

**ASSESSMENT OF THE IMPACT OF TRIPS
UPON THE HASHEMITE KINGDOM OF JORDAN**

A Study Conducted by Professors Paul Almeida, Kirti Sawhney Celly,
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Study Rationale

The World Trade Organization “Agreement on Trade-Related Aspects of Intellectual Property Rights” (TRIPS) is a program of “deep integration” policy reform in the world economy which offers the potential for increased technological innovation, informational and cultural expression, and economic growth in developing countries. However, TRIPS-obligated policy reforms will likely produce these outcomes over the long term but in the short term upset traditional relationships among suppliers, buyers, producers, and consumers. Extant patterns of economic activity and interests are deeply-rooted in developing countries, thus, TRIPS implementation faces considerable opposition within developing country governments and from domestic interest groups.

TRIPS includes agreements regarding the law and policy of patent, copyright, trademark, plant variety, semiconductor mask, industrial design, and trade secret. The TRIPS agreement builds upon the substantial legal base provided by previous international treaties regarding intellectual property: the Paris Convention regarding industrial property (1967), the Bern Convention regarding literary and artistic works (1971), the Rome Convention regarding performers, producers, and broadcasters (1961), and the Washington Treaty regarding integrated circuits (1989). The government organizations of many developing countries are poorly-suited for TRIPS-compliant institutional and regulatory work as a matter of organizational structure, process, and human resource management practice. Thus, governmental organizations ought be reformed if TRIPS-implementation is to be carried out effectively and in compliance with WTO obligations.

TRIPS-implementation touches all economic lives within a society, but certain industry sectors are more directly affected than others. With intellectual property policies, governments intervene into the marketplace for the purpose of correcting the “appropriability problem” common to economic activity in which business investments are expensively made but inexpensively copied. Patent policies (and other specialized industrial property protections) provide investment incentives to innovate new products and processes and thus matter most to business sectors such as pharmaceuticals, fine chemicals, agricultural products, and information technology. Copyright policies provide incentives to produce new literary and cultural products and thus matter most in publishing and information, film and music, and computer software. Trademark policies provide incentives to establish brand identities and thus matter to all business sectors but especially influence the activities and strategies of advertising

businesses.

Intellectual property trade and commercial competition places upon states an enforcement problem qualitatively different from that of financial capital flows and real property trade. Enforcement of policies regarding financial assets and trade are essentially problems of central government power and its capacity to control its borders. Enforcement of intellectual property rights by contrast depends upon the state capacity to reach deeply within its country to enforce policies at local levels. The essence of the state is its capacity to make policy and to enforce policy and the TRIPS agreement poses an enforcement challenge which may, normatively, be argued to aim to help developing countries better institutionalize the capacity to enforce policy through the multilaterally-committed obligation to reform their judiciaries for the purpose of improved enforcement of intellectual property rights. The extensive demands made in the TRIPS agreement to reform courts, judicial procedures, and the public administration of enforcement are extraordinary as a matter of public international law and regime.

The Hashemite Kingdom of Jordan in late 1998 initiated a TRIPS-implementation reform process concomitant with a decision to accede to the World Trade Organization. Legislation has been drafted which aims to place Jordan in compliance with TRIPS obligations. However, these separate pieces of legislation must each be enacted into law within Jordan, a process of law-making which would be politically challenging under even the best of circumstances. TRIPS-obligated policy reform, appearing within the context of extensive trade and economic policy reform in order to fulfill the obligations of WTO membership, is revolutionary economic policy change which will restructure industries and business competition and ultimately change the polity and society in Jordan.

Politically, these are not the best of circumstances in Jordan to enact such an ambitious program of reform: Jordanians are carrying out economic reform during a time of unsettling political change (the passing of King Hussain, the passing over of Prince Hassan, and the coronation of King Abdullah) under the leadership of a new, untested king and cabinet challenged to deal simultaneously with a water crisis and the Israel-Palestinian foreign policy problem. Hence, the government leaders may be distracted and insufficiently focused upon the important tasks of implementation into law of TRIPS-obligated economic reforms. Nevertheless, the world economy is increasingly knowledge-based and, thus, Jordan must move forward with economic reform.

USAID/AMIR can facilitate the Jordanian legal reform and economic adjustment processes by conducting a study which assesses the impact of TRIPS upon the economy and public governance within Jordan. With respect to specific industry sectors and governmental organizations, the study should assess present strategies and practices, explain the kinds of change which TRIPS reforms will bring, and recommend change strategies to take best advantage of the new business and public governance environment.

