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**Assessment of Technical Offices of Ministers: Doubts
About their Ability to Improve the Process of Law-
making for Economic Reform in Egypt**

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1. HOW AND WHY DID THEY APPEAR?

Ministers in Egypt have always had advisors, a fact that has lasted for many decades. The phenomenon of having advisors never attracted too much attention as those advisors used to be few and never played a public role on behalf of the ministers or the ministries. The phenomenon of advisors experienced a significant change since the early 1990s where advisors increased in number, responsibilities and new bodies named “technical offices” were created.

Technical offices date back to early 1990s when some Ministers of State needed a qualified staff to deal with the new challenges of trade liberalization and economic reform but the quality they needed was not to be found among the existing technocratic staff. Since that time such technical offices started to be present and to flourish. However, they are no longer limited to Ministers of State; they are spread over several ministries. Such proliferation can be attributed to the opening up of the Egyptian economy which made a large number of ministries deal with documents and missions of the World Bank when implementing the Economic Reform and Structural Adjustment Program (ERSAP), Egypt started to implement in 1991. ERSAP needed fast actions, meetings with international missions, using computers (and then later on emails) which till now are lacking in the conventional government bureaucracy to a large extent.

Egyptian civil servants have always suffered from a low command of foreign languages and computer skills. This was exacerbated by the lack of incentives on the part of civil servants (given their low wages) to upgrade their skills in this regard. Furthermore, the system of employment in the Central Government crowded out skilled professionals who were attracted by higher wages and better incentives in other places. The inefficient civil servants’ employment system combined with the deteriorating public education system led to an inability of existing bureaucracies to deal with the “new variables” that were added to their work load and agendas within the context of ERSAP.

Unlike the usual hiring system in the Egyptian bureaucracy, the technical office staff is hired based on a system which can be summarized as “picking up cherries” where the flexibility of hiring in addition to good incentives allow the Ministers to pick and choose among the best qualifications available in the country in the different fields and

professions. The technical office employees are paid according to a different payroll system where wages are high (covered by aid donors). They are employed based on short term contracts (maximum of one year that is renewable) and there is no upper limit for their salaries. There are no age limits and no fixed time working hours. Hence an efficient flexible system of carrots and sticks is present providing good incentives for people working in such places to work harder and more efficiently. Moreover, the prestige of working closely with the Minister provides additional psychological incentive for technical office employees to work efficiently.

Due to such reasons several ministers relied on the established of such technical offices, even though those ministers had a full ministerial hierarchy below them. Ministers perceived the technical offices as one viable method to get their work done in an efficient and timely manner. The inflexibility of the conventional bureaucracy in employing highly qualified people and giving them high wages forced a large number of ministers to use such technical offices (or a proxy for it by having advisors) to undertake a huge work load off the shoulders of regular bureaucrats.

2. WHAT IS GOOD ABOUT TECHNICAL OFFICES:

The technical offices as stated above provide the ministers with a qualified staff that is able to carry the work load, especially when it comes to issues that are either completely new (e.g. new international agreements) or issues that require dealing with foreign missions (e.g. World Bank). Moreover, the technical offices provided some sort of competition between their staff and the heads of the conventional bureaucracies (ranking undersecretary and below). The latter have felt that their positions were threatened by such technical office teams and hence were challenged to improve their performance in order to stand up for the competition. The technical offices gave more time for ministers to do their work as they were able to delegate a lot of their work to such technical offices teams, even when it came to drafting of letters in foreign language, which literally was something that many ministers could not delegate to regular bureaucratic staff and thus had to do themselves before the establishment of such offices. Finally, technical offices, through interaction with conventional bureaucrats helped in the process of capacity building where the bureaucrats acquired a lot of skills from working closely with technical offices' staff.

