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**Law Making Process for Trade and Investment  
Promotion in Jordan**

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## INTRODUCTION

Jordan, since 1989 has implemented a series of economic structural adjustment programs. The main features of these programs are streamlining of fiscal and monetary policy, enhancing the role of private enterprise, improving the business environment and undertaking various measures to minimize transactions costs in order to make Jordanian markets attractive for investments especially foreign direct investment (FDI). The legal reform process has taken the form of amending existing laws, introducing new laws as well as signing free trade agreements.

Generally there are three main reasons for the government to introduce new laws or amendments to existing laws in the economic sphere. First, there is the government's perception that outdated laws are not responsive, if not actually obstructive to political, social or economic needs, and therefore changes and reform are required. When old policies and regulations are perceived to have stopped satisfying their desired objectives, politicians begin to realize that keeping the status quo may have become politically more costly than the probable risks of policy reform. Second, there are domestic demands from the private sector or the civil society articulating complaints concerning the inadequacy of existing legislation or pointing to mounting problems that require new legislation. Third, there are the external factors that prompt governments to initiate legislation; these are of two types: one derives from government's policy of international economic cooperation, which involves entering into treaties and agreements whose obligations require corresponding domestic legislation<sup>1</sup>; the other is inspired by international financial institutions and/or foreign governments in the context of their promoting reform agendas consistent with their interests or conditionalities for providing assistance<sup>2</sup>. Needless to say, the three sets of reasons are not mutually exclusive and might be supporting one another in inducing reform. Accordingly, initiatives for new legislation or for amending standing legislation might appear in the policy proclamations of newly formed governments, or might first show up in final communiqués of private sector conferences, or might be brought up in government discussions with representatives of international institutions or substantive agencies of friendly governments.

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<sup>1</sup> Examples of the first type are the laws and regulations enacted to comply with the Arab Free Trade Area Agreement, the World Trade Organization (WTO) agreements, the European Union Association agreement, and the Free Trade Area Agreement with the U.S.A.

<sup>2</sup> Examples of the second type are the laws and regulations enacted to comply with the structural adjustment programs agreed with the IMF in exchange for IMF support of Jordan's debt rescheduling.

A major economic crisis took place in Jordan in 1988/1989 associated with mounting external debt and depletion of foreign exchange reserves. To overcome the crisis, the government embarked on a major economic reform effort encompassing fiscal and monetary policies together with policies aiming at liberalization of foreign trade and enhancing private sector role. During the decade of the eighties and nineties economic reform measures in Jordan had been oriented towards enhancing the role of the private sector in economic activity, and liberating markets, particularly in foreign trade. This implied a changed role and a new orientation for the public sector. Aside from measures to privatize a number of public enterprises and investments, notably in the cement and potash industries, telecommunications, and water supply management, important tasks to streamline and reform government institutions to ensure good governance in the context of government's changing role are mostly still pending.

With this in mind we proceed in this chapter to describe how legal changes have been initiated and processed with an analysis of the main stakeholders (executive, legislative and civil society) and their powers and weaknesses.

## **1. EXECUTIVE AUTHORITY AND ADMINISTRATION**

The legal bases of the executive authority and public administration in Jordan rest in the Constitution and the body of legislation passed by the legislative authority. According to the Constitution “The Executive Power shall be vested in the King, who shall exercise his powers through his Ministers in accordance with the provisions of the present Constitution”. [Constitution Article 26].

Annex 1 provides a chart outlining the flow of law drafting within the government before it goes to the Parliament.

### **1.1 Composition and Powers of Government (Council of Ministers)**

The Prime Minister and the Council of Ministers (the Cabinet, for short) are entrusted with the conduct of all affairs of the state, internal and external, and are responsible to the House of Deputies. The King selects the Prime Minister who in turn selects the ministers for individual portfolios, usually in consultation with the King, with elder statesmen, and with the speakers and other important members of Parliament. When the

Prime Minister the nominated Cabinet to the King, the latter then issues the decree entrusting government to the new Cabinet.

The Cabinet is the top executive arm of the state. The Constitution requires every new cabinet to present its “Ministerial Statement”, containing the Cabinet’s policies and programs, to the House of Deputies so that it forms the basis for the House’s confidence in the government. If the House passes a vote of no confidence, the Cabinet must resign.

The Cabinet has a chief secretary who, assisted with the staff of the Prime Ministry, prepares the Cabinet’s agenda. The full Cabinet meets once a week in plenary session. The items on the agenda of the weekly meeting of the Cabinet are reduced by **virtue of parallel processing of** the specialized or the less important items by the Cabinet’s sub-committees. Currently, and for the past several years, there are two standing sub-committees which also hold weekly sessions: One, the so-called “mini-Cabinet”, processes the more routine and minor issues which require Cabinet’s ruling; the mini-Cabinet is usually chaired by the most senior minister or a deputy prime-minister. The other sub-committee is that of “Finance and Economic Development”, often abbreviated as the “Development Committee, and sometimes called “the ministerial economic team”; it usually includes the ministers of finance, planning, industry and trade, and other ministers concerned with economic and development affairs including any minister concerned with an item on the committee’s agenda; it is usually chaired by a deputy-prime minister.

Economic policy in all its configurations falls within the mandate of the following ministries:

a) The Ministry of Finance is in charge of fiscal policies especially that of preparing the state’s annual budget, including the levels of revenues and expenditures, and sources of financing likely deficits. Since the adoption of the structural adjustment program the Ministry of Finance and the Central Bank have been working closely with the IMF in order to contain the budget deficit, to manage the debt problem, and otherwise reform fiscal and monetary policies to ensure macro-economic stability.

b) The Ministry of Planning is in charge of economic and social development issues and policies including growth, investment, and development finance. The Ministry of Planning has the mandate to cooperate with the World Bank and other foreign, Arab and

international development finance institutions and agencies. This longstanding mandate prompted the recent change in its name to become the “Ministry of Planning and International Cooperation”.

c) The Ministry of Industry and Trade is in charge of domestic and foreign trade issues and policies, trade and business regulation, export and investment promotion, etc.

Economic and developmental policies have of course broad bearing on practically all other ministries: e.g. a) Sectoral development is of concern to ministries of agriculture, water, telecommunication, transport, and social welfare. b) Human resources development is the concern of the ministries of labor, health, and education.

There are naturally issues of coordination among the various ministries; yet there are also issues of dis-coordination among ministers, which sometimes reach the level of personal rivalries. The main instrument of coordination is the sub-Committee within the Cabinet, the “Development Committee”.

Although cabinet portfolios are deemed equal and the decisions of the Council of Ministers are the collective responsibility of each and all members of the Cabinet, in practice some ministers are “more equal than others”. Traditionally, certain portfolios in the Cabinet are more influential, e.g. Finance, Interior, Foreign Affairs, and Defence; (In Jordan, the Defense portfolio is traditionally reserved for the Prime Minister.) In recent years, such portfolios came to be code-named “sovereign portfolios”. The personal stature, style and/or idiosyncrasies of individual ministers are often important in coloring the public image of governments.

Overall it could be argued that the government's economic team has by and large been harmonious in conducting relevant cabinet business. However, in the experience of a former member of the cabinet's Development Committee in the 1980s, the Minister of Finance did not exercise transparency within this Committee with regard to the true picture of the country's indebtedness and the looming crisis which exploded in 1989. He kept true information on the economic situation within the confines of his relationship with the Prime Minister. More recently, in 2004, a deputy prime minister who headed the Development Committee left the Cabinet because of what he considered lack of transparency and transgression on the mandate of fellow ministers exercised by a

particular minister member of the Development Committee.<sup>3</sup> The absence of parliamentary government and also of effective political parties narrows differences among ministers to short term considerations of personal rivalries for political survival rather than to more fundamental differences over ideological or policy issues.

The aforementioned process of sub committees in the cabinet certainly has led to effective coordination. However, the likely shortcomings in the process are not peculiar to the Cabinet's sub-committees but to the Cabinet's methods of conducting its affairs at large. The main shortcomings are the following:

- A) Extreme centralization of a wide variety of bureaucratic decisions, some affecting very small and minor matters, within the Cabinet. This need for high level referrals reflects the fact that the laws and regulations are lacking in precision and detail, leaving an exaggerated margin for bureaucratic discretion, especially at the highest level.
- B) Shortage of competent technical secretariat to vet the matters submitted to the Cabinet to make sure that only matters that could not be dealt with at lower levels reach the Cabinet.
- C) Poor archiving and lack of a thoroughly documented knowledge base that include past decisions and relevant precedents to enable a competent technical secretariat of reaching well substantiated recommendations for decisions to be considered by the competent Cabinet sub-committee.

For the first time in years, the present Cabinet is taking these shortcomings seriously. It re-appointed the former minister of foreign affairs, Dr. Marwan Muasher, a Ph.D. in management information systems, as deputy prime minister with the explicit mandate of streamlining 'government and public sector performance'. Dr Muasher is thinking of increasing the number of sub-committees that vet and prepare the items to be decided by the Cabinet and of having them serviced by high level technical expertise. Such reform, in addition to enhancing the efficiency of Cabinet proceedings, should give more time to the Cabinet to deliberate policy issues.

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<sup>3</sup> See Interview with Dr. M. Halaika, former deputy prime minister, in Al-Ghad, Jordanian daily, December ??, 2004.

## **1.2 Inter-Ministerial Co-ordination**

Inter-ministerial coordination is carried out in the Cabinet and its aforementioned sub-committees. On certain subject matters that cut across the mandates of two or more ministries and official bodies, there are higher boards designed to ensure coordination, e.g. the Board of Higher Education, the Higher Board of Agriculture, the Higher Council for Science and Technology. The latter includes eight cabinet ministers whose portfolios have bearing on science and technology together with prominent individuals from academia and the private sector knowledgeable of science and technology issues and policies.

## **1.3 Central Non-Ministerial Bodies**

There are certain non-ministerial central governmental bodies that exercise executive regulatory powers comparable to the powers of ministries. The more important are the following:<sup>4</sup>

- The Higher Media Council. This is a recently created body exercising part of the mandate previously assigned to the Ministry of Information.
- Jordan Securities Commission. This is the body in charge of regulating the activities of the Amman Financial Market. It is comparable to the USA Securities and Exchange Commission and includes five commissioners appointed by the Cabinet for fixed terms.
- The Telecommunications Regulatory Commission. This was created upon divesting telecom services to the private sector.
- Commission of the Aqaba Special Economic Zone (ASEZ). This independent and powerful body was created with the creation of ASEZ to govern ASEZ. Commissioners are appointed by royal decree. For more on that see chapter 3 of the Jordan section.
- Executive Commission for Privatization.
- Transportation Sector Regulatory Commission.
- Insurance Sector Regulatory Commission.
- Electricity Sector Regulatory Commission.
- Petra Region Regulatory Commission.
- Nuclear Energy Regulatory Commission.

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<sup>4</sup> <http://www.pm.gov.jo>, August 2004.

## **1.4 The Civil Service**

Executive officers in the Jordan civil service include the general secretaries of the various ministries (formerly known as ministerial deputies) and department directors at the various ministries. The selection of department directors generally takes place by promotion from the ranks of senior officers. The selection of general secretaries may take place by promotion of directors but also by direct recruitment from outside the bureaucracy, i.e. from the private sector or academia. Because of the immense load of work expected from the secretary general of a ministry, merit and technical competence figure out prominently in their selection.

However, salaries in the government civil service are far from being competitive and adequate to attract high level talent to positions that require it. The problem is sometimes solved by resorting to appointments by individual contract where the incumbent may not claim pension and other privileges of regular appointments in the hierarchy of the civil service. However, there are limits to salary differentials accorded in this way<sup>5</sup>. An alternative solution is to resort to hosting “projects” financed by international and foreign donors, where considerable latitude usually exists for recruiting professionals with high opportunity cost. Instances of such projects have been provided by UNDP, World Bank, EU, and US AID. The technical footwork associated with economic reforms that are favored by international institutions, or that relate to enrolment in international agreements, is usually supported within the context of such projects.

## **1.5 Advisory and Consultative Arrangements**

One source of counsel or advice are professional consultants especially engaged to study a reform issue, or the feasibility of a development project. Another source of consultation are especially designed advisory bodies, e.g. the Consultative Economic Council (CEC) appointed by the King to include personalities from the professional and private business sector to be a sounding board for economic policies. A third source of policy advice that often ends up with new or amended legislation is international advice of international organizations such as the World Bank and the IMF. Donor countries aid agencies often play similar advisory roles to that of international organizations.

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<sup>5</sup> the limit being what may be tolerated with minimal effect on the morale of the rest of the staff of the ministry.

