



Palestine Economic Policy Research Institute (MAS)

**Assessing the Legal Framework
of the Palestinian Standards
and Measures, and its Compliance
with the WTO Requirements**

Dr. Isam Abdeen

2010



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The Palestine Economic Policy Research Institute (MAS)

Founded in Jerusalem in 1994 as an independent, non-profit institution to contribute to the policy-making process by conducting economic and social policy research. MAS is governed by a Board of Trustees consisting of prominent academics, businessmen and distinguished personalities from Palestine and the Arab Countries.

Mission

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.

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)
Jerusalem and Ramallah

Foreword

In the year 2000, the Palestinian National Authority (PNA) adopted “*The Law of Palestinian Specifications and Standards (No.6)*”. The legislation came in response to an increasing need to develop a monitoring system for the specifications and standards of Palestinian products. This was the first step on the road to raising production standards and improving the quality of local products in order to enhance the competitiveness of domestic industry and increase penetration into international markets. In the wake of the ratification of the *Specification and Standards* law, the Palestinian Standards Institution (PSI) was established and assigned the task of enforcing the Standards specified by the new legal framework.

In light of the PNA’s efforts to obtain World Trade Organization (WTO) membership, the PSI is keen to improve and modify the law in order to bring it into line with the requirements of international trading standards. As a consequence, the PSI requested the Palestine Economic Research Institute (MAS) that it conduct an evaluation of the law in order to identify its’ limitations as well as any institutional or legal conflicts and overlaps that may have occurred or emerged during the first decade of the law’s application. Most importantly, however, the following study endeavors to identify those areas in which the current law does not meet the requirements of WTO membership.

I would like to thank all those who contributed to the completion of this study and extend my gratitude to the Minister of National Economy and his team for their valuable participation. In addition, I would like to thank the management of the PSI, for providing the research team with the needed information and for their cooperation. Finally, I would like to thank the International Development Research Centre (IDRC) for their generous support. This represents the 11th study that MAS and the IDRC have successfully completed within the framework of the *SME’s Enabling and Development Policies Researchers Program*.

Dr. Samir Abdullah
Director General

Executive Summary

In seeking to join the World Trade Organization (WTO), the Palestinian Authority is attempting to assert in its legislation the importance of complying with the organization's standards. In doing so, the PA is facing the huge challenge of conforming its internal laws and legislations to a list of obligatory international trade agreements and conventions. In addition, the PA is also facing the challenge of solving the predicaments present in the Palestinian Specifications and Measures Law which includes dealing with all aspects of contradiction with other related Palestinian laws; this in turn will pave the way for the PA to join the WTO.

This study aims to review the Palestinian Specifications and Measures Law No. 6 (2000) along with its amendments, regulations and instructions. In addition, it aims to analyze the law's strengths and weaknesses, to draft amendment proposals to enhance its legal framework and to deal with its predicaments in a manner that fits within the related Palestinian laws and also conforms to the current international standards and trends, while also complying to the general framework of the Palestinian Standards Institution's (PSI) new strategy for the years 2010-2013.

This study argues that the Palestinian legislator, while drafting the Palestinian Specifications and Measures Law and other related laws, ignored the main goals of the WTO's conventions, in particular Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS). This includes the necessity of enacting clear rules, provisions, and legal procedures that guarantee honoring rights and reciprocal obligations, adhering to good practice principles, risk assessment procedures, procedures transparency, protecting foreign importers interests, as well as avoiding setting a criteria for imported goods that may create unnecessary barriers for international trade, while insuring that the criteria of production, health and testing complies with international trends and practices. This in turn will have very harsh consequences for the Palestinian side in the process of future negotiations to join the WTO.

One of the major findings of this study was that the lack of a clear, coherent legislative plan subject to assessment and review contributed directly to the deficiency in the Palestinian Standards Law as well as to the overlap with other related laws such as: Consumer Protection Law, Public Health Law, Agriculture Law, Environment Law, Labeling and Control of

Precious Metals Law. This led the Palestinian legislator to overlook the requirements of joining the WTO. In particular, it was overlooked that the TBT stressed in its third Annex about “Good Practices Principles” the importance of exerting all efforts to avoid the overlap of authorities and tasks between the standards institution and other relevant bodies.

The Specifications and Measures Law neglected the fact that the obligatory technical instructions must not be set in a way that might create unnecessary barriers to international trade, while taking possible risks into account. The law also failed to stress the importance of complying with “Good Practices Principles” in the process of preparing and implementing the standards. All of this is extremely critical in order to join the WTO.

Also, the Specifications and Measures Law left the control and inspection mechanism vague by transferring it to an act that has not yet been issued by the Cabinet. In addition, the law contributed to the sharp shortage of financial resources of the PSI through depriving it of the revenues it generates. Moreover, the law granted the authority of licensing laboratories to the PSI, contrary to international trends.

The study recommends that a clear and coherent legislative plan be implemented gradually and aims to resolve all aspects of deficiency in the Specifications and Measures Law and to conform it to other related laws, as well as to international trends and practices represented by WTO’s conventions.

The study also recommends to work on developing the independence of the PSI administratively, financially, and regulatory. This follows the international trends that stem from the fact that the institution needs experts, specialists, and equipment capable of marketing itself locally and internationally, and also capable of designing economic policies, achieving development and encouraging investment.

Furthermore, the study suggests that efforts should be directed towards solving the imperfections caused by the absence of authorized bodies responsible for control and inspection. Further efforts should be directed towards adopting the recommendations of the TBT regarding preparing standards, obligatory technical instructions and compliance assessment procedures.

The study also recommends setting rules to coordinate with international bodies through establishing a comprehensive information center within the

PSI. This center will be responsible for the exchange of information and providing answers for all inquiries related to specifications, measures, and technical instructions in accordance with the TBT and SPS. It also recommends establishing a national center for licensing laboratories that is totally separated from the PSI.

The study stresses that ministries and governmental bodies must fully coordinate with the PSI in issues related to the PSI's specialization and field of work. Also, that they must work with the PSI to remove all legal and technical obstacles that limit the efficiency of the institution, affect the economic performance, and harm future efforts to join the WTO.