

Achievement of Market-Friendly Initiatives and Results Program  
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**Assisting Jordan with the  
WTO Trade in Services Negotiations under the  
WTO Doha Development Round**

Final Report

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### **Abstract**

This document reports the work performed by the Consultant to assist Jordan with the WTO trade in services negotiations. It also forms part of the training reference material for the team of services negotiators. The Ministry of Industry and Trade (MIT) requested that assistance be given to the services team in the Department for Foreign Trade Policy (DFTP).

Chapter 2 describes the objective and scope of the assistance given to the Department of Foreign Trade Policy of the Ministry of Industry and Trade by the Consultant.

Chapter 3 outlines the stage reached in the negotiations on the GATS framework elements.

Chapter 4 gives an overview of the specific commitments bound by Jordan under the GATS upon its accession to the WTO in 2000.

Chapter 5 summarises the stage reached in analyzing the initial GATS requests received by Jordan from nine WTO Members.

Chapter 6 points to the importance of professional and business services and elements that might form a package of government support for this key sector in the context of adapting to the impact of liberalisation of the service sector.

Chapter 7 describes the work done in preparing the initial requests to other WTO Members.

Chapter 8 gives an overview of the GATS initial offers by 30 WTO Members.

Chapter 9 suggests what further liberalisation might be included in Jordan's initial offer and discusses negotiating tactics.

Chapter 10 sets out seven essential elements to be implemented so as to assure the ability of MIT to conduct negotiations on services under the GATS successfully in future.

Chapter 11 reviews the skills and capacity of the DFTP services team to formulate and negotiate trade in services positions, and suggests how these can be upgraded.

Chapter 12 presents conclusions and recommendations, and suggests possible ways that the AMIR Program might continue with assistance to the services negotiators.

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## Acronyms and Abbreviations

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ACC	Amman Chamber of Commerce
ACI	Amman Chamber of Industry
ACM	Arab Common Market Agreement
AFM	Amman Financial Market
AFTA	Arab Free Trade Agreement
ASEZA	Aqaba Special Economic Zone Authority
BIS	Bank for International Settlements
BOP	Balance of payments
BTRP	Basic Telecommunications Reference Paper
CAA	Civil Aviation Authority
CBJ	Central Bank of Jordan
CD	Customs Department
CPC	Central Product Classification (of the UN)
DFTP	Department of Foreign Trade Policy, Ministry of Industry and Trade
DOS	Department of Statistics
ECGD	Export Credits Guarantee Department (of the UK)
EFTA	European Free Trade Association
ENT	Economic needs test
EU/EC	European Union / European Communities
FDI	Foreign direct investment
FTA	Free trade agreement
GATS	General Agreement on Trade in Services
GDP	Gross domestic product
IAIS	International Association of Insurance Supervisors
IATA	International Air Transport Association
IMF	International Monetary Fund
IOSCO	International Organisation of Securities Commissions
IRC	Insurance Regulatory Commission
ISO	International Standards Organisation
ISP	Internet service provider
IT/ICT	Information technology / Information & communications technology
ITU	International Telecommunications Union
JABA	American Chamber of Commerce in Jordan
JSC	Jordan Securities Commission
JSD	Jordan Securities Depository
JSE	Jordan Stock Exchange
JTC	Jordan Telecommunications Corporation
MFN	Most Favoured-Nation treatment
MIT	Ministry of Industry and Trade
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
R&D	Research and development
SMEs	Small and Medium-Sized Enterprises
TRC	Telecommunications Regulatory Commission
UNCTAD	UN Conference on Trade and Development
UNSD	UN Statistics Division
WTO	World Trade Organisation

## Executive Summary

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### Background

The Government of Jordan under King Abdullah II has continued the open economic policies started by the late King Hussein, has accelerated Jordan's entry into the global economy, and has recently adopted a new, socio-economic plan which, among other things, espouses private-sector led economic development based on private investment. As part of this strategy Jordan has acceded to the World Trade Organisation (WTO) and made commitments under various free trade agreements.

Jordan is perceived as a consistent force for peace and moderation in an unstable region and as having embarked on a process of democratisation and recognition of human rights. The broad economic reforms of the past few years achieved with support from the IMF, World Bank, US-AID and the EU have progressed towards macro-economic stabilisation and significant modernisation of the macro-regulatory regime. The far-reaching trade liberalisation moves have opened the economy, going well beyond those of its Arab neighbours - and indeed most developing countries. However, Jordan is still overly dependent on external financing to cover the trade deficit.

Broad reform of the public sector has aimed at increasing its quality and efficiency, along with a significant privatisation programme, so that the government progressively reduces its involvement in purely economic market activities, whilst stimulating and supporting the development of a modern innovative and competitive private sector. The economy is dominated by service activities - with 56 percent of GDP in market services and 21 percent in government services - and some parts of the private service sector must now be given greater priority.

### Objective and Scope

The study objective was to assist Jordan prepare for the WTO services negotiations under the General Agreement on Trade in Services (GATS).

The Scope of Work (SOW) for the Consultant set out six tasks related to achieving the study objective and required they be carried out by the Consultant with the joint effort and experiences of the staff of the services unit in the Department of Foreign Trade Policy (DFTP) of the Ministry of Industry and Trade.

### The General Agreement on Trade in Services (GATS)

The history of the GATS is briefly reviewed and some successful milestones listed. The key issues on the unfinished framework elements are discussed, which include:

Domestic Regulation; Emergency Safeguard Measures; Government Procurement; Subsidies; Increasing Participation of Developing Countries; and Economic Needs Tests.

The DFTP team has yet to work up draft positions on these for Ministers to consider, and therefore a specification for the preparation of position papers is suggested.

The position on the market access negotiations is surveyed, including the key issues on the four modes of supply, with reference also to free trade agreements, and the nature of the Doha Development Agenda Round which is a 'single undertaking'.

### **GATS specific commitments bound upon accession to the WTO**

Open market access and national treatment were bound by Jordan for a few professional and business services, environmental services, financial services (here the many limitations are mostly of the prudential variety), and sporting and other recreational services.

The only sectors not included in Jordan's GATS schedule were those which were highly restricted under existing laws, or were politically sensitive, including:

- Most medical services and pharmacies
- Postal services
- Radio and TV production and broadcasting
- Sewage and refuse disposal
- Road and rail transport, and related services.

### **Analysis of initial requests from WTO Members**

Requests have been received from nine countries:

The Quad countries (US, EU, Japan and Canada)  
India, Malaysia, Pakistan, Turkey and Egypt<sup>1</sup>

They were very diverse in aim and competence. The most comprehensive requests were made by the United States and the European Union (EU). The US request is the most original, while the EU request is less expert. Canada limited itself to a request on engineering services, and Japan included four pages of detailed definitions for the information technology sector, and requested that the maritime model schedule be adopted in full.

India focused on computer and related services and the movement of natural persons, and Malaysia on construction and related engineering services. Turkey requested the removal of particular limitations in five sectors. Pakistan made a standard and maximum request for the removal of limitations in a long list of sub sectors.

During the first visit and afterwards the Consultant examined these requests and provided the team with detailed checklists of questions to raise in the bilateral meetings so as to obtain clarification, and to point out some implicit misunderstandings of Jordan's commitments. These are given in Annex 4.

However, the further material from the private sector on their interests, which the Consultant was expected to comment on, was not available.

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<sup>1</sup> The request from Egypt was received too late for inclusion in the analysis.

### **Professional and business services - the priority**

The Ministry indicated that the priority for the GATS negotiations is to concentrate on the professional and business services sector. The Consultant supports this policy.

During his two visits the Consultant gained the impression that the firms in this sector probably mostly have the same deficiencies. This should be verified by the government and then plans made on the support necessary to improve their competitiveness and export capability. The likely elements for this would include at least training in:

- Business and project management
- Information, communications, computing technology and Internet skills
- International standards and quality assurance

A basic knowledge of how to use information technologies has become an essential skill for the effective participation by individuals in the workforce to support increases in productivity, quality of output and service performance, as pointed out by the Vision 2020 recommendations.

The government may have to expend a big effort on making the private sector aware of the need to export, and offering support to the extent possible within national priorities and budgetary constraints.

The lack of information on private sector capacity and concerns hindered the analysis of the Consultant. Furthermore, work by the legal consultant (IBLA) updating the information on the laws of Jordan that affect the supply of services had not been completed.

### **Preparation of initial requests by Jordan**

As required by the Director of the DFTP, most of the time of the Consultant on the second visit was spent on mentoring the team of three to produce exhaustive draft requests to the eight trading partners. This was a time intensive and laborious process going into great detail.

In the absence of information from the private sector on the problems exporters of services encounter in their markets abroad, the preparation of requests at this stage was done on a mechanical basis and restricted to the eight countries from which requests had then been made to Jordan. This involved looking at the 1993 GATS schedules of specific commitments, and where there is a limitation, requesting it be removed, or reduced, and where there is a sector 'line' not listed, requesting that a commitment be made. A political decision will be needed on the final extent of the requests, in accordance with Jordan's national priorities.

This exercise has assisted the DFTP team to 'see behind' the limitations inscribed in the GATS schedules of specific commitments and assess the legal and commercial reality driving them. It clearly proved to be an essential step in their training, because such tacit knowledge can only be imparted by a Consultant through personal discussion, and answering their many questions.

### **Overview of GATS initial offers by WTO Members**

Both developing and developed countries largely omit from their offers the Sector 8 Health services and about half of each group omit Sector 10 Recreational and cultural services. Both groups offer new or further liberalisation in Sector 9 Tourism, and 11 Transport services (the

latter mostly due to new maritime commitments offered). In Sector 7 Financial Services the already generally high level of commitments are little augmented, changes by the developed group being mostly technical.

Horizontal limitations are reduced by a minority in both groups, but the degree is not great by the developed countries.

The extent of the liberalisation indicated is in fact less than it appears, because in many cases only one or more sub-sectors are newly offered or improved, rather than all sub-sectors in the twelve main sectoral groupings. This is especially so for Sector 1 Business Services, and Sector 11 Transport Services.

### **Conditional initial offer by Jordan**

Initial offers had to be tabled in Geneva by WTO Members by the end of March 2003, but the Director of the DFTP did not discuss this subject during the second (and last) visit of the Consultant to Amman in December 2002.

Presumably the sectors where further liberalisation was agreed under the Jordan-US FTA would be a suitable starting point for inclusion in the conditional initial offer.

Negotiating tactics usually demand that the final position should not be revealed early on, and only a minimal initial offer be tabled at the outset. The Doha Round negotiations may well drag on for many more years, and the situation by then will be very different from now. It is too early to take up a final position.

In the main Jordan's macro-regulatory structure has been effectively created, even if some aspects have not yet been fully implemented. This is about as far as the government can go in convincing potential investors to give a high rating for credible predictability.

Government policies are well focused on the infrastructure services which might otherwise form bottlenecks for the whole economy, such as transport, telecoms and financial services.

The banking sector with its small customer base does not yet look strong enough to compete with the major regional banks, let alone the major global banks, the latter being conglomerates with huge economies of scale and scope.

Investors will be assessing the possibility of treating Jordan as the bridgehead for penetrating other Arabic speaking markets in the region, despite the relatively small size of the Jordanian domestic market.

### **Essential elements for conducting negotiations on services**

In order to conduct services negotiations successfully in future, it is recommended that the following seven elements be implemented:

- a) Carry out a national study on the economics of the service sector, including cross-border exports and imports of services, inward and outward FDI for services, and any information on foreign affiliates.

- b) Carry out sector studies - firstly on the infrastructure services and secondly, on intermediate services. Finally, resources permitting, studies on the education, health, recreational and cultural sectors.
- c) Consult private sector organisations: the trade unions, business sector associations and civil society (including the NGOs).
- d) Set up an Inter-Agency Committee chaired by MIT (which is responsible for the WTO negotiations), to co-ordinate the policies of affected Ministries, sector regulators and parastatal entities.

MIT will also need to maintain a close dialogue through two-way communication with the Mission in Geneva to ensure that

- (i) the DFTP is informed of intelligence on the significant issues arising in Geneva, and the positions of key trading partners and country groupings, and
  - (ii) the Mission staff are made fully aware of national policies, priorities and sector interests;
- e) Set up a sub-committee of the Inter-Agency Committee on Services, that includes representatives of the relevant Ministries and from private sector associations.
  - f) Analyse the horizontal and sectoral issues raised by the GATS negotiations, set priorities, assess options and settle positions reflecting the national interest.
  - g) Provide specialist personnel to attend key meetings in Geneva to represent the national interest, and to assist in the major bilateral negotiations.

It can be concluded that technical assistance support from outside MIT should be available in the capital for some months ahead, until the government 'owns' the new national plan and negotiating support procedures, and the national officials and experts are in a position where they can continue effectively to implement the plan and multilateral negotiations without external help.

### **Negotiating skills and capacity, and training**

The team of three young officials in DFTP are not long out of university. They are faced not only with acclimatising to working in officialdom with its accumulated bureaucratic aims and norms, but also with a very steep learning curve on the WTO negotiations and the specifics of the GATS and the varied service sectors.

The three month trade policy course offered by the WTO would give team members a good grounding for their negotiating tasks.

Other international agencies do not offer the requisite specific training due to their lack of knowledge of the specifics of the very heterogeneous range of service sectors. The Ministry might therefore explore whether there are academics available to provide the necessary mentoring from universities which run trade courses, such as can be found in Switzerland, the United Kingdom and the United States.

### **Recommendations**

The recommendations cover actions in two different time frames. The shorter term focus is on the need to prepare the services negotiating team, consisting of new young recruits, for the bilateral and multilateral services negotiations that are ongoing as part of the Doha Development Agenda Round due to be concluded by the end of 2004. This constitutes an immediate pressure and necessitates work on initial requests and offers flowing in both directions between Jordan

and other WTO Members. Much of the focus at this level is on means and techniques, and on understanding the specifics, so as to inform the policy makers.

The longer term action is focused on setting up the mechanisms to obtain information about the service economy so as to ascertain priorities and to formulate appropriate national policies.

### **During the time frame of the Doha Development Agenda Round**

#### ***Obtain for the DFTP team further mentoring by experts***

The DFTP team needs further training and mentoring support from experts with the relevant tacit knowledge. This can come from other Ministries, from private sector practitioner experts, and international consultants. Such inputs will need to focus both on the 'front-line' negotiating tactics to deploy in Geneva in the market access negotiations, and on the key GATS framework issues, so that Jordan can be fully and effectively engaged in the multilateral debates.

#### ***Address the formulation of policies on the open GATS framework issues***

The DFTP needs to address the policy formulation content and process concerning the horizontal GATS framework issues which remain to be negotiated. These include: Domestic Regulation, Emergency Safeguard Measures, Government Procurement, Subsidies, Increasing Participation of Developing Countries, and Economic Needs Tests.

#### ***Requests to be made by Jordan to trading partners***

MIT should decide on the trading partners to which it will submit initial requests. Their coverage should reflect Jordan's export interests.

#### ***Any further liberalisation commitments should reflect a comprehensive policy***

Also at some point, Jordan should notify the WTO of its conditional initial offer. This should be based on grounds of maximising national interest, not as a reciprocal direct reaction to requests received from other WTO Members. It will reflect overall national social and economic development policy, and any need for inward foreign direct investment and the transfer of know-how and technology.

Work on any further GATS specific commitments should no longer concentrate solely on scheduling techniques and legal minutiae, but reflect a holistic and systematic approach to policy formulation for services trade and investment. It should take into account the quality of services, and any need for the transfer of technology and know-how, with especial consideration of the cross-cutting, dynamic, capital intensive sector impacts, and favourable effect on employment. This will provide policy justification for the negotiating stance in Geneva.

If it is perceived that in a certain sub-sector the impact of transition to open international competition causes difficult structural adjustment costs, it is possible to signal to both the domestic suppliers, and to trading partners, the firm intention to provide full market access and national treatment by scheduling a pre-commitment at a future date, as indeed was done by Jordan in the telecoms and education sectors upon accession. The current focus could be on financial services, construction, distribution and transport.

Upon accession to the WTO, Jordan bound a longer list of sectors than the existing developing country Members, and is therefore in a strong position to resist pressure to offer more where this does not suit national economic policies.

### **Work on institutional and research aspects**

#### ***Build on the comparative advantages of Jordan: the need for studies***

The comparative advantage, on which Jordan can build, includes such strengths as the well educated, high skilled, low cost labour, who speak both Arabic and good English. Jordan is placed at the juncture of three continents, and can form a stable and attractive regional centre for distribution, sales marketing and business advisory services - including quality assurance to certify firms to the ISO 9000 standard. Other advanced skills to develop could include advice on the protection of the environment and renewable energy sources.

The MIT should consider requesting the Ministry of Planning to carry out further studies in the service sector, starting with the intermediate business services, so as to complete the picture of which the likely winners are.

The MIT needs to set out a road map for the service sector as a whole, including the trade logistics and retail sectors which are already targeted.

#### ***Coordinate policies on professional and business services***

The MIT needs to formulate its policy priorities on the knowledge intensive service sectors that are crucial to future growth, both as to raising domestic added value and increasing service sector exports. Such professional and business services can be expected to create most new jobs, often the better paid ones, and best exploit Jordan's comparative advantage in high graduate educational levels among both males and females. A wide range of possible elements might be needed to form a suitable package of governmental support to promote their sustainable development.

#### ***Improve the consultative dialogue with services exporters***

The MIT needs to improve its consultation and dialogue with the private services sector trade associations and practitioners, which should become a continuing two-way interchange. The stimulation of the formation of a 'Coalition of Service Industries' comprising services exporters might be one way of achieving this. Such a Coalition could develop contacts with counterparts around the world and thus reinforce its capacity for advocacy.

#### ***Improve the compilation and analysis of services statistics***

The Central Bank of Jordan and the Department of Statistics should increase the resources devoted to compiling statistics on services activities, investment and trade, so that policy makers can be supplied with the facts and figures on which to base decisions on priorities in the national interest.

The recommendations of the newly published 'Manual on Statistics of International Trade in Services' should be progressively implemented. It sets out a series of steps to achieve a complete framework.

## Chapter 1: Introduction

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### Background

Jordan is perceived as a consistent force for peace and moderation in an unstable region, having embarked on a process of democratisation and recognition of human rights. The broad economic reforms of the past few years, achieved with support from the IMF, World Bank, USAID and the EU, have progressed towards macro-economic stabilisation and significant modernisation of the macro-regulatory regime, though Jordan is still overly dependent on external financing to cover the trade deficit. Far-reaching trade liberalisation moves have opened the economy, going well beyond those of its Arab neighbours - and indeed most developing countries. It has included accession to the Greater Arab Free Trade Area and the World Trade Organisation (WTO), the latter becoming effective in April 2000. In addition, Jordan was signatory to the Jordan-EU Association Agreement in 1997 (effective May 2002), the Jordan-US Free Trade Agreement (FTA) (effective December 2001), and the Jordan-EFTA agreement (effective in September 2002), as well as a number of bilateral investment treaties. Jordan has also participated in the Agadir Process with Egypt Morocco and Tunisia to form an FTA. On the horizon is the possibility of a Euro-Mediterranean FTA by the end of the decade.

Broad reform of the public sector has aimed at increasing its quality and efficiency, along with a significant privatisation programme, so that the government progressively reduces its involvement in purely economic market activities, whilst stimulating and supporting the development of a modern innovative and competitive private sector. The economy is dominated by service activities (56 percent of GDP in market services, and 21 percent in government services), some parts of which must now be given greater priority. This will include harmonisation of the many new laws with existing legislation. The essential infrastructure has received much attention, and now it is the high value-added business and professional services which demand greater focus. They are critical for increasing the competitiveness of the whole economy and exports of all sectors, including their own, as well as support for e-government.

Recent awareness of the role of professional and business services, including the services activities in the ICT sector, must lead to a greater coherence of government training, support and development policies for these essential enablers, which in advanced economies account for half the output of market services. Professional and business services can also play a central role in support of sustainable development and the reduction of poverty as envisaged in the "Vision 2020" strategy, which emphasises the modernisation of the business environment and the development of human skills, especially entrepreneurial skills. The latter form the essential basis for future prosperity to arise from economic and trade growth and development. Professional and business services might provide great opportunity for female employment and will help reduce gender disparity, to counter the low female participation level in the professional work force. It will also assist in attracting inward FDI to sectors which can raise productivity essential to meet challenges from increased competition due to globalisation.

### Some statistics on the service sector

Jordan runs a surplus on the current account of the balance of payments on its services trade. Most of this is from tourism (see Table 1). The earnings from the broad 'Other services' category are also relatively high, however they are largely offset by large imports. But there is clear potential for increasing the surplus from 'Other services'.

**Table 1: exports and imports of services**

<b>JD Million</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
<b><u>Receipts</u></b>						
<b>Travel</b>	<b>549</b>	<b>549</b>	<b>564</b>	<b>512</b>	<b>496</b>	<b>557</b>
<b>Transport</b>	<b>273</b>	<b>218</b>	<b>209</b>	<b>211</b>	<b>182</b>	<b>204</b>
<b>Other services</b>	<b>410</b>	<b>472</b>	<b>434</b>	<b>437</b>	<b>372</b>	<b>311</b>
<b><u>Payments</u></b>						
<b>Travel</b>	<b>282</b>	<b>250</b>	<b>252</b>	<b>274</b>	<b>298</b>	<b>296</b>
<b>Transport</b>	<b>224</b>	<b>181</b>	<b>171</b>	<b>173</b>	<b>186</b>	<b>188</b>
<b>Other services</b>	<b>264</b>	<b>465</b>	<b>493</b>	<b>416</b>	<b>363</b>	<b>356</b>
<b><u>Net position</u></b>						
<b>Travel</b>	<b>267</b>	<b>298</b>	<b>312</b>	<b>238</b>	<b>198</b>	<b>261</b>
<b>Transport</b>	<b>49</b>	<b>37</b>	<b>39</b>	<b>38</b>	<b>- 3</b>	<b>16</b>
<b>Other</b>	<b>146</b>	<b>6</b>	<b>- 59</b>	<b>20</b>	<b>9</b>	<b>- 45</b>
<b>Net Workers' remittances</b>		<b>947</b>	<b>1035</b>	<b>1168</b>	<b>1289</b>	<b>1373</b>
<b>Note:</b>						
<b>Overall errors etc:</b>	<b>-39</b>	<b>-305</b>	<b>21</b>	<b>224</b>	<b>58</b>	<b>- 35</b>

Source: Central Bank of Jordan, Monthly Statistical Bulletin, August 2003.

The great importance of workers' remittances to the balance of payments position is clearly seen from this table. One estimate indicates that there may be between 200 and 300,000 skilled and professional Jordanians working abroad.

The figures for 'Other services' are estimated in various ways from very thin original business survey data, and form a relatively large proportion of the total trade in services (i.e., 38 percent in 2001), and therefore it could be that the very large 'net errors and omissions' figures in some years, as noted above, result from this problem. The estimation procedure for the travel item, which mainly comprises tourism, is based on passenger surveys, and could also be part of the problem. The transport figures are probably more dependable as they are based on customs declarations for goods trade.

The 'services trade intensity' of Jordan at US\$ 635 in 2001 is relatively high, being above that of the Mercosur countries and Chile, for example.<sup>2</sup>

The number of establishments in the service sector are given in Table 2, which show how they predominate, accounting for 82 percent of the total for all sectors. Over half of the all-sector total is in the retail trade in various forms.

<sup>2</sup> Trade intensity is here simply the sum of services trade exports and imports in a year, divided by the population figure.

**Table 2: number of enterprise establishments in Jordan**

<b>Enterprise establishments in Jordan - 1999</b>		
		<b>percent</b>
<b>Total in whole economy:</b>	<b>143,400</b>	<b>100</b>
<b>Total in service sector:</b>	<b>118,200</b>	<b>82</b>
<b>Retail and equivalent:</b>	<b>77,600</b>	<b>54</b>
<b>Wholesale:</b>	<b>4,800</b>	<b>3</b>
<b>Construction:</b>	<b>1,700</b>	<b>1</b>
<b>Renting equipment etc:</b>	<b>1,200</b>	<b>1</b>
<b>Finance:</b>	<b>1,100</b>	<b>1</b>
<b>Education (higher/adult):</b>	<b>900</b>	<b>1</b>

Source: Census of Establishments, 1999

The service sector shares in GDP are shown in Table 3. The first broad category includes the professional and business services which will form an important element in driving future economic success for Jordan.