In some cases of proposed international agreements the government would refer the relevant legislation to the Consultative Economic Council (CEC) The CEC was established in 1999. Its members are appointed by HM the King and it is meant to reflect the private sector perspective concerning economic and development issues. Prominent private sector entrepreneurs and company CEOs have been appointed on the CEC, constituting about half of the CEC membership. The rest of the members are technocrats who made their reputation in public office.

Constitutionally, the CEC does not have any *de jure* authority. When drafts of proposed laws are referred to it by the government, it would study them and might express views and recommend changes. Although the CEC's recommendations are not legally binding, they carry enough political weight to have the government take them seriously. Being appointed by the King, the CEC is considered close to the King's views. In many occasions the government may choose not to refer the proposed laws to the CEC. The relationship between the government and the CEC is highly dependent on the personal relations between the ministers concerned and members of the CEC. There is no voting system inside the CEC; decisions are taken by consensus. Very often drafts of the proposed laws are referred to specialized sub-committees of the CEC in order to examine them in depth. Once a consensus is reached the suggested recommendations will then be presented to the King in the presence of the Prime Minister and the minister or ministers concerned with the legislation being reviewed.

## **2. THE EXECUTIVE'S ROLE IN LAW MAKING**

### **2.1 General Features of the Process**

The three types of legislative and legal change, namely, amendments to existing laws, initiation of new legislation to articulate newly adopted policies, and initiation of new legislation in compliance with international obligations and agreements, are normally handled by the ministry whose mandate covers the subject matter of the legislation to be amended or freshly initiated. A first draft of the proposed legislation is prepared by the competent directorate of the mandated ministry. Those involved in the drafting process are incumbent officials of the directorate assisted by experts drawn from former government officials possessing the relevant experience or drawn from consultants in the private sector, both domestic and foreign. If the subject matter warrants it, consulting firms are contracted to contribute studies to support the drafting process. This usually

takes place in the drafting of technically sophisticated legislation, such as that relating to the regulatory systems for telecommunication or that relating to the more tricky WTO agreements concerning intellectual property. Where appropriate, these studies produce several alternative proposals and recommendations for consideration by decision makers. In many cases the studies present benchmarking analyses which compare the Jordanian case with cases in other comparable countries.

The first stage in the drafting of a proposed law begins with holding several informal meetings or consultations between government officials and various stakeholders such as civil society associations or NGOs. Primarily, the main players from the government side involved in law drafting are officials of the legal department of the ministry concerned or officials with legal background in the substantive department concerned with the subject matter of the proposed legislation. They should also be in direct contact with the end users. The most affected stakeholders by the proposed legislation are not necessarily consulted at that early stage, at least not in a formal manner. They are very likely to be involved indirectly and have a chance to voice their opinion in the process of preparing the commissioned studies that normally precede the introduction of the new laws or amendments to old laws. The officials and consultants who prepare the studies usually feel professionally bound to interview the various stakeholders and other groups likely to be affected by a proposed legislation. Recommendations of these studies carry considerable weight since they are normally conducted upon the request of the government and are normally perceived by the government as credible and objective. The private sector usually perceives these studies in a positive manner as well.

The initial draft of the proposed legislation, based on consultations and the experts' studies, is normally handled by the ministry's secretary general or the second man in the institution concerned. The secretary general or the second man in Jordanian institutions normally takes care of the professional side of the ministry's work and so would be well versed in the kind of technical issues that the drafting team would be asked to deal with and discuss at length. Therefore, it is usually that level of the bureaucracy who presides over the committee in charge of drafting the law. This step would be followed by general consultative meetings within the ministry concerned involving managers and directors of other departments that were not involved in the drafting process. A discussion of the draft law will ensue, and if there were comments or reservations they would be taken into consideration by the department in charge in order to improve the initial draft. The draft law so finalized will then be presented to the minister concerned from the office of his deputy.

When the minister approves the draft law he would go ahead and submit it to the Council of Ministers, the Cabinet for short. In certain cases the Cabinet might deem that the proposed legislation is interdisciplinary and is of concern to more than one ministry. In these cases the draft legislation is referred to a broad committee involving senior officials representing all the concerned ministries and institutions. Discussion in such inter-ministerial committees would focus on ensuring that the proposed legislation is not prejudicial to the interests and mandate of the other ministries. Normally, senior officials who were involved in drafting the laws would attend the cabinet meetings to respond to any comments and to clarify any ambiguities that may arise in the course of discussion of the proposed laws. If the comments concern minor or straightforward points the concerned Minister along with his team may decide to act on them there and then. Otherwise he will take the comments back to the ministry to have them looked into by the directorate which had drafted or initiated the proposed legislation.

When the draft of the proposed legislation is in a shape acceptable to the ministry or ministries concerned and so received by the Cabinet secretariat, it is immediately sent to the *Bureau of Legislation in the Prime Ministry*. This Bureau is composed of a panel of legal counsels and senior officials qualified in jurisprudence and experienced in legal formulation. Meetings of the *Legislation Bureau* are held regularly to undertake the final revision of the drafts of legislation the substance of which have been deemed acceptable by the ministry or ministries concerned and ready for Cabinet final approval. The task of the Legislation Bureau is to put the draft in final and sound legal idiom and format, and to make sure that it does not violate the constitution or otherwise unintended conflict with any other laws or legal conventions. The meetings of the Legislation Bureau are usually chaired by the Minister of Justice and attended by the minister concerned with the draft legislation being reviewed by the Bureau. The process of clearance of draft legislation by the Legislation Bureau may take a very long time in periods when the queue of drafts under review by the Bureau is too crowded. In such situations the Bureau is often looked at as a bottleneck obstructing the efficiency of the legislative process.

When the draft legislation is duly finalized by the Legislation Bureau it is referred for final approval by the Cabinet or one of the Cabinet's sub-committees. The most important of the Cabinet sub-committees is the so-called Development Committee which deals with economic, fiscal, and financial matters on the Cabinet's agenda. Its membership usually includes, among others, ministers of Finance, Planning, Industry and Trade, Agriculture, Water, Transport and Telecommunications.

Normally, individuals who were involved in drafting the proposed legislation, (e.g. the Director of the Budget at the Ministry of Finance in connection with the annual Budget Law), would be invited to the respective meeting of the Development Committee and would respond to any comments and clarify any ambiguities that may arise during the discussion of the proposed legislation. Alternatively, members of the Cabinet's Development Committee could take the proposed legislation and discuss it with their own staff in order to examine it and ensure that it is not violating or contradicting existing legislation. However, in the majority of cases the various ministries likely to be concerned would have been consulted at the drafting stage, which makes the approval by the Development Committee proceed rather smoothly. Approval by the Development Committee normally entails almost automatic approval by the full Cabinet.

Deliberations of the Cabinet as well as deliberations of the Cabinet's sub-committees, unfortunately, are not documented. There are no recorded or even summarized minutes of their meetings. Therefore, a researcher cannot reconstruct in any documented fashion whatever discussions or arguments had taken place in deliberating any particular proposed legislation. However, at the present time a deputy prime minister, Dr. Marwan Muasher, has been appointed with the explicit mandate of streamlining "government and public sector performance". Part of his plans is to enhance the efficiency of the offices at the Prime Ministry.

## **2.2 Legislation Concerning International Agreements**

A special type of legislation concerns enrolment in international multilateral agreements many of which concern international economic and commercial relations. This type of legislation has its own conduits and takes a somewhat different path from legislation involving purely domestic parties. Joining international organizations such as the WTO or the conclusion of the EU Association Agreement means involving external factors and a set of rules essentially formulated in the international arena, and so is much different from rules that govern legislation initiated to deal with purely domestic matters. Enrollment in an international agreement entail internationally recognized rules that apply to all countries subscribing to that agreement; hence there is little room for maneuvering around them. In the case of agreements relating to external trade (Arab Free Trade Area, the WTO, the EU Association, the U.S. Jordanian Free Trade Area), important private sector and civil society institutions and firms are brought into the process and consulted extensively, since they include those who will benefit from the

agreements as well as those who are likely to suffer the most. Moreover the government is usually not inclined to bear the responsibility alone for negotiating these agreements.

It is important to note that adequate discussion and extensive debate of international agreements by all affected and interested parties should take place prior and during negotiations with the foreign counterparts and *before* the proposed legislation is ready to be submitted to parliament. One significant difference in procedure between Parliament deliberation of normal legislation and its ratification of international agreements is that in normal legislation it can add, subtract or modify the proposed legislation. However, according to Article (74) of the Parliament's Rules of Procedure, in cases of international agreements reached as a result of Government negotiation with foreign governments or international organizations, Parliament can not introduce changes in a proposed agreement; it can decide either to ratify the agreement or reject it or, in rare cases, postpone voting if the Government sees a possibility of taking back the agreement for further negotiations that would take the Parliament's misgivings into consideration.

### *2.2.1 The Case of Accession to WTO*

Efforts to join the WTO started with establishing a secretariat to join the WTO in the ministry of planning. The Secretary General of the Ministry of Planning MoP was the chairman of this committee before it was chaired by the Secretary General of the Ministry of Trade MoT. This committee prepared what is known as the country memorandum of accession (CMA) which reflects the Jordanian position regarding trade liberalization issues and it included also the tariff rates and non tariff barriers which prevailed at that time. The CMA was the product of extensive interaction between private and public sector and many stakeholders. Representatives from the Amman chamber industry was part of Jordanian official team.

After the government agreed on the CMA, it was sent to the secretariats of the WTO. A domestic public awareness campaign started and many public seminars were conducted to explain what it meant for Jordan to join the WTO.

This case illustrates the typical procedure in conducting the process leading to legislation ratifying international agreements. The first step taken in negotiating accession to WTO started by forming a secretariat to be in charge of the effort in the Ministry of Industry and Trade. This ministry was assigned the responsibility of

negotiating with the counterpart international secretariat and of following up the implementation process. The national secretariat then formed a task force with members representing the various actual as well as potential stakeholders from the public and private sectors. The following bodies were represented in the task force:

- a) Ministry of Industry and Trade
- b) Ministry of Finance/ Customs department
- c) Central bank of Jordan
- d) Ministry of Agricultural
- e) Amman Chamber of Industry
- f) Federation of Chambers of Commerce.

The mission of this task force was to prepare a document that reflected the Jordanian stance concerning all issues under consideration. In drafting such a document, members of the task force contributed reference papers, memoranda, and studies within the competence of the parties or stakeholders they represent. Those papers, memoranda and studies were prepared by the research departments within the concerned institutions or by consultants outsourced for the purpose. Experience of other countries with similar circumstances that joined the WTO were also investigated in order to draw lessons and avoid repetition of mistakes.

Parallel to the work of the task force, a public awareness campaign was conducted by the government. The campaign aimed at promoting the case for the initiative and the required legislation with members of Parliament and the general public, thus preparing the public and the legislature for any possible backlash or (short term) negative consequences. The various stakeholders would also lobby to enlighten the groups they represent. Their case would be persuasively made if they could demonstrate that there were significant net gains that would accrue to the affected stakeholders, be they private businesses, professional union organizations, or other NGOs and civil society organizations.

The outcome of formal discussion among the competing pressure groups and stakeholders was thus reflected in the first country memorandum of accession (CMA). This document was then sent through the national secretariat to the concerned international organization. A process of negotiation started between the Jordanian team and the counterpart team representing the international organization<sup>6</sup>. Representatives

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<sup>6</sup> See the flowchart number 4

of the private sector and of the other stakeholders were occasionally involved in the process of the negotiation. This was done some times by including private sector representatives as part of the official negotiating team at certain stages of the negotiations, and some other times by engaging private sector stakeholders in the process through granting them access to progress reports concerning the CMA document.

The process of negotiation was governed by international provisions and the room for negotiation only involved how to maximize concessions for Jordan in the bilateral negotiations with other members of the WTO. Countries already members in the WTO are entitled to conduct bilateral trade and to ask for clearances from countries that intend to join the international organization. Both the private and public sectors were united more or less in their concerns. While the private sector was concerned about protecting its own interests (industry and services) from abrupt liberalization, the government was concerned about sources of revenue and other social and political implications of the agreements.

The process of negotiation focused on agricultural products and the period of concession that small developing countries like Jordan should take before fully opening up its market. The interests of Jordanian agricultural exporters were represented by those deputies and senators who had agricultural property and/or interests in the agro-export businesses.

After reaching agreement with the international organization the government referred the documentation of the agreement and the proposed legislation to Parliament. The Parliament then took it up within its due process as it would do with any new legislation except that influence by pressure groups from outside the parliament was in this case minimal as a result of success of the awareness campaign. Thanks to this campaign few members of Parliament viewed accession to the WTO as an imposition from outside.

