

**The London School of Economics and Political Science**

Accession to the World Trade Organization:  
Factors Shaping the Case of Saudi Arabia's Accession  
(1985-2005)

Faisal I. Ghulam

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Relations for the degree of Doctor of Philosophy,  
London, July 2012

In Memory of my Mother Zainab Abdullah Izmirli

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## **Abstract**

It may be a case unique to the World Trade Organization (WTO) that an aspect of accession to the organization became an issue in itself. Since the WTO came into being in 1995, the process of accession has been a subject of intensive debate. It has been like this because of the extremely complicated nature of the process. The reason for such complexity is dual. On the one hand, an accession issue under consideration will be scrutinised in a manner that exceeds traditional trade concerns such as customs law, tariff schedule and related regulations on imports and exports to include items that might penetrate domestic legal and social boundaries. Such scrutiny, on the other hand, must satisfy all interested incumbent WTO members before accession is granted. This is normally done through an extensive and lengthy bilateral negotiation between the acceding country and the members with an interest in its application.

Thus, the question of the WTO accession has become of attention grabbing nature. In fact, following the establishment of the organization, the question of accession emerged as one of the various pressing WTO-related issues that attracted attention at both academic and practical levels. In this thesis, the WTO accession question will be examined with regard to the accession of Saudi Arabia. This was one of the most difficult and protracted accession processes and the thesis will concentrate on the factors that determined the WTO accession of this case.

The literature on the WTO argues that the decision on any country's accession is based on a set of generic factors. These include, for instance, integration in the world economy, locking in domestic reforms, opening new markets and attracting foreign investment. Although very important, the attempt to investigate the factors that shape a country's desire to accede to the WTO— as examined in this study with respect to Saudi Arabia (seeking an accession in the face of the inherent complexities, liabilities and potential penetration of internal affairs) – requires answers that go further than these factors introduced in the literature. It is not the case that a country decides to join the WTO for particular reasons and the actual accession follows immediately. Accession is a process that takes a very long time and the issue of a country's accession cannot possibly remain static throughout the time until its application is officially approved.

This should be taken into account because it can produce some important questions. For example, will the internal perception and position of the parties involved remain the same during the period in which accession is being negotiated? Will the accession factors change over time to become more or less important? What are the politics involved?

The answers to such questions will necessarily lead to a realisation that more elements than the aforementioned direct factors indicated in the literature need to be considered in order to understand WTO accession. However, examining questions of this nature, such as the politics involved in an accession case, would conceivably lead to some considerable particularities attached to a specific accession case and this applies to Saudi Arabia. The main question, then, that the study aims to answer is: what were the specific factors that shaped this accession case?

In fact, the importance of the Saudi accession case is generally due to four factors: (a) the periods of varying intensity with respect to the negotiations themselves; (b) the protracted length of time taken to complete the accession process; (c) Saudi Arabia's unique characteristics as a country; and (d) the fact that not much has been written about this accession process.

Since the decision to join the WTO is intrinsically linked to trade policy, and as this normally involves a great deal of internal politics, the thesis supposes that studying the domestic interaction that was at play during the years of the accession process can best explain the accession of Saudi Arabia to the WTO. With regard to the importance of internal politics to the case, the thesis will focus on the domestic institutions and interests that the affected Saudi Arabia's accession. In the process of doing this, external factors will also be taken into account.

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*“Those who do not thank people, they do not thank God”*

Prophet Muhammad

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## Table of Contents

|                  |   |            |
|------------------|---|------------|
| <b>Chapter 1</b> | <b>Introduction</b>                                     | <b>17</b>  |
| 1.1              | The Research Assumptions                                | 19         |
| 1.2              | The Significance of the Saudi Accession Question        | 22         |
| 1.3              | Hypotheses  | 24         |
| 1.4              | Methodology   | 33         |
| 1.5              | Scope and Limitations of the Study                      | 38         |
| 1.6              | Structure of the Thesis                                 | 39         |
| <b>Chapter 2</b> | <b>Accession Aspects in the WTO Literature</b>          | <b>41</b>  |
| 2.1              | Rationale of WTO Accession                              | 44         |
| 2.2              | WTO Accession Process                                   | 54         |
| 2.3              | Track Record of Acceding Experiences                    | 67         |
| 2.4              | Conclusion  | 78         |
| <b>Chapter 3</b> | <b>Analytical Framework</b>                             | <b>81</b>  |
| 3.1              | Society-Centred and State-Centred Approaches            | 84         |
| 3.2              | Internal Factors  | 94         |
| 3.3              | External Factors  | 118        |
| 3.4              | Historical Overview and Political Economy's Perceptions | 129        |
| 3.5              | Conclusion  | 139        |
| <b>Chapter 4</b> | <b>Phase One: 1985-1996</b>                             | <b>141</b> |
| 4.1              | Managing the Process                                    | 142        |
| 4.2              | Internal and External Context                           | 147        |
| 4.3              | Limited Interests – Limited Concerns                    | 152        |
| 4.4              | Momentum Building Up                                    | 161        |
| 4.5              | Analysis  | 163        |
| 4.6              | Conclusion  | 172        |

|                         |  |            |
|-------------------------|--|------------|
| <b>Chapter 5</b>        | <b>Phase Two: 1997-2000 .....</b>          | <b>175</b> |
| 5.1                     | The Phase's Context.....                   | 176        |
| 5.2                     | Issues .....                               | 183        |
| 5.3                     | The Pause .....                            | 237        |
| 5.4                     | Analysis .....                             | 241        |
| 5.5                     | Conclusion.....                            | 250        |
| <b>Chapter 6</b>        | <b>Phase Three 2001-2005 .....</b>         | <b>255</b> |
| 6.1                     | Internal Situation after the 'Pause' ..... | 255        |
| 6.2                     | 9/11 .....                                 | 267        |
| 6.3                     | Resuming Negotiations .....                | 274        |
| 6.4                     | The Membership.....                        | 285        |
| 6.5                     | Analysis .....                             | 286        |
| 6.6                     | Conclusion.....                            | 289        |
| <b>Chapter 7</b>        | <b>Conclusion.....</b>                     | <b>293</b> |
| <b>References</b> ..... |  | <b>310</b> |
| <b>Appendices</b> ..... |  | <b>344</b> |

## Table of Tables

|  |     |
|--|-----|
| Table 2-1: GATT Rounds .....   | 41  |
| Table 2-2: On-going Accessions.....  | 68  |
| Table 3-1: Development of Companies and Firms .....  | 96  |
| Table 3-2: Contribution to the GDP by Sectors over 1970-2004 .....                                 | 99  |
| Table 3-3: Contribution of SABIC's Exports to Manufactured Non-oil Exports .....                   | 102 |
| Table 3-4: Share of Service Sector to the GDP in Saudi Arabia .....                                | 105 |
| Table 3-5: Oil Export Revenues and Oil Contribution to Public Budget Revenues<br>(SR million)..... | 119 |
| Table 3-6: World Oil Demand Since 1991 .....   | 121 |
| Table 4-1: Elements Important to Phase 1 .....   | 174 |
| Table 5-1: Benefits and Costs of Accession .....   | 179 |
| Table 5-2: First Comprehensive Offer .....   | 184 |
| Table 5-3: Industrial Goods .....  | 187 |
| Table 5-4: Industry.....   | 189 |
| Table 5-5: Offer in Tariffs on Industrial Goods.....   | 192 |
| Table 5-6: Agricultural Goods .....  | 199 |
| Table 5-7: Agriculture.....  | 200 |
| Table 5-8: Tariff Offer on Goods.....  | 203 |
| Table 5-9: Tariff Offer on Agriculture.....  | 204 |
| Table 5-10: Action Plan .....  | 209 |
| Table 5-11: Elements Important to Phase 2 .....  | 254 |
| Table 6-1: Elements Important to Phase 3 .....   | 292 |

## Table of Figures

|  |     |
|--|-----|
| Figure 3-1: Trend of Services Output in Saudi Arabia over 1985 - 2005..... | 103 |
| Figure 4-1: Structure of governmental agents.....                          | 146 |

## **Abbreviations**

|        |   |
|--------|---|
| ARAMCO | Arabian American Oil Company              |
| ATC    | Agreement on Textile and Clothing         |
| BLG    | Basic Law of Governance                   |
| CH     | Chemical Harmonisation                    |
| CIT    | Countries in Transition                   |
| COM    | Council of Ministers                      |
| CSCC   | Council of the Saudi Chambers of Commerce |
| DOE    | American Department of Energy             |
| DSB    | Dispute Settlement Body                   |
| EEC    | European Economic Community               |
| FDI    | Foreign Direct Investment                 |
| FSC    | Foreign Sales Corporations Law            |
| GATS   | General Agreement on Trade in Services    |
| GATT   | General Agreement of Tariffs and Trade    |
| GCC    | Gulf Cooperation Council                  |
| GDP    | Gross Domestic Production                 |
| GPA    | Government Procurement Agreement          |
| GPL    | Government Purchases Law                  |

|             |   |
|-------------|---|
| GSFMO       | Grain Silos and Flour Mills Organisation        |
| Gulf War II | Second Gulf War                                 |
| HMC         | Higher Ministerial Committee                    |
| IFIs        | International Financial Institutions            |
| IMF         | International Monetary Fund                     |
| INR         | Initial Negotiating Rights                      |
| IR          | International Relations                         |
| IP          | Intellectual Property                           |
| IPE         | International Political Economy                 |
| IT          | Information Technology                          |
| KACST       | King Abdul Aziz City for Science and Technology |
| KSA         | Kingdom of Saudi Arabia                         |
| LDCs        | Least Developed Countries                       |
| MCI         | Ministry of Commerce and Industry               |
| MFA         | Multifibre Agreement                            |
| MFN         | Most Favoured Nation                            |
| MFNE        | Ministry of Finance and National Economy        |
| MOC         | Ministry of Commerce                            |
| MOA         | Ministry of Agriculture                         |

|       |   |
|-------|---|
| MOFA  | Ministry of Foreign Affairs                           |
| MOJ   | Ministry of Justice                                   |
| MOI   | Ministry of Interior                                  |
| MOIE  | Ministry of Industry and Electricity                  |
| MOP   | Ministry of Planning                                  |
| MPMR  | Ministry of Petroleum and Mineral Resources           |
| MTAs  | Multilateral Trade Agreements                         |
| OECD  | Organisation for Economic Cooperation and Development |
| OPEC  | Organisation of Petroleum Exporting Countries         |
| PTT   | Ministry of Post Telegraph and Telephone              |
| RTA   | Regional Trade Agreement                              |
| SABIC | Saudi Arabian Basic Industries Corporation            |
| SAGIA | Saudi Arabian General Investment Authority            |
| SAMA  | Saudi Arabian Monetary Agency                         |
| SCPM  | Supreme Council for Petroleum and Minerals            |
| SCT   | Supreme Commission of Tourism                         |
| S&D   | Special and Different Treatment                       |
| SEC   | Supreme Economic Council                              |
| SIDF  | Saudi Industrial Development Fund                     |

|       |  |
|-------|--|
| SMEs  | Small and Medium-Sized Establishments      |
| SNT   | Saudi Negotiating Team                     |
| TRIMS | Trade-Related Investment Measures          |
| TRIPs | Trade-Related Intellectual Property Rights |
| UAE   | United Arab Emirates                       |
| UR    | Uruguay Round                              |
| WIPO  | World Intellectual Property Organisation   |
| WP    | Working Party                              |
| WTO   | World Trade Organization                   |





## Chapter 1 Introduction

Joining the World Trade Organization (WTO) is a complicated matter. This has been the case for countries currently applying for accession and will be for those who are planning to. The reason for this is of a dual, though intrinsic, nature. The organization requests that the applicant country submit relevant legislation on a variety of subjects for its deliberation. The issues under scrutiny have extended beyond traditional trade subjects such as customs law, tariff schedule and related regulations on imports and exports to include items such as laws on joint stock companies, central banks and credit institutions, licensing of economic activities, domestic taxation, patent and copyright protection, etc. (Michalopoulos, 1997: 7; Michalopoulos, 2001: 179-180). More importantly perhaps, on the part of the applicant this entails that the submissions would be scrutinised for consistency with the provisions of the WTO agreements. If the accession is secured, the applicant will further be subject to extended contractual obligations, as its policies of trading in goods and services and intellectual property rights have to be formulated in such a way as to be compatible with the standards of the WTO (Schott and Buurman, 1994: 9-13).

Hence, any country that wishes to accede to the WTO should brace itself for a long and exhaustive process. According to practice, this process would take two years at least, but the period could easily be drawn out to well more than a decade. It took China, for example, fifteen years to finalise its accession. Russia and Algeria have been negotiating theirs since 1993<sup>1</sup> ([www.wto.org](http://www.wto.org)).

As such, the accession question, in general, became particularly inciting in the case of this organization. In fact, following its establishment in 1995, the question of accession emerged as one of the various pressing WTO-related issues that attracted attention at different levels, both academic and practical<sup>2</sup>. Even the on-going Doha Round of the multilateral trade negotiations placed it as an item in the Ministerial Declaration that launched the round in 2001.

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<sup>1</sup> Russia became a member in 2011 after completing 18 years of negotiations for the accession to the WTO.

<sup>2</sup> The treatment of accession to the WTO in secondary literature will mainly be the focus of Chapter 2.

Generally, exploring the WTO accession issue is wide-ranging. It perhaps can provide an insight to a wider theoretical concern in the field of International Relations (IR) with regard to nation-states ceding part of their authority to international organisations. Specifically, investigating the factors of a desired WTO accession has sometimes prompted scepticism. Sceptics would wonder how an acceding country would come to wish to join this organization when its high demands penetrate domestic boundaries and impose external restrictions (Sampson, 2001: 6). Related to such scepticism, one should recall the massive street protests against the organization in Seattle in 1999 that proved the extent its negative public image, as an intruder in local affairs, had reached (Jones, 2004:4). Therefore, in addition to the insight that can generally be generated, addressing the accession question can also help to disperse scepticism on the practical or public level.

Moreover, the process of accession was very intensely discussed, for some time, as some major economies were experiencing extremely difficult negotiations to join the WTO. Among these were China, Russia, Taiwan and Saudi Arabia. The case of China's accession, in particular, sparked a big debate<sup>3</sup>. The question of accession may be less prominent now after China, Taiwan and Saudi Arabia have joined, but that does not make it less important. Not only because Russia and several regionally important countries such as Kazakhstan, Algeria and Iran are still aiming to accede, but because the WTO as an organization will not be able to live up to its claim of universality until all the approximately thirty countries currently applying are admitted.<sup>4</sup> In fact, the WTO's current troubles caused by the impediments in the on-going Doha Round's negotiations should only increase the importance of the accession aspect as it proves the continual importance that countries attach to the organization.

In this thesis, the WTO accession question will be examined with regard to the accession of the Kingdom of Saudi Arabia (sometimes referred to as the Kingdom). It was one of

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<sup>3</sup> As a rising economic and political power on the global stage, China's accession among all acceding countries received the largest written coverage. A simple search on the web will demonstrate how extensive the debate was over the accession of this second largest economy in the world.

<sup>4</sup> See note No.1 on Russia's accession

the most difficult accession processes. The focus will basically be on the factors that determined Saudi Arabia's accession decision over the years of its accession process.

### **1.1 The Research Assumptions**

The literature on the WTO argues that the accession decision of any acceding country is based on a set of generic factors. They include, for instance, integration in the world economy, locking in internal reforms, opening new markets for domestic products and attracting foreign investment (Bacchetta and Drabek, 2002; Lanoszka, 2001; Yang, 1999; Krueger, 1999; Michalopoulos, 1997). These are important contributions. However, the attempt to investigate the factors that shape a country's desire to accede to the WTO— as examined in this study with respect to Saudi Arabia (seeking an accession in the face of the inherent complexities, liabilities and potential penetration of internal affairs) – requires answers that go further than these factors introduced in the literature.

With the WTO, it is not the case that a country decides to join the organization for particular reasons, and then the actual accession follows immediately. Accession is a process that takes a very long time. On average, the process will take six years (Anderson, 2000: 22). The issue of a country's accession cannot possibly remain static during such a long period of time until its application is officially approved. The negotiations are likely to keep going among the domestic authorities involved, and with those who have interests. That is in addition to the negotiations with the WTO incumbent members, of course. At another level, the on-going accession process is probably susceptible to major events even if they are not directly connected with the accession issue itself.

Thus, the period of time that the accession takes should be taken into account because it can produce some important questions. For example, will the internal perception and position of the parties concerned remain the same during the period in which the accession is negotiated? Will the accession factors, or some of them, change overtime in terms of becoming more or less important? What are the politics involved? Will surrounding events, whether internal or external, have an effect on the acceding country's position as far as its WTO application is concerned?

The answers to such questions will necessarily lead to the assumption that more elements need to be considered to understand the WTO accession than the direct ones provided in the literature. The questions aim at clarifying the real and most effective factors that shape an accession issue, to be able to deliver a comprehensive account of the case examined. However, the aim to know the real factors shaping a WTO accession would most likely, at the same time, demonstrate specifics. In other words, such original factors of an accession issue will almost certainly have some specific characteristics due to domestic differences in the acceding countries.

From experience, Drabek and Bacchetta observed that each accession process is unique (2004: 1086). For this study, examining questions like the politics involved in an accession case would normally disclose, in the process, some considerable particularities about the acceding country subject to similar study. One major indication, in this respect, is the diversity in the length of the accession negotiations although they are supposedly subject to the same procedures. For instance, the finalisation of accession took only two years in the case of the Kyrgyz Republic, while it extended for a whole fifteen years in the case of China (WTO, 2001:10). Thus, the accession's time length is probably a reflection of the volume of internal politics that were in operation in a particular case.

Taking into account the complexity and extended time period of its accession negotiations, this thesis assumes that there were some factors of accession particular to the case of Saudi Arabia. The main question, then, that the study aims to answer is: what were the specific factors that shaped this accession case? It will be argued that understanding the nature of the factors that shaped an accession case over a particular length of time actually provides a new lens through which domestic politics can explain the international behaviour of the country of that case. According to Montano, such accounts are important, but difficult to find in integrated works for most accession cases. Related data is usually scattered among a set of formal and informal sources (Montano, Interview, 06 March 2007).

Unlike most sources on the Saudi accession, the starting point of this study goes as far back as 1985 when Saudi Arabia first contemplated joining the multilateral trading

system represented at the time by the GATT. Taking this into account, the process took longer than the twelve or ten years indicated in other sources, as they adopted as starting point either 1993, the year when the Saudi government officially applied to join the GATT, or 1995, when the government converted its application into a bid to join the WTO. The reason for adopting an earlier date is consistent with the thesis' main concern. As mentioned, the accession decision is not a spontaneous as the accession is, in fact, a process that would take years. Thus, the aim to identify the factors of the accession would require going further back in date and seeing how these factors of joining either the GATT or the WTO were forming.

During this long period of time (1985-2005), Saudi Arabia experienced different economic and political changes. The windfall of oil benefits in the 1970s came to a substantial and consecutive decline during the 1980s and 1990s (Spero and Hart, 2003: 299-335). This led Simmons to comment that the interest in Saudi Arabia and other producers generated by the oil boom began to fade away (2005: 68). However, the decline in oil prices began to unexpectedly take a reversed course with the advent of the third millennium. Major reasons for this were the continual growth of oil consumption in the emerging economies like China and India, and the worldwide shortage of refinery installations (Berman, 2005: 6-9). Thus, the upward spiral in the prices between 2000 and 2005 brought back the interest in Saudi Arabia.

Within the course of these economic changes, the concept of economic reform was widely on the rise. According to Haggard, the 1980s and 1990s were a period of unprecedented economic reform in the developing countries (1995: 6). Typically, the kind of reform adopted was based on a capitalist vision, which preached an open market and free trade. Saudi Arabia did not escape this trend of reform. In fact, economic reform became an issue in the mid 1990s that drew real domestic attention.

Likewise, the time period of the Saudi accession, as defined in this study, saw some major internal and external political events. The Second Gulf War in 1991 resulted in economic and political pressure on the Saudi government. The official end of the Cold War, as the old Soviet Union collapsed in the beginning of the 1990s, shuffled the priorities of the chief Saudi allies. The 9/11 attacks on New York and Washington D.C.

had substantial effects on Saudi political life. In addition, the country experienced in 2005 an important change in the leadership when King Abdullah assumed the throne after King Fahd had ruled for a quarter of a century.

The thesis assumes that these economic and political elements were not neutral as far as the Saudi WTO accession was concerned. It supposes that they interacted with the process of accession in a way that might have assisted it at particular times and hindered it at others. In fact, out of such interaction, the thesis would argue that the Saudi accession experienced three different phases. The first phase ran from 1985-1996, and was generally characterised by a lack of enthusiasm. The second phase took place between 1997 and 2000, and was largely shaped, as far as this study is concerned, by the overall salience of economic factors. The third phase was from 2001 to 2005, the date at which Saudi Arabia officially acceded to the WTO, and it was broadly characterised, as will be explained later, by political involvement.

This assumed metamorphosis that characterised the Saudi accession process will be examined in detail later in the chapters. In doing so, the thesis will investigate the factors that were at work in each phase, and because of which the phase has taken that specific characterisation as indicated above. Sometimes, an inactive factor shaped the characteristics of a particular phase, too.

## **1.2 The Significance of the Saudi Accession Question**

The importance of the Saudi accession case is due, in short, to four factors: (a) the periods of varying intensity with respect to the negotiations themselves (at one point they came to a complete halt); (b) the protracted length of time it took to complete the accession process; (c) Saudi Arabia's unique characteristics as a country; and (d) the fact that, to the best of the researcher's knowledge, not much has been written about Saudi Arabia's accession process.

The different phases are one of the significant features of the Saudi accession. Overall, the accession was of a slow pace. It reached its all-time low when the whole negotiation process came to a halt in the year 2000. This signalled a real pessimism about the

accession as a whole.<sup>5</sup> In 2003, however, the Saudi government announced resuming the negotiations. What was striking about this was, in fact, the enthusiasm and speed with which the negotiations were taken up again on all sides – the Saudis and the WTO incumbent members. This metamorphosis indicated that the WTO accession induces a genuine internal and external interaction, which it will be interesting to identify.

As mentioned, this study claims that the Saudi WTO accession process began when the country first contemplated joining the multilateral trade system in 1985. This placed it among the most protracted WTO accessions. It rivalled those of China and Russia, which took well over a decade to finalise. The WTO has generally been based on the principles of the free market (Jackson, 1997). As Saudi Arabia never experienced a communist regime, it was not to be expected that its accession process would take this long. It shall also be interesting to understand how this can be accounted for.

The backdrop of the Saudi case has some particular elements that further pique the researcher's interest in this case. Saudi Arabia is one of the few monarchies in the world where monarchs possess absolute power especially in formulating internationally related policies. Economically, it has the world's largest oil reserves, which was largely thought, for some time, to be out of the domain of the WTO. Culturally, the Saudi state enjoys a distinctive religious status, as it adopts precepts of Islamic law, the *Shariah*, which may occasionally be expected to make compromises with international norms not an easy affair.

Lastly, the above-mentioned statement by Montano about the lack of integrated studies on the accession process of most acceding countries would make any such attempt, in principle, a legitimate project for research. As to Saudi Arabia in particular, very little has been written on its WTO accession process. This has been the case despite the fact that until its official accession in December 2005, it was considered one of the few major economies that were still out of the WTO. The literature on Saudi Arabia and the WTO has mainly embarked on issues within the framework of this organization, but not the process itself. For instance, it focused on issues related to Saudi Arabia as a member

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<sup>5</sup>Such pessimism was particularly reflected in some of the interviews conducted for the purpose of this thesis in Saudi Arabia prior to resuming the WTO accession negotiations in 2003.

in the Regional Trade Agreement (RTA) of the Gulf Co-operation Council (GCC); or related to the country and the application of anti-dumping; or related to expected economic challenges of membership on the Saudi economy.<sup>6</sup> Unlike such studies, the focus of this thesis will be on the Saudi accession process, the internal interaction, and the factors that affected it the most.

To the best knowledge of the researcher, no comprehensive study has embarked on this aspect. Therefore, rendering this research is a valuable contribution to the literature on the WTO and the accession of a special state like Saudi Arabia.

### 1.3 Hypotheses

Probably more than any other policies, trade policy has a direct domestic consequence. Its tools such as tariffs, quotas and non-tariff barriers affect the interest of a broad range of groups in the society and can redistribute gains among them. Hence, trade policy will usually involve a great deal of internal politics, or as Spero and Hart put it: “*Trade policy is the stuff of domestic politics*” (2003: 66). As to trade policy and the WTO accession, they are intrinsically related as the accession is of a great effect on formulating trade policies. This leads, as far as this study is concerned, to see in examining internal politics a good approach to the providing of an inclusive and plausible perspective of a WTO accession case rather than relying only on the general factors laid in the literature of rationalising the effort made by acceding countries to join the organization. Accordingly, this thesis will hypothesise that *studying the domestic interaction that were at play throughout the years of the accession process can better explain the accession of Saudi Arabia to the WTO*. As it will come in Chapter Three, adopting one level of analysis in the IR should not exclude the consideration of other levels. Hence, the focus of this study on the internal interaction shall not preclude considering the effect of externalities.

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<sup>6</sup>Among these studies see: “The Cooperation Council of the Arab States of the Gulf (GCC) and the World Trade Organization (WTO)”, Eyad Reda, ILA British Branch 2005 Spring Conference, Royal Society of Edinburgh 27-28 May 2005. “Anti-Dumping Regulations in the World Trade Organization (WTO) and their Applications in Some Prominent Regional Trade Agreements (RTAs)” Eyad Reda, LLM Dissertation 2004, University of Sheffield.



The internal interaction intended to be examined according to the above-mentioned main hypothesis occurred, as far as this case is concerned, in a particular political, economic and cultural context. Taking this assumption, in addition to bringing in externalities in the examination, should lead to generate further hypotheses or rather sub-hypotheses. They are related to the feature of the political system in Saudi Arabia, the expected position of the societal interest groups relevant to the WTO accession, the structure of the official institutions closely involved in the accession process, the economic situation and the surrounding events during the years of the accession process.

Saudi Arabia is, as indicated, a ruling monarchy. In such a regime, it would be expected that one person or a small circle of persons unitarily make decisions. The expectation is that once such decisions have been made, they will be immediately and smoothly enforced. As such, one may assume that the internal politics would have been limited, and this may undermine the main hypothesis laid above. However, the extended years of the Saudi case, as argued in this study, cannot but contradict the assumption of the limitation of internal politics.

Some indications of the existence of such politics are in the characteristics of the economic and legal systems of the country. Saudi Arabia has generally been classified in the literature of political economy as a 'rentier' state. In this kind of economy, segments of the society, especially the business community, would live off government's rents – a status quo which the GATT/WTO would likely threaten. Hence, resistance to an official acceding decision would be expected from such a community. Similarly, the GATT/WTO and legality matters could provoke some societal objections, as well, to any governmental decision favouring a timely accession to the multilateral trading system. In this, Saudi Arabia has been legally and culturally governed by the Islamic *Shariah*. Thus, the expansion over time of the WTO's jurisdictions to include subjects of legal and cultural nature will have been disturbing to groups within the Saudi society. Depending on their stance to the accession throughout the years, therefore, the societal interest groups, as they will be defined in Chapter Three, should have been of an essential impact on the Kingdom's accession process.

Apart from the possible confrontational effect on some societal groups, the central type of government that the Saudi authoritative monarchy represents can itself experience a political interaction among its agents. Although centrality might imply a limited number of effective agents, the number and nature of such agents would essentially depend, according to Tsebelis, on the issue at hand.

Tsebelis called the agents or the actors he studied 'veto players'. He gave an example on how the issue impacts the nature of the veto players. According to him, for example, U.S. monetary policy, where swift adjustments are important, is handled by a non-political independent actor (Tsebelis, 1995: 307-308).

The veto players in Tsebelis' view are "*an individual or collective actor whose agreement is required for a policy decision*". A policy decision or change in policy, according to Tsebelis, is a function of one or more of the following three factors: the number of veto players, their congruence and the internal cohesion of each one of them. The chance to make a decision or to have a change is inversely affected by these factors (1995: 293). Therefore, a decision or a change in policy will, for example, be more likely if the number of veto players is small, and vice versa.

In the case of the WTO accession of Saudi Arabia, several governmental agents were directly involved. They were: the Council of Ministers (COM), the 'Higher' Ministerial Committee (HMC), the Ministerial Committee (MC) and the Saudi Negotiating Team (SNT). As far as this study is concerned, they will be treated herein, as explained in Chapter Three, as the formal institutions whose work was immediate and vital to the accession issue. In any event, their number seems, as far as this thesis is concerned, quite large, which might have had the effect of the number of 'veto players' mentioned-above.

As mentioned, the element of time is important as far as accessions are concerned. It exposes such processes to the surrounding internal and external changes. The years of the Saudi Arabian accession process have mostly coincided with an international momentum gained by the concept of economic reform over the two previous decades. Reform programmes differ in scope and pace, but their concept would normally imply a

departure from an old practice and generally relate to structural adjustments. Remarkably, the 1980s and 1990s were, according to Haggard, a period of unprecedented economic reform in the history of developing countries (1995: 6).

In general, there is no theory with regard to causes of reform. Yet, there have been economic conditions that would usually be related to reform. One of the most frequent stimuli to reform has been crisis (Bates and Krueger, 1993: 452). In fact, it has been the most cited reason for reform, or as Rodrik put it: “*Indeed, if there is one single theme that runs through the length of the political economy literature it is the idea that crisis is the instigator of reform*” (1996: 26). Triggers of crisis were different; they ranged from balance-of-payment difficulties to accelerating inflation to loss of economic control (Bates and Krueger, 1993: 452-453). One other single major trigger of crisis was debt. Most of the developing countries experienced a traumatic debt burden in the 1980s, which led to a worldwide “debt crisis” (Krueger, 1993: 1).

Another important instigator for reform was the prevalence of the ideas of integration with the world economy, which entailed openness and liberalisation. Such prevalence was largely a result of the perception of failure of old policies. After a wave of gaining independence in the 1950s and 1960s, most developing countries searched for policies that would work to enhance that independence and their efforts of state-building. In that context, developing countries adopted policies of state planning that provided for import substitution industrialisation, protection, infant industry, subsidies etc. Though not unanimously agreed upon, the weak growth and debt problem of the 1980s were attributed to the adoption of such policies and were incrementally abandoned for the sake of liberalising, which came to be perceived as the remedy (Sachs *et al*, 1995; Rodrik, 1996; Drabek and Laird, 1998; Krueger, 1993; Rodrik, 2001).

The change in perception – from adopting state planning strategies to embracing liberalisation that entailed less governmental intervention – has usually been attributed to an approach that stressed the primacy of the impact of technocrats. This approach emphasised that policy reform resulted from technocrats’ diagnosis of economic maladies (Bates and Krueger, 1993: 455). According to other approaches, the idea of the superior worth of liberalisation was also promoted by international organisations. In

their implementation of reform programmes, many developing countries, according to Drabek and Laird, were following advice proposed or supported by the IMF and the World Bank (1998: 243). In referring to the important role played by the World Bank, as far as reform was concerned, Rodrik stated that the bank became “*the most important conduit of economic ideas to developing-country policy makers*” (1996:27).

From another point of view, Henderson argued that one should go beyond the framework of ideas in explaining reform. He pointed out that the trend towards liberalisation could largely be attributed not only to ideas, but also to the combined impact of ideas and events on the prevailing climate of opinion. Events, according to Henderson, are usually external (1998: 90-93).

In fact, Saudi Arabia was not exempt from the economic difficulties, which swept oil-based economies in the middle of the 1980s, according to Haggard (1995: 15). The consecutive decline in oil prices over the decade put the Kingdom in debt for the first time and contributed to making it reach 120% of the GDP in 1999 (U.S. Department of State, 2002). In the process of rectifying this critical situation, the Kingdom was no exception. The aforementioned predominance of economic liberalisation and integration with the world economy on the basis of free market principles had made its mark in Saudi Arabia as well. In this, a large section of high-ranking educated officials and non-officials were backing the idea of opening and liberalising.

As to the importance of external events on inciting reform, which Henderson argued for, the Kingdom has naturally been sensitive to such events. The fact that it has been a key state in terms of exporting a strategically important item (oil) linked the country to the international markets, particularly those of the major world traders like Japan, the EU and the U.S. Furthermore, Saudi Arabia had been tied to the U.S. in what is widely referred to as ‘special relations’. Maintaining such a described relation became an important determinant in the Saudi Arabian foreign policy. In this regard, the events of 9/11 contributed to the first endeavour to push the limits of reform in the Kingdom to include some political aspects. Accordingly, and because accession to the WTO is key to reform in general as it will be explained in Chapter Five and Chapter Six, the thesis

will postulate that such an endeavour of reform by Saudi Arabia was probably of a positive effect on its accession process.

Finally, in the course of generating sub-hypotheses, the WTO as an organization expanded, over the years of the Saudi accession case, the terms of its accession requirements, to include areas that were not covered by the old GATT. The expansion seemed to impinge on domestic legal affairs of acceding countries in general. In addition to this, although multilateral, the WTO gave way to the bilateral dimension when it came to the issue of accession specifically. In the WTO, no application can be approved without being individually accepted by all interested members. In this, negotiations of accession would be held between an acceding country and all interested members represented in a Working Party (WP) set up to consider the applicant's request for joining the organization.

Generally, the WTO major traders have been the U.S., the EU, Japan and Canada. They have customarily been referred to as the 'Quad' countries and have usually participated in every WP set up to consider an accession case (Jawara and Kwa, 2003: 23-79). Their globally influential trading position, in addition to their status as incumbent members, gave them an upper hand in approximately each accession negotiation. In many cases, they were able to push applicants to make very heavy commitments. In light of this, it will be assumed herein that the jurisdictional enlargement of the WTO as an organization and the in practice influence conceded to the Quad in accession negotiations might have retarded the progress of the accession case of Saudi Arabia.

To summarise, the above-mentioned main hypothesis and the sub-hypotheses will be examined in the main argument of the thesis: in spite of the generic factors mentioned in the literature on accession, particularly concerning the aspect of attracting nation-states to WTO membership, the accession cases are primarily characterised by distinctive factors. In the case of Saudi Arabia's WTO accession, such peculiarities are exemplified by indigenous societal interests and formal institutions in addition to another group of internal and external factors. All were generally particular to the case. Examining those elements will provide, as the thesis argues, a systemic account on how the WTO

accession of Saudi Arabia was shaped over the years of its endeavour to join the organization.

Before having the main hypothesis and sub-hypotheses closely investigated starting from Chapter Four, the following is a try to provide tentative answers to the enquiries implied in the hypotheses. In the main argument of the thesis, the accession of Saudi Arabia was the result of a domestic interplay throughout the years of the process. As those years extended over a very long time, especially as far as the scope of this study defines the period in question, the Kingdom's accession saw changes in its internal and external context, which in turn affected the factors that were important to the Saudi Arabian's WTO accession process. Therefore, this accession was, as this study argues, characterised by multiple metamorphoses.

Having divided the Kingdom's accession process into phases according to the metamorphoses observed by the researcher, the thesis will argue that the early years of the Kingdom's accession to the multilateral trading system (represented at the time by the GATT), were characterised by a lack of enthusiasm, especially on the Saudi side. This was largely a reflection to domestic realities. Around this time, the highest authority began to experience what some called it a 'collective leadership' in this ruling monarchical system. In such a milieu, something unique had developed in the internal political affairs of Saudi Arabia. The sponsorship of a senior royal sometimes became essential for a major project to make a progress. From following the accession issue of Saudi Arabia, the GATT/WTO accession case did not, for a long time of the Kingdom's accession process, enjoy such a mentorship.

The GATT, in particular, was not internally perceived as a potential solution to the economic challenges of the time or even as a threat to the existing interests. Thus, there was neither an overt keenness to advocate accession, nor was there such an endeavour to oppose it. Likewise, external issues, though their impact was indirect, were also of no help in furthering the accession at that early stage of the process. The consecutive wars in the region at the time were critical enough to divert internal attention. Moreover, in a time when relationships in the Middle East were still defined by the polarisation of the Cold War, which gave regional states some political manoeuvre, major trading allies to

Saudi Arabia, particularly the U.S., would likely not put pressure on the Saudis to join their semi-organization, the GATT.

The internal interaction was also decisive when the accession process took a different turn, as this thesis will argue. The sharp deterioration in oil prices in 1998 was a clear sign to the Saudi leadership that the economic booming era of the 1970s would not return. Looking for new economic opportunities became crucial for the government. Unlike the GATT, the newly established WTO was expanding to become important, as a signal at least, as far as attracting foreign investments and opening new international markets were concerned. Both were increasingly needed by the Saudi Arabian economy. In addition, by now more familiar with the process, the Saudi negotiators realised first-hand the complexity of the accession negotiations and that the demands of the WP members were increasing as time passed. Hence, there was almost certainly no place for laxity that shaped the previous years.

Such developments coincided with compatible external factors. The collapse of the old Soviet Union, and with it the prestige of communism and the philosophy of the direct governmental management of the economy, led to a more interdependent world economy based on free market principles. Therefore, a wave of economic reform swept the developing world including Saudi Arabia, as this study will show. For non-member countries, joining the WTO has been essential part of any economic reforming attempt and this implies the enhancement that reform can offer to an accession endeavour.

However, the same evolution of the multilateral trading system from the GATT to the WTO, which increased its functional importance, resulted in an expansion in the organization's legal jurisdictions, and in the leverage given to its incumbent members in negotiating accessions. Such an aspect should have prevented the Kingdom's accession from making a real progress. The protraction of the process was significant in pointing to such hindrance. The expansion of the organization's coverage must have worked at some junctures to trigger an overlapping between the economic factors, which enhanced the Kingdom's willingness to join the multilateral trading system in Phase Two, and some other political and religious factors unique to Saudi Arabia. In the long absence of a strong mentor, as mentioned above, the economic factors could not presumably

overcome the political and religious ones. It might be added to this the multiplicity of the governmental agents involved<sup>7</sup>. The creation of even more of such agents particularly around this point of time would probably, according to Tsebelis's assumption, widen the domestic arguing over the aforementioned overlapping of economic, political and religious issues.

In addition to this situation, the external developments that occurred approximately around the same time of Phase Two raised some domestic questions about the value of the accession. On the one hand, the failure of the WTO Ministerial Conference in Seattle in 1999 was an indication of an unpromising future for the organization. On the other hand, the unexpected upward trend of the oil prices since the year 2000 led to an internal claim that Saudi Arabia could do well without being a member of the demanding WTO. Perhaps, the intensity of such difficult internal and external factors ushered in the 'pause' in the accession negotiations at the end of this phase.

The negotiations for accession resumed in 2003. Of course, the 'pause' should not mean that the Kingdom's accession issue was completely dead as the economic factors that had previously prompted the effort to join the WTO in Phase Two were still there. What it was most striking, however, was the rapid pace with which the negotiation had resumed.

In fact, Phase Three was of a quite different set up. The phase took place around the event of 9/11, which in turn worked to re-shape the Saudi politics in general. One important aspect in this respect is the manner of applying reform. Unlike what had been occurring up to that point, the boundaries of reform transcended for the first time the economy to include some new political arrangements. Moreover, it was very important that such a new reality found in King Abdullah, the crown prince at the time, an influential champion. Therefore, it would be plausible to anticipate that the expansion of the framework of reform to include political aspects and the leadership provided by Abdullah, in this regard, helped to overcome the political and religious inhibitions that

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<sup>7</sup>They are presented herein as institutions, based on the conceptualisation that assigns the quality of agency to institutions.



had previously caused, as far as the WTO issue was concerned, the halt in the accession negotiations.

In addition to this, the more powerful effect of politics should have applied to the U.S. as well as it did to Saudi Arabia at the final stages of the accession process. In spite of the special bilateral relations, the U.S. was the most difficult incumbent member that the Saudis negotiated the WTO accession with, and it was the last to sign a bilateral agreement. However, the new realities shaped by the events of 9/11 made it all the more important to have the Kingdom's co-operation in the U.S. world-wide war on terrorism, which should have opened new space for some political trade-offs between the two countries that likely included, in the process, the issue of the WTO accession.

Overall, these tentative answers offered to the preliminary satisfaction of the arguments implied in the hypotheses of the thesis were provided in light of the researcher's initial taking of the Saudi Arabian's WTO accession issue. An extended investigation of the case throughout the study, starting from Chapter Three specifically, shall further reflect on the applicability of such answers.

#### **1.4 Methodology**

This research aims to identify the factors that were at work in shaping the Saudi WTO accession during a specific period of time. It is a new in-depth account generating insight about a single case study. As is often the situation with case studies, it is important to refer to the empirical insight generated by conducting interviews.

As the thesis is to examine how internal elements affected international policy, as far as the Kingdom's accession to the WTO was concerned, the focus of the interviews was principally on Saudi figures from both: governmental institutions and societal interests. At the level of the former, the aim was to meet as many as possible with formal figures of official interest in the accession. Specifically, the researcher intended to meet with members from the MC and the SNT as they were the formal agents (institutions) of the immediate dealing with the negotiation process. In fact, fifteen interviews were conducted with such figures, including those from the aforementioned formal agents. The range of the authority of the interviewees ran from two former ministers of

commerce, whom by virtue of their position were important members of the MC and led the SNT, to a member in the *Shura*, to officials in the SNT with deputy minister ranking, to the top negotiator in the SNT, to some immediate effective negotiators.<sup>8</sup> Conducting those interviews required two different visits to Saudi Arabia and most of them were held in the major cities of Riyadh and Jeddah.

As to societal interests, the interviews' focus was on two elements: the business community and the religious establishment. Nineteen interviews were held with prominent Saudi businesspersons and with some that their type of work relates to business such as consultancy. The aim was to have a variety of business interests in the interviews as the WTO's subjects have very much been diverse. In fact, the nature of the interviewees' interests in this thesis covered a wide range of economic activities including finance, industry, agriculture, construction, trade agency and services. The great majority of the interviews were conducted in Riyadh and Jeddah during the aforementioned two fieldwork trips to Saudi Arabia.

The religious interests were presented by two interviewees. As it will come in the following section, it is not an easy task to hold interviews with figures from the religious establishment. For those two interviews to be conducted, the researcher took the permission of the minister of justice. In addition, the religious establishment's concern with regard to joining the WTO came, as it will be explained in examining the phases of the Kingdom's accession, out of the worry about the continual protraction that some had attributed it to the organization's demands to make concessions in religious-related subjects. As such, it developed a general position of objection. Therefore, not many in the religious establishment would know beyond the potential threats they perceived. The significance of the two interviewees, with whom the researcher was able to meet after an official permission, was that they were exposed to a wider knowledge about the WTO. As it will come later, the formation of the HMC included the ministry of justice to accommodate the wider concern of the religious establishment. As the ministry of justice was to report to the HMC about its opinion, it was important to study the

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<sup>8</sup> The details of the interviewees and the interviews will be provided in the bibliography.

organization and its main issues. In fact, such a task was assigned to one of the two aforementioned interviewees.

Generally, the questions asked revolved around five broad points. First, it was about the idea of joining the WTO in the first place in terms of how positive or negative it was perceived. Second, on what terms it was thought that the Kingdom should join the organization. Third, what factors that had been viewed to affect the accession negotiations. Fourth, how well it was considered the Saudi management of the negotiations. Fifth, it was about the degree of co-ordination between the formal institutions and the societal interests.

As differences occurred between the categories to which the interviewees belonged, some specific questions were specifically posed. For instance, the interviewees from the formal institutions were asked about the position of their encounters in the negotiations regarding the agricultural religious-related items, the Kingdom's self-proclaimed developing status and the issue of Israel. As to the business community, the businesspersons interviewed were asked about their reflection on the accession issue as far as their types of business were concerned. The religious establishment's representatives in the interviews received, in this regard, questions about the religious structure of the Kingdom and the effect of the *Hanbali* thread of Islamic thought.

Although they were the majority, the interviews were neither confined to Saudis nor to those with official or societal interest's affiliation, as in the above. Thus, fifteen interviews were held with non-Saudi figures and with Saudis with no direct official or interest in the accession. First of all, and as it was possible, the interviews aimed at learning about the opposite views particularly that of the American negotiators. The US is the most important member of the Quad and as it will come later in the chapters it was a major reason for the protraction of the Saudi accession case although of the historically close relations between the two countries. Also, the thesis will briefly introduce in Chapter Two examples from other accession experiences particularly that of Jordan, Oman and Bahrain. Therefore, it was important to enquire about such experiences from people with close involvement in them. In addition to all of this, it was helpful sometimes to hear from either Saudis or non-Saudis whom the researcher knew that they

were of an extended knowledge about the political and religious life of Saudi Arabia or the WTO even if they were not directly involved in the Saudi accession case as a whole.

A few of the interviews in this category – the non-Saudi – were conducted in London. Some other few interviews were held over the phones as the interviewees were responding from their countries like the ones from Bahrain. However, the majority of the interviews took place during a fieldwork trip to Geneva and to the Head Quarter of the WTO.

In General, resorting to interviews appears essential in such a research. Since confidentiality is at the heart of the WTO accession process, accession negotiations are closed, and no documents about what goes on between the WTO and its incumbent members, on the one hand, and the applicant country, on the other, can be disclosed. Only after the completion of the negotiations and upon the official accession of an applicant is a report of the outcomes be published. Likewise, confidentiality usually shapes the internal interaction among the concerned agents as well, particularly the governmental ones among them, lest the official negotiating plans be exposed. Accordingly, conducting interviews provides necessary relevant data.

However, the extended years of negotiations with the WP members and the internal interaction that coincided with the negotiations are difficult to cover by interviews alone, as what took place over the time was, in addition to its secretive nature, very dense. Thus, other sources such as documents will be important. In this, the study will often refer to official documents that a large number of them have not been considered previously in the literature of the Kingdom's accession. They will provide essential primary sources with regard to the negotiating positions of Saudi Arabia and the WTO incumbent members.

The documents are more of official records than of letters or diaries, for example. As they often registered exact positions, they were generally original in representing facts. In other words, they were not letters exchanged between involved parties, for instance, where opinions are usually heavily represented. However, those documents were not at the same time as value-free as records such as banking statements or driving licenses. In

fact, they were produced in a context of an on-going event. Thus, this study will attempt a fair and balanced interpretation of the documents available in light of the wider related context of the time.

As this research is aiming to investigate particular factors in order to provide a systemic interpretation and evaluation of a case, it shall adhere to the qualitative category of the empirical method. Interpretation and evaluation are best provided by qualitative methods, and they are important to generate accounts (Austvik, 2009), which is what this case intends to do pertaining to the Saudi Arabian accession. Moreover, qualitative methods generally rely on the researcher's knowledge of the case (Austvik, 2009). Although not directly involved, the fact that the researcher belongs to the Saudi civil service affords him with a reasonable knowledge in this matter.

Adopting this empirical/qualitative method, the thesis will further achieve its objective through two dimensions. First, it will incorporate a review of the literature on the WTO accession aspect with an examination of the main factors indicated in this literature as a rationale for accession, and to what extent they applied to Saudi Arabia's accession endeavour. The thesis declares, as set out earlier, that the complexity of the accession process is an important element in embarking on this study in the first place. Such complexity can only be solved by referring to the accession aspect in the WTO literature, and giving some examples from other accessions, namely Jordan, Oman and Bahrain.

Second, as the importance of internal politics, political and economic, for the case constitutes the main hypothesis, and as the WTO accession is largely shaped by political and economic interplay, the study will include a discussion of the concept of International Political Economy (IPE). It will focus on concepts such as institutions and interests. These concepts became increasingly important in the study of the IR. To this field, domestic institutions and interests have developed as essential variables in determining states' foreign policies (Milner, 1997: 3-11). The study will review such domestically related concepts for the purpose of developing an analytical framework for the case.

## **1.5 Scope and Limitations of the Study**

This study intends to identify the factors shaping the Saudi WTO accession. It will look, for this purpose, into the internal politics among concerned institutions and interests. In addition, it will consider the events, whether internal or external, which affected the case over the specified time period.

Thus, the study has a political focus. Although referring to economic components such as sectors of the Saudi economy and the opinion of those belonging to them, the thesis will not study the economic effects of the WTO accession on the sectors of the economy per se, nor anticipate their condition post accession. What will be presented, however, are the overall trends in those sectors pertaining to the accession, in their importance to the internal interaction throughout the years of the process.

Single case studies rely, to a large extent, on interviews and documents. Although this will be an important source for collecting related data, it has to be established that this is not an easy task as far as this case is concerned. The reason for this is twofold. First, it is the above-mentioned confidentiality with which the WTO as an organization tries to treat the process of accession. Second, it is because it deals with politics inside Saudi Arabia. Saudi Arabia is not customarily open when it comes to its internal politics. According to Kechichian, the political system in the Kingdom is in large part centred on the ruling family, and the family politics go undocumented (23-25). This must be taken into consideration particularly when interviewing people of religious interest. Accordingly, there might be sometimes gaps in the information about specific moments in the time period of the accession. However, the researcher believes that such gaps will not affect the general context of this account.

Finally, the examples referred to in the methodology section (Jordan, Oman and Bahrain) are not meant to render the thesis a comparative one. As mentioned, this is a single case study. The examples herein serve to illustrate the complexity of the accession process and its general application to acceding countries, not to study the internal politics in those examples during their accession negotiations. In any event, any such an attempt would be extremely difficult. As noted, the secretive nature of the WTO

accession process is a chief obstacle in the face of trying to meticulously uncover an accession case. The help that the researcher's position with respect to the Saudi case can offer, in this respect, is not available as far as other accessions are concerned. In addition to this, the customary time length of accession cases would require any comparative attempt to have a huge amount of information, and extended resources that might not be easily available to a single researcher.

## **1.6 Structure of the Thesis**

The thesis will be divided into seven chapters. This introductory chapter shall include the main features of what is to follow. The structure of the thesis is as follows.

Chapter Two will review the accession aspect in the literature about the WTO. It will examine the rationale of accession. What, in general, attracts nation-states to seek membership in this organization? It will also discuss the process itself and the different stages that it normally takes. In addition, it will assess the organization's rules and regulations that govern the whole process. The arguments and counter-arguments over those rules, and the general complexity of the process will be discussed as well. The chapter will end with a brief review of the GATT/WTO accession of Jordan, Oman and Bahrain. It will cite them as examples for the rationale to join the organization, and the complexity that characterises its accession.

