



Country Update

Investment Facilitation: Snapshot of Jordan's Readiness in Key Areas

By Ely Kanene and Julien Grollier

Introduction

International investment rulemaking is so far characterised by a complex network of international investment agreements (IIAs) and investment chapters in trade agreements. So far, most IIAs have focused on liberalising market access, as well as investment protection and/or promotion. More limited consideration has been given to provisions aimed at facilitating investments, such as establishing single windows, streamlining administrative procedures, providing aftercare services for investors etc.

At the global level, considering that the Agreement on Trade-related Investment Measures (TRIPS) only applies to goods, few other investment-related rules exist in the WTO's legal architecture save for the General Agreement on Trade in Services (GATS) disciplines on commercial presence.

More recently, however, some WTO Members decided after 2017 to start negotiations towards developing a Multilateral Framework on Investment Facilitation for Development with the following objectives: (i) improve the transparency and predictability of investment measures; (ii) streamline and speed up administrative procedures and requirements; and (iii) enhance international cooperation, information sharing, the exchange of best practices, and relations with relevant stakeholders, including dispute prevention.

Since the start of the talks, the group has made clear that: (i) the framework would be meant to enshrine governments' right "to regulate in order to meet their policy objectives"; (ii) would be "flexible, adaptable, and responsive" over time; and (iii) will exclude from its scope the areas of market access, investment protection, and investor–state dispute settlement.

Over the past few years, this Joint Statement Initiative (JSI) has gained traction, now comprising 106 members as listed in Annex 1. Jordan is so far not a participant in the initiative.

Paper objectives

This country update provides a snapshot of Jordan's policy readiness against some of the main measures being currently considered by some WTO members towards a Multilateral Investment Facilitation for Development Agreement. The analysis aims to help inform the Jordanian government as it weighs whether or not to join the talks. Currently, negotiations among over 100 members are fast progressing towards a substantive outcome at this year's 12th WTO Ministerial Conference.

Investment Facilitation in Jordan: A Snapshot

According to the World Bank's Doing Business 2020 ranking, Jordan has jumped a record-breaking 29 places, now ranking 75th among 190 economies for ease of doing business.¹ This is a significant improvement since it ranked 117th in 2015.² Jordan was the fifth largest recipient of FDI flows in the Middle East and North Africa (MENA) area in 2017, trailing Egypt (41%), Oman (16%), Morocco (15%), and Lebanon (14%).³ Jordan's FDI flows totalled 5% of its GDP in 2017.

For several years however, the region has experienced a series of economic shocks that harmed trade and investment flows. By October 2019, Jordan's foreign direct investment (FDI) had dropped 67% from its 2017 level.⁴ In addition, Jordan's economy shrank by 1.6% in 2020, partly because of the impacts of the COVID-19 pandemic.⁵

According to Bataineh et al. (2020), the attractiveness of Jordan as a FDI destination is declining, owing to factors such as, *inter alia*, small market and labour force, insufficient infrastructure developments, deteriorated logistics performance, transfer restriction risks, geopolitical tensions in the region and low level of technology adoption and innovation.⁶ This notwithstanding, the same study identifies a number of other factors positively influencing Jordan's attractiveness for investors, such as low corporate tax and interest rates, stable political and financial system, as well as low expropriation risk.

Current National Framework

Jordan has demonstrated commitment to take necessary initiatives to make the environment investor-friendly, undertaking reforms of its investment policy towards: (i) Liberalization of trade, investment procedures, and elimination of trade barriers; (ii) Encouragement of foreign investment; (iii) Encouragement of private sector investment; (iii) Privatization of previously-owned governmental projects; (iv) Implementation of stronger trademark and copyright laws; (iv) Reduction of import tariffs; and (vi) Equal treatment to both Jordanian and non-Jordanian investors.⁷

The 2014 Investment Law provides the main framework regulating investments in Jordan, merging all departments and commissions involved in investment into a new lead institution: the Jordan Investment Commission (JIC). An Investment Council was also established to endorse investment strategies and policies. The law grants equal treatment to local and foreign investors, as well as incentives for local and foreign investment in a number of sectors.

Besides Investment Law No. 30 of 2014, other relevant texts framing incentives for investment include Investment Incentives Regulation No. 33 of 2015, Sales Tax Law No. 29 of 2009, Income Tax Law No. 34 of 2014, and Investment Council Decision No. 1/1/2016. Altogether, this legislative framework also establishes eligibility, awarding, and appeal procedures.⁸

Since 2008, the Office of the Ombudsman is operating to receive complaints on decisions taken by the public administration, thereby playing a role in improving the investment climate.⁹ In 2020, an investors grievances bylaw was also enacted, enabling investors to file complaints concerning decisions issued by government agencies.

