



**JORDAN'S INTERNATIONAL TRADING REGIME AND INTEGRATION WITH
THE ARAB REGION THROUGH TRADE LIBERALISATION**

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ABSTRACT

The thesis critically examines the international trading regime of Jordan and its economic and political integration with the Arab world through trade liberalisation. In so doing, it analyses: (i) Jordan's involvement in the World Trade Organization (WTO) multilateral trading system, (ii) Jordan's bilateral free trading relationships with both non-Arab and Arab trading partners and (iii) the implications of these liberalised trading activities for Jordan's national economic development and political stability. The thesis concludes by offering some useful recommendations that may serve Jordan's best interests in its bid to minimise present challenges and maximise trade-induced development.

The thesis criticises the mainstream understanding of free trade agreements (FTAs) as primarily trade agreements that are backed by the arguments of economic efficiency. The analysis demonstrates that FTAs are as much political arrangements as they are trade arrangements. However, because the mainstream literature justifies them as efficient economic tools, they are used to compel developing countries to provide trade conditions that are not always to their advantage. Developing countries are particularly disadvantaged by the imposition of trade conditions in the name of economic efficiencies, which neglect the political aspects of FTAs. This thesis argues that it is time to revise the overly economic analyses of FTAs and integrate the political and economic aspects into the scholarship. This is demonstrated in this thesis by analysing the role of Jordan in entering regional and global FTAs.

This thesis concludes that an understanding of FTAs as both economic and political arrangements can benefit developing economies by mitigating the harshness of purely economic analysis and acknowledging the political give and take that already occurs, yet is not explicitly considered and analysed. The thesis argues that a more nuanced analysis of FTAs can serve the purpose of better integrating trading countries, such as Jordan, in peaceful coexistence.

The thesis contributes to the development of Jordan's international trade policies to maximise economic benefits, and regional economic and political integration for prosperity and peaceful coexistence. Its recommendations will augment Jordan's participation in the WTO and its multilateral trading system, by playing a regional role to form a competitive regional economic bloc in partnership with Arab countries to integrate into the global economy.

DECLARATION OF ORIGINALITY

This is to certify that I, Khaled Mohammad Khwaileh, have not submitted this thesis for a higher degree to any university or institution other than Macquarie University. This thesis, to the best of my knowledge and belief, does not contain any material previously published or written by another person except where due reference is made in the text.

Khaled Mohammad Khwaileh

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LIST OF ABBREVIATIONS

ACC	Arab Cooperation Council
ADR	Alternative Dispute Resolution
ASEAN	Association of Southeast Asian Nations
BIT	Bilateral Investment Treaty
BWC	Bretton Woods Conference
CU	Customs Union
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GAFTA	Greater Arab Free Trade Area
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
ICSID	International Centre for Settlement of Investment Disputes
IIA	International Investment Agreement
IMF	International Monetary Fund
IP	Intellectual Property
IPR	Intellectual Property Rights
ITO	International Trade Organization
MENA	Middle East and North Africa
MFN	Most-favoured Nation
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
PLO	Palestine Liberation Organisation
PTA	Preferential Trade Agreement
QIZ	Qualified Industrial Zone
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UAE	United Arab Emirates
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development

US	United States
WB	World Bank
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

LIST OF REGIONAL AND INTERNATIONAL INSTRUMENTS

Agadir Agreement (AA), 2001

Agreement on Trade Facilitation (TFA), 2013

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1995

Agreement on Trans-Pacific Partnership (TTP), 2015

Arab Cooperation Council (ACC), 1989

Arab League (AL), 1945

Arab Maghreb Union (AMU), 1989

Doha Ministerial Declaration of the World Trade Organization, 2001

Economic Agreement between the Gulf Cooperation Council States, 2001

European Union Association Agreement (Euro-Jordanian), 1997

General Agreement on Tariffs and Trade (GATT), 1947

General Agreement on Tariffs and Trade (GATT), 1994

General Agreement on Trade in Services (GATS), 1995

Greater Arab Free Trade Area (GAFTA), 1997

Gulf Cooperation Council (GCC), 1981

Jordan–United States Free Trade Agreement (JUSFTA), 2001

Marrakesh Agreement Establishing the World Trade Organization, 1995

Ministerial Declaration of the Uruguay Round, 1986

Nairobi Ministerial Declaration of the World Trade Organization, 2015

North American Free Trade Agreement (NAFTA), 1994

Paris Convention of the Protection of Industrial Property (1967, amended in 1979)

Qualified Industrial Zone (QIZ) Agreement, 1996

International Centre for Settlement of Investment Disputes Convention (ICSID), 1972

Vienna Convention on the Law of Treaties, 1969

LIST OF ACTS AND REGULATIONS

- 1934—Law Trade Law (United States)
- 1952—Law No. 8: Enforcement of Foreign Judgments (Jordan)
- 1974—Trade Law (United States)
- 1992—Law No. 22: Copyright and its Amendments up to 2005 (Jordan)
- 1999—Law No. 34: Revision of the 1952 Law No. 33 Trademarks Law (Jordan)
- 2000—Law No. 15: Unfair Competition and Trade Secrets (Jordan)
- 2000—Law No. 16: Customs Law (Jordan)
- 2000—Law No. 25: Privatisation (Jordan)
- 2003—Law No. 37: Mediation Law for Settling Civil Disputes (Jordan)
- 2005—Law No. 8: Amending the Copyright Protection Law (Jordan)
- 2006—Law No. 12: Revision of the 2003 Law No. 37 Interim Mediation Law (Jordan)
- 2007—Law No. 28: Amending the Patents Law (Jordan)
- 2008—Law No. 15: Revision of the 2000 Law No. 14 Industrial Designs and Models (Jordan)
- 2014—Law No. 23: Amending Copyright Protection Law (Jordan)
- 2014—Law No. 30: Investment (Jordan)
- 2014—Law No. 31: Public–Private Partnership Law (Jordan)
- 2017—Law No. 17: Patent (Jordan)
- 2018—Law No. 41: Revision of the 2001 Law No. 31, Revision of the 1962 Law No. 13, Revision of the 1953 Law No. 18 Commercial Arbitration Law (Jordan)

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Chapter 1

Global Trade in the Jordanian Context: Issues and Challenges

1.1 Introduction

This thesis examines the role of Jordan in international and Middle Eastern regional trade-induced economic integration by entering the World Trade Organization (WTO) and bilateral free trade agreements (FTAs) with its non-Arab and Arab trading partners. This thesis argues that trade relations, particularly bilateral and/or regional economic integration through FTAs, are not based solely on economic considerations, but also encompass extra-economic considerations, such as political and geostrategic concerns. Economic relations established through FTAs may change as a result of the shifting political circumstances and strategic policies of trading partners. This argument is exemplified by critically analysing Jordan's FTAs with its non-Arab and Arab trading partners. This case-specific analysis of Jordan's economic integration will inevitably warrant an examination of its political integration in the Middle Eastern region.

In the contemporary globalised world, international integration is essentially linked with economic integration. At the national level, the liberalisation of the economy is an essential step towards broader integration with international trade regimes.¹ It is also a significant tool for the economic development of countries. At the international level, globalisation² of trade can increase business and trade-induced incomes to enhance the welfare of the people of the world.³ International trade also improves relationships and interactions between countries⁴ and

¹ M Rafiqul Islam, *International Trade Law of the WTO* (Oxford University Press, 2006) 1.

² Bhagwati interprets globalisation as 'integration of national economies into the international economy through trade, direct foreign investment through the corporations, capital flows, workers flow and flows of technology'. Economic globalisation is the subject of interest of this thesis. See Jagdish Bhagwati, 'Anti-Globalisation: Why?' (2004) 26(4) *Journal of Policy Modelling* 439, 440.

³ Jean P Rodrigue, 'Globalisation and International Trade', *The Geography of Transport Systems* (Web Page, 2017) <<https://people.hofstra.edu/geotrans/eng/ch5en/conc5en/ch5c2en.html>> (accessed 24 August 2017).

⁴ Daniel P Gitterman, 'A Race to the Bottom, a Race to the Top or the March to a Minimum Floor' in David Vogel and Robert A Kagan (eds), *Dynamics of Regulatory Change: How Globalisation Affects National Regulatory Policies* (University of California Press, 2002) 1.

various groups, and operates as an essential component of creating a peaceful coexistence and stable world order.⁵

The present legal regime of international trade is primarily composed of multilateral agreements concluded among trading partners under the General Agreement on Tariffs and Trade (GATT) and the WTO multilateral trading system. This legal system is governed by a set of core principles, such as trade without discrimination, gradually freer trade through negotiation, predictability through obligatory agreements and transparency, the promotion of fair competition, and encouraging development and economic reform for member countries. The existence of GATT and subsequently the WTO represented a new phase in reshaping the world trade order. It is the phase of globalisation, which has marked by the broader integration of the international community around trade, with increased emphasis on exchange and decreased emphasis on self-sufficiency among trading partners.

Different geographic and political regions around the globe have their own needs and requirements. Arab countries hold many similar and dissimilar interests; therefore, it is necessary to examine how international trade liberalisation has unfolded in these countries. This thesis examines the extent of trade-induced integration in the Middle East and beyond. However, to make this a manageable task, this thesis focuses on the role of Jordan in embarking on economic liberalisation and entering international trade agreements. This is the background for the present thesis to examine how Jordan has participated in international trading regimes. This thesis argues that Jordan entering various trade agreements has played a crucial role in both the economic integration and political stability of Arab region and its integration with the rest of the world.

This thesis examines Arab economic integration through FTAs. The political aspect of the economic integration process receives limited examination. The effect of economic integration on regional political integration is raised merely because these FTAs purport to achieve the goal of regional political unity through economic integration, much along the lines of limited political integration, such as in the European Union (EU) foreign policy, and regional security achieved in the EU. However, this effect of Middle Eastern FTAs on political unity cannot be measured in a technically measurable sense, given the ongoing conflicts of geopolitical interest and mistrust among the regional countries. Given that FTAs are based not only on economic

⁵ Nina Pavcnik, 'How Has Globalisation Benefited the Poor?', *Yale School of Management* (Web Page, 2009) <<https://insights.som.yale.edu/insights/how-has-globalisation-benefited-the-poor>> (accessed 29 August 2017).

concerns, but also political considerations, the economic analysis in this thesis draws links between national and regional political developments since the signing of FTAs. Establishing links between the economic and political considerations of FTAs will not amount to impact measurement in a technical sense, yet will demonstrate linkages between the events leading to entering FTAs and subsequent political changes, which may have the potential for future political integration in limited spheres. The thesis intends to show merely this possibility of political integration, should goodwill, trust and confidence prevail in regional diplomacy in the future. Therefore, the next section begins by setting the context for the thesis and addressing the history of trade liberalisation from GATT to the WTO.

1.2 Trade Liberalisation from GATT to the WTO

In the late twentieth century, the global economy has undergone an unprecedented expansion of economic integration. A key factor in globalisation and the rising new liberal international economic structure is the establishment of the WTO.⁶ Trade among countries has grown considerably under the guidance and support of the WTO—an organisation that was premeditated to stimulate and oversee trade around the world. The WTO has become the responsible organisation for regulating and negotiating trade policies and disputes among its member nations.⁷ The role of the WTO has had a significant influence on economic and trade relations among trading partners. Countries around the globe seek to establish trade relations with each other and the GATT and WTO administer the trade agreements entered by trading partners.

The post–World War II policy was to reach economic integration between countries through a multilateral trading system that would prevent any return to discriminatory bilateralism in international trade policy.⁸ Therefore, the GATT was established to create a novel trade and

⁶ Abdalla R Bibtana, ‘WTO/GATS: Possible Implications for Higher Education and Research in the Arab States’ (Conference Paper, United Nations Educational, Scientific and Cultural Organisation Regional Seminar, Rabat, Morocco, 2007) 1.

⁷ Susan Ariel Aaronson and M Rodwan Abouharb, ‘Unexpected Bedfellows: The GATT, the WTO and Some Democratic Rights’ (2011) 55(2) *International Studies Quarterly* 379, 408.

⁸ Jaime De Melo and Arvind Panagariya (eds), *New Dimensions in Regional Integration* (Cambridge University Press, 1995) 90, 91.

economic relationship between countries to improve the full use of the natural resources around the world through exchanging goods and services. The GATT was the only multilateral device governing the international trade regime from 1947, until the WTO was established in 1995.⁹ The GATT was put into effect to further adjust and organise world trade to support economic recovery after the World War II. The primary objective of the GATT is to reduce the barriers to international trade in manufactured goods through the reduction of tariffs.¹⁰

The League of Nations was formed with the goal of ending wars and urging countries to work together more successfully. However, it failed to discourage countries from using trade protectionism as a weapon. As a result, international trade remained stagnant and international monetary system collapsed, which helped fuel the World War II.

The process of regulating international trade has undergone critical development stages for more than four decades, between the creation of the GATT and the Uruguay Round,¹¹ which established the WTO as a contemporary trading system to regulate the international trading regime, settle trade disputes among countries and organise trade negotiations by consensus.¹² The WTO was shaped with the expectation that it would achieve more efficiency than the GATT,¹³ with the primary objective of ensuring that trade transactions flow smoothly, predictably and freely between countries.¹⁴ The present-day WTO¹⁵ and its predecessor the GATT represent the legal instruments for tariff negotiations and rules that discourage the reinstatement of protectionism by countries relying on nontariff means. Professor Islam details

⁹ The Marrakesh Agreement established by the WTO came into effect on 1 January 1995. See Islam, above n 1, 4.

¹⁰ Investopedia, *General Agreement on Tariffs and Trade—GATT* (Web Page, 2017) <<http://www.investopedia.com/terms/g/gatt.asp>> (accessed 17 September 2017).

¹¹ The Uruguay Round was the eighth round of negotiations, conducted within the framework of the (GATT), spanning from 1986 to 1994 and embracing 123 countries as ‘contracting parties’. See WTO, *The Uruguay Round* (Web Page, 2017) <https://www.wto.org/English/thewto_e/minist_e/min98_e/slide_e/ur1.htm> (accessed 17 September 2017).

¹² Asif H Quaeshi, *The World Trade Organisation—Implementing International Trade Norms* (Manchester University Press, 1996) 5.

¹³ See Islam, above n 1, 7.

¹⁴ WTO, *‘What Is the WTO? What We Do* (Web Page, 2016) <https://www.wto.org/english/thewto_e/whatis_e/what_we_do_e.htm> (accessed 22 August 2017).

¹⁵ In addition to the trade in goods, the WTO also covered trade in services and IPR. While the GATT 1947 covered only the trade in goods. See WTO, *Understanding the WTO—The Uruguay Round* (Web Page) <https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm> (accessed 2 January 2018).

the origins of the GATT and its metamorphoses into the WTO.¹⁶ He discusses the significance of international trade law and its tenor to protect and encourage a fair and free trade environment among nations and to achieve reasonable competition in world marketplaces without discrimination.

In the contemporary world, free trade is the norm, which is regulated through multilateral, bilateral and regional free trade agreements under the umbrella of the WTO.¹⁷ The WTO regulates bilateral and multilateral trade in its context, it is a combination of an international treaty and organisation with appropriate options that promote free international trade between members according to the MFN principle.¹⁸ However, the WTO provided for some exceptions to the principle of the MFN including general exceptions, security and economic emergencies in addition to exceptions to FTAs and CU. These exceptions allow WTO members to implement measures that would otherwise be WTO-inconsistent when they are pursuit of economic integration.¹⁹ However, the bilateral and multilateral trade systems face some challenges, such as difficulty in satisfying the interests of all members of one organisation, and considerations of how developing countries can be integrated into the new trading regime. Therefore, there is a persistent view in some developing countries that industrialised countries are using the WTO to pursue their own interests.²⁰

The WTO also reached some agreements in the fields of trade in goods, services and commercial aspects of intellectual property rights (IPR), which led to increasing liberalisation in international trade, with the establishment of fair competition rules without discrimination, which is one of the leading principles of the international trading regime.²¹ The WTO expected

¹⁶ See Islam, above n 1, 2, 4.

¹⁷ Adam Smith introduces the concept of free trade in his 1776 book *The Wealth of Nations*. Smith advocates the concept of free trade between nations, believing it enhances economic welfare. His argument is the basis of the contemporary trading system. Smith's suggestions are based on the removal of tariffs, quotas and other restrictions on international trade to enable the world production of goods and services to move around the world in an efficient manner. See Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776) (Methuen, 1950).

¹⁸ Donald McRae, 'The Place of the WTO in the International System' in Daniel Bethlehem et al (eds), *The Oxford Handbook of International Trade Law* (Oxford University Press, 2012) 66.

¹⁹ Peter Van Den Bossche and Werner Zdouc, *The Law and the Policy of the World Trade Organisation* (Cambridge University Press, 2017) 671.

²⁰ Tan Song Chuan, 'Challenges to Multilateralism Free Trade Agreements' (2004) 2(1) *Asia Europe Journal* 121.

²¹ WTO, *Understanding the WTO—Principles of the Trading System* (Web Page, 2017) <https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm> (accessed 23 July 2017).

to increase the flow of foreign investments because of the freedom of goods movement, even the creation of new jobs to reduce unemployment rates.²² It may also help find outlets for the disposal of local goods and products in foreign markets. The WTO also aims to facilitate the import and export of foreign goods, especially since no country can be self-sufficient, thus the trade of the countries that belong to the WTO accounted for most of the total world trade.²³

The WTO endorses the view that international trade is significant in fulfilling the basic needs of millions of people, such as clean water and food, transportation, any natural resources that might be traded, fuel and items of intellectual property (IP).²⁴ Ideas regarding free trade, even if widely accepted, require structure to ensure their integrity and maintenance.²⁵ Therefore, notions of free trade are included in legal instruments (also known as agreements or covenants) that are both domestic and international in scope.

Significant literature provides reasonable evidence that trade liberalisation leads to higher trade exchanges between countries,²⁶ leading to economic prosperity. However, there also exist contrary views and writings that have identified a negative effect of trade liberalisation on total trade exchanges,²⁷ leading to asymmetric opportunities, adverse effects on economies and the

²² Free trade offers consumers many choices and better opportunities to develop their standard of living. Free trade also promotes innovation because, alongside goods and services, the flow of trade circulates new concepts. By supporting the rule of law, free trade can also reduce corruption. See Denise H Froning, *The Benefits of Free Trade: A Guide for Policymakers* (Report No. 1391, Heritage Foundation Background, 2000) 25.

²³ The WTO influences about 95% of global trade and standardises the exchange of goods and services, making it a global organisation. Moreover, most remaining non-member countries are currently negotiating their accession to the WTO. See Claus-Dieter Ehlermann and Ehrling Lothar, 'Decision-Making in the World Trade Organisation' (2005) 8(1) *Journal of International Economic Law* 51, 75.

²⁴ Thouqan Makableh, 'The Hashemite Kingdom of Jordan's Legal, Economic and Fiscal Empowerment through Commerce and Active Trade Agreements' (SJD Dissertation, Golden Gate University School of Law, 2013) 19.

²⁵ There is no nation around the globe that is self-sufficient; each country is involved in international trade at different levels to sell what it produces, acquire what it lacks and produce more efficiently in some economic sectors than its trade partners. See Rodrigue, above n 3.

²⁶ The study states that international trade has an essential role for countries' development through liberalising their foreign trade, which offers opportunities to augment the exports of developing countries. See Hamza Cestepea, Ertugrul Yildırma and Bersu Bahtiyara, 'The Impact of Trade Liberalisation on the Export of MENA Countries to OECD Trade Partners' (Conference Paper, 2nd Global Conference on Business, Economics, Management and Tourism, 30–31 October 2014, Prague, Czech Republic) 1440, 1445.

²⁷ The study assumes that trade liberalisation improves performance by promoting local economic productivity and encouraging trade flows between countries. However, economic theories argue that the effect of tariff reductions on the trade balance is vague. The limited empirical evidence suggests that import flows will react more quickly than exports following trade liberalisation, thereby causing trade imbalances. See A.U. Santos-Paulino, 'Trade Liberalisation and Export Performance in Selected Developing Countries' (2002) 39(1) *Journal of Development Studies* 140, 164.

creation of further poverty. In other words, multilateral trade liberalisation under the GATT/WTO trading regime produces both winners (mostly the developed countries of the North) and losers (mostly the developing countries of the South).

Amelia and Santos discuss the effect of trade liberalisation on the economy of some countries in the regions of Africa, Latin America and East and South Asia. They find that the effect of trade liberalisation has been to deteriorate the trade balance by over 1% of the gross domestic product (GDP) on average. Explicitly, they identify that the adverse interaction effects on the trade balance and balance of payments are more substantial in the more highly protected countries.²⁸ The effects of trade liberalisation on Arab Middle East countries are also adverse, corresponding with the effects in other developing countries. However, there is considerable debate among economists about the mechanisms of integrating developing countries into the global trading regime. Some argue that developing countries should not miss the opportunity to exploit the benefits of such economic integration, while others believe that the global trading system will devour the economies of developing countries.²⁹

This thesis assumes that the accession process to world markets depends on the competitiveness of economic institutions in developing countries, including Arab countries. The weak economic context of Arab Middle Eastern countries is a hurdle to their beneficial integration into the global trading system. Developed countries' adoption of new protection mechanisms in trade agreements—such as health, environmental, labour and quality standards—have led to a further reduction in the capacity of trade for developing countries,³⁰ especially those exporting raw materials. Nevertheless, trade liberalisation is a trend that is likely to continue; thus, it is essential to find ways in which the formation of economic blocs among developing countries, in addition to regional partnerships, may lead to the mobilisation of resources and exploitation of the global trading regime in a positive way. However, the benefits of trade agreements must be conceptualised as both economic and political outcomes.

²⁸ Ibid.

²⁹ These issues will be discussed in the next chapters.

³⁰ For example, the terms of IPR and labour standards in the Jordan–United States FTA may prevent economic gains for Jordan as a developing country.

1.3 Thesis Context: Jordan and the International Trading System of GATT/WTO

The context of this thesis is the entry of Jordan into the WTO.³¹ The majority of Arab countries, including Jordan, joined the GATT through the Article XXXIII full accession procedure and Article XXVI sponsorship procedure.³² Article XXXIII provides the general context of accession to the GATT and establishes the process of accession for nations that were not founding members of the GATT.³³ Jordan joined the WTO on 11 April 2000—an event considered by Jordanians a turning point in the sustainable development of the Jordanian economy. The accession procedures completed by Article XII³⁴ state that the accession to the WTO would be on terms agreed between the acceding country and the WTO.³⁵ For Jordan, joining the WTO was a long-term process of negotiation necessary to achieve the condition of accession by consensus.

This thesis analyses the effects of the acceptance by Jordan of the GATT/WTO accords and addresses the broader significance for Jordan of participating in the international trading regime. This will require examining how international trade under the system of the GATT/WTO has affected the legal and economic structure in Jordan and economic integration in Arab region. The outcomes of the Jordanian role are analysed to understand how they benefit the geopolitical stability of the entire Middle Eastern region. Thus, international trade regimes can be seen as an essential mechanism for creating a more stable global environment.

³¹ The process began in 1994, when a working party for Jordan's entry into the WTO was constituted, keeping in mind the provisions of the GATT. Later termed the WTO working group, this group held five meetings from 1996 to 2000, culminating in Jordan's entry into the WTO. At that time, only six countries from the Middle East were members of the WTO, meaning that a large part of the region was outside the scope of the WTO. See WTO, *News—Press 174—Jordan Becomes 136th Member of the WTO* (2000) (Web Page, 2017) <https://www.wto.org/english/news_e/pres00_e/pr174_e.htm> (accessed 11 September 2017).

³² For example, if the United States sponsored Jordan, it would be a contracting party to the GATT by the sponsorship procedure. Thus, any country or customs territory having full sovereignty in the conduct of its trade strategies can enter the WTO. The applicant government presents a memorandum covering all aspects of its trade and legal regime to the working party. The Ministerial Conference must approve the agreement on the terms of accession by a two-thirds majority of the members of the WTO.

³³ Bashar H Malkawi, *Jordan and the World Trading System: A Case Study for Arab Countries* (SJD Dissertation, American University Washington College of Law, 2006) 154.

³⁴ Article XII of the WTO is echoed in Article XXXIII of the GATT. See WTO, *Legal Texts—Marrakesh Agreement* (Web Page, 2017) <https://www.wto.org/English/docs_e/legal_e/04-wto_e.htm#articleXII> (accessed 14 October 2017).

³⁵ Jordanian access to the WTO is considered a significant occasion in the development of the economy.

This thesis falls in the context of international trading relations, with a two-tier focus on both more extensive global trade and local/regional trade and political relationships. The thesis seeks to make explicit the links between global and local trade relations and their respective importance for stable political regimes. At the international level, a critical question in the context of the GATT and WTO is whether nation states who are members have been satisfied by joining the agreement and, more specifically, whether they have attained adequate flexibility and autonomy in the process of trading. An important question associated with this is whether this process of integration in the broader trading platform has been domestically viable and profitable, and whether it has reshaped the domestic economy positively or negatively.

Jordan held many trading links in the economic context of the Middle East even before the WTO accords,³⁶ with its principal trading partners being Saudi Arabia, Iraq and Syria. Its primary products are chemicals and minerals, such as potash and phosphate, and it has thus been a crucial player in the regional market, given the specificity and rarity of these products. It also has a significant share in the labour market of the region. Its significant imports are electrical and transport goods, chiefly from European countries and the United States (US). Thus, it is clear that, even before it signed the WTO accords, Jordan was adjacent to regional countries and the countries who were the primary forces behind the GATT/WTO agreements.

Jordan has signed a range of FTAs, including regional trade agreements, which include the Greater Arab Free Trade Area (GAFTA),³⁷ Jordan–US FTA,³⁸ Jordan–European Free Trade

³⁶ Jordan has recently struggled with a gloomy economic outlook and many challenges that have prevented its economic growth. It is dealing with the effects of instability in the region, which has greatly increased the number of refugees in Jordan. This situation has imposed much pressure on the economy, which has affected the levels of trade and investment in the country.

³⁷ The GAFTA was established in October 1997, within the Social and Economic Council of the Arab League, as an executive program to activate the trade facilitation and development agreement that had been in force since January 1998. The GAFTA includes in its membership 17 Arab countries. See Ministry of Trade, *International Agreements—GAFTA—Ministry of Economy & Trade, Republic of Lebanon* (Web Page, 2017) <<https://www.economy.gov.lb/en/services/trade/international-agreements/gafta>> (accessed 11 October 2017).

³⁸ The Jordan–US FTA was implemented on 1 January 2010 to enhance the trade partnership.

Association³⁹ and Jordan–EU Association Agreement.⁴⁰ Jordan’s principal imports and exports remain the same as before these agreements, yet the market in which these exchanges occur has widened. Jordan has also revised its legislation, including the investment legalities for attracting investors and ensuring mutual interests, with the most recent revision occurring in 2014.⁴¹ The new investment law has established a legal context that accommodates investors’ needs and promises to offer economic gains.

The FTAs of Jordan exist in the broader context of the international trading regime established under the GATT/WTO trading regime. Therefore, this thesis begins by analysing how Jordan participates in the global trading regime, followed by an analysis of its FTAs, especially with the US and Arab countries that have long been associated in trade relations with Jordan. This thesis emphasises the Jordanian trade relationship with Saudi Arabia, Iraq and Syria—the countries where Jordan has the most frequent and intense regional interaction. These countries provide a basis for examining and contrasting how economic factors may play a role in bilateral political relations, and how Jordan has positioned itself in the ongoing Arab regional economic integration through trade liberalisation.

³⁹ The Jordan–European Free Trade Association is an FTA between Jordan and Iceland, Liechtenstein, Norway and Switzerland, covering trade in industrial products, fish and marine goods, and processed agricultural goods. In addition, bilateral agricultural arrangements between the individual European FTA countries and Jordan have been concluded, which form part of the instruments creating the free trade area. See *Jordan–European Free Trade Association* (Web Page, 2017) <<http://www.efta.int/free-trade/free-trade-agreements/jordan>> (accessed 11 October 2017).

⁴⁰ The EU Association Agreement with Jordan—signed in November 1997, ratified in 1999 and enforced in May 2002—provides a suitable agenda for political negotiation, allowing for the development of strong political relations between the parties. In addition to trade liberalisation in goods, services and capital, it also fosters the development of economic and social relations among the parties through negotiation and cooperation, and improves living and employment circumstances, and hence productivity and financial stability. Similarly, it encourages regional cooperation with a view to the consolidation of peaceful coexistence and economic and political stability. See Ministry of Planning and International Cooperation, *Jordan–EU Association Agreement Overview* (Web Page, 2017) <<http://www.mop.gov.jo/Pages/viewpage.aspx?pageID=178>> (accessed 11 October 2017).

⁴¹ Jordan reformed a new investment law in 2014, with the aim of strengthening the Jordan Investment Commission, whose purpose is to support investors and enhance the FDI. However, some observers criticised the focus on tax exemptions, instead of trying to improve the overall business climate. See *Investment Law No. 30 for the Year 2014* (Web Page, 2017) <www.jic.gov.jo> (accessed 12 November 2017).

1.4 Research Questions

This thesis examines the international trade agreements entered by Jordan and analyses their implementation to determine whether, through these agreements, Jordan has played a decisive role in both the economic and political integration of Arab region with the rest of the world. This examination will pose the following overarching questions:

1. Have the FTAs of Jordan played a role in achieving both economic integration and political stability for Jordan, as well as for Arab region?
2. Has the economic relationship between Jordan and Arab countries in particular and their economic integration with the rest of the world in general changed and advanced as a result of these FTAs?
3. Which historical events and trade practices have influenced the outcomes of these FTAs?
4. What are the challenges and options for Jordan and its regional trading partners to render these FTAs more development and integration friendly?

This thesis acknowledges that the effectiveness or ineffectiveness of the Jordanian agreements can be measured in quantitative and qualitative ways. However, instead of measuring their outcomes in these terms, this thesis pursues the more limited aim of examining whether these FTAs have played a role in the economic and political spheres of this geographical region in general and Jordan in particular.

Upon addressing the research questions, this thesis provides useful and practical recommendations to improve the economic and political integration both among Arab countries themselves and between these countries and the rest of the world. The analysis is conducted within the system established by the GATT/WTO, particularly pursuant to the provisions of Article XXIV of the GATT/WTO, which conditionally authorises the establishment of both bilateral and regional preferential free trading regimes as a stepping-stone to global free trade. This provision on discriminatory preferential trade conflicts with the most-favoured nation (MFN) principle of non-discriminatory trade in Article I of the GATT/WTO.

Therefore, the analysis will focus on how to reconcile or at least minimise the contrasting effects of both discriminatory and non-discriminatory trade practices on Jordan and Arab

regional integration within and beyond. This will shed further light on how the structure of the economic and political integration in Arab region has been affected by trade liberalisation over time.⁴² This thesis more specifically pursues the following tasks to answer the research questions:

- Examine the international trade regime and the bilateral or multilateral trade agreements and outline Jordan's access to the WTO. Given that this thesis analyses FTAs, it is necessary to study the international trading regime and outline the Jordanian access to the WTO, which addresses the research questions.
- Investigate how Jordan is complying with the rules of the GATT/WTO and, in the process, how Jordan has modified its domestic laws, such as the investment regime and protections, to conform with the international trading regime. It is necessary to address the economic environment developments in Jordan, as well as the issues and difficulties faced by Jordan. This contributes to answering the first and third questions and paves the way to explicate the fourth question.
- Identify the FTAs entered by Jordan with industrialised countries, such as the US and EU, to understand how the relationship and trade exchanges have improved with these nations and ascertain whether this development is in favour of Jordan. Moreover, this thesis explores whether the interactions between trade and political outcomes of the economic tools of FTAs are discernible. This contributes to answering the second question and assists in answering the fourth question.
- Identify how industrialised countries have responded to the presence of Jordan in the international trading regime, where Jordan had to make changes that had legal, economic and political implications, and whether the industrialised nations have been receptive to the needs of Jordan as a trading partner or whether this process is largely symbiotic. This contributes to answering the first and second questions and clarifies whether the motives are genuinely economic for this partnership.
- Analyse the specific regional trade agreements in Arab region, such as the GAFTA, Agadir Agreement and Qualified Industrial Zone Agreement. Moreover, this thesis addresses the responses of Arab countries regarding the outcome of their accession to the WTO by examining and comparing their entry into the WTO, as well as the FTAs,

⁴² This thesis will be conducted from the perspective of Jordan's position as an Arab country.

with the Jordanian experience. This contributes to answering the second and third questions.

- Explore how Jordan has played a significant role in the economic integration of Arab region with the rest of the world and the political stability of Arab region. This formulates an answer to the first question.

1.5 Literature Review

The literature review corresponds to the research aims. This section conducts a preliminary examination of the available literature, which will be further supplemented in the subsequent chapters where these studies are more appropriate and relevant to the issues under consideration. The relevance of various issues to the overall argument will be integrated into this literature review.

1.5.1 International Trade Regime and Bilateral/Multilateral Trade Agreements

The present legal regime of international trade is widely composed of multilateral agreements concluded among trading countries under the GATT/WTO framework.⁴³ Therefore, fair trade necessitates the availability of equal competitive opportunity for trading nations.⁴⁴ The regulation of globalisation, as well as international trade, supposedly benefits the interests of all nations. This thesis mainly explores the rationales and explanations for free trade and FTAs through examining the arguments in support of FTAs and highlighting their virtues and deficiencies. FTAs are a form of integration in the global economy, as well as a means of trade cooperation between countries. FTAs arose after the global trend towards trade liberalisation,

⁴³ Accords concluded under the WTO framework are legal texts organised under broad sectors of activities, dealing with agriculture, textiles and clothing, banking, telecommunications, government purchases, industrial standards and product safety, food sanitation regulations and IP.

⁴⁴ See Islam, above n 1, 9.

opening up of global markets, the creation of international and regional blocs and the adoption of significant entities in trade transactions.⁴⁵

Free trade has numerous benefits to trading partners through an open market access policy.⁴⁶ Trade openness strengthens economic growth, productivity, standards of living, innovation, institutions and infrastructure, and even peace. In contrast, there are several arguments against free trade and trade liberalisation, which claim that adverse outcomes may also arise through the implementation of FTAs. For example, domestic corporations, particularly in developing countries similar to Jordan, could face fierce import competition from foreign companies⁴⁷ that may force domestic corporations to lower their products prices to defend their market share or use other strategies that could harm the corporations' long-term interests.

Islam argues that FTAs provide substantial benefits for partners by offering them comparative advantages. The economic theory of free trade is based on a liberal market mechanism, which is of the results of the FTAs by which market forces work properly, according to the Ricardian theory of comparative production advantage. This approach aims for gains to be maximised for all business partners when the producers of goods specialise in the specific areas in which they have productivity efficiency and comparative advantage.⁴⁸

Bhagwati argues that regionalism has two main dimensions. The first dimension relates to the direct effect of preferential trading blocs on world trade flows and welfare, while the second dimension considers their effect on the incentives for further liberalisation on a non-discriminatory basis. Therefore, there remains significant disagreement about the consequences of regionalism.⁴⁹

⁴⁵ Free trade is a policy of absolute foreign trade without tariffs on exports or imports and no quotas or other trade restrictions, without discrimination. The main argument for trade liberalisation is that exposing a country's economy to international competition will lead to better efficiency. Free trade occurs when there are no invented barriers by governments to restrict the flow of goods and services between trading partners. See Caroline Banton and Will Kenton, 'Trade Liberalization Explained', *Investopedia* (Web Page, 2019) <<https://www.investopedia.com/terms/t/trade-liberalization.asp>> (accessed 18 May 2019).

⁴⁶ Emanuel Ornelas, 'Endogenous Free Trade Agreements and the Multilateral Trading System' (2005) 67(2) *Journal of International Economics* 471, 497.

⁴⁷ Also, trade imbalance through trade diversion causes economic instability, difficult establishment of new industries, environmental concerns, dumping and other negative issues, as Jolanta claims. See Drozd Jolanta and A Miskinis, 'Benefits and Treats of Free Trade' (2011) 2(14) *Ekonomia* 40, 47.

⁴⁸ See Islam, above n 1, 6.

⁴⁹ Jagdish Bhagwati, 'Regionalism and Multilateralism: An Overview' in above n 8, 22, 51. See also Jagdish Bhagwati and Arvind Panagariya, 'The Theory of Preferential Trade Agreements: Historical Evolution and

Panagariya states that previous studies about FTAs have focused on arguing about the feasibility of using FTAs as tools of trade liberalisation. Supporters confirm that FTAs are meant to be ‘WTO-plus arrangements that seek freer trade among like-minded trading countries’.⁵⁰ In contrast to Panagariya’s argument, Krueger states that FTAs are a major departure from the MFN principle of the GATT, and detract from the principles of proper liberalisation.⁵¹ Supporters of the multilateral trading system have raised fears about preferential trading arrangements, based on the concern that the emergence of regional trading arrangements, including FTAs, would adversely affect the multilateral trading system.

Moreover, hence PTA will serve as a WTO replacement, rather than as a WTO-plus arrangement. If this occurs, the emergence of regional trading blocs would be accompanied by increasing trade disputes and perhaps rising trade barriers between blocs.⁵² Viner concludes that FTAs and customs unions (CUs) tend to divert trade, rather than creating new trade, and overall are harmful to the world’s trade interests. Conversely, Lipsey⁵³ recommends that, for specific countries, certain types of preferential arrangements can enhance the world’s welfare and promote people’s interests.

It is worth mentioning that most of this literature does not question how FTAs operate in developing countries, including the developing Arab countries. This thesis highlights the shortcomings of this previous literature. For instance, Sutherland argues that the challenges facing international trade demonstrate the need for an international approach that will not only take full advantage of global growth, but will also help achieve an improved measure of fairness.⁵⁴ Developing countries face specific problems and challenges presented by the

Current Trends’ (1996) 86(2) *The American Economic Review* 82. Also see Leon Trakman, ‘The Proliferation of Free Trade Agreements: Bane or Beauty?’ (2008) 42(2) *Journal of World Trade* 367, 388.

⁵⁰ Arvind Panagariya, ‘The Regionalism Debate: An Overview’ (1999) 4(22) *The World Economy* 455, 476.

⁵¹ Anne O Krueger, ‘Problems with Overlapping Free Trade Areas’ in Takatoshi Ito and Anne O. Krueger (eds), *Regionalism Versus Multilateral Trade Arrangements* (NBER-EASE Vol. 6, University of Chicago Press, 1997) 10.

⁵² Ibid.

⁵³ Richard G Lipsey, ‘The Theory of Customs Unions: A General Survey’ (1960) 70(279) *The Economic Journal* 496, 513. See also Murray C Kemp and Henry Y Wan, ‘An Elementary Proposition Concerning the Formation of Customs Unions’ (1976) 6(1) *Journal of International Economics* 95.

⁵⁴ Peter T Sutherland, ‘Beyond the Market, A Different Kind of Equity’, *The New York Times* (online, 1997) <<http://www.nytimes.com/1997/02/20/opinion/beyond-the-market-a-different-kind-of-equity.html>> (accessed 7 October 2017).

international trade regime. Thus, there is an urgent need to support developing countries in their efforts to participate in international trade expansion in a just manner that preserves their destiny and strategic interests.

The second issue of literature in this section is the theoretical arguments regarding free trade and FTAs and whether FTAs may be considered a violation of the principle of free trade, as well as the relative advantages that FTAs have for multilateral and bilateral trade relations. The WTO is a legal regime governed by a set of basic principles; its accords are legal texts covering a wide range of trade activities governed by fundamental principles, such as trade without discrimination⁵⁵ (MFN).⁵⁶ Through this concept, trade with all WTO members must be equal. MFN is the first article of the GATT, on adjusted trade in goods, which prevents nations from discriminating between their trading partners. MFN is also crucial in the General Agreement on Trade in Services (GATS) (Article 2) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 4), though, in each agreement, the principle is handled slightly differently.⁵⁷

Schott assumes that FTAs are used by nations to enter preferential trade agreements (PTAs), and may result in specific countries gaining the status of MFN.⁵⁸ Thus, the issue is whether the exception in Article XXIV (5) of the GATT⁵⁹ undermines the trade liberalisation promoted by multilateral trade and economic partnerships. Chase states that Article XXIV has been a source

⁵⁵ The second principle is national treatment, which states that imported and locally produced goods should be treated equally. The same should also be applied to foreign and national services and to foreign and local trademarks, copyrights and patents. This standard of national treatment (giving other countries the same treatment as one's nationals) also exists in all three principal WTO agreements. The third principle is on gradually freer trade—through negotiation, lowering trade barriers is one of the most visible means of boosting trade. The barriers include customs duties (or tariffs) and measures for import bans or quotas that restrict quantities selectively. The fourth principle is predictability—through obligation and transparency, providing evidence that one is not causing trade barriers can be as substantial as lowering barriers because the promise offers businesses an unobstructed view of their potential opportunities. Therefore, with stability and predictability, investment will be encouraged. See Islam, above n 1. See also Van Den Bossche and Zdouc, above n 19, 307.

⁵⁶ Considering its universal field, MFN has the potential to play an axial role in boosting the expansion of global free trade based on equality and non-discrimination. See Islam, above n 1, 10.

⁵⁷ The GATT, GATS and TRIPS. Together, these agreements cover all three leading areas of trade handled by the WTO.

⁵⁸ Jeffrey J Schott, 'Free Trade Agreements: Boon or Bane of the World Trading System?' in Jeffrey J Schott (ed), *Free Trade Agreements: US Strategies and Priorities* (Institute for International Economics, 2003) 3, 33.

⁵⁹ Article XXIV of the GATT prevents discrimination by a country regarding its trade partners. See Nicolas F Diebold, 'Standards of Non-Discrimination in International Economic Law' (2011) 60(4) *International and Comparative Law Quarterly* 831. See also Nicolas F Diebold, *Non-Discrimination in International Trade in Services: 'Likeness' in WTO/GATS* (Cambridge University Press, 2010).

of ‘vexation and puzzlement’ since the GATT launched in 1947. This clause exempts free trade areas and CUs from the obligation to accord MFN treatment in international trade.⁶⁰ Likewise, Islam and Alam⁶¹ argue that perhaps no other provision of the GATT/WTO has divided scholarly opinions more than Article XXIV. They cite the views of many critics about this issue, such as Curzon’s argument that Article XXIV is ‘extremely elastic’,⁶² Dam’s statement that it is ‘unusually complex’⁶³ and Bhagwati’s argument that it is ‘full of holes’⁶⁴ because of language that is full of ‘ambiguities’ and ‘vague phrases’.⁶⁵ Haight also labels Article XXIV an ‘absurdity’ and a ‘contradiction’, while Dam brands it ‘a failure, if not a fiasco’.

However, all Article XXIV critics agree that the PTAs align with the requirements of Article XXIV, with none found to be incompatible with it. Islam argues that FTAs that comply with Article XXIV (5) of the GATT are acceptable because, as he explains, in certain circumstances, bilateral agreements or multinational agreements can be considered as not contravening the principle of free trade. However, he notes that nearly all existing free trading blocs, unions and FTAs under Article XXIV are inwards looking, which is a departure from the free trade principle of MFN.⁶⁶

Trachtman states that Article XXIV of GATT provides a conditional prerogative for WTO members to enter into free trade areas and CUs. Therefore, this right is considered an exception to permit the apparent violation of the MFN commitment of Article I of GATT.⁶⁷ Therefore,

⁶⁰ Kerry Chase, ‘Multilateralism Compromised: The Mysterious Origins of GATT Article XXIV’ (2006) 5(1) *World Trade Review* 1.

⁶¹ M Rizwanul Islam and Shawkat Alam, ‘Preferential Trade Agreements and the Scope of GATT Article XXIV, GATS Article V and the Enabling Clause: An Appraisal of GATT/WTO Jurisprudence’ (2009) 56(1) *Netherlands International Law Review* 1.

⁶² Gerard Curzon, *Multilateral Commercial Diplomacy* (Michael Joseph, 1965).

⁶³ Kenneth W Dam, *The GATT: Law and International Economic Organisation* (University of Chicago Press, 1977).

⁶⁴ Jagdish Bhagwati, *The World Trading System at Risk* (Princeton University Press, 2014).

⁶⁵ Frank A Haight, ‘Customs Unions and Free-Trade Areas under GATT: A Reappraisal’ (1972) 6(4) *Journal World Trade Liberalisation* 391, 404.

⁶⁶ Islam, above n 1, 7.

⁶⁷ Trachtman also questions which other attributes Article XXIV authorises with respect to other types of measures, such as safeguards. Article XXIV also imposes important requirements on free trade areas and CUs. See Joel P Trachtman, ‘Toward Open Recognition? Standardisation and Regional Integration under Article XXIV of GATT’ (2003) 6(2) *Journal of International Economic Law* 459, 492.

PTAs and regional trade agreements should typically be arranged within the charter of Article XXIV of the GATT. This article is considered an exception to the MFN principle by treating mutual imports preferentially through the formalisation of a PTA. The WTO allows three types of PTAs: (i) CUs and FTAs under Article XXIV; (ii) agreements between developing countries formed under the enabling clause, which allows partial preferential treatment; and (iii) agreements under the generalised system of preferences, which enables developed countries to award preferential treatment to developing countries.⁶⁸

Article XXIV covers strict principles for the formation of regional groupings that are recognised by the GATT. The GATT accepts free trade areas, CUs and provisional agreements for the formalisation of either free trade areas or CUs.⁶⁹ However, it does not accept preferential trading arrangements because they permit selective tariff reduction without inquiring about the goal of complete tariff liberalisation and without increasing the benefits of a range of agreements with the other parties. These arrangements continually divert trade, as they lead to the movement of trade from countries with a comparative advantage in the production of merchandise in global markets to countries whose prices are lower because of PTAs. These arrangements also contradict MFN rules, as they permit preferences between parties that are not expanded to other parties of GATT directly.

The third issue of literature in this section is how the effects of FTAs might be measured. It distinguishes between econometric measures and studies that measure more sociological cumulative economic outcomes. However, this thesis does not aim to measure the effects of FTAs, but to examine how trade agreements are influenced by concerns other than economic factors. This section argues that the effects of FTAs on developing countries, mainly in Arab region, require specific attention.

The effects of FTAs can be measured in different ways. For instance, Viner⁷⁰ introduces the ‘trade volume effect’, in which he categorises FTAs into two categories depending on their trade creation and trade diversion effects. The two types of effects align with the trade volume

⁶⁸ Snorri Thomas Snorrason, ‘The Theory of Trade Agreements, Economic Integration, Size of Economies, Trade Costs and Welfare’ in Snorri Thomas Snorrason (ed), *Asymmetric Economic Integration* (Springer, 2012) 10.

⁶⁹ Islam, above n 1, 10.

⁷⁰ Jacob Viner, *The Customs Union Issue* (Carnegie Endowment for International Peace, 1950).

effect, which can result in ambiguous outcomes on welfare.⁷¹ The trade diversion effect decreases imports from non-FTA members, while the trade creation effect increases imports from the FTA CU.⁷²

Moreover, Plummer, Cheong and Hamanaka present a theoretical framework for the economic analysis of FTAs.⁷³ They emphasises that an accurate depiction of the possible effects of the FTA before negotiation (ex-ante evaluation) is necessary to determine the overall negotiation position of a country based on the overall cost–benefit analysis and identification of what the country can and cannot provide to its FTA partner in the negotiations. Studies before the negotiations could also help exploit the probable exporting profits of FTAs and draft the necessary adjustment policies for various sectors that could be adversely affected by the FTAs. These pre-negotiation results should reflect positively on the FTA when it is negotiated. Likewise, it is crucial to assess the actual effects of the FTA after its implementation (ex-post evaluation) to examine whether the effects are within the expected range, so countries can develop further necessary adjustment policies for the affected sectors and exploit the benefits that are yet to materialise fully. This assessment is significant when there seem to be fewer positive effects than harmful effects of the FTA.⁷⁴

Stevens et al evaluate the effects of FTAs in various studies on economic development and discuss the issue of causality that arises in countries that implement multiple measures to liberalise their policies. In this regard, one FTA may have a limited focus making it difficult to attribute any effects to the FTA itself.⁷⁵ Therefore, there is no single method of assessment used to assess the effects of FTAs. Measures relating to direct sociological and economic effects on countries and their population are another way of determining the effect of FTAs—

⁷¹ ABE Kazutomo, ‘Assessing the Economic Impacts of Free Trade Agreements: A Computable Equilibrium Model Approach’ (Discussion Paper No 07-E-053, Tokyo Denki University, 2007) 2.

⁷² Carsten Kowalczyk and Ronald J Wonnacott, ‘Hubs and Spokes, and Free Trade in the Americas’ (Working Paper No 1498, National Bureau of Economic Research, 1992) 1, 33.

⁷³ Michael G Plummer, David Cheong and Shintaro Hamanaka, *Methodology for Impact Assessment of Free Trade Agreements* (Asian Development Bank, 2011) 8.

⁷⁴ *Ibid*, 12.

⁷⁵ Christopher Stevens et al, *The Impact of Free Trade Agreements between Developed and Developing Countries on Economic Development in Developing Countries: A Rapid Evidence Assessment* (Overseas Development Institute, 2015) 12.

particularly agreements with a developing country.⁷⁶ This thesis mainly discusses the literature that studies such effects.

The final issue of literature in this section is the international trade regime and the bilateral or multilateral trade agreements in Arab region. Arab countries, including Jordan, have expanded their relationships with the international trading regime in a manner that has had significant implications. These actions of acceding the WTO coincided with reorientations in their international trade and economic strategies. Malkawi states that Arab countries must adhere to the WTO procedures and undertake economic reforms.⁷⁷ However, this does not mean that Arab trade activities are unlikely to be adversely affected. Therefore, a complete picture of negative or positive effects is required.

Therefore, there is limited literature linking the above analyses to their significance for Arab countries. Further, there is a lack of studies related to the regulation of FTAs among Arab countries. Most of the literature supports the ideal of free trade, yet the majority does not question how free trade operates in Arab economic integration, and there is no literature on how international trade law is used to achieve economic or political integration in this region. Despite the lack of studies on the significance of trade agreements in helping achieve economic integration, numerous trade agreements exist between Arab countries. As such, this study aims to begin this line of enquiry.

1.5.2 Jordan as a Member of the World Trade Organization

This section discusses how Jordan has had to modify its domestic policies as a consequence of joining the GATT/WTO; the effects of Jordan joining the GATT/WTO; what (if any) effects of the political changes, increased use of alternative dispute resolution in the context of trade; the effect of trade agreements on the pharmaceutical industry in Jordan; and the safeguard measures in various free trade arrangements.

⁷⁶ FTAs provide several benefits that cannot be exactly quantified by economic models in developing countries. These critical benefits may include structural reforms, technology transfer, capacity building and macroeconomic and political stability.

⁷⁷ Bashar H Malkawi, 'Jordan's Accession to the WTO: Retrospective and Prospective' (2010) 11(1) *The Estey Centre Journal of International Law and Trade Policy* 12, 45.

The first issue of literature in this section is to investigate whether the GATT/WTO membership has been beneficial or harmful to Jordan and the economies of other developing Arab countries. This thesis assumes that the WTO membership should assist Jordan to preserve its rights. Baldwin observes that, until the 1970s, the GATT was catering to the trade needs of developed countries.⁷⁸ During that period, an ‘enabling clause’ was introduced, which suggested that newly independent countries should not have to make concessions regarding tariffs to acquire improved market access. Further, Baldwin explains that the traders from the countries that granted enabling clause were not free traders; thus, multilateral negotiation had no effect on the arrangement of pro-trade and anti-trade political bodies in developing countries. Baldwin also makes valid points about how the developing countries did not benefit from the GATT/WTO; however, he fails to discuss the degree to which the policies negatively affected the national interest of these countries. Bagwell and Staiger also conclude that the GATT/WTO was initially established for developed countries with sizeable economic strength. The laws designed by the GATT/WTO permit larger economies to acquire mutual gains that unilateral liberalisation could not otherwise provide.⁷⁹ However, this study does not discuss any particular country to exemplify these claims.

Tomz et al undermine the commonly accepted notion that membership in the GATT/WTO has no significant effect on international trade.⁸⁰ The study counters the research by Rose, which suggests that countries belonging to the GATT/WTO do not trade more than countries that refrain from membership. They challenge this notion and suggest that, whether regular members or non-members, the volume of trade has increased since the establishment of the GATT. Their quantitative research shows that the GATT has exerted a positive effect on trade across time and countries from different groups (member or non-member). However, the study is limited to validating the contribution of the GATT in the growth of trade across the globe. Therefore, further studies are required to better understand the role of the GATT/WTO in

⁷⁸ Richard E Baldwin, ‘Stepping Stones or Building Blocs? Regional and Multilateral Integration’ in J McKay, M O Armengol and G Pineau (eds), *Regional Economic Integration in a Global Framework* (Graduate Institute of International Studies, Geneva, 2004) 9.

⁷⁹ Kyle Bagwell and Robert W Staiger, ‘What do Trade Negotiators Negotiate about? Empirical Evidence from the World Trade Organisation’ (2011) 4(101) *The American Economic Review* 1238, 1273.

⁸⁰ Michael Tomz et al, *Membership Has Its Privileges: The Impact of GATT on International Trade* (Working Paper No 250, Stanford University, 2005) 1, 20.

improving trade relations and economic integration among developing countries, including those in Arab region.

Malkawi argues that the WTO arrangement is not ideal and there are deficiencies in the system. However, he accepts that membership in the WTO provides better opportunities than bilateral trade agreements with developed countries. Membership in the WTO can benefit Jordan in cooperation with other Arab countries.⁸¹ To suit the needs of its trading relations under the WTO framework, Jordan has agreed to reduce tariffs on imported products and open its services market, and has also modified its internal IP regime and Investment Law and Protection. However, Lopert and Gleeson argue that these modifications come at a high cost.⁸² Bacchetta and Drabek observe that the effects of the WTO depend significantly on policymaking and institutional change.⁸³ They state that new member states to the WTO eventually make strong changes to governmental economic policies. They also provide a few reasons why countries should become members of the WTO, including the favourable effects on domestic policy making and a productive institutional framework. This argument is substantiated in the context of Jordan and will be discussed in later chapters.

Malkawi explores the context of Jordan entering the WTO, and discusses the factors that led to it joining the WTO. In addition, Malkawi explores how Jordan agreed to the massive package of legal and legislative reforms to enter the WTO,⁸⁴ and how entry into the WTO by Jordan and its signing of bilateral FTAs with numerous countries has caused exhaustive and cumbersome obligations that were previously demanded. Overall, the existing literature has very limited detail on how Jordan restructured its trading and economic system through privatisation of state enterprises,⁸⁵ liberalisation of the trade and investment regime, and the

⁸¹ See Malkawi, above n 77.

⁸² Ruth Lopert and Deborah Gleeson, 'The High Price of "Free" Trade: US Trade Agreements and Access to Medicines' (2013) 41(1) *Journal of Law, Medicine and Ethics* 199.

⁸³ Marc Bacchetta and Zdenek Drabek, *Effects of WTO Accession on Policy-Making in Sovereign States: Preliminary Lessons from the Recent Experience of Transition Countries* (WTO Staff Working Paper, DERD-2002) 1083, 1125.

⁸⁴ Malkawi, above n 77.

⁸⁵ The government of Jordan has privatised the 14 most important state-owned enterprises that cover public sector projects that need to be operated on a commercial basis. Privatisation has become a serious phenomenon in Jordan over the past two decades, with privatisation attempts occurring at an increasing rate. See Article 3 of *Privatisation Law No. 25 of 2000*.

introduction of new regulations and institutions that transformed Jordan into an open economy. This study aims to fill this gap.

Kennett, Evenett and Gage present an investigative discourse on Jordan's accession to the WTO membership, and the legal and trade commitments made by Jordan, such as pricing policies, a framework for creating and enforcing policies, trading rights, other duties and charges, tariff rate quotas, tariff exemptions, application for internal taxes, and many other obligations, which will be discussed in subsequent chapters. Moreover, they discuss the various implications related to Jordan's accession to the WTO.⁸⁶ Tang and Wei also investigate the outcomes of the WTO accession for income and investments. They discover evidence suggesting that the WTO accession causes an increase in revenue and investments, yet only when countries have undergone a difficult accession process. They additionally demonstrate that countries with developing economies benefit from policy commitments related to the accessions.⁸⁷ However, they do not offer an effective model to validate their claim. These studies sought to discuss WTO accession outcomes in the context of policy and institutional modules. However, they do not explore the relationship between WTO accession and its implications for the domestic economic situation and how it can cause burdensome commitments, especially in the case of a developing country, such as Jordan. Therefore, one of the aims of this thesis is to fill this gap by discussing the positive and negative effects of accession to the WTO among Arab Countries—notably Jordan, which has modified its domestic laws.

Jordan plays a significant role in the Arab region because of its geographical location and political status. Its geographic location helps mobilise international trade in the region⁸⁸ and, although the international trade equation in the area has changed, Jordan still plays a central role in this regard. Before the Arab Spring and counter-revolutions in this geographical area, most European goods destined for the Gulf States crossed through Jordan, while most of Iraq's imports passed through the Jordanian port of Aqaba. Therefore, it is timely to explore how the

⁸⁶ Maxine Kennett, Simon J Evenett and Jonathan Gage, *Evaluating WTO Accessions: Legal and Economic Perspective* (IDRC-Sponsored Research Project, 2005) 114, 128.

⁸⁷ Man-Keung Tang and Shang-Jin Wei, 'Does WTO Accession Raise Income?' (Working Paper 06, International Monetary Fund, 2006) 1, 14.

⁸⁸ Firas Malhas, *Foreign Investment Regime—International Law—Jordan* (Web Page, 2009) <<https://www.mondaq.com/International-Law/75566/Foreign-Investment-Regime>> (accessed 22 October 2017).

political changes described as the Arab Spring influenced economic aspects of international trade in Jordan.

The second issue of literature in this section is the use of methods such as mediation and arbitration, rather than litigation, to resolve disputes, and these methods' effect on international trade and foreign investment in Jordan. In regard to trade globalisation, the number of trade disputes has increased, since courts trials have become costly and time-consuming. As such, alternative dispute resolution (ARD) has become significant for disputing parties in Jordan to resolve their disputes, and the use of ADR outside the legal system has grown significantly in Jordan.⁸⁹ Aljazy states that, because of the inability of national courts in Jordan to offer an assembly for the resolution of cross-border business disputes, the relationship between ADR, international trade and foreign investment has increased significantly.⁹⁰ However, he does not explain why trade disputes have arisen in Jordan or address ADR's effect on international trade and foreign investment in Jordan. In conjunction with the liberalisation of its economy, Jordan has witnessed a remarkable increase in foreign investments, which has led to an increase in the need for suitable resolution of cross-border disputes. Therefore, Jordan has updated its legislation in the arena of ADR by passing new laws and ratifying the international tools. Internally, a specialised institute for ADR services related to IP disputes has been established.

A significant gap in the literature is that links between enhanced foreign investments in Jordan and the above literature are not sufficiently discussed. Most of the research supports the ideal of these links, yet does not examine how the trade agreements work to promote foreign investments and how they can protect local investors. Further, they do not consider how these developments have provided a fertile environment for more foreign investment in Jordan by enabling an appropriate level of security and neutrality, which will encourage foreign companies to invest in Jordan. There is a similar lack of studies discussing the importance of mutual investments between Arab Countries and their significance for Arab economic integration.

⁸⁹ The provisions governing arbitration in Jordan are differentiated from those of Arab countries, as they are found in special arbitration law and not within the Code of Civil Procedure. See *Arbitration Law No. 31 of 2001* and *Mediation Law for Settling Civil Disputes No. 37 of 2003*.

⁹⁰ Omar M Aljazy, *The Impact of Using ADR in Jordan on International Trade and Foreign Investment* (Jordanian Center for Dispute Resolution) 1, 5.

The third issue of literature in this section is to illustrate the above arguments with the case study of pharmaceutical industry regulations in Jordan. This examination will investigate how Jordan's international obligations have affected domestic production, and how this issue is discussed in the available literature. Jordan has committed to high IP protection through the TRIPS rules required by WTO membership. The WTO has also obligated Jordan to enforce the clauses in the World Intellectual Property Organization (WIPO) agreements. These provisions offer protection to patents, copyrights and trademarks, and devote particular attention to pharmaceuticals. This has serious consequences for the availability of medicines in Jordan. For instance, Malpani states that medicines in Jordan for non-communicable severe diseases, such as asthma, diabetes and hypertension, are six times more expensive in Jordan than in neighbouring Egypt, where there are no TRIPS-Plus barriers resulting from the Jordan–US FTA.⁹¹ In contrast, Al Nasa'a et al argue that the effect on pharmaceuticals pricing is too minor to make any difference to Jordan's economy.⁹² Abbott,⁹³ Lopert and Gleeson⁹⁴ also discuss these matters, yet there is no reliable basis for their claims that TRIPS agreement has boosted the availability and accessibility of medicines in Jordan, encouraged foreign investment or improved the research development capability of domestic manufacturers. In addition, the agreement has led to a more significant association between national and multinational pharmaceutical corporations to further develop the pharmaceutical sector. However, this thesis suggests that there are good reasons to assume that Jordan had a vibrant domestic pharmaceutical industry that was geared towards exports before the WTO obligation, and this has not been the case following the FTA.

The fourth issue of literature in this section is an analysis of the safeguard measures under Jordan's FTAs and legal provisions; their socioeconomic, political and legal contexts; and which changes need to be made to these safeguard rules. Trade remedies are trade policy tools that can be used by local industries that allow them to implement measures to act against

⁹¹ Rohit Malpani, 'All Costs, No Benefits: How the US–Jordan Free Trade Agreement Affects Access to Medicines' (2009) 6(3) *Journal of Generic Medicines* 206.

⁹² Marwa Al Nasa'a et al, *The Jordan–US Free Trade Agreement: Eight Years Later* (Working Paper, University of Michigan Gerald R Ford School of Public Policy, 2008) 12.

⁹³ Frederick M Abbott, *The Doha Declaration on the TRIPS Agreement and Public Health and the Contradictory Trend in Bilateral and Regional Free Trade Agreements* (Occasional Paper No 14, Quaker United Nations Office, 2004) 1, 4.

⁹⁴ Lopert and Gleeson, above n 82, 201, 202.

imports that are causing injury to domestic production. These include actions such as antidumping, countervailing duty measures and safeguard measures. Safeguard duty refers to emergency actions that should apply when there is evidence that imports have increased and the circumstances of this increase might threaten substantial damage to the local industry. In addition, the delay in imposing a provisional safeguard duty would cause permanent damage to the national industry. Therefore, safeguard duty is distinguished from antidumping, which should be applied when goods are exported to a different country at a price less than their usual value. Thus, the purpose of antidumping duty is to repair the trade outcome of dumping and recreate a fair trading relationship. Hence, antidumping is a tool for promoting fair trade and not a measure of protection for the national industry.⁹⁵ Not much literature has examined the safeguard measures under Jordan's FTAs and legal provisions, including their application and socioeconomic, political and legal contexts. This thesis seeks to provide some explanations and recommendations about which changes need to be made to these safeguard rules.

1.5.3 Jordan's Non-Arab Trading Partners

This section examines whether Jordan has benefitted economically from trade partnerships or whether the agreements have mostly met the (geopolitical) needs of the developed countries. Demirbas explains how bilateral agreements disadvantage weaker countries, as developed countries tend to eliminate the flexibilities offered to developing countries through the WTO in bilateral trade agreements.⁹⁶ Therefore, developed countries should be able to offer concessions to developing countries; otherwise, the net cost of having FTAs will be higher than the benefit for the developing country.

In an analysis of Jordan's significant trade liberalisation over the past 20 years, Busse and Gröning conclude that there has been little lasting economic effect.⁹⁷ The US International

⁹⁵ *General Agreement on Tariffs and Trade 1994*, Article XIX, <https://www.wto.org/english/res_e/booksp_e/analytic_index_e/gatt1994_07_e.htm> (accessed 14 November 2017).

⁹⁶ Dilek Demirbas, 'Bilateral Free Trade Agreements' in Charles Wankel (ed), *Encyclopedia of Business in Today's World* (SAGE Publications, 2009) 147, 148.

⁹⁷ Matthias Busse and Steffen Gröning, 'Assessing the Impact of Trade Liberalisation: The Case of Jordan' (2012) 27(3) *Journal of Economic Integration* 466.

Trade Commission has found that the effects of the FTA with Jordan would be *de minimis*, as it would have no quantifiable effects on US imports, exports, production or employment.⁹⁸ These studies support the assumptions of this thesis. Conversely, Cassing and Salameh suggest that Jordan's economy has responded well following the economic liberalisation events of the past decade. They also conclude that Jordan has economically benefitted from the US–Jordan FTA, with a remarkable rise in exports from Jordan to the US.⁹⁹ Lord also argues that the effect of services liberalisation on Jordan is likely to be significant. He predicts that the FTA between Jordan and the US will create a new window for Jordan to increase its exports to the US.¹⁰⁰ Moreover, Hosoe explains that the production and trade flows on Jordan's economy should grow because of the FTA with the EU. He predicts that EU imports to Jordan will increase, and exports from Jordan are also likely to increase. However, he believes that not all sectors in Jordan are likely to benefit from trade liberalisation with the EU.¹⁰¹ However, there are no studies examining whether FTAs with developed countries have met the needs of developing country.

Jordan has become a reliable strategic ally that is trusted to help implement the West's strategic policies in the Middle Eastern region. For example, Mobley discusses that, in the midst of the Jordanian civil war against the Palestinians during September 1970, Syria conducted an armoured incursion into northern Jordan. US leaders responded with extensive military preparations to intervene on behalf of Jordan through the request of Israeli army assistance, which indicates the strength of the strategic alliance between Jordan and the West.¹⁰² Moreover, Barakat and Leber state that Jordan has been a trustworthy Arab ally to the West for a long period, serving as a key base for Arab region humanitarian and diplomatic activities. They also assert that Jordan's competent military and intelligence services provide an efficient security

⁹⁸ US Trade Representative, *Final Environmental Review of the Agreement on the Establishment of a Free Trade Area between US and Jordan* (Office of the United States Trade Representative, 2000) 6.

⁹⁹ James Cassing and Anna Maria, *Jordan–United States Free Trade Agreement Economic Impact Study: Searching for Effects of FTA on Exports, Imports and Trade Related Investments* (Report No 535.02, United States Agency for International Development Jordan, 2007) 9.

¹⁰⁰ Montague J Lord, *Economic Impact and Implications for Jordan of the US–Jordan Free Trade Agreement* (MPRA Paper No. 41168, Munich Personal RePEc Archive, 2001) 5.

¹⁰¹ Nobuhiro Hosoe, 'A General Equilibrium Analysis of Jordan's Trade Liberalisation' (2001) 23(6) *Journal of Policy Modeling* 595.

¹⁰² Richard A Mobley, *US Joint Military Contributions to Countering Syria's 1970 Invasion of Jordan* (OMB Report No 0704-0188, National Defense University, Institute for National Strategic Studies, 2009) 160, 167.

buffer for Israel and the Gulf States, who are the most important allies of the West.¹⁰³ Lobell considers the Jordan–US FTA a measure of security for the US in the Middle East. He stresses that the US has used FTAs as a weapon in their war on terrorism, as they can serve as a counter-strategy to answer terror with trade by fostering the economy of Middle Eastern countries with job generation and poverty alleviation.¹⁰⁴ Aggarwal also states that the Jordan–US FTA is mainly motivated by political–strategic aspects, rather than economic factors.¹⁰⁵ The main issue not covered in this literature is why the economic rationales of free trade are not correlated with political motives.

1.5.4 Economic Integration of Arab Countries

The next research issue is to explore economic integration through increased trade and foreign investment to achieve sustainable economic growth.¹⁰⁶ Arab Countries have expressed interest in the international trading system to further their economic growth and development. However, they have adopted an uneven approach to achieve the desired benefits. The advantages of the international trading system for Arab Countries were expected to be more through setting restrictions on the trade policies of developed countries.¹⁰⁷ The Arab expected that, production costs would lower, productivity would increase and surpluses would be gained, which could be traded with other countries. As a result, economic integration between Arab Countries would decrease the overall costs of production, and consumers could buy more with

¹⁰³ Sultan Barakat and Andrew Leber, *Fortress Jordan: Putting the Money to Work* (Brookings Institution, 2015) 1.

¹⁰⁴ Steven E Lobell, ‘The Second Face of American Security: The US–Jordan Free Trade Agreement as Security Policy’ (2008) 27(1) *Comparative Strategy* 88.

¹⁰⁵ Vinod K Aggarwal, *An APEC Trade Agenda? The Political Economy of a Free Trade Area of the Asia Pacific* (The Pacific Economic Cooperation Council and the APEC Business Advisory Council, 2007) 29.

¹⁰⁶ ‘Economic integration is an economic arrangement between different regions, marked by the reduction or elimination of trade barriers and the coordination of monetary and fiscal policies. The aim of economic integration is to reduce costs for both consumers and producers and to increase trade between the countries taking part in the agreement’. Will Kenton, ‘What Is Economic Integration?’ *Investopedia* (Web Page, 2020) <<https://www.investopedia.com/terms/e/economic-integration.asp>> (accessed 2 February 2020).

¹⁰⁷ This thesis discusses whether the Arab region is lacking strong mechanisms to implement an economic integration project between countries, and whether any lessons can be drawn from developed countries.

their wages, thereby benefitting the people of the region.¹⁰⁸ However, the Arab region currently suffers from political and military divisions, which, according to this thesis, is one of the main reasons for the weakness in the political and economic integration of Arab Countries. Therefore, the thesis argues that a ‘zero stage’¹⁰⁹ in economic integration is needed to enable the long-term sustainability of the Arab regional bloc. The existing literature does not sufficiently discuss the significance of noneconomic factors, including political factors, for economic integration.

Peter Hilpold examines regional integration according to Article XXIV GATT-between Law and Politics finds that regional integration has become a worldwide phenomenon between developing countries. He questions how developing countries rely on regional integration initiatives for economic and political reasons.¹¹⁰ Further, a review by Younes shows gradual growth in the involvement of individual Arab states within the WTO, and observes that a web of bilateral trade agreements among Arab Countries has developed.¹¹¹ Jordan has been one of the principal promoters of the regional propagation of bilateral trade agreements, holding FTAs with Egypt, Tunisia, Syria, the United Arab Emirates (UAE), Lebanon, Bahrain and Kuwait since 1998. Similarly, it holds trade and collaboration treaties with Algeria, Libya and Yemen. Other Arab countries, such as Egypt and Tunisia, have similar agreements, of which some are selected as FTAs with some of the chosen trading partners. To ensure that trade is promoted among Arab Countries, the GAFTA was initiated, which was a new Arab League initiative with the primary aim of recovering formerly unsuccessful efforts at regional integration. However, the literature does not discuss how further progress can be made to create an Arab trade bloc. This thesis will fill this gap, as the economic integration of the Arab region still has a long way to go to achieve more advanced levels.

Legrenzi discusses the options and challenges faced by Arab Countries in terms of international and regional trade. GAFTA had the potential to revolutionise the trade relations within Arab

¹⁰⁸ Rodrigue, above n 3.

¹⁰⁹ Andrea B Bolanos, A Step Further in the Theory of Regional Integration: A Look at the Unasur’s Integration Strategy (Working Paper, GATE 2016-17, 2016) 1, 24.

¹¹⁰ Peter Hilpold, ‘Regional Integration According to Article XXIV GATT-Between Law and Politics’ in Von Bogdandy and R. Wlforum (eds), *Max Planck Yearbook of United Nation Law Online* (Brill | Nijhoff, 2003) 219, 260.

¹¹¹ Hossam Younes, ‘The Contribution of Trade to Growth of the Arab Countries’ (Conference Paper, Conference on Empirical Investigation in Trade and Investment, Tokyo, Japan, 2010) 11, 13.

Countries; however, a substantial absence of precision, efficiency and feasibility of plan implementation has limited the results of the agreement. Further, the Agadir Agreement¹¹² among the Arab Mediterranean countries was a stepping-stone to trade relations among Euro-Mediterranean countries, and the Euro-Mediterranean free trade area¹¹³ has significantly influenced the economic integration of Arab Countries in the region.¹¹⁴

However, the existing literature does not discuss the possible reasons that these agreements have not resulted in higher economic integration of the countries in the Arab region. For example, Ayadi Rym et al. evaluate the effects of the Euro-Mediterranean FTA for defining the Euro-Mediterranean trade road map.¹¹⁵ The study provides quantitative, qualitative and sectoral assessments of the influence of the Euro-Mediterranean free trade area on trade and investment to evaluate which effects the partnership has generated for the EU and Mediterranean region. The study also indicates the partnership strengths and weaknesses, and discusses ways to enhance trade and economic integration in the Euro-Mediterranean region. It also suggests future actions and instruments to be implemented to address the weaknesses identified, with a view to realising the goal of a well-functioning Euro-Mediterranean FTA.¹¹⁶ However, this study does not determine why the Euro-Mediterranean FTA has not achieved the expected successes regarding economic integration among Arab Countries themselves and economic integration among the Arab states with European countries. Dennis also investigates the effect of regional trade agreements and trade facilitation in the Middle East and North

¹¹² The Agadir Agreement aimed to foster economic relations between the Mediterranean countries and the Association Agreements signed between the EU and most Middle Eastern countries. See Steffen Wippel, 'The Agadir Agreement and Open Regionalism: The New Forum for Integration on the Southern Shore of the Mediterranean in the Context of Multiple Regional Orientations' (2005) 45 *EuroMeSCopaper* 5, 24.

¹¹³ This is a trade partnership aiming to remove barriers to trade and investment between the EU and Southern Mediterranean countries and between the Southern Mediterranean countries themselves. See *Euro-Mediterranean Partnership—Trade—European Commission* (Web Page, 2017) <<http://ec.europa.eu/trade/policy/countries-and-regions/regions/euro-mediterranean-partnership/>> (accessed 6 October 2017).

¹¹⁴ Matteo Legrenzi, *Regionalism and Regionalisation in the Middle East: Options and Challenges* (International Peace Institute 2013) 1, 10.

¹¹⁵ Its objective was to create a free trade area between the EU and the signatories of the Barcelona Process.

¹¹⁶ The study focuses on the most active partners of the Euro-Mediterranean FTA: Morocco, Tunisia, Egypt, Jordan and Israel. The countries that have signed an Association Agreement with the EU are Algeria, Egypt, Tunisia, Israel, Jordan, Lebanon and Morocco. Syria has a Cooperation Agreement with the EU, and the Palestinian Authority has an Interim Cooperation Agreement with the EU. See Rym Ayadi et al, *Economic Integration in the Euro-Mediterranean Region* (CASE Network Report No 89, 2009) 22, 179.

Africa (MENA), and finds that trade performance has been disappointing.¹¹⁷ However, he does not provide a convincing reason for this disappointment.

Novaes and Werlang suggest that an economic bloc formed by PTAs should not act like a state-controlled financial institution, as such action leads to an economic inflation rate, thereby hindering the economic growth sought by the member countries.¹¹⁸ However, their concerns should not apply to the Arab region FTAs, where the control will be collective. Thus, the reasons for the weaknesses of the economic and political integration need to be explored for this geopolitical region. Hoekman and Zarrouk analyse the changes in cross-border trade costs in the Arab Free Trade Area and how the companies report that tariffs on intraregional trade between Arab Countries have mostly been removed, and that there has been a marked improvement in customs clearance-related procedures and the constraints to intraregional trade.¹¹⁹ This and similar literature provide the conceptual tools and background context for developing an analysis of the role of Jordan in facilitating more significant economic and political integration in the Arab region.

Similarly, existing literature on the rationales for FTAs does not focus on the economic imperatives of the Arab region countries. For example, Baier and Bergstrand provide a systemic empirical analysis of the economic determinants responsible for bilateral FTAs, considering market competitiveness and transportation costs between multiple countries and continents. According to their model, countries that are similar in economic size and close in distance will be more likely to form FTAs.¹²⁰ Therefore, the FTAs between Arab Countries follow the conventional logic of establishing a bilateral economic relationship between countries.

The Heckscher–Ohlin trade model reveals that practical factor endowments are a powerful determinant of comparative advantage with a trading partner. This may be realistic for countries at the same level of development or countries from the same region that have a similar

¹¹⁷ Alan Dennis, *The Impact of Regional Trade Agreements and Trade Facilitation in the Middle East North Africa* (Working Paper No 3837, World Bank Research, February 2006) 1, 24.

¹¹⁸ Walter Novaes and Sergio Werlang, 'Inflationary Bias and State-owned Financial Institutions' (1995) 47(1) *Journal of Development Economics* 151.

¹¹⁹ Bernard Hoekman and Jamel Zarrouk, 'Changes in Cross-border Trade Costs in the Pan-Arab Free Trade Area, 2001–2008 (Policy Research Working Paper No WPS 5031, World Bank, 2009) 2, 16.

¹²⁰ Scott L Baier and Jeffrey H. Bergstrand, 'Estimating the Effects of Free Trade Agreements on International Trade Flows Using Matching Econometrics' (2009) 77(1) *Journal of International Economics* 63.

language, religion or culture, yet is less relevant when the two partners have different sized economies.¹²¹ Hence, the Heckscher–Ohlin trade model applies to Arab Countries’ reality and supports the argument of this thesis. Moreover, Frankel, Stein and Wei quote Krugman’s theory, which states that trade follows the natural line of proximity between countries; therefore, it is natural to conduct business with neighbouring countries. In contrast, unnatural trading blocs, or trading agreements between individual countries beyond continents, are an unnatural way to trade.¹²² These ideas are relevant for asking what the imperatives for Jordan may be entering into various FTAs with industrialised and neighbouring countries.