Chapter Three will provide an analytical framework for the study. Thus, the chapter will briefly review the concept of the IPE and locate the Saudi political economy's position in the literature. In this respect, the chapter will consider the approaches that they could provide a plausible answer to the WTO accession question. They are the society-centred and state-centred approaches. The focus, as far as the framework is concerned, will be on the concepts of institutions and interests.

After laying the ground, the chapters to follow Chapter Three will concentrate on analysing the case itself, which extended, as far as this study is concerned, from 1985-2005. As mentioned above, the researcher observed that the Saudi accession experienced three different phases at three specified periods of the accession years.

Thus, starting from the next chapter to Chapter Three, each phase will be examined in an independent chapter.

Chapter Four will tackle the first phase that lasted from 1985 to 1996. This phase was, as argued above, characterised by general lack of enthusiasm particularly on the Saudi part. Chapter Five will cover the second phase between 1997 and 2000. The phase was distinguished, as mentioned earlier, significantly by economic factors. It was the phase where the negotiations with the WP members were first held. Thus, the chapter will examine the main negotiated issues. This phase, however, ended with a hiatus in the negotiation process as a whole. Chapter Six will cover the third and last phase of the Saudi accession as defined by the author. Phase Three experienced a surprising recommencement of the accession negotiation in 2003, and ended with the Saudi official accession in 2005. This phase was, in the study's view, typified by political involvement.

The aim of these empirical chapters will be to interpret the metamorphoses that the Saudi accession experienced. In each of these chapters, the main internal and external factors, whether economic or political, that had an effect during the phase examined will be identified. This will also include some inactive factors that, had they been different, could have, at least partially, changed the course of the process. To simplify the demonstration, each chapter from Chapter Four to Chapter Six will end with a square diagram in which the active or inactive (but effective) factors during the phase will be illustrated. The outcome of these chapters will be the in-depth account of the Saudi WTO accession, which is the overall aim of the thesis.

Chapter Seven is the conclusion. The chapter will highlight the major turns in Saudi Arabia's WTO accession, as they happened in the case's phases, and the main factors behind them. It will also discuss how the Saudi case fits in the analytical framework provided in Chapter Three. The conclusion will end with the results that can be stemmed from the examination of the main hypothesis and sub-hypotheses of the thesis.



## Chapter 2 Accession Aspects in the WTO Literature

The WTO was established in 1995 and was basically built on the General Agreement on Tariffs and Trade (GATT) of 1947 and its core idea of trade liberalisation. The old GATT was an agreement signed by 23 developed and developing countries that decided to reduce tariff rates on goods traded among them after the meetings in Bretton Woods in 1944, which created the International Monetary Fund (IMF) and the World Bank, failed to agree on a scheme to create an international organisation for trade (Winters, 1990: 1289). Based on the principles of non-discrimination and most favoured nation (MFN) status, the GATT went through consecutive rounds of multilateral trade negotiations, as illustrated in Table 2-1.

**Table 2-1: GATT Rounds**

| <b>Year</b> | <b>Place/Name</b>       | <b>Countries</b> |
|-------------|-------------------------|------------------|
| 1947        | Geneva                  | 23               |
| 1949        | Annecy                  | 13               |
| 1951        | Torquay                 | 38               |
| 1956        | Geneva                  | 26               |
| 1960-1961   | Geneva<br>Dillon Round  | 26               |
| 1964-1967   | Geneva<br>Kennedy Round | 62               |
| 1973-1979   | Geneva<br>Tokyo Round   | 102              |
| 1986-1994   | Geneva<br>Uruguay Round | 123              |
| 2001-       | Doha Round              |                  |

The major ones among them were: the Dillon Round (1960-1961) that marked the beginning of a shift from the technical domain to the political domain as the establishment of the European Economic Community (EEC) in 1957 raised concerns of possible discrimination (Winters, 1990: 1290-1292); the Kennedy Round (1963-1967),

which was successful in making tariff concessions that covered US\$40 billion worth of trade (Deardorff and Stern, 1994: 31-34); and the Tokyo Round (1973-1979), which made the non-tariff barriers a priority after the significant reduction in tariff rates that GATT had been able to achieve up to that point (Jackson, 1990: 36-37).

Led by the U.S., the initiative to launch a new round came immediately after the conclusion of the Tokyo Round. Moved by domestic pressure to increase protection, the U.S. government endeavoured to have a new round that would include rather new issues in which the U.S. had a clear comparative advantage. After initial hesitance on the part of the EU countries that feared difficult compromises on agriculture, and refusal from the developing countries that thought GATT had not yet delivered on promises it made, the U.S.'s endeavour succeeded in the end in launching a new round in 1986, which came to be called the Uruguay Round (UR) (Croome, 1995: 11; Schott, 1994: 4-5; Hudec, 1993: 180-181).

The UR included the old traditional issues, such as the reduction of tariff and non-tariff barriers, and the non-traditional issues related to trade in services and intellectual property rights. The round resulted in the conversion of the multilateral trading system from an agreement represented by the GATT to an organization represented by the WTO. The new WTO was to administer the agreements about the new issue areas negotiated in the round. The most prominent among them were: the General Agreement on Trade in Services (GATS) and the Agreement on Trade-related Intellectual Property Rights (TRIPs) in addition to the GATT or, as it came to be called, GATT 1994, which was generally built, with some modifications and supplements, on the old GATT 1947. Unlike previous rounds, the results of the UR were to be approximately adhered to as a whole according to the principle of 'single undertaking' where all provisions should be applied to all members. To ensure non-violation, the UR created an effective dispute-settlement mechanism and made it available to the WTO (Ostry, 1997: 175-200; Jackson, 2000: 7; Brack and Clegg, 2001: 14; Hoekman and Kostecki, 2001: 1-50).

The birth of the WTO came approximately at a time when globalisation as a phenomenon became prevalent. Because of its purpose of removing trade barriers across national boundaries, the WTO was perceived as the only multilateral organization

explicitly created for a global and wholly interdependent economy (Sutherland *et al*, 2004: 9). In contrast to the GATT, as pointed out above, the WTO had more authority over national policies than most other international organisations and the power of its dispute-settlement body was unprecedented (Yi-chong and Weller, 2004: 3).

Initially comprising 23 countries, the multilateral trading system represented by GATT/WTO grew in terms of the number of parties and members over the years and through the successive rounds of negotiations.<sup>9</sup> The figures were: 39 contracting parties in the Dillon Round, 74 contracting parties in the Kennedy Round and 99 contracting parties in the Tokyo Round (Hoekman and Kostecki, 2001: 101). Contracting parties to the GATT automatically became founder-members of the WTO when it was established on 1 January 1995. This was because they had signed the Marrakesh Agreement in April 1994, which announced the creation of the organization; or because they joined the GATT after the signings, but before the WTO was officially effective in January 1995. These were then 128 countries and customs territories who are referred to as ‘original’ WTO members. The Marrakesh Agreement permitted new members to join the organization “*on terms to be agreed*” between the applicant country and the WTO (Kennett *et al.*, 2005: 17).

For acceding countries, the process of the WTO accession demonstrated how much the environment of international trade had changed. Fundamentally, accession to the WTO became more complex. Acceding to the old GATT meant solving issues of market access for goods, and, therefore, negotiations tended to concentrate mainly on border barriers. As international trade was no longer about goods and border measures only, the process of the WTO accession expanded to include, among other things, such new issues negotiated in the UR as services, intellectual property rights and investments. Hence, this process increasingly came to deal with the domestic regulatory regime of the acceding countries (Lanoszka, 2001: 6-7).

This chapter will focus on the accession to the WTO in generally relying on the existing literature of this aspect of the organization. In this, it will consider why nation-states

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<sup>9</sup> As the GATT was an agreement, members to it were called “contracting parties”. As the WTO is an organization, its members are referred to as “members”.

have sought, and continue to seek, accession to the WTO. Also, it will examine the WTO accession procedures and the arguments for and against their ambiguity and complexity. At the end of the chapter, a track record of accession negotiations of Jordan, Oman and Bahrain will be reviewed. They are all Arab countries and relatively similar to Saudi Arabia in terms of being economically dependent on a single commodity. However, their accession cases are not used to make a fully-fledged comparison with that of Saudi Arabia, but rather as concise examples for the two main elements of this chapter, the rationale and complexity of accession.

## **2.1 Rationale of WTO Accession**

The countries seeking accession to the WTO, since its establishment in 1995, have been either developing countries, least developed countries (LDCs) or countries in transition (CIT) from planned to market economies (Gibbs, 2001: 163). Despite the fact that each has had its specifics, there have been generic factors that have individually or collectively led nation states to seek an accession to the WTO, as generally agreed in the literature.<sup>10</sup> For instance, in the run-up to launch a new comprehensive round after the UR, Krueger set out elements that commonly interested developing countries, in particular, in the multilateral trading system. She mentioned elements such as enhancing a rule-based system, attracting foreign investments, increasing coherence among multilateral institutions, participating in future major decisions, etc. (Krueger, 1999).

Similarly, Evenett and Braga summarised the reasons typically given for seeking the WTO membership. They maintain:

*“The expectation is that more predictable access to foreign markets, which WTO membership can bring, will result in higher exports. Another economic rationale is to attract more foreign direct investment and, more generally, to use WTO membership as a seal of approval recognized by the international business community. The legal advantages of accessing a rule-based system and of using the WTO dispute-settlement process are also often mentioned. It is also the case that many nations join the WTO for political reasons. Transition economies, for example, often see WTO*

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<sup>10</sup> Most of the sources in this section have mentioned at least one or more of the incentives discussed here (see for example: Marc Bacchetta and Zdenek Brabek, 2002; Lanoszka, 2001; Yang, 1999; Krueger, 1999; Michalopoulos, 1998).

*membership as a means to signal their commitment to joining the international community of market-based economies. In short, many see WTO accession as facilitating both political and economic reform processes within their countries” (Evenett and Braga, 2005: 1-2).*

This section will elaborate the factors set out by Krueger and by Evenett and Braga. It will show, in the process, how each factor relates to Saudi Arabia in its efforts to join the WTO.

### **2.1.1 Integration with the world economy**

Prior to establishing the WTO, most developing countries had focused their attention and efforts throughout the GATT’s previous successive rounds on obtaining special and differential treatment rather than actively participating in the process of trade liberalisation (Martin and Winters, 1996:1; Michalopoulos, 2001: 2). This stance started to shift in the 1980s. The developing countries realised that their previous economic policies of not engaging in the economic openness had not resulted in prosperity. In that, the majority among them were crippled by their massive debt crisis in the 1980s (Hudec, 1993: 115-116). In addition, the successful example of the outward-oriented economies of Far East Asia helped developing countries see the defect in their economic policies and encouraged them to open up and economically integrate with the world (Bhagwati, 1994: 575).

As a result, a large number of developing countries adopted more open trade policies in the 1980s, and unilaterally started to reduce trade restrictions. During this process, there was growing recognition among a large number of developing countries of the value of participating in the multilateral trade negotiations, which was virtually represented by the GATT. That led them to participate actively in the UR and subsequently seek an accession to the WTO (Michalopoulos, 2001:31-176). There were 68 developing countries in the GATT at the start of the UR in 1986, and they became 98 developing countries at the end of that round in 1994 (Short, 2001: 59).

In the beginning of 1995, approximately one-half of the 43 countries applying for admission to the newly established WTO were CIT countries. In general, the integration

in the world economy through the WTO came second for most of these countries compared with their regional integration with Europe represented by the EU. Nevertheless, however, meeting the requirements of the WTO was still central to this group of countries as the requirements of the EU were generally consistent with the WTO (Drabek and Bacchetta, 2004: 1083-1089).

Apart from EU accession, the CIT realised the importance of WTO membership in itself. It was advocated that such a membership would advance the integration of the CIT in the global economy and end their economic isolation (Hoogmartens, 2002: 23). Thus, the CIT countries believed the WTO membership to be a means that would help terminate their classification as non-market economies, mainly and frequently repeated by the U.S. and the EU (Michalopoulos, 1998:3).

For both developing and CIT countries, the national economic failure and the desire to recover by becoming integrated into the international economy was an important incentive for seeking an accession to the WTO. While the massive national debts in the developing world in the 1980s were a clear indication of the failure in their national economic policies, the collapse of the former Soviet Union in the 1990s brought an end to the adoption of central planning in the CIT (Hoekman and Kostecki, 2001:348-391). The WTO has become the most tangible sign of globalisation (Wolf, 2001: 183) and for many acceding countries, its membership symbolised a gate to global economic integration. In light of the fast pace of economic progress in the industrial world, acceding countries felt that they could not afford to be excluded from the international trade system represented by the WTO (Lanoszka, 2001: 596).

As for the LDCs, their economies have been small, but highly reliant on trade. Unlike the other two categories, developing and CIT countries, the LDCs were reluctant to unilaterally liberalise their economies (Sally, 1999: 6-11). The governments of LDCs had been concerned about the impact of globalisation on their fragile economies that were characterised by poverty (Michalopoulos, 2001: 3). Nonetheless, the concerns of

LDCs did not prevent them from being nevertheless willing to integrate their economies in the global trading system represented by the WTO.<sup>11</sup>

Saudi Arabia, in fact, thought of joining the WTO as a means of integrating with the global economy. Upon the conclusion of the accession negotiation, the Minister of Commerce and Industry reiterated the Saudi government's accession motivations. He said, concerning this matter, that the WTO membership "*would help to merge the Saudi Arabian economy with the rest of the world*" (OPEC Bulletin, 2005: 60). Nonetheless, integrating with the world economy was not in itself a major incentive and it cropped up less often in the subsequent official statements. That was largely due to the fact that Saudi Arabia was not isolated from the international economy in the first place. As a matter of fact, the Saudis were heavily involved in it. In 2003, for instance, international trade accounted for 90% of the Saudi Arabian GDP (Asharq Al-Awsat, 2003: 11).

### **2.1.2 'Locking in' domestic reform**

There is general agreement in the literature of the WTO accession on the importance of the factor discussed in this part (Hoogmartens, 2002; Sally, 2003; Sally, 1999; Lanoszka, 2001; Langhammer and Lucke, 1999; Michalopoulos, 1998). Whereas integration with international trade was the main incentive for the previous factor, politics is the predominant element in this factor, as it treats power relations in societies. Basically, the 'locking in' effect has been related to the interaction between applicant governments and the private sector in their respective countries (Bacchetta and Drabek, 2002: 5). It has been contended that membership in an institutional agreement such as the WTO can help to 'lock in' international commitments made by governments. In their economic reforms and trade liberalising commitments, WTO membership is, according to this argument, the governments' insurance against domestic business groups pressuring for protectionist measures and can help governments to continue implementing reforms (Yang, 1999: 522).

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<sup>11</sup> Review, for example, WP on the accession of Vanuatu (WT/ACC/VUT/13); WP on the accession of Lao People's (WT/ACC/LAO/3); WTO Press Release on the Accession of Tonga, Press/431, 15 December 2005).

The frequent appearance of this factor in the literature on the rationale of the WTO accession might be seen as an exaggeration due to the general nature of the political structure in the acceding countries. Most of those countries have been either non-democratic or countries with little democratic experience, thus they would be potentially less responsive to their societies and would, therefore, not need an international commitment to lock in policies embarked on domestically. As mentioned in the previous chapter, however, the unitary assumption of the state, irrespective of its political system, could not be held, and societies, including non-democratic ones, had their unique channels to exert a certain influence on states' policies. Indeed, Nabli has argued that for economic reform to progress in the Arab world, including Saudi Arabia, the Arab governments needed the membership of an organisation such as the WTO to lock in reform efforts (2004).

### **2.1.3 Market access**

WTO accession improves market access to major foreign markets, and thus strengthens the export sector in acceding countries. More importantly, however, accession would renders the access to international markets permanent (Drabek and Bacchetta, 2004: 1090). Most acceding countries have enjoyed the MFN in foreign markets as established by trade agreements signed on a bilateral basis. Hence, accession might possibly not increase the number of overseas markets already open to acceding countries (Medvedkov, 2001:69). However, the significance of accession would be, as far as market access was concerned, that it would make it difficult for foreign trade partners to renege on any MFN treatment granted to acceding countries, or to be in a position to apply discriminatory tariffs against them (Drabek and Bacchetta, 2004: 1090-1091; Hazimeh, Interview, 25 February 2010).

Moreover, WTO accession would restrain the frequently exercised ability of the developed countries to use anti-dumping measures against products imported from acceding countries (Langhammer and Lucke, 1999: 861) as the latter would be eligible as a member to take such cases to the Dispute Settlement Body (DSB) of the



WTO.<sup>12</sup>Also, the WTO introduced disciplines concerning products in which developing countries had a comparative advantage, such as textiles and apparel. During the GATT era, such items exported to industrial countries were subject to quotas under the Multifibre Agreement (MFA). In 1995, the WTO dictated that such quotas be phased out over a ten-year period under the Agreement on Textiles and Clothing (ATC) (Srinivasan, 1999:1052-1053; WTO, 2007).

Having better access to foreign markets was one of the major incentives that led Saudi Arabia to the WTO, which also repeatedly sprung up in the argument of the Saudis who were in favour of the WTO (COSC, 2000; Royal Embassy of Saudi Arabia in Washington, 2003: 3; the U.S.-Saudi Arabian Business Council, 2004: 1; Al-Aali and Al-Sa'doun, 1998: 70; Al-Saleh, 1999: 10; Al-Zuhd, 2006: 6). It also resonated with the country's new perception of economic reform, which, as already mentioned, was influenced by the globally prevailing idea of economic liberalisation that began to seize economic policy since the 1980s. Accordingly, Buhulaiga argued for Saudi Arabia's accession to the WTO as a way of boosting its exports to foreign markets. He pointed out that the country had been trying to achieve diversification through import substitution for the past 30 years, but at present the focus should be on export promotion. To that end, he explained, "*Saudi Arabia needs to ensure that its non-oil exports face minimal tariff discrimination in foreign markets*" (Arab News, 2004: 14).

Among the non-oil products whose access to international markets Saudi Arabia hoped to promote through the WTO accession, the petrochemicals came first. Petrochemical industrial products have long been the dominant Saudi non-oil exports. After oil, as a matter of fact, petrochemicals yield the greatest revenue for the Saudi Arabian economy. The opportunity of expanding market access through WTO membership was foreseen by the largely state-owned Saudi Arabian Basic Industries Corporation (SABIC), which managed most of the petrochemical industries in the country. Accordingly, the company worked beforehand on projects to expand capacity at some of its affiliates (Arab News, 2004: 15).

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<sup>12</sup> Dumping generally occurs when a firm sells products on a foreign market for less than what is charged locally.

#### **2.1.4 Attracting foreign direct investments (FDI)**

It may be argued based on overwhelming evidence that FDI fosters economic growth, especially in developing countries, through capital, technology and expertise. In fact, the great majority of acceding countries, including developing countries, have been welcoming foreign inward investments and encouraging more of them (Short, 2001: 69). In spite of this favourable attitude towards foreign investments, these countries have encountered difficulties in attracting the desired level of investments. This is partly due to the lack of the proper climate for such investments (Ricipero, 2001: 53). In their endeavour to integrate with the world economy, acceding countries have been, in essence, endeavouring to set up the right investment climate. Yet, even if such an environment were in place, it would not be of much use without WTO membership. Credibility has been a crucial factor not only to foreign investors, but to domestic investors as well. Accession to the WTO has become a decisive sign for attaining such credibility (Drabek and Bacchetta, 2004: 1090).

Prior to the year 2000, Saudi Arabia experienced a period of severe financial difficulty due to deterioration in oil prices. As the infrastructure built over the years of the country's successive five-year development plans was growing old, fresh investments were critically needed to upgrade the economy. Hence, the government turned to facilitate the inflow of foreign investments. Indeed, it made it one of its economic priorities (UBS, 2003: 103). For that, Saudi Arabia recognised the importance of the WTO membership in signalling credibility, transparency and predictability to investors (Financial Times, 2005; Reuters, 2005). In a statement after signing the protocol of accession, for instance, the Deputy Governor of the Saudi Arabian Monetary Agency (SAMA)<sup>13</sup> pointed out that 'membership' was a sign of credibility to national and foreign investors alike (Al-Eqtisadiyah, 2005: 1).

#### **2.1.5 Achieving universal trade co-ordination**

In practice as well as in theory, the great majority of countries, irrespective of the categories to which they belonged, should have a stake in strong and smooth world trade

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<sup>13</sup> SAMA assumes the role of central banks in other countries.

relations. In the absence of trade agreements, governments might find themselves in a position to impose externalities on their trade partners. That would normally be done by changing the terms of trade in a manner that would maximise their gains at the expense of their partners, a case usually referred to as ‘beggar-thy-neighbour’. However, there was no reason for those partners not to simply adopt similar courses of action to retaliate, especially if their economies were large enough to do so. A situation like that could eventually lead to trade wars between countries and, as a result, the erosion of national welfare in each of them. Hence, becoming partners in an international trade agreement as universal, influential and inclusive as the agreements of the WTO is important for ensuring co-ordination between governments and the mitigation of any adverse trade conditions that might occur (Bacchetta and Drabek, 2002: 5).

Due to its involvement with international trade, Saudi Arabia has generally had a stake in the stability of the world trade and, hence, in achieving a sort of international co-ordination. As mentioned above, the trade percentage share reached 90% of the country’s GDP in 2003. According to Lamy, Saudi Arabia was the world’s 13<sup>th</sup>-largest merchandise exporter and the 23<sup>rd</sup>-largest importer (Associated Press, 2005). In this situation, the interest in enhancing international trade co-ordination via an instrument such as the WTO would be expected.

#### **2.1.6 Benefiting from a rule-based system**

Lash has claimed that the benefit of its regulation was the area where the WTO had succeeded most (1999: 3). Jackson argued, from the beginning, that there was a real need for the GATT rules to provide the means of discipline to the world trading system (1990: 38). Broadly, two approaches may be identified for how this trading system can work. The first is to hold negotiations and sign agreements with reference, explicitly or implicitly, to the relative power status of the parties. The second is to negotiate with reference to rules. The world generally developed, according to Jackson, a propensity towards a rule-oriented diplomacy, and the rules of GATT reflected that to a considerable extent (1997: 109-111). As GATT evolved into the WTO, the latter naturally reflected the same propensity or even enhanced it.

The ability of the WTO to enforce discipline in the international trading system has mainly been derived from its mechanism of dispute-settlement as embodied in the work of the DSB. The DSB could establish panels to investigate disputes among member states, demand and scrutinise the implementation of panels' reports, and authorise measures of retaliation if convicted parties did not abide by the panels' findings (Hoekman and Kostecki, 2001: 76). Only member states could exercise the right to refer to this mechanism of solving disputes (Ognivtsev *et al.*, 2001: 177). Such a fact would normally generate an interest in becoming a member, especially among developing countries and LDCs. Generally, the negligible international impact of the acceding countries' small economies have made them particularly interested in the rule-based system that the WTO should be representing (Whalley, 1996: 409; Drabek and Bacchetta, 2004: 1091; Michalopoulos, 1998: 2; Langhammer and Lucke, 1999: 861).

As the country with the world's fourth-largest gas reserves, Saudi Arabia has had a clear comparative advantage in terms of its petrochemical industry. Throughout the accession process, the Saudi negotiators fought hard not to compromise that advantage, which some members in the WP argued was due to Saudi governmental subsidies. The Saudis have often thought that accession to the WTO with its dispute-settlement mechanism would help prevent jeopardising the condition of this vital sector in the future (Samba, 2005; Arab News, 2004: 16).

### **2.1.7 Participating in the formulation of the WTO regulations**

WTO membership gives acceding countries the right to take part in the multilateral negotiations and participate in formulating the rules and regulations of the organization, especially in matters of particular importance to them and where they have relative strength. A relatively small economy like Argentina's, for instance, has enjoyed more influence on decisions pertaining to trade in grain because Argentina is an important grain exporter (Hoekman and Kostecki, 2001: 58). The importance of this factor made it the most positive effect of joining the WTO for some acceding countries (Medvedkov, 2001: 69). To them, it was a way of ensuring that new rules and amendments of existing rules were compatible with the interests of all members (Ognivtsev *et al.*, 2001: 177).

As a member, Saudi Arabia would have the right to voice its concerns regarding issues in which it was interested. Moreover, it would have the opportunity to have a say in WTO decision-making related to such issues. That would especially be the case in oil-related issues due to its status as the world biggest oil exporting country. Although Saudi Arabia, along with the other GCC countries, has generally been of the conviction that oil should not be a subject for negotiation (COSC, 2001), it certainly preferred to be present if oil ever was being brought into the WTO negotiations. This has been an important argument of the pro-WTO Saudis all along, and it was defended in a governmental document by the highest-ranking official in the oil sector, the Minister of Oil and Mineral Resources (Sub-HMC, 2001).

### **2.1.8 Relations with IMF and World Bank**

As indicated earlier, the idea of creating an international organisation for trade was first envisioned in the Bretton Woods negotiations in 1944 that resulted in the IMF and the World Bank. The vision of having a permanent organisation for trade only materialised 50 years later when the WTO was established in 1994. As they were thought of as pillars of the post-WWII economic structure, the new organization called for co-ordination with the IMF and the World Bank. Indeed, the provisions of the WTO provided for co-operation with the other two organisations to attain greater coherence in the policy making of global economy (Hoekman and Kostecki, 2001: 68).

The fact that the great majority of acceding countries were developing, least developed or in economical transition makes this factor one of the main incentives for WTO accession. Most countries from these categories generally had a cliental relation with the IMF and the World Bank. If coherence among the three organisations were to be strictly adhered to, staying out of the WTO might lead to even more stringent adjustment programmes imposed by the other two organisations with all of their concomitant political implications.

In the case of Saudi Arabia, however, this logic could not be similarly applied. Unlike many other acceding countries, Saudi Arabia is rich and was not in the position of receiving aid from the IMF or the World Bank. On the contrary, Saudi Arabia has been

an important contributor to international aid. In the IMF, for instance, it ranked sixth in terms of its financial share (Al-Eqtisadiyah, 2005: 1).

The way in which the relation between the WTO on one side and the IMF and the World Bank on the other worked as an accession motivation for the Saudis was different. From the start, when the Saudi government was contemplating accession to GATT in the 1980s, important members of the IMF and the World Bank were already urging Saudi Arabia to join the GATT system. They indicated that the absence from such a growing provisional organization did not accord with Saudi Arabia's economic and financial status. In fact, this was one of the main reasons cited by WTO advocates among Saudi top officials to justify accession to the multilateral trading system represented by GATT/WTO (MOFA, 1989: 6-7).

These factors have generally been important as far as accession was concerned. After deciding to join the WTO, the next step is to initiate the application process. The following section will examine this process in terms of its rules and procedures. It will also review related disputes over its ambiguity and complexity.

## **2.2 WTO Accession Process**

The evolution of the world trading system from GATT to WTO was fundamental. It witnessed the expansion of the WTO to include under its regulation not only the trade in goods, but also new subjects, such as the trade in services and intellectual property rights. With such an expansion of the subjects covered and the enhancement of the dispute-settlement mechanism embodied by the DSB, a profound change in the nature of the WTO had taken place. In due course, it affected the accession procedure.

However, the effect concerned the practice of the accession process more than it did its rules (Grynberg *et al.*, 2002: 1). Bacchetta and Drabek pointed out that the expansion of the WTO entailed a better structure for the accession process. In their view, the limited rules-change and the absence of a detailed accession process in the agreement establishing the WTO meant that the accession had been governed by 'unwritten rules' (2002: 4).

### 2.2.1 Rules Governing the Accession Procedures

According to Article XII of the Marrakesh Agreement establishing the WTO, a state or a separate customs territory may accede to the organization. Acceding governments have normally been those of sovereign states. As for separate customs territories, such as Hong Kong, they can also become members of the WTO, provided that they possess full autonomy in the conduct of their external relations (WTO, 2001: 23.2). The above-mentioned Article XII is the only article of the Marrakesh Agreement dealing with the accession to the WTO. It reads as follows:

*“1. Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.*

*2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.*

*3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.” (WTO: 15).*

There are a number of other WTO provisions relevant to accession. Article XVI.1, for instance, states that *“Except as otherwise provided under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the Contracting Parties to GATT 1947 and the bodies established in the framework of GATT 1947.”* Pertaining to the aforementioned Article XII.2, which states that *“Decisions on accession shall be taken by the Ministerial Conference”*, Article IV.2 makes it clear that *“In intervals between meetings of the Ministerial Conference, its function shall be conducted by the General Council.”* Also, Article XIII dealing with the non-application of the Marrakesh Agreement and the multilateral trade agreements (MTAs) between particular members, determines that the Marrakesh Agreement and the MTAs shall not apply between a member of the WTO and another member acceding under Article XII: *“Only if the Member not consenting to*

*the application has so notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference.”* (WTO: 8-18).

Those are the only references in the agreement regarding the accession. Perhaps the most striking point is the brevity with which the agreement dealt with this issue. Article XII gives no guidance regarding the “*terms to be agreed*”, leaving them to be negotiated between the applicant and the WTO members. Nor does it lay down any specific procedures to be used for negotiating these terms, leaving them to be agreed on by the individual working parties established for applications assessment (WTO, 2001: 7).

Leaving the terms of accession to be negotiated individually gives leverage to those members of large-size economies and political power. Acceding countries with strained political relations with important current WTO members should expect protracted negotiations, especially with Organisation for Economic Co-operation and Development (OECD) members who can exert a strong influence on accession negotiations (Langhammer and Lucke, 1999: 843). Since the U.S. was not inclined to discuss it, the General Council agreed in 2001, for instance, to postpone considering Iran’s request for accession (BBC, 2001). It was not the first time, as the American veto against Iran’s application had been used for years (Focus, 1998: 2).

The limitation of the accession rules did not apply, as mentioned, to the practice of accession. In that respect, the WTO extended its practiced accession procedures far beyond those applied during the time of GATT (Grynberg *et al.*, 2002: 1). The WTO Secretariat has been playing a noticeable role in this regard. In order to increase predictability and transparency in the process, the Secretariat would provide notes that gave detailed descriptions of the information required from acceding governments at each stage of the negotiations and outlined the expectations of the WTO members from the new entrants on market-access issues. This has been helping acceding governments with action plans and synoptic tables to assess the requirements that needed to be met.



In this, the Secretariat would provide technical assistance to all applicants, with special attention given to the LDCs (Focus, 1998: 3; UNCTAD, 2001: 10).<sup>14</sup>

### **2.2.2 Procedures of Accession**

As indicated, any state or separate customs territory possessing full autonomy in the conduct of its external commercial relations might accede to the WTO. The procedures for such states or separate territories to accede to the organization under Article XII requires the examination of a schedule of their concessions and commitments to GATT 1994 and a schedule of their specific commitments to GATS. They also require agreement on the report of the WP established to examine an application, and agreement on a decision and a protocol setting out the terms of accession (WTO, 1995: 1). Although overlapping at some stages, the accession procedures will normally involve four distinct steps.

The starting point for an applicant country is the submission of a communication to the Director-General of the WTO expressing its desire to accede to the WTO under Article XII. The communication will then be circulated to all members. The WTO General Council will consider the application and the establishment of a WP. The WP will be set up to examine the application for accession to the WTO under Article XII and to submit to the General Council/Ministerial Conference recommendations, which may include a draft protocol of accession. Membership in the WP is open to all interested members. The chairperson of the WP is appointed following consultations with incumbent WTO members and the applicant (WTO, 2001: 23.2). The time between sending the applicant's communication and setting up the WP can be quite short and is mostly a matter of formalities (Michalopoulos, 1998: 5).

Once the WP has been established, the applicant will provide a memorandum describing in detail its external trade regime, together with information on the currently applicable tariff schedule and copies of relevant laws and regulations. Following the circulation of the memorandum, members of the WP are invited to ask questions in order to obtain

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<sup>14</sup> Among the guidelines provided by the WTO Secretariat pertaining to accession are: WT/ACC/1, WT/ACC/4, WT/ACC/5, WT/ACC/8, WT/ACC/9.

more information about the applicant's trade system (WTO, 2001). More than one round of questions and answers might be organised before the first meeting of the WP is scheduled (WTO, 1995: 2). This phase is usually very demanding because of the range of issues that the memorandum has to address and the degree of detail required (Michalopoulos, 1998: 5).

At the initial meeting of the WP – and after the replies to the questions have been received – representatives from the members of the WP and the applicant examine the memorandum and the questions and answers so that they might further clarify points that emerged worthy of clarification. At the end of the first and each subsequent meeting of the WP, the chairperson outlines the next steps required for the preparation of future meetings. The preparation should be carried out through informal consultations with members of the WP and the Secretariat, as necessary (WTO, 1995: 3).

When the examination of the foreign trade regime has advanced sufficiently, the applicant will be requested to submit its so-called initial schedule of 'offers' in goods and services. This consists of: (a) the detailed schedule of tariffs proposed to levy on goods and level at which the tariffs are 'bound'. This is the level beyond which a prospective member cannot raise tariffs except in some defined circumstances, such as in a balance of payments emergency. (b) The commitments the applicant makes with regard to opening its market for services. Once these offers are tabled, the accession process enters its final phase, which involves specific bilateral negotiations between the applicant and each WTO member that wishes to discuss issues regarding the tariff level or the degree of openness of the service sector that the applicant has proposed. In most cases, bilateral negotiations will take place in parallel with formal meetings of the WP that continue to deal with questions and answers concerning the applicant's foreign trade regime. This phase can be very lengthy (Michalopoulos, 1998: 8-9).

The discussions in the WP are summarised in the report of the WP together with a draft decision and protocol of accession. The protocol of accession contains the terms of accession which the applicant and members of the WP have agreed on. Following the conclusion of bilateral negotiations between interested members and the applicant, the schedule of concessions and commitments made by the applicant on goods and the

schedule of specific commitments on services will be prepared. These schedules are annexed to and are part of the draft protocol of accession, which contains the terms of accession agreed by the applicant and members of the WP. After the draft report, draft protocol and schedules on goods and services have been finalised, the WP will submit the package to the WTO General Council/Ministerial Conference for approval. When the General Council/Ministerial Conference has decided to adopt the package, the protocol of accession enters into force. Thirty days after acceptance by the applicant's government, the applicant will become a WTO member (WTO, 2011).

### **2.2.3 Arguments over Accession**

For many applicants, accession to the WTO has been a frustratingly complicated and slow process. China, for instance, was admitted to the organization after fifteen years of negotiations. Russia, as another example, negotiated its accession for more than twenty years. In the case of Saudi Arabia, the accession process officially took twelve years to come to a successful conclusion.

By its very nature, the WTO, as the main instrument of the multilateral trading system, aims to be universal (Langhammer and Lucke, 1999: 837). The WTO Ministerial Conference in Hong Kong in December 2005 renewed the commitment to make the organization truly global (WTO, 2005). Discussions on the issue of accession were held in all of the ministerial conferences from Singapore (December 1996), to Geneva (May 1998), to Seattle (December 1999), and Doha (2001) and most recently Hong Kong (2005). During these discussions, many welcomed the trend of joining the WTO, saying that this demonstrated the viability of the rule-based system and represented a challenge to the organization and its evolution as a truly global one. Furthermore, they believed that the more widespread the WTO membership became, the greater the benefits that would be enjoyed by its members and the more global welfare would increase. In this regard, the Ministerial Conference customarily pledged to conclude on-going accessions as smoothly and rapidly as possible (WTO, 2001: 4-5). Yet, many believed that the accession process was lengthy, too demanding and slow-moving.

There have been several factors that contributed to the slow nature of the accession process. From the outset, as discussed, the agreement establishing the WTO itself was non-specific in terms of setting out the rules and process of accession. The terms of any individual country's accession were left to the negotiations between the applicant and the WTO members. As such, every case has become a unique one (Bacchetta and Drabek, 2002: 4). In the case of the application by Saudi Arabia, the lack of specificity, for instance, has been, as Al-Sa'doun indicated, an obstacle for the Saudi negotiating team and the official Saudi efforts to join the WTO (Al-Sa'doun, Interview, 26 April 2002). As mentioned earlier, the pace of processing applications to the WTO have varied from two years to more than twenty years. Were the rules of the WTO accession more specific, it is doubtful that the length of time to process applications would vary so greatly.

Another factor lies in the applicant's memorandum. The memorandum and its related questions and answers have usually been exhaustive in their details. The applicant country would be requested to submit for the deliberation of the WP relevant legislation on a variety of subjects covered by the WTO. These subjects extended far beyond the obvious such as the customs law, the tariff schedule and related regulations on imports and exports, to include items such as the laws on joint stock companies, the central bank and credit institutions, licensing of economic activities, domestic taxation, patent and copyright protection etc. Then the applicant's submission is placed under detailed review for its consistency with the provisions of the WTO agreements (Michalopoulos, 1998:7).

Agreeing with what Lanoszka claimed earlier, VanGrasstek pointed out that the extended subjects reflected the evolution that took place in the accession process from the years of the GATT to establishing the WTO. Echoing what was mentioned above about the inclusion of new non-traditional issues, VanGrasstek argued that the evolution of this process had resulted in a shift in the global trading system's emphasis from "*the height of global tariff walls and other border measures*" to the "*depth of issues that fall within its jurisdiction*". The height of tariff walls mattered the most during the period from the 1950s to the 1970s. Accession was relatively easy for the economically small

countries during that period, as the emphasis was on negotiating the reduction of tariffs between large economies. It seemed that small reduction in the tariffs imposed by a large economy would have more weight than a huge reduction by a small one (2001: 115-125).

In the UR (1986-1994), according to VanGrasstek, attention shifted to the depth of the world trading system represented by the WTO, which meant an expansion in the definition of trade to include, in addition to cross-border movement of goods, a wide range of issues. As a result, the calculations pertaining to accession became quite different from merely assessing the impact of reduction in tariffs. As the focus turned to the issues that would come within the scope of the WTO, applications came under intense scrutiny, and the terms of their accessions were correspondingly stringent so as to set good precedents and block bad ones (2001: 115-125).

In addition to its inherent complexity, the shift in focus to the depth of the system has been particularly difficult for applicant countries that lacked the required resources and expertise. As mentioned, all current applicants are either developing, LDCs or CIT. The limitation of resources has been a common element in these categories of countries, which made it difficult for them to cover all the variety of subject areas outlined by the WTO. This limitation did not only apply to the applicant governments, but also extended to include the Secretariat of the WTO itself. The administrative resources available to the Secretariat have been insufficient to offer the adequate technical assistance to each case of accession (Langhammer and Lucke, 1999: 837; Ostry, 1998).

Being subject to what has been called 'WTO-plus' was, some argued, another reason for protracting applications for accession. The 'WTO-plus' referred to the situation where new applicants were asked to undertake more stringent obligations than existing members. For instance, membership in the plurilateral agreements was, in some cases, made to be one of the conditions to admit an applicant – although Article XII, which dealt with accession, separated the procedures for accession to the plurilateral agreements from accession to the WTO itself (WTO, 2001: 6-7). In the case of Saudi Arabia, Al Sa'doun argued that the economy of his country was more open than some of those incumbent WTO members. Yet, the country was asked during the negotiations to

join some of the plurilateral agreements as a prior condition, which, along with some other factors, resulted in the delay in bringing Saudi Arabia to the multilateral trading system (Al Sa'doun, Interview, 26 April 2002).

As acceding countries have been asked to commit themselves to matters that members were not committed to (WTO-plus), they have also sometimes been denied some of the rights available to incumbent members under the WTO agreements such as the Special and Different treatment (S&D). This arrangement has been referred to as 'WTO-minus'. The provisions of S&D treatment took into consideration the conditions of developing countries, LDCs and CIT, and aimed to ensure that they could carry out their obligations within the framework of the WTO. Therefore, those provisions enabled such countries in the implementation process during various transition periods. For instance, for developing countries Agreements on Customs Valuation, Trade-Related Investment Measures (TRIMS) and TRIPS allowed for a five-year transition period. However, several acceding countries like Bulgaria, Estonia, Georgia, Jordan, Kyrgyzstan and Mongolia were not allowed to take full advantage of that (Butkeviciene *et al.*, 2001: 230-232).

Another factor that explains the long process of accession to the WTO has nothing to do with the applicant's trade regime. It is of political nature. As mentioned above, countries with large economies and political power could exert a considerable influence on the process of accession. In some cases, this influence has been exerted for reasons not related to economic factors. In fact, GATT/WTO accession has never been a purely economic matter. In the past, there was a political dimension to the Russian accession, for example. The U.S. along with some other Western powers tended to impose a form of conditionality in relation to Jewish emigration that was essentially a residue of the Cold War era (Dyker, 2004: 5).

Despite the collapse of the communist regimes in the Soviet Union and Eastern Europe, political security issues remained important in the process of WTO accession (Yang, 1999: 514). For instance, the U.S. has shown a desire to have all Arab applicants, including Saudi Arabia, remove their boycott on Israeli products, although Article XIII of the Agreement establishing the WTO consented to the non-application of the

Agreement between particular members, provided that they notify the organization of it (MOC, 2000: 14). Thus, it is legitimate to assume here that the political position of an applicant could affect its WTO accession negotiations in a positive or negative way. For this reason, Gibbs advised the delegations of acceding countries to have a clear understanding of the attitude of the major trading members in the WTO with respect to their political background (2001: 169).

These factors, which complicated the process of accession, have caused the whole process of accession to be viewed as unfair to acceding countries (Al-Hasher, Interview, 18 April 2002). In his speech to the third WTO Ministerial Conference in Seattle in 1999, the Saudi Minister of Commerce, at the time, stated that “*doubts about the fairness of the multilateral trading system are increasing especially among the developing countries*”. He attributed this to the occasional absence of and non-adherence to some of the organization’s provisions (COSC, 1999). This view was shared at the highest level in the Saudi government to the extent that King Abdullah, then Crown Prince, drew attention to it in his speech at the UN Millennium Summit in New York in 2000, where he said:

*“At a time when we have hopes that the World Trade Organization will rectify defects in world trade, it is unfortunate that we note that this organization is not based on specific and objective rules with respect to the process of joining its membership. We therefore demand that this Summit ensure the internationalism of the World Trade Organization and strive to facilitate the accession of states currently negotiating to join the agreement under terms that do not burden these countries more than do obligations undertaken by WTO’s earlier members” (MOI, 2000).*

According to Naray, the WTO accession process included the use of double standards. He argued that for instance in agriculture developed countries, which had all been members of the WTO, maintained high trade barriers and justified them by the specification of this sector and the economic, social and political implications of a speedy liberalisation. The ‘transition periods’ they needed in this matter have already, as Naray pointed out, spanned decades, while acceding governments have been required to comply with WTO rules upon accession with no or only a very short period of time regardless of the potential economic, social and political implications (2001: 148-149).

In addition, the WTO accession negotiations have required acceding countries to make substantial concessions that could have an immediate impact on the access of foreign products and services to their markets, but not vice versa. The benefit of WTO membership in terms of increased market access to foreign markets could only be felt in a longer term (Ognivtsev *et al.*, 2001: 186). This situation, in which acceding countries have been exposed to greater pressure from the WTO members particularly the Quad countries, is due to the ‘inherent flaws’ of the accession process. This made the candidate countries vulnerable to influential WTO members, irrespective of their conditions or economic significance (Grynberg *et al.*, 2002: 1). As Cambodia’s Minister of Commerce, Cham Prasidh, said about the terms of his country’s accession: “*This is a package of concessions and commitments that goes far beyond what is commensurate with the level of development of an LDC like Cambodia*” (Oxfam, 2003: 1).

Slow though it may be, the current process of accession has not been without merit from the viewpoint of some participants in the WTO Ministerial Conference in Doha 2001. Although they acknowledged the slow pace of this process, they contended that this did not mean that the system was not working. From their standpoint, the time that the accession process took allowed the applicant to prepare better. More importantly, the pace of each individual accession depended overwhelmingly on the applicant’s willingness and capacity to meet the requirements of the WTO. In response to those who said that the exhaustive detail on economic and trade regimes required by the WTO constituted a burden on the applicant governments, this viewpoint asserted that the WP needed such detailed information so that it could examine the trade and legal regimes of an applicant to identify possible areas of inconsistency with the WTO agreements. As to the ‘WTO-plus’ as a critical factor in complicating the process of accession, this point of view argued that incumbent members were still adding to their commitments under the WTO and some order of reciprocity was, therefore, a reasonable request (WTO, 2001: 1-6).

Thus, VanGrasstek argued that it was misleading to employ the common terminology ‘concessions’ on the commitments made by an acceding country during the process of its accession. It implied, according to him, that such a country was surrendering



something of value, and cast trade relations in a zero-sum framework. This obscured the accession process's ultimate aim of enhancing the competitiveness of applicant countries in the world economy. As he indicated, the costs of WTO accession would be better appreciated if an observer viewed the benefits of the organization's membership in their larger context (2001: 118).

Along similar lines of appreciating the accession process through the overall advantages, Kreid argued that applicants to the WTO enjoyed two types of benefits: pre-accession and post-accession. The benefits of post-accession were those related to increasing market access and attracting foreign investment; issues that were largely behind attracting nation states to the WTO in the first place, and were the subject of the first section of this chapter. As far as the process of accession itself was concerned, the benefits of pre-accession were more relevant. Those benefits were derived, in Kreid's view, from a necessary reform of the economic system, the introduction of rules and regulations compatible with the WTO that represented the multilateral trading system, and the strengthening of the administrative and institutional infrastructure. To the credit of the accession process, all of these were in the acceding countries' interests independently of whether or not they would join the organization (2001: 78).

Where did the WTO as an organization stand concerning the debate on the difficulty of the accession process? Generally, it seemed to side with the arguments justifying the complexity of the whole process. In a special report in Focus, the WTO's newsletter, the pace of a particular accession was, according to the report, the responsibility of the acceding country:

*“The pace of each accession depends on the capacity of the applicant to negotiate actively at all levels. Even more importantly, it depends on the applicant's ability and commitment to put the needed legal and administrative infrastructure in place to ensure that it would be able to participate in the WTO framework of rights and obligations”* (Focus, 1998: 3).

From the discussion about arguments and counterarguments, three points can be presented. First, the parameters of the bilateral negotiations seemed to transcend into a

multilateral area when pressing acceding countries to adopt WTO standards. Confirming WTO compatibility should always be the task of the multilateral negotiation, as the bilateral one should mainly concern itself with specific bilateral concessions and commitments regarding trade in goods and services.

Second, it has been easy for current members not to adhere to the organization's decisions, which acceding countries have been asked to unfailingly adhere to such decisions. The accession of Cambodia is one example. It was forced upon accession to stop using affordable generic versions of new medicines immediately, even though the Doha declaration of 2001 permitted LDCs to wait until 2016 to end this practice (Oxfam, 2003: 1).

Third, acceding countries might have sometimes shown more firmness regarding negotiating some issues especially those with no support from the provisions of the WTO agreements, such as the WTO incumbent members' constant request to sign the plurilateral agreements in the process of the accession. A top Saudi negotiator, Al-Alamy, said that it was in the very nature of negotiations that any subject could be put on the negotiating table (Al-Alamy, Interview, 2 May 2002). This view, however, runs counter to the intuitive logic that negotiations should have some kind of indication that governs the general process. In accession negotiations, this indication should be the rules and regulations of the very same organization to which applicant countries aim to accede. From this perspective, it is worth asking why acceding countries consent to have the plurilateral agreements as a negotiation item in the first place, if the WTO rules and regulation did not make them compulsory.

In the context of examining the accession rationale and complexity, the following section will review some accession experiences. As indicated, the accessions of Jordan, Oman and Bahrain are used as examples. This sub-section will concisely relate the examples to the argument in the previous chapter concerning the reasoning and difficulty of the accession. Thus, the section will also highlight similarities with the Saudi accession.

### **2.3 Track Record of Acceding Experiences**

Approximately 25 countries have joined the WTO since its establishment in 1995, including Saudi Arabia (Table 2-2). As mentioned earlier, they have been either developing countries, LDCs or CIT. In this section, the focus will be on the first category among the three, as Saudi Arabia is also a developing country. For the reasons indicated earlier, this section will cite the accessions of Jordan, Oman and Bahrain as examples for the rationale and complexity of the WTO accession mentioned in the literature. The outcomes will serve to indicate the complexity of the accession process. As to the example of Bahrain specifically, it joined the WTO through what is called 'succession', which will be explained later. This example will demonstrate how far the WTO accession process has come in terms of difficulty. With every example, the section will observe the difference and parallels with the situation in the Saudi case.

**Table 2-2: On-going Accessions**

|           | <b>Country</b>                | <b>Application Submission</b> |           | <b>Country</b>                          | <b>Application Submission</b> |           | <b>Country</b>    | <b>Application Submission</b> |
|-----------|-------------------------------|-------------------------------|-----------|---|-------------------------------|-----------|-------------------|-------------------------------|
| <b>1</b>  | <u>Afghanistan</u>            | Nov 2004                      | <b>12</b> | <u>Iran</u>                             | Jul 1996                      | <b>23</b> | <u>Serbia</u>     | Dec 2004                      |
| <b>2</b>  | <u>Algeria</u>                | Jun 1987                      | <b>13</b> | <u>Iraq</u>                             | Sep 2004                      | <b>24</b> | <u>Seychelles</u> | May 1995                      |
| <b>3</b>  | <u>Andorra</u>                | Jul 1999                      | <b>14</b> | <u>Kazakhstan</u>                       | Jan 1996                      | <b>25</b> | <u>Sudan</u>      | Oct 1994                      |
| <b>4</b>  | <u>Azerbaijan</u>             | Jun 1997                      | <b>15</b> | <u>Lao People's Democratic Republic</u> | Jul 1997                      | <b>26</b> | <u>Tajikistan</u> | May 2001                      |
| <b>5</b>  | <u>Bahamas</u>                | May 2001                      | <b>16</b> | <u>Lebanese Republic</u>                | Jan 1999                      | <b>27</b> | <u>Uzbekistan</u> | Dec 1994                      |
|           |                               |                               | <b>17</b> | <u>Liberia, Republic of</u>             | Jun 2007                      | <b>28</b> | <u>Vanuatu</u>    | Jul 1995                      |
| <b>6</b>  | <u>Belarus</u>                | Sep 1993                      | <b>18</b> | <u>Libyan Arab Jamahiriya</u>           | Jun 2004                      | <b>30</b> | <u>Yemen</u>      | Apr 2000                      |
| <b>7</b>  | <u>Bhutan</u>                 | Sep 1999                      | <b>19</b> | <u>Montenegro</u>                       | Dec 2004                      |           |                   |                               |
| <b>8</b>  | <u>Bosnia and Herzegovina</u> | May 1999                      | <b>20</b> | <u>Russian Federation</u>               | Jun 1993                      |           |                   |                               |
| <b>9</b>  | <u>Comoros</u>                | Feb 2007                      | <b>21</b> | <u>Samoa</u>                            | Apr 1998                      |           |                   |                               |
| <b>10</b> | Equatorial Guinea             | Feb 2007                      |           |   |                               |           |                   |                               |
| <b>11</b> | <u>Ethiopia</u>               | Jan 2003                      | <b>22</b> | <u>Sao Tome and Principe</u>            | Jan 2005                      |           |                   |                               |

Source: [www.wto.org](http://www.wto.org)- updated January 2010

### **2.3.1 Three Experiences and Accession's Rationale**

Jordan joined the WTO in April 2000 after six years of negotiations, the average number of years for the WTO accession. As for Oman, it joined the WTO in November of the same year, but needed four and a half years to complete its accession negotiations.

