

The Impact of the  
Commercial Agents Law  
on Private Sector Competitiveness



PALESTINE ECONOMIC POLICY RESEARCH INSTITUTE

2007



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Palestine Economic Policy Research Institute

## **The Impact of the Commercial Agents Law on Private Sector Competitiveness**

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P.O. Box 19111, Jerusalem and P.O. Box 2426, Ramallah  
Tel: ++972-2-2987053/4, Fax: ++972-2-2987055, e-mail: [info@pal-econ.org](mailto:info@pal-econ.org)  
Web Site : <http://www.pal-econ.org>



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This study was prepared by Palestine Economic Policy Research Institute-MAS research team, particularly by the following researchers:

**Researcher:** Ibrahim Hantash, Associate Researcher, MAS

**Supervisor:** Awad Mataria, Assistant Professor, Institute of Community & Public Health, Birzeit University.

**Reviewers:** Dr. Ghassan Faramand, Professor of Law, Birzeit University  
Mr. Salah Al-Odeh, Director of the Chamber of Commerce & Industry, Ramallah-Al-Bireh

**Editorial Assistants:** Dr. Wael Abu Saleh (Arabic)

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## FOREWORD

MAS presents this study as a part of a comprehensive programme with the International Development Research Centre (IDRC), Canada, which aims to improve the competitiveness of the Palestinian private sector. This particular paper is an evaluation of the application of the Palestinian Commercial Agents Law (2000), which sets out the legal framework for agents acting in Palestine on behalf of other companies.

The goal of the study was examine to the effects of the implementation of the Law on the Palestinian commercial sector, and explore its potential for increasing competitiveness. The research identified several apparent limitations in the legislation, including the lack of satisfactory insurance provision for trade agents and the insufficiency of bylaws regulating the performance of institutions responsible for the implementation of the law. It also noted the absence of appropriate judicial mechanisms capable of examining cases and settling disputes.

This study suggested several changes and additions to clauses in the Law, which would help to clarify bylaws regarding sanctions, registration procedures, and the termination of agency agreements. It also featured recommendations for developing implementation mechanisms, setting out the roles of the parties involved, including the judicial system.

On the occasion of its publication, I would like to thank the research team for the great effort they put into preparing this study. I would also like to thank all the individuals and organisations who met with the team and so valuably contributed to the research with their expertise. Likewise, my thanks go to all of those who participated in the workshop held to discuss the study, whose notes and observations enhanced its recommendations. Finally, I would like to express my gratitude to our partners at the IDRC for their continued support for MAS's research activities, of which this study is the latest example.

Dr. Samir Abdullah  
Director General



## Executive Summary

A sound legal environment is an important determinant of competitiveness, encouraging economic activity by properly regulating it. The Commercial Agents Law, ratified in the year 2000, is considered a key element of this, governing the relationship between firms and the agents they employ in Palestine to represent them. This study's goal was to evaluate the effects of this legislation, and if necessary recommend adjustments to it.

Through canvassing the different opinions of the main stakeholders, and reviewing the experiences of other countries with similar legislation, the study reached several important conclusions about the Law and its implementation. Some of the most important can be summed up as follows:

- ✧ In the countries used for comparison purposes, the legal framework regulating commercial agency agreements was better developed than in Palestine. Laws in other countries were clearer, and also covered many important factors that were not taken into account by Palestinian legislators. These include procedures for agency registration and dissolution, and compensation and fines in cases where the law is broken.
- ✧ External factors caused by the Israeli occupation policies have been detrimental to the success of Palestinian commercial agents. These include damage to civil and security infrastructure, weakening the ability of institutions to inspect and regulate the market, and the loss of market share to goods smuggled from Israel.
- ✧ Many internal factors also contributed to reducing the ability of the law to make a positive difference to commercial activity. For instance, there was no dedicated department established to monitor commercial agency issues, and there was a lack of skilled human capital to carry out tasks assigned by the Law. Furthermore, the Palestinian judicial system is weak, and has a massive backlog of cases to deal with.
- ✧ The opinions of the various stakeholders affected by the Law varied according to their position. Commercial agents themselves felt that the Law in its current state does not provide enough safeguards for them

to work effectively and make use of their agency agreements, whereas local producers said that the legislation does contain appropriate guarantees, and that the only thing limiting the effectiveness of the law is the difficulty in implementing it. Some interviewees believed that the Law would allow for a much wider choice of goods available to consumers, which would put pressure on local producers to improve their competitiveness.

As a result of the research, the study featured a number of recommendations to improve the impact of the Law. Some of the most important are summarized below:

**First: Recommendations for adjustments to the Law:**

- ✧ The inclusion of important definitions, such as ones regarding employees specialised in registering commercial agencies.
- ✧ The insertion of a clause dealing with cases where the Ministry is able to de-register agencies, after providing a reason for doing so.
- ✧ The adjustment of Articles regarding agency registration, whereby applicants are informed if their application is refused.
- ✧ The expansion of Article (22), which deals with punishments. A separate clause needs to be introduced to clarify the subject of fines and sanctions for those who break the law.
- ✧ The addition of a clause to deal with goods that are prohibited from being sold through agents, such as weapons, narcotics and natural resources.
- ✧ The addition of a clause requiring agents to report the termination of their work.

**Second: Recommendations to improve implementation mechanisms**

- ✧ Establishing an independent body that specialises in the management of issues relating to commercial agents, and finding capable employees to run it.
- ✧ Activating customs and inspection bodies belonging to the Ministry of National Economy, and providing their members with greater powers.
- ✧ Employing more judges and judicial employees to increase the number of cases that can be brought before the courts.
- ✧ Ensuring government policies (especially those regarding trade and taxation) are coordinated so as to reduce contradictory signals and improve the investment environment in Palestine.