agreements, which are considered the most important step, and thus there is little interest in joining the GPA.

The 2008 Trade Policy Review of Jordan

One result of the Uruguay Round of WTO negotiations was the creation of the trade policy review. The trade policy review exists because member countries need to know about the conditions of trade in a particular country. The objectives of the trade policy review include facilitating the smooth functioning of the multilateral trading system by enhancing the transparency of WTO members' trade policies.[104] In other words, such reviews serve as forums for achieving transparency. The frequency of these reviews with regard to a particular country depends on that member's share of world trade.[105]

WTO members had the chance to examine Jordan's trade policies and practices through the trade policy review of Jordan in 2008. The review presented a challenge for local authorities because of the volume of documentation and information needed to draft a national report.[106] The scope was wide, since all of the sectors covered by WTO agreements came under review.[107] The review examined every national policy adopted by Jordan, checking them for compatibility. The review gave a picture of the Jordanian economy in the pre-WTO period and focused on the reforms being implemented in accordance with Jordan's WTO commitments.

In the trade policy review, trading partners of Jordan and the WTO Secretariat praised Jordan's progress on trade liberalization. This liberalization has resulted in real GDP growth of 5.9 percent and relatively low inflation of 3.1 percent, on average, per year during the period from 2000 to 2007.[108] The economic reforms have also

contributed to reducing public debt from 98.4 percent of GDP in 2002 to 60.3 percent at the end of March 2008 and to increasing the average annual inflow of foreign direct investment from US$155 million during the period 1990-2000 to US$3,121 million in 2006.[109] According to the 2008 review, Jordan modified a number of its policies by reforming its customs laws and practices, modifying its TRIPS legislation, and reforming its telecommunications and financial services.[110] In sum, Jordanian practices are becoming increasingly WTO-compatible. However, the WTO Secretariat took note of certain matters and aired concerns over certain issues.

The 2008 review was critical on three points: (1) administrative hurdles that inhibit the business environment; (2) limitations on foreign participation in certain service sectors such as transportation, construction, and distribution; and (3) tariff and non-tariff barriers (tariff escalation) to trade and a complex incentives regime.[111] The review notes that Jordan must continue its reforms by dismantling the remaining restrictions on tariff and investment barriers and diminishing procedural hassles.

The 2008 trade policy review of Jordan has been successful in highlighting WTO incompatibilities. The review can put pressure on the Jordanian government to undertake further reform and follow-up exercises.

Conclusion

Jordan's accession to the WTO was a lengthy and costly process. Jordan did not accede to the trade body until other WTO members were satisfied the country had made sufficient concessions. The terms and conditions for accession were easier prior to the creation of the WTO.[112] Jordan agreed to reduce tariffs, open its service market, and accede to the ITA. Jordan enjoyed special and differential treatment in few areas. For example, Jordan was granted an adjustment period to cope with the implementation of tariffs reduction, but was not granted transitional periods for the implementation of its service commitments and customs valuation. Moreover, Jordan was not able to designate olive oil as a special safeguard good. Other WTO members did not grant Jordan special and differential treatment, so as not to set a "bad" precedent for other acceding countries and in order to maintain the "integrity" of the WTO system by not creating a two-tiered system for developed and developing countries. In its accession to the WTO, Jordan turned from an applicant to a supplicant.

The degree of open market commitments Jordan undertook in its accession to the WTO was the culmination of several factors, which included domestic policy-making debates, lobbying by interest groups, and pressure from foreign governments such as the United States, the EC, Australia, and Switzerland. Generally, countries acceding to

the WTO are required to make changes to their laws and regulations prior to joining the trade body. Jordan met some of its commitments at the time it joined the WTO. In addition, Jordan committed to meet other requirements after its accession. Therefore, Jordan should meet many of its commitments in the post-accession period.

The WTO agreements required fundamental changes in the domestic laws and regulations of Jordan. For example, nearly100 laws were newly created or fundamentally changed.[113] Many of the laws promulgated were provisional and adopted in haste prior to the 1999 self-imposed deadline for accession to the WTO. In the months ahead, the National Assembly must approve the laws and regulations in order to honour Jordan's commitments. However, the National Assembly, for the sake of proving that it is not a rubber-stamp assembly and to ensure good legislative practices, may strike down or modify these laws and regulations in a degree less consistent with Jordan's obligations under the WTO. There are many layers of ministries and administrative agencies entrusted with implementing these laws and regulations, and the enforcement of them largely depends upon the discretion of these ministries and agencies.