Facing severe economic problems caused by the economic and political situation in the region, such as the drop of aid from the Arab oil countries in the Gulf and the war on Iraq in 1991, the Jordanian government decided in 1992 to change economic policy significantly. The basic aim of the new policy was to attract foreign investment and to encourage exports (Broude, 1998: 148-149). To achieve that, government officials were aware of the importance of WTO membership as an assurance of Jordan's suitability for investment. They also hoped that membership would lead to the increase of exports of phosphate and other mining products, the country's most important industry, and open new market opportunities for the growing industry of pharmaceuticals (International Trade Centre, 2001: 6). Even in the area of agriculture, Jordan thought that any agricultural subsidies in the developed world abolished by the multilateral trade negotiations within the WTO would potentially provide their own agricultural products with a competitive edge in some of the world markets (ARABDATANET, 2003).

In addition to enticing foreign investment and increasing market opportunities, Jordan regarded WTO membership as an effective means for integrating with the global economy. The desire to integrate globally found a strong supporter in King Abdullah II. Since he became king in 1999, Abdullah II displayed an unquestioning belief in free market and globalisation as a way for progress and prosperity in his interviews, speeches and actions. For that matter, he was an important factor in pushing the process of Jordan's WTO accession (Halaiqa, Interview, 03 April 2006).

The three factors outlined above (attracting investments, accessing new markets and integrating with the world economy) largely stemmed from the needs of the Jordanian economy. Nonetheless, the external aspect in Jordan's accession was also of great importance and was represented by the role of the international financial institutions (IFI). Jordan turned to the IMF for financial support in 1989. It coincided with the idea

of economic reform gaining momentum worldwide and the IMF pressing on key policies such as trade liberalisation. Thus, liberalising trade within the principles of the WTO was important for Jordan to maintain a smooth relationship with the IMF (El Said and Harrigan, 2006: 447-455).

Oman, in turn, is an oil-based economy. Oman's oil production capacity is small, however, and its oil reserves have been projected to last for approximately two decades only. As such, the Omani government realised the need to reduce its dependence on oil (Country Commercial Guide, 2003: 3). Consequently, it made the diversification of the economy the key issue of its economic policy. The government also realised that, to be effective, the diversification policy would have to entail a parallel solid privatisation policy (EIU, 1999:3). Both policies, diversification and privatisation, were elemental in advancing the case of the WTO accession, as diversifying the economy needed new markets for any non-oil domestic products, and privatising required new investments in any government divested projects.

In addition, Oman, according to Flyfel, thought that the WTO membership would protect its exports from discriminatory procedures that might be imposed if Oman kept out of the organization. Furthermore, the country would benefit from the mechanism of dispute-settlements available in the WTO. That, Flyfel claimed, would minimise the possibility of any possible foreign unilateral pressure (2000: 35).

The case of Bahrain is generally similar to those of Oman and Saudi Arabia in terms of its economy's dependence on oil. However, Bahrain has been less dependent on oil than the other two, especially compared to Saudi Arabia. The share of oil to the country's GDP was 16% in 2006, but the rate reached 64% in terms of the total exports. In general, the oil production capacity of Bahrain has been diminishing (Bird, 2006).

Thus, similar to Oman, Bahrain realised the importance of diversifying its economy. Due to the lack of other natural resources, the government of Bahrain activated the services sector and expanded the industrial base as an essential element in its economic policies. In fact, Bahrain became the oldest hub in the Gulf region with regard to the field of providing services, particularly financial services. Also, the government of

Bahrain worked to build major non-oil industrial projects especially in the aluminium sector, which accounted for 5% of the GDP and 60% of the non-oil exports (Gulf Centre for Strategic Studies, 2007).

With taking into account that Bahrain has generally adopted an unrestricted economic system, the substantial reliance on these two factors, services sector and aluminium industry, has tightened the outward orientation of the Bahrain economy. Thus, it became important for the country to integrate with the world economy and have better access to foreign markets. In the process, it was important for the country to be part of the multilateral trading system represented by GATT, which Bahrain joined in 1993 (Roshdy, Interview, 12 June 2007).

In addition, the small capacity of oil and the lack of other natural resources, which prompted the country to establish itself as the centre of financial services in the Gulf region, made it necessary for Bahrain continually to change its rules and regulations for the purpose of achieving that aim. However, this necessity often faced a tenacious opposition within the society, especially from the business community. For instance, repealing the Commercial Agency Law in 1997 was extremely difficult due to objections from local traders. According to Roshdy, if it had not been for the obligations within GATT/WTO, it would have been difficult for the government to transcend such protests (Interview, 12 June 2007). That was, in other words, an embodiment of what has been called the 'lock in' effect of GATT/WTO.

The rationale for the WTO accession in the three examples above agreed, in general, with what has been cited in the literature about the factors that had usually brought various nation-states into the WTO. Among them, the factors of market access, foreign investment, a rule-based trading system and the 'lock in' effect were particularly important in the three cases. In comparison with the Saudi rationale for joining the WTO, some similarities and differences can be underlined.

In Saudi Arabia as in Jordan, the internal economic conditions were very important driving factors for joining the WTO. Both countries agreed on the importance of attracting foreign investment to improve these conditions. Regarding other factors,

Saudi Arabia saw WTO membership as a new market opportunity for its petrochemical industry, as did Jordan regarding its mining products exports. As to the importance of the IFI, however, Saudi Arabia differed from Jordan. In liberalising its economic regime within the framework of the WTO, Jordan aimed, *inter alia*, to maintain smooth relations with international institutions such as the IMF. Saudi Arabia did not need to do so. The role of the IMF was confined to urging that Saudi Arabia should not delay its accession to the WTO because its absence from such growing organization did not reflect the weight of the Saudi economy.

Similarly, Oman focused its justification of WTO accession on market access and foreign investment as the two essential key elements in its economic policy: diversification and privatisation. As explained above, market access and foreign investment were crucial to Saudi Arabia as well. The fact that Omani oil was less abundant and its reserves were expected to be depleted sooner, however, made it more difficult for Oman to afford finding alternatives for its economy.

The case of Bahrain was a little different. Like Saudi Arabia, it wanted to integrate with the global economy. The early choice of Bahrain to be a central point in the region for services, particularly those related to the financial sector, made it all the more important for the Bahraini government to eagerly seek integration with international markets. Proof of this can be seen in the fact that Bahrain joined the multilateral trading system long before Saudi Arabia.

The 'lock in' effect was, as noted above, important in the case of Bahrain. Free from the religious restrictions of Saudi Arabia, the Bahraini government mainly used such an effect to thwart objections from the business community. The presence of a strong religious establishment in Saudi Arabia made it more difficult for the Saudi government to resort to the 'lock in'. Although this factor can persuade a group like the business community that the government cannot do much after making international commitments, it probably cannot do the same in the case of groups like the religious establishment.



### **2.3.2 Subjects Negotiated and Difficulty**

The focus will be on Jordan and Oman, as Bahrain joined through the means of 'succession', which will be discussed later in the section. In the examples of Jordan and Oman, the outcomes of the accession process could be used as a good reflection of the complexity of that process. As for tariff bindings, Jordan agreed to bind its tariffs ceiling at 20% by the year 2010, with the exception of certain items that were to be bound at 25% and 35% (U.S. Agency for International Development, 2001: 5; [www.jftp.gov.jo](http://www.jftp.gov.jo)). Apart from a few items of vital importance to Oman such as milk and dates, the Omani government agreed in the accession negotiations to bind its agricultural tariffs at 15%. As to industrial products, Oman bound, with some exceptions, its tariffs at 15%, as well (Flyfel, 2000: 42-43).

The tariff bindings of Jordan were not low compared with the tariff ceilings of some other acceding countries like Oman (ESCWA, 2003: 19). The reasons for that were that Oman's tariff rates were from the beginning generally lower than those of Jordan and that Oman was preparing to lower its applied tariff rates even further due to the GCC's plan to unify the applied tariff rates in its member countries at a rate not exceeding 6.5%. In addition, in order to have relatively high tariff bindings, Jordan had to make a sound linkage between its tariff concessions and commitments in the services sector (Broude, 1998: 152).

Among the 12 main sectors in services, Jordan committed itself to open 11 main sectors (ESCWA, 2003: 24). With regard to services sub-sectors, from a total of 155 sub-sectors, Jordan made commitments in 128 sub-sectors (U.S. Agency for International Development, 2001: 5). Also in GATT, Jordan accepted the commitment that its central government was the sole authority on foreign trade policy issues and that it would eliminate or nullify measures taken by its local governments. The demand for such a commitment was a new move on the part of the WTO, and a few acceding countries could manage not to accommodate (Al Hinai, Interview, 16 August 2005).

In the last meeting of its WP before the accession, some members indicated in December 1999 that Jordan should use the period of its accession negotiations to make the

necessary efforts in the area of TRIPS without taking recourse to any transitional period of non-application (WTO, 1999: 51). Like Jordan, Oman did not manage to secure any transition period as far as TRIMs were concerned. Oman agreed during its accession negotiations to apply TRIMs from the date of accession without recourse to any transition period (WTO, 2000: 20).

Transitional periods are part of the S&D provision in the WTO agreements, which are intended to ensure that the multilateral obligations are consistent with the development in the developing countries, LDCs and CIT. Therefore, to stipulate that a developing country could not take recourse to such transitional periods was, in principle, denying a right that was embedded in the agreements. As mentioned, this arrangement is referred to in the accession literature as 'WTO-minus'.

In a commitment reflecting another 'WTO-minus', Jordan agreed in the accession negotiations not to apply any anti-dumping, countervailing or safeguard measures to imports from WTO members. It would continue doing so until laws in conformity with the provisions of the WTO had been enacted, notified and implemented (U.S. Agency for International Development, 2001: 6). Likewise, Oman made the same commitment (WTO, 2000: 14). According to Al Hinai, such a 'WTO-minus' condition implies an inability to protect local industries (Al Hinai, Interview, 16 August 2005).

As to 'WTO-plus', Jordan agreed during its accession negotiations to go beyond the WTO framework of rules in several respects. For instance, Jordan made a commitment to gradually remove price controls on certain commodities with a view to the eventual liberalisation of all prices at the retail level. It committed itself to complete the negotiations for membership in the Government Procurement Agreement (GPA) within a year of its accession, although the agreement was a plurilateral one and not compulsory like the multilateral agreements (WTO, 1999: 6-47). While there was no obligation regarding privatisation or ownership of enterprises, the WTO members exerted pressure on Jordan to privatise as many state-owned companies as possible, and it was agreed that the latter would periodically provide the organisation with reports on the progress of the privatisation (Butkeviciene *et al.*, 2001: 237).

A similar 'WTO-plus' situation prevailed in the case of Oman. Oman was requested in the accession negotiations to sign the plurilateral agreements. Indeed, Oman agreed to join the GPA within one year of its accession and to join the Agreement on Trade in Civil Aircraft within three years of accession (WTO, 2000: 22-24).

The demand was imposed on Jordan and Oman to examine domestic regulations before being officially enacted. Although some said that Jordan had submitted to this (WTO, 1999: 26), Jordanian officials indicated otherwise. They stressed that Jordan had not accepted the request to share draft legislations with its WP (Hazimeh, Interview, 25 February 2010). Oman agreed to submit drafts of some of its new laws to the examination of its WP members (WTO, 2000: 9-13).

Saudi Arabia committed itself to tariff binding rates of 17.7% for agricultural products and 12.2% for industrial products. In its offer on agricultural goods, Saudi Arabia fiercely refused to include items that were religiously prohibited and joined the WTO without making any offer regarding them (Al-Alamy, 2006: 392-395). In general, Saudi Arabia did not manage to secure any transitional period to implement agreements such as TRIPS and TRIMS. As to 'WTO-minus', it agreed not to apply any anti-dumping, countervailing or safeguard measures to imports from WTO members until related rules were being enacted and the organization had been notified of these. With regard to 'WTO-plus', Saudi Arabia agreed to sign some plurilateral agreements. For instance, it agreed to initiate negotiations for membership in the GPA and, if the results of the negotiations were satisfactory to its interests and the other parties to the Agreement, it would complete negotiations for membership in the Agreement within a year of accession. Concerning the new trend of requesting the submission of any WTO-related rules to the organization before being officially adopted, Saudi Arabia consistently refused throughout the process to do so (WTO, 2005).

In general, Saudi Arabia was exposed, like other acceding countries, to a difficult accession process. In comparison to the other three accessions reviewed in this section, Saudi Arabia broadly accepted most of what was accepted by Jordan and Oman. In doing so, Saudi Arabia was subject to demands of both a 'WTO-minus' and 'WTO-plus nature'. It also had to agree to adhere to some plurilateral agreements. As to transitional

periods, Saudi Arabia was not, in general, granted any of them as they had all expired years before its accession in 2005. In terms of its tariff rate bindings, however, it was expected that Saudi Arabia would set its binding rates at a much lower level than those countries that had joined the WTO years earlier. This is not exactly what happened, however.

Saudi Arabia bound its tariff rates slightly lower than those of Jordan and Oman in particular. Moreover, Saudi Arabia managed not to include items in its agricultural offers that were viewed as prohibited according to Islam. It also managed, unlike Oman and Jordan, to refuse submission of its proposed rules and regulations to the WTO members before adopting them officially. Without discounting the agreement in the accession literature that a longer accession process meant an increasing complexity of that process, the fact that Saudi Arabia managed to hold on to its initial positions in some issues might suggest that a lengthy accession process can, if accompanied by a decisive stance, sometimes result in important gains for the acceding countries.

With Bahrain, the case was different. Bahrain joined GATT in December 1993 before the establishment of the WTO through a procedure called 'succession'. In general, 'succession' has to do with changes within the territories of members, whereas 'accession' has to do with new territories joining the organization. Before the WTO came into being, a simplified procedure existed for gaining contracting party status under the provisions of GATT Article XXVI: 5(c), as opposed to the generally applicable procedure for accession under GATT Article XXXIII (GATT, 1993).

The Article XXVI: 5(c) procedure allowed former territories of the original contracting parties, which had gained independence or commercial autonomy (i.e. mostly former colonies), to succeed to contracting party status. Thus, to become a contracting party in their own right, former colonies merely needed to invoke Article XXVI: 5(c) and get the original contracting party (i.e. metropolitan government) to sponsor their application. It should be noted that contracting parties that acceded under Article XXVI: 5(c) had to accept the terms and conditions previously accepted by the metropolitan government. Alternatively, former territories could negotiate new terms if choosing to accede under the provisions of Article XXXIII. The 'succession' mechanism envisaged by GATT

Article XXVI: 5(c) does not exist under the WTO. The GATT accession provisions contained in GATT Article XXXIII were largely incorporated, as mentioned, into the WTO framework, in which accession is governed by the provisions of Article XII of the Marrakesh Agreement (WTO, 2007; UN, 2002: 88-89).

Joining the multilateral trading system through ‘succession’ saved Bahrain from going through the complex WTO accession process. Whereas the average has been six years for the completion of the process of WTO accession, it took Bahrain only one day to complete its succession to GATT’s contracting party status. The Bahraini government applied under the XXVI: 5(c) in 13 December 1993 and joined as a contracting party the following day (Roshdy, Interview, 12 June 2007; Al-Awadi, Interview, 11 June 2007).

As such, Bahrain was also saved from the high demands for concessions presented by incumbent members, which are inherent to the WTO accession process. Accordingly, Bahrain opened only 44% of its services sector to foreign investment, compared with 72% in Oman and 85% in Jordan (Alamy, 2006: 279). As a result of the UR, Bahrain bound more than 77% of its tariff rates at 35%. It was possible for Bahrain to bind its tariff rates at a higher level as in the United Arab Emirates (UAE), another ‘succeeded’ country, which bound its tariff rates at 40%. As mentioned, however, in furtherance of its aim to be the central base in the Gulf region for economic and financial services, Bahrain from the start adopted a relatively low rate of tariffs (Gulf Centre for Strategic Studies, 1999).

With regard to TRIPS, Bahrain, as a developing member of the WTO, was given four years to implement the agreement, which came into effect on 1 January 1996 (Al-Awadi, Interview, 11 June 2007). The other three, Jordan, Oman, and Saudi Arabia were, as acceding countries, to apply the agreement from the date of accession. Also, Bahrain was not subject to the ‘WTO-plus’ or ‘WTO-minus’ arrangements discussed above. For example, it was not requested to sign plurilateral agreements, particularly those of the government procurement, which constituted a real difficulty during the accession process of Saudi Arabia.

## 2.4 Conclusion

The completion of the UR resulted in the WTO. The new permanent organization extended its jurisdiction to include, in addition to trade across borders, issues of domestic nature, such as the legal systems in acceding states. Unlike the GATT, the WTO was armed with an effective dispute-settlement mechanism to ensure non-violation of commitments made during accessions.

The establishment of the WTO came at the heyday of globalisation. It was perceived as the only multilateral organization that was explicitly created for a global and wholly interdependent economy. The acceding countries largely considered the WTO to be an important gate to integration with the international economy that was plainly growing interdependent. In the process, they viewed membership in the organization as vital for finding new markets and attracting investments. In a globalised economy, this membership seemed to provide the protection of a rule-based system to acceding countries that were mainly developing, LDCs or CIT. Since many of them were in a state of making economic reforms, they believed that WTO accession could be useful for locking in reform measures. Accession was also viewed as being important for building smooth relationships with IFIs, of which the applicants frequently were clients. Finally, acceding states with economic potential thought that WTO membership was a means to participate in formulating international regulations of importance to them.

However, such factors are faced with limitation of rules and absence of detailed procedures when it comes to the actual accession process. In fact, the WTO has largely left this aspect to the negotiations with WP members when it stated that any state or customs territory may accede to the Marrakesh Agreement “*on terms to be agreed between it and the WTO*” without giving guidance on those terms. This gave leverage to the WTO incumbent members, especially those with large economies and considerable political power. As a result, applicants were to undergo an exhaustive scrutiny of their trade and economic regimes. Because of the expansion of issues covered by the organization, such scrutiny occasionally impinged on political issues. The leverage that the WTO incumbent members have in the negotiations would allow them to impose what is referred to as ‘WTO-plus’ and ‘WTO-minus’, in getting further concessions

from acceding countries. Some of the previous examples from the accessions of Jordan and Oman specifically illustrated this well.

Complex as it might be, there were those who argued that the accession process had, nonetheless, not been without merit. They pointed out that the average time required for completing the process allows for better preparation on the part of acceding states. It is argued that the negativity about the difficult nature of the process obscures the ultimate aim of enhancing the competitiveness of applicant countries in the world economy.

In any event, it is a complicated process, and it is the contention of this thesis that the case for justifying such complexity is a matter of internal interplay. As mentioned earlier, the WTO accession decision, as a trade policy decision, is a matter of domestic politics. Thus, the following chapter will set the framework for this internal interaction. It will do so by considering concepts that the study regards important as far as such a case is concerned.





### Chapter 3 Analytical Framework

Chapter Two illustrated in some of its parts the complicated nature of the WTO accession process. Indeed, Saudi Arabia had to submit approximately 7000 documents during the years of negotiation. It went through nearly 379 rounds of bilateral and multilateral negotiations, and had to provide answers to more than 3400 questions (Al-Alamy, Interview, 02 May 2002; Al-Hasher, Interview, 18 April 2002).

In a comparative study on accession to the WTO, Kennett *et al.* found that although other acceding countries had followed a similar process, the exact terms of accession for those countries had been very different (2005: 12). In fact, the examples of Jordan and Oman compared with the Saudi case reflect such a difference. In support of Kennett's thesis is the argument of Williamson about policies of economic reform. WTO accession has usually been associated with economic reform. Williamson thought that inasmuch as there has been a fairly widespread agreement on the principles upon which reform must be based, there has been less understanding on the political process through which reform could be achieved (1994: 1).

Both conclusions can be attributed to the particular circumstances either in acceding or reforming countries. Because of such diversity in circumstances, the WTO accession would not be expected to neatly fit a single paradigm. In discussing the application of theories to particular events, Brown said, "*It is still asking a lot to expect of even a very strong theory that it actually predicts single events*" (1997: 210). Therefore, it can be assumed that the case is more difficult with an instance like the WTO accession, as it is not even an event, but a process that might involve multiple events over the years.

In this study, the assumption is that those above-mentioned documents, negotiations and answers provided during the Saudi accession case issued from an internal interplay that was not neutral to external factors. As the introductory chapter indicates, the decision to accede to the WTO can be considered to be a matter of trade policy for an acceding country, or – as Spero and Hart said – trade policy is arguably an object of domestic politics (2003: 66). With regard to the external dimension in such politics, Goldstein

pointed out that the interaction between domestic and international affairs has nowhere been more evident than in trade policies (1998: 138).

Internal politics in all its guises, political and economic, and its receptivity to external impact is, in essence, related to political economy. This is applied to the WTO accession. A top Russian WTO accession negotiator, Maxim Medvedkov, stated in this regard:

*“Any acceding country, when deciding whether or not to join the WTO, should evaluate all pluses and minuses of this exercise. Some countries are driven by political considerations, some by economic ones and some by a combination of both”* (Medvedkov, 2001: 69).

Political economy is a term denoting the interplay of politics and economics illustrated in the behaviour and interests of the state at the domestic and international levels. At the domestic level, scholars have acknowledged the impact of economics on the state's politics and its society. Political economists normally operate beyond the conventional acceptance of economic activities as rational maximisation of interests by individuals through supply and demand. They consider other factors that help an economy produce goods that grow and impact the political and economic welfare of the state. The factors include national institutions, political ideology, cooperation, economic power, human psychology and culture (Pressman and Neill, 1999: 854-5).

During the 1970s and 1980s, the concept of IPE became a notable interdisciplinary approach that attempted to tie politics and economics to international relations. The IPE became a perspective that addresses political bargaining over economic issues (Mingst, 2004: 233) or the intersection of politics and economics and changes in the distribution of states' wealth and power through identifying the political determinants of international economic relations (Kegley, 2007: 302). Others viewed IPE as *“the study of inequality in power and wealth between peoples and nations, and of patterns of collective learning and positioning that preserve or change this inequality or asymmetry”* (Isaak, 1995: 2).

The IPE today emphasises the belief that in a globalised world economy, the spread of liberal political and economic concepts and institutions has profound effects on the policies of every country. Interdependence links governments, firms, socio-economic groups and individuals. The links and changes in the world economy create pressures on decision-makers and governments to alter policies and to create or remodel institutions in order to enhance or protect the interests of the individual as much as those of the nation (Keohane and Milner, 1996: 03-24).

In light of such changes in the global political economy and the modern pressure on policy-makers, Krasner claimed that there were two general lines of enquiry when it comes to analysing the impact of domestic variables on international economic policy. The first examines the influence of international systems on domestic political structure and groups. The second investigates how domestic political structures, group interests and ideas affect foreign policies (Krasner, 1996: 192).

Related to Krasner's claim, Viotti and Kauppi have identified three levels of analysis in international relations: international system, state and society, and individual. It has been quite typical, as Viotti and Kauppi suggested, for these levels to be used in explaining foreign policies of states. In the process, the adoption of one level of analysis does not mean dismissing factors operating at other levels (1999: 13-14).

In light of what Krasner and Viotti and Kauppi emphasise, this study will take the level of state and society as the point of analysis. Therefore, this chapter will develop an analytical framework that is based on internal politics of the Saudi WTO accession, taking into account the impact of external effects. Accordingly, the chapter will focus on two elements frequently presented in the approaches that concentrate on domestic variables in making international policy: interests and institutions. As the length of time of the accession process in general, and that of Saudi Arabia in particular, is a key to this study, those indicated elements were not isolated from interaction with international events that were taking place over the years of the Saudi case.

Therefore, the chapter will set out the approaches that have the society and state as the point of analysis. In line with such approaches, the chapter will elaborate on the two

elements indicated above: interests and institutions. After theoretically discussing interests and institutions, within and by which the factors shaping the Saudi accession emerged, the chapter will spell out those factors that the thesis assumes contributed to the case. The chapter will end by giving a historical overview of Saudi Arabia and a brief discussion of its political economy. This is important because it will help to understand the application of theoretical concepts of state/society approaches to the Saudi accession case.

### **3.1 Society-Centred and State-Centred Approaches**

There are two main approaches that strive to explain the state's international behaviour. One focuses on societal elements. The other concentrates on the state (Bayne and Woolcock, 2003: 10).

The society-centred approaches argue that explanations of foreign economic policy are found in the on-going struggle for influence among domestic social forces or political groups. While there have been several variants of society-centred explanations, the variant that refers to those non-governmental domestic actors with a direct stake in the WTO accession, called interest groups in this thesis, is particularly dominant in the literature of foreign economic policy. The interest group within the society-centred approaches viewed policy as the outcome of a competitive struggle among affected groups for influence over a specific policy decision (Ikenberry *et al.* 1988: 7). The state is primarily viewed as an arena within which economic interest groups contend with one another to shape the making of policy. The state actions, in this regard, are explained by the interplay of such groups (Gabriel, 1988: 859). In McKeown's model for tariff policy, for instance, tariff policy was not treated as a function of governmental objective, but as a function of the constraints imposed on governmental decision-makers by the demands of actors in civil society (1984: 216).

This approach has mainly been criticised for overlooking the importance of the state in shaping foreign economic policy and the unexpectedness of an independent state action. As far as developing countries are concerned, there are concerns over the applicability of this approach where it is harder for groups to co-ordinate their activities and positions

than it is in the developed countries. The approach is also criticised for not reflecting the influence politicians have on the process of shaping policies (Sutton, 1999: 26).

The critique of society-centred approaches has emphasised the role of state institutions in shaping interest groups' ability to gain access to the policy arena (Ikenberry *et al.* 1988: 9). According to Petracca, a return to institutions is not only for the sake of clarity and precision, but also because they have important effects on shaping political beings and their behaviour (1990: 568). In this regard, in her article on the influence of ideas and institutions on American foreign trade policy, Goldstein contended that any assessment of trade policy would be incomplete without the consideration of state institutions (1988: 186).

The other approaches, then, have brought to the fore what society-centred approaches have overlooked. In her description of this attempt, Sutton stated that "*there was an effort to bring the state back in*" (1999: 26). The state-centred approaches, unlike the society-centred ones, did not accept that states can merely be pure agents and that policy outcomes are a function of political conflict shaped by the preferences of different actors in the society (Hall, 1993: 275). The state in the state-centred approaches is an institutional ensemble in its own right, independent of the society. For statist, according to Das, the autonomy of state stems from its specific interest by virtue of its insertion into an international state system and its unique responsibility for maintaining public order (1996). Generally, the central contention to theorists from these approaches is that the state has an important impact of its own on the nature of public policy and substantial independence from organised social interests (Hall, 1993: 275).

The state-centred approaches have, to a large extent, focused on the institutional structures of decision-making in foreign economic policy (Bayne and Woolcock, 2003: 29). As such, the state has primarily been conceived as an organisational structure, or as a set of laws and institutional arrangements. According to this view, institutions, once formed, tend to endure and are not susceptible to linear change.

In addition, another line of scrutiny has been developed within the state-centred approaches. Here, the state is conceived as an actor, and the immediate focus is on

politicians and administrators as autonomous in the policy process. An underlying presumption is that the preferences of politicians and administrators are, to a noticeable extent, distinct from the concerns of either societal groups or specific governmental institutions. Such preferences, according to this line of reasoning, are tied to the concept of 'national interest' (Ikenberry *et al.* 1988: 10).

In Hall's view, although state-centred approaches have offered a useful correction to the pluralist emphasis on the societal influence on public policy, they have occasionally been overstated. Thus, such approaches leave some questions unanswered about the motives of the state's actions if they are not the factors identified by society-centred approaches (1993: 275). The interests of influential societal actors like the business community cannot be neglected, as Kim pointed out. He indicated that contemporary works of theorists of state, such as Peter Evans, have focused on the ties between societal actors and institutions (Kim, 1999: 441-442).

Both approaches have their strengths and limitations. The state-centred approaches emerged as a corrective effort to the society-centred approaches' overemphasis on the influence of societal elements on foreign economic policy. By the same token, state-centred approaches themselves seemed to sometimes overstate the impact of the state. As some critics of statist pointed out that there cannot be a state for itself, a state which is not a partner of anyone (Das, 1996). The fact that societal elements could not be glossed over had led some statist, as indicated, to focus on the ties of both societal actors and governmental institutions (Kim, 1999: 441-443).

Thus, to avoid this artificial state-society dichotomy, it will be useful for this study to consider such ties by focusing on the interests and institutions that were closely involved in the Kingdom's accession. The fact that Saudi Arabia is a monarchy, which assumes an absolute power, implies that certain politicians or administrators, from the ruling family or close to it, had an important role in the country's accession to the WTO. This was important, as indicated, to state-centred approaches. Accordingly, in addition to institutions, the analytical framework of this study looks at the potentially influential roles of individual actors.

It is worth mentioning, in this connection, that the literature of international relations has largely focused on democratic states when examining the significance of domestic variables on economic foreign policy. More specifically, the focus has been on states where democracy has been well established and domestic actors have been well defined. Even where the literature has been generally discussing the topic, it reflected in its models and examples an assessment of democratic systems, such as referring to formal separation of powers, political parties, interest groups, labour unions, etc. (Milner, 1997; Hall, 1993; Ikenberry *et al.* 1988).

As far as this study is concerned, however, domestic variables can, in fact, also have effects in countries not commonly classified as democratic. This is reflected in the tangible effects of interests and institutions in such states as Saudi Arabia.

### **3.1.1 Interests**

The term 'interests' has sometimes been interchangeably used with the term 'preferences'. More often, however, a specific different meaning would be assigned to each term (Clark, 1998: 252). Milner, for instance, has perceived 'preferences' as being derived from 'interests' (1997: 33). This means that 'interests' are values, pecuniary or other, and 'preferences' are the strategies or policies designed to maximise those values. On the other hand, Clark has stated the opposite. In arguing for the applicability of rational choice theories, Clark pointed out that much of the criticism against them has been driven by confusion of the terms 'preferences' and 'interests'. Accordingly, he tried to disperse that confusion by pointing out that the former was about the dispositional trait of an actor or his ends, whilst the latter was about the strategies or means to secure those ends (1998: 252). In any event, this study will use the term 'interests' to refer to those non-governmental domestic actors with a direct stake, economic or other, in the WTO accession of Saudi Arabia, and their role.

In analysing the relations between changes in domestic interests and the responsiveness of formal institutions, Garrett and Lange stressed the importance of democracy. They suggested that democracy has been a pre-condition for economic pluralism (1995: 649). In other words, interests, which have been a chief element in the society-centred

approaches that draw heavily on pluralism, as explained earlier, would rather need a democratic system to operate tangibly. The reason for this mainly lies, according to Garrett and Lange, in the ease with which political incumbents in the government could be accessed, as in democracies (1995: 641).

Common political sense would tend to regard democracy as the most suitable set for any societal interests to plainly emerge. That can be seen, as mentioned, in the literature that – even when it generally discusses societal interests – would normally refer in its models and examples to interests that are officially active in democratic societies. Nonetheless, having a democracy as a pre-condition for pluralism, as Garrett and Lange stated, cannot be interpreted as if societal interests did not exist in non-democracies. Even though the dynamic of replacing government is absent, societal interests in non-democracies still have a channel through which they can exert some influence. In the case of Saudi Arabia’s WTO accession, for instance, it would be difficult to assume that no element in the society had any concerns about the accession, or that such an element would remain passive throughout the accession process, which officially lasted for years.

Irrespective of specific countries or regime types, foreign economic policy generally has domestic distributional consequences. This distributional effect is the primary reason that motivates societal interests to make an impact on the government’s foreign economic policies. In their effort to do so, they employ tools available to them. For instance, they contribute campaign funds and mobilise voters, but obviously only in a state with a democratic administrative arrangement. They could also serve as information providers to formal political actors, especially those in the legislating bodies of the government (Milner, 1997: 60-61). Depending on the culture of a society and its formal and informal political arrangements, different tools of exerting influence could be added in this respect. In Saudi Arabia, for instance, interest groups could make use of what will be discussed ahead, the *Majlis*, where they could directly reach the highest level of leadership in the country.<sup>15</sup>

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<sup>15</sup> *Majlis* is an Arabic word that in Saudi politics means “public audience”.



Societal interests are not usually homogeneous in their efforts to gain the support of policy-makers. The creation and goals of interests are primarily a function of the issue area. As Browne put it, “*interests define themselves in terms of carefully constructed issue niches*”, which are necessary, according to him, in lobbying a particular group or groups (1990: 477-478). In the case of an accession to the WTO, what sort of interests would one expect to be relevant?

The WTO has been the subject of a controversy concerning the limit of its jurisdictions (Bhagwati, 2001; Sally, 2003). Yet, there has been no doubt that economy in general, and trade in particular, have been the primary issues of this organization. Therefore, business communities in all countries would normally constitute the principal societal interest groups that would be involved in and concerned with the matter of those countries’ accession. Taking into account the nature of the domestic economy and the degree of its openness towards the global market, the business community in a given country would differ in its position towards international economic institutions such as the WTO, for example (Milner, 1997: 33-66).

The general purpose of the WTO is the expansion of international trade liberalisation. The decision to accede to the WTO is a matter of foreign economic policy that has distributional consequences. While normative economic theory advocates the aggregate benefit of trade liberalisation, its expected positive effect would normally be diffused to the extent that many might not even be aware of it. On the other hand, the negative consequences of liberalising trade are commonly concentrated and, thus, those whose interests were negatively affected have a stronger motive to endeavour to resist it (Coughlin *et al*, 2000; Oatley, 2006: 77). Accordingly, the business community in an acceding country could be divided with regard to the WTO accession into two broad categories: proponents and opponents.

Recent works on IPE have defined the two camps as being import-competing and export-oriented businesses, respectively. The former kind of business activity depended on the domestic market, and thus, would seek protection from foreign competition brought by trade liberalisation. The latter, on the other hand, would most likely welcome the WTO accession, as trade liberalisation can be expected to pave the way for

its business activities to reach new foreign markets (Mckeown, 1984; Milner, 1988: 15; Oatley, 2006). Because those who might be injured by liberalisation had a stronger motive to resist, it could be assumed that they would exercise more pressure on policy-makers for protection. In fact, as Coughlin *et al.* have pointed out, such a motivation could explain why protectionism endured in spite of the theoretical case for trade liberalisation (2000: 312). Nevertheless, the effect of each group would most likely be a function of the state of the acceding country's economy.

As established in Chapter One, investigating questions related to a WTO accession case, such as questions on the internal politics involved, would usually reveal some considerable particularities. This can be applied, *inter alia*, to the type of groups that might get involved in the issue of joining the multilateral trading system. A specific type will largely depend, as in the aforementioned example of the *Majlis*, on the specific accession case under examination. In fact, interests, as already indicated, are not always of a pecuniary nature. This will especially be true, as far as interests in the WTO accession are concerned, because the organization has indeed extended its rules and regulations beyond the limits of economic issues. It is why Bhagwati and Sally pointed out above that the WTO is controversial when it comes to the subjects it covers. Based on such a ground, this study will introduce in the following sections an interest group that is particular to the case of Saudi Arabia. That is the religious establishment.

In the aforesaid thesis's sub-hypotheses, Saudi Arabia has been legally and culturally governed by precepts of the Islamic religion, and because of which the expansion of the WTO into similar areas might have been, to some in the Kingdom, incompatible. Although possible contradictions between the WTO regulations and Islam could be thought of as an ideational or ideological matter, they will be treated here as a part of societal interests in Saudi Arabia arising from the existence of this religious establishment. The concept of ideology, according to Bawn, has generally been centred on people having preferences and opinions about issues in which they have no direct stake. Such opinions do not need to be driven by material interests (1999: 303-304). The religious establishment did have a specific interest. It was the aim, as it will be

explained in the following sections, to preserve the alliance between religion and politics in Saudi Arabia, as it was depicted in 1744.

### **3.1.2 Institutions**

As mentioned, institutions have primarily been the focus of the state-centred approaches. North has defined institutions as “*the humanly devised constraints that structure political, economic and social interaction*” (1991: 97). Likewise, there is the view that politics has conspicuously been influenced by the institutional structure within which politics occurred, or as March and Olsen claimed: “*political institutions define the framework within which politics takes place*” (1989: 16-18). In line with this conception, Knight indicated that social institutions relied on an array of social conventions, rules and norms that structured relations at the most basic level of society, such as affairs of family life, standards of behaviour among members of a community and transmission of social knowledge and information. Upon such informal conventions, according to Knight, a vast range of formal institutions organised and influenced economic and political life. For the purpose of deriving a working definition from this, Knight presented the common features of institutions:

*“First, an institution is a set of rules that structure social interactions in particular way. Second, for a set of rules to be an institution, knowledge of these rules must be shared by the members of the relevant community or society”* (1992: 1-2).

Such broad definitions have generally been agreed on in the area of treating institutions as structures. Structures do have a crucial impact on a country’s foreign policy in general, and foreign economic policy in particular. They, according to Hill, condition foreign policy-making (2003: 26). In his book “*Between Power and Plenty*”, Katzenstein studied the foreign economic policies to manage the terms of global interdependence in six different industrial countries. He observed, in the process, that foreign economic policies in industrial states, especially after the 1960s, had reflected their own different domestic structures. For instance, the federalism and decentralisation of the political and economic systems in the U.S. have affected its foreign economic policy in a way that is different from the governmental bureaucracy-business community

partnership style of Japan (1978: 297-313). Katzenstein's conclusion about the importance of domestic structures broadly agreed with Garrett and Lange's view of the significance of regime type with respect to how responsive foreign economic policy was to domestic preferences (1995: 632).

In addition to institutions being perceived as structures, some theorists thought of them as actors or agents who may formulate and pursue goals (Clark, 1998: 248). In light of the broad definitions introduced above, institutions could range from the rules of a constitutional order or the standard operating procedures of a bureaucracy to the conventions governing trade union behaviour or firm relations, which would allow, as some institutionalists did, an association of institutions with organisations (Hall and Taylor, 1996: 6-7). In this regard, Knight explained that whereas institutions were sets of rules, organisations were collective actors. According to him, however, some organisations had an internal structure or institutional framework governing the interactions of their members. Therefore, some collective entities could be conceptualised as both institutions and organisations, such as firms and governmental bureaucracies (1992: 3).

To March and Olsen, the argument that institutions could be treated as political actors was a claim of institutional coherence and autonomy. They thought that a claim of coherence would be necessary for an attempt to treat institutions as decision-makers. Pragmatically, March and Olsen pointed out, coherence of institutions varied, but was sometimes substantial enough to justify viewing a collectivity as acting coherently (1989: 17-18). In other words, March and Olsen did not deny the possibility of treating institutions as actors or agents. In fact, even Clark, who generally criticised the perception of assigning agency to institutions, did not, in principle, rule out the idea of attributing human agency to collectivities. His criticism was primarily about turning the state as a whole, as some structure-based institutionalists did, into an actor, as that would enhance the unconvincing conceptualisation of the state as a unitary actor (1998: 248).

For the purpose of this study, thinking of institutions as both structures and agents would be of benefit. To reflect on them as structures could provide a wider picture of the political context of the WTO accession of Saudi Arabia ,e.g., how has the framework of

power been shaped and how have political decisions been made? Interpreting institutions as actors or agents would allow for identifying the main formal actors who were directly involved in the accession issue, as well as analysing the interaction that took place among them throughout the years of the country's accession experience. In this respect, the fact that some theorists from state-centred approaches who conceived institutions as agents paid particular attention to politicians and administrators in the policy process would lead this study to examine the role of significant political individuals in the accession.

With regard to institutions as structures in the Saudi Arabian WTO accession case, the following sections of this chapter will look at the kind of domestic political structure that contributed as a factor in shaping the accession. It will consider the role of religion, which constitutes the country's highest law. In addition, the sub-sections ahead will examine the monarchy's influence as another structural factor. The assessment of structure will also explore some settings particular to Saudi Arabia, within which a significant part of domestic politics is enacted.

In terms of perceiving institutions as agents, as stated in discussing the theoretical perceptions of institutions, in addition to structures, would allow studying the main formal actors who were directly involved in the issue of WTO accession. In examining institutions, Milner stressed the relevance of four key powers for domestic players: "*the ability to initiate and set the agenda, to amend any proposed policy, to ratify or veto policy, and to propose public referendums*" (1997: 18). Milner treated institutions in her study as actors and focused mainly on the general governmental institutions, namely the executive and the legislature.

The four key powers of Milner are not universally applicable. Some countries, for instance, never experienced the practice of conducting referendums. Others might combine or subdivide the four powers identified by Milner into more or less actors than she did. As far as Saudi Arabia is concerned, the COM has combined the executive power and, to a great extent, the legislative power as well. The *Shura* (consultative council) established in 1992 has performed some parliamentary functions like conducting hearing sessions and ratifying treaties, but with no full enacting power.

In addition to the degree of concentration or diffusion of the four powers identified by Milner, there is no reason to think of formal actors exclusively as always being at that level of the general governmental powers, such as the executive and the legislature. As mentioned, Tsebelis claimed that the nature of an agent depended on the issue at hand. He further pointed out that that the number of actors varied broadly depending on the issue area (1995: 307-308).

As stated above, interests and institutions constitute the direct frame of reference for this study. After introducing them as concepts, the following sections will elaborate on the elements that they contained, as far as this study is concerned (e.g. business community, monarchy, COM, influential individuals etc.). Indeed, they and their interaction throughout the years of the study formed the main factors that are argued in this thesis to have shaped the Kingdom's WTO accession. Since the protracted Saudi accession process was not sealed off from the international context, the entire related factors will basically be divided into two main categories: internal and external.

## **3.2 Internal Factors**

The main hypothesis of this thesis is that the Saudi Arabian WTO accession resulted from a primarily domestic interplay. Hence, the internal factors constituted, in terms of number, the bulk of the factors shaping the accession of the Kingdom. They are elaborated in the following.

### **3.2.1 Business Community**

Trading is one of the ancient and respected activities in the Arabian Peninsula that predates Islam. Traditionally, traders exercised considerable influence in shaping leaders' policies that affected commercial activities. From the outset, King Abdul Aziz, Ibn Saud,<sup>16</sup> needed money for his military campaign and had to rely on several sources of income including foreign subsidies (i.e. Great Britain) and on the merchant community. Consequently, his realisation of the need to have a prosperous traders' community became a standard government practice, which helped traders acquire an important social and political status. The alliance between Ibn Saud and traders,

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<sup>16</sup> The last section in the Chapter will give a brief Saudi history including the founder, Abdul Aziz.

particularly those of the *Hejaz* region, was seen as a reinforcement for the Saudi state and was instrumental in structuring the modern Saudi Kingdom (Menoret, 2005: 94).

However, with the evolution of the oil sector and increased government revenues, the picture started to change when the king no longer depended on the traders' financial support. This impacted their influence on policy and decision-making for a while until the government was obliged by the dictates of its development plans to reinstate at least some of the traders' important old role. The development plans that began in the 1970s ushered in a transformation stage in Saudi society where traders slowly became businessmen and industrialists and the government gradually moved towards encouraging the growth and contributions of the private sector through government contracts and loan facilities. In fact, the government's developmental policy in the 1970s was to transform the predominantly tribal society through creating a middle class where the business community would constitute a major section (Islami, 1984:43-68; Wilson, 2004: 22). This was further enhanced by the trend that the development plans had taken. They generally copied the trend prevalent in most of the developing world during the 1970s and 1980s, which aimed at boosting import-substitution businesses (Muneef, 1994).

**Table 3-1: Development of Companies and Firms**

Over 1967-1976 in Saudi Arabia

| Year   | Saudi and Foreign Companies |         |        |       | Individual Firms |        |         |        |        |
|--------|-----------------------------|---------|--------|-------|------------------|--------|---------|--------|--------|
|        | Saudi                       | Foreign | Mixed* | Total | Rate %           | Saudi  | Foreign | Total  | Rate % |
| 1967   | 642                         | 40      | 73     | 755   |                  | 15663  | 1370    | 17033  |        |
| 1968   | 683                         | 41      | 84     | 808   | 7.0              | 17121  | 1463    | 18584  | 9.1    |
| 1969   | 710                         | 43      | 87     | 840   | 4.0              | 18420  | 1498    | 19918  | 7.2    |
| 1970   | 739                         | 44      | 95     | 878   | 4.5              | 19436  | 1514    | 20950  | 5.2    |
| 1971   | 766                         | 48      | 100    | 914   | 4.1              | 20948  | 1534    | 22482  | 7.3    |
| 1972   | 783                         | 49      | 110    | 942   | 3.1              | 21961  | 1719    | 23680  | 5.3    |
| 1973   | 814                         | 48      | 116    | 978   | 3.8              | 23662  | 1761    | 25423  | 7.4    |
| 1974   | 886                         | 51      | 132    | 1068  | 9.2              | 25659  | 17761   | 43420  | 70.8   |
| 1975   | 987                         | 53      | 160    | 1200  | 12.4             | 28172  | 1764    | 29936  | -31.1  |
| 1979   | 1188                        | 54      | 250    | 1492  | 24.3             | 34298  | 1762    | 36060  | 20.5   |
| Total  | 8198                        | 471     | 1207   | 9875  |                  | 225340 | 32146   | 257486 |        |
| Rate % | 83.0                        | 4.8     | 12.2   | 100.0 |                  | 87.5   | 12.5    | 100.0  |        |

\*Comprises Saudi and Foreign investments

Source: Central Department of Statistics and Information" Statistical Yearbook" 1970-1980

Mainly because of oil, the characterisation of a 'rentier' state has become the dominant paradigm in the study of Saudi Arabia's political economy (Hertog, 2006: 112). As this paradigm assumes that the political system is independent of its society and at the same time the sole distributor of oil wealth,<sup>17</sup> the welfare generated from that wealth becomes a source of the system's legitimacy (Huyette, 1985; Kechichian, 2001:86). According to

<sup>17</sup> A perception of the Saudi political economy in the literature will be discussed at the end of the Chapter.



Wilson, if a 'rentier' existed, it would typically seek to obtain a monopoly and look for protection by the private sector (2004: 8).

As it will be argued later in reviewing the perceptions of the Saudi political economy, this thesis does not take the 'rentier' paradigm at face value. It rather claims that interests and institutions in the state interact and mutually, but not necessarily equally, influence each other. In any event, however, whether it is a case of mutual influence between these elements, or a 'rentier' classification where supposedly not much interaction takes place, as is the dominant argument in the literature, the government would be attentive to what the business community thinks. In fact, the Saudi government in this case has generally accommodated the perspectives of businessmen and has occasionally yielded to their rejection of some of its policies as the one related to imposing income taxes on national businesses around the end of the 1980s.

What added to the influence of the business community in general was the concomitant trend of having important royal businesspersons. Prior to the oil boom, neither Abdul-Aziz nor his sons were involved in any business activities. However, when the central government began to take shape, the royal family was bound to benefit from available opportunities. Outside of government, many members of the ruling family established bases of power in the economic and social sub-systems (Glosemeyer, 2005: 218). As they played prominent roles both in the civil society and in the state, it was customary for some members of the family to hold audiences, receive petitions and have their own mini-courts to settle issues between citizens (Fandy, 1999: 35). Their status and easy access to the power structure of the government allowed princes overall to maintain a leverage that facilitated their business ventures particularly at the domestic level.

The government promoted the interest of the royal businesspersons through land grants, financing, and granting of contracts. The royal entrepreneurs, along with other businessmen, indeed managed at times to alter the COM decisions, as was the case in 1991, when the government withdrew its decision to implement several austerity measures such as eliminating subsidies and imposing income taxes (Sabri, 2001: 32-3). They also exerted their influence in their request for protection from foreign competition that resulted, for example, in imposing import restrictions, trade barriers and high tariffs

– which in turn created difficulties when the Kingdom was negotiating with the WTO (Anonymous, Interview, 06April2006).

All in all, the business community has been characterised as an ally of the political system that worked to have this community constituted the core of the middle class in the country. Assigning infrastructure projects gave the government the power of patronage over businesspersons, which in turn worked to enhance personal contacts (Champion, 2003: 88; Wilson, 2004: 16; Huyette, 1985: 32). Personal contacts helped big businesses to become the focus of government. They were able to secure more direct support in the form of governmental contracts, financial facilities and loans from specialised agencies such as the Saudi Industrial Development Fund (SIDF) (The Economist, 1997; Dr. M. Hasan, Interview, 27 April 2004; Arab News, 2004).

In addition, the great majority of business establishments in the Kingdom have been small or medium-sized enterprises (SMEs). According to the eighth development plan, SMEs accounted for about 93% of business firms in 2004. The wholesale and retail enterprises accounted for 48% of the total, with 14% of SMEs in agriculture, 13% in manufacturing, and 9% in services sector (Ministry of Economy and Planning, 2005: 122). Individuals owned about 94.8% of the commercially registered firms (Al-Hayat, 2004). The problem of such firms has been that their relatively limited capacities do not encourage high-level technology and professional management.

Approximately a year before the official accession to the WTO, the private sector's contributions to the GDP reached 43% of the total, albeit having been wholly dependent on the domestic market. For the last few decades, it concentrated on import substitutions to meet domestic demands rather than on export promotion (Arab news, 2004). Even with such a concentration, the private sector was not able fully to meet domestic demands, which led to a significant volume of goods and services being imported (CCTI, 2002), a trend that reflected the fact that the majority of firms in the Saudi economy were medium- and small-sized.