The technical office staff is used by the ministers to interact with lobbying groups. In many cases, the ministers, due to their busy agenda, delegate meetings with representatives of different groups or organizations to technical office staff. The role of the technical office staff is crucial here as they undertake the preparatory meetings, convey the message from and to the minister. They are as well used as a tool by ministers to pass certain messages. This role is sometimes played as well by high ranking official bureaucrats, but the technical office staff has an advantage when compared to government officials. In cases where the regular high ranking official bureaucrat has lost the trust of representatives of the lobbying groups, the latter prefer to interact with the Minister directly. Since in many cases, the Minister wants to be better informed about the demands of such groups, he delegates the first set of meetings to his technical office staff, till he gets a clearer picture. Thus it is worth noting that technical office staff facilitate the interaction with the Minister and they enjoy a better image of credibility and trustfulness in the eyes of the representatives of the pressure groups.

A main aim of the technical office staff is building the capacity of the government officials of the concerned ministry. This is mainly done by upgrading their skills, through designing state of the art courses, when possible, or at least identifying them for government officials, and through direct interaction and being engaged in hands-on tasks with regular government bureaucrats. Whether this is achieved or not cannot be generalized, as it hinges on many other variables, including how regular government officials perceive the technical office staff, how willing they are to cooperate with the technical offices and share information. However, it can be asserted that even if there were cases of success, they were highly limited due to the general reluctance of government officials to change, especially when such change is coming through technical office staff.

Another main objective of the technical office is to provide a consistent database for the Minister. In many cases, data and information are spread among government officials, usually treated as secrets, and no good use is made out of them. The Ministers, in many cases use their technical office staff to make good use of such unutilized data and information sets. This has been successful in many cases. For example, in the Ministry of Foreign Trade, the Monthly Bulletin and Foreign Trade Bulletin are organized by technical office staff. The raw data come from the Ministry and other sources, but putting

them in a useable friendly format is undertaken by the technical office staff. This has been applied as well to the case of writing up the Strategy for Promoting Export. In the case of the Ministry of Industry and Technological Development, the Minister depended on some of the experts in his technical office to publish the so called Industrial Map which identifies different opportunities and data in factories in Egypt and opportunities for investment. Furthermore, in all ministries with technical offices, the websites of such ministries was designed and set by technical office staff.

3. WHAT IS BAD ABOUT TECHNICAL OFFICES:

Technical offices created hatred among regular bureaucrats. In many cases an undersecretary found himself dealing with young technical office staff (in some cases they were even younger than his or her own children) and had to show respect and full cooperation, as they knew that those working in technical offices were close to the minister. In many cases, such hatred was manifested in the provision of wrong information or intentional delays to paralyze the technical office. In other cases, the pace of doing work in the regular bureaucracy was not able to cope with the fast pace of technical offices which delayed work and created bottle necks. Frictions arise when the technical office staff is viewed as “over-paid kids”. Resistance to cooperate (which takes several forms) impedes the work and in some cases the ministers themselves needed to interfere on regular basis to ensure that such frictions are not repeated. However, the regular bureaucrats continue to find methods to impede such joint work.

There is also another problem linked to technical offices: their financing is highly dependant on foreign aid. If such aid, for whatever reason dries up, such technical offices will collapse. This increases the vulnerability of ministers who currently depend heavily on such offices and their services. Moreover, it creates hesitancy for ministers who are afraid of the drying up of resources on one hand and hence have to depend on the conventional bureaucrats, whereas they need the technical offices staff badly in many cases where the traditional bureaucrats cannot provide any help on the other hand. This put ministers in awkward positions.

Their relation with the civil society including the parliament is vague. A letter sent from a technical office staff to the member is not considered official (the same case as with

dealing with other ministries). However, in many cases, both the minister himself appoints a technical staff member to represent the ministry or represent the minister himself in a meeting, a committee, or for attending a parliament session. In some cases some of the technical offices team members are appointed as board members where the ministries need a representative. In this case, the technical office member is given the status of representative of the ministry or the minister himself and hence he acquires a quasi legal position again acquired through the minister in person. In this case, and carrying the title of “representative of a certain ministry” he is addressed officially from parliament or other ministries as well as he is able to send official letter.