**Table 3: service sector shares in GDP**

<b>Shares in GDP - 2000</b>		<b>percent</b>
<b>Finance, Insurance, Real Estate, and Business Services</b>		<b>18.5</b>
<b>Transport and Communications</b>		<b>16.0</b>
<b>Distribution, Restaurants, Hotels</b>		<b>11.6</b>
<b>Social and Personal Services</b>		<b>4.7</b>
<b>Construction</b>		<b>3.9</b>
<b>Other Private Services</b>		<b>1.4</b>
<b>Total private services</b>		<b>56.2</b>
<b>Government services</b>	<b>20.8</b>	
<b>All services</b>		<b>77.0</b>
<b>Manufacturing</b>	<b>15.2</b>	
<b>Mining, quarrying</b>	<b>3.0</b>	
<b>Electricity, water</b>	<b>2.6</b>	
<b>Agriculture</b>	<b>2.2</b>	<b>23.0</b>

Source: Department of Statistics, Industrial origin of gross domestic product at current prices

The size of enterprises in Jordan is shown in Table 4, together with some comparative figures for the EU and the United States.

**Table 4: small and medium-sized enterprises****Small and Medium-sized Enterprises**

**Jordan: 0-4 = 92 percent; 5-19 = 7 percent; 20 and over = 1 percent**

**Comparison with EU: enterprises with less than 500 people constitute a dominant presence ie:**

<b>99 percent of the enterprises</b>	<b>[ in USA = 98 percent ]</b>
<b>66 percent of the employment</b>	<b>[ in USA = 52 percent ]</b>
<b>55 percent of the turnover</b>	<b>[ in USA = 47 percent ]</b>

**SMEs account for 50 percent of investment**

**In the EU service sector, 40 percent of employment is in micro-enterprises (0-9 employees, inc. self-employed)**

**Over 202,000 US SMEs are exporters**

**Sources:**

**Jordan - Census of Establishments, 1999**

**EU and US SMEs: Eurostat: "SMEs and Employment" April 1999**

**(written by the Consultant)**

**US SME exporters: US Small Business Administration**

The tiny proportion of firms with 20 or more employees are the ones which the government should focus on to prepare them for self-sustaining export capability.

**Content of this report**

Chapter 2 describes the objective and scope of the assistance given to the Department of Foreign Trade Policy of the Ministry of Industry and Trade by the Consultant.

Chapter 3 outlines the stage reached in the negotiations on the GATS framework elements.

Chapter 4 gives an overview of the specific commitments bound by Jordan under the GATS upon its accession to the WTO in 2000.

Chapter 5 summarises the stage reached in analyzing the initial GATS requests received by Jordan from nine WTO Members.

Chapter 6 points to the importance of professional and business services and elements that might form a package of government support for this key sector in the context of adapting to the impact of liberalisation of the service sector.

Chapter 7 describes the work done in preparing the initial requests to other WTO Members.

Chapter 8 gives an overview of the GATS initial offers by 30 WTO Members.

Chapter 9 suggests what further liberalisation might be included in Jordan's initial offer and discusses negotiating tactics.

Chapter 10 sets out seven essential elements to be implemented so as to assure the ability of MIT to conduct negotiations on services under the GATS successfully in future.

Chapter 11 reviews the skills and capacity of the DFTP services team to formulate and negotiate trade in services positions, and suggests how these can be upgraded.

Chapter 12 presents conclusions and recommendations, and suggests possible ways that the AMIR Program might continue with assistance to the services negotiators.

- Annex 1 lists the organisations visited by the Consultant.
- Annex 2 provides some Internet links and document references.
- Annex 3 records an overview of eight of the nine initial requests received by Jordan from WTO Members.
- Annex 4 records the queries raised by the Consultant on the requests.
- Annex 5 augments Chapter 6 by setting out some factors to consider when formulating policies for the support of professional and business services and services SMEs.
- Annex 6 indicates the service sectors affected by recent changes in the law.
- Annex 7 describes the factors affecting liberalisation in each service sector, and indicates the situation in Jordan.
- Annex 8 sets out the articles in the Jordan-EU Association Agreement which are relevant for the service sectors.
- Annex 9 outlines the extent of GATS specific commitments which form the starting point for the Doha Development Agenda round of market access negotiations.

### **Debriefing for AMIR**

This Report itself comprises the required debriefing to AMIR of the work undertaken and findings of the Consultant.

### **Report by International Business Legal Associates**

International Business Legal Associates (IBLA) will be submitting its own report when the legal research work has been completed on laws affecting the supply of services in Jordan.

## Chapter 2: Objectives and Scope

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### Study Objective

This document is the Final Report on field work performed by the Consultant to assist Jordan with the WTO trade in services negotiations. It was carried out under the Private Sector Policy Initiative of the AMIR Program. It also forms part of the training reference material for the team of services negotiators.

The Ministry of Industry and Trade (MIT) requested that assistance be given to the services team in the Department for Foreign Trade Policy (DFTP).

The Scope of Work (SOW) for the Consultant was as follows:

1. Analyze the negotiating requests that have been submitted to Jordan by WTO members in light of the Jordanian Schedule of Specific Commitments and the expected feedback from the national committee for trade in services representing the private sector interests.
2. Assess the potential impact on the Jordanian economy of further liberalization of trade in services if undertaken according to the negotiating requests. Determine the readiness of the main Jordanian services sectors to adopt requested positions.
3. Assist the trade in services division at MIT to submit counter requests to the requesting members as well as to other members reflecting national economic interests.
4. Help the trade in services division at MIT with drafting an initial offer to be submitted in response to the negotiating requests that reflect the concern of the private sector in Jordan.
5. Review the skills and capacity of the DFTP to formulate and negotiate trade in services positions that are appropriate for the Jordanian economy. Brief the DFTP on the GATS and its negotiating process. Draft a training plan to upgrade these skills and capacity with the intention that appropriate support can be provided by the Government and the AMIR Program.
6. Provide a debriefing presentation to AMIR of work undertaken and relevant findings.

The above tasks are to be carried out with the joint effort and experiences of the staff of the services division of MIT.

The contract of the Consultant with The Services Group Inc. called for a total of 49 working days. Of these, 9 working days were spent in Amman in late October and 15 in early December 2002. A third visit in the Spring of 2003 was cancelled due to the situation in Iraq and instead the remaining work was undertaken at the home base of the Consultant.

## **The Ministry of Industry and Trade**

The Ministry of Industry and Trade is responsible to the Prime Minister and his Cabinet. The DFTP (or WTO Unit) is one of three directorates reporting to the Sub-Secretariat for Economic and Foreign Trade Affairs, which reports to the MIT Secretary General - along with the Sub-Secretariats for Industry and National Trade Affairs, and Financial and Administrative Affairs.

### **Meetings with the Minister**

Until MIT is headed by the Minister, HE Dr Salah-Eddin Al-Bashir, a lawyer, who in his former legal practice was closely involved with the preparation for, and the negotiations on the accession of Jordan to the WTO. He invited the Consultant to meet him four days into the first visit and again a day before the end of the second visit. It was clear that he is very much aware of the importance of key services to the efficiency and competitiveness of the economy as a whole, because they are 'enablers', as he put it.

In August the Consultant had outlined the approach he thought appropriate for this study, and this was reflected in the brief presentation he gave to the Minister on 24 October. The Minister indicated that the time had arrived to move beyond the minimalist approach in relation to the trade negotiations, for example how the Government Procurement Agreement might harm Jordan, and devise a proactive economic plan for the service sector stretching beyond the 2000 Round. This should assess what gains could be seen from the liberalisation of services, what services were linked as clusters, and which need inward FDI and have a capability to export; and what is the role of professional and business services, which are high earners, and how can the opportunities of the various trade agreements be exploited, with especial focus on the movement of natural persons and domestic regulatory clarity.

The Minister suggested that the Consultant see people in the following sectors: IT/telecoms, professional and business services, R&D, land transport (including express couriers), retail distribution and land transport and visit the port of Aqaba. He should also visit the Jordan Investment Board, and a representative of the pharmaceutical sector. At the second meeting on 16 December the Minister again stressed the importance of the transport, pharmaceutical and retail sectors, which need road-maps.

### **Briefing at the Department of Foreign Trade Policy**

The Director of DFTP was Majed Mamoudeh, who had experience of negotiations from serving in the WTO Mission in Geneva. There were eight officials in this unit in Amman and one secretary. A ninth member, Maha Ali, was in the WTO Mission in Geneva on a one-year secondment, and returned early in 2003, later replacing Mr Mamoudeh as Director. The WTO services negotiations under the GATS were being handled by three economists Rafat Rawabdeh, Natalia Shakhanbeh, and Ahmed Hammad, each of whom graduated from university during the past five years or so. Mr Rawabdeh left the MIT in July 2003. The Consultant also met the other unit members, and was assisted briefly by Issa Baddour, the legal analyst who indicated for the main service sectors when the regulations affecting them had first been introduced and when modified (as recorded in Annex 6).

The Director explained at the initial briefing session on 20 October that his main preoccupation, to which the Consultant should respond, was the assessment of the GATS initial requests that had been received, so that the team could be better prepared for the imminent bilateral meetings

in Geneva. At the second briefing meeting on 9 December, the Director firmly requested the Consultant to spend all his time assisting with the preparation of Jordan's initial requests to these eight countries. This precluded the Consultant from making any visits outside MIT to meet the businesses suggested by the Minister or to see Aqaba Port.

The Consultant made a presentation on 16 December to a workshop hosted by the Amman Chamber of Commerce on behalf of the WTO National Committee of the Federation of Chambers.

In between the two periods spent in Jordan, the Consultant visited the offices of the WTO Mission in Rue de Vermont, Geneva, where he met Fakhry Hazimeh, Counsellor, Economic Affairs and Maha Ali, Deputy Counsellor.

### **Scarcity of information on the service sector**

In meeting his brief, and advising on the longer-term development process which the Minister has set as a priority, the Consultant was hindered by the lack of information. There are no disaggregated trade figures for the principal service sub-sectors to show their contribution to FDI, exports and imports; no studies on the impact of trade liberalisation, nor on which sectors need inward FDI and technical assistance, nor on which may be capable of exporting. Sector studies from the Ministry of Planning and other sources available in the AMIR office cover: road trucking (2002), transport (2000), retail distribution (2001), ICT (2000), banking (2000), telecoms (2002), and medical services (2000). There is no study on the important role played by professional and business services, nor on the export logistics cluster as a whole (ie trade related transport, banking, and insurance services). The global competitiveness report under preparation for MIT should reveal the drivers of economic growth, but there are no early conclusions to draw on for the present report.

The original plan, as reflected in the SOW of the Consultant, was to provide him with information from the private sector related to any concerns over further liberalisation as requested by other WTO Members and problems encountered abroad by services exporters.

The Federation of Chambers of Commerce had taken the lead and formed the national committee to educate its members on the GATS issues and draft responses for DFTP to the requests received from trading partners. There are over 30 sub-committees to cover the service sectors. The most active group so far had been the engineers and architects and construction contractors. Other groups showing interest include: auditors, audio visual, financial services, management consultants, tourism, energy, IT and telecoms, transport, advertising, and pharmacists. The engineers would like a study done on all regulations affected by the various FTAs.

The Ministry of Industry and Trade had funded a study by the management consultants MMIS to gather the necessary information from the Federation members. However, the Consultant was not able to complete Section 1 of the SOW because the report by the management consultants MMIS on their consultations with the 35 sector working groups had not been completed by the end of the second visit to Amman by the Consultant. Furthermore, it would need to be translated into English.

In addition the Ministry had not completed its collation of responses from other Ministries and official bodies to the GATS initial requests.

It was beyond the remit of the Consultant to indicate where the government may need to cushion the losers from structural adjustments resulting from globalisation, and to distinguish between sectors where people capital can be raised to compete, and others where there are concerns of being over-run by settlers, such as in transport, retail distribution, construction and travel agencies.

The Ministry provided no further information to the Consultant because the focus was entirely on the short term imperative of the GATS negotiations in Geneva as part of the Doha Development Round.

### **International Business Legal Associates**

The Consultant held meetings with Nissreen Haram, the Managing Director of International Business Legal Associates (IBLA), on 22 October and 1 December. She indicated that the contribution of IBLA under AMIR 2.0 on GATS negotiations would be to update the inventory of laws affecting the service sectors. This would be a time consuming task as there had been a plethora of both new laws and changes to existing regulations. The work was still continuing as the present report was finalised.

IBLA had carried out the assessment of services regulations in 1998 and been involved with the drafting of Jordan's schedule of specific commitments, and the negotiations to accede to the GATS. Work had also been done on the specific commitments for the Jordan-US FTA, and comments given on the Government Procurement Agreement work.

## Chapter 3: The General Agreement on Trade in Services

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The GATT Ministerial meeting in Marrakech in April 1994 created the World Trade Organisation (WTO) which entered into force on 1 January 1995. The General Agreement on Trade in Services (GATS), one of its main pillars, is seen as the most important development in the legal framework of the world trading system since the creation of the GATT in 1948. It mandates that market access negotiations on services be undertaken every five years, starting on 1 January 2000, with the aim of progressive liberalisation. However, work began in 1995 on the market access issues left unfinished at the end of the Uruguay Round in 1993. These included filling gaps in its framework of principles and rules, and concluding negotiations on market access for three major sectors: telecoms, financial services and maritime transport, and also on market access for temporary workers in all service sectors.

Further negotiations during 1995 and 1996 failed to make any headway on maritime transport and market access for temporary workers: so they were abandoned and left to be revisited in the next round of negotiations. As for basic telecommunications and financial services, negotiations were extended into 1997 with successful conclusions, in April for telecoms and December for financial services.

For basic telecommunications an optional 'Reference Paper' was created. Although specifically aimed at dealing with the particular characteristics of telecoms network services, its precepts of pro-competitive regulation for access, cost-related pricing, and prevention of cross-subsidisation, strike resonance for other sectors as well. The competition policy elements were a notable first for the WTO, indeed any multilateral treaty, and a good start to build on in the interests of market contestability.

### **Some milestones passed successfully**

The milestones successfully passed since the GATS was formed are:

- Protocols of 1997 on basic telecommunications and financial services
- 'Disciplines on Domestic Regulation of the Accountancy Sector' (adopted in December 1998)
- 'Guidelines for Mutual Recognition Agreements or Arrangements in the Accountancy Sector'
- 'Guidelines for the scheduling of specific commitments under the GATS'
- 'Guidelines and Procedures for the Negotiations on Trade in Services'

The latter two were adopted by the Council for Trade in Services (CTS) in March 2001.

The GATS provided that before market access negotiations began, the modalities for the treatment of autonomous liberalisation undertaken since previous negotiations had to be established. On 10 March 2003 the CTS agreed the document "Modalities for the treatment of autonomous liberalisation". They include an illustrative list of criteria for assessing liberalisation measures, such as sectoral coverage, share of trade, market potential and so on.

## The GATS framework: unfinished elements and issues arising

### Domestic Regulation (Article VI)

The Domestic Regulation Article sets out principles and rules to discipline non-discriminatory domestic regulations “relating to qualification requirements and procedures, technical standards and licensing requirements”. It directly involves the issues that are at the heart of national sovereignty. Not surprisingly no consensus has been forming and the debate remains drawn at the element termed transparency. Some advance was made on transparency for regulations in the accountancy sector, but no consensus is forming on whether to extend the same regime to other professions, let alone to other sectors.

The tougher core issues have yet to be fully engaged: firstly whether the legitimacy of government aims enshrined in legal measures could be challenged under the WTO dispute settlement mechanism,<sup>3</sup> and secondly how to apply the necessity test to legitimate measures to assure proportionality of restrictiveness to international trade and burdensomeness on suppliers. This may involve the recognition of equivalency of different approaches to achieving an acceptable regulatory aim, and the harmonisation of standards and legal procedures. They could form a work programme for years to come.

### Emergency Safeguard Measures (Article X)

There has been much debate on Emergency Safeguard Measures (ESMs), over which there is a North-South divide. For developing countries, some form of safety valve mechanism is a political necessity, a comfort factor for making bindings in conditions of extreme uncertainty of possible outcomes well into the future. There is the dire need to avoid having to pay ill-affordable compensation later on to unwind mistakes and wrong turnings, caused by poor or misguided regulations and lack of administrative resources to foresee, implement and to enforce. Under GATS Article XXI *Modification of Schedules* the supplicant can be made to pay a heavy price, facing other Members alone without any group counter leverage.

The solution appears to lie between either a complex set of substantive and detailed elements, or a simpler reporting and oversight regime conducted by the Council for Trade in Services.

### Government Procurement (Article XIII)

The GATS work is in effect awaiting the outcome of negotiations elsewhere in the WTO - on transparency (read reduction of corruption) and on widening and deepening the plurilateral Agreement on Government Procurement. Only then will it be clear what remains to be done in the GATS context for any liberalisation purchases in the service sector.

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<sup>3</sup> The ‘Disciplines on domestic regulation in the accountancy sector’ stated that: “Members shall ensure that measures not subject to scheduling under Articles XVI or XVII of the GATS .. are not prepared, adopted or applied with a view to or with the effect of creating unnecessary barriers to trade in accountancy services. For this purpose, Members shall ensure that such measures are not more trade restrictive than necessary to fulfil a legitimate objective. Legitimate objectives are, inter alia, the protection of consumers (which includes all users of accounting services and the public generally), the quality of the service, professional competence, and the integrity of the profession.” [Underlining added].

### **Subsidies (Article XV)**

Not much attention has yet been given to devising disciplines on government subsidies, but clearly there is a need to deal with trade-distorting subsidies in this GATS Article.

### **Increasing Participation of Developing Countries (Article IV)**

Developing countries are greatly concerned that this GATS article is not yielding the hoped-for benefits, and are seeking for ways to make it effective (or operationalise it in the negotiators' jargon). The problem is two-fold: the language is hortatory in nature, without legally binding effect, and of course the GATS is not an instrument for inducing private sector enterprises to increase their transaction costs and level of exposure to commercial risks.

The purpose of the Article is that developing countries should be further integrated into the world trading system. The economically advanced countries should make specific commitments that help to strengthen the domestic services capacity, efficiency and competitiveness of developing countries through access to technology, distribution channels and information networks, and the liberalisation of market access in sectors and modes of supply of export interest to them. Official 'contact points' should provide information on "(a) commercial and technical aspects of the supply of services; (b) registration, recognition and obtaining of professional qualifications; and (c) the availability of services technology."

The governments of the more advanced economies, from which most of the investment going to developing countries comes, will have to be persuaded to fund parallel incentives for the training of local employees and the transfer of technology and know-how, and for increasing regulatory capacity. All governments should provide resources for their contact points and present the information available in a clearer manner, for access by other governments and private enterprises.

### **Economic Needs Tests**

In principle economics needs tests (ENTs) are banned under GATS Article XVI *Market Access* - just as quantitative restrictions are banned by GATT Article XI *General Elimination of Quantitative Restrictions*. The GATS ban refers to limits on the numbers of suppliers, the value of transactions, the number of operations or quantity of output and so on. But the most sensitive political issue is the effect of ENTs on the temporary entry of workers - GATS Mode 4 - and the 'Annex on Movement of Natural Persons supplying services under the Agreement'.

At the heart of this debate is the extent of discretion left in the hands of officials - not the trade officials, but those in other Ministries erecting barriers behind the border at Immigration and Labour. For them ENTs are a flexible tool, an essential buttress for social stability, and ordered labour markets and working conditions. To foreign suppliers they appear essentially as the means to maintain arbitrary protection and probably discriminatory exclusion.

The Guidelines for Scheduling lay down that in country schedules of specific commitments "market access limitations, such as numerical ceilings or economic needs tests, the entry should describe each measure concisely indicating the elements which make it inconsistent with Article XVI", and regarding ENTs the entries "should indicate the main criteria on which the test is based, eg if the authority to establish a facility is based on a population criterion, the criterion should be described concisely." The EU, for example, included in its initial requests, that WTO

Members inscribe any remaining ENTs in accordance with the scheduling guidelines. There will be pressure from some Members for ENTs to be removed forthwith, since they are seen as an additional super safeguard with no predictability.

**Jordan's position on the GATS framework issues**

Work in Geneva on developing the incomplete major framework elements of the GATS has not yet been finalised. It is important that Jordan takes account of the material tabled at the CTS and the consequent discussions, so as to formulate its own position and articulate it clearly at the CTS and its working parties as appropriate.

Box 1 gives a suggested outline of the steps needed to formulate such positions.

**Box 1: Preparing position papers: a draft framework****Background**

Description of the issue; which GATS provisions are relevant; the current state of play in the negotiations.

**Jordan's interest**

Jordan's policy objectives and how they relate to the issue; what Jordan stands to gain – or to lose – in the negotiations, quantified where possible; whether the issue is important or not to Jordan; short and long term considerations; financial implications; administrative implications.

**Position of other delegations and country groups**

Arab Group; developing countries from Africa, Asia and Latin America; the USA, EU and Japan.

**Views of industry and other domestic interests**

Identification of possible conflicts between different groups – such as between producers and consumers, or between different services sectors; the extent to which domestic interests have been consulted (unions, trade associations – horizontal and sectoral, and NGOs).

**Discussion of options**

Analysis of the likely negotiating options, and identification of the one most favourable to Jordan; consideration of the strengths and weaknesses of the Jordanian situation, and of the threats and opportunities opened up by the negotiations; fall-back options; any differences of view between Ministries and the independent sector regulators.

**Negotiating tactics**

Identification of 'friends' and 'opponents' among WTO Members; possibilities for alliances; working within groupings; links with other issues; the handling of tactics; the likely timetable.

**Conclusions and recommendations**

Succinct conclusions and consequent recommendations to the Minister.

## **The Market Access Negotiations**

The WTO Ministerial Meeting in Doha in November 2001 launched the Doha Development Agenda round of negotiations. The ongoing GATS negotiations were included in this 'single undertaking', the CTS negotiating guidelines were adopted, and deadlines set: initial requests for specific commitments were to be submitted by 30 June 2002 and initial offers by 31 March 2003. Some 40 countries have made requests, though they are not addressed to all 148 Members. Conditional initial offers have been published by 33 countries. (In each case the EU 15 Member States are counted as one).

### **Starting point for negotiations**

The formal starting point for the services market access negotiations consists of the specific commitments and MFN Exemptions bound at the inception of the GATS, plus the Protocols on Basic Telecommunications and Financial Services of 1997, plus the offers tabled on maritime services in sub-sectors not then bound. For WTO Members that have joined since 1 January 1995, the starting point is their schedules of specific commitments bound upon accession.

Annex 9 gives extracts from a WTO publication describing the degree of liberalisation which forms this starting point.

### **Bilateral negotiations**

So far the negotiations have been conducted on a bilateral basis, which can put under-resourced Members at a disadvantage.

### **Mode 4 supply: the temporary movement of natural persons**

Perhaps the highest hopes are being attached by developing countries to the potential for Mode 4 exports. There is a wide asymmetry between bound commitments for Mode 3, where developing countries cannot yet compete in advanced markets, except in niche situations, and those for Mode 4 where their principal comparative advantage lies. This is difficult terrain for negotiators, as in addition to any demand and supply imbalance actualities, there are immigration policies to contend with based on elemental factors such as ethnic and belief systems, tolerances and social balances and labour market policies on pay and work conditions.