¹<https://www.doingbusiness.org/content/dam/doingBusiness/country/j/jordan/JOR.pdf>

²<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/TPR/S325R1.pdf&Open=True>

³ <https://www.oecd.org/investment/OECD-Review-of-Foreign-Direct-Investment-Statistics-Jordan.pdf>

⁴ <https://www.state.gov/reports/2020-investment-climate-statements/jordan/>

⁵ *2021 Investment Climate Statements - United States ...* <https://www.state.gov/reports/2021-investment-climate-statements/>.

⁶ Bataineh, Odai & Fernandez, Manuel & Yaseen, Sereen. (2020). Review of Foreign Direct Investment in Jordan. *European Journal of Business Management and Research*. 5. 1-8. 10.24018/ejbmr.2020.5.4.408.

⁷ <https://www.jic.gov.jo/en/reasons-to-invest-in-jordan/investor-friendly-environment/>

⁸ <https://www.jic.gov.jo/wp-content/uploads/2021/01/Investor-Guide-English.pdf>

⁹ WT/TPR/S/325/Rev.1

Among other responsibilities, the JIC manages an Investment Window established to facilitate and accelerate investment registration. Other key services provided by the JIC include: (i) Provision of information on investment opportunities in Jordan; (ii) Provision of preliminary feasibility studies for promising projects; (iii) Regulating the granting of incentives and advantages; (iv) Provision of aftercare services to investors; and (v) Promotion of Jordanian exports.¹⁰

Restrictions to Foreign Investment

The investment law provides equal treatment between foreign and local investors, i.e. foreign nationals or entities can establish businesses as well as own or lease property in Jordan for investment purposes. Jordan's foreign ownership legislation was revised in April 2019, allowing more foreign investment in some areas while maintaining restrictions in others.

Among the main restrictions, foreigners are not permitted to own or operate investigative and security services, construction of stone quarries, customs clearance services, trade in weapons and fireworks, or any type of bakery. A limitation to 50% ownership also exists in retail and wholesale trade, engineering consulting, and exchange houses that are neither bank or financial services organisations. Furthermore, international companies are required to first appoint a Jordanian agent before importing goods.¹¹

International Commitments

Jordan signed International Investment Agreements (IIAs) with 56 countries (45 of which are currently in force), most of which are developed.¹² The IIAs with Switzerland, Germany, Italy, and India, on the other hand, have been terminated, and Jordan has signed an FTA with these countries. Also, the Association Agreement between the EU and Jordan contains provisions on the promotion and protection of investment.

Jordan signed two investment-related agreements at the regional level, through the League of Arab States (LAS) and the Organization of the Islamic Conference (OIC). Additionally, Jordan is a signatory to the 1980 Arab League Unified Agreement on Arab Capital Investment in Arab States.¹³ Traditional investor protection provisions are included in the agreement, as is the Arab Investment Court, which is established as part of it.

In Addition, Jordan is a member state of the International Centre for the Settlement of Investment Disputes, which handles international dispute settlement in the investment field (ICSID convention).

Jordan's Readiness in Key Investment Facilitation Areas

Transparency of investment measures

Expectations from the Joint Statement Initiative (JSI)

Under this theme, the following issues are being discussed under the Joint Statement Initiative: (i) promptly publish investment measures, as well as laws and regulations of general application, in an official (electronic) media, together with an explanation of the measure's objective and reasoning; (ii) provide a fair time interval between the date of publication and the date on which the investor must abide with the measure; (iii) make authorization requirements and processes open to the public; (iv) publication of general-application laws and regulations in advance, with a chance for discussion; (v) notification of new laws and regulations, or modifications to existing laws and regulations, to the WTO Committee on Investment Facilitation as soon as possible or at least yearly and; (vi) establishment of enquiry points.

¹⁰ <https://www.jic.gov.jo/en/jic-services/>

¹¹ <https://www.state.gov/reports/2020-investment-climate-statements/jordan/>

¹² <https://investmentpolicy.unctad.org/international-investment-agreements/countries/106/jordan>

¹³

<https://www.oecd.org/mena/competitiveness/Enhancing-the-Legal-Framework-for-Sustainable-Investment-Lessons-from-Jordan.pdf>

Jordan's Readiness

The country maintains a central government portal in English (<https://portal.jordan.gov.jo>) making available a number of e-government services and meant to provide information on plans and strategies of the Government. This includes a specific section dedicated to investors, although not comprehensive.