A final problem related to such technical offices is their legal position, For example, a letter directed from an advisor of a minister to an undersecretary of another minister is not considered official. This creates delays in exchanging letters and increase the dependency on conventional bureaucrats, even if they are incompetent, as you have to depend on them for having an official letter sent out of the ministry.

4. THE JORDANIAN EXPERIENCE

The Jordanian experience with technical units points to the need to revamp the bureaucratic hiring environment to allow the civil service to attract good caliber in a flexible and timely manner. Without that, technical officers on donor programs become the most viable, though short term, solution and the trade off is similar to that described in Egypt above.

Jordanian Civil Servant Law (CLS) states that Civil Servant Bureau (CSB) is the sole responsible body to hire employees for any governments' institutions. The only way to undercut the CSL is to hire outside the law through a Direct Contract between any government agency and employee. In such a case the contract and its terms must be approved by the Prime Ministry. Such contracts are based on a yearly basis and do not enjoy as many benefits as the Civil Servant contracts. The salary scale for such contracts is higher than the Civil Servant ones but still lower than the private sector and donor-supported programs scale.

Today, many of the new authorities or technical units are utilizing the Direct Contract System. However, in some cases, which require very specific expertise, even the Contract System does not work to attract the right people. Therefore, several ministers utilize donor funded programs to build specialized units or technical offices.

According to a Jordanian who worked in two ministries and experienced technical offices in both, the following drawbacks off set the clear positive results in terms of bureaucratic performance achieved by the technical offices. The drawbacks are:

- Such offices/units created parallel systems within the same ministry which confused the administration and flow of work;
- Diluted the accountability, in many cases.
- Such employees faced resistance and little cooperation from their government counterparts which made their mission more complicated. Yet it should be mentioned that there are two tears of administration within government's institutions. The top management which rely heavily on those experts or qualified contracted employees and the lower management which envy those highly paid employees.
- Also, in many cases employees on contracts do not cooperate with their governmental colleagues, and tend to be more centralized. Hence a very little transfer of knowledge occurs.
- In many cases, these units tend to move with the Minister, since their commitment is more towards the Minister and not institution.
- It is difficult to institutionalize and follow up their work when they leave, as they do not utilize the administrative system used by the institution.
- Employees were highly-paid and not easy to attract or keep.

The EJADA Experiment in Jordan¹

The EJADA project is a good case to the point. Amounting to squaring the circle, it is difficult to improve the performance of the bureaucracy in a new area so crucial to market economics as competition policy. In the Jordanian case, there was a need for a technical unit (Directorate) that would supervise the drafting of the law and the raising of capacity to be able to apply the law once issued.

¹ The information on the EJADA project were provided by Nesreen Barakat.

EJADA took into consideration the following concerns while extending its support to Ministry of Industry and Trade (MoIT):

- How to grant to competition authorities the necessary powers and provide them with needed human and financial resources to ensure effective enforcement of the law.
- How to be able to draw qualified staff and talented investigators, bearing in mind the civil servant compensation system (low salaries compared to the private sector).
- How to undertake a training program for officials and judges involved in the investigation and prosecution of anticompetitive practices.
- How to specialize some judges in the area of anti-trust.

Therefore, EJADA set few principles while supporting the Jordanian Government in drafting and implementing the Competition Law. These were:

- Work in full involvement with the Ministry of Industry and Trade (MoIT). Therefore, working group headed by the Secretary General of MoIT was formed to work together with EJADA consultants' team until the Competition Directorate staffs were employed and they became EJADA counterpart².
- Competition Authority staff should be employed by the Ministry.
- EJADA will not mobilize any expert unless his/her counterpart is employed by the ministry.
- EJADA will not support any running costs expenditure.
- Both parties should ensure the involvement of the private sector and their representation in discussing the Law and getting their feedback.

