



Palestine Economic Policy Research Institute

A Critical Review of the Draft Palestinian Chambers of Commerce, Industry and Agriculture Law

**Basim Makhool
Nasr Atyani
Shaker Khalil**

September 2004

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MAS is dedicated to producing sound and innovative policy research, relevant to economic and social development in Palestine, with the aim of assisting policy-makers and fostering public participation in the formulation of economic and social policies.

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- ♦ Promoting knowledge-based policy formulation by conducting economic and social policy research in accordance with the expressed priorities and needs of decision-makers.
- ♦ Evaluating economic and social policies and their impact at different levels for correction and review of existing policies.
- ♦ Providing a forum for free, open and democratic public debate among all stakeholders on the socio-economic policy-making process.
- ♦ Disseminating up-to-date socio-economic information and research results.
- ♦ Providing technical support and expert advice to PNA bodies, the private sector, and NGOs to enhance their engagement and participation in policy formulation.
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Introduction

The Palestine Economic Policy Research Institute (MAS) is proud to announce the release of its analytical study of the draft Chambers of Commerce, Industry and Agriculture law, for the benefit of Palestinian Legislators, Boards of Directors of Chambers of Commerce, private-sector business owners, and the Palestinian citizen in general. The purpose of this study is to promote knowledge and enhance general debate over the details of the draft law, to involve the largest possible participation in discussing it in order that it can be developed before its approval by the Legislative Council.

This study focuses on examining the function of the law in assisting the developing role of the chambers of commerce, these significant non-profit organisations which provide such valuable services to the Palestinian private sector. The study also examines if this law helps to boost the level of participation of Chambers of Commerce in formulating policies, legislation and regulations which aid and stimulate the creation of a suitable competitive environment where the capabilities of the Palestinian private sector can best be harnessed. In addition, this study seeks to ensure the quality of the scripts and check their compatibility with other laws.

While we issue this study to address the above questions, we would like to stress the independency of MAS and the objectivity of its analytical position. MAS's interest is in the release a modern and balanced law that is both clear and transparent, maintaining the required autonomy of the chambers of commerce and enhancing their mission to serve the Palestinian private sector within and outside Palestine.

We would like to thank the Chamber of Commerce of Ramallah and its Board of Directors that have participated in discussing this law, both in writing and in person. We thank fellow colleagues that have contributed to the general debate on the law. We also thank Doctor Ghassan Omar, Al-Najah University, and Mr. Salah Al-Odeh, the Director of the Chamber of Commerce, Industry and Agriculture of Ramallah, who have reviewed the study and presented their commentary. In addition our thanks go to the researchers who have undertaken a comprehensive analysis of the law.

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Dr. Samir Abdullah
Director General

Abstract

The Palestine Economic Policy Research Institute (MAS)'s mission is to assist Palestinian government and non-government decision-makers to evaluate different alternatives and strategies, designed to push forward the development process and reinforce opportunities for sustainable development. MAS serves these two ends by evaluating and enhancing relevant development policies through a legal framework. Realizing the importance of these policies and laws, MAS has been involved in critical and analytical reviews of draft economic and social legislation tabled for the Palestinian Legislative Council (PLC) to approve. MAS is keen to provide the PLC and its specialized committees with technical assistance to help them in the discussion and approval of these draft laws.

This critical study, the ninth such so far conducted by MAS, is devoted to the draft Palestinian Chambers of Commerce, Industry and Agriculture law. The study aims at contributing to the development of this law, thus strengthening the legal framework in the Palestinian Territories and creating a legally-conducive investment environment. The study dwells on the importance of an effective Palestinian chamber of commerce law in contributing to the creation of a legal environment that encourages the private sector to play a more effective role in the economic development process.

In line with international interest in private sector development, and realizing the important and effective role this sector plays in economic development and the building process, the Palestinian National Authority has devoted a lot of effort to dealing with the legal rigidities left by the Israeli military occupation. Its executive and legislative authorities have conducted evaluations of the legal structure governing the economic, social and political sectors in the West Bank and Gaza Strip. These combined efforts are aimed at identifying and protecting parts of the existing structure while developing and improving it to serve the Palestinian interest, laying good foundations for future building and development.