1.5.5 Regional Stability through Free Trade Agreements

This thesis assumes that international trade has a critical role to play in generating prosperity and as a peace-creating mechanism in the Arab region. The normalisation of economic relations between Jordan and Israel was one of the most critical points of the 1994 Wadi Araba peace agreement. Article VII of Wadi Araba peace agreement was devoted to detailing their trade and economic relations, which considered economic development and prosperity the pillars of peace, security and harmonious relations between states and peoples.¹²³ Yitzhak discusses the relations between Jordan and Israel from 1967 to 2015, detailing the shared interest of the Hashemite regime and Zionist movement, which developed into economic ties and intelligence exchanges from the reign of King Abdullah I in the 1950s. He also contends that Israel came to the aid of the Hashemite regime to protect its sovereignty, and argues that Israel’s policy aimed to aid Jordan in confronting new challenges in the region. Moreover, Israel has stood by the Hashemite regime through most of its existence indicates a strategic partnership that would remain even without a peace treaty, which indicates that trade relations can be created through

¹²¹ Kwok Tong Soo, ‘Relative Endowments and the Volume of Trade’ (2009) 24(4) *Journal of Economic Integration* 744, 764. See also Kelvin Lancaster, ‘The Heckscher–Ohlin Trade Model: A Geometric Treatment’ (1957) 24(93) *Economica* 19, 39.

¹²² Jeffrey Frankel, Ernesto Stein and Shang-Jin Wei, ‘Trading Blocs and the Americas: The Natural, the Unnatural, and the Super-Natural’ (1995) 47(1) *Journal of Development Economics* 61.

¹²³ *Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan* (Web Page, 1994) <<http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/israel-jordan%20peace%20treaty.aspx>> (accessed 5 December 2017).

political relationships and stability.¹²⁴ However, his study does not address trade exchanges between the two countries and the way trade plays a crucial role in building prosperity and peace between Jordan and Israel, as well as in the wider Arab region.

Arnon, Spivak and Weinblatt examine the trade relations between Jordan and Israel using the gravity model and similarity tests, and conclude that it is difficult to assess the extent of trade likely to develop between the two countries. They state that the trade relationship between these two countries depends on the prevailing political situation and the developments in the region.¹²⁵ However, they do not address the vast differences in per-capita income between the two countries. According to the Linder trade theory, countries that are similar in per-capita income undertake more trade than do dissimilar countries.¹²⁶ Moreover, they do not consider the Israeli–Palestinian conflict, which has significantly affected stability in the region. Thus, in this thesis, Chapter 6 will discuss these issues by examining the literature on this topic, including studies by Smith,¹²⁷ Hettne¹²⁸ and Cooper.¹²⁹

If the initial motives for integration are economic, the need for political unity can arise at a later stage. The objectives of the economic bloc may also lead to establishing joint protection units within the countries of the region for protection and confrontation with the outside world, which will enhance the chances of regional (and world) peace. The most significant example is the formation of the EU after the World War II, with the member countries currently enjoying the resultant political and economic stability. Therefore, this thesis next examines the literature related to the Syrian war to explore whether it is a result of the weakness of the Arab economic and political integration. The issue of the Syrian conflict is a contemporary situation; however, there is not much literature questioning whether this conflict is linked to weaknesses in Arab

¹²⁴ Ronen Yitzhak, 'From Cooperation to Normalisation? Jordan–Israel Relations since 1967' (2017) 44(4) *British Journal of Middle Eastern Studies* 559, 575.

¹²⁵ Arie Arnon, Avia Spivak and J Weinblatt, 'The Potential for Trade between Israel, the Palestinians and Jordan' (1996) 19(1) *The World Economy* 113.

¹²⁶ Juan Carlos Hallak, 'A Product-Quality View of the Linder Hypothesis' (2010) 92(3) *The Review of Economics and Statistics* 453.

¹²⁷ Steve Smith, Amelia Hadfield and Tim Dunne, *Foreign Policy: Theories, Actors, Cases* (Oxford University Press, 2016).

¹²⁸ Björn Hettne, *The New Regionalism and the Future of Security and Development* (Springer, 2016).

¹²⁹ William H Cooper, 'Free Trade Agreements: Impact on US Trade and Implications for US Trade Policy' (2014) *Congressional Research Service* 2, 14.

economic and political integration. This leads to the final issue of how trade and politics are not independent spheres of action.

1.5.6 Economic and Political Considerations' Influence on Each Other

Some literature examines the correlation between economic growth and political stability. Alesina et al question whether political stability enhances economic growth or, conversely, whether low economic growth leads to political instability. They find that GDP growth is significantly lower in countries that have faced political instability, which in turn leads to lower economic growth. For example, they discuss that Argentina was previously one of the richest countries in the world; however, over the past 30 years, Argentina has come close to economic collapse because of political instability that accompanied the coups period. In contrast, Japan had a per-capita income below that of Argentina; however, because of political stability, Japan has experienced one of the fastest growth rates in the world.¹³⁰

Similarly, Aisen and Veiga examine the causal relationship between political instability and economic growth, and find that higher degrees of political instability lead to lower economic growth.¹³¹ Moreover, socio-political instability affects private investment. Alesina and Perotti show how political instability can generate an unclear politico-economic environment, and the rising risks can reduce the opportunities for investment.¹³² Although these studies do not cover the objectives of this thesis, their purpose is to provide a more precise understanding of the important role of political stability in the growth of international trade, as well as economic development. These ideas will be developed to argue that FTAs are a significant means to promote friendship between trading partners. FTAs also reflect cooperation in international counter-terrorism activities. Economic growth will also enhance political stability and

¹³⁰ Alberto Alesina et al, 'Political Instability and Economic Growth' (1996) 1(2) *Journal of Economic Growth* 189, 211.

¹³¹ Ari Aisen and Francisco Jose Veiga, *How Does Political Instability Affect Economic Growth?* (Working Paper No WP/11/12, International Monetary Fund, January 2011) 3, 27.

¹³² Alberto Alesina and Roberto Perotti, 'Income Distribution, Political Instability, and Investment' (1996) 40(6) *European Economic Review* 1203, 1228.

encourage peace in the Middle East. In summary, FTAs can help alleviate and reduce the potential security risks in the region, as well as enhancing economic integration.

1.5.7 Gaps in Existing Literature

This thesis deals with and purports to fill up the following gaps identified from the above literature review. Addressing these gaps in the thesis will significantly contribute to the progressive development of literature in the field of the research questions. It explores how the international trade regime through FTAs can operate in the Arab region, and how the weak economic context of Arab Countries is an obstacle to their beneficial integration into the global trading system. It studies the optimal use of international trade law to achieve economic integration in the Arab region, and discusses whether the Arab region lacks effective mechanisms to implement a successful economic integration project.

This thesis examines how Jordan restructured its trade and economic system by liberalising trade and implementing new regulations. Moreover, it examines the effects of joining the WTO on the Middle East regional situation, how it caused burdensome obligations, and how political interest has changed the economic aspects of international trade in Jordan and the region. This thesis considers the issue of FTAs with industrialised countries, especially the US, and between Jordan and Arab Countries, and whether these FTAs play a central role in building prosperity and peace between Arab Countries. The thesis argues and justifies the fact that FTAs and politics are not separate fields of work. The existing literature on the justifications for FTAs does not consider the imperatives of the Arab region and its geopolitical environment needs, and how historical events and geopolitical factors affect the current situation in the region and Jordan's ability to achieve economic integration.

1.6 Research Methodology

The thesis studies multiple aspects of trade and political relations and, to do so successfully, this thesis relies on an interdisciplinary methodology. To explore other elements in addition to

legal issues, this thesis aims to build the overall conceptual scope of the argument.¹³³ Therefore, this thesis is based on a conceptual model that links and integrates theoretical frameworks from those disciplines. This thesis does not only use methodology that is restricted to legal analysis—it requires the use of perspectives and skills involved in the study of various relevant disciplines, such as economics, sociology, politics and international relationships. This interdisciplinary approach will help understand the interrelationships between economic and political analyses, and will thus enable this study to address the research questions effectively.

The doctrinal approach integrates theoretical and analytical methods.¹³⁴ Research based on the doctrinal approach relies on the analysis of the rules and principles of law and the search for the relationship between them through a critical review of legislation and policies.¹³⁵ The doctrinal analysis is used extensively in areas of public law, which includes the study of legal precedents and its legislative interpretation. The doctrinal legal research methodology¹³⁶ is employed to examine the concept of international trading regimes, as well as FTAs and regional agreements. The purpose of legal research is to find solutions to legal issues. However, to understand legal matters, there should be a broader focus on the relevant political, economic and social literature. The doctrinal method is relevant because the various trade agreements between countries are fully binding texts. Thus, the doctrinal analysis is the appropriate method for analysing the status of the trading regime in Jordan. This approach is used to examine the rights granted to the member states of the WTO by the international trading regime, as well as how to comply with its duties towards the international community.¹³⁷

The thesis relies on library resources—that is, existing research related to international law and international trade law that contains a critical analysis of the legal issues. The thesis uses both

¹³³ Terry Hutchinson, *Researching and Writing in Law* (Thomson Reuters, 3rd ed, 2010) 21.

¹³⁴ ‘It is the location and analyses of the primary document in order to establish the nature and parameters of the law’. Ibid.

¹³⁵ Luke Muehlhauser, *2013 in Review: Strategic and Expository Research—Machine Intelligence Research Institute* (Web Page, 2014) <<https://intelligence.org/2014/02/08/2013-in-review-strategic-and-expository-research/>> (accessed 11 August 2017).

¹³⁶ Doctrinal legal research methodology can be categorised as qualitative research because it ‘is a process of selecting and weighing materials taking into account hierarchy and authority as well as understanding the social context and interpretation’. See Ian Dobinson and Francis Johns, ‘Qualitative Legal Research’ in M McConville and WH Chui (eds), *Research Methodology in Law* (Edinburgh University Press, 2007) 22.

¹³⁷ At an international level, the WTO functions as the peak body for legislating the rules of international trade law and drafting its provisions.

primary and secondary sources relevant to the research questions. The primary legal sources include official documents related to Jordan's investment regime and protection, arbitration trade law, text of FTAs, publications related to trade law and international conventions. The secondary sources include relevant literature from legal scholarship and other disciplines that will be discussed through the comparative regulatory analysis.

1.7 Research Significance and Contributions

The Jordanian FTAs are a new mechanism for both local economic improvement and enhancing the integration with Arab Countries and the global economy. Jordan has signed the Jordan–US FTA, GAFTA, Agadir Agreement and Jordan–EU FTA, making it one of the most open economies in the Middle East region. These developments are a testament to the Jordanian commitment to economic liberalisation policies, as well as its efforts to forge airtight political ties through international trade diplomacy. The aim of this thesis is to determine whether, through these agreements, Jordan has played a decisive role in the economic integration of the Arab region with the rest of the world or the political stability of this region. In addition, this thesis seeks to determine how beneficial these agreements have been for the geopolitical stability of the entire Middle Eastern region. Further, it examines the legal provisions and protections enjoyed and implemented by Jordan in its acceptance of the WTO order in the broader context of its economic and political outcomes.

The field of Middle Eastern studies has acquired renewed importance in the post–Arab Spring era, when many countries, including Jordan, faced unprecedented turmoil—especially nation states, such as Egypt and Syria, which were very closely tied into the fabric of the WTO trade agreements. Jordan became an important case because, despite having faced turmoil, it emerged relatively unscathed, in stark contrast to its neighbours, such as Syria and Iraq. For this reason, Jordan has immense significance in the GATT/WTO order in the Middle East. Jordan continues to maintain trading relations with large parts of the Middle East and the world. As aforementioned, it continues to ensure that its legal regime is sensitive to investment opportunities and international exchange, as opposed to many of its neighbours, who no longer have a presence in the world market. Thus, Jordan has shown exemplary resilience in the face of both international and domestic turmoil, and has been a crucial member of the WTO bloc.

This thesis contributes significantly to the field of regional studies, as the situation in the Middle East after the Arab Spring remains relatively less studied. All around the world today, regional relations are undergoing reconfiguration. Whether in the constant feuding and tussles over austerity measures in the EU, the relationships between regional blocs in Africa or the hostilities and friendships emerging in the Middle East, the world is seeing a breakdown of the old order. In this context, it would be immensely useful to study the role of Jordan in the local dynamics of Middle Eastern countries. This thesis also contributes to explaining how international trade and international politics must be further integrated to achieve greater economic prosperity and political stability in the Middle East and the world.

The thesis assists Jordanian economic and trade policymakers, negotiators and legislators in developing international trade laws and policies for the benefit of Jordan. Thus, maximising economic development through economic integration with regional and international trading partners. Its recommendations can (a) enhance Jordan's participation as an active member in the WTO and its multilateral trading system, and improve Jordan's existential importance by playing a regional role that leads the region to form a competitive regional economic bloc; (b) guide other Arab countries to establish greater trade and economic relations with Jordan, and thus benefit the regional economic integration project in the Middle East; and (c) help the Jordan-US FTA, Jordan-EU FTA, and other major trading partners of the WTO to engage in productive trade activity. The ultimate contribution of the thesis is to prepare Jordan in improving its trade and economic relations with the Arab region and beyond to integrate economically as well as politically through trade liberalisation.

1.8 Thesis Structure

This thesis is divided into seven chapters that broadly correspond to the research questions identified above. Chapter 1 has articulated the primary objective of the thesis—to investigate how Jordan's liberalisation of the economy is a significant step towards the broader integration of the Arab world with the international trade regime.

Chapter 2 evaluates the development of the trading system that has expanded around the world by analysing the rationales and explanations of free trade and FTAs through examining the arguments in support of FTAs and highlighting the virtues and deficiencies. It discusses the

theoretical arguments regarding free trade and FTAs, whether FTAs are considered a violation of the principle of free trade, and the relative advantages of FTAs for multilateral and bilateral trade relations. It also discusses how the effects of FTAs are measured in the literature and how this knowledge is used in the Arab region. Against this background, it identifies the international trade regime and bilateral and multilateral trade agreements in the Arab region.

Chapter 3 analyses the Jordanian accession to the WTO and investigates how Jordan is complying with the rules of the GATT/WTO. For example, it investigates how the accession has resulted in changes to the Jordanian domestic laws. In addition to examining the investment regime and protection in Jordan, this chapter explores the changes and developments in the investment law to conform with the international trading regime. It also addresses the effect of arbitration and mediation in Jordan on international trade and foreign investment, such as whether this procedural emphasis has coincided with enhanced international trade. The consequences of the changes are also considered by focusing on the specific sector of the pharmaceutical industry. Thus, this chapter provides an in-depth analysis of how the Jordanian international obligations have affected domestic production.

Chapter 4 focuses on Jordan and its non-Arab trading partners. It explores the development of trade relations through FTAs with industrialised countries—notably, the US and EU. The analysis examines the interconnections between trade relations and political relations between these countries and Jordan. For example, it asks whether Jordan has benefitted economically from such trade partnerships or whether the agreements have mostly met the needs of the developed countries. Juxtaposing this information with the knowledge on how the Jordanian political relations with these countries have developed will help establish how Jordan has become a reliable strategic ally, who is trusted to improve the implementation of the West's strategic policies in the Middle East region, such as through consolidating relations, maintaining peace between Palestinians and Israelis, and recently fighting terrorism. However, it also illustrates how Jordan is being side-lined and that the strategic interests of the West seem to be moving in a different direction.

Chapter 5 focuses on the economic integration between Arab Countries through trade liberalisation. It articulates the primary focus of the thesis—that Jordan's liberalisation of the economy is a significant step towards the broader integration of Arab Countries with international trade regimes. The chapter begins with an analysis of the historical context of international trade in the Arab region, from before the establishment of the GATT until the

present. It aims to demonstrate how the Arab states have changed their situation towards a new international trading regime under the WTO regulation. The chapter also investigates whether the development works in favour of the Arab economic and political integration. Therefore, it identifies the reasons for the weakness of the economic and political integration.

Chapter 6 develops an argument focusing on the connections between the Jordanian economic and regional trade arrangements, and how the political situation prevailing in the Middle Eastern region allows for a reassessment of FTAs to realign trade and political arrangements. It draws on political theories to argue that economic and political considerations influence each other; thus, it is necessary to acknowledge that trade and politics are not independent spheres of action. The stability of economic relations among countries, including trade and peace, is closely intertwined, and peace is a necessary condition for trade and economic growth. The chapter illustrates the link between trade, peace and conflict, and the importance of trade relations for peaceful coexistence. It also considers whether trade is a deterrent to wars, and the interdependence and gains that can be achieved through international trade. This chapter argues that FTAs are economic and political tools for political gains; thus, policy measures are important to maintain economic integration and reduce the risk of conflict.

Chapter 7 is the concluding chapter, which draws together all the study ideas and answers to the research questions, and makes specific recommendations for further improvements to economic integration in the Middle East. This part of the thesis emphasises how Jordan's liberalisation of the economy is a significant step towards the broader integration of the Arab world with the global regime of international trade.

The next chapter analyses the international trade regime established by the GATT/WTO, particularly in the Middle Eastern context.

Chapter 2

Multilateral and Bilateral Trading System under the World Trade Organization: The Arab Region in Context

This chapter provides a background context for the remaining chapters of this thesis. The main aim is to evaluate the development of the world trading system and the role played by Arab Countries, including Jordan. It will do so by analysing the rationales and explanations of free trade and FTAs through examining the arguments in support of FTAs and highlighting the virtues and deficiencies of the same. The theoretical arguments about free trade and FTAs are examined to consider whether FTAs are considered a violation of the principle of free trade—namely, the MFN principle prescribing non-discriminatory free trade. The discussion also analyses the relative advantages of FTAs for multilateral and bilateral trade relations, and briefly discusses how the effects of FTAs can be measured in the literature and the way this knowledge is used in the Arab region.

2.1 Development of the World Trading System

This section traces the development of the world trading system from the end of the World War II until the establishment of the WTO. We currently live in an era of globalisation with its various aspects, including its economic philosophy, which focuses on the freedom of trade and markets within a capitalist system,¹ together with cultural and political globalisation that seeks to achieve supremacy of Western values as a sign of progress in a time dominated by Western civilisation.² Free world trade is the primary objective of the GATT/WTO, which is based on

¹ The free market system and capitalist system are economic environments that rely on supply and demand. Both are involved in determining the price and production of goods and services. However, while capitalism is focused on the creation of prosperity and ownership of capital and the factors of production, a free market system is focused on the exchange of wealth or goods and services. Steven Nickolas, 'What is the Difference between a Capitalist and a Free Market System?', *Investopedia* (Web Page, 2018) <<https://www.investopedia.com/ask/answers/042215/what-difference-between-capitalist-system-and-free-market-system.asp>> (accessed 11 April 2018).

² Western culture is connected with Western civilisation and the Western lifestyle, which refers to European civilisation or Christian civilisation, and is a term used broadly to refer to a heritage of social norms, ethical values, traditional customs, belief systems, political and economic systems, and specific artefacts and technologies

the philosophy that the fair liberalisation of global trade is the best way to achieve global economic growth and integration, which will intensify the mechanism of raising the living standards, stability and peace around the world.³

The creation of a body to regulate the international trading regime was a significant concern after the World War II. The issues underlying this concern included a desire to avoid any repetition of the circumstances that affected international trade relations during the interwar period, such as the increase of trade barriers, and to prevent any return of discriminatory trade policies.⁴ As a consequence of the need for a global economic and trade regime, the Bretton Woods Conference (BWC) was held in 1944 to discuss global trade and monetary and banking matters. It established the charters of the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development, which became the World Bank (WB). The BWC's bid for the establishment of the International Trade Organization (ITO) failed because of the rejection of the proposal by the US.⁵ However, there was also a need to establish an international body to regulate and foster international trade—even though, for most developing countries, this event was perceived to be for developed countries' self-interest to open new markets for their manufactured goods and secure supplies of raw materials from developing countries.⁶

After the Allied victory over the Axis countries was confirmed,⁷ the victorious countries directed by the US began to shape the map of the world according to their political, economic,

associated with Europe. Christopher Muscato, 'Western Culture', *Science Daily* (Web Page, 2018) <https://www.sciencedaily.com/terms/western_culture.htm> (accessed 11 April 2018).

³ M Rafiqul Islam, *International Trade Law of the WTO* (Oxford University Press, 2006) 9.

⁴ The motive for freeing up trade on an international level derived from the *US Trade Law of 1934* and was a reaction to the protectionist trade practices of the interwar period, which took international trade to the bottom level. Ibid, 2.

⁵ Representatives from 44 countries attended the BWC (the United Nations Monetary and Financial Conference) from 1 to 22 July 1944 in Bretton Woods, New Hampshire, to agree upon new rules for the post-World War II international monetary system. It was agreed at the conference to establish the IMF and WB. See *The Bretton Woods Conference, 1944* (Web Page, 2018) <<https://2001-2009.state.gov/r/pa/ho/time/wwii/98681.htm>> (accessed 9 April 2018).

⁶ Richard E Baldwin, 'Stepping Stones or Building Blocs? Regional and Multilateral Integration' in J McKay, M O Armengol and G Pineau (eds), *Regional Economic Integration in a Global Framework* (Graduate Institute of International Studies, 2004) 9.

⁷ The World War II was fought between two groups of countries. On one side were the Axis Powers, including Germany, Italy and Japan. On the other side were the Allies, including Britain, France, Australia, Canada, New Zealand, India, the Soviet Union, China and the US. The National WWII Museum Blog, *Allies and Axis: Who's*

military and other interests. In this historical context, the preparatory meetings for the United Nations (UN) began in 1944, and the IMF and WB were established in 1944 as a result of BWC recommendations.⁸ Through its bodies, the UN has played a crucial role in the development of institutions governing free trade. The UN organisational structure is composed of principal organs, subsidiary organs and specialised agencies. The six main organs are the General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice and Secretariat.⁹ The Economic and Social Council is the principal body for coordinating the policy review and recommendations on economics and trade between countries, regulating social and environmental issues, and implementing international development goals. It is the central mechanism for activities of the UN system and has specialised agencies in the economic, social and environmental fields.¹⁰

The first meeting of the council was held in 1946,¹¹ in which a decision was issued to form a preparatory committee to prepare an international trade conference. The committee held a number of meetings, the most important of which was the Havana meeting in November 1947. Representatives from 57 countries attended the meeting.¹² The charter provided for the establishment of an ITO and formed an interim committee of all signatory states to prepare for a meeting in which the details of the proposed ITO would be agreed upon. However, the ITO

Who in WWII? (Web Page, 2011) <<http://www.nww2m.com/2011/12/allies-and-axis-whos-who-in-wwii/>> (accessed 17 April 2018).

⁸ *The Bretton Woods Conference*, above n 5.

⁹ United Nations, *Main Organs* (Web Page) <<http://www.un.org/en/sections/about-un/main-organs/index.html>> (accessed 20 April 2018).

¹⁰ Ibid.

¹¹ The first step to establish the ITO was taken by the Preparatory Committee of the International Conference on Trade and Employment, which met in London from 15 October to 26 November 1946. After being called by the Secretary-General of the UN pursuant to a resolution of the Economic and Social Council on 18 February 1946, the meeting was the first in a series of conferences to consider the possible integration of trade policies and the removal of trade barriers between trading partners. However, the recommendations were not binding. See Soo Yeon Kim, *Power and the Governance of Global Trade: From the GATT to the WTO* (Cornell University Press, 2011) 48.

¹² During the Havana Conference, which was held in 1947 to 1948, the charter of the ITO was accepted. Its agenda covered a large number of issues, including employment and labour standards, restrictive business practices, intergovernmental commodity agreements and investments. However, the ITO never came into force. The text of the GATT, which was supposed to be incorporated into the ITO charter, came into being in January 1948. In 1947, the GATT was developed under the liberal viewpoint that has dominated the international agenda since the end of the World War II. See Norma B Santos, 'Latin American Countries and the Establishment of the Multilateral Trading System: The Havana Conference (1947-1948)' (2016) 36(2) *Brazilian Journal of Political Economy* 309, 329.

stumbled, and the main reason was the announcement by the US that it would not present the draft charter to the US Congress,¹³ as it opposed the US producer union's policy on the tariff reduction and import expansion policy.¹⁴ Thus, the ITO never entered into force, and the GATT regime was created instead.

While the ITO negotiations were stalling, some countries called for negotiations on tariff cuts and quantitative restrictions on imports, aimed at expanding international trade. These meetings initially occurred bilaterally between countries, as the negotiations were conducted between each individual country and with respect to a commodity. These agreements were compiled and circulated in a multilateral agreement, which was called the GATT.¹⁵ Thus, the convention adopted by the US was put into effect. The convention implemented as a declaration of oblivion to the ITO proposed by Havana charter, which was developed based on action by the Economic and Social Council of the UN.¹⁶ On 30 October 1947, the contracting parties approved the GATT on a provisional basis, and it was formally called the Protocol of Provisional Application of the GATT.¹⁷ GATT membership has expanded continuously; in 1994, the number of members reached 128.¹⁸ The GATT adopted the principle of non-discrimination in the treatment of countries in trade. In addition to the MFN principle, it prevents quantitative restrictions in trade between the member states, as well as resolving trade disputes through consultation.

¹³ The US Senate viewed the Havana Charter as a violation of their sovereignty and declined to ratify the charter, which led to the demise of any hope for the ITO. See Islam, above n 3, 3.

¹⁴ Ivan D Trofimov, 'The Failure of the International Trade Organization (ITO): A Policy Entrepreneurship Perspective' (2012) 1(5) *Department of Economics, Macquarie University, Australia* 57.

¹⁵ With 23 contracting parties, of which 11 were developing countries, the GATT was established to create a novel trade and economic relationship between countries to improve the full use of the natural resources around the world through the exchange of goods and services. See Constantine Michalopoulos, *Developing Countries in the WTO* (Springer, 2001) 23.

¹⁶ In fact, the GATT was a substitute for the ITO; therefore, one may have supposed that the GATT was an unnatural organisation in return for the ITO, which was proposed by the Havana Charter, where it was supposed to be agreed upon the establishment of the ITO, not the GATT.

¹⁷ Raj Bhala, *International Trade Law: Theory and Practice* (Lexis Publication, 2001) 128.

¹⁸ WTO, *GATT Members* (Web Page) <https://www.wto.org/english/thewto_e/gattmem_e.htm> (accessed 8 May 2018). Bahrain, Egypt, Kuwait, Qatar and the UAE from the Middle East region.

As a leader of the capitalist world, the US has sponsored the GATT rounds. These rounds resulted in the birth of the WTO in 1994.¹⁹ The Uruguay Round decided that the WTO would replace the GATT and be its legal successor. The organisation was created by representatives of 117 countries in Casablanca on 15 April 1994, accounting for 95% of global trade and standardising the exchange of goods and services, making it a global organisation.²⁰ Some of Arab Countries, such as Egypt, have actively participated in several rounds of trade negotiations. In addition, they have played a significant role in driving home the notion that the WTO should be strong enough to protect small trading countries from solitary measures and bilateral pressures, and that a distinction must be made between large and small countries in terms of the commitments that must be followed.²¹

The birth of the WTO did not mean the death of the GATT, based on the 1947 text, as modified through the Uruguay Round, which was named GATT 1994 and comprised the amended GATT 1947.²² Therefore, the GATT remains an integral part of the WTO until now. The WTO has become one of the most important contemporary international economic and trade organisations, considering the number of countries that have acceded to it and the areas of trade that are covered.²³ The study of the WTO is very important, especially when linked to globalisation, which is fully compatible with the capitalist system based on freedom of exchange at both internal and external levels. It also aims to free international exchange from all constraints that limit it.

The relationship between the WTO and globalisation demonstrates that it is one of the international institutions that are employed to implement globalisation, and it is employed to

¹⁹ Daniel L Bethlehem, *The Oxford Handbook of International Trade Law* (Oxford Handbooks in Law, 2009) 34.

²⁰ The Uruguay Round was the most important GATT round because it established the WTO and recognised that this organisation should determine the outlook of international trade, and would subsequently determine the future of the economies of the acceding countries. The significance of this organisation has increased as it has introduced services, as well as IPR. This means the organisation will oversee and manage international trade in all aspects of trade in goods and services, IPR and trade-related investment. See Claus Dieter et al, 'Decision-Making in the World Trade Organization' (2005) 8(1) *Journal of International Economic Law* 51, 75.

²¹ 'Egypt's Role in the Uruguay Round Negotiations and the Impact of These Negotiations on Its Economy and External Trade' (1995) 16(1–2) *Journal of Economic Cooperation among Islamic Countries* 1.

²² *General Agreement on Tariff and Trade 1994*, 15 April 1994, Marrakesh Agreement establishing the World Trade Organization, Annex 1A (GATT 1994).

²³ In addition to trade in goods, the WTO covers trade in services and IPR. See WTO, *Understanding the WTO—The Uruguay Round* (Web Page) <https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm> (accessed 2 April 2018).

subject the countries of the world to globalisation. Thus, international trade relations have become more documented under the WTO than the preceding international trade system of the GATT. The institutional framework described here is premised upon the idea that free trade is desirable, organised internationally under the framework of the GATT/WTO within legal texts that should equally assist all people. Therefore, the next section discusses the economic rationales and explanation of free trade and preferential trade.

2.2 Economic Rationales for International Free Trade

The concept of FTAs differs from free trade. The term FTA does not exist in the GATT.²⁴ Free trade areas are defined as an association between countries that eliminates trade barriers on substantially all trade among parties. A free trade area is a form of integration that is less extensive than a CU.²⁵ A CU not only eliminates barriers to trade in goods among the members, but also adopts a common external tariff for all union members to trade from countries outside the union.²⁶ The European Community is an example of a CU. Common markets and economic unions are two more types of economic integration. Common markets adopt a common external tariff, such as a CU, and have free movements of capital and people among its members, such as MERCOSUR. An economic union is a common market with a common monetary and fiscal policy; it also has a common currency, such as the EU.

Free trade refers to the exchange of goods and services among countries, without restrictions or duties. Free trade is generally characterised through free market policy by the government of the country, where there is no restriction on either imports or exports from foreign markets. It also allows the unlimited exchange of commerce between buyers and sellers across national borders.²⁷ A favourable attitude towards free trade is a chief attribute of numerous Western capitalist countries. It follows that countries that pursue a free trade policy should not prevent

²⁴ *General Agreement on Tariffs and Trade*, 30 October 1947, 61 stat. A-11, 55 U.N.T.S. 194.

²⁵ Raj Bhala and Kevin Kennedy, *World Trade Law: The GATT-WTO System, Regional Arrangements and US Law* (Lexis Law Publication, 1998) 161.

²⁶ GATT Article XXIV: 2.

²⁷ Durwood Zaelke, Paul Orbuch and Rob Housman (eds), *Trade and the Environment: Law, Economics, and Policy* (Island Press, 1993) 5.

their citizens from selling goods that are produced overseas; similarly, it does not require them to purchase from their own country's products.²⁸ The proponents of free trade argue that it aims to increase the opportunities for exports, as well as expand the businesses into the external markets. It also encourages investment, enhances cooperation and improves other issues, such as IP and e-commerce.²⁹

Free trade also encourages business productivity and innovation. Thus, it will contribute to higher GDP growth by allowing domestic businesses access to economy inputs, introducing new technologies, and fostering competition and innovation, as well as promoting regional economic integration and building shared methods to trade and investment, which can benefit all parties that follow a free trade approach.³⁰ The existing literature consists of reasonable evidence that trade liberalisation leads to higher trade exchanges, as well as that countries will be more integrated into the global economy.³¹

2.2.1 Justifications in Favour of Free Trade

The argument in favour of free trade states that, when free trade is propagated throughout the world, it will eventually lead to efficient labour division, which will, in the long term, lead to specialisation of the respective regions in certain areas.³² The diversification of resources will also lead to the development of the world, leading to an increase in the quality of life of the entire world population.³³ Classical economic David Ricardo's theory of comparative

²⁸ Free trade is the opposite of economic isolationism; it is a policy to eliminate discrimination against imports and exports.

²⁹ Department of Foreign Affairs and Trade, *The Benefits of Free Trade Agreements—DFAT* (Web Page) <<https://www.dfat.gov.au/trade/about-ftas/Pages/the-benefits-of-free-trade-agreements.aspx>> (accessed 28 April 2018).

³⁰ Ibid.

³¹ For example, Australia's GDP has grown more rapidly because of trade liberalisation. Merchandise trade in 2016 was equivalent to nearly 31% of nominal GDP, up from 26% in 1986, which was the pre-liberalisation period. Overall, goods and service trade was even larger, comprising 40% of the GDP in 2016. See Australian Department of Foreign Affairs and Trade, *Australian Trade Liberalization* (Centre for International Economics, 2007) 1.

³² Howard Kling, 'Trade Secrets: The Hidden Costs of Free Trade (Review)' (2006) 30(4) *Labor Studies Journal* 96, 98.

³³ Allen Dennis and Ben Shepherd, 'Trade Facilitation and Export Diversification' (2011) 34(1) *The World Economy* 101, 122.

advantage is one of the main explanations of free trade. In his analysis of comparative advantage, Ricardo explains how trade will benefit both parties if they have different opportunity costs of production.³⁴ Comparative advantage is the tool to understand how countries choose products in which to specialise, and which goods a country produces for export.³⁵ Thus, the core of the comparative advantage theory is that the production of a given commodity or service must occur in an economy where it can be best produced. Given that there are not FTAs between all countries and increased tariffs in certain countries, such non-uniformity between countries can lead to disruption of the theory of comparative advantage, leading to higher costs of production.

While there is a contradiction between the two classes of economists, a large proportion of economists hold the view that free trade is more beneficial than trade protectionism.³⁶ Of the positive results of trade liberalisation, consumers will benefit most from the advent of free trade, as they are able to obtain higher quality goods at more cost-effective prices.³⁷ Higher competition faced by domestic consumers leads to an increase in the quality of their products and services, so producers will offer their best to compete in the market. Further, as there is inflow of quality goods and services from other countries, domestic producers can learn from the inflowing commodities and services and try to implement them in a positive manner. It is assumed that the high competition will, in turn, prevent the establishment of monopolistic and oligopolistic companies.³⁸ It is accepted that monopolies can be highly injurious towards the development of an economy, and protectionism can lead to their creation. Therefore, trade liberalisation creates trade opportunities that would not exist otherwise, which will increase the country's national social welfare through the most efficient offers of products and services. Trade creation also occurs when consumers change from high- to low-cost products. However,

³⁴ Regine Adele and Ngono Fouda, 'Protectionism and Free Trade: A Country's Glory or Doom?' (2012) 5(3) *International Journal of Trade, Economics and Finance* 351.

³⁵ Econlib, *Comparative Advantage and the Benefits of Trade* (Web Page) <<https://www.econlib.org/library/Topics/College/comparativeadvantage.html>> (accessed 4 April 2018).

³⁶ See Adele and Fouda, above n 34.

³⁷ Ibid.

³⁸ 'Why Trade is Good for You', *The Economist* (Web Page, 1998) <<https://www.economist.com/special-report/1998/10/01/why-trade-is-good-for-you>> (accessed 8 May 2018).

this depends on the elasticity of suppliers and demands—if demands are elastic, consumers will have a great increase in welfare because of competitiveness among producers.

It is acknowledged that counter-arguments against trade liberalisation exist, as stated above; however, without resolving these differences of opinion, this thesis argues that trade liberalisation is one of the encouraging factors of economic growth, especially in the form of regional economic integration. While it is difficult to make general statements about the effects of trade opening on economic development, it is nevertheless a significant factor. Thus, free trade can be a powerful tool for economic developments, but it can also raise some difficulties and doubts.³⁹ Therefore, liberalising trade should be pursued in a manner that can reasonably avoid as many disadvantages as possible.

For example, trade liberalisation in Bangladesh and Mexico has improved the incentives for export industries, while considering local issues. In his empirical analysis, Nasiruddin investigates the response of Bangladesh's aggregate merchandise exports to the real exchange rate-based trade liberalisation program, and supports the idea that free trade can be powerful for economic development. Although he finds that the currency of Bangladesh depreciated by about 20% during the period 1974 to 1995, the econometric estimates of the exports in Bangladesh indicated an increase in export competitiveness. In addition, the country has successfully maintained a competitive, effective real exchange rate. In a flexible exchange rate regime, import liberalisation through tariff reductions is expected to lead to a depreciation of real effective exchange rate through a strengthening of import demand.⁴⁰

Weiss assesses the effect of trade liberalisation on Mexican exports. He considers the diverse factors for the chief rise in the industrial exports has occurred because of a general change in the trade policy environment, such as the removal of restrictions on access to imported inputs and of tariffs on these inputs, plus the general competitive stimulus of greater import competition in the domestic market. There was also a major depreciation of the real exchange

³⁹ The study by Were empirically examines the differential effects of trade on economic growth and investment in different types of countries, and indicates that, while trade positively influences economic growth in developed and developing countries, its effect is insignificant for least-developed countries in some parts of Africa. See Maureen Were, 'Differential Effects of Trade on Economic Growth and Investment: A Cross-Country Empirical Investigation' (2015) 2(1-2) *Journal of African Trade* 71, 85.

⁴⁰ Nasiruddin Ahmed, 'Export Response to Trade Liberalization in Bangladesh: A Cointegration Analysis' (2000) 8(32) *Applied Economics* 1077, 1084.

rate, which means exports have improved Mexico's international competitiveness.⁴¹ The Bangladesh and Mexico examples demonstrate how trade liberalisation can positively influence economic developments.

2.2.2 Arguments against Free Trade

In contrast, there are several arguments against free trade and trade liberalisation that highlight the adverse results of free trade. For example, domestic businesses, particularly in developing countries, could face fierce import competition from foreign companies, which may force them to lower their product prices to defend their market share or use other strategies that could harm their long-term interests.⁴² Following economic liberalisation, Jordan has privatised most of its sovereign companies for the benefit of foreign giants.

Bertola and Faini document that, as a result of trade liberalisation, imports increase comparatively quickly compared with exports, thereby resulting in transitory trade imbalances. Their results suggest that, in the Moroccan context, imports significantly responded to the elimination of tariff barriers to trade, while exports did not.⁴³ Thus, this situation caused a deficit in the trade balance of the country. Similarly, Zakaria concludes that trade liberalisation in Pakistan stimulated imports more than exports, thereby worsening the trade balance. The simplification of import procedures, elimination of quantitative restrictions and rationalisation of tariff structures are the trade liberalisation reforms of developing countries that could most lead to deterioration of the trade balance, as imports will increase more than exports after liberalisation.⁴⁴ To avoid the above consequences, this thesis suggests that developed countries should simplify the import procedures from developing countries and eliminate nontariff

⁴¹ John Weiss, 'Export Response to Trade Reform: Recent Mexican Experience' (1992) 1(10) *Development Policy Review* 43, 60.

⁴² Drozd Jolanta and A Miskinis, 'Benefits and Treats of Free Trade' (2011) 2(14) *Ekonomia* 40, 47.

⁴³ Giuseppe Bertola and Riccardo Faini, 'Import Demand and Non-Tariff Barriers: The Impact of Trade Liberalization (1990) 1(34) *Journal of Development Economics* 269, 286.

⁴⁴ Muhammad Zakaria, 'Effects of Trade Liberalization on Exports, Imports and Trade Balance in Pakistan: A Time Series Analysis' (2014) 1(23) *Prague Economic Papers* 121,139.

barriers, such as qualitative and quantitative restrictions, which would increase the exports of developing countries.

Paulino and Anthony examine the effect of trade liberalisation on export and import growth, the balance of trade and the balance of payments for a sample of 22 developing countries that have adopted trade liberalisation. They conclude that liberalisation stimulated export growth, yet raised import growth, leading to a worsening of the balance of trade and payments to the extent that this has constrained the growth of output and living standards.⁴⁵ Therefore, trade liberalisation may encourage growth from the supply side; however, if the balance of payments worsens, growth may be unfavourably affected from the demand side because the payment deficits resulting from liberalisation are unsustainable and not easily fixed by relative price changes.

Khan and Zahler inspect the effect of trade and financial liberalisation on the trade balance and balance of payments in the economies of Argentina, Chile and Uruguay. As a result of trade liberalisation, they find that the volume of trade increased, yet the current account of the balance of payments went into severe deficit, and capital flows generated by interest rate differentials were insufficient to finance the deficits without amendment. These results imply that the increase in the value of imports is faster than the increase in the value of exports.⁴⁶ Therefore, this thesis argues that, to prevent external economic shock while a country is in the process of liberalising the trade sector, trade liberalisation must be supported by active domestic macroeconomic management through relevant methods to evaluate specific outcomes of the trade liberalisation.

2.2.3 Potential Shortcomings of Free Trade

While the benefits and burdens of each PTA should be considered individually, it is generally assumed that trade diversion can occur and can be problematic in two cases: (i) when a PTA is concluded between two trading partners that are not already significant trading partners and

⁴⁵ Amelia S Paulino and Thirlwall P Anthony, 'The Impact of Trade Liberalization on Exports, Imports and the Balance of Payments of Developing Countries' (2004) 493(114) *The Economic Journal* 50, 72.

⁴⁶ Mohsin S Khan and Roberto Zahler, 'Trade and Financial Liberalization Given External Shocks and Inconsistent Domestic Policies' (Staff Papers International Monetary Fund No 32.1, 1985) 22, 55.

(ii) between countries that have significant tariff barriers to trade. Therefore, trade diversion is likely to occur between two countries that have an insignificant trading relationship and high external barriers to trade agreements for a PTA. Conversely, when a PTA is concluded between ‘natural trading partners’ (countries that already have a significant amount of bilateral trade flowing between them and low barriers to trade), diversion is not considered a substantial problem.

Bhagwati warns that preferential trading arrangements might lead to trade diversion. He argues that Article XXIV of the GATT is too weak,⁴⁷ and this weakness may shift the purchasing method from one producer to another, whereby a business that is able to offer lower cost products for importation into a particular country tends to create a trade diversion away from another importer or local producer, whose prices are higher for a similar product.⁴⁸ Thus, PTAs may lead to ‘trade creation’, whereby trade is expanded between efficient producers within the PTA, yet PTAs can also lead to ‘trade diversion’, whereby trade is not created, but shifted from an efficient producer outside the PTA to a less efficient producer inside the PTA.

Another potential shortcoming of bilateral agreements is the complexity resulting from multiple PTAs. Each PTA contains different conditions and obligations, which can sometimes lead to confusing or even conflicting obligations. The different standards and rules can create obstacles to trade facilitation by increasing administrative complexity at customs and creating a ‘web’ of differing rules. One specific example of these complexities that are a by-product of PTAs is the proliferation of different rules of origin, which are a prominent source of trade costs and complexities in today’s global marketplace, where companies depend on the rapid delivery of products and components from foreign sources. Rules of origin are designed to prevent a product being exported from a non-member country to a member country before being re-exported to another member country, and thus gaining the reduced tariff rate. To guard against such abuse, PTAs contain some forms of rules of origin requirement. This requires that a minimum level of value-added must occur in a member country of the PTA before the preferential tariff or access is granted. However, the problem is that the standard differs between PTAs and sometimes arbitrary definitions about which product comes from where and

⁴⁷ Jagdish Bhagwati, *Termites in the Trading System: How Preferential Agreements Undermine Free Trade* (Oxford University Press, 2008). See also Jagdish. Bhagwati, ‘Departures from Multilateralism: Regionalism and Aggressive Unilateralism’ (1990) 100(403) *The Economic Journal* 1304, 1317.

⁴⁸ Business Dictionary, *What is Trade Diversion? Definition and Meaning* (Web Page, 1998) <<http://www.businessdictionary.com/definition/trade-diversion.html>> (accessed 2 May 2018).

what constitutes local added value result in a multiplicity of tariffs depending on the source, which creates business costs that are detrimental to PTAs. With the number of PTAs rapidly increasing, this situation could worsen dramatically. In addition, overlapping jurisdictions of PTAs can cause further confusion.

Free trade can also cause the migration of domestic jobs out of the country. Culbertson states that free trade can have unsafe results for Western countries' economies.⁴⁹ He claims that countries that do not play by developed countries' rules with regard to industry and trade can practise unequal competition, which will lead to direct competition with low-wage countries that have a lower standard of living than do the developed countries. This will allow these countries to take over large sectors of the market because of their cheap labour, which permits the interruption of an important relationship between demand and supply that has been the main engine of economic growth in Western history.⁵⁰ As a result, many industries in the US and Western countries have been damaged and many people have lost their jobs.

Competition regarding wages causes movement of job opportunities from countries with higher standards of living and higher wages to countries with lower standards of living and lower wages.⁵¹ This is an unequal form of competition that explains much of the recent movement of industries and jobs out of developed countries, which leads to an undercutting of production. Consequently, the higher-wage nation's production may shrink over time because of the migration of jobs to the lower wage countries.

Foreign currency may also leave the country when consumers purchase foreign goods.⁵² If the value of a country's exports exceeds the value of the goods and services it imports, then that country has a trade surplus. However, if the value of a country's imports exceeds the value of the goods and services it exports, then that country has a current account deficit.⁵³ Such a deficit implies that domestic consumers are spending more money on foreign goods and services than

⁴⁹ John M Culbertson, 'The Folly of Free Trade Harvard', *Business Review* (Web Page, 1986) <<https://hbr.org/1986/09/the-folly-of-free-trade>> (accessed 7 May 2018).

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² An export is a good or service sent from the domestic country to purchase abroad. An import is a foreign-produced good that is imported for domestic consumption.

⁵³ *Principles of Macroeconomics—Section 12* (Web Page, 2018) <<https://www.colorado.edu/economics/courses/econ2020/section12/section12.html>> (accessed 10 April 2018).

foreign consumers are spending to purchase theirs. The net surplus of domestic money flowing abroad eventually returns in the capital account.

Based on the above analysis, free trade exchange should lead to the best results for all people. However, this concept only succeeds when there is an equal trade exchange between trading partners within a common framework of economic and trade laws, customs, rules and regulations. In contrast, economic competition pursued under the ‘law of the jungle’ leads to confusion and the imbalance of all scales. In the context of the above discussion, the next issue to consider is how protectionism aligns with these ideas.

2.2.4 Protectionism as an Economic Strategy

Protectionism is an economic strategy of limiting trade between countries through imposing high tariffs on imported goods and services, restrictive quotas and a variety of other restrictive regulations designed to discourage imports and prevent the invasion of foreign goods to local markets.⁵⁴ Economists who favour protectionism provide a rationale that high tariffs are essential mainly in the case of the developing countries, as there is a very high productivity gap between developed and developing countries, and the domestic economies will be unable to sustain the high international competition, leading to the disruption of the domestic economy.

Free trade is useful to a country’s economy when the domestic industry is competitive in the world and faces no global competition, or if the country’s economy is small and relies on world trade to meet the needs of its economy to achieve prosperity. However, countries may not have achieved the same level of economic development, in which case, countries that are not developed can face severe disadvantage because their own industry will be unable to compete. Therefore, this thesis argues that protection measurements should be used only to achieve economic development—not to damage the economy of other countries. Article XX of the GATT 1994 allows members to implement specific measures otherwise prohibited by the GATT 1994 provisions, subject to stipulated conditions. This article seeks to ensure that the obligations undertaken by the members under the covered agreements do not hinder the pursuit

⁵⁴ Most economists agree that protectionism is harmful in that its costs outweigh its benefits, and that it impedes economic growth. Adam Smith warns about seeking to gain local industry advantages at the expense of consumers’ welfare. See Adele and Fouda, above n 34, 351.

of legitimate objectives, such as the protection of human, animal or plant life or health, or the conservation of exhaustible natural resources. Some economists consider developing countries weaker players in the competitive environment, thereby making trade protectionism a mandate for the creation of an equal playing ground, as well as enabling the development of infant industries.⁵⁵

Protectionism is aimed at protecting infant domestic industries that would otherwise be unable to compete with foreign industries that produce similar goods, given the weaker conditions of growth and development during the first phase.⁵⁶ Protectionism also helps diversify production by meeting local demand from local production, so projects are able to diversify their products and not be confined to a limited number of goods. It also helps diversify the sources of government revenue through the imposition of tariffs. Protectionism also protects the national economy by implementing approaches that prevent the practice of dumping by other countries, which in turn leads to the contraction of national industries.⁵⁷

Further, protectionism aims to reduce the unemployment rate as a result of the increase in prices of imported goods and the demand for people to purchase local products, thereby increasing production and the level of employment.⁵⁸ Proponents of protectionism believe that domestic businesses will seek to maximise their profits through domestic trade barriers when facing imported goods.⁵⁹ Therefore, for a trade protection policy to be acceptable, it must be temporary. It must also be moderate and not affect the consumer. Moreover, the protected industry should be an industry that has a chance of success in establishing a national industry for the future of the country to stand up to strong competition in the world of globalisation.

⁵⁵ Abiola Inniss, *European Community Protectionism and the Effects on Developing Countries* (DeMontfort University, 2009) 1, 8.

⁵⁶ The infant industry argument is an economic rationale for trade protectionism. The essentials of this argument are that nascent businesses often do not have the economies of scale that competitors from other countries may have, and thus need to be protected to attain similar economies of scale. See Grubel G Herbert, 'The Anatomy of Classical and Modern Infant Industry Arguments' (1966) (97) *Springer Weltwirtschaftliches Archiv* 325, 344.

⁵⁷ Ibid.

⁵⁸ One measure aimed at reducing domestic rates of unemployment in some developed countries is the introduction of protectionist trade policies. See Ira Sohn and Nicola Mandarino, 'Unemployment or Protectionism: Some Choices for the US and Western Europe to the Year 2000' (1984) 2(1) *Economic Modelling* 252, 261.

⁵⁹ Helen V Milner and David B Yoffie, 'Between Free Trade and Protectionism: Strategic Trade Policy and a Theory of Corporate Trade Demands' (1989) 2(43) *International Organization* 242.

Even in our present day, many WTO member countries resort to protectionism when their interests are at risk. For example, China was accused by the US of manipulating the value of the Yuan, dumping through the exchange rate has been hit by the protective measure, and its exports to the US markets have declined in recent years.⁶⁰ The US Senate passed legislation to apply trade laws to the Chinese currency practices, with the aim of dealing with countries that keep intervening to keep their national currency exchange rates at a level below their actual value, as a sort of dumping to support their exports, in complete disregard of their international trade obligations.⁶¹ This law allows the Ministry of Commerce to impose compensatory customs duties on the US imports from these countries. EU financial aid for local farmers is another example of protectionism, which aims to protect the agriculture sector to withstand external competition. The European Commission has also recently disbursed compensation to support the agricultural sector, especially cattle breeders, to compensate for their losses after dairy production declined significantly in EU countries.⁶² Given that the agriculture sector is essential for human survival, protective measures are necessary from the standpoint of food security for the population.

Anieri highlights that the global economic forces (such as the US, Germany and Japan) developed their industries in earlier stages under the protectionist umbrella. Countries that also achieved advanced levels of development in recent decades (such as South Korea, China, India and Brazil) opened up to free trade only after they had built their industries and a national productivity machine capable of facing foreign competition and export to international markets.⁶³ In contrast, many developing countries have failed to build sophisticated and internationally competitive industries. Therefore, this thesis argues that mercantilism and protectionism (barriers to trade) have played a large role in shaping the economy of the aforementioned economic forces, and they would not be the same without protectionism. These industrial countries then led the trade liberalisation after developing the rules of the game in

⁶⁰ Ibid.

⁶¹ Gilbert B Kaplan and Jennifer D Jones, 'The Senate Passes Legislation to Apply the Trade Laws to Chinese Currency Practices', *Corporate Counsel Business Journal* (2012) <<http://ccbjournal.com/articles/17233/senate-passes-legislation-apply-trade-laws-chinese-currency-practices>> (accessed 22 April 2018).

⁶² European Commission, *Common Agricultural Policy Funds* (Web Page, 2017) <<https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/financing-cap/cap-funds>> (accessed 22 April 2018).

⁶³ Paul D Anieri, *International Politics: Power and Purpose in Global Affairs* (University of California Press, 6th ed, 2011) 363.

their favour. However, the historical developments since the existence of the GATT have resulted in a reduction of tariff protectionism and an increase in world trade. This has in turn been one of the reasons for countries continuing to pursue trade liberalisation, yet it would be premature to insist that developing economies should engage in completely free trade.

Despite the theoretical arguments for free trade, most governments continue to make agreements that create barriers. As discussed above, in economic terms, lowering trade barriers is considered good for trade because it facilitates access to new markets and enables traders to expand their reach to the people to whom they can sell their products.⁶⁴ Free trade has several advantages for trading partners through open market access policy; however, liberalising trade should be undertaken reasonably to avoid as many obstacles as possible.⁶⁵ Trade liberalisation enhances economic growth, productivity, standards of living, innovation, institutions, infrastructure and even peace.

Protectionism is not the way forwards in the contemporary world, as increased protectionism has negative effects on welfare; is short-sighted and narrow-minded; and cannot address the problems of unemployment, protecting infant domestic industries, and enabling economic growth worldwide, even in developing countries. Thus, the ongoing protectionism in the US by the Donald Trump administration and the resultant trade wars between the US and its close trading partners (Canada, the EU and China) is a narrow trade policy that is steadily undermining the liberal trading environment that the US helped create. These countries have their own popular suspicions and complaints about the US economic behaviour, some of which are legitimate and some of which are baseless. Politically, they are understandably offended by the confrontational and demanding tone that the Trump administration has publicly taken towards sovereign countries.⁶⁶ The main issue is determining how a balance may be achieved between pursuing free trade and protecting local interests.

⁶⁴ Trade barriers are restrictions on international trade imposed by governments, such as tariffs, taxes or duties levied on imports or exports; licences (import permits or export licences); quotas (e.g., import quotas); subsidies; embargoes or trade restrictions. See Library of Economics and Liberty, *Barriers to Trade* (Web Page, 2010) <<http://www.econlib.org/library/Topics/HighSchool/BarrierstoTrade.html>> (accessed 29 March 2018).

⁶⁵ Emanuel Ornelas, 'Endogenous Free Trade Agreements and the Multilateral Trading System' (2005) 67(2) *Journal of International Economics* 471, 497.

⁶⁶ Jeffrey Frankel, 'Trump's Trade Wars and Brexit are Making Us All Poorer—Jeffrey Frankel', *The Guardian* (Web Page, 2020) <<https://www.theguardian.com/business/2018/nov/27/trump-trade-war-monetary-policy-central-banks>> (accessed 14 February 2019).

2.3 Theoretical Economic Arguments on Free Trade and Free Trade Agreements

In theory, in a capitalist market economy, the best option is free trade with free competition, without trade or non-trade barriers. Free trade refers to the economic policy whereby imports from and exports to foreign countries are not discriminated against, and buyers and sellers from different countries can trade without the local government levying tariffs, quotas or subsidies on their goods and services. Krugman states that, while economists disagree about virtually everything, the only one topic with which almost all economists agree is the desirability of free trade,⁶⁷ as highly protectionist trade regimes have failed, and the success of outwards-oriented open trade regimes is seen often. Krugman states that, if there is a new trade theory instead of free trade, the global markets are imperfect, and free trade policy is not efficient to deal with trade between countries, so he questions which new trade policy could replace free trade. Therefore, it seems reasonable to argue that the free trade policy is the best approach to follow, rather than a more complex system that could lead to a breakdown in international cooperation; free trade is a reasonable way to avoid unnecessary complications. Several theories of international free trade have been presented, but a theoretical analysis of these ideas is beyond the scope of this thesis. However, a brief discussion of these theories is useful to set the background context for the argument presented in this thesis. For reasons of space and word limitations, an overview of only a few of these theories is provided.

For instance, mercantilism, which is extreme economic nationalism, has the goal of making a nation as rich and powerful as possible by advancing the economy. This can be achieved by maximising the quantity and efficiency of economic activity occurring within the nation's border. This often involves the imposition of high taxes on imports to limit imports, while limiting taxes on exports to encourage exports, as well as seeking new markets. Mercantilism results in the nation exporting only advanced, manufactured products and importing raw materials. It is expected that, in this manner, a mercantilist nation will accumulate wealth by encouraging exports and discouraging imports, thus creating a trade surplus.⁶⁸ Mercantilism,

⁶⁷ Paul R Krugman, 'The Narrow and Broad Arguments for Free Trade' (1993) 2(83) *The American Economic Review* 362, 366.

⁶⁸ Tejvan Pettinger, 'Mercantilism Theory and Examples', *Economics Help* (Webpage, 2019) <<https://www.economicshelp.org/blog/17553/trade/mercantilism-theory-and-examples/>> (accessed 10 March 2019). Capitalism, which evolved from mercantilism, operates around the concept of wealth creation in the pursuit of economic growth for the nation. See *Difference between Capitalism and Mercantilism* (Web Page)

which is close to protectionism, is currently non-existent because of the spread of trade liberalisation under the frameworks of the GATT/WTO. Capitalism is more widespread and implemented by many economies around the world, and free trade is an aspect of encouraging capitalist economies.⁶⁹

The well-known theoretical explanation for free trade is that of comparative advantage. Ricardo defines comparative advantage in his 1817 book, *On the Principles of Political Economy and Taxation*.⁷⁰ His famous example of the relation between two countries explains that Portugal can produce wine and cloth with lower labour costs than can England, although England has a higher comparative improvement in producing cloth. Therefore, comparative advantage indicates that England should export cloth to and import wine from Portugal. The determinants of a country's competitive advantage are based on four major attributes: factor endowments (the country's position in factors of production); demand conditions; related and supporting industries; and firm structure, strategy and rivalry. Countries should export products where all four attributes are favourable, and import products where these four components are unfavourable.⁷¹ This approach results in greater trade exchange, improved productivity, specialisation, economic integration between countries, and a dispersion of job opportunity around the globe, which in turn will promote social welfare.

A primary argument about free trade derives from Smith's 1776 theory in the book *Wealth of Nations*.⁷² Smith responds to popular mercantilist theories of the day by expounding the notion that a self-seeking individual is best suited to allocate resources over which he or she has command, and that interference by authorities can decrease the effectiveness of the individual. This analysis employs the key concept of assessing the economic policy of opportunity costs,

<<http://www.differencebetween.net/business/difference-between-capitalism-and-mercantilism/>> (accessed 10 May 2018).

⁶⁹ Capitalism views wealth creation as the key to economic growth, while mercantilism states that economic prosperity can be achieved through the extraction of wealth. Capitalism can be seen as supporting a competitive business environment, while mercantilism advocates a monopoly. Capitalism encourages consumer spending and enjoyment of life to the fullest to make the economy grow, while mercantilism discourages extravagance to prevent outflow of money from the economy. Ibid.

⁷⁰ Tejvan Pettinger, 'Definition of Comparative Advantage', *Economics Help* (Web Page, 2016) <<http://www.economicshelp.org/blog/glossary/comparative-advantage/>> (accessed 10 May 2018).

⁷¹ Michael E Porter, 'The Competitive Advantage of Nations' (1990) 68(2) *Harvard Business Review* 73, 93.

⁷² Adam Smith is the primary proponent of free trade, and states there should be no government interference in the economic life of its citizens. Adam Smith, *The Wealth of Nations* (Modern Library, 2000).

or the trade-offs between alternative activities under resource constraints.⁷³ Government interference in people's economic life will disrupt the economic development of the country.

Apart from Smith, other English classical economists also advocate for free trade and the complete elimination of government interference in people's economic lives. The arguments have a complete theoretical basis, as most countries—even those with a capitalist ideology—have certain regulations in place to control the economic processes of the country. One of the primary arguments presented by Smith is that government interference in the economic life of citizens will cause people to consider business options where a lesser tax is imposed, thereby making them move from more advantageous business opportunities to less advantageous business opportunities.⁷⁴ These ideas have found a contemporary renewal in the neoliberal discourse of globalisation.

Fairbrother explains the rise of globalisation as more than free market policy changes. He argues that it is simplistic to explain economic globalisation as an effect of free market policy. Instead, he claims that drivers of globalisation differ in industrialised and developing countries.⁷⁵ In industrialised economies, businesses are the prominent agents of change, while, in developing countries, technocrats play a more significant role, yet such developments are made possible by the availability and sometimes the constraints of international finance. However, in both cases, developments leading to the liberalisation of trade are legitimised by the availability of the technical authority of the economists, even though economists' ideas may not have been widely diffused and put into practice.

Fairbrother discusses the argument of Fourcade Gourinchas that economists operating in governments as 'technocrats' or 'technopolis' are in an even more powerful position to promote free trade, both inside and outside their countries, because they are directly operative in the policymaking process of governments. However, economists seldom have an overpowering edge over people in business. Economists tend to hold the view that their general opinions can hardly affect the political inclinations of governments; thus, against all favourable arguments

⁷³ Plato, *The Republic of Plato*, Francis MacDonald Cornford (Oxford University Press, 1945) 57, quoted by Winham 8.

⁷⁴ Ronald Hamowy, 'Adam Smith, Adam Ferguson, and the Division of Labour' (1968) 35(139) *Economica* 249, 250.

⁷⁵ Malcolm Fairbrother, 'Economists, Capitalists, and the Making of Globalization: North American Free Trade in Comparative-Historical Perspective 1' (2014) 119(5) *American Journal of Sociology* 1324, 1331.

for free trade, capitalism finds its way to the forefront in terms of free trade.⁷⁶ Other thinkers also hold the view that policymakers are not pursuing ideas as such; rather, their primary concern is to pursue their policy agendas, and they consider ideas that support their policy agendas. It is uncommon for policy agendas to be set by referring to ideas, including the ideas of economists.⁷⁷ However, it is undeniable that general economic ideas are used to provide the legitimization for free trade. International trade now increasingly occurs through FTAs. Therefore, the next section will discuss whether FTAs are considered a violation of the principle of free trade or are compatible with it.

2.4 Whether FTAs are Compatible with the Principle of Free Trade

Bilateral trade agreements or PTAs continue to increase under the WTO umbrella, which means that bilateralism differs from regionalism and multilateralism. It is no longer possible to view regionalism as a broad term that includes bilateral FTAs, as well as regional trade agreements. The powerful players of the WTO, such as the US and EU, are expanding their network of bilateral trade agreements, especially in the Middle Eastern region, which shares a large number of FTAs with the world's leading economic and trade powers. The WTO is an increasingly complex system that has a central multilateral trading regime, as well as hundreds of PTAs at the bilateral level. Therefore, regionalism and bilateralism provide more opportunity to liberalise trade with the multilateral system.

Throughout history, MFN treatment became a common approach to numerous friendships, trades and navigation treaties during the eighteenth and nineteenth centuries. However, the early clauses were quite broad, applying to a varied range of issues, such as rights, privileges, immunities and exceptions with respect to trade and navigation, or to duties and prohibitions regarding crossing ships and importation or exportation of goods.⁷⁸ The main objective of the

⁷⁶ Ibid. Fairbrother discusses the literature in detail and cites (among others) Marion Fourcade-Gourinchas and Sarah Babb, 'The Rebirth of the Liberal Creed: Paths to Neoliberalism in Four Countries' (2002) 108(3) *American Journal of Sociology* 533.

⁷⁷ Ibid, 1331. Fairbrother cites Monica Prasad, *The Politics of Free Markets: The Rise of Neoliberal Economic Policies in Britain, France, Germany, and the United States* (University of Chicago Press, 2006).

⁷⁸ Alejandro Faya et al, *Most-Favored Nation Treatment* (United Nations Conference on Trade and Development No 10.II.D.19, UNCTAD, 2010) 9.

MFN principle in the GATT Article I is to eliminate discriminatory treatment in international trade between countries. Therefore, according to the article, each member of the WTO must treat other members as favourably as it treats its most-favoured trade partner. This confirms the equality of trading opportunity between WTO members by changing the original bilateral commitments between most-favoured partners into multilateral commitments that should cover all WTO members.⁷⁹

However, two aspects distinguish the MFN/GATT provisions from the previous bilateral treaties mentioned above. The MFN in the GATT is a multilateral obligation, not the bilateral obligation that existed under friendship, trade and navigation treaties.⁸⁰ Instead of having a bilateral treaty providing for MFN treatment, by becoming a party to the GATT, nations can automatically obtain MFN benefits from all other GATT contracting parties. According to the terms of GATT Article I, MFN treatment is provided immediately and unconditionally. The GATT represents a clear break from any notion of conditional MFN, where it would be provided only in exchange for some reciprocal benefit.⁸¹ Therefore, WTO members are subject to inclusive obligations that were planned by the GATT 1994. The MFN principle⁸² imposes an obligation on members not to discriminate between imported products from other WTO members. The national treatment principle also requires members not to discriminate against imported products, as opposed to domestic products.⁸³ Concerning market access for goods, WTO members are also required to act in conformity with their scheduled commitments on tariffs and not apply tariffs beyond the bound levels. Moreover, members are not allowed to impose quantitative restrictions on market access or goods. Further, it is mandatory for members to ensure that their nontariff barriers (such as customs formalities) do not constitute unnecessary obstacles to trade.

⁷⁹ See Islam, above n 3, 9.

⁸⁰ See Faya, above n 78.

⁸¹ Donald McRae, 'MFN in the GATT and the WTO' (2012) 1(7) *Asian Journal of WTO and International Health Law and Policy* 4.

⁸² MFN is discussed in the first article of the GATT on adjusted trade in goods, and is also crucial in the GATS (Article 2) and TRIPS (Article 4). The GATT, GATS and TRIPS cover all leading areas of trade handled by the WTO.

⁸³ WTO, *Understanding the WTO—Principles of the Trading System* (Web Page) <https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm> (accessed 10 May 2018).

It is also provided that freer trade should be gradually introduced through negotiation, as lowering trade barriers is one of the most visible means of boosting trade. Predictability through obligation and transparency is another important principle, as providing evidence of not increasing trade barriers is important because this promise offers businesses a more unobstructed view of their potential opportunities. Non-discrimination obligations exist in all fields of international trade law, mainly in trade of goods and services, investment protection and protection of IPR. Therefore, with stability and predictability, foreign investment will be encouraged.⁸⁴

However, in definite circumstances, members of the WTO may depart from these obligations, if they comply with certain conditions. One of these exceptions, as will be examined in this thesis, is PTAs. Generally, FTAs are used to enter PTAs,⁸⁵ and may result in specific countries gaining the status of MFN.⁸⁶ PTAs help countries integrate into the multilateral trading system; however, it is important to examine whether they represent a serious departure from the principle of non-discrimination. This raises the question of whether PTAs are a building block for or obstacle to the multilateral freeing of trade for additional multilateral liberalisation.⁸⁷ PTAs have both positive and negative effects, which is why they are known as second-best initiatives compared with a multilateral agreement at the WTO, with uniform rules applicable to all members.⁸⁸ That is, when the best option of multilateral liberalisation is unattainable, PTAs provide an alternative vehicle for trade policy.

⁸⁴ Nicolas F Diebold, 'Standards of Non-Discrimination in International Economic Law' (2011) 60(4) *International and Comparative Law Quarterly* 831.

⁸⁵ There are differences between the five forms of PTAs; however, PTA is used in a general sense to refer to all forms of regional and sub-regional trade agreements, including monetary unions, common markets, CUs, free trade areas and PTAs. PTAs are grouped into three different WTO categories: Article XXIV arrangements involving FTAs and CUs, enabling clause arrangements limited to developing countries and permitting partial preferences, and generalised system of preferences arrangements permitted via a grant of an exception to Article I. See Jagdish Bhagwati, 'Preferential Trading Areas and Multilateralism: Strangers, Friends or Foes?' (Discussion Paper Series No 9596-04, The Economics of Preferential Trade Agreements, AEI Press, 1996) 1, 3.

⁸⁶ Jeffrey J Schott, 'Free Trade Agreements: Boon or Bane of the World Trading System?' in Jeffrey J Schott (ed), *Free Trade Agreements: US Strategies and Priorities* (Institute for International Economics, 2003) 3.

⁸⁷ Rafael L Arcas, 'Proliferation of Regional Trade Agreements: Complementing or Supplanting Multilateralism?' (2011) 2(11) *Chicago Journal of International Law* 599.

⁸⁸ Heribert Dieter, 'The Multilateral Trading System and Preferential Trade Agreements: Can Their Negative Effects be Minimized?' (GARNET Working Paper No 54/08, German Institute for International and Security Affairs, 2008) 7.

While FTAs are drafted to promote free trade between the member states, the MFN clause gives precedence for trade with one country over others, which contravenes the principle of comparative advantage, as deliberated in the earlier discussion. Further, the countries that are given MFN status by a developed country can develop their export sector over other sectors, such as agriculture, to provide the needs of the developed nation, thereby leading to the destruction of some of the essential sectors of the economy. A primary example of this situation occurred when several developing countries were accorded MFN status by the US. These countries shifted their focus to industries whose products were most demanded in the US, such as textiles or specific agricultural products, which caused so-called ‘banana republics’.⁸⁹ Agriculture was neglected by these economies, leading to the disruption of their overall economic progress. Therefore, the MFN principle can lead to economic development only if it is provided by all members to all members of the WTO; otherwise, it will have more disadvantages than benefits.

Article I of the GATT requires trading partners to follow trade liberalisation with an MFN or non-discriminatory approach. Thus, any trade liberalisation that countries undertake should treat all WTO member countries equally. However, GATT Article XXIV allows exceptions to the MFN principle and allows countries to establish FTAs.⁹⁰ The discriminatory nature of an FTA consists of granting preferential tariffs to fellow members of the agreement. The preferential tariff is lower than the MFN tariff, the tariff imposed on imports from non-members. The difference between the MFN tariff and the preferential tariff is known as the preference margin.⁹¹ However, the issue is whether the exception in Article XXIV (5) of the GATT⁹² undermines the trade liberalisation promoted by multilateral trade and economic partnerships. Article XXIV exempts free trade areas and CUs from the obligation to provide MFN treatment in international trade.⁹³ Article XXIV of the GATT allows regional and

⁸⁹ Banana republics are unstable countries that are economically dependent on a single export commodity, such as bananas. They are typically governed by dictators who seek to meet the needs of developed countries, at the expense of the economic growth of their own country. See Gregory Petsko, ‘Banana Republic’, *PubMed Central* (Web Page, 2002) <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC151166/>> (accessed 30 May 2018).

⁹⁰ *General Agreement on Tariffs and Trade (GATT)* (1947), Article XXIV.

⁹¹ David Cheong, ‘Methods for Ex Post Economic Evaluation of Free Trade Agreements’ (Working Paper Series on Regional Economic Integration No 59, Asian Development Bank, 2010) 1, 30.

⁹² Article XXIV prevents discrimination by a country regarding its trade partners. Diebold, above n 84, 831.

⁹³ Kerry Chase, ‘Multilateralism Compromised: The Mysterious Origins of GATT Article XXIV’ (2006) 5(1) *World Trade Review* 1.

bilateral PTAs that might lead to the formation of CUs and free trade areas through the multilateral trading system. This article is an explicit exception to the principle of MFN.

There is an obvious contradiction between PTAs and multilateral free trade based on the MFN principle. However, although Article XXIV contradicts the principle of MFN, it has been seen as an approval of the idea that PTAs can serve as a supplemental yet practical route to broaden liberalisation, through the conclusion of more FTAs that will liberalise international trade. Article V of the GATS also permits international treaties in the form of CUs and FTAs, by virtue of Article 41(1) of the Vienna Convention.⁹⁴ Thus, an exception was added to the general prohibition of PTAs by Article XXIV. As Professor Islam explains:

The transition from preferential to open trade liberalisation was not thought to be automatic but conditional. This is why strict conditions, which militate against discriminatory, differential and unequal trading deals among WTO members, have been attached to minimise the adverse effects of preference and maximise the process of convergence.⁹⁵

Hence, PTAs must cover inter-party trade, and trade barriers must be substantially removed from all their mutual trade. Trade barriers against non-members must not be increased beyond pre-existing ones, and PTAs must be transparent in their operation with members and non-members equally.⁹⁶ The GATT Article XXIV does not contain any exception for any kind of PTAs that do not rise to the level of full FTAs or a CU after a reasonable period, as stated in the GATT Article XXIV (5c).⁹⁷ In other words, to comply with the provision of GATT Article XXIV, a PTA must apply the formula of an FTA or CU upon expiry of the interim stage.⁹⁸ The main provisions of the GATT are contained in Article XXIV (4), Article XXIV (5a, b and c), Article XXIV (6) and Article XXIV (8a [i] and [ii] and b). Article XXIV (4) states the overall principle that the objective of a CU or FTA should be to facilitate trade between regions, and

⁹⁴ M Rizwanul Islam and Shawkat Alam, 'Preferential Trade Agreements and the Scope of GATT Article XXIV, GATS Article V and the Enabling Clause: An Appraisal of GATT/WTO Jurisprudence' (2009) 56(1) *Netherlands International Law Review* 4.

⁹⁵ Islam, above n 3, 54.

⁹⁶ Ibid.

⁹⁷ *General Agreement on Tariffs and Trade (GATT)* (1947), Article XXIV, para 5(c).

⁹⁸ Ibid.

not to raise barriers to trade with other contracting parties in such regions.⁹⁹ All Article XXIV critics agree that PTAs conform with the requirements of Article XXIV, and none are found to be incompatible with it.¹⁰⁰

In line with this opinion, this thesis is inclined to accept that PTAs are a permissible international trade instrument. Moreover, the existing scholarship accepts that FTAs are used both as economic and political tools to boost international relationships. FTAs are a significant step towards achieving economic integration and thus political integration in a region, especially in the case of regional or multilateral trade agreements. This is a matter of special significance for this thesis because it can subsequently be expected that appropriate FTAs can positively affect the structure of economic integration in the Arab region. One of the major outcomes of FTAs could be that they are beneficial for the geopolitical stability of the entire Middle East region. In this way, FTAs could be seen as an essential mechanism for creating a more stable global environment.

2.5 Relative Advantages of Multilateral and Bilateral Trade Agreements

If, as demonstrated in the previous section, PTAs are compatible with free international trade regulations and are also desirable because they can play a positive role in enhancing economic integration and international relationships, the issue is whether they should be in the form of bilateral or multilateral FTAs. This will now be discussed with special emphasis on the needs of the Middle Eastern region to achieve economic integration and political stability.

In the literature, bilateral and multilateral trade approaches are always questioned in terms of whether they are building blocks or stumbling blocks for international free trade, and how they can be used to benefit parties and international trade liberalisation, which is contingent upon the specific circumstances of each country.¹⁰¹ Bhagwati and Panagariya argue that PTAs have

⁹⁹ See Islam and Alam, above n 94, 7.

¹⁰⁰ Ibid.

¹⁰¹ For example, the Trump administration has argued that it is easier to enter bilateral agreements because they are only between two parties, as the US has more power in a bilateral negotiation with only one other country and it is easier to withdraw from a bilateral trade agreement. Trump directed the US trade representative to withdraw from the Trans-Pacific Partnership negotiations and begin pursuing bilateral trade negotiations with a view to promoting US industry, protecting workers and raising American wages. Trump also expressed a strong preference for bilateral trade agreements with individual countries during his election campaign. See Conor Duffy,

mostly led to reducing people's welfare because of the trade diversion that occurs under such agreements. They argue that, even if the trade creation effects are greater than trade diversion, so that the union as a whole will benefit, an individual member could lose because of negative income distribution effects arising from tariff revenue redistribution.¹⁰²

This thesis takes support from the above argument, but with a proviso. Such trade arrangements are not ideal in situations where the FTA is between a developed country with a strong economy and a developing country. Malkawi argues convincingly that the economic hegemonies of the US have dictated their rules to Jordan and used these rules to their advantage through the Jordan–US FTA.¹⁰³ Thus, this thesis argues that developing countries such as Jordan could benefit more from a trade agreement or CU with their regional environment, membership in the WTO and cooperation with other regional countries.

Although bilateral trade agreements are easier to implement than multilateral agreements and the conflicts are lower, multilateral agreements provide more benefits to the producers. In addition, they can create an international trade standard and generate the efficiency advantages of a broader market.¹⁰⁴ The main reason that bilateralism is more effective in achieving global free trade is that such agreements impose a discriminatory penalty on the non-participating country. In contrast to the multilateral liberalisation case, this penalty is sufficient to persuade any potential non-member country to join the FTA if the degree of asymmetry between countries is not large.¹⁰⁵ However, by imposing a negative effect on the non-member country

'Great Thing for the American Worker: Trump Cancels Trade Deal', *ABC News* (2017) <<https://www.abc.net.au/news/2017-01-24/trump-withdraws-from-tpp/8206356>> (accessed 1 May 2018).

¹⁰² Jagdish Bhagwati and Arvind Panagariya, 'Preferential Trading Areas and Multilateralism: Strangers, Friends or Foes?' (Discussion Paper No 9596-04, The Economics of Preferential Trade Agreements, AEI Press, 1996) 5.

¹⁰³ Bashar H Malkawi, *Jordan and the World Trading System: A Case Study for Arab Countries* (SJD Dissertation, American University Washington College of Law, 2006) 1.

¹⁰⁴ Raymond Riezman cites the views of many critics about this issue. For example, Bhagwati argues that further expansion and creation of free trade areas, instead of concentration on multilateralism at the WTO, is a mistake. On the other side of the debate, Summers argues that 'holding the degree of multilateral progress constant, the world will be better off with more regional liberalisation'. Frankel finds that the magnitude of transportation costs is an important determinant of the desirability of regional trade agreements. By introducing transport costs in an extended version of Krugman's model, Frankel shows that FTAs result in welfare losses if transport costs are not very high. Moreover, Deardorff finds that world welfare rises as the world moves from autarky to free trade in the context of a Ricardian trade model. See Raymond Riezman, 'Can Bilateral Trade Agreements Help to Induce Free Trade?' (1999) 32(3) *The Canadian Journal of Economics / Revue canadienne d'Economie* 752.

¹⁰⁵ David Tsirekidze, *Global Supply Chains, Trade Agreements and Rules of Origin* (Department of Economics, Stanford University, 2016) 4.

in FTAs, as stated by Tsirekidze, multilateralism under the frameworks of the GATT/WTO has already achieved global free trade for all members, while bilateral trade agreements only achieve free trade between parties. Consequently, the main advantage of multilateralism is that it will lead to the adoption of international standards by the world markets; hence, it will increase efficiency in the said markets, leading to the creation of broader markets, and the economies will be able to create scale and competitive advantages for the producers across the countries.¹⁰⁶ Compared with bilateral agreements, the bargaining power of both the producers and the consumers increases in multilateral agreements because of the involvement of a greater number of players.