### *2.2.2 The Case of Entering the EU Association Agreement*

A similar process to that described above had encompassed the initiation, negotiation and conclusion of the Association Agreement with the European Community albeit in abridged and accelerated form and with far more limited involvement of affected parties, interest groups and stakeholders. The initiative was

looked at as part of opening and modernizing the economy and the negotiating task force was manned with relatively young and inexperienced technocrats. A major shortcoming was the failure to coordinate with the Arab countries that had concluded similar agreements and take full advantage from their experience. In particular, the original agreement as concluded by Jordan did not allow for cumulative rules of origin with fellow Arab countries that had entered or will be entering similar agreements. This proved to be a main limitation on the usefulness of the agreement until subsequent efforts were made to renegotiate this feature. In May 2001 four Arab countries, namely, Jordan, Tunisia, Egypt and Morocco reached Agreement in Agadir to seek “diagonal accumulation” of rules of origin for their exports to EU countries. In May 2003, the EU approved diagonal accumulation between any two Arab countries who are simultaneously members of a free trade area and signatories to association agreements with EU. This initiative has been managed under the so-called “Pan Euro-Med Cumulative Rules of Origin”. Success of such initiative would lead indirectly to the creation of a free trade area among the four countries.

### **2.3. Processing Legislation Approved by the Executive**

#### **When the Parliament is in Session**

Upon approval of the proposed law by the Cabinet it is sent to Parliament for deliberation and ratification. The processing in Parliament differs a great deal with regard to proposed legislation dealing with domestic issues from proposed legislation concerning enrolment in international agreements.

#### **When the Parliament is not in Session**

If the parliament is not in session and the government is keen on issuing a particular law, it still might manage to issue it by royal decree upon the King’s consent; in which case the law so issued will assume the status of a “temporary law” which will remain in force until the Parliament reconvenes and subject it to its due process whence it is either ratified or repealed. In this connection it is important to note that resort to temporary (provisional) laws has been subject to severe criticism because it is seen as circumventing the mandate of the legislative authority. The executive authority power to issue temporary laws rested originally on Article 94 of the 1952 Constitution which limited the circumstances permitting the enactment of temporary laws to those that “deal *with emergencies* (public catastrophes, conditions of war and (similar) emergencies, need for urgent expenditures that cannot be postponed).

However an amendment was introduced to Article 94 in May 1958 empowering the Government together with the King to enact “temporary” laws” in the absence of Parliament in order to deal with “matters which require necessary measures which admit of no delay or which require necessary expenditures that cannot be postponed.” This softened wording resulted in the government taking exaggerated advantage of the situation when the Parliament is not sitting in order to enact provisional laws that arguably would be difficult to pass in regular sessions of Parliament. The latest such phenomenon was the very large number of provisional laws enacted during the period since the dissolution of the previous Parliament on June 16, 2001 and the ensuing postponement of elections to 2003.

### **3. THE STRUCTURE AND POWERS OF THE MAIN LEGISLATIVE BODIES**

#### **3.1 The Bi-Cameral Parliament**

Under the Constitution, legislative power is vested jointly in the National Assembly (the Parliament, for short) and the King. [Constitution Article 25]. The Parliament is bi-cameral consisting of the House of Deputies, whose members are elected by the people of Jordan in accordance with the Electoral Law, and the House of Dignitaries (the Senate, for short), whose members are appointed by the King. Legislation has to pass both houses and be ratified by the King. In the event that the King declines to ratify a legislation, the Parliament has the power to override the King’s veto by a two-thirds majority of both Houses [Constitution Chapter V]<sup>7</sup>. Although the House of Deputies is vested with relatively more legislative power than the Senate, both houses in practice, especially in recent years, have been overshadowed by the Executive.

The Constitution stipulates that the membership size of the Senate including the speaker cannot exceed fifty percent that of the House of Deputies. Of the two Houses the Senate is regarded as the more elite, consisting as provided by the Constitution of prime ministers and cabinet ministers (present and former), former speakers of houses of parliament, former ambassadors and ministers plenipotentiary, former judges of the higher courts, retired army generals, former members of Parliament together with national personalities of similar standing. According to the Constitution, members of the Senate must be persons over forty years of age.<sup>8</sup> The recently announced 2003 Senate,

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<sup>7</sup> Prior to July 1988, the membership of each of the two houses of Parliament was divided equally between representatives of the East Bank and the West Bank parts of the Kingdom.

<sup>8</sup> Raphael Patai, *The Kingdom of Jordan*, Princeton University Press, Princeton, New Jersey:,1958.

comprised 55 members. It included two former prime ministers, ex- ministers, members of the former Senate, and many other personalities.

Members of the House of Deputies are elected to four-year terms by secret ballot. Candidates must be Jordanian citizens of more than thirty years of age. Individuals representing foreign interests or having material interests in any government contract are disqualified. Also excluded are persons who have been debarred from public office or who have blood ties to the King within a prescribed degree of relationship. Voters must be at least eighteen years of age. Suffrage has been universal since 1974, when women were enfranchised.

Until June 2001, when it was dissolved, the House of Deputies had 80 members elected by the people for four years. Accordingly, the Senate had consisted of 40 senators appointed by the King for four years. The new Electoral Law, issued as a provisional law by royal decree on July 22, 2001, raised the number of seats in the House of Deputies from 80 to 104, increased the number of constituencies from 21 to 44, redistributed parliamentary seats, and lowered the voting age from 19 to 18.<sup>9</sup> Certain seats, in similar provision to earlier electoral laws, were reserved for religious and ethnic minorities, namely Christians (9 seats), Circassians, and Chechens (3 seats). The latest electoral law reserved six seats for women members in the House of Deputies. If the seats are not filled by women who succeed in normal competition, then they will be filled by women candidates, not exceeding six, who gained highest voting scores in the nation at large.

The Jordanian Parliament, including both houses, convenes in “ordinary session” for four months each year. The King may extend the ordinary session for a further period not exceeding three months to allow for the dispatch of pending matters. The King may summon the parliament for extraordinary sessions. Both houses of Parliament may initiate debates, and submit legislation to the government in the form of proposed laws.

No member of Parliament may be detained or tried during the time when Parliament is in session unless the house to which he/she belongs decides by an absolute majority that there is sufficient reason for his/her detention or trial, or unless there was flagrant crime. Members of the Parliament also enjoy complete freedom of expression.

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<sup>9</sup> The United Nations Development Programme, Programme on Governance in the Arab Region, (POGAR), <http://pogar.org>, August 2004.

### *3.1.1 Internal Organization of Parliament*

In the bi-cameral Parliament, the House of deputies elects its own speaker, while the speaker of the Senate is appointed by the King. Each House elects the speaker's two deputies and two assistants from amongst its members. Each House operates through several permanent committees that deal with legal, financial, administrative, and foreign policy issues. Each House may create other permanent or temporary committees when the need arises. Committee members in each House are elected for two years.

### *3.1.2 Electoral Rules*

Elections to the House of Deputies had been governed by the Law of Election to the House of Deputies, No. 22 of 1986. Elections are overseen by the Ministry of the Interior, which appoints representatives to organize and monitor election proceedings at the local level. A 1993 legislation altered the electoral system from an at-large, the so-called "voting a list", to a limited vote arrangement, the so-called "single vote". Under this system, voters could cast only one ballot, rather than being allowed to cast as many ballots as there are seats in the constituency, as they did under the old "list" system. The latest Law of Elections, that of 2001, kept the controversial "one-person one-vote" formula but provided for special committees, which include members of the judiciary, to supervise the electoral process in each district.<sup>10</sup>

### *3.1.3 Political Parties*

The current Political Parties Law No. 32 of 1992, which repealed the law of 1955, regulates the framework within which Jordan's political parties operate. They must work through legitimate and peaceful means, adhering to the supremacy of the law, the principle of political pluralism, and the preservation of national unity; they must renounce all forms of violence and discrimination, and avoid utilizing the state for partisan purposes. In order to receive a license from the Ministry of Interior, parties must comply with certain regulations, such as having a minimum of 50 members, respect for the Constitution and the ideals of political pluralism. Since the promulgation of the 1992 law, there has been a proliferation of party formation. In some cases, smaller parties have

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<sup>10</sup> *Ibid.*

since banded together in working coalitions to contest elections. A political ban on the leftists and the Islamists was lifted in 1991, opening the way for their representation in the parliament. Some analysts point to “the Jordan example,” arguing that parliamentary representation has softened the rhetoric of previously excluded groups.

In accordance with the 1992 Political Parties Law there are 32 licensed parties registered with the Ministry of Interior. The vast majority of these parties are tiny entities comprising few hundreds of individuals. In the 1950s and 1960s the political scene was dominated by leftist ideological parties such as the Arab Nationalist Movement, the Communist Party, the Arab Baath Socialist Party, the Moslem Brotherhood, and the Islamic Liberation Party. These were not formally licensed parties but their activists were tolerated *de facto* most of the time. Events since the defeat of 1967, in particular the death of Nasser and the collapse of the socialist bloc, gradually eroded the influence of the ideological parties except for the Muslim brotherhood and the Islamists. Hence, at the present time, the better organized and more influential parties are the Islamists represented by the Islamic Action Front and the Islamic Median Party. With the exception of the Islamists, none of the legally established parties is significant enough to constitute a politically influential force.

When elections to the 13<sup>th</sup> House of Deputies were held in November 1997, the strongest opposition party, the Islamic Action Front, several smaller Islamist groups, and some professional associations boycotted the elections, despite several attempts at negotiations between these groups and the government. By boycotting the elections, the parties intended to draw attention to their political agenda, which called for changing the electoral law and lifting restrictions on the media. Despite the boycott, some members of these parties ran in the elections as independents. The centrist National Constitutional Party, a coalition of nine pro-government parties, won two seats, and the Unionist Democratic Party, the Arab Land Party and the leftist Jordan Socialist Arab Baath Party won one seat each. The remaining 75 seats went to unaffiliated candidates of assorted political orientations. International election monitors were present during the elections, and attested to the absence of electoral irregularities.<sup>11</sup>

The elections to the House of Deputies, originally scheduled for the end of 2001, were postponed to June 2003. One excuse for the postponement was that the government

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<sup>11</sup> *Ibid.*

needed time to tender for the production of magnetic voter cards and to distribute them to the kingdom's eligible voters estimated at 2,760,000.<sup>12</sup>

### *3.1.4 Turn Out in Elections*

A measure of the credibility of the representational system and the belief of the general public in the seriousness of the elections process is the degree of participation by eligible voters in this process. The ratio of those who actually voted in the elections to the House of Deputies and relative to the number of registered citizens entitled to vote, was 53 percent in the 1989 elections, 55 percent in the 1993 elections, 45 percent in the 1997 elections, and 50 percent in the elections of 2003.<sup>13</sup>

In certain cases electoral victories were made with the winner of highest number of votes scoring no more than 10% of the votes cast, with the rest of the votes scattered among the rest of the candidates.<sup>14</sup> This is a sign of the weakness of the electoral law codenamed “the one vote law”, and it also indicates the weakness of the party system in Jordan.

### *3.1.5 Electoral Districts*

The number of voters represented by each member of parliament (MP) varies a great deal among the different geographic/administrative districts of the country. On the one extreme, the capital Amman governorate is represented by one MP for every 45 thousand voters. On the other extreme, each of Tafileh and Ma’an governorates is represented by one MP for every 11 thousand voters; i.e. they have relatively the equivalent of four times the number of MPs per thousand voters than has the capital. Other governorates that have relatively low representation are Zarka, 37 thousand voters per MP, Irbid, 32 thousand per MP, and Balqa’, 20 thousand voters per MP.<sup>15</sup>

## **3.2 The Legislative Process**

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<sup>12</sup> *Ibid.*

<sup>13</sup> Calculations based on primary figures obtained from records of Jordan’s Ministry of Interior.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

Jordan's parliamentary system has undergone important changes that have contributed significantly to the improvement of basic legislative functions of representation, effective lawmaking, and oversight, all integral elements of good governance. The relationship between the legislative and the executive branches may be characterized as “**flexible moderate separation of powers**”. The King partakes in the legislative functions through several methods, including appointing members of the Senate, dissolving Parliament, postponing elections for one or two years during which temporary (= provisional) laws may be enacted by the Cabinet with the royal decree.

### *3.2.1 The Process in the Lower House*

Proposals for new laws or for amendments to existing laws are normally introduced by the government; however, The Parliament may, in principle, initiate any legislation if it manages to secure the support of 10 or more members of the House of Deputies and have them put their signature in favor of the initiative. (Article 66-A of Parliamentary Rules of Procedure). No law may be promulgated unless passed by both the House of Deputies and the Senate and ratified by the King. Laws go into effect after their publication in the Official Gazette.<sup>16</sup> Annex 2 shows the flow of the legislative process.