In international trade lower wages are an important comparative advantage. But this advantage can be largely offset by a lack of education, lack of sector knowledge, and IT skills, and a lack of a service attitude. Governments will have to seek aid to remedy these defects before their workers will be in demand. A quota achieved in the GATS negotiations does not produce demand, and it does not induce firms in the EU and US to take on unacceptable workers from other continents. It could be that national treatment for Mode 4 is so politically sensitive that there is little or no prospect of moving substantially forward in the foreseeable future.

Immigration Ministries, not Trade Ministries, are in full control, and their procedures are not designed to differentiate between (a) foreign 'business' persons entering on a temporary basis for work, and (b) those foreigners seeking employment in the labour market, or who intend to seek permanent residence, and even change of nationality. One problem which any new procedures would face is that 'temporary' is not defined in the GATS, and can last from months to a few

years. It constitutes a major challenge to separate out temporary employment presence from immigration.

In all cases transparent and commonly agreed criteria and procedures for temporary entry need to be established which avoid unduly impairing or delaying trade in services, or impede investment for commercial presence. These might include internationally agreed definitions of occupations as set out in the ILO publication "International Standard Classification of Occupations" (ISCO88) that covers all skill levels, and perhaps also definitions of educational levels set out in the "International Standard Classification of Education".

At the WTO-World Bank symposium on the 'Movement of Persons' in April 2002, a private sector proposal was made for a 'fast track procedure' to enable certain types of employee to enter a jurisdiction temporarily in order to work for subsidiaries or on contracts for the supply of services - in effect a 'GATS work permit'.<sup>4</sup> A Model Schedule was tabled by which means WTO Members could implement such a scheme.

The administration of visa regimes could be streamlined and specific commitments made for the automatic issue of visas, or of visas permitting multiple entries, for specified categories of work in the sectors selected. A 'GATS visa' might be evolved to allow expedited entry clearance for persons with technological skills which are in short supply.

Persons who are refused entry should be notified of the reason in writing, and the fees for processing applications should be limited to the approximate cost of the vetting procedure.

Developing countries may see benefits in accepting some form of Model Schedule approach under Mode 4. The chief issues to be covered include:

- legal status of employees supplying services under contract
- labour conditions: working conditions, dismissal, redundancy, minimum wages, tax, social security payments and entitlements/benefits
- labour certification / labour market assessments or tests
- quotas
- transition periods
- reasons for excluding specific sectors
- treatment of spouses and children

It is important that Jordan formulates its own policy stand on this key area and the related administrative elements.

### **Mode 1 supply: cross-border**

Governments on the whole have shied away from making many commitments for cross-border supply for reasons such as maintaining required levels of consumer or cultural protection, and for prudential reasons in financial services. Prohibitions based on cultural or religious grounds may be impossible to dislodge.

Telecommunications can be a prime example of cross-border supply, as can also courier, postal and of transport services.

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<sup>4</sup> "The Protagonists' View", presented by the European Services Forum.

Some services that can easily be exported cross-border without the need for commercial presence are in the professional, business and computer-related sectors. Some are highly regulated and others not at all: the liberal professions are in the former group and management, PR and software consultancy in the latter group. Some financial services can be easily supplied cross-border.

Many audio-visual services can be supplied over the Internet, as can news and financial information services. All may be affected by copyright protection issues and possibly also by regulations put in place for cultural or societal reasons.

### **Mode 2 supply: consumption abroad**

In Mode 2 the consumer, not the service, crosses the border.

Travel is a significant foreign exchange earning category for Jordan, which equates with tourism in the main. It powers much of the receipts of the hotels and restaurants indirectly as well and of course tourism relies on transport.

There are other major earners of foreign currency in Mode 2: the port services supplied to the ships and planes, and the educational services supplied by host country institutions, and medical services supplied to visiting foreign patients.

Another type of export can form an addendum here: one created by a convention of the compilers of BOP statistics. It consists of the transport charges made for the carriage of goods from where they are manufactured to a port for enshippment for export whether by ship or plane.

### **Mode 3 supply: commercial presence**

Establishment commitments are highly significant, and this mode is likely to become the principal source of future growth. The prohibition of supply cross-border, or the absence of bindings in the GATS context, can also be aimed at inducing firms to establish a commercial presence. In many cases this deliberate bias can be counterproductive as cross-border supply may be a necessary or significant complement to supply through established affiliates.

### **Regional Free Trade Agreements**

For goods products the surge in the number of Free Trade Agreements (FTAs) gives rise to a maze of rules of origin, which become a costly nightmare for traders and put off SMEs from exporting. For services it plays out rather differently: under GATS Article V *Economic Integration* all agreements must aim at ultimate national treatment, an ideal to be achieved progressively yet gradually. This could present great problems when it comes to the movement of natural persons, because it would require unhindered access for unskilled workers, including those from distant continents where history, culture, social customs, language and business behaviour differ widely.

Different countries will be opening up their service sectors at varying rates, and the modes of supply also. The RTAs will consist of a morass of top-down negative listing of measures inconsistent with national treatment, something always resisted by developing countries in the GATS context. As nearly all nations are now involved, the Committee on Regional Trade

Agreements of the WTO has ground to a halt, overwhelmed by the flood of notifications and by competing special pleadings. The WTO may not be able to ensure the spirit of GATS Article V is being observed.

### **Assessment of the impact of liberalisation**

An 'assessment of trade in services in overall terms and on a sectoral basis' was mandated in GATS Article XIX.3. The "Guidelines and Procedures for the Negotiations on Trade in Services" require the CTS, as an ongoing obligation, to continue to carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS and of Article IV in particular.

It is noteworthy that for this assessment of the degree and impact of liberalisation, not only are immaterial services under examination, but pervasively also the supremely intangible perceptions on investment climate within countries. There is a broad kaleidoscope comprising political stability, public order, good governance, control over inflation and fiscal affairs, the level of macro-regulatory structure and the independence and competence of the competition authority, and more. And then, even if the framework is liberal, will more international trade in services result? This depends both on supplier entrepreneurship and market potential, and on the balance between risk taking and reward.

### **Single undertaking**

Looking towards the end game of the DDA, the concept of a 'single undertaking' becomes highly relevant. There is the possibility of linkages being formed, both before and during the final stages, between services and, for example, agriculture, textiles, and intellectual property rights, because 'nothing is agreed until everything is agreed'. The patterns of demanders will vary, but possibly most developing countries will want to see improved market access rather than more rules. Services may, for them, have to take a back seat and mainly be used as the lever because policies will be set on other priorities. After all, services are for the long term, but they need results now in agriculture, textiles and so on. They can rely on the free ride of MFN, and continue with autonomous, unilateral, liberalisation so as to attract foreign direct investment, and conclude Bilateral Investment Treaties<sup>5</sup> and put effort into their regional Free Trade Agreements.

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<sup>5</sup> UNCTAD reports that by the end of 2001 there were 2,099 BITs in existence. Most of the changes to FDI laws made by 71 countries during 2001 were aimed at making the investment climate more favourable to inward FDI. "World Investment Report 2002 - Transnational Corporations and Export Competitiveness", UNCTAD, Geneva, 2002 (page xv).

## Chapter 4: GATS-Specific Commitments Bound by Jordan

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### **Policy aims for WTO accession (i.e., at the end of 1998)**

Before accession, Jordan's policy makers had expected that membership of the WTO would increase the country's international credibility for inward FDI, by providing a high level of transparency on government measures over the whole range of service sub-sectors. The then current laws for service sectors were listed and the existing status quo bound, with no increased liberalisation. Many of these laws have since been revised or replaced.

The service sector is relied upon to provide competitive conditions for factor and product markets, by increasing the efficiency and productivity of manufacturing, mining, agriculture and other sectors. A reduction in the costs of transport, communications and financing is sought. Growth in the higher value-added sectors is also sought, such as IT services, and professional and business consulting services.

The perceived strengths of this approach are that the main service infrastructure sectors were addressed (i.e., financial services, business services, telecoms and most maritime transport services and some air transport support services).

On the other hand only the status quo was bound, and there are still many discretionary approvals, including for licensing and nationality requirements.

There are also some MFN Exemptions taken to cover bilateral agreements with various Arab countries where there is reciprocal preferential market access for many services (ie legal, medical, veterinary, dental, engineering and architectural, accounting, geological engineers, pharmacists, medical laboratories and news agencies).

### **'Full' liberalisation bound for selected sectors**

In the sectors listed in Box 2 'None' was bound (where feasible) for Modes 1, 2 and 3 in the market access and national treatment columns of Jordan's schedule. Mode 4 was left unbound, except as provided for in the horizontal limitations affecting all sectors in the schedule.

**Box 2: The most liberalised services bound under the GATS**

<b>1 BUSINESS SERVICES</b>	
A	Professional services
	b accounting, book-keeping
	c taxation
	j midwives, nurses, physiotherapists
B	Computer and Related Services
F	Other Business Services
	b Market research
	c Management consulting services
	d Services related to management consulting
	n Maintenance and repair of equipment
	(this excludes maritime vessels, aircraft and other
	transport equipment; TV and radio transmitters;
	apparatus for telephony or telegraphy; radio and
	broadcast equipment)
	o Building cleaning services
	q Packing services
<b>6 ENVIRONMENTAL SERVICES</b>	
C	Sanitation and similar services
D	Other
	Cleaning services of exhaust gases
	Noise abatement services
	Other environmental protection services
<b>7 FINANCIAL SERVICES</b>	
A	All insurance and insurance-related services
	Average and loss adjustment services
	Actuarial services
<b>10 RECREATIONAL, CULTURAL AND SPORTING SERVICES</b>	
	(other than audio-visual services)
D	Sporting and other recreational services

**Horizontal limitations in the GATS schedule**

All sectors inscribed in the schedule are subject to the horizontal limitations which require a minimum of JD 50,000 investment for each entity, and Cabinet approval is needed for the lease or purchase of land and buildings. The Managing Director of established entities must be resident.

In addition under Mode 4 the following three categories of temporary workers ('natural persons' in GATS jargon) only are permitted entry:

Business visitors: 90 day limit (no remuneration in Jordan, and no direct sales to the public)

Intra-corporate transferees: executives, managers and specialists

Professionals: working under a services contract for an entity with substantive business operations in Jordan; requires academic and professional qualifications duly recognised by the relevant professional associations in Jordan.

For professionals there is additionally an economic needs test (ENT), so that the only categories to be issued with temporary work and residency permits (for up to a one year, but renewable) are those for which the qualifications are not available in Jordan, or in fields in which Jordanians are in short supply.

Intra-corporate transferees are presumed to meet the ENT requirements.

### **Foreign equity limits**

There are equity caps for foreign ownership in various professional and business services, couriers, mobile voice and data, radio paging, audiovisual, construction, distribution, education, health and tourism.

The equity limit is set at 50 percent, except for the following which have a 51 percent cap: couriers, mobile voice and data, education services, hospital and other human health services.

### **Nationality requirement**

There is a nationality requirement in many sectors, including professional and business services, couriers, audiovisual, construction, distribution, education, health, tourism, and maritime and air transport. In some cases this amounts to the sector being effectively closed to foreigners.

### **MFN Exemptions**

The following exemptions were taken:

A: for Horizontal measures (ie all sectors)

Preferential treatment of commercial presence to entities from 19 listed countries: aimed at fostering investment in Jordan.

Lower fees for services providers and work permits for foreign workers who are nationals of Arab countries: so as to promote Arab investment and trade.

National treatment relating to social security granted to workers from Turkey, the Philippines, Pakistan and Egypt: to promote intra-regional movement, trade and investment.

Purchase of land subject to reciprocity, except for nationals of Arab countries.

B: for Sectoral measures

Qualified auditors and pharmacists; and geologists and geological engineers (given Cabinet permission): temporary market access is granted to the nationals in these categories of any country with which there is an agreement for reciprocal treatment

Licences for medical testing and laboratory administration is granted reciprocally, though this is not required for foreign directors of private hospital labs.

Audio-visual services: reciprocal national treatment is granted for the distribution and access to funding under government-to-government framework agreements on the co-production of audio-visual works. Benefits granted under support programmes (such as MEDIA) to audio-visual works and their suppliers, is extended to those meeting certain European Origin criteria.

Licences are not required by the operators of transport vehicles from Turkey and Sweden for tourist trips and associated shuttle services.

Press services: foreign news agencies may publish newsletters, if granted Cabinet permission, from countries where Jordanian news agencies are granted reciprocal treatment.

There are bilateral transport facilitation and transit agreements with 28 listed countries.

### **Sectors not inscribed in the GATS schedule**

The only sectors not to be included in the GATS schedule were those which were highly restricted under existing laws, or were politically sensitive, as listed in Box 3.

**Box 3: sectors not inscribed under the GATS**

<b>1</b>	<b>BUSINESS SERVICES</b>
A	Professional services
	f Integrated engineering services
	h Dental services
	i Veterinary services
	j Para-medical services
C	a R&D for geology related services
E	Rental / leasing services without operators
	b Relating to aircraft
	c Relating to other transport equipment
F	Other business services
	g Services incidental to fishing
	h Services incidental to mining
	j Services incidental to energy distribution
	k Placement and supply of services to personnel
	l Investigation and security
	s Convention services
<b>2</b>	<b>COMMUNICATION SERVICES</b>
A	Postal services
D	Audiovisual services
	c Radio and television services
	d Radio and television transmission services
<b>6</b>	<b>ENVIRONMENTAL SERVICES</b>
A	Sewage services
B	Refuse disposal services
<b>11</b>	<b>TRANSPORT SERVICES</b>
A	Maritime services
	e Pushing and towing services
	f Supporting services for maritime transport
B	Internal waterways transport
C	Air transport services
D	Space transport
E	Rail transport services
F	Road transport services
G	Pipeline transport
H	Services auxiliary to all modes of transport
	a Cargo handling services
	c Freight transport agency services

Jordan's GATS schedule of specific commitments reflected the fact that there was no logical or systematic overview of service sector policy as a whole, but it was a good, if partial, reflection of the status quo. There was concern in some sectors over an influx of immigrants, for example,

in the retail and tourism sectors. The transport sector is of especial concern, and still has to be protected with price controls. There are also price controls on private medical services.

There was no material made available to the Consultant to assess the impact of the opening up of Jordan's services markets on domestic suppliers, or on the exports of Jordanian suppliers due to accession to the WTO. Perhaps it is anyway rather early for definite results to be clear.

The data on inward FDI are rather patchy. Since 1999 the majority of foreign investment into services, for which disaggregated data are available, was in the hotel sector (US\$ 753 million), while US\$ 24 million went into hospitals and US\$ 13 million into leisure and recreation facilities. No FDI went into maritime or rail transport, or into convention and exhibition facilities. Separate figures for other services sectors are not available, nor the source countries. In the period 1997-2003 the JIB approved total investment from the United States of JD 345 million.

There is now the need to develop an economic and trade strategy, rather than merely react to the WTO issues.

Annex 7 gives an overview of each service sector noting the measures which can act as barriers, and describes the situation as it stands in Jordan.

### **The next steps**

Upon accession in 2000 Jordan made a relatively strong set of commitments compared with the majority of the developing countries which were WTO Members when the GATS entered into force on 1 January 1995.<sup>6</sup> Nevertheless, the chance should now be taken to review systematically the logic and effect of the limitations imposed horizontally on all sectors, and the reasons for not making commitments on the sectors listed above in Box 3. The remaining limitations on market access and national treatment on sectors already bound should be reviewed both in the light of subsequent changes in any laws affecting those sectors, and as to whether it is still necessary to maintain the limitations. The MFN Exemptions should be carefully checked to see if they all need to be maintained, particularly in view of the obligation to remove them within ten years of accession.

In Chapter 9 suggestions are made on which sectors could be added in to the schedule of specific commitments. However, it would be better for the list to be finally settled on only when a thorough review exercise has been completed

The possible deterrent effect of imposing the 50 percent equity cap, and the minimum investment threshold of JF 50,000, on so many sectors will need to be reviewed carefully, sector by sector, especially in professional and business services, construction and distribution, even if it is possible for foreigners to exert management control.

It is unclear what criteria are followed by the Cabinet when granting approval for the lease of purchase by foreigners of land and buildings.

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<sup>6</sup> It should be noted that the specific commitments of the newly acceded countries are in the main much more extensive and liberal than those of their counterparts developing countries which were GATS founder Members. This is so even for China, the only heavyweight amongst them. (See also the last paragraph in Annex 9.)

There seems to be little justification to maintain nationality requirements in such a wide range of sectors, as it can effectively act to exclude foreign participation entirely.

It will be necessary for Jordan to distinguish between sectors where people capital can be raised so as to compete more effectively, and others where there are concerns of being over-run by settlers, as for example in the transport, retail distribution (including travel agencies) and construction sectors.

The original motivation for the restrictions on foreign presence and competition must be revisited. Some may be based quite properly on the need for consumer protection. Others may be needlessly defensive, and so delay necessary improvements of competitiveness.

A holistic and inclusive approach to policy formulation is best to provide a coherent set of justifications for Jordan's services negotiating stance, and that are consistent with overall government policies on social and economic development. The negotiators should not in future be reduced merely to a defensive repetition of the statutory status quo.

It appears unlikely that Jordan will find much support from other countries in a regional setting, in contrast to groupings forming in Africa, SE Asia and the Caribbean.

The initial negotiating tactic for Jordan might be to underline how extensive and liberal the initial offer is and make it sound like the final offer, but to keep up the sleeve something extra to add in should further negotiating coin be necessary right at the end.

## Chapter 5: Analysis of Initial Requests from WTO Members

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Requests have been received from nine countries, and were very diverse in aim and competence.

The Quad countries (US, EU, Japan and Canada)  
India, Malaysia, Pakistan, Turkey and Egypt<sup>7</sup>

During the first visit and afterwards the Consultant examined these requests and provided the team with detailed checklists of questions to raise in the bilateral meetings so as to obtain clarification, and to point out some implicit misunderstandings of Jordan's position. These are given in Annex 4.

The most comprehensive requests were made by the US and EU. The US request is the most original, while the EU request is less expert. Canada limited itself to a request on engineering services, and Japan included four pages of detailed definitions for the Information Technology sector, and requested that the maritime model schedule be adopted in full.

India focused on computer and related services and the movement of natural persons, and Malaysia on construction and related engineering services. Turkey requested the removal of particular limitations in five sectors. Pakistan made a pro-forma maximalist request for the removal of limitations in a long list of sub sectors

The following is a more detailed description of the requests.

### **United States of America**

In all its requests the US has focused on removing equity caps, covering energy and environmental services, improving transparency in financial services, and achieving non-discrimination in electronic commerce, none of which the US feels were properly covered during the Uruguay Round.

A common feature of the request across the sectors was the provision of new definitions of services to be covered by commitments. In many cases these were not cross-referenced to an international classification system. In addition a related 'cluster' of other services was given, for which commitments are sought so as to ensure the unfettered commercial operation of the 'core' services as defined by the USA. Clearly these lists reflected much expert input from their private sector trade associations.

The USA submitted the most voluminous set of requests running to 26 pages. It was divided into horizontal and sector-by-sector requests.

#### Horizontal items

Much emphasis was laid on requests to improve transparency of regulatory measures by making publicly available procedures for licensing and other authorisations, including deadlines, notifications, examinations, and prior public consultations so as to give foreigners the same opportunities for comment as Jordanian nationals.

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<sup>7</sup> The request from Egypt was received too late for inclusion in this analysis

Under Mode 3, removal was sought of limitations on the leasing of commercial real estate.

Under Mode 4, removal was sought of ENTs and labour market tests for certain categories of worker specified by the US in great detail, and any residency and work permit approvals needed separately for these categories. Processing times should be expedited and reasonable fees set. The categories were broadly in line with those already offered by Jordan ie service sales persons, intra-company transferees (executives, managers, and specialists), and professionals on contracts for supplying services, and 'personnel engaged in establishment' (compare with business visitors).

Three year visas with multiple entries (ie not one) were requested, with extensions for at least another two years.

Sector by sector - main features requested:

Legal: definition offered; additional commitments should be made in accordance with a reference paper, though its text is not yet provided.

Accountancy: implementation of the Accountancy Disciplines adopted by the CTS in December 1998. These are not yet obligatory, but Members are expected to abide by them to the extent consistent with their laws.

Express delivery: commitment to a defined set of services, and additional commitments to address the unfair cross-subsidisation of express delivery services by postal monopolies. A detailed and novel description of these services is given, and a checklist of services performed in connection with express delivery.

Audio-visual: a commitment should be made to an expanded definition as given; and for cinema operation and ownership.

Distribution: full commitment to the services listed, and an additional commitment to provide transparency for land zoning approvals for new enterprises.

Education: commitments for training and educational testing services.

Energy: full commitments for a detailed and novel list of services, including exploration, incidental to distribution and marketing, plus for a long list of related services in other sectors.

Environmental: similar approach to that for energy services.

Financial: full commitment on the lines of their proposal tabled in Geneva, and to the Annex on Financial Service definitions; and the grandfathering of existing licences. In addition a lengthy set of items comprising their view of regulatory transparency was given for implementation.

Tourism and travel related: full commitment to a slightly expanded list of services.

Telecommunications: acceleration of the pre-committed liberalisation, and commitments in the services listed.

### **European Community**

The EC request for increased liberalisation ran to 23 pages, and only omitted requests for the education, health and recreational sectors. Much of the request, related to horizontal limitations, was for further information and transparency. The removal of ENTs was also sought.

As will be seen in Annex 4, the EC officials appeared not to have studied the Jordanian schedule properly, when stating in many sectors that Jordan had 'only partially committed in this sector'. For maritime services the EC requested adoption of the model schedule which was in circulation at the end of the Uruguay Round.

### **Japan**

Japan asked for a number of the horizontal limitations to be removed, including those on types of commercial presence, minimum investment and related to real estate; also ENTs in mode 4. They also requested that all MFN Exemptions be removed – Japan was one of only a handful of WTO Members which did not take any MFN Exemptions in the Uruguay Round.

Requests for further liberalisation were made for the following sectors: professional, business, telecommunications, construction and related engineering, distribution, financial, and transport services, including adoption of the model schedule for maritime services.

The request also included a four page supplement prepared by their e-commerce and Internet industry interests setting out very detailed lists of services to be bound.

### **Canada**

Professional engineering services was the only sector included in the Canadian request, which called for the removal of the equity cap and nationality requirement.

### **India**

In relation to the horizontal limitations, India requested the removal of all ENTs for the issue of work permits, the putting into place of a visa system to implement undertakings, and a multiple entry visa for professionals, who should also be allowed entry not linked to commercial presence.

The only sector mentioned was Computer and Related Services, where the removal of the JD 50,000 investment norm was requested, and Mode 4 limitations removed. An additional commitment was sought on the recognition of the educational qualifications, training and experience of Indian professionals in the sector.

**Pakistan**

An extensive list of requests related to the liberalisation of the horizontal limitations for Modes 3 and 4 was submitted. Then 23 sub-sectors were listed across a wide range of services, with the standard request made: "Undertake full commitments under mode 3 and 4 for market access and national treatment."

**Malaysia**

Malaysia made the following requests:

architectural and engineering services: remove all limitations in all modes for market access and national treatment

construction and related engineering: remove the requirement for joint project associations with local firms; allow entry of site supervisors and accredited skilled workers and plant operators

telecommunications: satellite and VSAT services: enter 'None' for all modes for market access and national treatment

**Turkey**

Turkey requested the removal of residency requirements for managing directors of foreign entities with commercial presence, and of the ENT for professionals and intra-corporate transferees.

Increased liberalisation was requested in the following sectors: Business services, Construction and related services, Financial services, Tourism and travel related services and Transport services.

The work of the Consultant on the requests received was his response to the requirement of Section 2 of his SOW (see page 17).

## Chapter 6: Professional and Business Services - the Priority

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The Minister indicated that the priority for the GATS negotiations is to concentrate on the professional and business services sector. The Consultant would agree with a policy that promotes the development of high value-added professional and business services which can both increase the competitiveness of the entire economy, and develop valuable export capacity, and so earn increasing amounts of foreign currency.