Thus, it can be seen that multilateral and bilateral agreements have relative advantages and disadvantages, depending on the situation of the trading parties. For example, while developed countries seem to prefer multilateral agreements with other developed countries and prefer the bilateral model if the other party is a developing country, developing economies seem to benefit more from multilateral agreements, especially in the case of Jordan and other Arab countries. In contrast, Krueger prefers CUs to multilateral or bilateral trade agreements because he finds that these types of agreements are generally trade diverting. They also generate new interest groups that hinder multilateral tariff reductions, which is contrary to the interests of the people.¹⁰⁷ This thesis relies on Krueger's view to suggest that CU between Arab Countries in the Middle Eastern region would help increase the welfare of the people of the region.

Riezman cites Nordstrom in concluding that regional trade agreements can offer trading blocs with strong economic stimulants to follow up with the multilateral trade liberalisation. By establishing these types of agreements, small countries become more efficient in their transactions with enormous trading blocs,¹⁰⁸ which is what the Arab region lacks. Thus, such agreements can play a role in allowing trading blocs to be politically integrated, which would promote regional peace and stability. Riezman also cites Campa and Sorenson in suggesting that the global free trade balance can be sustainable if small economies establish regional

¹⁰⁶ Kamal Saggi and Halis Murat Yildiz, 'Bilateral Trade Agreements and the Feasibility of Multilateral Free Trade' (2011) 19(2) *Review of International Economics* 356, 373.

¹⁰⁷ Anne O Krueger, 'Free Trade Agreements versus Customs Unions' (1997) 1(54) *Journal of Development Economics* 169, 187.

¹⁰⁸ See Riezman, above n 104, 752.

trading blocs, since the integration of small countries could undermine the market power of the larger trading blocs.¹⁰⁹

Taking support from these views, this thesis argues that regional trade arrangements between the Arab Middle Eastern countries are not obstacles to the multilateral trading system. Regional multilateral trade agreements that would lead to CU do not increase the monopoly power of newly established trading blocs and do not necessarily imply higher external trade barriers between the emerging trading blocs. Moreover, they will be a source of strength for the economic integration of the countries in the region, as well as their integration into the world economy.¹¹⁰ The Arab Middle Eastern countries should follow the example of European countries in the EU and work seriously to implement the GAFTA to reach an advanced point of Arab economic integration, so that the region would be ready for equivalent economic integration with the global economy.

The discussion up to now has assumed that the benefits of trade agreements, whether bilateral or multilateral, can be easily assessed. The effects of such agreements are measured in various technical and non-technical ways. The next section will briefly explain some of these methods.

2.6 Metrics of Success of Free Trade Agreements

This thesis does not intend to measure the effects of FTAs in the Middle East in a technical sense, given the ongoing conflicts between geopolitical interests and distrust among the countries of the region. The economic analysis in this thesis establishes links between national and regional political developments. These links will not reach impact measurement in a technical sense, but will show links between events leading to FTAs and subsequent political changes, which may have the potential for future political integration. However, it will be useful to discuss how the economic effects of FTAs are measured.

FTAs may be compatible with free trade and are relied upon by some trading partners in their international trade relations. A logical question is whether and how the effects of FTAs can be measured. This section provides an overview of the methods of assessing the outcomes of

¹⁰⁹ Ibid, 753.

¹¹⁰ This issue will be discussed in a later chapter.

FTAs, which may vary from one region to another. FTAs, whether before negotiation or after implementation (ex-ante and ex-post), can be evaluated by macroeconomic-level and industry-level effects, and measures relating to direct sociological and economic effects. Therefore, relevant methods to evaluate specific outcomes of FTAs must be chosen, and the strengths and limitations of each method should be analysed.¹¹¹ It is important to understand the assumptions of each economic model independently, as some of the assumptions employed for developed countries may not be realistic for developing countries.¹¹²

The first step before negotiations start, at the early stages of signing the FTA, is an assessment of the potential benefits and costs of the prospective FTA to determine the FTA objectives. The assessment can be undertaken through discussion of the potential effects with the local public and private sectors to develop effective negotiation strategies. So that countries do not fail to benefit from the FTA, after the FTA is implemented, an assessment of the FTA's actual versus projected effects is also essential to determine whether the FTA purposes have been achieved and which changes can be made through renegotiation.¹¹³ Therefore, this evolving process needs to be dealt with while evaluating the effect of FTAs. The effects of FTAs may be measured through econometric measures and measures that examine more sociological cumulative economic outcomes for the country.¹¹⁴ Other studies measure the effects of FTAs on economic and political stability.¹¹⁵ Another focus is to question whether the FTA plays an

¹¹¹ Economic evaluation studies of FTAs can occur both prior to negotiation and after implementation.

¹¹² Cheong, above n 91, 6.

¹¹³ Michael G Plummer, David Cheong and Shintaro Hamanaka, *Methodology for Impact Assessment of Free Trade Agreements* (Asian Development Bank, 2011) 8.

¹¹⁴ Measuring the pros and cons of FTAs can be undertaken by understanding the variables between the FTA and economic development. Trade and economic development are not synonymous, even though they are related, so a positive trade effect may or may not translate directly into an effect on development. Implementing an FTA will create winners and losers, and produce effects in different arenas, including potential trade growth and diversification, job creation in some sectors and losses in others, investment and technology transfer. See Christopher Stevens et al, *The Impact of Free Trade Agreements between Developed and Developing Countries on Economic Development in Developing Countries: A Rapid Evidence Assessment* (Overseas Development Institute, 2015) 2.

¹¹⁵ A B E Kazutomo, 'Assessing the Economic Impacts of Free Trade Agreements: A Computable Equilibrium Model Approach' (Discussion Paper No 07-E-053, Tokyo Denki University, 2007) 2, 5.

important role in strengthening neighbourly relations and enhancing the economic and political relations to reach integration.¹¹⁶

The formation of an FTA requires an evaluation of the economic effects, such as the methods to assess the welfare effects of an FTA, including qualitatively assessing the trade creation and diversion, as well as the quantitative methods. Given that the FTA will affect trade and the effects on trade are a significant indicator of the welfare outcomes of the FTA, it is important to outline how to analyse the trade effects of the FTA and make inferences about economic welfare. Qualitative methods focus on changes in domestic production and intra- and extra-regional trade. Given that the FTA could be beneficial or harmful, this is identified by measuring the volume of trade creation when preferential tariffs replace the domestic production by imports from the FTA partner. Thus, the qualitative evaluation of FTA is via evaluation of trade and production levels before and after FTA implementation.¹¹⁷ Hence, the qualitative study collates rich data and infers meaning or mixed involving the quantitative analysis of qualitative data or the interrogation of quantitative data through a qualitative vision.¹¹⁸

Trade creation occurs when imports from the FTA partner increase alongside a drop in domestic production, while trade diversion occurs when an increase in imports from the FTA partner coincides with a drop in imports from non-FTA partners. If the total imports from the non-FTA partners are constant or increasing, this implies that there is no trade diversion, thereby indicating a positive welfare effect.¹¹⁹

As for the quantitative method is that the FTA's neither trade nor welfare effects are quantified, leaving the magnitudes of these effects unknown. Therefore, economic welfare depends on variables in three key indicators: trade volume, intra-union terms of trade and extra-union terms of trade. These indicators are all positively related to the member countries' welfare, meaning that if, for example, a member country's trade volumes increase or terms of trade improve as a

¹¹⁶ Lorenzo Rotunno, 'Political Stability and Trade Agreements: Evidence for "Endgame FTAs"' (2016) 45 *European Journal of Political Economy* 133, 148.

¹¹⁷ See Cheong above n 91, 8.

¹¹⁸ See Stevens above n 114, 7.

¹¹⁹ See Cheong above n 91, 8.

result of the FTA, then its economic welfare will have risen.¹²⁰ A study can be classified as quantitative when it uses mathematical techniques to illustrate data or explore causal relationships.¹²¹ For example, Malhotra and Stoyanov examine the agricultural trade effects of the Canada–Chile FTA using empirical analysis, and find that the effect of the agreement on Chilean agricultural exports to Canada is positive, which is attributed to the trade preferences that the country received after the agreement.¹²² This is considered a qualitative study because its purpose is to understand the outcome of the agreement on the agricultural sector. Further, in a quantitative study, Kang compares the effects on Jordan of the Pan-Arab Free Trade Area, as well as its FTAs with the EU and US.¹²³ He calculates each individual industry to reveal a comparative advantage index to identify Jordan’s strategic industries showing comparative advantages. He then analyses each individual industry’s export performance before and after Jordan’s regional trade agreements entered into force. For example, the outcome in the Jordan–US FTA shows a positive effect on Jordanian export performance in the textiles industry.

This thesis argues that FTAs can play a role in achieving both economic integration and political stability, and also play a role in improving the social welfare of people in the region.¹²⁴ This thesis argues that the economic relationship between Jordan and Arab Countries, as well as their economic integration with the rest of the world, has changed and advanced as a result of the FTAs acceded by Jordan. Despite the events and trade practices in the region that have affected the outcomes of these agreements, opportunities remain for Jordan and its regional trading partners to use these agreements to further develop and achieve economic integration and political stability in the Arab region. For example, Sang Cho and Julián Díaz measure the effects of trade liberalisation on the production, prices, imports, exports and welfare of

¹²⁰ Ibid, 11.

¹²¹ See Stevens above n 114, 7.

¹²² Nisha Malhotra and Andrey Stoyanov, ‘Analyzing the Agricultural Trade Impacts of the Canada-Chile Free Trade Agreement’ (CATPRN Working Paper No 2008-08, Canadian Agricultural Trade Policy Research Network, 2008) 1, 18.

¹²³ Moonsung Kang, ‘An Analysis of Economic Impacts of FTAs on Strategic Industries in Jordan’ (2011) 4(14) *International Area Studies Review* 73, 96.

¹²⁴ Regional trade agreements lead to economic integration among countries that will enhance internal and external investment patterns. Therefore, this thesis proposes that the foreign direct investments that are encouraged by trade liberalisation have a positive effect on social welfare. In his empirical study, Blomstrom shows that FTAs promote foreign direct investments from outside countries, which positively influence overall welfare through job and trade creation. See Magnus Blomström and Ari Kokko, ‘Regional Integration and Foreign Direct Investment’ (Working Paper Series in Economics and Finance No 172, National Bureau of Economic Research, 1997) 1, 26.

domestic consumers and find that, despite the loss in the government's gains because of tariff removal, after its FTA with the US, domestic production in Ecuador increased as a result of trade creation by 35%, while prices fell in the main import sectors, resulting in improvement in consumer welfare and thus social welfare.¹²⁵ Thus, these results support the argument of this thesis that FTAs may enhance social welfare through trade and job creation.¹²⁶

Liberalisation measures, such as a decrease in nontariff methods, trade simplification, harmonisation of the rules of origin, and upgrading of FTA usage are significant to assist trade between members, besides tariff elimination. Regional trade agreements are also anticipated to favour the efficient division of labour that will result in improved social welfare. Hence, Okabe suggests that regional FTAs should establish not only full tariff elimination, but also trade liberalisation in services and direct investment.¹²⁷

The effect of FTAs on non-member countries can also be measured. Trade diversion resulting from FTAs can cause negative effects on non-member countries, meaning they do not benefit from the total volume of world trade. Article I of the GATT (MFN) emphasises the reduction of barriers to trade, which should occur on a multilateral basis to offer the broad benefits of production based on comparative advantage.¹²⁸ The MFN requires members to offer equal treatment with regard to trade barriers to all GATT/WTO members.¹²⁹ PTAs that are aimed at regional integration allow members of the trade bloc to eliminate barriers to trade among themselves, while maintaining discriminatory tariffs on imports from non-members. Thus, Article XXIV of the GATT provides a major exception to the MFN principle that allows countries to form CUs or free trade areas that may discriminate against non-members of the bloc. In a CU, the members eliminate trade barriers among themselves, but erect a common

¹²⁵ Sang Cho and Julián Díaz, 'Trade Liberalization in Latin America and Eastern Europe: The Cases of Ecuador and Slovenia' (2008) 4(23) *Journal of Economic Integration* 1002, 1045.

¹²⁶ FTAs deliver many advantages through reducing prices and providing a wider variety of goods to consumers, as well as improving the efficiency of resource allocation, which leads to higher productivity and output. However, the degree of benefits among countries differs. For example, as mentioned above, government welfare may decrease because of the decline in tariff revenue.

¹²⁷ Misa Okabe, 'Impact of Free Trade Agreements on Trade in East Asia' (Discussion Paper No 2015-01, Economic Research Institute for ASEAN and East Asia, 2015) 11.

¹²⁸ Kevin C Kennedy, 'The GATT-WTO System at Fifty' (1998) 16(2) *Michigan State University College of Law* 423.

¹²⁹ Ibid.

customs tariff on imports from non-members. The FTA members also eliminate trade barriers between themselves, yet each retains their own schedule of tariffs on imports from non-members.

Therefore, it is possible that trade diversion occurs because of FTAs, where the importing country loses the tariff revenue collected on those imports, which now enter duty-free from its bloc partner. Consumers in the importing partner will gain advantages because the imported goods no longer bear the cost of the tariff. However, the consumer's gain could be less than or equal to the lost customs revenue, so the country could lose. Thus, trade diversion hurts both the importing country and the rest of the world. These losses are greater than the advantages to the bloc member, which gains exports due to trade diversion resulting from trade liberalisation in the FTA. If trade diversion is greater than trade creation, the FTA will reduce global welfare. If trade creation is greater than trade diversion, the total social prosperity will be enhanced.¹³⁰

In the case of Jordan, more efficient producers from industrialised countries would displace the less efficient producers in Jordan and consumers would subsequently benefit from lower prices. However, in return, a loss in domestic production, as the net result of the CU, could make the country worse off. To decrease the potential adverse costs, Article XXIV of the GATT requires the members of a CU or FTA to eliminate trade barriers on all trade between them, and that all GATT members must have the opportunity to review the agreement. Overall, GATT members not involved in the CU or FTA bloc face higher tariffs on some products, which is against the non-discrimination principle. The GATT Article XXIV requires those members be compensated for these lost trade exchanges; however, this article has proven ineffective in restricting the growth of trade blocs. As a result, trade patterns today are significantly distorted by these preferential arrangements. Consequently, free trade and the investment diversionary effect of an FTA can have negative effects on non-member countries and offer no benefit for the total volume of global trade.

¹³⁰ Milner et al, 'Some Simple Analytics of the Trade and Welfare Effects of Economic Partnership Agreements' (2005) 14(3) *Journal of African Economies* 327, 358.

2.7 International Trading Regime in the Arab Regional Context

Arab Countries have participated in the multilateral trading system in a manner that has had new implications. The issue is not only the accession of Arab Countries to the GATT/WTO, but also the new commitments that require reorientations in their economic strategies. Developing countries, including those in the Arab region, were mostly late participants to the international trade system, so they became rule-takers rather than rule-makers, which meant that some rules operating in the international trade system are unfavourable or even unfair for these new members. The system of voting in the five permanent members of the security council of the UN, which excluded developing countries, is an example of how the domestic weaknesses of developing countries interacted with their late and narrow participation in international cooperation to produce an unfavourable position for developing countries.¹³¹ In October 1947, representatives from 23 countries established the GATT to become effective in January 1948.¹³² Of the 23 original contracting parties to the GATT, only two (Lebanon and Syria) were Arab Countries. Moreover, these two countries withdrew from the GATT four years later.¹³³

This thesis argues that Arab Countries' boycott of Israel has had a profound effect on their relationship with the GATT, as the decision to boycott the Arab League was a hindrance to joining the GATT. In addition, the difference in views regarding the legitimacy of Israel exacerbated the spillovers of the Arab–Israeli conflict on trade and economic activity. As a result of the UN resolution of 1947, which divided Palestine between Arabs and Jews, the creation of Israel outraged the majority of Muslim and Arab countries. Thus, the strong activity of the Arab League promoted the boycott of Israel, including diplomatic, trade and almost every other type of relations.¹³⁴ According to the GATT rules, any state, including Israel, has

¹³¹ Amrita Narlikar, *International Trade and Developing Countries Bargaining Coalitions in GATT and WTO* (Routledge, 2004) 11.

¹³² The legal basis for the provisional application of the GATT was the Geneva Final Act, which also included the protocol of provisional application, which became the basis for the GATT. See WTO, *Understanding the WTO—The GATT Years: From Havana to Marrakesh* (Web Page), <https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm> (accessed 11 May 2018).

¹³³ Bashar H Malkawi, 'Anatomy of the Case of Arab Countries and the WTO' (2006) 20(2) *Arab Law Quarterly* 110, 151.

¹³⁴ Laurent Didier, 'Does the Arab-Israeli Conflict Matter on Israel Trade Relations?' (University de La Reunion, CEMOI, 2017) 3.

the right to accede to the organisation, despite the boycott of the Arab League.¹³⁵ Therefore, Israel joined the GATT in 1962, when it had no relations with Arab Countries.¹³⁶ Consequently, both Israel and the US sought to use the Israeli accession to the GATT as a means of pressuring the Arab states to normalise their relations with Israel, or at least to limit their intensity. The boycott of Jewish companies in Palestine by the Arab League preceded the establishment of both the GATT and Israel.¹³⁷

Since 1945, the Council of the Arab League adopted a resolution recommending all Arab states to establish national boycott offices to prevent trade with Jewish-owned companies in Palestine. Arab Countries also took steps to strengthen the enforcement of the boycott, including its application to third-country companies.¹³⁸ Consequently, since Israel is the US's most important ally, the US opposed any Arab countries joining the GATT if they were boycotting Israel.¹³⁹ There were only a few protests from Arab Countries to deal with the boycott as an entry issue to the GATT, since only a few Arab countries sought accession to the organisation. Egypt managed to accede in 1970 without any change in its boycott policy; however, it discussed issues related to the boycott when it invoked GATT Article XXXV pertaining to the non-application of multilateral trade agreements between particular countries. However, it did not later invoke this non-application clause when the two countries reached a peace agreement.¹⁴⁰ In addition, both Morocco and Tunisia, upon their accessions, opted not to invoke Article XIII of the WTO Agreement (non-application of multilateral trade agreements between particular countries) when the new regime of the WTO entered into effect in 1995. Similarly, Jordan did not invoke Article XIII when it acceded to the WTO in 2000, five years

¹³⁵ Eugene Kontorovich, 'The Arab League Boycott and WTO Accession: Can Foreign Policy Excuse Discriminatory Sanctions?' (2003) 4(2) *Chicago Journal of International Law* 284, 303.

¹³⁶ WTO, *Israel—Member Information* (Web Page) <https://www.wto.org/english/thewto_e/countries_e/israel_e.htm> (accessed 11 May 2018).

¹³⁷ The boycott of Israel had three levels: the main boycott, a secondary boycott and a tertiary boycott of those trading with Israel. The primary boycott barred league members from directly trading with Israel or Israelis. The secondary and tertiary boycotts extended far more broadly to ban trade with non-Israeli companies that had relations with Israel. See Kontorovich, above n 135, 286.

¹³⁸ Van Grassek Craig, *The History and Future of the World Trade Organisation* (World Trade Organization, Geneva, 2013) 144.

¹³⁹ The absence of some Arab countries from participation in the WTO occurred because the US blocked the establishment of working parties to examine their application. See Malkawi, above n 133, 112.

¹⁴⁰ Ibid.

after the Wadi Araba peace agreement between Israel and Jordan.¹⁴¹ In the wake of the Oslo Accords, the Gulf Cooperation Council (GCC) also agreed to end the secondary and tertiary boycotts. In 1995, Saudi Arabia applied for membership to the WTO. When queried about the boycott during the accession process by concerned members, Saudi Arabia responded that it was over.¹⁴²

Syria is one of the founders of the GATT, yet it is not a member of the organisation because the US has blocked its entry application since 2010. Syria has taken several steps on the path towards economic reform and, in the context of these reform initiatives, Syria applied for WTO membership in October 2001. However, almost two decades have passed since the submission of the application, and it has not yet joined.¹⁴³ The US claims that Syria supports international terrorism and the Arab trade boycott of Israel; thus, it is unlikely that Syria's application to the WTO will be approved soon.

During the Uruguay Round, which established the WTO, the US adopted a stronger policy to eliminate all aspects of the boycott of Israel by Arabs. The Clinton administration took a series of steps towards linking this objective to WTO accession. The first public declaration of linkage between the boycott and accession occurred in March 1994. In a hearing of the committee on foreign affairs in the House of Representatives, the US trade representative, Mickey Kantor, declared that they had made it clear to Arab Countries that their accession to the GATT/WTO would not be supported by the US until the end of the boycott.¹⁴⁴ The US Congress confirmed to the US trade representative that he had to strongly oppose the admission of any state into the WTO if it held laws and trade policies to boycott Israel. Since then, the remaining Arab countries have completed their accession to the WTO without resorting to boycotting Israel. The Arab states have abandoned the non-essential aspects of the boycott as part of the Israeli–

¹⁴¹ Jordan abandoned all phases of the boycott in 1995, after signing peace agreements with Israel. See Kontorovich, above n 135.

¹⁴² WTO, *Kingdom of Saudi Arabia—Member Information* (Web Page), <https://www.wto.org/english/thewto_e/countries_e/saudi_arabia_e.htm> (accessed 14 May 2019). See also Kontorovich, above n 135, 287.

¹⁴³ Malkawi, above n 133, 117.

¹⁴⁴ Ibid.

Palestinian peace process.¹⁴⁵ Some of Arab Countries' requests to enter the WTO have not yet been decided, since the US supports only the applications of Arab Countries that do not boycott Israel.¹⁴⁶

The WTO claimed that it wished to integrate Arab Countries into the WTO system. Thus, in 2001, the Fourth Ministerial Conference of the WTO—which witnessed the launch of a new round of multilateral trade negotiations (the Doha Round)—was held in the Arab state of Qatar, which was the largest international trade conference in the Arab region. However, Arab Countries did not achieve any tangible results from hosting the conference, except to include Doha's name in the round. The delegations of Arab Countries to the conference were small in number, compared with the hundreds of trade negotiators representing other countries.¹⁴⁷ Despite Qatar's hospitality to the Israeli delegation at the conference in Doha, in addition to many attempts made to attain an observer seat, the efforts of the Arab League did not succeed; thus, the Arab League, one of the oldest regional organisations, was absent from the conference. Some WTO members, including the US, objected to the Arab League's requests to attend the conference because the Arab League's promotion of boycotting Israel was contrary to WTO principles.¹⁴⁸

The WTO can be described as the most recent link in the modern world trade system, which is characterised by the dominance of the capitalist system through its economic and political methods. Thus, it is considered one of the most important international institutions, considering the number of countries acceding to it and the areas it covers. The WTO regulates trade movement between member states; therefore, it is involved with international relationships. This means that it influences international variables in the structure of the international political system related to the economic dimensions. National treatment is one of the most significant principles of the GATT/WTO and stipulates that imported goods must be treated as a local product. Therefore, the benefits of joining the WTO vary depending on the extent of economic

¹⁴⁵ A working party must be established to negotiate provision of WTO accession, and the General Council, which operates by consensus, must agree to form the accession working party. See Raj Bhala, 'Poverty, Islam, and Doha: Unmet Challenges Facing American Trade Law' (2002) 36(1) *The International Lawyer* 159, 196.

¹⁴⁶ Therefore, the absence of some Arab countries from participation in the GATT/WTO is because the US is blocking the establishment of working parties to examine their application. See Malkawi, above n 133.

¹⁴⁷ Ibid.

¹⁴⁸ The US argued that it was clear that the objections of these countries were politically motivated, not legally justified. Ibid, 127.

development and financial and technological potential. The WTO did not have humanitarian considerations to deal with the social and economic difficulties of developing countries. The Arab world consists of developing countries, whose gains are weak compared with those of industrialised countries, and, as Arab Countries differ in terms of their economic progress and financial potential, their benefits and sufferings from the international trade system vary. However, membership in the WTO is less dangerous than isolation from the world. Overall, it can be said that membership in the WTO is a serious issue faced by many countries, including Arab Countries.

Arab Countries must resolve their position by either adapting positively to the international economic reality under the new rules or accepting the threats of globalisation. Arab Countries face difficulties in integrating into international trade and economic relations because of their national policy.¹⁴⁹ However, it is not easy for these countries to isolate themselves from the international economic environment. Arab Countries have achieved positive economic and political outcomes through their accession to the WTO, and there were strong economic reasons for their participation. Without a doubt, Arab Countries should not have remained outside the framework of international economic communication resulting from the interaction between international economic relations in the global economic system.

The WTO has created a new international trade reality, and no country, including Arab Countries, can remain isolated from these new developments. Given that no country can participate in the multilateral trading system without being part of the WTO, as the world becomes more economically integrated, the WTO members will have the opportunity to participate and represent their interests appropriately, and any country that does not join will be isolated. Adherence to WTO rules may enhance global confidence in Arab Countries; therefore, foreign direct investment (FDI) is likely to increase. The WTO membership will also ensure a fair forum for settling potential trade disputes with other members who may have more trade power.

¹⁴⁹ Arab countries continue to call for nationalism, which is a barrier to adapting to globalisation. See Mohammad Salim Al-Rawashdeh, 'The Impact of Globalization on the Political Culture of the Arab Youths' (2014) 8(4) *Journal of Middle Eastern and Islamic Studies (in Asia)* 81, 120.

2.8 Conclusion

This thesis argues that increasing economic integration between Arab Countries and their integration with global economies under the WTO umbrella can lead to a reduction in conflicts and enhanced social and political stability. Increasing conflicts remain a common attribute in the Arab region; thus, the local and global economic integration of the Arab region is needed. Several Arab countries have already opted for global economic integration by entering bilateral trade agreements with a number of countries, especially developed ones.

Economic growth in the Arab region is slowing because of the ongoing wars in Syria, Yemen, Iraq and Libya that have led to mass displacement, loss of life and destruction of infrastructure.¹⁵⁰ The indirect consequences of these wars in non-involved countries, such as Jordan, have also harmed the economy and trade because of demands related to refugees and loss of revenues from tourism, which has caused economic damage to the region as a whole. Regional economic integration is crucial for the Arab region, where conflicts affect the economic outcomes of regional economic communities. In addition, conflict decreases the business cycle when it occurs within a regional economic community, both for the directly affected countries and for their regional peers. Therefore, prevention and resolution of Arab civil conflicts has become a significant challenge for regional economic prosperity and development.

Multilateral trade liberalisation and regional economic integration are controversial in the Arab region, where earlier efforts to achieve it have been unsuccessful, essentially because of political factors and mutual distrust among Arab Countries.¹⁵¹ However, the main choices for Arab countries, by achieving regional integration within the entire Arab Free Trade Area. The implementation of sub-regional integration within a Maghreb region and Mashreq¹⁵² region, as

¹⁵⁰ World Bank, *Global Economic Prospects 2017: Middle East & North Africa* (Web Page) <<http://www.worldbank.org/en/region/mena/publication/gep-mena-weak-investment-in-uncertain-times>> (accessed 8 May 2018).

¹⁵¹ Gonzalo Escribano, 'Euro-Mediterranean Versus Arab Integration: Are They Compatible?' (2017) *Arab Development Challenges of the New Millennium* 219, 248.

¹⁵² The Maghreb region is a group of countries within what is commonly termed Northern Africa. The region lies along the Mediterranean Sea and Atlantic Ocean. Maghreb includes the nations of Mauritania, Morocco, Algeria, Tunisia and Libya. Mashreq is a geographical region extending from the western border of Egypt to the eastern border of Iraq. It includes the modern states of Egypt, Sudan, Saudi Arabia, Yemen, Oman, Kuwait, the UAE,

well as to conclude trade agreements with the EU in the Euro-Mediterranean Free Trade Area or to combine all three strategies.¹⁵³

When considering options for peace and security externalities, regional economic integration is the best choice in terms of welfare theory, assuming that trade among neighbours decreases the likelihood of conflict. Regionalism¹⁵⁴ improves protection against civil strife; thus, Morocco's, Tunisia's and Egypt's commitments to achieve an FTA with the EU may be linked to fears about the fundamentalist threat. Regionalism may also be these countries' reaction to threats from regional powers, such as the creation of the GCC to face the threat represented by Iran and Iraq. Further, the historical background of conflicts between neighbouring countries may lead them to achieve economic integration to dampen future wars, such as the creation of the European Economic Council as a mechanism to discourage new conflicts between France and Germany after the World War II.¹⁵⁵ However, political initiative to reduce the conflict in the Arab region is needed first.

This thesis argues that a Pan-Arab FTA is needed to provide free movement of goods between Arab countries, which will ultimately end the political instability that can harm these countries' economies and hence such incidences will be avoided. Entering a Pan-Arab FTA would give the Arab region incentive to develop alongside the rest of the world. Presently, there are limited bilateral and multilateral trade agreements in the region and the FTAs entered by Arab countries are with European and North American countries on an individual basis. Such agreements cannot provide the impetus for the prevalence of regional peace to support and facilitate economic development that could be strongly provided by the proposed Pan-Arab FTA.

Despite Jordan's small size, it has played a positive role in the path of Arab economic integration. The country hosted the Amman Arab Summit in 2001, with the aim of accelerating trade liberalisation between Arab countries, and achieving full exemption of customs duties on

Jordan, Lebanon, Syria and Iraq. See Annette Robert, *The EEC and the Maghreb and Mashreq Countries* (Palgrave Macmillan, 1980) 261, 278.

¹⁵³ See Escribano, above n 151.

¹⁵⁴ Regionalism refers to PTAs defined by a geographical region. See Bhagwati and Panagariya, above n 102, 3.

¹⁵⁵ Maurice Schiff and Alan L Winters, 'Regional Integration as Diplomacy (1998) 2(12) *World Bank Economic Review* 271, 295. Available at <<https://elibrary.worldbank.org/doi/abs/10.1093/wber/12.2.271?queryID=76%2F1756275>> (accessed 28 May 2018).

1 January 2005. This initiative illustrates Jordan's active role in and commitment to encouraging further economic cooperation and integration in the region.¹⁵⁶ The next chapter examines how Jordan is participating in the multilateral trading system.

¹⁵⁶ Matthias Busse et al, 'Assessing the Impact of Trade Liberalization: The Case of Jordan' (2012) 27(3) *Journal of Economic Integration* 469.

Chapter 3

Jordan as a Member of the World Trade Organization

This chapter examines how Jordan is participating in the pursuit of development under the WTO multilateral trade liberalisation regime. For this purpose, the chapter is divided into three parts, followed by a conclusion. The first part provides a general background of the economy of Jordan to provide context to the significance of Jordan joining the WTO. It analyses the details of the agreement and identifies which specific obligations Jordan assumed and was expected to perform as a member of the WTO. The second part investigates how Jordan has been complying with the rules of GATT/WTO, followed by an analysis of the investment regime and protection measures in Jordan. An analysis of the relevant domestic laws and changes caused after the ascension of Jordan to the WTO helps demonstrate how Jordan has been complying with the international trade regime. The third part discusses a specific example of how Jordan was expected to introduce measures of arbitration and mediation as the primary means of dispute resolution to understand whether these measures have helped integrate the Jordanian economy with the international trade regime. The concluding part provides an assessment of whether and how Jordan has benefitted from its WTO membership.

3.1 General Background of the Jordanian Economy

Jordan is a Middle Eastern country surrounded by countries that are politically and militarily unstable.¹ The insecure political and military situation in the area reflects a low level of economic development in the entire region. Early in the last century, the area called Transjordan was placed under the British mandate by the League of Nations.² However, in 1946, the British mandate ended through the series of Anglo-Transjordan treaties and, since that time, the region has been called the Hashemite Kingdom of Jordan, and has been governed as a constitutional monarchy.³

¹ Syria on the north, Saudi Arabia on the south, Iraq on the east, and Israel and West Bank on the west.

² Mary C Wilson, *King Abdullah, Britain and the Making of Jordan* (Cambridge University Press, 1990) 7.

³ The political regime in Jordan is a constitutional monarchy with three separate powers. First, the Legislative comprises the King and the Parliament, which consists of the Upper House of Parliament and the Lower House

The population of Jordan comprises around 9,874,000 people, according to the latest UN estimates.⁴ The geographical area of Jordan extends to approximately 89,000 km², and only 10% of the land is suitable for agricultural use.⁵ Phosphate and potash are the most common mineral resources in Jordan. According to the WB collection of development indicators, in Jordan, the labour force was reported at around 245,000 in 2017.⁶ The contribution of the services sector to the economy grew at an unprecedented rate from 67.5% in 1995 to 78% in 2018, followed by manufacturing (20%) and agriculture (2%).⁷ These figures demonstrate that Jordan is a relatively small country in both geographical area and population. These two factors, as well as the unstable geopolitical region, have affected its economy and caused it to have limited productivity.

Jordan's economy has been dramatically influenced by external factors, including regional conflicts that are beyond its control, especially in Syria and Iraq. In addition, Jordan's economy relies mainly on the services sector because of the lack of natural resources in the country. Jordan also receives significant foreign aid, and the dependence of the economy on foreign aid has caused near-permanent deficits.⁸ However, Jordan has invested heavily in human resources. Remittances from Jordanian expatriates and employees, especially in the Gulf states, have been one of the primary sources of foreign exchange.⁹ Therefore, remittances from

of Parliament. Second, the Executive comprises the King, Prime Minister and Council of Ministers. Third, the Judiciary comprises the civil courts, which consist of the courts of the first and second instance, the courts of appeal, and the cassation. The religious courts are also divided into sharia courts for Muslims and councils of religious communities for non-Muslims. See Peter Gubser, *Historical Dictionary of the Hashemite Kingdom of Jordan* (Scarecrow Press, 1991) 18.

⁴ World Meters, *Jordan Population* (Web Page, 2018) <<http://www.worldometers.info/world-population/jordan-population/>> (accessed 12 May 2018).

⁵ World Atlas, *Middle East, Geography of Jordan, Map of Jordan* (Web Page, 2018) <<https://www.worldatlas.com/webimage/countrys/asia/jo.htm>> (accessed 12 May 2018).

⁶ Trading Economics, *Labor Force—Total in Jordan* (Web Page, 2018) <<https://tradingeconomics.com/jordan/labor-force-total-wb-data.html>> (accessed 12 May 2018).

⁷ Central Intelligence Agency, *The World Factbook—Central Intelligence Agency* (Web Page, 2018) <<https://www.cia.gov/library/publications/the-world-factbook/fields/2048.html>> (accessed 12 May 2018).

⁸ Mary Nazzal, *Economic Reform in Jordan: An Analysis of Structural Adjustment and Qualified Industrial Zones* (Land and Development, 2005) 4.

⁹ Jordanian expatriate remittances are one of the country's major foreign currency inflows, alongside commodity and service exports, grants, loans and foreign aid. According to the Central Bank of Jordan, the total remittances of Jordanians working abroad amounted to \$3.4 billion by the end of November 2017. See 'Expats' Remittances Stabilise at End of November', *Jordan Times* (2017)

Jordanians abroad, together with foreign aid and tourism income, are the basis of Jordan's economy, making it highly vulnerable to regional and global tensions.¹⁰ Instability in the region have negatively influenced Jordan. In 2018, Jordanian public debt reached US\$40 billion, and its debt–GDP ratio reached 95%—up from 71% in 2011.

Recently, Jordan took a stand against the US policy of shifting its embassy to Jerusalem, and suffered significant economic consequences. For example, the GCC did not renew its financial assistance program.¹¹ Jordan is struggling from economic difficulties because of its excessive population. This problem recently magnified to an unbearable degree by the sudden immigration of a mass of Syrian, Iraqi and Palestinian refugees into Jordan. The number of arrivals as refugees from regional conflicts now exceeds the number of original Jordanians.¹² These political events affect the economic outcomes for Jordan as a continuation of the earlier decisions made in the name of free international trade. This factor is relevant to the main argument in this thesis that Jordan's economic problems are directly related to the political instability in the region, which has caused a rise in public debt and budget deficits. The next section discusses the accession of Jordan to the WTO as an attempt to revive its economy.

<<http://www.jordantimes.com/news/local/expats%E2%80%99remittances-stabilise-end-november>> (accessed 12 May 2018).

¹⁰ Dramatic events, such as the Iran–Iraq war, have deeply affected Jordan. The contraction of the oil countries' economies caused a reduction in Jordanian labour remittances, as well as in Arab bilateral aid. Moreover, 300,000 Jordanians were forced to leave the Gulf States during the war, which placed pressure on the domestic economy. See Nazzal, above n 8, 4. See also Nahi Saqf Alhait, 'Jordan WTO Accession: A Quantitative Investigation and Estimation of a Gravity Model 1994-2009' (2012) 12(2) *Applied Econometrics and International Development* 180, 196.

¹¹ Jordan has experienced a permanent trade imbalance. Younes asks if Jordan is paying the price for Jerusalem criticism, as Jordan is opposed to the transfer of the US embassy in Israel to Jerusalem. Jordan assumes that such a move would undermine the peace efforts in the Middle East and eliminate hopes for a two-state solution between Palestinians and Israelis. See Ali Younes, 'Jordan's Economic Crisis Threatens Political Stability', *Al Jazeera* (2018) <<https://www.aljazeera.com/news/2018/02/jordan-economic-crisis-threatens-political-stability-180214112245542.html>> (accessed 12 May 2018).

¹² Human Rights Watch, *Stateless Again Palestinian-Origin Jordanians Deprived of Their Nationality* (Web Page, 2010) <<https://www.hrw.org/report/2010/02/01/stateless-again/palestinian-origin-jordanians-deprived-their-nationality>> (accessed May 2018).

3.2 Accession of Jordan to the World Trade Organization

As a signal to the international economic and trading community of its commitment to open up its market, Jordan decided to liberalise its economy by joining the WTO in an attempt to revive its economy. Jordan pursued policies designed to strengthen the economy, with the aim of opening up to the external economic and trade world and presenting itself as a reliable trading partner. Its milestone long-term economic objective was to increase trade and support economic growth via regional and global integration through its accession to the WTO and FTAs.¹³

Jordan and a few other countries have acceded to the GATT through the sponsorship procedure.¹⁴ During the period preceding the WTO's existence, Jordan became a contracting party to the GATT 1994 through Article XXXIII's full accession procedures and Article XXVI's sponsorship procedures. Article XXXIII organises the general structure of the GATT accession procedures for countries that are not founding members. Article XXVI (5c) of the GATT also offers ways to enter the GATT for customs territories that have full autonomy in the conduct of their international trade relations. The Jordanian request for accession to the GATT was an expression of its willingness to adhere to the principles of free trade and a free market economy, and an expression of its desire to participate entirely in the GATT. Jordan has achieved this and, in the process, facilitated the liberalising and strengthening of the multilateral trading system in the region.¹⁵ Jordan has also implemented procedures aimed at liberalising its trade regime within the context of a structural adjustment program, which was supported by the IMF.¹⁶

¹³ Accession to the WTO was undertaken with the aim of giving Jordan the chance to work alongside member countries to strengthen the multilateral trading system to the advantage of all members.

¹⁴ The Jordanian application to access the GATT was received in January 1994. See WTO, *Accessions: Jordan* (Web Page, 2000) <https://www.wto.org/english/thewto_e/acc_e/a1_jordan_e.htm> (accessed 12 June 2018).

¹⁵ Summary Record of the First Meeting Held at the International Conference Centre, Geneva, on 25 January 1994, GATT Doc SR 49/1 (10 March 1994) (Accession of Jordan) [5].

¹⁶ Measures included liberalising the trade regime, removing quantitative restrictions and bans, restructuring the tariff system, and abolishing import and export licensing. Ibid.

There were a number of steps involved in Jordan's accession to the WTO. A working party for this purpose was established in 1995.¹⁷ The party held five meetings, starting in October 1996.¹⁸ As a result, Jordan acceded to the WTO in April 2000, after more than five years of negotiation. The WTO's General Council concluded negotiations with Jordan and approved the accession package on 17 December 1999. On 11 April 2000, Jordan became the 136th member of the WTO.¹⁹ The accession procedures completed by Article XII of the WTO echo Article XXXIII of the GATT governing the WTO accession process.²⁰ Subsequent to the conclusion of the Uruguay Round, Jordan requested accession to the WTO under Article XII of the Marrakesh Agreement. In accordance with the decision adopted by the WTO General Council on 31 January 1995, the existing GATT accession working party was transformed into a WTO accession working party.

3.2.1 The Rules of the GATT/WTO Jordan was Expected to Follow

In preparation for accession to the WTO, both the Senate and House of Representatives in Jordan passed various modern trade policies, including FTAs. Following the passing in both houses, the policies were ratified by the king via royal decree. The policies were in the form of legal instruments.²¹ The various treaties entered by the country, including the FTAs, were

¹⁷ WTO, *Jordan—Member Information* (Web Page) http://www.wto.org/english/thewto_e/countries_e/jordan_e.htm (accessed 12 June 2018).

¹⁸ The working party consisted of 20 members, headed by K Kesavapany—Singapore's WTO ambassador and former chairperson of the WTO General Council. The working party on Jordan's accession grew from 20 to 33 members. See *Report of the Working Party on the Accession of Jordan* (WT/ACC/JOR/33) para 2 (3 December 1999).

¹⁹ Jordan, as a middle-income developing economy that plays an important strategic role in the Middle East, clarifies the relations between economic diplomacy and political factors, as reflected in its accession process. Its WTO membership is the exception, rather than the rule.

²⁰ Article XII of the WTO charter provides that any state or customs territory possessing full autonomy in the conduct of its external commercial relations may accede to the WTO on terms to be agreed between it and the WTO. Jordan applied for accession to the GATT 1947 in January 1994. The GATT Council of Representatives established a working party to examine the application of Jordan to accede under Article XXXIII. Subsequent to the conclusion of the Uruguay Round, Jordan requested accession to the WTO under Article XII of the Marrakesh Agreement. In accordance with the decision adopted by the WTO General Council on 31 January 1995, the existing GATT accession working party was transformed into a WTO accession working party.

²¹ The Jordanian Parliament reportedly ratified the FTA by a vote of acclamation on 9 May 2001. See Mary J Bolle, 'US-Jordan Free Trade Agreement' (Congressional Research Service, Library of Congress, 2001) 1, 22.

treated as valid sources of law and made applicable in the national courts. One of the primary factors requiring change in the government policies was addressing the debt crisis that Jordan faced during the late 1980s and 1990s. The foreign currency reserve in the country had decreased, alongside an increase in foreign debt. In an attempt to revive the economic situation, the Jordanian government passed economic reforms, which included trade liberalisation and the promotion of free trade. Thus, a shift in attitude was observed towards trade protectionism in favour of trade liberalisation.

The WTO is a complex agreement because it is a legal text that covers and regulates almost all business activities. It deals with agriculture, textiles and clothing, banking, telecommunications, government purchases, industrial standards and product safety, food sanitation regulations, IP and more.²² Some fundamental principles regulate all WTO agreements and obligations, and these principles are the foundation of the world multilateral trading system. The MFN, national treatment and transparency principles are the essential principles of the WTO, and are all intended to establish non-discrimination between international markets. The principles of MFN and national treatment found an equivalent trading field between the WTO members in international trade in different countries by eliminating discriminatory measures adopted by the members. The principle of transparency—as incorporated in Article X of the GATT, Article III of the GATS and Article 63 of the TRIPS—ensures the openness of governmental regulations, and thereby helps maintain predictability for the actors in international trade.²³ Therefore, Jordan and any country wishing to join the WTO must adhere to a set of conditions, which are the fundamental principles of the WTO. International trade diplomacy and negotiation are based on reciprocal trade liberalisation, implying that, when a country joins the WTO, it enjoys the free market access rights; however, in return, it must offer market access concession for other members.²⁴ This is supposed to occur by complying with the rules of the GATT/WTO.

As a WTO member, Jordan had to adhere to the commitments in its accession to the WTO and make changes to its domestic laws in this regard. Jordan approved a comprehensive collection

²² WTO, *Understanding the WTO—Principles of The Trading System* (Web Page) <https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm> (accessed 12 June 2018).

²³ Mitsuo Matsushita, 'Basic Principles of the WTO and the Role of Competition Policy' (2004) 2(3) *Washington University Global Studies Law Review* 364.

²⁴ Bashar H Malkawi, 'Jordan's Accession to the WTO: Retrospective and Prospective' (2010) 1(11) *The Estey Centre Journal of International Law and Trade Policy* 12, 45.

of legal obligations in areas such as tariff reductions, services, agriculture and transparency, which were considered the fundamentals of the WTO accession.²⁵ As a developing country, the WTO offered Jordan special rights to treat more favourably (special and differential treatment provisions) in specific WTO agreements.²⁶ These special provisions included extended periods to implement agreements and commitments or measures to increase trading opportunities. Currently, Jordan is not part of the Global System of Trade Preferences, of which a large number of developing countries are part.²⁷

Significant steps were taken by Jordan to implement its WTO commitments, such as tariff cuts. The tariff reductions did not require changes in Jordanian domestic law, as the *Customs Law of 1998* provides that goods entering Jordan must be subject to customs duties as arranged by customs law. In addition, if there is a particular clause-related tariff in any international trade agreement to which Jordan is a member, the tariff should be imposed by the provisions of such agreement.²⁸ Although the government is implementing a series of measures to apply a free market ideology in the country, Jordan is still a developing country where some industries remain in their infancy. Thus, Jordan may have difficulty competing with more developed industries in developed countries. Thus, Jordan currently needs to provide a level playing ground for industries by imposing certain tariffs. However, imposing high tariffs tend to disrupt trade in the economy completely; thus, the government must apply a balanced approach between free trade and protectionism measures in the present phase, which is the most beneficial approach for the country.

²⁵ Ibid.

²⁶ Preferential market access for developing countries limits reciprocity in negotiating rounds to levels 'consistent with development needs' and provides developing countries with more freedom to use trade policies that would otherwise not be permitted by GATT procedures. See Bernard Hoekman, 'Operationalising the Concept of Policy Space in the WTO: Beyond Special and Differential Treatment' (2005) 8(2) *Journal of International Economic Law* 405, 424.

²⁷ The Global System of Trade Preferences among developing countries aims to promote trade among developing countries in the framework of the UNCTAD. See Gabriella Scelta, *Global System of Trade Preferences among Developing Countries—Support Measures Portal for Least Developed Countries* (Web Page, 2016) <<https://www.un.org/ldcportal/global-system-of-trade-preferences-among-developing-countries/>> (accessed 12 Jun 2018).

²⁸ Customs Law No. 20 of 1998, Art. 13 (b); Official Gazette No. 4305 (1 October 1998).

3.2.2 Jordan's Compliance with the WTO Rules and Membership Conditions

The Ministry of Industry and Trade of Jordan is the primary authority responsible for the creation and implementation of policies to facilitate the international trade regime in the country. This ministry addresses all essential issues regarding managing and implementing multilateral and bilateral trade agreements. The primary functions are the negotiation of trade agreements with other countries and preparation of draft agreements before implementation.²⁹ The ministry is also involved in conducting research before the drafting of agreements. Also, as the main link with the WTO, it is working to improve scenarios and plans for international and regional trade in the country and to assess the effect of trade agreements on the economy.³⁰

After its accession to the WTO, Jordan entered many trade and economic cooperation agreements aimed at developing its regional and global trade relations. Jordan has agreed with the US, and the agreement eliminates almost all tariffs on goods and services between both countries.³¹ Jordan also established an FTA with the European Community, which aims to establish a free trade area.³² Moreover, Jordan has entered a tripartite agreement with Israel and the US for the establishment of qualified industrial zones (QIZs), which are industrial zones where the goods produced can be exported to US markets at lower tariffs. Jordan receives preferential treatment under the generalised system of preferences from some countries, such as the Russian Federation, Japan, Turkey and Switzerland.

To access global goods markets, tariff reduction is the most crucial step to offer equivalent market access concessions to trading partners. Jordan agreed to impose zero tariffs on all chemical products through the Chemical Tariff Harmonization Agreement of the Uruguay Round. Jordan has also committed to reduce taxes to zero on information technology products. However, as a developing country, Jordan was given an extended deadline to eliminate tariffs

²⁹ *Ministry of Industry, Trade, and Supply* (Web Page, 2018) <<https://jordan.gov.jo/wps/portal/Home/GovernmentEntities/Ministries/Ministry/Ministry%20of%20Industry%20and%20Trade?nameEntity=Ministry%20of%20Industry%20and%20Trade&entityType=ministry>> (accessed 12 June 2018).

³⁰ Ibid.

³¹ The agreement includes the clauses of protecting IPR and the environment to increase trade, and developing an e-commerce marketplace between both countries.

³² Details of these trade agreements will be discussed in Chapter 4.

on some sensitive goods, such as information technology products. This occurred because of its entry to the WTO's Information Technology Agreement, which eliminates tariffs on information technology products. The Information Technology Agreement of the WTO caused the Jordanian government to remove tax revenues on this type of import, yet has provided Jordanians with IT products at low cost.³³ Jordan is a service-oriented economy, and high tariffs are still imposed on this sector. Therefore, the WTO has requested the country occasionally reduce tariffs on services, which will make it easier for the country to become a completely free market economy, similar to the developed countries.

Jordan has significantly lowered trade barriers for goods entry, and these reductions were expected to lead to an increase in trade flows as production and consumption improved in efficiency.³⁴ However, Jordan has exerted tremendous effort in convincing WTO members that further tariff reduction would injure its frail economy.³⁵ Undeniably, exports and imports have significantly improved since its accession to the WTO, following its FTAs. However, the expansion of imported goods has been much larger than the rise in exports, leading to a substantial increase in trade deficit.³⁶ Jordan has reduced the average tariffs, with some exceptions where specific duties apply.³⁷

After becoming a member of the WTO, Jordan passed a host of laws to increase the efficiency of its trade, such as investment law, laws on antidumping, competition law, trade remedies law, and subsidies and countervailing laws. Jordan has implemented changes to comply with WTO obligations, and the WTO has praised Jordan's expansion of trade relations through regional trade agreements and Jordan's commitments to the multilateral trading system. It has acknowledged Jordan's constructive role in the Doha Development Agenda negotiations and

³³ These tariff reductions did not require any changes in the Jordanian customs law because, if there is a special provision for a tariff in an international agreement to which Jordan is a party, a tariff must be imposed in accordance with the provisions of the agreement. See *Law No. 16 of 2000 Amending Customs Law*, art 7C <http://www.wipo.int/wipolex/en/text.jsp?file_id=227526#LinkTarget_300> (accessed 18 June 2018).

³⁴ Matthias Busse and Steffen Gröning, 'Assessing the Impact of Trade Liberalization: The Case of Jordan' (2012) 27(3) *Journal of Economic Integration* 466, 486.

³⁵ Malkawi, above n 24, 12, 45.

³⁶ The trade balance is the value of exported goods minus the value of imported goods. A negative value signifies a trade deficit. In 2017, Jordan's trade deficit amounted to around US\$12.6 billion. See Statista, *Jordan—Trade Balance 2017* (Web Page, 2017) <<https://www.statista.com/statistics/385643/trade-balance-of-jordan/>> (accessed 22 June 2018).

³⁷ Ibid.

its leadership role in the region, where it was the coordinator of the Arab Group and current coordinator of the Asian Group of Developing Countries.³⁸

In its accession to the WTO, Jordan committed to comply fully with the WTO TRIPS agreement. Therefore, Jordan confirmed a new patent law in 1999 (which was modified in 2001 and 2007), patent regulations in 2000 and an unfair competition and trade secrets law in 2000.³⁹ Jordan also introduced TRIPS rules to the country's IP law.⁴⁰ Compliance with TRIPS helped Jordan accede to the WTO. However, by enacting this law, Jordan sought to encourage innovation through protecting inventors and permitting them to profit from their innovations. A stronger patent law may also have increased technology transfer in Jordan. Jordan's patent law complies with the TRIPS agreement to a large extent; however, in light of the Jordan–US FTA, Jordan's patent law exceeds the TRIPS requirements to TRIPS-Plus in several areas.⁴¹

Jordan has also reduced food subsidies; liberalised the price of petroleum derivatives; and established a program to improve the performance of public enterprises, such as Royal Jordanian Airlines, public transportation corporations and the agricultural marketing organisation had also been implemented to privatise them. However, the elimination of subsidies on petroleum products increased poverty in Jordan by 1.6%, accompanied by an increase in the poverty gap and inequality, as prices rose in general after the abolition of fuel subsidies.⁴² Jordan has also implemented a new monetary policy aimed at stabilising financial and economic activity, consolidated its foreign currency reserves, continued the liberalisation of interest rates, and established a deposit insurance corporation under Central Bank supervision.⁴³

³⁸ WTO, *Trade Policy Review—Jordan 2015—Concluding Remarks by the Chairperson* (Web Page, 2015) <https://www.wto.org/english/tratop_e/tpr_e/tp425_crc_e.htm> (accessed 22 Jun 2018).

³⁹ WIPO, *Jordan: IP Laws and Treaties* (Web Page) <<http://www.wipo.int/wipolex/en/profile.jsp?code=JO>> (accessed 22 June 2018).

⁴⁰ Rohit Malpani, 'All Costs, No Benefits: How the US–Jordan Free Trade Agreement Affects Access to Medicines' (2009) 6(3) *Journal of Generic Medicines* 206.

⁴¹ Bashar H Malkawi, 'Enacting Patent Legislation in Jordan and Its Impact on Innovation' (Conference Paper, University of Sharjah, 2019) 37.

⁴² Abdelkrim Araar et al, *An Assessment of the Jordan Petroleum Subsidies Reform and Cash Compensation Program* (Working Paper, Poverty Reduction and Economic Management Department Middle East and North Africa Region [MENA] The World Bank, 2013) 1.

⁴³ *Memorandum on the Foreign Trade Regime*, GATT Doc L/7533 (10 October 1994), Accession of the Kingdom of Jordan (8).

At the request of the IMF, a general sales tax has been introduced, which replaces the former consumption tax, which was implemented through the revised income tax law. However, the new tax law has negatively affected the attraction of investment in the country, as the high tax rates affect the cost of investment. The entire tax system was not taken into account to avoid entering a tax-stress phase. Therefore, the increase in income tax on income should be accompanied by a sales tax reduction as a parallel and strategic approach. An extensive package of reforms that affected almost all aspects of trade and demanded amendments to numerous existing laws paved the way for Jordan's accession to the WTO.

Before its accession to the WTO, Jordan adopted an agricultural policy charter. The objective of the charter, among others, is to maximise the role of the private sector in agriculture and limit the government role in the provision of institutional support, such as research and infrastructure investments. Jordan also passed a new law that would eliminate the Agricultural Marketing Organization—the *Provisional Law on the Cancellation of the Agricultural Marketing Organization No. 22 of 2002* (16 May 2002). Jordan has also revoked the Ministry of Supply, arguing that its plans may have violated Article XVII of the GATT 1994 or Article 4 of the WTO Agreement on Agriculture. Moreover, Jordan agreed to reduce domestic support for agriculture and created the Food and Drug Administration in 2003 as the sole national competent authority for drug safety and efficacy and food safety and quality. This is an independent public institution and its main objectives are to ensure that food and drugs are safe, wholesome and properly labelled.⁴⁴ In its accession negotiations, Jordan was unable to designate special safeguard goods, such as olive oil, sheep or poultry.

The above discussion reveals that, through its accession to the WTO, Jordan expected that its exports would be subject to lower tariffs and other trade barriers. In return, Jordan made substantial market access commitments as part of its WTO membership negotiations.⁴⁵ Consequently, Jordan began a comprehensive economic restructuring, including an investment regime, after its WTO membership. Jordan implemented a new investment law that implemented non-discriminatory treatment of foreign investors, especially in the QIZs, aimed

⁴⁴ *Jordan Food and Drug Administration* (Web Page) <<https://jordan.gov.jo/wps/portal/Home/GovernmentEntities/Ministries/Ministry/Ministry%20of%20Health/Jordan%20Food%20and%20Drug%20Administration?current=true&nameEntity=Jordan%20Food%20and%20Drug%20Administration&entityType=sub>> (accessed 22 July 2018).

⁴⁵ Jordan agreed to impose zero tariffs on all chemical products under the Chemical Tariff Harmonization Agreement of the Uruguay Round. See *ibid*.

at promoting peace and improving relationships with Israel, as well as economic objectives. The following discussion considers whether accession to the WTO has been beneficial to Jordan's economic development and regional integration.

3.3 Jordan's Outcomes after Accession to the World Trade Organization

The conventional wisdom is that free trade is beneficial for participating states; thus, it is important to question whether the changes expected under the WTO and introduced by Jordan are working to Jordan's economic advantage. The following discussion analyses whether accession to the WTO has been beneficial. For this purpose, the specific examples used are legislative changes, investment policy changes and the introduction of ADR as the preferred dispute resolution method in international trade disagreements. An overview of legislative changes is followed by a detailed analysis of the patents law. Next, a brief summary of the effects of investment laws is followed by a detailed discussion of how the introduction of ADR methods is affecting Jordan's economy. The investment regime under the WTO also demanded that Jordan introduce the ADR method of dispute resolution. Moreover, Jordan is subject to an expectation from the US that it will provide a higher level of IP protection than that demanded by the WTO/TRIPS agreement.

The main concern is whether the WTO membership has been beneficial or harmful to Jordan in terms of its economic integration, regionally and globally. This thesis argues that the WTO membership should assist Jordan and all members to preserve their economic rights. Although Jordan is implementing a series of measures to apply the free market ideology, Jordan is still a developing country where some industries remain in their infancy. Moreover, Jordan may find it difficult to compete with the more developed industries of developed countries. Therefore, the government should apply a balanced approach between free trade and protectionism in the present phase, which is the most beneficial approach for the country.

3.1 Legislative Changes

With the aims of facilitating business transactions and improving the trade climate, the business, IP, customs and foreign investment legislation has been revised in Jordan. Jordan has

also privatised a number of state-owned enterprises under the *Privatisation Law of 2000*, which was replaced in 2014 by the *Public–Private Partnership Law*. Jordan has adhered to IPR-related articles in the *Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks*, adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the WIPO (1999).⁴⁶

Further, *Jordanian Law No. 32 of 1999 on Patents* was issued with the aim of improving the country's trade environment.⁴⁷ Jordan has issued the first trademarks law in 1952—*Law No. 33 of 1952 on Trademarks*. However, Jordan recently made amendments to the patents law as a result of its accession obligations in the Patent Cooperation Treaty on March 2017.⁴⁸ The Jordanian amended *Patent Law No. 16* and amended *Patent Law No. 17 of 2017* were published in the *Official Gazette No. 5760* and entered into force in June 2017.⁴⁹ As a result of these modifications, the position of Jordan now conforms with international patent-related treaties—particularly the Patent Cooperation Treaty, to which Jordan committed in June 2017. The main amendments are related to the regulation of e-filing and the possibility of withdrawing a patent application before its grant. As a result, the publication of patent applications filed with the Jordanian Patent and Trademark office became 18 months from filing or priority date. These amendments significantly increased the patent protection environment, particularly in the pharmaceutical sector (as will be discussed later), as they prevent local industries from developing, commercialising and potentially infringing on valid patents through lack of knowledge of the existence of a patent for a particular product or process.⁵⁰

The primary IP laws enacted by the Jordanian legislature are *Law No. 22 of 1992 on Copyright* and its amendments up to 2005, *Law No. 15 of 2008*, *Law No. 14 of 2000 on Industrial Designs and Models*, *Law No. 15 of 2000 on Unfair Competition and Trade Secrets* and *Law No. 34 of*

⁴⁶ Jordan has been a member since 1972. See WIPO, *Paris Convention for The Protection of Industrial Property* (Web Page) <<http://www.wipo.int/treaties/en/ip/paris/>> (accessed 2 November 2018).

⁴⁷ This law was amended by *Law No. 28 of 2007*, which amended the patents law. See WIPO, *Jordan Law No. 32 of 1999 on Patents* (Web Page) <<http://www.wipo.int/wipolex/en/details.jsp?id=2604>> (accessed 2 November 2018).

⁴⁸ Saba IP, *Jordan: PCT Enters into Force* (2017) <<http://www.sabaip.com/en/News/691-Jordan-PCT-Enters-Into-Force>> (accessed 2 October 2018).

⁴⁹ AGIP, *Amended Patent Law Comes into Force in Jordan* (Web Page, 2017) <<http://www.agip.com/news.aspx?id=12916>> (accessed 2 October 2018).

⁵⁰ Ibid.

1999 Amending the Trademarks Law.⁵¹ To fulfil the free trade regime requirements, Jordan has amended many laws, such as *Investment Law No. 30 of 2014*, and entered numerous trade and economic cooperation agreements aimed at developing its trade relations. However, international trade obligations have affected the domestic legal situation in Jordan, including having repercussions on the investment regime.

3.3.2 The Development of the Investment Regime in Jordan

Globalisation has increased capital movements and FDI around the world, since FDI is considered an essential condition for economic growth.⁵² Foreign investment is also significant, especially for developing countries, as it enhances the markets and makes businesses more globally competitive, which improves social welfare.⁵³ The FDI has become a significant vehicle to bring goods and services from the external markets, which helps create a long-term integrated international production system.⁵⁴ Despite the arguments in support of the favourable effect of foreign investments, some studies have found that they may negatively affect domestic companies.⁵⁵ Moreover, research has also identified an adverse effect on the local services sector.⁵⁶

⁵¹ WIPO, above n 39.

⁵² The freedom of production elements movement between countries is one of the most important dimensions of globalisation. This dimension particularly focuses on the transfer of capital, and one of the most important forms of international capital transfer is FDI. FDI plays a significant role in economic development, enhancing trade, advancing the technological level and elevating the education and financial systems to face the challenges of globalisation. See Lucio Laureti and Paolo Postiglione, 'The Effects of Capital Inflows on the Economic Growth in the Med Area' (2005) 7(27) *Journal of Policy Modeling* 839, 851.

⁵³ Reena Aggarwal et al, 'Portfolio Preferences of Foreign Institutional Investors' (Research Working Paper No 3101, World Bank, July 2003) 3.

⁵⁴ The benefits of FDI do not increase automatically and evenly between countries or among industrial and trade sectors in communities. National strategy to attract the international investment to the country to achieve the full benefits of development is a substantial. See Alnsusy Alfadel et al, 'The Effort of Economic Growth through Foreign Direct Investment in Libya' (2013) 1(7) *IOSR Journal of Business and Management* 81, 86.

⁵⁵ Brian Aitken and Ann Harrison, 'Do Domestic Firms Benefit from Direct Foreign Investment? Evidence from Venezuela' (1999) 3(89) *American Economic Review* 605, 618.

⁵⁶ The argument is that the FDI has an ambiguous effect on growth and its benefits vary greatly across sectors, especially the services. See Laura Alfaro, *Foreign Direct Investment and Growth: Does the Sector Matter?* (Harvard Business School, 2003) 1.

Foreign investment is typically made by firms or individuals in one country into business interests located in another country, and is regulated by international investment agreements (IIAs).⁵⁷ These agreements represent treaties among countries that treat matters related to external investments to enhance and promote cross-border investments. Countries entering IIAs obligate themselves to follow specific standards and principles on the treatment of foreign investments.⁵⁸ Bilateral investment treaties (BITs) are the most common type of IIAs,⁵⁹ as are preferential trade and investment agreements.⁶⁰ These agreements also define the processes for resolving disputes if parties do not satisfy their duties.⁶¹ To encourage foreign investment and meet the needs of investors in any country, foreign investment law should be stable. Therefore, the investment regime in Jordan recently received attention to meet the requirement of Jordan's presence as a member of the WTO.⁶²

Unlike international trade law, there is no comprehensive international treaty regulating foreign investment globally, defining the law and how to enforce and monitor investment internationally.⁶³ In 2015, the International Conference on Financing for Development was held in Addis Ababa to provide a new framework policy for international investment and guidance for policymakers in the evolution towards new investment policies. Moreover, the

⁵⁷ Investopedia, *Foreign Direct Investment—FDI* Investopedia (Web Page) <<https://www.investopedia.com/terms/f/fdi.asp>> (accessed 3 October 2018).

⁵⁸ International investment is occurring at bilateral, regional, interregional and multilateral levels.

⁵⁹ BITs deal with admission, treatments and protection of foreign investment. They regulate investments by enterprises and individuals in the countries that are party to the treaty. See Rudolf Dolzer and Stevens Margrete, *Bilateral Investment Treaties* (Martinus Nijhoff Publishers, 1995).

⁶⁰ This is a treaty between nations on cooperation in trade and investment areas that regulates a broad set of issues at the bilateral and regional levels. See Mark S Manger, *Investing in Protection: The Politics of Preferential Trade Agreements Between North and South* (Cambridge University Press, 2009).

⁶¹ International taxation agreements and double taxation treaties are also considered IIAs, as taxation generally has an important influence on foreign investment. See Fabian Barthel et al, 'The Impact of Double Taxation Treaties on Foreign Direct Investment: Evidence from Large Dyadic Panel Data' (2010) 28(3) *Contemporary Economic Policy* 366.

⁶² The latest investment law in Jordan was issued in 2014 with the purpose of enhancing the economy through increased investment opportunities that will lead to the creation of new businesses. The new investment law aims to address numerous factors that hinder the investment climate in Jordan. See Oxford Business Group, *New Investment Law to Provide Economic Boost for Jordan* (Web Page) <<https://oxfordbusinessgroup.com/overview/laws-attraction-enactment-new-laws-enhance-investment-and-economic-environment-0>> (accessed 6 November 2018).

⁶³ Nicolette Butler and Surya Subedi, 'The Future of International Investment Regulation: Towards a World Investment Organisation?' (2017) *Netherland International Law Review* 43, 72 <<https://doi.org/10.1007/s40802-017-0082-5>> (accessed 14 October 2018).

UN Conference on Trade and Development (UNCTAD) investment policy framework is considered a policymaker's guide to formulating national and international investment policies and negotiating bilateral and preferential investment treaties between trading partners.⁶⁴ As classified by the UNCTAD, FDI should contain foreign capital investment, reinvestment of profits and the internal enterprise's loans.⁶⁵

However, many experts hold the opinion that the current international investment regime is not operating successfully. This is supported by the fact that many countries are terminating their BITs, which would encourage parties to abandon their international investment arbitration obligations.⁶⁶ The effects of FDI on the host country remain open to debate. On the benefits side, many researchers discuss FDI's significance for economic growth and vital role in creating an optimal economic environment. Duttaray et al examine the causality between FDI and economic growth for 66 developing countries, considering its interactions with exports and technological change. They also present a time-series analysis for the FDI of each state, and the main findings indicate that FDI created economic growth in 29 of 66 countries, including Jordan.⁶⁷

The benefits of FDI in host countries cannot be denied, as local institutions benefit from the diffusion of technology, the transfer of expertise from developed countries and increased competitiveness in the sectors encompassed by the FDI. FDI also improves global integration opportunities, and the host country can gain a more significant foothold in the world economy by attaining access to a broader global market.⁶⁸ FDI enhances human capital formation, contributes to economic and international trade integration through creating a competitive trade atmosphere and enhances domestic institutions' development. All these factors can lead to

⁶⁴ UNCTAD, *Investment Policy Framework for Sustainable Development* (Web Page) <<http://investmentpolicyhub.unctad.org/ipfsd>> (accessed 18 October 2018).

⁶⁵ UNCTAD, *Foreign Direct Investment (FDI)* (Web Page) <[http://unctad.org/en/Pages/DIAE/Foreign-Direct-Investment-\(FDI\).aspx](http://unctad.org/en/Pages/DIAE/Foreign-Direct-Investment-(FDI).aspx)> (accessed 18 October 2018).

⁶⁶ Butler and Subedi, above n 63, 43, 72.

⁶⁷ Mousumi Duttaray et al, 'Foreign Direct Investment and Economic Growth in Less Developed Countries: An Empirical Study of Causality and Mechanisms' (2008) 40(15) *Applied Economics* 1927, 1939.

⁶⁸ Organisation for Economic Co-operation and Development, *Foreign Direct Investment for Development: Maximising Benefits, Minimising Costs* (OECD Publications, No. 81839, 2002) 1, 32.

economic growth, which can alleviate poverty. FDI may also help improve environmental and social conditions via more socially responsible business policies.⁶⁹

Conversely, FDI can also produce undesirable effects on the economies of hosting countries by increasing the volume of imports, which is often linked to production inputs for investors' projects.⁷⁰ Therefore, there can be the potential disadvantages of a trade deficit, in addition to the deterioration of the balance of payments as a result of the conversion of the profits abroad. Another possible effect of FDI is that the investing companies may condone worker exploitation when foreign companies suppress wages and labour standards. Working conditions in some factories are harsh and detrimental to health. For example, in Jordan, workers in QIZs, including foreigners, have faced considerable abuse, such as excessive hours, lack of overtime pay, poor housing conditions and non-compliance with health and safety regulations.⁷¹ Moreover, investors can also transfer their profit to their benefit, which affects the tax revenue of the host country. FDI may also affect the building of strong national firms in the host country and force local competitors out of local businesses through their harmful practices.

FDI also has international political significance. For example, Desbordes examines whether the type of political relations among countries affects the size of bilateral FDI. Through the construction of a new indicator on the quality of interstate political ties, he finds that improved political relationships can foster bilateral FDI.⁷² Foreign investment depends on the quality of political relations between parties, since their deterioration can cause a risk of dealing with their profit in the host country.⁷³ Therefore, the type of political relationships influences the volume of FDI between countries.

The investment regime in Jordan is the focus of this section, as it is related to the international trade regime of Jordan. FDI plays a significant role as a vehicle of economic growth in Jordan,

⁶⁹ Ibid, 5.

⁷⁰ John Howe, *Internationalisation, Trade and Foreign Direct Investment Conference—1994* (Reserve Bank of Australia, 1994) <<https://www.rba.gov.au/publications/confs/1994/howe.html>> (accessed 14 September 2018).

⁷¹ Robert A Rogowsky and Eric Chyn, 'US Trade Law and FTAs: A Survey of Labour Requirements' (2007) *United States International Commission Journal of International Commerce and Economics* 15.

⁷² Rodolphe Desbordes and Vincent Vicard, 'Foreign Direct Investment and Bilateral Investment Treaties, an International Political Perspective' (2007) 45 *Documents de travail du Centre d'Economie de la Sorbonne* 1, 21.

⁷³ Ibid.

given that the country has experienced many economic crises because of instability in the region, particularly in Iraq and Syria. In developing countries such as Jordan, FDI contributes to economic growth and plays a vital role in the process of international technology transfer between countries. At the private level, several studies have provided evidence of technology spillovers, which influence the productivity of domestic firms in the host country.⁷⁴ Jordan has sought to improve the public sector and has done its utmost to increase regional and foreign trade exchanges to achieve international and regional economic integration. It has launched a large-scale liberalisation and privatisation campaign, hoping that this will positively contribute to the flow of foreign investment.

Jordan is one of the first countries in the Middle Eastern region to regulate foreign investments, where, in conjunction with its entry to the WTO, the country issued the first *Privatisation Law No. 25 of 2000*. The law serves as a new economic approach to strengthen the role of the private sector in economic activity, including in public sector projects whose nature requires management on a commercial basis. Economic policies based on trade liberalisation are an essential step towards integration into the world economy. Privatisation in Jordan is aimed at attracting foreign investment, improving overall economic efficiency and developing the domestic markets. Jordan then sought to provide possibilities for investors in Jordan to access significant international markets; where they can reach the US and EU markets through QIZs, exempt from customs duties and taxes. Jordan has also signed many bilateral agreements and preferential protocols to facilitate investments and create more job opportunities for both Jordanians and refugees.⁷⁵

The Jordanian investment law aims to enhance economic stability, attract foreign investors and enable Jordan to meet the global market criteria. *Investment Law No. 30 of 2014* contains many legislations related to investment, such as facilitating investors' residency.⁷⁶ The law also

⁷⁴ Domestic firms can gain technology spillovers through linkages with foreign firms. See Yoo Jung Ha, *Technology Spillovers from Foreign Direct Investment (FDI): The Case of the Republic of Korea* (Doctor of Philosophy Thesis, University of Manchester, 2012) 16.

⁷⁵ European Commission, *Jordan—Trade* (Web Page, 2018) <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/jordan/>> (accessed 29 August 2018).

⁷⁶ The new investment law aims to improve the investment environment in Jordan and overcome issues faced by investors. It also introduced the concept of a fully operational investment window, which is intended to create a one-stop-shop for investors, facilitate licencing procedures and eliminate some of the bureaucratic hurdles investors have encountered in the past. However, investors are now obliged to settle sales tax on production inputs and services that are purchased locally or imported. The new investment law also reaffirms the right of foreign investors to freely repatriate their capital, profits and dividends in any foreign convertible currency. It confirms

facilitates partnerships between domestic and foreign investors, permitting them to start businesses without a Jordanian partner or minimum amount of capital.⁷⁷ In addition, investors can transfer their money without any restrictions, and the law deals with trade arbitration issues. Therefore, the law has improved and developed compared with the previous initiatives, and it offers certain benefits that were already granted to investors, whether foreign or local.⁷⁸

As defined by the new law, some priority sectors have received incentives and tax exemptions. The Council of Ministers has given the authority to grant tax relief to other industries, depending on the case.⁷⁹ The Jordanian Investment Commission⁸⁰ has also decided to actively promote investment in the agriculture, energy, industry, medical and tourism sectors. Moreover, the new law merged all Jordanian investment commissions into one body.⁸¹ The new Jordanian investment law fully complies with the WTO principle of national treatment by offering equal treatment to both Jordanian and foreign investors, without obstacles in terms of level of foreign ownership, except for some activities where a Jordanian partner is required.⁸²

Jordan has opened its economy to Arab countries, the US and Europe to attract and encourage FDI. To make Jordan a regional trading centre, the government has introduced some private and public free zones where goods can enter without paying customs duties or import taxes. However, the inflow of FDI remains imperfect, as it is measured by the Jordanian need for

that non-Jordanian investors will be treated in the same way as Jordanian investors. See Oxford Business Group, above n 62.

⁷⁷ After its accession to the WTO, Jordan become reliant on the QIZ to attract foreign investments. The most prominent advantage of these zones are tax incentives and a facilitated administrative procedure. See Timothy A Falade Obalade, 'The Foreign Direct Investment (FDI) Environment in Jordan: A Descriptive Overview' (2014) 5(4) *Academic Research International* 232.

⁷⁸ Through the legal incentives for the new law, the Jordanian legislator hopes that more investors will enter the Jordanian market to begin new economic activities that will strengthen the economy. See Hanin Abu Ghazaleh, *Insight into the New Jordanian Investment Law* (Web Page, 2015) <<https://www.tamimi.com/law-update-articles/insight-into-the-new-jordanian-investment-law/>> (accessed 30 August 2018).

⁷⁹ Ibid. The law exempts all the sectors included from any customs fees, including crafts and services; manufacturing; agriculture; hospitality; healthcare; entertainment cities; research centres; media production; transport; and distribution and/or extraction of water, gas and oil.

⁸⁰ The new law aimed to enhance investments and was established by the Jordanian Investment Commission. It was mandated with the full authority to deal with and regulate investments in Jordan, and ensure the sustainability and attractiveness of the investment climate to stimulate economic activity, except for investments in the Aqaba Special Economic Zone. See Oxford Business Group, above n 62.

⁸¹ US Department of State, *Jordan* (Web Page, 2017) <<https://www.state.gov/e/eb/rls/othr/ics/2017/nea/269984.htm>> (accessed 29 August 2018).

⁸² Oxford Business Group, above n 62.

foreign resources and the inflow of FDI into these areas. The external shocks originating from regional crises and weaker growth in the Gulf states have negatively influenced investments in Jordan. As a result of the regional instability and low economic conditions affecting the Middle East region, FDI in Jordan has recently dropped. However, Jordan was among the top-three MENA countries in attracting FDI inflows, and started to promote FDI in the late 1990s with the aim of improving the investment environment. Numerous factors helped attract investment to Jordan, such as the political instability in neighbouring countries and political stability in Jordan, investment-encouraging legislation, advancement of the private sector, privatisation schemes in conjunction with joining the WTO, and engagement in several FTAs.⁸³ In addition, the availability of relatively low-cost and skilled labour led to many textiles enterprises.

Investment circumstances differ from country to country; thus, different strategies work for various investors and different situations around the world. To encourage foreign investment, Jordan should maintain pace with the changes in the region by considering the security and stability environments of the country. Given the unstable regional conditions in the Middle East, Jordan should provide new incentives to investors and demonstrate its seriousness in the fight against corruption in the country, as corruption can dampen investment opportunities and make investors think of emigrating from Jordan.

Article 43 of *Investment Law No. 30 for the Year 2014* provides a mechanism for resolving disputes that may arise between investors and the country institutions, allowing a friendly negotiation period of six months and then arbitration according to the provisions of the Jordanian arbitration law in force, or as agreed between the parties.⁸⁴ The legislator also introduced several incentives and advantages in the investment law, which complemented the legislative process of investment law in 1995 and 2003. However, the law has only one article that refers to disputes between the government and foreign investors. Therefore, the lack of clarity regarding the legal rights of foreigners in terms of disputes is one of the concerns that

⁸³ Amir Bakir and Torki Alfawwaz, 'Determinants of Foreign Direct Investment in Jordan' (2009) 2(5) *International Management Review* 66.

⁸⁴ The foreign investor shall be treated as the Jordanian investor. Therefore, 'the non-Jordanian person shall have the right to invest in Jordan through possession, partnership or sharing according to the basis and conditions set out pursuant to a regulation issued for this purpose'. See *Jordan—Investment Law* (Web Page) <<http://investmentpolicyhub.unctad.org/InvestmentLaws/laws/175>> (accessed 29 September 2018).

could deter foreign investment in the country and thus must be addressed in detail in the by-laws that are currently being drafted.⁸⁵

Many challenges still face investors in Jordan, such as the procedure of registration, business processes, bureaucracy, arbitration and legal proceedings.⁸⁶ Investors require detailed information with a high level of transparency about the business climate in a country.⁸⁷ To attract foreign investment, binding guarantees by the host country must be established for foreign investment. The sustainability of FDI largely depends on the treatment accorded to such investments by the host country. This treatment can be considered a supporting foundation for a favourable investment environment. Foreign investors should be treated fairly, and the host government must provide security and stability. Agreements between governments and foreign investors are binding and must be implemented in good faith.⁸⁸ No real investment is likely to occur without explicit and binding guarantees from the host country for the protection of foreign investment. Therefore, it is not possible for Jordan or any other country to invite foreign companies to invest without providing guarantees.