Many areas of implementation of the WTO agreements require heavy administrative and financial investment. For example, reform of the customs law and practices requires the introduction of new laws, the creation of administrative bodies, the training of staff, and the establishment of buildings and purchase of equipment, all of which will cost millions of dollars. However, financial aid from international donors and technical assistance from the WTO can alleviate the difficulty of implementing Jordan's commitments.

The government of Jordan must introduce policies aimed at cushioning the most vulnerable groups from the effects of trade liberalization. These policies include re-employment projects, diversified education, and funds to offset the extreme adverse effects of trade liberalization. Alternative sources of revenue must be developed, including establishment of an effective system of value-added and sales taxes.

Jordan will compete in the international market on the basis of the rule of comparative advantage. Many products that Jordan cannot produce it can purchase from other countries, and vice versa. The process of trade liberalization could inject new dynamism into the stagnant industry sector. Moreover, the process of trade liberalization will create winners and losers. Jordan's membership in the WTO is only ten years old and the country is still in the pipeline of liberalization. Since this researcher is not a futurologist, it is up to the coming years to show whether the optimist's position or the pessimist's position on Jordan's accession to the WTO has credence.

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Endnotes

1. Bashar H. Malkawi holds an S.J.D. in International Trade Law from the American University, Washington College of Law, and an L.L.M. in International Trade Law from the University of Arizona. The author is extremely grateful to Professor David Gantz of the University of Arizona and to Padideh Alai of American University for sharing their feedback and comments with him on the topic of this article.
2. Of the 153 current members of the WTO, only twelve are Arab countries. Algeria, Comoros, Iraq, Lebanon, Libya, the Palestinian Authority, Somalia, the Sudan, Syria, and Yemen have all lined up for accession to the WTO. See Daniel Pruzin, U.S. Blocks Iranian WTO Application; Syria Prevented from Placement on Agenda, 19 Intl. Trade Rep. (BNA) 36 (Jan. 3, 2002) (stating that Syria's request for membership in the WTO was blocked because of Syria's backing for the Arab League trade boycott of Israel). See also Daniel Pruzin, WTO Members Discuss Accession of Algeria, Lebanon, Iraq Explores Membership Process, 20 Intl. Trade Rep. (BNA) 2079 (Dec. 18, 2003). See also Daniel Pruzin, WTO Members Agree to Begin Work on Libya Accession Request, 21 Intl. Trade Rep. (BNA) 2195 (July 29, 2004).
3. See the General Agreement on Tariffs and Trade, opened for signature October 30, 1947, 61 Statute A3, Treaties and Other International Acts Series No. 1700, 55 United Nations Treaty Series 187, arts. XXXIII & XXVI.

4. See Raj Bhala, Enter the Dragon: An Essay on China's WTO Accession, 15 American University International Law Review 1469, 1476 (2000).
5. The article XXVI.5 (c) procedure does not require a series of bilateral concession agreements, decision of the contracting parties, or protocol of accession. Rather, the customs territory or newly independent country obtains membership on the same terms and conditions as those that had been accepted by its former colonial master on its behalf. Under GATT article XXVI.5 (c) and procedures adopted during a 1957 GATT meeting, there is a period of de facto application of GATT obligations on a reciprocal basis between the contracting parties and the customs territory or newly independent country. During that period, the new country can adjust to the obligations, implement necessary trade policies, and decide whether it desires full GATT membership. An affirmative decision leads to full membership after a prescribed reasonable period. Id. at 1477.
6. For example, Bahrain (1993), Djibouti (1994), Kuwait (1963), Mauritania (1963), Qatar (1994), and United Arab Emirates (1994) entered into the GATT through the sponsorship procedure. On the other hand, Egypt (1970), Morocco (1987), and Tunisia (1990) joined the GATT through the full accession process. Arab countries that were contracting parties in the GATT automatically became members of the WTO once they ratified the Marrakesh Agreement establishing the WTO.
7. A non-market economy is an economy where enterprises make decisions not on the basis of economic factors, but rather on the basis government directives. The purpose of article XVII is to regulate the market behavior of state trading enterprises. However, the drafters of the GATT maintained flexibility in article XVII so that it can apply to state trading countries and not only to state trading enterprises. See Anna Lanoszka, The World Trade Organization Accession Process, Negotiating Participation in a Globalizing Economy, 35 Journal of World Trade 575, 579 (2001).
8. Article XII of the WTO Charter provides that any state or customs territory possessing full autonomy in the conduct of its external commercial relations may accede to the WTO on terms to be agreed between it and the WTO.
9. Usually, a country applies for membership in the WTO after enjoying the status of observer. As an observer, a country can attend WTO meetings and participate in discussion. However, the country may not participate in the decision-making process. Some meetings may be confidential, and thus an observer country may be excluded from such meetings. The observer country must apply for membership within five years of becoming an observer. Id.
10. The applicant submits a trade policy memorandum that describes its foreign trade policies and administrative systems that may have bearing on the WTO agreements. The memorandum is a fact-providing document that includes relevant statistical data, laws and regulations, the current tariff schedule, domestic support measures and export subsidies in agriculture set in a specific pattern and tabular format, and policies that affect trade in services. This memorandum establishes the basis for negotiations between the applicant and the working party. Id. at 591-593.
11. The protocol of accession represents the terms of entry into the WTO. The protocol outlines the applicant's current trade laws and policies, while noting the differences between that regime and the minimum WTO requirements. The