During his two visits the Consultant gained the impression that the firms in this sector probably mostly have the same deficiencies. This should be verified by the government and then plans made on the support necessary to improve their competitiveness and export capability. The likely elements for this would include at least training in:

- Business and project management
- Information, Communications, Computing Technology and Internet skills
- International standards and Quality Assurance

A basic knowledge of how to use information technologies has become an essential skill for the effective participation by individuals in the workforce to support increases in productivity, quality of output and service performance, as pointed out by the Vision 2020 recommendations.

Although the supply of Jordanian nationals for these high skill and high added value professional and business services jobs is increasing, their training and experience may not have the necessary international dimension, and the local firms they join may not have contacts abroad.

This situation can be improved by providing incentives for foreign firms to associate with local firms, and thus be willing to invest in the additional post-qualification training and experience of Jordanian nationals, and to locate highly qualified foreign personnel in Jordan to supervise, carry out the most demanding roles, and to act as on-the-job master teachers. This would be in the spirit of GATS Article IV.

Some professional and business services firms are part of regional or international networks advising on foreign direct investment and international trade in services, as well as supplying services locally and training nationals. A pre-requisite for the sound development of professional and business services is a balanced framework of regulation for the protection of the public at large and the individual consumer, because over-regulated regimes can hamper their growth.

Jordan will need to develop a strategy and policy for enterprise development, better coordination between Ministries involved in policy formulation relating to the service sector, better coordination on promoting and facilitating inward investment, and much effort on improving Jordan's international competitiveness in services production and delivery.

International best practices for the corporate entities envisaged under the JAED initiative are vital, and the entities must be set in a reformed and modernized macro-regulatory structure.

## Human capital in the service sector

The choice of professional and business services as a priority for the Jordanian economy can be justified because they largely comprise 'knowledge workers'.

During the 1990s in the US and Europe knowledge workers accounted for almost 30 per cent of net employment gains, when service employment grew much faster than goods-producing employment. Studies by OECD and European researchers have shown that in OECD countries there has been a continual increase in the proportion of professional employees and that professional and business services increase the efficiency and competitiveness of all production processes, and assist the introduction of new technologies and the diffusion of knowledge and innovation. This also increases the standard of living and economic growth in general. This is why in its 'Lisbon Strategy' the EU laid great stress on the stimulation of the creation, absorption, diffusion and exploitation of knowledge. For human capital the emphasis on education, training and life-long learning is crucial. Data from Eurostat show that in 2000 almost 30 percent of all EU employees were working in the knowledge-intensive service sectors, and this was the result of nearly a 3 percent annual average rate of growth over recent years.

Studies in Europe show, that the service sector has both the highest level of educational attainment among its workers, and is the sector that invests most in training. A recent study in Spain which differentiates between very low skills, low or moderate skills and very high skills, included in the last group: financial intermediation, real estate, business services, education, health and other social services.<sup>8</sup> They verified a close relation between (a) the level of human capital and the level of wealth and (b) the location of very high skill services and the level of human capital in the different regions.

It can be foreseen that the same trend could be followed by the economy of Jordan. It is therefore important that Jordan takes account of these factors when setting and implementing policies for education, training and employment.

The government may have to expend a big effort on making the private sector aware of the need to export, and offering support to the extent possible within national priorities and budgetary constraints. For the professional and business services sectors there is a need to integrate a wide range of policy tools to address the needs of SMEs, and improve their competitive performance, whether for the domestic market or exports.

Modern state activism requires an analysis of the various official schemes to decide how the government can best assist in developing the capacity and competitiveness of indigenous services suppliers. This should be through positive action compatible with continued integration into the global economy and progressive liberalisation, and ensuring that the measures are integrated into a wider range of social policies. Any technical assistance likely to be forthcoming would be selected from the following options:

### Financial assistance

- provision of trade finance and export guarantees
- investment incentives for foreign services firms

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<sup>8</sup> "Human capital in the service sector and regional development: a comparison for the Spanish Regions", Camacho and Rodriguez, University of Granada, Spain, 2003.

- start-up subsidies, including the use of incubators
- support for private research and development

### **Technical assistance**

- commissioning of foreign technical advisers to transfer operational and procedural knowledge
- development of domestic technical standards in conformity with international standards
- regulatory measures to induce the transfer of technology and know-how from abroad
- state-funded research and development

### **Business development support**

- development support for SMEs and micro-enterprises in particular
- public-private co-operative ventures
- development of systems for government purchases via the Internet
- outsourcing of government procurement targeted to kick start the development of specialisms by local SMEs

### **Trade Promotion**

- provision of information for SMEs on market conditions abroad
- support for trade fairs, trade missions and other export promotion activities
- new business contacts/relationships/alliances; how to participate in markets abroad

### **Human development**

- \* education and training, including up-skilling and re-skilling, particularly for:
  - technical and IT skills
  - managerial and entrepreneurial skills (business counselling and mentoring), including writing business plans
  - language training for export markets
- measures to encourage women to join the work force so as not to lose their skills and educational assets (especially valuable in many service sectors).

Annex 5 contains some notes on support for services SMEs.

AMIR might help with funding training, technical assistance, information systems, marketing and export promotion, international missions and so on. This is badly needed by most services exporters and potential exporters. The framework of investment incentives being considered, and the licensing requirements and procedures, must take into account the priority which should be given to services exports.

Various elements need to be put in a logical order and integrated into a unified view of how Jordan should move forward to improve its service sector competitiveness, attract the right sort of inward investment (in the broadest sense, not just funding), and achieve growth in higher-value-added services exports, which is the only route in the modern information and globalised economy.

## Chapter 7: Preparation of Initial Requests by Jordan

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As required by the Director of the DTFP, most of the time of the Consultant on the second visit was spent on mentoring the team of three to produce exhaustive draft requests. This was a time intensive and laborious process going into great detail.

In the absence of information from the private sector on the problems exporters of services encounter in their markets abroad, the preparation of requests was therefore done on a mechanical basis and restricted at first to the eight countries from which requests had then been made to Jordan. This involved looking at the 1993 GATS schedules of specific commitments, and where there is a limitation - in the request - asking for it to be removed, or reduced, and where there is a sector 'line' not listed, asking for a commitment to be made. A political decision will be needed on the final extent of the requests, in accordance with Jordan's national priorities, and export interests.

This exercise has assisted the DTFP team to 'see behind' the limitations inscribed in the schedules and assess the legal and commercial reality driving them. It clearly proved to be an essential step in their training, because such tacit knowledge can only be imparted by the Consultant through personal discussion, and answering their many questions.

These lists have still to be completed by the DTFP team and cannot be reproduced in this report.

A complete set of requests to key trading partners must be the final aim. Bilateral trading data should be examined to determine which of those countries are and which sectors are involved. A survey of exporting firms would be useful to find out what problems they encounter abroad, and where official pressure by Jordan on the relevant governments could produce favourable results. Another aspect that such a survey could deal with is to elicit information on the type and strength of competition being experienced in those markets abroad. This would be relevant to formulating the most appropriate government support for SME exporters.

Chapter 5 gave an overview of eight of the nine requests received by Jordan from other WTO Members. Although it is illuminating to see what these countries are interested in, as to limitations in Jordan they wish to have eliminated, there is no formal link through to the requests to be formulated by Jordan for presentation to the eight. Jordan's requests should reflect Jordan's policy and commercial priorities, which may be different from those of these particular trading partners.

The total number of requests received by Jordan to date probably more reflects the capacity constraints for policy formulation and administrative action. Many countries which have yet to table requests may well have export interests.

Work is needed to ascertain which modes of supply are of most value to Jordan's exporters. It is probable that there are few, if any, restrictions on Mode 2, and anyhow consumption abroad by citizens of Jordan represents imports not exports. The other three modes cover exports by Jordan, and can be mutually supportive.

Because Jordanian firms are not likely to have much capital to invest abroad, the Mode 3 limitations on commercial presence in the target markets may not be so important in this GATS round. However, the removal of any egregious limitations could be requested.

Mode 1 cross-border supplies, and Mode 4 the temporary presence of natural persons can be closely linked for many sectors, especially professional and business services. The likelihood is that there will be a ban on cross-border supply in sectors that are highly regulated to protect consumers, but not otherwise. Mode 4 was discussed in Chapter 3 above: the restrictions on this Mode are universally the most onerous and much pressure will be needed here to persuade trading partners to liberalise any further.

Care should be taken to identify 'clusters' of related service sectors where liberalisation should be requested to proceed in parallel, since they are needed either as inputs or as joint supplies.

Where non-discriminatory regulation is of key importance, additional commitments under GATS Article XVIII should be requested so as to secure a stable and predictable regime for long term investments.

The work of the Consultant on the requests was his response to the requirement of Section 3 of his SOW (see page 17).

## Chapter 8: Overview of Initial Offers by WTO Members

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### The Brief

The DFTP asked that the WTO member countries making initial offers be placed into groups (newly acceded, developing countries and developed), and the form of the offers be described (ie sectors still excluded from offers, existing commitments improved (minimal/technical or substantive), and new sectors or sub-sectors offered).

The overview given below is based on the inspection of the initial offers of 27 countries, which include 13 by developing countries and 14 by developed: the Quad country offers are not included. No offers have been made by the newly acceded countries or LDCs.

Table 5 shows the number of offers which feature in each category of liberalisation, or where a whole sector is absent from a country's offer.<sup>9</sup>

### Relative comparison between developing and developed countries

The numbers in each group are nearly the same. Both largely omit the Sector 8 Health services and about half of each group omit Sector 10 Recreational and cultural services. Both groups offer new or further liberalisation in Sector 9 Tourism, and 11 Transport services (the latter mostly due to new maritime commitments offered). In Sector 7 Financial Services the already generally high level of commitments are little augmented, the developed group changes being mostly technical.

Horizontal limitations are reduced by a minority in both groups, but the degree is not great by the four developed countries.

#### Developing countries (13)

New liberalisation is offered in all sectors, except 7 Financial services. Sector 1 Business Services (five offers) and 11 Transport services (four offers) are in the lead, followed by Sector 5 Educational services and 6 Environmental services (three each).

Improvements to existing bound liberalisation are offered in Sector 2 Communication by four countries, 9 Tourism by three, and 7 Financial services by two.

Five or more countries leave their existing commitments unchanged in five sectors.

Six or more countries omit six sectors entirely from their schedules.

#### Developed countries (14)

The offers include new liberalisation in nine sectors - but they are made by only five or fewer countries in any sector.

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<sup>9</sup> In Table 5 the number of offers included has been updated by the addition of those from three more developing countries.

Only four or fewer countries offer substantive improvement to their existing commitments, and this includes eight sectors.

Further minimal liberalisation of existing commitments is offered in nine sectors, and this by five or fewer countries (with the exception of financial services, where as already noted, the changes are mainly technical).

Between four and eight countries offer no change to their existing commitments in any one sector.

Five sectors feature in the schedules of all fourteen countries, but nine omit Sector 9 Health-related services and six omit 10 Recreational services. Four other sectors are omitted by one, two or three countries.

### **Sectoral patterns**

#### **1 Business services**

Most of the developing countries only commit a few sub-sectors which range from A Professional services to H Other business services. Generally the developed countries have a more complete coverage in their schedules.

#### **2 Communication services**

No country in either group commits A Postal services. Only three developing countries commit B Courier services, whereas all but one of the developed countries do so. Coverage of C Telecommunications, where committed, is mainly complete in both groups.

The Basic Telecommunications Reference Paper is an additional commitment by six developing countries and ten developed.

Four developing countries commit on D Audiovisual services, and seven developed do so.

#### **3 Construction and related engineering services**

Most countries in both groups cover all sub-sectors, where this sector is committed.

#### **4 Distribution services**

Only one developing country commits all sub-sectors, whereas eight developed do so.

#### **5 Educational services**

Only one of the four developing countries making commitments covers all sub-sectors, and only four developed do so.

#### **6 Environmental services**

Only one of the five developing countries making commitments covers all sub-sectors, whereas eight developed countries do so.

## 7 Financial services

Most countries in both groups cover all sub-sectors, and many state that they adopt the sector definitions set out in the Annex on Financial Services.

Not one of the developing countries adopts the Understanding on Commitments in Financial Services, whereas eight of the developed do so.

## 8 Health-related and social services

Two developing countries commit A Hospital services, and four developed do so. Three developed countries commit B Other human health services, but no developing country does so. No country commits all sub-sectors.

## 9 Tourism and travel-related services

All sub-sectors are committed by eight developing countries, and by ten developed. There is no discernable pattern on sub-sectors inscribed by the others.

## 10 Recreational, cultural and sporting services

Only one developing country commits all sub-sectors, and five developed countries do so.

## 11 Transport services

There is no pattern apparent in either group of countries across this wide range of sub-sectors. Four developing countries offer new or further liberalisation in A Maritime transport services, and seven developed do so.

### MFN Exemptions

Of the developing countries that will retain MFN Exemptions, one has one, four have two, one has three and one has nine.

Among the developed group, two will have none, and the others intend to retain from two to fourteen exemptions - eight countries will have five or more.

### Note to the accompanying Table 5

The extent of the liberalisation indicated is in fact less than it appears, because in many cases only one or more sub-sectors are newly offered or improved, rather than all sub-sectors in the twelve main sectoral groupings. This is especially so for Sector 1 Business Services, and 11 Transport Services.

For example a country offer is placed in the 'New' column even if only one sub-sector is new, and the rest are unchanged, and similarly for the 'substantive' offer column. As for those placed in the 'minimal/technical' change column, the allocation was subjective, probably erring in favour of 'substantive' rather than 'minimal'.

The existing commitments may not include every sub-sector in each main sector.

**Table 5: Overview of GATS initial offers by WTO Members**

<b>Developing Countries (16)</b>	New sectors or sub-sectors liberalised	----- Existing sectors -----		Not in schedules	
		liberalisation minimal / technical	substantive unchanged		
Horizontal	4	2	3	6	1
1 Business	5	3	-	6	2
2 Communication	2	3	4	5	2
3 Construction	2	3	-	3	8
4 Distribution	1	1	2	2	10
5 Educational	4	-	-	2	10
6 Environmental	3	1	1	2	9
7 Financial	-	5	2	8	1
8 Health	1	-	-	2	13
9 Tourism	2	4	3	7	-
10 Recreational	2	2	-	5	7
11 Transport	4	5	1	2	4
MFN Exemptions	-	1	1	9	5
BTRP	2	-	-	8	6
UCFS	-	-	-	-	16
<b>Developed Countries (14)</b>					
Horizontal	-	7	4	3	-
1 Business	2	3	4	5	-
2 Communication	4	5	1	4	-
3 Construction	1	3	2	7	1
4 Distribution	2	2	1	7	2
5 Educational	1	2	-	8	3
6 Environmental	5	1	3	5	-
7 Financial	-	10	-	4	-
8 Health	-	-	1	4	9
9 Tourism	2	3	3	5	1
10 Recreational	2	-	-	6	6
11 Transport	5	1	4	4	-
MFN Exemptions	2	-	2	9	1
BTRP	2	-	-	10	2
UCFS	-	-	-	8	6

## Chapter 9: Conditional Initial Offer by Jordan

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Initial offers had to be tabled in Geneva by WTO Members at the end of March 2003. The Director of DFTP did not discuss this subject during his second (and last) visit of the Consultant to Amman in December 2002.

Negotiating tactics usually demand that the final position should not be revealed early on, and only a minimal initial offer be tabled at the outset. The Doha Round negotiations may well drag on for many more years, and the situation by then will be very different from now. It is too early to take up a final position.

Section 4 of the Consultant's SOW indicated that the draft initial offer by Jordan, should take account of private sector concerns. However, as already indicated, the necessary information was not yet available from the National Committee.

Any initial offer tabled by Jordan in Geneva could reflect an initially minimal position. The sectors to be included in the initial offer might logically include those where (a) limitations on foreign access are absent or minimal, which would include any omitted at accession, and where laws have been liberalised since, and (b) sectors where FDI and the transfer of technical and managerial know-how would be welcome, so as to speed up nationwide provision, or needed improvement to competitiveness.

The Consultant therefore suggests that the list of services which might be considered for inclusion in the initial offer would include:

- 1 BUSINESS SERVICES**
  - A Professional services
    - f Integrated engineering services
  - F Other business services
    - j Services incidental to energy distribution
    - k Placement and supply of services to personnel
    - s Convention services
- 11 TRANSPORT SERVICES**
  - A Maritime services
    - e Pushing and towing services
    - f Supporting services for maritime transport
  - H Services auxiliary to all modes of transport
    - a Cargo handling services
    - c Freight transport agency services

and the following, which are already bound under the bilateral US-Jordan FTA:

- 1 A I Veterinary services allowed in mode 3, but vets must be Jordanians.
- 1 C a R&D services on natural sciences: 50 percent equity cap removed.
- 1 E a Rental and leasing services without operators:
  - ships: 50 percent equity cap changed to 60 percent and removed from 1 Jan 02
- 1 E d agricultural machinery and equipment: equity cap 50 percent removed from 1 Jan 02
  - engines and turbines: 50 percent equity cap removed from 1 Jan 02
- 1 F a Advertising services: 50 percent equity cap in place of 'minority' ownership

- [1 F b Public opinion polling services: wording changed, but no change in effect]
- 1 F f Services incidental to agriculture: 50 percent equity cap removed  
Services incidental to animal husbandry etc: 50 percent equity cap removed
- 1 F g Services incidental to fishing: new commitment, no limitations  
modes 1, 2 & 3
- 1 F j Services incidental to energy distribution: new commitment;  
concessions to be approved by Cabinet, and numbers restricted
- 1 F k Placement and supply of personnel: new commitment; mode 1 unbound;  
mode 3: 50 percent equity cap, and subject to regulations
- 1 F r Printing and publishing: 50 percent equity cap changed to 60 percent
- 1 F s Convention services: 50 percent equity cap removed
- 2 B Courier services: 51 percent equity cap changed to 60 percent and removed  
from 1 Jan 02
- [2 D a, b, e Audiovisual services: wording changed, but no change in effect]
- 2 D c Radio and television services: new commitment;  
modes 1 and 2 none, except unbound for transmission;  
mode 3 subject to Cabinet approval, and then 'None' for MA and NT
- 2 D d Radio and television transmission services:  
modes 1 and 2 unbound  
mode 3 subject to Cabinet approval, and then 'None' for MA and NT

The Jordan-EU Association Agreement made no changes to the position of Jordan or the EU compared with that bound under the GATS, either as to the sectors covered or the degree of liberalisation.

Upon accession to the WTO Jordan bound a longer list of sectors than the existing developing country Members, and it is therefore in a strong position to resist pressure to offer more where this does not suit national economic policies. Under the GATS Article XIX:3 credit has to be accorded for autonomous liberalisation, and thus Jordan's position has a relatively good standing in this respect.<sup>10</sup>

### Setting Jordan's liberalisation strategy

There is now the need to develop an economic and trade strategy, rather than merely react to the WTO issues. Some economic analysts and NGOs suggest that the developing countries should emulate the policies implemented by the advanced economies when they were starting to industrialise. These included supporting national champions, protecting infant industries with import bans, or quotas, or high tariffs, and subsidising exports.<sup>11</sup>

This analysis ignores the paradigm change into the services and information economy, and the crucial role of high value-added inputs of professional and business services. Due to globalisation, the infrastructure is now networked and increased competition is unavoidable and if handled correctly, ultimately beneficial. The services parts of the economy cannot be

<sup>10</sup> It should be noted that an econometric study of barriers to trade in telecommunication services in 136 countries rated Jordan as among the ten least liberal. "The impact on output of impediments to trade and investment in telecommunication services", Tony Warren, in C Findlay and T Warren (eds.) "Impediments to Trade in Services: Measurement and Policy Implications", Routledge, New York, 2001. However, the liberalisation pre-committed in the schedule has since seen nearly all the barriers be removed.

<sup>11</sup> For more on this analysis, see 'Kicking away the ladder' by Ha-Joon Chang, of Cambridge University.

'protected' by tariffs nor much by quotas. The infrastructure sectors must connect, adopt international standards of performance, and use FDI to leverage up efficiency and competitiveness. Service sector workers need a good education, knowledge of IT techniques, to create network links, and exploit export capabilities for niche outsourcing, for example to US and Israeli firms. Monopolies and restricted sectors should only remain protected while they are upgraded and made competitive, otherwise they hold back the whole economy. The more quickly this can be effected the greater the benefit to be reaped by commercial users and individual consumers alike.

The quality of intermediate professional and business services is key to improve the dynamism of the economy due to their cross-functional supply benefits, for instance from improved flexibility, operational efficiency and increased added value. They are levers of economic growth. In some countries about half of private sector services production consists of these intermediate, or business, services. The export of professional and business services - the higher value added services - may be the drivers lying behind the increase in the broad 'Other services' category of Jordan's exports over the past few years.

In the GATS context, since the smaller developing countries cannot change their market size, other than through long-term growth in GDP per head, they must concentrate now on improving perceptions, improving information flows, improving the export awareness and capability of their own SMEs. IT structure performance and the IT skills of government and exporters is a necessary and central element on which to focus effort and seek technical assistance and aid.

If it is perceived that in a certain sub-sector transition to open international competition is difficult, it is possible to signal to both the domestic suppliers and to trading partners the firm intention to provide full market access and national treatment by scheduling a pre-commitment at a future date, as was done by Jordan in the telecoms and educations sectors upon accession. The focus should be on financial services, construction, distribution and transport.

### **Nature and timing of the negotiations**

Jordan's initial offer should reflect its priorities for trade and investment, rather than likely reciprocal bargaining pressures. The latter might, however, have to be reflected somewhat in the final bound offers at the end of the negotiations.

The market access negotiations for services are principally carried out bilaterally, when queries can be raised on the intent of the requests, and explanations obtained on any unclear aspects. However, the initial offers are made on an MFN basis, not bilaterally.

Initial offers should include: (a) liberalisation of limitations in the horizontal section, for example relating to the ownership of land, to state monopolies, participation in equity capital, subsidies and so on, (b) liberalisation of limitations on market access and national treatment under the four modes of supply, and (c) the amendment or withdrawal of MFN Exemptions.

### **Likely degree of further liberalisation**

Chapter 8 gave an overview of the initial offers of 27 countries made by the end of August 2003, though it excludes the Quad, for which the Consultant submitted detailed, line-by-line assessments at the request of DTFP. It should be noted that these offers do not include any from Jordan's Arab neighbours.

It is too early to discern the probable degree of further liberalisation to be bound at the end of the DDA by WTO Members. Schedules of specific commitments will include some sectors previously passed by and some services that have come to the fore in recent years. Core public services will not be privatised and will not be put on the table, nor in the main will cultural services be in play.

Smaller developing countries will continue to set out their stall for attracting FDI, and in so doing may bind some of their unilateral liberalisation. The Big Emerging Markets could be intransigent about doing more, and will focus on their offensive export sector interests.

OECD countries will fill in some gaps by binding more status quo measures, both for financial services and professional and business services (given the buy-in of the regulators). They will bind further openness in sectors which were relatively neglected in the Uruguay Round: distribution, energy and environmental related services. Some will omit a few specific sectors from their schedules, especially anything that touches on the provision of public services. However, they may extend their Government Procurement programmes to services including those of lower level entities, and permit foreigners to bid for these purchases.

Box 4 below summarises this prospect, and also shows likely progress on the GATS framework issues.

The WTO Ministerial Conference in Cancun, Mexico, in September 2003 failed to agree on the way forward for the remaining period of the DDA round. The position of the GATS negotiations was not controversial before the meeting, and was not discussed during the Conference. Although meetings of negotiating group were postponed, the work on the framework issues and the market access negotiations continued exceptionally without a break afterwards. The Ministers in Cancun gave the Chairman of the WTO Council and the Director-General a clear mandate to continue work on outstanding issues taking into account views expressed at the Conference. The Chairman believes there is support for a strong and reinforced multilateral trading system as he carries out consultations ahead of a critical meeting of the Council on 15 December 2003 when Members will formally review the Cancun outcome and attempt to agree a way forward. Although the GATS proceedings were not directly in question, it is too early to assess whether problems elsewhere on the DDA agenda might have an adverse impact at some future date.