Jordan's active participation in the field of international commercial arbitration and the signing of binding agreements are a positive indicator of the country moving to facilitate and attract FDIs. FDI disputes are managed under the domestic law and court of the host states. However, international commercial arbitration is held outside the host states under private law and confidentially. The issue is whether such arbitration benefits Jordan or has compromised its sovereign regulatory power, judicial authority and economic sovereignty. The competing interests among foreign investors and the host countries to maximise their economic advantage may lead to a contradiction of interests that occasionally culminates in investor–state disputes. In these disputes, foreign investors often prefer to use international arbitration, while the host country prefers its judicial system. This trend has implications for the economic sovereignty and social development of the host state.

⁸⁵ Bashar al-Khatib et al, *Re-Thinking Investment in Jordan* (Adam Smith Institute and Identity Center, 2016) 16.

⁸⁶ Ibid, 7.

⁸⁷ As mentioned in the previous chapter, transparency is one of the most significant principles of free trade.

⁸⁸ Taylor Tumnde, *The Treatment of Foreign Direct Investment* (2014) LinkedIn <<https://www.linkedin.com/pulse/20140630145752-137158292-the-treatment-of-foreign-direct-investment>> (accessed 29 August 2018).

Professor Islam describes BITs containing international arbitration as embellishers of legal contradictions.⁸⁹ A BIT is a contract of agreed principles and legal obligations to provide possible protection to both the foreign investor and host country. International arbitration is a quasi-judicial mechanism for resolving investment disputes arising from FDI. However, solving these disputes through international arbitration may cause a judicial dispute, as it can lead to conflicting interpretations and decisions by international arbitration and domestic judiciary about the same point of law.⁹⁰ Jordan's investment law governs domestic and foreign investments by means of the Jordan Investment Commission. The law guarantees the rights of investors without any legal discrimination against foreign investors, excluding the restrictions outlined in the governing regulations.⁹¹ Since 1972, Jordan has been a contracting party to the International Centre for Settlement of Investment Disputes (ICSID) Convention. This convention provides dispute resolution by arbitration and conciliation to solve investment disputes that arise between the contracting states and the nationals of other contracting states. The convention is considered the only convention that deals with a private party and sovereign state.⁹² Jordan is also a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention). Article III of the New York Convention provides a fees condition that the local courts should be observed, and the remaining procedures should be left to national laws for other conditions and processes.⁹³

In January 2018, the Parliament passed amendments to the *Arbitration Law 2017* that aimed to facilitate the use of arbitration as an alternative to dispute settlement procedures.⁹⁴ Jordan is

⁸⁹ M Rafiqul Islam, 'International Arbitration of Foreign Direct Investment Disputes: Benign or Malign for FDI-induced Development in Bangladesh' (2017) 20(4) *International Arbitration Law Review* 119, 131.

⁹⁰ Ibid.

⁹¹ For example, if the judgement is due to an action not heard by Jordanian courts because of its violation of public order or morals, Article VII of *Enforcement of Foreign Judgments Law No. (8) of 1952*. The court may also reject to enforce the judgement if the foreign judgement was issued by a court that does not allow the enforcement of judgements issued by Jordanian courts.

⁹² Okezie Chukwumerije, 'ICSID Arbitration and Sovereign Immunity' (1990) 19(2) *Anglo-American Law Review* 166, 169.

⁹³ The convention stressed that the procedure should not be more complicated than those used for the enforcement of domestic awards and that no higher fees should be demanded for the recognition and enforcement of foreign arbitral awards than for domestic ones. See Pieter Sanders, 'New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards' (1959) 6(1) *Netherlands International Law Review* 51.

⁹⁴ US Department of State, *Jordan* (Web Page, 2019) <<https://www.state.gov/e/eb/rls/othr/ics/2018/nea/281667.htm>> (accessed 17 February 2019).

also committed to the WTO dispute settlement mechanisms and the dispute settlement mechanisms under the Jordan–US FTA. Article IX of the Jordan–US BIT has also established procedures for dispute settlements between Jordanians and Americans.⁹⁵ Investment disputes are managed the same as any other commercial or civil dispute under the Jordanian judicial system. This approach under the Jordanian legal system is compatible with the traditional theory of territoriality, which is based on the general principle of international law, whereby a country implements its sovereignty within its borders, and its laws and courts have the exclusive right to establish the legal effect of laws enacted on its territory.⁹⁶ Investment agreements with the Jordanian government as a party generally contain a dispute resolution clause that would refer cases to arbitration, both within Jordan and abroad. The *Enforcement of Foreign Judgments Law No. 8 of 1952* can execute the provisions of international arbitration committees in the Jordanian court. The importance of recognition and enforcement derives from the fact that arbitration is considered of no value if its awards are not enforceable.

The issue is that economic integration positively affects the flow of foreign investment. International companies prefer to invest within economic blocs to avoid common external tariffs and nontariff barriers. Foreign investors also seek markets with higher profitability and lower risk to promote their products at the lowest possible cost. Clarity and transparency also encourage investors to investment in an economically integrated region, so that their products will be free to move, their market is expanded, and they can benefit from common guarantees to protect their investments in the right climate within the region. The EU is most attractive for FDIs because of its stability, while the Arab region has failed to attract FDIs. For example, FDI in Spain and Portugal doubled after their accession to the EU.⁹⁷

⁹⁵ Ibid.

⁹⁶ Roy Goode, 'The Role of the *Lex Loci Arbitri* in International Commercial Arbitration' (2001) 17(1) *Arbitration International* 24.

⁹⁷ Rajneesh Narula and Bellak Christian, 'EU Enlargement and Consequences for FDI Assisted Industrial Development' (2009) 18(2) *Transnational Corporations* 70, 90.

3.3.3 The Impact of Alternative Dispute Resolution in Jordan on International Trade and Foreign Investment

ADR refers to dispute settlement mechanisms other than litigation in courts. The focus is on alternative processes, such as mediation, arbitration and conciliation. Given the augmented complexity of regional and international businesses and the increased number of commercial disputes, it is clear that the availability of effective arbitration is of vital importance and has the potential to bring great benefit to arbitration users. Resolving trade disputes is considered one of the fundamental activities of the WTO. Arbitration is a significant tool, as this method has many advantages and is used to avoid the lengthy,⁹⁸ costly and multifaceted process of litigation.⁹⁹ Thus, arbitration has become an increasingly desired option at the local and international level.¹⁰⁰ Its popularity can be attributed to many factors, including the power of globalisation and the encouragement of foreign investments,¹⁰¹ the development of government attitudes towards arbitration, and the challenges of global financial crises.¹⁰²

Arab countries have used mediation since the beginning of the Islamic religion. The idea of engaging a third party to make a decision towards the resolution of a dispute is entirely accepted in Arabic/Islamic civilisations. For instance, one of the most famous examples of mediation is the Prophet Mohammed persuading disputing parties to resolve a disagreement about the reconstruction of the Ka'ba. By determining a solution that benefitted both parties, the Prophet Mohammed bridged the gap between the disagreeing parties. Therefore, Islamic *sharia* law

⁹⁸ Arbitrations can occur in as few as 60 days under the American Arbitration Association rules. Arbitration provides more privacy to the parties than litigation. See Brenton D Soderstrum, 'Litigation v. Arbitration: Pros and Cons' *Best Lawyers* <https://www.bestlawyers.com/Content/Downloads/Articles/4379_1.pdf>.

⁹⁹ Arbitrators are often specialised, while judges will often know very little about certain types of cases. *Ibid*.

¹⁰⁰ Fair resolution of the issue is the main aim of mediation and arbitration. However, the main difference between them is that, in arbitration, the arbitrator perceives evidence and makes a decision. It is almost like a court process, as the parties still provide testimony and evidence, and the decision is binding. In mediation, the process is a negotiation with a third party that cannot reach a resolution unless all parties agree. See Debra Shapiro and Jeanne Brett, 'Comparing Three Processes Underlying Judgments of Procedural Justice: A Field Study of Mediation and Arbitration' (1993) 65(6) *Journal of Personality and Social Psychology* 1167.

¹⁰¹ Globalisation is making transnational disputes more common. See Michael Likosky, *Transnational Legal Process: Globalisation and Power Disparities* (Cambridge University Press, 2002).

¹⁰² Stephan Wilske, 'Crisis? What Crisis? The Development of International Arbitration in Tougher Times' (2009) 2(2) *Contemporary Asia Arbitration Journal* 187.

encourages this model through the practice of *Al Wasata*, which is similar to modern meditation practices.¹⁰³

Various countries have updated their response to ADR, especially arbitration, to face the challenges related to trade and business in the era of globalisation and to fulfil the WTO membership commitments.¹⁰⁴ These changes have also been motivated by the desire to be an active competitor in the business of international dispute resolution. International arbitration has gained broad acceptance as a dispute resolution method for international transactions and foreign investment, as it helps reduce the risks surrounding foreign investments by providing an objective approach for a binding resolution related to such issues.¹⁰⁵ The challenges experienced by global trade and the economy have influenced international trade dispute resolution and produced a substantial surge in demand for arbitration to face these challenges.¹⁰⁶

Arbitration is the preferable alternative form to litigation¹⁰⁷ because arbitration can be considered more efficient than litigation, as it is quicker, less expensive and offers a flexible procedure for parties.¹⁰⁸ International commercial agreements necessitate international trade arbitration. The critical advantage of international commercial arbitration is that it leads to a binding resolution that determines the rights and obligations of the disputants.¹⁰⁹ Another method of ADR is mediation. In Jordan, mediation is an institutionalised form of conflict management and a unique asset in tribal and rural contexts. Mediation and reconciliation are a

¹⁰³ Negin Fatahi, Greg Bond and Constantin-Adi Gavrilă, *The History of Mediation in the Middle East and Its Prospects for the Future* (Web Page, 2018) Kluwer Mediation Blog <<http://mediationblog.kluwerarbitration.com/2018/01/23/history-mediation-middle-east-prospects-future/>> (accessed 3 September 2018).

¹⁰⁴ The rapid changes in the world via globalisation have challenged the judicial systems in many countries and their ability to achieve justice; thus, legislation has begun to seek the best way to modernise judicial systems.

¹⁰⁵ Eric A Schwartz, 'The Role of International Arbitration in Economic Development' in Gabriel Moens and Roger Jones (eds), *International Trade and Business Law Review* (Routledge-Cavendish, 2009) 127.

¹⁰⁶ Ibid.

¹⁰⁷ Arbitration is a mechanism for dispute settlement; thus, if there is no dispute, there can be no arbitration.

¹⁰⁸ Findlaw, *Using Arbitration to Resolve Legal Disputes* (Web Page, 2018) <<https://adr.findlaw.com/arbitration/using-arbitration-to-resolve-legal-disputes.html>> (accessed 24 August 2018).

¹⁰⁹ United Nations Conference on Trade and Development, *Dispute Settlement: International Commercial Arbitration*, 5.7, 5, U.N. Doc. UNCTAD/EDM/ New York and Geneva, 2005, 4.

form of legally binding contract at the community level, and the Jordanian government officially recognises reconciliation as a legally acceptable tradition between Jordanian tribes. Through reconciliation, conflict can be controlled within the community framework, and the effects of this approach still exist. The utility of using mediation is the potential to resolve disputes through innovative solutions. Vitoria outlines that a mediator can support parties in dispute to identify their needs and obligations, rather than focus on their legal rights and wrongs regarding the conflict.¹¹⁰ Therefore, it offers the disputants the right to retain a large measure of control over their dispute outcome.

Following the economic reform efforts in Jordan that coincided with the liberalisation of trade, there ensued an accelerated pace of reforms and the launch of new strategies and initiatives aimed at realising sustainable socioeconomic development. Jordan witnessed a considerable privatisation process for its government companies that enhanced and created a competitive market. Therefore, the results of economic reforms, which was one of the entry requirements of the WTO, led to increased demand for dispute settlement proceedings in the country. The fact that trials are expensive, and the number of cases related to the economic and commercial sectors has increased¹¹¹ made it necessary for disputing parties to seek an alternative method to resolve their disputes. The use of ADR to resolve disputes outside the legal system in Jordan has developed significantly. The global economic downturn has increased the number of disputes in various sectors, and this has provided further impetus to the need for arbitration and mediation.¹¹²

Investment is an essential pillar of economic development; however, investors, whether national or foreign, require an effective judiciary that translates texts to achieve justice and equality.¹¹³ Legal security means providing the right climate for investment and creating mechanisms that stimulate investment. ADR mechanisms are one such factor and, on this basis,

¹¹⁰ Mary Vitoria, 'Mediation of Intellectual Property Disputes' (2006) 1(6) *Journal of Intellectual Property Law and Practice* 398, 405.

¹¹¹ Nasser Ali Khasawneh and Vicky Sfeir, *Arbitration & Mediation in The Arab World: A Growing Phenomenon* (Web Page, 2011) <<https://www.mediate.com/articles/AliKhasanwehN1.cfm>> (accessed 12 August 2018).

¹¹² Abdullah Hammadneh, 'The Jordanian Experience in the Field of Alternative Solutions for Conflict Resolution' (Working Paper, Seventh Conference of the Heads of Supreme Courts of the Arab States, Sultanate of Oman, 2016) 2, Arabic source.

¹¹³ The speed of separation in investor disputes is one of the most important factors for measuring the competitiveness of the investment climate and creating an attractive climate for investment.

Jordan has worked to develop its domestic laws and intensified its participation at the international level. In 1972, Jordan was one of the first countries to ratify the Convention on the Settlement of Investment Disputes between States and Nationals of other States (Washington Convention).¹¹⁴ Jordan is also a member of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).¹¹⁵ Jordan signed the New York Convention in 1958, and ratified it in 1979. Moreover, Jordan has ratified important bilateral and multilateral conventions and treaties concerning arbitration and enforcement, including the 1983 Riyadh Treaty on Judicial Collaboration, which dealt with arbitration in Article 37,¹¹⁶ and the 1987 Arab Convention on Commercial Arbitration (Amman Convention).¹¹⁷ Jordanian law allows disputants, including foreign investors, to seek international settlement of disputes. Therefore, Jordan is a contributor to the ICSID and has recognised all their decisions since 1972.¹¹⁸

The Jordanian legislature is one of the first Arab parliaments to implement the idea of arbitration, with commercial arbitration governed by *Law No. 18 of 1953* and amended by *Law No. 13 of 1962*.¹¹⁹ The law draws inspiration from English procedures in two main respects. First, the court in all cases may refer back to arbitrators for reassessment of the issue or matter submitted to arbitration. Second, the function of the arbitrator is closely modelled on the task of an umpire in English law of 1950, except the governing by *sharia Hanafi* teaching, which predominates in Jordan.¹²⁰ The Jordanian legislator also introduced the mediation system as an alternative mechanism for resolving disputes through the *Interim Mediation Law No. 37 of*

¹¹⁴ UNCTC, *Treaties* (Web Page) <<https://treaties.un.org/pages/showDetails.aspx?objid=080000028012a925>> (accessed 12 August 2018).

¹¹⁵ New York Convention, *Contacting States* (Web Page) <<http://www.newyorkconvention.org/countries>> (accessed 12 August 2018).

¹¹⁶ United Refugees, *Riyadh Arab Agreement for Judicial Cooperation* (Web Page, 2018) <<http://www.refworld.org/docid/3ae6b38d8.html>> (accessed 12 August 2018).

¹¹⁷ *Amman Convention—Arab Convention on Commercial Arbitration* (Web Page, 2018) <https://www.miripravo.ru/lexmercatoria/arbitration/amman_convention.htm> (accessed 12 August 2018).

¹¹⁸ ICSID, *Search ICSID Membership* (Web Page) <<https://icsid.worldbank.org/en/Pages/about/MembershipStateDetails.aspx?state=ST71>> (accessed 14 August 2018).

¹¹⁹ Marshall J Breger and Shelby R Quast, 'International Commercial Arbitration: A Case Study of the Areas under Control of the Palestinian Authority' (2000) 2(32) *Case Western Reserve Journal of International Law* 197.

¹²⁰ Samir Saleh, *Commercial Arbitration in the Arab Middle East*, (Graham and Trotman Limited, 1984)157.

2003, which became a permanent law in 2006 under *Law No. 12 of 2006*.¹²¹ In passing this legislation, Jordan was one of the first countries to issue special mediation legislation, in addition to the arbitration law, as an independent law for resolving disputes without recourse to the judiciary.¹²²

A recent dispute involving the Jordanian government that was settled by arbitration was the dispute between Disi Water Company (Diwaco) and the Jordanian Ministry of Water and Irrigation, represented by Mannheimer Swartling.¹²³ Jordan won this international arbitration case over financial claims worth US\$460 million. The Permanent Court of Arbitration¹²⁴ issued a ruling dismissing Diwaco's financial claims, and obliged the company to pay the Ministry of Water and Irrigation US\$10 million in damage compensation and US\$12 million in lawyers' fees, according to The Ministry of Water and Irrigation.¹²⁵ In this case, arbitration as an ADR preserved the Jordanian government's rights in its dispute with the Turkish company.

3.3.4 Jordanian International Obligations Affecting Domestic Production

The obligations of joining the WTO are indivisible, so members cannot choose their obligations. Thus, the WTO obligations are not a monolithic bloc because of the hindrances that accompany the advantages of being a member of the organisation.¹²⁶ TRIPS is an international treaty within the framework of the WTO that states the requirements for

¹²¹ Hashemite Kingdom of Jordan, Mediation Law for Civil Disputes Resolution No. 37 of the Year 2003.

¹²² See Hammadneh, above n 112.

¹²³ Mannheimer Swartling, *Jordan Wins Major UNCITRAL Construction Arbitration* (Web Page, 2018) <<https://www.mannheimerswartling.se/en/news/news/jordan-wins-major-uncitral-construction-arbitration/>> (accessed 14 August 2018).

¹²⁴ The Permanent Court of Arbitration, established by treaty in 1899, is an intergovernmental organisation providing a variety of dispute resolution services to the international community. See Permanent Court of Arbitration, *Home* (Web Page) <<https://pca-cpa.org/en/home/>> (accessed 14 August 2018).

¹²⁵ Hana Namrouqa, 'Water Ministry Wins Disi-Related Arbitration Case Worth \$460M', *Jordan Times* (2018) <<http://www.jordantimes.com/news/local/water-ministry-wins-disi-related-arbitration-case-worth-460m>> (accessed 14 August 2018).

¹²⁶ Mohammed K El Said, 'Public Health Related Trips-Plus Provisions in Bilateral Trade Agreements: A Policy Guide for Negotiators and Implementers in the Eastern Mediterranean Region' (World Health Organization. Regional Office for the Eastern Mediterranean, 2010) 90.

legislation on IP, both locally and internationally.¹²⁷ TRIPS incorporates IP law into the international trading regime, and is considered the most comprehensive international agreement on IP.¹²⁸ Unlike earlier IP agreements, TRIPS is part of a single package to which WTO members are required to adhere, in addition to the GATT and GATS.

Further, countries must ensure that their domestic legislation conforms to TRIPS requirements before entering the WTO.¹²⁹ However, some developing countries were concerned that developed countries insisted on interpreting TRIPS in a narrow sense, and subsequently initiated a round of negotiations that resulted in the Doha Declaration. The demand for IPR protection mainly came from developed countries, as they were concerned about imitation and counterfeiting of their products and ideas in developing countries, which could cost the developed countries billions of dollars in profits. Therefore, the developed countries sought to introduce strict laws on IPRs internationally; however, the developing countries resisted this, as it led to higher costs for them, which is contrary to the fair distribution of global health opportunities that guarantee fundamental health rights for all. The TRIPS agreement universalised IPR-related laws in the global economy, against the interests of developing countries, such as Jordan.¹³⁰

The TRIPS agreement required significantly strengthened protection and enforcement of IP in developing countries. The strengthened IP regime was expected to have positive effects in developing countries, including more local innovation and additional inwards FDI and technology transfer. However, it could also result in specific negative consequences, including higher prices for protected medicine products (as discussed next). Thus, the Doha Declaration clarified the scope of TRIPS. Paragraph IV states that TRIPS should be interpreted and

¹²⁷ This is an obligatory treaty among WTO members that establishes the standards of regulation by national governments for IP, as applied to nationals of other WTO member nations. TRIPS was negotiated at the Uruguay Round in 1994, and the WTO administers it. See WTO, *Intellectual Property (TRIPS)—Agreement Text—General Provisions* (Web Page) <https://www.wto.org/English/docs_e/legal_e/27-trips_03_e.htm> (accessed 29 October 2018), Article 1(3).

¹²⁸ TRIPS was concluded as part of the Final Act of the Uruguay Round negotiations. The Uruguay Round was concluded on 15 December 1993 and the Final Act was signed on 15 April 1994. TRIPS came into operation on 1 January 1995. See Peter Drahos, 'Developing Countries and International Intellectual Property Standard-setting' (2002) 5(5) *The Journal of World Intellectual Property* 765.

¹²⁹ WTO, *Understanding the WTO—Intellectual Property: Protection and Enforcement* (Web Page) <https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm7_e.htm> (accessed 29 October 2018).

¹³⁰ Mohammed El Said, 'The Road from TRIPS-minus, to TRIPS to TRIPS-plus: Implications of IPRs for the Arab World' (2005) 8(1) *Journal of World Intellectual Property* 53, 65.

implemented in a manner that supports the rights of WTO members to protect public health and particularly encourages access to medicines for various classes of people.¹³¹ Article 55 of Chapter IX of the UN Charter concerning International Economic and Social Cooperation also provides for justice in the distribution of health resources and the realisation of health rights for all, which is considered a fundamental human right to life and health recognised in international law.¹³²

However, despite this widespread recognition of countries' joint duty to ensure health justice for all people, many countries do not fully comply with their commitments. In this regard, it is important to investigate why many countries do not fully comply with their obligations; they assumed that the lack of strict enforcement mechanism had caused the non-compliance of these countries with their duties.¹³³ They also proposed a strategy for the adoption of Martha Nussbaum's minimal conception of social justice as the key to understanding the requirements and feasibility of global distributive justice.¹³⁴

Further, developed countries were dissatisfied with the TRIPS provisions and called for an even higher protection level, which resulted in TRIPS-Plus. Developed countries used various international forums and FTAs, such as the Jordan–US FTA, to fulfil this higher level of IPR protection. TRIPS-Plus is a higher level of IPR protection that is not recommended by the WTO's TRIPS regime, the phrase (Plus) used only to indicate that these requirements go beyond the WTO's minimum standards imposed by TRIPS.¹³⁵ However, developing countries

¹³¹ Frederick M Abbott, 'The Doha Declaration on the TRIPS Agreement and Public Health and the Contradictory Trend in Bilateral and Regional Free Trade Agreements' (Occasional Paper No 14, Quaker United Nations Office, 2004) 4.

¹³² United Nations, *Chapter IX, International Economic and Social Co-Operation* <<http://www.un.org/en/sections/un-charter/chapter-ix/index.html>> (accessed 15 September 2018).

¹³³ John Barugahare and Reidar K Lie, 'Understanding the Futility of Countries' Obligations for Health Rights: Realising Justice for the Global Poor' (2016) 16(15) *BMC International Health and Human Rights* 2.

¹³⁴ The theory of justice is a socially just distribution of goods in all its forms in societies. Nussbaum discusses inequalities that are morally alarming, and the gap between richer and poorer countries is broadening. For example, being born in a nation of the north, rather than another nation, can determine the life quality for children and their age average. See Martha C Nussbaum, 'Beyond the Social Contract: Capabilities and Global Justice' (2004) 32(1) *Oxford Development Studies* 2.

¹³⁵ Tojo Jose, *What is Trips Plus? What Is Data Exclusivity?* (Web Page, 2017) <<https://www.indianeconomy.net/splclassroom/what-is-trips-plus-what-is-data-exclusivity/>> (accessed 4 November 2018).

who have signed an FTA with developed countries, such as Jordan, are under pressure to enact and ratify these stricter conditions in their domestic patent laws.

Some types of medicines are essential for their role in saving lives; however, they must be safe, good quality and available at reasonable and affordable prices. The use of unsafe and counterfeit medicines can be harmful to human health. It is the role of governments to ensure the quality of available medicines by applying its legal authority to control the spread of counterfeit medicines. Moreover, if only original medicines, not generic medicines, are available in poor countries that are heavily burdened by FTA obligations, they can be very expensive.¹³⁶ Consequently, citizens may resort to using counterfeit or smuggled drugs. This harms the public health of the populations of poor countries that have committed to harsh conditions that are not commensurate with their capabilities.

This thesis argues that the public interest of the state and its citizens should be considered when signing FTAs. In addition, all countries must adhere to the international trade standards of the WTO, not the standards of industrialised countries that aim to protect their industries in a way that harms developing countries. A better understanding of the social and economic effects of trade liberalisation would protect developing countries from serious adverse consequences.¹³⁷ There are strong arguments for the protection of patents—for example, it is easy to imitate medicines and pharmaceutical products; thus, protecting patents is desirable. Further, pharmaceutical industry patent protection is necessary as an incentive for investing in the development of new drugs, clinical trials and research and development activities, which involve considerable effort, capital and time.¹³⁸ However, a balance between the social effects of patent protection and the interests of pharmaceutical producers is desirable to help poor people gain access to medicine. Contrary to the desire of developing countries, developed countries continue their efforts to tighten the IPR protection system, which has been achieved through FTAs with developing countries. As stated above, WTO membership has many advantages; however, WTO membership involves numerous obligations. For example, Jordan was expected to commit to significant new obligations, including enhancing the protection of

¹³⁶ Jakkrit Kuanpoth, 'Combatting Counterfeit Drugs: Case Studies of Cambodia, Vietnam and Thailand' (2018) 13(1) *Journal of Generic Medicines* 4.

¹³⁷ Jakkrit Kuanpoth, 'Intellectual Property and Transparency in Trade Negotiations: The Experience of Thailand' (2015) 20 *Journal of Intellectual Property Rights* 12, 21.

¹³⁸ El Said, above n 130, 88.

IPR to be compliant with the TRIPS agreement.¹³⁹ However, it is argued that the TRIPS agreement should not prevent members from taking measures to protect public health.¹⁴⁰

The discussion below addresses two issues: (i) the higher level of IPR protection for other countries demanded by the US and (ii) the pharmaceutical example to indicate the effect of this high-level IPR protection. It is argued that another model is available in Egyptian FTAs that may be more compatible with Jordan fulfilling its obligations to its people in providing affordable healthcare, while continuing to be a participant in international free trade.¹⁴¹ After joining the WTO in 2000 and signing an FTA with the US in 2001, Jordan has dramatically reinforced the level of IPR protection that provides specifically for pharmaceutical products.¹⁴² This was discussed in detail earlier in this chapter; however, the TRIPS-Plus rules contained in the Jordan–US FTA are highlighted and compared below.

The FTA with the US requires Jordan to impose the clauses in the WIPO agreements, which is not unusual.¹⁴³ These provisions provide protection to patents, copyrights, software and trademarks, and devote particular attention to pharmaceuticals, which have the highest chance of violation of copyrights and patents. The FTA in Article IV addresses IPR, and Paragraph 25 states that each country must ensure that there are significant penalties to deter infringement, without any monetary incentive for the infringer. Thus, the sophisticated intellectual provisions of the agreement coupled with the TRIPS-Plus rules enhance the price of generic drugs in Jordan. The rise in the cost of the medicines has also resulted in a costly healthcare system in Jordan.¹⁴⁴ Although the TRIPS agreement should be implemented in a manner to protect public health and encourage access to medicines, Jordan did not gain any advantage from the Doha Declaration on the TRIPS agreement in its FTA with the US.¹⁴⁵

¹³⁹ Ryan B Abbott et al, 'The Price of Medicines in Jordan: The Cost of Trade-Based Intellectual Property' (2012) 9(2) *Journal of Generic Medicines* 75, 85.

¹⁴⁰ See Abbott, above n 131, 1, 4.

¹⁴¹ Malpani, above n 40.

¹⁴² Abbott et al, above n 139.

¹⁴³ Jordan joined the WIPO in 1972. See WIPO, *Information by Country: Jordan* (Web Page) <http://www.wipo.int/directory/en/details.jsp?country_code=JO> (accessed 15 September 2018).

¹⁴⁴ Ruth Lopert and Deborah Gleeson, 'The High Price of "Free" Trade: US Trade Agreements and Access to Medicines' (2013) 41(1) *Journal of Law, Medicine & Ethics* 199.

¹⁴⁵ See Abbott, above n 131, 4.

The Jordan–US FTA should not act like a state-controlled financial institution, as such action may lead to economic inflation hindering economic growth, which developing countries aspire to achieve via FTAs.¹⁴⁶ In the case of the Jordan–US FTA, most control lies in the hands of the US, based on the clauses in the agreement. One problematic consequence is that the FTA has led to little economic growth for Jordan. The political factors at play are illustrated by the way the US has pushed Jordan to agree with and introduce a high level of IP protection that is higher than that defined by the WTO TRIPS requirement.¹⁴⁷ The US has obliged Jordan to accept TRIPS-Plus rules by using a variety of unilateral pressures, including trade sanctions, a decrease in foreign assistance, withdrawal of trade preferences and special support programs. Jordan was required to introduce TRIPS-Plus provisions in its national patent law, while one-third of Jordanians live below the poverty line.¹⁴⁸ Imposing control and exclusivity on general and public health in Jordan has drastically inflated medicine prices beyond the affordability of ordinary citizens.¹⁴⁹ The Jordan–US FTA contains a specific provision in Article 4 that prevents the local production or importation of generic medicines and their competition in the domestic market without a patent in the medical sector.¹⁵⁰

An analysis of the TRIPS-Plus provisions in the Jordan–US FTA identifies that the claimed benefit for Jordan has been overstated and the costs underestimated. Jordan had a vibrant domestic pharmaceutical industry before the agreement, which was geared towards exports.¹⁵¹ There is no basis for the claims that the agreement has boosted the availability and accessibility

¹⁴⁶ Walter Novaes and Sergio Werlang, ‘Inflationary Bias and State-owned Financial Institutions’ (1995) 47(1) *Journal of Development Economics* 135.

¹⁴⁷ Common examples of TRIPS-Plus provisions include extending the term of a patent longer than the 20-year minimum and introducing provisions that limit the use of compulsory licences or restrict generic competition.

¹⁴⁸ Omar Obeidat, ‘Third of Jordan’s Population Lives Below Poverty Line at Some Point of One Year—Study’, *Jordan Times* (2 July 2014) <<http://www.jordantimes.com/news/local/third-jordan%E2%80%99s-population-lives-below-poverty-line-some-point-one-year-%E2%80%94-study>> (accessed 14 October 2018).

¹⁴⁹ Malpani, above n 40.

¹⁵⁰ The agreement has selective provisions from international conventions to fulfil the interest of the US, where the obligations of the international convention do not apply fully to the procedures provided in the Jordan–US FTA. For example, Article 4.1 (5) states that the obligations under Paragraphs 3 and 4 do not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of IPR. Article 4.19 states that the party must respect the provisions of Article 31 of TRIPS and Article 5A (4) of the Paris Convention.

¹⁵¹ About 70% of the sector’s sales are exports, thus positioning the sector among the highest exporters in Jordan. See MOPIC, *Pharmaceutical Sector in Jordan* (Web Page) <<http://inform.gov.jo/en-us/By-Date/Report-Details/ArticleId/43/smid/420/ArticleCategory/207/Pharmaceutical-Sector-in-Jordan>> (accessed 29 October 2018).

of medicines in Jordan, encouraged FDI, improved the research development capability of domestic industrialists or led to a more significant association between national and multinational pharmaceutical corporations to further develop this vital sector. Instead, it has led to an increase in medical costs. This situation has called into question the financial sustainability of public health programs in the future. There have been no tangible benefits, as expected by the introduction of stricter protection, nor has there been any visible FDI by medicine companies since 2001 in Jordan, in partnership with various generic companies. The only investment has been by some multinational corporations, who are seeking to aggressively push their expensive patented medicines onto customers, rather than them using the cheaper generic ones. As a result of TRIPS-Plus, the government is unable to implement various public health safeguards to reduce medicine prices. This has placed a strain on the public healthcare system and increased out-of-pocket expenses for the poorest in the economy.¹⁵²

In contrast, the Egyptian FTAs have not included the TRIPS-Plus rule, and pharmaceutical firms have only received patent protection for medicines under the WTO's TRIPS. Therefore, most medicines currently sold on the Egyptian market have no form of monopoly protection, and the country has multiple generic participants, leading to lower medicine prices.¹⁵³ The TRIPS-Plus rule of the Jordan–US FTA is not only inconsistent with the WTO TRIPS protection requirement,¹⁵⁴ but also deprives the citizens of Jordan of their fundamental human rights to life and health, as recognised in international law. Further, it is recognised that the TRIPS agreement should not prevent members from taking measures to protect public health. Kruger states that, in a direct sense, protecting IP in this manner means creating a monopoly and letting the holders of a patent or copyright charge a price for their product (for the use of knowledge) that has zero social marginal cost, which introduces a distortion that makes the world slightly poorer.¹⁵⁵

The obligations of TRIPS-Plus undermine the flexibilities available under international IPR. It is likely preventing developing countries from using such flexibilities through expanding the

¹⁵² Malpani, above n 40, 206.

¹⁵³ Ibid.

¹⁵⁴ Bashar H Malkawi, 'The Intellectual Property Provisions of the United States–Jordan Free Trade Agreement: Template or Not Template' (2006) 9(2) *Journal of World Intellectual Property* 213.

¹⁵⁵ Mohammed K El-Said, 'TRIPS-Plus, Public Health and Performance-Based Rewards Schemes Options and Supplements for Policy Formation in Developing and Least Developed Countries' (2016) 31(3) *American University International Law Review* 409.

scope of pharmaceutical patents and creating new medicine monopolies. These impediments also arise from lowering patentability standards, extending monopolies by extending patent terms and requiring patents be available for surgical and old medicines, resulting in developing countries being perpetually dependent on developed countries.

3.4 Conclusion

This thesis argues that Jordan has liberalised its economy in line with the liberal vision of societal transformation in the Middle East region. However, the neoliberal economic policies have affected the traditional approach of the country in terms of social structure and people's welfare. This change in economic approach has also led to disintegration of the traditional social contract upon which the Jordanian state was built. Given that this step was not only a matter of trade liberalisation, it also changed the nature of the Jordanian state by abandoning traditional social and economic policies. Historically, the nature of the social contract in Jordan was represented by providing jobs, services, health insurance and goods to Jordanians in exchange for political loyalty. Despite following the neoliberal economic policies, the country's economic performance has remained weak as debt has doubled, the unemployment rate has increased, public sector companies have been sold to foreign investors at low prices and taxes have increased.

Jordan's economic reform was geared towards liberalisation and eliminating barriers to trade, investment, labour, capital and services to implement its WTO accession commitments. Jordan also revised several laws, including the customs law, based on top international practice to organise the clearance of goods, computerise the customs regime and train the customs team.¹⁵⁶ It also revised the main economic laws that arranged its economic activity and established a privatisation unit to coordinate the process. Further, austerity measures were implemented by the government to reduce the budget deficit, such as lifting subsidies on fuel and some

¹⁵⁶ During the second Trade Policy Review of Jordan, the WTO noted that the competitiveness and transparency of the economy and trade environment would be improved through the recent legislation of the customs law, income tax law, competition law and public-private partnership law, and the simplification of public procurement rules. See WTO, *Trade Policy Review—Jordan 2015—Concluding Remarks by the Chairperson* (Web Page, 2015) <https://www.wto.org/english/tratop_e/tpr_e/tp425_crc_e.htm> (accessed 22 October 2018).

merchandise. Jordan implemented all these measures to facilitate its economic integration with the neoliberal economic regime.

However, this thesis finds that Jordan is not the ideal economic reformer described by the IMF in its reports, as pressing challenges remain.¹⁵⁷ In addition, the growth recorded during the economic reform period indicates that it was not the type of intensive growth expected of successful economic reform programs by the IMF. Jordan's economic reform program success has been exaggerated. Harrigan argues that the economic growth during the IMF program in Jordan was extensive, rather than intensive; based on increased factor inputs, rather than productivity gains; and focused in the non-tradable sector.¹⁵⁸ Therefore, it has not helped any particular industry flourish in a sustainable manner.

It is essential that the IMF revise its conditions, and the first step in that direction would be to acknowledge that more than economic factors determine the requirements of international trade, both through the WTO and other FTAs. It is also evident that the political interests of regional and international powers affect the choices of a country such as Jordan, especially in a region with political and strategic interests intertwined and complex. The issue of regional economic integration requires not only regional economic reforms, but also regional political will that looks to the future with a regional, rather than national, focus. Only then can the countries of the Middle Eastern region and Jordan benefit from multilateral and regional economic and trade liberalisation.

¹⁵⁷ The slowdown was broad based, with activity slowing in agriculture, construction and mining. Inflation accelerated from mid-2016 to reach 4.6%. See IMF, *Jordan: IMF Executive Board Concludes 2017 Article IV Consultation* (Web Page, 2017) <<https://www.imf.org/en/News/Articles/2017/07/24/pr17291-jordan-imf-executive-board-concludes-2017-article-iv-consultation>> (accessed 29 September 2018).

¹⁵⁸ Harrigan argues that the success of Jordan's economic reform program with the IMF has been exaggerated. See Jane Harrigan et al, 'The IMF and the World Bank in Jordan: A Case of Over Optimism and Elusive Growth' (2006) 1(3) *The Review of International Organizations* 263, 292.

Chapter 4

Jordan and Its Non-Arab Trading Partners

4.1 Introduction

FTAs entered into by Jordan are considered a vehicle for both national economic development and additional integration with the regional and international economy. Jordan has signed several FTAs that position its economy as one of the most open in the Middle East.¹ These developments are a testament to Jordan's commitment to economic liberalisation policies and its efforts to model stronger political ties through commercial diplomacy. This chapter examines the Jordanian trade relationships with industrialised countries, particularly the US and EU. The Jordan–US FTA will be discussed in context to understand how the relationship and trade exchanges have improved and to ascertain whether these developments are in favour of Jordan's economic integration.² Trade and political relations between Jordan and the EU will also be discussed to ascertain whether the relationship is in the interest of Jordanian economic integration.

Further, this chapter will explore whether the interactions between trade and political outcomes of the ostensibly economic tool of FTAs are discernible. It will also identify how the industrialised trading partners have been receptive to the needs of Jordan as a trading partner, and question whether this process is largely symbiotic. Finally, the chapter explores whether Jordan has played a significant role in the economic integration of the Arab region with the rest of the world and the region's political stability. The chapter argues that FTAs influence interstate relations and play significant roles in promoting peace and stability between countries *inter-alia* by achieving economic integration.

¹ The following countries are in the Middle East region: Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Palestine, Syrian, the UAE and Yemen.

² This chapter examines the Jordan–US FTA in the context of the US foreign policy and Wadi Araba peace treaty sponsored by the US, which was signed in 1994 between Jordan and Israel. See *The Jordan–Israeli Peace Treaty* (Web Page, 1994) <<http://www.kinghussein.gov.jo/peacetreaty.html>> (accessed 27 October 2018).

Jordan has signed various trade agreements with industrialised countries.³ However, the Jordan–US FTA is the most significant agreement approved by Jordan. The interconnections between trade relations and political relations⁴ will become evident through a discussion of Jordanian trade relations with Israel, which will help illustrate how international trade under the WTO can be seen as an essential tool for creating a more stable regional political environment. Analysis of the available literature will help answer the question of whether Jordan has benefitted economically from such trade partnerships or whether the agreements have mostly met the (geopolitical) needs of the US. It explores how Jordan has become a reliable strategic ally of the US in the implementation of US strategic policies in the Middle East, in consolidating relationships and maintaining peace between Palestinians and Israelis, and recently in fighting terrorism. However, it is also evident that Jordan is now being sidelined because the strategic interests of the US seem to be moving in a different direction.

This chapter is divided into five parts. The first part provides the background of the Jordan–US FTA and briefly discusses the use of trade agreements as wider political instruments. The second part analyses the specific clauses of the Jordan–US FTA, while the third part provides an evaluation of the Jordan–US FTA from various perspectives. The discussion in the fourth part illustrates the relationship between trade relations and political relations by analysing the interactions between Jordan and the EU. Finally, the fifth part discusses the historical links between trade relations and stability.

³ In 2001, Jordan signed an FTA with the European Free Trade Association, which is a group including Iceland, Liechtenstein, Norway and Switzerland. This resulted in the whole liberalisation of trade in 2014. Also, in 2002, Jordan signed an economic association agreement with the EU, paving the way for more liberal movements of trade and capital with the region. See European Commission, *Jordan—Trade* (Web Page, 2018) <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/jordan/>> (accessed 27 October 2018).

⁴ This section discusses the political developments that coincided with the signing of the Jordan–US FTA.

4.2 Free Trade Agreement with the United States

4.2.1 Background of the Jordan–United States Free Trade Agreement

The rise of bilateral forms of FTA, rather than multilateral arrangements, could be a result of policy factors, rather than only economic motives.⁵ This thesis argues that the Jordan–US FTA is a tool for US foreign policy to reward Jordan for its peace treaty with Israeli,⁶ as was the case with the US–Israel FTA, which is considered the main strategic ally to the US in the Middle East.⁷ The aim is also similar to the Trans-Pacific Partnership Agreement, which served as a bulwark against Chinese trade expansion.⁸ The agreement produced political reasons for entering regional trade agreements, dividing them into domestic policy factors and international policy considerations aimed at gaining geopolitical influence in the Middle East region.⁹

A historical overview of the motives of the US in signing other FTAs shows that political considerations appear to be significant aims for signing FTAs, especially with developing economies. For instance, according to a Congressional study, the US–Mexico North American Free Trade Agreement (NAFTA) provided a means to strengthen the rise of political pluralism and support democratic processes in Mexico, in addition to the economic and trade benefits.¹⁰

⁵ Jemma Kim, 'Bilateral Trade Agreements in the Asia-Pacific: Origins, Evolution, and Implications' in Vinod K Aggarwal and Shujiro Urata (eds), *Asian Regional Integration Review* (Waseda University Global COE Program, 2010) 120.

⁶ This thesis argues that the primary concern of the US foreign policy in the Middle East region is securing strategic access to oil in the Gulf region, supporting and protecting its main ally (Israel), defending client states, and fighting radical movements and terrorist groups.

⁷ Recently, Trump made it unlikely that the Trans-Pacific Partnership Agreement will ever be revived; thus, he probably marks the end of an era in US foreign trade policy. The post-Trump world will almost surely be different from what came before. See Howard Rosen, 'Free Trade Agreements as Foreign Policy Tools: The US–Israel and US–Jordan FTAs' in Jeffrey J Schott (ed), *Free Trade Agreements: US Strategies and Priorities* (Institute of International Economics, 2004) 51.

⁸ Alan W Wolff, 'WTO 2018 News Items—DDG Wolff: Trade and Foreign Policy Have Always Been Intertwined', *World Trade Organization* (Web Page, 2018) <https://www.wto.org/english/news_e/news18_e/ddgra_09feb18_e.htm> (accessed 12 November 2018). See also Richard E Feinberg, 'The Political Economy of United States' Free Trade Arrangements' (2003) 26(7) *World Economy* 1019, 1040. Richard argues that the US has aggressively pursued a variety of US interests in justifying its FTAs. US government officials have articulated a series of national interests.

⁹ Human Resources Development Working Group, *The New International Architecture in Trade and Investment* (Publication No APEC#207-HR-01.2, Asia-Pacific Economic Cooperation, 2007) <http://publications.apec.org/publication-detail.php?pub_id=249> (accessed 12 November 2018).

¹⁰ The motives of the US to proceed with FTAs are mainly economic, but are mixed with foreign policy, security and national–political objectives to varying extents. See M Angeles Villareal and Ian F Fergusson, *The North*

Security interests were also visible in the US–Singapore FTA, considering that Singapore’s interest in the US extends beyond trade and economic motives.¹¹ Another example is the Australia–US FTA. Despite Australia’s repeated attempts to conclude an FTA, the US refused until Australia unconditionally joined the US-led coalition in the Iraq War in 2003. Meanwhile, New Zealand was openly denied such an FTA because New Zealand did not join the alliance.¹²

The use of FTAs for political ends is a common tool of US foreign policy, which has affected trade policy formulation. The US Trade Representative Robert Zoellick has stated that strengthening the relationship between the US and the UAE in terms of economics and trade supplements the formidable partnership that the two countries share in the fight against terrorism.¹³ Therefore, the reasons for entering trade agreements show that political considerations and security interest issues weigh heavily with the US in negotiating and signing bilateral trade agreements with different partner countries, which are sometimes of much smaller size and lesser trade significance. Therefore, it is likely that the reasons for entering the FTA with Jordan were also complicated.

The Middle Eastern region is strategically important for the US and European countries as the source of most global oil reserves and because of the geopolitical sensitivity from the many crises that could affect Western security interests in the region. The US has entered a trade agreement with Middle Eastern countries to further its foreign trade and political aims. The US has recognised that peace in the Middle East is necessary to achieve its long-term national interests and settle political controversy. Therefore, Jordan has been a critical element of the peace process in the region, as it has provided significant assistance to the success of the peace process and in bringing the views of both Palestinians and Israelis into the discussion.¹⁴

American Free Trade Agreement (NAFTA) (Congressional Research Service, 2015) <http://digitalcommons.ilr.cornell.edu/key_workplace/1411/> (accessed 12 November 2018).

¹¹ The study cited Ambassador Tommy Koh, who stated that Singapore aimed to establish the presence of the US in the region to reinforce the security of the entire Asia-Pacific region. Further, Singapore considered the Singapore–US FTA a representation of the US’s continued commitment to the region. See Stephen Hoadley, ‘US Free Trade Agreements in East Asia: Politics, Economics, and Security Policy in the Bush Administration’ (2007) 26(1) *Journal of Current Southeast Asian Affairs* 51, 75.

¹² M Rafiqul Islam, *International Trade Law of the WTO* (Oxford University Press, 2006).

¹³ Mary J Bolle, ‘Middle East Free Trade Area: Progress Report’ (Library of Congress Washington DC Congressional Research Service CRS, 2005) 2.

¹⁴ Seth J Frantzman, ‘King Hussein of Jordan: A Political Life: Nigel Ashton’ (2009) 18(1) *Digest of Middle East Studies* 113.

Prior to signing the Jordan–US FTA, Jordan entered a peace treaty with Israel at a time when all other Arab or Middle East countries were fighting Israel. One of the consequences of this action was that US negotiators became keen to enter an FTA with Jordan,¹⁵ even though Jordan was economically insignificant to the US and there was no strong local lobby that would support an FTA with Jordan. Among other factors, once Jordan signed the peace treaty with Israel, it became a US concern in the region. In addition, it is significant that the Middle East region had long been a particular interest for the US—at least since the Camp David peace treaty between Egypt and Israel, which was signed in 1978.¹⁶ One of the significant hopes of the US engagement was that the successes of the Jordan–US FTA would encourage other Arabic countries to obtain the same benefits and treatment that Jordan would achieve from the agreement.¹⁷ This prospect could also finally provide the formula to achieve comprehensive peace in the Middle East region, after numerous unsuccessful attempts. However, unlike the NAFTA, the US negotiators had more influence and ability to draft the Jordan–US FTA on their terms and for their benefit.¹⁸

The existing political considerations behind FTAs are improving the strategic relations between countries.¹⁹ However, an issue is not only that political considerations matter, but also that such considerations can sometimes work against economic rationales. When the FTAs contain clauses that work against the interests of developing economies, an argument is often made that principles of free trade or trade liberalisation (in pursuance of economic theories) require them. At the very least, establishing that political considerations inform the decisions of trade partners enables a critique of the purely economics-driven rhetoric of FTAs. At the same time,

¹⁵ The US Trade Representative Barshefsky outlined some of the US's goals in pursuing the Jordan–US FTA, including encouraging regional economic integration, supporting Jordan's economic reforms and developing a model for the next US FTA. See Rosen, above n 7, 62.

¹⁶ The Camp David Accords were agreements between Israel and Egypt, signed on 17 September 1978 that led in the following year to a peace treaty between these two countries—the first such treaty between Israel and any of its Arab neighbours. See Office of the Historian, *Milestones: 1977–1980* (Web Page) <<https://history.state.gov/milestones/1977-1980/camp-david>> (accessed 12 November 2018).

¹⁷ *Overview of US-Jordan Free Trade Agreement (FTA)* (Web Page, 2001) <<https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010928-12.html>> (accessed 12 November 2018).

¹⁸ The US perspective was that an FTA with a smaller country might have a minimal economic effect, but large political and security consequences. See Timothy Hotze, *Laboring for Peace and Development: Evaluating the United States–Jordan Free Trade Agreement's Effects* (College of Liberal Arts and Social Sciences Theses and Dissertations, DePaul University, 2017) 45.

¹⁹ Philip I Levy, 'A Political-economic Analysis of Free-trade Agreements' (1997) 87(4) *American Economic Review* 506, 519.

it becomes possible to review the economic rationales that seem one-sided from the perspective of developing economies.

Since the end of the World War II, the US economy has remained the world's first economic power; thus, political and diplomatic relations between a country such as Jordan and the US could be expected to have significant consequences on policy, trade and the economy.²⁰ The political ties between Jordan and the US have a long history of cooperation, with diplomatic relations between the two countries established in 1949.²¹ From the perspective of the US, Jordan plays a unique leadership role in advancing peace and stability in the Middle East region and supports an end to the violent extremism that threatens the security of Jordan, the allies of the US in areas such as the Gulf states, and the entire globe.²² Jordan's opposition to terrorism also matches and assists the broader US interests. The US policy in the Middle East region seeks to reinforce Jordan's commitment to peace, stability and moderation, especially in light of the ongoing regional unrest.²³ The US has strengthened its relationship with Jordan through economic aid in numerous forms, such as loans and grants; humanitarian, technical, economic and military assistance; and through the FTA.²⁴ In return, foreign aid is usually designed to serve both the political and economic interests of the donor, yet this purpose reduces the benefits to the recipient country. Therefore, the next section discusses how the Jordan–US FTA provided for the gradual elimination of duties and removal of trade barriers on goods and services for 10 years, thus leading to a complete free trade area between the two countries.

With the aim of establishing a free trade area, Jordan signed the FTA with the US in October 2000, which was entirely performed in 2010.²⁵ The agreement is considered a critical moment for both countries. For the US, it was its third FTA and first agreement of its kind with an

²⁰ Amir Najafi and Hossein Askari, 'The Impact of Political Relations between Countries on Economic Relations' (2012) 65(262) *PSL Quarterly Review* 247, 273.

²¹ US Department of State, *US Relations with Jordan* (Web Page, 2018) <<https://www.state.gov/r/pa/ei/bgn/3464.htm>> (accessed 3 November 2018).

²² Jordan's geographic site, wedged between Israel, Syria, Iraq and Saudi Arabia, has made it vulnerable to the strategic designs of its more powerful neighbours, yet has also given Jordan an important role as a buffer between these countries in their largely adversarial relations. See Jeremy M Sharp, *Jordan: Background and US Relations* (Congressional Research Service, 2018).

²³ US Department of State, above n 21.

²⁴ Sharp, above n 22.

²⁵ Overview of US-Jordan Free Trade Agreement (FTA), above n 17.

Arabic state. For Jordan, the FTA affirmed its strategic relationship with the US, while also creating a strong incentive for US FDI and increasing access to the US market for Jordanian trade. The two countries aimed to promote trade and investment, economic growth and friendship relations.²⁶ The agreement included trade in goods, services, IPR, environment, labour, e-commerce, safeguard measures, rules of origin and cooperation in customs administration, and dispute settlement clauses.²⁷ Article I of the Jordan–US FTA stipulates that the agreement should be consistent with Article XXIV of the GATT 1994 and Article V of the GATS, thereby establishing a free trade area in accordance with the provisions of the agreement between Jordan and the US. Also, the agreement should not be construed to derogate from any international legal obligation between the parties that entitles a good or service, or the supplier of a good or service, to treatment more favourable than that accorded by the agreement.²⁸ Thereby, the agreement reflects the strength of Jordanian–US bilateral relations and the importance that the US attaches to these relations. It consists of 19 articles, with the main topics being tariff elimination. The following discussion highlights selected provisions of the agreement.

4.2.2 Trade in Goods and Services

Article II of the agreement stresses that each party should accord national treatment to the goods of the other party by Article III of the GATT 1994. For this conclusion, Article III of GATT 1994 and its interpretative notes are incorporated into the agreement. Also stressed in Article II is that parties may not introduce extra import duties or impose new quantitative restrictions on imports in trade between the parties, other than as permitted by the agreement.²⁹ At the time of enactment, the Jordan–US FTA provided for a 10-year transitional period during which duties on almost all goods would be phased out, leading to duty-free trade in goods. The

²⁶ Pete W Moore, *The Newest Jordan: Free Trade, Peace and an Ace in the Hole* (Middle East Research and Information Project, 2003) <<http://www.merip.org/mero/mero062603>> (accessed 1 September 2018).

²⁷ Mary J Bolle, *US–Jordan Free Trade Agreement* (Congressional Research Service, Library of Congress, 2001).

²⁸ Article 1 of the Jordan–US FTA: Establishment of a Free Trade Area and Relationship to Other Agreements.

²⁹ Article II of the Jordan–US FTA: Trade in Goods.

tariff on several goods would be phased out before the end of the 10-year period.³⁰ Generally, the lesser a tariff, the faster it would be eliminated. If the tariff on a specified type of good was less than 5%, it would be eliminated over two years. If the tariff was between 5 and 10%, it would be eliminated over four years. If the tariff was between 11 and 20%, it would be eliminated over five years. Any tariff greater than 20% would be eliminated in 10 years.³¹ The agreement also provided for liberalisation of trade in services, with each party intended to accord services to the other party, in respect of all measures affecting the supply of services, treatment no less favourable than that it grants to its own similar services.³² The parties also undertook specific market-opening commitments in various service sectors, such as business, communications, construction and engineering, distribution, education, environment, finance, health, tourism, recreation and transportation.

The US removed tariffs on Jordanian exports immediately, while Jordan reduced them gradually according to a timetable, as the government was more dependent on tariff revenue. The schedule ranged from a two-year phase-out for tariffs under 5% to 10 years for tariffs over 20%.³³ Jordan was granted an exception on tariff elimination for specific imports, such as automobiles, cigarettes and alcohol, because of their significant revenue. Products that were subject to removal of customs tariff under the WTO arrangement between the US and Jordan were to maintain the same terms of tariff dismantling under the FTA.³⁴ However, products from Jordan were required to meet the local content rule of the US rules of origin for the Jordanian products to enter the US market under the FTA preferential tariff rates.³⁵ The terms

³⁰ Mohammad Nsour, 'Fundamental Facets of the United States-Jordan Free Trade Agreement: E-Commerce, Dispute Resolution, and Beyond' (2003) 27(2) *Fordham International Law Journal* 746.

³¹ *Ibid.*

³² Article III (2b) of the Jordan-US FTA: Trade in Services.

³³ Goods of US origin imported by Jordan, such as poultry, were liable for tariff removal after 10 years. The amount of tariff reduction was 1% for the first five years cumulatively. From the sixth year, a 5% reduction was applied each year. Agricultural products would be fully liberalised through a decrease in charges and customs duties for a transitional period of 10 years. See Bolle, above n 27.

³⁴ Richard E Feinberg, 'The Political Economy of United States' Free Trade Arrangements' (2003) 26(7) *World Economy* 1019, 1040.

³⁵ A 'preferential tariff' is a tariff favouring the products of one country over another. It is extended to partner countries who have signed an FTA with each other. On entering an FTA, the customs duties for selected imported goods that originate from the FTA partner countries are lower or completely eliminated. See US Customs and Border Protection, *Jordan Free Trade Agreement (JOFTA)* (Web Page, 2018) <<https://www.cbp.gov/trade/free-trade-agreements/Jordan>> (accessed 13 November 2018).

required that the value of materials produced in Jordan represent a minimum of 35% of the US custom-appraised value of the product. Additionally, the value of any materials originating from the US in the production of goods in Jordan was applicable in the context in an amount of up to 15% of the product value.³⁶ However, a special rule applied to apparel and textile products.³⁷

Under the Jordan–US FTA, negotiations were facilitated by the mutual recognition agreements for trade liberalisation in services under the GATS.³⁸ The FTA provided for liberalisation of various service sectors to encourage foreign investment in new technologies and stimulate the innovative use of networks to deliver products and services in the country.³⁹ In an attempt to promote the exchange of services between the two countries, the US agreed to provide eligible Jordanians treaty-trader and treaty-investor visas, which were included in the Specific Commitments in Services by both parties.⁴⁰

4.2.3 Intellectual Property Rights Protection

The Jordan–US FTA also includes provisions to enhance IPR protection.⁴¹ These provisions relate to trademarks, geographical indications, unfair competition, trade secrets and patents. As discussed in Chapter 3, Section 3.3.4, Jordan has approved numerous laws to enhance the protection of IPR, copyrights, patents and trademarks, which made its laws consistent with the WTO/TRIPS rules. In contrast, the US did not need to implement much change. The IP protections provide a useful example of how developing countries are required to conform to the IP laws designed for industrialised economies.

³⁶ See Rosen, above n 7, 51, 77.

³⁷ Ibid, 66.

³⁸ Montague J Lord, *Economic Impact and Implications for Jordan of the US–Jordan Free Trade Agreement* (MPRA Paper No 41168, Munich Personal RePEc Archive, 2001) xv.

³⁹ Overview of US-Jordan Free Trade Agreement (FTA), above n 17.

⁴⁰ See Article 8 of the Jordan–US FTA: Visa Commitments. Also, as a result of Jordan’s accession to the WTO, Jordanian and US firms already have considerable access to each other’s services markets.

⁴¹ Article 4 of the Jordan–US FTA: Intellectual Property Rights. The Jordan–US FTA provides for the protection of IPR and prevents both countries from placing custom duties.

The Jordanian laws require registration of copyrights, patents and trademarks. Copyrights must be registered with the National Library at the Ministry of Culture, while patents must be registered with the Registrar of Patents and trademarks must be registered at the Ministry of Industry, Trade and Supply. Also, in signing the Jordan–US FTA, Jordan committed itself to even stronger enforcement of IPR, particularly in the pharmaceutical sector, as discussed in Chapter 3.⁴²

4.2.4 Environmental Clauses

The mechanisms to address environmental protection have been a part of international trade agreements since the establishment of the GATT. Article XX presents specific exceptions to its provisions, including exemptions for natural resources and protection of public health to allow for environmental policy measures. However, the WTO has addressed environmental issues through its dispute settlement system and Doha Round negotiations concerning the relationship between existing WTO rules and international environmental treaties.⁴³

In the Jordan–US FTA, a substantial departure from the previous US FTAs is the presence of environmental clauses that are subject to the method of non-binding dispute settlement, which permits the parties to resort to proper measures when violations occur.⁴⁴ The US and Jordan have stressed that trade should not be boosted by relaxing domestic environmental laws. The parties should also not derogate from or waive the regulations as an encouragement for trade with the other party.⁴⁵ The agreement also allows the parties to establish their levels of domestic environmental protection, policies and priorities. Each party must not fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction in a manner

⁴² *Jordan—Protecting Intellectual Property* (Web Page, 2017) <<https://www.export.gov/article?id=Jordan-Protecting-Intellectual-Property>> (accessed 3 November 2018).

⁴³ Richard K Lattanzio and Ian F Fergusson, *Environmental Provisions in Free Trade Agreements (FTAs)* (Congressional Research Service, 2015).

⁴⁴ Roman Grynberg, ‘The United States–Jordan Free Trade Agreement: A New Standard in North–South FTAs?’ (2001) 2(1) *Journal of World Investment and Trade* vii, 5.

⁴⁵ Article 5.1 of the Jordan–US FTA: Environmental. This may hinder the basic aim of the FTA. In addition to the heavy responsibilities required by environmental sustainability, as a developing country, Jordan must balance its development aims and environmental protection.

that affects trade between parties.⁴⁶ The parties issued a joint statement on environmental technical cooperation in establishing a joint forum on environmental technical collaboration, which aims to develop environmental protection in Jordan by developing environmental technical cooperation initiatives that consider environmental priorities that are agreed upon by both governments, consistent with the US strategic plan for Jordan.⁴⁷

There are undeniable benefits from the Jordan–US FTA, and this thesis acknowledges that Jordan has effectively attained a modern regulatory environment that may be beneficial for its industry and trade. However, in the environmental section in the Jordan–US FTA, the US set the standards, while the developing economy of Jordan is expected to abide by them. The unusual clauses of an environmental nature under the agreement cannot be afforded by a country such as Jordan, which lacks the infrastructure required to implement them.⁴⁸ Further, the US should not be dealing with Jordan using its environmental standards because Jordan has not yet had an industrial revolution. Instead, the US should provide incentives for its trade partners to strengthen their environmental regulations to achieve long-term improvements in its environmental protection efforts.

It would be more desirable to help the country change its practices using positive reinforcement, rather than negative reinforcement. This, in turn, has made it more difficult to achieve economic development because of the lack of infrastructure and basic facilities required to preserve the environment. Thus, responsibility for environmental protection for developing and industrialised countries should be sensitive to these countries' needs. Environment provisions may hinder the primary aim of the FTA, as Jordan as a developing country must balance its economic development and environmental protection. Harwood states that tensions exist between the goals of trade liberalisation and environmental protection. The inclusion of environmental provisions in FTAs raises many concerns about national sovereignty.⁴⁹

⁴⁶ Article 5.3a of the Jordan–US FTA: Environmental. Jordan needs to expand its manufacturing base to achieve the economies of scale required to compete in the global marketplace, which affects the environment standards of the agreement.

⁴⁷ See Bolle, above n 27, 12.

⁴⁸ Emily Harwood, 'The Jordan Free Trade Agreement: Free Trade and the Environment' (2002) 27(2) *William and Mary Environmental Law and Policy Review* 509.

⁴⁹ *Ibid.*

4.2.5 Labour Clauses

Jordan and the US have confirmed their commitments as members of the International Labour Organization and their obligations to the Declaration on Fundamental Principles and Rights at Work. They acknowledge that trade should not be encouraged by relaxing domestic labour laws; therefore, it is essential for both parties to not depart from these rules to promote trade. The agreement also supports the right of each member to form its own labour laws, standards and regulations, which should comply with international labour rights.⁵⁰ Further, parties must not fail to effectively enforce their labour laws through a sustained or recurring course of action or inaction in a manner that affects trade between parties.⁵¹ Jordan has ratified all International Labour Organization significant conventions; however, the US has approved only two of them—the *Convention Concerning the Abolition of Forced Labour, 1957* and the *Convention Eliminating the Worst Forms of Child Labour, 1999*. Thus, the language of the FTA indicates inconsistency, and critics may argue that violations of labour laws in Jordan are ‘allowed’ to continue under the Jordan–US FTA.⁵² An example from the garment industry will illustrate some of the issues.

Many garment factories in Jordan supply their products to the US market, yet still do not follow labour guarantees. Thus, workers in Jordan, including foreign workers, have faced considerable abuses, such as excessive hours, lack of overtime pay, poor accommodation conditions and non-compliance with health and safety regulations.⁵³ The Jordanian Labour Minister ordered the closure of a garment factory because of abuses against guest workers that could amount to the crime of human trafficking.⁵⁴ The report noted that violations occurred against more than 100 migrant workers, including forced labour, physical and oral abuse, and inadequate housing.

⁵⁰ Article 6.2 of the Jordan–US FTA: Labour.

⁵¹ Article 6.4(a) of the Jordan–US FTA: Labour.

⁵² Bashar H Malkawi, *Jordan and the World Trading System: A Case Study for Arab Countries* (SJD Dissertation, American University Washington College of Law, 2006) 320.

⁵³ Robert A Rogowsky and Eric Chyn, ‘US Trade Law and FTAs: A Survey of Labour Requirements’ (2007) *United States International Commission Journal of International Commerce and Economics* 15.

⁵⁴ Business and Human Rights Resource Centre, Jordan: NGO Reports Poor Working Conditions and Degrading Treatment for Migrant Workers in Garment Factory in Al Hassan Industrial Zone (Web Page, 2017) <<https://www.business-humanrights.org/en/jordan-ngo-reports-poor-working-conditions-and-degrading-treatment-for-migrant-workers-in-garment-factory-in-al-hassan-industrial-zone>> (accessed 14 November 2018).

Workers were also prohibited from having sick leave, and their salaries were overdue and reduced for minor mistakes.⁵⁵

Many reports by the Institute for Global Labour and Human Rights have also exposed sexual harassment practices against women in garment factories.⁵⁶ Therefore, to comply with the *Convention on the Elimination of All Forms of Discrimination Against Women 1979*, the labour provision under the agreement should be reviewed. By introducing stricter laws against sexual harassment, Jordan could both uplift the status of women and encourage fair labour practices that are likely to enhance the effectiveness of the QIZ in which clothing exported to the US is made.⁵⁷ The obligations accepted by Jordan under the FTA could be a source of improving the work conditions for workers.

4.2.6 Safeguard Measures

The Jordan–US FTA also contains safeguard measures⁵⁸ to ensure that, if the consequences of the agreement (such as increased imports) cause or threaten to cause serious injury to the domestic industry in the case of unexpected events,⁵⁹ then either party may temporarily suspend further tariff reductions on the affected products. If either country decides to apply this

⁵⁵ Business and Human Rights Resource Centre, *Jordan: Human Trafficking Investigation at Garment Factory in Al Hassan Industrial Estate* (Web Page, 27 February 2017) <<https://business-humanrights.org/en/jordan-human-trafficking-investigation-at-garment-factory-in-al-hassan-industrial-estate>> (accessed 14 November 2018).

⁵⁶ *Classic Fashion in Jordan—Sweatshop Abuse, Sexual Predators* (Web Page, 2011) <<http://www.globallabourrights.org/campaigns/classic-fashion-in-jordan-sweatshop-abuse-sexual-predators>> (accessed 3 December 2018).

⁵⁷ The text of the convention is available at <<http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>> (accessed 17 November 2018).

⁵⁸ Safeguard measures are necessary to balance international trade obligations with the concerns of domestic interests that could be harmed by such policies. Trade liberalisation and FTAs lead to increased international competition. However, the concessions granted can have an adverse effect on the interests of the domestic industry. Unexpected situations can significantly change the balance of costs and benefits, such that the local economic interest might dictate a change in the international obligations. See Jorge F Perez-Lopez, ‘GATT Safeguards: A Critical Review of Article XIX and Its Implementation in Selected Countries’ (1991) 23(3) *Case Western Reserve Journal of International Law* 519.

⁵⁹ Article 4.2 of the safeguard agreement established two requirements that must be satisfied: (i) the causal link between increased import and real injury and (ii) any injury caused by factors other than increased imports must not be attributed to such imports. WTO, *Safeguard Measures—Technical Information* <https://www.wto.org/english/tratop_e/safeg_e/safeg_info_e.htm> (accessed 17 November 2018).

safeguard measure, the period cannot exceed four years or the 10-year transitional period, and no measure can be maintained except to the extent and for such time as may be necessary to prevent or remedy serious injury and to facilitate the adjustment.⁶⁰ The provision of the safeguard clause itself is an acknowledgment that there can be conditions when the principle of free trade must be subordinated for the long-term wellbeing of an economic sector.

The FTA also identifies the special challenges confronted by infant industries during trade liberalisation and that neither country should create obstacles to infant industries that seek the imposition of safeguard measures. The advantages of safeguard measures are that the FTA provides legal cover for trade exchange, especially for injured partners, who will be more reluctant to make trade concessions in the system of trade liberalisation, it considered as a substitute solution available at the WTO system.⁶¹ The US has incorporated safeguard measures into its domestic *Trade Law of 1974* (Relief from Injury Caused by Import Competition). The Jordan–US FTA does not contain special antidumping or countervailing duties provisions; it only has the safeguard mechanism.⁶² Safeguard measures are the only import relief mechanisms available under the Jordan–US FTA; thus, the Jordan–US FTA does not consider the domestic antidumping and countervailing duty laws.⁶³

The inclusion of safeguard measures under the agreement reflects the US requirement that all US FTAs should have a safeguard measures provision. The agreement has included bilateral safeguards, international safeguards and special safeguards. The bilateral safeguard was implemented during the transition period, and has now been removed. Under international safeguard measures, the parties committed under Article XIX of the GATT and Agreement on Safeguards of the WTO, and the special safeguard measures to protect politically sensitive products from an increase in imports or decline in price. The emphasis on safeguard measures raises a number of questions, such as why the Jordan–US FTA has not provided a clear description of the absolute or relative rise in imports that require imposing safeguard measures. The corresponding increase in imports occurs when the import relative to domestic production

⁶⁰ Article 10.2(a)(i) of the Jordan–US FTA: Safeguard Measures.

⁶¹ Meredith A Crowley, *Why Are Safeguards Needed in a Trade Agreement?* (Working Paper No 2006-06, Federal Reserve Bank of Chicago, 2007) 3.

⁶² The issue is whether there is any solid economic rationale to include this extraordinary safeguard measure, or whether it is only to meet the desires of the US.

⁶³ Bashar H Malkawi, ‘Safeguard Mechanism in Jordan: Protection of Domestic Industry’, *The Phil Papers Foundation* (Web Page, 2018) <<https://philpapers.org/rec/MALSMI-2>> (accessed 3 December 2018).

has become higher than before applying the new tariffs that caused the recent rise in imports.⁶⁴ Thus, neither FTA party can impose safeguard measures unless the increase in imports is recent and sufficient. An FTA party cannot depend on a sporadic increase in imports without regard to the overall level of growth. A temporary fluctuation in imports does not necessarily mean an increase in imports.

Negative effects of the safeguard mechanisms under the Jordan–US FTA arise because the mechanisms only reflect the interests of the powerful import-competitive industries from the US.⁶⁵ They do not consider the Jordanian modest manufacturing conditions, which are not a strong competitor with US products. Moreover, they do not consider the real need of the US market for Jordanian goods and services, and Jordan’s ability to manufacture them. Safeguard measures have been applied to the disadvantage of Jordan. There are many fundamental differences between Jordanian and American consumers, also the lifestyle and the weak marketing capacity that Jordanian traders lack to trade their products to the US market. This will lead to the departure of Jordanian industries from the domestic market because of intense competition and unequal industrial capacity, as Jordan has no real national production to export to the US.

4.2.7 Economic Perspective of the Jordan–United States Free Trade Agreement

Since the liberalisation process began, Jordanian exports and imports have risen substantially; however, there has been little lasting economic effect.⁶⁶ The decrease in tariff- and nontariff-based trade barriers was anticipated to result in accelerating the trade flows for Jordan. At the time of entering the Jordan–US FTA, it was expected that Jordanian exports of garments to the US would increase, and that exports of different merchandise from the US that face moderately high Jordanian tariffs would increase. However, from the perspective of the US, while

⁶⁴ According to the safeguard agreement, the increase in imports must be recent enough, sharp enough and significant enough to cause damage to local industries. See Alan O Sykes, *The Safeguards Mess: A Critique of WTO Jurisprudence* (Working Paper No 187, John M Olin Program in Law and Economics, 2003) 1, 30.

⁶⁵ Malkawi, above n 63.

⁶⁶ James Cassing and Anna Maria, Jordan–United States Free Trade Agreement Economic Impact Study: Searching for Effects of FTA on Exports, Imports and Trade Related Investments (Report No 535.02, United States Agency for International Development Jordan, 2007) 9.

analysing the economic effects of the FTA, the US International Trade Commission found that the effects of the FTA with Jordan would be *de minimis*, as it would have no quantifiable effects on US imports, exports, production or employment.⁶⁷ In fact, the economic gains attributed to the Jordan–US FTA are less than what officials have suggested. The increase in US imports of garments manufactured in Jordan is mainly attributable to foreign companies and workers, not to Jordanian companies.⁶⁸

The effect of trade in services liberalisation on Jordan is likely to be important. The Jordan–US FTA could create a new window for Jordan to increase exports to the US. US exports to Jordan were expected to increase substantially following the signing of the FTA, and the elimination of barriers between Jordan and the US were claimed to favour the most efficient producers. Considering that the Jordanian sectors are more protected, the FTA may create new avenues for US business firms in Jordan, rather than the other way around.⁶⁹ This thesis argues that the Jordan–US FTA has provided negligible economic benefits for Jordan. When Jordan signed the agreement, it was expected to result in welfare gains for Jordan because of the reciprocal tariff elimination. Prior to the FTA, the import tariffs in Jordan were higher than those of the US, and the reductions in the Jordanian import tariffs on US products under the agreement were expected to allow national resources to adjust to more optimal use. When a country decreases its trade barriers to the trading partner, national resources move from specialisation towards areas of comparative advantage in relation to the trading partner.⁷⁰ As a result, Jordan should strengthen its position in trade exchange with the US by focusing on the production of goods for which Jordan has comparative advantages.⁷¹

⁶⁷ US Trade Representative, Final Environmental Review of the Agreement on the Establishment of a Free Trade Area between US and Jordan (Office of the United States Trade Representative, 2000) 6.

⁶⁸ Marwa Al Nasa'a et al, *The Jordan–US Free Trade Agreement: Eight Years Later* (Working Paper, University of Michigan Gerald R Ford School of Public Policy, 2008) 12.

⁶⁹ See Lord, above n 38, 5.

⁷⁰ Grace V Chomo, Free Trade Agreements between Developing and Industrialized Countries: Comparing the US–Jordan FTA with Mexico's Experience under NAFTA (DIANE Publishing, 2002) 5.

⁷¹ Given that many Jordanian exports to the US already qualified for duty-free or preferential access under the QIZ program before signing the agreement, the FTA was unlikely to have a significant effect on the volume of Jordanian exports to the US. However, one sector with growth potential under the Jordan–US FTA is the textile and apparel sector, which is considered one of the most significant industrial sectors in Jordan. See Joshua Ruebner, 'Analyst in Middle East Affairs Foreign Affairs, Defense and Trade' (CRS Report for Congress RL30652, 2001) 16.

It is undeniable that the Jordanian economy has received some benefits from the FTA-related trade activity. For example, the Jordan–US FTA is significant because it allowed duty-free movement of products to US markets, thereby stimulating business cooperation.⁷² Prior to the FTA, Jordan’s trade relations with the US were limited by both tariff and nontariff barriers. The two countries expanded their trade relationship by ensuring regulations to promote transparency, protect IP and stimulate the economy. Exports from Jordan to the US have increased remarkably, which has led to further economic impetus in Jordan.⁷³ Initially, it was observed that Jordan received greater foreign investment, capital and technology. However, over time, Jordan has witnessed a trade deficit with the US that is higher than any prior period, implying that wealth is moving towards the US.⁷⁴ Therefore, over the long term, it can be said that the Jordan–US FTA has had minimal effects on Jordan’s economy. The following two examples of the textile industry and the pharmaceutical industry illustrate this point.

The sector most influenced by the agreement is the textile industry. Approximately 50% of the apparels and textiles produced in Jordan qualify for the QIZ program.⁷⁵ In 2017, the value of Jordan’s garments exports reached US\$1.5 billion (20.1% of total exports) and the US market accounted for the bulk of these exports, reaching US\$1.3 billion.⁷⁶ However, foreign investors that employ migrant workers own most apparel factories in Jordan that are located in QIZs. The firms’ foreign ownership and tax holiday benefits result in high profits, which are repatriated to the investors’ home country, rather than being reinvested in Jordan. In addition, an estimated 70% of Jordan’s garment employees are foreign workers, consisting of technical experts, managers and manual workers.⁷⁷ This implies that many Jordanians are deprived of

⁷² Bessma Momani, ‘A Middle East Free Trade Area: Economic Interdependence and Peace Considered’ (2007) 30(11) *The World Economy* 1682, 1700.

⁷³ Given that goods produced in QIZs enjoy duty-free access to the US, Jordan’s commodity exports to the US market rose sharply a few years after the agreement, reaching US\$400 million in 2002. In 2018, Jordan’s exports to the US amounted to US\$1,685 billion. See *Foreign Branch, Foreign Trade—US Trade with Jordan* (Web Page, 2018) <<https://www.census.gov/foreign-trade/balance/c5110.html>> (accessed 10 May 2019).

⁷⁴ Imad Al-Anis, ‘A Review of Trade Liberalisation and Trade between Jordan and the United States’ (2013) 4(6) *International Journal of Peace and Development Studies* 116.

⁷⁵ Parra Robles et al, *The Impact of FTAs on MENA Trade* (Ibero-America Institute for Economic Research, 2012).

⁷⁶ *Top Jordan Exports* (Web Page, 2018) <<http://www.worldsrichestcountries.com/top-jordan-exports.html>> (accessed 19 November 2018).

⁷⁷ Matthias Busse et al, ‘Assessing the Impact of Trade Liberalization: The Case of Jordan’ (2012) 27(3) *Journal of Economic Integration* 466, 486. See also Carnegie Endowment for International Peace, *Photo Essay: Migrant*

the opportunity to work in this sector; hence, they do not benefit directly. The US has increased the volume of imports and exports from Jordan, yet these are insignificant when compared with the total trade with the rest of the world. Jordan is disadvantaged by the FTA, since the US, as a developed country, tends to eliminate the flexibilities offered to developing countries through the WTO in bilateral trade agreements.⁷⁸ After the initial improvement in Jordan's economy, the situation has become stagnant and there is no evidence that the Jordan–US FTA has met Jordan's needs as a developing country.⁷⁹

In contrast, Jordan has shown consistent export performance in the pharmaceutical sector. The FTA helped with the access of pharmaceutical products to export markets, especially in light of Jordan's position as a leading supplier of medicines among countries in the region.⁸⁰ Under the Jordan–US FTA, Jordan has seen a significant increase in launches of innovative pharmaceutical products, and its generic pharmaceutical sector has simultaneously flourished.⁸¹ Therefore, it is difficult to assert that the FTA has been entirely detrimental for Jordan; however, some developments do not bode well for the country, as the TRIPS-Plus rules included in the agreement have created formidable hurdles for the pharmaceutical sector in Jordan. TRIPS-Plus under the Jordan–US FTA has had an adverse effect and harmed pharmaceutical manufacturing in Jordan.⁸² As a result of the lack of competition, the public health system and citizens of Jordan must pay higher prices for imported medicines, given the strict IP rules in Jordan. There has been no FDI by medicine firms into Jordan to improve medications with local companies since the ban on the production of generic medicines.