**Table 3-2: Contribution to the GDP by Sectors over 1970-2004**

(Value at Constant Prices 1999)

| <b>Year</b> | <b>Oil</b> | <b>Private</b> | <b>Government</b> | <b>Total (SR)</b> |
|-------------|------------|----------------|-------------------|-------------------|
| 1970        | 65.8       | 12.9           | 21.3              | 145037            |
| 1975        | 46.9       | 35.7           | 17.4              | 365829            |
| 1980        | 48.0       | 36.7           | 15.4              | 512403            |
| 1985        | 22.9       | 51.5           | 25.6              | 404685            |
| 1990        | 35.7       | 41.4           | 22.9              | 476225            |
| 1995        | 37.6       | 39.6           | 22.8              | 549963            |
| 2000        | 34.1       | 42.8           | 23.1              | 623237            |
| 2001        | 32.5       | 43.9           | 23.6              | 629265            |
| 2002        | 30.0       | 45.7           | 24.3              | 629772            |
| 2003        | 32.7       | 44.1           | 23.2              | 678183            |
| 2004        | 33.1       | 44.1           | 22.8              | 713899            |

Source: Saudi Monetary Agency "Forty Three Annual Report" 2007

Another feature of the business community has been the general tendency of making hasty deals with quick profits rather than long-term investment strategies. Hence, trade rather than industrial activities have particularly flourished. The wholesale and retail trades have become essential to a large number of businesses and given rise to the phenomenon of agency representation. Many businesses flourished because of their operation as sole agents/distributors (Wilson, 2004: 127; RCCI: 1997), which partially constituted an obstacle to joining the WTO and to economic progress (Arab News, 2004).

### 3.2.2 Religious Establishment

Another interest group that is particular to the case of Saudi Arabia is the religious establishment. How could the GATT/WTO accession attract the attention of such a group? As it will be discussed at the end of the chapter, Saudi Arabia is ideologically built on the religious-political alliance of 1744 between Muhammad bin Abdul-Wahhab and Muhammad bin Saud. This made it, as far as this research is concerned, a unique aspect in this accession case. The legacy of the mentioned alliance serves as a source of legitimacy for the rule of Saud's family to rule over the Arabian Peninsula (Islami, 1984: 7-8; Kechichian, 1986: 53). The religious establishment, as far as this thesis is concerned, consists of those who have an interest in preserving the religious-political alliance of 1744.

They are the group of religious clerics, or the *Ulama*. The *Ulama* is a plural Arabic word of which the singular is *Alim*. It is a title given to those who carefully studied, over the years, the *Qur'an* and the *Sunnah* and other sources of Islam so as to be able to establish laws and offer interpretation according to the religion's view (Kechichian, 1986: 55).

In the Saudi context, as the state has adopted *Wahhabism*<sup>18</sup> as the general official interpretation of religion, those scholars –the *Ulama*– who shared in their work of scholarship the legacy of the 1744 alliance became influential. The *Ulama* constituted no specific organisation, but spread in a variety of positions in official and social institutions such as ministries and authorities responsible for religious affairs, courts, universities and mosques. Individually, they held no equal status and influence. Certain of their members have, due to scholarship and social status, gained more weight and importance (Obaid, 1999).

Because the *Ulama* supervise the judiciary authority through bodies like the Higher Board of *Ulama* and the Ministry of Justice, as well as other reasons, they became responsible for observing compliance with the *Sharia* in the society, including in government policies. Thus, in theory the role of the *Ulama* as a whole is to help the

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<sup>18</sup>It will be defined in the last section of the Chapter.

king in his primary duty of applying the *Sharia*. It is after all a central source of the king's legitimacy, and the legitimacy of his family as a ruling family. No wonder, then, that their blessing was needed even in matters not directly related to religion such as the Saudi accession to the Vienna Conventions on Diplomatic and Consular Relations (Tamim, 1998: 430). Furthermore, their approval is occasionally sought in purely political issues, such as Fahd's decision to admit foreign troops into the Kingdom to help in the campaign against Iraq's invasion of Kuwait in 1990.

The WTO, as indicated, expanded in its jurisdictions to include domestic legal matters. In Saudi Arabia, this was basically the field of the *Ulama*. Accordingly, the latter was attentive to any advances from this organization. From its side, the government should have been sensitive, in this case, to what the *Ulama* might feel or say.

### **3.2.3 Domestic Sector Interests**

As will be explained in the examination of the phases, there were several important sectors that had an effect. However, two of them were decisive at particular moments in the process to the extent that they could make or break the deal. These were petrochemicals and services.

The petrochemical industry was designed to lead the industrialisation of Saudi Arabia. It was considered an industry that could utilise the comparative advantage of an energy-endowed country and was developed by joint ventures with foreign companies (Presely, 1984: 50). The most important entity in petrochemical industry has been SABIC, which was a joint venture between the government and multinational corporations including Mobil, Shell, Dow Chemicals and Mitsubishi. SABIC produced primary petrochemicals, fertilisers, iron and steel that provided precursor products or raw materials for most Saudi manufacturing industries. In addition, it processed the country's abundant gas reserves for domestic consumption and export purposes.

Although non-oil exports became important, exports of petrochemicals have accounted for about half the country's non-oil exports (Arab News, 2004). SABIC has been the dominant producer of these products (Arab News, 2004). This dominance is exemplified by the growth rate in SABIC's industrial cities of Jubail and Yanbu, which

was 4.16% in 2004, when the WTO accession negotiations were at an intensive stage, whereas the rate of growth in the non-oil sectors in different regions of the kingdom was only 1.7% (Asharq Al-Awsat, 2004).

**Table 3-3: Contribution of SABIC's Exports to Manufactured Non-oil Exports**

2000-2004

| <b>Year</b> | <b>Manufacturing Exports</b> | <b>SABIC Exports</b> | <b>SABIC/Total %</b> |
|-------------|------------------------------|----------------------|----------------------|
| 2000        | 22572                        | 14168                | 62.8                 |
| 2001        | 26596                        | 17558                | 66.0                 |
| 2002        | 28359                        | 18109                | 63.9                 |
| 2003        | 35720                        | 24274                | 68.0                 |
| 2004        | 47965                        | 24370                | 50.8                 |

Source: CDS, Statistical Yearbook, 2000-2004

As to services, during the period 1970-2005, the services sector had higher shares of the GDP, compared to sectors such as agriculture and manufacturing, ranging between 27 and 56% of the total. The services sector included the wholesale and retail trades, restaurants, hotels, transport, telecommunications, storage, finance, insurance and business services, community, social and personal and government-oriented services. In comparison, during the same period the manufacturing industry, construction, and agricultural sectors provided the GDP with rates between a minimum of 1.9% for agriculture and a maximum of 11.2% for manufacturing. The percentages indicate that the service sector received more benefits from revenues distributed through the national budgets, a trend that was mirrored in many oil-producing countries (Douglas, 1996).

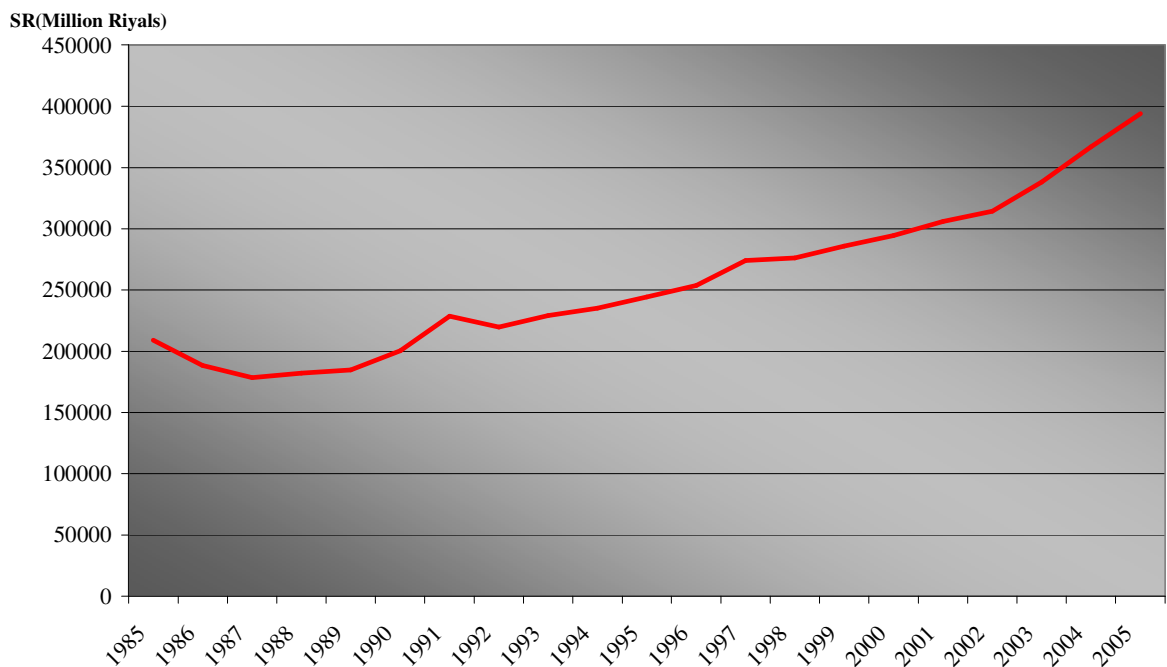
Services activities in foreign and domestic markets have usually been diverse and are generated by the public and private sectors. They comprise heterogeneous businesses that range from traditional retail trade practices to the most modern information technology business activities. In the last few years, these activities have been governed by the GATS.

According to GATS, the tradable or commercially traded services are divided into 12 groups consisting of business, financial and distribution services, environmental services, educational, cultural, sporting, health-related services, social services, tourism and many other miscellaneous services (International Trade Centre, 1995: 3-17). However, the main groups of services were further classified into 155 activities that covered a wide spectrum of services.

The services sector in the Kingdom has considerably expanded with the enlargement of the private sector. The majority of its activities are provided by the private sector, while some of them were achieved by public enterprises. For example, sea, air and inland transportation services were widely dominated by government enterprises, whilst private investments in educational services, health care services, and hospitality industries were usually supported by government measures like interest-free credits or charges.

Nevertheless, during the period 1985-2005, the sector contributed to the GDP at rates ranging between 34 and 59% as indicated by Table 3-4. The statistics in this diagram reveal a positive annual contribution for the sector and a marked increase since 1993.

**Figure 3-1: Trend of Services Output in Saudi Arabia over 1985 - 2005**



Banking and financial services were prominent among the services activities. Local and foreign currency transfers and trading were not restricted, although some types of commerce were completely restricted for native investors due to religious prohibition. Nonetheless, many reforms were introduced in this domain, particularly during the accession negotiations, which will be mentioned in upcoming chapters.

Government procurement played a significant role in wealth creation within the private sector, which became the main provider of supplies and services to government departments. In the oil sector, even though the up-stream and down-stream operations were run by ARAMCO, the government's giant corporation, construction and engineering services were largely provided by the private sector without any economic or managerial restrictions or barriers (Ministry of Economy and Planning, 2004).



**Table 3-4: Share of Service Sector to the GDP in Saudi Arabia**

Over 1985-2005(SR Million Saudi Riyals)

| Year | GDP     | Value (SR) | (+/-) % | % GDP |
|------|---------|------------|---------|-------|
| 1985 | 372408  | 208921     |         | 56.1  |
| 1986 | 318775  | 188404     | -9.8    | 59.1  |
| 1987 | 317478  | 178354     | -5.3    | 56.2  |
| 1988 | 322283  | 182175     | 2.1     | 56.5  |
| 1989 | 350325  | 184734     | 1.4     | 52.7  |
| 1990 | 430334  | 200413     | 8.5     | 46.6  |
| 1991 | 484853  | 228553     | 14.0    | 47.1  |
| 1992 | 501359  | 219778     | -3.8    | 43.8  |
| 1993 | 485630  | 229336     | 4.3     | 47.2  |
| 1994 | 494766  | 234986     | 2.5     | 47.5  |
| 1995 | 526004  | 244313     | 4.0     | 46.4  |
| 1996 | 581873  | 253676     | 3.8     | 43.6  |
| 1997 | 608802  | 274038     | 8.0     | 45.0  |
| 1998 | 536635  | 276124     | 0.8     | 51.5  |
| 1999 | 593955  | 285875     | 3.5     | 48.1  |
| 2000 | 697007  | 294438     | 3.0     | 42.2  |
| 2001 | 679163  | 305878     | 3.9     | 45.0  |
| 2002 | 699680  | 314351     | 2.8     | 44.9  |
| 2003 | 796561  | 337966     | 7.5     | 42.4  |
| 2004 | 929946  | 366866     | 8.6     | 39.5  |
| 2005 | 1150627 | 393898     | 7.4     | 34.2  |

Source: SAMA, *Ibid*

### 3.2.4 Religion

This factor belongs to the concept of institutions as structure. Religion is different, in this aspect, from the religious establishment introduced in the preceding section. Herein, it refers to Islam, the religion, not to the group of the *Ulama*. The main sources of Islam are the *Qur'an*<sup>19</sup> and the *Sunnah*.<sup>20</sup> As both contain various principles relating to the social, economic and political life of individuals and communities, Islam can be

<sup>19</sup> Literally, this means “the recitation”. Muslims believe the Qur’an to be the verbal book of divine guidance and direction for mankind, and consider the original Arabic verbal text to be the final revelation of God.

<sup>20</sup> This is an Arabic word that means “habit” or “usual practice”. The Muslim usage of this term refers to the sayings and living habits of Prophet Muhammad (PBUH).

considered to constitute the main structure for those individuals and communities that proclaim adherence to it.

In its proclaimed adoption of Islam as the paramount institution, the Kingdom embraced the *Hanbali* school of *Fiqh*, or religious law, within Islam. The choice was not accidental. The *Hanbali* jurisprudence was the school that Muhammad bin Abdul-Wahhab had studied, and on which he had drawn for his interpretation of Islam, which is known as *Wahhabism*, as it will be indicated in the final section of this chapter.

The *Hanbali* jurisprudence is considered very strict and conservative, especially in terms of social codes. However, it allows a large margin of freedom in economic issues. *Hanbali*, like other Islamic jurisprudences, recognises and upholds the individual's right to private ownership. At the same time, however, the *Hanbali* stands out among other schools in arguing that if private ownership endangers public interest, then the state can limit the amount an individual is allowed to own. Related to this is an essential element of this school of Islamic thought, which grants an important status to the consent of the community (Hammad, Interview, 28 January 2009). One important form of this, according to current *Wahhabi* doctrine, is rendering obedience to the leader of the community, the king and his government.

Reverting to sacred texts as institutions that direct life was not solely a decision taken by the Saudi leadership; there have been, as some argued, more reasons to it. First, it was the absence of colonialism from the history of Saudi Arabia. Second, there was a strong sense of identification between religion and general social conventions (Doumato, 1992: 3).

### **3.2.5 Monarchy**

Like religion, monarchy is considered in its structural nature in this study. Scholars like Joseph Kechichian noted that the political system of Saudi Arabia has in large part been concentrated on the monarchy (2001). This was particularly true when the Kingdom was first established in 1932 and in the following decades. With almost no written rules, Ibn Saud was an absolute monarch around whom the whole system revolved (Al-Rasheed, 2002: 108).

After securing authority, Ibn Saud put in motion a gradual programme of building the Kingdom and its government apparatus. By the time of his death in 1953, the Kingdom exhibited more political stability. One of the major acts by Ibn Saud was his decree that the king was the highest authority in the land. He was bound only by the *Shariah* (Suweaigh, 1992: 31).

Such an absolute monarchy was plainly evident during the reign of King Faisal as well (1964-1975). He had at his disposal vast amounts of money generated by the huge surge in oil prices following the 1973 Arab-Israeli war. One of the primary measures adopted by Faisal was the amendment of the cabinet system, which anchored the role of the monarchy. The amendment decreed that the king was also the prime minister, and sessions of the COM were held only when he or his deputy chaired them. Decisions may not be executed until they were signed by the king (Dahlan, 1984: 126, 204-9). In short, under Faisal, the monarchy gained a firm grip on the Kingdom's internal and external affairs.

The monarchy's central role in the Saudi political system has been accompanied by the influential position of the extended number of the ruling family's members. They would usually hold certain essential government posts, some of which have been exclusively reserved for them like the ministries of foreign affairs, defence and the interior. The ruling family members, especially the seniors among them, provide important support to legitimise the king's selection as well as his policies and actions (Quandt, 1981: 77).

The power of monarchy did not noticeably change after Faisal died in 1975. However, power within the monarchy itself changed. It became more diffused (Quandt, 1981: 79). A collective leadership developed among the sons of the founder Abdul-Aziz (Glosemeyer, 2005: 219). The situation became clearer during Fahd's reign, and especially when he fell ill in the mid-1990s. Thus, princes like Abdullah (the current king), Sultan (the current crown prince), and Nayif (the current second deputy prime minister and minister of the interior) bolstered their own power base (Glosemeyer, 2005: 219).<sup>21</sup> One of the main features of this is to have senior princes, like those mentioned,

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<sup>21</sup> Sultan and Nayif have recently died and Salman became the current crown prince.

becoming sponsors or mentors of particular policies or projects. Abdullah, for instance, sponsored opening the gas sector in the Kingdom to foreign investment. Sultan supervised the progress of the Saudi relations with the Kingdom's southern neighbour, Yemen. Nayif was charged with the project called 'Saudisation' for nationalising the workforce in the Kingdom.

Because of the political and economic effects of the Second Gulf War in Kuwait in 1991, the Kingdom experienced domestic division over the government's decision to invite foreign forces into the country, coupled with intermittent violence and debate about the way the state was ruled. However, the question of whether to abolish the monarchy was not really raised. What was sought was reform even if it was not plainly described at the time as such (Kechichian, 1993: 39-45; Al-Rasheed, 2005: 164-171). In addition, these calls for better governance found support abroad, particularly in the U.S. (EIU, 2000: 6; Heradstveit and Haveem, 2003: 42). Amidst such events, Fahd on 2 March 1992 introduced a reform initiative through royal decrees embodying three laws, namely: the Basic Law of Governance (BLG), the Law of the *Shura* and the Law of the Provinces (Niblock, 2006: 104).

In fact, since the establishment in 1932, the Kingdom had occasionally discussed the lack of a formal constitution for the state. Some of the Saudi leaders sympathised with this issue to varying degrees, depending when the question was posed. Where the pressure was less, they would commonly argue that there was no need to have such a formal document. Their pretext would usually be the argument that the country was, in fact, guided by a sacred text: the holy *Qur'an*.<sup>22</sup>

### **3.2.6 Basic Law of Governance**

As law is generally a structure, the BLG belongs in the same sphere as the previous two factors belong: to the realm of institutions. It is similar to the constitutions known in many other countries. Article 5-b of the BLG states that the dynastic succession is to

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<sup>22</sup>The founder of Saudi Arabia, Ibn Saud, used to say that his constitution, law, system and banner were Islam (see Dr. Al Traiki: 42{Arabic}). When he ascended to the throne in 1964, King Faisal announced a ten-point programme for reform. The first of these was the promise to write a constitution for the country. This did not happen.

remain in Abdul Aziz's sons and their male offspring, and the monarch is to be selected by consent of the ruling family. Article 44 specifies the main branches of government as the judiciary, the executive and the regulatory. The judiciary is, according to Article 46, an independent authority. Judges are under no external control in the dispensation of their duties except the precepts of *Shariah*. The appointment of judges and termination of their services is subject to royal decree, as specified in Article 52 (Saudi Embassy-Washington, 2011).

The executive authority is mainly composed of the king and the COM. As head of this authority, the king is assisted, according to Article 56 of the BLG, by members of the COM in directing the internal and external affairs and in the organisation and coordination of functions among government agencies. As noted in Article 57-b, the king appoints and dismisses the COM members, including his deputies, by royal decree. In this, the COM members are jointly and severally accountable to the king for implementing the Islamic *Shariah*, the statutes and regulations, and the general policy of the state (Saudi Embassy-Washington, 2011).

The regulatory authority, according to Article 67 of the BLG, is entrusted with drafting statutes and regulations that achieve and protect the public interest in accordance with the *Shariah*. It exercises its functions in conformity with the BLG and the rules of the COM. However, upon closer examination, it seems that the BLG did not specify whether this authority was an exclusively legislative body. Rather, it purposely kept the text vague even when elaborating on its legislative functions. Additionally, if avoidance of calling this authority a legislative body could evade sensitivities over its secular designation as the 'legislative branch of government', the fact remains that this authority is not an independent government body. In reality, it comes under the COM, which assumes the main regulator authority in the Kingdom in addition to its responsibility as an executive authority.

The reform that the BLG represented, as indicated above, was carefully designed in a way that would make it seem to be a positive response to public demands. However, it maintained at the same time the status quo as far as the monarchy was concerned. For example, the BLG emphasised the importance of the monarchy and assured that it

remained in the hands of the descendants of Abdul-Aziz. Monarchs were given a great deal of executive power by virtue of presiding over the COM, which exercises executive power in addition to the legislative one.

From a different perspective, it could be observed as well that the BLG has consolidated the status of monarchy. It was, for the first time in Saudi Arabia, a man-made legislation. In this, it reflected a modern state with executive, legislative (though not named as such) and judiciary branches of government. In a way, the BLG added a secular political imprint that solidified the old political-religious legitimacy of the monarchy.

### **3.2.7 The *Majlis***

This is an informal institutional setting within which an important portion of the Saudi politics takes place. It is at the heart of the Saudi political structure (Al-Saud, 2000). It is where two fundamental concepts to Saudi politics operate: consensus-building and consultation. The absolute power of the leadership represented by the king is restrained, as mentioned, by the *Shariah*. In addition, the tradition of taking major decisions has, over the history of the country, been to work out a consensus and display a united front to the outside world. Consensus is particularly important for rulers whose reigns, according to the political system in place, are indefinite. In order to create such a consensus, there has traditionally been a need to engage in consultation. Consultation would usually be conducted with those of influential status like senior princes, the *Ulama*, tribal leaders, technocrats and leading businessmen.

The *Majlis* is the framework where consensus and consultation take place. The tradition of the *Majlis* is one of the time-honoured principles in the Kingdom. However, the degree of a group's involvement in policy-making through this frame varies according to the personality of the king and his style of handling internal and external affairs. As mentioned, after Faisal, who felt less need to consult, the power was held by a collective leadership.

The term *Majlis* refers to open courts where high-ranking officials met directly with ordinary citizens. Such a traditional right to meet with people in charge includes those

on the top of the pyramid of authority like the king and the crown prince themselves. The *Majlis* is considered, at least by those in the government, to be a major pillar in the Saudi political system and one that has no equivalent entity in any other country (Al-Saud, 2000: 135-137).

The history of the *Majlis* in the Saudi politics goes back as far as the first Saudi state (1744-1818). It is a vehicle, in the Saudi point of view, for direct interaction between the official and unofficial circles. Hence, it is a unique means for Saudi citizens to take part in a process of political participation, allowing them to introduce their problems and concerns directly to decision-makers, including the monarch, and received, in many cases, direct and prompt response even if it was at a tentative level (Al-Saud, 2002: 159).

The procedures of the *Majlis* are rather simple. The *Majlis* may take place in the royal court, the crown prince's court or the courts of the different provinces' governors, who are usually princes from the ruling family. The most important *Majlis*, of course, is the one attended by the king and then the crown prince. The king usually meets twice a week in a court of 5000 square feet with a large number of people representing a cross-section of society, and has a weekly diner with his citizens. He also has weekly private meetings with the religious scholars, the *Ulama*. In the *Majlis*, different subjects are introduced. Mainly, they relate to subjects of an immediate concern to the audience including subjects of exclusively individual interest. Sometimes, however, subjects of a larger interest may also be introduced, such as issues of political nature (Al-Saud, 2000: 135-165).

Writers like Al-Saud and Huyette have argued that the *Majlis* is a democratic means unique to Saudi Arabia (2000; 1985). This is largely also how the Saudi political system conceives of itself as well (Al-Saud, 2000: 135-163). On the other hand, some have denied the quality of democracy to this Saudi entity. Al-Rasheed claims that the Saudi rulers mainly use the conduct of the *Majlis* as an exhibition of power where citizens can witness the magnitude of their ruling family, including its wealth and authority. She argues that the exhibition of power through the *Majlis* was important from the early days of the current third Saudi state. According to her, Ibn Saud felt the need to continue

displaying his power before his subjects after the campaign of establishing his rule had come to an end in 1932. As she puts it, “*When military campaigns ceased, the Majlis became the stage on which the drama of power was acted for the populace to see*” (2002: 80-86).

Quandt agrees that the *Majlis* constitutes one of the few means of assessing public sentiment in Saudi society. To him, however, the *Majlis* is not a forum for discussing constitutional reform or limits on the power of the ruling family. In other words, it does not have the same functions as similar institutions in democratic settings. Quandt merely views the *Majlis* as an Arabic traditional channel for the redress of specific individual grievances and bringing personal problems directly to the attention of rulers (1981: 92).

The nature and work of the *Majlis* would seem to support the position of those who deny the *Majlis* has democratic quality. First, the *Majlis* is an informal entity and, as such, there is no formal rule that the points discussed in them must be translated into rules and regulations, as is the case with parliamentary assemblies in democracies. Second, and perhaps no less important, the subjects raised in the *Majlis* are usually concerned with individual matters, which do not become issues of collective concern to the society as whole, especially not issues of a political nature.

### **3.2.8 Concerned Formal Agents**

As established earlier, institutions discussed in this thesis can be of a structural and agency nature. The agents, as far as the study is concerned, are the formal bodies that were closely involved in the country’s WTO accession process that are listed in Chapter One: the COM, HMC, MC, and SNT. The bulk of the official accession effort was largely confined, throughout the years, to the work of these four actors and their members. Another important institution was the *Shura*. Although not closely involved, it has, according to the BLG, the right, along with the COM, to ratify international agreements like the country’s WTO accession.

The COM is the primary body that is led by the king and helps the king in the formulation and implementation of domestic and international policies. The COM has a



clear responsibility in dealing with international treaties and agreements, and its approval is mandatory before a relevant royal decree is issued (Bin Baz, 1996: 202-3; ICL, 1993). In addition to being headed by the king, the power of the members of the COM stems from the political, legislative and administrative roles they play (Assaf, 1982:103).

It is composed of a multitude of ministries. Some experts classify them into five categories based on their significance and weight in decision-making (Khashuggy, 2002). The most important ones, described as the sovereign ministries, are the ministries of defence, the interior, foreign affairs and justice. The first three ministries are always reserved for members of the ruling family. As for the Justice Ministry, the post is usually reserved for a member of the *Al-Sheik* family, the offspring of Muhammad bin Abdul-Wahhab. The second in terms of importance are those involved in production and services such as the ministries of petroleum, commerce, health and education.

In her historical study on the COM, Huyette (1985) argued that the history of the COM indicated that foreign policy in Saudi Arabia was strictly the prerogative of the king and his closest private circle. Nonetheless, the personality of the king has been crucial. As Lackner (1978) pointed out, the monarch's personality defines the manner in which the work of politics in the Kingdom is conducted. The Saudi WTO accession process was influenced by two different kings: Fahd and Abdullah.

In any event, the COM came to play a major role in the Saudi accession to the WTO since it was empowered to decide on issues such as the country's trade policies and tariffs on goods and services. Furthermore, since the COM can collectively deal with treaties and agreements (ICL, 1993), it had the ultimate say concerning WTO membership, as well as the right to steer some existing committees in that direction or establish new ones to deal with the accession process.

The HMC was established in 1999, by a decision of the COM, to "*follow up all decisions, policies and rules followed in the international trading system*" for the purpose of securing maximum benefit of WTO membership (COM, 1999). It was

chaired by the minister of the interior, the highest figure in rank after the king and the crown prince, to deal with the issue of accession, and that was mainly the reason, as far as this study is concerned, to refer to this committee as the 'Higher Committee'.<sup>23</sup> Its establishment in 1999 came approximately six years after Saudi Arabia's official application to GATT/WTO in 1993, and around the end of the second phase of the Kingdom's accession process. According to the argument above, this phase experienced an increase in the influence of economic factors, but political factors were also at work. The latter worked as precautionary elements, and the make-up of the HMC reflected that: it consisted of the Ministry of the Interior (MOI), the Ministry of Justice (MOJ), the MC's members and three ministers of state.

The MC was established prior to the start of the accession process to study international economic problems in general and submit recommendations about them to the COM (COM, 1983). For this, it was normal to refer in 1988 the application candidate to GATT, during the first phase of the accession process, to this committee to submit the appropriate recommendation (Ministry of Commerce, [ca. 2000]). From that point onwards, the MC became the most important actor in terms of the degree of involvement with the issue of accession. Among the features of this involvement was the direct supervision of the SNT.

The composition of the MC was generally an auxiliary factor for the aim of joining the WTO. It was chaired by Prince Saud Al-Faisal, the minister of foreign affairs (MOFA), by virtue of the COM's decision establishing the MC. He can be classified as a clear WTO advocate. Equally important, the minister was also a senior member of the ruling family, a position that normally carries special weight.<sup>24</sup> The rest of the MC members were ministries of direct concern with the country's economy, and they were more or less pro-WTO largely by virtue of the fact that most of its members held high educational degrees from Western universities. In addition to MOFA, the following ministries were members of the MC: the Ministry of Commerce (MOC), the Ministry of

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<sup>23</sup> Along with interior portfolio, the minister's position was upgraded as he became the second premier as well before he died in 2012.

<sup>24</sup> In her study of the development of the Saudi COM, Huyette emphasised the power gained from having an access to the king and crown prince. Normally, princes and especially the senior ones among them have better access to such figures than others in the public.

Finance and National Economy (MFNE)<sup>25</sup>, the Ministry of Industry and Electricity (MIE)<sup>26</sup>, the Ministry of Petroleum and Mineral Resources (MPMR), the Ministry of Planning (MOP) and the Ministry of Agriculture (MOA).<sup>27</sup>

The SNT consisted of representatives from the ministries in the MC. In its works, the SNT was supervised by the MC, and was chaired by the Minister of Commerce after the conversion of the application from the GATT to WTO<sup>28</sup> (MOC, 1989; COM, 1992). It was incumbent upon this team to conduct the actual multilateral and bilateral WTO negotiations (MOC, 1997). Nonetheless, this team had only limited latitude to make decisions.

As to the *Shura*, the BLG introduced a consultative body whose members and chairman were selected by the king. The *Shura*, which had 60 members when announced, was expanded twice since then, to 90 members in 1997 and to 150 members in 2009. The *Shura* was expected to serve the public interest, and to protect the unity of the nation and the structure of the state (MOFA, (2011) [www.mofa.gov.sa](http://www.mofa.gov.sa)). Its consultative nature required that its members have a high level of education, expertise and knowledge. Therefore, its composition expanded the ruling class circle as it incorporated members who are scholars, academics, professionals, businessmen and economists, as well as mass communication experts outside the religious *Ulama*. With this step, the Kingdom gave a new weight to the opinion of technocrats.

The legislative and political roles of the *Shura* were exemplified by its right to express its views on the public policy of the COM (MOFA, (2011) [www.mofa.gov.sa](http://www.mofa.gov.sa)). Laws, decrees, international treaties, agreements and privileges are to be issued or amended by royal decrees only after being studied by the *Shura*. This body also has the right to interpret laws and examine reports referred to by the ministries and other government

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<sup>25</sup> In a cabinet reshuffle, the ministry of Finance and National Economy was renamed the Ministry of Finance as economic responsibilities were transferred to the Ministry of Planning, which subsequently became the Ministry of Economy and Planning.

<sup>26</sup> In a cabinet reshuffle, the MIE was integrated with the MOC to become the Ministry of Commerce and Industry.

<sup>27</sup> To avoid confusion, the thesis's abbreviations will not be affected by the re-structuring of the ministries.

<sup>28</sup> Until the conversion took place in 1995, the responsibility of the accession was attached to the MFNE and its minister.

agencies (Al-Rasheed, 2005: 173). Its resolutions are submitted to the prime minister i.e. the king, who refers them to the COM. If the views of the *Shura* and the COM coincide, a royal approval is issued. If the views diverge, they will be referred to the king for a decision (Al-Farsy, 2004: 51).

According to Bulloch, the basic power of the *Shura* rests on its authority to summon ministers for questioning. The *Shura* also has the right to consider the Kingdom's relations with other states and organisations, which means that foreign affairs form an important sector in its domain having the right to deal with related issues and matters (Bulloch, 1993: 6-16). By extension, this included the country's WTO accession.

### **3.2.9 Role of Individuals**

There were some important figures whose engagement and non-engagement played a role in shaping the Saudi accession. It is indicated in the discussion above about state-centred approaches that there has been a trend of focus developed within these approaches, which directly concentrates on the role of politicians and administrators as autonomous in the policy process. Although the country is not a unitary entity, as explained, the fact that the monarchy in Saudi Arabia maintains absolute authority would lead one to assume that some of its members could significantly influence the accession process. In some instances, their roles were of a passive nature. In this, not performing a role also created an impact, though not a positive one as far as the accession was concerned. Specifically, the main figures that actively shaped this process were the following:

**King Fahd:** He was the king and prime minister from 1982-2005. In other words, he was the head of state throughout the years of the Saudi WTO accession except for the last few months before the accession. Unlike Faisal, Fahd was in favour of delegating more authority to the members of his cabinet, the ministers (Huyette, 1984: 165-166). Fahd suffered from poor health from 1995 until his death in 2005. Thus, he had to leave much of the day-to-day running of government affairs to the crown prince (EIU, 2003: 10).

**King Abdullah:** He was the crown prince during Fahd's reign and commander of the National Guard since 1962. As heir apparent, he was the first premier to the prime minister, the king. In that capacity, he would head the COM in the king's absence, which became frequent due to the latter's health condition. Over the years, as the second man, Abdullah gained popularity on account of his probity and tendency to distance himself from the West. When he became more in charge of the daily affairs of the country due to the illness of Fahd, Abdullah was behind the establishment of several governmental entities such as Higher Economic Council, of which he became the chairperson. Politically, he backed Saudi Arabia's Middle East peace proposal put forward in early 2002 (EIU, 2003: 10), which later became known as the Arab peace initiative. In general, he took particular interest in advancing the country's economy through reform.

**Prince Nayif<sup>29</sup>:** He was the head of the HMC. Nayif held the interior portfolio, including responsibility for internal security, since 1975. He was in charge of 'Saudisation', which is a governmental policy for replacing the Kingdom's foreign workforce with a local workforce, as unemployment was growing critical. Nayif was usually portrayed as being less enthusiastic for reform than Abdullah (EIU, 2003: 11).

**Prince Saud Al-Faisal:** He is the minister of foreign affairs and the head of the MC. He has been favourably disposed towards foreign involvement in the Kingdom's economy, which meant that he was generally pro-WTO.

**Osama Faqeeh:** He is the former minister of commerce. Faqeeh assumed his responsibilities in 1995, the year when the Saudi government transferred responsibility for GATT from the MFNE to the MOC, and when it converted the GATT application into an accession request to the WTO. Faqeeh was part of the accession experience during most of the first phase and the entire of the second one.

**Hashim Yamani:** He was the minister of industry before becoming the minister of commerce and industry in the cabinet reshuffle referred to in footnote 26. Thus, he was a member of the MC. In 2003, when he was appointed minister of commerce and

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<sup>29</sup>See footnote 21.

industry, he replaced Faqeeh as the person directly responsible for the country's accession to the WTO. In 2003, the Saudi government resumed its accession negotiation after a pause. Yamani supervised the accession file until the official accession in 2005.

### **3.3 External Factors**

The fact that it is home to Makkah and Madinah, the two most holy places for Muslims, first exposed Saudi Arabia to the outside world. However, such an exposure was mainly confined to the Arab and Islamic world. The discovery of oil in 1938 brought a wider global exposure. Although oil has been the bedrock of the domestic economy, it has also been the factor that made international trade indispensable for Saudi Arabia. It has been the major factor that connected the Kingdom to the world economy, with concomitant political developments.

#### **3.3.1 Oil**

Oil has mostly been the financial engine of Saudi economy and the main source of the country's export revenues. It is the main reason why some classify the Kingdom as a 'rentier' state as far as political economy is concerned. According to Douglas, since the oil boom of the 1970s, in the country's natural resources have supported huge spending by the government, in which the latter became an intermediary between oil and other sectors of the economy. As such, the government was the prime distributor of oil revenues with the aim of stimulating the country's macro-economy (1996).

Saudi oil revenues have dramatically increased since the 1970s, and so have the allocations for national budgets. Table 3-5 showed total oil export revenues increased from about 11 billion Saudi Riyals (SR; equivalent to US\$2.9 billion) in 1970 to SR 654.3 billion (US\$174.7 billion) in 2005, which increased 59-fold between 1970 and 2005, while the contribution from oil revenues to the public budget stood between 78 and 90 percent of the total revenues of the budget from 1970 to 2005.

**Table 3-5: Oil Export Revenues and Oil Contribution to Public Budget Revenues (SR million)**

1970-2005

| Year | Oil Export Revenues | Budget Revenue | Revenue Sources |      |       |      |
|------|---------------------|----------------|-----------------|------|-------|------|
|      |                     |                | Oil             | %    | Other | %    |
| 1970 | 10907               | 7940           | 7122            | 89.7 | 818   | 10.3 |
| 1975 | 104412              | 103384         | 93481           | 90.4 | 93481 | 9.6  |
| 1980 | 362886              | 348100         | 319305          | 91.7 | 28795 | 8.3  |
| 1985 | 99536               | 133565         | 88425           | 66.2 | 45140 | 33.8 |
| 1990 | 166339              | 316639         | 246297          | 77.8 | 70342 | 22.2 |
| 2000 | 290553              | 258065         | 214424          | 83.1 | 43641 | 16.9 |
| 2001 | 254898              | 228159         | 183915          | 80.6 | 44244 | 19.4 |
| 2002 | 271741              | 213000         | 166100          | 78.0 | 46900 | 22.0 |
| 2003 | 349664              | 293000         | 231000          | 78.8 | 62000 | 21.2 |
| 2004 | 472491              | 392291         | 330000          | 84.1 | 62291 | 15.9 |
| 2005 | 654372              | 555000         | 491000          | 88.5 | 64000 | 11.5 |

Source: Ministry of Economy and Planning "Achievements of Development Plans: Fact Sheet", 23<sup>rd</sup> Edition, 2006

It should be noted here that one of the characteristics of dependence on oil as the main source of income is the exposure of oil-producing states to external price shocks. According to Hausmann and Rigobon (2002), oil price volatility has a noticeable impact on the economic performance of the country. They argued that a 1 percent standard deviation of oil prices represents about 6 percent shock of the GDP for a country when 20 percent of its GDP revenues are oil-based.

Oil price fluctuation and market stability have been the main issues of the Saudi oil policy, which adopted a flexible pricing measurement to keep Saudi oil products competitive, to enable production capacity to cope with the global demand for oil and to meet oil shortages in the market to maintain the stability of the world oil markets (Ministry of Planning, 2005). In other words, oil was a major reason for Saudi Arabia to open a window in its relations with the outside world.

### **3.3.1.1 Oil and the World**

Crude oil is the single most important commodity in the economic life of industrialised and industrialising countries. Its relative abundance, cheap prices, multiple usage and easy transportability made this resource a valuable asset in meeting energy needs for the development of economic sectors in any state. Accordingly the dependence on oil varied among states and across regions (Barrell and Pomerantz, 2004). Oil has been an incentive for domination of the Middle East, an instrument for prestige and economic power, and a bridge between the global economy and the national economies of oil producers.

Data from Table 3-6 shows the extent of oil dependence of many regional groupings. Taking the OECD as an example, the table illustrates that oil consumption of member countries ranged between 42 and 49 million barrels per day, which constituted around 60% of the world oil demand in the period 1991-2004. OECD group consumption was followed by the Asian countries and China, while Africa, the Middle East, and other European countries had lower levels of demand for oil.



**Table 3-6: World Oil Demand Since 1991**

(in million barrels per day)

| Region<br>Country | 1991        |            | 1995        |            | 2000        |            | 2001        |            | 2002        |            | 2003        |            | 2004        |            | 2005        |            |
|-------------------|-------------|------------|-------------|------------|-------------|------------|-------------|------------|-------------|------------|-------------|------------|-------------|------------|-------------|------------|
|                   | *Q          | %          | *Q          | %          | *Q          | %          | *Q          | %          | *Q          | %          | *Q          | %          | *Q          | %          | *Q          | %          |
| <b>OECD</b>       | 41.9        | 62.6       | 44.6        | 63.7       | 47.9        | 62.6       | 47.9        | 62.1       | 47.9        | 61.6       | 48.6        | 61.3       | 49.3        | 59.8       | 49.5        | 59.2       |
| <b>FSU**</b>      | 8.1         | 12.1       | 4.4         | 6.3        | 3.7         | 4.8        | 3.7         | 4.8        | 3.5         | 4.5        | 3.6         | 4.5        | 3.8         | 4.6        | 3.8         | 4.5        |
| <b>Europe</b>     | 0.7         | 0.1        | 0.6         | 0.9        | 0.6         | 0.8        | 0.7         | 0.9        | 0.7         | 0.9        | 0.7         | 0.9        | 0.7         | 0.8        | 0.7         | 0.8        |
| <b>China</b>      | 2.5         | 3.7        | 3.3         | 4.7        | 4.3         | 5.6        | 4.7         | 6.1        | 5.0         | 6.4        | 5.6         | 7.1        | 6.5         | 7.9        | 6.6         | 7.9        |
| <b>Asia</b>       | 4.6         | 6.9        | 6.1         | 8.7        | 7.5         | 9.8        | 7.7         | 10.0       | 8.0         | 10.3       | 8.1         | 10.2       | 8.6         | 10.4       | 8.8         | 10.5       |
| <b>L.America</b>  | 3.6         | 5.3        | 4.3         | 6.1        | 4.8         | 6.3        | 4.8         | 6.2        | 4.8         | 6.2        | 4.7         | 5.9        | 5.0         | 6.1        | 5.1         | 6.1        |
| <b>Mid. East</b>  | 3.6         | 5.3        | 4.4         | 6.3        | 4.9         | 6.4        | 5.1         | 6.6        | 5.3         | 6.8        | 5.4         | 6.8        | 5.8         | 7.0        | 6.1         | 7.3        |
| <b>Africa</b>     | 2.0         | 3.0        | 2.2         | 3.1        | 2.5         | 3.3        | 2.5         | 3.2        | 2.7         | 3.5        | 2.7         | 3.4        | 2.8         | 3.4        | 2.9         | 4.7        |
| <b>Total</b>      | <b>67.0</b> | <b>100</b> | <b>70.0</b> | <b>100</b> | <b>76.5</b> | <b>100</b> | <b>77.1</b> | <b>100</b> | <b>77.8</b> | <b>100</b> | <b>79.3</b> | <b>100</b> | <b>82.5</b> | <b>100</b> | <b>83.6</b> | <b>100</b> |

Source: International Energy Agency (IEA), August 2006, Autumnal Statistics Supplement for 2005.

\* Q= Quantity

\*\* FSU= Former Soviet Union

Oil is also vital to the producing countries. In addition to being a critical source for this product, the Kingdom was the main market stabiliser and swing producer. Saudi Arabia provided the world with over 10% of its total oil needs in 2005 and 2007 respectively, according to the statistics of the US Department of Energy (DOE). During the same time frame, the Kingdom also accounted for 20% of the world's oil reserves, which was equivalent to 262 billion barrels (DOE, 2007).

### 3.3.1.2 Oil and Relations with the U.S.

Announcing a U.S. plan to sell to Saudi Arabia a significant defence package in 2010, U.S. Assistant Secretary of Defence, Alexander Vershbow, commended the Kingdom's decision: *"to continue to strategically align itself with the United States"* (U.S.

Department of State, 2010). Such a statement summarised, in a way, the relationship between the two countries. It has been strategic and continual. In fact, it has been often described in the literature on Saudi Arabia as 'special relationship'.

In addition to have been instrumental throughout the years of this relationship, oil historically marked its start. Throughout his military and political campaign, Ibn Saud constantly strived to prevent British hegemony in the region and to maintain his independence from foreign influence, as Saudi Arabia represented perhaps the only country that had kept its independence after the First World War. A couple of years after the Kingdom had been founded, some American oil companies approached him seeking oil concessions. Unlike Great Britain, the U.S. did not have a colonial history in the area and was encouraged to pursue its interests in the Gulf region behind commercial activities. The request provided the king with an opportunity to play off this new emerging power against the influential British for the sake of preserving his nation's independence. Thus, the Kingdom duly granted the American companies the main oil concession in the country in the 1930s (Noreng, 2006: 58).

In return, and as it was in the middle of the WWII, those companies, which merged and named their subsidiary in Saudi Arabia in 1944 ARAMCO, called upon the U.S. administration to take active role in preserving the security and stability of Saudi Arabia and the region. Relations between the two countries soon developed beyond the mere royalties paid for the concessions. After all, the Saudi oil represented the first exclusive domain for the U.S. oil companies in the region (Noreng, 2006: 62). For what that had increasingly proved strategically, President Franklin D. Roosevelt announced in 1943 that defending Saudi Arabia was vital to American interests (Al-Hayat, 2003). Emphasised this was the acknowledgement of the president's secretary of state, Cordell Hull, that countries like Saudi Arabia became through the demand of WWII a central area in the conduct of American foreign relations after being relatively neglected for a century and a half (Bronson, 2006: 20). In fact, authors such as Rodriguez (2006) and Citino (2002) have argued that reconstruction of Europe after the WWII depended on the flow of oil from Saudi Arabia, a fact that also enhanced its position among the world's oil producers.

Thus, the aforementioned ‘special relationship’ between the Kingdom and the new superpower began to emerge and was further cemented by a following meeting, after the announcement of the essentiality of defending Saudi Arabia, in 1945 between Roosevelt and Ibn Saud aboard an American destroyer in the Suez Canal (Al-Hayat, 2003). The meeting laid the ground for the two countries’ bilateral alliance. In a way, it became a mark for the commencement of the American close political involvement in the region as a whole.<sup>30</sup> Though never been formalised, it has been widely acknowledged that this alliance was built, as it came in the meeting, on the equation of ‘oil for security’. According to Lippman, such a general perception about the nature of the U.S. and the Kingdom’s alliance has extrapolated from subsequent events, as every U.S. president since Harry Truman has undertaken one commitment or another to Saudi Arabia that collectively added up to the same arrangement, ‘oil for security’ (2012: 252).

This equation, ensuring oil supply for providing protection, is basically representing what each party wanted from the other. This, however, was to quickly ramified to include other strategic dimensions. For a large part of the history of their relationship, a significant portion of the global interests of the two was defined by the Cold War. Saudi Arabia’s political identity has very much been identified with religion. This made of the Kingdom a natural ally to the U.S. in its global struggle with the old Soviet Union throughout the Cold War era.

After Truman, who wrote once to Ibn Saud saying that “*No threat to your Kingdom could occur which would not be a matter of immediate concern to the United States*” (Wikipedia, 2012), President Dwight Eisenhower fully realised the importance of the Saudi religious aspect and he would deploy it (Citino, 2002), as mainly did other following American presidents, in the fight against communism. The Saudi king was the only leader in the Middle East who would receive letters from Eisenhower that highlighted the shared interests of combating communism. In the letters, the president would usually stress the phrase: the “godless communism”. Further, Eisenhower

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<sup>30</sup> In a speech at the American University in Cairo in June 2005, former U.S. Secretary of State, Condoleezza Rice indicated that the American engagement with the region for the sake of stability and democracy started 60 years ago. In fact, the year 2005 marked the 60<sup>th</sup> anniversary of the meeting between Roosevelt and Ibn Saud. Available at [www.arabist.net](http://www.arabist.net), accessed 15/11/2012.

administration began looking to the Saudi king, King Saud at the time who is the son of the founder Ibn Saud, to develop an ideological alternative to Pan-Arabism led by President Nasser of Egypt, which swept the Arab world during the 1950s and 1960s with Soviet-leaning and anti-western disposition endangering, in the process, Saudi Arabia and other Arab conservative monarchs with strong ties with the west. The U.S. administration tried to use the Saudi king's clout as the guardian of the Islamic holy cities in countering this Arab nationalism movement led by Nasser (Bronson, 2006: 45-74).

When John Kennedy became president, he started his early years in office with a little tilt towards regimes like the one of Nasser. Kennedy came with a strong emphasis on supporting modernising states in the Middle East and beyond. By doing this, the president was trying to engage rather than oppose the developing world's nationalists and reformers, as he was of the opinion that nationalism and communism were not interchangeable and that nationalism could serve as a positive force for development. What it could not have been anticipated with such a start was that by the end of Kennedy's tenure, the U.S. would be strongly backing Saudi Arabia against Egypt. The change happened, as the latter crossed the American red line of protecting the territorial integrity of Saudi Arabia and bombed the Saudi side along the border with Yemen during the Saudi-Egyptian standoff over the kind of political system to rule in that country, which attracted the attention of both: the U.S. and the Soviet Union (Bronson, 2006:78-87). Having considered the protection of Saudi Arabia a red line, as did the Kennedy administration in spite of its early favourable attitude towards Nasser's Egypt, emphasised the aforesaid argument of Lippman that every U.S. president has undertaken one commitment or another in relation to preserving the security of Saudi Arabia.

More than the support it had received from Kennedy, Saudi Arabia became a reliable U.S. partner under the presidency of Lyndon Johnson in the struggle against both Nasser and communism. However, during the time of Richard Nixon in office, the bilateral relationship would experience a sort of a fluctuation. It would slide to a low point, perhaps the lowest up to the time, only to rise again to a very high one.

The U.S. oil imports from Saudi Arabia totalled \$13.5 million in 1970, rose sixfold in 1971 to \$76.8 million, and surpassed \$79 million in the first six months of 1972. By autumn 1973, the Kingdom would be ‘the swing producer’ for the entire world. As they were negotiating an increase in their share of their oil assets that it was still under the concession of the American oil company, ARAMCO, the Saudis, led at the time by King Faisal, warned ARAMCO executives with extreme urgency that the Nixon administration should take notice of rising tensions in the Middle East. Intelligence reports were coming out warning that an imminent war might break out between the Arabs and the Israelis over the issue of the occupation of Arab lands. The king wanted ARAMCO’s executives to convey to the American government that he was under enormous pressure from other Arabs to turn the Kingdom’s oil resources against Israel and its friends. What he called for, in this regard, was a more balanced U.S. foreign policy in the Middle East. The king’s calls went unheeded, the war broke out on October 6, 1973. On October 20, Saudi Arabia sharply responded to the airlift of American weapons and supplies to Israel by ending all shipments of oil to the U.S. (Cooper, 2011: 79-123).