**Box 4: PROSPECTS for GATS NEGOTIATIONS  
by the end of Doha Development Agenda round**

<b>The GATS framework</b>			
<b>Article</b>			
VI	Domestic regulation	little progress likely	
X	Emergency safeguard measures	some instrument a necessity	
XIII	Government Procurement	hopefully some coverage	
XV	Subsidies	minimal disciplines	
I	Government authority	will be left untouched	
IV	Increasing participation of DCs	unclear as not mandatory	
IV XIX	LDCs	hopefully beneficial	
V	Regional trade agreements	no progress	
XVI	Economic needs tests	no more progress	
<b>Liberalisation commitments by sector</b>			
'Inviolable' aspects: (no progress)	1 A	Professional	mutual recognition
	2 D 10	Cultural services	cultural exceptions
	11 A	Maritime transport	US Jones Act
	11 C	Air transport	bilateral agreements
Not much progress:	2 A	Postal	
	2 D	Audio-visual	
	8	Health related	
	11 F	Road transport	
Some more bindings likely:	1 B	Computer related services	
	1 C	R&D services	
	1 F	Business and energy-related services	
	2 B	Express carriers	
	2 C	Telecoms (+ more BTRP)	
	3	Construction	
	4	Distribution	
	5	Educational services	
	6	Environment related services	
	7	Financial services	
	9	Tourism and travel	
10	Recreational, cultural and sporting		
<u>Cross-sectoral</u> : MNP		careful, restricted progress	

## Chapter 10: Essential Elements for Conducting Negotiations on Services

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It is recommended that MIT plan to implement the following seven elements, as to assure the ability successfully to conduct negotiations on services under the GATS in future.

- a) Carry out a national study on the economics of the service sector, including cross-border exports and imports of services, inward and outward FDI for services, and any information on foreign affiliates.

*Comment: some sector studies have been made by Jordan but there is not a comprehensive look at the service sector as a whole and its role in the economy, in attracting inward FDI and assisting with exports and eventually outward FDI. Perhaps the national competitiveness study under way will supply some of this information, but it is likely to need supplementing.*

- b) Carry out sector studies - firstly on the infrastructure services and secondly, on intermediate services. Finally, resources permitting, studies on the education, health, recreational and cultural sectors.

*Comment: the set of sector studies should be completed by the Ministry of Planning, starting with the intermediate business services, in addition to the MIT plan to set out road maps for the trade logistics and retail sectors.*

- c) Consult private sector organisations: the trade unions, business sector associations and civil society (including the NGOs).

*Comment: these consultations should include a focus on the service sector.*

*These three first steps are vital if Jordan is to devise a reliable national social and economic plan.*

*The following steps should follow on to enable Jordan to formulate requests in the GATS bilateral negotiations to remove barriers in certain export markets and to make an appropriate binding of further liberalisation.*

- d) Set up an Inter-Agency Committee chaired by MIT (which is responsible for the WTO negotiations), to co-ordinate the policies of affected Ministries, sector regulators and parastatal entities. MIT will also need to maintain a close dialogue through two-way communication with the Mission in Geneva to ensure that

- (i) the DFTP is informed of intelligence on the significant issues arising in Geneva, and the positions of key trading partners and country groupings, and
- (ii) the Mission staff are made fully aware of national policies, priorities and sector interests;

*Comment: it is not clear whether the Inter-Agency Committee is functioning on the service sector and meeting regularly.*

*Communications between the capital and the Geneva Mission appear to be working, and the necessary ICT equipment is in place, if rather modest in capacity.*

*The ICT equipment in the Ministry was adequate: each member of the unit had a telephone (from which international calls and calls to mobile phones are blocked), and a desktop PC linked to the Ministry's LAN which provided good always-on connection to the Internet. The Director had a fax machine from which outgoing international phone calls could also be made. The Ministry web site is well designed and much information is publicly available.*

- e) Set up a sub-committee of the Inter-Agency Committee on Services, that includes representatives of the relevant Ministries and from private sector associations.

*Comment: this needs to be put into effect. In addition the services exporters might be encouraged to form a "Coalition of Service Industries" and begin to network with counterparts in other countries.*

- f) Analyse the horizontal and sectoral issues raised by the GATS negotiations, set priorities, assess options and settle positions reflecting the national interest.

*Comment: there is no evidence of any work being done on the horizontal issues arising under the GATS negotiations, and position papers should be developed so that negotiating positions can be formulated. Such matters include:*

*MFN Exemptions (Annex II)*

*Credit for unilateral liberalisation (XIX:3)*

*Movement of Natural Persons (Annex) and economic needs tests*

*Operationalising Article IV ('Increasing Participation of Developing Countries')*

*Mutual recognition agreements (VII)*

*Domestic regulation disciplines (VI:4)*

*Business practices (IX)*

*Emergency safeguard measures (X)*

*Government Procurement (XIII)*

*Subsidies (XV)*

- g) Provide specialist personnel to attend key meetings in Geneva to represent the national interest, and to assist in the major bilateral negotiations.

*Comment: the budget for travel to Geneva is very small, and donor aid is needed to ensure the specialist staff from the capital can be present during any key negotiating meetings in Geneva, should the local Mission feel the need for such help. This may be likely for sectors such as transport, financial services, telecoms and environmental services.*

*The above diagnosis leads to the conclusion that technical assistance support from outside should be available in the capital for some months ahead, until the government 'owns' the new national plan and negotiating support procedures, and the national officials and experts are in a position where they can continue effectively to implement the plan and multilateral negotiations without external help.*

## Chapter 11: Negotiating Skills and Capacity, and Training

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Section 5 of the Consultant's SOW called for an assessment of the DFTP team's negotiating skills and capacity, and for recommendations on training.

The team of three young officials not long out of university are faced not only with acclimatising to working in officialdom with its accumulated bureaucratic aims and norms, but also with a very steep learning curve on the WTO negotiations and the specifics of the GATS and service sectors.<sup>12</sup>

This includes learning about the legal aspects of the WTO and GATS framework agreements, about scheduling commitments and about descriptions and classifications of a wide range of heterogeneous service sectors – there are nearly 170 sub-sectors. To understand the implications of regulatory measures bound, and the economic limitations on trade involved, requires some knowledge of the specific characteristics of these disparate activities, which is not quickly acquired. On-the-job experience will be necessary over an extended period, to gain knowledge from experts, be they government officials responsible for the sectors or private sector practitioners.

During the two visits of the Consultant, the many framework issues arising in the GATS negotiations were not touched on. Much work will be needed to formulate the Jordanian policy approach.

It is not realistic to expect the small Trade in Services Division of the WTO to supply such training to the 144 WTO Members' negotiating staff. Nor can the WTO Technical Cooperation Division fill this gap as they call on the Trade in Services Division for help, due to their own lack of expertise in services. The latter Division is consequently heavily overstretched.

The appropriate expertise needed for training includes knowledge of the GATS framework and the issues yet to be resolved by future negotiations; ability to 'read' schedules of specific commitments, ie legally binding descriptions of regulatory measures, in the context of the wide range of very disparate sectors, including questions of classification. In addition training in negotiating strategy and tactics is needed. The team further needs the ability to consult with the private sector, increasing their awareness and focus on the information necessary for the negotiations, both on horizontal and issues affecting all sectors, and on the particularities of any one sector.

The two day WTO seminar in Geneva in the Autumn of 2002 was most helpful in covering requests and offers in the foreground of the current negotiating stage.

The three month trade policy course offered by the WTO would give the team of three a good grounding for their negotiating tasks as it has for other MIT staff.<sup>13</sup> However, resource constraints of time and money may put this out of reach for each team member.

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<sup>12</sup> Both the DFTP Director and one of the team of three have since left the Ministry.

<sup>13</sup> These courses are run by the WTO Training Institute and cover all WTO Agreements and trade-related topics. They also include modules on economic theory and WTO basic legal principles, simulations of multilateral trade negotiations and dispute settlement proceedings, attendance to official WTO meetings and visits to other Geneva-based international organisations. One of the team, Natalia Shakhanbeh recently completed this course.

Other international agencies, including UNCTAD, the International Trade Centre, the South Centre, World Bank and IMF, the Agency for International Trade Information and Cooperation (AITIC), which recently became a UN organisation, and the UN Institute for Training and Research (UNITAR), do not offer the requisite training due to their resource constraints and lack of knowledge of the specifics of the very heterogeneous range of service sectors and the GATS context. Even if funds are made available, the next hurdle is to find one of the very few consultants, with the necessary experience of services issues and the GATS, to conduct the mentoring.

The Ministry might explore whether there are academics available who could visit Jordan to provide the necessary mentoring from universities which run trade courses, such as can be found in Switzerland, the UK and the US. The trade diplomacy course at Monterey Institute of International Studies in California, might also have suitable lecturers on their list, and the Centre for Applied Studies in International Negotiations (CASIN) in Geneva might be able to mount something suitable. The UK Civil Service College no longer has any trade courses.

The present report constitutes the debriefing presentation to AMIR of work undertaken and relevant findings, as called for in Section 6 of the Consultant's SOW.

## Chapter 12: Conclusion and Recommendations

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### Conclusion

Given the policies already in place for the development of the key infrastructure sectors, including transport, telecoms and financial services, the MIT now has set a priority focus on professional and business services. They can be expected to improve the efficiency and international competitiveness of all market sectors and government services, and also to develop their own export capability. This will involve raising their awareness of the need for export-led growth, ascertaining what their training needs are, and coordinating the various government programmes so as to give the necessary support and stimulus until they achieve self-sustainability. Much of the future social and economic development of Jordan in the new information era will depend on their performance in the economy and their export success.

### Recommendations

The recommendations cover actions in two different time frames. The shorter term focus is on the need to prepare the services negotiating team, consisting of new young recruits, for the bilateral and multilateral services negotiations that are ongoing as part of the Doha Development Agenda Round due to be concluded by the end of 2004. This constitutes an immediate pressure and necessitates work on initial requests and offers flowing in both directions between Jordan and other WTO Members. Much of the focus at this level is on means and techniques, and on understanding the specifics, so as to inform the policy makers.

The longer term action is focused on setting up the mechanisms to obtain information about the service economy so as to ascertain priorities and to formulate appropriate national policies.

#### **During the time frame of the Doha Development Agenda Round**

##### *Obtain for the DFTP team further mentoring by experts*

The DFTP team needs further training and mentoring support from experts with the relevant tacit knowledge. This can come from other Ministries, from private sector practitioner experts, and international consultants. Such inputs will need to focus both on the 'front-line' negotiating tactics to deploy in Geneva in the market access negotiations, and on the key GATS framework issues, so that Jordan can be fully and effectively engaged in the multilateral debates.

##### *Address the formulation of policies on the open GATS framework issues*

The DFTP needs to address the policy formulation content and process concerning the horizontal GATS framework issues which remain to be negotiated. These include: Domestic Regulation; Emergency Safeguard Measures; Government Procurement; Subsidies; Increasing Participation of Developing Countries; and Economic Needs Tests.

##### *Requests to be made by Jordan to trading partners*

MIT should decide on the trading partners to which it will submit initial requests. Their coverage should reflect Jordan's export interests.

***Any further liberalisation commitments should reflect a comprehensive policy***

Also at some point, Jordan should notify the WTO of its condition initial offer. This should be based on grounds of maximising national interest, not as a reciprocal direct reaction to requests received from other WTO Members. It will reflect overall national social and economic development policy, and any need for inward foreign direct investment and the transfer of know-how and technology.

Work on any further GATS specific commitments should no longer concentrate solely on scheduling techniques and legal minutiae, but reflect a holistic and systematic approach to policy formulation for services trade and investment. It should take into account the quality of services, and any need for the transfer of technology and know-how, with especial consideration of the cross-cutting, dynamic, capital intensive sector impacts, and favourable effect on employment. This will provide policy justification for the negotiating stance in Geneva.

If it is perceived that in a certain sub-sector the impact of transition to open international competition causes difficult structural adjustment costs, it is possible to signal to both the domestic suppliers, and to trading partners, the firm intention to provide full market access and national treatment by scheduling a pre-commitment at a future date, as indeed was done by Jordan in the telecoms and educations sectors upon accession. The current focus could be on financial services, construction, distribution and transport.

Upon accession to the WTO, Jordan bound a longer list of sectors than the existing developing country Members, and is therefore in a strong position to resist pressure to offer more where this does not suit national economic policies.

**Work on institutional and research aspects**

***Build on the comparative advantages of Jordan: the need for studies***

The comparative advantage, on which Jordan can build, includes such strengths as the well educated, high skilled, low cost labour, who speak both Arabic and good English. Jordan is placed at the juncture of three continents, and can form a stable and attractive regional centre for distribution, sales marketing and business advisory services - including quality assurance to certify firms to the ISO 9,000 standard. Other advanced skills to develop could include advice on the protection of the environment and renewable energy sources.

The MIT should consider requesting the Ministry of Planning to carry out further studies in the service sector, starting with the intermediate business services, so as to complete the picture of which the likely winners are.

The MIT needs to set out a road map for the service sector as a whole, including the trade logistics and retail sectors which are already targeted.

***Coordinate policies on professional and business services***

The MIT needs to formulate its policy priorities on the knowledge intensive service sectors that are crucial to future growth, both as to raising domestic added value and increasing service sector exports. Such professional and business services can be expected to create most new jobs, often the better paid ones, and best exploit Jordan's comparative advantage in high

graduate educational levels among both males and females. A wide range of possible elements might be needed to form a suitable package of governmental support to promote their sustainable development.

***Improve the consultative dialogue with services exporters***

The MIT needs to improve its consultation and dialogue with the private services sector trade associations and practitioners, which should become a continuing two-way interchange. The stimulation of the formation of a 'Coalition of Service Industries' comprising services exporters might be one way of achieving this. Such a Coalition could develop contacts with counterparts around the world and thus reinforce its capacity for advocacy.

***Improve the compilation and analysis of services statistics***

The Central Bank of Jordan and the Department of Statistics should increase the resources devoted to compiling statistics on services activities, investment and trade, so that policy makers can be supplied with the facts and figures on which to base decisions on priorities in the national interest.

The recommendations of the newly published 'Manual on Statistics of International Trade in Services' should be progressively implemented. It sets out a series of steps to achieve a complete framework.

## Annex 1: List of Organisations Visited

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### Ministries and official organisations visited:

Ministry of Trade (the Minister, and Foreign Trade Policy Department)  
Ministry of Transport (land, sea, and air services and  
Aqaba Port Authority)  
Ministry of Tourism and Antiquities  
General Corporation of Environmental Protection  
Jordan Securities Commission  
Insurance Regulatory Commission  
Telecommunications Regulatory Commission  
Central Bank of Jordan (Research and BOP Departments)  
Department of Statistics (External Trade, and National Accounts Divisions)  
Permanent Mission of Jordan to the WTO, Geneva

### Private sector organisations visited:

MMIS Management Consultants  
International Business Law Associates  
Professional Association of Engineers and Architects  
Association of Construction Contractors  
Association of Freight Forwarders and Clearance Agents  
American Chamber of Commerce (JABA)

Organisations that were on the list to visit during the third trip to Amman, which was cancelled due to the situation in Iraq in early 2003:

Jordan Investment Board  
Central Bank (Banking supervisor)  
Aqaba Port Authority in Aqaba  
Ministry responsible for intellectual property protection  
Standards Authority  
Ministry of Telecommunications and Information Technology  
(IT Division)  
Pharmaceutical Association  
Jordan Association of Banks  
R&D Association or firm  
Aramex - the express carrier

## Annex 2: References

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### 2.1 Useful Internet sites

#### 2.1.1 Official Jordanian sites

- Department of Statistics:** [www.dos.gov.jo](http://www.dos.gov.jo)  
[www.dos.gov.jo/activety](http://www.dos.gov.jo/activety) [sic!].
- Jordan Export Development & Commercial Centres Corporation (JEDCO):**  
[www.jedco.gov.jo](http://www.jedco.gov.jo)
- Jordan's Foreign Trade Policy:** [www.jftp.gov.jo](http://www.jftp.gov.jo)
- Jordan Telecommunications Co:** [www.jordantelecom.jo](http://www.jordantelecom.jo)
- HM King Abdullah Official Web Site.**  
[www.kingabdullah.jo/](http://www.kingabdullah.jo/)
- National Information Center** [www.nic.gov.jo](http://www.nic.gov.jo)
- National Information System** [www.nis.gov.jo/nis/owa/mainsect/](http://www.nis.gov.jo/nis/owa/mainsect/)
- Ministry of Planning** [www.mop.gov.jo/economic/ppframe.htm](http://www.mop.gov.jo/economic/ppframe.htm)

#### 2.1.2 Other relevant sites

- Country Commercial Guide**  
[www.usembassy-amman.org.jo/wwwhexec.html](http://www.usembassy-amman.org.jo/wwwhexec.html)
- The World Factbook**  
[www.cia.gov/cia/publications/factbook/geos/jo.html](http://www.cia.gov/cia/publications/factbook/geos/jo.html)
- Services papers**  
[www.cid.harvard.edu/cidtrade/issues/servicespaper.html](http://www.cid.harvard.edu/cidtrade/issues/servicespaper.html)
- Services linkages in the Bangladesh Economy, World Bank**  
[www1.worldbank.org/wbiep/trade/services\\_files/Azad-text.pdf](http://www1.worldbank.org/wbiep/trade/services_files/Azad-text.pdf)
- Measuring Services Trade Liberalization and its Impact on Economic growth:  
An Illustration** [http://econ.worldbank.org/files/2373\\_wps2655.pdf](http://econ.worldbank.org/files/2373_wps2655.pdf)
- Analyses on trade and integration in the Americas:  
Approaches to Services Liberalization by Developing Countries**  
[www.sice.oas.org/TUnit/studies/srv\\_lib/SRVINDX.asp#uptoVI](http://www.sice.oas.org/TUnit/studies/srv_lib/SRVINDX.asp#uptoVI)
- Mounting Pressure to Liberalize Services:  
Developing Countries Need to Put Their People's Needs First**  
[www.globalpolicy.org/soecon/bwi-wto/wto/2002/0529pressure.htm](http://www.globalpolicy.org/soecon/bwi-wto/wto/2002/0529pressure.htm)

## The Impact of the Internationalisation of Services on Developing Countries

[www.worldbank.org/fandd/english/0396/articles/070396.htm](http://www.worldbank.org/fandd/english/0396/articles/070396.htm)

### 2.2 Documents considered

a) as required by the SOW of the Consultant

Jordan's GATS Schedule of specific commitments (15 Dec 2000), WTO GATS/SC/128  
 Jordan's Schedule of specific commitments, US-Jordan Free Trade Agreement  
 EU Association Agreement - Services chapter  
 Requests received by Jordan from other WTO Members (eight in number)

b) Other documents

World Bank: Development, Trade and the WTO: a Handbook, 2002  
 World Bank Development Indicators 2002  
 Vision 2020  
 Investment Law - summary of main aspects, Jordan Investment Bank  
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## Annex 3: Overview of Initial Requests Received by Jordan

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The Consultant prepared the following overview of the initial requests received from eight WTO Members.

### United States of America

The US has focused in all its requests on removing equity caps, covering energy and environmental services, improving transparency in financial services, and achieving non-discrimination in electronic commerce, none of which the US feels were properly covered during the Uruguay Round.

A common feature of the request was the provision of new definitions of services to be covered by commitments. In many cases these were not cross-referenced to an international classification system. In addition a related 'cluster' of other services was given, for which commitments are sought so as to ensure the unfettered commercial operation of the 'core' services as defined by the USA. Clearly these lists reflected much expert input from their private sector trade associations.

The USA submitted the most voluminous set of requests running to 26 pages. It was divided into horizontal and sector-by-sector requests.

#### Horizontal items

Much emphasis was laid on requests to improve transparency of regulatory measures by making publicly available procedures for licensing and other authorisations, including deadlines, notifications, examinations, and prior public consultations so as to give foreigners the same opportunities for comment as Jordanian nationals.

Under Mode 3, removal was sought of limitations on the leasing of commercial real estate.

Under Mode 4, removal was sought of ENTs and labour market tests for certain categories of worker specified by the US in great detail, and any residency and work permit approvals needed separately for these categories. Processing times should be expedited and reasonable fees set. The categories were broadly in line with those already offered by Jordan ie service sales persons, intra-company transferees (executives, managers, and specialists), and professionals on contracts for supplying services, and 'personnel engaged in establishment' (compare with business visitors).

Three year visas with multiple entries (ie not one) were requested, with extensions for at least another two years.

#### Sector by sector - main features requested:

Legal: definition offered; additional commitments should be made in accordance with a reference paper, though its text not yet provided.

Accountancy: implementation of the Accountancy Disciplines adopted by the CTS in December 1998. These are not yet obligatory, but Members are expected to abide by them to the extent consistent with their laws.

Express delivery: commitment to a defined set of services, and additional commitments to address the unfair cross-subsidisation of express delivery services by postal monopolies. A detailed and novel description of these services is given, and a checklist of services performed in connection with express delivery.

Audio-visual: a commitment should be made to an expanded definition as given; and for cinema operation and ownership.

Distribution: full commitment to the services listed, and an additional commitment to provide transparency for zoning approvals for new enterprises.

Education: commitments for training and educational testing services.

Energy: full commitments for a detailed and novel list of services, including exploration, incidental to distribution and marketing, plus for a long list of related services in other sectors.

Environmental: similar approach to that for energy services.

Financial: full commitment on the lines of their proposal tabled in Geneva, and to the Annex on Financial Service definitions; and the grandfathering of existing licences. In addition a lengthy set of items comprising their view of regulatory transparency was given for implementation.

Tourism and travel related: full commitment to a slightly expanded list of services.

Telecommunications: acceleration of the pre-committed liberalisation, and commitments in the services listed.

## **European Community**

The EC request for increased liberalisation ran to 23 pages, and only omitted requests for the education, health and recreational sectors. Much of the request, related to horizontal limitations, was for further information and transparency. The removal of ENTs was also sought.

As will be seen in Annex 4, the EC officials appeared not to have studied the Jordanian schedule properly, when stating in many sectors that Jordan had 'only partially committed in this sector'. For maritime services the EC requested adoption of the model schedule.

## **Japan**

Japan asked for a number of the horizontal limitations to be removed, including those on types of commercial presence, minimum investment and related to real estate; also ENTs in mode 4. The also requested that all MFN Exemptions be removed – Japan was one of only a handful of WTO Members which did not list any MFN Exemptions.

Requests for further liberalisation were made for the following sectors: professional, business, telecommunications, construction and related engineering, distribution, financial, and transport services, including adoption of the model schedule for maritime services.

The request also included a four page supplement prepared by their e-commerce and Internet industry interests setting out very detailed lists of services to be bound.

### **Canada**

Professional engineering services was the only sector included in the Canadian request, which called for the removal of the equity cap and nationality requirement.

### **India**

In relation to the horizontal limitations, India requested the removal of all ENTs for the issue of work permits, the putting into place of a visa system to implement undertakings, and a multiple entry visa for professionals, who should also be allowed entry not linked to commercial presence.

The only sector mentioned was Computer and Related Services, where the removal of the JD 50,000 investment norm was requested, and Mode 4 limitations removed. An additional commitment was sought on the recognition of the educational qualifications, training and experience of Indian professionals in the sector.

### **Pakistan**

An extensive list of requests related to the liberalisation of the horizontal limitations for Modes 3 and 4 was submitted. Then 23 sub-sectors were listed across a wide range of services, with the standard request made: "Undertake full commitments under mode 3 and 4 for market access and national treatment."

### **Malaysia**

Malaysia made the following requests:

architectural and engineering services: remove all limitations in all modes for market access and national treatment

construction and related engineering: remove the requirement for joint project associations with local firms; allow entry of site supervisors and accredited skilled workers and plant operators

telecommunications: satellite and VSAT services: enter 'None' for all modes for market access and national treatment

### **Turkey**

Turkey requested the removal of residency requirements for managing directors of foreign entities with commercial presence, and of the ENT for professionals and intra-corporate transferees.