Legislations concerned with economic reform are presented to Parliament by the government. Upon approval by the Cabinet of the final text of a proposed law, and if the Parliament is in session, the Prime Minister's office forwards the text officially to Parliament to have it enacted. The speaker of the House of Deputies places the proposed law on the queue of legislations on the House's agenda. When its turn is reached in due course, the speaker of the House of Deputies announces it to the House in order to subject it to a vote of acceptance<sup>17</sup>, i.e. a vote upon whether to accept the law for its consideration or to return it to the government<sup>18</sup> on grounds of unsuitability.<sup>19</sup> In case the House decides to proceed with the proposed law it will be referred to the appropriate committee according to its subject matter. In cases of laws concerning economic subjects the competent committee concerned would be the "Financial and Economic Committee" FEC.

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<sup>16</sup> The United Nations Development Programme, Programme on Governance in the Arab Region, (POGAR), <http://pogar.org>, August 2004.

<sup>17</sup> According to article 67-A of the Parliament's Rules of Procedure the text of the proposed law should be distributed to the House members at least three days before voting takes place.

<sup>18</sup> In this case, that is returning the proposed law to the government, the law would first be forwarded to the Senate as will be explained later.

<sup>19</sup> According to article 67-A of the Parliament's Rules of Procedure the text of the proposed law should be distributed to the House members at least three days before voting takes place.

## **The Parliamentary Financial and Economic Committees: A Mechanism Mobilizing Stakeholders**

The speaker of the House of Deputies will officially refer the proposed law to the chairman of the committee of the House that has the competence to deal with its subject matter. Accordingly, legislation proposals dealing with economic matters will be referred to the House's Financial and Economic Committee (FEC) through the secretary general of the House, informing the committee on whether the law is an urgent or a standard legislation.<sup>20</sup>

Like other committees in both houses of Parliament, membership of the FEC consists of eleven members agreed upon or elected by members of the House.<sup>21</sup> Members of the committee elect the chairman and the secretary of the committee from amongst themselves. Membership usually represents the whole political spectrum. In the last Parliament (the 13<sup>th</sup>, from November 1997 to June 2001) several of the FEC's eleven members, had business connections or represented business interests, the others represented ideological trends including the Islamic.

Personalities from the business community who were members of the House of Deputies and of its FEC, and similarly members of the corresponding FEC of the Upper House (the Senate), constituted a source of strength in the capacity of each of the two committees to deliberate economic reform laws which aim at strengthening the role of the private sector. The appropriate committee in each House tables the proposed laws referred to it on its agenda and takes them up one by one in an orderly fashion, subjecting each proposed law to extensive discussion and scrutiny.

Normally committees in each House, including the FEC, are elected on annual basis. In many occasions each of the FECs was chaired by a member who happened to be a professional economist or a businessman from the private sector. Among the most prominent businessmen who chaired the FEC in the Lower House was Mr. Ali Abu Ragheb (1996-1997) who later became prime minister. Others included Samir Quour (1999) also a prominent businessman and a former minister, and Hashem Dabbas

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<sup>20</sup> The decision on whether the law is urgent or standard is normally indicated by the government in the letter transmitting the law to the House. The House may or may not agree regarding the issue of urgency.

<sup>21</sup> House members nominate themselves to committees of their choice. If the nominated members exceed the 11 (the number of committee membership) an election procedure is exercised.

(1994) also a former minister and a businessman. There were also occasions when political parties, especially the Islamic Front, had shown interest in chairing the FEC; such was the case in 1991 when Abdullah Akaileh chaired the FEC. Annex 3 lists members of the FEC for selected years over the last three parliament sessions, showing where possible their political affiliation and the bloc with which they voted. This is so because the majority of deputies did not belong to political parties and so should be politically classified as “independent”; yet, as explained earlier, they appeared to aggregate with other like-minded members into blocs that voted together on certain issues. However, it is worth noting that membership in the blocs were subject to change with the change in the issues that were discussed and voted upon.

In most cases businessmen and private sector oriented deputies were highly represented in the FEC. Various blocs were also keen on maintaining their presence in the FEC in order to pursue their interests and, where necessary, exert pressures within the FEC. Proceedings of the FEC are not archived, but it appeared that in most cases members were able to reach consensus decisions by exercising the spirit of compromise.

The chairman of the FEC in either house invites to its deliberations the minister or ministers concerned with the legislations on its agenda; and the attending ministers are usually accompanied by the competent senior officials and advisors that had been involved in preparing the draft legislation. The minister concerned and his team would mount a coordinated effort to persuade the committee of the virtues of the proposed legislation and respond to the concerns of the committee members with the necessary clarifications and justification. The committee can also invite experts and experienced individuals for hearings pertinent to the subject of the proposed law being deliberated. Representatives of parties opposed to the proposed legislation and other stakeholders might be also invited to accord them fair hearing. Moreover, any member of Parliament can attend any of the committees of the House of which he is a member and participate in its deliberations. However, he cannot participate in a committee’s decision-making, i.e. voting, unless he is formally a member of that committee. Moreover, in the course of cooperation between the two Houses of Parliament, the rapporteurs (secretaries) of committees of the Senate normally participate in meetings of the corresponding committees in the House of Deputies, again without participating in decision making. This participation of key senators in the proceedings of the lower house committees paves the way for a smooth processing of legislation forwarded to the Senate by the House of Deputies.

Upon examination of a proposed legislation by the appropriate Committee to which it had been referred, the Committee prepares its recommendations concerning the proposed legislation and sends them to the Speaker of the House who would schedule them to be presented in a plenary session of the house. The presentation is made by the rapporteur (secretary) of the committee, who would read the full text of the proposed legislation together with the committee's recommendation of approving the law as amended by the committee, which is the most likely, or of rejecting it, which is the less usual. A general debate would follow which usually does not take long, and the house would vote on the recommendations of the committee, mostly endorsing them.

Thus proposed laws pass into legislation by scoring a majority vote of house members in regular sessions, voting each article of the law separately. The House of Deputies reaches a decision with regard to a proposed legislation by way of approving it, rejecting it, or amending it. Whether approved, rejected or amended, all proposed laws are forwarded to the Senate for this Upper House to deliberate them. Thus, even if the proposed law did not win majority of the vote in the House of Deputies it will still be presented to the Senate for further deliberation. (The Constitution Article 91).

Laws approved or rejected by the House of Deputies are forwarded to the Senate where they would be subjected to a process analogous to the process that took place at the lower house.

When the proposed law is approved by the appropriate committee of the house and presented to a plenary of the house for final approval, any member of either house of Parliament has the right to express his views concerning any aspect or article in the proposed law during its discussion in the plenary session of the house of which he is a member.

### *3.2.2 The Process in the Upper House (the Senate)*

In the Senate, a proposed legislation is subjected to a similar course to that described above for legislation processing in the House of Deputies, starting with deliberation of the proposed law by the appropriate committee in the Senate, with similar participation of the government through the concerned minister and senior officials, as well as participation of invited experts and/ or representatives of supporters or opponents of the proposed legislation, and up to the final stage of discussion and voting of its articles in a

plenary session of the Senate. The Senate may approve or reject the proposed laws in full agreement with the decision taken by the House of Deputies. Proposed laws rejected by both houses of Parliament are thus terminated. However, the Senate may vote in favor of a proposed law, as presented by the government or as amended by the competent committee of the Senate. In the event that the Senate approves a law previously rejected by the lower house, or decides to introduce amendments to a law that had been approved by the lower house, then the proposed law with the Senate's amendments is sent back to the House of Deputies to reconsider its original rejection or endorse the amendments.

A legislation can so shuttle between the two houses up to three times. In case of persistent conflict of opinion between the two Houses, the proposed law is subjected to a joint session of the bi-cameral Parliament, where it may pass to approval only by a two-thirds majority of the members present. This has rarely happened.

The laws passed by both houses are submitted for endorsement by the King. In the rare event that the King declines to ratify a legislation, the vetoed legislation should be sent back to Parliament together with the reasoning for the veto within a period of six months. The bi-cameral Parliament can overrule the King's veto when a two thirds majority of members of each and both houses decides to do so. If such a vote of re-affirmation takes place or if the law is not sent back to Parliament within the designated period, it will be issued as if it had been duly ratified.

It should be noted that when the parliament is not in session, the government may not refer any laws to either house of the bi-cameral Parliament. It is to be noted also that although dissolution of the House of Deputies need not be accompanied by dissolution of the Senate, which means that the Senate's body of members can continue in office to the end of the Senate's four years term, still the Parliament as a whole (including both houses) will remain out of session by virtue of dissolution of the House of Deputies. Hence, no legislative functions can be performed by the Senate without referral from the House of Deputies, such as when the Parliament is out of session.

### **3.3. Competing Forces in Parliament and the Trade off of Parliamentary Blocs**

It has been a common practice in Jordan that members of parliament gather in blocs due to the absence of viable political parties. This was so obvious in previous parliaments elected in 1989 and 1993. With the absence of effective political parties, due to the boycott of elections by the Islamists, independent members and tribal men seized the opportunity to project their ability to deliver. The appropriate mechanism, they thought, was to pool their power in blocs. They understood well that their ability to have an impact on political issues and government policy depended on coordinating with other members rather than maintaining their independent or tribal status. Some of them rightly thought that their capacity to extract concessions from the government would be enhanced through *en bloc* bargaining with government. Annex 4 shows political and bloc affiliation of members of the Financial and Economic Committee (FEC) in the lower house (House of Deputies) and of members of the corresponding FEC in the upper house (the Senate).

The idea behind conducting parliament business in terms of bloc aggregation was provoked by the presence of a strong Islamists bloc in the previous parliament (1993-97). The presence of the Islamists bloc forced the majority of independent deputies to organize in parliamentary groupings, each to include like-minded members, in order to improve their standing vis-à-vis the Islamists bloc, thus pressuring the government to take their interests and the interests of their constituencies into account. That is why members were moving from one bloc to another according to their narrow personal interests.

What characterized all these blocs was the fact that they were headed by well-known and influential figures such as the strong man Abdel Hadi al-Majali who was elected three times as the parliament speaker despite the unsuccessful endeavors by certain governments to deny him that post. He managed to maintain his position as speaker due to the solidarity and the strength of his bloc. Another central figure in the bloc game was Mr. Abdel Raouf al-Rawabdeh who in 1999 became prime minister. Mr. Ali Abu al Raghieb, member of the House of Deputies who succeeded Rawabdeh as in 2000, was heading a parliamentary bloc that contributed to the resignation of Rawabdeh. The most interesting feature of this phenomenon of blocks is that the basis of these blocs was not ideology or political programs but rather narrow interests of personal or factional nature.

What makes certain personalities central to the formation of any bloc is their political strength and connection besides their initiative as bloc founders. In past occasions, in the early 1990s, Abdul Hadi al-Majali had some role in nominating potential ministers.

The power of patronage played an important role in strengthening blocs as many members of the lower house thought that the road to the government's positions ran through associating with tribal and clan leaders who are also influential politicians. Al-Majali in turn, used his bloc to project political influence. Thus he managed to stop certain laws that prime ministers Rawabdeh and Abu el-Raghib sought to pass through the parliament. He annoyed the latter to the extent that he threw his weight behind a failed attempt to unseat him from his position as a speaker of the Lower House.

Central to the concept of leaders of blocs is the financial situation of the leaders. All leaders happen to be well off. Money helps them do a lot including getting elected to parliament in the first place. Some of them are the financier of their own parties. Therefore, many active members of political parties find in them the best source for supporting their political activities and keeping them going. Lack of adequate resources on the part of other members and the shortage of technical support facilities provided by the houses of parliament to their members encouraged the more resourceful members to frequently shift their allegiance between blocs thus engaging in what could be described as "shifting sand blocs". A main weakness of parliamentary blocs is that their leaders have to compromise principles in order to meet the sometimes unreasonable demands of some members. This accounts for the frequent defection of bloc members and the consequent dissolution of blocs. The exception is the one bloc that is based on ideology, namely the Islamists bloc, where very few defections were chalked up.

Governments have to court the head of each bloc to secure the support of the bloc members for certain legislation or policies. The power of the bloc leader vis-à-vis the government is largely dependent on two things: First, the extent to which the government is able to penetrate the bloc and stir up defiance, and Second, the level of coordination among the various blocs. This is an interesting game that bloc leaders enjoy. They can always reject any legislation unless they are satisfied. Now, it depends on the bloc leaders how to employ this power since there is no clear mandate as to what the bloc wants to achieve.

