



Palestine Economic Policy Research Institute (MAS)

# **Review of Draft Law of Micro, Small and Medium Enterprises**

Mohammad Khalifa

**2009**



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### **Strategic Objectives**

- ◆ 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.
- ◆ Strengthening economic and social policy research capabilities and resources in Palestine.

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Palestine Economic Policy Research Institute (MAS)  
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## **Foreword**

In October 2008, the Palestine Economic Policy Research Institute (MAS), in conjunction with the International Development Research Center-Canada (IRDC), began a two year Research Programme on Micro, Small, Medium Enterprises (MSMEs) in the Palestinian Territories. The programme aims to examine the state of MSMEs and evaluate their role in the Palestinian economy in terms of valued added, employment and export. In doing so, the Programme seeks to highlight possible problems confronting MSMEs and to recommend measures that would create a more enabling environment for development.

At the beginning of 2009, MAS produced three studies in connection with this programme: “Evaluation of the Legal Environment of Micro, Small, and Medium Enterprises in Palestine”, “International Experiences in Supporting MSMEs: Lessons for Palestine”, and "Problems of Micro, Small, and Medium Enterprises in Palestine”.

In this intermediary phase of the programme, MAS is publishing four additional studies: “Enabling Palestinian Micro, Small and Medium Enterprises to Meet International Product Standards”, “Irrigated Agriculture as Business Enterprise in Palestine”, “Marketing Products of Palestinian Micro, Small and Medium Enterprises”, and “Review of Draft Law of Micro, Small and Medium Enterprises”.

MAS’s interest in MSMEs is based on an understanding that they are the foundation of the Palestinian private sector, as reflected by their contribution to employment, output and export. The future of MSMEs remains inextricably linked to the quality of life in the Palestinian Territories. Research into this sector and analysis of current problems will aide policymakers in their efforts to help foster a more conducive environment for MSMEs to flourish and stimulate further growth.

I, on behalf of MAS, would like to express my gratitude to the IDRC-Canada for funding this Research Programme.

**Numan Kanafani**  
**Director General**



## **Executive Summary**

This study aims to evaluate the draft proposed law on Small and Medium Enterprises, prepared by the Palestinian Ministry of National Economy, in order to identify its strengths and weaknesses and to put forward recommendations to improve the draft into a comprehensive law covering all required articles for the cost-effective, smooth regulation of Micro, Small and Medium Enterprises (MSMEs).

To achieve this goal, a review of the theoretical framework looking at the effects of laws upon MSMEs has been carried out. A comparison has also been made of the articles of the draft law with articles in related laws and a further comparison made with similar laws in other countries. Furthermore, a number of interviews with MSMEs experts have been conducted alongside a specialized workshop attended by researchers, law makers, and representatives of parties concerned with MSMEs.

Previous studies have emphasized the fact that the legal environment is an essential determinant affecting the performance of MSMEs. The present study proposes not to select the option of amending all existing laws by the Palestinian Authority (PA) to improve the legal environment for the MSMEs, but rather to design and apply a special law regulating all aspects of MSME operations.

A comparison has been undertaken between the articles of the proposed law and other relevant economic laws including the 'Palestinian Banking Law', 'Industrial Estates and Industrial Free Zones Law', 'the Standards and Measurements Law', 'Labour Law', 'Corporation Law', 'Commercial Laws', 'Formation of Regular Court Law', 'Tax Laws', and 'Investment Promotion Law'. This aims to ensure both the compatibility of the proposed law with these existing laws, and the potential contribution of the proposed law to regulate MSMEs.

The study compares the articles of the draft law on MSMEs with similar laws in Egypt, Algeria, India, Japan, the Philippines, and other countries in order to identify the most suitable and effective formulation.

The evaluation of the draft law from an economic perspective is carried out on basis of the following six criteria; 'the scope for the application of the law and the definition of MSMEs', 'the MSMEs supervising body', 'the financing of MSMEs', 'the incentives and concessions awarded for

MSMEs’, and ‘the MSMEs supporter services’. As a result, the study concludes that the enactment of a law to regulate the work of MSMEs in the Palestinian Territories is crucial for encouraging them and enhances their role in increasing production and employment. However amendments to some basic articles in the draft law are necessary to ensure the effectiveness of the proposed law. The required amendments include the following.

- ✧ It is important to re-write the Law to clarify the goals of the MSMEs Authority and its duties as well as to specify all the administrative rules which regulates its work and the work of its Board of Directors.
- ✧ Some extra essential duties for the Board of Directors and MSMEs Authority should also be added to the articles of the law: a) to help creating the necessary infrastructure to aid the MSMEs in their work and provide a supportive environment that allows the MSMEs to develop, b) to provide legal consultancy and assistance to the micro and small enterprises. This is crucial for MSMEs to avoid legal complications and to benefit from available legal concessions. c) to assist private sector institutions that sponsors the interests of the MSMEs such as Chambers of Commerce and research centers.
- ✧ The draft law should clarify where and how all matter of company registrations and other administrative matters related to the establishment and work of the MSMEs should take place. All complications and bureaucratic procedures should be simplified and should take place, as much as possible, in one single office.
- ✧ The Board of Directors should aim to establish such an all encompassing office in every governorate in the Palestinian Territories in order reduce paper work to the minimum and make it easy for owners and business people to move forward as fast as possible.
- ✧ The tax holiday incentives for the MSMEs ought not be less that those provided for larger companies in the “Law on the Encouragement of Investment in Palestine”.
- ✧ There are a number of incentives that can be provided to the MSMEs, and are provided to the MSMEs in other countries, which the current draft law does not address in a sufficient manner. These include the following: a) Encouraging the government to develop the research into technologies related to innovative services and products. b) the need for the government to play a more active role in “business incubating”

especially with regard to project start-ups, as well as the role of public institutions in R&D and dissemination of entrepreneur culture. c) the need for government to encourage cooperatives and close cooperation among MSMEs as well as value-chains between MSMEs and larger industrial and commercial companies. d) the need to furnish the ground for the creation of industrial clusters in areas with special social and/or economic importance.

- ✧ Attention should also be paid to a number of matters after the law is being accepted and ratifies, the most important of which the need to swiftly formulate and adopt the rules and regulations (explanatory documents) of the law which are necessary for the actual application and enforcement of the law.