We propose to assess the impact of TRIPS upon Jordan by studying (1) present commercial competition structures and business management strategies and practices in intellectual property-intensive industry sectors, (2) present governmental and judicial organizational structures and public administration strategies and practices, and (3) the domestic economic policy reforms and foreign economic policy changes being introduced by WTO-accession and bilateral trade agreements. We will explain the implications of these policy changes for these industry sectors, governmental and judicial organizations, and consumers in Jordan and we will recommend general change-strategies of management and practice. We will not, however, recommend company-specific business management strategy and practice changes.

We will study the following business sectors: information and publishing, music (performance and production), advertising, computer software, pharmaceuticals, agricultural chemicals, seeds, and products. We will study the industry associations. We will study the following governmental and judicial organizations: Ministry of Agriculture, Ministry of Trade and Industry, Ministry of Culture, Ministry of Health, Ministry of Planning, the National Library, the national courts and enforcement agencies, trade and investment promotion bodies (both public and private), and the universities (both public and private).

The study will be conducted by a team of U.S.-based academic specialists in cooperation with a local consulting firm in Jordan. Regarding the business sector part of the study, Professor Douglas Sanford will lead study of the information and publishing, music, and advertising sectors. Professor Paul Almeida will lead study of the pharmaceutical and software sectors. Professor Kirti Sawhney Celly will lead study of the agricultural sectors. For analytical purposes, the value chain across these business sectors will be separated into (1) product innovation, adaptation, and development (led by Professor Almeida), (2) product distribution (led by Professor Celly), and (3) product branding (led by Professor Sanford). Professor Almeida will integrate the value chain analyses. Professor Michael Ryan will lead study of the governmental and judicial organizations, the industry associations, and universities, coordinate the business sector part of the study, and prepare the final report.

The study will be conducted in three phases: (1) Basic Information Phase, (2) Business/Public Administration Model Phase, and (3) Management Strategy and Practice Phase. Phases 1 and 2 will be conducted by the local Jordanian consultant, which will be provided questions by the U.S. team. Phase 3 will be conducted in the field by two of the members of the U.S. team (Professors Celly and Sanford).

The study will proceed according to the following approximate timetable:

15 May: U.S. team provides Basic Information Phase questions to Jordanian consultant;

30 May: Jordanian consultant reports basic information to Professor Ryan;

15 June: U.S. team provides Business/Public Administration Model Phase questions to Jordanian consultant;

15 July: Jordanian consultant reports Business/Public Administration Model Phase information to Professor Ryan;

Early/mid-August: Professors Celly and Sanford conduct field Management Strategy and Practice Phase structured interviews;

25 September: On behalf of team, Professor Ryan submits final report.

The days of effort for this 120-day study should be divided in the the following manner:

Professor Paul Almeida--25 days: questionnaire preparation--5 days, business sector and product development analysis--10 days, business value-chain integration analysis--10 days;
 Professor Kirti Sawhney Celly--25 days: questionnaire preparation--5 days, site visit interviewing--10 days, business sector and distribution analysis--10 days;
 Professor Douglas Sanford--25 days--questionnaire preparation--5 days, site visit interviewing--10 days, business sector and branding analysis--10 days;
 Professor Michael Ryan--45 days: questionnaire preparation--8 days; public and judicial administration and university analysis; final report preparation--15 days; site visit presentations to Jordanian audiences--7 days.

Expected Results

In our report to the government and people of Jordan, we will explain how knowledge, information, and intellectual property are basic to the contemporary world economy and how TRIPS reshapes the institutional environment for global commerce. We will detail the institutional reforms mandated by TRIPS and how TRIPS relates as a matter of international public law to Jordan's accession to the WTO. We will relate these changes to other institutional, foreign economic policy changes being carried out by the government of Jordan, such as cooperative agreements with the EU and EFTA.

With respect to commerce in Jordan, we will provide description and analysis of the following:

the current structure of intellectual property-related commercial competition (number of firms, overall market size, related and supporting industries, etc), business model, strategy, and management practices in the
 --information and publishing business sector,
 --music (performance and production) sector,

- advertising sector,
- computer software sector,
- pharmaceutical sector,
- agricultural chemical, seed, and product sectors.

For each of these business sectors we will explain value chain-based world standard, developing country best practices and identify any gaps with current Jordanian practices.