In short, in the absence of effective political parties, setting up blocs is a good instrument for organizing the work of members of parliament. It helps facilitate rather complicated procedures. However they sometimes become stumbling blocks due to their internal bickering and lack of national perspective among their members. The three major gains of having blocs in parliament are: a) the bloc leaders as well as members feel empowered; b) the bloc members can get personal and political gain by demonstrating loyalty to their blocs. This has been made possible due to the power of patronage that

some political figures enjoy; c) the blocs compensate to an extent for the lack of efficacy of political parties and the limited availability of supporting institutions that empower independent law makers.

## **4. THE ROLE OF CIVIL SOCIETY**

The Jordanian Constitution guarantees freedom of assembly and speech within the limits of the law. The Jordanian civil society organizations enjoy a favorable political environment. They are protected not only by law but also by special charters, e.g. the Charter on Civil Liberties drafted in 1989 by a committee which included major Jordanian civil society groups, and the National Charter, which sets guidelines for political party activity and affirms the state's commitment to the rule of law and political pluralism.

Jordanians have the right to form and join civic organizations. According to the Law of Associations and Foundations of 1996, the use of associations for the benefit of any partisan organization is prohibited.

### **4.1 Kinds of Civil Society Organizations**

There are three kinds of civil society organizations in Jordan. The first one includes small organizations and NGOs which have a narrow focus and a limited access to financial resources. This type of organization which includes for example charities, cooperatives, and similar special associations are governed by a law of associations under the Ministry of Interior. The second type of civil organizations includes professional unions and the chambers of commerce and the chambers of industry. The third type presents labour unions.

#### **Small Advocacy and Charity Groups**

The first type normally adopts informal and some times ad hoc conduits to campaign in favor or against certain legislations. In the case of smaller and less influential CSOs, the stakeholders are clearly identifiable. But on few occasions, the government accuses them of speaking for narrowly based constituencies, e.g. the case of the Consumers Protection Association when this CSO criticized price hikes.

They rely on the media or send letters to the prime minister's office or to members of parliament. They do not acquire resources to conduct thorough research to support public campaigns that could influence the course of debate.

### **Professional Associations, Business Associations & Chambers**

The main non-governmental entities that represent the private business and professional sectors and that carry certain influence on government policy are the following:

- The Federation of Chambers of Commerce led by Amman Chamber of Commerce.
- The chambers of industry led by Amman Chamber of Industry.
- The Professional Unions<sup>22</sup>

This type is the larger and more organized. This type has a clear mandate and includes interest groups that are represented by a large number of influential and active members. They have adequate resources to conduct studies and provide funding for public awareness campaigns. Governments are far more sensitive to these groups than to other groups of civil society organizations due to the linkage in vested interests that exist between members of these organizations and the government.

Professional unions exercise considerable influence, which traditionally goes beyond protecting the interests of their members to exercising a broad influence on political life, partly compensating for the ineffectiveness of political parties. This ‘politicization’ of the professional unions has provided platforms for expression of public opinion on national policy issues, which compensated for the inadequacies of the representative process especially during periods when parliamentary life had been suspended. However, the very same ‘politicization’ has invariably caused annoyance to the governments that happened to be at the receiving end of professional unions’ criticism. In such instances, the politicians in government accused the unions of abandoning their primary mandate of serving the interests of their professional memberships, and meddling instead with matters that are not of their business, i.e. matters that are within the competence of appropriate institutions such as political parties. Government’s displeasure with “politicization” of the professional unions sometimes led to accusing them of illegal behavior. A penultimate example of such accusation is the episode concerning the proposal to establish a professional union for teachers [See Box 1].

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<sup>22</sup> There are 14 professional (non-labor) unions in Jordan whose total membership in August 2003 was put at 120 thousand members. The more important of them are, in order of influence: Engineers, Lawyers, Journalists, Physicians, Dentists, Pharmacists, Contractors, Agricultural Engineers, Geologists, Veterinarians, and Accounts Auditors.

**Box 1**

**The Case of the Proposal to Establish A Union for School Teachers**

In 1992, the House of Deputies, in accordance with Article 95 of the Constitution, approved a proposal by a number of its members to ask the government to initiate a legislation establishing a teachers union. Initially, the Ministry of Education complied with the House of Deputies' resolution, and prepared a draft law establishing a teachers union. When this draft law was submitted to the Cabinet and the Bureau of Legislation at the Prime Ministry, a fierce controversy broke out first contesting the constitutionality of a union for teachers the majority of whom are civil servants, i.e. part of the executive branch, and ending up by contesting the constitutionality of all professional unions. The principal medium of the controversy was the High Council for Interpreting the Constitution to whom the issue was referred twice. The first time, the Government's position, that a teachers union was unconstitutional failed to get the required six out of nine votes for a Council's resolution. The second time, which took place after a change in the Senate's membership led to a change in the Council's membership, the Council reached a unanimous decision that "since the teachers of the Ministry of Education are public officials subject to the System of the Civil Service issued in accordance with Article (120) of the Constitution, the provisions of the Constitution do not permit a legislation for a union of teachers who are public officials."

The aforementioned ruling by the High Council and the underlying reasoning call into question the constitutionality of all standing laws of the professional unions, several of which have been in force for close to half a century, during which time the question was never raised. No wonder, therefore, that eminent lawyers in the land found immense substantive as well as formal problems with this ruling, problems that could be best explained by the impingement of non-judicial influence on a judicial question. The non-judicial influence originates in the composition of the High Council which includes along with five senior judges four members of the Upper House of Parliament (the Senate) including the Speaker of the Senate who carries considerable political influence and who as President of the High Council is in a position to project this influence on the Council's rulings. [See Dr. Muhammad Al-Hammouri, *Professional Unions under the Constitutions*, *Journal of the Lawyers Union*, No 10/11, 2003.]

As to business associations, they can initiate contacts with influential ministries and international organizations. In many cases they are represented in the CEC (the King's advisory economic council) whereby they can also voice their concern in the royal presence. They also have institutional arrangements that can be traced and it represents influential and clearly identified stakeholders who can exert some form of collective action (see Box 2). It has become customary that the government consults especially with professional business groups regarding new economic and business laws. Some of these individuals are members of the Senate House or the Consultative Economic Council (appointed by the King since 1999).

*Box 2*

*Anecdote on Successful Campaigning  
by the Federation of the Chambers of Commerce in Amman*

Before the 2003 parliamentary elections there took place a hot debate concerning a temporary law proposed by the minister of industry and trade for setting up a Jordan Chamber of Commerce to replace the existing Federation of the Chambers of Commerce. The Federation of the Chambers of Commerce had fiercely objected to the proposal law because it was perceived as weakening the Amman Chamber of Commerce by virtue of strengthening the representation and influence of the provincial chambers in other cities and towns outside the capital. The temporary law was issued nevertheless but was withdrawn by the government when the newly elected parliament came into session in the winter of 2003. The outcome was a clear success for the campaign by the Amman commercial businesses in the media and elsewhere.

### **The Workers Unions**

Jordanian workers are organized within 17 trade unions that correspond to 17 categories. These are: unions of workers in the following sectors: 1) petrochemicals; 2) construction; 3) the municipalities; 4) education; 5) sanitary services; 6) general services; 7) railways; 8) printing and publishing; 9) food manufacturing; 10) spinning, weaving and wearing apparel; 11) electricity; 12) trading establishments; 13) banks, accounting and insurance; 14) mining and quarrying; 15) the ports and customs clearance; 16) air transport; 17) land transport.

All of the 17 trade unions are members of the "General Federation of Workers Unions of Jordanian Workers", established in 1954. The goal of the General Union as expressed in its "basic constitution" is "the realization of a better life for workers, improvement of their level of living, enhancement of workers' productivity, and the protection of trade unions rights and freedoms." The powers of the General Federation of Workers' Unions resides in the General Conference which is composed from the "management boards" of the member trade unions. The General Conference convenes once every four years. In the meantime between the General Conferences, the General Federation is governed by a Central Council and an Executive Committee. The Executive Committee is composed from seventeen members each representing one of the unions constituting the General Union. The Central Council is composed of representatives of the individual unions at the rate of six representatives from each union.

Notwithstanding the elaborate structure of workers' organization in Jordan as described above, the individual trade unions as well as the General Union have over many years, only limited impact on economic legislations, even though the latter could have far

reaching effects on labor markets performance, job opportunities, or workers' fortunes in general.

In the first place, the individual unions have been greatly uneven in size and importance; the largest single union by far has been the “Union of Land Transport Workers”, accounting for close to 50% of total unions' membership.

Secondly, in the tribal and patriarchal society characteristic of Jordan, the effectiveness of a union is highly dependent on the leading personality in the union. For example, the Union of Banking Sector Workers was particularly strong under the leadership of Haidar Rashid in the 1980s. This union leader proved to be a tough negotiator particularly effective in protecting the interests of Petra Bank employees during the crisis of 1988.

Other unions that were well served by competent leadership were the Union of Health Services Workers, e.g. during a quarrel with the Jordan University Hospital, and the Union of Cigarettes and Tobacco Workers, lead by Samih Qasim, and the Union of Electricity Sector Workers, lead by Samir Qardal.

Thirdly, Jordanian workers unions are of the open shop type; i.e. their membership is not mandatory on the relevant categories of workers, nor can they restrict work to their members. Accordingly their power is much smaller than closed shop unions in industrial countries. The closest union to a closed shop model was that of Land Transport Workers where membership was restricted to drivers who possess the license to operate heavy and public transport vehicles. Accordingly this union, in addition to being very large, was a very powerful union; its members were involved in the strikes and riots that took place in the south of the country when the Government raised petrol prices and removed food subsidies at the launch of structural adjustment policies in 1989.

Workers unions exercised relatively more influence during periods of relaxed political climate such as most of the 1960s, large durations of the 1970s up to the events of accompanying the political crisis of 1989. They were mainly concerned with preserving jobs and preventing reduction of employment in the large companies of the sector they represent. For example, one of the more significant strikes in recent years was the one undertaken in 1982 by the Union of Mining Workers to prevent laying off and relocation of workers of the Jordan Phosphates Company when the management attempted to relocate or layoff workers in the context of restructuring and rationalization of the company's operations; the company had been suffering from overemployment leading to diminished productivity and lower profitability.

After the strikes and riots of 1989 the Directorate of Intelligence “Almukhabarat” exercised heavy interference with the election of unions’ management boards, and brought their activities to a very low level throughout the 1990s until now. As this has been the very period of major economic reforms, the direct role of workers’ unions in economic legislation has been negligible. It has been restricted to statements or communiqués of criticism and protest issued by the General Federation whenever a proposal for an economic legislation is announced. For example, the Federation issued a critical communiqué at the time with regard to the Sales Tax Law. However, this and similar communiqués on similar occasions were ideologically motivated and reflected traditional leftist thinking of union leaders than carefully studied and thought-out reflections on the specifics of the subject they took a stand about. Neither did the communiqués evolve into activist lobbying to affect the course of the relevant legislation.

#### **4.2 Involvement of Civil Society in Law Making**

Normally discussions that involve civil society organizations are not formal and would take place in order to mobilize public support and facilitate the implementation of new laws. From the government’s point of view, the involvement of civil society organizations in the process of law making may help avoid negative political repercussions that might accompany the introduction of new laws.

Civil society organizations (CSOs) get engaged in two stages of the process of law making. The first one is before the drafting of the newly proposed law whereby members of the CSOs may be consulted by individuals or institutions who are involved in drafting new laws. However, this is not always the case. Often no such consultations take place. The second stage is when the law is drafted and made public. Affected CSOs would study the proposed law and discuss it inside their own institutions. Research and legal departments within these institutions are normally responsible for such tasks and would provide their recommendations as far as the proposed laws are concerned. A CSO may also commission an external consultant to study a proposed law and indicate how certain social groups including the CSO membership and constituency could be affected. Parallel to this, the CSO representatives could hold meetings and seminars in order to mobilize the local media and influential columnists to support their demands and recommendations. Such was the involvement of the Amman Chamber of Industry as opponent, and of the Amman Chamber of Commerce as proponent, with regard to the reduction of import restrictions and the introduction of the Sales Tax during the process

of the respective legislation proposal and deliberation. The following table summarizes the main features of CSO's involvement in the example of the sales tax.