protocol explains how and when the applicant intends to correct these differences. The final package for accession includes the working party report, the protocol of accession, and the annexed schedules of the applicant's commitments. The Ministerial Conference, or the General Council in cases where the Ministerial Conference is not in session, makes a decision by two-thirds majority on the accession report. If a two-thirds majority favours the accession, the applicant may sign the protocol and join the WTO.

12. Consumers in Jordan benefit from trade liberalization by purchasing many commodities. Cars represent a case in point. Private car ownership, from affordable compact cars to high-end cars, is ubiquitous. Mobile phones, among several other popular electronic devices, are another hot commodity. See Special Report: Telecoms, 48 Middle East Economic Digest, 26 (No. 15, Apr. 9, 2004).
13. The working party held five meetings, starting in October 1996. See Working Party Report, Report of the Working Party on the Accession of Jordan, WT/ACC/JOR/33, paragraph 2 (Dec. 3, 1999). Originally, the working party consisted of 20 members, headed by K. Kesavapany, Singapore's WTO ambassador and former chairman of the WTO General Council. As the number can change at any time during negotiations, the working party on Jordan's accession first grew from 20 to 27 members, and then from 27 to 33. Those 33 members usually have been the exporting countries that have interest in the Jordanian market. For example, the working party on Jordan's accession included members as diverse as Argentina, Australia, Morocco, Switzerland, India, the United States, Canada, and the EC. See Working Party on the Accession of Jordan, Membership and Terms of Reference, WT/ACC/JOR/5 (Nov. 1, 1996).
14. Jordan Cleared to Join WTO: Removed from Watch List, No. 22 Middle East Executive Report 8 (1999) (page references not available). The Office of the U.S. Trade Representative (USTR) removed Jordan from the watch list (WL) in an out-of-cycle review. The USTR publishes lists of countries with various levels of intellectual property concerns: priority foreign country (PFC), priority WL country, WL country, and under observation. "Priority WL country" is one notch under "PFC", countries which undergo investigation that could lead to trade sanctions.
15. The real reasons for the impasse at the Seattle meeting consisted of multiple factors. Before the Seattle meeting, it took WTO members almost a year to select the new Director-General of the WTO, agreeing at the end that Mike Moore first would assume the post for three years (non-renewable), followed by Supachai for another three years (non-renewable). Developing countries pleaded their plight in implementing the results of the Uruguay Round, but neither did developed countries listen nor did the Appellate Body of the WTO pay heed in its interpretation of special and differential rules for developing countries. Further, there was a mood of tension even among developed countries themselves, a mood exaggerated by the Beef-Hormone case, the Banana case, and negotiations on agricultural trade. At the Seattle meeting the USTR adopted the "green room model", whereby negotiations were limited to some 30 countries while others were excluded; these others felt they were being marginalized. For more see Dilip