Also, the JIC website (<https://www.jic.gov.jo>) provides detailed information and guidance to investors on establishing a business, including explanation of incentives and exemptions, an explanation of the investment law, and well as an "Investor Guide" designed to guide current and prospective investors through all stages of the investment process in the country. However, a number of key documents are currently only available in Arabic, including: the 2014 Investment Law, the services guide, the licensing guide, and application forms.

Yet, the Easter Text of the JSI encourages members "to the extent practicable" (non-binding) to make available information related to investment authorizations in one of the official languages of the WTO (English, Spanish or French).

Streamlining and speeding up administrative processes and documentation requirements

Expectations from the JSI

Under this theme, members pursue six key objectives:

- Investment policies must be implemented in a rational, objective, and unbiased way;
- Investments should not be made more difficult or delayed as a result of authorization processes;
- Investment criteria must be clear, transparent, objective, and must be published in advance;
- Authorization procedures should: (i) allow submission at any time; (ii) accept authenticated copies; (iii) provide indicative

timeframes, information on status and completeness; (iv) entry into effect without delays; (v) deal with incomplete applications efficiently, and provide reasons for rejections; and (vi) make available information about appeal mechanisms;

- Fees and charges must be fair and clear and must not be used to limit investment;
- Acceptance of electronic applications, fee, and charge payments.¹⁴

Jordan's Readiness

Through the JIC's Investment Window, authorized representatives from relevant bodies are granted the authority to register and issue licenses within set time frames and a clear strategy for inter-governmental communication. According to Jordan's Investor Guide, the process required to establish a business has been made straightforward, efficient, and transparent, particularly due to the streamlined procedures and hands-on support provided by the JIC's Investment Window.

The legal framework is clear that, as a first step, investors are required to obtain Business Licensing through six steps: (i) Company registration and establishment; (ii) Zoning and regulatory approvals; (iii) Sectoral approvals; (iv) Construction license; (v) Occupancy permit; (vi) Vocational license.¹⁵ According to the latest Trade Policy Review of Jordan, it takes maximum 14 days for the one-stop shop to obtain from the concerned government bodies the necessary approval for registration and licences.¹⁶

Other registration procedures which may be required for practicing economic activities run parallel with the aforementioned process, including: (i) Registration with the Income and Sales Tax Department; (ii) Registration with the Social Security Corporation; (iii) Registration of the commercial name; (iv) Registration of the property title; (v) Obtaining residence permits; (vi) Obtaining residence cards; and (vii) Obtaining work permits. Jordan's Investor Guide summarises the timeframes defined for a number of these procedures, as provided in Table 1 below.

¹⁴ Ibid.

¹⁵ <https://www.jic.gov.jo/wp-content/uploads/2021/01/Investor-Guide-English.pdf>

¹⁶ WT/TPR/S/325/Rev.1

Table 1: Duration of key steps in the investor’s establishment process

Step	Duration
Licensing	
1. Company Registration & Establishment	The standard company registration and establishment procedures is as follows: (i) Approximately 15 minutes to register a business via the Investment Window; (ii) 7 working days if the sectoral prior approval is needed; (iii) 14 working days for the non-Jordanian investor who is required to obtain non-objection from the Ministry of Interior; (iv) A maximum of seven 7 days to receive the license to operate the business in Jordan.
Starting a business	
1. Registration with the Income and Sales Tax Department	One (1) working day to complete a registration application form, which can be filed by the ISTD officer through the JIC’s Investment Window.
2. Registration with the Social Security Cooperation	One (1) working day to file the application attached with all documents to the SSC at the branch located within the territory to which the project belongs.
3. Registration of the Commercial Name	A maximum of ten (10) working days to register the commercial name.
4. Registration of the Property Title	A total of ten (10) working days to register the property title in case the approval is under the authority of the Minister of Finance or 21 working days in case the approval is under the authority of the Council of Ministers.