The Americans explored all possibilities including a show of force to restore at least the perception of American power in the Gulf area in light of the simultaneous Soviets probing at the periphery in Southeast Asia. However, priority was to diplomacy. The Nixon administration including Secretary of State, Henry Kissinger, showed an understanding that Saudi Arabia in order to “*survive in this kind of world*” it had to be sometimes more radical than the radicals of the region. A breakthrough to the stalemate came when Faisal conveyed a message that the Kingdom would like to ease the embargo if a peace conference on the Middle East is agreed. Further, he quietly allowed deliveries of fuel to the U.S. navy as a gesture of goodwill. He was convinced now that Nixon, who had assured the Saudi ambassador in Washington that he was the first president since Eisenhower who had no commitment to the Jewish community, was committed to finding a negotiated settlement to the Arab-Israeli conflict (Cooper, 2011: 128-155).

Moreover, taking into account its by far longer term oil capacity than other producers and facing at the same time a constant challenge from shah Iran to increase oil prices, Nixon offered the Kingdom, at the direct level of the U.S.-Saudi relations, the equivalent of a grand bargain to end the embargo and start new chapter in the relationship. The offer was to sign an economic and military co-operation agreement that guaranteed American support for Saudi Arabia in return for uninterrupted oil supplies (EIU, 2003: 4-5). This was like an American re-emphasis on the 'special relations' between the two countries. Perhaps, this agreement represented the first comprehensive written arrangement that virtually, if not literally, embodied the equation of the U.S.-Saudi relations, 'oil for security'.

The Saudis loved the offer. Kissinger said that they were "*in fact so wildly enthusiastic*" about it (Cooper, 2011: 158). Accordingly, oil started to be released in March 1974 and the abovementioned agreement was signed during summer of the same year (EIU, 2003: 3-4). It was not long before the agreement began to be materialised. Saudi Arabia started to play the leading role in OPEC and defied the tendency of Iran and other members to increase oil price. For this, President Gerald Ford expressed his relief and gratitude to King Khalid who succeeded Faisal in 1975 (Cooper, 2011: 362-363).

The events of the war, the embargo and the signing of the military and economic agreement, reflected at the end the strategic importance of each party to the other. To the U.S., Saudi Arabia was the only country that could boost oil production so that oil prices could be held at internationally affordable rate. On the contrary was its ally across the Gulf, the shah of Iran. With much less production capacity, the shah was persistently arguing for his need for a high oil price.

As to Saudi Arabia, it was from the beginning under neighbourly pressure to take a stand in the face of the U.S, as the U.S administration had noticed. However, Faisal himself was all along convinced that the U.S. friendship was vital to his country. For instance, he instructed his government during the negotiations with ARAMCO over the share of the Kingdom's oil assets to protect not only Saudi Arabia's interests, but also ARMCO's. The king, in fact, recognised that Saudi Arabia could not independently

produce its own oil, globally distribute it, defend its own interests and to continue modernise without outside assistance (Bronson, 2006: 82).

The question is why it had to be the U.S. in seeking that kind of assistance. Apart from its global technological superiority that is important in developing the oilfields and modernising the country, the U.S.-Saudi relationship began to take shape, as mentioned, amid a bi-polar system caused by the Cold War. The experience showed that most states, even those members to the Non-Align Movement, had to lean on one of the two: the U.S. or the Soviet Union. It was clear that the Soviet Union did not represent a natural party, with which Saudi Arabia would form an alliance because of the Kingdom's religious identity. The experience also showed that the consecutive leaders of Saudi Arabia had developed a perception of the necessity of the U.S. friendship. The growing oil wealth of the country, according to some observers, increased the vulnerability of its political system and pressured the leadership to seek U.S. protection (Al-Rasheed, 2005: 51-52). In addition to the aforementioned example of Faisal and the negotiations with ARAMCO, Fahd, minister of interior at the time, was stunned by the American airlift to Israel during the 1973 war. It was said that he told his security officers that that was why we, in Saudi Arabia, need to maintain close relations with the U.S. It was, according to him, the only one capable of saving us in this manner should we ever be at risk (Bronson, 2006: 118).

As the 1970s was ending, the Cold War inflamed. The Soviet Union invaded Afghanistan and became close to the oilfields in the Gulf. President Jimmy Carter made a use of force threat. In his State of the Union Address in January 23, 1980, Carter said *"Let our position be absolutely clear: An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States"* (Wikipedia, 2012). In displaying force, he sent U.S. fighter jets to Saudi Arabia, which had already been concerned about the revolution in Iran (Sylvester, 2008: 20).

After Carter, the Soviets encountered a new American president with a tougher stand on how to direct the American foreign policy of containing the Soviet Union (Beshenich, 1999: 25-27). Ronald Reagan not only wanted to contain the Soviets, but also to reverse

the expansion of their control and military presence throughout the world. His director of the Central Intelligence Agency (CIA), Bill Casey, realised that achieving Reagan's goal would need finance. Understanding that it was a natural ally in the battle against the "godless communism", Casey saw a real possibility of Saudi assistance in this regard (Simpson, 2006: 68-69). Indeed, the ownership of ARAMCO was completely transferred, around the arrival of Reagan, to Saudi Arabia with what it meant financially. As an indication to the importance that Reagan administration attached to this dimension, Reagan and his team planned to strengthen existing ties with the Saudi government since the presidential transition period from Carter to Reagan and before the latter even resided the White House (Beshenich, 1999: 28). Although it was mainly in a covert manner, the mutual U.S.-Saudi co-operation, in this regard, went to a higher level during Reagan-Fahd era. It transcended the limits of the Middle East to reach very far. The famous issue of the Saudi funding of the Contra rebels against the Sandinistas regime in Nicaragua was a case in point (Simpson, 2006: 113-122).

The co-operation of Saudi Arabia was vital to the American Cold War victory in the beginning of the 1990s. In addition to funding rebel forces against the Soviets in countries such as Afghanistan, Nicaragua and Angola, the manipulation of the global oil price was just another important way in which Saudi Arabia supported Reagan and the U.S. during the 1980s. The partnership between Reagan administration and the Kingdom set the scene for subsequent co-operative policies (Simpson, 2006: 112-113). Such co-operation reached, perhaps, its highest in the history of the relationship between the two countries during the time of President George H. Bush. It was during the operations of the 'Desert Shield' when more than five hundred thousand U.S. troops stationed in the eastern part of Saudi Arabia to expel, with the assistance of the Kingdom and a coalition of many other different countries, the Iraqi troops from Kuwait in 1991.

The Kingdom, which according to this study contemplated the decision of acceding to the WTO between 1985 and 1993, could have used this high level of co-operation with the U.S. during Bush administration to secure an easy accession. However, it did not. When it did, the new President, Bill Clinton, was not willing to give it a leeway, as far as the WTO accession process was concerned.



This will be discussed later in the chapters along with the related events that took place during President George W. Bush's tenure. Over the years, however, the U.S-Saudi alliance had shown, up to the time of Phase Three (2001-2005) of this study, a general sustainability. Though of a substantial effect, the two countries did not allow issues like the Arab-Israeli conflict to ruin that alliance. In this, they largely kept the equation of 'oil for security' in place. The U.S. undertook the largest troops' deployment since the WWII to protect the borders of Saudi Arabia in 1990.

On the part of Saudi Arabia, Quandt (1982) argued that the alliance of the two influenced the adoption of Saudi oil policies that were consistent with American interests. In this, Saudi Arabia made it its oil foreign policy to seek moderate oil prices. It generally opposed during the 1970s, 1980s and beyond the desire of other OPEC members for high prices (Al-Yousef, 1998; Farhan, 2003).

Production was the other face of the coin of the Saudi oil policy. In an assurance to keep up with its obligations with respect to production, Saudi Oil Minister Ali Al-Naimi (2006) pointed out that Saudi Arabia's readily available capacity had eased the supply shortfalls during many events including the Iranian revolution in 1979, the Iran-Iraq War in the 1980s, Iraq's invasion of Kuwait in 1990 and the Venezuelan strikes of 2002. The examples presented by the minister had, in fact, enhanced Saudi Arabia's role as the oil world market stabiliser. They represented a proof that the Kingdom could secure oil supplies in spite of any adverse circumstances engulfing the region.

### **3.4 Historical Overview and Political Economy's Perceptions**

This section can be divided into two sub-sections. The first will provide a concise historical-political and economic background. The second will shortly discuss how the Saudi political economy is viewed in the literature.

#### **3.4.1 Historical Backdrop**

The current Kingdom of Saudi Arabia (KSA) was officially proclaimed in 1932. It is an Arab state where Islam constitutes the basic rules and guides its political and socio-

economic life. The Kingdom is the third consecutive state established in the Arabian Peninsula by the Al-Saud family, the ruling family, since the middle of the 18<sup>th</sup> century.

The first Saudi state was established in 1744 by Muhammad ibn Saud, a tribal chieftain who was the ruler of a small town called *Ad-Dar'iyah*, in the plateau of *Najd* in central Arabia. The first state was the culmination of a strong alliance between the tribal chieftain and a religious reformer named Muhammad ibn Abdul-Wahhab. Ibn Abdul-Wahhab advocated a return to the teachings and practices of early Muslims and the abandonment of what he saw as a multitude of non-Islamic practices. Under the alliance, Ibn Abdul-Wahhab promised to support Muhammad ibn Saud as a ruler of the people and lands. In return, Muhammad ibn Saud committed himself to the religious reforming movement and pledged support for Ibn Abdul-Wahhab and his preaching (Al-Aqili, 1980: 36). This political-religious accord set the stage for the ruler of *Ad-Dar'iyah* to expand his domain and with it the propagation of Islamic reforms, widely known as *Wahhabi* doctrine,<sup>31</sup> throughout Arabia (Al-Farsy, 2004: 13-21).

The alliance of Muhammad ibn Saud and Ibn Abdul-Wahhab led the Saudi forces in 1803 to conquer the *Hejaz* province, in the west of the peninsula, including the two holy cities of *Makkah* and *Madina*. The peninsula at the time was generally under the rule of the Ottoman Empire, which however was unable to fully control it (Dahlan, 1887: 228-9). Disturbed by the turn of events, the Ottomans asked their strong ruler of Egypt, Muhammad Ali, to fight off the Saudi state and force it out of *Hejaz*. In 1818, the army of Muhammad Ali defeated and destroyed the Saudi state and its capital, *Ad-Dar'iyah* (Sha'fi, 1995: 26-30).

In 1824, the Al-Saud family undertook several steps to re-establish its state despite the Egyptian and Ottoman presence. By 1830, Turki bin Abdullah Al-Saud was successful in his bid to reclaim much of the *Najd* plateau by evicting Muhammad Ali's forces, and thus the second Saudi state was born. Although adhering to the same principles, the

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<sup>31</sup> The terms *Wahhabi* and *Wahhabism* are used here only because of the wide international familiarity with the terms and their association in the historical and political literature, in general, with Saudi Arabia. However, the usage herein does not have the same connotation as that in the West, in particular, which links the terms to fanaticism and extremism. The true message of Sheikh ibn Abdul-Wahhab was for the people to adhere to the basic principles of Islam.

second state did not overtly use *Wahhabism* as an impetus to extend its authority over other parts of the Arabian Peninsula for fear of antagonising the Egyptians who were still in the *Hejaz*. In the 1860s, conflict erupted within Al-Saud, which gave the strong rival family of *Al-Rashid* an opportunity to occupy the former's capital of Riyadh and expel Al-Saud's leaders, who took refuge in Kuwait in 1892 (Al-Rasheed, 2002: 23-5).

The third and current Saudi state, the Kingdom, was established by prominent Al-Saud family leader Abdul-Aziz bin Abdul-Rahman, better known as Ibn Saud, who waged military campaigns between 1902 and 1932. The mixture of the *Wahhabi* doctrine and Al-Saud's role in propagating and defending it proved to be an effective basis for securing loyalty and support, and a powerful means for uniting tribes and families in one religious grouping (Gold and Conant, 2002: 35-36; Kechichian, 2001: 3).

As far as economics is concerned, oil has largely been as influential in Saudi history and politics as religion. With it, the Kingdom experienced a tremendous physical transformation. The infrastructure built through oil rents had the effect of integrating the economic life of different parts of the country. Before the discovery of oil in 1938, the state mostly sustained itself by the *Hajj*<sup>32</sup> and by extracting taxes, duties and fees from the population. Nonetheless, the general structure of the economy had been fragmented, with different regions living off specific resources and a variety of activities. For instance, the *Hejaz* depended chiefly on the provision of services to pilgrims travelling to the holy cities, whereas a plantation economy that grew dates and other cash crops dominated the eastern province of *Al Ahsa* (<http://countrystudies.us/saudi>; Champion, 2003:9).

In addition to integrating the economy domestically, the discovery of oil exposed the Kingdom to external interests. The earlier contacts were with Britain, which held a dominant position in the Gulf sheikdoms on the borders of Saudi Arabia. Ibn Saud, however, opted in 1933 to award a concession to an American oil company because it was bargaining on a commercial basis with little political involvement (Gold and Conant, 2002: 4-39). The concession eventually developed into a partnership represented

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<sup>32</sup> The annual Muslim pilgrimage to Makkah.

by the Arabian American Oil Co. (ARAMCO), which became Saudi Aramco in 1980 with a 100% Saudi ownership.

### **3.4.2 Perceptions of Political Economy**

As is clear from the historical overview, religion has been essential for the Saudi state. Oil, as well, has been as important in affecting the life and wellbeing of the society. Probably, no study that has ever dealt with Saudi Arabia can skip discussing these two prominent elements. The difference lies usually in the approaches.

Because of the peculiarity of Saudi Arabia, in the sense that its political beliefs emerged virtually intact from an earlier colonial era, a useful approach to understand the country is through examining its culture, as followed by some scholars such as Huyette. Islam has dictated culture and political norms in Saudi Arabia, according to Huyette. In her view, the impact of Islam may have been more forceful in the Kingdom than in any other state. Thus, she argued that it was very important to examine the beliefs and values of people when studying Saudi Arabia. Moreover, her examination of the cultural system revealed that religion did not impede the process of modernising the country (Huyette, 1985: 5-128).

The cultural approach adopted by Huyette partially fell into one of the theoretical categories that Fandy claimed was dominant in Middle Eastern and Arab studies. According to Fandy, modernisation theory has had a considerable weight in studying the Middle East and the Arab world. The theory presented modernity and tradition as opposing poles on a universal development spectrum. Progress in the theory's viewpoint meant a leap from the pole of tradition to that of modernity. In the process of such a move, obstacles like religious forces must be overcome (Fandy, 1999: 14-15). Huyette, as indicated, did not share this conclusion. She thought that the Saudi political system, which is based on Islam, was responding to people's demands and meeting their expectations (Huyette, 1985: 5-128).

In his study of the Saudi political economy in the 1980s, Islami viewed Saudi Arabia as culturally traditional with weak institutions and considerable personalisation in running the affairs of the state. However, Islami likewise did not consider religion to be an

obstacle to state-building efforts in Saudi Arabia. Generally, as reflected in Fandy's discussion, the theory of modernisation has considered religion to be part of societal traditions and hence an obstacle to modernisation. In Islami's account of the Kingdom's political economy, religion played an essential role as an ideology by which the political system could unite the country by transcending in its legitimacy the traditional tribal association. In other words, religion was a progressing step to an old traditional political practice of tribal legitimisation (Islami, 1984: 5-14).

The cultural approach has been helpful in explaining Saudi Arabia. However, a sole focus on culture could mislead theorising the country. For instance, in the case of Saudi Arabia, the cultural approach usually focused on the religious aspects or on what made the Kingdom culturally distinctive. At times, that was inadequate in analysing the country and portrayed it as if it was isolated from other influential internal and external elements. Occasionally, the approach also implied that the Kingdom shared no common experience with others. In her historical assessment of the Saudi political economy, for example, Lackner regarded Saudi Arabia as a unique country to the extent that relevant analysis could not fit into any pre-conceived model of development. She pointed, for example, to the status of women and their exclusion from the labour force due to cultural reasons.<sup>33</sup> Furthermore, Lackner saw in religion, as it was interpreted and applied by fundamentalist *Wahhabi* advocates, an opposing force to the modernisation of the country (Lackner, 1978: 40-74).

Another example in this respect was Chaudhry. In her work, *The Price of Wealth*, she argued that Saudi Arabia before the oil boom in the 1970s had been a closed society with a preserved culture. This could partially be attributed to the fact that at the time of establishing the state, Saudi Arabia was free from foreign rule and influence. Consequently, it developed its economic administrative agencies in relative isolation (Chaudhry, 1997). This meant that exogenous factors were almost absent or at least neutral.

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<sup>33</sup> Currently, the situation of women in the Saudi labour market is quite different from the time of Lackner's writing.

According to Menoret, the Islamic discourse on Saudi Arabia could not be taken at face value. To him, the focus on religion alone when studying the Kingdom could not explain everything about the country, for religion as seen through the prism of *Wahhabism* was conflated with traditions. He also stated that various Islamist movements had recently expressed their abhorrence of the Saudi state for its excessive materialism and pragmatism to the degree that the regime had lost its religious legitimacy. Menoret also claimed that the religious discourse on Saudi Arabia considered *Wahhabism* to have been immobile ever since the pact of 1744, which meant that Saudi culture and politics could be seen as an historical essence involving the alliance between the temporal and the spiritual powers. This approach, according to Menoret, was misleading, as the relation between the two in contemporary Saudi Arabia has been suppressive and exploiting the latter in favour of the former (Menoret, 2005: 5-61).

As mentioned above, religion, as part of culture, has been influential in the discourse of Saudi Arabia. As also indicated, oil has equally been influential in that discourse. The beginning of the oil era in 1938 and the subsequent oil boom in the 1970s had enormous impacts on the Saudi political, social and economic life. Theoretically, however, the oil experience placed the Kingdom in the paradigm of what came to be known in the literature of IPE as a 'rentier' economy.

The theory of the 'rentier' state is a composite of correlated ideas pertaining to the nature of states in economies dominated by external rent. In a broad sense, the theory defines 'rentier' states as those receiving substantial amounts of external economic rent on a regular basis. Although all mono-producers could be described as having 'rentier' economies, the writings of 'rentier' theorists have focused on oil-exporting countries. There are some characteristics that must be present in order for a state to be classified as 'rentier': the rent volume should dominate the economy, origin of the rent must be external, only few are engaged in the generation of rent, while the majority are involved in its distribution. In addition to this, the government should be the principal recipient of the rent (Douglas, 1996: 11-22).

Because of the characteristics above, Wilson pointed out that Saudi Arabia has often been referred to as a classic example of a country with a 'rentier' economy (2004: 8). With the oil boom in the 1970s, the Kingdom relied almost exclusively on revenues received from the extraction and export of oil. This gave rise to terms like 'oil rents'. Such rents have been generated outside the domestic economy and were paid directly to the government. Because the extraction and export of this resource has been a narrowly defined process that required little domestic development and production, only a small minority of the population have been involved in it (Champion, 2003: 9).

This 'rentier' character, as Krimly pointed out, suggested that the Saudi state enjoyed almost an ideal condition for state autonomy. He further explained that the work of the 'rentier' theorists implied an economic dichotomy in the oil 'rentier' states because that the state became independent of the population (Krimly, 1993: 11-66). This is an important political aspect of 'rentier' economies in general. The oil money strengthened the state and created a distinctive political system based on the centrality of petroleum revenues within the state. The abundance brought by oil led the Gulf states in particular to abandon direct tax collection, which in reality reduced the need for these states to prove their legitimacy to the population (Heradstveit and Haveem, 2003: 12).

In a recent study, 'rentier' theorist Luciani argued that the paramount role of the oil-producing states including Saudi Arabia and the considerable autonomy with respect to their societies is a fundamentally valid approach. He also claimed that Saudi Arabia remained a 'rentier' state that enjoyed almost total fiscal independence and was able to engage in distributive politics to ensure political support. However, the Kingdom's development process simultaneously allowed the development of a strong private sector. This private sector eventually reached a stage where it became autonomous from the state itself. Although Saudi business leaders, in Luciani's view, continued to value proximity to the government, they did not accept that their success was exclusively due to their link to it (Luciani, 2006: 144-157).

For Hertog, state-society links and interaction in Saudi Arabia have become more complex than the assumption of state autonomy, which the 'rentier' paradigm suggested. He argued that the distributional system of the Saudi state reached a breaking point with

each budget crisis particularly during the 1980s and 1990s. As such, pressures to reform Saudi economic structures were indeed mounting. Yet, the outcomes were not translated into significant systemic or political reforms. In fact, the uneven results of reform indicated that some economic reform projects, for instance, were either implemented in a highly partial fashion or not at all, which suggests that stakes were created but the process gave veto power to a variety of groups in society (Hertog, 2006: 111-113-143).

Luciani's acknowledgment of the growing strength of the Kingdom's business groups, and Hertog's argument about the existence of a veto power for groups in Saudi society converged with what Krimly had elaborated. Krimly pointed out that the central position of the 'rentier' state in the example of Saudi Arabia suggested that the state enjoyed a high degree of internal autonomy. Nonetheless, he still rejected the dichotomy between the state and society while emphasising their inter-penetration and inter-twining (Krimly, 1993: 5-6).

Each of the arguments above has a case in point and can partially explain the political economy in Saudi Arabia. The discussion above illustrated that religion, representing traditions, and oil, representing modernism by introducing modern technology to the country, remained pivotal. However, they alone cannot fully explain decisions made or policies enacted by the government, as some experts in Saudi affairs suggested (Niblock, 1982: 75; Menoret, 2005: 60-61).

Previewing the perceptions of the Saudi political economy in the literature will contribute to the understanding of how politics and economics worked in Saudi Arabia. The points made by Luciani and Hertog were important. Although Luciani argued that the 'rentier' paradigm is valid as far as Saudi Arabia was concerned, he simultaneously acknowledged the increasing role of the private sector. Such a role substantially supports the suggestion of Hertog that the Kingdom was growing more complex and stakes were created which concurrently gave veto power to a variety of groups in the society. However, Hertog went too far in suggesting that the 'rentier' model for Saudi Arabia was a thing of the past.



Hertog studied the political economy of Saudi Arabia a little further with an application to its WTO accession. He aimed at understanding the nature of domestic-international linkages in the Saudi political economy. In his article of 2008 “*Two-level negotiations in a fragmented system*”, Hertog intended to show how specific state structure and state-business relations can have very different outcomes depending on whether international pressure is applied. In the approaches, he briefly looked at the factor-based and sector-based models which deal with economic interests in terms of those seeking protection or free trade. He considered at the same time the institutional approaches for the sake of understanding both: the interest-aggregation and decision-making mechanism. However, Hertog thought that the economic approaches have more predictions to offer on the Saudi case as they are more general, whereas institutional approaches focus on institutional mechanisms in western democracies (Hertog, 2008: 2-4).

This article of Hertog might differ a little from his mentioned-above study of 2006 in terms of the image it transmits about the Saudi political economy. His previous analysis reflected an increase in the internal politics in Saudi Arabia, which in itself would naturally lead to a situation where some groups could have a certain veto power over issues. However, the analysis in “*the two-level negotiations*” very much portrayed the forces in the Saudi political economy as unable to get major projects done, for they are paralyzed by overwhelming fragmentation.

In his latter analysis, Hertog came to a conclusion that Saudi institutions represented by the bureaucracy responsible for the WTO accession were too fragmented to the degree that agreeing on a policy or changing in the status quo was nearly impossible. It was not only the bureaucracy. He argued that fragmentation characterised the private sector as well to the point that it was not able to represent stable counter-coalition with programmatic vision. Crippled by such public-private fragmentation, it was only for external pressure combined with royal decision for the fragmented administration to fall in line and, then, for the accession to take place (Hertog, 2008).

In general, the article of Hertog on the tow-level negotiations boosts this thesis in a very particular and indirect manner. As it more or less tried to do the same, Hertog’s article emphasises the appropriateness of referring to interests and institutions as approaches to

study the political economy of the WTO accession, as this thesis has in fact done. Moreover, although less in his scope and primary documental sources, Hertog and this thesis came to agree on several points. For instance, Hertog highlighted the importance of royal's interference to push policies forward. Such interference this study has labelled as royal 'mentorship'. Also, Hertog's and this study approximately agreed that the Saudi business community was generally active on an ad hoc manner during the time of the country's accession although this study saw that there were some changes in this societal group at the final stages of the accession process, as it will be discussed in Chapter Six. Probably most important, both studies agreed on the importance of the U.S. role and the pressure it exerted around the end of the case.

Disagreements between the arguments of the two studies exist, notwithstanding. As in the abovementioned example of the role of the business community, this study, unlike Hertog's, indicated that that role had experienced, around the end of the accession process, a sort of change relatively independent from external pressure. In fact, this thesis stressed, given the Saudi drawn-out accession negotiations, the importance of the factor of time and anticipated from the outset that the positions of the official actors (institutions) and societal groups could not be static throughout such a lengthy process. Although Hertog briefly considered the chronological events of the negotiations, he hardly mentioned any apart from the change of the Saudi position as a whole at the end of the case.

In addition, Hertog's assessment of interest-aggregation with regard to Saudi Arabia and the WTO accession focused solely on interests in their economic form. As far as this thesis is concerned, interests are not necessarily pecuniary especially that the WTO's jurisdictions have expanded to include non-economic issues such as domestic legal systems. The broader assessment of societal interests of this study allowed for the inclusion of the religious establishment as an important group in the Saudi accession process.

Perhaps, the most important difference between the two studies is the degree of emphasis on the external factor. Hertog thought it was the most important as it was the main reason for the change in the Saudi position, and then the accession itself. As to this

study, the external pressure as a factor in the Kingdom's accession was important. However, the thesis would call, in its argument, the factor that was decisive at the end of process a political factor. In this study, the responsiveness of Saudi Arabia to the external pressure exerted mainly by the U.S. came largely out of an internal political concern. For a moment around the end of the accession process, the Saudi government felt that the survival of the regime itself was probably at stake. Thus, the rapid internal reform at the end of the process, as it will be mainly examined in Chapter Six, extended to include all that related to the WTO accession.

Overall, the views of Krimly, Hertog and Luciani put together indicate the existence of internal politics in the Kingdom that should be reckoned with, as this study assumed from the outset, especially in making foreign trade policy like the decision to accede to the GATT/WTO and holding on to that decision over the lengthy accession years. This highlights the importance of the attempt undertaken in this thesis to examine Saudi Arabia's effort to join the WTO through internal politics.

### **3.5 Conclusion**

Based on the assumption that studying domestic interplays can better explain the Saudi accession to the WTO, this chapter has defined Saudi Arabia's state and society as the point of analysis of this study. In the process, it highlighted that externalities would be taken into account as well. For this purpose, the chapter discussed the IR approaches that focus specifically on state and society.

Within those approaches, two concepts were of particular importance to the chapter: interests and institutions. After the theoretical discussion of the concepts, the chapter considered their application to the Saudi accession case. In this, it illustrated the relevant internal interests to the case, such as the business community and the religious establishment. Also, the chapter presented the relevant domestic institutions, both structures and agents. In taking into account the external factors, the chapter underlined the importance of oil and how it was a major link between Saudi Arabia and the outside world in a way that caused the country to be affected by external events. In this regard,

the relations with the U.S. became vital, and the co-operation between the two countries has transcended mere oil deals to form a strategic connection.

The last section of the chapter briefly reviewed the historical background of Saudi Arabia. In addition, it discussed how the literature viewed the Saudi political economy. It was important to conduct such reviews as they could help to understand the application of theoretical concepts of stat/society approaches in the context of the Saudi accession case.

The chapter, in short, set up the framework for analysing the interactions among these interest groups, institutions and external elements during the years of the Saudi WTO accession negotiations. Such interactions will be the subject of the next three chapters where the case is divided, as indicated in the introductory chapter, into three phases.

## **Chapter 4 Phase One: 1985-1996**

At the beginning of the first phase and during a large part of it, the multilateral trading system was still represented by the GATT. As mentioned, the GATT was mainly concerned about reducing tariff rates, but that was changing in the run-up to establishing the WTO in 1995. The phase witnessed the formal Saudi application to the GATT in 1993 and the application's conversion to the WTO after the latter came into being in 1995. No actual negotiations with the WTO incumbent members were held during this phase, as the encounters were generally confined to explaining the Saudi trading regime through question-and-answer sessions.

The main argument of this chapter is that Phase One was generally characterised by a lack of enthusiasm particularly on the Saudi side. Although externalities existed, the factors that contributed to the character of the phase were mostly internal. For instance, one major reason for the phase's character was the internal perception of the GATT; despite the existing economic challenges, that semi-organization did not come to be viewed as an opportunity around which interests might be formed.

However, the presence of the GATT did not occupy the full period of the phase. The GATT was transformed into the permanent organization of the WTO. It is the contention of this thesis that the duration of the accession procedures had an effect. It would be wrong to assume, as indicated earlier, that the positions of acceding countries towards accession were static throughout the usually long process. Accession efforts are susceptible to internal and external developments. As far as this chapter is concerned, the Saudi's GATT/WTO position was changing as well. During this phase, a momentum was building up, towards another, more intense phase.

Thus, the chapter will attempt to produce an account of the reasons for the characteristics of this phase. It will do so by examining several points that are of great importance to the phase, and as such, are of importance to the whole thesis as well. In this, the chapter will consider the official management of the process until the accession application was converted in 1995. It will also discuss the internal and external context and its impact on the Saudi accession attempt. The chapter will also assess the concerns

of societal interest groups. Finally, the chapter will describe the related momentum that emerged near the end of the phase.

#### **4.1 Managing the Process**

The Saudi application to the GATT/WTO suffered in general from structural and procedural arrangements. These were partially due to the way in which major decisions were made. Another was linked to the make-up of the governmental agents concerned. In addition, the way those agents proceeded occasionally reflected an experience deficit.

##### **4.1.1 The Application**

As the ministry responsible for devising tariff rates in Saudi Arabia, the MFNE was responsible for the file of this semi-organization that focused on tariff reduction. To gain an understanding of the GATT, the MFNE sought the approval of the king (at the time, King Fahd) to apply for observer status in that trade organization. The monarch granted approval in 1985, and Saudi Arabia became an observer in the same year (Al-Sa'doun and Al-Aali, 1998: 83-84).

In 1987, the Kingdom attended, as an observer, the GATT's launch of the UR at the Ministerial Conference in the Uruguay. From 1985 to 1987, various notions were considered regarding the Saudi stance towards the GATT. These deliberations concerned the matter of whether to become a formal party to that semi-organization, or stay on as an observer and first be clear about the outcomes of the comprehensive new round that had just started (Office of Experts, 1991).

The COM decided in that year of 1987 to refer the GATT issue to the MC, which had already been formed to advise on international economic affairs in general. The decision came to mark the year 1987 as the first when the MC began to supervise Saudi Arabia's accession to the GATT/WTO (COM, 1987). After a couple of years of evaluation, the MC submitted its recommendation in 1989 to the COM, which supported the idea of joining the GATT. The MC based its recommendation on the following:

- The role of GATT was increasing;

- The absence of Saudi Arabia from such an international trading gathering did not reflect the country's international economic weight;
- Saudi Arabia was already more open, in terms of trade, than some countries party to the GATT;
- Saudi Arabia would join as a developing country and would make use of the flexibilities permitted to such countries;
- The procedures of GATT allowed countries to negotiate the moment of accession according to their convenient timing (MOFA, 1990).

This was the basis for the decision to later join the multilateral trading system. In this, the MC envisioned for itself the role of co-ordinating the political position with regard to issues introduced during this attempt to accede to the multilateral trading system.

However, the COM forwarded the recommendation to the Office of Experts for further consideration.<sup>34</sup> Accordingly, the Office of Experts requested that the MFNE, as the instance responsible for the file, provide the Office with all related statements and information. The MFNE, however, responded that what was needed at that stage was authorisation to initiate preliminary negotiations with the GATT about the possibility of becoming a full party. In this, a final decision to accede to this multilateral trading regime was not sought, according to the MFNE, as making such a final decision before the negotiations would weaken the country's position. Upon this, the Office of Experts in 1991 supported the aforementioned recommendation of the MC. The Office, however, added that the endeavour of negotiating the Saudi application to the GATT should make use of qualified experts from universities and other institutions (Office of Experts, 1991).

In April 1993, the COM approved the recommendations except the suggestion to consult qualified experts. In giving its approval, the COM authorised the MFNE to commence initial negotiations with the GATT in order to assess the possibility of Saudi Arabia becoming a full contracting party (COM, 1993). The following month, the MFNE

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<sup>34</sup> The Office of Experts is a governmental body attached to the COM. It comprises experts in different fields, who provide the necessary legal and technical advice to the COM.

communicated to the GATT Secretary-General that Saudi Arabia wished to be a party to the GATT Agreement (GATT, 1993). Hence, a WP was set up to examine the Saudi application (Al-Sa'doun and Al-Aali, 1998: 85).

Over the following two years, the decision in 1993 to join the GATT did not affect the pace with which the concerned governmental agents proceeded with the GATT accession in the pre-application. They generally kept up the slow pace that had been obvious in the pre-application phase. As a result, the Kingdom submitted its first draft of memorandum in 5 July 1994 (appendix 1-4), more than a year after the application (WTO, 2000).

The memorandum declared from the outset the government's preference for a free market economy and its support for the private sector's participation in the development efforts. In the details, the memorandum presented some of the main features of the Saudi economic regime at the time. Tariff rates followed developments in the economy. In that, the government budget surpluses, due to increase in oil revenues and virtual absence of domestic industries seeking protection, resulted in a very low overall level of tariff rates in the 1970s, averaging 3%. With the decline of oil revenues and the establishment of domestic industries in the 1980s, however, circumstances changed. They necessitated an upward revision of tariffs, and their average went up from 3% to 12%. A limited number of products were religiously prohibited, such as alcohol and products of pork, or economically restricted, such as dates and liquid milk. By giving no direct subsidies, the government encouraged export-oriented industries, which had a comparative advantage. Foreign investment was welcomed through joint ventures with Saudi involvement. The Foreign Capital Investment Regulations at the time exempted foreign investments from income and corporate taxes for a period of ten years if nationals held at least 25% of the project's capital. State-trading enterprises existed, but they were few and worked on a commercial basis, such as ARAMCO (WTO, 1994: 14).

The question-and-answer sessions began on 29 November 1994 (MOC, 2000: 2). They included enquiries about Saudi Arabia's position towards the imminent creation of the WTO. They also included requests to elaborate on the Kingdom's stance concerning



subjects essential to the new organization, such as services and intellectual property rights.

The Saudi responses were prepared during a time of a rare cabinet reshuffle. The responses came in 15 November 1995, a year after the enquiries were received, 11 months after the WTO was officially established and less than two weeks before the MOC took over the responsibility of acceding to the GATT from the MFNE as a result of the cabinet reshuffle. Addressing the concern of the WP regarding the stance towards the transformation in the multilateral trading system from the GATT to WTO, which was taking place, the Saudi reply indicated that the Kingdom intended to request a membership in the WTO after completing internal procedures (GATT, 1995:4).

#### **4.1.2 The Application's Conversion**

The conversion of the application to the WTO came in December 1995 (appendix 2-4). It was shortly preceded by the COM's decision to assign the file of acceding to the organisation to the MOC instead of the MFNE. Nevertheless, the whole process would still be under the general direct supervision of the MC, according to the above-mentioned decision of the COM in 1987.

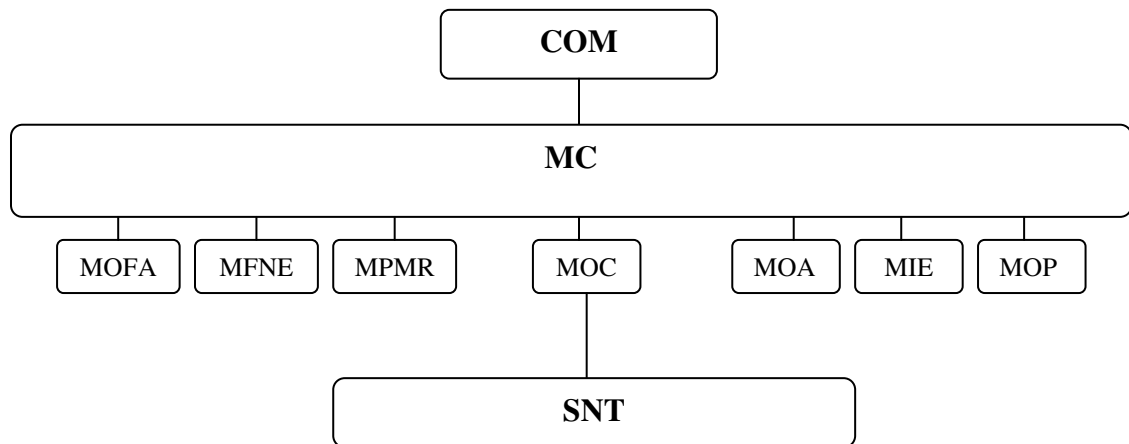
In addition to the MOC and the MOFA (the lead ministry), the MC at the time consisted of the MFNE, the MIE, the MPMR and the MOP. As agriculture became a key issue in the newly created organization, the MC obtained the approval of the COM to have the MOA as a member.<sup>35</sup> Two additional bodies existed under the MC: a working team and technical negotiating team. The former comprised undersecretaries of the mentioned ministries and was chaired by the minister of commerce. The latter was also chaired by the same minister, and subdivided into the following topical groups: TRIPS, goods, services, agriculture, customs valuation, import licensing, agreements and initiatives, technical barriers to trade, and sanitary and phytosanitary (MOFA, 1996; MOC 1998).

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<sup>35</sup> This arrangement of ministries was changed years later due to structural reform in the COM. For example, the Ministry of Finance and National Economy (MFNE) became the Ministry of Finance, and the Ministry of Planning became the Ministry of Economy and Planning.

The work of the two bodies was in practice quite closely linked, as the working team would always include experts in these subjects in the negotiations for accession. Hence, they will be treated in this study as one group, which will be referred to as the Saudi Negotiating Team (SNT). Chart 4-1 illustrates the structure of the governmental agents involved in the accession case.

**Figure 4-1: Structure of governmental agents**



Apart from the minister of foreign affairs, the MC’s members were newcomers to the COM. All of them, including the minister of foreign affairs, who chaired the committee, were graduates of Western universities and free-market advocates. As for the members of the SNT, they had to manage the accession responsibility along with their original responsibilities as officials in different departments of the government. Due to shortages of resources at the time, the government could not afford to spare such officials to focus solely on the WTO accession (Al-Sa’doun, Interview, 26 April 2002; Faqeeh, Interview 06April 2006).

Regarding the workflow within this structure, it worked in an ascending manner: the SNT would classify replies to the WP and design initial offers for the negotiations before bringing them to the attention of the MC. The MC would make decisions in procedural matters only. Other than that, it would refer to the COM. For example, the MC would decide whether, in the negotiations, the SNT should insist on an initial offer on a specific issue or concede a ‘fall-back position’. However, setting the ‘fall-back

position' itself was the prerogative of the COM (MOFA, 1997). In the middle of the negotiations, an additional governmental agent was created to also deal with the accession process. That was the HMC, to which the MC was supposed to report.

In parallel with putting this process in order, an intensive bilateral political effort was to be undertaken. From the beginning, the Saudi government had considerable faith that its good political relationships with the major trading nations would provide sufficient impetus to the Kingdom's WTO bid. Therefore, immediately after the conversion of the application, the Saudi officials viewed it as important to kick off the negotiation process by having the minister of commerce visit the capitals of the major WTO members to conduct preliminary talks for the sake of getting the necessary support for the Kingdom's effort to join this organisation (MOFA, 1996).

## **4.2 Internal and External Context**

Phase One went through some important internal and external, political and economic changes. Internally, the Saudi economy was suffering some difficulties because of continual fluctuations in oil prices and productions. Internationally, a significant part of the phase took place in the context of the Cold War.

### **4.2.1 Domestic Economy**

During the 1970s and early 1980s, the sharp increase in oil prices relieved the Kingdom of financial constraints. Huge oil income, combined with the limited absorptive capacity of the local economy, created large financial surpluses. However, government revenues began to recede with the downturn in oil prices that started in 1982. From then up to 1995, the oil market went through several fluctuating situations triggered by different political and economic events.

After 1982, the Saudi government was obliged to change the emphasis from managing the surpluses accumulated during the 1970s and early 1980s to coping with growing budgetary and balance-of-payments shortfalls. Therefore, it was forced to finance a large budget for the investments it had already committed to and current account deficits through foreign asset drawdown. The situation was not improving. As the biggest

producer, Saudi Arabia had to shoulder a large burden of reducing oil output under the newly installed quota system by OPEC. The country's oil revenues accordingly took a double blow from reduced prices and reduced exports. Responding to domestic concerns, the government, with the king's personal intervention, renounced OPEC's quota in 1986 and sharply boosted oil output. Such a change in the oil affairs was firstly to regain the Kingdom's oil market share, and secondly to impose more production discipline on other OPEC members who did not show commitments to the quota system. This scheme worked relatively well. Greater discipline on the part of OPEC and a revival in global demand stimulated by lower oil prices helped return some resilience to the market after 1986 (U.S. Library of Congress, 2008).

In addition to this, the war prices caused by Saudis giving up the quota system hit the U.S. oil producers. Hence, the Reagan administration intervened with Saudi Arabia by late 1986 to stabilise prices at a level closer to US\$20 a barrel. Their mutual understanding helped within matters of days to push the prices up from US\$10 to US\$17 a barrel (Yamani, Interview, 06 October 2003). Nevertheless, oil revenues in the late 1980s remained insufficient to overcome the deficits caused by the oil prices' drop in the early 1980s (U.S. Library of Congress, 2008).

Following the end of Iran-Iraq war, oil output increased in 1990. Shortly afterwards, the Iraqi invasion of Kuwait in August 1990 caused oil prices and Saudi output to soar as the Saudi production replaced the embargoed Iraqi and Kuwaiti oil (U.S. Library of Congress, 2008). Until 1995, the oil world market experienced no further major shocks. The optimism approximately continued after 1990-1991 up to 1993 (Demis, 2000). However, afterwards, there was a gradual drift downward until 1994. Overall, as prices stabilised at a relatively higher level than in the late 1980s, the early 1990s appeared more favourable in terms of oil resources (Niblock and Malik, 2007: 100-101).

Yet, this apparently favourable situation was in reality not as promising as it seemed. According to Niblock and Malik, the Saudi government had to spend at this time large sums of money earned by oil sales not on the economy, but on supporting the coalition confronting Iraq in the Second Gulf War (Gulf War II). Estimations varied with regard

to the costs of the war to the Kingdom, but some put them at no less than US\$65 billion (2007: 101-102).

In 1995, a major event disturbed the previous moderate improvements. As oil had been priced by the U.S. dollar, the collapse of the dollar's value that year added to the problem of depriving the economy of the revenues generated by oil exports at that time (Demis, 2000). Thus, although appearing a little more positive, the period from 1990-1995 was also an economically challenging one for the Saudi economy.

#### **4.2.2 Regional and International Politics**

For most part of Phase One, Saudi Arabia was occupied with dealing and handling the consequences of major regional events. At a wider level, for most of this phase, the Cold War dominated global politics.

In the beginning of 1980s, there was a widespread feeling of insecurity in Saudi Arabia and the Gulf countries due to the Iranian revolution in 1979 and Ayatollah Khomeini's call to export his revolution together with his anti-monarchy ideas. During this period, the political, ideological and territorial disputes between Iran and Iraq turned in 1980 from tense relations to an all-out war between the two countries. The escalating war had an impact on the security of other Gulf states and on the oil industry. This led Saudi Arabia and five other Arab states in the Gulf (Kuwait, Bahrain, Qatar, the United Arab Emirates and Oman) to create the GCC, which many regarded as a political response to the on-going war at the time (Owen, 1997: 102).

The assumption of the Iraqi leadership was that victory would be achieved quickly, as Iran was in domestic disarray because of the revolution. However, the war dragged on throughout the 1980s as Iran absorbed the first attacks. Overall, Saudi Arabia stood beside Iraq. It provided the latter with huge financial and logistical support. The reasons for Saudi Arabia's stance were obvious. It feared that Iran's victory would stimulate its revolutionary aspiration in the whole region. Also, Iranians were present in the Gulf in huge numbers, and the Kingdom was anxious about the sentiments of its sizable Shiite populations in the Eastern Province in the case of an Iranian victory.

In 1988, the Iran-Iraq War was finally ended as Iran agreed to the Security Council Resolution 598. However, political turmoil did not stop there. After a short period of time, Iraq turned its attention to Kuwait and Saudi Arabia. Most prominent in this was the demand that Saudi and Kuwaiti war loans should be cancelled because Iraq had prevented an Islamic revolution that might have ousted the two governments. The series of demands for several territorial oil fields concessions from Kuwait were followed by a revival of a claim that Kuwait was historically part of Iraqi territory. On 2 August 1990 Iraq invaded and occupied Kuwait. The UN was swift to react, and the Security Council issued Resolution 660 calling for Iraq's withdrawal. On 3 August, Iraqi forces reached the Kuwaiti-Saudi border in an open bid for invasion. Immediately, Fahd called for U.S. military assistance.

The invitation of American forces to ward off Iraq opened an internal front critical of the government. The stationing of large numbers of American troops in Saudi Arabia, the land of the two holy mosques, undermined the legitimacy of the ruling family and its prestige in the eyes of many. Criticism of the government's decision was not passive. For almost the first time, a cross-section of the Saudi society engaged in drafting, through some figureheads, consecutive petitions to the king along with some prominent princes calling, *inter alia*, for a judicial and administrative reform, more accountability and an elected assembly (Abedin, 2009: 34-35; Lacey, 2009).<sup>36</sup>

The petitions took the government by surprise. Quoted in Lacey, Al-Tuwayjri, an intellectual, says "*The ideas had come from everywhere – from north, south, east and west, and from people of real weight, men who were very devout and conservative. There were famous judges, academics, successful businessmen and ulama*" (2009:162). Yet, the intention was confined to seek changes in the government internal policies along with the foreign policy and its close relationship with the U.S., not to change the regime itself. Indeed, the petitioners were anxious to convey the impression that they were a loyal opposition and to dispel fears that they wanted to overthrow the ruling family (Abedin, 2009: 35).

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<sup>36</sup> Among those petitions, the famous "Letter of Demands", which was signed in March 1991 by more than 400 notable members, including self-styled Islamists, and "the Memorandum of Advice", which was prepared in September 1992 by 107 of mainly religious scholars.

The developments frustrated Fahd. He thought he had taken a risk and had acted with rare speed and decisiveness to save the country, only to be thanked with criticism from almost all sides in the Kingdom. Because of this, a number of arrests occurred (Lacey, 2009: 164). Nonetheless, the internal pressure backed by sympathies extended by some Western governments resulted in the king issuing government-related reform initiatives (Heradstveit and Haveem, 2003: 42). What the ruling family considered to be concessions were in essence minor adjustments to the Saudi socio-political status quo. The most important among these was the establishment of the *Shura* Council in 1993 (Champion, 2003: 191).

Internationally, a significant part of Phase One took place at a time when the world was basically divided by the comprehensive bi-polar Cold War rivalry between the U.S. and the Soviet Union. In the Middle East, the Cold War transformed the terms of international interference in the affairs of the region. It was, for a large part, to deny the Soviets control of the Middle East oil through which the latter could strangle Western Europe. The polarisation in the region generally replicated the international pattern of superpower alliances, where conservative states became pro-Western, and radical states were pro-Soviet. Thus, the conservative Arab states, including Saudi Arabia, were considered pro-Western, and the radical nationalist Arab states like Syria were regarded as pro-Soviet. Such polarisation resulted in conditions that generally allowed the states of the region to maintain a relative autonomy, as they could counter the influence of one superpower with the influence of the other. Sometimes, as a matter of fact, the smaller partner states could, given the Cold War competition, exercise influence over the superpower which needed it as part of global rivalries, especially if the smaller could threaten to switch sides (Hinnebusch, 2003: 4, 21-29).

As mentioned in Chapter Three, the GATT/WTO system was built on free-trade principles. Interestingly, the inception of the GATT in 1947 coincided with the onset of the Cold War, which started around that year during the administration of President Truman. Although some argued that the GATT carried on with trade liberalisation unaffected by the Cold War, the former did, in fact, mirror the underlying power relations caused by the latter. As in the larger case of the Cold War, the U.S. stance in

the GATT was to isolate and contain the communist foes. Because of this rivalry, nonetheless, neither the tactics nor the outlook of the U.S. were fixed. President Eisenhower saw that commercial contacts with Soviet satellites would help them to break their economic dependency on Moscow, especially after the death of Joseph Stalin in 1953 and the ascendancy of the less heavy-handed Nikita Khrushchev. Consequently, the aim of keeping communist countries out of that semi-organization became a more complex and pressing question in the late 1950s when countries like Poland and Yugoslavia applied to join. Their economic situations, devoid of tariff structures or a free market, posed serious questions regarding the compatibility of their participation in trade negotiations, which by itself could have led to a fairly straightforward refusal of their applications. Nonetheless, economic considerations were not the only factor, as the Cold War considerations introduced a strategic view. Thus, instead of rejecting their applications outright, the GATT negotiators granted them provisional associate status (McKenzie, 2008: 78-104).

Saudi Arabia's first formal application to the multilateral trading system represented by the GATT was in 1993, a couple of years after the fall of Berlin Wall and the demise of the Soviet regime, which both marked the official end of the Cold War. However, hypothetically, had Saudi Arabia, with its non-communist and more structurally developed economy in comparison to most of those in Eastern Europe, decided to join the GATT while the Cold War was on, it would most likely have had a much easier accession (Al-Alamy, Interview, 02 May 2002).

### **4.3 Limited Interests – Limited Concerns**

As mentioned in Chapter Three, the accession-related interests are one of the main focuses in this study. This section will argue that Saudi Arabia showed little interest in the multilateral trading system during this phase and had little concern about it, to the extent that it contributed to the lack of enthusiasm that characterised the phase as a whole. This argument will be examined by considering two points: the interaction with the government and the preliminary perceptions of those interests about the multilateral trading system at the time.