<b>Mechanisms of Participation by Civil Society: The example of the Sales Tax Law</b>				
<b>Law</b>	<b>Civil society</b>	<b>Position</b>	<b>Medium + channel</b>	<b>Bridge to others</b>
Sales Tax	1) Amman Chamber of Industry and 2) Federations of Commercial Chambers 3) Consumer Association	Supportive with some reservations	1) Report sent to Ministry of Industry & Trade and FECs in both houses of parliament. 2) Public Seminar 3) Media campaign	Yes
	Consumer Association	Supportive as long as the poor are compensated	1) Independent Research 2) Media campaign 3) Write to the government and parliament	Yes
	Political parties	Different positions with majority supportive	1) Media 2) Deliberation inside the parliament	Yes
	Professional Unions ( there are 14 professional Unions)	Position depended on how each Union was affected; Majority supportive.	1) Internal debate within the union 2) Media 3) Contact with parliament	Yes

Procedures taken in discussing or influencing new legislation hinge upon the stage in which the CSOs get involved in the debate. CSOs representatives can be involved in the process of drafting the law, in which case they will be in a position to incorporate their own views from the beginning. If their engagement starts after the first draft is prepared, then CSOs may formally receive the proposed law either from the government or from the parliament. The draft law is normally transferred to the legal or research department within these institutions or it can be referred to external experts. The draft will also be made public to all members and each member can submit his or her own comments and observations concerning the law.

A committee is established to follow up the correspondence concerning the proposed law. All comments and observations have to be approved by the board of directors of the respective CSO wherever such a board of directors exists- before it is sent to the concerned ministry or to parliament. During the process of preparing the reply a joint meeting with the Financial and Economic Committee in either house of parliament or with government officials can take place in order to go over the undecided issues.

The government has little leverage to influence the position of large and powerful CSOs(e.g. the Union of Engineers) that enjoy financial independence owing to

contributions of their membership and to returns on delivered services. The positions taken by these unions reflect the opinion of the majority of their members. In cases of the financially weaker CSOs, the government may use financial support extended to them as a means to secure their support or at least their acquiescence towards its policies.

In chapter five we see how civil society has some drawbacks that affect its ability to be a serious partner for economic reform.

## **5. SPECIAL ANECDOTES**

### **5.1 Sales Tax**

Discussions concerning sales tax law started in the aftermath of the economic crisis in 1989. The crisis was manifested in the depreciation of the JD by about 50 percent over the years 1989-1990. As a result inflation soared and the overall economic growth became negative.

Upon the request of the Jordanian Government missions from the World Bank and the IMF arrived in Jordan one after the other to assess the severity of the situation and to draw up several scenarios concerning how the country could overcome the crisis. Uncertainty about the future of the Jordanian economy prevailed and credibility was low with the private sector very reluctant to undertake new investments. As a result, the Government decided to embark on serious economic reform with the encouragement and support of the two institutions. The World Bank would lend its financial support in the form, to start with, of a quick disbursing “Industry and Trade Adjustment Loan.” The amount of this loan was JD 30 million and it meant a great deal to Jordan at that critical time. Furthermore the loan was a certificate of good will by the government in its endeavor to reform. However, the loan was conditional as disbursement was subject to the government undertaking specific reforms in the trade regime and tax system. The main recommendations (conditions) embodied in this loan were:

- a) Gradual reduction of the maximum custom’s tariff to 60 percent.
- b) Reform of the tax system starting with the introduction of a “general sales tax” as a first step towards ultimate objective of adopting a full scale value added tax.
- c) Abolish imports licensing and remove all non-tariff barriers facing imports in order to create a more competitive trade and industry sector.

With the IMF, the government worked out the first of a series of “structural adjustment programs”, in support of which the IMF would use its good offices with the Paris Club to support the rescheduling of the Jordanian external debt. The loan was conditional in the sense that disbursement was subject to the government undertaking specific reforms in the trade regime and tax system. The main recommendations (conditions) embodied in this loan were:

- a) Gradual reduction of the maximum custom’s tariff to 60 percent.
- b) Reform of the tax system starting with the introduction of a “general sales tax” as a first step towards a full scale value added tax.
- c) Abolish imports licensing and remove all non-tariff barriers facing imports in order to create a more competitive trade and industry sector.

In line with these changes, the Social and Economic Development Plan of 1992 stated that the aim of the fiscal restructuring was to reduce budget deficit by restraining expenditures and increasing domestic revenues. The Plan called for reviewing the tax system in order to streamline the tax structure, broaden the tax base, streamline tax-related procedures and ultimately replace the consumption tax with a general sales tax that would become a value added tax.<sup>23</sup>

In parallel with these efforts which aimed at liberating the trade sector, Jordan started to draft first the EU Association Agreement, and later its memorandum of accession to the WTO. These international agreements stipulate that domestic and imported products should be treated equally with respect to tariffs and other taxes. Imposition of the general sales tax helped to homogenize such treatment and at the same time helped to compensate the government for the revenues lost as a result of reducing customs tariff and license fees on imports.

Given the above rationale, consultants from the Customs Department of the Ministry of Finance (MoF), started to study the IMF and World Bank recommendations embodied in a number of studies conducted for the purpose of introducing tax reform. Initially it was recommended that Jordan should impose 5 percent value added tax to replace sales taxes. A committee to study these recommendations was formed including the following institutions:

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<sup>23</sup> Economic and Social development Plan 1992-1997 Hashemite Kingdom of Jordan. P151.

- 1) Ministry of Industry and Trade
- 2) Custom Department , Ministry of Finance
- 3) Private sector representative (Ilyia Noqul – Chairman of Noqul Group)
- 4) Amman Chamber of Industry
- 5) Federation of the Chambers of Commerce
- 6) Consumer Protection Association
- 7) Ministry of Planning
- 8) Private Consultants nominated by the Ministry of Industry and Trade

Such composition of the committee was justified by the desire to secure wide public acceptance and successful enforcement of the new law, having been formulated in close consultation with representatives of industry and trade, the sectors that will be most affected.

### ***The Drafting of the Sales Tax Law***

A draft of the sales tax law was first provided by the World Bank along with other recommendations for consideration by the government. The government formed a special committee presided over by the director of the Customs Department to study the World Bank recommendations in order to determine their suitability for the Jordanian situation. In parallel with this effort another official committee held several meetings to assess the draft law provided by the World Bank with the chairman of the first committee linking the two committees by being a member in both. Upon evaluating the draft law and its implications it was realized that there was a disparity and duplication between the existing excise tax and the proposed sales tax. The working teams of the two committees endeavored to consolidate the two forms of tax into one, namely the sales tax.

Another internal committee was formed within the Customs Department in order to study similar tax laws in Egypt and Morocco and the UK. The committee, after reviewing other countries' sales tax laws, selected the Egyptian law, with its easy wording and compatible legal idiom, and decided that of all candidate legislations it was the more relevant and suitable for the case of Jordan. Accordingly, the Egyptian model was adopted with a few amendments<sup>24</sup>. For example, the Egyptian law does not allow for

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<sup>24</sup> An example is that the Egyptian law provides for a committee empowered to interpret the various articles of the law. To have this provision in the Jordanian Sales Tax Law would be unconstitutional because interpretation of Jordanian laws is restricted to a special tribunal provided for in the Constitution. This issue contradicts Jordanian laws and consequently it was dropped from the proposed law.

negative value added, i.e. if traders sell at prices lower than their purchasing prices, they cannot reclaim refund of the sales tax. In the case of Jordan when traders sell at lower prices than their purchasing prices, they would be eligible for a refund equivalent to the difference between taxes paid on the original prices and their sales prices.<sup>25</sup>

It was agreed on a draft Sales Tax Law based on some, but not all, features of the value added tax (VAT) at the manufacturing level. The trade sector was excluded from the first phase of the law since imports remained subject to customs.

Debate focused on whether the sales tax should be applied to the value of imports after or before customs duties. Manufacturers (represented by The Amman Chamber of Industry) accepted that sales tax should be imposed on imported items valued to include the customs duties because this would provide their manufacturing products with more protection from competing imports. On the other hand, traders (represented by the Federation of Chambers of Commerce) demanded that sales tax should be imposed on boarder prices, because this means less taxes and therefore more competitive prices and the potential to increase their volume of sales in the domestic market. Pressure groups were in disagreement concerning the sales tax law and the government tried to mediate taking into consideration the macro implications of its decision.

### ***Positions of Different Stakeholders***

The government attempted to mobilize support for the law before it was presented to the parliament. It invited political parties, professional unions, representatives of the private sector, the civil society organizations and the media for a public discussion of the draft sales tax law. Accordingly, the draft law was circulated to the various economic agents. Several seminars and lectures were conducted to explain the law and to simplify it for the average person. In addition, the government launched a media campaign costing upwards of US\$ 100 thousands.

The stakeholders that were involved in the debate were:

1) The Consumer Protection Association which endorsed the adoption of the law based on a study that was conducted upon its request. The study at that time concluded that low income groups would not be affected by the adoption of the new sales tax. This apparently was considered satisfactory from the association's point of view.

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<sup>25</sup> For example if traders bought an item for JD 100 which includes 10% sales tax and sold it for JD 90. this trader would be eligible for a refund of JD 1 in Jordan while he would not be eligible for compensation in Egypt.

2) The media followed the debate that accompanied release of the draft law. In addition to ordinary coverage, there were articles in favor of the proposed law and articles that argued against it. In a few cases articles written in favor reflected less of vested interests and more of ideological positions, i.e. belief or disbelief in liberal market-oriented economics. For those who were in favor of the proposed law their support came as a result of the 1989 crisis and the conviction that old policies should be discarded in favor of market oriented reform. On the other hand, articles that were not in favor of the proposed law were mainly motivated by mistrust of the role of the the IMF and the World Bank and the perception of the proposed tax as an external imposition. Clearly, writers of leftist ideological inclinations took the latter view, maintaining that by adopting the proposed law the government will be compromising its traditional social role and its responsibilities towards the poor.

3) Many Political parties of communist, socialist, or pan-Arab nationalist inclinations opposed the sales tax law because they perceived it as contradictory to their ideological beliefs. And since they were outside the decision making process and not part of the government they had their own economic and social agenda which opposed government's policies.

4) Professional Unions were represented in parliament by a few members who emerged as political leaders while assuming responsibilities in these unions (Khalil Haddadin, Mohammed Al-Oran). These members of the House of Deputies had their political power base not only in the professional associations of which they were members but also in traditional electoral constituencies. They attempted to be the voice of the dual sets of interests, their professional unions and their electoral constituencies. For example, Haddadin, as chairman of the Contractor Association at the time of the debate, asked for the exemption of certain construction materials from the additional taxes while also asking the government to be faithful to its social obligations towards the poor. If a conflict of interest between the two constituencies arise, it is more likely that the Deputies would be in favor of the professional unions' position, since the other interests of their electoral constituencies are less specific and the impact of the new tax on them is more difficult to determine.

After the public debate and the media campaign the government endorsed the draft law after amending it to include an extended list of exemptions.

### **Legislation Procedures**

After concluding discussions inside the government and with other concerned stakeholders, legislation procedures started by presenting the draft law to the parliament and then lobbying for it in the House of Deputies and in the Senate. Major amendments introduced by legislators were as follows:

- 1) Parliament rejected the idea of establishing a new department to manage the sales tax. The suggestion was to establish a directorate for sales tax under the umbrella of the customs department, since the customs department collected the consumption tax which was now to be replaced by the sales tax. Rationale for this was the fact that sales tax was employed as a substitute for the consumption taxes which were collected by that department. Another reason was to ensure that the customs department acquired qualified staff capable of enforcing the new forms of taxation.
- 2) The gradual implementation of the new sales tax, starting with applying it to manufacturers and then, in the second phase, to traders, and in the final phase to producers of services.
- 3) The expansion of the exemptions list (the original exemption list was expanded by almost three hundred percent.
- 4) The exempted list of commodities and services was considered as part of the law, i.e. it could not be extended further without amending the law in Parliament.
- 5) A minimum of two years had to pass before moving to implement the second phase of the law.
- 6) The imposed sales tax of 5 percent was part of the law, i.e. it could not be increased without the amendment of the law.
- 7) The parliament recommended increasing salaries and social security allowances to compensate for income effect on low income groups.

After lengthy discussions, the government took the recommendations and suggestions made in the lower house of parliament into consideration. The law was then referred to the upper house (the Senate), which had a few more minor comments compared to the hot debate in the lower house.

After approval by both houses of parliament, the law was sent to the government which in turn presented it to the royal court to be endorsed by His Majesty the King and so become effective as it did on the 1<sup>st</sup> of June 1994.

### ***Amendments of the Sales Tax Law since its introduction***

Other changes were subsequently introduced to the original draft as follows:

- a. The first phase of the project started with 7 percent. In response to the parliament recommendation, government employees' salaries were increased and a social safety net was created to compensate for the increase in prices for some basic commodities.

Sales taxes was raised from 7 percent to 10 percent by 1995 and later to 13 percent. All amendments were approved by the two legislative houses.