Workers in Jordan's Garment Industry (Web Page, 2019) <<https://carnegieendowment.org/sada/66598>> (accessed 17 November 2018).

⁷⁸ Dilek Demirbas, 'Bilateral Free Trade Agreements' in Charles Wankel (ed), *Encyclopedia of Business in Today's World* (SAGE Publications, 2009) 147, 148.

⁷⁹ Nobuhiro Hosoe, 'A General Equilibrium Analysis of Jordan's Trade Liberalisation' (2001) 23(6) *Journal of Policy Modeling* 595.

⁸⁰ Moonsung Kang, 'An Analysis of Economic Impacts of FTAs on Strategic Industries in Jordan' (2011) 14(4) *International Area Studies Review* 73.

⁸¹ Alan Beattie, Andrew Jack and Amy Kazmin, *Patent or Patient? How Washington Uses Trade Deals to Protect Drugs* (Web Page, 2006) <<https://www.bilaterals.org/?patent-or-patient-how-washington>> (accessed 17 November 2018).

⁸² Rohit Malpani, 'All Costs, No Benefits: How the US–Jordan Free Trade Agreement Affects Access to Medicines' (2009) 6(3) *Journal of Generic Medicines* 206.

For a country such as Jordan, FTAs are supposed to be an essential means of enhancing competitiveness, accomplishing economies of scale and making up for the shortage of skilled labour and limited market size. Jordanian roles are mainly to facilitate trade policy, exercise oversight and correct any market failures (such as monopolistic structures or restrictive practices and the disruption of environmental damage or potential health hazards). Viewed from this angle, Jordan has used the policy tool of FTAs to spur trade liberalisation and economic development to bolster economic and regional cooperation in addition to positioning the mechanism for Jordan's economic growth objectives. While considerations of FTAs and similar agreements may have political undertones, it is also true that its small social and economic benefits have given industrial competitiveness in Jordan. The following section compares the trade exchange between Jordan and the US before and after the FTA.

Moreover, the QIZ agreement allows products to enter the US duty-free if manufactured in Israel, Jordan, Egypt or the West Bank and Gaza.⁸³ Jordan is the 88th-largest exporter in the world. In 2016, Jordan exported goods worth US\$8.65 billion and imported goods worth US\$20.1 billion, resulting in a negative trade balance of US\$11.5 billion.⁸⁴ Throughout the 1990s, trade between Jordan and the US was modest and registered reasonably constant figures. Between 1992 and 1997, the bilateral trade recorded a minimum value of US\$275 million and a maximum of nearly US\$430 million.⁸⁵ In 2000, Jordan was among the top 100 largest trading partners with the US, being ranked 98th, with US\$385 million in both exports and imports.⁸⁶

After signing the Jordan–US FTA, Jordan has experienced high economic growth. The Jordanian GDP grew from US\$8.46 billion in 2000 to approximately US\$40 billion in 2017.⁸⁷ Moreover, the Jordan–US FTA assisted in increasing Jordan's exports from US\$5.73 billion in

⁸³ United States Trade Representative, *Jordan Free Trade Agreement* (Web Page, 2009) <<https://ustr.gov/trade-agreements/free-trade-agreements/jordan-fta>> (accessed 7 October 2018).

⁸⁴ The top export destinations of Jordan are the US (US\$1.96 billion), Saudi Arabia (US\$1.22 billion), India (US\$847 million), Iraq (US\$497 million) and the UAE (\$363 million). See *OECD—Jordan (JOR) Exports, Imports, and Trade Partners* (Web Page, 2016) <<https://atlas.media.mit.edu/en/profile/country/jor/>> (accessed 5 December 2018).

⁸⁵ Bolle, above n 27, 14.

⁸⁶ Ibid.

⁸⁷ Trading Economics, *Jordan GDP 1965–2018* (Web Page, 2017) <<https://tradingeconomics.com/jordan/gdp>> (accessed 2 November 2018).

2007 to US\$7.46 billion in 2017.⁸⁸ The IMF credited the Jordan–US FTA for enabling Jordan to achieve export growth.⁸⁹ Jordan’s increase in trade with the US over the years can be attributed to the apparel industry, which is one of the dominating sectors in Jordan, as it dictates the country’s export to the US.⁹⁰ Jordan has emerged as a significant player in the clothing industry after the QIZ agreement and Jordan–US FTA. Jordan’s clothing exports to the US have increased from a mere US\$43 million in 2000 to US\$1.1 billion in 2005.⁹¹ The apparel industry has grown, and the country recorded \$1.3 billion in exports to the US in 2017. These impressive increases are attributed to the cheap labour force. The Jordan Investment Board reported that clothing and textile industries comprise over 776 enterprises, with 110 of those producing for exports only.⁹² Further, the sharp growth in exports from Jordan to the US originated from apparel and non-knitted apparel. Together, these accounted for close to 90% of Jordan’s exports to the US.⁹³

Another important point is that comparative trade advantage is linked to specific resources. Theoretically, Jordan could attain an advanced level of welfare from specialising in its areas of comparative advantage with the US. Through increased specialisation and trade, Jordan could boost consumption and accomplish superior prosperity. The Jordanian trade comparative advantage with the US is in natural and human resource products.⁹⁴ However, both Jordan and the US have a comparative advantage in similar resources, thereby implying a low level of complementary opportunities that can enhance trade between each other. Jordan has a comparative advantage in manufactured fertilisers, footwear, clothing, textile yarn and furniture.

⁸⁸ Statista, *Jordan—Export of Goods 2017* (Web Page, 2018) <<https://www.statista.com/statistics/385635/export-of-goods-to-jordan/>> (accessed 22 November 2018).

⁸⁹ Al Nasa’a et al, above n 68, 7.

⁹⁰ Hassan Alamro, ‘The Effect of Trade Liberalization on Economic Growth, Unemployment and Productivity: The Case of Jordan’ (2017) 7(5) *International Review of Management and Marketing* 131, 139.

⁹¹ Ratnakar Adhikari and Yumiko Yamamoto, ‘Textile and Clothing Industry: Adjusting to the Postquota World’ in *Industrial Development for the 21st Century*, (United Nations Economic and Social Commission for Asia and the Pacific, 2008) 197.

⁹² *Ibid.*

⁹³ Stephanie Brunelin et al, *How Much Market Access? A Case Study of Jordan’s Exports to the EU* (World Bank, 2018) 8.

⁹⁴ See Lord, above n 38, ix.

Further explanations for Jordan entering this FTA include the fact that the signing of the Jordan–US FTA coincided with the acknowledged realities of economic instability in Jordan and political instability in the Middle Eastern region. The economic reforms were the preferable solution for the country, which entered into several multilateral and bilateral trade agreements. It was supposed that, through modernising the economy and legal reforms via this agreement, Jordan could attract the FDI, capital, technology and high-quality labour that fuel effective performance in a free trade environment. However, several noneconomic factors, such as the Palestinian–Israeli conflict, Iraqi and Syrian war and uncertain situations of refugees, have affected FDI in Jordan. Thus, if the instability continues, trade liberalisation will have little effect on the country’s trade and economic development and will continue to be overshadowed by external regional factors.⁹⁵

The expected aim of the FTAs is to achieve economic growth by reducing poverty, enhancing standards of living and producing job opportunities. The Jordan–US FTA has liberalised access to service markets, afforded a high level of protection for IPR and removed customs duties on e-commerce. It also provides for environmental and labour protections. Moreover, the agreement provides for consulting to encourage transparency and avert potential issues before they become trade disputes, as well as containing procedures for dispute settlement.⁹⁶ However, some FTAs can be limited in their dealing of traded goods, and some can be more comprehensive and cover services, investment and more.⁹⁷ The costs and benefits of FTAs differ, especially if they are between developing and developed countries. The developing country’s export and production capacity should be sufficiently competitive for the developer partner, and the developed country should make concessions to the developing country. Otherwise, the cost to the developing country will be higher than the benefit. Further, the developing partner will end up paying more charges and higher prices for protected products, such as for generic medicines in Jordan after the Jordan–US FTA.

The thesis argues that a bilateral FTA between a developing and developed country is less desirable, and a multilateral trade agreement is preferable. Bilateral agreements could lead to

⁹⁵ Grace V Chomo, *Free Trade Agreements between Developing and Industrialized Countries: Comparing the US–Jordan FTA with Mexico’s Experience under NAFTA* (Working Paper No 2002-01-B, US International Trade Commission Office of Economics, 2002).

⁹⁶ Hotze, above n 18, 46.

⁹⁷ Demirbas, n 78, 147.

trade diversion, which results in inefficiency in trade, as developing countries will be the weaker partners who might end up in a disadvantaged position. Further, developed countries tend to remove the WTO's flexibilities for developing countries in bilateral FTAs.⁹⁸ Instead, they tend to add more complicated conditions that hinder the economic growth of their developing partners, such as the TRIPS-Plus rules in the Jordan–US FTA. It is anticipated that FTAs, whether regionally or internationally, should enhance the parties' incomes. However, developed countries tend to have more interregional trade, and thus higher incomes, than countries with small local markets.⁹⁹ This supports the theory of exports as a potential engine of growth for small developing countries. By accessing the vast international market, a country such as Jordan should take advantage of economies of scale, such as productivity gains from optimal plant size, which may not be attained with limited local markets. This claim can be substantiated by examining the political and trade relations between Jordan and the EU, which are governed by certain agreements and close cooperation. The EU is also Jordan's chief trading partner. Jordan's relations with the EU exist within an action plan and association agreement as part of the European Neighbourhood Policy (examined in Section 4.6 below).

4.2.8 Non-economic Perspective of the Jordan–United States Free Trade Agreement

This thesis argues that the Jordan–US FTA has served as a US foreign policy tool in the way it relates to US purposes in the Middle East region and world. The agreement was submitted to Jordan as a peace dividend for normalising its relations with Israel, given that steps to support Israel's security and stability are highly significant to the US. The additional goal for the agreement was to encourage other Arab countries, especially in the same region, to follow the Jordanian approach towards improved relations with Israel, as the agreement would provide them with the dividends that would be achieved by Jordan. In addition, the US administration's

⁹⁸ Ibid.

⁹⁹ Jeffrey A Frankel and David Romer, 'Does Trade Cause Growth?' (1999) 89(3) *American Economic Review* 380.

policy is one of enlargement in the Middle East region, after the fall of the Soviet Union, as well as the confrontation of the Chinese trade expansion in the region.

However, a concern is whether these political goals are compatible with the claimed benefits of free trade through this FTA. The political gains have been achieved by the US to a great extent, yet Jordan has not benefitted either on political or economic fronts. Rather, Jordan has paid a heavy price both politically and financially. The Jordan–US FTA is not really about furthering the interests of Jordan; thus, this raises the question of what Jordan gains from the FTA. Although Jordan has attained many benefits, the argument is that, overall, the FTA offers more significant advantages to the US. The problem with this outcome is that the economic rhetoric of the FTA is being used to silence the weaker partner of the FTA, while, in reality, the noneconomic interests of the stronger US party are being pursued.¹⁰⁰

The supposed aims of the Jordan–US FTA were to encourage economic growth and development in Jordan, thereby increasing employment and providing economic benefits. However, the Jordan–US FTA has not been a significant provider of job opportunities and economic growth in Jordan. Biedermann points out that the free trade areas in Jordan have created few job opportunities for the Jordanians, and are predominantly employing foreign labour. Thus, this raises questions regarding the real benefits produced by the agreement for the domestic economy and local population.¹⁰¹ However, the FTA has increased exports to US markets, even if it has not eliminated Jordan’s trade deficit or solved all its economic issues.

The political aims of the Jordan–US FTA, even if not stated explicitly, include creating peace between Jordan and the US and Jordan and Israel, and increasing acceptance of the US and US trade in the Middle East region. It is becoming more evident that these aims are not being achieved. The Jordanian–Israel relationship is stagnant yet still stable, and has shown the ability to withstand tensions that arise from time to time. However, a sharp tension in the relationship was generated over the governance of Muslim holy sites in Jerusalem, which were placed under the Jordanian administration by Wadi Araba peace treaty.¹⁰² The special coordinator of the

¹⁰⁰ An economic assessment of the Jordan–US FTA will be undertaken in detail in the following section.

¹⁰¹ Ferry Biedermann, ‘Industrial Zones Create Little Work for Jordanians’, *Financial Times* (10 February 2009) <http://www.ft.com/cms/s/0/86b1b36c-f712-11dd-8a1f-0000779fd2ac.html?ft_site=falcon&desktop=true#axzz4Y3Slxxnu> (accessed 15 November 2018).

¹⁰² Jeffrey Heller and Suleiman Al-Khalidi, *Jordan-Israel Relations in Crisis over Al-Aqsa Mosque Strife* (Web Page, 2014) <<https://www.reuters.com/article/us-mideast-palestinians-israel/jordan-israel-relations-in-crisis-over-al-aqsa-mosque-strife-idUSKBN0IP0OV20141105>> (accessed 15 November 2018).

Middle East peace process from the UN Security Council announced that the Jerusalem crisis could raise tensions that could enter all the Middle East region into a vortex of violence and religious conflict.¹⁰³ In this regard, it seems that the Jordan–US FTA has not been hugely successful for promoting comprehensive peace. On 24 October 2018, tensions between Israel and Jordan also increased to an unprecedented level because of Al-Baqura and Al-Ghamr.¹⁰⁴ An Israeli minister threatened to cut off water from the capital Amman after King Abdullah II demanded cancellation of a land-annexing provision (Al-Baqura and Al-Ghamr) under the peace treaty with Israel, which would lease these Jordanian lands to Israel for another 25 years under the annex of the 1994 peace treaty.¹⁰⁵ However, it should be noted that no aspect of these tensions between Jordan and Israel can be entirely attributed to the Jordan–US FTA.

Jordan has used its relationship with Israel to improve its standing with Western governments, especially the US, and international financial institutions, such as the IMF, on which it heavily relies for external support. Nevertheless, the persistence of the Israeli–Palestinian conflict continues to be a significant challenge for Jordan. The issue of Palestinian rights resonates with much of the Jordanian population, as more than half of them are of Palestinian origin. After President Trump’s decision to recognise Jerusalem as Israel’s capital and relocate the US embassy, Jordan has been caught in a state of tension with the Trump administration. Jordan has expressed solidarity with the Palestinians, while also seeking to encourage the Trump administration to commit to the two-state solution (Palestine and Israel). Thus, the political

¹⁰³ United Nations, Rising Tensions Amid Crisis in Jerusalem Threaten Israel, Palestine with ‘Vortex of Violence’, Religious Conflict, Special Coordinator Warns Security Council (Meetings Coverage and Press Releases, 2018) <<https://www.un.org/press/en/2017/sc12927.doc.htm>> (accessed 15 November 2018).

¹⁰⁴ The Jordanian conclusion arose after it was side-lined by the US–Israeli decisions regarding Jerusalem and Palestinian refugees. Al-Baqura and Al-Ghamr are two agricultural areas along the Jordan–Israel border. The agreement permitted Israel to lease these lands from Jordan for renewable 25-year periods, unless either party opted to cancel this arrangement. In December 2018, the Jordanian Parliament opted to re-examine the 1994 peace treaty in response to the US recognition of Jerusalem as the capital of Israel. See Mohammad Ayesh, ‘Why Jordan Cancelled Part of Its Peace Treaty with Israel’, *Middle East Eye* (2018) <<https://www.middleeasteye.net/opinion/why-jordan-cancelled-part-its-peace-treaty-israel>> (accessed 4 March 2019).

¹⁰⁵ Mina Aldroubi, ‘Israel Threatens to Cut Water to Jordan’, *The National World* (22 October 2018) <<https://www.thenational.ae/world/mena/israel-threatens-to-cut-water-to-jordan-1.783002>> (accessed 20 November 2018). Under Jordanian political pressure, King Abdullah II stated that ‘Al-Baqura and Al-Ghamr have always been our top priority’. The royal decision was confirmed on 20 October 2018 in an emergency session of the Jordanian cabinet, at which the king stated that Jordan would ‘exercise full sovereignty’ over its land. See also Isabel Kershner and Rana F Sweis, ‘Jordan Reclaims Lands Used by Israel under Peace Treaty’, *The New York Times* (2018) <<https://www.nytimes.com/2018/10/21/world/middleeast/israel-jordan-peace-treaty.html>> (accessed 20 November 2018).

gains that Jordan hoped to achieve are disappearing in the current standoff between the US and Palestinian authority.

The same may be said for another aim, which was to produce sufficient peace dividends for Jordan so that other Arab countries would be encouraged to follow suit. In this regard, the Jordan–US FTA has not been successful, as no other Arab countries have signed a peace treaty with Israel since Jordan did so. Nevertheless, a few Arab countries—such as Qatar, the UAE and Oman¹⁰⁶—have established trade relations with Israel, thereby providing hope that full diplomatic relations could occur. However, these trade relations have broken down because of the repercussion of the siege imposed by Israel on Gaza and Al-Aqsa *Intifada* in 2002. However, further secret meetings between the Gulf states may occur and unofficial cooperation may continue.¹⁰⁷ Similarly, the Jordan–Israel peace treaty took 25 years after Egypt had normalised its relations with Israel.

Another explanation for the US entering an FTA with a country such as Jordan is that the US post-Cold War foreign policy as the policy of the logical extension of containment after the collapse of the Soviet Union. The containment was rephrased as a defensive policy when communism posed a threat to open market democracies.¹⁰⁸ The end of the Cold War meant that the American ideals and objectives had lost their main adversaries, and it was a suitable time to consolidate and expand its control,¹⁰⁹ with no real rivals. This situation has led the US's policies to become overly focused on its own interests. The fact that the US is the world's most influential military force, with a massive economy and dynamic society, has made it the dominant global power, who can impose its strategies on others through persuasive and coercive diplomacy. The enormous potential of the US, in the absence of competitors, makes other countries willing to respect its policies to gain its friendliness through an alliance. With the absence of a real rival, there is no threat to the US's existence in the immediate future.

¹⁰⁶ On 27 February 1996, Israel and Oman signed an agreement to open a trade representative office. See Israel Ministry of Foreign Affairs, *Foreign Ministry Statement on Israel-Oman Agreement* (Web Page, 1996) <<http://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook10/Pages/Foreign%20Ministry%20Statement%20on%20Israel-Oman%20Agreement.aspx>> (accessed 18 November 2018).

¹⁰⁷ Matthew Machowski, 'Qatar-Israel Relations: A Historical Overview' (2001) *MidEast Journal* <<http://www.matthewmachowski.com/2011/05/qatar-israel-relations.html>> (accessed 15 November 2018).

¹⁰⁸ Hotze, above n 18, 39, 40.

¹⁰⁹ Anthony Lake, *From Containment to Enlargement* (Johns Hopkins University School of Advanced International Studies, 1993) <<https://www.mtholyoke.edu/acad/intrel/lakedoc.html>> (accessed 22 November 2018).

However, the United States does indeed need the cooperation of other countries, as there are still many other serious threats, such as terrorism, the proliferation of weapons of mass destruction and ethnic conflicts—especially in the Middle East region. Thus, to enhance its security, as well as that of its allies and friends in the region, the US still needs to enter economic and trade alliances with the countries of the Middle East region. In addition to security alliances, the Jordan–US FTA is considered an example of the US’s policy of enlargement in the Middle East region, as well as working against Chinese trade expansion in the region. Jordan plays an essential role in this regard, as it has long been considered an ally of the West.

4.3 Jordan as an Ally of the United States–led Western Alliance

Jordan had long been considered an ally of the West, since it opposed the Soviet Union expansion into the Arab region.¹¹⁰ After Jordan signed a peace treaty with Israel and the Jordan–US FTA, the US confirmed that Jordan is a major non–North Atlantic Treaty Organization (NATO) ally, which established a new stage for ever-increasing military and economic cooperation. The US was seeking a possible means to bring peace dividends to Jordan and reward King Hussein for signing a peace treaty with Israel, and the non-NATO ally status was used to achieve this.¹¹¹ Jordan has created a moderating and stabilising role in an unstable region; however, despite its longstanding partnership with Western countries in general, Jordan is often neglected and under-valued.¹¹²

Since the 2011 Arab uprisings, Jordan remains one of the few moderate countries in a region blazing with the Syrian war; instability in Iraq; the rise and fall of Jihadist movements and even purported states, such as the Islamic State of Iraq and Syria (ISIS); and ongoing violence and unrest over the unclear issue of Israel and the Palestinians. Jordan stands in the middle of

¹¹⁰ Richard A Mobley, *US Joint Military Contributions to Countering Syria’s 1970 Invasion of Jordan* (OMB Report No 0704-0188, National Defense University, Institute for National Strategic Studies, 2009) 160, 167.

¹¹¹ Deborah K Jones et al, *Major Non-NATO Ally Status for Jordan: National Security or Peace Process Politics* (No 98-E-40, National War College Washington DC, 1998) 1.

¹¹² Recently, after its position against the transfer of the US embassy to Jerusalem, the Trump administration did not listen to the advice of Jordan on the seriousness of this step for the comprehensive peace in the region.

conflicts, yet remains a significant player for regional peace and stability.¹¹³ Under the guidance of the West, Jordan has supported the reconstruction efforts in Iraq, both materially and logistically, including training Iraqi police, particularly in the fight against terrorism. Jordan's geopolitical importance has placed considerable value on its international alliances, including its longstanding cooperation with NATO and the West. This cooperation is more stable than its regional alliances, which have fluctuated frequently because of volatile matters beyond Jordan's control.

The Jordanian foreign policy was established with the aim of maintaining relationships with all its neighbours, in addition to the regional powers, and it emphasises the mutual strategic benefits with the West. It performs a complex balancing act, as illustrated by the fact that Jordan maintained a link with the Syrian regime, even when it supported and trained the anti-Assad rebels at the beginning of the Syrian conflict. The Western powers and their allies in the Arab region, such as Saudi Arabia and Qatar, supported the anti-Assad rebels. Moreover, Jordan's relations with Israel and Iran are cold, yet continuing. It has also established a warm relationship with Turkey, especially after Jordan opposed the US embassy's move to Jerusalem. In addition, Jordan is now seeking to reconsolidate its traditional strong relations with Egypt and the Gulf states, but without the involvement of their rivalries or any of the military interventions in the region, such as in Yemen¹¹⁴ and the blockade imposed on Qatar.¹¹⁵

Amid the Jordanian civil war against the Palestinians during September 1970, Syria, which was considered an ally of the Soviet Union in the region, conducted an armoured incursion into northern Jordan. The US leaders responded with extensive military preparations to intervene on behalf of Jordan through the request of Israeli army assistance, which indicates the strength

¹¹³ Curtis Ryan, *What Jordan Means for NATO (and Vice Versa)* (Web Page, 2018) <<https://www.ispionline.it/en/pubblicazione/what-jordan-means-nato-and-vice-versa-20934>> (accessed 16 November 2018).

¹¹⁴ The conflict has its roots in the failure of a political transition supposed to bring stability to Yemen following the 2011 uprising that forced its president to hand over power to his deputy. The new president struggled to deal with a variety of problems, including the external intervention by Saudi Arabia and Iran, attacks by jihadists, a separatist movement in the south, and the continuing loyalty of security personnel to the old president, as well as corruption, unemployment and food insecurity. All these developments caused the Yemen Civil War, which is still ongoing. See 'Yemen Crisis: Why is There a War?', *BBC News* (2018) <<https://www.bbc.com/news/world-middle-east-29319423>> (accessed 17 November 2018).

¹¹⁵ Air, sea and land blockades were imposed on Qatar by four Arab countries: Saudi Arabia, the UAE, Bahrain and Egypt. See Al Jazeera, *Qatar-Gulf Crisis: All the Latest Updates* (Web Page, 2018) <<https://www.aljazeera.com/news/2017/06/qatar-diplomatic-crisis-latest-updates-170605105550769.html>> (accessed 17 November 2018).

of the strategic alliance between Jordan and the West.¹¹⁶ Jordan has been a trustworthy Arab ally to the West for a long time, and serves as a critical base for the Arab region's humanitarian and diplomatic activity. Jordan also asserts that its competent military and intelligence services provide an efficient security buffer for Israel and the Gulf States, as they are the most important allies of the US.¹¹⁷ In this regard, Jordan has become a key ally for the implementation of Middle East strategies. Its longstanding partnership with the US, together with its strategic location, has placed the country in an appropriate place to advance the US trade and peace agenda in the Middle East.¹¹⁸ Jordan supported refugees from Iraq and Syria, thereby supporting regional peacekeeping and humanitarian operations, as well as countering violent extremism. However, the US realised early on that peace between Arab countries and Israel could not prosper without a trade relationship that would keep the friendly relations active, as free trade can reduce the likelihood of wars arising.¹¹⁹

As discussed above, it is evident that the Jordan–US FTA was a measure of security for the US in the Middle East, yet with an economical design. Lobell stresses that the US used the FTA as a weapon in their war on terrorism, and that FTAs can serve as a counter-strategy to answer terror with trade and foster the economies of Middle East countries with job generation and poverty alleviation.¹²⁰ These political–strategic aspects, rather than only economic motives, motivated the Jordan–US FTA.¹²¹ However, the agreement has helped raise both the political and economic standards of Jordan. Through the FTA, the US supports the broad-based political and economic reforms that helped Jordan implement its strategies and those of the region.

¹¹⁶ The US suspected that Moscow was encouraging the military invasion of Jordan by its Arab allies. President Richard Nixon and his national security adviser, Henry Kissinger, realised that Moscow was trying to exploit regional unrest. Kissinger claimed that Moscow had prior knowledge of the invasion. Given such doubts about Moscow, US contingency planning focused on ways to prevent Soviet intervention in the Middle East through Syria. Richard A Mobley, *US Joint Military Contributions to Countering Syria's 1970 Invasion of Jordan* (OMB Report No 0704-0188, National Defense University, Institute for National Strategic Studies, 2009) 160, 167.

¹¹⁷ Sultan Barakat and Andrew Leber, *Fortress Jordan: Putting the Money to Work* (Brookings Institution, 2015) 1.

¹¹⁸ Nsour, above n 30.

¹¹⁹ Bashar H Malkawi, 'The WTO, Security and Peace: Are They Compatible, and If So, What is the Framework?' (2007) 8(2) *Journal of World Investment and Trade* 305.

¹²⁰ Steven E Lobell, 'The Second Face of American Security: The US–Jordan Free Trade Agreement as Security Policy' (2008) 27(1) *Comparative Strategy* 88.

¹²¹ Charles E Morrison and Eduardo Pedrosa, *An APEC Trade Agenda? The Political Economy of a Free Trade Area of the Asia-Pacific* (Institute of Southeast Asian Studies, 2007) 45.

However, in an attempt to address the development and reform priorities of Jordan, the country seems to face challenges. The strategic interests of the region also seem to be taking a different direction, leading to difficulties. Consequently, the following section addresses the current political realignments between the US and Saudi Arabia, and how Jordan stands to be negatively affected by these.

4.4 Changing the Course of the United States–led Western Alliances

Since the beginning of oil exploration in the Saudi Kingdom, the US and Saudi Arabia have shared an economic and complex security partnership.¹²² This began as a business relationship via oil exploration in the 1930s, which rapidly developed into a security partnership designed to defend against the threat of Soviet communism. The US began to view the Saudi Kingdom with increasing geostrategic importance during the early days of the Cold War, while Saudi Arabia benefitted from US military assistance for protection against regional threats.¹²³ After the fall of the Shah of Iran in 1979, the US struggled to find a new set of strategic relations in the Middle East. It sought to re-establish a new phase of stability to protect its allies in the region and safeguard its supplies of Arabian Gulf oil. Cordesman argues that the US's political and economic relations with the Gulf states are significant. While the statistics about estimating oil power are controversial and complex, they are critical to understanding the Western option in the Gulf and the crucial role of Saudi Arabia. Cordesman also states that the loss of Arabian Gulf oil could come at the cost of massive global economic and political stability.¹²⁴ Moreover, the US has another significant strategic interest—to maintain a balance with other hostile or radical Gulf states, such as the Islamic revolutionary regime in Iran and the Ba'ath Party in Iraq, especially when Iraq invaded Kuwait in the early 1990s. Iran and Iraq have also become significant to the US because of their independent oil export decisions that could pose a strong counterbalance pressure and influence in the region.¹²⁵

¹²² John S Hancock, *The Eagle in the Desert: The Origins of the US–Saudi Arabian Security Partnership* (Master of Arts in Security Studies, Naval Postgraduate School, 2015) 1.

¹²³ Ibid.

¹²⁴ Anthony H Cordesman, *The Gulf and the Search for Strategic Stability* (Westview Press, 1984) 3.

¹²⁵ Ibid.

However, both Jordan and the US have experienced low points in their relationship, with Jordan seeking to balance its role as a leader in the Arab region and strong ties with the US. Recently, President Trump was about to say that the US should not work to support the Saudi;¹²⁶ however, Trump's position changed after the Saudi Crown Prince Mohammed bin Salman made a cordial visit to the US. Saudi Arabia agreed to make changes in its political relations, military and economic relations with the US. The meeting was in the best interests of Saudi Arabia, since Trump revised the executive order banning the citizens of Somalia, Yemen, Sudan and Libya from entering the US.¹²⁷ The position of Trump towards Saudis was a great relief to Saudi Arabia. Trump considered that Saudi Arabia enjoys a privileged position in religious, geopolitical and economic terms—much more than Jordan. Saudi Arabia also has a powerful hand to play if tensions with the US and Islamic countries escalate. Saudi Arabia's vast oil reserves afford the most obvious advantage. Saudi Arabia is the world's largest oil exporter, giving it considerable influence in the global economy, as it has the power to push up oil prices. Initially, President Barack Obama banned the sale of US ammunition to Saudi Arabia because of civilian casualties that occurred during the Saudi-led raids in Yemen.¹²⁸ However, Trump ended this ban and allowed different companies to sell military systems to Saudi Arabia.

The turning point in Jordan–US relations began after Saudi Arabia's subdued reaction to Trump's decision to recognise Jerusalem as the capital of Israel, compared with the opposing Jordanian reaction at the popular and official level. The emotionless Saudi response to the decision and low level of Saudi representation at the summit on Jerusalem in Istanbul was construed as Saudi support for Trump's policy in the Middle East. In the meantime, Jordan's high-ranking officials participated in the summit, while the state and media dedicated their coverage to following the developments regarding Jerusalem.¹²⁹ The Jordanian political analyst Hassan Al-Barari articulates that observers believed that Saudi Arabia had prior knowledge of

¹²⁶ Alia Chughtai, 'US-Saudi Relations: A Timeline', *Al Jazeera* (2018) <<https://www.aljazeera.com/indepth/interactive/2017/05/saudi-relations-timeline-170518112421011.html>> (accessed 2 December 2018).

¹²⁷ Ibid.

¹²⁸ Phil Stewart and Warren Strobel, *US to Halt Some Arms Sales to Saudi, Citing Civilian Deaths in Yemen Campaign* (Web Page, 2016) <<https://www.reuters.com/article/us-usa-saudiarabia-yemen-exclusive/u-s-to-halt-some-arms-sales-to-saudi-citing-civilian-deaths-in-yemen-campaign-idUSKBN1421UK>> (accessed 2 December 2018).

¹²⁹ Mahmoud Abu Hilal, 'Jordan and Saudi Arabia in a Changing Region ... Is Amman Seeking New Alliances?', *Middle East Monitor* (2018) <<https://www.middleeastmonitor.com/20171215-jordan-and-saudi-arabia-in-a-changing-region-is-amman-seeking-new-alliances/>> (accessed 18 November 2018).

the American decision regarding the Jerusalem issue and dealt with the issue of Jerusalem as a card it could play in the context of its geopolitical competition with Iran, while, Jordan viewed the issue as an existential issue. .¹³⁰

The improving political relations between the US and Saudi Arabia are likely to significantly affect Jordan's relationship with the US, given Saudi Arabia's competitive advantage, compared with Jordan's limited resources and limited offerings to the US. Saudi Arabia provides a broader market for US machinery, weapons and vehicles, as it is more economically stable than Jordan. The realignments in political relations between the US and Saudi Arabia are likely to lead to more agreements and cooperation, since they stand to gain from each other.

After the US Central Intelligence Agency concluded that the Saudi crown prince ordered the killing of journalist Jamal Khashoggi,¹³¹ Trump stated the US would stand by Saudi Arabia. Trump also stated in November 2018 that the US intends to remain a steadfast partner of Saudi Arabia to ensure the interests of the US and the security of Israel. Therefore, the Trump administration will continue to support Saudi Arabia because, as stated by Trump, they do not want to risk losing the billions of Saudi dollars flowing into the US economy through weapons purchases and investments.¹³² In contrast, Jordan stands to lose in this arrangement, since the US has shifted its attention to Saudi Arabia and its programs, which may lead to a corresponding depreciation in (if not abandonment of) the relationship between the US and Jordan. Thus, the discussion above indicates that FTAs are employed as a political tool for various reasons. However, it also demonstrates how the mere signing of an FTA offers no guarantee that the political relations will permanently remain mutually favourable or even agreeable.

¹³⁰ Ibid.

¹³¹ Khashoggi is a prominent Saudi journalist who wrote for *The Washington Post's* global opinion section and was often critical of the Saudi government and Crown Prince Mohammed bin Salman's policy. He entered the Saudi consulate in Istanbul and has not been seen since. Trump shifted from expressing concern about the case to defending Saudi leadership. He stated that stopping arms sales to Saudis as punishment for Khashoggi's disappearance would be a 'tough pill to swallow'. See David Ignatius, 'The Khashoggi Killing Had Roots in a Cutthroat Saudi Family Feud', *The Washington Post* (28 November 2018) <https://www.washingtonpost.com/opinions/global-opinions/the-khashoggi-killing-had-roots-in-a-cutthroat-saudi-family-feud/2018/11/27/6d79880c-f17b-11e8-bc79-68604ed88993_story.html?utm_term=.75cd977d1b1f> (accessed 27 February 2019).

¹³² Jonathan Ernst, "'Maybe He Did, Maybe He Didn't': Trump Stands by Saudi Arabia Despite Khashoggi Murder', *ABC News* (21 November 2018) <<https://www.abc.net.au/news/2018-11-21/donald-trump-stands-by-saudi-arabia-jamal-khashoggi-murder/10517118>> (accessed 1 December 2018).

4.5 Trade and Political Relations with the United States: Economic Integration through International Trade

The discussion in this part examines trade cooperation through the FTAs that Jordan has entered with the US. The aim is to determine whether, through these agreements, Jordan has played a decisive role in the economic and political stability of the Middle East region. As argued above, the FTAs are substantial elements to enhance and maintain peace and security through achieving economic integration. Recently, the Middle East region has been marked by political instability, economic recession, civil wars and terrorism.¹³³ Arab Middle East countries, in addition to Israel, are faced with many of the same fundamental choices that challenged European countries after the World War II. This thesis argues that the Middle East countries, as well as global powers, still have the option to pursue peace and prosperity through liberalised trade and FTAs, which will lead to economic integration and continue to foster economic growth through international cooperation. The current perception of the future of the area, amid civil wars, revolutions and divisions, is not conducive to global harmony unless these countries take a new and severe path to end division by strengthening cooperation in all its forms.¹³⁴

Foreign trade is of great importance to achieving economic development, especially for countries that suffer from a lack of natural resources, such as Jordan. This trade also plays a substantial role in encouraging foreign investment and opening external markets, which has a positive influence on various aspects of economic, social and political matters that affect all areas of society.¹³⁵ International trade also plays a role in economic growth by increasing the specialisation of inputs in the national production procedure. Romer argues that increased foreign trade maximises the size of the domestic market, which influences the level of income welfare, alongside the rate of economic growth.¹³⁶ Likewise, Francisco states that foreign trade has a positive effect on national output and job opportunities. He further explains that the

¹³³ Anthony H Cordesman, *Stability in the Middle East: The Range of Short and Long-Term Causes* (Center for Strategic and International Studies in Washington DC, 2008) < <https://www.csis.org/analysis/stability-middle-east-range-short-and-long-term-causes> > (accessed 29 November 2018).

¹³⁴ Ibid.

¹³⁵ Ziad Mohammed Abu-Lila, 'A Panel Data Analysis of Jordan's Foreign Trade: The Gravity Model Approach' (2018) 10(1) *International Journal of Economics and Finance* 204.

¹³⁶ Paul M Romer, 'Endogenous Technological Change' (1990) 98(5) *Journal of Political Economy* 73.

country's export revenues can compensate the import payments, which increases competition in exports using technical development in production and thus leads to economies of scale and economic growth.¹³⁷ Imports are also a significant way for national institutions to acquire foreign technology through the transfer of knowledge and development from developed countries.¹³⁸ Therefore, the role of foreign trade is not only relevant to economic growth and increasing the level of welfare for society. International trade can also play a significant role in the political and cooperative relations between countries, helping strengthen friendly relationships and political stability.

Initially, the US did not have an interest in the Jordanian economy, before Jordan and Israel entered into bilateral arrangements in their peace process. Similarly, the US Congress was not interested in undertaking any steps to assist Jordan, especially since it refused to join the US coalition in the war against Iraq. However, after Jordan signed the Washington Declaration and a peace treaty in 1994, the US Congress developed an interest in the Jordan economy. The Washington Declaration between Jordan and Israel aimed to normalise bilateral relations, end the political woes and make Jordan a strategic partner in the region.¹³⁹ The US administration sought to reward Jordan economically for its initiative in promoting peace. The reward was in the form of economic and military assistance, as well as writing off Jordan's debt to the US.

The Jordan–US FTA received strong bipartisan support in the US Congress, who recommended open negotiations, which were successful. However, most US economic experts were against the agreement, as they thought it would slightly affect the US economy. However, the US press affirmed that the FTA would signify the country's strong commitment to Jordan.¹⁴⁰ Despite the US, economic and military aid to Jordan started before the Jordan–Israel peace treaty, the levels of assistance increased after the peace treaty to strengthen the Jordanian regime in the face of growing opposition against normalisation with Israel.¹⁴¹ After the FTA, the US continued to provide aid to Jordan through different initiatives. For instance, in 2018, the US administration

¹³⁷ Francisco F Ribeiro Ramos, 'Exports, Imports, and Economic Growth in Portugal: Evidence from Causality and Cointegration Analysis' (2001) 18(4) *Economic Modelling* 613, 623.

¹³⁸ Joy Mazumdar, 'Imported Machinery and Growth in LDCs' (2001) 65(1) *Journal of Development Economics* 209, 224.

¹³⁹ US Department of State, above n 21.

¹⁴⁰ See Al Nasa'a et al, above n 68, 4.

¹⁴¹ Timothy J Piro, *The Political Economy of Market Reform in Jordan* (Rowman and Littlefield, 1998) 158.

requested economic and military support of US\$1.275 billion per year in bilateral foreign assistance over five years, for a total of US\$6.375 billion.¹⁴² These funds were geared towards achieving economic and political stability in Jordan. This indicates how trade relations between Jordan and the US can be linked to the US military and economic support. Similar links between trade and political ties are also present in Jordan's relations with the EU.

4.6 Jordan–European Union Trade and Political Relationships

As a result of its essential role in promoting stability, moderation and inter-faith tolerance in the Middle East region, Jordan is considered a key partner for EU regional and bilateral levels in particular. Jordan has attempted to employ the moral authority of religion as a form of state productive power. It has done so via religious moderation, which has resonated in Western countries.¹⁴³ The EU and Jordan have a strong partnership across many sectors and have been linked through an association agreement since 2002. In 2010, Jordan became the first Mediterranean country to have official negotiations that led to the development of relations with the EU.¹⁴⁴ Collaboration under the EU–Jordanian priorities is structured with the aims of achieving economic stability; democratic and human rights; and regional stability, including fighting terrorism.¹⁴⁵

¹⁴² The total amounts of economic and military aid to Jordan since 1951, respectively. The total bilateral US aid to Jordan by 2016 amounted to approximately US\$19.2 billion. Sharp, above n 22.

¹⁴³ Stacey Gutkowski, 'We Are the Very Model of a Moderate Muslim State: The Amman Messages and Jordan's Foreign Policy' (2015) 30(2) *International Relations* 206, 226.

¹⁴⁴ European External Action Service, *Jordan and the EU* (Web Page, 2018) <https://eeas.europa.eu/delegations/jordan_en/1357/Jordan%20and%20the%20EU> (accessed 2 November 2018).

¹⁴⁵ Jordan endorsed most UN human rights conventions after establishing the National Centre for Human Rights (NCHR) in 2002. This body was aimed at facilitating Jordan's compliance with human rights conventions to ensure compatibility with its human rights obligations with the EU. The centre also worked to ensure that Jordanians were aware of their public freedom and democratic rights. These developments were essential to the development of negotiations with the civil society. See European Neighbourhood and Partnership Instrument, (Strategy Paper 2007–2013 and National Indicative Programme 2007–2010, EU Neighbours, South East, 2007) 1, 55.

The EU is also a significant trade partner of Jordan, as it is a significant source of imports for Jordan.¹⁴⁶ It is Jordan's largest trading partner, accounting for 17.4% of its total foreign trade in 2017, ahead of the US (13.4%). The EU–Jordanian trade in goods totalled €4.4 billion. Chemicals, textiles and clothing are the main imports to the EU from Jordan. The EU exports to Jordan are machinery and transport equipment, agricultural products and chemicals. The EU was interested in establishing a bilateral FTA with Jordan, and the EU–Jordan Association Agreement was the first step towards creating a wider regional Euro-Mediterranean free trade area.¹⁴⁷ This agreement laid the foundation for mutual tariff liberalisation of trade in industry and agriculture. It allowed Jordan to export its products to Europe duty-free. Recently, the EU simplified the rules of origin that Jordanian exporters use in their trade with EU countries, as part of broader support for Jordan in the context of the present Syrian refugee crisis. This support had the aim of creating job opportunities for Syrian refugees.¹⁴⁸

At the 10th EU–Jordan Association Committee, held in Amman in 2016, the EU confirmed its strong relations with Jordan in terms of politics, security and trade. In the margins of the committee meeting, a decision was reached to simplify the EU rules of origin that Jordanian exporters used in their trade with the EU. This allowed producers in Jordan to apply a more relaxed set of rules of origin for exports to the EU, which made it easier for Jordan to access the EU market and better use preferential access to the EU markets to strengthen the Jordanian resilience in facing the consequences of the Syrian refugee crisis, in which Jordan exerted great effort.¹⁴⁹ In addition, two conferences were held in 2017 and 2018 in Brussels to support the future of Syria and the region, with the aim of improving the living situations of Syrian refugees

¹⁴⁶ The EU is Jordan's largest trading partner, accounting for 17.4% of its trade in 2017. See European Commission, *Jordan—Trade* (Web Page, 2018) <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/jordan/>> (accessed 2 November 2018).

¹⁴⁷ With the aim of strengthening relations between EU countries and Mediterranean countries, the Euro-Mediterranean Partnership was established in 1995. It is a multifaceted partnership, encompassing politics, security, economics and finances, as well as social, human and cultural affairs. Its objective is to increase cooperation to create more prosperity through 'the stimulation of the socio-economic development of the MNCs, the improvement of the living conditions of Mediterranean people and through regional integration and cooperation'. With this aim, both the EU and Mediterranean partners agreed to establish a comprehensive Euro-Mediterranean free trade area by 2010. See Ferdi De Ville and Vicky Reynaert, 'The Euro-Mediterranean Free Trade Area: An Evaluation on the Eve of the (Missed) Deadline' (2010) 356(2) *Centre International de Formation Européenne L'Europe en Formation* 193.

¹⁴⁸ The Government of Jordan, the EU and the UN, Supporting the Future of Syria and the Region (Conference Paper, Brussels II Conference, Brussels, April 2018) 1, 8.

¹⁴⁹ European Commission, *EU-Jordan: Towards a Stronger Partnership* (Press Release, 2016) <http://europa.eu/rapid/press-release_IP-16-2570_en.htm> (accessed 5 March 2019).

in Jordan and their host communities.¹⁵⁰ Through its strong political and trade relations with the EU, Jordan has assisted in achieving a stabilised political and economic environment in the Middle East region. Through the EU–Jordan trade partnership, Jordan has stood with the international community to mitigate the effects of the Syrian war on refugees via the creation of jobs, with the assistance of the EU.

The EU supports its interests by operating as a global economic and political player to enhance its continental power by developing common foreign and security policy. However, the EU remains an economic power only, and its foreign and security policies have little influence in the Middle East region, in comparison with the US. Some of the shortcomings in the EU’s external policies derive from the difficulties in reaching a comprehensive consensus among members.¹⁵¹ Through the Euro-Mediterranean partnership, Jordan became a crucial player in this partnership, after accepting the association agreement terms.¹⁵² The agreement provided a complete outline for commercial, governmental and social scopes to the EU–Jordan partnership. The EU was a great support to Jordan to ensure it achieved a stabilised political and economic environment. Through the EU–Jordan FTA, Jordan stood to gain more benefits, since it could freely import and export its products to many developed countries in Europe.¹⁵³

The endorsement of the European Neighbourhood Policy assisted Jordan to integrate at the economic, political and security levels, where Jordan was able to participate in resolving conflicts in the region. The EU–Jordan Association Council recommended a joint action plan that focused on political dialogues, social issues and trade relations. The EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini, stated that ‘Jordan is a key partner for the EU in the region. We share the same views on key regional issues, the situation in Iraq and the Syria crises’.¹⁵⁴ She also stated that Jordan had, for many

¹⁵⁰ Virginie Battu, *Supporting the Future of Syria and the Region* (Conference Paper, Brussels Conference, 24–25 April 2018) <<https://www.consilium.europa.eu/en/meetings/international-ministerial-meetings/2018/04/24-25/>> (accessed 2 November 2018).

¹⁵¹ Derek E Mix, *The European Union: Foreign and Security Policy* (Congressional Research Service, 2011) vol 25.

¹⁵² See European Commission, above n 146.

¹⁵³ Ibid.

¹⁵⁴ *Report on EU-Jordan Relations: Stronger Partnership and Good Track on Jordan’s Reform Agenda* (Web Page, 2017) <https://www.europa-nu.nl/id/vkf2faqhvczj/nieuws/report_on_eu_jordan_relations_stronger?ctx=vh1anh57c4kn&tab=0> (accessed 2 December 2018).

years, been performing generous and invaluable work to host refugees from neighbouring countries, and working to enhance the stability of the entire region.¹⁵⁵ Moreover, Jordan and the EU have strengthened their political relations by uniting to fight terrorism and violent extremism. In a counter-terrorism workshop held on 15 March 2016, both parties agreed to counter the financing of terrorists, stop violent extremism and provide border security through the EU's particular agencies. The EU and Jordan also agreed to cooperate in dealing with human trafficking, firearms smuggling and foreign terrorists.¹⁵⁶ Thus, it is evident that these FTAs are only one element of the broader political and economic strategy of the participants.

4.7 The Historical Links between Trade Relations and Stability

The discussion above indicates that trade relations through FTAs also function as political instruments that the participants use to create stable and peaceful geopolitical conditions. The idea that free trade is a significant basis to promote peace and stability is not novel. Peaceful and stable relations are the natural outcome of trade flow between countries, since mutual national gains motivate trade exchange for both parties. Angell argues that countries that engage in trade will improve peaceful relations because conflict will cause a potential reduction of their welfare gains from trade.¹⁵⁷ However, Lenin assumes that trade may increase the level of bilateral political conflict because trading countries compete over limited markets and scarce natural resources.¹⁵⁸

The links between trade relations and stability include that it can promote job opportunities, which will enhance the national product and thus lead to higher standards of living. Therefore, security and peace are the dividends that develop and make countries wealthy. In addition, free trade, economic development and international economic cooperation provide the necessary

¹⁵⁵ Ibid.

¹⁵⁶ *Report on EU–Jordan Relations in the Framework of the Revised ENP* (Joint Staff Working Document, Brussels, SWD, 13 June 2017) 1.

¹⁵⁷ Norman Angell, *The Great Illusion: A Study of The Relation of Military Power in Nations to Their Economic and Social Advantage* (Putnam, 1910).

¹⁵⁸ Rafael Reuveny and Heejoon Kang, 'Bilateral Trade and Political Conflict/Cooperation: Do Goods Matter?' (1998) 35(5) *Journal of Peace Research* 581, 602.

ground for stability and peace between countries.¹⁵⁹ Countries that have developed strong trade connections through trade liberalisation have reduced the potential for conflicts among themselves. Peace may be occurring because of trade exchanges and economic relationships between countries. It is arguable that there is an encouraging link between the expansion of trade and peace.¹⁶⁰ The theory of trade liberalisation states that wars and conflicts are less likely to occur between countries that have already developed a strong trade connection.¹⁶¹ Thus, the removal of trade barriers and establishment of equality in trade conditions among countries promote peace.¹⁶² Weede argues that trade relations can reduce the likelihood of war between countries more than democracy or other commonly posited liberal factors.¹⁶³

It is evident from the above discussion that the Jordan–US FTA is an example of US foreign policy. The aim of the US administration was to connect Jordan with Israel and with the US through trade exchanges. Moreover, the broader objective is to enlarge this policy to the countries surrounding Jordan and bind other Middle Eastern countries to establish relations with Israel through trade, and use this as a basis for regional peace and stability. Polachek also argues that international trade promotes peace, since the cost of being at war can increase with the level of trade. After a given level of trade, countries simply cannot afford the trade costs of a conflict; consequently, they will find other ways to continue trading.¹⁶⁴

The interests of the general population cannot be separated from the nation's foreign policy. Although governments are the main actor in international relations, they are not the only actor when it comes to external trade. People in different countries are also linked indirectly through trade exchanges. These links among people strengthen their relations and help promote opportunities for peace, friendly relations and stability, especially if the countries are in the same region. Thus, further economic integration, as well as more stability, can result. FTAs are essential factors influencing international relations among countries, since they affect

¹⁵⁹ Malkawi, above n 119, 304.

¹⁶⁰ Philippe Martin et al, 'Make Trade Not War?' (2008) 75(3) *The Review of Economic Studies* 865, 900.

¹⁶¹ Bruce Russett, *Grasping the Democratic Peace: Principles for a Post-Cold War World* (Princeton University Press, 1994) 4.

¹⁶² Ibid.

¹⁶³ Erich Weede, 'The Diffusion of Prosperity and Peace by Globalization' (2004) 2(9) *The Independent Review* 165, 186.

¹⁶⁴ Solomon W Polachek, 'Conflict and Trade' (1980) 1(24) *Journal of Conflict Resolution* 56.

economic development through the exchange of experiences. Trade flows between countries are also influenced by the quality of political relations. Polins finds significant support for the argument that trade flows are influenced by the wider political relations of amity and enmity between countries. He concludes that countries regulate trade relations to satisfy security, as well as economic welfare aims, and that a formal political economy of trade should reflect this fact.¹⁶⁵

The MFN principle requires WTO members to treat all other members equally under the WTO agreement, so that the countries cannot discriminate between their trading partners. In addition, the national treatment principle requires WTO members to treat foreigners and locals equally, with imported and locally produced goods also to be treated equally.¹⁶⁶ Article XXI of the GATT relates to traffic in war materials and non-military products for supplying military organisations. It justifies arms control and gives countries the power to cease arms exports. It also provides for the imposition of restrictions in furtherance of world peace and security.¹⁶⁷ These provisions of the GATT and WTO imply that one of the purposes of establishing the GATT and WTO was to maintain international peace and security and deter conflicts between countries.

International trade is undoubtedly a significant factor affecting international relations between countries. Free trade affects economic developments, which in turn will strengthen bilateral relationships, as good economic and trade relations enhance political connections, and vice-versa. Polins finds support for the suggestion that the quality of political relations influences trade flows between countries, and trade exchange between countries is often affected by the vagaries of interstate conflict. Moreover, changes in political relationships affect trade connections.¹⁶⁸ Trade relations between countries are considerably influenced by foreign policy and conflicts. For example, trade relations between the US and Iran deteriorated because of the reorientation of Iranian foreign policy following the Islamic revolution, which is hostile to the US foreign policy in the Middle Eastern region. Similarly, trade relations between England and

¹⁶⁵ Brian M Pollins, 'Conflict, Cooperation, and Commerce: The Effect of International Political Interactions on Bilateral Trade Flows' (1989) 33(3) *American Journal of Political Science* 737, 761.

¹⁶⁶ Ibid.

¹⁶⁷ WTO, *Legal Texts—Marrakesh Agreement* (Web Page) <https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm> (accessed 9 November 2018).

¹⁶⁸ Brian M Pollins, 'Conflict, Cooperation, and Commerce: The Effect of International Political Interactions on Bilateral Trade Flows' (1989) 3(33) *Midwest Political Science Association* 737, 761.

Argentina plummeted following the Falkland Islands conflict.¹⁶⁹ The foreign policy of any nation is an expression of the country's political leadership. It results from the internal and external factors that influence the determination of the political orientation in relations with other countries and international organisations and their decisions. Moreover, such policy is affected by the changing local, regional and international circumstances.¹⁷⁰

The elements that formed the US policy towards Jordan include the geopolitical location of Jordan, the ideology of the moderate Jordanian regime, the regional security dimension and the future of Arab–Israeli relations. The 1994 Jordan–Israel peace treaty, which was under US sponsorships, markedly enhanced the bilateral relations between the two countries. The Jordan–US FTA and QIZ agreement aimed to improve the Jordanian economy, as well as strengthen the position of the Jordanian government internally against the opponents of normalisation with Israel. The assumption was also that the Jordanian and Israeli customs officers would engage in interpersonal interactions, resulting in understanding and friendship. The US has adopted a neoliberal view that believes that stronger economic relations will bring about peace and stability in the Middle East.

The Jordanian foreign policy is moderate and closer to those of the West; more specifically, Jordan has close relations with the US.¹⁷¹ Further, the relations between the US and Jordan have long been linked with the US relations with Israel. Jordan has the longest border with Israel; therefore, the relations cannot be understood without understanding the position of the Israeli–US relations. However, these relations were strained in the early 1990s when Jordan declared its neutrality in the Gulf War and maintained its relations with Iraq. This led to a deterioration of the relationship between the US and Jordan that affected trade relations between the two countries for several years. The worsening of the relationship with some Arab countries, especially the Gulf states, also affected their trade exchanged with Jordan. For example, the Kuwait crises caused a damaging effect on the Jordanian economy.¹⁷²

¹⁶⁹ Ibid.

¹⁷⁰ Michaela Mattes et al, 'Leadership Turnover and Foreign Policy Change: Societal Interests, Domestic Institutions, and Voting in the United Nations' (2015) 59(2) *International Studies Quarterly* 280, 290.

¹⁷¹ *Jordan–US Relations Overview* (Web Page) <<http://www.jordanembassyus.org/page/jordan-us-relations-overview>> (accessed 2 December 2018).

¹⁷² Ziad Swaidan and Mihai Nica, 'The 1991 Gulf War and Jordan's Economy' (2002) 6(2) *Rubin Center for Research in International Affairs* <<http://www.rubincenter.org/2002/06/swaidan-and-nica-2002-06-07/>> (accessed 2 December 2018).

Jordan continued to call for an end to the international embargo on Iraq. In addition, while inviting the UN staff of the Oil-for-Food Programme in Amman,¹⁷³ Jordan played a significant role in implementing the program. Through the trade exchange of goods that were allowed to be imported to Iraq, Jordan also played an essential role in the economic and political stability of the region. Through the participation of Jordan in the Middle East peace process, signing the Washington Declaration (between Jordan and Israel) made Jordan a strategic ally in the region. Jordan continues to work hard to restore stability in the region. Currently, great efforts by Jordan are underway to reopen the closed border crossings with Syria and Iraq to return the movement of trade exchanges and travellers. These efforts have been successful, but only in part. Therefore, through trade exchange with these unstable neighbour countries, stability and peace could return to the region, even if only partially, given the other regional challenges. Trade exchange must be considered a cornerstone for restoring stability. However, the country seems to have challenges at the regional level that are greater than its capabilities to propagate an active international trade system in the region.

Jordan has a good governance system that is always seeking peace and stability; however, what it lacks is an economic power, which sometimes reduces its strategic value. This is where the relevance of FTAs becomes evident. Via firm political relations, as well as FTAs with industrialised countries, Jordan should enjoy great economic growth potential. However, the country has been unable to develop its economy because of the unstable regional situation and changing trends in Western interests in the region. Since the Jordan–US FTA, the country has experienced some decrease in poverty levels, increased wellbeing and raised income standards. However, the unemployment rates in Jordan remain high, despite some economic growth indicators. The US and other economic giants no longer wish to invest in a country where 18.9% of the population is unemployed.¹⁷⁴ Most job seekers in Jordan give up and exit the labour market after a long unsuccessful job search. In the WB rankings in doing business, Jordan registers poor performance, meaning that the situation of national businesses is on the low. In 2018, Jordan ranked 10th in the region in terms of ease of doing business and reforming to create job opportunities, and Jordan's position internationally stood at 118 of 190

¹⁷³ The Oil-for-Food Programme was established by the UN in 1995 (under *UN Security Council Resolution 986*). UN Office of the Iraq Program, *Implementation of Oil-for-Food: A Chronology* (Web Page) <<http://www.un.org/Depts/oip/background/chron.html>> (accessed 2 December 2018).

¹⁷⁴ *Jordan Unemployment Rate | 2018 | Data | Chart | Calendar | Forecast | News* (2018) Trading Economics <<https://tradingeconomics.com/jordan/unemployment-rate>> (accessed 2 December 2018).

economies.¹⁷⁵ For Jordan to restore its lost glory, it has the task ahead of improving its domestic sector to become competitive with its trading partners, reducing unemployment rates by developing peace in the Middle East region.

Thus, it may be argued that the negative outcomes on the Jordanian economy indicate the West's motives in the Middle East region and that the Jordan–US FTA was implemented to reward Jordan for only a specific service, not as a strategic economic partnership. However, it is argued that Jordan is still the best ally for the implementation of peaceful strategies in the Middle East region. Jordan should plan and invest in its strategic importance in the region with the aim of generating an intensive and coordinated dialogue with Western trade partners that will propel the country forwards. This requires a revised emphasis on creating a robust economy in Jordan, and this study argues that FTAs have a unique role to play in this goal; however, it is also essential that Jordan be aware that the economic rhetoric of free trade does not overpower every other consideration.

Therefore, the next chapter discusses how Jordan's liberalisation of the economy is a significant step towards the broader integration of the Arab world with international trade regimes. Jordan entering trade agreements with its geographical neighbours in the Middle Eastern region will make explicit the links between global and local trade relations and their respective importance for stable political regimes.

4.8 Conclusion

Economic integration has become the way for countries to advance their economies and achieve wellbeing, and thus political stability, to live in peace. This chapter has examined the Jordanian trade relations with industrialised countries—primarily the US—to understand how economic and trade relations have improved. The analysis demonstrated that the developments were not in favour of Jordan's economic advances, as expected. The interactions between trade and the political outcomes of the ostensibly economic tool of FTAs were noticeable. This chapter sought to understand this situation by analysing FTAs and arguing that they should be

¹⁷⁵ 'Jordan's Rank Expected to Rise in Doing Business 2018 Report', *Jordan Times* (2018) <<http://www.jordantimes.com/news/local/jordan%E2%80%99s-rank-expected-rise-doing-business-2018-report>> (accessed 29 November 2018).

understood as more than economic tools. Industrialised countries do not respond to the needs of Jordan as an equal trading partner because the process was originally not symbiotic. This chapter has explored that Jordan plays a limited role in both the economic integration of the Arab region with the rest of the world and the political stability of this region, as the political and security developments in the region affect trade practices in general. Therefore, the results of FTAs should be evaluated from both a political and economic perspective. Accordingly, defining the political challenges that Jordan faces in its relations with its regional partners is important, and it could then be possible to make these agreements more meaningful and thus more responsive to the needs of countries in the Middle East region, including economic integration and peaceful coexistence.

This thesis acknowledges that FTAs are an important means for promoting economic development and integration, but they also depend on the regional environment and political ties between countries. This thesis finds that most of the literature justifies FTAs as a tool of trade, rather than in relation to politics. This thesis goes a step further by clarifying that, in addition to their economic aspects, the political aspects of FTAs are also important. Thus, this thesis underscores the need to recognise the importance of the economic and political dimensions of FTAs. The reason behind this argument is the particular significance of the political dimensions in launching and shaping FTAs. The experience of the Jordan–US FTA tends to suggest that Jordan did not realise and appreciate the consequences of the political aspects behind the FTA. This discussion further demonstrates that developed countries, such as the US, rely on the economic side of FTAs to advance their economic and politico-strategic interests, which more often than not disadvantage developing countries, such as Jordan, and the type of FTAs entered by Jordan with the US may not necessarily be economically and politically beneficial for developing FTA partners.

Chapter 5

Jordan and Its Arab Trading Partners

5.1 Introduction

Jordan's liberalisation of the economy is a significant step in the broader integration of the Arab world with international trading regimes. Chapter 4 demonstrated that an essential aspect of the Jordan–US FTA is that it has enabled both countries to follow their political aims of creating geopolitical stability in the Middle East region. The same is also true for Jordan entering trade agreements with its geographical neighbours in the Middle East region. This thesis seeks to make explicit the links between global and local trade relations and their respective importance for stable political regimes in the Middle East. The trade relationship between Jordan and its neighbours is an integral part of the links between the WTO multilateral trading system and Middle East regional trading regime.

This chapter focuses on the economic integration of Jordan with Arab countries through trade liberalisation. It aims to illustrate further the primary argument of the thesis that Jordan's liberalisation of the economy is a significant step in the broader integration of the Arab world with international trade regimes. The chapter pursues this aim by examining whether trade agreements have played a part in the economic and political spheres of this geographical region. It makes recommendations to improve the economic and political integration both among Arab Countries themselves and between these countries and the rest of the world. This chapter argues that intra-Arab trade is performing below the level it could achieve, and that Arab Countries have numerous economic strengths and opportunities that, if well exploited, could make them a powerful economic force in the world.

This chapter is divided into three main parts. The first section begins with an analysis of the historical context of international trade in the Arab region, from prior to the establishment of the GATT until the present. It shows how Arab Countries have changed their situation towards the new liberalised international trading regime, and analyses the specific regional trade agreements in the Arab region, such as the GAFTA and Agadir Agreement. Further, it explores whether and how Jordan has played any significant role in the economic integration and political stability of the Arab region.

The second part focuses on the Jordanian trade and political relationships with its Arab neighbouring countries—namely, Saudi Arabia, Iraq and Syria.¹ These are the three countries where Jordan has had the most frequent and intense regional politico-economic interactions. Thus, they provide a basis for examining and contrasting how economic factors may have played a role in bilateral political relations and how Jordan has positioned itself in the ongoing Arab regional economic integration through trade liberalisation. Further, this part questions whether this process of integration in the broader trading platform has been domestically viable, and how it has reshaped the domestic economy of Jordan. This part investigates whether this development of the trading relationship has worked in favour of the regional Arab economic and political integration.

The final part identifies the reasons for the weakness of economic and political integration between Arab Countries.² The analysis explains the importance of economic integration among Arab Countries and their regional interests that should defend to achieve the desired level of economic integration. The chapter concludes that Arab Countries should work seriously to implement the GAFTA to reach the pursued goal of Arab economic integration so that the region is ready for equivalent economic integration with the global economy.

Developing countries' trading regimes cannot be the same as those of developed countries, who always negotiate for their own benefit. In every trade liberalisation with developed countries, Jordan and other Arab countries should follow the pursuit of 'national interests', as no state establishes a trading relationship for entertaining, but for national economic gains. As a background context to the discussions in this chapter, it is useful to briefly discuss here the concept of economic integration. Economic integration passes through many stages to reach the level of monetary union, which is considered the decisive station in this integration. It begins from the free trade area, where the goods and services exchanged between the contracting countries are released, followed by implementing the CU, which serves as a unified customs wall towards the other parties, and includes the free movement of goods, capital and

¹ Jordan has sought increased regional and international economic integration via the expansion of inter-regional trade, thereby achieving higher GDP growth rates.

² Arab countries face many obstacles in improving regional trade; however, their economic integration is critical to protect them from negative effects and financial crises, and address the challenges of an increasingly integrated global economy. The Arab economic integration is an effective strategy for promoting the growth and economic development of these countries.

labour. This paves the way for the coordination of trade and economic policies to reach the stage of the economic union and the decisive step of the monetary union.³

The aims of economic integration are also of a political character.⁴ This does not mean that economic factors are not considerable, yet it draws attention to the fact that politics should be considered, especially in the case of the Arab economic integration. The earlier Arab integration experiments were politically motivated—they sought to use economic cooperation as a mechanism for political integration.⁵ Economic integration essentially involves the gradual elimination of discriminatory barriers between economies, aimed at improving the economic performance of countries. Thus, economies will not be integrated unless all avenues of trade are open to all and the rewards for productive services are equal, thereby stimulating cooperation as well as harmonisation, and ensuring optimal functioning and development of the economies as a whole.⁶

The search for regional economic integration started subsequent to the World War II. Since then, the world economy has faced deep and rapid development. These changes have internationally, regionally and locally been transforming international politics and the global economic and social systems. Numerous international organisations—notably, the GATT and WTO, the IMF and the Arab League—aim to promote international and regional trade by eliminating trade barriers. Regional trade liberalisation is often seen as a vehicle for global trade liberalisation. Both industrialised and developing countries have embarked on such regional, and even sub-regional, economic integration. During the post-World War II period, developed countries followed a trend towards promoting economic integration. This trend aimed to enlarge areas of their external trade and increase levels of economic collaboration among themselves. As a result, several regional economic groups were formed to eliminate trade barriers in their regions only, while maintaining these barriers with outside countries. An early example is the European Market in 1958, which initially consisted of the six European coal and steel organisation countries, and was developed later to be a comprehensive European

³ Elias T Ghantus, *Arab Industrial Integration A Strategy for Development* (British Library Cataloguing, 1982) 18.

⁴ Robert L Allen, 'Integration in Less Developed Areas' (1961) 14(3) *Kyklos* 315, 336.

⁵ It can be presumed that, in addition to political considerations, the driving force behind this movement was the potential economic gains made possible by pooling markets and sharing experiences in the use of natural resources.

⁶ See Ghantus, above n 3, 17.

Economic Union.⁷ The success of the EU inspired other regional economies and encouraged them to move forwards in the hope of achieving economic integration along similar lines to the EU.

Trends towards economic integration have also occurred between developing countries, such as the Latin American Free Trade Association,⁸ the Customs and Economic Union for Central Africa,⁹ the Free Trade Agreement of the Association of Southeast Asian Nations (ASEAN) and the Free Trade Agreement of the South Asian Association of Regional Cooperation. Therefore, the formation of economic associations has continued steadily at the international level, making this period rich in movements towards forming large economic groups and formulating an integrated global economy.

Arab Countries have also sought to find their way within a new international economic order that promotes economic integration in the form of economic groups. Economic integration among Arab Countries, if built on an appropriate basis, could lead to a new economic system that is compatible and effective concerning the economic advancement of these countries.¹⁰ Thus, it is worth investigating whether Arab Countries could create an economic group that would result in an appropriate form of economic integration. Such integration might enable Arab Countries to employ their different economic abilities, come to terms with the new international economic conditions, and be beneficiaries of the new international economic regime in ways and means other than mere exports of raw materials.¹¹

⁷ The union was established in 1952, when it was agreed that the six countries that signed the Treaty of Paris—Belgium, France, Italy, Luxembourg, the Netherlands and West Germany—would pool their coal and steel resources. See Hans A Schmitt, ‘The European Coal and Steel Community: Operations of the First European Antitrust Law, 1952–1958’ (1964) 38(1) *The Business History Review* 102, 122.

⁸ The agreement was created at the end of the 1950s between Argentina, Brazil, Chile, Columbia, Ecuador, Uruguay, Paraguay, Peru and Mexico. See Frank E Nattier, ‘The Latin American Free Trade Association (LAFTA)’ (1966) 21(2) *The Business Lawyer* 515, 539.

⁹ The agreement was established in 1962 between the Congo, Gabon, Cameroon, the Republic of Central Africa and Chad. See M L Marasinghe, ‘A Review of Regional Economic Integration in Africa with Particular Reference to Equatorial Africa’ (1984) 33(1) *The International and Comparative Law Quarterly* 39, 56.

¹⁰ In a wider regional context, Arab countries’ capabilities and economic strengths should allow them to play a more central role in regional and global economic cooperation.

¹¹ Trade liberalisation improves economic growth, especially when combined with investment liberalisation policies. It is also important to liberalise Arab trade through export promotion strategies, tariff reductions and the adoption of regional and international trade preferential agreements.

5.2 Historical Context of International Trade in the Arab Region

It has been almost a century of repeated attempts to implement projects of Arab economic and political integration, but these attempts thus far have remained only plans. This section provides a brief overview of the historical attempts at Arab economic and political integration, followed by an enumeration of the various reasons for the failures of these attempts.

Since gaining their political independence at the end of the World War II, the integration of Arab Countries has been a persistent issue. Yet it is useful to note that Arab Countries were historically one political entity and one economic structure, from the emergence of Islam until the collapse of the Ottoman Empire in 1918.¹² However, the short interwar colonial experience at the beginning of the twentieth century left a permanent separation mark on the entire Arab region. The concept of nation states introduced during the colonial period led to the formation of separate Arab states. Ever since, the hope of unifying the Arab political identity has remained elusive. Nonetheless, efforts towards greater economic collaboration have been continuing.¹³

Since the establishment of new Arab entities, the intra-Arab trade has been a relatively minor part of the total Arab trade, both in absolute terms and relative to other regions. The Ottoman Empire disintegrated following the World War I,¹⁴ and the region of the empire that had been referred to as Syria prior to the war was shared between Britain and France. Palestine and Transjordan became a British mandate, while the remainder of the region, which included Syria and Lebanon, was placed under French mandate. Iraq also became a British mandate, while Egypt, which had formally become a British protectorate in 1914, was declared an independent country in 1922. Yemen similarly became an independent country following the World War I. As the Arabian Peninsula, the Kingdom of Saudi Arabia was established in 1932 on the land of Hijaz and Najd, while Kuwait continued after the World War II to effectively be a British protectorate.¹⁵

¹² Tarek Osman, 'The Map That Caused a Century of Trouble', *BBC News* (14 December 2013) <<https://www.bbc.com/news/world-middle-east-25299553>> (accessed 25 March 2019).

¹³ Arab countries share the same language, culture, religion and political history; nevertheless, their economic and social developments are very different. They constitute a heterogeneous group, with some Gulf countries having very high GDP levels, while others (such as Jordan, Yemen and Syria) have much lower GDPs.

¹⁴ Marian Kent, *The Great Powers and the End of the Ottoman Empire* (Routledge, 2005) 9.

¹⁵ Christopher M Blanchard, *Saudi Arabia: Background and US Relations* (Diane Publishing Company, 2009) 2.

Following the establishment of these new political bodies under the Sykes-Picot Agreement,¹⁶ which was used to divide the Middle East into the colonial powers' rule, separate customs territories with different units of currency were established in the region. The import tariff applied to most products in the region continued until 1924 to be the old Ottoman rate of 8 to 11%.¹⁷ Although separate customs territories with a different unit of currency were established in the region, the mandatory powers acknowledged the actuality of economic relations between the Arab territories, since the region had been united for hundreds of years. Thus, agreements were established by the mandatory powers providing free trade between Palestine, Syria, Lebanon and Jordan. Trade agreements governing trade relations between Jordan, Syria and Palestine were concluded by Jordan with Syria in 1923 and with Palestine in 1928.¹⁸ The agreements confirmed the form of trade relations that have existed between territories.

In addition to the FTAs between Jordan, Syria and Palestine, there were other attempts to maintain and enhance trade and economic relations among the Arab region. For example, products from Nejd and Hejaz were exempt from tariffs when imported into Jordan and Syria. Egypt also concluded provisional MFN agreements with Jordan, Syria and Palestine in 1928.¹⁹ As a result of these trade arrangements in the Arab region, intra-Arab trade was supposed to constitute a considerable part of the total trade exchanges. However, the increase in commercial transactions between Arab regions was short-lived, as they were oriented towards the economies of the mandate powers that linked and channelled trade to and from Britain and France. For example, more than half of Iraq's imports and exports during the mandated time came from and went to Britain, and a large percentage of the imports and exports of Jordan and Palestine emanated from Britain.²⁰ Meanwhile, France was the leading exporter to Syria and Lebanon.²¹ As a result, intraregional trade decreased and the regional markets were weakened

¹⁶ Australian Institute of International Affairs, *Obsession with Sykes-Picot Says More about What We Think of Arabs Than History* (Web Page) <<https://www.internationalaffairs.org.au/obsession-with-sykes-picot-says-more-about-what-we-think-of-arabs-than-history>> (accessed 26 March 2019).

¹⁷ Alfred G Musrey, *An Arab Common Market, A Study in Inter-Arab Trade Relations, 1920-67* (Prager Special Studies in International Economic and Development) 10.

¹⁸ Ibid, 11.

¹⁹ Ibid, 10.

²⁰ Ibid 13, 15.

²¹ Geoff Simons, 'The Impact of Western Imperialism in Iraq, 1798-1963', *Global Policy* (2002) <<https://www.globalpolicy.org/component/content/article/169-history/36399.html>> (accessed 13 March 2019).

by the depression and high tariffs imposed by the colonial powers and other trade restrictions, thus limiting trade exchange between the emerging Arab entities.²² This thesis argues that, historically, this period was the beginning of the Arab economic disintegration.

The features of regionalism were evident in the Arab region during the period of the World War II. The decrease in trade exchange was notable, except for a few small barter transactions—chiefly foodstuffs.²³ The commercial activity was also complicated by the different currencies adopted in the region by the colonial authorities. The primitive methods of exchanging goods between the Arab regions and the lack of transportation facilities also contributed to the steep drop in trade between Arab Countries.²⁴ There are various other reasons for this failure, as discussed below.

The failure of the Arab economic integration subsequent to the World War II reflected the lack of cooperation and coordination between Arab Countries in numerous matters. This also revealed the role of mandate powers in the region, and indicated the economic differences and needs of each country to favour economic measures that conformed with the prevailing interests in their economies—for example, agriculture and industry were common in Syria, while trade and services were common in Lebanon. Moreover, other reasons explain why intra-Arab trade is relatively modest, and some of these are politics related.²⁵ In theory, the high level of tariffs and other trade obstacles in some Arab countries, as well as political disputes, could be overcome. In contrast, other obstacles are not easy to overcome, such as the lack of product complementarity and the differences in per-capita income, which may encourage more trade with locations outside the Arab region.

²² Roger Owen, 'Inter-Arab Economic Relations during the Twentieth Century: World Market vs. Regional' in Michael C Hudson (ed), *Middle East Dilemma: The Politics and Economics of Arab Integration* (Columbia University Press, 1999) 1.

²³ Ibid, 2.

²⁴ The colonial power made every effort to take over economic relations with their mandates and protectorates by linking their currencies, acting as sole providers of credit, and seeking to ensure that all major contracts for public works and public utilities were awarded to their own nationals. Ibid.

²⁵ Structural differences among Arab countries have complicated regional economic integration. The large disparities in wealth, especially between rich countries with low population density and high-density poor countries, tend to impede Arab integration. External influences and alliances have also strongly affected intraregional divisions, hampering the progress of economic integration. See Matteo Legrenzi and Marina Calcutti, *Regionalism and Regionalisation in the Middle East: Options and Challenges* (International Peace Institute, 2013) 1, 10.

The Arab region then faced another challenge that disrupted its political and economic integration—the deterioration in trade relations among Arabs was influenced by the hostility that developed following the establishment of Israel in 1948 on the Palestinian territory.²⁶ In the wake of these hostilities, a complete prohibition on trade and economic relations between Arab Countries and Israel was imposed. The establishment of Israel constituted the most significant blow to intra-Arab trade, as Palestine was an integral part of the economic life of the entire Middle East region. Before and during the World War II, a preferential trade area existed, consisting of Palestine, Syria, Lebanon and Jordan.²⁷ Moreover, Egypt's sole trade way to Jordan, Iraq and Syria had been through Palestine.

In Palestine, a large amount of industrialisation occurred during the World War II. As a result, it became the supplier of many manufactured products to other Arab regions and, in turn, consumed large quantities of raw materials and foodstuffs from other Arab areas. A large part of the increase in intra-Arab trade was the export of oil from Iraq to Europe via the port of Haifa and to refineries in Palestine. Palestine was re-exporting refined petroleum products to Jordan, Syria and Iraq. In addition, through the same Palestinian port, the countries of the region were importing their basic needs from Europe and Egypt.²⁸ Palestine was supposed to be the nucleus of the Arab economic integration in the Middle East region. Thus, the loss of Palestine was not only a political catastrophe for the Arab world, but also a significant economic setback.

The fighting over Palestine, difficulties in political relations between the new Arab countries, economic challenges after the war and various other factors have negatively affected intra-Arab trade and economic integration. Moreover, quantitative restrictions (quotas) were applied within virtually a no-preferential framework for intra-Arab trade to increase governmental revenue, protect domestic agricultural and industrial establishments. The hopes of the Arab economic integration faded because the value of trade within the Fertile Crescent regions²⁹ and between these regions and Egypt decreased because of Israel's establishment, while the

²⁶ Tal Becker, *The Claim for Recognition of Israel as a Jewish State A Reassessment* (The Washington Institute for Near East Policy, 2011) 7.

²⁷ The Damascus-based Central Boycott Office—a specialised bureau of the Arab League—has administered the boycott of Israeli companies and Israeli-made goods since the founding of Israel in 1948. See Martin A Weiss, *Arab League Boycott of Israel* (Congressional Research Service Report RL33961, 2017) 1, 9.