### **4.3.1 Interaction with Government**

Since 1970, Saudi Arabia has embarked on a programme of five-year comprehensive development plans. Until 1985, when the Saudis began to contemplate joining the multilateral trading system represented at the time by the GATT, the Kingdom had already seen three five-year comprehensive development plans from 1970 to 1975, from 1975 to 1980 and from 1980 to 1985. The plans were introduced during the first oil boom, specifically between 1973 and 1982, when oil revenues stood at US\$328.6 billion in 1982, whereas in 1969 they had totalled only US\$5.1. These huge revenues allowed programmes for massive economic and social transformation to be included within those plans. Main components of such programmes aimed at developing the oil industry, establishing a substantial industrial base through utilising hydrocarbon resources and energy for petrochemicals, promoting agriculture and a measure of agriculture self-sufficiency, and creating physical infrastructure for a modern state. In this, the government was not only shaping the vision of such an enormous transformation, but it was also its initiator and implementer (Niblock and Malik, 2007: 52-92).

The dominance of the public sector, promoted by the government adopting the role of traditional entrepreneur in the development process at the time, indicated a weakness on the part of the private sector (Looney, 1982: 73). As the first three five-year comprehensive development plans gave no significant attention to the role of the business community, the latter remained what it had been during the 1960s: an adjunct and beneficiary of the government projects, but not a critical instrument in creating the basis for an industrialised economy, as the responsibility for substantial industrial development lay with the government (Niblock and Malik, 2007: 53-58). Therefore, the main feature of the business community's influence in the Saudi economy during the 1970s until the middle of the 1980s was directly related to its connection with the government (Islami, 1984: 10-14).

Thus, the public sector had considerable dominance over the domestic economy. At this stage in Saudi Arabia's economic development, the 'rentier state' label was accurate, since almost the entire private sector of the Kingdom was living at some point in the shadow of the government developmental programmes, though it was simultaneously

growing in the process to reach its relatively current self-autonomy (Luciani, 2005: 144-157). Thus, the business community was nearly completely absent at the time when the government was deliberating from mid-1985 up to 1993 the idea of joining the GATT. In fact, there was no indication in the governmental documents that were available for this study that the government tried during that first phase of the accession to engage the business community over this issue.

The fact that the government had such a clear upper hand in the economy might have led, according to a businessman, the governmental agents involved in the accession issue to keep the business community on the sidelines while they were considering the Saudi application (Kadi, Interview, 28 April 2004). However, if the reason was not to involve the business community because of its dependency on the state, then the government was mistaken, according to another businessperson. If the national aim in the long-term was to enhance the role of the private sector in the economy, then issues as big as joining the multilateral trading system should not have been a government exclusive matter (K. Al-Rajhi, Interview, 5 May 2004). In general, the business community was disappointed that there was no debate about becoming a party to the GATT, a grievance that continued for some time even after converting the Saudi application to accede to the WTO (Aqeel, Interview, 25 April 2004).

The fact that the government was by far the main driving force of the economy in general could from an official viewpoint be counted as a possible factor in marginalising the business community at that stage. However, there were some other elements that might have contributed to this as well. For instance, the whole issue was new even to the government agents and they needed some time to adjust, as well. Also, the GATT was not at that time a major concern for the government to get itself and others preoccupied about. The general attitude of the state seems to have been that Saudi Arabia had little to gain from that semi-organization, as it largely exported one product, oil, where market access was not an issue (Al-Nujaidi, Interview, 06 May 2002; Al-Muhana, Interview, 01 June 2002). Similar viewpoint was discussed by the Director of the Division on International Trade in Goods and Services in the UNCTAD, J.D.A. Cuddy, in his examination of the subject of oil and the GATT. Although talking not

exclusively about oil, but about energy in general, Cuddy indicated that petroleum at the time was treated as a special case, in a largely political context and not within the GATT's framework (2000: 1-2).

As for the other main societal interest group in this study, the religious establishment, the case was not much different with regard to its involvement during this phase of the accession. The religious establishment was also absent while the governmental agents considered GATT membership. Unlike the business community, however, it expressed no disappointment about this. To the religious establishment, the prime concern with the accession effort to the GATT/WTO was to ensure compatibility with the *Shariah*. That was the first issue that anyone of the *Ulama* cared about, regardless of the organisation at stake (Al-Ameen, Interview, 05 April 2006; Al-Dawood, Interview, 03 May 2004; Al-Abduljabar, Interview, 03 May 2004).

#### **4.3.2 Preliminary Economic Perceptions**

The decision to join the GATT was taken in 1993. When asked how much opportunity the business community thought it had to affect this decision, the majority of the businesspersons interviewed in this study indicated that they were unable to tell, as they were inadequately informed by the government at the time of pre-application. That decision was made, according to them, during a low-profile period. However, as the Saudi accession moved from the stage of contemplating the issue, starting from 1985, to the next stage of applying to the GATT in 1993 and then converting the application in 1995 to accede to the WTO, the business community was concurrently developing a general acquaintance with the subject to the extent that their perceptions started to take shape (K. Kurdi, Interview, 20 April 2002).

The word 'perceptions' is intentionally used in the plural form here, which agrees with the general line of this study. As mentioned in Chapter Three, some have placed the Saudi political economy in the 'rentier' paradigm. In this concept, the business community could be thought of as a unified body fighting for government protection (Wilson, 2004). This study, however, is about the importance of the existing domestic institutions and interests, inherently refusing the idea of the state as a unified actor, and

thus supports the idea that the business community in any society would not usually reflect a single opinion about economic liberalisation, as already explained in Chapter Three. Differences in perception largely depend on the general economic environment and the nature of the business practiced.

When asked which potential benefits of accession either to the GATT in 1993 or the WTO in 1995 were considered at the time, several interviewees from the business community indicated the possibility of securing better access to foreign markets for Saudi petrochemical products. However, the petrochemical industry was predominantly, and still is, in the possession of the government, not the private sector, as the government owned 70% of SABIC, the national producing company of petrochemicals. According to O. Kurdi, this answer reflected the difference in perceptions of two groups in the Saudi business community: those who worked in economic activities like trade and industry, and those who specialised in consultant services. He pointed out that some in the first group would express a less cautious opinion, as the subject was almost totally new and they were less aware of the nature of the multilateral trading system than those in the consultancy business. The responses of those who lacked insight into the greater picture, O. Kurdi stated, might be expected to conflate the benefits for the private sector in the Kingdom with the benefits for the government (O. Kurdi, Interview, 5 May 2004).

Those who were less cautious in how they perceived the GATT/WTO system pointed out that the Saudi average tariff rate when the Kingdom was considering the application to the GATT in the 1980s was 12%. To them, that was not a high rate. In addition, even those 12% were in many cases not respected, as importers would frequently tamper with documents for customs clearance, causing foreign products to be imported with tariffs of less than 12% being levied. Their point is that the Saudi market was already competitive, as it was considered open to foreign products due to the low average tariff rates. Therefore, there was no need for apprehension about joining the multilateral trading system (Batterjee, Interview, 25 April 2004).

Within this line of thinking, the relation of co-operation versus competition was discussed. This view argued that having local agents or representatives of international businesses had been one of the traditional characteristics of the Saudi private sector.

Throughout their long history, relations between the foreign businesses and the Saudi representatives were usually marked by mutual co-operation and prosperity. Within this framework, accession to the GATT/WTO should not only be thought of in light of the potential fierce competition with foreigners, but also in light of the possible new window for more co-operation with them (Tamer, Interview, 26 April 2004; Al-Yami, Interview, 27 April 2004).

The viewpoint that the less cautious opinions lacked clarity about the nature of the multilateral trading system suggests that those who were less alert had basically based their abovementioned explanations on the assumption that the Saudi economy was open. Therefore, its sensitivity to any future trade liberalisation would be low. However, this was not, especially during the 1980s and 1990s, an accurate assumption, according to the more reserved point of view. While it was true, as the advocates of this point of view argued, that tariff rates were generally low, many of the economic activities in the Kingdom were dependent not on the country's competitive traits, but on being protected and subsidised. Thus, the degree of sensitivity to trade liberalisation resulting from the accession to the GATT/WTO would not be low as some expected (O. Kurdi, Interview, 5 May 2004).

As these two general views echoed between being less or more cautious, there were those who decisively sensed the peril of joining the multilateral trading system represented by the GATT/WTO. They thought that the long-standing dependence on the government's expenditure had, in fact, crippled the business community to the point that it would be unable and unadjusted for future competition with multinational businesses. To this, they argued, was added the weak and underdeveloped condition of the legal framework of business at the time. Also, the business community in the Kingdom had developed over the years of dependency on public spending an inclination towards making quick profits, which, unlike international businesses, lacked careful planning and long-term strategy. The GATT/WTO in this opinion would divide the world into two large categories: producers and consumers. Because of what this viewpoint explained about the condition of the Saudi economy and the legal framework it worked with, Saudi

Arabia would likely economically fall in the second category. This was a negative prospect (Abduljawad, Interview, 24 April 2004; M. Hasan, Interview, 27 April 2004).

At the level of the sectors of the economy, there were opinions that shared some of the pessimism mentioned above. Phase One as designated in this study ended in 1996. Thus, issues such as trade in services and TRIPS, which became principal items in the WTO after its establishment in 1995, were hardly familiar to the Saudis, especially to the societal interest groups. Hence, interests like the business community and religious establishment did not have sufficiently clear concerns yet either about the possible implications of such issues to form an opinion about them. Nonetheless, the business community, in particular, was able to see signs of risk on some other sectors of the economy.

For instance, the construction sector experienced a noticeable growth between the 1970s and the mid-1990s as the Kingdom embarked on major infrastructural projects. The sector became a major element in the non-oil economy, accounting, for example, for 8.5% of GDP in 1997 (EIU, 2000: 38). As for the sector and accession to the GATT/WTO, the dominant opinion from the beginning among those involved had been that accession would constitute a difficult challenge especially to small-sized firms, which made up the majority among the firms working in this field (Riyadh Commerce, 2001: 18).

Although there were those who argued that the construction sector would not be attractive to foreign businesses because of its relatively slim margin of profits (Riyadh Commerce, 2001: 18), those who were heavily involved in the field argued otherwise. They believed that GATT/WTO accession would lead foreign contractors to crowd out the domestic ones. Moreover, the Saudi construction sector was, unlike what some thought, still inexperienced when it came to building not housing units, but manufacturing plants, for example. According to this view, except for two firms, the Bin Ladin Group and Saudi OJ, the Saudi construction companies lacked the expertise to undertake complicated projects such as building petrochemical complexes (Fayez, Interview, 29 April 2004).

Another example for the pessimistic views of some of the economic sectors was the non-oil industry. The non-oil industry includes all industrial activity except that related to exporting crude oil. According to this definition, the petrochemical industry is included in this sector. As mentioned, however, the petrochemical industry in Saudi Arabia predominantly belonged to the government, not the private sector. Therefore, the opinion expressed here by the businesspersons did not apply to this highly important portion of the non-oil sector.

It has generally been believed in the circles of the economic decision-makers that the non-oil industry would be the answer to the Saudi economy's dependency on the production and export of one commodity, oil. From their inception in 1970, the government's five-year comprehensive development plans indicated that diversifying the economy was a major goal. To achieve it, the Kingdom needed a larger manufacturing base (Alsheik, Interview, 28 April 2004). In this, Saudi Arabia was, to a large extent, no exception to other states in the developing world. It concentrated on import substitution industry.

To some in the business community, this non-oil sector was thought to be at the time negatively affected by the prospect of joining the GATT/WTO. They thought that such negative effects were related to the nature of the Saudi economy. Saudi Arabia, in this view, did not have the grounds for becoming an industrial-based economy. This was due to the size of the domestic market that did not justify establishing a large-scale non-oil industry. In addition, the lack of a local skilled workforce was a chronic problem, which led industrial projects to depend on expatriates. Furthermore, the Kingdom was a net-importer of high technology. In the absence of an adequate base, it seemed obvious that becoming party to the GATT/WTO could make the domestic industrial sector vulnerable to international businesses (Anonymous, Interview, 26 April 2004; Al-Yami, Interview, 27 April 2004; K. Kurdi, Interview, 20 April 2002).

A third example in this regard is the agricultural sector. Although it only came into focus after the multilateral trading system was transformed from the GATT to the WTO in 1995, the fate of agricultural sector had been a source of worry for those in the agricultural business since the early days of the Saudi accession. Much as in the case of

the non-oil industry, the pessimistic view in the agriculture sector was mainly due to the nature of agriculture in Saudi Arabia. The country has a harsh environment, and because of this, the agricultural sector needed governmental support to grow. Calls for such support should not be seen as strange, however, as subsidising agriculture was not internationally uncommon despite the existence of the GATT and the WTO (K. Al-Rajhi, Interview, 5 May 2004).

Worries about the WTO accession were aggravated because there had been a parallel questioning as far as the agricultural sector in the Kingdom was concerned (K. Al-Rajhi, Interview, 5 May 2004). Over the last two decades, there was a debate about the practicality of having a subsidised national agricultural programme in a desert country. The government indicated that agriculture was strategically important, and had therefore generously subsidised wheat and poultry projects, for example, to achieve food security. As Elhadj argues, however, achieving food independence did not require the Kingdom to be, for instance, the world's sixth largest wheat-exporting country, as it was in 1992 (Elhadj, 2008: 29-37). Some in the business community, though not in the agricultural business, would agree with this argument. They questioned the government's definition of food security. To them, the agricultural items that the government was subsidising, such as wheat and milk, were produced in the world markets in abundance and could have been obtained easily and cheaply (O. Kurdi, Interview, 5 May 2004; Al-Ohaly, Interview, 5 May 2004; Al-Khuraiji, Interview, 25 April 2004).

However, the implications of negative effects for the agricultural sector would have gone beyond the sector itself to affect the country's economy as a whole. In this point of view, small agricultural businesses might disappear because of WTO accession. If such possible business closure happened on a large scale, it would add to the critical problem of unemployment, as the agricultural sector, in particular, was ahead of other sectors in implementing the 'Saudisation' programme. According to this viewpoint, more than 40% of those working in the agricultural sector were Saudis (K. Al-Rajhi, Interview, 5 May 2004; K. Ghoth, Interview, 27 May 2004).



## **4.4 Momentum Building Up**

The lack of enthusiasm that characterised this phase changed towards the end of the phase because of a mixture of internal and external events that took place in the run up to establishing the WTO in 1995. Although sometimes not directly related to the accession, they worked to enhance its importance.

### **4.4.1 Crisis, the Downfall of Communism, Globalisation, Reform**

Starting from the 1980s, severe financial crises spread across developing countries, the chief example being the debt crisis in South America. The expansion of these economic woes caused some to question the validity of developmental theories applied by many in the developing world, which generally argued for protection, governmentally guided economy and the adoption of strategies in favour of an import substitution industry. In parallel to this, the Soviet Union and its satellite countries were facing serious challenges to their systems in the late 1980s, until the former collapsed in the early 1990s. The results were not merely confined to international politics, but had forceful effects on the global economy. The abandonment of communist economic policies for free economy and trade liberalisation were conspicuous and important economic concomitant phenomena of the Soviet downfall.

In the process, the world suddenly grew together as interdependence, or globalisation, grew more tangible from the 1980s onward. As a side effect, as far as economic and trade international relations were concerned, the GATT was transformed during that period into a forceful permanent organization, the WTO. Moreover, as democracy replaced the autocratic regimes of the Soviet era, scholars and policy-makers displayed an increasing interest in the politics of economic reform (Frye and Mansfield, 2003, 1).

From their study of many cases, reform had been undertaken in settings in which economic condition were deteriorating (Bates and Krueger, 1993: 454). In fact, the general international debt crisis and the decline of oil during the 1980s and the 1990s approximately coincided with the rise of this concept of economic reform. According to Haggard, those two decades were a period of unprecedented economic reform in the history of the developing countries (1995: 6). The typical kind of reform adopted was

basically based on a capitalist vision that preached opening the market and freeing trade. The strategic aim for most programmes of economic reform in the developing world and the post-communist world has been the integration of national economies with the global economy (Sachs *et al.*, 1995: 1).

Reform has almost always included policies that aim at macroeconomic stabilisation, internal liberalisation like ending price control, legal reform, extensive privatisation, and trade liberalisation. Although only one part of a government's overall reform plan, trade liberalisation is probably the most essential. As some held, "*it is the one that forces the government to take actions on other parts of reform*" and "*it is fairly accurate to gauge a country's overall reform program according to the progress of its trade liberalisation*" (Sachs *et al.*, 1995: 2).

Saudi Arabia was not immune to this broader trend of economic reform. The economic challenges loomed large. As mentioned, the collapse of the dollar in 1995 came as a last straw after the fluctuations in oil prices and productions that had occurred on approximately a yearly basis since the early 1980s. In this situation, oil ceased to be the sole instrument in overcoming economic problems in Saudi Arabia. In fact, 1995 may be seen as the starting point of the Saudi economic reform. In that year, Saudi Arabia received unusual warnings from the IMF, which recommended that the country adjust to the new economic realities. As an important indication for modifying a system of generous welfare policies, the government increased the very same year the domestic prices of petroleum products, electricity, telephone, water, visas, work permits and air travel (EIU, 2000: 22-23).

#### **4.4.2 Acting in the Face of Challenges**

Before 1995, Saudi senior officials would serve in the same position for much of their professional life. A large number of appointments lasted 15 to 25 years. That changed in 1995. Ahead of the already mentioned first response to the enquiries made by the GATT, Fahd took dramatic action in spring of 1995 concerning high-ranking officials. A large-scale shift occurred in appointments within the bureaucracy affecting about 160 of 250 top posts. On 2 August 1995, the king made the first sweeping changes in the

COM in 20 years. Apart from the royal members in the cabinet, the new ministers were mainly technocrats, with 15 out of approximately 25 members having postgraduate degrees from Western universities. The change in the COM was principally undertaken in order to overcome institutional resistance against plans to adjust to the economic and social ramifications of the economic challenges caused by the deterioration in oil prices and the brunt of the cost of the Gulf War II, after some officials had been in office for too long. The budget deficit was, in this respect, a major factor for the king's action, as it rose well above the planned US\$4 billion (Cordesman, 2003: 144-146).

The economic challenges and the efforts to tackle them were accumulating and caused greater importance to be attached to the issue of the accession to the multilateral trading system. In fact, the Sixth Five-Year Comprehensive Development Plan reflected this in a conspicuous manner. The plan covered the period from 1995-2000. It was the first designed while the country was in the process of applying to the WTO, as the fifth plan (1990-1995) was structured years before the Kingdom officially applied to the GATT in 1993. The sixth plan referred to the decrease experienced in the state's revenues and the fact that the government expenditures in the budgets of 1993 and 1994 exceeded the returns needed for developmental projects, leading the government to use its financial reserves and to borrow from local sources. It also referred to the population growth. Although this was not a new phenomenon, the plan decided that the demographics had now reached a stage of high impact on various economics and social aspects. Hence, the plan emphasised the following general goals: diversifying the economy away from oil, enhancing the role of the private sector and the importance of 'Saudisation' of the work force. It clearly indicated the Kingdom's need to attract foreign investment and highlighted the completion of the UR that resulted in the creation of a new trading system (WTO) to which the Kingdom would apply (Ministry of Economy and Planning, 2009).

#### **4.5 Analysis**

At an early stage in the Saudi Arabian accession to the multilateral trading system, there were very long deliberations over the idea of becoming a party to the GATT. It took the government eight years from 1985 to 1993 to finally decide on acceding to that semi-

organization. In several instances, it took some of the above-named governmental agents several years to consider the issue before forwarding it to another agent for more years of consideration. Why was this the case?

This procedure is due to an internal institutional factor. As indicated in the previous chapter, consultation and consensus are structurally important in Saudi politics. The main problem is that they are not governed by regular guides or official procedures. It is difficult to tell who would be consulted on a particular issue, how the consultation would be conducted, or how long it would take. The *Shura* Council was established in 1992 to be the chief consultative body in the land. Although it had not existed during most of the years when the GATT accession decision was contemplated, experiences indicated that the *Shura* was not always consulted, especially for issues with an international importance. In fact, such issues would usually be subject to more monarchical discretion, and the monarchy, as discussed, has in reality been changed from a single and exclusive leadership during Faisal's time to one of a more collective nature.

In this overall situation, and in the absence of guidance and procedures, consultation and consensus took a long time. Therefore, core projects required a political mentor, as mentioned in Chapter Three, to provide the necessary push. The notion of becoming a GATT member did not have such a mentor (Al-Alamy, Interview, 2 May 2002). The lack of a political mentor was most likely because the GATT was not officially or popularly perceived as being very important to the Kingdom's economy at the time. In any event, the extended years of deliberations, which took half of the 1980s and beyond, cost the Kingdom the opportunity to join the multilateral trading regime via a much more lenient process.

As indicated earlier, the slowness that shaped the early stage of considering joining the GATT continued even after the Kingdom had applied for accession in 1993, which resulted in the passing of another whole year before the first memorandum was submitted in 1994. In addition to the internal institutional factor mentioned above, the stance taken by the MFNE contributed to this continued tardiness. The MFNE argued that the application was only "*to initiate preliminary negotiations with the GATT about the possibility of becoming a full contracting party*" (Office of Experts, 1991).

That stance represented two things: hesitance and ignorance of procedures. It gave the impression that the country was approaching the GATT half-heartedly. Furthermore, the GATT's procedures made no provisions for such an initiation of preliminary negotiations for assessing the possibility of membership. When a country did apply, it simply meant that it committed to be a member.

This memorandum was, from the Saudi point of view, expected to receive a positive response from the WP. In fact, the MFNE argued from the beginning that Saudi Arabia already had a more open trading system than some of the GATT's contracting parties (MOFA, 1990). However, timing was important in this respect. The memorandum was only submitted six months before the WTO came into effect. As discussed in Chapter Two, the transformation of the GATT into the WTO changed the nature of the organization in terms of complexity. With the new organization's wide range of subjects, the Saudi memorandum proved inadequate. Indeed, this was reflected when the Kingdom began answering the WP's questions pertaining to the memorandum.

One clear example for this was when Saudi Arabia was asked about its position with respect to acceding to the newly established WTO. The reply was that the Kingdom intended to request membership in the WTO after completing internal procedures (GATT, 1995: 4). As the answer made no reference to internal rules or regulations to be enacted or modified for the sake of compatibility with the new organization, as was usually the case with other countries' accessions, the question was what those 'internal procedures' might be.

In fact, there is no reference in the primary sources that were available for this study to indicate that any particular effort was made at the time to complete any sort of internal procedures specifically related to the WTO. This view is supported by the fact that the actual conversion of Saudi Arabia's application from the GATT to the WTO came within one month of providing such an answer. This short time suggested that there were in fact no internal procedures of any sort that needed to be processed. If there had been, they must have been in their final stage of completion, given that it took only one month to formulate and convert the application. Therefore, if this was the case, it should

not have been difficult for the Saudis to be more specific about their stance on joining the WTO, instead of providing a vague reply.

Hence, aiming to satisfy the GATT while the GATT was transforming contributed to the inadequacy of the memorandum. In addition to this, the answer to the GATT was happening amid the aforementioned rare reshuffle in the COM's members. This might have affected the focus of those who were working on the Saudi answers as responsibility for the accession was transferred from one ministry to another, which might have added to the difficulty of answering important questions such as the one about joining the newly created WTO.

The conversion of the application was a very important step. It helped to give the Saudis a better idea about the magnitude of liabilities that would emerge from the application to the multilateral trading regime. Before the conversion, the Kingdom provided a memorandum and answered questions while having in mind an accession to a much smaller trading system, namely the GATT. While it was engaged in this process, the system as a whole was on the verge of a massive transformation into the WTO that would include a whole set of new important subjects, and accordingly larger liabilities.

The change of responsibility for the GATT/WTO from the MFNE to MOC was also important. It took place on 28 November 1995 amid the aforementioned cabinet reshuffle (Secretariat of COM, 1995). The change brought the Saudi application in line with those lodged with the WTO, where commerce ministries usually represented their states. It gave the accession process fresh momentum as well, as it was an opportunity for the MOC members to prove their ability through an achievement. In addition, the new minister of commerce was a technocrat with a background in business administration. During his incumbency, Minister Faqeeh generally displayed a pro-liberalisation and thus pro-WTO stance.

The MOC was not the only institution that featured a newcomer minister. The same applied to all members of the MC, apart from the minister of foreign affairs, who was the chairperson of the committee. More importantly, all of them, including the foreign affairs minister, were graduates of Western universities and free-market advocates. This

was an important factor for WTO accession. As Kruger put it: “*For liberalisation to occur, officials must believe in the long-term efficiency of the economic doctrine*” (1998: 145).

However, there were several factors that counteracted this positive aspect. The first of these was related to the structure of the workflow. To numerously report to a higher body, from the SNT to the MC to the HMC and finally to the COM, made those that were reporting, especially the SNT and the MC where most of the Kingdom’s offers were designed, anxious about not looking as able to achieve favourable accession conditions at minimal concessions. As will be treated in Chapter Five (Phase Two), the Kingdom continued for some time to repeat the submission of the same offers and to make the same requests that the WP was obviously in no position to accept.

Secondly, accession was not a full-time task for the individuals who made up the SNT. They had to manage, as indicated earlier, this responsibility along with their original responsibilities in the government. According to Al-Sa’doun and Fageeh, this was because of resource difficulties at the time (Al-Sa’doun, Interview, 26 April 2002; Fageeh, Interview 06 April 2006). However, the lack of enthusiasm and mentorship during this phase meant that the importance of the accession had not reached a level that would qualify it, as far as those in charge were concerned, to be assigned to an official team free from other responsibilities.

Thirdly, there was a lack of expertise. As pointed out, while it was contemplating becoming a party to the GATT, the COM ruled out the recommendation to make use of experts from the Kingdom’s educational institutions (COM, 1993). In fact, the magnitude of topics negotiated and their specificity and technicality were overwhelming. In some cases, an enquiry made by the WP would go unanswered for some time because of its technical nature (Al-Nujaidi, Interview, 06 May 2002). The exclusion of outsiders was partially due to the secrecy that characterised the work of the WTO accession process, in general. However, the secretive nature may have been more pronounced in the Saudi case because of the excessive secrecy that usually prevailed in Saudi politics more generally. As mentioned, political interactions in the Kingdom were in some cases

undocumented. Later on in the process, some of the concerned agents would, in fact, comment on the negative impact of such an exclusion of experts.

Fourthly, the emphasis on the political endeavour started in this phase and continued for sometime during the process. The start of gathering political support through visiting major trading capitals, as indicated above, was a case in point. Here, the Saudis did not seem to have realised the changes that had taken place around this issue, particularly at the international level, as the Clinton administration assumed the role of championing global free trade. Thus, the Kingdom wasted considerable time on promoting the political approach while the process of accession was becoming more economic and technical (K. Kurdi, Interview, 20 April 2002; Milthorp, Interview, 21 October 2003).

Apart from these internal institutional factors that contributed to the overall slow pace of the accession process in Phase One, there were factors related to the internal and external setting of this process. The first was the situation of the domestic economy. Generally, this phase was a challenging one in economic terms. However, the GATT, which dominated most of that period, was not regarded at all as one of the means to face that economic test. There was no indication in the available official documents that GATT membership was ever conceived as one of the possible solutions to the economic challenges the Kingdom face at that time. For instance, the aforementioned recommendation made by the MC in 1989 to apply for becoming a party to the GATT, which was based on more than two years of deliberations with the MFNE, listed several reasons for this recommendation; none of them indicated that the GATT was seen as an answer to the Kingdom's economic difficulties (MOFA, 1990).

To further this argument, let us suppose hypothetically that the GATT had been perceived as a solution. It could then be assumed that becoming a party to it should have made the concerned governmental agents to speed up the related work, not to wait, for example, for more than a year after the application in 1993 to submit the Kingdom's first memorandum. Moreover, it should have pushed them to accelerate their preparations for conducting the negotiations rather than taking approximately three years to do that, as it will be related in the next chapter.



The failure to perceive the GATT as an economic remedy then can be attributed, as far as this thesis is concerned, to several elements. First, despite the general negative economic effects, the outlook for the oil market was relatively optimistic during the first half of the 1990s, when the Kingdom officially applied to the GATT. As indicated, oil prices picked up between 1990 and 1993.

Second, another element is related to the nature of the GATT itself. Unlike the WTO, the GATT's main focus was enhancing trade across borders by controlling and reducing tariff rates. Membership in the GATT was not important as a sign for economic commitments necessary for opening new markets and encouraging foreign investment, as was the case with the WTO. Put differently, the nature of the GATT in comparison with the WTO did not present a significant potential economic solution to some troubled economies.

Externally, the regional politics at the time, which witnessed dramatic events such as the Iraq-Iran War and the consequences of the Iraqi invasion of Kuwait, might have diverted internal attention from big projects like joining the GATT/WTO system. As to the effect of the bipolar world order that dominated a significant part of Phase One, Saudi Arabia could have joined the GATT with no trouble during the Cold War. However, the context of the Cold War itself played a role in the absence of a decision by Saudi Arabia to join the multilateral trading regime represented by that semi-organization. Unlike the WTO, where a membership served partially at a later stage to prevent international pressure, the GATT was not a politically pressing matter on an international level. Given the predominant competition with the Soviet Union during the Cold War era, the U.S. would not have put pressure on an important ally such as Saudi Arabia to be part of that international trade gathering. According to Al-Sa'doun, apart from the country's trade partners' wondering about the Saudi absence from the GATT, the Kingdom did not feel in the early years of its accession process any sort of international pressure to hasten the attempt of becoming a party to that semi-international organization (Al-Sa'doun, Interview, 26 April 2002).

Hence, the internal and external context did not assist in advancing the Saudi GATT/WTO accession during Phase One. The situation of the economy was a

challenge to the country, but governmental institutions, in particular, did not project the GATT as a solution. As to the regional and international politics at the time, they kept the government busy. In light of such dense political developments, it would have been difficult, for example, for the leadership to provide the issue of GATT/WTO with the political mentorship, as this study argued in Chapter Three, that was important for the advancement of important projects in Saudi Arabia.

However, the disinterest in the system represented by the GATT was not confined to the government where the accession issue was bounced between different departments for years during this phase. It was, in fact, shared by some of the societal interest groups as well. For instance, during this phase, the religious establishment was almost completely absent from the debate over accession to the multilateral trading system.

The main interests of the GATT in its early days were cross-border trade and related tariff reductions. During that period, no concessions pertaining to religiously prohibited goods had been presented by that semi-organization or its contracting parties. Neither were there any encroachments on the legal and cultural life of the acceding countries, as was later the case when the organization extended its jurisdictions over consecutive multilateral rounds of negotiations to other areas than tariff reductions. Accordingly, at the time, the nature of the GATT did not attract the attention of this important societal group, which accordingly did not voice any concerns of the sort that it stated in Phase Two (Al-Dawood, Interview, 03 May 2004; Al-Abduljabar, Interview, 03 May 2004).

Being always more concerned about the economy, including trade, the business community was, as indicated, less happy with the lack of debate about the GATT issue. Nonetheless, its weakness in comparison to the government and non-acquaintance with the accession issue, as it was at the time solely accessible to the government, limited the options for involvement of the business community. The official application to the GATT in 1993 and the conversion of the application to the WTO in 1995 were opportunities to extend the boundaries of that involvement, not least because such events had by default improved familiarity with the developments of the global trading system, unlike when the governmental agents had previously been contemplating the accession issue.

The differences revealed in the business community's perceptions about GATT/WTO emphasise the inconsistency indicated earlier with the general assumption of the 'rentier' paradigm of the business community displaying a unified attitude in resisting liberalisation and seeking government protection. The perceptions collected here contradict the assumption of such a paradigm. Some seemed to perceive the Saudi accession to the GATT/WTO in a less cautious light than others.

In fact, liberalisation, whether it comes through the GATT/WTO or any other vehicle, should not lack appeal for even most protective economies. With its possible consequences neutralised, it would be difficult for most businesspersons to oppose the idea of economic liberalisation. Such an appeal should become clearer if it is placed in the context of the condition of the Saudi economy during most of the 1980s and 1990s. Due to the difficulties experienced by the oil market during that period, the Saudi government had to cut back on its expenditures, upon which the business community depended significantly. In such a situation, the business community had to search harder for non-government opportunities and needed more liberty to move and operate.

However, due to the actual application and the conversion of the application, improved acquaintance with the multilateral trading system was reserved to the end of this phase in the parameter of perceptions. Yet, these perceptions, particularly the less cautious ones, were generally passive in their view. In other words, those who were less reserved about the liberalisation promised by the multilateral trading system did not take into account the possibility of seizing the potentials of the system to expand and surpass international competition. Instead, they displayed an attitude of calmness, as they did not expect any real threat from acceding to this global trading system.

Perceptions are distinctly different from actions. During this phase, no action was taken on the part of the business community or the religious establishment as far as joining the GATT/WTO was concerned. The issue was of no real interest to them, and no real moves were made to overtly advocate it or oppose it. This was partially due to the aforementioned lack of familiarity with the possible implications of implementing new issues such as GATTs and TRIPS, as this phase ended shortly after those issues officially came into effect in 1995. Also, until the end of Phase One, no actual

negotiations had taken place between the Saudis and the WP members. The interaction between these two sides was predominantly limited to understanding the Saudi trading system through sessions of questions and answers.

#### **4.6 Conclusion**

Saudi Arabia became an observer in the GATT in 1985. For the following eight years, the government underwent a process of internal contemplation as to whether to join that semi-trade organization as a full contracting party or keep its status as an observer. In 1993, it decided to seek accession to the multilateral trading system represented by the GATT. Afterwards, it took the government a whole year to submit its first memorandum to the WP. Moreover, the memorandum was not decisive about the Saudi position with regard to the transformation that the organization was actually going through in its changing from the GATT to the WTO. Thus, the Kingdom did not convert its application from the GATT to the WTO until after the latter was officially established in January 1995.

This long period of deliberation did not generally reflect eagerness on the part of the governmental agents that were conducting the consideration process. In fact, it reflected sluggishness. There were several reasons for this attitude. The consensus and consultation that had been of structural importance to the Saudi political system, as far as big decisions like joining the GATT/WTO were concerned, became more complicated as that system turned into a sort of collective leadership since the mid-1970s. In addition, the set-up of the governmental agents involved in the process suffered from the multiplicity of hierarchical levels. In general, their workflow was to report upwards to four different levels of governmental agents. Furthermore, particularly during this phase, those governmental agents lacked adequate knowledge about the global trading system in general, and due to being too much concerned with secrecy, they did not make good use of the available expertise. To some, the apparently insufficient understanding of the system especially after the transformation in 1995 was demonstrated by the early attention the Saudis paid to the political effort in their bid to join the WTO.

Most importantly, perhaps, the government as represented by the governmental agents involved in the accession process did not regard the GATT, whose presence occupied most of Phase One before it was transformed at the end of the phase into the WTO, as a solution to the Kingdom's economic problems, which were caused mainly by the fluctuations in oil prices and production. In addition, the regional political events at the time diverted the attention of the government from projects like joining the GATT/WTO. Also, as the Cold War was still in effect, no pressure was exerted on Saudi Arabia by major trading countries, particularly the U.S., to be part of the GATT.

The business community generally concurred with the governmental agents in attaching limited importance to the GATT. Although it did not outright reject the idea of joining the GATT, as suggested by the notion of Saudi Arabia as a 'rentier' state, the business community showed neither real interest nor real concern about the GATT during this phase. In fact, during the entire contemplation period (1985-1993), the business community was almost completely absent from the debate concerning the prospect of the country becoming a party to the GATT.

The religious establishment, too, cared little about the GATT at the time. The religious establishment's chief interest was preserving the *Shariah* and the society's social code. As the GATT was mostly focused on tariff reductions, the religious establishment saw no encroachments on either the *Shariah* or the social life and thus perceived no reason to concern itself closely with the matter.

However, this changed towards the end of the phase. As the world witnessed a widespread economic crisis in the developing world and the downfall of communism, the concept of economic reform was gaining traction. The year 1995, in which the WTO was established, was also the year when Saudi Arabia most likely started its own economic reform after years of consecutive fluctuations in oil prices and productions. Unlike the GATT, the new permanent organization offered a window of economic solution to the troubled Saudi economy, which began to take an interest in subjects championed by the WTO like attracting foreign investments and opening new foreign markets.

All in all, the main characteristic of Phase One was largely shaped by internal factors. Although regional and international circumstances could not be discounted, elements such as the make-up of the governmental agents involved and the lack of official interest in the multilateral trading system when it was represented by the GATT, which was shared by the business community and religious establishment, were the most decisive factors affecting this phase.

Table 4-1 summarises the internal, external, political and economic elements that were important during Phase One.

**Table 4-1: Elements Important to Phase 1**

|                 | <b>Economic</b>   | <b>Political</b>   |
|-----------------|---|--|
| <b>Internal</b> | <ul style="list-style-type: none"> <li>- Governmental Agents: GATT offering no economic solution</li> <li>- Business Community: A perception of little interests and little concerns</li> </ul> | <ul style="list-style-type: none"> <li>- Lack of clear political commitment or the inexistence of political mentor</li> <li>- Governmental Agents: MFNE's hesitance, and general little knowledge of accession requirements</li> <li>- Governmental Agents: faith in good political relationship with major WTO members in post-Cold War era</li> <li>- Religious Establishment: no interest and no concern</li> <li>- Gulf War: intense internal political critics</li> </ul> |
| <b>External</b> | <ul style="list-style-type: none"> <li>- Failure to conduct accession negotiations with WP throughout the phase</li> </ul>  | <ul style="list-style-type: none"> <li>- Regional and international context diverting attention away from GATT/WTO</li> <li>- Cold War: no pressure on the Kingdom to be part of the multilateral trading system</li> </ul>  |

## **Chapter 5 Phase Two: 1997-2000**

The previous low-profile phase ended, as mentioned, with a momentum inciting more active engagement on the part of the Saudis. Thus, while they were meeting with the WP members for the first rounds of negotiations starting from 1 May 1996, which were in fact rather question-and-answer sessions regarding the Kingdom's trading regime, the governmental departments at home were preparing, upon request from the MOC, studies on Saudi Arabia's position concerning some crucial subjects that were expected to be introduced by the WP members in the upcoming rounds of negotiations. These were the prices of petrochemical feedstock, liberalising basic telecommunications, opening financial services and designing transitional periods needed by the Kingdom to apply different aspects of the WTO agreements (MOC, 2000).

At the end of the third round of negotiations in 14 May 1997, which also dealt with revising the Saudi economic system, the WP incumbent members requested that Saudi Arabia should officially present its initial offers and commitments in goods and services so that the accession process could move to the virtual negotiations (MOFA, 1997). Such negotiations were commenced in Phase Two. The start of negotiations gave a clear indication that this phase would be dense, given the difficulties in the accession negotiations that were discussed in Chapter Two. In fact, five rounds of actual negotiations took place during this phase: the fourth, fifth, sixth, seventh and eighth rounds. Some of the rounds occurred relatively short succession. For example, the sixth was convened in June 1999, the seventh took place in April 2000 and finally the eighth was held in October 2000.

Another indication of a congested phase was the fact that Phase Two also witnessed around its end the formation of the HMC. In June 1999, the COM decided to establish a new governmental body to take part in the effort of acceding to the WTO. The minister of the interior was appointed as chairperson of the new committee. The minister of the interior was considered, at the time, to be the fourth most important figure in the ruling

family and thus in the country.<sup>37</sup> Without dissolving the MC, the new committee comprised the same members of the MC, but supplemented it with additional members. The new members were the minister of justice and three other ministers of state<sup>38</sup>.

Overall, the changes seen towards the end of the previous phase, from the increase of international interdependence to the rise of economic reform and the reshuffle in the COM, indicated that Phase Two would be dominated by economic factors, as this chapter argues. Nonetheless, the drive that economic factors were able to provide for this phase encountered some inhibitions, as this chapter will argue as well. They were mainly internal and of a political manner. These inhibitions caused Saudi Arabia to pause the whole negotiation process after the eighth round of negotiations in October 2000.

As negotiations are usually conducted over particular issues, the structure and focus of this chapter will be based on the interplay that took place during the phase between the issues negotiated and the context of the negotiations. In doing so, the chapter will devote one sub-section to each important issue negotiated. However, the chapter will start with an overview of the general context of the phase, which was moderately promising, given the positive momentum at the end of the previous phase. In this, negotiating the various issues was for the first time confined to a general internal timeframe set up by the MC, which specified at the beginning of this phase the year 2000 as the self-targeted deadline for accession (MOFA, 1998).

## **5.1 The Phase's Context**

Various important elements of an internal economic and political nature affected this phase as it progressed.

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<sup>37</sup> Minister of the Interior Prince Nayif virtually became the third most important man after the death of King Fahd in 2005. His position was officially promoted in 2009, when he became the Second Deputy Premier. In 2011, he became the crown prince after the death of Prince Sultan. Nayif died in 2012

<sup>38</sup> The ministers were Muhammad Al-Sheik, Mutlab Al-Nafissah and Mosa'id Al-Aiyban.



### **5.1.1 Domestic Economy**

As time went on, concerns about the economy gradually increased. Phase One ended with a warning from the IMF that was the first of its kind as far as Saudi Arabia was concerned. Accordingly, the government responded by increasing the fees for several important public services. From that date onward, the Kingdom made serious efforts to adjust to the economic challenges it was facing.

What made these challenges even more urgent were the new developments in the oil market during this second phase, which took a new direction that was very negative as far as the Saudi government was concerned. Unlike in 1995, when the Kingdom had to pay heed to the IMF by making some economic adjustments, the sharp fall in nominal oil prices in 1998, which plummeted to US\$11.9 per barrel, triggered an explicit governmental acknowledgement that the time had come for economic reform (EIU, 2000: 22).

One of the major effects of this economic dilemma was of a social concern. The economy became unable to absorb the growing local labour force. In an unofficial count, at the time, the unemployment rate had reached 15%. According to this estimate, only less than half the 100,000 jobseekers entering the market every year found work. What exacerbated the problem was that Saudi Arabia's population growth of 4.1% was one of the highest in the world. A share of 43.4% of its 23 million people, around that time, were younger than 15 years, and it would not be long before they entered the market looking for jobs. Abdullah, the king-to-be who was at the time still the crown prince, plainly acknowledged this economic crisis. In a key speech, he told his audience for the first time that the era of the Saudi oil boom was over (The Economist, 2002: 11-23).

Thus, the solutions that the government found in this situation went beyond its previous reaction to economic problems, which had simply of raising fees for some public services. This time, the government aimed at taking initiatives and adopting plans. For instance, the crown prince, who warned the citizens in a manner unusual in Saudi Arabia about the critical condition of the economy, took the initiative in 1998 and extended, for

the first time, an invitation to foreign companies to invest in the Kingdom's natural gas sector (Saudi American Bank, 2001: 2-7).

This was an indication of a reforming attitude and an important step in that direction. Hence, as freeing markets and attracting investments were among the requirements of any reform project, Saudi Arabia was now ready to take additional reform steps. To this end, it issued a new investment law in April 2000 (SAGIA, 2011).

The new law was intended to improve the Kingdom's foreign direct investment record, which had been poor in comparison to those of other developing countries such as Indonesia and Malaysia. The law generally allowed for 100% foreign ownership of projects or industrial companies, eliminated the necessity of having a Saudi sponsor of a project and guaranteed that foreign and national investors would be treated equally. In a complementary step around the same time, the government established the Saudi Arabian General Investment Authority (SAGIA) to streamline the process of investment applications (Bhala, 2004:776-777).

In the context of these developments, it was not surprising that increasing attention was given to the WTO. There was an urge to weigh the benefits and costs of accession, so that the government could make the right decision on how to proceed in this process. The following table (5-1) was prepared by various departments involved, upon the instruction from the MC, in the Kingdom's preparation for the sixth round of its WTO accession negotiations. It summarises the general governmental assessment of the WTO accession up to that point.

**Table 5-1: Benefits and Costs of Accession**

| <b>Benefits of Accession</b>   | <b>Costs of Accession</b>   |
|--|---|
| <p>1- It would allow better access to new markets for domestic industrial and agricultural goods, which would enhance the diversification of economy;</p> <p>2- It would enhance the competitive ability of domestic industries by improving production and encouraging mergers;</p> <p>3- It would enable the country to benefit from the MFN and national treatment especially for petrochemical industry;</p> <p>4- It would make the acquisition of advanced technology more easy;</p> <p>5- It would allow agreements such as the anti-dumping agreement to be applied in protecting domestic industries in special circumstances;</p> <p>6- It would give Saudi Arabia the right to use the WTO mechanisms for settlement of disputes;</p> <p>7- Abandoning agricultural subsidies internationally would help make domestic agricultural goods more competitive;</p> <p>8- Reducing internal agricultural subsidies would lead to rationalising the use of water resources and encourage the tendency to produce agricultural goods compatible with an arid environment;</p> <p>9- It would increase competition among services providers, which would lead to lower prices and diversify choices for consumers;</p> <p>10- It would cause expediting the revision and update of rules and regulations linked to sectors of goods and services in a manner consistent with international standards;</p> <p>11- It would enhance the country's position in attracting foreign investments;</p> <p>12- Through TRIPS, it would decrease the distribution of counterfeit goods in the local markets;</p> <p>13- It would allow Saudi Arabia to benefit from technical assistance provided by some advanced members in the organization.</p> | <p>1- It would reduce revenues generated by tariffs;</p> <p>2- Some sectors would suffer in the shortrun from foreign competition;</p> <p>3- It would bind tariff protection within an agreed WTO framework;</p> <p>4- Reduction in agricultural subsidies would cause an increase of prices for consumers;</p> <p>5- Converting the restriction system for some vital items such as milk and dates into tariff system would expose them to competition;</p> <p>6- Competition with foreign providers of services would result in a decrease in the profit margins of local providers;</p> <p>7- It would add an administrative and scrutinising burden on the government;</p> <p>8- The WTO's inherent requirement of transparency would cause a disclosure of commercial, financial and economic information in a manner that would affect the services sector overall;</p> <p>9- It might lead some foreign exporters to terminate contracts with Saudi agents, as the former would be allowed to sell directly in the domestic markets;</p> <p>10- Prices of important goods such as medicine might increase due to the application of TRIPS;</p> <p>11- The work to revise and modify rules and regulation would put a financial burden on the government.</p> |

Source: MOC "Benefits and Costs of the WTO Accession" 20/2/1420H, 04 June 1999.

The assessment ended with the recommendation to join the WTO as soon as possible. It justified this recommendation with the fact that a global interdependent system had consolidated through the successive rounds of this organization, and that its impact was increasing with the conclusion of every new international multilateral round of world trade negotiations. By the time of the assessment's release, the WTO members controlled 85% of the world trade, according to the assessment. Thus, it became essential for Saudi Arabia to take its place in this gathering to participate in making decisions and policies of international trade (MOC, 1999).

Thus, a further effort was made to accede to the organization. An important sign was that the MC envisioned for the first time a specific role for the business community in parallel to the official endeavour. It emphasised the need to form a consultant team from businesspersons to assist the SNT starting with the fifth round of the Saudi accession negotiations in 1998. The business community aimed to put pressure on its foreign partners, for instance, in banks such as the Saudi American Bank and the Saudi French Bank to influence their native countries not to insist on a further liberalisation of the Saudi domestic financial market (MOFA, 1998).<sup>39</sup>

### **5.1.2 Technocrats**

The development plans, which started in the mid-1970s coinciding with the first oil boom, recognised the importance of human resources as a valuable asset. One of the development plans' major objectives was to develop human resources, ensuring a constant supply of manpower to carry out the requirements of the national economy. Therefore, it was necessary for the Kingdom to create a pool of highly educated Saudi citizens capable of managing a complex modern economy. In this context, the Kingdom, helped by its oil resources, decreed a massive expenditure on education (Al-Farsy, 2004: 146-148, 239).

In studying reform in the GCC countries, Nonneman found that the dramatic increase in education in those states, including Saudi Arabia, generally indicated a greater

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<sup>39</sup> The Saudi American Bank was renamed the Samba Financial Group in 2003 after the withdrawal of the American partner, the City Bank, in the mid of the 9/11's crisis.

propensity to reform (Nonneman, 2008: 20). The massive expenditure in Saudi Arabia on education efforts, which consisted largely of sending students to universities abroad, began to bear fruits in the 1980s and the 1990s. As indicated in Chapters Three and Four, the newcomers with degrees from Western universities had a large share in the first rare major reshuffle in the COM in 1995. Their considerable influence extended, as explained in preceding chapters, to the MOC and the MC, the two main governmental bodies supervising the country's WTO accession.

The trend to fill high-ranking posts with people of high education was not restricted to the COM, but clearly also applied to the membership of the *Shura* Council that was first established in 1992 with 61 appointed members. In 1997, Fahd expanded the *Shura* from 61 to 90 members.<sup>40</sup> A study of the *Shura* at the time indicated that its members were relatively young and that 23% of them were modernising academics. Of these members, 64% had doctoral degrees, 14.4% had master's degrees and about 80% of the total of the holders of doctoral and master's degrees had been educated in the West (Cordesman, 2003: 147-150).

In fact, this rate of educated persons in the COM and the *Shura* not only served an organisational and operational purpose, but it also became a source of pride to those in leadership positions. For instance, in a press conference in the United Kingdom in 1996, the Chairman of the *Shura* at the time, *Sheikh* Muhammad bin Jubair, was asked whether his council would be elected in the future. He answered that that was unlikely. His justification was that any election might not provide the same level of expertise available in the current *Shura* Council, whose 61 members included 35 PhD holders (Saudi Embassy-Washington, 2011).

In any event, the increasing presence of technocrats during that time, particularly in the COM, gave them a greater say in major policy decisions. For instance, Western educated technocrats came to conduct much of the planning and management in the Kingdom (Cordesman, 2003: 144-145). It is uncertain whether technocrats led the

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<sup>40</sup> According to the rules and regulations, the *Shura* Council term is four years. The king launched the first term in 1992 with a speaker and 60 members. In the second term, the *Shura* consisted of a speaker and 90 members. In the third term, the *Shura* included a speaker and 120 members. In the fourth term, the *Shura* consisted of a speaker and 150 members.

country to a greater reform, as Nonneman assumed above, as a possible effect of increasing the number of educated people. However, most technocrats, particularly in the COM and the *Shura*, have shown loyalty to the ruling family and to the political system in general over time. Nonetheless, the knowledge and expertise they have gained contributed to making them more open to new ideas and to a greater integration with the world, at least in economic terms.