K. Das, Debacle at Seattle: The Way the Cookie Crumbled, 34 Journal of World Trade 5, 181-201 (2000).

16. Jordan ratified the WTO accession package in March 2000. Jordan's working party report to the WTO is 114 pages long. See WTO Director-General, Protocol of Accession of Jordan: Notification of Acceptance and Entry into Force, WT/Let/333 (Mar. 14, 2000).
17. See WTO, Goods Schedule of Jordan, Staging Annex, available at <http://www.wto.org/english/thewto_e/countries_e/jordan_e.htm> (Dec. 3, 1999).
18. Jordan exerted tremendous efforts in convincing WTO members that further tariff cuts would damage its fragile economy in 1998 with a mounting trade deficit. However, those efforts did not bear fruit.
19. Specific duties, as opposed to ad valorem duties, are not transparent and have the effect of increasing trade protectionism. Jordan agreed to impose zero or very low tariffs on all chemical products in light of the Chemical Tariff Harmonization Agreement of the Uruguay Round.
20. Bound tariff rates are the maximum tariffs Jordan can apply under its WTO commitments. Applied tariff rates are the actual tariffs in place.
21. Jordan has a ten-year transition period for implementing tariff reduction commitments. Rather than outright prohibition on imports of tobacco and alcohol, Jordan opted to impose higher prohibitive tariffs between 150 percent and 200 percent. Thus, tobacco and alcohol maintain high tariff peaks. See Daniel Pruzin, WTO Approves Accession of Jordan to Trade Body, 17 Intl. Trade Rep. 29 (BNA) (Jan. 6, 2000). See Report of the Working Party on the Accession of Jordan, supra note 12, at paragraph 55.
22. The ITA provides for the elimination of tariffs on a wide range of some 180 information technology products in five major categories: computers and peripheral devices, semiconductors, printed circuit boards, telecommunications equipment (except satellites), and software. Developed countries had until Jan. 1, 2000 to phase out tariffs, while developing countries were given extended deadlines to eliminate tariffs on certain products deemed sensitive. The ITA takes account of the rapid pace of development in information technologies by establishing procedures for consultations on, and review of, product coverage, as well as non-tariff measures that might impede market access for information technology products. See Charles Owen Verrill, Jr., Peter S. Jordan, Timothy C. Bightbill, International Trade, 32 International Lawyer 319, 323-324 (1998).
23. See Customs Law No. 20 of 1998, art. 9, Official Gazette No. 4305 (Oct. 1, 1998).
24. Id. art. 14.
25. See WTO, Goods Schedule of Jordan, Staging Annex, available at <http://www.wto.org/english/thewto_e/countries_e/jordan_e.htm> (Dec. 3, 1999).
26. See Edward John Ray, The Fall in Tariffs and the Rise in Non-tariff Barriers, 8 Northwestern Journal of International Law & Business 285, 295 (1987).
27. See Reuven Avi-Yonah and Yoram Margalioth, Taxation in Developing Countries: Some Recent Support and Challenges to the Conventional View, 27 Virginia Tax Review 1, 12 (2007).

28. In the wheat sector, the government bought wheat production from producers at prices higher than international wheat prices. Jordan also has a history of subsidizing agricultural inputs such as water, electricity, and credit. Farmers could obtain loans either from the Agriculture Credit Corporation (ACC) or from commercial banks. However, since the ACC provides loans at an interest rate below that of commercial banks, many farmers have borrowed from the ACC. The average interest rate on loans given by the ACC is below that of commercial banks by 3.5 to 5.5 percent. See Working Party on the Accession of Jordan, Introduction to Jordan's Agriculture Sector and Agricultural Policies, WT/ACC/JOR/14, at 14-17 (July 1, 1998).
29. In 1996, Jordan adopted the agricultural policy charter. One objective of the charter, among other goals, is to maximize the role of the private sector in agriculture and limit the government role to the provision of institutional support such as research and infrastructure investments. Id. 16.
30. See Provisional Law on the Cancellation of the Agricultural Marketing Organization No. 22, of 2002 (May 16, 2002).
31. The AMO set the quantities and types of agricultural products to be imported or exported and the dates of importing or exporting. For example, prior to 1998 the AMO was responsible for determining imports on a monthly and quarterly basis. The AMO also participated in determining the prices of agricultural products. See Working Party on the Accession of Jordan, Introduction to Jordan's Agriculture Sector and Agricultural Policies, WT/ACC/JOR/14, at 21 (July 1, 1998).
32. Under earlier practices, the Ministry of Supply had exclusive rights in wheat imports and brand distribution of Halibuna, a type of dried milk. The Ministry of Supply also fixed the prices of essential foods such as bread, sugar, and rice.
33. During 1994-1996, Jordan imposed quotas on imports of olive oil and chicken meat.
34. The practice in Jordan was to inspect imported meat at the border as well as after it cleared customs. Some WTO members argued that such a practice appears to be more trade restrictive than necessary. The representative of Jordan confirmed that, as of the date of accession, unnecessary inspections of imported meat products would be eliminated and national treatment would be accorded fully to such products. See Report of the Working Party on the Accession of Jordan, supra note 12, at 147, 149.
35. See Report of the Working Party on the Accession of Jordan, supra note 12, at 189. See also Notification from Jordan, Domestic Support of Jordan, G/AG/N/JOR/1 (Sep. 17, 2002).
36. See Ann Saccomano, Free but with a Price, Journal of Commerce 13, 14 (Dec. 9, 2002) (citing that the U.S. farm bill provides for a subsidy of $180 billion to farmers over the next ten years). For more on the U.S. agricultural policy see J.W. Looney et al., Agricultural Law: A Lawyer's Guide to Representing Farm Clients 5-10, 191-205 (1990). (Many of the U.S. support programs date back to the farm financial crises of the 1930s and 1980s. Certain factors may provide an explanation for the divergent treatment of agriculture in the United States. First, farming is viewed as a unique way of life dependent on natural forces that are