- b. The minimum capital for registration, i.e. to be eligible to pay taxes, was initially put at JD 100 thousands, it was reduced after debate to JD 50 thousand for the industrial sector and 15 thousand for other services.
- c. During the first few months of enforcing the law, a few issues emerged that required granting the department of the sales tax more financial and managerial independence from the customs department.

During the year 2000 the government commissioned a private consultant to study the law and to propose amendments in order to upgrade it and make it compatible with similar international laws. This was done in order to benefit from promised financial assistance from the United Kingdom. The law was studied and translated into English by a private local consultant. Main issues and recommendations made to the law were:

- 1) The conduct of the work was overshadowed by customs procedures.
- 2) There was a need to prepare and qualify a special cadre of qualified personnel for the Department of Sales Tax in order to ensure continuity and raise the departments' standards.
- 3) Resources were internally channeled from the sales tax department within the customs department, thus creating a state of confusion regarding financial autonomy of the sales tax department. Accordingly, it was far from clear how much revenue was being collected through the application of the sales tax.

Because of the situation described above, there was a recommendation to separate the sales tax department from the customs department. The recommendation explicitly emphasized the need to unify all government revenue sources in one institution. However, this recommendation was made in the second phase as a part of the tax restructuring endeavor. By the year 2003 the government sent a letter of intent to the Paris Club and expressed its desire to consolidate the revenues departments, namely

the income tax and the sales tax, in one department under the authority of the Ministry of Finance. The rationale for consolidating taxes was to avoid tax duplication and to facilitate the work of the tax collectors. A team from the IMF was invited to present its recommendations in this regard and a study concerning a possible strategy of tax restructuring was conducted.

### ***Evaluation of the Experience with the Sales Tax Law***

The Sales Tax Law was subjected to several assessments following each phase of implementations. There were five amendments to the original law which were triggered by the need to overcome some of the problems that emerged during the implementation of each phase, in addition to the fact that there was a need to raise the sales tax.

### ***Winners and losers:***

From the government's point of view the major benefit was the introduction of a new tax scheme. In terms of revenues, the outcome of the law was neutral whereby total revenue was the same as before imposing the new law. Traders have benefited from reduction in custom taxes on luxury goods which has resulted in these commodities becoming more competitive in terms of their prices in the domestic market. The average citizen was compensated by the increase in wages and salaries and other direct social benefits for the poorer segment of the society. On the other hand, the high income groups gained in terms of a more fair and even tax system that was applied to all income groups.

## **5.2 Law for the Encouragement of Investment**

Complaints by both domestic and foreign investors about the investment climate and the cumbersome investment procedures in Jordan have been made all the time but with a moving target each time certain gains are scored in improving the legal environment meant to encourage investment.

Certain neighboring countries, e.g. Egypt and Syria, developed attractive laws to promote investment. The need to encourage private sector participation and to remove barriers to foreign direct investment (FDI) necessitated the introduction of a new legislation.

Objectives of issuing a new law were: a) streamline and simplify procedures for granting concessions, and to create incentives for undertaking investments in certain geographical areas; 2) to reform the institutional framework that monitor and regulate

investments and provide information and other essential services to investors especially foreign investors, e.g. providing investors with a one stop window and the supporting services of a dedicated institutions namely the Investment Promotion Corporation.

### **Legislation Procedures**

Two comprehensive studies were conducted to revise the old laws which regulated investment. The first, conducted by the World Bank, identified the main problems with the Encouragement of Investment Law of 1987 and the overall legal environment affecting investment. This study examined the position of Jordan in the regional context and highlighted the disadvantages of the Jordanian laws regarding investment.

In 1988 the World Bank commented on the existing legal provisions affecting the investment climate as follows<sup>26</sup>: “A reform is desirable to do away with the discretionary aspects, reduce the administrative and information demands of its implementation, and remove the bias against small investors.” The report continues “We (the World Bank) recommend that the existing complex system of awarding benefits be replaced by a zero or a very low uniform tariff rate on all capital goods; and allow profit tax exemption to all projects in specific sectors for a fixed period from the time of issue of the license”. This recommendation was taken up in the new law.

The second study was conducted by a private consultant and focused on procedural issues that investors were going through before they could get approval for their investments. The two studies suggested that a new law was needed and that an independent department for the encouragement of investment must be created. The new department according to the study should establish a direct link between the prime minister’s office and any potential investors. The department should also facilitate the relationship between the government and the Consultative Economic Council which is dominated by the private sector<sup>27</sup>. Rationale for this is to identify problems facing investors and to overcome them immediately without going through the normal bureaucratic procedures.

The old law of 1987 was abandoned and a new law for the encouragement of investment was introduced. A draft law was prepared by the directorate of investment in

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<sup>26</sup> Jordan Policies and Prospects for Small and Medium Scale Manufacturing Industries 1988 World Bank report. Number 66848-JO

<sup>27</sup> The economic consultative council is appointed by the king . Its member are from the private sector and business elites. It has no legislative authority as its name suggests, but the government usually does consult with the ECC since it reflects the private sector point of view.

the Ministry of Industry and Trade. The Egyptian, Syrian and Israeli laws were studied in the process of preparing the Jordanian draft law.

Informal consultations with the Amman Chamber of Industry and the Federation of Commercial Chambers took place in order to reflect private sector interests. The draft law was discussed in several meetings within the Ministry of Industry and Trade with representatives from the ministries of Finance and of Planning and with private consultants. It was then passed to the secretary general of the Ministry of Industry and Trade and subsequently to the Minister, who in turn submitted it to the Council of Ministers.

In the Council of Ministers (the Cabinet) the new proposed law was referred to the Financial and Economic sub-committee of the Cabinet “the so-called Development Committee” where it was discussed with the participation of the Director of the Investment Directorate at the Ministry of Industry and Trade which had drafted the original law. The Development Committee discussed the draft law and suggested only minor amendments since the draft law had been thoroughly examined by the ministries of Industry and Trade, Finance, and Planning before it reached the Cabinet.. The Cabinet approved the draft law upon its clearance with the Development Committee and sent it to Parliament for enactment.

The Director of the Investment Directorate who drafted the original law attended discussions in both the lower and the upper houses of parliament. Each house proceeded with proposed law in accordance with procedures described in Section IV-2 above. This director later became the first director of the Department of Encouragement of Investment which was created in accordance with the new law.

During deliberation of this law by the House of Deputies a few technical issues were raised by members of this house. Focus was placed on how the new law would affect the share of foreign investors in the capital of Jordanian companies. Fears of foreign domination, especially from Israel, were mounting since this law was proposed after the conclusion of a peace treaty with Israel in 1994. Therefore discussion in parliament was politically rather than technically motivated.

Major amendments suggested by the parliament and accepted by the government were as follows:

- 1) Parliament suggested adding the agricultural sector to the list of sectors that would enjoy tax holidays. Furthermore it was suggested that the Council of Ministers (the Cabinet) was to be entrusted with adding additional sectors to the list of exemptions if the House of Deputies proposed so.
- 2) The definition of foreign capital was edited to mean only capital which had come into Jordan under the umbrella of the new law instead of the original article which referred to foreign capital in general.
- 3) A very important amendment concerned capital ownership by foreigners. The original draft proposed that foreign investors may have full ownership of an enterprise if they so desired. This provision was amended to entrust the Cabinet with discretion to decide the percentage of foreign investment holdings in the capital of an enterprise.

After approval of the amended law by the House of Deputies, its course in the Senate was fairly smooth since interested senators had been involved during discussion of the law in the lower house.

The process of enactment of the Encouragement of Investment Law may be described as a case of little controversy because major stakeholders were constantly consulted and were very supportive, and no serious opposition was encountered except with regard to the envisaged share of foreign ownership. Since its enactment, the new Encouragement of Investment Law required very few amendments; these took into account important emerging sectors with great investment potential such as the information technology and professional services sectors.

## **CONCLUDING REMARKS**

Economic reform in Jordan is a recent phenomenon that date back to 1988/1989 – the time of a major crisis in the economy triggered by failure in the financial system. The crisis was symptomatic that the earlier growth process was running out of steam. Jordanian economic growth as of the founding of modern Jordan in 1952, up to the crisis in 1988 was governed by a strategy of import substitution, protective foreign trade policy, and state leadership in key investments in resource-based mining cement, and oil refining industries, in addition to basic infrastructure, and public utilities of water, electricity and telecommunications.

The earlier growth process suffered from high private and public domestic consumption leading to negative savings in the domestic economy, made up by large transfers of external financial resources from savings of Jordanians working abroad and official grants and soft loans from Arab oil-rich countries. These resources helped to finance the aforementioned public investments and the boom in private construction of housing and commercial buildings. Investment in industry and production for exports remained very thin. The flow of external resources added to the economic bias against exports by enabling the dinar to keep an overvalued exchange rate against foreign currencies, thus subsidizing foreign travel (imports of services) and making Jordanian exports, including touristic services, too expensive.

The 1988 economic crisis was the shock that triggered initiatives for economic reform consisting of turning around development strategy towards a liberal export-oriented foreign trade policy, and also a market-oriented investment encouraging domestic policy. However, the overriding macro-economic policy had a built in deflationary bias because of the imperatives of fiscal discipline required to deal with the mounting external debt. As a result, except for the brief period between 1991-1995, the whole decade of the 1990s was one of low rates of economic growth, hardly adequate to catch up with population growth rates and keep per capita incomes at standstill.

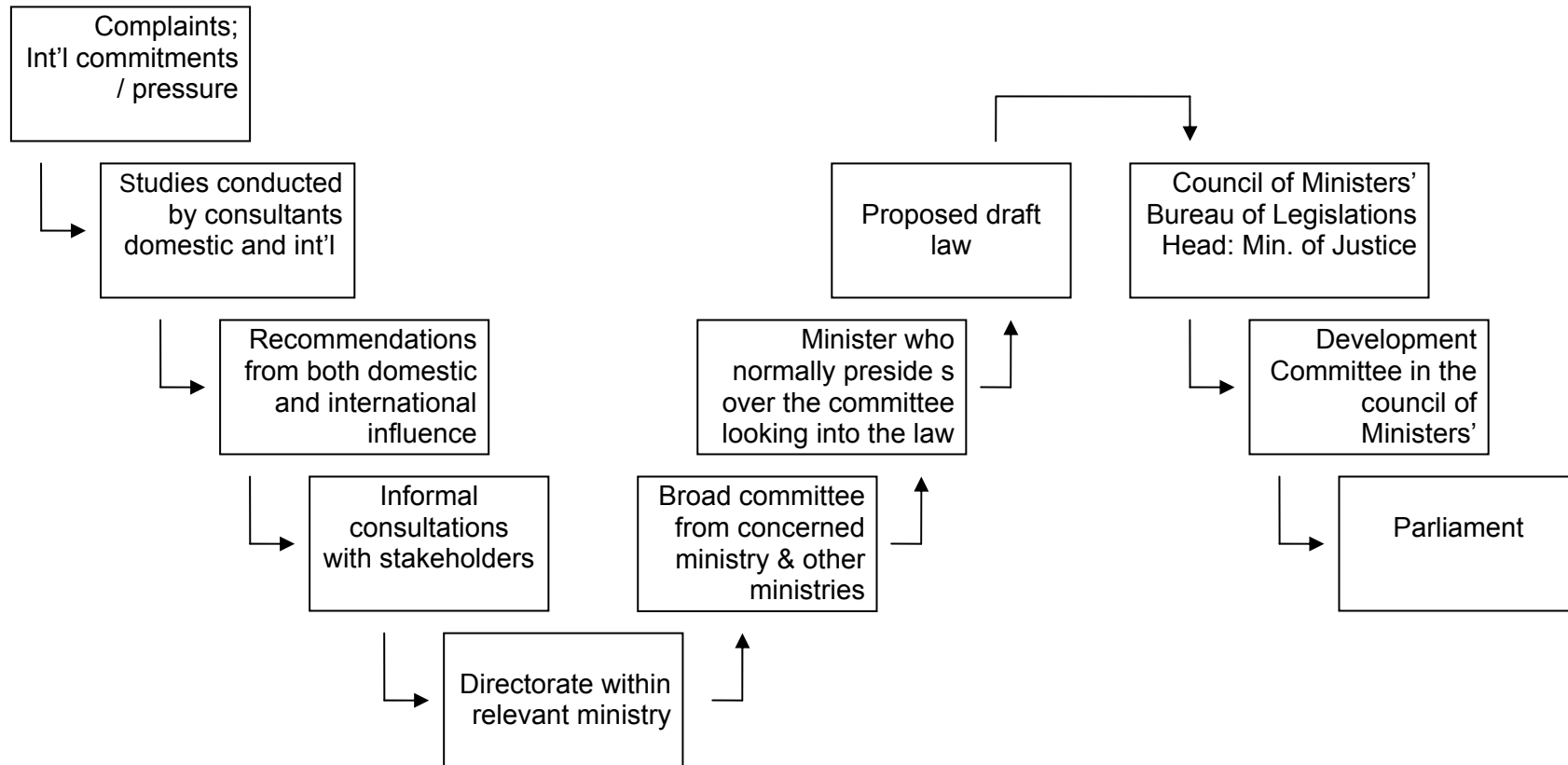
The law-making process that regulated economic reforms took place within the framework of the Jordanian system of constitutional monarchy, where reform initiatives were undertaken by governments appointed by the King but were also responsible to parliament and obliged to work out law-making reform through the constitutionally prescribed legislative procedures of the bi-cameral parliament. The larger part of the reform effort was made necessary by the economic crisis of 1988, but the policies embodied in the reforms were greatly influenced by economic doctrines of the Bretton Woods institutions, otherwise known as the Washington Consensus, promoting privatization and downsizing the public sector at home, and removal of foreign trade barriers and integration in world markets as international economic policy. Such doctrines were opposed by a generation of politicians who were brought up on leftist philosophies of the 1950s and 1960s and who were heavily represented in the parliament's House of Deputies. In contrast, the liberal and market-oriented thinking was advocated by the young professionals who started to populate the senior technical positions in the Central Bank and the ministries of Finance, Industry and Trade and Planning, the key areas of government who were largely responsible for influencing economic policy.