²⁸ See Musrey, above n 17, 35.

²⁹ An agricultural region extending from the Levant, including Syria, Lebanon, Palestine and Jordan to Iraq.

increase in trade with colonial countries was mainly responsible for the relatively sharp decline in intra-Arab trade. Subsequently, several attempts have been made to enhance regional political and economic integration between Arab Countries. The innovative endeavours started with the establishment of the Arab League in 1945.

A remarkable transformation was observed when some Arab countries implemented the 1950 Treaty for Joint Defence and Economic Cooperation, which is considered the first effort exerted by the Arab League.³⁰ Consequently, the Convention for Facilitating and Regulating Transit Trade between the Arab League members was signed in 1953.³¹ Moreover, the Agreement on Arab Economic Unity was signed in 1957 and came into force in 1964.³² The failure of the earlier wave of Arab regionalism led some countries to devote their efforts to pursuing smaller-scale regional groupings, such as the 1981 GCC, 1989 Arab Cooperation Council (ACC) and 1989 Arab Maghreb Union. However, not all sub-regional agreements have been fully implemented and did not achieve minimum economic integration between Arab countries. In general, these agreements have not translated into a stepping-stone towards a thriving regional trade bloc, as their effects on trade liberalisation among Arab Countries has been limited.³³ The next section discusses the establishment and role of the Arab League, which is considered the body for political and economic regionalism in the Arab region.

³⁰ The aim of the convention was to consolidate relations between the Arab League countries, to maintain their independence, and to cooperate for the realisation of mutual defence and the maintenance of security and peace, according to the principles of both the Arab League Pact and the UN Charter. See The Avalon Project, *Treaty of Joint Defense and Economic Cooperation between the States of the Arab League, June 17, 1950* <http://avalon.law.yale.edu/20th_century/arabjoin.asp> (accessed 25 March 2019).

³¹ The convention provided exemption from customs duties for almost all raw materials produced in the Arab region, and a 25% reduction of customs duties on a MFN basis for most industrial products that processed the agriculture products. See Robert W MacDonald, *The League of Arab States: A Study in Dynamics of Regional Organisation* (Princeton University Press, 2015) 197.

³² The agreement was established with the aim of organising economic relations among the Arab League states to strengthen these relations, realise the best conditions for the development of their economies, exploit their wealth and secure the welfare of their countries. Arab countries agreed to establish a complete unity among themselves and to implement it gradually in the shortest possible time. See 'Agreement for Economic Unity among Arab League States' (1964) 3(6), *International Legal Materials*, 1096, 1101.

³³ Jamel E Zarrouk, 'Arab Free Trade Area: Potentialities and Effects' (Mediterranean Development Forum, 1998) 3, 6.

5.2.1 Establishment of the Arab League to Rescue and Rebuild

The attempts made to increase intra-Arab trade were based on a weak and narrow framework. The Arab League was established in 1945 as a tool for the recognition of Arab integration and unity, even though, in practice, political divisions and institutional deficiencies paralysed it.³⁴ The establishment of the Arab League was the earliest attempt at Arab integration, which was established more than a decade before the formation of the European Economic Community and other regional economic and political integration arrangements.

The Arab League was supposed to enhance the cooperation of the member states in economic and financial matters, including trade, customs, currency, agriculture and industry. However, it has accomplished very little to enhance and integrate the economies of Arab Countries. The Agreement for Economic Unity among Arab League States made non-binding recommendations in the form of a resolution to establish a preferential trading area among members and the strengthening and coordination of land, sea and air transportation and communication between Arab Countries.³⁵ Article II of the Arab League charter states that the purpose of the league is to enhance the cooperation of the member states with regard to the organisation and circumstances of each state in matters of economic and financial affairs, including commercial relations, customs, currency, and questions of agriculture and industry. It also includes communication, including railroads, roads, aviation, navigation, telegraphs and mail.³⁶ However, the Arab League has often been affected by the rivalries and conflicting interests of its members; thus, it has achieved very little, if any, regional unity and integration.

The Council of Arab Economic Unity was established by the members of the Arab League, with the aim of establishing full exemption of tariff and nontariff barriers among member

³⁴ Amer Mohsen, 'Arab Integration—Pan-Arab Movement', in *Encyclopedia Britannica* (eBook, 2015) <<https://www.britannica.com/topic/Arab-integration>> (accessed 9 April 2019).

³⁵ Under the provision of GATT Article XXIV, the Agreement for Economic Unity among Arab League States was signed. See *Meeting of 5 March 1965*, GATT Doc L/2366 (1965) (Contracting Parties, Twenty-Second Session, Arab Common Market) 1.

³⁶ Article IV provides that a special committee representing member states will be formed to establish the principles and bases of cooperation. These principles will be formulated as drafts of agreements that will be submitted to the League Council for examination in preparation for submission to the member states for their approval. See United Refugees, *Refworld—Charter of Arab League* (Web Page, 2019) <<https://www.refworld.org/docid/3ae6b3ab18.html>> (accessed 9 April 2019).

countries.³⁷ However, only seven member countries joined the initiative; thus, the council fell short of its aim of establishing a community of trade without restrictions. In 1997, the Economic and Social Council—whose purpose was to coordinate economic integration among Arab Countries—adopted the Agreement on Facilitating and Developing Trade in pursuit of the GAFTA.³⁸ The establishment of the Economic Council of the Arab League was a fulfilment of the promise made in Articles II and IV of the Arab League’s charter in 1945, which provided the establishment of a council to coordinate close cooperation between member states in economic affairs. The Economic and Social Council administers the GAFTA and the Arab Fund for Economic and Social Development, as well as supervising the Council of Arab Economic Unity and other subsidiary institutions.³⁹

Overall, Arab-intraregional trade has remained too weak, despite the efforts to improve this situation. To this end, Arab Countries have embarked on liberalising their trade regime through a complex network of trade agreements, including bilateral agreements, sub-regional agreements and regional PTAs. The most important trade agreements among Arab Countries are the GAFTA and Agadir Agreement. The next section discusses the GAFTA to identify whether it has provided significant intra-Arab trade effects and economic integration.

5.2.2 Greater Arab Free Trade Area

Liberalising trade through reductions in tariffs, as provided for in the GAFTA, is the first step and a necessary step on the way to increasing Arab trade and economic integration. The

³⁷ The Arab Economic Council is an idea that was and still is under consultation. Arab countries conceived this idea as a means to face possible unfavourable effects from the establishment of other economic groupings, such as the European Economic Community. This thesis questions the effectiveness of the Arab common market on the basis that Arab economies tend to be competitive, rather than complementary.

³⁸ ‘Council of Arab Economic Unity—Arab Organization’, in *Encyclopaedia Britannica* (eBook, 2019) <<https://www.britannica.com/topic/Council-of-Arab-Economic-Unity>> (accessed 19 April 2019).

³⁹ Jamel Zarrouk, ‘The Greater Arab Free Trade Area: Limits and Possibilities’ in Bernard M Hoekman and Jamel Zarrouk (eds), *Catching Up with the Competition: Trade Opportunities and Challenges for Arab Countries* (University of Michigan Press, 2000) 285, 305.

GAFTA⁴⁰ was established by 14 Arab countries at the Cairo Summit in 1996.⁴¹ The confirmation of the GAFTA was within the competence of the Economic and Social Council of the Arab League as an executive program to activate the trade facilitation and development agreement. It was expected to form a free trade area by 1 January 2007; however, the Arab Summit held in Jordan in 2001 accelerated the implementation period that eliminated tariffs to occur by 1 January 2005. In 2001, four new Arab countries joined the agreement, bringing the total number of Arab Countries to 17. The agreement is considered the most important Arab attempt on the path of economic integration, as it brings together the majority of Arab Countries. Tariffs have been removed on all products that are covered by the agreement, with the exceptional treatment of agricultural products. In addition, the rules of origins were set at 40% of the value-added produce.⁴² The agreement stated that its provisions should conform to the WTO rules.⁴³

The legal frameworks of the GAFTA include the agreement for trade facilitation among Arab Countries—an executive program of the trade facilitation agreement, executive committees and the Arabic rules of origins. The general purposes of the agreement to be met are full trade liberalisation by increasing trade volumes among members, integrated production according to comparative advantages and modifying investment structures to promote exports to Arab markets and enhance investment infrastructure. Another aim is taking care of quality standards to achieve price competitiveness, increase market share and create an integrated economic region to facilitate trade among Arab Countries.⁴⁴

⁴⁰ Although regional economic integration agreements are inconsistent with the GATT's MFN principle, Article XXIV of the GATT specifically allows regional economic integration agreements, unless they violate certain conditions. FTAs are also allowed under the GATT unless they fail to eliminate barriers on substantially all trade among members. There is the additional requirement that external tariff not overall be higher or more restrictive than prior to the CU. See Richard E Baldwin and Anthony J Venables, 'Regional Economic Integration' in Grossman and Rogoff, *Handbook of International Economics* (1995) 1600.

⁴¹ The 14 Arabic countries are the UAE, Egypt, Kuwait, Saudi Arabia, Syria, Tunisia, Morocco, Sudan, Oman, Qatar, Lebanon, Iraq, Bahrain and Libya. See James Worrall, *International Institutions of the Middle East: The GCC, Arab League, and Arab Maghreb Union* (Routledge, 2017).

⁴² Javad Abedini and Nicolas Peridy, 'The Greater Arab Free Trade Area (GAFTA): An Estimation of Its Trade Effects' (2008) 23(4) *Journal of Economic Integration* 848, 872.

⁴³ Nicolas Peridy and Javad Abedini, 'Trade Effects of Regional Integration in Imperfect Competition: Evidence from the Greater Arab Free Trade Area (GAFTA)' (2014) 28(2) *International Economic Journal* 273, 292.

⁴⁴ Mahmoud Babili and Hajar Baghasa, *The Impacts of GAFTA on Syrian Trade after Its Full Implementation* (Working Paper No 40, Researchers in National Agricultural Policy Centre Trade Policy Division, 2008) 5.

The GAFTA, unlike the earlier attempts, includes particular obligations requiring the elimination of cross-border-tariffs, tariff-like charges and nontariff measures that prevent trade among Arab Countries.⁴⁵ The GAFTA includes most Arab countries; including the Gulf states that form the GCC countries, as well as Jordan, Egypt, Morocco and Tunisia are parties to the Agadir Agreement for the establishment of a Mediterranean FTA. The GAFTA has the potential to integrate the Arab region economically, yet it has not fully succeeded. It has been unable to promote intra-Arab trade to be more efficient, and this could have been possible with the comprehensive preferential treatment of all products, promoting Arab products and exchanging investments, and thus obtaining more advantages. The GAFTA has allowed agricultural products, which represent about 20% of intra-Arab trade, to be outside the tariff reductions program during harvest seasons, which amounts to a protection of those products. However, these exceptions may reduce the agreement's ability to realise its full potential for regional trade expansion.⁴⁶ Moreover, the GAFTA has not addressed the effects of bilateral agreements between Arab Countries that provide partial tariff exemptions for some agreed products. Consequently, the non-preferential treatment of other national products will disrupt trade flows, rather than stimulate Arab trade, thereby undermining the implementation of the comprehensive liberalisation of free trade among Arab Countries.

The GAFTA is considered a traditional superficial PTA because it is limited to trade in goods, while services and investments are excluded, which significantly reduces the agreement's ability to exert a significant positive economic effect. As a result, nontariff measures are likely to remain central barriers to regional integration, unless additional reforms are undertaken.⁴⁷ The GAFTA should have been an essential economic achievement of the Arab economic integration. It aimed to lead the way towards establishing the Arab Common Market. Abedini and Périidy conclude that the GAFTA has provided an intra-Arab trade effect. Their calculation of trade creation shows that intra-Arab trade has increased by 20% since the agreement entered

⁴⁵ Trade barriers resulting from non-tariff mechanisms, such as compliance with technical regulations and product standards, have limited inter-Arab trade. Most of these regulations do not have customs protection objectives, but seek to protect public health, the environment or working conditions, where commitment is sometimes difficult for small and medium-sized enterprises.

⁴⁶ See Zarrouk, above n 33, 5.

⁴⁷ Ahmed Galal and Bernard Hoekman, *Arab Economic Integration: Between Hope and Reality* (Brookings Institution Press, 2003) 5.

into force.⁴⁸ However, this assessment was only for direct trade effects on trade creation. Therefore, the agreement should be assessed in a deeper, more extensive and more comprehensive manner to provide new opportunity to boost the utilities of the agreement. Moreover, Ahmed Jalal questions whether there are lessons that Arab Countries can learn from the experience of the EU, or whether the two experiments are so different that the Arab economic integration must follow a unique means.⁴⁹ This thesis argues that Arab Countries are still less integrated among themselves, are less open to trade with the rest of the world than are rapidly growing economies, and still lag in economic development. Therefore, they are not in a comparable position with the EU countries.

Despite the fact that there are only limited trade effects because of the GAFTA, it has contributed to economic integration among Arab Countries through liberalising trade in goods. In addition, the economic ties between Jordan and Arab Countries were reinforced by joining GAFTA, and, as a result, investments from other Arab countries were also attracted in several fields, including real estate development, telecommunications, banking and tourism.⁵⁰ Nevertheless, the GAFTA is only the first step towards achieving a CU on the way to a common market, in addition to the outcome of the Agadir Agreement, which is discussed in the next section.

5.2.3 The Agadir Agreement

The Middle East region, which is abundant in oil and conflict, is an area of geostrategic importance to many international actors, especially the EU and US, who have sought to conclude regional trade agreements with this region. International actors view trade integration with the Middle East as not just an economic process, but also a geostrategic process. Therefore, the Agadir Agreement came into force between Jordan, Egypt, Morocco and Tunisia

⁴⁸ Abedini and Peridy, above n 42, 869. See also Georges Harb and Nora Abou Shady, 'Arab Trade Dynamics after the Implementation of the Pan Arab Free Trade Area (1998–2012)' (2016) 12(1) *Review of Middle East Economics and Finance* 1.

⁴⁹ See Galal and Hoekman, above n 47, 2.

⁵⁰ Khaled Wazani, *The Socio-Economic Implications of Syrian Refugees on Jordan* (Research Paper 2021, Konrad-Adenauer-Stiftung, 2014) 15.

to work towards the implementation of a broader Pan-Arab FTA in 2007.⁵¹ The agreement remained open to other Arab countries, especially those associated with the EU, to facilitate integration between Arab Countries and the EU under the EU–Mediterranean integration process.⁵² The outcomes of the Jordanian accession to the agreement were positive and influential. The EU ambassador in Jordan stated that Jordan encourages other Arab countries in the Mediterranean to join the agreement, as it enhances and deepens economic integration between Arab Countries themselves and with the EU.⁵³ The European ambassador’s statement is a testament to the Jordanian positive contribution to economic integration in the Arab region and with the rest of the world.

However, the agreement has some ramifications for Arab Countries, as it uses the EU rules of origin, which is in contradiction with the US rules of origin. This contradiction makes it difficult for Arab Countries to choose and apply these rules in their trade relations with the two competing power blocs, which could be an obstacle to economic integration. Unsurprisingly, a contradiction between the Agadir Agreement and the US–Arab countries FTA emerged. For example, under the Arab–US FTA, Arab Countries agreed to refrain from lowering tariffs on some agricultural imports from third parties that were not net exporters of those goods. This was bound to affect Arab Countries who were expecting to sell agricultural products tariff-free under the Agadir deal.⁵⁴ It was expected that, because of the agreement, trade and investment within the Middle East countries, as well as with the EU, would be boosted.

It was hoped that the Agadir Agreement could create economies of scale that would compensate for the small size of the individual domestic markets and thus promote trade flows. This would have resulted in economic development that could have enhanced the chances of economic integration in the region.⁵⁵ However, despite the entry into force of the Agadir

⁵¹ Bessma Momani, ‘The EU, the Middle East, and Regional Integration’ (2007) 8(1) *World Economics* 1, 10.

⁵² Nicolas Péridy, ‘Toward a Pan-Arab Free Trade Area: Assessing Trade Potential Effects of the Agadir Agreement’ (2005) 43(3) *The Developing Economies* 329, 345.

⁵³ As stated by the ambassador, trade between members of the agreement increased by 51% between 2006 and 2009, noting that regional instability and the global financial crisis limited the uptrend in trade exchange. Omar Obeidat, ‘Jordan, EU Urge More Arab States to Join Agadir Agreement’, *Jordan Times* (8 February 2014) <<http://www.jordantimes.com/news/business/jordan-eu-urge-more-arab-states-join-agadir-agreement>> (accessed 29 April 2019).

⁵⁴ Bilaterals.Org, *Agadir Agreement* (Web Page) <<https://www.bilaterals.org/?-agadir-agreement-&lang=en>> (accessed 30 April 2019).

⁵⁵ See Péridy, above n 52.

Agreement, trade exchanges between Arab Countries remain modest and represent only a small proportion of the total trade among them. Thus, the thesis argues that the Agadir Agreement has not yet provided support for the Arab economic integration as expected.

In contrast, Arab Countries' trade is mainly oriented towards the EU, which accounts for more than 50% of these countries' total trade in the Middle East. In the Maghreb region, the EU's share of trade is more important, reaching 78% in the case of Tunisia. The only exception is Jordan, whose trade is oriented significantly towards the Gulf states, Iraq and the Maghreb region, especially Algeria; however, the EU remains Jordan's first trading partner.⁵⁶ Jordan has sought to increase regional trade via the expansion of intra-Arab regional trade, thereby achieving or aspiring to achieve economic integration.

It is worth stressing that almost two-thirds of the total trade of intra-MENA countries consists of primary products or basic manufacturing goods. In turn, these are composed of two products—namely, natural gas exported by Algeria and basic chemicals exported by Jordan and Tunisia. Consumer goods account for a small per cent of intra-MENA countries' trade, consisting mainly of pharmaceutical products shipped by Jordan and fruit exported by Morocco and Jordan.⁵⁷ Intra-MENA trade in manufactured products is insignificant. Most manufactured goods are mainly traded with the EU and US, whereas the intra-share is insignificant.⁵⁸ This discrepancy between the composition of trade within and outside the MENA could be explained by the fact that they are specialising in the same manufactured products, especially clothing, and facing a relative disadvantage concerning the same products.

The weakness of economic and trade integration among the MENA countries is attributable partly to trade barriers and non-trade barriers. However, it can also be explained to some extent by the significant concentration of the relative advantages of their trade resources. In addition, the sectoral composition of intra-MENA countries' trade is very different from the sectoral composition of MENA trade with EU countries. The extra-trade share of manufactured products is much more important than the corresponding intra-trade share. An outstanding example is trade in textile and clothing, which represents a very large export share in Tunisia

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ An outstanding example is textile and clothing, which represent a very large export share in Tunisia (55.3%), Morocco (37.1%) and Jordan (27.7%).

(55.3%), Morocco (37.1%), Jordan (27.7%) and Egypt (19%). However, intra-MENA trade in this product category is insignificant. Indeed, MENA countries all mostly specialise in the same manufactured products. Similarly, they face a comparative disadvantage of the same product machinery, aircrafts, telecommunications equipment and so on.⁵⁹ Therefore, it can be argued that Arab Countries' output would increase if the principle of comparative advantage was applied to determine which goods and services they should specialise in producing. However, Arab Countries have never considered which goods and services they should be producing. As a result, the lack of economic integration is likely to continue, despite the Agadir Agreement, because of the similarity in the production of traditional goods. This is in addition to the geopolitical instability in the region that accompanied the so-called Arab Spring, whose effects coincided with the Agadir Agreement.

Although there is a high degree of trade diversity in Jordan and trade relations with its Arab environment, compared with other MENA countries, the other countries in the region are generally more integrated with their northern trading partners—the EU and US—compared with each other, thus weakening the Arab economic integration.⁶⁰ Jordan has entered the WTO and US–Jordan FTA, and influenced regional integration in the process. The role of Jordan in Arab regional economic and political integration will be investigated in more detail later in section 5.3. For now, the next section provides an assessment of the role of two trade agreements in economic integration and necessary reforms.

5.2.4 Greater Arab Free Trade Area and the Agadir Agreement: Evaluation and Change Required

Since the mid-1950s, Arab Countries have taken many steps to integrate their economy and integrate into the global economy. Economic and trade creation processes among Arab Countries resulting from the GAFTA and Agadir Agreements are still insufficient to generate an Arab region that is highly integrated and that can better integrate with the world economy. Arab Countries have participated in the GATT/WTO and signed bilateral trade agreements within themselves and with the EU and US. Arab Countries have benefitted from these

⁵⁹ See Péridy, above n 52, 334.

⁶⁰ Ibid.

opportunities, as their local productions can reach world markets and they can import products to meet their basic needs. However, this thesis argues that trade flows, foreign investments, exports and imports in the Arab region are declining, in contrast to other regional integration experiences around the world. Moreover, the level of exports within the region itself is low compared with other regions, particularly when oil exports are excluded.⁶¹ One of the reasons for the low level of intraregional trade is the unsuccessful implementation of previous trade agreements in the region, alongside the reduction in complementary productive capacity, yet this is not the only reason for the decline in interregional trade.

Despite efforts to promote intraregional trade in the Middle East region, none of the trade agreements have been fully implemented. The most powerful attempt at regional economic integration is the GAFTA, in which 18 Arab countries participated. The GAFTA considered some of the problems that led to the failure of previous trade agreements; however, other obstacles were not addressed, such as trade in services, investments, the macroeconomic instability in the region, and fiscal and monetary integration. No formal initiatives have been implemented to coordinate common vision policies for the future of the region.⁶² This is in contrast to the NAFTA, which expanded trade between the US, Canada and Mexico, and achieved great success in economic integration.

The share of oil derivatives represents a large proportion of the region's exports. The goods produced in Arab Countries are also considered low quality compared with the goods imported from areas such as Europe, which leads to increased dependence on imports. Moreover, as discussed above, similar production structures between Arab Countries prevent comparative advantages and economies of scale. For example, the GCC countries, Iraq and Algeria all produce and export oil and petrochemicals, while Jordan, Egypt and Tunisia all export textiles and vegetables. Thus, there is low demand for many of these products within the region and producers are competing with each other intra-regionally. In addition, many exceptions to agricultural products have been included in the GAFTA to protect the domestic producers of member countries.⁶³

⁶¹ Simon Neaime, *South-South Trade Monetary and Financial Integration and the Euro-Mediterranean Partnership: An Empirical Investigation* (Research Project No FEM 22-39, Institute of Financial Economics, American University of Beirut, Lebanon, 2005) 1, 11.

⁶² Ibid.

⁶³ Agricultural products are not part of the tariff reduction scheme during the harvest season.

It is important to clarify that the rules of origin of each FTA exist to avoid loss of benefits by streamlining them to determine the origin of imported goods. Therefore, the rules of origin for goods should be similar or coordinated among the Arab FTAs, including the Agadir Agreement and GAFTA. This is important because streamlined rules in various FTAs would improve trade integration. The GAFTA should reduce the burden of rules of origin by exempting certain goods from meeting the required rules of origin. An exemption may apply to imported goods from Arab Countries that do not have definitions, in order to facilitate intra-Arab trade. It is also possible to extend the certificates of origin validity and clarify those rules in advance wrote judgements.⁶⁴ Moreover, it is important to clarify the dispute settlement process between the GAFTA and Agadir parties. The process of settling disputes plays a crucial role, especially at a time when political will to integrate is questioned. An independent and authoritative body capable of settling disputes should be established, which would generate confidence in the Arab economic integration scheme.⁶⁵

The nontariff barriers have also led to a significant reduction in intraregional trade, as well as high transport costs, as a result of poor infrastructure and instability because of ongoing wars in the region.⁶⁶ The Arab FTAs also lack antitrust policies, as some of the more commercially influential countries are benefitting more by maintaining the status quo in domestic trade policies. In addition, there is no compensation mechanism to assist local producers who may be harmed during the transition from protectionism to liberalisation.

5.3 Jordan's Role in the Arab Regional Economic and Political Integration

Jordan is an important country largely because of its regional position. Since its establishment, security, political and economic threats have hovered over the country. The Jordanian foreign policy since its founding has suffered from needing to devote attention to external security threats, domestic policy pressures and economic restrictions. The international relations of

⁶⁴ Bashar H Malkawi, 'Reforming Rules of Origin in Greater Arab Free Trade Area for Effective Economic Integration' (2017) 29 *Economic Research Forum Policy Brief* 1, 5.

⁶⁵ Ibid.

⁶⁶ Some provisions have been applied in part, since some Arab countries continue to apply NTBs, including administrative, monetary or quota restrictions.

Jordan are a consequence of the geostrategic influences of its surroundings. Given the growing political, economic, security and military changes in the international system and its policies towards the Arab region, Jordan's foreign policy and interests have been affected by difficult choices regarding its approach to dealing with strategic transformations for its roles, benefits, stability, external relations and economic policies with its neighbours.⁶⁷

After years of austerity measures because of geopolitical instability in the Middle East, Jordan has developed an economic model and worked to create economic growth through liberalisation of trade and economic openness to its Arab environment, and encouraged the establishment of joint economic projects with neighbouring countries. Jordan has promoted trade relations with its neighbours, especially Saudi Arabia, Iraq and Syria. However, there is still a major challenge to economic development in the context of the difficult external environment, as negative regional developments continue to have implications for Jordan's economy. This is reflected by the unprecedented flow of refugees as a result of the instability in neighbouring countries, closed trade routes, low Arab and foreign investment, limited tourism flows and the economic slowdown in the GCC countries.⁶⁸

In addition, the trade and political policies of Jordan have an international aspect beyond Middle Eastern countries. Thus, Jordan's relations with Europe have formed an international protection umbrella for the country from Israeli ambitions and have been a vital source of economic and security support.⁶⁹ The US generally supports Israeli interest in the region, which directly affects Jordan's role and interests at regional and international levels. The growing political differences with the US, especially regarding the 'deal of the century in the Middle East',⁷⁰ may create some new challenges in these relations, which may affect the Jordanian

⁶⁷ Jordan is one of the best countries in the MENA region for economic freedom, and its overall scores are higher than regional and global averages. Its economy ranked 53rd in the 2019 index because of the rise in financial health, monetary freedom and judicial effectiveness. See Heritage.Org, *Jordan Economy: Population, GDP, Inflation, Business, Trade, FDI, Corruption* (Web Page, 2019) <<https://www.heritage.org/index/country/jordan>> (accessed 20 May 2019).

⁶⁸ World Bank, *Overview* (Web Page, 2019) <<https://www.worldbank.org/en/country/jordan/overview>> (accessed 20 May 2019).

⁶⁹ EU diplomats in the Middle East have proposed ways to undermine Trump's decision to establish Jerusalem as Israel's capital. See Andrew Rettman, 'EU Diplomats Oppose Trump on Jerusalem', *EU Observer* (1 February 2018) <<https://euobserver.com/foreign/140808>> (accessed 20 May 2019).

⁷⁰ 'The deal of the century' is Trump's peace plan in the Middle East. Israel is using Trump to twist Palestine's arm. Trump gave Jerusalem and the Golan Heights to Prime Minister of Israel, Benjamin Netanyahu, and will probably give him the West Bank too. The Trump administration also stopped assisting the UN agency helping Palestinian refugees (UN Relief and Works Agency for Palestine Refugees) in an attempt to force Jordanians and Palestinians to accept this 'deal of the century'. See 'US Ambassador Reveals Details of "Deal of the Century"',

economy. However, Jordan's attempts to diversify its international relations, including its military and economic options—especially with Russia, China and the Muslim countries that oppose the US recognition of Jerusalem as the capital of Israel (particularly Turkey and to a lesser extent Qatar and Iran)—are seeking to reduce the burden of its coercive relations with Saudi Arabia and the US.⁷¹ Jordan has not responded to the Saudi attempts to engage in military activities outside its border, while it provides only cooperating in the fields of intelligence and logistics. This response has affected the form of economic relationship with its international and regional allies, such as the US and Saudi Arabia. As a result, Jordan has seen a sharp drop in Saudi investments and US development assistance.⁷²

To achieve a geostrategic situation that is more secure and stable for Jordan, supported by economic stability, Jordan's international relations with the EU must be maintained, as they achieve economic support and provide a political umbrella and security support. The West, including the US, cannot dispense with Jordan, nor can Jordan dispense with the West. Thus, Jordan must strengthen its political and economic relations with its Arab environment to achieve greater stability in the Middle East that will serve the project of economic integration and political stability in the region. This thesis argues that economic integration with Arab Countries is in Jordan's interest in terms of achieving higher levels of economic development. However, whether the Arab world offers favourable characteristics for such economic integration is difficult to ascertain. Therefore, the next section discusses the Jordanian relationships with its three Arab neighbour countries.

5.3.1 Jordan and Its Arab Neighbours: Saudi Arabia, Iraq and Syria

It is rare to find a long period during which relations between Arab Countries were unproblematic. Historically, these relations, both bilaterally and multilaterally, were

Middle East Monitor (28 March 2019) <<https://www.middleeastmonitor.com/20190328-us-ambassador-reveals-details-of-deal-of-the-century/>> (accessed 20 May 2019).

⁷¹ Maria Dubovikova, 'Jordan's New Regional Role', *International Policy Digest* (2018) <<https://intpolicydigest.org/2018/03/13/jordan-s-new-regional-role/>> (accessed 23 April 2019).

⁷² Saudi Arabia has converted most of its aid into loans, rather than outright grants. See Frederic Wehrey and Joseph Bahout, 'Saudi Arabia's Changing International Role', *Carnegie Endowment for International Peace* (2016) <<https://carnegieendowment.org/2016/04/18/saudi-arabia-s-changing-international-role-pub-63366>> (accessed 10 May 2019).

characterised by different tensions. The current state of Arab relations reflects this reality. Jordan has been facing a difficult situation regarding how to preserve its interests, economic stability and security, given the sudden changes in regional political alliances. The changes in regional consensus with Jordan's neighbours have affected bilateral and multilateral economic relations, indicating how foreign policy with neighbours can influence economic necessities.⁷³

As a result of the regional turmoil in the Middle East and the changing balance of power, Jordan has not followed a particular economic and political pattern. The country has been marked by turmoil and instability in the period 1967 to 1973, prosperity and recovery between 1974 and 1982, downturn and recession between 1983 and 1989, economic reform and regional turbulences between 1990 and 1999, openness to globalisation between 2000 and 2009, and regional popular uprisings and upheavals from 2010 to the present. Despite these difficulties, Jordan managed to face these challenges and emerged strongly in a state of regional instability.⁷⁴

The Jordanian relations with Saudi Arabia, Iraq and Syria are the most frequent and intense in terms of regional interaction.⁷⁵ They represent different economic and political structures, thus providing a basis to examine how economic factors may have played a role in bilateral relations or how economic factors can influence bilateral relationships.⁷⁶ All these countries were and still are important trading partners for Jordan, but to varying degrees and for different kinds of products. With Saudi Arabia and Iraq, Jordan has been an importer of oil and an exporter of fruits and vegetables, as well as labour to Saudi Arabia. Syria and Iraq have large public sectors, have significant agriculture and place importance on the development of primary industries; hence, they impose several foreign goods restrictions, and a variety of protective tariffs because of the socialist regime under the leadership of the Ba'ath Party in both countries.

⁷³ International policy changes may influence a country's foreign policy decisions, especially if they are economically weak.

⁷⁴ See Wazani, above n 50, 15.

⁷⁵ There were no borders separating Syria, Iraq, Lebanon, Palestine and Jordan. This land, as well as most of the Arab region, was united. These countries were formed only at the end of the World War I.

⁷⁶ It is rare to find a long period during which relations between Arab countries were positive. The relations are characterised by different tensions, both bilaterally and multilaterally. The current state of Arab relations confirms this reality.

5.3.1.1 The Jordanian–Saudi Relationship

Saudi Arabia is one of the most important actors in the Middle Eastern region because of the strength of its economy and religious status among Muslims. The Jordan–Saudi relationship is significant and not only limited to the economic power of Saudi Arabia, but extends to many fields, revealing the Saudi influence over Jordan and the need for Jordan to maintain stable relationships with Saudi Arabia, despite the two countries' diverging and competing interests.

Following the collapse of the Ottoman Empire, the Al-Saud family of the Najd region and the Al-Hashem family⁷⁷ of Hijaz were conflicting rivals of power on the Arabian Peninsula. In the military conflict that ensued, the Hashemites were driven from Hijaz and the Al-Saud family secured the territory for what became the Kingdom of Saudi Arabia. Ever since, the Saudi royal family has suspected that the Hashemites in Jordan will claim their historical right to oversee the Muslim holy sites in Hijaz. Al-Saud has long demanded that all must accept that they control the holy cities of Mecca and Medina.

However, intersections in political interests have improved the bilateral relations between these two countries. Saudi Arabia offered financial support to Jordan to support the Saudi approach in the Middle East and follow its policy path. The oil wealth of Saudi Arabia increased the financial aid to Saudi allies, including Jordan, especially after the 1967 war against Israel. This financial assistance was provided to help the country face its Arab neighbour's threat, since Jordan is a moderate monarchy like Saudi Arabia; thus, ensuring the Jordanian regime stability was a key Saudi and Gulf State concern. The republican regimes in Egypt and Syria repeatedly sought to overthrow the monarchy in Jordan;⁷⁸ thus, the economic aid received by Jordan was for security and stability purposes in Saudi Arabia itself, as a stable Jordan is key to Saudi security and stability.

Moreover, Jordanian military advisers have trained and advised the military and security devices of Saudi Arabia. Jordan has also remained important to Saudi Arabia because of its relationships with Palestinians, its long border with Israel, and hence its importance to the peace process in the Middle Eastern region. Jordan has received aid from Saudi Arabia to cover

⁷⁷ The Hashemites are the family who trace their lineage back to the Prophet Mohammad, thus giving them a place of respect and honour in the Arab and Islamic world. See King Hussein, *The Hashemites: Jordan's Royal Family* (Web Page) <http://www.kinghussein.gov.jo/hash_intro.html> (accessed 18 April 2019).

⁷⁸ Lawrence Tal, 'Britain and the Jordan Crisis of 1958' (1995) 31(1) *Middle Eastern Studies* 39, 57.

the cost of housing Palestinian refugees. However, Jordan is working hard to prevent weapons and drugs smuggled from Syria, Lebanon and Turkey from reaching Saudi Arabia also the skilled Jordanian labour force that Saudi Arabia is still need. Reciprocally, Jordanian expatriates in Saudi Arabia have decreased the unemployment pressures in Jordan and added substantial remittances to the country's economy.

A turning point in the bilateral relationship occurred in 1976, following Saudi Arabia's declaration that it would not continue exporting its oil through Jordan to the Lebanese ports on the Mediterranean, and replaced this with giant oil tankers at its ports on the Arabian Gulf. This development affected the Saudi oil supply to Jordan at preferential prices, and forced Jordan to pay the full price for its oil needs.⁷⁹ Moreover, Saudi Arabia has long influenced the Jordanian foreign policy, which is why Jordan always considers its political relations with Saudi Arabia. However, in 1990, Jordan took a neutral stance regarding the Iraqi invasion of Kuwait, which deteriorated its relationship with Saudi Arabia. Iraq was necessary for Jordan, as Jordan benefits from its financial and oil support. As a result, during the international embargo against Iraq from 1991 to 2003, Jordan remained the only channel for Iraqi trade exchanges.

Extreme tension between Jordan and Saudi Arabia arose after Saudi Arabia's attempt to head of the Palestinian cause instead of Jordan, which has always held a leading position in the efforts to revive peace as a mediator for peace between Palestinians and Israelis.⁸⁰ The international community considered Jordan a bridge for direct and indirect communication between Israel and some Arab countries, including Saudi Arabia. Jordan is following with concern the Saudi rush to normalise relations with Israel, with the Saudi crown prince coordinating with the Trump administration on the Middle East peace initiative, without coordinating with Jordan or even with the Palestinian authority itself. Jordan fears that the young prince, who now controls the power and decision-making in Saudi Arabia, wishes to normalise relations with Israel, driven by the desire to form a regional international alliance against Iran. Such passion will leave Jordan behind, without considering its regional interests when formulating any initiative to resolve the Palestinian–Israeli conflict. Saudi Arabia is

⁷⁹ In 1976, Saudi Arabia nationalised the Arabian–American oil company, Aramco; however, because of the repeated explosions that occurred in the oil pipeline in Syria and occupied Golan, Saudi Arabia decided to cease oil export through the pipeline. See Douglas Little, 'Pipeline Politics: America, TAPLINE, and the Arabs' (1990) 64(2) *The Business History Review*, *American Business Abroad* 255, 283.

⁸⁰ Jordan is the largest host country for Palestinian refugees and fears that it will emerge from the 'deal of the century' without compensation. Jordan also fears that it will receive pressure to naturalise more Palestinians, and that the Hashemite care of the Islamic holy sites in Jerusalem will be threatened.

reluctant to extend its economic relations with Jordan at a moment of sensitive economic crisis in Jordan. The relationship between the two countries offers no sign of providing economic aid to Jordan, as the countries are not in the same position amid the region's ongoing volatile crises. Jordan views the Saudi war against Yemen as superfluous and invalid.⁸¹ Jordan also found itself in an embarrassing situation with the outbreak of the Qatar crisis, with Jordan forced to reduce the level of diplomatic representation with Doha to please Saudi Arabia, thereby causing economic losses that have not been compensated, despite the promises made.⁸²

Jordan's economy is increasingly affected by the blockade imposed on Qatar and the closure of the only export port across Saudi Arabia. The negative repercussions of the Qatar blockade on Jordan arose from the suspension of Jordanian exports to Qatar—especially agricultural products. The Qatari investments in Jordan have also been suspended because of the reduction in Jordanian diplomatic representation with Qatar.⁸³ In addition, when Saudi Arabia and the UAE asked Jordan to cut diplomatic ties with Qatar, Jordan opted to downgrade relations instead. The two countries viewed this Jordanian response as an act of defiance, which is the main reason for Saudi Arabia's refusal to renew its economic assistance program to Jordan in 2017.⁸⁴ Jordan also sought to satisfy the Saudi stance against Iran and called its ambassador to consult after the attack on the embassy and the Saudi consulate in Iran.⁸⁵ Jordan's relations with Saudi Arabia are influenced by the needs of the Jordanian economy, with nearly half a million Jordanians working in Saudi Arabia and annual transfers exceeding US\$4 billion.⁸⁶ Jordan is convinced that Saudi Arabia is the leading force in the GCC countries, and is betting

⁸¹ Saudi Arabia sent an implicit signal that it could cause economic crises for Jordan. See Rami Khouri, 'How Saudi Tried to Bully Jordan and Failed', *Al Jazeera* (21 December 2017) <<https://www.aljazeera.com/indepth/opinion/saudi-bully-jordan-failed-171218103430867.html>> (accessed 2 May 2019).

⁸² Hassan A Barari, 'Jordan and Qatar', *Jordan Times* (22 April 2019) <<http://www.jordantimes.com/opinion/hassan-barari/jordan-and-qatar>> (accessed 25 May 2019).

⁸³ 'Sharp Rise in Qatari Exports to Jordan during Last 5 Months', *Gulf-Times* (23 August 2018) <<https://www.gulf-times.com/story/603723/Sharp-rise-in-Qatari-exports-to-Jordan-during-last>> (accessed 25 May 2019).

⁸⁴ Rachel Furlow and Salvatore Borgognone, 'Gulf Designs on Jordan's Foreign Policy', *Carnegie Endowment for International Peace* (2018) <<https://carnegieendowment.org/sada/76854>> (accessed 29 May 2019).

⁸⁵ Qatar is the third-largest investor in Jordan. See 'Jordan–Qatar Trade: Economics Trump Politics', *Al Jazeera* (14 March 2019) <<https://www.aljazeera.com/indepth/features/jordan-qatar-trade-economics-trump-politics-180313172828623.html>> (accessed 2 May 2019).

⁸⁶ Mohammad Ayesha, 'Why Jordan Needs Saudi Arabia', *Middle East Eye* (2 June 2018) <<https://www.middleeasteye.net/opinion/why-jordan-needs-saudi-arabia>> (accessed 2 May 2019).

on opportunities to improve bilateral relations, and gain the return of trade and investment flows to Jordan from Saudi Arabia, which would assist the economy.⁸⁷ However, Jordan's increased dependence on a single country could generate economic problems.⁸⁸

The Jordanian decision during the 1990 to 1991 Gulf crisis was one of the more significant challenges for Jordanian leaders in the country's history—it was like choosing between Scylla and Charybdis.⁸⁹ Saudi Arabia considered any neutral position to be pro-Iraq in its invasion of Kuwait.⁹⁰ The Jordanian policy sought to settle the crisis through peaceful and diplomatic means, with great efforts made by Jordan to persuade President Saddam Hussein to withdraw his army from Kuwait. Jordan also asked the Saudis to resolve the crisis in a framework of joint action among Arab Countries to avoid internationalising the conflict. The situation was not easy, as the effects of the crisis on the Jordanian economy were dire. If the trade and transport from the Jordanian port of Aqaba to Iraq are stopped, it would damage the Jordanian economy. Other key elements of the equation included cheap Iraqi oil, financial aid from Saudi Arabia and Kuwait, remittances from expatriate Jordanians working in the Gulf states and (to some extent) international tourism. All these elements influence the Jordanian economy.⁹¹ Iraq was providing Jordan with 90% of its oil needs and was Jordan's number one trading partner. Conversely, Jordan lost trade with Saudi Arabia and Kuwait, especially the export of agricultural products. In addition to the Jordanian expatriates and their remittances, who were expelled from all Gulf countries.⁹²

⁸⁷ In 2017, the Jordanian exports to Saudi Arabia dropped by 20%. See JT, 'Exports to Saudi Arabia down by 20% in Q1', *Jordan Times* (9 July 2017) <<http://jordantimes.com/news/local/exports-saudi-arabia-down-20-q1>> (accessed 2 May 2019).

⁸⁸ Economic integration in the context of developing countries, such as Jordan, exhibits development-reinforcing effects and can reduce the cost of economic development in the integrating country. See Ghantus, above n 3, 17.

⁸⁹ Facing two equally unpleasant, dangerous or risky alternatives, where the avoidance of one ensures encountering the harm of the other. This refers to the Greek mythological sea beasts, Scylla and Charybdis, who inhabited a sea passage so narrow that ships would be forced into the grasp of one or the other. See 'Between Scylla and Charybdis', *The Free Dictionary* (Web Page) <<https://idioms.thefreedictionary.com/between+Scylla+and+Charybdis>> (accessed 2 May 2019).

⁹⁰ Alan Cowell, 'War in the Gulf: Jordan; Jordanian Ends Neutrality, Assailing Allied War Effort', *The New York Times* (7 February 1991) <<https://www.nytimes.com/1991/02/07/world/war-in-the-gulf-jordan-jordanian-ends-neutrality-assailing-allied-war-effort.html>> (accessed 5 May 2019).

⁹¹ Ziad Swaidan and Mihai Nica, 'The 1991 Gulf War and Jordan's Economy' (2002) *Gloria Center* 1, 8.

⁹² Joining the coalition against Iraq would have offered Jordan the possibility of increased Saudi economic aid. See Cowell, above n 90.

5.3.1.2 The Jordanian–Iraqi Relationship

Jordan and Iraq had a similar history in the postcolonial era; however, in the post–Saddam Hussein regime era, these historical ties made little difference. Both countries have borders drawn by the British who helped establish the rule of the Hashemite family in Amman and Baghdad after World War I. The Hashemites maintained rule in Jordan, but were unable to continue in Iraq, where the royal family was overthrown in a violent coup in late 1958—a few months after establishing the Arab Federation between the two countries.⁹³ Despite that event, the two countries have now managed to re-establish good relations. Jordan has maintained a robust diplomatic presence in Baghdad, as Jordan has played a decisive role in Baghdad’s stabilisation and reconstruction efforts.⁹⁴

After the fall of the Hussein regime, Jordan lost the massive oil subsidies that it had received from Iraq. Securing future energy sources is one of Jordan’s fundamental economic interests in its relations with the new Iraq. After dealing with a secure Iraq for many years, since the 2003 occupation of Iraq, Jordan has faced a range of challenges posed by a weak Iraq.⁹⁵ Jordan has become less stable after the US-led invasion of Iraq in 2003, as well as the economic crisis caused by the Iraq War. Jordan is also concerned that Iraq will become a haven for terrorist groups—a fear that rose dramatically following the suicide bombings in Amman in 2005, which demonstrated the growing threat of violence and terrorism from Iraq.⁹⁶ Therefore, Jordan has an interest in developing Iraq in a way that does not lead to a politics of extremism. Jordan is also concerned about the increasing Iranian involvement in Iraqi politics and the region.⁹⁷

⁹³ Amatzia Baram, ‘Baathi Iraq and Hashimite Jordan: From Hostility to Alignment’ (1991) 45(1) *Middle East Journal* 51, 70.

⁹⁴ Ben Connable, *From Negative to Positive Stability: How the Syrian Refugee Crisis Can Improve Jordan’s Outlook* (Research Report, RAND Corporation, 2015) 1, 34.

⁹⁵ For many years, Jordan has been a supporter of peace and stability strategy in the Middle East region. See Scott Lasensky, *Jordan and Iraq between Cooperation and Crisis* (Special Report, United States Institute of Peace, 2006) 1, 19.

⁹⁶ Hassan Slackman, ‘3 Hotels Bombed in Jordan; At Least 57 Die’, *The New York Times* (10 November 2005) <<https://www.nytimes.com/2005/11/10/world/middleeast/3-hotels-bombed-in-jordan-at-least-57-die.html>> (accessed 16 April 2019).

⁹⁷ In 2005, King Abdullah II warned that a Shiite-led Iraq might develop a special relationship with Iran, Syria, Lebanon and Lebanese Hezbollah to create a Shiite crescent that would be very destabilising for the Gulf countries and the whole region. See King Abdullah II, *Washington Institute* (Web Page, 2005)

Jordan will benefit economically from restoring the trade line with Iraq through the Aqaba port, especially when the security situation in Iraq improves. In the past, Jordan was the most significant entry point to and from Iraq, and most of Iraq's trade and humanitarian needs were secured through Jordan.⁹⁸ In the area of security, after 2003, Jordan hosted extensive training activities for Iraqi police in the hope that these efforts would contribute to restoring stability. Jordan has also operated field hospitals in Iraq.⁹⁹ Moreover, Jordan has other unique capacities to offer. It has significant influence over developments in Iraq and significant intelligence capabilities. It has reportedly helped the US follow the movements of Al-Qaeda leaders in Iraq. Unlike many neighbouring countries, Jordan played a decisive role in achieving security and geopolitical stability in Iraq after 2003.

In contrast, Turkey has a military presence in northern Iraq,¹⁰⁰ and Iran has close ties to influential figures in the new Iraqi leadership and an extensive network of links with the Iraqi Shiites. Syria also holds some power from hosting former Iraqi Prime Minister Nuri al-Maliki for a long period, as well as some other politicians who opposed the former regime.¹⁰¹ Jordan's strongest means of exerting influence is also to host a large number of Iraqi politicians and businesspeople.¹⁰² The Jordanian interests in Iraq are based on the kingdom's sustainable security, the weaknesses of the Jordanian economy and the delicate balance of political forces inside Iraq. The Iranian and American interference in Iraq is a growing concern that has fragmented Iraqi society. Jordanian politicians have long been linking the relations with Iraq

<<https://www.washingtoninstitute.org/policy-analysis/view/king-abdullah-ii-iraq-is-the-battleground-the-west-against-iran>> (accessed 16 April 2019).

⁹⁸ This role began in the 1980s during the Iran–Iraq War and continued throughout the sanctions period from 1990 to 2003. See John Emerson, 'The Silent Treatment—Fleeing Iraq, Surviving in Jordan', *Human Rights Watch* (Web Page, 2006) <<https://www.hrw.org/report/2006/11/27/silent-treatment/fleeing-iraq-surviving-jordan>> (accessed 1 May 2019).

⁹⁹ Valerie Insinna, 'In Jordan, Iraqi Officers Prepare for Mosul Battle and Beyond', *Defense News* (2017) <<https://www.defensenews.com/training-sim/2016/10/04/in-jordan-iraqi-officers-prepare-for-mosul-battle-and-beyond/>> (accessed 19 April 2019).

¹⁰⁰ 'Turkey to Continue Military Presence in Iraq', *TRT World* (12 October 2016) <<https://www.trtworld.com/mea/turkey-to-continue-military-presence-in-iraq-deputy-pm-says-205199>> (accessed 26 April 2019).

¹⁰¹ CNN Library, 'Nuri Al-Maliki Fast Facts', *CNN* (2018) <<https://edition.cnn.com/2012/12/10/world/meast/nuri-al-maliki---fast-facts/index.html>> (accessed 26 April 2019).

¹⁰² Abdulwahab Al-Qassab, 'Iran Should Worry about New Iraq-Jordan Relations', *Arabcenterdc.Org* (2019) <http://arabcenterdc.org/policy_analyses/iran-should-worry-about-new-iraq-jordan-relations/> (accessed 6 May 2019).

to the economic imbalance in the country, with Jordan's inability to secure oil leading to severe economic unrest. Jordanians are concerned about the steady increase in the cost of fuel and whether the advantages of Jordan's long-term commercial passage to Iraq can be retained, given that the internal unrest in Jordan is linked to economic factors and not to foreign policy decisions.¹⁰³

Oil has always been an essential consideration in Jordan's relations with Iraq. Since the 1980s, Iraq has been one of the most important actors in the Jordanian economy, since Hussein's regime secured Jordan's energy needs at preferential prices, which also continued within the UN Oil-for-Food Programme. Moreover, Iraq allowed Jordan to pay a preferential price for oil in the form of Jordanian products, which had a positive effect on the growth of trade and the economy. Jordan has been a significant exporter of fruits and vegetables to Iraqi markets, and, in the 1980s, trade relations extended to the point where Iraq was also the primary importer of Jordanian light manufacturers and pharmaceuticals.¹⁰⁴ The transit trade to Iraq through Jordan has also been a key source of employment and revenue for Jordan.

Through the UN program, Iraq was able to pass distinctive contracts to Jordan, and some Jordanian companies granted trade exchange monopolies. Exports to Iraq accounted for a large volume of Jordan's exports, and Jordan has thus achieved substantial gains from its trade relationship with Iraq. Conversely, Ryan argues that Jordan paid a heavy economic price for staying out of the coalition against Iraq during the 1991 Gulf War.¹⁰⁵ It is evident that Jordan's future supply of oil is still a matter of controversy; however, Jordan must recognise that the benefits of the past period are gone, and should not expect such exclusive deals. It should move to a self-reliant position through achieving geopolitical stability in the region, which will increase trade exchanges with all its neighbours, including Iraq.

In reality, both countries need each other, since Jordan needs markets for its goods and assistance to meet its oil needs, while Iraq also seeks an opening into Arab Countries that can

¹⁰³ Shehab Al-Makahleh, 'Jordan between Regional Threats and Internal Pressures: The Economic Key', *Washington Institute* (2018) <<https://www.washingtoninstitute.org/fikraforum/view/jordan-between-regional-threats-and-internal-pressures-the-economic-key>> (accessed 8 May 2019).

¹⁰⁴ The trade relations between the two countries were regulated by commercial protocols, where Jordan obtained its supply of oil in exchange for the Jordanian private sector exporting its products to the Iraqi market. See Ibrahim Saif and David M DeBartolo, 'The Iraq War's Impact on Growth and Inflation in Jordan' (Center for Strategic Studies University of Jordan, 2007) 4.

¹⁰⁵ Curtis Ryan, *Between Iraq and a Hard Place: Jordanian-Iraqi Relations* (Middle East Report No 215, 2000) 40, 42.

mitigate its overreliance on dealings with Iran. Therefore, Jordan recently signed an agreement with Iraq to enhance economic and trade cooperation and to start a new phase in relations between the two countries. The agreement came amid the current situation of regional uncertainty, including the Syrian War and Arab fears about Iran's growing influence in the Arab region.¹⁰⁶ In February 2019, the two governments agreed to establish a joint industrial zone on the border between the two countries. Iraq also committed to granting Jordan 10,000 barrels of oil per day. The two governments agreed to resume studies to build a pipeline from Basra to the Jordanian port of Aqaba, which will lead to increased Iraqi oil exports, as well as securing transit revenues to Jordan and helping create job opportunities in both countries. Jordan has also committed to assisting Iraq to meet its electricity needs over the next two years. Moreover, a partnership between Iraqi and Jordanian airlines has been proposed, and the countries agreed to reduce shipping costs for Iraqi goods in Aqaba and increase exchanges in the agricultural sector.¹⁰⁷ The agreement is expected to revive the Jordanian economy after it has been influenced significantly by events in the Middle East region during the past two decades, especially the successive waves of migration from Iraq and Syria. Thus, increasing intra-Arab trade is one way of achieving the desired regional stability on the path to the Arab economic integration.

Jordan can play more roles to improve its relation with Iraq by increasing trade.¹⁰⁸ However, Jordan and Iraq must overcome the crisis of confidence that has existed at times.¹⁰⁹ There is still some distrust, given the recent history of Jordanian relations with the new Iraq, especially the view of new Iraqi leaders on Jordan's position on the former Iraqi regime. Jordan should

¹⁰⁶ See Al-Qassab, above n 102.

¹⁰⁷ JT, 'Jordan, Iraq Follow up on Progress in Implementing Economic Deals', *Jordan Times* (23 February 2019) <<http://www.jordantimes.com/news/local/jordan-iraq-follow-progress-implementing-economic-deals>> (accessed 16 May 2019).

¹⁰⁸ Pollins argues that trade flows between nations are affected by the decisions of social actors at every level, such as individuals or interest groups to nation states. See Brian M Pollins, 'Conflict, Cooperation, and Commerce: The Effect of International Political Interactions on Bilateral Trade Flows' (1989) 33(3) *American Journal of Political Science* 737, 761.

¹⁰⁹ Jordan is hosting Iraqi opposition figures and has consistently rejected calls from Iraqi government to hand over Hussein's wife and daughters, who still live in Amman. The history of the escalation between Iraq and Jordan dates back to the time of the overthrow of the monarchy in Iraq in 1958. Jordan also seems to have been harmed by its support of Hussein's regime in the wake of his invasion of Kuwait and the anti-Jordanian stance by Iraqi Shiite leaders, who claimed to infiltrate the rebels from Jordan to Iraq. Moreover, the warnings of King Abdullah of the Shiite crescent in the region. See 'Saddam's Eldest Daughter Raghda on Most Wanted List', *Al Jazeera* (5 February 2018) <<https://www.aljazeera.com/news/2018/02/saddam-eldest-daughter-raghad-wanted-list-180204163537080.html>> (accessed 9 May 2019).

take another step forward in sending a positive message to Iraq by strengthening trade and economic relations to achieve economic integration, which will benefit the two countries and the entire region. However, this economic integration will only be possible after security and stability are attained in the Middle East region, including in Syria.

5.3.1.3 The Jordan–Syria Relationship

Since its establishment in 1921, Jordan led by the Hashemites has sought to restore political unity in the Levant through the implementation of the Greater Syria Project.¹¹⁰ However, the French mandate in Syria and Lebanon rejected the project, and it did not gain support from the British mandate in Jordan and Palestine. The Al-Saud in Saudi Arabia also refused the plan on the pretext that the Hashemites should not lead these roles in the Levant region.¹¹¹ The Jordanians and Syrians have old historical connections and roots; they share social relations, cultural and shared history, and only an imaginary line drawn by colonialism separates these two countries. There have been constant efforts to unite the two countries over the last century; however, they have failed, and the relations between the two regimes in have ranged from normal regard to armed clashes.

Tensions between the two countries began when Jordan was still recovering from the successive effects of economic stagnation from the 1967 war against Israel and its campaign against the Palestine Liberation Organisation (PLO)–led Palestinian rebellion in 1970.¹¹² Syria had closed its border with and airspace to Jordan. The Syrian military crossed the Jordanian border and launched an invasion of northern Jordan in support of the PLO forces. However, the Syrian army was eventually defeated and turned back.¹¹³

¹¹⁰ Y Porath, ‘Abdallah’s Greater Syria Programme’ (1984) 20(2) *Middle Eastern Studies* 172, 189.

¹¹¹ Ibid, 176.

¹¹² The Jordanian civil war of September 1970, also known as Black September, was an attempt by the PLO—supported by the regime in Syria—to topple the Jordanian King Hussein and seize control of the country. See Association for Diplomatic Studies and Training, *Jordan’s Black September 1970* (Web Page) <<https://adst.org/2015/07/jordans-black-september-1970/>> (accessed 18 May 2019).

¹¹³ Curtis R Ryan, ‘The Odd Couple: Ending the Jordanian-Syrian “Cold War”’ (2006) 60(1) *Middle East Journal* 35.

The relationship officially recommenced in 1973 when Jordan sent its military to Golan Heights as assistance for the Syrian war against Israel.¹¹⁴ As a result, the association improved markedly and, in 1975, the two countries formed a joint committee, which was the first of its kind among Arab Countries. This association involved discussing economic and trade affairs, industrial and electricity cooperation and the Yarmouk River water issues.¹¹⁵ Relations between the two countries continued developing, especially in the field of economic cooperation and trade exchange. The committee, which was established after the Jordanian monarch's visit to Syria, agreed to work on formulating an economic policy aimed at achieving integration between the two countries through planning economic and social development, establishing joint companies and economic institutions, standardising the two countries' markets and establishing a unified customs policy.¹¹⁶

Jordan took the initiative to improve relations with Syria as an outlet for Arab isolation, following the crackdown on the Palestinian resistance in 1970, after which the financial assistance promised by the Gulf States in 1967 was halted at the beginning of the 1970s, as stated by Zayd al-Rifa'i, the Jordanian prime minister.¹¹⁷ The Jordanian policymakers understood that economic cooperation with Syria would solve their economic problems, given the suspension of Gulf countries' aid. The aim of strengthening relations with Syria was also to draw the attention of Saudi Arabia, as it was wary of any regional alliances that were not part of it. Thus, Jordan hoped to achieve greater success in 'persuading' oil producers to redirect the aid promised to it, as well as to prevent any future damage to the Jordanian economy.¹¹⁸

Collaboration between the two countries expanded in all forms, including military, until the early 1980s, when disputes began again between them regarding the Syrian role in the Lebanese civil war. The Jordanian support for Iraq in its fight against Iran was also another factor

¹¹⁴ 'The October Arab-Israeli War of 1973: What Happened?', *Al Jazeera* (8 October 2018) <<https://www.aljazeera.com/indepth/features/2017/10/arab-israeli-war-of-1973-what-happened-171005105247349.html>> (accessed 18 May 2019).

¹¹⁵ Ryan, above n 113, 33, 56.

¹¹⁶ Laurie A Brand, *Jordan's Inter-Arab Relations: The Political Economy of Alliance Making* (Columbia University Press, 1995) 396.

¹¹⁷ Ibid.

¹¹⁸ This happened in 1970 when it closed the border with Syria, and this time it emphasised the desire to rebuild strong relations between Amman and Damascus. Ibid.

increasing the tension, as Syria supported Iran. The disputes reached a peak when Syria militarised its army forces on the border with Jordan.¹¹⁹ However, Saudi Arabia mediated between the two countries to resolve the crisis, and, after that, the two countries withdrew their army forces from the border. Syria accused Jordan of supporting the Muslim Brotherhood and their 1980 revolt against the Al-Assad regime.¹²⁰

Jordan's relations with its Arab neighbours, especially Syria, are characterized by the activation of economic tools, which is the strategy that can be used by Jordan with other countries that are stronger, militarily and more economically diversified. Jordan was the first Arab country to propose and use its Arab foreign policy to encourage the establishment of joint economic committees to achieve the minimum level of economic integration with its Arab neighbours.¹²¹ Through the experience of its relationship with Syria, Jordan highlighted the importance of developing greater economic integration in its Arab surrounds. Jordan recognised that it is economically weak compared with its neighbours, and, by developing strong economic and political ties with them, it can ensure its survival.

Jordan signed a trade agreement with Syria in 1999, which led to the elimination of tariffs on a wide range of goods imported by each side to include about 200 commodities, which is the largest number in any agreement signed by Jordan with neighbouring countries. The agreed substantial tariff reductions were a significant step towards eventual free trade. However, Jordan retained 35% of the imports of Syrian clothing, alcoholic beverages, biscuits and chocolates to protect its local industries. Syria also excluded marble, granite and margarine from a list of more than 100 Jordanian products in which tariffs were waived, which has led to a rise in Jordanian–Syrian trade.¹²²

Overall, the different characteristics of Jordan's foreign policy with Arab Countries have helped the economic integration of the Arab region, albeit in part. This has occurred through a policy of balance and moderation that should be followed by economically weak countries, such as Jordan, especially in an area characterised by the rapid transformation of strategic

¹¹⁹ See Ryan, above n 113, 33, 56.

¹²⁰ See Brand, above n 116, 153, 195.

¹²¹ Ibid.

¹²² Riad Al-Khouri, 'Regional Economic Cooperation: A Jordanian Perspective' (2000) 7(1) *The Search for Regional Cooperation, Palestine-Israel Journal*, <<https://www.pij.org/articles/277>> (accessed 30 May 2019).

alliances. This thesis argues that the Jordanian model in its bilateral Arab relations has been based on the method of economic and trade cooperation, after witnessing many failed attempts at political unity by various Arab countries in the last century. Through modest economic cooperation, projects aimed at promoting economic and trade assistance that starts at the bilateral level and if successful, it can be developed to include other countries of the region. Jordan followed this model particularly after the failure of the Baghdad Pact project¹²³ and the collapse of the Union of Syria and Egypt into one republic under the name of the United Arab Republic.¹²⁴ In addition, in response to the merger of Egypt and Syria into the United Arab Republic, the two Hashemite kingdoms of Iraq and Jordan established the Arab Federation of the two states, which was a short-lived country formed in 1958.¹²⁵

Jordanians argued that they could build the foundation for a more comprehensive unity in the future. At the very least, the benefits of expanded economic relations would force Syria or any other country to think twice before trying to break all ties—as Syria did with Jordan in 1970 and 1980—thus stabilising Jordan and its neighbours.¹²⁶ What seems clear in the Jordan–Syria relationship is that regional and international powers—such as Saudi Arabia, Iraq, Iran and Western influences—play a significant role in its economic and political spheres. The two countries’ dependence on third-party support, not on each other, better explains the role of the external economic factors that have affected the relationship. For example, when Saudi Arabia failed to provide the expected assistance, there was a clear Jordanian motivation for stronger ties with Syria. However, in other cases, friendly relations with Damascus were desirable only as long as they did not affect the primary economic assistance from the Gulf states and perhaps Iraq. Here, the relations between Jordan and Syria have mainly been economically driven, yet can only be implemented in the context of the relative political relations of the two countries with their regional ties.

¹²³ *The Baghdad Pact (1955) and the Central Treaty Organization (CENTO)* (Web Page, 2019) <<https://2001-2009.state.gov/r/pa/ho/time/lw/98683.htm>> (accessed 25 May 2019).

¹²⁴ The union of Syria and Egypt in the United Arab Republic with ‘one flag, one army, and one people’ was announced in Cairo on 1 February 1958. See T R L, ‘The Meaning of the United Arab Republic’ (1958) 14(3) *The World Today* 93, 101.

¹²⁵ The union lasted only six months, being officially dissolved on 2 August 1958, after King Faisal of Iraq was deposed by a military coup on 14 July 1958. See Ryan, above n 105, 40, 42.

¹²⁶ Jordan balanced between closing its borders with Syria in 1970 with the economic hardships caused by the disruption of trade. See Ryan, above n 113, 33, 56.

Jordan–Syria relations have oscillated between friendship and enmity. However, the territorial imperative, as well as the reality that the two countries are neighbours, dictates that no point of disagreement between governments and their foreign policy—which is influenced by their regional and international alliances—could ever sever the historical and human links in their relations. This explains why many Syrians have crossed into Jordan since the civil war broke out in Syria eight years ago, and have remained in Jordan ever since.¹²⁷ Before closing the border between the two countries because of the 2011 civil war in Syria, the movement of people and trade between the two neighbours was obstacle-free. Despite the enormous challenges, Jordan has succeeded in maintaining a relatively balanced position, maintaining diplomatic relations and not supporting the Arab League’s decision to suspend Syrian membership.¹²⁸ Jordan also maintained traffic movement until the border closed because of rebel groups seizing control of the border zone on the Syrian side. Despite pressure from Saudi Arabia and Western allies, Jordan has continuously called for a political settlement of the crisis, which has had enormous repercussions for the Jordanian economy.¹²⁹

There are significant challenges faced by the Jordanian economy based on the situation of regional developments, especially in Syria and Iraq. The Jordanian economy is among the weakest in the region, with inadequate supplies of water, oil and other natural resources, underlying the country’s heavy reliance on the stability of its political, trade and economic relations with neighbouring countries. Additional economic challenges include high rates of poverty, unemployment, budget deficits and government debt, which the Jordanian government attributes to regional turbulence and large numbers of refugees. Jordan has implemented significant economic reforms, such as expanding its foreign trade and privatising state-owned companies. However, the regional turmoil has contributed to slower growth from 2011 to 2019, which has hurt the export-oriented sectors, construction and tourism. Throughout 2014, Jordan’s finances were strained by the natural gas pipeline attacks in Egypt, disrupting

¹²⁷ Ibid.

¹²⁸ Jordan, Lebanon and Iraq recently proposed Syria’s return to the Arab League. See ‘Lebanon, Iraq, Jordan to Submit Proposal for Syria’s Return to Arab League’, *Middle East Monitor* (8 January 2019) <<https://www.middleeastmonitor.com/20190108-lebanon-iraq-jordan-to-submit-proposal-for-syrias-return-to-arab-league/>> (accessed 19 May 2019).

¹²⁹ Osama Al Sharif, ‘Jordan Softening Stand on Syrian Regime’, *Middle East Institute* (15 May 2018) <<https://www.mei.edu/publications/jordan-softening-stand-syrian-regime>> (accessed 9 May 2019).

natural gas exports to Jordan and leading Jordan to rely on more expensive diesel imports—primarily from Saudi Arabia—to generate electricity.¹³⁰

The regional uncertainty that began in conjunction with the Syrian war in 2011 has shocked the Jordanian economy. From 2000 to 2009, annual GDP growth averaged 6.5%; however, from 2010 to 2016, GDP growth shrank to only 2.5% per year, and, in 2017, it was only 2.0%. This downturn has led to changes in economic policy and tax increases that have created economic and political repercussions and shaken the pillars of the Jordanian regime.¹³¹ The utility infrastructure, particularly energy and water, has also been the biggest economic challenge for Jordan, with the wave of Syrian refugees. Jordan ranks fourth among the poorest countries for water resources. The interruption of cheap Egyptian gas supplies also caused a huge loss to the Jordanian National Electricity Company due to its current reliance on heavy fuel for power generation.¹³²

Although the Jordanian economy was less integrated with Syria than were its other Arab neighbours,¹³³ the early flow of refugees had negative effects on Jordan. The war has placed tremendous pressure on public sector services and healthcare infrastructure in Jordan because of the influx of refugees. Further, Syrians are also competing in the informal labour market with Jordanians, where they can attain jobs more rapidly. In addition, the Jordanian transit trade that uses Syrian infrastructure to export goods to far markets, such as Lebanon, Turkey and Europe, was negatively affected.¹³⁴ Thus, the effects of the Syrian crisis go beyond the issue

¹³⁰ Naim Al-Qadi and Basem Lozi, 'The Impact of Middle East Conflict on the Jordanian Economy' (2017) 7(7) *International Journal of Academic Research in Business and Social Sciences* 331, 440.

¹³¹ Jordanians held large protests after the government cut fuel subsidies to secure an IMF loan. The government then faced another round of protests in 2018 after it introduced an IMF-backed tax bill that abolished subsidies on bread and raised the general sales tax. The instability in the Middle East region has hindered trade and economic development since the Syrian war in 2011. See Alexander Werman, 'Jordan: Economic Impact of the Syrian War's Next Stage', *Global Risk Insights* (2019) <<https://globalriskinsights.com/2019/01/jordan-syria-war-economic-impact/>> (accessed 8 May 2019).

¹³² Suleiman Al-Khalidi, 'Jordan Hikes Power Prices as Egypt Gas Disrupted', *Reuters* (2012) <<https://www.reuters.com/article/energy-jordan-electricity-idAFL5E8CU35A20120130>> (accessed 1 May 2019).

¹³³ Jordan had historically tight trade links with Syria and, before the war, Syria was its fourth-largest Arab trading partner. See 'Jordan Major Trade Partners: Jordan Exports and Imports Statistics', *Countries Bridgat* (2019, Web Page) <https://countries.bridgat.com/Jordan_Trade_Partners.html> (accessed 4 May 2019).

¹³⁴ The Jordanian transit trade through Syria amounted to approximately 30% of imports and 11% of exports, thus causing significant disturbances to Jordanian business that had to find alternative trade routes. See Werman, above n 131.

of refugees and extend to influencing the Jordanian international trade routes to and from Jordan through the Syrian ports.¹³⁵

The Syrian war seems to be nearing its end, and the border has already been reopened after Jordan confirmed that it was under official control.¹³⁶ This positive development means that Jordanian and Syrian importers and exporters will be able to trade goods through the land border crossing, thereby saving time and transportation costs. This step is considered a worthy incentive to strengthen the business relationship between the two countries. The transformation of the conflict and the relaxation of hostilities offers the opportunity for Jordan and Syria to benefit economically, which would contribute to easing the process of Arab regional economic integration.

This thesis argues that the civil war in Syria was a severe blow to Arab political and economic integration. The war has kidnapped Syria from its Arab environment, as it has become closer to Iran and Russia. Both these countries are allies who helped the regime stand against the popular revolution. The pro-Iranian regime accuses the Arabs, especially Saudi Arabia and Qatar, of funding and supporting the revolution, and has accused Jordan of training anti-Assad groups, which has made Syria more distant from its Arab environment than ever before. At the same time, Iran has strengthened its power in Syria and played a pivotal role in changing the balance of power in favour of its ally, the Syrian regime. Iranian leaders have spent around four decades establishing armed groups throughout Arab Countries to strengthen their influence, and provided arms and money to Hamas, the Islamic Jihad in Gaza and the Lebanese Hezbollah movements.¹³⁷ The chances of success of Iranian agent organisations, such as Hezbollah or the Iraqi Shiite groups established by Iran in the 1980s and 1990s, were previously limited by traditional armies; however, in recent years, they have become the dominant power in weak countries, such as Syria and Iraq. The Shiite militias in Iraq have fully integrated into the

¹³⁵ There was a significant decline in the trade exchange between Jordan and Syria. The Syrian crisis also affected the Jordanian imports, trade volume and trade balance. See Akram M Haddad, 'The Impact of Syrian Crises on the Jordanian External Trade' (2018) 6(2) *Economics World* 142, 156.

¹³⁶ Jordan will reopen its border with Syria only when it is ready, Foreign Minister Ayman Safadi said. See Suleiman Al-Khalidi, 'Jordan Says Not Yet Ready to Open Border Crossing with Syria', *Reuters* (3 August 2018) <<https://www.reuters.com/article/us-mideast-crisis-syria-jordan-border/jordan-says-not-yet-ready-to-open-border-crossing-with-syria-idUSKBN1KN2MJ>> (accessed 5 May 2019).

¹³⁷ Ben Hubbard, 'Iran's Allies Feel the Pain of American Sanctions', *The New York Times* (2019) <<https://www.nytimes.com/2019/03/28/world/middleeast/iran-sanctions-arab-allies.html>> (accessed 2 May 2019).

political system and formed another parallel army to the weaker Iraqi army.¹³⁸ These militias have expanded their actions across the border and established groups in Syria to fight alongside the regime of Bashar Al-Assad, who currently controls Syria.

Therefore, reducing regional tension requires Jordan and the Gulf states, especially Saudi Arabia, to pursue a long-term economic cooperation strategy with Syria. Moreover, it is important to recognise that conflicts in Syria have impeded the Arab economic integration, and that, by increasing economic cooperation with Syria and reconstruction by Gulf Arab support, Syria will return to its natural role in the Arab region. This is crucial for the Arab economic integration.

5.4 The Weakness of Economic and Political Integration among Arab Countries

The Arab economic integration would increase the welfare of poor Arab countries; however, the economic structures of Arab Countries are vastly different, which requires a distinction to be drawn between the group of Arab oil-producing countries and non-oil-producing countries. The oil countries enjoy high incomes per capita, making them wealthy countries.¹³⁹ The non-oil Arab countries are mostly among the group of middle-income countries and have a traditional manufacturing sector, with a competitive advantage for the services sector. They also have weak agricultural sectors, resulting in lower per-capita income.¹⁴⁰ Most of these countries are suffering from balance-of-payments deficits because of the weak competitiveness of their national industry and lack of sources of revenue.¹⁴¹

As explained above, Arab Countries have a long history of negotiating regional trade agreements, yet most of these agreements have not been effective, resulting in little

¹³⁸ Garrett Nada and Mattisan Rowan, 'Part 2: Pro-Iran Militias in Iraq', *Wilson Center* (Webpage, 2018) <<https://www.wilsoncenter.org/article/part-2-pro-iran-militias-iraq>> (accessed 9 May 2019).

¹³⁹ The GDP per capita in Qatar is US\$72,677. See 'Projected GDP per Capita Ranking (2019–2023)', *Statistics Times* (2019) <<http://statisticstimes.com/economy/projected-world-gdp-capita-ranking.php>> (accessed 9 May 2019).

¹⁴⁰ The GDP per capita in Yemen is only US\$1,080. See International Monetary Fund, *Report for Selected Countries and Subjects* (2019).

¹⁴¹ According to the Economic Complexity Index, in 2017, Jordan exported US\$8.17 billion and imported US\$20.7 billion, resulting in a negative trade balance of US\$12.6 billion.

interregional trade compared with other regions. The Arab economies are still fragmented and have little interdependence between each other; their economies are more connected to foreign countries than to each other.¹⁴² This is largely due to the fact that most of the exported oil is destined for industrialised countries. The image of intra-Arab trade may be clearer if oil exports are excluded—for example, the Jordanian exports to Arab Countries account for 47% of its total exports.¹⁴³ Thus, the inclusion of oil in the foreign trade of Arab Countries has helped increase integration with the global market, rather than with other Arab countries. Intra-Arab trade remains limited and does not justify the establishment of an economic zone or a common economic market.

In situations where intra-economic and trade relations in the Arab region increase, they are often linked to unwarranted or non-permanent conditions.¹⁴⁴ The current situation in the Arab region expresses common historical, geographical, linguistic or cultural facts, but it is still far from economic integration. Intra-Arab economic relations remain limited since the establishment of the Arab League, the Economic and Social Council, the Council of Arab Economic Unity, and many Arab trade agreements. Intra-Arab trade is still too limited, with over half of total exports going to industrial countries and one-third to Asia. Moreover, two-thirds of the imports are from industrial countries and another 15% are from Asia. Thus, industrial countries and Asia comprise about 80% of the region's total trade.¹⁴⁵

The question is why the Arab economic integration has not been achieved, despite the numerous attempts and the fact that regional economic cooperation is necessary. Historically, for the most of the past 14 centuries, the region has been unified under vast empires; in fact, most of the current interstate boundaries in the region were drawn as an outcome of colonialism, which led to the establishment of various national identities with dissimilar

¹⁴² For example, the top trading partners of Saudi Arabia are China, Japan, India, South Korea and the US. See 'OEC—Saudi Arabia (SAU) Exports, Imports, and Trade Partners' (Web Page, 2019) <<https://atlas.media.mit.edu/en/profile/country/sau/>> (accessed 1 May 2019).

¹⁴³ 'OEC—Jordan (JOR) Exports, Imports, and Trade Partners' (Web Page) <<https://atlas.media.mit.edu/en/profile/country/jor/>> (accessed 9 May 2019).

¹⁴⁴ Middle East countries were generally subjected to colonial economic policies, and their economies were geared towards benefitting the colonial powers. See Raffaella A Del Sarto, 'Contentious Borders in the Middle East and North Africa: Context and Concepts' (2017) 93(4) *International Affairs* 767, 787.

¹⁴⁵ Hassan Al-Atrash, *Intra-Arab Trade—Is It Too Little* (International Monetary Fund, 2000) 4.

governing regimes and national economic policies.¹⁴⁶ The quest for Arab integration has been an important topic of Arab politics in the twentieth century. However, recent developments have rendered this dream more elusive than ever, as the Arab world's external dependence and internal fragmentation have increased. The weakening and collapse of the Soviet Union as the sponsor of Arab nationalist regimes and the growing penetration of Israel and the US into domestic Arab arenas have represented a major setback to the Pan-Arab project.¹⁴⁷

Aarts describes the Middle East as a 'region without regionalism' that lacks an influential region-wide organisation. The Arab League is the oldest regional organisation, yet one of the weakest, and has often proven unable to play a central role when political, military or economic crises arise among Arab Countries.¹⁴⁸ Ahmad Jalal argues that regional agreements are not purely about economics—they usually have political aims, and the political gains may outweigh the economic cost. While it is difficult to attach the appropriate weight to each side of the equation, the challenge is to guarantee that regional integration results in the achievement of overall net gains. Likewise, it is essential to realise that political gains tend to reduce over time as the primary objectives are achieved. Thus, even if the economic costs and benefits remain stable, continuous initiatives are still needed to make up for the decreasing value of political gains.¹⁴⁹

Consequently, the inability of regional integration arrangements to attain and maintain a positive overall cost-benefit balance may be why the many attempts at economic integration among Arab Countries have been unsuccessful. The individual national interest of Arab Countries is one of the most significant challenges facing the building of powerful institutions for Arab integration. The new Arab countries that formed after the fragmentation of the Ottoman Empire were weak economically and militarily, and had the desire to assert their independence.

The establishment of the Arab League was an attempt by Arab policymakers to obligate themselves publicly to a common Arab agenda, yet, at the same time, they were undermining

¹⁴⁶ One could argue that colonialism was the primary reason for the weak the Arab economic integration.