beyond the farmer's control. Farmers also are viewed as a stabilizing element in society because of their vital role in food and fibre production. Farmland is a major source of aesthetically and psychologically pleasing open space and a locale for many non-farm recreational activities. Farmers are a distinct minority in the United States, where they constitute about 2 percent of the total population. Finally, their lack of participation beyond the production stage of agriculture is a contributing factor to their inability to attain adequate income.)

37. The new Law on Food Control stipulates that the Ministry of Health is the sole authority responsible for food safety for imported as well as domestically processed products. See Provisional Law on Food Control No. 79 of 2001, art. 3, Official Gazette No. 4522 (Dec. 13, 2001).
38. See Michael S. Schumann et al., Food Safety Law 2, 8-11 (1997). (This work explains that an ongoing problem in the United States involves the division of responsibility between the two primary agencies: the U.S. Department of Agriculture (USDA), which oversees meat and poultry inspection and regulations, and the Food and Drug Administration (FDA), which oversees almost all other food products. The arrangement is not quite as simple as it sounds. For example, the two organizations share jurisdiction for egg products. Under the USDA, food products must be pre-approved prior to marketing. Food products under FDA's jurisdiction can be marketed without pre-approval and are subject only to post-marketing surveillance and enforcement. The USDA has the major labeling requirements for food while the FDA's requirements generally refer to artificial flavouring, colouring, and chemical preservatives, as well as saccharin.)
39. See U.S. International Trade Commission, Processed Foods and Beverages: A Description of Tariff and Non-Tariff Barriers for Major Products and Their Impact on Trade, Inv. No. 332-421, Pub. No. 3455 (Oct. 2001). (In some Middle Eastern countries, processed fruit and vegetable products are given a shelf life of 12 months, without regard to the packaging technology used, and must have 50 percent of their shelf life remaining upon entry into the country. However, many of these products are produced once a year from fresh products harvested in season and distributed from inventory. Shelf-life restrictions prevent the year-round distribution of these products.)
40. Shelf-life requirements were based on Jordan's Standard Number 288/1994 for foodstuffs and Standard Number 401/1997 for infant and children's foodstuffs, specifically. The working party on Jordan's accession stated that such requirements do not have a sound scientific justification. See Report of the Working Party on the Accession of Jordan, supra note 12, at 144. Jordan can impose restrictions on imports of food for safety reasons but not for quality concerns. Generally, shelf-life standards function as quality indications.
41. "Shelf stable" refers to an otherwise perishable product that has been altered so it can safely be stored in a sealed container for an extended length of time. In its WTO accession, Jordan confirmed that it would eliminate shelf-stable products from the coverage of these standards by June 30, 2000. See id. at 145. Jordan's move to processors' dates from the government-mandated shelf-life standards would be accomplished without an interim period over a short period of time ending in 2000.