At present there are twelve chambers of commerce in the Palestinian areas, including East Jerusalem, as well as the General Federation of Chambers of Commerce headquartered in Jerusalem. There are also joint chambers of commerce with foreign countries. Membership of Palestinian chambers of commerce rose from 9,900 in 1990 to 40,000 in 2003.

The chambers of commerce provide general services to their members. These include helping to improve their competitive advantages, the expansion of their market share in local, regional and international markets through opening new marketing horizons, holding trade exhibitions in different places, and conducting seminars and training courses. In addition, these chambers provide information on the general business and social environment surrounding the private sector. While delivering these services, however, these chambers face a number of difficulties and challenges in the scope of their work. Legal, financial and performance problems have all weakened these chambers' effectiveness and their capability to serve the private sector in the Palestinian Territories.

There are two basic models of chambers of commerce, industry and agriculture in the countries of the world.

A. European Model

Originating in France in the Middle Ages, this model spread to other countries in Europe such as Italy and Germany and has recently been adopted by Hungary and Slovenia. This model, established on the basis of public law, has two characteristics. First, membership is compulsory. Second, as a result of this, it faces no difficulties in financing.

B. Anglo-Saxon Model

This model, originating in the United Kingdom and introduced to its former colonies, is not subject to a public law like the European model; rather it has its own regulations and is considered a 'union'. Given the voluntary nature of participation, the model faces financial difficulties as a result of low membership.

Legal and administrative references governing Chambers of Commerce, Industry and Agriculture in the Palestinian Territories

Prior to 1967, Chambers of Commerce Law #40 of 1954 applied to the Gaza Strip, while the West Bank was governed by Chambers of Commerce Law #58 of 1961, issued according to Article VII of Chambers of Commerce Law #41 of 1949 (Jordan). Also effective was Law #11 of 1953, passed by the Hashemite Kingdom of Jordan, which stipulated that Chambers of Commerce and Industry Law #41 of 1949 and all articles relevant to it be effective in the West Bank. Later, this law was amended by Temporary Law #21 of 1949.

After 1967 several Israeli military orders were issued by the military governor of the West Bank and the Gaza Strip. The Israeli military

occupation authorities also amended and exploited clauses and articles in the existing Chambers of Commerce Law in the Gaza Strip. For example, the military governor gave himself the right to appoint one quarter of a chamber of commerce's members.

Summary of the Palestinian Chambers of Commerce Draft Law

The Palestinian Chambers of Commerce, Industry and Agriculture draft law consists of 25 articles. These tackle the procedures for establishing chambers of commerce, membership rules, the formation of boards of directors, the election-holding process, the location of these chambers in the Palestinian governorates, and possibility of opening branch offices in certain population concentration centers. The law also specifies and elaborates on activities which the chamber may not practice or carry out.

Critical Remarks on the Chambers of Commerce, Industry and Agriculture Draft Law

It is clear from the draft law that the Palestinian National Authority (PNA) has fully realized the importance of establishing chambers of commerce, industry and agriculture, and the necessity of an up-to-date law governing their operation, enabling them to serve the private sector in a way that also benefits the entire process of Palestinian economic and social development. The draft law includes the basic elements of universally-accepted chambers of commerce laws. However, it fails to tackle basic and substantial issues such as granting broad powers to the National Economy Minister. It excludes some important definitions, membership rules of chambers of commerce and their boards of directors, the board's duties, etc. Also, the draft law neglects key issues related to the formation and role of a federation of chambers.

The Draft Law's ability to enhance the role of Chambers of Commerce

In the light of the critical review of the current draft law, it was found that there are several weak aspects and major omissions. It is vitally important to develop chambers of commerce-related legislation which enables them to perform their missions properly. There is also a need to expand their scope to encourage their more effective participation in studying and drafting laws affecting the private sector, policies designed to enhance its competitive edge and reinforce its presence in local, regional and international markets.

Furthermore, the passing of even the most appropriate law is not enough on its own to improve the performance of chambers of commerce. It is necessary to develop technical cadres in these chambers to modify and improve their performance in providing services, in a way that makes it possible for the private sector to play a more effective role in the economic development process.

To this end it is also vital to strengthen ties and channels of communication between chambers of commerce, state institutions and international NGOs, to serve society and the economy as a whole.