Other players in the legislative process for economic reform besides government's technocrats and deputies in parliament, are civil society institutions in which the business sector is organized and divided between commercial and trade businesses represented by the Federation of Chambers of Commerce, and industrialists represented by the Chamber of Industry. The interests of the broader public, particularly the lower strata, are defended by the Islamists and independent deputies of leftist ideology in parliament, and by the professional unions, particularly the engineers and the lawyers, outside parliament. The workers' unions since the riots of 1989 were significantly domesticated and subdued.

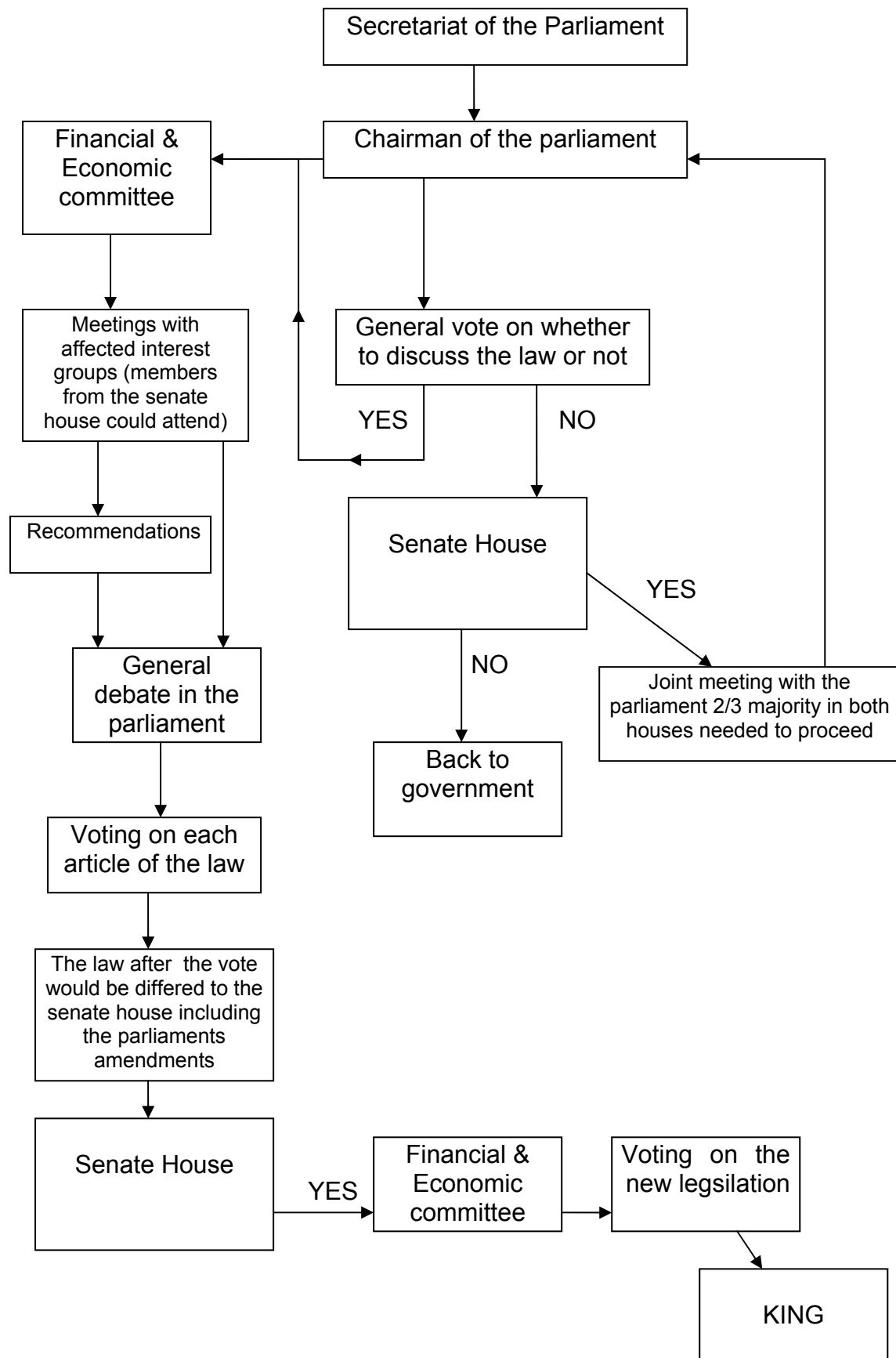
For the law-making process to evolve into a truly democratic regime, a number of political reforms are indicated, foremost among them are the following:

1. Reform of the electoral law to allow for competition among political platforms away from competition among tribal and clannish loyalties precipitated by the so-called one man one-vote arrangement.
2. Reform of the political parties law and related administrative regulations and practices in order to encourage the formation of political parties. It is important to note that a basic requirement to induce such encouragement is the success of reform item number (1) above.
3. Exercising governments self restraint on issuing temporary (provisional) laws by-passing parliament. To facilitate this restraint the regular sessions of parliament should be extended at least by double duration (from 4 months to 8 months, especially that the remuneration of parliament members is very generous, effectively equivalent or higher than the pay of ministers.

### Annex 1: Legislative Process in the Executive



## Annex 2: Legislative Process in the Bi-Cameral Parliament



### Annex 3: Financial and Economic Committee in 1993 Parliament

Name	Party	Blocks	Profession	Education
Ali Abu Ragheb Chairman	Independent	Parliamentary Democratic Alliance	Ex –Minister President Jordan contractor Association	Civil Engineering
Saed Hael Srour Rapporteur				
Abed Karim Kabari	Independent	Parliamentary Democratic Alliance	Financial Advisor	BA Financial and Business Management
Samir Qouar	Independent	Parliamentary Democratic Alliance	Private Business	MSc Agricultural Machinery Engineering
Abd Musa Nahar	Independent	Parliamentary Democratic Alliance	Director –Ammara Municipality Wd	Civil Engineering
Hashem Dabbas	Independent	National Action Front	Professor at Number of Jordanian and American Universities	PhD Political Science
Samih Farah	Jordan national Alliance	Jordan National Front	Mayor Of Madaba	B.A social science
Munir Sober	Independent	Parliamentary Democratic Alliance	Civil Engineer Private Company	BSc civil Engineer
Ali Shati	Independent	Parliamentary Brotherhood	Official Accountants Ministry of Finance	BSc Administrative Science
Mofleh Rohaimi	Al-Ahd	National Action Front	Director of local development center	BSc business Administration
Mohammad Dawodie	Jordan Arab Democratic Party	Parliamentary Democratic Alliance	Newspaper Columnist	Intermediate Diploma
Nader Abu Shaer	Independent	National Action Front	Surgeon	MSc medicine
Bader Riati	Islamic Action Front	Islamic Action Front	Officials Electricity Authority	BSc Business Administration
Abdel Alhafez Shakhanbeh	Independent	Parliament Democratic Alliance	Private Clinic	B.Sc., Medicine

Source: Hurani et al. Who's Who in the Jordanian Parliament 1993-97 and 1997-2001.

### Financial and Economic Committee in 1994-5 Parliament

Name	Party	Blocks	Profession	Education
Abd Musa Nahar	Independent	Parliamentary Democratic Alliance	Director –Amman Municipality Work	Civil Engineering
Ali Shati	Independent	Parliamentary Brotherhood	Official Accountants Ministry of Finance	BSc Administrative Science
Abdual Razaq Tobeishat	Independent	Independent parliamentary	Mayor , Irbid Municipality	BSc in Medicine
Hashem Dabbas	Independent	National Action Front	Professor at Number of Jordanian and American Universities	PhD Political Science
Nader Abu Sha'er	Independent	National Action Front	Surgeon	MSc medicine
Abduallah Akaileh	Islamic Action Front	Islamic Action Front	Dean , Islamic Community Colleague	PhD Public Administration
Samih Al-Farah	Jordan national Alliance	Jordan National Front	Mayor Of Madaba	B.A social science
Tojan Faisal	Independent	Parliamentary Democratic Alliance	Newspaper Columnist	BA English language
Mohammed Owied	Islamic Action Front	Islamic Action Front	Head of Islamic Studies-University of Jordan	PhD Islamic Studies
Mohammed Hunaiti	Independent	Parliamentary Democratic Alliance	Official Forestry Department	Secondary School Education

### Financial and Economic Committee in the 1998-99 Parliament

Name	Party	Blocks	Profession	Education
Ali Abu Ragheb	Independent	Parliamentary Democratic Alliance	Ex –Minister President Jordan contractor Association	Civil Engineering
Munir Sober	Independent	Parliamentary Democratic Alliance	Civil Engineer Private Company	BSc civil Engineer
Hazem Momani	Independent	Parliamentary Democratic Alliance	Private Business man	BSc Electronic Engineering
Fawaz Zubi	Independent	Democratic National Solidarity	Businessman	Primary School
Osama Malkawi				
Samir Quar	Independent	Parliamentary Democratic Alliance	Private Business	MSc Agricultural Machinery Engineering
Nashat Hamarneh	Arabic (B'aath) Socialist Party	Opposition	Physician	M.D Medicine
Raed Bakri	Independent	Democratic National Alliance	Amman Municipality	BSc Engineering
Ziad Showeikh	Independent	National	Private Businessman	Diploma in Business Administration
Hmoud Khaleleh	Independent	Parliamentary Democratic Alliance	Ex-army officer and Businessman	MSc Electronic Engineering
Khalil Atieh	Independent	National	Consultant and Contractor	BSc Engineering

### Financial and Economic Committee in the Senate

In the senate since there are more strict criteria as to who could be a member, most of the FC members are professional economist by education or practice or big businessmen from the private sector and in many cases they enjoy a higher level of education.

### Financial and Economic Committee Senate 1995

Name	Profession *	Education
Salem Masadeh	Deputy Prime Minister	BA in Law
Marwan Homoud	Director of Agricultural Credit Corporation	Associate Degree Agricultural
Rajai Moasher	Ex-Minister of Trade	PhD in Economics
Taher Hikmat	Ex-Minister of Justice	NA
Jawad Anani	Ex-minister National economy	PhD Economics
Mohammed Qor'an	Held Several official post (Income Tax Department)	BA law
Kamal Sha'er <b>Rappoerter</b>	President Dar-Alhandasah,private Engineering Consulting Company of international reputation	PhD Mechanical Engineering and Postgraduate degree in economics
Hammad Mayteh	Civil Servant in the Ministry of Interior	Secondary School of Education

\* last position held before entering the Lower House

### Financial and Economic Committee Senate 1999

Name	Profession	Education
Abdel Karim Kabari	Ex- Prime Minister ( Chairman of Jordan-Kuwait Bank)	BA Finance and Business
Khaled Haj Hasan	Chairman of Several Private Companies	MSc Irrigation and Mechanical Engineering
Mohammed Rasoul Kilani	Director , Public Sector Department	BA Finance
Rajai Moasher	Ex-Minister of Trade	PhD in Economics
Taher Kan'an	Minister of National Economy	PhD Economics
Hamdi Tabba	Chairman, Unions of Chambers Commerce	BA Business Administration
Jawdat Sboul	Interior Ministry	BA Law
Kamal Shaer	President Dar-Alhandasah,private Engineering Consulting Company of international reputation	PhD Mechanical Engineering and Postgraduate degree in economics
Sobhia Ma'ani	Private Business women	High Diploma