Increased liberalisation was requested in the following sectors: Business services, Construction and related services, Financial services, Tourism and travel related services and Transport services.

## Annex 4: Queries Raised on the Requests

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The first step by the Consultant was to examine the eight partner country requests and to provide the DFTP team with checklists of queries to raise at the initial bilateral meetings in Geneva. These lists are reproduced here.

### **GATS request lists: questions to raise in the bilateral meetings - and other notes**

#### **CANADA**

##### **1 A f Integrated engineering services (CPC 8673)**

Note: the wording in the second sentences of 86731, 2 and 9 is the same, except that in 86731 it says 'acceptance of contract work' instead of 'contracts' (whereas 86733 has 'work'). In 86733 the list of services is different from the other three between 'pre-investment studies' and 'acceptance of work'.

In all four the following services are included: 'planning and pre-investment studies', 'selection and training of personnel', and 'the provision of operation and maintenance manuals' - and in 86733 'capital requirements' - which the private sector in Jordan must confirm are usual services to be performed by engineers. This could clear the way to binding the 'Integrated engineering services' category, as requested by Canada.

#### **EUROPEAN COMMUNITY**

**Horizontal: Mode 4:** the binding does not state that business visitors are subject to ENTs (see page 3 of the schedule of specific commitments).

[Perhaps Jordan does need to specify more clearly the difference between professionals and specialists?]

**1 Business services:** the EC request is in error: Jordan has made extensive commitments in this category (see pages 6-15 of the schedule of specific commitments).

[Jordan needs to obtain from a lawyer the specification of what would be covered by 'public international law' mentioned by the EC.]

**1 B Computer and related services:** in Jordan's schedule they are specified at the 3-digit level of CPC.

[The EC in its WTO paper S/CSS/W/34/Add.1 of 15 July 2002 proposed that commitments should be made as CPC 84 (ie at the two digit level, and not at the three digit level) so as to remove the possibility of doubt as to whether a new service was covered, or not, or is covered in more than one sub-sector.]

**1 F Other business services:** the EC request is in error: Jordan has made extensive commitments in this category (see pages 12-15 of the schedule of specific commitments).

**1 F n Maintenance and repair of equipment:** what techniques does the EC have in mind that would enable this service to be supplied via Mode 1?

**2** Telecommunications services: the EC request is in error: Jordan has made extensive commitments in this category (see pages 16-19 of the schedule of specific commitments).

**2 C o** GMPCS access: ask the EC to describe in technical terms how access for EC suppliers could be achieved other than through the authorised gateway providers.

**4** Distribution services: the EC request is in error: Jordan has made extensive commitments in this category (see pages 20-21 of the schedule of specific commitments).

**6** Environmental services: Jordan will study the EC proposal on classification with interest.

**7 A** Insurance services: the EC request is in error: Jordan has made extensive commitments in this category (see pages 23-25 of the schedule of specific commitments).

Jordan considers it too soon to adopt the Understanding on Commitments in Financial Services, given the ongoing reform of the laws relating to financial services, and the state of the newly formed supervisory authorities.

**9** Tourism and travel related services: the EC request is in error: Jordan has made extensive commitments in this category (see pages 30-32 of the schedule of specific commitments).

**11 A** Maritime transport services: the Jordanian schedule has largely followed the model schedule referred to by the EC.

**11 C** Air transport services: Jordan notes the extended descriptions of ground-handling and airport management services suggested by the EC for this category.

## **INDIA**

### **Horizontal: Mode 4**

Visa systems, including multiple entry visas, fall outside the GATS, as indicated in the Annex on MNP, paragraph 4.

Very few countries have bound the entry of self-employed persons.

### **1 B** Computer and related services (CPC 841-9)

What certificates and diplomas does India award for the education, training and experience of professionals in this sector, and which organisations issue them?

## **JAPAN**

### **Horizontal: Mode 4**

Visa and work permit systems fall outside the GATS, as indicated in the Annex on MNP, paragraph 4.

[The immigration procedures of Jordan may already be simpler and quicker than most countries.]

**1 A b Accounting services:** Jordan has bound this category, inscribing 'none' for modes 1, 2 and 3 under both MA and NT, and the standard wording for mode 4 (see page 7 of the schedule of specific commitments).

**1 A f Integrated engineering services (CPC 8673)** [see notes under Canada]

**1 B a-f Computer and related services:** the horizontal limitations apply to this sector, and any other measures that affect them are non-discriminatory and do not have to be scheduled. Japanese officials can obtain information from the Jordanian enquiry point as provided for under GATS Article III.

**1 E e Rental/Leasing services without operators: Other (CPC 832):** what specific services does Japan refer to that Jordan is being requested to bind here?

**2 C Telecommunications services:** Jordan attached the BTRP, unmodified, to its schedule of specific commitments upon accession to the WTO. The phased liberalisation is already rapid, and cannot be accelerated.

**2 D c Sound recording:** this sector has been committed (see page 19 of the schedule of specific commitments).

**3 Construction and related engineering services:** the registration fees for the construction association are formally different for foreign firms compared with Jordanian firms, as provided for under GATS Article XVII:3, as the amounts imposed do not modify the conditions of competition in favour of Jordanian firms.

**4 Distribution services:** there are only two categories of goods subject to restricted distribution, one being firearms, which could anyhow fall under Article XIV General Exceptions, and therefore the list is already minimal.

**7 Financial Services:** Jordan has made extensive commitments in this sector (see pages 23-29 of the schedule of specific commitments).

**11 A Maritime transport services:** the Jordanian schedule has largely followed the Draft Schedule referred to by Japan.

**11 H Customs clearance:** can Japan give the CPC number for this service?

#### **MFN Exemptions:**

[The Jordanian list has three items on page 37 which may fall under Article VII Recognition. Any changes to Jordan's MFN Exemption list would have to follow the procedure set out in the WTO document S/L/106 of 11 June 2002, to which Japan referred.]

**MALAYSIA**

**1 A d** Architectural services (CPC 8671) and

**1 A e** Engineering services (CPC 8672)

This request is a 'catch all fishing trawl', and it ignores the horizontal limitations.

**2 C o** Other: Satellite and VSAT services (CPC 75299)

Ask Malaysia if the CPC number as above is intended for their request: it covers air-to-ground communication services. The mode 4 horizontal limitation has been ignored.

[Note: they have listed the sectors in an incorrect order: Communication Services are 2, not 3, which is Construction.]

**3** Construction and related engineering services (CPC 511-518)

Mode 3: it is interesting that Malaysia did not ask Jordan to remove the equity cap and limit on the number of engineers.

Mode 4: Malaysia has asked for Site Supervisors to be allowed entry and temporary stay: this is a good point as they may not be covered by Jordan's definition of Specialists. The same may go for 'accredited' skilled workers and plant operators. Ask what is meant by 'accredited'. It is interesting that Malaysia did not ask for the horizontal ENT limitation to be lifted!

**PAKISTAN****Horizontal: Mode 4**

It would be highly unusual for a country to commit 'None' for either MA or NT in the horizontal part of the schedule! Does Pakistan intend doing this?

Ask Pakistan what is included in 'qualification requirements un-related to quality of services'.

Obligations on Transparency are covered by Article III of the GATS, and the horizontal part of a schedule of specific commitments is not the place for addressing this issue.

**Sectors**

The request is merely a mechanical repetition of the same set of words for each sub-sector listed. It is partly duplicative because Pakistan asked for full national treatment as a horizontal commitment!

It is odd that, among the list of sub-sectors in sector 1 Business Services, requests for sector 3 Construction and Related Engineering Services, and sector 7 Financial Services have been placed!

It can be pointed out that Jordan has already made open market access and national treatment bindings (subject to the horizontal limitations) for some of the sub-sectors in 1 A Professional

Services: ie legal services, accounting, book-keeping and taxation services; and urban planning and landscape architecture.

The same applies for all the services in sector 1 B Computer and Related Services; and for the two sub-sectors 1 F Other Business Services listed by Pakistan ie 1 F c Management consulting services and 1 F d Services related to management consulting.

Ask Pakistan what services they had in mind for sub-sector 5 E Other education services (CPC 929)

The bindings by Jordan for sector 7 Financial Services are already largely liberal, because the limitations are mostly of the prudential variety.

## **TURKEY**

**1 A b** Accounting, auditing and bookkeeping services (CPC 862)

Does the request relate to cross-border auditing? Or is it requested that natural persons need not be resident if they are either partners in, or employed by, licensed auditing firms with commercial presence?

**7 B a, b, c, d, e, h** (Various banking services)

Cross-border lending by foreign banks secured against real property in Jordan is not permitted on prudential grounds.

**11 C** Air transport services: Sales and marketing: Jordan has bound this category, inscribing 'none' for modes 1, 2 and 3 under both MA and NT, and the standard wording for mode 4 (see page 36 of the schedule of specific commitments).

## **UNITED STATES OF AMERICA**

[Page numbers in square brackets are those handwritten at the foot of each page.]

**Horizontal request: Mode 4 [3]**

Could the US explain why 'services sales persons' should not be treated the same as 'business visitors' as committed by Jordan?

Could the US explain whether its proposed category of 'contractual service suppliers' varies in any way from the EC's proposed category of 'contractual service suppliers'? [4]

Could the US explain why 'personnel engaged in establishment' should not be treated the same as 'business visitors' as committed by Jordan? [4]

**1 A a** Legal services: please could the US supply a copy of the proposed reference paper. [5]

**1 B** Computer and related services: Jordan notes the extended descriptions of the services suggested by the US for this category. [6]

**1 F j Services incidental to energy distribution:** Jordan notes the extensive descriptions of the services suggested by the US for this category. [10]

**2 B Courier services:** Jordan notes the extended descriptions of the services suggested by the US for their category of 'Express delivery services'. [6]

**2 C Telecommunications services:** Jordan notes the proposed inclusion of photonic means of transmission suggested by the US for this category, and some other suggestions for extended descriptions of what telecoms services comprise. [24]

Has the US noted that Jordan attached the BTRP, unmodified, to its schedule of specific commitments upon accession to the WTO? [25]

Value added services: Jordan will inscribe the standard reference to the horizontal limitations for Mode 4 after 31 December 2004, ie not 'None.' [27]

**2 D Audio visual services:** Jordan notes the extended descriptions of the services suggested by the US for this category. [8]

**6 Environmental services:** Jordan notes the extended descriptions of the services suggested by the US for this category. [14]

**7 Financial services:** Jordan invites the US to point out where it considers that the existing commitments of Jordan do not align with the US proposal in S/CSS/W/27. [15]

Jordan notes the descriptions on transparency suggested by the US for this category, which greatly amplifies the provisions of GATS Article III. [16 & 21]

**9 Tourism and travel-related services:** Jordan notes that the US would like to see extended descriptions of the services for this category, including bed-and-breakfast places and time-sharing, and the reference to the EC proposal S/CSS/W/5. [23]

## Annex 5: Support for SMEs

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The following suggestions are put forward to be taken into account when formulating policies for the business related services sector, which can drive the economic growth and development of Jordan.

### 1 Role of SMEs in development

Most services enterprises in Jordan are SMEs, and it could be that they are the source of much job creation as is the case in other countries. It is unlikely that in any services sub-sector there will be a large degree of concentration of firms, and if entry conditions for new start-ups are not hindered, high birth rates of new SME firms can be predicted as the economy develops.

Experience in Ireland shows that it is possible that growth to the stage of internationalisation can occur in small businesses of under 50 employees, given the right connections from networking, joint ventures or other forms of informal consortia groupings. Over 200,000 US SMEs are exporters, though the proportion of these that supply services is not quoted by the US Small Business Administration.

### 2 Problems facing SMEs

A major problem facing SMEs wishing to upgrade their competitiveness is how to find out what appropriate specialist business services are available, how to assess their quality, comparative prices and worth, and how to appoint the firms or groups of firms that can provide them with the desired mix of skills. The modern array of specialist services available can be perceived as daunting for SMEs managers, who face unacceptably high transaction costs in finding, selecting and employing them. It may be very difficult for managers to be confident of the level and nature of the service in advance of its performance.

SMEs need assistance from government, professional and trade associations, and professional and business services firms, to obtain information and get in touch with reputable providers offering high service quality and ethical conduct.

Help will be needed to get SME managers started on addressing export issues, and efforts made to deliver assistance to them locally, and to bridge the gaps in existing support services.

### 3 Government policies for SMEs, and its co-ordination

One Ministry, possibly Industry and Trade, should take the lead to ensure a complete overview picture is drawn up of various departmental policies, programmes and aids already being implemented, to identify any gaps and overlaps, including deficiencies in basic statistics, to devise new comprehensive policies and to co-ordinate their implementation.

### 4 Recommendations on support for SMEs

#### 4.1 Information points

The feasibility should be studied of setting up a one-stop-shop information point in Amman for providing advice and information to SMEs. It could be under the aegis of the MIT. Any desired

co-ordination with the Enquiry and Contact Points that have to be set up under the GATS obligations should be taken into account.

The information points would make information available on such matters as:

- programmes for technical assistance and training
- technical assistance from abroad to improve skill of services suppliers
- sources and access of SMEs to finance and credit
- public procurement programmes
- the promotional initiatives for services sector SMEs serving the domestic market
- services centres for 'cottage' scale activities such as computing and software, design, publishing and printing, and data entry.
- promotion of ISO 9,000 for services suppliers to manufacturing, and new skills for ISO 14,000
- special services and assistance to SMEs to export, including export promotion policies and programmes
- government aided trade promotion visits abroad with Ministers and Royalty
- export news and information on bid requests from the Development Banks and other regional funding agencies
- information on foreign markets
- prizes awarded under Royal or Government Patronage for successes by SMEs in raising quality standards, innovation, and unusually rapid export growth
- an Internet front page to carry information and pointers to other public and private sources, such as government services and schemes, services associations, including those abroad, such as the Coalitions of Service Industries, and the Global Services Network
- results of surveys by the Department of Statistics

#### 4.2 Education and training

To support the export of services, management systems have to be upgraded, more graduates in business management produced, research institutions supported and manned, differentiated services products developed, and the role of local government supported by targeted education for business needs.

The priorities for an SME initiative could include improving production systems and the organisation of SMEs by offering advice on skills needed by services employers in growth sectors, and training on:

- vocational qualifications within SMEs related to priority markets
- special training programmes for 'cottage-type' services industries, including sending the trainers out to the villages
- computer programming
- EDI, with computer facilities for learning by doing
- small scale retailing
- development of agricultural consultancies for rural areas, in parallel with the Ministry of Agriculture
- forming joint ventures to provide industrial estates with forwarding, transport and packaging services
- adopting total quality strategies

- pilot projects aimed at improving business know-how and the improvement of their business methods
- taking into account environmental issues and the rational use of energy
- how to access new markets, including public procurement programmes

In addition co-operation between research centres and SMEs should be encouraged, so that any research carried out can have practical outcomes and be more responsive to their needs, to meet their requirements for assistance for the transfer and application of technology, and encourage them to innovate and employ more highly qualified personnel.

#### 4.3 Financial and direct support

Perhaps the MIT should be given the responsibility to co-ordinate the support policies of various Ministries and the JIB so as to fill gaps and prevent overlaps and inconsistencies.

One Ministry should ensure that a coherent set of policies and facilities are clearly described in ways that SMEs can comprehend, and made available from one agency.

These facilities could include:

- pump-priming finance to induce management to obtain the necessary specialist advice from business services providers
- state financial institutional support by means of bank guarantees and credits at preferential rates for exports
- export promotion funds, and assistance with cost of bidding for foreign projects
- small loans (cf. those made to cottage workers for improving designs)
- grants to take on employees in disadvantaged areas
- grants to help small retailers compete with hypermarkets (cf. the French government scheme)

Government has a unique channel of information from its embassies in many countries which can provide advice and support for exporters. The Minister goes on trade promotion visits abroad and takes private sector manufacturing trade association leaders and experts with him. The invitation should be opened up to service organisations and exporters.

#### 4.4 Creation of trade associations

It is important for the government to assist the formation of sector trade associations, and to help them develop a long-term vision of how the external environment is changing and will affect export opportunities for small companies. It could plan more concretely to develop Jordan as a regional resource for the development of neighbouring countries through joint government-private co-operation for FDI and international trade in services. Likely service sector candidates might include medical and educational services, computing, R&D, market research, distribution, testing facilities, agricultural advice, maintenance and repair, and convention centres.

## Annex 6: Recent Laws Affecting Service Sectors

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Pending the completion of the work on laws affecting the supply of services in Jordan by International Business Legal Associates, the following list gives a rough overview of recent changes to these laws.

(Notation: aa/bb, where aa = number of the law, and bb = year)

### **Control of inward FDI**

Investment Law 16/95; regulation 15/97 - foreigners only, equity caps: the list of sectors where 100 percent ownership is permitted will soon be extended.

### **Taxation policies affecting services**

Income tax n/85: 25/01; general sales tax: 6/94, 25/02 - set at 13 percent on some sectors and certain projects, case by case; stamp duty: 20/01

### **Regulation of lawyers, accountants, architects, engineers and other professions, their professional associations and mutual recognition agreements**

Lawyers Bar Association: 11/72; 51/85 - Arts. 9, 10 grant reciprocity to the 22 Arab States

Accountants Association: 42/87; Auditors: 30/86

Engineers and architects: n/72, 12/01

Pharmacists: 51/72, 2/98

### **Property rights (a) fixed and movable (b) intellectual property**

#### **Protection of intellectual property rights - copyrights, fake items, enforcement**

Civil Court principle: 43/76; trade marks: 33/52, n/99; Patents: 32/99;

Industrial designs: 22/53, n/99; Copyright: 22/92, 14/98, 22/99

#### **Competition policy, law and enforcement, and nature of the competition authority**

52(?)02 - the authority is not yet set up

### **Labour laws and practices**

General employment: 8/96 - Art. 12, (b) and (c) deals with work permits

### **Company and bankruptcy laws**

8/96 - allows employees to hold shares in private shareholding companies

40/02 - Companies Act

### **Government Procurement of services, incl. foreign suppliers**

[to be verified]

### **Laws specific to SMEs**

None

### **Consumer protection laws**

There will soon be a law drafted by the new Ministry of the Economy

### **Standards, technical regulations and similar measures**

24/72

### **Aqaba Port Authority**

32/00 - ASEZA

### **Agency and middlemen (incl. wholesale trade)**

28/02 - a much debated law, mandates their remuneration

### **Higher Council for the Media**

74/01 - advertising agents have to be licensed

8/98 - publications law

### **Jordan Radio and TV Corporation**

35/00

**Construction, land zoning**

Land registry requires transfers of land to be signed in their offices with full contract details and evidence of payment. There is private land, and common land which is owned by the King.

Ownership of apartments: n/68

Landlords and tenants: 30/02

Building Law: Regulation for building contractors:

**Telecoms Regulatory Authority**

8/02

**Environmental protection - as regards environmental services**

12/95

**Tourism**

30/88

**Travel agents**

n/77, 21/97

**Freight trucking and passenger transport**

Public Transport Regulatory Commission: 48/01 - covers licensing of vehicles

## Annex 7: Service Sector Potential for Liberalisation

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This overview of sector issues and barriers is designed to point to key issues in each sector, and will necessarily have to skate over some of the complexities.

The broad service sectors are taken in turn - and in the GATS list order - to identify typical barriers, so as to build up a relatively complete picture.

### **Business services**

The business services range from the highly regulated legal and accountancy professions, to the architectural, engineering and planning professions which tend to be less regulated. Advertising and PR services, management consultancy, and computer software services are not much regulated, if at all.

#### Professional services [1 A]

##### General features

The highly regulated, so-called 'liberal', professions will remain so, and mutual recognition agreements will remain stubbornly difficult to negotiate and agree.

It is wise in general for developing countries to make commitments for the professional and business services, both the regulated and those subject only to the general consumer protections and competition laws. Many enterprises need growing inputs of the high value added professional and business services. Local professional and business services firms need training in business, management and IT skills from - and linkages with - their counterparts with international experience.

The liberalisation for the specialist and engineering services allied to the utilities and environmental facilities<sup>14</sup> will reflect the extent to which these industries are privatised, and where not, will depend on the degree of outsourcing of government procurement to the private sector and policies on national preference. Governments purchasing power might be used to kick start the development of certain services and by so doing provide experience for the SMEs supplying them.

Regulation to assure the quality of these services in order to protect consumers and society at large is central. Forging mutual recognition agreements is very skill intensive and time consuming, and therefore very expensive, but necessary since MFN cannot be applied. Consumer redress across jurisdictions raises complex regulatory issues that in the case of Mode 1 appear to be out of reach at the multilateral level.

The regulation of the professions poses some of the toughest problems for liberalisation. The protection of consumers and core societal values are the cause. Both the government and professional associations desire to protect the health, assets and other interests of their clients and of society at large that might be at risk from professional activities. Standards are set for education and practical training and tested by examinations. Practitioners are registered and

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<sup>14</sup> The GATS sectoral list mentions sewage treatment, refuse and sanitation services.

licensed, and must abide by codes of ethics and behaviour. They are held accountable and can be disciplined or banned from practice.

Not unsurprisingly there is room for many differences of standards, scope and procedure between professions and across countries. These can only be resolved by negotiating mutual recognition agreements, whereby either everything of key importance is harmonised (usually impracticable) or certain aspects are deemed to be equivalent even though different.

In some cases the codes are unduly restrictive of competition and even smack of featherbedding.

The GATS has done useful work on disciplines and guidelines related to accountants to reduce the impact of professional rules on trade, and this can probably act as a good template for other professions. However, it will take a long time for bilateral mutual recognition agreements, let alone multi-country ones, to be developed - perhaps decades.

Here the degree of liberalisation will be limited somewhat by higher social objectives.

#### Situation in Jordan

The law on engineers and architects lays down that they must be qualified and registered. Most practices are small, and there are only about 20 with 15-20 employees, and 5 or 6 with between 100-200. Many have rather weak administrative, financial and other resources, and are not export oriented. The Association has a centre for technical training, which includes a little on management and IT. There is a need to promote export awareness, but the government funds go to manufacturing not services, with none for engineers. Support is needed for training on awareness of international agreements, creating an Association website and to bring in experts for management training. A data base on regulations in likely markets is needed, and on international and standards, for example in the US.

Representatives of the engineers, said that as the Jordanian market is small, and it is necessary to export in order to survive. A new era of co-operation on the recognition of qualifications is needed. There is too much politics in the relationship between the Association and the government.

There is no cover for export credits for consultants or construction contractors (ie such as available from the UK ECGD and the French COFACE).

The AMIR study on the pharmaceutical cluster found that "the professional services sector catering for the pharmaceutical enterprises is quite undeveloped". "Several areas need improvement: R&D, distribution networks, professional services as it applies to production and operations standards, and market-entry preparation and counsel."

#### Computer software and consultancy [I B]

##### General features

Computer software creation and computer system and hardware consultancy are not usually regulated. The issues here are the social ones such as: brain drain, skill shortages and access for contract workers.

### Situation in Jordan

There are only 12 firms in this sector with over 100 employees, the largest being about 150.

According to the "Report on 'Information & Communication Technology Cluster'", published by the Ministry of Planning in February 2001, the principal services activities included are: IT training, IT consultancy, software development, web design and web programming. Jordanian firms currently make strong inputs to the following sectors: accounting, office management, Arabisation, Internet solutions, security and banking. Consultancy is supplied to project management, customer relations management, QA, mobile banking, image processing, barcode introduction, ID issues, and irrigation, financial analysis, CBT, stock market and brokers, car sales, restaurant management, travel agents, word processing, spreadsheet calculations. The end result is for high quality information systems, software systems, management information systems, and business information systems.

Trends show that programming is being progressively squeezed due to the need for more systems analysis, code automation, offshore outsourcing of the lower units of coding, and the development of higher level languages.

### Stage of liberalisation in Jordan

This sector has been fully liberalised in the GATS binding.