42. In the United States, product dating is not required by the federal government except for poultry, infant formula, and baby food. Dates are applied by either the manufacturer or the store. The terms used for dating are flexible since there are no standards. For example, "best by" is a quality and flavour assurance date. It does not mean that the food is unsafe after that date. This kind of date is often placed on cereals. The term "sell by" is an indication for the retailer to pull the product off the shelf by that date. The term "packaged date" refers to the date on which a food such as meat was packaged or processed. It is not an indication of safety. "Expiration date" refers to the date by which food must be used or eaten. "Born on" refers to the freshest beer and "coded date" refers to letters or numbers that allow the manufacturer to track food. See The Dating Game, Consumer Report 9 (Mar. 2004).
43. See Report of the Working Party on the Accession of Jordan, supra note 12, at 176.
44. Even after Jordan acceded to the WTO, Jordan argued for the SSG designation for olive oil, sheep, and poultry meat. See Proposal by Jordan, WTO Negotiations on Agriculture, G/AG/NG/W/140 (Mar. 22, 2001) (page references are not available).
45. Article 5 of the WTO Agreement on Agriculture is a special safeguard article for agricultural products. In order to apply this special safeguard provision, any non-tariff measure imposed on the imported agricultural product in question must be converted into tariff. Additionally, the agricultural product must be designated as SSG. Moreover, there are two conditions, the presence of either one of which is sufficient to trigger the special safeguard. First, the volume of imported agricultural product has to exceed a trigger level. Second, the price of imported agricultural product must fall below the trigger price in the base period (1986-1990). If the first condition is satisfied, then an additional duty will be applied for the rest of the year in question (the additional duty may not exceed 33.3 percent of the ordinary tariff in effect the year the action is taken). If the second criterion is met, then additional duty will be imposed on a shipment-by-shipment basis. Article 5 of the WTO Agreement on Agriculture is a special provision: it does not require a serious injury test, the safeguard measure takes the form of additional duty only, and no retaliation is allowed. This is contrary to the WTO Safeguards Agreement, which requires an injury test, allows that a safeguard measure could be in the form of tariff or quota, and provides that there can be retaliation. In order to obtain SSG status, an acceding country has to convert non-tariff trade measures into tariffs. Jordan did not convert non-tariff trade measures into tariffs as required under article 4 of the WTO Agreement on Agriculture, a condition that is vital for applying an SSG measure. Rather, Jordan set tariffs on agricultural imports at lower levels and bound them.
46. See Pete W. Moore, Doing Business in the Middle East: Politics and Economic Crisis in Jordan and Kuwait 162, 166 (2004). (Some traders are concerned about the increase in the size and power of the Customs Department. Those traders claim that bureaucratic problems with the department are legion. Sometimes, completing a customs importation document requires seventeen signatures.)

47. Jordan committed to phase out consularization of commercial bills by December 31, 2002. See Report of the Working Party on the Accession of Jordan, supra note 12, at 72. Jordan has yet to rectify the practice of consularization in line with this commitment. For example, as of 2009, the Embassy of Jordan in Washington, D.C. requires legalization of commercial bills and charges $84 per document as a legalization fee. Commercial bills must also be legalized by the National U.S.-Arab Chamber of Commerce.
48. See Jordan Customs Department, Selectivity in the ASYCUDA System, available at
    < http://www.customs.gov.jo/ publication.asp> (accessed February 4, 2009).
49. See Customs Law No. 20 of 1998, supra note 22, art. 84. The idea of inspecting all imported articles is impractical and a poor use of limited resources. A risk-management system limits the physical inspection of imported articles. This system includes random sampling at different rates. The system starts with the Customs Department when goods are imported and continues through inspection. All information related to goods is to enter into a computerized system that would enable later retrieval by inspectors.
50. Until there is further lowering of tariffs, there could be mistrust between customs officials and importers regarding smuggling and under-valuation for the purpose of evading payment of tariffs.
51. The information is available at the Customs Department website, with English translation. See <http://www.customs.gov.jo>.
52. See Report of the Working Party on the Accession of Jordan, supra note 12, at 102.
53. Id. 103.
54. See WTO Agreement on Pre-shipment Inspection, articles 2.1 & 2.
55. Id. article 2.3.
56. Id. article 2.5. The WTO established a London-based entity to deal with disputes arising from pre-shipment inspections.
57. PSI companies check the shipment details of goods purchased abroad such as price, quantity, and quality in order to ensure that tariffs are fully paid on the goods.
58. From 2003, Jordan operated the International Product Conformity Certification Program, called Daman. The program was implemented by Bureau Veritas on behalf of the Jordanian Institution of Standards and Metrology. Imported goods were tested and certified in the country of origin, while domestic products were tested and certified at the site of manufacture.
59. Id.
60. On several occasions Jordanian companies have claimed that Bureau Veritas has not been adhering to standard requirements and its activities have become obstacles to international trade. Jordanian companies have voiced specific complaints about what they see as unwarranted demands and unnecessary delays in clearing shipments.