Source: Jordan’s Investor Guide

According to the law, any rejection to award a license by the authorized representative must be documented and justified. The decision shall be communicated to the applicant no later than three working days after it is issued.¹⁷ Additionally, an objection filed by the applicant suspends the legal term for 30 days due to the abetment of their right to oppose the decision of the authorised representative as defined in the applicable legislation from the date of submission of the objection.¹⁸

Contact/focal points, coordination, and cooperation

Expectations from the JSI

This section addresses three areas. First, to establish a contact/focal point to respond to inquiries, assist investors in obtaining information, resolving investment-related issues, and recommending to governmental authorities actions to improve the investment environment.¹⁹ Second, affirmation of the significance of regulatory coherence, support of regulatory impact assessments and facilitation of domestic

¹⁷ <https://investmentpolicy.unctad.org/investment-laws/laws/175/investment-law>

¹⁸ <https://investmentpolicy.unctad.org/investment-laws/laws/175/investment-law>

¹⁹ Locatelli, C., 2021. *Negotiations on Investment Facilitation for*

Development (IFD) at the WTO (Joint Statement Initiative on IFD). [ebook] World Trade Organization, p.8. Available at: <https://www.unescap.org/sites/default/d8files/event-documents/Session%203_Claudia%20L_IF%20for%20Development_1.pdf> [Accessed 22 September 2021].

cooperation.²⁰ Third, designation of a contact/focal point to enhance collaboration and communication with other stakeholders about information sharing, sharing of experience regarding framework implementation, investment possibilities, data collection, or the growth of business partnerships.²¹

As per the current text, members anticipate to provide reasonable opportunities for interested parties to provide comments and consider the proposed regulation's potential impact on investors, including Micro, Small and Medium-sized Enterprises (MSMEs). In order to facilitate investment, members would be expected to ensure that their competent authorities responsible for investment procedures work together and coordinate their operations in accordance with their legal framework.

Jordan's Readiness

As mentioned above, the JIC serves as the focal point for investors and institutions. Through the investment Window, it provides "one-stop services" to facilitate investors with all related administrative procedures (registration, licensing etc.), and also provides after-care services.²² Should Jordan decide to join the JSI at any point, the JIC would be the natural focal point for the implementation of coordination and cooperation provisions.

As for other members, the cross-border cooperation provisions envisaged in the agreement could provide opportunities for Jordan to benefit from other members' experience. However, such provisions may also represent an added burden on the JIC for the preparation of information/notifications to other members through the agreement's committee, responding to questions and comments by potentially a large number of stakeholders etc.

Development dimension and sustainable investment

Expectations from the JSI

Under the concrete elements discussed based on the working document, the development dimension of the negotiations aims to ensure that: (i) members from developing countries and LDCs receive preferential treatment; (ii) the extent and timeliness of implementation are tied to the capacity of these members to implement, to be acquired through technical assistance support similar to the model of the WTO Trade Facilitation Agreement (TFA); (iii) technical capability and capacity development ; (iv) collaboration with other IGOs and; (v) Establishment of an Investment Facilitation Facility, similar to Trade Facilitation Agreement Facility.²³ The proposed Investment Facilitation Committee would *inter alia* periodically examine the special and differential treatment granted to developing and least-developed country Members.

In relation to the promotion of sustainable investment, discussions aim to: (i) Promote voluntary responsible business conduct good practices; (ii) Combat corruption; and (iii) promote social and environmental responsibility. Each Member would retain the right for its law enforcement, prosecutorial and judicial authorities to exercise their discretion concerning the enforcement of its anti-corruption laws.

Jordan's Readiness

Depending on the disciplines eventually agreed, the policy change required to be made to national framework may be more or less important and require more or less capacity building or technical assistance. For instance, the kind of corporate social responsibility and anti-corruption rules considered under the JSI seldom exist in developing countries' frameworks, and may need to be developed. This cost of compliance may represent a burden for developing countries, which could be partially mitigated by ensuring a strong TFA-like technical

²⁰ Berger, A., 2021. *The benefits and challenges of a WTO Investment Facilitation Framework for Development*.

²¹ Ibid.

²² <https://investmentpolicy.unctad.org/investment-laws/laws/175/jordan-investment-law>

²³ Locatelli, C., 2021. *Negotiations on Investment Facilitation for*

Development (IFD) at the WTO (Joint Statement Initiative on IFD). [ebook] World Trade Organization, p.8. Available at: <https://www.unescap.org/sites/default/d8files/event-documents/Session%203_Claudia%20L_IF%20for%20Development_1.pdf> [Accessed 22 September 2021].

assistance component in the agreement.

Conclusion

Since their started in 2017, joint statement negotiations on Investment Facilitation for Development have focused on the following areas: (i) Transparency of investment measures; (ii) Streamlining and speeding up administrative processes and documentation requirements; (iii) Contact/focal points, coordination and cooperation; and (iv) Development dimension and sustainable investment. Members have always made clear that the prospective agreement will exclude from its scope the contentious areas of market access, investment protection, and investor–state dispute settlement.