### Export interests of Jordan

There is no training within IT firms, and there is a need for process and product documentation in IT firms, and ISO QA standards to be met for international sales. Furthermore there is a need for business training, including for Internet standards, analytical skills, project management and electronic commerce and web application design, and how to create and innovate for university graduates. The curricula of the universities and technical colleges need to expand to cover these subjects.

The comparative advantages could be built upon: good analytical skills; good Arabisation for form a regional base for niche products; English speakers; Microsoft Certified professionals; 1,200 university IT graduates each year; and IT graduates with Western degrees.

However, the English capability is not as good as in Israel and India. The main competition comes from Egypt and Israel. The immediate potential would appear to be in outsourced work from developed countries, because there are labour shortages, and wages in Jordan are competitive.

### Energy [I F]

#### General features

Consulting services in the energy field are often related to the exploration, production and distribution of fuels, and the operation of the networks of the major utilities - such as for electricity, oil, and gas. Newer services comprise the operation of spot markets and auctions for the purchase of supplies. These services are not a prime target for regulations, even though the utilities themselves are.

### Situation in Jordan

These specialist professionals are in short supply in Jordan, and local needs will have to be met from abroad.

Only when there is sufficient expertise developed in Jordan, can an attempt be made to pursue exports.

### Advertising [1 F a]

The issues for advertising agents are dealt with under audio-visual services.

This is an active in Jordan and international links are strong.

### Post [2 A]

#### General features

State postal monopolies for the international delivery of mail have a long history. The Universal Postal Union is the global successor to the many bilateral agreements that ensured recognition and safe passage for the emissaries of Monarchs. In virtually all countries the core letter monopoly remains, and with it the public services obligation for universal deliveries and collection. Competition is often enforced for letters over a certain size or weight, or in bulk numbers, and for parcel delivery and express courier services.

Postal services have usually now been 'disconnected' from the supply of telephone services.

Internationally, liberalisation will have a tough haul in this sector.

Many post offices compete on other services, raising the issue of unfair cross-subsidisation.

### Situation in Jordan

The Post Office is a corporate entity wholly owned by the State: some of its services compete with the private sector, such as parcel delivery and courier services. The government is considering how best to privatise it.

### Couriers [2 B]

#### General features

The express courier firms complain that in many countries competition is not yet fair: the state postal monopoly may internally cross-subsidise its own services which compete with the private sector; it may have an old boy's agreement for preferential treatment with the customs authority and the other agencies that check on parcels, not only to collect duties, but for reasons of public safety, decency, human and plant health risks and criminal activities. The couriers run up against anti-competitive practices at airports for handling their parcels, and with airlines that give preference to carrying the 'State mail'. There may be burdensome charges on the remailing of letters collected into bulk abroad for onward delivery individually in destination states.

Liberalisation across these various different aspects will be a long haul - and much is in the hands of the competition authorities which will condition the degree of liberalisation.

Express delivery firms can be beneficiaries of the outsourcing and just-in-time production systems and respond by providing logistical and storage support with powerful computer systems that enable real time tracing of items further empowering the customers. This aspect is liberalised.

Competition in many aspects with state-owned organisations is often unfair. The interface with customs authorities and other, usually monopolistic, transport links is very important. The logistics integrators face similar problems.

#### Situation in Jordan

The major global express carriers are present in Jordan, and the market is essentially open. The existing firms are already exporting. Their problems were not ascertained by the Consultant.

#### Telecommunications [2 C]

##### General features

Telecoms services act as enablers for productive activity in every corner of the globe. The content that flows through the physical conduits is growing fast and seems set to expand indefinitely, particularly in the mobile domain.

Privatisation is proceeding apace, but for fixed line voice telephony, the most durable monopoly relates to the 'local loop' - the pair of copper wires that go into the premises of organisations and homes. Until this is opened up to competition the sector cannot be fully liberalised. For mobile services - the faster expanding part - the allocation of scarce frequencies (a public good) is a central issue, and how governments can best capture the monopoly rent potential, such as through the auction of third generation licences.

Small countries, where the potential usage is low, find they cannot attract enough competitors and monopoly rents can still be exacted by the incumbent.

Leaving aside the technical standards and protocols at different layers of the physical and symbolic or conceptual inter-connections, some other issues are: universal service obligation, access to networks, inter-connection charges, price setting for better services such as ISDN and ADSL, resale of bulk capacity, competition with Internet Service Providers, and Applications Service Providers. Accounting rates for terminating international calls are set arbitrarily in bilateral horse deals under ITU guidelines. They should be progressively reduced to reflect costs and not be a form of hidden aid.

#### Situation in Jordan

The Jordan Telecommunications Corporation (JTC) is still 51 percent government-owned and has an exclusive monopoly on switched voice domestic and international calls until the end of 2004. It is managed by France Telecom under contract. Its licence deals with cross-subsidisation, transparency, inter-connection, leased capacity and so on, and is in accordance

with the Basic Telecommunications Reference Paper attached to Jordan's GATS schedule. The entire fixed line network is digitised. There is a good fibre optic data ocean cable connectivity to the rest of the world through the Aqaba landing station. ISDN facilities have been available since 1999 and ADSL since 2001. JTC provides many value-added services and an 'E-Dimension' service for larger companies.

There are two GSM mobile licences: Fastlink, formed in 1995, is the larger, and MobileCom, formed in late 2000. In December 2002 MTC of Kuwait bought Fastlink from Orascom of Egypt, which owns the largest ISP in Jordan, LINKdotNET. JTC now owns MobileCom and in 2001 acquired Global One (formed in 1996) the largest ISP – and owner of the CoolNet pre-paid brand. There are seven other ISPs.

The Telecoms Regulatory Commission (TRC), was set up under a 1995 law, and as an independent body is unique in the Arab world. A law of April 2002 authorised the Ministry of Telecommunications and Information Technology to make policy and appoint a Board of the Commission (and its commissioners), which is accountable to the Council of Ministers, and was put into effect in August. Licence fees provide the funding of the TRC. The main functions of TRC include the issue of licences incorporating quality targets and fees, and the approval of equipment specifications and interconnection agreements.

Liberalisation is well under way, except in the 'last mile of twisted copper wires', but this will be opened to competition in 2005.

The licensing of mobile providers is pro-competitive, and pricing is not restricted, though the TRC has to be notified of any changes a month beforehand.

Audiovisual services [2 D]

#### General features

Broadcasting is usually regulated due to scarcity of ether frequencies and the need to control content for public morality or religious stability. Advertisers are big users of broadcasting and other media, and thus advertising agencies as well as the providers of programming content may be regulated. Often the nationality of those who feature in the advertisements is controlled and foreign production firms banned or restricted to a minority of the material in the advertisement. State controlled agencies which place advertisements in the media and apply monopoly prices with no competition can create unfair situations. Such regulations and practices are, however, disappearing quite fast.

The core issues revolve around the cultural dimensions: subsidies for national film and TV productions (funded for example by a duty on cinema tickets), local content quotas, and the monopolistic practices of cinema chain owners.

In this sector cultural imperatives will set the limit to the degree of liberalisation.

#### Situation in Jordan

The State owns the radio and TV broadcasting entities.

The production, distribution and projection of films is permitted for foreigners, though there is a 50 percent equity cap and the director of any retail outlet must be a national.

### Construction [3]

#### General features

Construction firms in developing countries are virtually all SMEs, and cannot undertake major infrastructure contracts which therefore have to go to multinationals. So the focus has to be on the transfer of technical and management skills, on how to plan large undertakings and use expensive and high-tech equipment, and on the testing of materials and constructed elements. This will translate into conditions on government procurement, and horizontal limitations in their schedules.

Contractors are mobile by definition since buildings for different clients cannot usually be constructed on the same site. The processes involve different dimensions: the design, project management and supervision of site operations (which can equally well be supplied by professional firms), the importing and re-exporting of equipment, the import of materials and pre-assembled equipment for lifts, boilers, electrical and air conditioning apparatus and so on (attracting duties and taxes of various sorts). The goods tariffs aspects is left on one side for the purposes of this report, as they are dealt with by GATT.

The most high profile issue is the entry of foreign migrant construction site workers, often in large numbers, even in thousands. They pose potential public order and immigration problems of a major order. Liberalisation is difficult to conceive except in small degree.

The professional aspects may be regulated in many countries, and the issues were considered in the section on the professions.

#### Situation in Jordan

Foreign contractors are required to form an association with a local firm for each project, and there is a limit on the number of engineers they can bring into Jordan. There is also a 50 percent equity cap. This is a sector with strong export interests.

### Distribution [4]

#### General features

Distribution comes for the most part in two forms: wholesale and retail, added to which are advisory services and franchising, and the latter two are largely liberalised already.

Regulations on land ownership, land use planning and zoning, traffic volumes and licensing laws greatly affect the activities of the distribution sector.

#### Wholesale [4 B]

Wholesale activities for merchandise can need extensive warehousing and bonded sites, associated trucking and other transport facilities, whereas the wholesale activity for services only needs office space. The issues raised are principally land ownership, land use planning and

zoning, traffic volumes, access to motorways and railway goods yards. All can be highly regulated and even emotive in public debate, where the cry 'Not in my back yard' is often heard and can have strong political resonance.

#### Retail [4 C]

Retail distribution in all countries comprises a sector predominantly of family and other small outlets, and the large groups only gain a foothold in developing countries as income rises, and then in the larger cities. Supermarkets and hypermarkets are usually constrained by local politics for licensing, and town and country planning zoning regulations, which also apply to the major wholesale facilities. These restrictions are likely to remain in place.

Retail faces similar problems, despite having a wider size range from the hypermarkets (rather like warehouses, but with more parking space) at one end, to family corner shops at the other. The sector can prove to be a nightmare for foreign retailers - prime sites are taken long ago and brand images well established. Public reaction can be aroused if there is a fear that local community facilities or city centre life are threatened due to price competition from bigger units. Licensing laws can be controlled by authorities dominated by local retailers.

Full liberalisation can never be achieved since societal objectives will prevail expressed through land use zoning and limits on numbers and size of super and hyper markets, and wholesale storage and distribution units.

#### Situation in Jordan

Amman is the base for the headquarters of all the major wholesale and retail distributors, commission agents and franchisees, due to the size of the city market and the higher purchasing power of its residents. Typical problems encountered include the lack of clear laws on traders' rights such as for wholesaling, retailing, franchising and for returned cheques, the lack of town planning, and poor control over smuggling. Import duty levels and customs fees are high. Governmental bureaucracy is slow, especially for product appraisal and customs procedures, and civil servants lack of motivation. Electricity and water supplies are poor, the cost of transportation is high, and the interest on bank loans is high.

The GATS commitment covered all sub-sectors with the standard 50 percent capital equity cap for commercial presence, though there must be a majority Jordanian ownership and board majority in the case of commission agents.

#### Education [5]

##### General features

General education is almost universally provided by the State. The issues arising are dealt with below under health care as they are rather similar. Some countries will not liberalise either sector on principle.

### Situation in Jordan

Commitments have been bound for the whole range of educational services, with 100 percent foreign equity being permitted by 1 January 2004. The cross-border supply of education services for the primary and secondary levels is unbound.

### Environment [6]

#### General features

Environmental services are involved with local, regional and global environmental problems. Consultancy advice is crucial in helping governments to solve the tough issues posed by pollution, environmental degradation, tourist intensity and so on. Mainly the expertise can be supplied cross-border and is not usually regulated.

Advice on the operation of water and sewage treatment, refuse disposal facilities are linked with the pace of privatisation, the degree of outsourcing and the land use issues for sites where the processes are carried on. The barriers here are of the long-haul variety, and the degree of liberalisation subject to environmental standards.

### Situation in Jordan

The General Corporation of Environmental Protection agency is having studies carried out by consultants from Canada, Denmark and Germany. Large deposits of oil-shale had been located, and how this might be exploited will be significant when implementing the Agenda 21 and the US FTA. Another problem is the cost of extracting cadmium from phosphates to be sold to the EU, so as to reduce the levels required by the newly introduced standards.

A new site for dumping solid waste has recently been opened, and a site for hazardous waste (such as from industry and hospitals) is being developed, as at present it is not properly managed.

Sewage and refuse disposal services were not inscribed in the GATS schedule, whilst sanitation and similar services were bound fully open.

It is unlikely that the system for the collection and disposal of solid waste in Jordan will be privatised, even at the municipal level, due to labour considerations.

The approach might be different for the supply of water, and the collection and treatment of sewage. At present the Water Authority of Jordan has a performance based management contract with a French-British joint venture to modernise the water and sewage networks and improve management and billing.

Jordan takes part in the work of the Trade and Environment Committee of the WTO.

## Financial services [7]

### General features

The financial services sector has a unique dimension that faces society with the prospect for potential societal collapse like no other. The possibility for rapidly spreading contagion from defaults across the three principal sectors - banking, securities and insurance - and across national boundaries, is evident.

As average incomes per head rise, so proportionately does services spend, including on financial services, and the funds of life insurance and pension funds accumulate.

Strong and expert prudential supervision is patently necessary, to counter systemic risk, and for the protection of individual consumers. The need to assure systemic financial stability nationally, regionally and even globally arises because banking, insurance and securities markets are becoming ever more closely and continuously connected.

Some developing countries, rather expecting that requests will be made to them on financial services, have deliberately kept some types of transaction (listed in the Financial Services Annex) up their sleeves as negotiating coin.

Public order, decency, and consumer protection imperatives will prevent cross-border supply of some financial services, which will also complicate business to consumer e-commerce.

There is an over-riding need for prudential control of the institutions and their directors and managers to avoid or lessen the damage done by systemic failure at the national and global level. The standards, norms, and guidelines are the staple diet of the Financial Stability Forum, a recent outgrowth of co-operation among regulators and supervisors at the global level - which began life as the Joint Forum for Financial Conglomerates supported by the regulators of banking, securities and insurance.

It is clear that no liberalisation of trade in financial services can proceed without the buy-in of the prudential supervisors, who themselves need to co-ordinate their activities ever more closely. Their aim of preventing systemic collapse and promoting liquid markets with full transparency of information must remain paramount.

Given strong prudential supervision, financial services can attain a high degree of liberalisation.

### Situation in Jordan

The banking law of 1999 provides the framework for regulation and strengthened the supervisory role of the Central Bank of Jordan.

A more recent law set up three separate bodies: the Jordan Securities Commission (JSC), the Jordan Stock Exchange and the Jordan Securities Depository, the latter two being non-profit making and self-funded. The JSC reports to the Prime Minister and is funded from the fees it levies - it is an off-balance sheet government entity. It has a Board of Commissioners, which approves regulations on dealing and settlement, and the various directives and instructions. Following the testing out the securities law of 1997, for example, on licensing, disclosure, and listing, it was replaced in 2002.

The Insurance Regulatory Commission has a board, chaired by the Minister of Industry and Trade, who forms the link with the Prime Minister and Parliament. It is funded by levying 0.75 percent on insurance premiums. The various regulations to back its supervisory duties are still being drafted. All its staff are to be Jordanian, unless there is no national with the right skills. It supervises the insurance underwriting companies, their agents, and the insurance brokers. The reinsurers are not yet regulated. The market is small as penetration is still very low in Jordan. Premiums are not controlled, but policy wording is scrutinised to ensure that they comply with regulations.

Relations with the international supervisory community are being maintained, such as the BIS, IOSCO and IAIS, and their principles and guidelines are welcome and being followed.

There will be a certified financial profession, including brokers and trusteeships, all of whom will be Jordanian. However, foreign expertise is still needed, particularly how a private clearing and settlement systems is organised. Inward FDI is being sought for the financial services sector.

The report on 'Banking Cluster' by the National Competitiveness Team 2000 for the Ministry of Planning gave the following picture:

Middle East banking was seen to be dominated by the banks of Saudi Arabia, with 11 of the 15 leading banks, and further by banks of Egypt and Israel. Jordan has only 2 of the 200 Islamic banks. However, changes over the past few years render such generalisations invalid.

Weaknesses in the sector relate to investment banking, specialised lending and savings institutions, which are all small even in relation to the Middle East. Generally Jordanian banks are not competitive due to the monopolistic behaviour of the larger six, which choke off lending to SMEs by the requirement for high collateral or guarantees. Their small size also puts them out of the running for the largest tenders which are filled by banks from outside. There are few long-term deposits and a lack of pension savings schemes.

All need help with new techniques, R&D, and forming the strategic vision to meet international competition. The response to the globalisation of financial markets has been consolidation through mergers and acquisitions to gain economies of scale, the formation of conglomerates for economies of scope and lower interest rates due to improved efficiency. To offer a regional hub for banking Jordan must ensure that it can offer political, macro-economic and regulatory stability, prevention of emigration, good telecoms facilities, deeper capital markets, and banks with international ratings and thus credibility.

The Jordanian Bankers Association is weak, but does present a unified advocacy voice on matters of concern. It also runs a training institute. There are no credit rating agencies and no government exports credit guarantee facilities (such as the UK ECGD, French COFACE etc). To be successful banks need to consolidate to achieve larger size, deploy advanced technology, offer new services such as phone and on-line banking, and be more customer oriented. They suffer from lack of training for staff, which the banking association, universities and technical colleges are unable provide for staff in firms with needed up-to-date knowledge, IT and English language capabilities. Due to this situation, the wages are low, employment conditions poor and insecure and no training courses are available.

The Jordanian Arab Bank with a market capitalisation of \$4bn is large by regional standards and has a presence in Palestine and throughout middle eastern countries. The Housing Bank is the next largest. A few banks have joint foreign ownership, with Kuwait and Bahrain being examples. Citibank and HSBC are present in Jordan. Several new foreign banks now provide strong competition to the Arab Bank and Housing Bank, which had previously dominated the scene.

Although there is a high spread between deposit the low interest paid out and high loan interest rate charged, the high government tax removes the profit, some being levied on a discretionary basis.

There is a need to diversify the range of financing instruments, for example, venture capital, and non-bank financing through leasing and factoring. The bottlenecks in the sector are due to bank lending policies which are exceedingly risk averse, the standard of auditing is poor, and the three largest banks account for over 60 percent of total deposits effectively forming an oligopoly which lacks competitiveness and is slow to introduce new service products. There is almost no money market, and there is little move to develop an inter-bank market and to upgrade the inter-bank payment system. Jordanian banks control about 70 percent of the Palestinian bank assets and customer deposits.

The banks are not well prepared yet to observe these supervisory requirements, the best perhaps being at 40 percent on a 'notional scale' and the others at 20 percent. The CBJ itself needs much more training in supervision.

The AMIR I program concentrated on the securities sector, thus the new securities law is good, and the Depositary Centre is working satisfactorily, but the supervision of the equities market and brokers still needs significant enhancement. The market cap is about \$6-9 billion, but the biggest firm accounts for 40 percent of this value and the top five about 90 percent. Brokers are very small, and market risk is not yet considered. Jordan's stock exchange is an IOSCO member, but can only rate affiliate status with the international federation of bourses (as opposed to full or associate status).

Capital is relatively immobile, and there is excess liquidity in the system, and little long-term funding available. The CB offers a 'window' to 'park' excess funds, and this acts rather like a subsidy to the banking system, but it is to be slowly closed down. Only a few firms have raised capital by issuing shares, and hardly any have issued corporate bonds. Many firms with long-term investment horizons have a mismatch with the related borrowing, for example hotels, have taken out three year loans, which have already been rolled over once. The CB insists on provisions being made for any being rolled over a third time, which is now causing problems.

There are no mutual funds, or mortgage facilities, and no leasing facilities. The 1,100 or so leasing firms are probably not doing any business. Even car dealers use their own bank facilities to offer extended repayment terms to purchasers.

Housing loans are for ten years, and the interest is fixed only for the first two years, and is variable thereafter.

It appears to be too early to expect significant growth in export earnings from the financial services sector, despite the good human resource base in Jordan.

The World Bank is to study the universal state pension funding situation which is set to run into problems by 2024.

The whole range of financial services were inscribed in the GATS schedule, though there are detailed limitations in the case of each 'line'. Commercial presence is required, and real property in Jordan cannot be mortgaged to banks abroad. Cross-border transactions are unbound for some activities.

The provision of information for the financial services sector has been bound fully liberalised.

## Health [8]

### General features

In the **education** and **health** sectors, the likelihood is that the basic majority of provision will remain in state hands, and outside the GATS remit. The parallel private sector provision will be highly regulated and in developing countries mostly on such a small or unprofitable scale as to be marginal and mainly catering for expatriates and a few wealthy and influential persons.

The chief issue for the health care services, as for educational services, is the extent to which governments will either privatise or outsource the supply. The labour unions fear that any such move will endanger standards, cause societal dissension and destroy jobs. Liberalisation here may well be on a very slow burn, and not of high degree, apart from in minor carefully delineated pockets.

### Situation in Jordan

Commitments have been bound for all health services, with 100 percent foreign ownership permitted by 1 January 2002. However, 75 percent of the physicians, and at least 50 percent of the staff must be nationals.

Both public and private hospitals are attracting patients from neighbouring countries and such 'exports' are running at the rate of JD 125 million a year.

## Tourism and travel-related services[9]

### General features

The following quotations are taken from the WTO publication "Market Access: unfinished business", Special Studies 6, 2001

*"More than 90 percent of WTO Members included at least one sub-sector of tourism in their schedules."*<sup>15</sup>

"Tourism is one of the largest and fastest-growing services sectors, accounting for over 35 percent of total world-wide services exports. Highly labour intensive, it is a critically important generator of employment,

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<sup>15</sup> The second highest sector was financial services, and the fourth, telecoms, reflecting the results of the extended negotiations concluded in 1997. Business services came third. The sectors with least commitments were distribution, health and education in descending order. Most of the OECD countries held back on making commitments in education, health and social services, and some on maritime and audio-visual services.

especially in remote and rural areas. International tourism has a very substantial impact on trade levels, as well as on foreign exchange earnings. For developing countries, it is one area where they run consistent trade surpluses [ ] UNCTAD notes that [ ] the share of developing countries has been rising gradually, and now accounts for about one third of the total. [ ] Interestingly, increasing exports of tourism services is essentially a process of *domestic* liberalisation, rather than of persuading trading partners to open their markets. It is not an industry beset by protectionism. [ ] Problems in the development of tourism therefore do not arise in any significant measure from restrictions applying to tourism *per se* [ ] the great bulk of business and of revenue derives from other activities which feed into tourism - most notably many transport services, but also including certain business services, distribution services, and recreational, cultural and sporting services. [ ] Other important challenges facing the industry include environmental and infrastructure problems, as well as rapid technological change. [ ] Since many of these countries are far distant from the rich markets which provide their customers, their export revenues are diminished by the high air fares caused by low air traffic density and by protectionist aviation policies, which according to the World Travel and Tourism Council, severely constrain the development of tourism. Protectionism in the air transport sector, at the expense of hotels and other tourist activities whose net revenues are likely to be far greater than those of national airlines, may be a very expensive strategy."

Many countries have bans or restrictions on foreigners acting as guides and hosts within their territory, and on national heritage sites. They are related to cultural issues of language and history. They may well endure indefinitely.

Probably any increase in North-South trade will depend on the investment climate in developing countries for infrastructure services and GDP per head. Crucially tourism is bound to increase - terrorism permitting - since in the main it is unfettered from government measures, apart from those making air fares too high. However, tourism does greatly depend on the state of the local infrastructure services.

The liberalisation of tourism is not so much to do with a few restrictive measures relating to tourist guides, but the development of hotels, restaurants, water and electricity supplies, and the liberalisation of a wide range of supporting services, from transport in many forms, to distribution and financial services. There must also be well presented cultural attractions and heritage sites to see and unique natural scenery and habitats to visit, in addition to leisure facilities and sporting events.

#### Hotels and restaurants [9A]

The barriers related to hotels and restaurants are similar to those of retail outlets, and the degree and time scale of liberalisation are similar.

#### Situation in Jordan

The State-owned Alia and Seven Arches hotels are being sold, as are the remaining State shares in the Royal Tours company.

The Ministry of Tourism and Antiquities is unlikely to want to see any further liberalisation commitments, where there is a 50 percent equity cap for restaurants and bars.