We will provide description and analysis of the current structure (membership), organization, and strategy of industry associations. We will explain world standard, developing country best practices and identify any gaps with current Jordanian practices.

Based upon experiences in other parts of the world, we will assess general change patterns regarding market choice and product cost for consumers in Jordan.

With respect to public administration in Jordan, we will provide description and analysis of the following:

the current structure, organization, and management behaviors of the intellectual property-related parts of public organizations including

- Ministry of Agriculture,
- Ministry of Trade and Industry,
- Ministry of Culture,
- Ministry of Health,
- Ministry of Planning,
- the National Library,
- national courts and enforcement agencies,
- trade and investment promotion bodies (public and private).

For each of these public organizations we will explain world standard, developing country best practices and identify any gaps with current Jordanian practices.

We will provide description and analysis of university education in Jordan, including assesment of the current structure, curriculum, and practice (number of institutions of higher education, specializations, course offerings). We will explain world standard, developing country best practices and identify any gaps with current Jordanian practices.

Thus, in general we will describe and analyze current Jordanian practices and, where appropriate, recommend general change strategies to implement world standard, developing country best practices. Full implementation of our recommendations should over time result in more globally-

competitive business sectors and more supportive and effective governmental and social institutions.

Dissemination Plan

The final report should be released with presentations by Professor Ryan on behalf of the U.S. team at a several day-long, late September/early October conference co-sponsored by USAID/AMIR and the government of Jordan. The report should be widely, publicly distributed to Jordanian citizens and opinion leaders from the government, business, academia, and press. There will be no private, confidential report; all assessment and explanation will be released to public scrutiny for the purpose of increasing public awareness, knowledge, and understanding, generating informed public discussion, and encouraging public/private self-study, deliberation, and action.

The conference ought be held in cooperation with the Jordanian business sector and governmental organization participants in the study. The conference should include panel discussions and extensive opportunity for audience question and answer. Opportunity ought be made for additional small-group meetings with Professor Ryan.

Research Team

PAUL ALMEIDA, PhD, specializes in the business management and political economy of product innovation in the business enterprise, the region, and the country, with emphasis upon global knowledge and information management. His studies of intellectual property ownership and innovation business strategies in the pharmaceutical and information technology industries have appeared in *Strategic Management Journal* and *Small Business Economics* and won “best paper” honors in the Technology and Innovation Management division of the Academy of Management. He edited a special issue of *Journal of Product Innovation Management* devoted to globalization strategies for product innovation management. Presently a member of the Council on Foreign Relations’ study group on the globalization of industrial R&D, Professor Almeida teaches corporate strategy and international business at the Georgetown University McDonough School of Business and earned his PhD at The Wharton School of the University of Pennsylvania.

KIRTI SAWHNEY CELLY, PhD, specializes in international marketing with emphasis upon distribution channel management. She is the co-author of the textbook *Principles of Marketing Management* and her articles have appeared in *Journal of Marketing Research* and *Review of Marketing*. Professor Celly has provided export and international marketing advice to developing country agricultural producers. She teaches international marketing at the Graduate School of Management of the University of California, Irvine, formally taught at the University of Michigan Business School, and earned her PhD in business administration at the University of Southern California.

DOUGLAS M. SANFORD, Jr, PhD, specializes in international management with emphasis upon globalization/localization advertising strategies and brand management. His articles have appeared in *International Marketing Review* and *The International Executive*. Professor Sanford teaches international business at the School of Business and Public Management of the George Washington University and he earned his PhD in business administration at the University of Michigan Business School.

MICHAEL P. RYAN, PhD, the study coordinator, specializes in the international political economy of intellectual property and trade policy with emphasis upon international and national institutions. His *Knowledge Diplomacy: Global Competition and the Politics of Intellectual Property* (Brookings, 1998) explains international institutional change with reference to competition in innovation and expression-intensive industry sectors, national and international governmental organizations, and theories of organizations and learning. Also the author of *Playing by the Rules: American Trade Power and Diplomacy in the Pacific* (Georgetown, 1995) and articles which have appeared in political science and law journals and a frequent speaker to developing country government and business audiences, Professor Ryan has conducted research and published regarding higher education curriculum. He teaches international business and government at the Georgetown University McDonough School of Business and has been a guest lecturer at China University of Law and Political Science and a guest scholar at the Brookings Institution, and earned his PhD in political science at the University of Michigan, at which he served on its Business School faculty.