Nevertheless, establishing a new authority to deal with the Competition Law and its implementation was not an easy mission. In the first place, the project faced a strong opposition to establish the Directorate as a separate autonomous entity; hence the Law was changed to establish instead a Directorate for this mission within the Ministry of Industry and Trade. Moreover, people at the middle management level in the Ministry argued that it should be within the mandate of the Legal Department at the Ministry.

² Without the involvement of MoIT top management, it was very difficult to deliver any assistance. Government employees perceive any donor program as a mean to supplement their salary. Therefore, they tend to put a stick in the wheels until their salary is topped with a supplementary amount.

However, it was critical to establish a new unit for this specific function since it requires a lot of specialty and technical expertise in conducting investigations and economic analysis.

Being careful not to intervene with the recruitment of their local staff, and to speed the process, the IJADA project recruited only one young dynamic qualified local economist in the Ministry to assist us in delivering our assistance and form a daily pressure on the Management to establish the Directorate. Yet, the expert's mission was not easy at all as he had to deal with all logistical and political details. Many people in the ministry were trying to prove that he is not bringing anything new to the Ministry and especially not with that high salary of his. Thus, even at the top management level, he had always to defend any new ideas or approaches that he was suggesting.

To facilitate his mission, EJADA signed a Memorandum of Understanding (MOU) with the Ministry to agree upon responsibilities required from both parties to ensure commitment and proper implementation of establishing a Competition Authority. The MOU stated that EJADA will:

- help the Ministry in the establishment of the procedures and operational systems of the Competition Directorate;
- design awareness campaign to enhance the understanding of the business community and public institutions to competition issues,
- Promote competition culture targeting business community, consumers, judges, lawyers, regulatory authorities, etc;
- provide training programs to build national capacities to facilitate the enforcement of the law,
- Train related professionals (lawyers, judges, etc.) on the Competition Law and its applications, economic analysis, techniques of investigation, etc;
- Educate competition authorities' staff of the Directorate, judges and public prosecutors of international experience through conducting study tours and inviting international expertise;
- establish specialized library through providing the Directorate with the necessary specialized materials, periodicals and documentations
- design a web-page for the Directorate
- design and issue explanatory booklets and the Annual Competition Book.

Meanwhile, MoIT should:

- Formally establish the Competition Directorate through a decree by the Minister of MoIT;
- Recruit qualified staff for the Directorate;
- Provide office support;
- Extend cooperative efforts with EJADA consultants to ensure completion of this assignment to the greatest extent possible;
- Allocate budget to finance the Directorate;
- Establish a National Committee for Competition Affairs;
- Select judges and public prosecutors who look in competition cases.

Hence, EJADA recruited another international expert, on part time basis, to assist and supervise the local expert. The two experts assisted the MoIT in the:

- establishment of the Competition Directorate;
- set-up its procedures, manuals and function;
- design and carry out the training courses;
- draft by-laws and instructions stated in the law;
- determine the specifications and job descriptions of the functions and personnel of the Directorate; and
- support the Competition Directorate in its competition investigations .

Also, the experts planned a multi-layered competition training program which was supplemented with reinforcing publications of the curricula and other relevant documents:

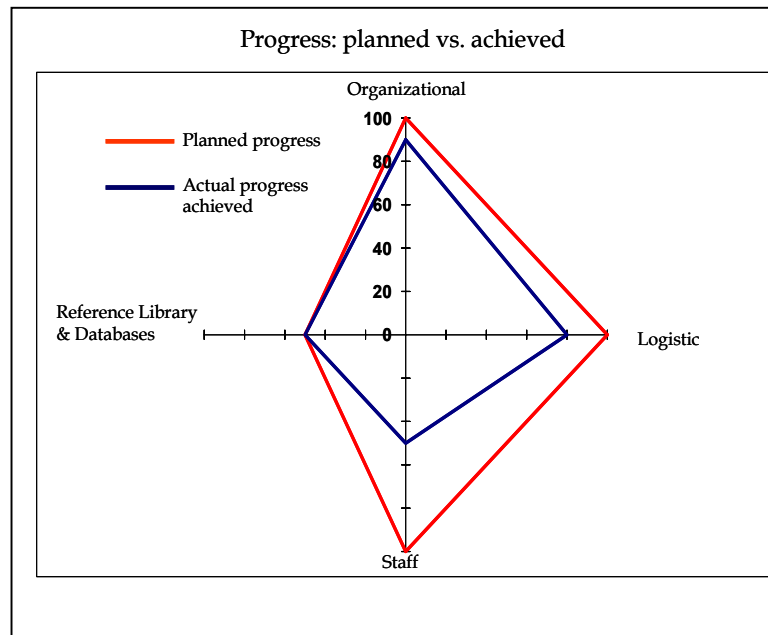
1. General: Introductory training session. Overview of the law, its drafting process and benchmarking it against relevant laws of comparable countries
2. Economics: Phase I: Introduction to micro and macro economics. Phase II: Thorough study of competition economics, economic analysis, and econometrics.
3. Meticulous examination of specific cases in the following sectors: Insurance Telecommunication, Transportation,
4. Visit competition authorities in a comparable country (Tunisia), and one with a mature competition legacy (in the EU) to learn form their experiences
5. Comprehensive study of the articles of the law, their application, the procedural steps, and the relation interaction with other laws

Through EJADA continuous support was available to the Jordanian Ministry of Industry and Trade (MoIT) during 2003 and 2004. Securing a successful implementation of the Competition Law, the most significant achievements in this regard were:

- The endorsement of Competition Law No. (33) of year (2004) after it was enacted by the Parliament.
- The establishment of the Competition Directorate in 2003 at the MoIT.
- The appointment of its Director and Staff which consists of ten employees with economic and legal background and on the government payroll system utilizing the Direct Contract System.
- The establishment of the National Competition Council headed by H.E. Minister of Industry and Trade and comprises of equal representation from the private and public sectors to oversee the National Competition Policy and the strategic Direction of the Directorate.
- The approval of the General Competition Strategy, which is a corner stone in implementing competition legislation in a way that best serves the needs and ambitions of Jordan. The strategy draws the strategic vision for the successful implementation of competition legislation as tool leading to economic development and not as an end by itself. The strategy was approved by the Competition Affairs Committee in July 2004.
- Furthermore, per article 12B of the Competition Law, EJADA provided technical support to the Competition Directorate to develop its annual report. The report focuses on the state of competition in Jordan as well as the activities of the Competition Directorate. The report was also approved by the Competition Affairs Committee. It will be reproduced and distributed as part of the awareness and training campaign.

Finally and most importantly, the Directorate started addressing some competition cases before it. Three rulings were issued in 2004 concerning a Cartel Case, Economic Concentration Case, and an Exemption Case. In addition, the Directorate issued several Ministerial communications to some companies that set minimum resale prices in violation of the Competition Law.

Yet, as illustrated in the chart below, the staff axis of establishing the competition directorate is still lagging behind scheduled plan, which really explains the dilemma of which all government authorities falls in trying to recruit good qualified staff.



5. FUTURE OF TECHNICAL OFFICES:

The technical offices have no clear future. In 2001, based on the announcement of the President on the need to create a second line of leaders, several announcements have been made by the Prime Minister of the government plans to create new positions for assistants to the Ministers from a young generation (between 30 and 40 years old) which is different from the system of assistant to the ministers adopted in the ministries of foreign affairs, interior, defense and justice (the so called Siadia ministries). Nevertheless, the pace of advancements on this front has been so slow and despite that some ministers have appointed assistants, it is still not clear what clear positions or mandates they have. In the Siadia ministries, they adopt a different hierarchy where for example in the defense there is the major general and other ranks and in the ministry of foreign affairs there is ambassador and other ranks, etc. In other words such Siadia ministries do not have the conventional ladder of hierarchy adopted in other ministries. The assistants to the ministers in such ministries are defined by the mandate of the