¹⁴⁷ The successive defeats of Arab countries against Israel backed by the West, Iraq's invasion of Kuwait and the Gulf Wars were a blow to Arabism.

¹⁴⁸ Paul Aarts, 'The Middle East: A Region without Regionalism or the End of Exceptionalism?' (1999) 20(5) *Third World Quarterly* 911, 925.

¹⁴⁹ See Galal and Hoekman, above n 47, 5.

the effectiveness of this organisation in all aspects that were thought to be contrary to the interests of their newly formed countries.¹⁵⁰ Since the establishment of the Arab League, the opposite of its aim has occurred: country independence has been consolidated into an intra-state order, which has slowed the consolidation of supranational organisations. The Arab League has been a weak regional body that did not affect states' sovereignty. This is very apparent in the decision-making process, as the Arab League functions as an intergovernmental negotiating framework, rather than as a supranational organisation. One of the main objectives of the Arab League in the 1950s was the formation of the Arab Common Market, which is not yet completed.¹⁵¹

The question remains how to achieve and manage the Arab economic integration. It is possible to understand the Arab economic integration through the guidelines of the European experience, which is the deepest economic integration yet achieved. One lesson to be learnt is that the Arab economic integration, as a whole, should be viewed as a homogenous process, not as a series of separate steps that can be taken individually. This will be achieved by activating the role of the Arab League and making it a supranational organisation charged with protecting and promoting Arab economic interests in international trade forums, such as the role played by the European Economic Community of the EU, which is a unified body in global trade negotiations. Thus, all lessons are linked to the fundamental need for strong political support for integration and a type of central executive body.

Arab Countries are geographically close and most have common borders. However, high tariffs, lack of sufficient infrastructure and different means of transportation have increased the cost of trade and eroded the comparative advantage of their proximity.¹⁵² Conversely, in the EU, the countries' proximity, non-existent tariffs and infrastructure network have played a significant role in stimulating intraregional trade. While most Arab countries have stimulated their liberalisation efforts since entering the GATT/WTO, concluding bilateral, multilateral and regional trade agreements, the average tariffs for the region remain higher than in other

¹⁵⁰ Marco Pinfari, *Regional Organizations in the Middle East* (Oxford Handbooks Online, 2016) 10.

¹⁵¹ The 'Sharm el-Sheikh' Arab Economic and Social Summit of 2009 urged the Arab economic integration. Arab countries agreed to establish an Arab common market by 2020, but without specifying a detailed timetable and follow-up steps. Thus far, there has been no significant progress. See Legrenzi and Calculli, above n 25, 2.

¹⁵² Poor infrastructure and transportation increase the cost of transporting goods over long distances, yet other factors may be more significant in weakening the trade exchanges between Arab countries. See T R Lakshmanan, 'The Broader Economic Consequences of Transport Infrastructure Investments' (2011) 19(1) *Journal of Transport Geography* 1, 12.

regions.¹⁵³ A controversial issue is that, despite the GAFTA entering into force, which provided for the removal of all tariffs, Arab Countries are still signing bilateral trade agreements with each other.¹⁵⁴

This thesis advocates that the political incompatibility between the Arab regimes and their loyalties to numerous foreign allies are responsible for the limited progress on the Arab economic integration. Concerns over the distribution of wealth and gains from economic integration across and within countries, national sovereignty, and the cost of adjusting to increased competition are also undermining economic integration. Moreover, there is a lack of consensus among the Arab states on the choice of a country to serve as a regional leader, such as Germany or France in the EU. Sayigh argues that leaders in Arab Countries, with their vested interest in maintaining their influence within their states, are less than supportive of Arab integration projects.¹⁵⁵ They believe that economic integration will be eventually accompanied by political integration that would mean losing their privileged class position in their countries. Another important obstacle is that integration often leads, in the short term, to transitional costs that can result in political and social pressures that are high from leaders' perspectives. The large number of Arab Countries may also be one of the reasons for the limited progress of Arab integration, as the differences in economic systems across Arab countries impede deeper forms of economic relationships. Moreover, the divergence in the level of development works against economic integration. As aforementioned, the differences in per-capita incomes between some Arab countries are greater than seventy times.¹⁵⁶ Thus, it is possible to argue that the vast income gap among Arab Countries has increased Arab disintegration and confirmed that the

¹⁵³ The obstacles include high nominal tariffs, the high rates of protection for domestic manufacturers, some industrial product imports still being subject to licencing requirements, and the processes of exports and imports being accompanied by costly administrative procedures. See Simon Neaime, 'Arab Economic Integration: Trade and Growth Policy after the Crises', *Economic Research Forum* (Web Page, 2019) <<https://theforum.erf.org.eg/2019/01/28/arab-economic-integration-trade-growth-policy-crises/>> (accessed 25 May 2019).

¹⁵⁴ In February 2019, Jordan and Iraq signed energy, trade, transport and industrial agreements, and agreed on joint projects that enhanced economic relations between the two countries to their highest point in two decades. See Taylor Luck, 'Jordan and Iraq Turn a New Page with Agreements and Projects', *The National Business* (2019) <<https://www.thenational.ae/business/economy/jordan-and-iraq-turn-a-new-page-with-agreements-and-projects-1.821230>> (accessed 4 May 2019).

¹⁵⁵ Yusif A Sayigh, 'Arab Economic Integration: The Poor Harvest of the 1980s' in Michael C Hudson (ed), *Middle East Dilemma: The Politics and Economics of Arab Integration* (Columbia University Press, 1999) 2, 24.

¹⁵⁶ See the GDP per capita in Qatar and Yemen. See 'Projected GDP per Capita', above n 139; International Monetary Fund, above n 140.

oil-producing countries are not keen to share their wealth with the poor Arab countries, such as Yemen and even Jordan.

The weakness of the Arab economic integration is not only a result of political factors—economic causes have also prevented economic integration between Arab Countries. These countries have not had sufficient incentives to integrate because they have similar production structures, with high levels of protection, which has limited intra-Arab trade. In addition, the lack of encouraging investment environments, weak infrastructure, severe restrictions on investors, high transaction costs and restrictive barriers have limited trade between these countries. However, the significant economic reforms of the last two decades in some Arab countries, such as Jordan, have changed the economic incentives sufficiently in favour of the Arab economic integration.

Those Arab countries with limited resources, such as Jordan, have sought and continue seeking the Arab economic integration because, when an economically weak country is integrated with strong economies, its economic performance is enhanced. However, a stumbling block is that rich countries, such as the Gulf states, believe that, when they are economically integrated with weak economies, their economic performance will be adversely affected.¹⁵⁷ However, this thesis argues that economic integration between rich and poor Arab countries is also beneficial for rich countries, as investments in all Arab countries would occur at a lower cost. Wealthier countries could also employ comparatively cheap Arab workers from poorer countries, such as Jordan, Syria, Egypt and Yemen, which could be achieved more easily for both employees and employers. They would also be able to access resources that are not owned by their country, whether human or natural. Moreover, further political cooperation would lead to greater stability and prosperity for all peoples of the region. Thus, the issue is that political differences between the Arab leaders have greatly influenced the nature of Arab economic relations, and they do not seem to have sufficient incentives for economic integration because there is no intention to implement the binding commitments of the regional liberalisation plan covering Arab trade.¹⁵⁸

¹⁵⁷ Income and wealth are the most important aspects of the social and economic gap between Arab countries. The levels of inequality among Arab countries are so broad that it is sometimes difficult to think of a ‘unified Arab economic model’, especially with respect to the income of Gulf countries from oil sales over the past decades.

¹⁵⁸ See Zarrouk, above n 33, 6.

Jordan applied for entry into the GCC twice in the 1980s and 1996, but the request was rejected.¹⁵⁹ However, in conjunction with the events of the so-called Arab Spring, when disturbances arose in the two Gulf States of Bahrain and Oman, Jordan received an invitation to apply for membership to the GCC. Saudi Arabia had evidently concluded that Jordanian accession to the GCC would enhance the security and future of the Jordanian monarchy.¹⁶⁰ Despite occasional shifts in alliances, the Gulf states, mainly Saudi Arabia, believe that threats to their monarchies will follow any threat to the monarchy in Jordan.¹⁶¹ Saudi Arabia was concerned about the disturbances in Jordan when the US abandoned its closest allies in the Middle East region, when former Egyptian President Hosni Mubarak was forced to step down because of the January 2011 revolution. If the US abandoned another ally around the Gulf, the fear was that unrest could erupt in Saudi Arabia itself.¹⁶² However, when Oman and Bahrain received financial aid from other rich Gulf states and returned to stability, decision-makers in the Gulf states ignored the invitation to Jordan for membership to the GCC.

This indicates the complexity of the linkages between the economic and political factors that determine the regional arrangements; however, the above discussion has highlighted why more robust cooperation between the rich and poor countries in the Middle East region could be a desirable outcome for the region and globally. However, it is necessary to continue emphasising that FTAs by themselves are inadequate for the task of economic and political integration, yet economic cooperation could be one way of reducing political tensions.

In its latest report in 2018, the WB concluded, with regard to the Arab trade policy, that the region is the least integrated region in the world, despite its attractive geographical positioning at the crossroads of the European, African and Asian trade routes. Trade policy in many countries is impeding economic diversification. Arab Countries have high average effective tariff rates, mainly resulting from nontariff barriers. In addition, the region is not well integrated

¹⁵⁹ Sara Hamdan, 'Gulf Council Reaches out to Morocco and Jordan', *The New York Times* (25 May 2011) <<https://www.nytimes.com/2011/05/26/world/middleeast/26iht-M26-GCC.html>> (accessed 16 May 2019).

¹⁶⁰ Ibid.

¹⁶¹ Ali Younes, 'Jordan Crisis: Why Gulf States Are Rushing to Step In', *Al Jazeera* (10 June 2018) <<https://www.aljazeera.com/news/2018/06/jordan-crisis-gulf-states-rushing-step-180610103246160.html>> (accessed 13 May 2019).

¹⁶² According to Selim, for nearly 35 years, Egypt has agreed without deviation to whatever the US asks of it—in its foreign policy, policy towards Arabs, relation with Israel and economic policy. See Hend Selim, *The Coverage of Egypt's Revolution in the Egyptian, American and Israeli Newspapers* (Reuters Institute for the Study of Journalism, University of Oxford, 2012) 7.

into global value chains, has relatively protected service sectors and has low levels of regional trade and investment.¹⁶³

5.5 Conclusion

This chapter has demonstrated that the majority of Arab countries have concluded several bilateral and multilateral trade agreements. The Arab Mediterranean countries have also signed FTAs with the EU aimed at eliminating tariffs on trade in goods and calling for cooperation in trade, investment and services. However, the efforts to liberalise trade among Arab countries on a preferential basis have been limited in scope. The GAFTA was a traditional agreement that was limited to merchandise trade. The agreements, after a long period of implementation, have failed to regulate any legislation regarding the common market for goods, services, investments and capital flows.¹⁶⁴ The total intra-Arab trade remains small, which indicates that all current Arab trade agreements are incapable of enhancing Arab trade and stimulating further trade integration. This justifies the need for intensification of efforts by Arab decision-makers to overcome the obstacles obstructing the liberalisation of intra-Arab trade and improve regional trade integration.¹⁶⁵

This thesis emphasises that the Arab economic integration needs political support from policymakers and political leaders. Arab policymakers could work to increase economic growth and mitigate the effects of global economic crises resulting from opening trade relations with industrialised countries through greater integration of Arab economies.¹⁶⁶ The regional project to strengthen regional economic integration is premised upon the decisions taken by Arab leaders, leading to a new stage of deepened economic integration towards the establishment of an Arab CU. The successful implementation of such a project should consider

¹⁶³ The Arab World Competitiveness Report 2018 (World Bank Group, 2018) xv.

¹⁶⁴ One alternative route to Jordan is the services sector integration strategy. Given the importance of improving the services sector performance and the potential benefits of regional cooperation in the regulatory field, this strategy may be a more effective approach towards broader integration.

¹⁶⁵ Isabelle Gaysset, Thomas Lagoarde-Segot and Simon Neaime, 'Twin Deficits and Fiscal Spillovers in the EMU's Periphery: A Keynesian Perspective' (2019) 76 *Economic Modelling* 101, 116.

¹⁶⁶ Michelis Leo and Simon Neaime, 'Income Convergence in the Asia-Pacific Region' (2004) 19(3) *Journal of Economic Integration* 470, 498.

modernisation of trade and economic policies, and making them compatible with the WTO/GATT regulations. In addition, simplifying trade and non-trade barriers would enhance efficiency and productivity and optimise operational and transaction costs for businesses between Arab Countries.¹⁶⁷ Integration efforts by Arab policymakers resulted in the establishment of the Pan-Arab FTA. This initiative has encouraged Arab policymakers to develop a much broader integration scheme in the form of an Arab CU, announced at the first Arab Economic and Social Development Summit of the Arab League, held in 2009 in Kuwait, with the aim of achieving a functional CU by 2015.¹⁶⁸ However, no concrete results have been achieved and no decisions on the launch date have yet been made.

Given the current situation in the Arab region, Arab political leaders must work towards a competent regional institution with a robust framework, and super-national regional rules must be established to resolve all controversial issues that limit economic integration.¹⁶⁹ It is essential that Arab political leaders agree to choose one or two members to act as a regional leader. This would enable the countries to withstand external economic agendas that have previously undermined the success of the Arab economic integration. The Arab regional integration would be an important step towards integration with the global economy.

All Arab countries, rich and poor, should continue to integrate regionally to protect their economies more effectively by encouraging investment policies through special tax and customs exemptions. It is imperative for Arab Countries to abide by the PTAs that have been ratified and to update the existing trade policies. Arab Countries must also further integrate labour markets, where labour movements will be an enhanced tool for economic integration. Arab Countries should also enhance production efficiencies by exploiting comparative advantages in local markets to increase production by optimising the economies of scale that have become possible through the expansion of markets.

The complementarity of the Arab economies within one market is expected to increase the potential for rapid economic progress. However, the region is still unable to develop active

¹⁶⁷ The weak joint Arab coordination and the lack of involvement of the various economic sectors in order to design a comprehensive Arab economic project due to the unwillingness of Arab policymakers.

¹⁶⁸ Mohamed Chemingui, *Assessing Arab Economic Integration: Towards the Arab Customs Union* (Research Paper No E.16.II.L.2, United Nations Economic and Social Commission for Western Asia, 2015) 13.

¹⁶⁹ Despite their abundance, the Arab region lacks an effective institution to deal with formulating the rules, laws and policies for regional integration to occur.

interregional trading, mutual investments and capital flow arrangements. For instance, the Gulf states are a large supplier of capital to the Western money market (for example, Qatar is investing US\$320 billion abroad¹⁷⁰), while Jordan and many poor Arab countries each year send missions Westward to seek funds for economic development.¹⁷¹ Therefore, economic development cannot be achieved in the Middle East region without considering the need for regional economic integration, which can be achieved through Arab funding for joint investment projects that would help the economic stability of Arab Countries. Economic stability is a necessity for political stability, and surely that is in everyone's interests in the region, like the fact that FTAs are not only economic agreements, but also political pacts.

The Arab region has had a long history of conflicts and instability, which has had political, social and economic consequences for Jordan in many ways. Jordan, as a country in the Middle East region, aims to develop its economy by strengthening its international and regional relations. However, instability in the region has been an obstacle to Jordan's economic growth and to encouraging investment activities, and Jordan's priorities have been to maintain political and security stability for itself and its neighbours. Given the lack of resources and the flow of refugees from its neighbours, Jordan has had no choice but to invest efforts to bring stability to the region as a first step, and then restore trade relations as a priority for its integration with regional and international economies to achieve its development goals and meet its basic needs.

The Jordanian economy and its integration with Arab Countries has been challenged in significant ways. The country has received a substantial number of refugees from Palestine, Iraq and Syria. Moreover, the Jordanian international trade routes have been significantly disrupted, and the country has been forced to engage in significant military activities to protect itself from several direct terrorist and military threats. A review of the literature shows that the instability of the Middle East region has also negatively affected the overall performance of the Jordanian economy and its trade relations. The Jordanian economy also witnessed an increase in inflation and unemployment rates, as well as a rise in the deficit, increased external indebtedness and a decline in foreign investments and GDP because of instability. These outcomes indicate the significance of combining economic and political imperatives to create

¹⁷⁰ Investopedia, *Qatar Investment Authority (QIA)* (Web Page, 2019) <<https://www.investopedia.com/terms/q/qia.asp>> (accessed 13 May 2019).

¹⁷¹ James E MacConnell, 'The Middle East: Competitive or Complementary?' (1967) 58(2) *Tijdschrift Voor Economische En Sociale Geografie* 82, 95.

a stable and prosperous Middle East region. This may be considered speculation at present, but it is worth bringing into focus that the fossil fuel-based economies of the affluent countries in the region are now confronted with the rise of renewable energy globally. Thus, it would be in everyone's interest to create an effective political and economic alliance that could withstand future shocks.

This chapter concludes that the historical events of the region, including colonialism, the establishment of Israel, external interference and regional alliances, have produced a tense regional environment that has deprived the region from taking normal steps towards achieving economic integration. The erroneous trade practices in the region and protectionism have also affected the path of economic liberalisation and consequently affected the results of the trade agreements to which Jordan is a party. These limitations present a real challenge to Jordan's strategic economic and political options with its regional and international trading partners.

Chapter 6

Jordan's Regional Economic and Political Integration through Trade

6.1 Introduction

It is critical to strengthen the economic and trade relationship between Jordan and its regional neighbours to achieve prosperity, regional peace and security. The Jordanian quest to reorder the relational status quo is focused on establishing interdependencies that contribute to its economic development and help mitigate threats to the Middle Eastern region's interests. However, the relationship between the region's countries has long been marked by tensions and limited economic arrangements. The formal associations among them are often problematic, and the current economic relationships are not very useful. This thesis argues that economic integration in the region is the best solution to change this reality. It is in this context that the Jordanian regional economic integration is a significant step towards peace and stability in the Arab region and even more broadly with all neighbouring countries.

Jordan's ambition to build awareness of the national and economic implications of regional integration is not only driven by the prospects of economic development. It also aims to limit conflicts and non-traditional security threats, such as terrorism, refugee flows, transnational crime and the restrictions on international air and land trade routes that arise because of the instability of neighbouring countries. The conflicts in Syria and Iraq provide immediate examples of the effects of political turmoil on the Jordanian regional trade and economy. Therefore, the Jordanian assessment of regional security should be an urgent priority because traditional and non-traditional security threats pose a danger to the country and the rest of the region, undermining any prospect of economic integration through trade liberalisation. However, Chapter 5 has demonstrated that the Arab regional economic and political arrangements have not yet achieved their goals—they have barely moved beyond the stage of rhetoric and promises. The countries in the Middle East behave as though the region is an exceptional situation that does not require any collective arrangement to achieve actual economic integration.

This thesis argues that economic and political considerations influence each other; thus, economic and political integration complement each other.¹ Economic integration and political stability stimulate corporate and trade activities. As such, economic integration, when not accompanied by political understanding, can result in less trade and innovation and is reflected in economic growth as companies respond to increased competition in the economic market by focusing more on profit.² In contrast, when economic integration is accompanied by political understanding, innovation and growth will be stronger, and prosperity will be higher—the EU being a relevant example.³

Economic integration linked to political understanding is one of the most important motives for economic growth that could also bring peace and stability throughout the region. A favourable social construction was one of the most important outcomes of the EU's regional structure, and the aim was to accelerate economic growth and development by promoting regional peace and stability.⁴ From this perspective, the Arab economic integration needs political and social arrangements to create a unified regional community spirit. This chapter develops the argument that, despite the minimal economic effects of FTAs, their significant political and security implications make them an essential means for managing political situations in the region. A stable political situation would, in turn, enhance the economic integration in the region.

This chapter focuses on the connections between the Jordanian economic and regional trade arrangements, and the political situation prevailing in the region amid which trading activities operate. It draws on political theory to argue that economic and political considerations influence each other, and it is necessary to acknowledge that trade and politics are not independent spheres of action. The stability of economic relations among countries, including trade and peace, is closely intertwined. Peace is a necessary condition for trade and economic growth; in return, economic prosperity can promote stability and peace among countries. Peace

¹ Daniel Brou and Michele Ruta, 'Economic Integration, Political Integration or Both?' (2011) 9(6) *Journal of the European Economic Association* 1143, 1167.

² Ibid.

³ Campos Nauro F, Coricelli Fabrizio and Moretti Luigi, *Economic Growth and Political Integration: Estimating the Benefits from Membership in the European Union Using the Synthetic Counterfactuals Method* (Discussion Paper No 8162, IZA, Institute for the Study of Labor, 2014) 1, 26.

⁴ Salif Koné, 'Is Economic Integration between Developing Countries a Singular Process?' (2012) 27(3) *Journal of Economic Integration* 386, 409.

and prosperity feed on each other and, in many parts of the world, economic instability has caused political turbulence, social unrest and military conflicts. Thus, policy measures to maintain economic and human development have a positive effect, even indirectly, on reducing the risk of conflict.⁵ The following discussion is not designed to provide statistical evidence for the claims of the interdependence between political and economic factors, but it does combine theoretical ideas with facts from diverse sources to make this argument.

The chapter begins by illustrating the link between trade, peace and conflict; the importance of trade relations for peaceful coexistence; whether trade is a deterrent to wars; and the interdependence and gains that can be achieved through international trade. It discusses the theoretical traditions that support the thesis's argument—the neoliberal institutionalism theory and realistic theory—and discusses regional peace from an Arab perspective. Moreover, this chapter argues that FTAs are economic and political tools for strategic gains, and explains how noneconomic political interests motivate the formation of FTAs. Finally, this chapter examines the Jordanian abilities and changes in foreign policy and how FTAs have made Jordan an important political ally of the West in general and the US in particular, and how trade relationships can also change as a direct result of foreign policy shift. The discussion in this part explains the difficulties and limitations within which the Arab sub-regional institutions operate, and the limited role played by their members for regional economic integration. The following discussion aims to illustrate the relationship between trade, peace and conflict, and will provide the context for the remaining parts of the chapter.

6.2 The Connection between Trade, Peace and Conflict

In the case of ongoing conflicts between countries, a third party often begins an initiative to reduce hostility by negotiating a peace agreement between the conflicting parties.⁶ However, efforts at peace imposed by a third party may be innately unstable, especially if the underlying differences that originally separated the countries remain. A more viable peace is one that

⁵ Economic shocks limit human development and conflict destroys accumulated physical and social capital. See Namsuk Kim and Pedro Conceição, 'The Economic Crisis, Violent Conflict, and Human Development' (2010) 15(1) *International Journal of Peace Studies* 29, 43.

⁶ Muzaffer Ercan Yılmaz, 'Third-Party Intervention in International Conflicts: Peacekeeping and Peacemaking in the Post-Cold War Era' (2006) 3(11) *International Relations* 25, 44.

occurs naturally, without external intervention.⁷ Therefore, the issue that must be addressed in a case of conflict is how to achieve lasting peace and prosperity. This thesis argues that free trade and economic integration promote peace. More specifically, eliminating the leading causes of disputes by promoting bilateral or multilateral trade agreements is a significant step leading towards achieving peace between countries.

Many studies have supported the validity of the liberal argument that trade exchanges between countries enhance global and regional relationships and peace.⁸ Moreover, it is argued that peace is a decisive factor that can promote international trade growth.⁹ Indeed, economic relations and trade exchanges between countries are certainly influenced by political interactions between countries. The economic benefits of free trade are widely accepted, yet it is also the case that such benefits are not only economic, as free trade also enhances relationships and encourages countries to live in peace by making people more economically interdependent through promoting cross-border communication. While trade is open, people can access goods, services and resources beyond their borders, by offering what they can produce relatively.

Therefore, the links between international trade and peace have long been acknowledged. French philosopher Montesquieu stated in 1749 that ‘wherever there is commerce, manners are gentle’.¹⁰ In general, trade promotes prosperity and reduces poverty. Historically, free trade was seen as a means of strengthening internationalism and ending wars, as well as strengthening the interdependence and sense of an international community and building links between peoples. This argument has recently been supported by empirical research, which has shown that, when countries trade with each other, the probability of war reduces.¹¹ In contrast, if the doors of global trade are closed, the way to reach necessary goods may be through military conquest. In the nineteenth century, French liberal economist Frederic Bastiat stated,

⁷ A natural peace is one based in part on mutual dependencies. See Solomon W Polachek, ‘Conflict and Trade’ (1980) 24(1) *The Journal of Conflict Resolution* 55, 78.

⁸ John R Oneal et al, ‘The Liberal Peace: Interdependence, Democracy, and International Conflict, 1950-85’ (1996) 33(1) *Journal of Peace Research* 11, 28.

⁹ Reşat Bayer and Matthew C Rupert, ‘Effects of Civil Wars on International Trade, 1950-92’ (2004) 41(6) *Journal of Peace Research* 699, 713.

¹⁰ Duncan Brack, ‘Trade, Aid and Security: An Agenda for Peace and Development’ in Oli Brown et al (eds), *Trade, Aid and Security, An Agenda for Peace and Development* (Earthscan, 2007) 8.

¹¹ *Ibid* 1, 16.

‘When goods don’t cross borders, soldiers will’.¹² History shows the peaceful effects of trade, as the century of relative global peace from 1815 to 1914 was characterised by a dramatic expansion of international trade, investment and human movement.¹³ In contrast, the rise of protectionism and decline in world trade in the 1930s exacerbated the primary hostilities that caused the world wars.¹⁴ This thesis argues that free trade is a more efficient way to obtain products than military invasion. Trade ties improve relations, reduce misunderstanding and enhance the role of institutions to address conflicts of interest, thereby achieving mutual benefits and peace.

Countries are unable to efficiently produce all the merchandise they need, and it is useful for them to specialise in the production of certain products and trade with others in what they produce. Thus, each country may have a comparative advantage over others when it is relatively more efficient in producing a particular commodity. The existence of comparative advantages enables countries to increase their wellbeing through trade exchanges.¹⁵ At the same time, people can develop reciprocal relationships of friendship and respect, which, by mutual interdependence, can develop into long-term peaceful relations. If a conflict occurs, it necessarily leads to the loss of trade flows between trading partners and thus causes potential welfare losses.¹⁶ Thus, the assumption is that the potential losses of welfare from the interruption of trade relationships could be a deterrent to conflict between countries.

The social hypothesis also argues that international trade helps increase communication between communities by building a common global identity. High-commercial institutions that link countries via their membership replace the competitive relations of governments that may generate military conflict. Hence, liberal institutions provide an important mechanism that may

¹² Cara Burgess, Scott Beaulier and Joshua Hall, ‘Economic Freedom and Conflict: An Empirical Note’ (2009) 10(3) *Journal of Economics and Economic Education Research* 75, 83.

¹³ Ibid.

¹⁴ Carl Kaysen, ‘Is War Obsolete?’ (1990) 14(4) *International Security* 42, 64.

¹⁵ Shelby D Hunt and Robert M Morgan, ‘The Comparative Advantage Theory of Competition’ (1995) 59(2) *Journal of Marketing* 1, 15.

¹⁶ The opportunity cost or deterrence model states that conflict tends to disrupt normal trading patterns, and the potentially large economic costs will deter dependent states from using military force to solve their political conflicts. See Polachek, above n 7, 55, 78.

help countries reach a negotiated compromise to resolve differences.¹⁷ FTAs for commercial and economic purposes that may lead to economic integration could raise living standards and preserve the environment and, if implemented for this purpose, can reduce the root causes of conflicts.

However, the argument of free trade for promoting peace has not gone without criticism. Critics of liberalism argue that the link between trade and peace appears unconvincing and that trade relations may be a source of tension, especially when the relations are uneven. Neo-Marxists argue that trade liberalisation does not always yield net benefits, and often impoverishes the less powerful trading partner.¹⁸ Hirschman argues that trade dependency delays the development process in developing countries and destroys traditional political, economic and social institutions. Consequently, it leads to unequal distribution of nations' wealth and weakening of the dependent trading partner.¹⁹ The power of dependency can also be used to make concessions in the political or economic sphere, and dependent countries may be less able to change their trade and economic patterns. Thus, they may be vulnerable to manipulation if the geostrategic interests of the strong trading partner shift to a more beneficial partner. Economic dependence can also affect national independence and cause internal tensions.

Even in a climate of absolute gains for trading partners, tensions may arise over the distribution of gains from trade. New realists argue that countries are preoccupied with concerns about relative gains. They may view their partner's gains as a potential loss and will hesitate to give other countries the benefits associated with trade.²⁰ The trade war between the US and China is an example of this situation. Greater wealth and production efficiency for the trading partner may eventually translate into military force, which means that trade creates a negative external security situation. For this reason, countries may be unwilling to subordinate national interests to supranational goals linked to trade.²¹ Moreover, Marxism–Leninism and new realism claim

¹⁷ Patrick J McDonald, 'Peace through Trade or Free Trade?' (2004) 48(4) *The Journal of Conflict Resolution* 547, 572.

¹⁸ Katherine Barbieri, 'Economic Interdependence: A Path to Peace or a Source of Interstate Conflict?' (1996) 33(1) *Journal of Peace Research* 29, 49.

¹⁹ Albert O Hirschman, *National Power and the Structure of Foreign Trade* (University of California Press, 1980) vol 105.

²⁰ Michael Mastanduno, 'Do Relative Gains Matter?' in David Baldwin (ed), *Neo-Realism and Neoliberalism: The Contemporary Debate* (Columbia University Press, 1993) 250, 269.

²¹ Joanne Gowa, *Allies, Adversaries, and International Trade* (Princeton University Press, 1994) 50.

that international trade accompanies conflict. They reject the idea raised by liberals that trade is a desirable alternative to military options for access to resources and markets,²² and justify this with the history of colonialism and imperialism, and the way military force coupled with trade strategies was used to create unfair economic relations.²³ Consequently, expanding trade may lead to interstate conflict, as powerful countries compete to control limited resources and markets.

Even in the absence of concrete statistics for the effects of FTAs and economic integration on regional security and stability, it is plausible to assume that countries need to improve their workforces and strengthen their infrastructure by preserving the benefits of joint economic projects through free trade activities and direct investment. This thesis assumes that minimal moves towards economic integration, such as the signing of multilateral trade agreements, would strengthen economies and increase employment opportunities. In addition, by integrating joint investment and development projects, expertise and technology will come together to promote economic growth, thereby encouraging countries to maintain international and regional cooperation. However, despite the aspects of language, religion, common history and nationalism as success factors, political factors are a barrier for Arab countries to achieve economic integration. One of the most prominent manifestations of the weak political will among the Arab states is the weakness of the Arab League charter, as it does not play an active role in helping achieve the Arab economic integration.

The assumption of the causal link between peace and trade has a history emanating from the intellectual and commercial exchange that brought long eras of peace. Peace was interpreted as a result of the flow of free trade, not just trade.²⁴ Therefore, free trade could be:

Not only a way of prosperity and wealth but a web of friendship between countries.

Free trade also promotes peace by removing barriers that protect the privileges of

²² Richard N Rosecrance, *The Rise of the Trading State: Commerce and Conquest in the Modern World* (Basic Books, 1986).

²³ See Barbieri, above n 18, 33.

²⁴ Economically important trade significantly reduces the probability of militarised disputes between countries. See McDonald, above n 17.

local groups who are likely to prefer war to international trade as they benefit from the reality of protectionism.²⁵

The issue is whether international trade plays a role in the foreign policy of countries and how it affects security, peace and the global political economy. Although there is no consensus on the exact nature of this link, many authors have argued that international trade reduces the likelihood of conflict among countries.²⁶ This thesis argues in previous chapters that FTAs are a path to economic integration and promoting peace through embracing transnational relations that increase understanding among communities and the potential for cooperation at various levels. Therefore, expanding the international trade network makes war less likely by increasing the cost of cutting these economic ties.

To some extent, this is illustrated in the Middle East. Since the collapse of the Ottoman Empire in the wake of the World War I, the Arab region has disintegrated significantly both politically and economically. The area has witnessed regional instability and conflicts that have reached the state of war, despite the many common factors among the countries of the region. In fact, there has been a diplomatic or military crisis in the region almost every decade since the countries became independent political entities. The Middle East region has gained great importance because of its geopolitical situation, oil resources and holy sites. However, the region is characterised by ethnic, ideological and regional differences; competition for regional leadership; and direct external forces' intervention driven by their economic interests.²⁷ In contrast, economic and political integration occurred in Europe, especially after the World War II, when the countries accepted restrictions on their sovereign powers for specific policies, and authorised the EU to discuss and adopt policies of economic and political integration.²⁸ Economic policies have been devoted to promoting economic growth; thus, political integration has been growing through the channels of economic integration.

²⁵ Ibid.

²⁶ Rafael Reuveny and Heejoon Kang, 'International Trade, Political Conflict/Cooperation, and Granger Causality' (1996) 40(3) *American Journal of Political Science* 943, 970. See also Richard K Herrmann, Philip E Tetlock and Matthew N Diascro, 'How Americans Think about Trade: Reconciling Conflicts among Money, Power, and Principles' (2001) 45(2) *International Studies Quarterly* 191, 218.

²⁷ Khalid Rahman, 'Internal Factors Affecting the Middle East: Trends and Implications' (2008) 5(1) *Policy Perspectives* 1, 22.

²⁸ *The EU—What It Is and What It Does* (Web Page, 2019) <<https://op.europa.eu/webpub/com/eu-what-it-is/en/>> (accessed 26 September 2019).

The process of European integration was the embodiment of the theory of liberal peace, with a focus on liberalising trade, democracy and open multilateral agreements as a means of ensuring permanent peace for Europe. The founders' approach to the EU, including Konrad Adenauer, Winston Churchill and Jean Monnet, was based on the ideal of a peaceful, united and prosperous Europe. The key was to promote peace through economic integration, emphasise the importance of trade liberalisation and establish a supranational institution.²⁹ Eliminating the cause of competition between France and Germany over the production of vital coal and steel resources was the cornerstone to lay the foundation for European peace and reconstruction after the World War II. The creation of the European Coal and Steel Community linked the two countries functionally. In this regard, the solidarity of production between France and Germany, which was agreed upon, helped eliminate the possibility of war between them.³⁰ Thus, this study argues that the motives and ethics for establishing the European community were to achieve a permanent peace project for the entire continent.

However, the relationship between peace and economic prosperity in the Middle East, in general, is still contradictory. Although a peace process was established between Israel and Egypt, Jordan and Palestine, it has not resulted in the economic integration of these countries. Therefore, it is unclear which outcome should be achieved first—whether to pursue peace to ensure improvements in the living conditions of people, or economic prosperity and trade relations to provide peace and stability for the region. Peace and stability affect economic development—violence not only kills people, but also destroys the fabric of society, schools, hospitals and service departments; therefore, the rest of population suffers from health and psychological problems. Thus, investing in peace and stability is necessary for development and prosperity, and hence economic integration, in the long term.

There is a pressing need for political arrangements to provide an appropriate basis for economic prosperity through activating economic and trade relations in the Arab region. International and regional trade promotes prosperity and economic growth, while political stability and

²⁹ Vicki L Birchfield et al, 'European Integration as a Peace Project' (2017) 19(1) *The British Journal of Politics and International Relations* 3, 12

³⁰ Schuman's plan was for Germany and France to join the coal and steel industries under one authority to change these historic enemies into partners. Based on the Schuman plan, six countries signed a treaty to manage their heavy industries under joint management. In this manner, no country could build weapons of war against any other, as they did in the past. See Henri Bonnet, 'The Schuman Plan' (1951) 114(4) *World Affairs* 99, 102.

flexible trade policies are useful in creating a better trading environment.³¹ Specifically, economic prosperity occurs through capital flows, the exchange of exports and imports and the development of joint Arab investment projects. If there is to be a peaceful and prosperous Middle East, it will be necessary to achieve mutual benefit from cooperation in the relations between the countries of the region. In this sense, economic and trade relations have broader implications than the immediate issues of improving living standards and promoting peaceful coexistence.

Likewise, economic integration in the Middle East could help prevent conventional and non-traditional security threats to the interests of Jordan and the region. It would also promote sustained economic growth and enable poverty eradication, which can be considered one of the leading causes of instability. Regional economic cooperation through transnational institutions is a fundamental characteristic of international policies. However, noneconomic considerations may also influence the strategic choices of countries. For example, if trade relations are unequal and centred on political objectives or strategic commodity non-renewable resources, such as oil, then foreign threats and interfering could be among the factors that cause conflict. The recent attempts to protect oil shipping in the Strait of Hormuz were driven by concern about Iranian behaviour in the region and the need to ensure the safety of the offshore oil trade, which prompted all previous US incursions into the Middle East.³²

The need for Gulf oil remains important, despite President Trump's claim in September 2019 that the US is no longer dependent on oil imported from the Gulf region to cover their energy needs. The key US allies and even rivals, such as China, remain heavily dependent on Gulf oil.³³ In a speech in September 2013, President Barack Obama stated that the US was prepared to use all elements of its power, including military force, to secure their fundamental interests in the Middle East. He noted that, while the US has been steadily reducing its dependence on imported oil, the US allies were still dependent on Gulf oil and supply disruptions could

³¹ Helen V Milner and Keiko Kubota, 'Why the Move to Free Trade? Democracy and Trade Policy in the Developing Countries' (2005) 59(1) *International Organization* 107, 143.

³² Crisis Group, *Strait of Hormuz* (Web Page, 2020) <<https://www.crisisgroup.org/trigger-list/iran-us-trigger-list/flashpoints/hormuz>> (accessed 26 September 2019).

³³ Speaking to Fox News, the US Secretary of State Mike Pompeo stated that the US mission is to avoid war with Iran. See Humeyra Pamuk, 'Pompeo Says US Mission Is to Avoid War with Iran but Measures in Place to Deter', *Reuters US* (2019) <<https://www.reuters.com/article/us-saudi-aramco-usa-iran/pompeo-says-us-mission-is-to-avoid-war-with-iran-but-measures-in-place-to-deter-idUSKBN1W70HF>> (accessed 26 September 2019).

destabilise the global economy.³⁴ The US fought wars in the Middle East when its economy was at risk of losing the flow of imported oil. In 1990, oil was the main reason that President George Bush decided to expel Iraqi forces from Kuwait. He stated: ‘Our country now imports nearly half of the oil it consumes, and we could face a significant threat to our economic independence’.³⁵ In contrast, President George W Bush made no mention of oil when he announced his invasion of Iraq in 2003. However, as Obama explained, oil remains at the heart of US foreign policy.³⁶ Thus, it is plausible to suggest that, given this type of business practice of exploitation and politicisation, the likelihood of conflict may increase because of the oil trade. This explains how business interests and political interests are interlinked with relative power imbalances between countries.

The US has long been involved in the Middle East to defend its strategic interests of ensuring oil flow, nuclear non-proliferation, counter-terrorism and the security of its most important ally—Israel. The US claims that Iran and the Islamic state pose real threats to their interests, yet these threats are often exaggerated. Instability and complacency with regional chaos is a cause for concern, as the way the US deals with regional chaos is not effective, exacerbating regional problems and contributing to anti-Americanism.³⁷ Clearly, to protect its interests and those of its allies in the region, the US should contain the violence in Iraq and Syria and renew its efforts to promote peace between Israel and Palestine.

The following section provides a brief examination of the democratic peace theory to determine whether it can provide some of the answers to the issues raised here regarding the need for regional cooperation in the Middle East.

³⁴ Michael Klare, ‘Michael Klare, It’s Always the Oil’, *Resilience* (2019) <<https://www.resilience.org/stories/2019-07-12/michael-klare-its-always-the-oil/>> (accessed 26 September 2019). See also David Jeremiah, *What in the World Is Going On? 10 Prophetic Clues You Cannot Afford to Ignore* (Thomas Nelson, 2008) 34.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Daniel Byman and Sara Bjerg Moller, ‘The United States and the Middle East: Interests, Risks, and Costs’ in Jeremi Suri and Benjamin Valentino (eds), *Sustainable Security: Rethinking American National Security Strategy* (Oxford University Press, 2016) 1, 45.

6.2.1 Regional Peace: An Arab Perspective

The democratic peace theory examines capitalist and regional forms of peace that seek peaceful regional or international relations.³⁸ The significant insight of this theory is that trade relations are an essential tool in avoiding conflict in the trading community. The liberal literature assumes that political conflict restricts mutually beneficial economic relations, arguing that trade creates common interests and thus increases prosperity and peace.³⁹ These findings on trade security contribute to supporting this thesis's argument that economic integration can play a role in mitigating transnational conflicts in the Middle East region.

Democratic peace is certainly a successful experiment in promoting international relations and regional interdependence; however, an important question is whether the effect of democracy on the potential for conflict is a global phenomenon and can be applied everywhere.⁴⁰ Indeed, economic interdependence, international and regional organisations, and international law have produced remarkable results, especially in Western Europe. This thesis suggests that the theory of democratic peace does not apply to developing countries in the way it does in developed societies. The Arab region is still not equipped for democratic peace; however, this does not mean that the liberal peace proposal will not be suitable for the Arab region.

The theory of liberal peace argues that trade and economic interdependencies enhance peace.⁴¹ It suggests that the effects of democracy and interdependence are complex, and liberal peace is conditional and contingent upon the wealth of nations. In addition, the peaceable benefit of trade might depend on the political character of states.⁴² Therefore, it is important to clarify the conditional effects of democracy, interdependence and economic development on the conflict

³⁸ Bruce Russett et al, 'The Democratic Peace' (1995) 19(4) *International Security* 164, 184.

³⁹ John R Oneal and Bruce M Russett, 'The Classical Liberals Were Right: Democracy, Interdependence, and Conflict, 1950–1985' (1997) 41(2) *International Studies Quarterly* 267, 293.

⁴⁰ Classical liberals argue that democratic states are more peaceful than authoritarian regimes because of the logical preferences of voters, regulations and balances that limit the powers of the executive, and policies of nonviolent resolution of conflict. See T Clifton Morgan and Sally H Campbell, 'Domestic Structure, Decisional Constraints, and War: So Why Kant Democracies Fight?' (1991) 35(2) *Journal of Conflict Resolution* 187, 211.

⁴¹ Solomon Polachek and Jun Xiang, 'How Opportunity Costs Decrease the Probability of War in an Incomplete Information Game' (2010) 64(1) *International Organization* 133, 144.

⁴² Michael Mousseau et al, 'How the Wealth of Nations Conditions the Liberal Peace' (2003) 9(2) *European Journal of International Relations* 277, 314.

between states. If democratic peace succeeds in countries with advanced economies, simply promoting democracy in poor countries will fail to secure peace. In addition to democracy, efforts must be made to promote economic development if the country is poor. In addition, if trade between countries only encourages peace in the case of rich or democratic countries, efforts to promote peaceful relations with a wealthy yet undemocratic partner by promoting trade relations will fail and may create a stronger rival.

In this regard, an important question is whether it is possible to achieve democratic peace in the Middle East region in the near term. The significance of democracy relies primarily on the democratic peace theory. The assumption is that democratic countries are not at war because leaders are accountable to their people and subsequently seek alternatives to war through negotiation. It is also certain that, when democratic societies become wealthier, they tend to avoid all war options.⁴³ It is difficult to implement the hypothesis of democratic peace in the Middle East because the region needs more time to achieve political and economic stability. The democratic peace theory expresses the basic principles of liberalism, such as the strength of institutions—whether local, regional or international—in addition to global and regional economic cooperation, which can contribute to solving interstate issues. The theory may be considered a tool to bring peace and stability to the Middle East if applied correctly. The ongoing conflicts in the Middle East render the theory difficult to apply; however, with real democracy, peace and prosperity could coexist.

The current Middle Eastern leaders have not arisen from a culture of consultation, elections and negotiation—on the contrary, most of them are involved in conflict, rivalries, and suppression and imprisonment of democratic voices. The process of democratisation takes a long time, and it is possible that attempts to democratise could make the population poorer in the short term because of the instability that may accompany the transition, disrupting foreign investment, production and employment.⁴⁴ With regard to the assumption that trade-induced peace could be possible in the long term, it is first necessary to assess the characteristics of the Middle East, especially in terms of the forms of regimes and the Israeli factor. If some countries in the Arab region become democracies to a degree, there would be a vast difference between

⁴³ Azar Gat, 'The Democratic Peace Theory Reframed: The Impact of Modernity' (2005) 58(1) *World Politics* 73, 100.

⁴⁴ Edward D Mansfield and Jack Snyder, 'Democratization and the Danger of War' (1995) 20(1) *International Security* 5, 38.

the Arab regimes, leading to problems of political division and change in alliances. Historically, all Arab regimes are considered undemocratic, regardless of their level of wealth. However, if the poorest countries turned to democracy, the richer authoritarian regimes may become envious of the poor democrats. Plausibly, the citizens of poor democratic countries could demand equal redistribution of wealth across Arab Countries. Further, previously, undemocratic rulers were able to easily resolve inter-Arab issues; however, in the case of democratisation, the Arab concord would not be easy because leaders who are more democratic would be vulnerable to the demands of their masses and subject to accountability from their people, in stark contrast to their undemocratic trading partners.

The other dilemma is the Arab–Israeli relationship.⁴⁵ In the past, Arab leaders have often used the Israeli conflict as a tool to build their legitimacy and strengthen their repressive rule at home. From the Israeli viewpoint, it was also very convenient to interact with authoritarian regimes, and it provided the opportunity to legitimise its aggressive expansionist policies. Israel could easily negotiate with undemocratic regimes. If there was a democratic transformation, Israel would find negotiation with democratic counterparts very difficult because democratic leaders have a broad base of legitimacy at home. In addition, because democratic leaders are accountable to the public, it would be difficult for them to accept any agreement that would strengthen the Israeli position or satisfy the US side.⁴⁶ In short, while the transition to democracy in the Middle East offers some hope for peace and economic prosperity, it seems difficult in the short term and costly in the long term.

This thesis also argues that political regimes that govern Arab countries may not favour economic integration or even economic development. Political elites in non-democratic societies may impede the development of institutional frameworks for fear of political replacement. Strong national and regional institutions and the resulting development could weaken the comparative advantage of the politically powerful groups (elites), and thus increase the possibility of their replacement. As a result of fear of replacement, Arab political elites are

⁴⁵ The Middle East has been characterised by the Arab–Israeli conflict and the Gulf Wars, including the Iraq–Iran War. In addition to many internal ethnic and religious conflicts, there are issues from the remnants of Western colonialism, the effect of the Cold War, and conflicting economic and political interests. See Gerald M Steinberg, ‘The Arab-Israeli Security Dilemma and the Peace Process’ (1996) 31(4) *The International Spectator* 89, 103.

⁴⁶ Israeli Prime Minister Netanyahu described the Arab Spring as a threat to the Middle East and stated that the region would see a shift in alliances. See Menachem Klein, ‘Is the Arab Spring Israel’s Winter?’ (2012) 18(1) *Palestine-Israel Journal of Politics, Economics, and Culture* 26, 32.

not keen to change and may hinder institutional development at the national or regional levels, and hinder economic development that could lead to economic integration.

In contrast, it is unlikely that politically powerful groups (elites) would impede the process of economic development if there was a high degree of political competition or democracy, as in European societies. Development is only impeded when political competition is limited or when the dominant elite's power is under threat. This discussion leads to the argument that the effectiveness of the democratic peace theory varies according to the geopolitical and economic situation of the region. For example, the proportion of liberal democratic countries in Europe is much higher than that in the Arab region. As a result, if the nature of a country's regime is essential to maintaining peace and stable relations, less democratic countries could suffer from more conflict.

Goldsmith identifies significant exceptions, by region, to expected levels of conflict. He concludes that regional dynamics make a clear difference. His analysis further identifies two other important differences between regional conflict data and the outlook for global peace theory: the type of regime and the levels of economic interdependence. Therefore, the foundations of international conflict that have a specific approach to all regions and time periods must be replaced by theories that reflect the democratic and geopolitical nature of the region.⁴⁷ However, Goldsmith finds that democracy was not an important factor in strengthening relations in ASEAN and that trade dependency was an important source of reconciliation between bilateral relations. Moreover, there has been some speculation about the actual causal mechanisms responsible for reducing conflicts between countries that depend on trade in the Asian region, which is the negative externalities of conflict between countries that were members of a trading community.⁴⁸ Therefore, it is necessary to examine the importance of trade relations, as discussed in the literature. The following section discusses the relevant theories applicable to the importance of trade relations for peaceful coexistence and context. The aim of this discussion is to explore how these theories can be applied to substantiate the thesis argument.

⁴⁷ Benjamin E Goldsmith, 'A Universal Proposition? Region, Conflict, War and the Robustness of the Kantian Peace' (2006) 12(4) *European Journal of International Relations* 533, 563.

⁴⁸ Ibid.

6.3 Theoretical Traditions to Support the Thesis Argument

This thesis argues that non-trade considerations, such as political differences and external power, affect the nature of bilateral and multilateral relations and the results of economic options for Arab countries. It explains the causal relationship between the Arab economic integration and regional peace, and assumes that FTAs that could lead to economic integration may have positive effects for conflict mitigation. Thus, this section analyses how transnational political and economic relations under the umbrella of regional institutions affect state behaviour in its regional environment. In particular, such transnational economic agreements may influence the bilateral relations among Arab countries through economic and trade interdependence. The theory of neoliberal institutions summarises how the transnational governance of international institutions influences international politics and the behaviour of transnational economic and political institutions.⁴⁹

However, when a state is a party to more than one institution, each institution requires a different role and set of behavioural actions, as the actions of the state that meet the requirements of the role of an institution may not be compatible with the role of another. Countries often face conflicting roles because of being in two or more institutions, and such institutions can generate false expectations and conflicts because of different and possibly contradictory roles, which complicates the search for an Arab regional system.⁵⁰ The neoliberal institutional theory hypothesis is chosen as a structural base from which to prepare the analysis of economic integration in the Middle East region and the effects of the transnational relationship. However, the situation in the Middle East may more closely reflect the concept of the realistic theory, since anarchy, revolutions and wars promote competition and conflict between countries of this region, which limits cooperation between them. This will be discussed further below.

⁴⁹ Arthur A Stein, 'Neoliberal Institutionalism' in Christian Reus-Smit and Duncan Snidal (eds), *The Oxford Handbooks of International Relations* (Oxford University Press, 2008) 207.

⁵⁰ Michael Barnett, 'Institutions, Roles, and Disorder: The Case of the Arab States System' (1993) 37(3) *International Studies Quarterly* 271, 296.

6.3.1 Neoliberal institutionalism

Most of the neoliberal institutions developed during the reign of the dominant Western economic power subsequent to the World War II.⁵¹ An examination of the evolution of regional institutions within the Arab region helps ascertain whether these were beneficial for the Arab economic integration. This analysis is important because this thesis argues that joint institutional membership is necessary to maintain peaceful relationships, which will evolve by deepening economic relationships and trade agreements. Through clarifying the rules and principles that guide state behaviours by defining acceptable behaviour or by creating better certainty in the state's expectations of the behaviour of other countries, regional institutions can create mutual expectations and stable outcomes that could enhance trust in relationships.⁵²

In this regard, it is relevant to ask whether the Arab League and its institutions are a capable model as a regional institution that could accomplish effective Arab economic integration.⁵³ This section also addresses the reaction of Arab countries to what is believed to be a failure of the Arab League to achieve the minimum regional integration and its direction to conclude sub-regional agreements, such as the GCC, ACC and Arab Maghreb Union. The neoliberal institutionalism theory expresses the view that international institutions have a role in international relations, whether economically or politically.⁵⁴ It provides a general description of the functioning of the international system. Therefore, this theory enables the thesis argument to proceed on the basis that institutionalised international cooperation and regional integration have become essential characteristics of international policies.

⁵¹ The 1990s marked a shift towards open market economies, especially after the collapse of communist regimes. The period has been described as a time of rising neoliberalism—that is, the liberalisation of the market, decentralisation of the state and reduction of state intervention in economic affairs. Neoliberalism became a political-economic project concerned with regulating economic and trade relations through international and regional institutions. See David M Kotz, 'Globalization and Neoliberalism' (2002) 14(2) *Rethinking Marxism* 64, 79.

⁵² Barnett, above n 50, 271, 296.

⁵³ In almost all attempts at Arab regional integration, the states' commitment to the provisions of regional institutional cooperation agreements has not been emphasised. For the success of the institution, all participating states should focus on the depth of the effects of any agreement and the accuracy of its application in practice.

⁵⁴ Neoliberalism involves a group of institutions comprising many social and economic ideas and policies aimed at regulating political and economic activity, both globally and regionally. See Stein, above n 49, 201, 222.

The neoliberal institutional theory considers these institutions to be agreements with countries that reduce uncertainty and potential costs by collectively solving the world's problems, which can be achieved through the development of economic and political relationships. The main purposes of international and regional institutions are to work as a mediator to find solutions to interstate issues. Globalisation has created interdependence among people around the world—for example, an economic recession in the US could affect the economies of Europe, Japan and all other countries around the world.⁵⁵ International institutions have facilitated cooperation between countries by reducing the costs of concluding agreements by committing themselves to the rules and practices of the institution.

International institutions are involved in the regulation of international policies as much as governments, and cover most functional areas around the world. Once countries become interlinked, international oversight bodies become necessary to maintain fair rules for all members. For example, the UN, IMF, WTO, EU and Arab League are all supposed to work as a guide for the associated countries to encourage cooperation among themselves and solve global or regional economic or political issues, thereby making the member countries better off. If each country has to deal with its difficulties independently, this not only leads to conflicts, but can also be more costly because the law of the jungle could be the alternative. Thus, it is preferable to rely on international institutions to enhance international interdependence by providing information and advice to member countries on economic and political issues.

It is relevant to identify why countries participate in international or regional cooperative organisations, under which circumstances these organisations can cooperate, and the effect of this cooperation on the involved countries' relationships. According to the neoliberalism institution's founders, solidarity among countries was evident in the group of international organisations established after the World War II, where countries relinquished aspects of their sovereignty to a new international or regional power.⁵⁶ The idea behind this action was that political and economic relations that transcend national borders would influence the behaviour of the state in the context of its international and regional relations by emphasising mutual

⁵⁵ Ibid.

⁵⁶ Michael Mann, 'Has Globalization Ended the Rise and Rise of the Nation-State?' (1997) 4(3) *Review of International Political Economy* 472, 496.

obligations.⁵⁷ For example, potential commitments may have positive economic and political implications for all countries, and the overall political and economic situation in the region will thus be improved, and regional peace and stability will be strengthened. Moreover, non-commercial considerations—such as shared language, civilisation and common culture—affect choices regarding political and economic relations and the ties between countries. Consequently, mutual international and regional commitments pave the way for enhanced economic relations that are linked by trade agreements under the umbrella of international trade institutions, thus leading to the desired economic integration.

An important question is why countries do or do not participate in cooperative behaviours among themselves, the circumstances in which they could cooperate, and the effect of such cooperation on their relationship. In this context, Keohan and Nye use the term ‘complex interdependence’ to represent the transnational relations arising from the interdependence of countries through international institutions. They argue that such reliance can enhance the economic potential of the participating countries, as well as developing linkages between the non-state actors, such as enterprises and corporations.⁵⁸ These linkages expand the channels of interaction between states and reduce or even eliminate the policy gap in transnational relations. In addition, under ‘complex interdependence’, cross-border interactions occur through multiple channels, and foreign policy priorities are economic and trade issues, but non-military.⁵⁹

Further, countries recognise the importance of respectable reputation and the rewards that can accrue for their compliance with the institutions of the international community. This realisation arises from the fact that compliance with international institutions is an inevitable experience and that a country’s decision regarding non-compliance may expose it to the loss of reputation and the balance of its relationships. The damage can also be significant because it may expose the country to the risk of international isolation and sanctions.⁶⁰ For example,

⁵⁷ Although capitalist transformation because of globalisation weakens nation states, soft geopolitics can offer new functions to states and maintain international networks through international institutions. Ibid.

⁵⁸ Robert Keohane and Joseph S Nye, *Power and Interdependence: World Politics in Transition* (Boston, Little and Brown, 1977) 24.

⁵⁹ Ibid.

⁶⁰ Almost all states abide by all the principles of international law and international conventions, with a view to abiding by the agreed obligations of all parties. The Vienna Convention on the Law of Treaties established the principle of the *pacta sunt servanda*, which states that each treaty in force is binding on its parties and must be implemented in good faith. See *Vienna Convention on the Law of Treaties*, Vienna, 22 May 1969, Art 26. At ‘26—United Nations Convention on the Law of Treaties, Signed at Vienna 23 May 1969, Entry Into Force: 27

the US has repeatedly reprimanded North Korea and Iran for not meeting international obligations related to their controversial nuclear programs, and threatened them with economic sanctions and international isolation.⁶¹

Institutional theorists have addressed the question of how states distribute the benefits of cooperative agreements; how the dimensions of a country's obligation to cooperate can be determined; and whether there should be grounds for state participation in a cross-country agreement and, if so, how to facilitate it.⁶² The institutional theory highlights the possibility of achieving systemic mutual benefits through cooperative relationships and equitable division of benefits. These findings support the hypothesis that countries should not assume the worst intentions of others, and, in return, should implement measures in good faith to reduce uncertainty about the intentions of each party.⁶³

Thus, in accordance with the main topic of this thesis, it is argued that there are certain advantages of Arab regional institutions, as the success and continuity of these institutions are essential for the Arab economic integration. Joint institutional membership is necessary to achieve economic integration and maintain peaceful relations.⁶⁴ However, because of the regional chaos in the Middle East, this thesis proposes that the concept of the realistic theory may be more likely to prevail over regional relations. Although the international system and regional institutions urge regional cooperation in the Middle East, at modest levels, tensions and anarchies have undermined the effect of liberal institutions and largely reaffirmed realism. Therefore, as an alternative, this study examines the realistic theory. However, the realistic theory does not provide complete explanations for the prevailing relations among the Middle East states.

January 1980', *Jus.Uio.No* <<https://www.jus.uio.no/lm/un.law.of.treaties.convention.1969/26.html>> (accessed 25 October 2019).

⁶¹ 'Obama Asks N. Korea, Iran to Meet International Obligations', *Business Line* (13 February 2013) <<https://www.thehindubusinessline.com/news/world/obama-asks-n-korea-iran-to-meet-international-obligations/article20577914.ece>> (accessed 25 October 2019).

⁶² Helen Milner, 'International Theories of Cooperation among Nations Strengths and Weaknesses' (1992) 44 (3) *World Politics* 466, 496.

⁶³ Shiping Tang, 'Fear in International Politics: Two Positions (2008) 10(3) *International Studies Review* 451, 471.

⁶⁴ Examines economic integration within the EU as a factor in conflict transformation and peace building. See John Umo Ette, *The Impact of Economic Integration within the European Union as a Factor in Conflict Transformation and Peace-Building* (Thesis, Portland State University, 2014) I.

Realism has long been dominated by the theory of international relations, especially in situations of conflict and chaos, with the principle of survival of the strongest. One assumption of a realistic approach is that the rules of the international system are dictated by the chaos that arises from the lack of a central government to enforce the rules and protect the interests of states.⁶⁵ Realists link the lack of a world government to the continuing occurrence of interstate violence. The lack of an authority higher than nation states leads to a system of self-reliance and a brutal space where states seek opportunities to benefit from each other. In anarchy, spontaneous harmony in the international community is eliminated, and states will use force to achieve their objectives and implement their policies. Given that any state may use force at any time, all states must always be prepared either to confront force with force or pay for the cost of weakness.⁶⁶ Thus, realists have a largely pessimistic view of the international system. In short, realists believe that states are actors in the international arena and, because there is no centralised global authority to regulate state affairs, there is chaos.

Realists argue that international anarchy can foster competition among countries and limit their ability to cooperate, even in the case of common interests. According to the realistic theory, international institutions are unable to mitigate the restrictive effects of anarchy. Therefore, realism provides a pessimistic analysis of the prospects for international cooperation and the capacity of international institutions to promote cooperation between countries.⁶⁷ The realistic approach states that countries are unitary actors interested in increasing their security in an anarchic world.⁶⁸ Realists also argue that the benefits of trade are not realised equally among countries, and the distribution of these benefits affects the quality of international relations and the balance of power. Thus, trade can be used as a powerful tool among competing countries, causing weaker countries to be concerned about trade with powerful countries because the latter

⁶⁵ Miriam Dornan, 'Realist and Constructivist Approaches to Anarchy', *E-International Relations* (2011) <<https://www.e-ir.info/2011/08/29/realist-and-constructivist-approaches-to-anarchy/>> (accessed 14 November 2019).

⁶⁶ Kenneth N Waltz, 'Realist Thought and Neorealist Theory' (1990) 44(1) *Journal of International Affairs* 21, 37.

⁶⁷ Joseph M Grieco, 'Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism' (1988) 42(3) *International Organization* 1, 14.

⁶⁸ John Mersheimer, *The Tragedy of Great Power Politics* (WW Norton, 2001).

may use trade to make the former dependent.⁶⁹ Therefore, if countries are uncertain about the relative achievement of profit resulting from interaction, then each country would prefer a less durable cooperative arrangement to be freer and able to exit from such arrangement, if the advantages come to favour others. This could be a possible explanation for why Arab countries did not relinquish some of their sovereign decision-making in favour of the Arab League.

This thesis argues that the fear resulting from the uncertainty of the outcomes from the relations among Arab countries is the most important obstacle to regional cooperation, which causes rational selfish countries to be more cautious when dealing with Arab regional institutions. Logically, selfish states recognise that other states seek absolute gains and thus worry about compliance with regional institutions. Rational states also fear that other countries who favour cooperative arrangements may benefit more from the cooperation (relative achievements of gains), given that the concept of rational choice theory focuses on the use of logical calculations to achieve results consistent with the best subjective goals.⁷⁰ The idea of institutional rational choice is based on an initial assumption that actors follow a set of preferences in a rational manner. This means that they seek to achieve preferred results at the lowest cost by examining the cost of dealing with other actors.⁷¹ Institutions aim to resolve the strategic issues inherent in the interactions of actors through a balance of interests that serves as a solution to the interaction, but actors must define a common balance. Institutions provide rules to govern international interactions in ways that allow actors to derive the benefits of joint activity.

Determining the relative gains of cooperation depends on the fact that states fear that they will remain independent actors. However, states are also concerned that today's friend may be the enemy of the future, and that the achievement of common gains may benefit a potential enemy in the future. Given that international and regional circumstances may severely punish states if they fail to protect their vital interests or pursue goals beyond their means, states are afraid of the potential costs and act as rational agents. Thus, realism, in stressing conflict and competition, provides a comprehensive understanding of the problem of regional cooperation

⁶⁹ Hirschmann stated that Germany used trade to dominate Eastern Europe before the World War II. See Rawi Abdelal and Jonathan Kirshner, 'Strategy, Economic Relations, and the Definition of National Interests' (2007) 9(1-2) *Security Studies* 119, 156.

⁷⁰ Ronald L Akers, 'Rational Choice, Deterrence, and Social Learning Theory in Criminology: The Path Not Taken' (1990) 81(8) *Journal of Criminal Law and Criminology* 653, 676.

⁷¹ Jack Knight, 'Explaining the Rise of Neoliberalism: The Mechanism of Institutional Change' in John L Campbell and Ove K Pedersen (eds), *The Rise of Neoliberalism and Institutional Analysis* (Princeton University Press, 2001) 27, 47.

in the Middle East, and better explains the policy in the region. Regional tensions and conflicts in the Middle East have undermined liberal institutionalism and mostly reaffirmed realism.⁷²

However, the Middle East region has not witnessed a complete collapse of regional institutions and, in light of the continued modest levels of cooperation among countries, the thesis argues that realism overestimates the effects of conflict and chaos. It also minimises the ability of regional and international institutions to enhance collaboration.⁷³ Neoliberal founders argue that, even if realists are correct in believing that chaos restricts states' willingness to cooperate, countries can still work together, especially with the help of international institutions.⁷⁴ The assumption in the neoliberal literature is that the nature of the practices of the Arab League institutions is an exception to the Western neoliberal institutional model that governs the nature of relations between countries. In the Middle East, mechanisms for establishing and distributing systemic gains are infrequent because the practices of the Arab League do not affect the minimum sovereignty of member states.⁷⁵

The previous chapter highlighted that no other group of countries in the world may have the same possibilities for cooperation and integration as Arab countries. Nevertheless, Arab Countries continue to face external challenges and challenges posed by the region individually. The establishment of the Arab League in 1945 added to the paradox of the faltering Arab institutional development. However, understanding the weak potential of the Arab League reduces this contradiction. The Arab states are involved in creating a weak regional institution that could not restrict the free action of members at home or abroad.⁷⁶ Similarly, the nature of the regimes in Arab countries differs from capitalism-based countries. The differences range from the moderate degree of democracy in Jordan, Kuwait and Lebanon to the one-party regime

⁷² Korab-Karpowicz W Julian, 'Political Realism in International Relations' in Edward N Zalta (ed), *Stanford Encyclopedia of Philosophy* <<https://plato.stanford.edu/entries/realism-intl-relations/>> (accessed 26 October 2019).

⁷³ Ibid.

⁷⁴ Grieco, above n 67, 5.

⁷⁵ Irfan Ülger and Joe Hammoura, 'The Arab League: From Establishment to Failure' (2018) 4(1) *Social and Legal Studies* 35, 53.

⁷⁶ Interdependence has been very low since the establishment of the Arab League. Intra-Arab trade has ranged from 7 to 10% of total trade since the 1950s, and capital movements have been small. The hope was for Arab economic integration, without considering the productive capacity of Arab countries or similar patterns of production. Uncertainty over Arab unity, the West and Israel has also weakened the Arab League. See Etel Solingen, 'The Genesis, Design and Effects of Regional Institutions: Lessons from East Asia and the Middle East' (2008) 52(2) *International Studies Quarterly* 261, 294.

in Syria. Moreover, the republican systems in Yemen, Iraq and Egypt cannot easily be consistent with the Gulf states' monarchies. Therefore, each regime has different economic policies and priorities. Another complicating factor is that institutional features based on consensus lead to non-compliance among members, especially when there is no deterrent to non-compliance, even in the most important agreements, such as the GAFTA. The institutional framework for Arab countries does not operate under the regional necessities to ensure that the policy outcomes are consistent with the interests of members, infrastructure creation and the ideal basis for regional consultation and decision-making. Therefore, with these weaknesses, the Arab League and its institutions are not close to the concept of neoliberal institutionalism theory.

However, the Middle East is supposed to be fertile ground for regional integration. Culturally, the vast majority of people speak Arabic and share Islam. Historically, during the past 14 centuries, the region was united under great empires. Most of the current borders were drawn as a result of colonial differences, which enshrined the idea of the national identities of states. Aarts describes the Middle East as a 'region without regionalism' and as lacking a strong regional organisation.⁷⁷ The Arab League is the oldest yet weakest regional organisation and has often proved unable to play a central role when political, military or economic crises arise. A possible explanation for the failure of the Arab League is that the nature of the Arab dominant regimes creates incentives to establish regional institutions according to their own interests. The Arab League conforms to the conditions laid down in its proposed baseline.⁷⁸ The supposed rapprochement with regard to Arab nationalism may have given impetus to the initial negotiations to establish the Arab League. Paradoxically, the Arab League was eventually created to counter this Arab determination.⁷⁹ Tensions between Arab nationalism and state nationalism also underlined the rapprochement over the correct interpretation of Arab state rules, with the Alexandria Protocol outlining the potential internal effects of unity on state

⁷⁷ Paul Aarts, 'The Middle East: A Region without Regionalism or the End of Exceptionalism?' (1999) 20(5) *Third World Quarterly* 911, 925.

⁷⁸ See Ülger and Hammoura, above n 75.

⁷⁹ Marco Pinfari, 'Regional Organizations in the Middle East' (2016) *Oxford Handbooks Online* <<https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199935307.001.0001/oxfordhb-9780199935307-e-86>> (accessed 1 October 2019).

sovereignty, and thus prompting Arab leaders to oppose it. Thus, the ruling alliances converged on the establishment of an institution that would reduce the pressures for Arab unity.⁸⁰

Another explanation for the failure of the Arab League is that the overlapping roles of international and regional institutions in the Middle East delayed their integration. In the Arab region, there are many regional and sub-regional institutions with overlapping responsibilities. Therefore, it requires an understanding of the mechanism to share the functions and duties of membership of the Arab League and membership of sub-regional institutions, such as the GCC, to understand their potential. This has been difficult in practice because Arab regional and sub-regional institutions vary greatly in purpose, structure and capacity. Indeed, the basis for regional cooperation under the umbrella of the Arab League is unclear because of the lack of a framework for the roles and strategies of sub-regional institutions.⁸¹ It is obvious when the state is a member of more than one institution and each institution requires a different role and set of behavioural actions. Therefore, the actions of a state that conform to the role requirements of one institution may not be compatible with the role requirements of another institution. For example, there is a contradiction between the arrangements of the Arab states through the institutions of Arab nationalism and state sovereignty. More precisely, the inconsistency lies in the security and unity of the Arab world and the strength of individual Arab countries and concern for their continued existence.⁸²

States often face conflicting roles through being in two or more institutions, and such conflict can generate false expectations, thereby complicating access to regional integration.⁸³ Countries can be subject to contradictions because of overlapping international legal systems achieved through multilateral treaties at the global, regional and sub-regional levels; customary law; and other regulatory orders. Often, overlaps between different systems appear as sets of

⁸⁰ See Solingen, above n 76, 285.

⁸¹ Muthiah Alagappa, 'Regional Institutions, the UN and International Security: A Framework for Analysis' (1997) 18(3) *Third World Quarterly* 421, 441.

⁸² The state's roles and obligations affect its behaviour in dealing with regional and international issues. Overlapping institutions can produce contradictory foreign policy demands that may contribute to instability. Institutional membership affects the understanding of the state's priorities for the roles to be played, resulting in conflict of roles, which occurs when there is a contradictory expectation and performance that is incompatible with other organisational goals. For example, the role of the Arab states in preserving their sovereignty contradicts with the roles of each state associated with the Arab Unity Project. See Barnett, above n 50, 271, 296.

⁸³ *Ibid*, 271, 296.

standards that are conflicting.⁸⁴ The Bahrain–US FTA and Oman–US FTA are examples of this, as they can be considered a direct contradiction and violation of the GCC economic agreement, which states that no member state may grant a non-member state any preferential treatment exceeding that given to member states, nor conclude any agreement that violates the provisions of this agreement.⁸⁵ Therefore, US foreign policy intervention is another explanation for the weakening Arab integration.

6.3.2 The Arab Sub-regional Institutions

The trend towards sub-regional institutions among the Arab states began when the balance of the region's power shifted towards the oil-rich Gulf States, the US influence grew in the region, and the political regimes changed in Iran and Iraq. In the early 1980s, the unstable regional circumstances encouraged the Gulf States to establish a sub-regional institution with the aim of ensuring their security and achieving some of the original objectives associated with the Arab project.⁸⁶ The establishment of the GCC in 1981 is considered a reaction to the 1979 Islamic revolution in Iran and outbreak of the first Gulf War between Iran and Iraq. Consequently, the creation of the council was motivated by seeking enhanced security and protection from their most populous and powerful neighbours (Iran and Iraq). Saudi Arabia is the most populous and economically strong member country. Initially, the project focused on economic cooperation, with the possibility of developing broader political and military cooperation.⁸⁷

⁸⁴ Valentin Jeutner, *Irresolvable Norm Conflicts in International Law: The Concept of a Legal Dilemma* (Oxford University Press, 2017) 1423, 1428.

⁸⁵ See Article 31 of the Economic Agreement between the GCC States (External Bilateral Agreements), adopted by the GCC Supreme Council (22nd Session, 31 December 2001) in the City of Muscat, Sultanate of Oman.

⁸⁶ The GCC is a regional intergovernmental political and economic union consisting of Arab countries of the Arabian Gulf: Saudi Arabia, Oman, Bahrain, Qatar, Kuwait and the UAE. Recently, the Gulf States abandoned the proposed GCC Monetary Union plan, raising doubts about the future of the GCC. See Maria Abi-Habib et al, 'UAE Quits Gulf Monetary Union', *The Wall Street Journal* (21 May 2009) <<https://www.wsj.com/articles/SB124285038025540481?mod=googlewsj>> (accessed 19 October 2019).

⁸⁷ The Iraq War also affected regional diplomatic and military alliances, especially the new perceptions of the Gulf states after the rise of Iranian power. See Frederic Wehrey et al, 'An Altered Strategic Landscape: The Shifting Regional Balance of Power' in (eds), *The Iraq Effect: The Middle East After the Iraq War* (Rand Corporation, 2010) 17, 48.

The GCC is the most prominent sub-regional initiative, which aims to promote coordination, integration and inter-linkages among its members in all fields. The Islamic revolution in Iran and the war against Iraq pushed the Arab Gulf states to come closer to each other, which encouraged them to link together in forming a new regional bloc.⁸⁸ The framework of the GCC concluded several interesting cooperation initiatives. Economically, the GCC countries pushed towards the final establishment of a common market by signing a unified economic agreement. The Internal Security Agreement was also signed between the Gulf states following the so-called Arab Spring in 2012.⁸⁹ A joint defence force was also developed with forces from all member countries. The initiative has been described as fundamentally unique in the region.⁹⁰

In 1989, another two sub-regional institutions between Arab Countries were established: (i) Jordan, Egypt, Iraq and North Yemen declared the establishment of the ACC⁹¹ and (ii) Algeria, Libya, Mauritania, Morocco and Tunisia signed the Arab Maghreb Union.⁹² Both organisations had primarily economic agendas, and the GCC's encouraging record of accomplishment inspired their creation. However, coordination among the Arab states ended in the wake of the Gulf crisis, when Saddam Hussein's regime invaded Kuwait in 1990, with no notable achievement.⁹³ As for the Arab Maghreb Union, the political momentum that led to its establishment arose from the rapprochement between Morocco and Algeria,⁹⁴ and the main purpose of the Arab Maghreb Union was to ease the tensions between the two countries over Western Sahara. However, intra-Maghreb trade accounted for a fraction of the total trade

⁸⁸ Ibid.

⁸⁹ Sally Khalifa Isaac, 'A Resurgence in Arab Regional Institutions? The Cases of the Arab League and the Gulf Cooperation Council Post-2011' in E Monier (ed), *Regional Insecurity after the Arab Uprisings: New Security Challenges Series* (Palgrave Macmillan, 2015) 151, 152.

⁹⁰ Since the last British withdrawal from the region, the Arab Gulf States have worked systematically to strengthen their cooperation in various fields. However, defence cooperation remains modest because of certain regional factors, such as fears about the anger of neighbouring countries (especially Iran), protection of state sovereignty and dependence on national armies and foreign allies. The Peninsula Shield Forces are an important step in security coordination among the Gulf States. See Yoel Guzansky, 'Defence Cooperation in the Arabian Gulf: The Peninsula Shield Force Put to the Test' (2014) 50(4) *Middle Eastern Studies* 640, 652.

⁹¹ The ACC will be discussed in the next section.

⁹² Robert A Mortimer, 'The Arab Maghreb Union: Myth and Reality' in Y H Zoubir (ed), *North Africa in Transition: State, Society and Economic Transformation in the 1990s* (University of Florida Press, 1999) 179, 191.

⁹³ Pinfari, above n 79.

⁹⁴ Ibid.

between member states, and economic integration was very fragile because of the development of new economic cooperation initiatives with EU and Mediterranean countries. There were some attempts to revitalise the Maghreb Union after its weakness, but they did not succeed,⁹⁵ especially after the start of the Arab Spring from Tunisia, the collapse of the Muammar Gaddafi regime in Libya and political instability in Algeria. Thus, with the exception of the GCC, sub-regional integration projects in the Arab region have not succeeded, as a result of uncertainty and poor planning. In addition to significant interregional overlap because of the weak roles of the Arab League.⁹⁶

This thesis argues that it is not easy to form solid sub-regional bodies in the Middle East in the absence of economic incentives for regional integration. The low level of trade exchange within the region remains a prominent feature, even among the Gulf countries, which has its roots in the low degree of integration of the economies in the region because most oil exports are oriented outside the region. The Gulf countries also import most of their needs from outside the region. Therefore, low integration is a significant factor in discouraging attempts by countries in the region to develop effective forms of economic cooperation that could then extend to further cooperation in political and security spheres. However, this could be possible if the Middle Eastern countries took a real professional path towards integration. One reason for expecting this greater integration is that the literature, including this thesis, highlights the connections between political and economic interests. Rather than only discussing free trade, it is the responsibility of researchers to illustrate that free trade will only ever succeed if it is coordinated with the politics of the region.

The above discussion indicates that economic relations under the umbrella of regional institutions serve as political tools that participants can use to create peaceful geopolitical conditions. Peaceful and stable relations are the natural consequence of economic interdependence between countries, and mutual gains from membership in national regional institutions stimulate trade exchanges on both sides. Nonetheless, it seems that regionalism in the Middle East is currently difficult in the absence of significant economic incentives for

⁹⁵ There is a low level of Arab economic integration, even with sub-regional blocs, with the share of intra-Arab trade in the 1980s and 1990s remaining at 7 to 8% of total trade. See Alessandro Romagnoli and Luisa Mengoni, 'The Challenge of Economic Integration in the Mena Region: From GAFTA and EU-MFTA to Small Scale Arab Unions' (2009) 42(1–2) *Economic Change and Restructuring* 69, 83.

⁹⁶ Ibid.

regional integration. However, individual countries have made some efforts in this regard. The following section discusses the Jordanian attempts to create an Arab sub-regional institution.