While Jordan is so far not a participant in the JSI, its investment framework already includes some of the measures being proposed by JSI participants.

For instance, Jordan's Investment Commission established pursuant to the Investment Law of 2014 already serves as the focal point for investors and institutions. Among other responsibilities, it provides "one-stop services" to facilitate investors with all related administrative procedures (registration,

licensing etc.) which were streamlined and simplified over the past decade. Efforts were also made to promote transparency of investment-related procedure and requirements, including through the publication of an "Investors' Guide" containing *inter alia* the various steps of the investor's journey, as well as their duration and cost where relevant.

Should Jordan consider joining the JSI at any point, weighting the pros and cons of doing so would be important to keep a number of potential benefits and risks in mind. Possible benefits may include reassuring investors by abiding to the agreement's internationally-agreed standards; providing an impetus for necessary national reforms while galvanizing the involvement of domestic institutions and stakeholders; as well as access to capacity building, technical assistance and cross-border cooperation opportunities. However, joining the eventual agreement may also entail risks, particularly with regard to the potentially complex interplay of the agreement with other IIAs and their dispute settlement systems. It would also entail enacting/updating certain rules and procedures as well as increasing the capacity of existing institutions, e.g. the JIC. Finally, the proliferation of JSIs may also pose potential systemic challenges to the multilateral trading system.



CUTS International, Geneva

CUTS International, Geneva is a non-profit NGO that catalyses the pro-trade, pro-equity voices of the Global South in international trade and development debates in Geneva. We and our sister CUTS organizations in India, Kenya, Zambia, Vietnam, Ghana and Washington have made our footprints in the realm of economic governance across the developing world.

© 2021. CUTS International, Geneva.

This country update note is authored by Ely Kanene and Julien Grollier. CUTS' country updates aim to inform negotiators and policy makers about stakeholders' perspectives on the ground related to a particular issue. Readers are encouraged to quote or reproduce material from this paper for their own use, provided due acknowledgement of the source is made.

Disclaimer: The views expressed in this publication represent the opinions of the author, and do not necessarily reflect the views of CUTS or its funders.

37-39, Rue de Vermont, 1202 Geneva, Switzerland

geneva@cuts.org • www.cuts-geneva.org

Ph: +41 (0) 22 734 60 80 | Fax: +41 (0) 22 734 39 14 | Skype: cuts.grc

Also at: Jaipur, Lusaka, Nairobi, Accra, Hanoi, Delhi, Calcutta and Washington, D.C

Annex 1: 106 Members of the JSI on Investment Facilitation for Development²⁴

Developed	Developing
<p>Australia; Austria; Belgium; Canada; Croatia; Cyprus; Czech Republic; Denmark; Estonia; European Union; Finland; France; Germany; Greece; Hungary; Iceland; Ireland; Italy; Japan; Latvia; Lithuania; Luxembourg; Malta; Netherlands; New Zealand; Norway; Poland; Portugal; Romania; Slovak Republic; Slovenia; Spain; Sweden; Switzerland; United Kingdom;</p>	<p>ASIA</p> <p>Afghanistan; Cambodia; China; Hong Kong, China; Indonesia; Kazakhstan; Korea, Republic of; Kyrgyz Republic; Lao People's Democratic Republic; Macao, China; Malaysia; Mongolia; Myanmar; Pakistan; Philippines; Singapore; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Tajikistan;</p> <p>AMERICAS</p> <p>Argentina; Barbados; Brazil; Chile; Colombia; Costa Rica; Dominica; Dominican Republic; Ecuador; El Salvador; Grenada; Guatemala; Honduras; Mexico; Nicaragua; Panama; Paraguay; Suriname; Uruguay;</p> <p>AFRICA</p> <p>Benin; Burundi; Cabo Verde; Central African Republic; Chad; Congo; Djibouti; Gabon; Gambia; Guinea; Guinea-Bissau; Liberia; Mauritania; Mauritius; Morocco; Nigeria; Sierra Leone; Togo; Zambia; Zimbabwe</p> <p>OTHER</p> <p>Bahrain, Kingdom of; Bulgaria; Kuwait, the State of; Moldova, Republic of; Montenegro; North Macedonia; Qatar; Russian Federation; Saudi Arabia, Kingdom of; Seychelles; Turkey; United Arab Emirates; Vanuatu; Yemen;</p>

²⁴ ²⁴ https://www.unescap.org/sites/default/d8files/event-documents/Session%203_Claudia%20L_IF%20for%20Development_1.pdf