### **5.1.3 King Fahd**

Fahd undertook several changes in the 1990s, particularly the unusual step of massively reshuffling the top posts in the government including ministers in the COM, which, as mentioned, was a promising step for the WTO. However, these efforts were dealt a blow as far as the effort to accede to that very same organization was concerned. As the MOC took over direct responsibility for the WTO file from the MFNE in 1995 and as the application for accession was being converted from the GATT to the WTO, Fahd fell seriously ill. His health condition continued to deteriorate over the years until his death in 2005.

Even before ascending to the throne in 1982, Fahd had been known for his strong personality. In addition, he was known as a crown prince and king for his propensity to delegate power to his ministers to accomplish what they thought important for the country's management and economy (Huyette, 1984: 165-166). With such characteristics, he could have been a vital champion of WTO accession during this second phase. However, his deteriorating health meant that he was absent from the process. According to a top negotiator in the services issues, the virtual absence of the king at that time had a negative impact on the Kingdom's effort to join the WTO because he might have provided the internal political push that the Saudi accession case lacked up to that point (Al-Jasir, Interview, 5 April 2006). *Sheikh* Al-Ameen generally agreed that there was a lack of close political support as far as the WTO accession was concerned (Al-Ameen, Interview, 5 April 2006).

These were the relevant conditions, as far as this study is concerned, in which Phase Two took place. All of these factors had a general impact on the progress of the phase, though not to an equal extent, as the examination of the following issues demonstrates.

## **5.2 Issues**

The section will begin with the issues included in the first Saudi offer in 1997. Additional issues will follow as they were subsequently presented in the course of the accession negotiations. In any event, the issues introduced herein are not inclusive. They were, however, the most important in terms of their intensity and decisiveness.

As the mentioned offer was being prepared upon the request made by the WP members on 14 May 1997, Saudi Arabia aimed at maintaining the best interests of the Kingdom during accession negotiations. To this end, it proclaimed itself a developing country so that it could enjoy the benefits and flexibilities granted to developing countries. The Kingdom also endeavoured to bind its tariff rates to levels similar to those secured by other GCC states, which, in exception of Oman, had joined the multilateral trading system much earlier, and with high tariff rates binding. It was critical for Saudi economic and social life that the Saudi negotiators should strive in the negotiation process to preserve the status quo of the services sector. The Saudi officials therefore believed it was important, as mentioned in Chapter Four, to set out the accession process by gathering political support for the Kingdom's bid to join the WTO (MOFA, 1996; MOC, 1997).

As it was finalised, the offer was approved by the COM in 27 August 1997. Table 5-2 summarises the offer, which was to be presented for the fourth round of the Saudi accession negotiations with the WP incumbent members in November 1997.

**Table 5-2: First Comprehensive Offer**

| <b>Agricultural Goods</b>  | <b>Industrial Goods</b>  | <b>Services Commitments</b>   | <b>Flexibilities and Transition Periods</b>  |
|--|--|---|--|
| <ul style="list-style-type: none"> <li>- Binding current tariff-free goods at a negotiable initial rate of 20%.</li> <li>- Binding protected goods (eggs and poultry) at a negotiable initial rate of 50%.</li> <li>- Binding restricted goods (dates and milk) at a negotiable rate of 100%.</li> </ul> | <ul style="list-style-type: none"> <li>- Covering about 95% of industrial goods in this initial offer.</li> <li>- Binding current tariff-free goods at a negotiable rate of 20%.</li> <li>- Binding goods on which a tariff of 12% is levied at a negotiable rate of 33%.</li> <li>- Binding goods on which a tariff of 20% is levied at a negotiable rate of 50%.</li> <li>- Binding goods on which a tariff rate of 50% is levied at a negotiable rate of 100%.</li> </ul> | <p>Maintaining the commitment to currently opened sectors and excluding closed sectors.</p> | <ul style="list-style-type: none"> <li>- Due to self-proclaimed status as a developing country, the offer would state: <i>“The Kingdom of Saudi Arabia would enjoy after acceding to the WTO all the rights and meet all obligations emerge from its membership”</i>.</li> <li>- Requesting a ten-year transition from the date of accession to reduce subsidies to agriculture by 13.3%.</li> <li>- Requesting a five-year transition period from the date of accession to revise and amend regulations related to TRIPS.</li> <li>- Requesting a five-year transition period from the date of accession to revise and amend regulations related to customs valuation.</li> </ul> |

Source: MOFA, Ministerial Minute, 7 July 1997

It was understandable that the Kingdom, in carrying out its aim of maintaining the best interests of the country during accession, set its offered ceiling of tariff rates binding at higher levels than those applied at the time. That is what most applicants did in the course of the negotiations for accession. However, the strategy of implementing this aim might have gone wrong in attaching the Saudi effort to the request of having similar accession conditions secured by most GCC states, because most of the latter were already contracting parties to the GATT and succeeded to the WTO after its establishment. Likewise, requesting long transitional periods was rather difficult because any transitional period requested by the Saudis was to begin from the official



date of the Kingdom's accession, which at that early stage was very difficult to predict. In fact, the years for transitional periods, which were allocated flexibly by the organization, began to be counted starting on 01 January 1995 for all entitled acceding countries that were mainly least-developed.<sup>41</sup>

### **5.2.1 Tariffs on Industrial Goods**

The tariff offer on industrial goods summarised in Table 5-2 received a great deal of criticism in the WP. The U.S. and the EU had a major part in this disapproval. The EU charged that the offer did not appear to be in line with the Saudi's industrial development, and noted that the Europeans had expected the Kingdom to adopt a different approach. Their delegation stated that the offer was averaged at 33% across the board and there was not a great deal of differentiation between sensitive and insensitive domestic sectors (WTO, 1997: 7-8).

From the Kingdom's viewpoint, the offer was designed to meet the country's future needs, especially in view of the fact that oil prices were declining. The offer, according to the Saudi negotiators, did not neglect the diversity of various sectors, as the EU had charged. The SNT contended that having tariff offers at rates ranged between 20%, 33% and 50% did in fact reflect the sensitivity of the different sectors. The SNT added that the Saudi offer compared favourably to those of other WTO members who were even at a higher stage of industrial development than Saudi Arabia (WTO, 1997: 7-8).

The EU ended the negotiations relating to this point decisively. As the head of its delegation said, "*we agree to disagree*". At this point, the Saudis questioned one of the WTO accession's principles, the uniqueness of each accession case, in light of this European position. The SNT pointed out that the WTO always highlighted the fact that each accession was unique. However, the EU was now asking the Kingdom to make commitments similar to those made by other acceding countries (WTO, 1997:8).

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<sup>41</sup> There were different types of WTO transitional periods. For example, TRIPS granted developing countries a five-year transition period, while least-developed economies were afforded up to 11 years to follow suit. Another example was the Safeguard Agreement, which allowed developing countries to maintain safeguard measures for a period of ten years.

The U.S. also thought that there was a wide gap between the offered rates and currently applied rates. Its representatives advised the Saudis that high tariffs were not the best method to protect and develop industries. Therefore, the U.S. hoped to see a thorough revision of this initial offer by the Kingdom, which as it was did not serve as an acceptable basis for negotiations (WTO, 1997: 3-7; Greenidge, Interview, 21 October 2003).

Even taking into account the lack of experience with which the Kingdom had entered the accession negotiations, one might have expected that the WTO incumbent members would not embrace an initial offer presented by an acceding country. The average accession duration of six years was by itself a clear indication that negotiations were almost never concluded based on the first offers. Therefore, an acceding country such as Saudi Arabia could expect that it would most likely have to modify its first offer.

The problem for the Kingdom was that it came at a time when oil prices were in decline and tariff revenues were seriously needed. This problem was compounded by the fact that the U.S. asked the Kingdom, in the process of negotiating its tariff offer, to join the Zero for Zero agreement. This agreement covered about 3000 products. Binding duties on so many products at zero percent would mean, in the Kingdom's viewpoint, a tremendous loss of revenues, which it would be almost impossible to make up, as the government did not apply direct taxes (WTO, 1997: 3).

The MC discussed this issue back home and decided to downwardly amend the Kingdom's binding rates in a way that would simultaneously preserve the macro interests of the country and respond to the demands of the WP members, who were at the same time the Kingdom's trading partners (MOC, 1998). This was virtually the first time that the Kingdom had changed the aim of getting the best terms and conditions out of the accession negotiations, with which it set out in the process, to the more practical one of preserving the country's macro interests. It was at the same time a plain sign that the Saudis had realised the impossibility of reaching in the accession negotiations the terms and conditions gained by some, like most of the GCC states, through the succession mechanism.

Accordingly, the MC prepared a modified offer for the fifth round of accession negotiations in Geneva in 1998. The new offer covered no less than 90% of the industrial goods (MOC, 1998), and with an average binding rate of 25% instead of the 33% that had previously been offered (MCO, 1998: 5). Table 5-3 summarises the Saudi offer of industrial goods for this new round. The table also includes the fall-back position, which of course the Saudi negotiators did not overtly present to their counterparts.

**Table 5-3: Industrial Goods**

|   |
|---|
| <p><b><u>Initial Offers</u></b></p> <p>Reducing tariff binding for (126) items gradually from 33% to 0% until 2005<br/>(goods included in the Agreement of Information Technology)</p> <p>Reducing tariff binding for (19) items from 20% to 0% gradually<br/>(some goods included in the Agreement of Chemical Understanding)</p> <p>Reducing tariff binding for (102) items from 20% to 12%</p> <p>Reducing tariff binding for (4218) items from 33% to 25%</p> <p>Reducing exempted items from (1290) to (693)</p> <p><b><u>Fall Back Positions</u></b></p> <p>Keeping (158) items at 0% tariff rate</p> <p>Reducing tariff binding for (53) items from 25% to 0%</p> <p>Keeping tariff binding for (207) items at 5,5%</p> <p>Reducing tariff binding for (3961) items from 25% to 20%</p> <p>Reducing exempted items from (693) to (340)</p> |
|---|

Source: MOC, draft of modified offer in goods and services, and the requested transitional periods for the fifth round of accession negotiations, 1998 (Arabic)

In the round itself, the response was couched in positive terms, but it included no tangible commitments. After praising the modifying effort, the U.S., the EU and Canada demanded that the Kingdom should lower its binding rates further in this area. They wanted to see the offered average binding rate of 25% be reduced to a range between 10-15% (MOC, 1998: 10-22). Taking into account that this demand came in the year when oil prices reached their lowest point during the 1990s (US\$11 per barrel) it was tough for the Saudis to figure out how to make up for the resulting losses if they agreed to the demand.

Nonetheless, the MC argued that the cost of not considering such a demand would outweigh budgetary considerations. Moreover, around the same time, it invited the chairperson of the WP of the Kingdom's accession, Canadian Ambassador John Weeks, to make a checklist of the binding issues, including tariff rates, with the WP members and a summary of the latter's demands along with his suggestions on how Saudi Arabia could best go about handling such demands. Indeed, the MC adopted Weeks's checklist as the base for designing the general offers as of the sixth round of the Saudi accession negotiations in 1999 (MOC, 1999).

Accordingly, and in the face of the business community's opposition to some of its aspects, the MC tried in the offer for the sixth round to accommodate the demands of the WP, particularly those of the Kingdom's main trading partners. In doing so, it generally presented an average bound rate of 14.4%. Table 5-4 summarises the offer (MOC, 2001: 1-3).

**Table 5-4: Industry**

**Initial Positions**

Signing on to the plurilateral agreement of Petrochemical Understanding (1017 items) as follows:  
Reducing tariff bindings on (747) items (current average tariff applied 0-20%) from 0%, 5.5%, 6.5%, 25% as in the previous offer to 0%, 5.5%, 6.5% and to be applied from 2010;  
Reducing tariff bindings on (270) items (current average tariff applied 0-20%) from 0%, 5.5%, 6.5%, 25% as in the previous offer to 15%, 20% and to be applied from the date of accession;  
Signing on to the plurilateral agreement of Information Technology (179) as follows:  
Reducing tariff bindings on (152) items from 0-25% as in the previous offer to 0% to be applied from 2005;  
Reducing tariff bindings on (27) items from 0-25% as in the previous offer to 15% (current applied rate 12%);  
Reducing tariff binding on pharmaceutical items (59) subject to the sectoral agreement (0-0) from 0%, 5%, 12% as in the previous offer to 5% to be applied from 2005;  
Reducing tariff bindings on medical items (74) subject to the sectoral agreement (0-0) from 12%, 25% as in the previous offer to 5%, 15%, 10% to be applied from 2005;  
Reducing tariff bindings on sensitive industrial items (292) from 25% as in the previous offer to 20% (applied rate at the time 12%);  
Reducing tariff bindings on the rest of the industrial items (4094) from 12%-40% as in the previous offer to 7%-20% (applied rate at the time 0-20%);  
Binding tariff rates on (1100) items to a rate less than the currently applied (about 15% of industrial goods);

**Fall-Back Positions**

Binding the whole items subject to the Petrochemical Understanding (1017) at 0, 5.5, 6.5% from 2005;  
Signing to the whole agreement of Information Technology (179 items) at a rate 0% to be applied in three years from the date of accession;  
Placing pharmaceutical items subject to the agreement (0-0) at a 0% tariff rate from 2005;  
Placing medical items subject to the agreement (0-0) at 5% from the date of accession;  
Reducing tariff bindings on sensitive industrial items (292) from 20% to 15%;  
Keeping tariff bindings on the rest of industrial items (4094) at 7%-20%.

Source: MOC, draft of offers of goods, services and transition periods for the sixth (6<sup>th</sup> offer) round, 04 June 1999

In bilateral meetings in July 1999, all of the WP's delegations, except the U.S. delegation, agreed that setting the Saudi average bound rate at around 15% was a good

step for advancing the negotiations (MOC, 1999: 15-16). Japan's delegation particularly thought that the offer, as far as industrial goods were concerned, was satisfactory (Bhala, 2004: 774). In fact, at that time, relations between Saudi Arabia and Japan were reaching a high point. The two countries were in the process of signing an agenda of mutual co-operation on a wide range of economic, social and cultural issues (MOFA, 1999).

However, some delegations demanded that the Kingdom lower the tariff rates that exceeded the average 15% on items important to them. The EU, for instance, requested that the tariff bound at 20% on items such as paper, construction equipment, and cars should be reduced to the general average of 15%. The Canadian delegation presented similar requests. This Saudi step and the general praise it received from the members in the WP did not matter much to the U.S. Its delegation wondered why some items of a current tariff rate of 12% were bound in the offer at 20% (MOC, 1999: 16-18).

As to the plurilateral and sectoral agreements, most of the WP members insisted that the Kingdom shorten the expected dates that came in the offer for applying the reductions in tariffs related to such agreements (MOC, 1999: 15). The SNT defended itself by pointing out that the agreements of Information Technology (IT) and Chemical Harmonisation (CH), which the Kingdom agreed to apply to 85% and 75% of their items respectively, were not ultimately part of the single undertaking agreements. Nevertheless, there was a general consensus among the WP members that the Kingdom should fully subscribe to them (MOC, 2000: 12). Overall, the U.S. warned Riyadh that further improvements were still needed on the goods side of the Saudi offer (Bhala, 2004: 774).

In reviewing the WP members' attitudes towards the offer in general, the MC noticed a certain flexibility on the part of Japan, Canada and even the EU. The MC advocated a strategy of making further general concessions, including an additional reduction in tariffs on industrial goods so that it might win over those countries to its side against the rigid position of the U.S. (MOC, 1999). In fact, as far as Japan was concerned, the general Saudi offer thus far, including that of tariffs on industrial goods, and the bilateral

effort to strengthen the mutual co-operation resulted in both sides coming to a bilateral agreement on 15 January 2000 (MOC, 2000: 14).

Domestically, however, the continual reduction of tariffs agonised the business community. A report of the MOC indicated that the business community seriously criticized binding 1100 items below the currently applied rates, as a result of the table above (COM, 2001: 2). K. Kurdi played down the importance of most other governmental protective procedures, including subsidies, to strengthen the private sector. He said that they were more or less non-existent. He pointed out, however, that imposing reasonably high tariff rates was the only effective method, which the people responsible for the accession process seemed to concede to in the negotiations (K. Kurdi, Interview, 20 April 2002).

Despite such criticism, the MC decided to design a new scheme of tariffs that was in compliance with the framework of the offer for the seventh round of negotiations over the Kingdom's accession. The following table (5-5) summarises this offer in tariffs on industrial goods.

**Table 5-5: Offer in Tariffs on Industrial Goods**

| <b>Goods</b>           | <b>Number of Goods</b> | <b>Current Rates</b> | <b>Offer</b>   |
|------------------------|------------------------|----------------------|--|
| Chemicals              | 1017                   | 0-20%                | Acceptance whole agreement according to its rates: 0%, 5.5%, 6.5%; Application: after five years (2005), could be applied incrementally depending on the negotiations                          |
| IT                     | 179                    | 12%                  | Acceptance of whole agreement at zero rate, but application after three years, or on the date of accession, but with exceptions (could be applied incrementally depending on the negotiations) |
| Pharmaceutical Items   | 59                     | 0-12%                | Zero rate, but after five years (2005), could be applied incrementally depending on the negotiations   |
| Medical Equipment      | 74                     | 0-12%                | 5% on all items starting from the date of accession  |
| Wood                   | 156                    | 12-20%               | Acceptance of whole agreement upon the date of accession according to the tariffs in the old previous offer (5%, 15%, 20%)   |
| Construction Equipment | 58                     | 12%                  | 15-20%, or 8% as a fall-back position  |
| Agricultural Equipment | 22                     | 12%                  | 15%, or 8% as a fall-back position   |
| Furniture              | 43                     | 12-20%               | 15-20%, or 15% but with incremental application over five years as a fall-back position  |
| Sensitive Goods        | 292                    | 12%                  | 15%  |
| Other Industrial Goods | 4093                   | 0%-20%               | 7-20%  |
| Exempted Goods         | None                   |                      |  |

Source: MOFA, Cable No. 92596, 1/12/1420H, 07 March 2000



Going beyond its previous offer, the Kingdom was ready to accept the whole CH agreement, whereas it had previously offered to accept only 75% of its items. However, the new position came with a condition: a flexibility period of five years would be stipulated for implementation to take effect or for applying the agreement gradually. A similar position was offered concerning the agreement on IT. As for sensitive goods, the offer brought the bound rate closer to the applied one. The applied rate, at the time, was 12% and the new offer brought the rate down from the previously presented 20% to 15%. The Kingdom, in addition, did not exempt any industrial item from having a bound rate.

However, this was still not good enough as far as the WP was concerned. Although the aforementioned checklist that had been presented approximately one year previously by Weeks, which the Kingdom adopted after the sixth round as the base for designing offers in an attempt to speed up its accession process, indicated that an average bound rate of 15% would be acceptable to the members of the WP, members like the U.S. requested that the Kingdom reduce the average to the applied rate of 12%. Moreover, the U.S. and some other members demanded that the Kingdom should commit to the whole CH and IT agreements upon the date of accession (MOC, 2000: 15).

After securing the approval of the COM, the SNT went to the eighth round of the Kingdom's accession in Geneva in October 2000 with a slightly modified offer in tariffs on industrial goods. The offer included having almost more than 40% of the 5895 classified industrial goods bound at 7-20%. Those of these items that currently had 12-20% tariff rates would stay the same, and the items that currently had tariff rates of 0-7% would be bound at 7%. This amounted roughly to applying the current tariff rates to half of the industrial goods. To satisfy the aforementioned European demand to reduce substantially the tariff rates on all kinds of paper, which the EU delegation had once mentioned as a main obstacle to signing a bilateral agreement with the Saudis on this issue, the Kingdom was ready to have 180 paper items bound at 10%, 13 paper items bound at 15% and 20 paper items bound at 7%. However, the related Saudi offer also insisted on its need to have a flexible time period to apply the whole agreements of CH and IT (MOFA, 2000).

Canada, one of the Quad countries, was flexible regarding the issue of tariffs on industrial goods even before the eighth round. During multilateral and bilateral meetings in the round, however, the EU and the U.S. positions fell short of reaching a conclusion in this respect. The EU added more items to the category of paper goods, and the U.S. maintained its opposition to allowing the Kingdom any flexible period (MOC, 2000: 5-10). However, as the latter had brought the average tariff rates on a large section of industrial goods to the rate applied at the time over the successive rounds of accession negotiations, this issue became less of an obstacle to the Saudi accession at the end of this second phase.

### **5.2.2 Agriculture**

Before it was submitted to the table of negotiations, the initial offer concerning agriculture in May 1997 (Table 5-2) had provoked an internal disagreement. The minister of agriculture, who was absent from the meeting when the MC recommended the Kingdom's initial offer, thought that the agricultural part was too generous. Instead of debating the offer within the MC, the minister took his concerns directly to the COM. The latter was responsive and decided to raise the tariff rates offered for agricultural goods as follows:

- Binding current tariff-free goods at a negotiable initial rate of 35% (20% in the initial offer).
- Binding protected goods (eggs – poultry – wheat) at a negotiable initial rate of 100% (50% in the initial offer).
- Binding restricted goods (dates – milk) at a negotiable rate of 150% (100% in the initial offer) (COM, 1997).

This caused a re-shuffling of the cards prepared for the fourth round of negotiations held in 1997. In addition to this change, the Kingdom requested a transition period of ten years from the date of accession to reduce domestic subsidies for agriculture by 13.3%. This was the transition period given to developing countries. In justifying what had been presented in the negotiations to the WP members in general, and the Quad countries in particular, the SNT indicated that the Saudi offer in this field had been

carefully designed to reflect the Kingdom's long-term development interest. The SNT argued that the country had to develop agriculture as one way of diversifying the economy away from being hugely dependent on oil, a resource that was gradually being depleted (WTO, 1997).

Generally, the WP members, and particularly the EU and the U.S. did not consider the rates set out above to be suitable even as an acceptable ground for negotiations. They unanimously agreed that the rates offered by the Saudi side were very high and that they had to be reduced to a level close to the 20% applied at the time. As for the transition period requested, the EU delegation commented that it did not agree on allowing Saudi Arabia a longer period for reducing domestic support for the agricultural sector. The Europeans stated that such an extension would create awkward problems as the requested ten-year period would exceed the period allowed to developing countries that would end in the year 2004.

The SNT met with the Americans as well. Debating the agricultural issue with the U.S. delegation was a bit different. It commented on the Saudi programme of domestic support to agriculture in an extremely technical fashion. Specifically, the U.S. delegations suggested that certain items classified by the Saudis in the 'Green Box' should be reclassified under the 'Amber Box'.<sup>42</sup> In responding, the SNT stated that agriculture was a minute issue, and that Saudi Arabia had spent only modest amounts on agricultural subsidies compared with the large subsidies received by some U.S. agriculture sectors. At the same time, however, the Saudis told the U.S. representatives that agricultural issues were of more concern to them back home than to their trading partners (WTO, 1997).

This contradiction inherent in the Saudi response was a reflection of the contradiction between the status of agriculture in the country's economic policy and the way the MC considered it during the accession process. As mentioned in Chapter Four, agriculture had already been a contentious issue before. According to the majority of

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<sup>42</sup>The Green Box contains items to be excluded from commitments to reduce subsidies such as public stockholding for food security purposes. The Amber Box includes all domestic support measures considered to distort production and trade, such as price supports and subsidies directly related to production quantities.

businesspersons interviewed in this study, the agriculture sector was a candidate to suffer losses from the WTO accession. They argued that the agricultural sector lived off subsidies. In this view, the sector could not depend on itself for a sustainable growth because of the topographical determinants (Alkhuraiji, Interview, 25 April 2004; O. Kurdi, Interview, 5 May 2004).

The MC and the SNT, whose members were mainly technocrats, showed a general inclination towards this argument. They would later justify suggestions to make some concessions in the agricultural sector in order to enhance the position of other more economically viable sectors in the negotiations. In this regard, some in the MOA and business community with agricultural activities thought that the majority in the MC, and particularly the two ministers of commerce who supervised the Saudi accession process, came from a background in trade and industry and had practically no knowledge at all of agriculture. Therefore, it was perhaps not surprising that the agricultural field was the first to come to their minds whenever they had to consider making concessions (Al-Obaid, Interview, 08 May 2002; K. Al-Rajhi, Interview, 5 May 2004).

The government's general policy, however, treated agriculture as strategic issue that was important for security. In fact, the government's interest in agriculture over the years resulted in the Kingdom becoming, as already mentioned, the sixth-largest wheat exporting country in the world in 1992. This development generated some questions. As indicated earlier, Elhadj commented that achieving food independence for security reasons did not require a country to assume such an advanced ranking in the international wheat market (2008).

The fact of the matter was that fostering agriculture did not make sound economic sense; and the MC was willing to make concessions in this sector in a trade-off to strengthen of its hand concerning other issues that were economically more important to the Kingdom. Yet, agriculture seemed to have a measurable weight in the general government policy. Irrespective of the arguments and counterarguments over the strategic aspect of agriculture, it is important to revert to the characteristics of the Saudi economy.

The small and medium-sized businesses constituted the majority of business establishments in Saudi Arabia. They made up 90% of the country's firms (Riyadh Chamber of Commerce, 2001: 23; *Al Hayat*, 2004). Nonetheless, they had less access to investment loans from local banks (Dr.Hasan, Interview, 27 April 2004; Arab news, 2004) while large businesses received the bulk of government support. In agriculture, the large companies belonged to investors who were financially sound and had substantial landholdings (Elhadj, 2008:35).<sup>43</sup>

In light of the previous negotiations with the WP in the fourth round of the Saudi accession, in which the major members in the WP decided that the initial offer in agriculture did not constitute an acceptable groundwork for the negotiations, the MC instructed the SNT to rework the Kingdom's overall offer, including agriculture. The general trend in the MC was to re-adjust the overall tariff rates initially presented earlier. However, the minister of agriculture objected to this trend as far as agriculture was concerned. He asked the other MC members to wait and see the results of the next round of negotiations. As for the ten-year transition period, the MC took note of the firm position of the EU and the U.S., which objected to such flexibility. Therefore, the majority within the MC also thought that the Kingdom would not be granted the requested period (MOC, 1998), especially since the WTO had set up a deadline for developing countries to reduce their agricultural subsidies by two-thirds (Hoekman and Kostecki, 2001: 219). Yet, once again, the minister of agriculture did not agree and thought that this should be left to the coming negotiation rounds (MOC, 1998).

Before the new round of negotiations, an external demand added to the difficulty of this internal rigidity and made the situation even more complicated. Although it had not said so before, the U.S. thought in 1997 that the Saudi tariff-binding offer was not comprehensive enough. Therefore, it emphasised that the offer should include all agricultural items including the 49 that had been excluded from the initial offer for religious reasons.

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<sup>43</sup>Two examples of such companies are Al-Mara'i and Al-Safi. They are the biggest agricultural companies in the Kingdom and are owned by members of the ruling family

This was a critical demand, because its implications went far beyond the issue of agriculture itself. Islam forbids the production and consumption of pork and pork by-products. Because Islam is the basis of the legal system and a source of political legitimacy in Saudi Arabia, compromise over this matter seemed unlikely.

In fact, the concept of exceptions was not completely alien to the WTO and its agreements. The GATT Agreement, for example, allowed for exceptions on general grounds such as the protection of public morals and the achievement of security objectives (UNCTAD, 2003). The Saudis could have argued that allowing those religiously prohibited items to be imported was tantamount to a disruption of the social order, which would affect the security in the country and the public morals. There was a strong sense that this issue would constitute an unnecessary obstacle, especially as its importance in terms of trade was minimal.

In spite of the minister of agriculture's wish, the MC decided that it was necessary to adjust the tariff rates proposed in the Kingdom's agricultural offer in 1998, in light of the reactions from the WP, and particularly from the EU and the U.S., in the fourth round of negotiations. The offer did, however, maintain the average rate binding of 35%. In the context of this adjustment, the SNT had, in addition to the official offer, established internally certain positions to which the Saudi negotiators could fall back. As to the ten-year transition period requested by the minister of agriculture, the MC decided that this request would remain unchanged, and that the Saudi negotiators should work to achieve it. With regard to religiously disputed items, the Saudi offer for this round indicated that there were 46 items that were prohibited under religious rules. Table 5-6 summarises the Saudi offer in agriculture, which was presented in the fifth round of the Kingdom's accession negotiations in 1998.

**Table 5-6: Agricultural Goods**

|   |
|---|
| <p><b><u>Initial Offers</u></b></p> <p>Reducing tariff binding for 62 items from 35% to 30%.</p> <p>Reducing tariff binding for 873 items from 50% to 35%.</p> <p>Reducing tariff binding for 10 items including dates and milk from 150% to 100%.</p> <p>Designate 46 items as religiously prohibited.</p> <p><b><u>Fall Back Positions</u></b></p> <p>Reducing tariff binding for 4 items from 30% to 0%.</p> <p>Reducing tariff binding for 13 items from 30% to 12%.</p> <p>Reducing tariff binding for 876 from 35% to 30%.</p> <p>No fall-back position concerning the 46 religiously prohibited items.</p> |
|---|

Source: Results of the Fifth Round of Negotiations, MOC 10/8/1419H // 30/11/1998

In presenting this revised offer, the Kingdom asked the members of the WP to examine it in light of the tariff rates virtually imposed on agricultural products by some of the WTO incumbent members. For instance, the general rates binding a large number of agricultural products were 35% in Brazil, 100-150% in India and 40% in Venezuela. As the Saudis pointed out, a developed country like Norway had 200 items with rates of 100-600% (Saudi Arabia's Mission to the UN-Geneva, 1998).

The WP did not receive the offer very graciously, from the Saudi point of view. Apart from Japan, where agriculture was not a matter of concern, the other Quad members found that the offer was higher than what they could accept (Al-Obaid, Interview, 08 May 2002). Instead of an average agricultural tariff rate of 35%, as the Kingdom proposed, they aimed at a lower level of 10-15%. Australia, an agriculturally important country, echoed the U.S. request for an inclusive offer of items, which meant the inclusion of items prohibited by Islam (MOC, 1998). Concerning the comparisons made by the SNT with regard to the average tariff rates applied by some WTO members, the U.S. delegation argued that any comparison should only be made with members of recent accessions (Greenidge, Interview, 21 October 2003).

The MC had to deal with these positions in preparing the general Saudi offer for the sixth round in 1999. Thus, the MC received the COM's approval on an offer that contained some concessions (MOC, 1999). The concessions applied to some of the

tariff bindings, as summarised in Table 5-7. However, the concessions were associated with some reservations as well. The best example for this was that the offer restated the request for a ten-year transition period to reduce agricultural subsidies.

**Table 5-7: Agriculture**

|   |
|---|
| <p><b><u>Initial Position</u></b></p> <p>Reducing tariff bindings on 190 sensitive items from 30-150% in the previous offer to 0-130% (applied rate at the time: 0-100%);</p> <p>Designating 48 items as religiously prohibited;</p> <p>Reducing tariff bindings on 894 items from 30-65% as in the previous offer to 0-25% (applied rate at the time: 0-20%).</p> <p><b><u>Flexibilities and Transition Periods</u></b> Ten years from the date of accession to reduce subsidies by 13.3%, as allowed to other developing countries.</p> <p><b><u>Fall-Back Positions</u></b></p> <p>Reducing tariff bindings on 190 sensitive items to 0-100%, which was the applied rate at the time;</p> <p>Reducing tariff bindings on 894 items to 0-20%, which was the applied rate at the time.</p> |
|---|

Source: MOC, draft of offers of goods, services and transition periods for the sixth round, June 1999

The obstacle of agriculture up to this point, including in the previous fifth round, related to three main aspects: market access for agricultural goods, the religiously prohibited line items and the requested transitional period. Regarding market access, the abovementioned demand in the fifth round was that the Kingdom should lower its average bound rate to even less than the one applied at the time (20%) instead of the proposed 35%. In this, the Saudi case would be comparable to other recent accessions, according to the U.S. delegation.

The Saudi offer for the sixth round addressed this point, as shown in the table above. Although it did not reach the requested level, it reduced the average rate to 25%. The Saudi delegation was ready in its fall-back position to lower the binding rates on 190 sensitive items to the rates applied at the time, 0-100%. It also presented in the fall back position to bind the rates on another 894 items to the ones applied, 0-20%.

In spite of the reaction to the Saudi offer, which apart from the U.S. delegation was overall welcoming, the proposals outlined above in the area of agriculture met with



some resistance. In general, further reductions were requested. Specifically, the U.S., Canada and other important agricultural countries like Australia and New Zealand demanded additional tariff reductions on some items that were very important to Saudi Arabia, such as milk, poultry and wheat. For example, New Zealand objected to the binding of milk products at 120%, as the Saudis had proposed. The EU, in turn, demanded further tariff reductions on 189 items (MOC, 1999: 15-18).

Unlike industrial goods, agriculture was important to developing countries as well. Many of them, including Argentina, Thailand and Pakistan, requested that the Kingdom bring down its tariff bound rates on various agricultural items of importance to them (MOC, 1999: 15-18). The fact that even Pakistan, traditionally a strategic regional ally of the Kingdom, was among the members requesting reductions reflected the pressure applied to the SNT and the MC with regard to the agricultural sector.

The second obstacle up to this point was related to religiously forbidden agricultural items. Regarding this matter, the Kingdom's position could not but remain steadfast. It once again excluded 49 line items from its agricultural offer. This time, however, there was a change in the Europeans' stance. In the sixth round, the EU delegation was appreciative of the Saudi argument that it was unable for cultural and political reasons to include such items in its offers (MOC, 2001: 3). The U.S. delegation showed no such appreciation and upheld the American request to have those items included with whatever bound rate the Kingdom wished to apply.

To the religious establishment, which began to perceive the WTO negatively from this point of the second phase onwards, it seemed that the EU's step only masked a negotiating game in which the EU and the U.S. had exchanged roles (Al-Dawood, Interview, 03 May 2004) to promote their hidden agenda of breaching the Islamic law of the country. The MOJ prepared a report in which it indicated that the Kingdom's sovereignty would be encroached upon by WTO accession (MOJ, 2001) – it was the only governmental entity to mention this fact.

The claim that the Quad members, particularly the U.S. and the EU, were reversing their roles was not unfounded (Jawara and Kwa, 2003: 57-58). One government official

agreed with the view of the religious establishment that it was a game, but he did not go so far as to agree that there was an intention to breach the law of the country. He thought that it was a negotiating game played mainly by the U.S. to exhaust the SNT. The U.S., he said, cared more about economic issues, but used issues like the 49 forbidden items as leverage to achieve better results from Saudi Arabia on other matters. Unfortunately, according to him, the SNT, and specifically those who negotiated the market access of agricultural goods, fell for this strategy. They did not raise serious objections to putting this issue on the negotiating table in round after round (Al-Jasir, Interview, 5 April 2006).

Concerning the third aspect that proved an obstacle caused by the issue of agriculture, restating the Saudi request for a ten-year transitional period to reduce agricultural subsidies for the third consecutive time demonstrated how the minister of agriculture could bypass the MC, the committee to which he belonged, and use the power of the COM. As indicated, the MC was in favour of reconsidering this request even before the sixth round because of the firm objection of the WP members, particularly the major players among them, to relaxing their opposition and allowing the Kingdom any transitional period related to agriculture. However, the minister of agriculture's position, backed by the COM, repeatedly was to wait and see the results of the future rounds of negotiations.

The seventh round took place in April 2000. It was the first round of the Saudi accession negotiations after the WTO Ministerial Conference in Seattle in November 1999. During the internal preparation for the round, the SNT, as the entity that performed the actual negotiations, asked the MC to reconsider the high bound tariff rates proposed by the Kingdom on some sensitive agricultural goods. The MC assessed this request in the light of the minister of agriculture's argument about why to suggest such high rates in comparison to the rates applied at the time (MOFA, 2000). The MC came to the conclusion represented in the following table (5-8) of the Kingdom's offer for the seventh round of the accession negotiations.

**Table 5-8: Tariff Offer on Goods**

| <b>Goods</b>    | <b>NO.</b> | <b>Current Tariff</b> | <b>Initial Offer</b> | <b>Fall-Back Position</b>  |
|-----------------|------------|-----------------------|----------------------|--|
| Sensitive Goods | 190        | 0%-100%               | 0%-100%              | 168 items between 07%-100%. 22 items between 15% (maximum) to 12% (minimum)  |
| Other Goods     | 895        | 0%-20%                | 0%-20%               | Goods with 20% tariff rate would stay the same. Goods with 12% tariff rate would range from 15% (maximum) to 10% (minimum). Goods currently with 0% tariff rate and offered at 7% would be 7%. Goods currently with 0% and offered at 0% would be 0% |
| Forbidden Goods | 49         |                       |                      |  |

Source: MOFA, minutes, 08/02/2000 (3/11/1420H)

During the negotiations, the WP members demanded further reductions to the Kingdom's proposed tariff rates. They even suggested very low rates, in the Saudi's view, for some sensitive goods. For instance, they demanded bound rates of 5% on poultry and eggs, 10% on milk in containers of more than one litre, and 15% on wheat and flour (COM, 2000).

More critically, the U.S. renewed its request about the religiously prohibited items. As a compromise, from the Americans' point of view, the U.S. delegation said that the Saudis could set a very high tariff rate like 1000%, for example, and indicate at the same time that import and entry of those goods to the Kingdom were banned. To the U.S., that was more acceptable than not including them in the agricultural offer (MOC, 2000: 15).

The MC and the SNT did not, of course, agree to such a compromise from the U.S. To Saudi Arabia, this was a matter of principle and accepting a bound rate, no matter how high, would mean that it was abandoning its principles (Rajab, Interview, 2 May 2002).

As to tariff reductions, nonetheless, the MC worked out a new proposal and had it approved by the COM. The following table (5-9) summarises the offer on agriculture that the MC prepared for the eighth round.

**Table 5-9: Tariff Offer on Agriculture**

| Goods                          | NO. | Applied Tariff Rates | Initial Offer | Fall-Back Position |
|--------------------------------|-----|----------------------|---------------|--------------------|
| Sensitive Goods                | 168 | 0%-100%              | 5%-50%        | 5%-50%             |
| Another Goods                  | 898 | 0%-20%               | 0%-20%        | 0%-20%*            |
| Forbidden Goods                | 49  | -                    | -             | -                  |
| Poultry and Eggs               | 22  | 20%                  | 35%           | 20%                |
| Dairy Products                 | 27  | 12%                  | 15%           | 12%                |
| Milk in container over 1 litre | 7   | 100%                 | 40%           | 25%                |
| Wheat and Flour                | 8   | 100                  | 50%           | 25%                |

\* Goods with current bound rate 20% would stay the same

Goods with current bound rate 12% to be around 10% (minimum)

Goods with current bound rate 0% to be 0%-7%

Source: Minutes of MC, attached to COM cable NO.6574, 4/9/2000, 4/6/1421H

When the MC agreed on this new offer, the minister of agriculture was absent. Thus, the minister went, as had happened before, directly to the COM to revoke its approval of parts in the Saudi general offer related to some agriculturally sensitive goods. This is indeed what happened, and the COM asked the minister of commerce not to design such offers without the support of all the MC's members (COM, 2000).

According to Al-Obaid, this was an important step. As he said, some national agricultural companies, for example, had invested billions in processing milk in small containers for domestic household consumption, and could not, at that point, afford fierce foreign competition caused by lowering tariff rates from 100% to 25%, as in the last offer (Al-Obaid, Interview, 08 May 2002).

On the part of the agricultural businesses, they objected that such low tariff rates demanded by the WP were out of the question. They witnessed that the demands of the WP members had extended from the general agricultural items to the sensitive ones. Although the community of agricultural businesses agreed that there were positive aspects to the accession such as the future possibility to make use of the rule of antidumping to protect the sensitive sector of poultry that had repeatedly been accused of dumping in foreign markets, it thought that the Kingdom's position in the negotiations was hampered by the parallel negotiations to have a free trade area between the GCC and the EU. As most of the GCC states, unlike Saudi Arabia, did not have agricultural sectors at all, it was likely that they would be inclined to put pressure on the Kingdom to make compromises with the Europeans, when needed in the process of the WTO accession, at the expense of agriculture. Hence, as it was getting serious, businessperson involved in agriculture started to convey their concerns directly to the leadership of the country represented by the crown prince, not to the MC through the Council of the Saudi Chambers of Commerce (CSCC) (K. Al-Rajhi, Interview, 5 May 2004; K. Goth, Interview, 27 May 2004).

Perhaps, the argument of Al-Obaid in defence of the agricultural sector, particularly in the aspect of sensitive items, and the attitude of the agricultural businesses expressed by Al-Rajhi and Goth, convinced the COM to withdraw its previous approval. However, the COM's instructions to the minister of commerce not to design in the future any offer without first the agreement of all of the MC's members could be attributed to one of the characteristics of the political system of Saudi Arabia. The COM was keen to preserve consensus among the governmental agents, as disagreement especially at the top level of government was something avoidable, as mentioned in Chapter Three.

Fortunately for the Kingdom, the Saudi offer for the previous round, round seven, was good enough for many important agricultural members in the WP. Thus, the agricultural tariff concessions proposed above by the MC for the eighth round, on which the COM revoked its approval, were not actually needed. In fact, the MOC's report on the results of the eighth round in October 2000 reflected that, apart from the dispute over the

religiously forbidden goods, agriculture did not constitute a major issue in the overall accession negotiations of round eight (MOC, 2000: 2-22).

Concerning this, major agricultural countries such as Australia, Argentina and Brazil had already signed bilateral agreements with the Kingdom. New Zealand, another major agricultural player, showed real flexibility in round eight. Developing countries, to which agriculture was essential, showed similar flexibility. Pakistan had already signed a bilateral agreement. Malaysia signed an agreement immediately after round eight, and Thailand came very close to agreeing with the Kingdom on an acceptable position on agriculture. Even the EU acknowledged the level which the Saudi average bound rate had reached. However, it requested to have the initial negotiating rights (INR)<sup>44</sup> for all agricultural goods, but the SNT, led by the minister of commerce, indicated that it was difficult to accept this, and the matter should be considered in the next round (MOC, 2000: 2-22).

In light of this, the main single obstacle, as far as agriculture was concerned, became the American issue with excluding some agricultural items because of religion (Al-Alamy, interview, 02 May 2002). In fact, the same year (2000), the two Muslim countries of Jordan and Oman acceded to the WTO. Both contented themselves with applying a prohibitive tariff on alcohol, pork and pork products (Bhala, 2004: 790). This was not helpful to the Saudi case. It gave the U.S. an opportunity to pressure Saudi Arabia to accept what other Muslim countries had.

### **5.2.3 Intellectual Property (IP)**

As the Kingdom aimed at the beginning of the negotiations to have the status of a developing country to enjoy the special and different treatment granted to this category of countries, it made it clear in its first offer in 1997 that it needed the five-year transition period given to developing countries in the area of TRIPS (MOFA, 1997). It was obvious that there was little hope that this would be easy. This was because just a

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<sup>44</sup> INRs are the rights that have been negotiated with a WTO member. They relate to tariff concession for given products. Moreover, they may be offered by a current WTO member, or a country that will become a member. An INR allows for seeking compensation if the attributer country modified or abolished the INR.

year before the Saudis made their offer in 1997, the U.S. had placed the Kingdom on its black list of countries alleged to violate intellectual property rights (IPR), which was officially called the 'Watch List' (Bhala, 2004: 768).

The main point of justification for requesting such a transitional period was that the Kingdom was not ready around that time to apply TRIPS. The SNT stated in the negotiations in 1997 that a thorough revision of the existing laws and regulations on intellectual property, and drafting and enacting of new laws and regulations would be a time-consuming process. After such laws had been revised and written, the SNT explained, the government would need to train the staff meticulously in the application and enforcement of those laws. The Saudi negotiators pointed out that Saudi Arabia always kept its promises, and this is why it did not want to promise and commit itself to something it knew it could not deliver. However, if the Kingdom, as the SNT concluded, completed the necessary legislative and training programmes before the end of the requested transitional period, it would implement the TRIPS agreement immediately (WTO, 1997).

The U.S. remained resolute in its reaction that was expressed by the U.S. Trade Representative (USTR) in Geneva at the time, Dorothy Dvoskin. She stated that she had no leeway on this issue. According to her, it was a congressional requirement not to allow acceding countries such a transitional period. Dvoskin did not forget, at that point, to mention the special relationship between the U.S. and Saudi Arabia, but stated that she was mandated to treat all accession cases the same (WTO, 1997).

What added to what seemed a difficult start, as far as TRIPS was concerned, was the fact that religion was at stake in this issue. In fact, as the American request to include some items forbidden in Islam to the offer in agriculture came sometime later in the negotiations, the first worries of the religious establishment were mainly caused by TRIPS. The religious establishment sensed that the implementation of parts of this agreement would probably cause a potential conflict with the *Shariah*.

As the government was sensitive to this, the SNT announced from the beginning that the *Shariah* provided a significant protection to intellectual property rights. However, the

*Shariah* was also, as the SNT indicated, the umbrella of the whole legal system in Saudi Arabia, which would not transgress against for the purpose of accommodating any TRIPS-related subjects that were contrary to the *Shariah*. For instance, as for the protection of trademarks in the Kingdom, the nature of goods or services did not constitute an impediment for registration, unless the goods or services were inconsistent with the *Shariah*. Also, although geographical indications were protected under the Saudi trademarks laws, as the SNT explained, alcoholic beverages, geographical indications of origin of wines and spirits were not protected due to religious prohibition (WTO, 1997: 26-27).

Indeed, as indicated by *Sheikh Al-Ameen*, who was mainly responsible among the Saudi negotiators for studying compatibility between TRIPS and the *Shariah*, everyone in the government, including the king, crown prince, minister of interior and minister of foreign affairs were keen not to breach the *Shariah* in the process of accession. In his words, “*the Shariah was in fact a red line to everyone in the government*”. Thus, as an example, he noted it was important for the government to have the Board of Grievances from the beginning in the Technical Standing Committee established in 1996 to be consulted with regard to the issue of TRIPS (Al-Ameen, Interview, 5 April 2006)<sup>45</sup>.

The year 1997 ended with not much progress on this issue. In fact, Ambassador Weeks admitted as much in his closing remarks at the end of the third round of negotiations. As an indication of the complexity of the issue, up to that date and after all the questions and answers’ sessions in the previous years, the WP was in perplexity with regard to TRIPS regulations in Saudi Arabia, as Weeks described it (Al-Shanbary, Interview, 11 November 2005).

With the beginning of 1998 and with the general intensification of the Saudi WTO accession attempt witnessed in this phase, the MC enhanced its effort as far as the issue of TRIPS was concerned. One of the main demands made by the WP members was to know about the procedures taken by Saudi Arabia in this area and the respective timing. Thus, the MC instructed a technical team to prepare a report on the adopted procedures,

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<sup>45</sup> The Board of Grievances is dominated by the *Ulama*.



current steps and a future working programme to present to the WP (MOC, 1998). The programme, which as a whole was called an ‘action plan’, was the following:

**Table 5-10: Action Plan**

| <b>Areas of TRIPS</b>                    | <b>What has already been done</b>   | <b>On-going work</b>  | <b>Future programme</b>   |
|--|---|---|---|
| 1. Copyright and related rights          | Law for the protection of Copyright already operative since 1990            | Conformity of Saudi law with TRIPS under study  | Amendments to the existing law will be made during the years 1999 and 2000  |
| 2. Trademarks                            | Trademarks Law in force since 1939, as amended in 1984                      | Conformity of Saudi law with TRIPS under study  | Amendments to the existing law will be made during the years 1999 and 2000  |
| 3. Patents                               | Patent Law operative since 1989   | Conformity of Saudi law with TRIPS under study  | Amendments to the existing law will be made during the years 1999 and 2000  |
| 4. Geographical indications              | Provision exists in the present Trademarks Law                              | The Technical Comity has studied the issue and is of the view that the provision is consistent with the TRIPS Agreement | WIPO will be consulted and if it is determined that the existing provision is not fully consistent with the TRIPS Agreement, it will be suitably revised and incorporated in the revised Trademarks Law |
| 5. Industrial designs                    | The Technical Committee discussed and examined the issue. No law at present | Draft Law under preparation   | Law will be enacted by December 2001  |
| 6. Plant varieties                       | The Technical Committee discussed and examined the issue. No law at present | Possible amendment to the existing Patent Law under study   | Provisions on plant varieties may either be incorporated in the Patent Law, or a separate law may be framed and enacted hopefully by December 2002  |
| 7. Layout designs of integrated circuits | The Committee examined the issue. No law at present                         | Consultations with WIPO on the drafting of a new law  | Law will be enacted hopefully by December 2002  |
| 8. Protection of undisclosed information | The Technical Committee studied and examined the issue                      | Draft law on unfair competition, including protection of undisclosed information is under preparation                   | Law will be enacted hopefully by December 2001  |

|                |   |  |  |
|----------------|---|--|--|
| 9. Enforcement | <p>Enforcement measures regarding copyright piracy and counterfeit goods already taken. Existing laws provide penalties and punishment.</p> <p>In May 1997, the highest religious authorities in KSA issued a religious edict prohibiting software piracy.</p> <p>Officials of intellectual property authorities have been attending internal and external seminars on TRIPS.</p> | <p>Conformity of Saudi Arabia's existing enforcement laws and procedures with the provisions of the TRIPS Agreement is under study by the Technical Committee. Points of conformity and non-conformity being identified.</p> <p>A plan for training of officials of different Ministries and Departments is under preparation for effective enforcement.</p> | <p>Enforcement laws and procedures consistent with TRIPS Agreement including Customs procedures will be put in place hopefully by December 2003.</p> <p>An intensive training programme for intellectual property officials of different Ministries and Departments, Customs officials and judges is envisaged to be ensured by December 2003.</p> |
|----------------|---|--|--|

WTO: WT/ACC/SAU/39, 27 October 1998 (Implementation of the TRIPS Agreement)

More importantly, the MC decided for the sake of furthering the accession process to drop the assertion that Saudi Arabia was a developing country. It did so implicitly through a statement saying, *“Upon accession to the WTO, the Kingdom of Saudi Arabia will assume obligations and acquire rights under the Marrakesh Agreement Establishing the WTO”* without mentioning the country's level of development. With such a position, the MC recommended to the COM to lower the requested transitional period from five to three years from the date of accession as a new initial position in the negotiations. Moreover, if that did not work, the Kingdom would implement TRIPS from the date of accession without a transitional period, as a fall-back position in the negotiations (MOC, 1998).