There are many travel agents, and most are small and do not have the necessary capital, IT equipment and training.

Tour guides are not regulated, but national treatment was left unbound.

## Recreational, Cultural and sporting services [10]

The typical issues encountered here have already been touched on when considering the audio-visual and tourism sectors.

## News agencies [10 B]

Some news agencies are state owned, and there may be lurking monopolistic practices. In the main, however, these services are liberalised.

### Situation in Jordan

Most activities were bound open, including news correspondents, but not news agency services, and including health and fitness clubs.

## Transport [11]

### Introduction

In **transport** the developing countries have either weak or non-existent maritime and air transport fleets, relying on major foreign operators. They desperately need foreign management and know-how to equip and run their **sea** and **air ports**. They may well make some further specific commitments including additional commitments for port services which earn valuable foreign currency. **Air** transport will remain mostly carved out of the GATS, and blue water **maritime** transport is highly competitive in the main for high volume bulk trade and the fast growing higher value container traffic. **Cabotage** traffic will be kept off the negotiating table.

## Maritime Transport [11 A]

### General features

In 1999 about 70 percent of sea borne trade was accounted for by the carriage of oil, iron ore, coal and grain. There is intense competition among the fleets which often have specialised ships. Among the remaining 30 percent the fastest growing part is container traffic - doubling between 1992 and 1999 - but it still accounts for less than 10 percent of overall shipping ton-miles. Six global alliances accounted for 42 percent of capacity in 1998 and there is plenty of competition. Door to door container service providers are keen on freeing up the various transit legs that constitute multi-modal forms of delivery. Some shipping lines continue with cartel-like actions. For container traffic the inter-modal links with other forms of transport are crucial.

A further important concern relates to the ownership and operation of ports which are still mainly publicly owned.<sup>16</sup> Some ports are privatised and in many more the operations and equipment have been handed over to private firms. Dock worker union sensitivities have played a big role in slowing the pace of liberalisation. However, governments can see that inefficient port services impose a significant cost burden on imports and exports alike, the latter often crucial for economic development.

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<sup>16</sup> However, many specialised ports for gas, oil, ores, cement and coal are privately owned but not open for general trade.

The infrastructure of links with ports for rail and road and for storage and handling capacity are crucial too.

This is an area where liberalisation may be a long time in arriving and the degree conditioned by spending on infrastructure and the power of the stevedoring unions.

#### Situation in Jordan

The Port of Aqaba Corporation is 100 percent publicly owned, and there is a Special Zone Commission, with an independent budget. The port has 23 berths, including specialist berths for bulk phosphate, fertilisers, cement, rice, oil and LPG. It also handles passenger ferries and cruise liners, and has anchorage. There are facilities for repairing ships and containers. There are facilities to recruit and train ship crews.

The Shipping Agents Association has 55 members and is represented on the port board. There is one national shipping line with four ships which will be privatised and sold. Some 20 lines are flag registered. There is a special customs zone for cargo.

The passenger ferries are part-owned with the governments of Egypt and Iraq, and some new ships, speedboats and charter ships are to be purchased. New equipment is being installed for tourism.

Hutchinson run the container terminal. There are some 300 Egyptian stevedores, mainly employed on a daily basis, and not unionised. The permanent port staff are Jordanian and most are members of the Civil Service union.

The government is considering privatisation of the operation of the port.

A full range of maritime services was bound with some detailed limitations, including a 50 percent equity cap. Only pushing and towing services were not inscribed.

### **Air Transport [11 C]**

#### General features

This is a tough sector for the GATS to deal with: at present the core of the industry (ie the so-called hard rights included in the bilateral treaties) is carved out leaving behind a small set of peripheral activities, and there can be problems even with those, such as when air lines and travel agents are forced to use national computer reservation systems facilities. IATA is strongly opposed to ceding action to the GATS.

Air transport combines many of the most difficult issues: public safety demands high standards for the pilots, planes, airport equipment and air traffic controllers. Airport landing slots are a crucial scarce public resource especially at peak times. The general post-war position was one of government ownership of both airlines and airports and of air control. Even in the US there is still a 25 percent equity cap on foreign ownership of airlines. Since the 40s governments have colluded in fixing schedules and prices for their flag carriers in an uncompetitive way that has not served consumers' interests well, creating many hundreds of bilateral agreements. Uncompetitive practices naturally were spawned also for the various ground-based support services such as ground handling, storage, communications, security and so on.

Mergers among airlines and forms of alliance such as code sharing have more recently forced governments to guard against undue dominance on certain routes.

Multilateral liberalisation will depend on the will of governments to dismantle the bilateral agreements in favour of GATS disciplines. Perhaps they could start with air cargo. Public safety will always be paramount, and more airport slots cannot be clutched out of thin air.

#### Situation in Jordan

The market is small and tourism has not materialised in the expected volume. The Royal Jordanian Airline has not been profitable, though the new Royal Wings is better placed.

Ticketing and tourism offices suffer from over-capacity for the diminished demand.

The policy is set towards liberalisation and privatisation. The Royal Jordanian Airline is now a public company, and there is a new Civil Aviation Authority which is reforming the regulations. Soon an airports authority will be created, and the airports privatised, but the government will remain responsible for security and safety. The CAA has divisions for: civil commercial, charters (Jordan Aviation, and one other licensed line), US-Jordan Open Skies, and the master plan being produced by Lewis Berger. PwC is advising the CAA. New regulations are needed for the soft rights which will be liberalised over the coming years.

There is a free zone and a bonded facility. Shops at the airports are owned by Aldeasa of Spain, and a British company owns 80 percent of the Jordan Flight Catering Company with exclusive rights. Some 60 percent of the air freight handled consists of fresh vegetables and flowers.

The GATS bindings covered CRSs, freight forwarding and inspection, and packing, degrading etc with a 50 percent equity cap and some nationality requirements.

### **Rail Transport [11 E]**

#### General features

The principal issues for land transport have already been encountered in other sectors.

#### Situation in Jordan

The Hejaz line is 677 km of narrow gauge (1.05 m) single track, with limited volume capacity.

The monopolistic Aqaba Railway Corporation is loss making, and unable to meet its operational, service and financial requirements. There are no performance targets set. The Aqaba line is dedicated to transporting phosphates from the mines to Aqaba port for the Jordan Phosphate Mining Company. One train of 33 wagons, carrying 43 tons, makes the round trip in 17 hours, including loading and unloading.

There are plans for a few, short light railways in Amman, and to link Zarka to the Iraqi and Syrian borders, and to Aqaba.

## Road Transport [11 F]

### Situation in Jordan

#### Road network

The Ministry of Public Works and Housing is responsible for the construction and maintenance of most of the classified network, and the municipalities, for the roads within their jurisdiction, except the links to the national system. The Ministry of Planning is responsible for the overall development of the transport network. The Ministry of Transport regulates the road transport sub-sector.

#### Public Passenger Transport

The system consists of large and medium-sized buses, and passenger cars. In 1998 there were over 800 buses, about 4,100 passenger cars, 10,500 taxi cabs and 3,500 tourist cars. The public service fleet has an additional 5,800. The majority is privately owned and operated.

The Public Transport Corporation operates 90 bus services daily on 28 routes, with a further 13 routes operated by private firms under contract.

The Jordan Express Tourist Transport Company provides services between the main cities, and caters for tourists. It also operates services to Damascus and Cairo.

#### Goods Transport

There are about 8,000 trucks and 11,000 tankers, with about 80 percent privately owned. They fall into three groups: some 60 percent of the trucks are operated by private owner-drivers, with one or two trucks, though there are a few medium-sized firms. There are just a few firms with over 100 trucks which concentrate on moving heavy loads, such as phosphate. There are two parastatal companies - the Iraq-Jordanian Land Transport Company with about 350 trucks, and the Jordanian-Syrian Land Transport Company with about 400. The Jordanian government has a 50 percent shareholding in both, with the other two governments holding the other 50 percent respectively.

A large majority of firms is based in Amman, with Zarka and Irbid having significant numbers of taxi firms, as well as clearing services.

The pattern of traffic has four main features: from Aqaba to the Free Zones; specialised carriers; domestic transport; and carriage between Jordan, Syria and Iraq.

In Jordan there are new laws for passenger and cargo transport, and on 1 November 2002 a new Commission started work, funded partly from licensing fees and partly by the government.

There are two public companies owned jointly between the governments of Jordan and Syria and Iraq respectively to carry cross-border freight, for which they compete with the private sector. In Jordan all inter-city freight is carried by private firms. Some passenger transport in the cities has been privatised.

There are no toll roads, and a new road law is due out soon.

The following extracts are taken from the report on 'The Transport Industry - Land Transport of Goods', by Aref Al Farra, of June 2002 for AMIR.

Trucking is particularly vital for the following sectors: manufacturing, mining, agriculture, construction, and tourism.

There are about 26,000 vehicles in total for transporting goods, of which 'trucks' comprise half, the others being smaller. Some 85 percent are owned on an individual basis.

Ministry of Transport price controls 'protect' the current overcapacity of trucks, where only some 4,500 are needed to meet the demand, compared with the 13,000 available. Over 4,000 jobs would be lost if free market conditions were introduced. This does not take into account the other 13,000 smaller vehicles.

Other government action is related to the state-owned trucking companies under bilateral agreements with Syria and Iraq, and streamlining of customs and other formalities at border crossings.

Interest groups are weak and are unable to influence official policies in their favour.

Supply is crowded out with small or single operator companies, many being family based, with low professionalism and few resources. Good management and cost accounting in the larger firms is scarce, and implementation of IT low. Employees are of low skills.

Examples of obstacles to business in the transport sector included:

- Public sector red tape
- Non-transparent systems
- Lack of regulatory framework
- Poor infrastructure
- Lack of IT
- Lack of access to capital
- High cost of finance
- Lack of organisation and coordination
- Inefficient public sector performance
- Lack of expertise (human resources)
- Lack of liability insurance cover

Those private sector organisations most directly involved include:

- Jordan Federation Trade Union
- Mechanics and Land Transport Association
- Air Transport and Tourism Association
- Railway Association
- Seaports and Clearance Association
- Amman Chamber of Industry
- Amman Chamber of Commerce
- Customs Clearance Agents
- The International Federation of Freight Forwarders Association

The International Air Transport Association (IATA)  
Maritime Shipping Agents Association  
Multi-modal Transport Operators

#### Customs procedures

Despite recent reforms, there remain inefficiencies causing delay, and no credit facilitation is granted for the collection of customs fees. The routines of inspection involving unloading and loading cause delays of up to two-and-a-half days.

#### Other logistics cluster aspects

Finance: the services for shippers are expensive, cumbersome and awkward for collateral, and there is no credit card service, burdening the providers with financing customer debt.

Telecoms: the system could not cope with any big increase in Internet based transactions.

Fragmentation of government responsibilities: there are problems in the coordination and cooperation between the various institutions, so there is little coherence on transport policy and procedures, resulting in wasteful duplication. The following authorities are involved:

Ministry of the Interior  
Ministry of Finance  
Ministry of Public Works and Housing  
Ministry of Transportation  
Jordanian Ports Corporation  
Aqaba Authority  
Civil Aviation Authority  
Ministry of Industry and Trade  
Free Zones Corporation

Documentation systems need to be upgraded to conform with international standards. A one-stop service for both investment and operational matters is needed, to speed up approvals and day-to-day processing using modern IT methods. The transport pricing chain, starting with sea freight, needs to be more flexible to respond to changing demand and supply conditions in a dynamic, reactive way. This would include port fees, land freight and other costs.

#### Legal appraisal (as existing pre-July 2000)

Lack of a transport law specific to goods, resulting in the traffic law playing that role.

Decision making is split by mode, and between sector authorities.

The competition laws do not clarify the position as between the public and private sector, nor within the private sector.

Prevalence of ad-hoc approach to regulation and institutional problems.

Changes may be needed to comply with the GATS related to border crossing procedures and fees imposed on foreign vehicles.

Monopolies exist for:

Railroad Corporation  
Unified Land Transport company

Arab Bridge Company  
Public Transport Corporation  
Royal Jordanian  
National Maritime Liners

National treatment is accorded to foreign investors under income tax, customs and tariffs and sales tax laws.

The study itemised 44 separate laws applying to the sector, and listed the various bilateral agreements (land: 14; air: 64; maritime 14) and various international conventions to which Jordan is a signatory (land: 1; maritime: 8)

*[To achieve a free market, presumably price control would be removed, and transitional government intervention would have to take the form of purchase and scrapping of the oldest surplus vehicles to release the capital tied up, and unemployment payments and retraining for those put out of work. This presupposes funds for such operations.]*

#### Freight forwarding

A meeting with the Director of the Association of Freight Forwarders and Clearance Agents elicited the following information:

There are probably about 50 large and reliable firms, which are also agents for foreign forwarders, among hundred of small firms. The services of the large firms includes paying the customs duties and fees and recovering the funds later from shippers which carries risk and is costly due to high interest rates charged by banks - his association is pressing the central bank to reduce them. The road transport sector is not very reliable, and it is hoped that the new transport law will increase safety standards.

The new customs system is a big improvement and can be used by the shipping agents and port authorities. Containers can be sent right through to the US, for instance. There is a conformity assessment agreement with the EU for agricultural products, and also next year inspection can be carried out at point of origin. The banks issue letters of credit secured on goods exports, and Jedco grants loans to exporters similarly secured.

The Association of Freight Forwarders and Clearance Agents provides training for employees on the customs system. For legal reasons fax has to be used, not email, and the signed original documents have to be submitted. However, a committee had been formed to work on an Internet based system for customs compliance.

#### Electronic commerce

To quote the author and journalist Thomas Friedman: "Jobs, knowledge use and economic growth will gravitate to those societies that are the most connected, with the most networks and the broadest amount of bandwidth - because these countries will find it easiest to amass, deploy and share knowledge in order to design, invent, manufacture, sell, provide services, communicate, educate and entertain." (p 169 *The Lexus and the Olive Tree*)

It is salutary to realise that the Internet structure that transports vital information is privately owned. This is in contrast to the road and rail systems needed for communications for people,

information and physical goods which started either wholly state-owned or mostly so and often nationalised if not.

Electronic commerce is not a sector of itself, but comprises many inter-locking services, and relies on that physical infrastructure for its 'transport' or distribution. It greatly empowers suppliers, including SMEs, and individual consumers. The main beneficiaries initially are enterprises which can minimise their physical stocks, streamline their supply chains, reduce transposition errors on orders, provide closer customer support and so on.

There is a whole raft of issues that touch on keeping the Internet open for trade, many of them falling outside the remit of the GATS. They include privacy, child morality, taxation, encryption, secure payment systems, jurisdiction for redress and so on. Anything delivered electronically constitutes a service, even if it can be converted into a good at a later stage.

Governments will find it hard to make their laws and taxes for Internet services technologically neutral.

Horizontal issues

### **Access to networks and 'bottleneck' facilities**

The need to assure access to essential network facilities arises in the case of seaport berthing quays and airport landing slots, and in allocating use of the restricted airwave frequencies between the military, social services and private users. Private computer reservation systems and global distribution systems can also be run unfairly unless controlled by the competition authorities, and are important in tourism as they affect package tours, airline schedules, hotel and car bookings, and so on.

### **Public services**

Public service or 'universal service' obligations, are often imposed to offset the disadvantages of rural areas and of poverty: this often occurs with distribution networks such as for transport, telecoms and the utilities.

### **Protection of individual consumers and the general public**

The need for consumer protection arises strongly for health and education as well as for transport, the safety of built structures, professional and financial services. Professional services can also be closely involved with energy utilities and environmental controls, to underpin sustainable development.

Statistics

At the Central Bank of Jordan, the BOP section still compile their IMF returns based on BPM4, but plan to advance to BPM5 over the next two or three years, if a long-term placement of someone from the IMF can be funded. Standard IMF survey forms are sent to the banks each month, and visits often have to be made to assist with their completion, though the Central Bank has little resources for this. The reality on the ground, when ascertained, tends to be different from the returns by a factor of three or four. No disaggregation is published on the 'Other services' category, with much of it being estimated in broad terms.

A new committee was set up recently to study FDI recording, which consists of representatives of the Central Bank, MIT, Jordan Investment Promotion Board, and the Department of Statistics. The DoS carries out annual surveys of services firms. The smallest firms are only required to fill out a simpler return, though the threshold is varied depending on the sector.

The Central Bank carried out a travellers survey in 1998 to estimate the amount spent by outward and inward travellers. This enabled some elements of the BOP to be estimated such as the lines for tourism, health, business services, in addition to storage and handling and insurance which are estimated from the cif/fob data. The outward expenditure on education was not reliable because the category is probably used as cover for commercial activities to avoid tax. It is not yet possible to provide a disaggregation of the usual IMF broad category 'Other services'.

An expert from the US Bureau of Census had advised the Jordanian authorities on setting up further questionnaires.

The Central Bank had looked at the draft of the recently published Manual on Statistics of International Trade in Services and had sent in comments. It can be downloaded from the UNSD, WTO and OECD websites. No plans had been made to implement its recommendations.

## Annex 8: The Jordan-EU Association Agreement: Services

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Title III of the Agreement covers the '**Right of establishment and services**'

**Chapter 1** covers the 'Right of establishment' and comprises Articles 30-36. The movement of natural persons is included in these provisions.

Article 30 Establishment The provisions of this article do not apply to air, inland waterways and maritime transport, though an exception is provided in Article 31 for some maritime related services. (Note that at present there is no inland waterway).

The article grants MFN treatment for the establishment in the EU of Jordanian companies, and national treatment for the subsidiaries of Jordanian companies, except in the audio-visual, telecoms and news agency service sectors, and the purchase of real estate. MFN is also granted to the branches of Jordanian companies other than in these sectors.

Article 31 relates to certain listed shipping agency services and provides for both MFN and national treatment for subsidiaries and branches. These include marketing and sales of transport services and their purchase and use, freight forwarding activities, and the provision of business information.

Article 32 defines the key terms, including subsidiary, branch, establishment, operation, national and so on. In the case of international maritime transport shipping companies, those established outside the EU and Jordan controlled by their nationals can benefit, if the vessels are registered under the respective legislation.

Article 33 provides for a 'standstill' so that companies will not be subjected to more restrictive measures. However, where any situations envisaged with respect to this article are covered by the GATS, only the treatment bound under the GATS applies.

Article 34 covers the movement of natural persons. Certain key intra-corporate transferees are permitted to work temporarily in companies, subsidiaries and branches, subject to the legislation in force in the host country of establishment. These personnel have to have been employed for at least one year immediately preceding the transfer. They include directors, senior managers and supervisors, and persons with essential knowledge and appropriately qualified, including membership of an accredited profession.

Article 35 provides that later on the issue of mutual recognition agreements will be considered, so as to make it easier to exercise regulated professional activities.

Article 36 foresees that national legislation may have to make a distinction for branches, on grounds of legal, technical or prudential requirements.

**Chapter 2** covers the 'Cross-border supply of services' and comprises Articles 37-39

Article 37 envisages progressive cross-border supply, under a 'best endeavours' provision.

Article 38 provides that cross-border supply of transport services will only be permitted under the conditions of future specific agreements.

Article 39 contains provisions related to maritime transport, and also provide for national treatment for ships with respect to access to ports and the use of infrastructure (including the assignment of berths and facilities for loading and unloading) and auxiliary port services, and for fees and charges, and customs facilities.

**Chapter 3** covers 'General Provisions' and comprises Articles 40-47, all of which condition the supply of services and services providers.

**40:** envisages eventually the establishment of an 'economic integration agreement' as defined in GATS Article V.

**41:** list general exceptions, including activities connected with the 'exercise of official authority'.

**42:** provides that laws and regulations for entry, stay, work, labour conditions and establishment of natural persons and supply of services may be applied, but not so as to nullify or impair the benefits of specific provisions, though without prejudice to 41.

**43:** includes provisions that apply to companies, whether exclusively or jointly owned and controlled

**44:** states that reciprocal treatment shall not be more favourable than that accorded under the GATS

**45:** makes an exception for economic integration agreements under GATS Article V

**46:** contains the prudential exception with wording essentially the same as Para 2 (a) and (b) of the GATS Annex on Financial Services

**47:** allows measures to prevent third party access through the Agreement's provisions

Title IV covers 'Payments, capital movements and other economic matters' and comprises Articles 48-52.

Article 48 provides for current payments free of restrictions where connected with the movement of goods, services and capital within the framework of the Agreement, and Article 49 similarly provides for no restrictions on the movement of capital, though the outflow of capital from Jordan other than direct investment are subject to prevailing laws in Jordan; and envisages complete liberalisation of capital movements eventually.

Article 50 'grandfathers' existing restrictions on the movement of capital involving direct investment, including for real estate and establishment.

Article 51 allows safeguard action for capital movements which 'cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy', if in conformity with GATS and IMF conditions.

Article 51 allows similarly for serious balance of payments difficulties, if in conformity with the GATT and IMF conditions.

## ANNEX 9: GATS Commitments Made by Mid-2000

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The following are extracts from a WTO comparative study of commitments bound under the GATS by the middle of 2000<sup>17</sup>:

“ .. the levels of commitments undertaken in the Uruguay Round were generally rather modest, both in terms of the number of sectors included in many schedules and of the quality of bindings in relevant modes of supply. [ ] most commitments appear to have been confined to binding the status quo, rather than expanding already existing access opportunities. In many cases, the level of access guaranteed by commitments was lower than that provided *de facto*.”

The study found that as at June 2000, out of the 160 services sub-sectors in the GATS sectoral classification list, “about one third of the WTO Members have committed on 20 sectors or less, one-third on between 21 and 60, and the remaining third by more than 61 sub-sectors. On average across all schedules, a ‘typical’ WTO Member has undertaken commitments on slightly more than 25 sub-sectors, thus covering about 15 percent of the total.” However, this reveals nothing about the quality of the coverage in terms of modes of supply and relative restrictiveness of the conditions and limitations imposed on access and operation.

“More than 90 percent of WTO Members included at least one sub-sector of tourism in their schedules.” The second highest sector was financial services, and the fourth, telecoms, reflecting the results of the extended negotiations concluded in 1997. Business services came third. The sectors with least commitments were distribution, health and education in descending order. Most of the OECD countries held back on making commitments in education, health and social services, and some on maritime and audio-visual services.

The “bindings undertaken for mode 2 [consumption abroad] are significantly more liberal than those for other modes, and [the] bindings on mode 4 are the least liberal of all. [ ] the share of unlimited commitments on mode 4 is close to nil. [ ] It is interesting to note in this context that the level of bindings for individual modes does not differ significantly between developed economies on the one hand and developing and transition economies on the other [ ] there is no evidence that developing countries have found it easier to make commitments under this mode than their developed partners.”

“Cross-border supply (mode 1) and commercial presence (mode 3) are generally considered to be the economically most important modes.” In mode 1 the number of both non-bindings and full bindings are higher than in mode 3 in each case. This reflects the likelihood that “governments may not have wished to guarantee access for services over which they could exercise no regulatory control.” Many of the mode 3 bindings were made to attract foreign direct investment, and the limitations and restrictions merely reveals that most of the infrastructure and business services are regulated, some of them highly so.

Nine countries joined the WTO between the end of the Uruguay Round and mid-2000, and their GATS schedules had to be negotiated before accession, six of them being “transition economies, which had long operated under state-trading regimes. While, from a trade policy perspective, there may not be many commonalities between these countries, one feature stands out: all have assumed higher level commitments, in terms of sectors included, than current Members at comparable levels of development.” This reflects that they were under strong negotiating pressure one at a time, and had indicated they wanted to join, whereas during the Uruguay Round few “schedules were subjected to detailed examination, still less negotiation, by trading partners.”

Jordan's initial offer should reflect its priorities for trade and investment, rather than likely reciprocal bargaining pressures. The latter might, however, have to be reflected somewhat in the final bound offers at the end of the negotiations..

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<sup>17</sup> ‘Market Access: unfinished business’, Special Studies 6, WTO, 2001