6.3.2.1 Jordan and the Arab Sub-regional Institutions

The trend towards Arab sub-regional treaties has been driven by the need for economic development in the hope of imitating the successful course of European integration, which is a viable model through which the Arab region could be opened up to global economies. Since its independence from the British mandate, Jordan has occupied a leading position in establishing Arab regional institutions. Jordan was a proponent of the first Arab meeting that adopted the Alexandria Protocol, which drew up a plan for the final signing of the Arab League Charter in Cairo in 1945 with the governments of Jordan, Iraq, Saudi Arabia, Lebanon, Egypt, Yemen and Syria.⁹⁷ The charter emphasised respect for the independence and sovereignty of member states. Subsequently, several organs were added to the basic institutional structure of the Arab League, such as the 1950 Joint Defence and Economic Cooperation Treaty, which was later renamed the Economic and Social Council, which paved the way for the Arab economic integration project through FTAs, such as the GAFTA.⁹⁸

Jordanian international and regional cooperation is evident through its membership in regional and international organisations, including the UN, ITO and Arab League.⁹⁹ However, formal membership of these bodies is insufficient to achieve the minimum requirements of economic integration, as the institutions alone do not have an independent sovereign personality that can positively influence member states. For this reason, Jordan has attempted another approach in the Middle East, which is the sub-regional project where the Jordanian action was also seen as a reaction to its failure to be included in the GCC.

⁹⁷ The signatory states have not granted wide powers to the Arab League, given that the basic principle of Article 7 of the charter states that the decisions of the executive body will be binding only on the members who accept it. See *The Avalon Project: Pact of the League of Arab States, March 22, 1945* (Web Page) <https://avalon.law.yale.edu/20th_century/arableag.asp> (accessed 28 October 2019).

⁹⁸ See Chapter 5.

⁹⁹ Jordan regularly participates in UN peacekeeping missions and emphasises its commitment to world peace. See Martina Ponížilová, 'The Regional Policy and Power Capabilities of Jordan as a Small State' (2013) 7(1) *Central European Journal of International and Security Studies* 1, 22.

The external security threats, domestic policy pressures and economic constraints on the Jordanian regime drove Jordan's role in establishing the ACC in 1989. The council was formed in the context of major changes in the regional strategic balance of power after the end of the Iran–Iraq War, resulting in considerable Gulf concern about Iraq's future intentions. Throughout the war with Iran, Jordan was a key supporter of Iraq, providing the highest level of support through the port of Aqaba and road transport routes that provided Iraq with its only major economic lifeline during eight years of war. In a sense, the establishment of the ACC—which, in addition to Jordan and Iraq, included Egypt and North Yemen—institutionalised the bilateral economic ties between Jordan and Iraq in a multilateral coalition. Thus, the ACC became a means for Jordan to retain its importance and influence in regional politics, as well as its role in the Arab–Israeli peace process. It reinforced Jordan's diplomatic and military stance towards Israel through an alliance with Egypt—the only country that has signed a peace treaty with Israel and Iraq, and a country that Israel had previously considered a serious threat. Therefore, Jordan was in a position to either help promote peace initiatives to include Iraq or, in the case of war, to gain the support of Iraq. One of the most common terms used by Jordanian policymakers at the time was 'strategic depth', which described the feasibility of their alliance with Iraq. This depth was seen as strengthening both the Jordanian external security with regard to Israel and Jordan's position vis-à-vis the Gulf States, as well as maintaining a more balanced position with its northern neighbour of Syria. In fact, the organisation of the military power of Egypt, Iraq and Jordan was a source of concern to Israel and to the regimes in the Gulf and Syria.¹⁰⁰

In addition to the regional political dimension of the Jordanian policy with regard to the ACC, Jordan, as one of the founders, has made great efforts to emphasise the economic dimensions and benefits of the alliance. This was especially the case after the economic change in the world order that accompanied the collapse of the Soviet Union. Thus, like other countries around the world, the ACC has been affected by shifts in the global economy towards larger trading blocs. The participant countries were particularly interested in the economic effects of European

¹⁰⁰ King Fahd of Saudi Arabia visited Cairo and Baghdad in March 1989, shortly after the establishment of the ACC, seeking assurances regarding the security and military intentions of the organisation. Saudi concern was significant enough that King Fahd signed a non-aggression treaty with Iraq before leaving Baghdad. See Curtis R Ryan, 'Jordan and the Rise and Fall of the Arab Cooperation Council' (1998) 52(3) *Middle East Journal* 391.

integration.¹⁰¹ The economic coordination of the ACC countries included the free movement of trade, labour and capital among member states, as well as increased communication and transport links. Thus, economic integration was planned to include joint ventures in industrialisation and agricultural production. In addition, it included cooperation agreements in the fields of industry, agriculture, education, health and cultural exchange.¹⁰²

To extend the project of integration, the ACC countries announced that the four-nation organisation was only the beginning of what would eventually become a much larger group, dedicated to the task of comprehensive Arab economic integration. Jordanian policymakers' plans were ambitious and aimed to integrate Syria and Lebanon as a first step, and then begin cooperating with the GCC and Arab Maghreb Union.¹⁰³ However, the regional circumstances resulting from Iraq's invasion of Kuwait, Arab divisions and Egypt's stance alongside the Gulf states against the Iraqi movements towards Kuwait caused a rapid end to the ACC project and thus to the Jordanian dream of regional and Arab economic integration.¹⁰⁴ In continuing the discussion of the factors that may explain the nexus between political cooperation and economic interests, the next section discusses how noneconomic political interests motivate the formation of FTAs.

6.4 Free Trade Agreements: Economic and Political Tools for Strategic Political Gains

The basic conundrum of FTAs is that they can enhance global trade and cooperation, yet there is an apparent tension between regional FTAs and multilateral trading agreements. In addition to the political motives that accompany the economic purposes, regional FTAs could pose a threat to the multilateral trading system, since the world has seen a paradoxical development of trade liberalisation. The known economic problem with bilateral and regional agreements is

¹⁰¹ Rodney Wilson, 'The Economic Relations of the Middle East: Toward Europe or Within the Region?' (1994) 48(2) *Middle East Journal* 268, 287.

¹⁰² Mohammed Wahby, 'The Arab Cooperation Council and the Arab Political Order' (1989) 28 *American-Arab Affairs* 60.

¹⁰³ See Ryan, above n 100, 396.

¹⁰⁴ The charter of the ACC ended in 1991 after the 1990 to 1991 Gulf crisis, without recording any remarkable achievement, whether economic or political. *Ibid.*

that, although they create trade between members, they also generate distortions to the multilateral trading system through their discriminatory nature.¹⁰⁵ Thus, FTAs are two-sided: they liberalise trade between members, yet maintain protection against non-members, which is considered against the fundamental MFN principle of free trade. In Europe, economic integration was considered an intermediary goal to prevent the situation that arose in the two world wars, as stated by French Foreign Minister Robert Schuman, shortly before the establishment of the European Coal and Steel Federation in 1951.¹⁰⁶

This thesis argues that economics and politics are complementary and that political and strategic motives overlap with the FTAs, which may increase the mistrust that FTAs are an economic liberalisation approach, if compared with multilateral trade arrangements. Jordan entered FTAs originally, when the political situation in the Middle East was different to the current situation. Therefore, it is worthwhile reassessing the FTAs, considering that, at the time they were created, the political arrangements sought to achieve specific objectives that have now changed. There was a clear correlation between the economic and political justifications for Jordanian trade agreements that indicated that political factors were indeed necessary to determine the reason and geography of the FTAs.

To operate as peace-making instruments, FTAs should be geographically sensitive, consider regional interests and consider the weakness of bilateral economic ties. ‘Make trade, not war’ is a liberal peace argument that reflects the belief that bilateral trade can reduce the likelihood of war. This approach was the practical mechanism implemented by the US between Jordan and Israel. Consequently, because they create trade, FTAs should minimise the possibility of war between countries. Moreover, if the FTAs are consistent with the policymakers’ view that FTAs are a way to ease tensions, then peace will be secured.¹⁰⁷

Another question is why countries sign FTAs with specific countries and not others. The obvious answer is the economic gains of lower imported goods prices; however, the political and strategic benefits of signing an FTA could also arise in trade negotiations to defuse political

¹⁰⁵ Jagdish Bhagwati, *Termites in the Trading System* (Oxford University Press, 2008) 17.

¹⁰⁶ Peace through trade is the fundamental principle of the liberal Kantian economy, which is the building block of the European project announced by Robert Schuman. See Hans G Pöttering, ‘The Schuman Plan 60 Years Later: A Model for the Middle East?’ (2010) 9(1) *European View* 93, 96.

¹⁰⁷ Gene M Grossman and Elhanan Helpman, ‘The Politics of Free-Trade Agreements’ (1995) 85(4), *The American Economic Review* 667, 690.

disputes that could otherwise escalate into conflicts—and this is particularly relevant for countries that are already at risk of escalating conflict. Pairs of countries that have previously experienced conflicts are at times able to sign FTAs. Subsequent bilateral trade gains increase the opportunity cost of any potential war because the military conflict will abolish trade gains and, without commercial profits, the economic opportunity cost of war is lower. This mechanism works for partners who enjoy substantial trade gains from signing an FTA (the opportunity cost) and are at risk of dispute that may escalate into conflict.¹⁰⁸

The political considerations of FTAs are acknowledged for their importance in strengthening strategic relations between countries. Thus, the political considerations of FTAs are guided by the intentions of the trading partners. The overall motives of FTAs in the form of political and strategic considerations of economic integration have historically been the key factors for the establishment of FTAs that could develop for economic integration. Therefore, in a broader understanding of FTAs, political and economic considerations cannot replace each other, but are complementary in nature. Economists explain that political motives often govern the choice of partner countries and the way that FTA terms are set to balance trade-offs in such cooperation. The Asia-Pacific Economic Cooperation produced political reasons for entering regional trade agreements, regional and international political considerations aimed at gaining geopolitical influence in the region.¹⁰⁹ Thus, the emergence of bilateral forms of FTAs, rather than multilateral arrangements, may be a result of political and institutional factors, rather than merely economic motives.

In view of these ideas, this thesis suggests that multilateral or at least regional trade openness is better for a country such as Jordan, rather than only bilateral trade relationships, because they reduce bilateral economic dependency and the opportunity cost of straining reciprocal relationships. Thus, this thesis emphasises that the analyses of FTAs must highlight the political motives behind FTAs, especially the goal of calming relationships. However, this thesis does not suggest that economic goals are not essential, and that FTAs are signed without the expectation of commercial gain, yet an exclusive emphasis on the economic gains of FTAs can weaken the significance of their role as an incentive for peace and stability. Thus, this thesis

¹⁰⁸ Philippe Martin et al, 'Free Trade Agreements: Do They Help Keep the Peace?', *Voxeu.Org* (2009) <<https://voxeu.org/article/free-trade-agreements-do-they-help-keep-peace>> (accessed 16 October 2019).

¹⁰⁹ Ann Capling, 'Preferential Trade Agreements as Instruments of Foreign Policy: An Australia–Japan Free Trade Agreement and Its Implications for the Asia Pacific Region' (2008) 21(1) *The Pacific Review* 27, 43.

argues that the economic and security benefits are complementary, and trade gains can be used to achieve the superior goal of peace, which renders them even more critical for a prosperous and peaceful world.

6.4.1 Trade Relations Relating to Foreign Policy

As noted above, tensions have prevailed in previous years in political relations in the Middle East, particularly between Saudi Arabia and Iran. This has negatively affected the regional trade and economic interdependence of the countries in the region. A brief overview of these political conditions is required for the following analysis.

In many ways, Saudi Arabia and Iran are leading the new Middle East Cold War. However, the two countries have already fought for influence in Iraq, Lebanon, Syria and Yemen.¹¹⁰ The intensity of their confrontation has become a reality in the region and they are the two major forces behind the two sides of the sectarian divide that helps fuel many conflicts.¹¹¹ Tensions between Israel and Iran have also intensified as a result of the Iranian support for Hezbollah in southern Lebanon, near the border with Israel, and have reached the point of armed clashes between the two countries in Syria, which has become a battleground for international politics.¹¹² Israel and Saudi Arabia are concerned about the alleged Iranian intention to develop nuclear weapons, and both countries support severe economic sanctions and military action against Iran.¹¹³ However, the US economic isolation of and sanctions against Iran affect trade in the Middle East, and indeed the entire world—especially China and Europe. Iran has reacted

¹¹⁰ Seth G Jones, 'War by Proxy: Iran's Growing Footprint in the Middle East', *Center for Strategic and International Studies* (Web Page, 2019) <<https://www.csis.org/war-by-proxy>> (accessed 9 September 2019).

¹¹¹ The two countries are separated by the Arabian Gulf and the strategically important Strait of Hormuz, which is the main route for oil trade. See F Gause, 'Saudi-Iranian Rapprochement? The Incentives and the Obstacles', *Brookings* (Web Page, 2014) <<https://www.brookings.edu/articles/saudi-iranian-rapprochement-the-incentives-and-the-obstacles/>> (accessed 21 September 2019).

¹¹² The Lebanese Hezbollah was founded with Iranian–Syrian support. Hezbollah is now a major player in Lebanese politics because of the strength of its militias, which rival the Lebanese army. See Abbas William Samii, 'A Stable Structure on Shifting Sands: Assessing the Hizbullah-Iran-Syria Relationship' (2008) 62(1) *Middle East Journal* 32, 53.

¹¹³ Harry Valentine, 'On-Going Middle East Tensions Affecting Asian—European Trade', *The Maritime Executive* (Web Page, 2019) <<https://www.maritime-executive.com/editorials/on-going-middle-east-tensions-affecting-asian-european-trade>> (accessed 21 September 2019).

strongly to the economic blockade and US sanctions. Recent damage to oil tankers in the Gulf region has heightened political tensions, which has negatively affected regional trade and shipping.¹¹⁴

The ongoing tensions between Saudi Arabia and Iran cause continued unrest and conflict throughout the region. Therefore, improving Saudi–Iranian relations is a requirement for stability throughout the Middle East region. Therefore, this thesis argues that, by increasing trade and economic cooperation among all countries in the region, including Iran and even Israel, all countries and people can hope to live in peace. An urgent need is for scholars to cross disciplinary boundaries and more emphatically highlight the interdependence of commercial and political factors in creating FTAs. It is insufficient to understand FTAs as a tool of free trade only. More specifically, the lesson for the Middle East countries is that it is time for the region to cease regional conflict and develop a comprehensive economic agreement that would create a positive environment to contain political differences between countries, as occurred between the countries of Europe in the 1950s. Economic interdependence could establish a cooperative regional dimension to develop the national interest of each country.¹¹⁵

The journey of the Arab economic integration began almost 75 years ago, when the Arab League was established in 1945. However, in reality, no outcomes have yet eventuated, aside from promises and plans. Therefore, many commentators have questioned the US intentions in the Middle East region. For example, Mohamed Alawa, a well-known Egyptian lawyer and writer, sharply criticises the US FTAs and attributes all harm in the Middle East region to two factors: (i) the US penetration in the region and (ii) the dictatorship regimes that still dominate the region.¹¹⁶ Among other things, the US policies in the region damaged what was probably the most promising regional trading bloc when the US initiated FTAs with the countries of the GCC on an individual basis. The US held bilateral negotiations with Bahrain, the weakest link in the GCC, to sign an FTA in 2004. At this stage, Saudi Arabia urged Bahrain not to sign the

¹¹⁴ Ibid.

¹¹⁵ Suisheng Zhao, ‘From Soft to Structured Regionalism: Building Regional Institutions in the Asia–Pacific’ (2013) 2(2) *Journal of Global Policy and Governance* 145, 165.

¹¹⁶ Mohamed R Hassanied, *United States Bilateral Free Trade Agreements: Consistencies or Conflicts with Norms in the Middle East?* (Kluwer Law International, 2010) 44.

agreement and not take this step unilaterally.¹¹⁷ However, Oman later signed a unilateral FTA with the US, thereby further destabilising the GCC.¹¹⁸ Saudi Foreign Minister Saud al-Faisal commented that it is alarming to see some members of the GCC enter bilateral FTAs with an international power, which diminishes collective bargaining power and weakens both the solidarity of the GCC as a whole and each of its members.¹¹⁹ Moreover, Middle Eastern politicians and intellectuals have also criticised the US bilateral FTAs, and cast doubts on the compatibility of the US FTAs with the Middle Eastern norms. The former Jordanian Minister of Industry and Trade, Sharif Al Zubi, stated that he failed to understand the logic behind the argument that, to achieve the Arab integration, the countries must involve the US.¹²⁰ In addition, the former Egyptian Minister of Industry and Trade, Rachid Mohamed Rachid, stated that Egypt would not negotiate FTAs with the US. He criticised the US FTAs in the region for creating a negative environment and stated that ‘it is a waste of time to think that we as Arabs will achieve economic integration through the US’.¹²¹

It is evident that the US FTAs have helped dismantle the GCC and contradict the Middle East standards for regional integration. The US FTAs have also aimed to increase Israel’s economic integration into the region and to abandon the Arab boycott of Israel by strengthening Israel’s economic engagement with Arab Countries. The QIZ agreement is a prime example of this goal, as it aims to link Israel with Jordan economically.¹²² Undeniably, the US is aware that bilateral negotiations will provide them with tremendous negotiating power, contrary to the

¹¹⁷ Sultan S Al Qassemi, ‘Economic Integration Can Ease Regional Tensions’, *Middle East Institute* (Web Page, 2016) <<https://www.mei.edu/publications/economic-integration-can-ease-regional-tensions>> (accessed 21 September 2019).

¹¹⁸ Oman and Bahrain are the least populous and most economically weak countries, and believe they are a tool used by the Saudis to boost power and influence in the region. See Anja Zorob, ‘Oman Caught between the GCC Customs Union and Bilateral Free Trade with the US: Is It Worth Breaking the Rules?’ in Steffen Wippel (ed), *Regionalizing Oman* (Springer Press, 2013) 185, 203.

¹¹⁹ Mohamed R Hassanien, *United States Bilateral Free Trade Agreements: Consistencies or Conflicts with Norms in the Middle East?* (Kluwer Law International, 2010) 44.

¹²⁰ Agence France Presse, ‘Arabs Blast US “Big Brother” Approach to Bilateral Free Trade Agreements’, *The Daily Star Newspaper—Lebanon* (11 November 2005) <<http://www.dailystar.com.lb/Business/Middle-East/2005/Nov-11/68331-arabs-blast-us-big-brother-approach-to-bilateral-free-trade-agreements.ashx>> (accessed 21 September 2019).

¹²¹ Ibid.

¹²² Yitzhak Gal and Bader Rock, ‘Israeli-Jordanian Trade: In-Depth Analysis’, *Institute for Global Change* (2018) <<https://institute.global/insight/middle-east/israeli-jordanian-trade-depth-analysis>> (accessed 21 September 2019).

conditions that could be adopted by the GCC if negotiated collectively. Therefore, the thesis considers the Bahrain–US FTA and Oman–US FTA a direct violation of the GCC economic agreement. This appears to be a deliberately pursued strategic policy of the US not allowing any Middle Eastern economic integration, development or political unity that could stand against the US economic exploitation of Arab Countries and present a united front against the US's ally of Israel.

The GCC is primarily considered a CU and, according to Article XXIV of the GATT, the tariffs and internal barriers within a CU are eliminated or significantly reduced. However, the foreign trade policies of the CU members are common to all members, which means that no member of the CU can offer others preferential tariffs individually.¹²³ Thus, theoretically, entering into an FTA with an exterior partner, while simultaneously engaging in a CU, means that the respective state is 'breaking the rules' of the CU.¹²⁴ Therefore, it is imperative that the mutual compatibility of multilateral and bilateral FTAs is theorised more consistently. The following analysis aims to understand the changes in geopolitics in Arab region and, in view of these changes, the difficulties that Jordan faces on both economic and political fronts.

6.5 Jordanian Abilities and Regional Policy for Arab Economic Integration

The strength of a country's foreign policy is often influenced by factors such as the nature of the political system, geopolitics and level of economic development. However, there is a way for small countries to cope with the challenges they face, despite their size and lack of economic and military power. Compared with its neighbours, Jordan is considered weak economically and militarily, which has necessitated a balanced approach to ensure its security and reduce tensions with its neighbours. A country's security and stability are not only affected by the size of its land, population, economic capabilities, military and natural resources, but also by its geopolitical position, neighbours and alliances. Jordan has dealt with a wide range of foreign policy difficulties resulting from its regional location. It has bet on its safety and security by

¹²³ Article XXIV 8(a)(ii) states that 'subject to the provisions of paragraph 9, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union'. See World Trade Organization, *WTO Legal Texts—Marrakesh Agreement* (Web Page) <https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXIV> (accessed 20 September 2019).

¹²⁴ Zorob, above n 119, 185, 203.

encouraging and nurturing cooperative political and economic programs and an active policy approach with its neighbours.

Jordan realises that it will gain more benefits when regional peace and stability occur. It shares borders with larger, more populous and economically stronger countries engaged in mutual political and ideological disputes that have positioned Jordan as a buffer country between current and possible enemies.¹²⁵ The outcome of this position is Jordan's inability to impose its will on any of its neighbours through military or economic influences, and it has been left to stand alone to face challenges, which leads the country to consistently seek regional and external alliances. However, these are not easy to achieve because of the sharp differences and tensions between Jordan's neighbours. For example, if Jordan allied with Saudi Arabia, it would be considered anti-Iran, and vice-versa. In addition, when Jordan signed a peace agreement with Israel, some Arab countries, including Syria, regarded this as a betrayal and abandoned the unified Arab position on the Palestinian cause.

However, the fact that a country is economically weak does not necessarily mean that it can only have a limited effect on international or regional policy, even though this may limit its foreign policy activities. For these reasons, Jordan has adopted compensatory methods to cover its economic lack through manoeuvring on regional issues with its diplomatic skills, neutrality and good neighbourly policies.¹²⁶ For example, Jordan has been able to influence regional and global issues through its active participation in regional and international organisations and investing joint efforts to play an active role in regional policy and initiatives to support regional peace, human security and refugee hosting.¹²⁷ However, Jordan must also adjust its foreign policy according to its capabilities and geopolitical position, fully aware of its presence in an unstable region. Its geopolitical size leads to weaknesses that may affect national security and the country's ability to pursue an independent foreign policy.¹²⁸

¹²⁵ Ponížilová, above n 99, 1, 22.

¹²⁶ Instability in the region, conflicts and generally problematic relationships lead to higher military expenditures that come at the expense of education and health. Ibid.

¹²⁷ The recent refugee crisis has exacerbated endemic political, economic and resource challenges in Jordan. See Alexandra Francis, *Jordan's Refugee Crisis* (Carnegie Endowment for International Peace, 2015) vol 21.

¹²⁸ Jordan is forced to bear the burden of instability in neighbouring countries and military expenditures resulting from the requirements to maintain a legitimate defence of the country. See King Hussein, *Jordan—Foreign Affairs—Jordan's Resource Gap* (Web Page) <http://www.kinghussein.gov.jo/f_affairs1.html#Jordan%E2%80%99sResourceGap> (accessed 8 August 2019).

For example, Jordanian foreign policy priorities are directed towards its immediate surroundings and a narrow range of foreign policy issues. Thus, Jordan supports multilateralism in international and regional relations through international and regional institutions and encourages adherence to international law, standards and principles. International and regional institutions enable small countries to achieve some of their goals by allowing them to express and advance their interests based on ‘one country, one voice’.¹²⁹ In addition, small countries often create blocs within international organisations to strike a balance with powerful countries because the members of international organisations are formally equal. Therefore, all countries have the potential to participate in international affairs to create new international legal norms and solve global issues,¹³⁰ especially when it is tricky to reconcile international law with the dominance of great power. International law originally depended on the balance of power, where there was often a divergence between international law and policy.¹³¹

Therefore, this thesis emphasises the importance of effective international law and resistance to hegemonic practices. International law is important for weak countries, as it is a permanent source of international legitimacy, if there is a balance between the desires of the powerful and the ideals of justice maintained by the international community. However, it is also the case that a weak country faces challenges because of external factors. For example, the US forced Jordan to naturalise Palestinians to prevent their return to the Palestinian territories, and, as a result, more than half of the total Jordanian population became of Palestinian origin.¹³² The West, especially the US, has exerted political pressure on Jordan because of its economic assistance, which Jordan has accepted to ensure its stability to legitimise the Jordanian regime.

¹²⁹ The functions of international institutions include maintaining international standards to ensure public safety, helping developing countries achieve economic security, and setting rules on how countries can enter trade agreements and resolve conflict. See The United Nations, *How Decisions Are Made at the UN* (Web Page) <<https://outreach.un.org/mun/content/how-decisions-are-made-un>> (accessed 28 September 2019).

¹³⁰ Morton Kaplan and Nicholas Katzenbach, ‘The Patterns of International Politics and of International Law’ (1959) 53(3) *The American Political Science Review* 693, 712. See also Andreas Behnke, ‘Book Reviews’ in Michael Byers (ed), *The Role of Law in International Politics: Essays in International Relations and International Law* (Oxford University Press, 2000) 936.

¹³¹ Nico Krisch, ‘International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order’ (2005)6(3) *The European Journal of International Law* 369, 408.

¹³² A high committee of veterans drafted a document and expressed concern about what they saw as steps to solve the Palestinian issue at the expense of Jordan, through external pressure to resettle refugees in Jordan. See Assaf David, ‘The Revolt of Jordan’s Military Veterans’, *Foreign Policy* (Web Page, 2010) <<https://foreignpolicy.com/2010/06/16/the-revolt-of-jordans-military-veterans/>> (accessed 28 August 2019).

In addition, as a result of its weak regional position and vulnerability to any imbalance in its relations with all neighbouring countries, Jordan is economically dependent on mutual trade relations with all its neighbours. Jordan became isolated by the Gulf states, who viewed Jordan's neutral stance on the Gulf War as biased towards the Saddam Hussein regime. Jordan then suffered a severe recession because of the loss of its Saudi and American partners and their economic support, which undermined the Jordanian economy. In response to the Gulf War experience, Jordan reoriented its foreign policy through a new trade-off of its regional and international interests. The country was persuaded that such a balance could be achieved through Israel. Thus, Jordan concluded a peace treaty and restored the US friendship. Of course, nothing comes for free, and the US support for Jordan was conditional on Jordan working towards ending the Arab–Israeli conflict and maintaining a strict sanctions regime against Iraq—its former ally. Jordan was forced to prioritise the US interests in the region.¹³³

Subsequently, the Jordanian position was undermined when the peace process failed with the beginning of the second intifada in 2000 and Saddam Hussein's forced removal in 2003. As a result, the Jordanian influences on its neighbours to participate in the peace process with Israeli became minor and it was no 'more than a bit player', as stated by Milton-Edwards.¹³⁴ Regional powers, such as Egypt, Syria and Saudi Arabia, would not welcome Jordan's participation as a sponsor of the peace process, especially after the regime change in Iraq, where Jordan lost some of its importance as a pivotal player in the region. Thus, given the current situation in the Middle Eastern region and regional balances, Jordan is now lacking much of the influence it once enjoyed. This helps explain its endeavour to support peace, preventive diplomacy and Arab cooperation, as well as mediation services, which are the hallmark of Jordan. Jordan has sought a final peaceful solution to the Israeli–Palestinian conflict, which is vital to regional peace and stability.¹³⁵ Jordan has also participated in the so-called Arab peace initiative, which sought a comprehensive peace based on the idea of normalising relationships between Israel

¹³³ The US used Jordan to launch special forces into Iraq and as a base from which to coordinate rebels in Syria's civil war. See 'King Abdullah of Jordan Fears That Old Allies Are Ditching Him', *The Economist* (8 June 2019) <<https://www.economist.com/middle-east-and-africa/2019/06/08/king-abdullah-of-jordan-fears-that-old-allies-are-ditching-him>> (accessed 28 August 2019).

¹³⁴ Beverley Milton-Edwards and Peter Hinchcliffe, *Abdullah's Jordan: New King, Old Problems* (Middle East Report No 213, Millennial Middle East: Changing Orders, Shifting Borders, 1999) 28, 31.

¹³⁵ 'Jordan's King Abdullah: Palestinian State Only Way to Peace', *Al Jazeera* (30 May 2019) <<https://www.aljazeera.com/news/2019/05/jordan-king-abdullah-palestinian-state-peace-190529174901809.html>> (accessed 28 September 2019).

and Arab Countries, in return for the establishment of a Palestinian state on the territories of the West Bank and Gaza Strip.¹³⁶

Moreover, Jordan's support for regional cooperation extends beyond the Palestinian cause. It seeks to develop and maintain good relations with all neighbouring countries in the economic fields. More recently, Jordan embraced the idea of economic integration and proposed several projects to arrange the Arab integration based on all countries, rather than on hegemony and power relations.¹³⁷ Jordan also regularly participates in UN peacekeeping missions.¹³⁸ Such international commitments underscore the country's global commitment to peace and stability. Nevertheless, Jordan has become a strategic battleground between the opposing regional powers. As a result of its limited capabilities, the country has worked to find allies, yet it has not avoided being drawn into the troubles of its allies. Jordan's association with the Hussein regime was against its interest with the Gulf countries and the US. Its association with Saudi Arabia and Qatar by playing roles in the Syrian revolution against the Assad regime damaged its interests after the regime gained stability. Moreover, its response to the Saudi embargo on Qatar, even if limited, was against its interest with Qatar.

A possible explanation of Jordan being side-lined in contemporary policies is that the political and economic interests of the US in the region have changed. The earlier emphasis on Jordan as a strategic and trade partner is no longer as significant, as the US trade relationships in the Arab region are relevant to strategic interests. This is also true in the case of Qatar, where the economic sanctions are not justified by trade arguments, but a tactic of political pressure.

In the context of Jordanian abilities and changes in US foreign policy, this thesis argues that FTAs with Jordan were a way to make Jordan a strategic ally of the West and the US in particular. However, strategic interests and thus trade relations can change as a direct result of change in foreign policy and regional circumstances. Thus, the economic rhetoric underpinning the initial justifications for the US–Jordan FTA, notwithstanding the political factors, can better

¹³⁶ The Arab peace initiative indicates 'the acceptance of the establishment of a sovereign independent Palestinian state on the Palestinian territories occupied since June 4, 1967 in the West Bank and Gaza Strip, with East Jerusalem as its capital'. See Elie Podeh, 'Israel and the Arab Peace Initiative, 2002–2014: A Plausible Missed Opportunity' (2014) 68(4) *The Middle East Journal* 584, 603.

¹³⁷ Discussed in Chapter 5, section 5.4 at 201–206.

¹³⁸ Jordan has participated in international peacekeeping forces and provided military field hospitals and personnel to UN peacekeeping missions. See Nasser Shurique, 'Military Psychiatry—A Jordanian Experience' (2003) 27(10) *Psychiatric Bulletin* 386, 388.

explain the changes discussed above. Economic cooperation between Jordan on the one hand and the US and the EU on the other was aimed at promoting not only economic development, but also a more stable political environment in the Middle East. Following the peace treaties between Israel and the Palestinian authority and between Israel and Jordan,¹³⁹ free trade initiatives have increased through the Euro-Mediterranean Agreement and the US steps towards Jordan, including the QIZ agreement and Jordan–US FTA. These agreements aimed at increasing stability in the Middle East region and the desire to promote regional stability and permanent peace.¹⁴⁰ The US also argued that trade liberalisation in the Middle East would be a key factor in the US war on terror by promoting economic development that would be served as peace dividends.¹⁴¹

However, in light of regional developments, Jordan does not seem to play significant regional roles—even more so since some Arab countries have started dealing directly with Israel. Moreover, some of these countries were bothered by the Jordanian policy on regional issues, such as maintaining ties with Qatar, which is besieged by Saudi Arabia and the UAE; withdrawing from the war in Yemen; and not banning the Muslim Brotherhood in Jordan, which is regionally banned. It is evident that, as a result of changing its strategic interests in the region, the US has abandoned its interest in Jordan. King Abdullah has stated that the Trump administration is placing pressure on Jordan and ignoring Jordan by developing a peace plan that harms the country's interests. The pressure on Jordan is evident by the halting of Saudi and Emirati aid and investments under the US arrangements.¹⁴²

Therefore, the thesis argues that the purpose of the FTA signed by the US with Jordan was more for the purposes of Jordan becoming an important strategic ally in the region. This

¹³⁹ Jordan has been a pivotal element of the peace process, as it has made substantial contributions to the success of the peace process and to bringing to the discussion the views of both Israelis and Palestinians. See Seth Frantzman, 'King Hussein of Jordan: A Political Life: Nigel Ashton' (2009) 18(1) *Digest of Middle East Studies* 113.

¹⁴⁰ The economic motives of the US in entering FTAs are mixed with foreign policy, security and national–political objectives. See Stephen Hoadley, 'US Free Trade Agreements in East Asia: Politics, Economics, and Security Policy in the Bush Administration' (2007) 26(1) *Journal of Current Southeast Asian Affairs* 51, 75.

¹⁴¹ The EU and US consider that promoting economic growth through trade will not only increase economic prosperity in the region, but may also promote domestic reform that will, in turn, curb immigration and tame extremist sentiments that threaten the security of the West. See Riad Khouri, 'EU and US Free Trade Agreements in the Middle East and North Africa', *Carnegie Middle East Center* (Web Page, 2020) <<https://carnegie-mec.org/2008/06/23/e.u.-and-u.s.-free-trade-agreements-in-middle-east-and-north-africa-pub-20245>> (accessed 28 October 2019).

¹⁴² 'King Abdullah of Jordan Fears', above n 134.

situation has changed and the political gains for the developed economies are no longer available. The regional roles have changed because of the Gulf–Israeli rapprochement; thus, the geopolitical goals of the FTAs have been eliminated. Therefore, it is time to change the economic approach and the method that Jordan has followed for the past two decades, which has affected the Jordanian economy. The multiplication of public indebtedness and the privatisation of almost all significant state companies for the benefit of foreign investors is evidence of the ineffectiveness of Jordan’s liberalisation approach with developed countries. This situation also confirms the argument that FTAs signed with Jordan are a strategic deal to arrange a situation with a particular country at a specific time to achieve a particular strategic interest. The next section substantiates this claim by discussing how Jordan was side-lined because of Saudi–Israel rapprochement.

6.5.1 Jordan Side-lined in Saudi Rapprochement with Israel

The change in the significance of the Jordan–US trade and political relations raises the question of whether FTAs are only for the purposes of free trade and solely an economic instrument. If they are not purely economic instrument, then the justifications for FTAs need to change. In particular, this allows us to question the punitive conditions imposed on countries that are seen as economically inefficient. From the perspective of normal international trade relations, it is difficult to explain an FTA with a small trading partner thousands of miles from the US border without mentioning geopolitical interests, which seem to overwhelm trade interests.¹⁴³ In addition, the removal of trade barriers, as supported with an economic rationale, is one way of imposing conditions on a less developed economy for the benefit of a developed economy.

The strategic importance of traded goods is a significant factor determining the importance of trade relations between parties, and hence the extent of the losses that may be caused to a party in the event of halting trade. For example, as a result of oil—a strategic commodity—

¹⁴³ The Bush administration seemed to be punishing Chile for not supporting the US invasion of Iraq when it refused to send the FTA to Congress for approval. In contrast, President Bush made it clear that the US–Australia FTA was intended to reward an important ally for the wars of Afghanistan and Iraq. Moreover, the reason for not concluding a FTA with New Zealand was to punish the small country for not allowing the US to build a dock for ships carrying nuclear weapons. Therefore, it seems the US would punish Jordan for its strong opposition to recognising Jerusalem as the capital of Israel—its closest ally. See Greg Mastel, ‘The Rise of the Free Trade Agreement’ (2004) 47(4) *Taylor and Francis, Ltd* 41, 61.

industrialised countries give great importance to maintaining special relations with countries such as Saudi Arabia and the Gulf States. Industrialised countries that depend on Saudi oil could suffer welfare losses if trade with Saudi Arabia ceased. Saudi Arabia halted oil exports because of US support for Israel during the October 1973 war. As a result, the price of a barrel of oil quadrupled, causing a global economic shock that led to a sharp rise in the cost of living in Western countries, especially the US.¹⁴⁴ Given that countries are expected to pursue their strategic and economic interests, the importance of the relationship between the Western countries and Saudi Arabia is much greater than that of Jordan. In addition to oil, Saudi Arabia has huge financial reserves that Western countries aspire to have invested in their countries. For example, on President Trump's recent visit to Saudi Arabia, he signed huge trade deals that reached half a trillion US dollars.¹⁴⁵ The great religious significance of Saudi Arabia for Muslims and its potential role in supporting counter-terrorism are other factors in the policy shift of the US.

On another front, the post-Arab Spring developments provided a suitable environment to deepen informal relationships between the Gulf States and Israel. Therefore, Israel's long-sought rapprochement became possible because of their common interests in the region.¹⁴⁶ The Gulf states and Israel argue that Iran and the Muslim Brotherhood pose an external threat to regional stability as a whole, and that the Muslim Brotherhood in Egypt, Jordan and Kuwait poses a similar domestic threat in countries that are supposed to be allies.¹⁴⁷ Subsequent to the

¹⁴⁴ Andrew S Cooper, 'Opinion: How Saudi Arabia Turned Its Greatest Weapon on Itself', *The New York Times* (12 March 2016) <<https://www.nytimes.com/2016/03/13/opinion/sunday/how-saudi-arabia-turned-its-greatest-weapon-on-itself.html>> (accessed 30 September 2019).

¹⁴⁵ 'Trump: 'Saudi Arabia Buys a Lot, I Don't Want to Lose Them'', *Al Jazeera* (28 April 2019) <<https://www.aljazeera.com/news/2019/04/trump-saudi-arabia-buys-lot-don-lose-190428094048617.html>> (accessed 19 October 2019).

¹⁴⁶ In an evolving geopolitical environment, some Middle Eastern countries have found it necessary to adjust their regional policies and relations. In the context of these developments, Israel and Saudi Arabia have found common interests, thus strengthening their relationships. Therefore, Israel and Saudi Arabia consider Iran's strategic gains in Iraq and Syria and the prospect of regional hegemony a major concern. Riyadh has viewed Tehran as a key competitor to regional hegemony since Khomeini's 1979 revolution. Israel also considers Iran the remaining danger in the region after the overthrow of Hussein's regime and the weakening of Syria. Their confrontation involves not only considerations of regional hegemony and balance of power, but also those of race, religion and the oil economy. See Marta Furlan, 'Israeli-Saudi Relations in a Changed and Changing Middle East: Growing Cooperation?' (2019) 13(2) *Israel Journal of Foreign Affairs* 1, 11.

¹⁴⁷ In 2013, Egypt declared the Muslim Brotherhood a terrorist organisation and Saudi Arabia followed suit and sought to build a regional alliance to confront them, and pressed other regimes to take the lead. However, Jordan and Kuwait resisted repression against the Muslim Brotherhood, which angered the Saudis. See May Darwich, 'Creating the Enemy, Constructing the Threat: The Diffusion of Repression against the Muslim Brotherhood in the Middle East' (2017) 24(7) *Democratization* 1289, 1306.

so-called Arab Spring, Saudis and Emiratis adopted a robust approach and supported a campaign of counter-revolution in Egypt and Libya. The two countries viewed the threats of the Arab Spring, especially after the demonstrations in Bahrain and the eastern region of Saudi Arabia, as an existential threat to their regimes. Moreover, the Muslim Brotherhood emerged on the political scene in Kuwait, Egypt and Jordan, especially when President Mohamed Morsi succeeded in the first democratic elections in Egypt. In contrast, Qatar, through the *Al Jazeera* television channel, has adopted the opposite direction of Saudi Arabia and the UAE by supporting the developments in Egypt, which bothered Saudi Arabia.¹⁴⁸ As a result, Saudi considered Qatar a threat to the security and stability of Gulf monarchies when it helped empower the Muslim Brotherhood in Egypt and host Hamas leaders in Doha, which can be seen as an explanation of the economic and diplomatic embargo on Qatar.¹⁴⁹

Meanwhile, the US role in the Middle East under the Obama administration also diminished. The Saudis and Israelis felt that the US retreat could undermine their stability in the region and encourage the expansion of Iranian influence, especially after concluding the nuclear deal with Iran.¹⁵⁰ The former Israeli ambassador to Egypt, Zvi Mazel, hinted at the strategic rapprochement of Israeli–Gulf interests during the Iranian nuclear negotiations, and stated that Israeli intelligence began to establish effective relations with the Gulf states. In addition, there was coordination between Saudis and Israelis, so that the Israeli lobby would work with the US against the nuclear deal.¹⁵¹ To satisfy the interests of its Saudi and Israeli allies, the Trump administration managed to produce a regional crisis through cancelling the nuclear deal with Iran, which was signed by the Obama administration and the EU. The US has re-imposed economic sanctions on Iran to force it to abandon its nuclear program, which is feared by both Saudi Arabia and Israel. This situation indicates that the economic sanctions imposed on Iran

¹⁴⁸ Kristian C Ulrichsen, 'Palestinians Sidelined in Saudi-Emirati Rapprochement with Israel' (2018) 47(4) *Journal of Palestine Studies* 79, 89.

¹⁴⁹ Eric Trager, 'The Muslim Brotherhood Is the Root of the Qatar Crisis', *The Atlantic* (2 July 2017) <<https://www.theatlantic.com/international/archive/2017/07/muslim-brotherhood-qatar/532380/>> (accessed 19 October 2019).

¹⁵⁰ Israel and Saudi Arabia believed that the Iran nuclear deal was a disaster. See Aaron D Miller and Richard Sokolsky, 'Saudi Arabia and Israel Are Pushing US to Confront Iran. Trump Shouldn't Take The Bait', *Carnegie Endowment For International Peace* (Web Page, 2019) <<https://carnegieendowment.org/2019/05/21/saudi-arabia-and-israel-are-pushing-us-to-confront-iran.-trump-shouldn-t-take-bait-pub-79181>> (accessed 28 October 2019).

¹⁵¹ See Cooper, above n 145.

were not only economically motivated, and explains how US foreign policy is shifting according to the strategic interests of its allies.

Since his election campaign, Trump has defined the US global economic interests and stressed that the US will remain a global guardian of peace; a nuclear deterrent against adversaries, such as North Korea and Iran; and a guarantor of allied borders, but on the condition of the US economic benefit. He has repeatedly called on allied countries, including Germany, Japan, Saudi Arabia and South Korea,¹⁵² to compensate the US for protecting their countries. He has also suggested that his willingness to defend a country may depend on how willing that country is to pay to be saved.¹⁵³ In light of the strategic shifts in US policy in the Middle East, on his first visit to the US, the Saudi Crown Prince met with American Jewish leaders in March 2018 and stated that the Palestinian issue was no longer his priority. He stated that, over the past 40 years, the Palestinian leadership had repeatedly missed peace opportunities and rejected all offers, and the time has come for Palestinians to accept offers or remain silent and stop complaining.¹⁵⁴ Riyadh and Abu Dhabi are seeking to work with Trump's son-in-law and adviser, Jared Kushner, to impose a 'peace plan' on the Palestinian leadership and Jordan; however, specific details remain elusive, and Trump has warned that the plan will be revealed with or without Palestinian authority and Jordan approval.

The effects of these moves on Jordan are far-reaching. However, Jordan refuses to gamble on its strategic interests, as confirmed by King Abdullah II through his three rejections, in which he refused to negotiate the resettlement of Palestinians in Jordan, Jordan as an alternative homeland for Palestinians and Jerusalem as a capital to Israel.¹⁵⁵ As each country has the right to see its strategic interests differently, Jordan disagrees with Saudi Arabia over the sources of the threat in the region. For Jordan, Israeli policies pose a direct threat to Jordan's national

¹⁵² Jon Sharman, 'Donald Trump Demands Germany Pays the United States to Defend It', *The Independent* (18 March 2017) <<https://www.independent.co.uk/news/world/americas/us-politics/donald-trump-angela-merkel-germany-owes-nato-money-united-states-defence-a7636686.html>> (accessed 28 October 2019).

¹⁵³ David Sanger and Maggie Haberman, 'Donald Trump Sets Conditions for Defending NATO Allies against Attack', *The New York Times* (20 June 2016) <<https://www.nytimes.com/2016/07/21/us/politics/donald-trump-issues.html>> (accessed 21 October 2019).

¹⁵⁴ 'Palestinians Must Make Peace or Shut Up, Saudi Crown Prince Said to Tell US Jews', *Christians United for Israel* (2018) <<https://www.cufi.org/palestinians-must-make-peace-or-shut-up-saudi-crown-prince-said-to-tell-us-jews/>> (accessed 19 October 2019).

¹⁵⁵ Osama Al Sharif, 'Jordan's King Abdullah Is Defiant Ahead of the Release of Trump's Peace Plan', *Middle East Institute* (Web Page, 2019) <<https://www.mei.edu/publications/jordans-king-abdullah-defiant-ahead-release-trumps-peace-plan>> (accessed 2 October 2019).

security, which is a real concern for the future of Jordanians. Jordan is worried about the Saudi–Israeli rapprochement, which they understand in the context of Saudi Arabia’s readiness to ally with Israel at the expense of the Palestinian and Jordanian interests in a two-state solution. Jordan has declared that any solution that does not help Palestinians establish an independent state with east Jerusalem as its capital will be unacceptable.¹⁵⁶

As a result of the Saudi rapprochement with Israel, Jordan’s role as an essential player in the region and as a mediator in the Arab–Israeli equation has been influenced in favour of focusing on the Saudi position as the main actor in the encirclement of crises in the region, and Jerusalem in particular. This further means reducing the importance of the Hashemite Jordanian tutelage over the holy sites in Palestine.¹⁵⁷ Saudi Arabia and Jared Kushner have also pushed Jordan and Palestine to accept the Middle East peace plan to facilitate a Saudi–Israeli alliance to confront Iran. The Jordanian sensitivity to the recent Saudi and Emirati moves is not limited to political and diplomatic levels only.¹⁵⁸ This has also led to a marked decline in Jordan’s investments and economic assistance, resulting in heavy losses for the Jordanian economy, especially after the Qatar crisis. In the same context, King Abdullah II stated that Jordan will not receive any economic assistance and must be self-reliant.¹⁵⁹

In summary, the above discussion has substantiated the argument of this thesis that FTAs are not only compatible with economic principles, but also tools to serve strategic interests. These agreements are also a reflection of both the geopolitical and economic interests that prevailed at the time of their conclusion, which may change over time alongside changes in policies and circumstances.

¹⁵⁶ Ibid.

¹⁵⁷ Ulrichsen, above n 149, 79, 89.

¹⁵⁸ Daniel B Shapiro and Yoel Guzansky, ‘Gulf-Israel Ties Might Not Survive Trump’s Peace Plan’, *Foreign Policy* (Web Page, 2019) <<https://foreignpolicy.com/2019/07/12/gulf-israel-ties-might-not-survive-trumps-peace-plan/>> (accessed 2 October 2019).

¹⁵⁹ Bruce Riedel, ‘Jordan’s King Abdullah Is Facing New Risks—From His Own Friends’, *Brookings* (Web Page, 2019) <<https://www.brookings.edu/blog/order-from-chaos/2019/06/14/jordans-king-abdullah-is-facing-new-risks-from-his-own-friends/>> (accessed 14 October 2019).

6.6 Conclusion

It is beyond doubt that international free trade is a significant factor influencing international and regional relations. In addition, free trade affects economic developments, which in turn strengthen bilateral relationships, and the thesis argues that good economic and trade relations enhance political integration between countries, and vice-versa. The quality of political relations also influences trade flows between countries. However, trade exchange between countries is often affected by the vagaries of interstate conflict, and shifts in political relationships affect trade connections.

Trade relationships between countries are influenced considerably by foreign policy and conflicts. For example, the trade relations between the US and Iran deteriorated because of the reorientation of Iranian foreign policy following the Islamic revolution, which is hostile to the US foreign policy in the Middle East region. Similarly, trade relations between England and Argentina plummeted following the Falkland Islands conflict.¹⁶⁰ Moreover, the foreign policy of any nation is an expression of the country's political leadership—it is a result of internal and external factors that influence the determination of political orientation in relations with countries and international organisations. Moreover, such policy is affected by changing local, regional and international circumstances. For example, the political shift towards the priorities of US interests in the Middle East has affected Jordanian trade and economic interests.

Although the Jordan–US FTA was portrayed as an economic instrument, the political elements that formed the US policy towards Jordan include the geopolitical location of Jordan, the ideology of the moderate Jordanian regime, the regional security dimension and the future of the Arab–Israeli relations. The Jordan–Israel peace treaty, which was under US care, has markedly enhanced the bilateral trade relations. Also, the Jordan–US FTA and QIZ agreement aimed to improve the Jordanian economy and strengthen the position of the Jordanian government internally against the opponents of normalisation with Israel.¹⁶¹

¹⁶⁰ Brian M Pollins, 'Conflict, Cooperation, and Commerce: The Effect of International Political Interactions on Bilateral Trade Flows' (1989) 3(33) *Midwest Political Science Association* 737, 761.

¹⁶¹ The assumption was also that the Jordanian and Israeli customs officers would engage in interpersonal interactions, resulting in understanding and friendship.

The US has adopted a neoliberal view that believes that stronger economic relations will generate peace and stability in the Middle East. However, previous assumptions that Jordan's foreign policy is moderate and closer to the West, and more specifically Jordan has close ties to the US, could be subject to change. Further, the relations between the US and Jordan have long been linked with the US relations with Israel. Jordan has the longest border with Israel; therefore, the relations between Jordan and the US cannot be understood without understanding the position of the Israeli–American relations. Currently, the US is in the process of creating a larger leading role for Saudi Arabia in the region, which has repercussions for Jordan.

It is possible that the economically dominant countries in the region fear that trade and economic integration could give rise to the emergence of regional powers that may not be satisfied with the reality of the situation imposed by the traditional hegemonic powers. The dominant forces may be threatened by the rising powers and struggle to pre-empt the challenge. The dominant powers may follow this approach, regardless of the circumstances, because of their uncertainty about the intention of the rising power and the challenges it poses, which could be an explanation for why these Arab countries often seek to reduce their economic interdependence.

However, Arab Countries continue ignoring the fact that economic interdependence could reduce the likelihood of conflict. Regional welfare also requires peace, as increasing opportunity costs prevent regional actors from becoming involved in conflict. Despite the view that economic interdependence can lead to conflict, strong regional institutions that promote economic integration, such as the EU, can reduce or eliminate the possibility of conflict. Strong and peaceful regional institutions promote security and stability by providing a forum for negotiation, conflict resolution and exchange of information that eliminates potential misunderstandings through creating third-party authorities with broad powers that can enforce regulatory decisions. Economic interdependence through regional institutions can preserve the interests of states, and society is prepared to avoid conflict to protect the gains achieved through interdependence. This is where the Middle East is severely lagging behind other parts of the world.

The Arab League was established as a regional political organisation to preserve and achieve the common interest of Arab Countries. However, for many regional and international reasons, the league accomplished little of its desired purpose and did not record any positive

intervention to ease tensions between Arab Countries.¹⁶² In addition, there were no concrete steps taken in terms of economic or political integration among its members, even partially, and the league has failed to achieve peace and stop the wars among many countries. More recently, it has played no role in combating terrorism or extremism and had little influence on other issues, such as finding solutions to the rate of human rights abuses; the influx of refugees; or the wars that continue today in Syria, Libya and Yemen. This leaves Arab Countries without an effective regional political and economic organisation that could lead them towards development and integration.

Regionalism in the Middle East seems to be an exceptional case, which does not align with regional trends that have occurred in many parts of the world. The above discussion concludes that, in the short term, we cannot expect any promotion of Arab regional economic integration. Despite the great ambitions to achieve regional integration and permanent peace, conflicts and civil wars continue to manifest through a clear lack of democratic traditions and the domination of authoritarian regimes. Thus, the Arab economic integration has barely moved beyond the stage of rhetoric.

The Jordanian regional economic interests have implications for the Jordanian foreign policy, economic priority and options to promote economic interests. Jordan should continue to play a leading role in developing new economic models that are applicable in the context of the new Middle East. Economic integration through the promotion of liberalised trade and mutual investment among the countries of the region is one of the most important means available for Jordan to place all countries in the region on the road to achieving sustainable economic growth, which will offer the region a position to develop substantial solutions to all its problems.

¹⁶² In the Middle East, the optimism of the neoliberal institutional theory of regional cooperation is placed in doubt, given the numerous unsuccessful attempts at Arab regional collaboration.

Chapter 7

Summary, Conclusion and Recommendations

7.1 Summary

This thesis has critically examined the role of Jordan, as a member of the WTO, in multilateral trade liberalisation. It has discussed how Jordan's bilateral FTAs with non-Arab trading partners, particularly the Jordan–US FTA, and Arab trading partners were based on both economic considerations and extra-economic (such as political and geostrategic) considerations. It has also demonstrated how Jordan's existing economic relations with non-Arab and Arab countries have changed as a result of policy shifts in response to new political priorities and strategic interests. Drawing on this observation, the thesis has articulated the marginalising effects of Jordan's FTAs on its own bid to achieve economic integration through trade, as well as on the overall aim of regional economic and political integration in the Middle East. On the basis of analysing the FTAs entered by Jordan, this thesis argues that collaboration among states in an integrated manner generates positive and more effective results than undertaking tasks individually. Through cooperation, many regional issues can be resolved more effectively; thus, collaboration among the Middle Eastern countries could help achieve the common interests of the countries that structure the regional system.

This chapter deliberates the main findings and concluding arguments of this thesis, and presents them in the form of a conclusion. It also presents a set of recommendations in the context of Jordan's international trading regime and with regard to the economic and political integration of the Arab region countries among themselves and with the rest of the world through trade liberalisation. Based on analysing Jordan's FTAs, this thesis has identified a huge gap between Arab economic and political discourse and reality. Jordan's ambitions correspond with those of more integrated regional societies, such as the EU; however, the political reality and will are the opposite of each other. This means that many trade agreements signed between Arab Countries only exist on paper, while their implementation is weak or non-existent. Therefore, this thesis offers a set of possible recommendations to address these shortcomings.

In the preceding chapters, the thesis has explored how free trade claims behind various trade agreements are not merely economic imperatives, but also have a significant political role to

play. For both international and regional trade, the political realities must be acknowledged and integrated into FTAs. This is a necessary caution against the purely economic discourse that supports the introduction of FTAs. It is in pursuance of this idea that, in the preceding chapters, this thesis has discussed how Jordan's liberalisation of the economy and trade has been a significant step towards the economic integration of Arab Countries among themselves and with the global system of international trade under the umbrella of the WTO. This discussion confirms that Arab regional integration is essentially linked to economic integration. The thesis has examined the FTAs concluded by Jordan in accordance with the provisions of GATT Article XXIV, which authorises, on a conditional basis, the establishment of bilateral and regional PTAs. The aim was to investigate whether these FTAs have played a role in achieving economic integration and political stability in the Arab region.

The thesis acknowledges that the historical events and regional challenges facing the Middle East region have affected the nature of trade practices and thus the results of these agreements on economic integration. The analyses in this thesis has demonstrated that the total intra-Arab trade has remained low, thereby suggesting that all newly ratified trade agreements remain unable to strengthen the Arab economic integration.¹ Regional tension, instability, external interference and the political unwillingness of decision-makers have limited the Jordanian role in economic integration.

As discussed earlier in the thesis, the WTO was established as a result of the Uruguay Round, becoming the main international institution that oversees international trade. However, there has been considerable debate about the effect of the WTO on the economies of developing countries, including Arab Countries.² Since its inception, several studies have agreed that the negative effects of the WTO at times overcome the positive effects for developing countries. This thesis demonstrates that the bilateral forms of FTAs, instead of multilateral arrangements, can be generated by political factors, and not just by economic drivers. The FTAs in such bilateral forms do not always respond to the needs of Jordan as a trading partner, and the trade partnerships between Arab Countries are not symbiotic. Moreover, such trade agreements even affect bilateral political relationships.

¹ This conclusion was reached after the discussion in Chapter 5.

² This conclusion was reached after the discussion in Chapters 2 and 3.

Given that the motives for entering FTAs are first political and then economic, with the purpose of meeting geopolitical needs, this thesis finds that the political motives underlying FTAs have affected the economic benefits gained by Jordan and its regional and international partners. They have similarly negatively affected the goal of achieving economic integration in the Middle East. For example, given that Jordan's primary role has been to preserve US political interests in the Middle East—including maintaining peace between Palestinians and Israelis and fighting terrorism—taking advantage of trade liberalisation with the world's largest economic power by entering the Jordan–USA FTA became a secondary goal. Evidence for this arose in the discussion in Chapters 4 and 5, where the analysis demonstrated how the strategic interests of the US in the Middle East have changed over time. Accordingly, the earlier Jordanian political role was marginalised and the US' attention shifted in a different and more important direction, which led to a decline in bilateral relations and undermined the Jordan–US FTA's chances of success. As a result, economic development—as the supposed objective of the FTA in Jordan—was weakened.

Chapters 4, 5 and 6 argue that the Middle East is a strategic region for the US and Europe because of its natural wealth and the Palestine–Israel conflict. It is also an important region because of the political crises and instability that could affect the economic and security interests of the West. Therefore, the US and Europe have strengthened their trade and economic role in the region, bearing in their mind that geopolitical aims are the most important. The implicit idea behind FTAs is that strengthening trade ties leads to economic benefits that subsequently contribute to reducing the turmoil that causes illegal immigration to Europe.³ In addition, the trade relations strengthen the position of and provide support to allied Arab regimes that fight terrorism. Consequently, Jordan and some Middle Eastern countries have opened their economies to the West, amid contradictory pressures from the international community and ideas of trade liberalisation, and local groups advocating protectionist policies and careful openness to the developed markets. In doing so, the Jordanian government expected a positive transformation of economic development by expanding its volume of trade exchange

³ Song Niu and Bing Fan, 'An Overview of the Middle East Immigrants in the EU: Origin, Status Quo and Challenges' (2016) 3(2) *İstanbul Gelişim Üniversitesi Sosyal Bilimler Dergisi* 51, 72. See also Mattia Toaldo, 'Don't Close Borders, Manage Them: How to Improve EU Policy on Migration through Libya', *ECFR* (Web Page, 2017) <https://www.ecfr.eu/publications/summary/dont_close_borders_manage_them_7297> (accessed 20 March 2020).

with the US and EU, given its increasing GDP and national income and wider integration with the advanced industrial countries.

However, as identified by the discussion in preceding chapters 4 and 6, the opposite results have been achieved, and neither the economic nor political outcomes are satisfactory. The political goals planned by Europe and the US have never been achieved. The desired peace between Palestinians and Israelis remains as elusive as ever, and, instead of political or economic stability, the region is witnessing unprecedented turmoil, including the flow of millions of refugees to Europe. This thesis contends that the continuous change in the priorities and interests of the US administration and the rapid changes in geopolitical goals in the region are the reasons for this failure.⁴

The changing emphases of US policies in the Middle East and resultant side-lining of Jordan's political and economic interests demonstrate how FTAs are more than just economic instruments. This also raises issues of how the substantive content of FTAs can no longer be justified simply as necessitated by economic efficiency. Jordan and other developing economies have suffered very harsh measures in FTAs based on the unquestioned logic of free trade. However, if it can be an accepted part of the discourse of FTAs that political factors are equally important, the resultant FTAs may be less for developing countries such as Jordan. Therefore, this thesis argues that the political dimensions of FTAs should be recognised in the literature to avoid an overly economic rationale for free trade. It is evident that Jordan was unable to address the political costs of bilateral FTAs, especially with the US. At the stage of entering the Jordan–US FTA, the US used economic arguments, did not acknowledge political motives, and instead presented the FTA in the form of a peace dividend to encourage other Arab countries to adopt the same approach as Jordan, with the ultimate goal of encouraging them to improve Arab relations with Israel.

More importantly, in the process of designing the FTA, the economic discourse was used to silence the weaker partner, Jordan, which was forced to accept a harsh economic liberalisation paradigm, including TRIPS-Plus rules that exceeded the requirements of the TRIPS agreement of the WTO. As a result, Jordan has become overburdened with economic measures that are unfavourable to the nature of its developing economy. The political (rather than economic) dimensions behind the Jordan–US FTA are also evident in the US expansionist policies in the

⁴ This point was established in the discussions of Chapters 4 and 6.

Middle East, which are meant to counter Chinese trade expansion in the region.⁵ Similarly, this thesis has linked the high level of regional instability and the decline in trade performance between Jordan and its regional partners. Given that tensions and political instability in the Jordanian vicinity dominated the regional scene, they have undermined its efforts to achieve economic integration with its surrounding countries. In conclusion, it is demonstrated that, in the Arab region, it is difficult to improve economic performance at a time of geopolitical instability, which impedes effective economic policymaking.

Theoretically, countries that live in a state of stability can implement economic development programs in their regional environment, unlike those living in chaos and instability. Instability means the absence of law, turmoil, waste of economic wealth and migration of capital, instead of attracting investments that enhance regional economic integration. In addition to the lack of development projects for the public and private sectors, in politically unstable situations, political interest is focused on how to maintain power and thus harness public funds for armaments and military spending.⁶ Economic integration depends on the economic policies of countries, which express the political situation and ideology of decision-makers. Similarly, regional economic integration is fundamentally linked to the political realities of the countries. Historical geopolitical events, including colonialism and the political and economic boycott of Israel, have had dire consequences for Arab economic cooperation. They caused a delay in Arab participation in the international trading system, so that Arab Countries became subject to rules set by others, instead of being the ones making those rules. As a consequence, for the Arab neighbours, trade exchanges weakened, economic interdependence decreased, and regionalism began to fade and was replaced by a complex network of bilateral trade agreements.

However, this thesis identified another fundamental challenge facing the region as a whole, and Jordan in particular—the rentier economic model on which Arab economies are built. The Gulf countries use oil sales to finance their expenses and pay salaries to their person, which has preserved the current political and economic situation. However, lower oil prices because

⁵ Joshua P Meltzer and Neena Shenai, *The US-China Economic Relationship: A Comprehensive Approach* (American Enterprise Institute, 2019). See also Kumagai Satoru et al, *Economic Impacts of the US-China Trade War on the Asian Economy: An Applied Analysis of IDE-GSM* (Discussion Paper No 760, IDE, 2019).

⁶ Robert E Looney, 'The Economics of Middle East Military Expenditures: Implications for Arms Reduction in the Region' (1991) 22(4) *Bulletin of Peace Proposals* 407, 417. See also James H Lebovic and Ashfaq Ishaq, 'Military Burden, Security Needs, and Economic Growth in the Middle East' (1987) 31(1) *Journal of Conflict Resolution* 106, 138.

of increased dependence on alternative energy and a doubling of the population render this model unsustainable. The same applies to Jordan, which has depended for many years on foreign aid, taxes and remittances of Jordanians abroad. With the collapse of the rentier economic systems of the region's countries and the lack of preparedness for economic challenges, Jordan and the countries of the region have faced unprecedented economic difficulties. As a result of adapting the rentier economic model, the oil countries have drained their sovereign funds, while the poor countries, such as Jordan, have been implicated in huge public debts. Consequently, Jordan and the other countries of the region have failed to reorient their macroeconomic responses and have encountered difficulty in overcoming these challenges. Therefore, the Arab economic integration requires regional countries to build a new economic system, or such integration will remain elusive. Among other factors, Arab Countries need to start confronting the system of patronage and corruption networks that distort the economy and prevent economic integration.

7.2 Conclusion

The thesis concludes that Jordan's economic challenge is not only political, but also technical. This becomes even more evident when comparing the Arab region with the geographical regions that have experienced sustainable and dynamic economic integration and growth in recent decades, such as Southeast Asia.⁷ The failure of the Arab economic integration is also a result of the lack of a strong supranational institution regulating trade and economic issues that could facilitate the path towards the Arab economic integration. No Arab trade agreement, since its inception, has been implemented fully and seriously. This failure is largely due to the lack of a supranational institution, yet also because of the different political and economic priorities of the members of the Arab League. Problems are further created by the existence of different currencies, regulations and customs laws, and the fact that each country has economic priorities that conflict with the interests of others. A further difficulty is that Arab Countries have similarities in imports and exports, and all deal with similar goods or services.

⁷ Southeast Asian economies have made great progress in their economic development, which has provided many opportunities for them to benefit from further improvements in infrastructure, education and labour force participation. See Ho Yin-Ping, *Trade, Industrial Restructuring and Development in Hong Kong* (Springer, 2016). See also Razeen Sally and Rahul Sen, 'Whither Trade Policies in Southeast Asia? The Wider Asian and Global Context' (2005) 22(1) *ASEAN Economic Bulletin* 92, 115.

The Arab League did act as a regional supranational institution, but its initiatives did not extend beyond the concept of free trade areas, with the main goal limited to the gradual elimination of tariff and non-trade barriers to reciprocal goods. Thus, the Arab League did not succeed in developing Arab FTAs into a CU. Given that the GAFTA did not lead to a comprehensive liberalisation of customs and nontariff restrictions because of various exceptions, the complexity of rules of origin and the non-coverage of trade in services, the earlier discussion in this thesis questioned its usefulness in achieving economic integration.⁸

Thus, it is concluded that the attempts of the Arab economic integration did not meet the original hopes and aspirations of the participants. However, this thesis acknowledges the modest achievements of Arab Countries' trade liberalisation via their accession to the WTO. Moreover, the FTAs that Jordan entered with Arab Countries have helped accomplish a limited extent of Arab cooperation. However, these FTAs have not been able to establish a permanent norm for designing the features of the Jordanian trade relations with its trading partners. It is also important to acknowledge that, although the economic integration is limited, what has been achieved is nevertheless the first step that could have positive future implications for increasing trade exchanges and expanding the circle of inter-Arab economic relations and thus economic integration. However, while there is an absence of political will and joint financial institutions, the results will be limited, which will lead to a lack of progress in achieving political stability.

This thesis submits that the new balance of power in the region has caused additional tensions that have undermined the opportunities for economic integration in the region. The new undeclared alliances and the obvious rapprochement between Saudi Arabia and Israel against Iranian expansion are the biggest challenges to Jordan, as they have resulted in the side-lining of Jordan and its role in the region that it was previously accustomed to playing. Having said that, the thesis did not lose sight of the ongoing civil wars factor, with regional and international powers competing and fighting in the Arab arena. The analysis encompassed the fact that the economic policies of the region's countries towards achieving economic integration are driven by their economic interests at the individual level, as regional political interests played a negative role on the results of economic integration. The countries of the region are almost all hostile towards each other, including Israel and its Arab neighbours, Iran and its Arab neighbours, Iraq and the Gulf states, and so on. As a result, trade, economic and other forms of

⁸ This conclusion was reached after the discussion in Chapter 5.

integration are problematic for political and security reasons. Therefore, it is important to acknowledge the current circumstances and factors that could severely affect the region's future political and economic form.

It is thus unsurprising that Jordan alone could not succeed in achieving economic integration, with regional and global powers grappling with strategic interests and influence. Moreover, the goals of international and regional powers extend far beyond achieving an economic goal through trade partnerships. Therefore, it is necessary to address both the domestic trade and economic policies of Arab Countries, yet also to draw links with the interests of the developed countries that often prevent the individual countries from formulating the most beneficial trade and economic policies. It is suggested that the domestic trade and economic policies of Arab Countries should be developed, and countries should understand the importance of cooperation in the field of infrastructure. Economic reform and anti-corruption efforts must also be strengthened, as corrupt beneficiaries are benefitting from maintaining tariff and nontariff barriers. In this manner, regional integration could become a means of encouraging domestic reforms and fighting corruption. At the same time, this thesis does not deny the gains from integration with Europe or the US. Simply stated, geographical proximity among Arab Countries is not always an advantage when these countries all produce the same goods and lack the same necessities.

However, geographical proximity can be an advantage for building the cornerstone of the Arab economic integration via the correct infrastructure foundation. For example, having a common transport and electricity network that links both the rich and poor countries of the region would enable them all to benefit from economies of scale. It will also open up prospects for investors from rich countries, which would also benefit all. Nevertheless, it remains the case that the countries of the region have been unable to accomplish this step. This thesis suggests that a possible explanation for this situation is that the Arab region includes both economically strong countries, such as Saudi Arabia and the Gulf states, and small and economically weak countries, such as Jordan. This thesis examined the claim that the wealthy countries have little to gain from regional economic integration, while the smaller countries could gain huge benefits. This thesis challenged this argument because, if Saudi Arabia and other rich countries boosted their investment in the poor Arab countries, such as Jordan, Sudan and Yemen, economic benefits would prevail for all. Moreover, the rich countries could strengthen their political interests with the countries of the region and thus gain additional political allies. As a

result, good neighbourly relations could evolve and encompass all, and prosperity and peace would prevail over unnecessary wars, such as the one currently being waged in Yemen.

One possible avenue to move forwards is to offer larger roles to the private sector. Private sector actors are not interested in geopolitics—their primary aim is to gain economic benefits. Thus, if countries allowed private sector actors to trade with other similar bodies, they may create an integration in these politically sensitive situations. Even if the governments continued to fight, the region might be able to achieve the first step towards regional integration, despite geopolitical hurdles. In the Arab region, where civil wars are raging in several countries, there are Saudi, Qatari and Emirati private investors willing to invest and contribute to reconstruction efforts in Iraq, Yemen and Syria, which would boost trade within the region, including with Jordan, even if not directly.

A further hurdle on the path of the Arab integration is the fact that regional integration is the opposite of the concept of wider globalisation,⁹ which currently works for advanced industrial countries. For instance, trade between individual developed countries (as powerful trading blocs) and the rest of the world is more effective for the interests of developed economies. Developed countries rely on the exports of high-cost goods and services to reap huge profits from trade with developing countries. Therefore, the survival of such arrangements in the Arab region serves the interests of large trading blocs, whether from the EU or US.¹⁰ Another hurdle on the path of the Arab integration is that, when developing countries form a new trade bloc, this bloc can harm the interests of existing large trade blocs by creating trade between members of the new bloc, which in turn will convert trade into the newly created economic bloc. The globalisation literature deals with these issues in ample detail; however, by being overly reliant on economic discourse, it is of no great help to the countries in the Middle East.¹¹

While FTAs are undeniably a basis of economic integration, this is not proving the case in the Middle East, which is currently characterised by rapid transformations of alliances and changes in interests in relations according to strategic interests and external interventions. Therefore, this thesis concludes that a peaceful solution to disputes in the Middle East, including with

⁹ Edward D Mansfield and Milner Helen, 'The New Wave of Regionalism' (1999) 53(3) *International Organization* 594.

¹⁰ This conclusion was reached after the discussion in Chapters 5 and 6.

¹¹ The topic of globalisation is too large and not the subject of this thesis; however, for an introduction to the main issues, see Frank Lechner and J Boli, *The Globalization Reader* (Wiley, 4th ed, 2014).

Israel and Iran, could lead to significant economic gains in productivity in the form of real peace dividends. Moreover, by reducing military spending on armaments, capital would be freed up in favour of productive investment projects and reconstruction, which would provide an environment conducive to developing FTAs and creating a common market.¹² These would subsequently lead to increasing living standards throughout the region, and thus regional stability and peace. However, the political will of leaders on all sides is essential for such developments. The example of European integration illustrates the importance of the role of founders who commit to achieving their holistic vision of the continent. Therefore, the insight that peace is the best solution for all parties must form the basis of a similar process of integration in the Middle East. The example of the European coal and steel community today has led to a highly integrated and valuable society, which has overcome the idea of divisions and alliances, in which people live together in peace, freedom and democracy.¹³ The example of the EU offers hope that people in the Middle East can share such outcomes in both political and economic fields—notwithstanding the much-publicised departure of the United Kingdom from the EU.

At the same time, the global trading system and globalisation movements are rapidly evolving and may cause more economic challenges and crises for developing countries. This is not to say that external forces are the main cause of the Arab non-integration; however, it is relevant to acknowledge that the stronger economic blocs in Europe, North America, Asia and elsewhere may create an unbalanced economic situation that could increase global tensions. However, these blocs may also play a vital role and status as advisers to developing countries, including Arab Countries. Overall, this thesis concludes that Arab Countries require strategic planning to adapt to the policies of other economic and political blocs that have already formed, since no country can stand alone against these wealthy economic blocs. Weak countries will be compelled to follow the dictates of large political and economic blocs; hence, the immediate formation of a common Arab market is an urgent requirement both to meet global challenges and to provide an effective response to the European, Asian and American blocs. Finally, in light of unprecedented global changes, Arab Countries must adapt their economic strategies based on the changing trends and constant threats posed by the changing global situation, which

¹² See Chapters 5 and 6.

¹³ Gerhard Bebr, 'The European Coal and Steel Community: A Political and Legal Innovation (1953) 63(1) *The Yale Law Journal* 1, 43

requires all countries in the region to establish a new agenda for economic integration and regional peace.

7.3 Recommendations

These thesis recommendations are expected to serve as a guide for strategists, initiators and negotiators involved in plans to enhance Arab regional economic integration through a powerful regional institution, guided by the multilateral trading system within the WTO accords. They are designed to serve as a proposal for a new comprehensive agreement in the Arab regional context. It is necessary to make a few preliminary points before listing the specific recommendations, as these recommendations' implementation could be short or long term. However, regardless of the time required to achieve the desired aims, a gradual and systematic implementation of these recommendations is expected to enhance the Arab economic integration. The progressive and systematic implementation should begin by re-evaluating the inter-Arab and Jordanian FTAs within the regional environment, as well as with developed countries, by identifying the weaknesses that have prevented Arab regional integration as needed.

In the formulation of recommendations, the regional circumstances must be acknowledged and addressed. For example, the current geopolitical environment of the Middle East and the socioeconomic changes in the region resulting from regional instability make it illogical to offer recommendations to stimulate the economic integration of the region in general. The varying stability and security circumstances of the countries of the region, as well the economic potential and political intentions, will have a crucial effect on the success of these recommendations. Moreover, these recommendations not only address the governments of Jordan and other Middle Eastern countries, but also relate to the private sector in each country and regional governmental and non-governmental institutions. The geopolitical influences in the Middle East create an exceptional situation in which economic integration cannot be guaranteed through Jordan alone. Economic integration in the region requires independent and sovereign regional platforms for all different perspectives, both within and outside the national borders of each country.

Based on all the above, this thesis recommends that:

- 1) The countries in the region should cooperate to create powerful regional institutions. These regional institutions should aim to make unified efforts at the grassroots level to promote the idea of the inevitability of a common destiny and peaceful coexistence among all peoples of the region, which would be the building block of Arab regional integration in the context of international trade law. For example, the Arab League could provide a structure in which all countries could thrive. It would recognise that Arab Countries are a diverse group in terms of political and economic systems, and that it is inevitable that any change in economic policies may be beneficial to some, while hurting others. However, if there are institutions capable of providing country-specific strategic plans and assistance, it is possible that the public interests of all could be pursued. This would require the Arab League to be perceived as the legitimate body to engage countries in negotiations and decision-making.
- 2) The Arab League should work on establishing a formal structure for its negotiations to ensure that each Arab country has its interests represented in a manner commensurate with their importance and with the country's needs for its future in the regional and global economy. The Arab League must also reform its institutional structure—particularly the Economic and Social Council, which oversees the plan of economic integration—by acting as a regional intergovernmental organisation that transcends national boundaries. The Arab League could consider how the European Commission operates and adopts appropriate economic and trade policies for all EU countries. For example, the commission has the discretion to resolve disputes arising from competing for national interests between EU countries. In addition, it has the authority to address tariff and nontariff barriers and conflict resolution with other regions.
- 3) The countries in the region should provide adequate political support and technical assistance to the Arab League. This would make it possible for the GAFTA to make trade a stimulus for inclusive and sustainable growth in the region.
- 4) The region should strengthen the role of institutions that regulate free trade, especially in the area of promoting dispute settlement and removing nontariff barriers, which would deepen the process of integration. Trade in services is another significant issue that remains untapped as a way to promote integration.

- 5) The member states should facilitate and accelerate border and customs procedures to save time and thus increase revenues. This would help the private sector enhance communication between regional economies.
- 6) The member states should strengthen the role of economic strategic research and study centres. In addition, they should recognise the roles of women and youth in economic development and offer them a role in making trade policies that would increase regional cooperation and economic integration.
- 7) Arab Countries should agree to develop a system of rules of origin to enable the effective accumulation of capital and promote cooperation in joint infrastructure projects. In addition to facilitating trade in goods and services, Arab Countries should exploit the full potential of Arab capital, promote labour movements and consider their integration from a broader perspective. It is acknowledged that this is difficult to achieve in the short term because of political divisions and regional instability; however, as a medium- or long-term plan, it is inevitable.
- 8) The region should urgently modernise trade facilitation regulations, and even enact new legislation and a unified customs law, which would enhance the opportunity for Arab Countries to integrate. In addition, an agreement moving the region from a free trade area to a CU is a significant step to deepen trade relations. In this regard, there is an urgent need to harmonise policies, standards and regulations; however, this would require the will, political commitment and improved coordination of decision-makers. Maintaining differing national standards hinders trade and hence integration.
- 9) Arab Countries should work to diversify their economies by developing industrial and agricultural sectors and focusing on joint projects, which would provide great potential for more regional economic integration. For example, a specific aim could be launching short-term plans for a railway project linking the Arab Gulf states with Jordan, Iraq and Syria. Another desirable goal is investing in joint economic projects that promote and facilitate integration, such as a gas connection project, a power grid project or a project to create joint road transport.

It is acknowledged that political concerns are often paradoxical, thereby limiting opportunities for economic cooperation. Political and national interests pose threats to the Arab integration, while economic cooperation—especially the diversification of national economies and the liberation of the private sector from national restrictions—can be seen as an opportunity for the Arab region to seriously begin integration.

Finally, this thesis offers some suggestions for Jordan to further promote economic integration in the Arab region. Jordan should increase trade with the countries of the region, as the economic gains would return to the region as a whole; however, Jordan should simultaneously maintain an acceptable level of trade exchange with Europe and the US. Jordan should also begin abolishing all tariffs in its trade with Arab regional countries, while maintaining the level of MFN tariffs with East Asia, the US and Europe. Moreover, Jordan should remove all barriers to trade in services—an important sector that would quickly accelerate regional integration, as it is experiencing rapid global growth. Further, Jordan should: (i) enhance the efficiency of the labour market to attract further investment; (ii) simplify the process of establishing companies and reduce bureaucracy to eliminate corruption; (iii) enhance arbitration and mediation capacity in resolving commercial disputes; and (iv) enhance governance and artificial intelligence systems to enable greater transparency and trust. Implementing these approaches would go a long way towards achieving Jordan's goal of economic and political integration through trade with its Arab neighbours and beyond.

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