61. The detailed undertakings of Jordan for trade in services are included in a 39-page report. See Working Party on the Accession of Jordan, Report of the Working Party on the Accession of Jordan, WT/ACC/JOR/33 (December 3, 1999).
62. Id. pages 3-6 (paragraph references not available).
63. Id. page 5. The four modes of supply are cross-border supply, consumption abroad, commercial presence, and presence of natural persons.
64. Id. page 6.
65. A foreign law firm can advise or represent Jordan in its accession to the WTO, since this falls under international law, but it cannot advise or represent regarding domestic family law in Jordan.
66. Id.
67. Jordan permitted foreign law firms to advise on foreign law only, in order to preserve the integrity of the legal profession in Jordan by prohibiting the entry of unqualified foreign lawyers and to protect the domestic legal bar against global law firms. See International Trade in the 21st Century 227-228 (Khosrow Fatemi ed., 1997). (The United States leads the world by a wide margin on both the total number of lawyers and the proportion of lawyers per million. It is also very interesting, or perhaps frightening, to further note that 35 percent of the lawyers in the world in 1992 lived, and presumably practised law in, the United States.)
68. See Working Party on the Accession of Jordan, supra note 12, at 6.
69. Id. 7.
70. Id. 8, 25.
71. Jordan's commitments cover basic services, which include mobile and wireline voice and data services, local and long distance domestic telephony, mobile radio (cellular, paging, and personal communications services), international telecommunications, satellite services, private leasing services, and network carrier and network access business and value-added services, defined as email, voice mail, online information database storage and retrieval, online data processing, internet access service, internet content service, and videoconferencing services. Id. 13-16.
72. Id. 16.
73. Id. 18.
74. Id. 18-19.
75. Id. 20-25.
76. Id. 20.
77. Id. 36-39. The twelve MFN exemptions apply indefinitely. Therefore, Jordan may not need to phase out these exemptions. However, in future trade negotiation rounds, Jordan could eliminate MFN exemptions.
78. See Panel Report, Mexico – Measures Affecting Telecommunications Services, WT/DS204/R (Apr. 2, 2004). See also Panel Report, United States – Measures Affecting the Cross-border Supply of Gambling and Betting Services, WT/DS285/R (Nov. 10, 2004).
79. See Report of the Working Party on the Accession of Jordan, supra note 12, at 230. Despite several attempts by Jordanian officials and negotiators, Jordan was

not given a transition period to comply with its TRIPs obligations. The United States and the EC held firmly to their no-transition positions by arguing that every acceding country must comply with TRIPs immediately upon accession.

80. Jordan had been on the U.S. watch list for quite some time, as the United States watched closely Jordan's intellectual property regime. The situation worsened when there was discussion in 1998 on whether Jordan would be targeted with trade sanctions under Special 301 of the 1988 Omnibus Trade and Competitiveness Act for failing to adequately protect U.S. copyrights, patents, and trademarks.
81. See Amir H. Khoury, The Development of Modern Trademark Legislation and Protection in Arab Countries of the Middle East, 16 Transnational Lawyer 249, 269 (2003).
82. Id. 321.
83. See Trademarks Law No. 34 of 1999, arts. 7, 7.1, 4 & 12 Official Gazette No. 4389 (Nov. 1, 1999).
84. See 1997 Special 301 Report, available at <http:// www.ustr.gov/pdf/special.pdf> (April 30, 1997) (citing the shortcomings of the patents law regarding pharmaceuticals).
85. See Provisional Patents Law No. 71 of 2001, Official Gazette No. 4520, art. 36.a (December 2, 2001).
86. See Suha Ma'ayeh, Improved IPR Enforcement Gets Mixed Reviews, Jordan Times 10 (May 10, 2001).
87. See Patents and the Poor, Economist 22 (June 23, 2001). (The cost for a poor country to build just a bare-bones infrastructure to implement TRIPS is roughly $1.5-2 million. WIPO gives technical assistance to countries trying to draft intellectual property legislation or set up their patent offices.)
88. See Report on Industrial Property Protection, Directorate of Ministry of Industry and Trade 3 (2009) (on file with the author). This number constitutes a fraction of the some 7,000 employees at the USPTO. However, this is understandable since the U.S. patent system has been in existence since 1790.
89. See Copyright Infringements Referred to Courts, Jordan Times 5 (Nov. 14, 2003).
90. See John Carroll, Intellectual Property Rights in the Middle East: A Cultural Perspective, 11 Fordham Intellectual Property Media & Entertainment Law Journal 555, 574 (2001).
91. See Report of the Working Party on the Accession of Jordan, supra note 12, at 239.
92. These are the Official Gazette, the Journal of the Jordanian Bar Association, and the Judicial Journal. The Department of the Official Gazette in the Prime Ministry publishes the Official Gazette, and the Ministry of Finance distributes it. The Jordanian Bar Association issues the Journal of the Jordanian Bar Association, which covers final judicial decisions of the Court of Cassation and the High Court of Justice, news of the Bar Association, and selected research. The Judicial Institute of Jordan publishes the Judicial Journal, which covers decisions of the Court of Cassation and the High Court of Justice.