ministry where for example in the ministry of foreign affairs, there must be an assistant for economic affairs. The same applies for the three other Siadia ministries. There are two important factors when considering assistants to ministers in the siadia ministries, namely that they have to have reached the highest hierarchy (equivalent to 8undersecretary in the conventional system) and that such positions are not permanent (for example we can find an ambassador who has been appointed as an assistant but when changing his position, he remained ambassador but not any more assistant). Hence, an assistant in such siadia ministries is an official position (equivalent to undersecretary in the conventional bureaucracy).

The legal status of the technical office members need to be solved out. Even if they have the power and ability to harmonize with the conventional bureaucrats in a certain ministry, they still cannot act officially in front of other ministries. This issue needs to be solved out.

Finally, better means of harmonizing the technical office staff with conventional bureaucrats is needed to ensure better efficiency, which still faces a lot of impediments. The only way to overcome this problem is through providing larger physical resources (e.g. computers, furniture) and human capacity building programs (e.g. training) for the conventional bureaucrats. This may need a long term time plan, a vision for bureaucratic reform, and huge (probably unaffordable) financial resources which the government lacks.

The Lebanese experience with a UNDP funded project (annex 1) suggests some possible means of achieving better integration of the technical office staff with the regular, mainstream ministerial staff. However, the Lebanese experience represents a case different from technical offices of Egypt and Jordan. In fact there are some UN projects in Egypt that are highly similar to that of Lebanon. In such cases, the project staff is rather isolated from interaction with the ministry's officials. It has a mission that is set jointly between the aid donor and the government or the ministry concerned and the externally funded project members work to achieve such mission. The life span of such projects ranges from one year to ten years and they interact mainly with the minister. In many cases, such projects fill a gap seen by the donor and focus on a certain

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assignment that is not undertaken by any other department in the ministry and hence,
the degree of friction and the whole set of pros and cons aforementioned are not similar.

Annex 1: The experience of the UNDP project serving at the Lebanese Ministry of Finance – December 2004

History of the project:

- ✓ Established in 1993
- ✓ Funded by grants and loans from international development agencies
- ✓ Institutional project management is provided by UNDP
- ✓ Served to date under three ministers and two project directors
- ✓ Relatively low turnover of staff members

Role within MOF : evolved throughout the years

- ✓ Provides technical assistance and policy advice in several fields, including reform coordination, resource mobilization, policy advice, debt management, and legal support
- ✓ Acts daily as the Minister's office

Conditions to off set the negative impacts of a dual (or parallel) system

Impact N.1: Conflict with government officials

- ✓ Strong endorsement of the minister
- ✓ High quality and clear vision of project leadership
- ✓ Strong commitment and motivation of staff
- ✓ Staff members self-conscious of their mission of public interest
- ✓ All project staff are Lebanese nationals: facilitates inter-action with the administration staff
- ✓ Project staff behavior: (1) give credit for achievements within MOF to the administration staff, and (2) respectful of the administration capabilities
- ✓ Transparency and accessibility of data collected or produced by the project
- ✓ Continuous cooperation with the relevant administration officers

Impact N.2: Unsustainability

- ✓ Real administration's need for assistance: the administration staff is self-conscious of the absence of certain skills (language) and knowledge within the administration
- ✓ Establishment of the Finance Institute whose mission is to bring up to date the knowledge and skills of the administration staff , with special focus on newly hired civil servants
- ✓ Capacity building: constant feature of all the project's work
- ✓ Transfer of know-how through: (1) intensive cooperation with the administration staff, (2) publication of internal guides explaining the process to achieve certain tasks, and last but not least (3) training within the project of selected young auditors.

Source: Carol Khouzami, senior legal officer, UNDP project @ the Ministry of Finance of Lebanon