93. See, for example, Draft Law Implementing the Free Trade Agreement between Jordan and the U.S., Al-Rai, 27 (February 28, 2001). See also Draft Law on Arbitration of 2001, Ad-Dustour, 5 (June 23, 2001).
94. Constitutions in Arab countries are symbols of independence, enacted on the eve of independence or the prospect of independence. Constitutions serve the purpose of organizing state authority, especially in succession. See Nathan J. Brown, Constitution in a Nonconstitutional World 35, 49, 61-63 (2002).
95. See Nathan J. Brown, The Rule of Law in the Arab World: Courts in Egypt and the Gulf 57 (1997).
96. See Report of the Working Party on the Accession of Jordan, supra note 12, at 9-32. A price-control system is designed to ensure the poor can afford basic commodities and to prevent prices from skyrocketing. In the past, the government of Jordan determined a fair price for dozens of essential goods and services in intricate detail. The list of goods included meat and flour.
97. Id. at 50.
98. Under Jordan's trading rights regime, foreign equity in Jordanian trading companies is limited to 50 percent. Jordan committed to permit foreign companies to exercise trading rights without limitation on foreign equity or capital. Id. at 45.
99. Id. 161.
100. These state trading enterprises are Jordan Tanning Company, Jordan Petroleum Refinery Company, Jordan Cement Factories Company, Jordan Phosphate Mining Company, and Vegetable Oil Industries.
101. Id. 169. The GPA, signed by some two dozen countries, applies only to those countries that are members of the WTO Agreement. The GPA applies to contracts for purchasing goods and services worth more than $175,000 for central government procurement tenders and about $270,000 for contracts with provincial and state authorities. The GPA contains substantial and procedural obligations. In terms of the substantial obligations, members of the GPA are required to extend the Most-Favoured Nation and national treatment rules to goods and services of other members. The procedural obligations included in the GPA are related to transparency through the publication of notices inviting tenders and post-award notices, and establishing an independent review body to consider complaints by domestic or foreign suppliers related to any violation of the agreement. See Amol Mehra, Federalism and International Trade: The Intersection of the World Trade Organization's Government Procurement Act and State "Buy Local" Legislation, 4 Brigham Young University International Law & Management Review 179, 180-183 (2008).
102. See Report of the Working Party on the Accession of Jordan, supra note 12, at 170. Currently, Jordan is in the process of accession to the GPA. See Daniel Pruzin, China Submits Modest Offer to Open Government Procurement Market, 25 Int'l Trade Rep. (BNA) 116 (January 24, 2008). (Seven other WTO members – Albania, Georgia, Kyrgyzstan, Moldova, Oman, Panama, and Taiwan – are also negotiating their accession terms to the GPA.)
103. These practices are tied to industrial, political, and social policies that are difficult to modify.

104. See Jai S. Mah, Reflections on the Trade Policy Review Mechanism in the World Trade Organization, 31 Journal of World Trade, 49, 49-51 (1997).
105. Generally, the four members with the largest shares of world trade (currently the EC, the United States, Japan, and Canada) are reviewed every two years, the next sixteen members are reviewed every four years, and others are reviewed every six years. A longer period may be fixed for least-developed members.
106. As part of the trade policy review, two documents are always prepared: a report by the government under review, which constitutes the basis of discussion, and a report written by the WTO Secretariat independently. See Jordan Completes WTO First Review of its Trade Policy, Jordan Times (November 13, 2008). (The Ministry of Industry and Trade in Jordan had been preparing and cooperating with the WTO since the beginning of 2008 to conduct the review. Jordan provided answers to over 160 inquiries by WTO members.)
107. Four main sectors were reviewed: agriculture; mining, energy, and water; manufacturing; and services. See Report by the WTO Secretariat, Trade Policy Review: Jordan, WT/TPR/S/206, pages 59-94 (October 6, 2008).
108. Id. page vii.
109. Id. pages 3 & 8.
110. Id. pages 12, 54-58, 83.
111. Id. pages 19, 26-31, 41, 47-49, 59, 88.
112. See Doha Ministerial Conference, Doha Ministerial Declaration, WT/MIN(01)/DEC/1, paragraph 9 (Nov. 14, 2001). ("We [WTO members] also welcome the accession as new members, since our last session, of Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession." [emphasis added])
113. See Nail-Biting: Jordan's Fairly Fair Election, Economist 38 (June 21, 2003). (Some 160 laws have been promulgated, which some say are good for promoting a program of economic liberalization in the absence of the parliament.)

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