The aforementioned 'action plan' specified that Saudi Arabia would fully implement TRIPS by the end of 2003, approximately five years from the date of presenting the plan in the fifth round in 1998. The MC, in the preparation for the sixth round in June 1999, recommended bringing the suggested implementation date a year ahead, in an effort to mitigate the objection of the U.S. and the EU to any flexibility in this respect (WTO, 1999).

Such consecutive steps by the MC reflected an overall practical attitude towards WTO accession. Dropping the proclamation of the Kingdom being a developing country was an important move in this regard. The committee also showed that it did not want

rigidity in the matter of requesting transitional periods related to TRIPS to be a reason to hold back the process towards the accession. Although the MC in its push for accession did not suggest a religious compromise, its attitude in furthering the case for accession resulted in the committee being blamed, even if not explicitly, for conceding too much to the WTO. In this, the HMC would question after it was established, as will be seen later, why the Kingdom did not benefit from its status as a developing country.

The progressive steps taken by the MC, which on the other hand was adding to the concerns in other areas, was followed in the preparation for the very same sixth round of the Saudi accession negotiations with a suggestion of a signalling effect. As TRIPS was more about laws, the minister of commerce suggested to the MC to recommend setting up a tripartite committee consisting of the minister of justice, the president of the board of grievances and himself. According to the MC's minutes, the role envisioned for the 'committee' was to "*study the judicial procedures pertaining to trade issues to ensure their consistency with rules and regulations of the WTO*" (MOC, 1998).

Since this had religious implications, the COM, whose concerns as the highest political entity would go beyond the direct task of accession, agreed to establish the recommended committee, but with an amendment in the language defining its role. The COM omitted the reference to ensuring constancy with the WTO (COM, 1999). In this, the COM tried to disperse doubts of the religious establishment, which might have thought that the language suggested by the MC was incompatible with the Saudi inbuilt proclamation of the paramount of the *Shariah* (Anonymous, Interview, 06 April 2006).

Despite the preparation on the part of the Saudi side, TRIPS did not receive its due attention in the sixth round, especially since it was clear from previous rounds that it would be one of the difficult issues in the negotiations due to its sensitivity to the Saudis. It simply did not receive such an attention because the WP members were not ready to discuss the 'action plan', which was the core of the Kingdom's endeavour to handling this issue. Their pretext was that they did not have enough time to study it. Nonetheless, this did not stop the U.S., the EU and New Zealand from presenting a provoking demand pertaining to that plan. They requested in the round to review the drafts of TRIPS-related laws resulting from the 'action plan' before having them

officially enacted. The reason for such a request was to ensure compatibility with TRIPS agreements (MOC, 1999: 23; MOC, 2000: 13).

This new request by the WP members was nearly impossible to reconcile with the manner in which the government in general was trying to accommodate the concerns of the religious establishment in particular. It would appear as a plain and direct interference in an internal regulatory matter, which came within the jurisdiction of the religious establishment. Although anxious about such demands from the WTO members, the *Ulama* in Saudi Arabia were generally content that at the end of any negotiations over similar issues, the leadership of the country would ask their blessing. According to this view, there was in fact a Saudi tradition that the government would consult with the *Ulama* before signing international agreements (Al-Dawood, Interview, 03 May 2004; Al-Abduljabar, Interview, 03 May 2004).

Therefore, the position of the MC on this matter was always that it was non-negotiable. In addition to the argument that having laws reviewed by foreigners before being enacted was a breach to sovereignty, the MC and the SNT referred to a technical argument as well. It simply asked why an issue should be negotiated that, in fact, came under the jurisdiction of another international organisation. Namely, the Saudis would frequently bring up the functions of the World Intellectual Property Organization (WIPO) to the discussion with the WP members about handing over drafts of laws (MOC, 2000).

As the WP members could not discuss the Saudi 'action plan' in the sixth round, the MC forwarded the same plan to the seventh round in April 2000 (MOFA, 2000). In the round, however, the WP members, and especially the U.S. and the EU, insisted on not allowing the Kingdom any time of flexibility to implement TRIPS according to the provided 'action plan'. The U.S., once again, repeated the difficult demand of reviewing the Saudi laws pertaining to TRIPS before having them officially endorsed (MOC, 2000: 16).

Negotiations were acceptable to the Saudis as far as the issue of transitional periods was concerned. However, the demand of handing internal drafts of laws to WP incumbent

members became a stumbling block. In addition to the religious establishment, the HMC began around that time to submit its input, and one such demand was about penetrating the Kingdom's sovereignty.

However, the worries about TRIPS were not confined to the aspect of rules and regulations; they had spread, to some extent, to the business community as well. Although TRIPS was a big and complicated subject, and it was difficult to discern its direct effect on domestic businesses, unlike in the case of the tariffs, some in the business community sensed that it could be a possible threat. In fact, it was of greater danger, according to this point of view, than tariffs on goods.

This was particularly true in the case of some non-oil industries, especially the pharmaceutical sector. Pharmaceuticals would be, according to this viewpoint, the most susceptible to the effects of TRIPS. The pharmaceutical industry in Saudi Arabia was relatively new. The short experience of the domestic industry in this field might lead foreign competitive companies with a long history in the business to claim precedence in some locally produced pharmaceutical goods. Hence, they could impose through TRIPS royalty payments on the domestic industry for a very long time. This was seen as being more dangerous to the budding pharmaceutical industry than allowing in competitive pharmaceutical products, even at a low tariff rate (M. Jamjoom, Interview, 15 January 2005; Batterjee, Interview, 25 April 2004).

By the eighth round in October 2000, the Saudis had done considerable work with regard to enacting TRIPS-related laws, especially in copyrights and patents. They had sent them to WIPO to ensure conformity with TRIPS. The SNT presented these facts to the round. However, the U.S. and the EU re-requested to have such laws submitted to them before they became official. The minister of commerce, who led the SNT in the round, responded that the Kingdom cooperated in this matter with the concerned international organisations such as the WIPO (MOC, 2000: 15).

Connected to this, the U.S. delegation asked what should take precedence as far as laws in Saudi Arabia were concerned. To this, the religious establishment adopted a decisive internal position and conveyed it to the leadership in the Kingdom: Saudi Arabia "*could*

*not and would not accept any precedence to the Shariah*” (Al-Dawood, Interview, 03 May 2004; Al-Abduljabar, Interview, 03 May 2004). This stance was echoed in the negotiation by the minister of commerce who told the Americans that the *Shariah* was the base of the system of the Saudi state, and in case of conflict with other laws, *Shariah* would take precedence (MOC, 2000: 15).

In a closing meeting at the fringe of the eighth round to review where the Saudi accession stood, the minister of commerce informed the U.S. trade representative that the case was important to the Saudi leadership, which had been following its developments. He pointed out, furthermore, that Saudi leaders wanted to see the case finalised. However, the continued American demand to receive the laws’ drafts concerning TRIPS would make this accession, according to the minister, impossible (MOC, 2000: 29-30).

Judging from the minister’s statements, the Kingdom was still hoping that the political approach, as far as its WTO accession bid was concerned, was valid. The minister was trying to remind the American side, in negotiating this issue, of the special relationship between the Kingdom and the U.S. Up to that point, however, that seemed not to work as well as the Saudis had hoped.

#### **5.2.4 Government Procurement**

In 1997, the U.S. and the EU added a major item to its demands. That was a wider non-discriminatory access to the market of government procurement in Saudi Arabia. Specifically, they wanted the Kingdom to sign on to the WTO’s GPA (Economist.com, 1997).

In most countries, government agencies procure goods and services as inputs to the government’s work of producing public goods and services. Although it depends on the economic system and a country’s GDP, the size of the associated public procurement market is often large. Theoretically, if the majority of countries pursued discriminatory procurement policies, the result for the world welfare would be less than if they cooperated to refrain from such discrimination. Recognising this, governments attempted in the Tokyo Round and the UR to bring such procurement practices into the

multilateral trading system. The result was that the GPA substantially extended its coverage. However, the agreement's membership was limited. In the process of the WTO's evolution, the U.S. made the expansion of this membership a priority, linking the matter to the broader issue of combating corruption (Hoekman and Kostecky, 2001: 369-379).

The government purchases were a remarkable field of activity in the Saudi Arabian economy. In the early stages of the Kingdom's development, the government took an active role in the establishment of enterprises in order to ensure the success of the development process. Especially in the first four-plans of the comprehensive five-year development plans, the government was the power behind stimulating economic activities. Therefore, it had to contract all sorts of works required for that purpose (GATT, 1995). From the point of view of expenditures, the government accounted, around the end of the fourth plan in 1991, for 48% of consumption expenditure and 58% of gross fixed capital formation (Dr. Mahdy, Interview, 18 June 2009).

The Government Purchases Law (GPL) governed the practices of government procurement in the Kingdom. Under that law, the government would give priority in awarding contracts to qualified Saudi nationals and wholly Saudi-owned firms. In 1993, the year of applying to the GATT, the COM issued a resolution which stipulated that foreign contractors as well as joint venture firms carrying out public works contracts must sub-contract at least 30% of the work to Saudi individuals or companies (WTO, 1996: 21).

In the light of the Kingdom's substantial volumes of government procurement, such domestic rules did not square well with the WP members, particularly the U.S. and the EU. In its reaction, the Kingdom relied on the legal aspect of the matter. It should never be a condition for accession to sign to the GPA. The GPA code was a plurilateral agreement, not part of the single undertaking required by founding or new WTO members, the Saudis argued (Rajab, Interview, 2 May 2002; Economist, 1997).

In a move reflecting the complexity that characterised the accession process as a whole, the WP members broke down the issue of government procurement to its delicate

details. To learn more about the government procurement in the Kingdom, which the U.S. claimed to be of substantial value, the other WP members demanded a collection of governmental data on procurement. One of the key points was whether the word 'priority' in the GPL meant an automatic exclusion of foreign bidders if one wholly Saudi owned firm placed a bid.

In defending the Saudi position, the SNT stressed that the purchases of the government agencies of goods and services were for their direct consumption and were not hidden subsidies to domestic products. To lessen the importance that some of the WP's members, with the U.S. on top of them, attached to the volume of the government procurement, the SNT indicated that the market effect of the GPL was actually limited. It was so because the Kingdom's base for services, as well as for manufacturing and agriculture, was not broad. Thus, while there was a degree of preference for Saudi contractors and sub-contractors, the goods and services they furnished to government contracts would be predominantly of foreign origin (WTO, 1996: 10).

The Kingdom constantly declined to provide statistical data on the government procurement. The accustomed response was that it was not available because the government did not collect data on such procurement. As for the concerns expressed by the members in the WP over the 'priority' given to Saudi firms, the SNT confirmed that there was no such thing as an automatic exclusion of a bidder. All bids would be evaluated by the Bid Examination Committee for consistency with relevant conditions and specification, for reasonableness and for qualifications. Those things being equal, then the government would give preference to Saudi bidders (Rajab, Interview, 2 May 2002).

It was crucial to the business community not to sign the GPA. As one of the characteristics of the Saudi economy, the government was the main destination of the services and goods produced by the business community. Likewise, it was a major method by which the political system was fulfilling its policy of enhancing the role of the business community, which was forcefully presented in the Fifth Five-Year Development Plan that called for a bigger role for the private sector. Joining that agreement at that stage would have been a hasty decision that would leave the Saudi



businesses vulnerable to better-equipped and more experienced foreign bidders (K. Jamjoom, Interview, 29 February 2005).

As the accession negotiations were about to end in the year 1998, the WP, led by the U.S., pointed out that it would help the effort of seeking the accession if Saudi Arabia signed the GPA. Despite the importance of this request, the Kingdom did not give in. In the fifth round of the multilateral negotiations of the Saudi accession in 1998, the Saudi minister of commerce told the members of the WP that the Kingdom would not join the agreement because it was a plurilateral one and membership in it was therefore not mandatory.

In terms of legality, the Saudis thought that their case was solid. However, the WP members thought otherwise. Their point was linked to the WTO-plus status explained in Chapter Two. The GPA was, in this view, one of the tickets that needed to be paid by latecomers (Milthorp, Interview, 21 October 2003). Therefore, the fifth round ended with each party holding on to its position.

The Kingdom did not change this position in the following rounds and remained steadfast throughout the rest of Phase Two. The SNT repeated in the seventh and eighth rounds of the Saudi accession negotiations the same old argument. As far as Saudi Arabia was concerned, the GPA was a plurilateral agreement. Therefore, the Kingdom did not have any intention of joining it (MOC, 2001: 7).

According to Nicora, of the EU Mission in Geneva, it might have helped at least if Saudi Arabia had not doubted, like some other developing countries did, the related effort by the WTO to have an agreement on transparency in government procurement, which was one of the main items on the agenda of the WTO Ministerial Conference in Singapore in 1996. She thought that Minister Faqeeh's position was generally too rigid. Unlike his successor, Minister Yamani, she said that Faqeeh could have convinced his leaders not to harden the Saudi stance, but the minister's general attitude was "*to adjust the WTO to Saudi Arabia's positions, not otherwise*" (Nicora, Interview, 21 October 2003).

The fiasco of the ministerial conference in Seattle in 1999 was a setback to the new agreement on transparency in government procurement, as it was one of the issues for negotiations on the conference's agenda. In any event, nonetheless, approving such an agreement was almost as difficult for Saudi Arabia as signing the GPA. There has been no formal public accountability in the Kingdom with regard to the country's budget or to the oil sales and revenues. In many cases, the official and personal would intertwine with respect to spending the national revenue. Therefore, being part of an agreement on transparency in the area of government procurement would likely cause embarrassments with regard to the practice of not differentiating, sometimes, between the official and the personal in the conduct of the government.

### **5.2.5 Services**

As shown in Table 5-2 of the first Saudi offer in 1997, the Kingdom did not prepare a specific offer for the negotiations, and it virtually presented the status quo at the time as its offer in services for the fourth round. On the part of the WP, it was not difficult to note and comment on this. They criticised the absence of many sectors from what was presented as the Kingdom's commitments in services. Namely, the WP members stressed the importance of having the financial services, insurance, distribution and telecommunications sectors included in the Saudi commitments (Al-Nujaidi, Interview, 06 May 2002).

Unlike many other subjects, services represented a vast issue. As an issue, services contained many sub-sector subjects. That would normally add to the complexity of its related negotiations not only for Saudi Arabia, but also for any other acceding country.

In addition to this, as far as Saudi Arabia was concerned, the condition of trade in services was generally in its early stage of development when the Kingdom first started the accession process. The regulatory framework of the financial sector was undeveloped. The sector of telecommunications was to undergo a major restructuring due to privatisation plans. As for the labour market, the 'Saudisation' programme was receiving increasing attention from the government as a way to replace the foreign workforce with a local one to curb the rising rate of unemployment.

SAMA assumes the role of the central bank in the Kingdom. It is a semi-independent governmental entity and reports directly to the king. Prior to the accession negotiations in 1997, SAMA maintained that the overall condition of the financial services had been weak. Many of the activities in the capital market, private depository, international brokerage services, and investment consultancy were still in their preliminary stage of development. A significant volume of cross-border international participation in the financial market and insurance-related services occurred in the absence of a proper domestic legal system (MFNE, 1997). Insurance was a controversial issue. Although some kinds of insurance products were offered in practice, there was a general public questioning about the compatibility of this concept with the *Shariah*.

Although SAMA was fully aware that an eventual liberalisation of financial services was inevitable, it recommended that the MC have no commitments for the negotiations and maintain the status quo of the financial market, due to the reasons laid out above. At the same time, SAMA provided the SNT with answers to some expected arguments in the negotiations. In addition to the reason of the Saudi financial market's state of development, SAMA advised the SNT to highlight that international financial institutions were, in fact, widely participating in the Kingdom's financial market through the mode of cross-bordering. Also, the banking industry was experiencing, according to SAMA, a good deal of foreign presence. Foreign shareholders were allowed up to 40% of a bank ownership (MFNE, 1997).

The telecommunications sector was, at the time, the responsibility of the Ministry of Post, Telegraph and Telephone (PTT).<sup>46</sup> The PTT warned of the negative effect of opening up this sector and urged to delay any foreign attempts to do so. The ministry justified its recommendation in light of the following:

- The sector represented the biggest source of the ministry's income;
- The government had spent more than 100 billion SR (25 billion US\$) on this sector and it had not yet paid this investment back;

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<sup>46</sup> The ministry was dissolved in 1999 and was partly replaced by the Saudi Telecom Company (STC).

- The sector was undergoing a major process of restructuring, as it was going to be gradually changed from a public system into a private one;
- The government would need at least seven years to earn back what it had invested in the sector (PTT, 1998).

This position of the TPP was backed up by another governmental entity responsible for another means of telecommunications. King Abdul Aziz City for Science and Technology (KACST) has been responsible for internet services. As in the case of PTT, KACST did not recommend opening internet services. It maintained that use of the network by many companies would affect the security of information and would allow foreigners to compete with KACST in offering internet services, which were still new in Saudi Arabia (KACST, 1998).

As mentioned, unemployment of Saudi citizens was a critical challenge at the time when oil prices were going down. Thus, the services sub-sector of work and movement of natural persons was growing into an obstacle in the Kingdom's accession process. This was the case not only for economic reasons, but for social ones as well. Because of the importance attached to the social aspect, the minister of the interior, not the minister of planning, became, as indicated earlier, responsible for the policy of 'Saudisation'.

In the negotiations, the Quad countries, especially the EU and Canada, demanded the removal of the condition that joint ventures were the only method, through which foreigners could participate in establishing banks in Saudi Arabia (SNT, 1997; WTO, 1997: 15). For their part, the Australians were the first to have an actual plan to establish a branch of one of the biggest banks in Australia, Grindlays Bank. In theory, the Kingdom would allow that. However, the Australians said that allowing foreigners a banking presence through branches vehicle did not, in practice, amount to very much since no branch of a foreign bank had been licensed for the last 20 years (WTO, 1997).

As for the U.S., it shared the position of the EU, Canada and Australia. It thought that the state of the services sector in the Kingdom was far too restricted. The U.S. had a particular interest in opening the telecommunications sector and was frustrated that no commitments were made regarding it. This frustration extended to the financial product

of insurance as being absent from the commitments. In a reflection to this, Charlene Barshefsky, who became the U.S. Trade Representative, described the overall commitments in services presented by the Saudis as disappointing (Saudi Arabian Permanent Mission to the UN-Geneva, 1998).

In the rebound, the Saudi position was that the 40% limit on foreign ownership of banks was non-negotiable. If the Kingdom eliminated the requirement of joint venturing, it would mean that it would not be able to require even a 1% national participation in establishing banks, which was unacceptable to the Saudi government. In addition, the commitments offered by the Saudis were in line with the country's plans to develop its banking system. Assurances were given that there was no ban on banking licensing, but that for market saturation and prudential reasons, no new licences were being given at that point (WTO, 1997). With respect to insurance as a financial product, the Kingdom indicated that it could not make commitments on it for religious reasons (MOC, 1998).

As to telecommunications, the Saudis pointed out that basic telecommunications services were a state monopoly. However, private-sector companies and foreigners were permitted to participate in supporting telecommunications services such as electronic mail, voice mail and fax, but in doing so they had to use the public telecommunication network upon an authorisation from national authorities (WTO, 1995: 18). In light of the on-going plans at the time to incrementally privatise the basic telecommunications services, the Kingdom maintained the argument that it could not open this sector amidst such a restructuring effort (MOC, 1998).

Concerning the movement of natural persons, the Saudis maintained throughout that there was no restriction on the entry into the Kingdom for business visitors who came for a short duration. As a general rule, however, any enterprise, Saudi or foreign-owned, was to ensure that the percentage of the national workers engaged by the employer not be less than 75% of the total workforce. Equally, the positions of personnel managers, treasurers, civilian security guards and transaction follow-up clerks to government departments were to be reserved to Saudi nationals (Al-Nujaidi, Interview, 06 May 2002).

In light of the arguments advanced by SAMA and the PTT, Saudi Arabia's offer for the fifth round of the accession negotiations in November 1998 once more did not include any new commitments in the fields of financial services and telecommunications. Apart from these two fields, including insurance, the Kingdom did make commitments regarding some other services. With some restrictions, the commitments included sub-sectors like accounting, legal consultancy, constructions, travel and tourism.<sup>47</sup> As to the market access in the offer, it was subject to the applied investment law at the time and visa regulations. With regard to national treatment, the offer kept the loans of SIDF confined to joint ventures with nationals (MOC, 1998).

The Kingdom's previous accession negotiations were difficult, and were becoming even more difficult, as the fifth round proved. When all the parties convened in Geneva in November 1998, it was clear that the WP members did not accept the old Saudi justifications for maintaining the status quo of some important sub-sectors of services. Australia, for example, sought to revise this modified offer, in which the Kingdom would address the insurance sub-sector. As in the previous round, the Australians also sought removal of the 40% limitation on foreign ownership of banks (WTO, 1998). The Europeans looked for the same thing. The EU delegation demanded the abandonment of joint venturing as the only legal entity of foreign participation in establishing banks in Saudi Arabia. In the face of the Saudi argument that cross-border supply of financial services was in reality unrestricted because of the lack of regulations, the EU requested that the SNT make an official no-restriction commitment regarding the supply of such services (SNT, 1998). Japan, which was not very interested in areas such as agriculture, demanded that the Kingdom should make commitments in the insurance sector including life insurance, non-life insurance and re-insurance. In addition, Japan shared with the EU, the U.S. and Australia the objection to the 40% limitation on foreign ownership of banks. It demanded that this limitation be relaxed to around 50% minimum (WTO, 1998).

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<sup>47</sup> The restrictions were in the sub-sectors of legal and tourism services. For the former, they were confined to consultancy in the foreign partner's country and in the area of international law. For the latter, the commitments did apply to the *Hajj* (the yearly pilgrimage to the holy city of Makkah) and *Umrah* (a minor *Hajj*).

On some subjects, the SNT found itself in a problematic position in this fifth round. Religion had always been presented as a reason for prohibiting insurance in general. Yet, the Kingdom's financial market had been experiencing practices of insurance services without regulations (Al-Alamy, Interview, 02 May 2002). On a related matter, SAMA, as mentioned, had admitted that the financial market suffered from an insufficient legal framework. As such, many sorts of services existed without a proper regulatory framework. In this round, however, the WP members did not want such an explanation to be a reason for not making commitments.

In responding to the issue of responsibility for services in the SNT, some of the WP members said, concerning permission for some non-permitted services to operate without a regulatory framework, that "*if you have allowed market access without regulations, then put 'Non' in your offer in financial sector*". They added that it was not necessary to regulate before making an offer or a commitment (SNT, 1998). In this connection, the EU pointed out that GATS did not prevent the Kingdom from developing legislation as long as the new laws did not constitute an additional burden (SNT, 1998).

The WP members took the same strong position with regard to telecommunications. The U.S., in particular, strenuously objected to the fact that the Saudi offer in telecommunications was not modified from the previous fourth round of the Kingdom accession negotiations. The U.S. delegation in Geneva stressed that any Saudi commitments in the services sector would not be considered seriously without having the sub-sector of telecommunications included. As the fifth round was finalising its works at the end of November 1998, the other major members in the WP, mainly in the Quad, echoed the American position concerning telecommunications (MOC, 1998).

Compared to the fourth and fifth rounds of the Saudi accession negotiations, where commitments in services virtually did not go beyond the current status quo of the sector, the commitments offered in the sixth round constituted a step forward in the negotiations. In this round, the Saudis were ready to commit themselves, as a fall-back position, to raising foreign ownership in investment projects to 51%. They showed

readiness to open some sub-sectors in telecommunications, even though only after transitional periods suggested by the concerned authorities.

In negotiating the new Saudi commitments for the sixth round, the Quad members generally adopted an inflexible position, except Japan. For the financial sub-sector, for example, Japan was content to relax the restriction on banks ownership to 50% (WTO, 1998), a level that the Kingdom was willing to accept as a fall-back position in this area. Canada requested additional liberalisation in sub-sectors like basic and enhanced telecommunications services (Saudi Arabia Resident Representative to the WTO, 1999). The EU and the U.S. stated that they could not allow the Kingdom the requested transitional periods for liberalising telecommunications, despite the argument that such periods were needed for the on-going restructuring of that sub-sector. Although the newly proposed percentage share became 51%, the U.S., specifically, requested a commitment that would take the percentage of foreign ownership in investment projects as high as 100%. The EU and particularly the U.S. also demanded an opening of the insurance sub-sector (MOC, 2000: 13).

Around this stage of the Saudi accession process, the Quad countries introduced new services-related demands. The demands were very critical as they related to the distribution sector, in which a large population of Saudis worked. They related to religion as well. In this, the U.S., along with some of the Quad members, insisted that the wholesale and retail services, which were part of the distribution sector, be fully opened to foreigners. In addition, the U.S. charged that having two sorts of taxes, one applied to Saudi natural and legal services suppliers, in accordance with the Islamic edict of *Zakat*,<sup>48</sup> and the other applied to foreign suppliers, in fact constituted a violation of national treatment in services.

Thus, the sixth round and the bilateral consultations before the seventh round experienced a sort of a swelling in the services issues, in which economic, political and religious aspects intrinsically intersected. The vice-governor of SAMA told the WP

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<sup>48</sup>In “*The New Encyclopedia of Islam*” by Cyril Glasse, *Zakat* is one of the Five Pillars of Islam and is the giving up of a portion of the wealth one may possess, in excess of what is needed for sustenance, to “purify” or legitimise what one retains.



members that especially in the case of Saudi Arabia, economic issues could not be abstracted from religion, as some issues required religious permission. He affirmed that the request of opening the insurance sub-sector would first need a religious consent (MOC, 1999: 12).

As the Kingdom was debating the insurance issue from a wholly religious perspective, the subject of *Zakat*, which the WP newly introduced in the negotiations, came to extend this religious debate. The SNT tried to clarify the distinction between this Islamic principle and taxes. *Zakat* was a religious edict. It was collected annually from the first year on assets and earnings whereas tax was collected on distributed profit only (MOC, 2001: 5). As *Zakat* was levied on both assets and profits, the minister of commerce commented in the negotiations that if there was discrimination in national treatment, then it had been against the Saudi nationals, not foreigners.

However, the other subject newly introduced had crucial economic implications. Some entrepreneurs thought that completely opening wholesale and retail services, as demanded, would result in serious economic repercussions for the Kingdom due to the extreme sensitivity of this issue to the business community. In fact, when it came to such a critical issue, a parallel informal attempt was undertaken to prevent any possible positive response, especially when it was felt that the SNT might not withstand the continual pressure of such prolonged and multi-dimension negotiations. As the king at the time was ill, a group of prominent businessmen used the *Majlis* of the crown prince for this matter. They attended his audience more than once to convey their concerns about the WTO in general, and the idea of opening the wholesale and retail services in particular (Bu-Hulaiga, Interview, 28 March 2010; CSCC, 1999).

Although turning to the *Majlis* when something important happened was a traditional means of recourse in Saudi politics, it also indicated in this case that there was a lack of alternatives. In its endeavour to stop the opening of the wholesale and retail services, the business community did not regard as effective other instruments such as the CSCC. Moreover, the business community made no attempt to reach out to the aforementioned group of businesspersons whom the MC had chosen as consultants. Their mission was

also to make an effort with their foreign partners to convince the home countries of the latter not to put pressure on Saudi Arabia, particularly in the services sector.

The justification for not reaching out to this team of businesspersons was twofold. From a governmental perspective, the team did not take seriously the role envisioned for it by the MC. Accordingly, the team generally had little appreciation of all WTO-related complications (Al-Alamy, Interview, 02 May 2002). However, the case was different as far as the perspective of the business community was concerned. There was no problem with the team, but it was the government that did not believe in its ability to accomplish something important (Al-Khuraiji, Interview, 25 April 2004). The point of having such a team was in fact, as some in the business community put it, “*for a decorative purpose*” (K. Al-Rajihi, Interview, 5 May 2004).

Although some in the business community believed that liberalising the services sector would benefit the purpose of job creation (Al-Yami, Interview, 27 April 2004), the case of the wholesale and retail sub-sector was different from the government’s perspective. Opening this sub-sector to foreign suppliers of services would have negative social outcomes, as it had been a major source of work creation for Saudi nationals. Thus, many would be dislocated as a result of such an opening attempt (MOC, 2001: 5). Given the fact that unemployment was rising, this was not a light matter. For its part, the MOI, as the entity responsible for ‘Saudisation’, was observing the situation, and its anxiety was no less than that of the religious establishment with regard to insurance, or the business community with regard to the retail sector, for example.

By the seventh round of negotiating the Saudi accession in April 2000, the EU had relaxed its demands with respect to issues with religious aspects, including *Zakat*. Notwithstanding the strong political and economic ties, the U.S. kept its uncompromising position on such issues. Ironically, at the time when the U.S. was charging that *Zakat* violated the WTO principle of national treatment, it was giving tax exemptions to U.S. companies on profits made abroad through Foreign Sales Corporations Law (FSC). The U.S. considered the FSC part of the territorial system of taxation, which gave exporting firms advantages over taxation of worldwide systems. In doing so, the U.S. was treating the case as if it was its national right

(trade.ec.europa.eu)<sup>49</sup>. However, it was declining the Kingdom's argument that the *Zakat* system was not even a national matter, but a religious principle.

Without, of course, scrapping the *Zakat* tax scheme, the Kingdom introduced in the seventh round a new text to its general taxation rules to reassure the WTO principle of national treatment. The text read, "*Future changes in Saudi tax code will not be less favourable to foreign service providers than the existing code*" (MOFA, 2000). At the same time, the Kingdom deleted the condition that all services provided in the local market should first obtain authorisation from the concerned governmental departments, as this condition had previously been criticised as being too general and inconsistent with the WTO principle of transparency. In addition, the Saudi commitments in services expanded in this seventh round by adding some telecommunications sub-sectors such as analogue-digital services and mobile data services. The commitments also raised the foreign equity in franchising services from 25% to 49% and applied only one condition for economic need, which was the approval of one store for each province (MOFA, 2000).

In light of this improvement in the Kingdom services' offer, another Quad member, after Japan, perceived the new Saudi commitments as generally reasonable: Canada signed a bilateral agreement with the Kingdom immediately after concluding the seventh round in April 2000. A group of other important WTO members including Australia, Brazil and South Korea shared the Canadian view and signed bilateral agreements as well. Although the EU had relaxed its religiously related demands, it continued, along with the U.S., to request extended commitments such as in the foreign ownership of national banks and in the wholesale and retail services. In addition to its earlier demands in the areas of insurance and audio-visual services, the U.S. added another serious request in this round. It asked the SNT to declare the Kingdom's commitment to a 'trading right' for foreigners, which would virtually give foreigners, either persons or firms, the right to export and market their products directly without the need for an official trading presence or a local trade agent (MOC, 2000: 16; Al-Eatani, 2006).

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<sup>49</sup> The FSC was challenged, and the WTO declared in 2000 that it was illegal.

During the negotiations, the Saudi official stance towards the new demand of the ‘trading right’ was that it was just as sensitive as opening the sub-sector of wholesale and retail services (Al-Eatani, Interview, 26 March 2006). However, there was a major difference between the two, and that was their relation to creating jobs; the matter was of great concern to the Saudi government. Unlike the wholesale and retail services, representing international firms locally through trade agencies had a smaller capacity to recruit employees. In this light, the official position could be attributed to the traditional importance of trade agencies as one of the characteristics of the Saudi economy.

Interestingly, the business community was generally less cautious about this issue. Although several businesspersons thought that allowing foreigners such a trading right might jeopardise the situation of local trade agents (Aqeel, Interview, 25 April 2004; Kadi, Interview, 28 April 2004; Batterjee, Interview, 25 April 2004; Al-Khuraiji, Interview, 25 April 2004), those in the trade agency business were more optimistic concerning the matter. A prominent businessman representing a globally known foreign cars manufacturer indicated that the Saudi market of representative agencies was open, with no protection for registered commercial agencies. By law, he asserted, any domestic firm with a commercial registration could import and distribute the products of the company he had been representing as its official agent in the Kingdom. The case was different from that in the United Arab Emirates, for instance, where no one could import a product if the supplier of that product had an official agreement with a domestic representative. Thus, in his opinion, official local trade agencies already experienced competition. In fact, the operations of the non-official importers, which he called the “*grey importers*”, had flourished to the extent that they accounted for 30% of the market’s operations (Anonymous, Interview, 26 April 2004).

In this opinion, acquiring local trade agencies as a result of the WTO accession would be a possible option for international firms. However, some factors made such an option unlikely. The slim margin of profits of this business, due to the existence of “*grey importers*”, would probably lead foreign suppliers to retain the existing arrangements of local commercial representatives. Also, foreign suppliers fully understood that they would be not necessarily be more efficient than their domestic agents, who were closer

to the environment and culture they worked in. Another factor was that foreign suppliers, who were mostly multinational companies, were fully aware that their strength as multinationals lay in their international networks where good associations with local entities would provide them with stronger local grounds (Anonymous, Interview, 26 April 2004).

Another interviewed businessperson who worked as an official commercial agent also agreed that the existing arrangements of having local trade agents for foreign suppliers were likely to continue. Tamer, an agent for pharmaceutical foreign suppliers, said that multinational corporations were actually in need of local agents because they preferred not to start from scratch in the local market. Foreign suppliers would also rather to avoid the need to put new investments in infrastructure if they dismantled their extant local official commercial agents (Tamer, Interview, 26 April 2004).

K. Kurdi, head of a company working as an agent for international services companies, pointed out that some in the Kingdom had sometimes exaggerated the possibility of permitting foreign companies to do direct business operations in the local market as a result of the WTO accession. In this connection, he cited the example of the successful local agent of Toyota, Abdul Latif Jameel Group. He said that foreign corporations were more mature than to end the business relation with a successful agent who made a good name for their products. *“It was not about foreign suppliers taking over their local agents; it was about efficiency and success that would assure the continuation of the local trade agents business”*, K. Kurdi stressed (K. Kurdi, Interview, 20 April 2002).

Having emphasised that the international suppliers would find it difficult to desert their successful local trade agents, those who held an optimistic view about the future of domestic agencies believed, nonetheless, that the relations with foreign suppliers might experience a process of rehabilitation. In other words, trade agencies would probably have to be prepared to adopt more of the international standards in terms of efficiency, transparency and communications. They might also need to expect lower commission rates for selling and distributing products of their foreign suppliers (Anonymous, Interview, 26 April 2004; Tamer, Interview, 26 April 2004; K. Kurdi, Interview, 20 April 2002). Some went a little further and suggested that local agents should not just

adapt to externalities, but also develop their own label of products apart from the foreign products that they were commissioned to sell, as some agents were in fact doing especially in the food market (Kadi, Interview, 28 April 2004).

The issuance of the new law of investment in April 2000 and the establishment of SAGIA, which both were to encourage foreign investments, coincided with the eighth round of the Kingdom's WTO accession negotiations in October 2000. Thus, they were important economic cards in the hands of the SNT. However, this was not all, as the SNT went to the negotiations with a political card in their pockets, as well.

The political card was the fact that the Kingdom had, as indicated, signed some important bilateral agreements with the WP members. The Saudi negotiators hoped that this fact might lead to a breakthrough in the protracted negotiations. Specifically, the MC and the SNT hoped that signing such agreements might put pressure on the U.S. to avoid being viewed by all parties as the stumbling block to the negotiations.

Indeed, the impact of some of the economic and political cards, respectively, seemed to materialise in the negotiations with some members in the WP. Thus, the Europeans stated during the round that the percentage share of foreign ownership was not a problem after the new investment law. However, they demanded an increase in the percentage share of foreign workers in Saudi enterprises. They renewed their objection to any of the proposed transitional periods to open the telecommunications sub-sector. In addition, they reinstated the originally American request concerning opening the wholesale and retail services sub-sector, making a commitment in insurance and raising the percentage share of foreign ownership of banks.

The SNT, for its part, made it clear that the percentage of foreigners in Saudi working places and the wholesale and retail services sub-sector were particularly sensitive domestic topics. Raising the percentage share of foreign ownership of local banks was no less difficult. As to insurance, the Kingdom's argument was the usual one: it was a critical issue because of the religious aspect. This time, however, the Saudis were not too rigid about the insurance issue, as they implied a possible compromise.

As mentioned above, insurance was rather a controversial issue as far as the religious view was concerned. Thus, there was no necessity for the Saudi negotiators to be decisive about an issue for a religious reason while the religion itself was not decisive about it. It became clear by the eighth round of the Kingdom's accession that the U.S., where insurance business was huge, would not under any circumstances accept the Saudi justification for not making any sort of commitment in insurance. Accordingly, the SNT came to the eighth round with a proposal on this matter. The proposal stated that "*once an insurance law is promulgated in Saudi Arabia, we commit to ensure that foreign insurance service providers will not be treated less favourably than foreign providers of other financial services*" (MOC, 2000: 6-7).

That did not work very well with the U.S. In the negotiations, the U.S. delegation restated its position concerning insurance along with other essential services subjects, including the Saudi taxation system, the audio-visual sub-sector and transitional periods suggested by the Kingdom to open the sub-sector of telecommunications. In fact, the U.S. delegation even went on to express its disappointment with respect to the Kingdom's position on opening the distribution sub-sector, including wholesale and retail services (MOC, 2000: 11-16; MOC, 2000: 29).

In light of this stance, the aforementioned Saudi economic and political cards for this round played generally less well with the U.S. Thus, the argument over the percentage share of foreign ownership of projects in the Kingdom took a different form. After allowing 100% foreign ownership of projects in the domestic market, the U.S. delegation changed its disagreement with Saudi Arabia to the list of projects that were banned to non-Saudis, as they were included in the 'negative list' (Bhala, 2004).

Playing the political card was unsuccessful during this round. The Kingdom assumed that having completed several important bilateral agreements would enhance the Saudi position in the negotiations with the U.S., especially if such agreements included Quad members. Unfortunately for the Saudis, Canada came back during the multilateral negotiations in the round and said that although it had signed a bilateral agreement with the Kingdom, there were in fact some outstanding issues, such as in the field of telecommunications (MOC, 2000: 8).

### **5.2.6 Dual Pricing of Gas**

The EU first presented this issue in the fifth round of the Kingdom's accession negotiations in 1998. It wanted the Kingdom to abolish what it claimed was a dual pricing of gas. This was a fundamental issue to Saudi Arabia. Because of its comparative advantage in the sector, the petrochemical sector was an essential factor in seeking accession to the WTO, as the latter promised better access to foreign markets (Arab News, 2004). The intensity of the issue grew as the negotiations proceeded. In fact, it was the last disputable issue before the Saudi accession date in 2005. It was of a 'make or break' nature, as far as the Saudis were concerned.

As a background, the feedstock-pricing system particularly for propane, butane and naphtha was different, as far as the destination of production was concerned. Production aimed at domestic markets would have a discount of 30%. Saudi Arabia argued fiercely throughout the accession years that the discount was a necessary adjustment for domestic users. These adjustments involved, according to the Saudis' argument, operational, storage and terminalling costs, as well as costs exclusively associated with gas exports to the world markets (GATT, 1995: 53).

This Saudi viewpoint was not decisive enough, however. In other words, the Saudis spent a very long time defining precisely whether there was a system of dual pricing, but a justifiable one, or whether such a system did not, in fact, exist. Among the position papers that the Kingdom had been preparing for the accession, the MC had instructed the concerned departments since the question-and-answer session (1996-1997) to prepare an elaborate paper on the Kingdom's position pertaining to the prices of petrochemical feedstock. Those departments, namely the MOP, MEI and MPMR, were unable until 25 April 1999 to exactly outline the Kingdom's position on this issue. Accordingly, the MC reiterated the importance of having this study ready, and charged the MIE and the MPMR to work on a common recommendation with respect to the official position on this essential issue (MOC, 1999).

The problem was that the work on such a recommendation entailed a conflict of business. Under the umbrella of these two ministries (MIE-MPMR), there were two



giant Saudi companies, ARAMCO and SABIC. ARAMCO was linked to the MPMR and, as indicated, held a monopoly in the production and export of oil. With 70% governmental share, SABIC was also largely state-owned. It came under the supervision of the MIE, and independently or jointly, with foreign partners, owned the petrochemical projects in the Kingdom. The two ministries authorised the two companies to work out the Kingdom's position with respect to the claim of gas dual pricing.

SABIC argued consistently that the claim was baseless in the first place, as the indicated 30% discount was for the saved costs from expenses associated with exports and did not constitute a *de facto* specific subsidy, as claimed by some members in the WP. As to ARAMCO, it generally supported such an argument. In case the argument was not acceptable, however, ARAMCO suggested an alternative that would scrap the discount and allow ARAMCO, as feedstock provider, to decide on the price of gas sold in both domestic and international markets at arms' length<sup>50</sup> (MOP, 1997).

Mindful of the time pressure, the MC was generally in a situation to accept the alternative suggested by ARAMCO (MOFA, 1999), but there was no final decision at the time (1999). SABIC firmly rejected the suggestion and made its reservation clear to the MC through the MIE (MOP, 1997). As entities working on a commercial basis, the concerns of ARAMCO and SABIC should indeed have been different from those of the MC.

For ARAMCO, scrapping the governmentally imposed 30% discount on feedstock, of which ARAMCO was the provider, would mean an increase in the company's revenues, plus additional power with regard to a product that the company was producing. On the other hand, the cancellation of the discount would bring an increase in the production costs for SABIC, and an expansion of ARAMCO's power at its expense. What made the reservations of SABIC strong, to the extent it could delay arriving at a conclusion, was that the given discount served the petrochemical industry to make use of the comparative advantage of the Kingdom in this field, as the production of feedstock was

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<sup>50</sup>An 'at arms' length agreement' is an agreement by which the price of a commodity is decided case by case according to an agreement between the seller and the buyer.

relatively cheap. This, after all, was a major reason for Saudi Arabia to seek accession to the WTO. Hence, arriving at an internal conclusion regarding dual pricing of gas was a long-drawn-out issue and was subject to negotiations right until the end.

### **5.2.7 Israel**

As already argued, a number of issues of the Saudi Arabian WTO accession were at the intersection of economy, politics and religion. The Israeli issue can be thought of as purely political. As the WTO accession was distinctly composed of numerous issues and sub-issues, however, it could also be thought of as an issue presented not only for its own sake, but also to be used as an additional pressure card, or to be traded off against other issues.

Although no political or trade relations existed between the two countries, Israel became a member in the WP for Saudi Arabia's accession in 1996 (WTO, 1996) (appendix 3-5). This was a unique situation. In other international organisations, the Saudis could simply avoid Israeli delegations due to the general state of the Arab-Israeli conflict over the Israeli occupation of Palestinian territories. In the WTO, however, an acceding country could not prevent an incumbent member from taking part in the WP established to study the accession application. Therefore, the case could entail not only a mere encounter with unfriendly states, but also even face-to-face negotiations.

This was rather an uncomfortable prospect for the Kingdom. Hence, the Kingdom tried to keep the issue out of the limelight to prevent any public discontent. Fortunately for the Kingdom and the SNT, the Israelis in the WP did not attempt to go beyond attending the negotiation sessions. They did not actively participate in the negotiations at the multilateral level, nor did they request bilateral talks. All Israeli comments went, in fact, through the U.S. delegation (Rajab, Interview, 2 May 2002).

The main Israeli-American concern was about the boycott of Israeli goods and services. This embargo policy used to be of three tiers. The first was the primary, which prohibited the importation of Israeli-origin goods and services. The so-called secondary boycott prohibited individuals, as well as private and public firms, from engaging in businesses with any entity that did business in the Israeli state. The tertiary boycott

prohibited doing business with a company or individual that had business dealings with Israel. Generally, the U.S. aimed at ending all these kinds of embargo, as part of its law of 1977 that made it illegal for American companies to cooperate with the boycott policy on Israel (CRS, 2006).

The Kingdom's argument was that the boycott was not a unilateral decision; it had been taken collectively by the Arab League. The Saudis contended that the boycott was not for protecting local businesses, but for foreign policy purpose. In this, they took refuge in the GATT's non-application clause XXXV, which allowed an acceding country to opt out of obligations with respect to particular members (Kontorovich, 2003: 284-292).

Saudi Arabia's attempt not to bring the Israeli issue to the spotlight to avoid internal political questioning was not entirely successful. It was hard to keep the case out of the public attention, as it remained an issue of negotiation for years. Therefore, the argument that certain provisions in the WTO allowed the non-application of obligations toward particular members was used at the domestic level as well. To this effect, articles would be published in local newspapers introducing the existence of such non-application clauses in the WTO for the purpose of dispersing the idea of possible dealings with Israel (Al-Watan, 2005).

The strong U.S. objection to the boycott policy, in general, could be perceived in light of its unparalleled political alliance with the Israelis. Nonetheless, since the boycott contained the secondary and tertiary tiers, businesses in the U.S. were suffering as well. The nature of those kinds of embargo, according to the abovementioned definitions, would normally touch a third party unlike the primary form, which would be confined to the concerned parties only. Referring to sources from USTR, Kontorovich indicated that lost sales, foregone opportunities and distortion of investment decisions were examples of the harm experienced by many American firms (2003: 288).

Like the aforementioned clause XXXV, the WTO also provided for non-application of requirements for national security purposes through the XXI article. The U.S. justified its boycott measures against Cuba by reference to a national security exception and also invoked the purported foreign-policy exception (Kontorovich, 2003: 296-297). If such

exceptions had in fact been practiced within the framework of the WTO, why would the U.S. describe similar practices by other countries like Saudi Arabia as violating the WTO's principle of non-discrimination?

According to Kasper of the U.S. Mission in Geneva, this analogy is not accurate. The American motivated trade restrictions, as he explained, were imposed against non-WTO members, such as Cuba. The case of the Saudi boycott was totally the opposite, he argued. Israel was an incumbent member and Saudi Arabia was in the process of becoming one (Kasper, Interview, 21 October 2003).

After the Gulf War in 1990, the Middle East witnessed increasing diplomatic efforts to settle the Arab-Israeli conflict. The Madrid International Peace Conference in 1992 was the peak event on this front. Plausibly, it was against this background that Saudi Arabia declared the abandonment of the boycott policy in its secondary and tertiary tiers in 1994. Announcing the abandonment came within the framework of a broader decision by the GCC states.

If stripped from the declared purposes, the problem of this issue was that it was there for no real reason. Despite the GCC's announcement about abandoning the secondary and tertiary forms of boycott, and in spite of the argument that the remaining primary boycott did not constitute a WTO violation, the U.S. kept the issue on the agenda of the Kingdom's accession negotiations. It did so on the pretext that Congress did not differentiate between the different tiers of boycott against Israel. Yet, even some of its accession negotiators revealed a conviction that this should not, in fact, be a fundamental issue, which supported the argument that there was no robust reason for keeping the issue alive. Kasper pointed out the stance of Congress, but said that "*We will find a way out of this because we are here to solve problems*" (Kasper, Interview, 21 October 2003).

As time dragged on, however, the issue came slightly to the forefront, to the dislike of the Saudis who had wished to keep it out of the public eye, due to its political sensitivity. In the sixth round of the Kingdom's accession in 1999, the U.S. delegation insisted that the Kingdom should abandon the boycott on Israeli products. In addition, on a hearing

in the U.S. Congress in the beginning of 2000, Barshefsky, U.S. Trade Representative, told Congress that there were some political and diplomatic complications in the Saudi application to the WTO due to the Kingdom's continuing boycott of Israeli products (MOC, 2000: 14). What inflamed the case was the coincided breakout of the second Palestinian *Intifada*<sup>51</sup> in 2000, which enhanced the general angry sentiments of Arabs against Israeli actions.

Accordingly, this became an issue of domestic debate. Some argued that it should not be taken lightly, despite the strong economic enthusiasm for joining the WTO during this second phase. Specifically, the HMC thought, after starting its duties, that the issue of trade relations with Israel should be considered with strong reservations, as far as Saudi Arabia was concerned.

Those were the most important issues shaping the course of Saudi Arabia's accession negotiations during this second phase. Some became less of an obstacle at the end of the phase, such as the issue of tariffs on industrial goods. Others still looked difficult, such as the services and gas dual pricing issues.

More than normal in the context of the accession to the WTO, the bulk of the complications in the negotiations of the Kingdom's accession were encountered in dealing with the Quad countries. From what preceded, the demands of the EU and the U.S. were the most difficult. Moreover, a number of such demands were persistent to the extent that they contributed to the phase ending with a slim prospect that Saudi Arabia was close to joining the organization.

### **5.3 The Pause**

The slim prospect of imminent accession turned into a real pause in the negotiations as no rounds of negotiations were going to be scheduled for a couple of years. The economic factors that, at the start of the phase, had a large potential to bring the Saudi accession case to a conclusion could not transcend the inhibitions resulting from the internal-internal and internal-external interactions throughout the phase. In addition,

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<sup>51</sup>*Intifada*, as cited in the Oxford English Dictionary, is a noun of Arabic origin that refers to the Palestinian uprising against the Israeli occupation of the West Bank and Gaza Strip, beginning in 1987.

related international events developed around the end of the phase in a manner that might have calmed the eagerness to join the WTO, which marked the beginning of the phase.

### 5.3.1 HMC

The formation of the HMC in 1999 contributed to the pause of the Kingdom's accession negotiations after the eighth round in October 2000. In fact, the establishment of this new governmental body and the circumstances that surrounded it were hesitant from the beginning. This applied to the parameter of the committee's task and its place in the hierarchy of the official accession effort as a whole. Accordingly, its work sometimes seemed to fit individual timetables and revolve around personal interpretations.

According to the decision of the COM, the assignment of the committee was to:

*“Follow up on all decisions taken and all policies and rules made in the international trading system. After having them examined, recommendations of them should be submitted to the Council of Ministers with explanation of benefits and costs and the period of flexibilities required to ensure securing the maximum benefit of the accession and to avoid damages to the Kingdom's economic interests” (COM, 1999).*

The text was characteristically unspecific in assigning such a responsibility. In principle, the already existing MC had been handling matters related to the international trading system, the issue for which the text was creating the new committee. In fact, the MC's work within the framework of the WTO accession thus far had reflected just that. As to the references in the text about explaining the benefits and costs and making the related recommendations, the MC used to also do exactly that, as laid out above. However, the text did not refer to the MC and the new committee in terms of the relationship between these two institutional agents. It did not, for instance, indicate the hierarchy in the workings of these two bodies and who, among them, would refer to whom.

As the COM left the hierarchical matter undecided, the relational work between the new committee and the MC mechanically resembled the virtual political relations within

Saudi Arabia. Chapter Three discussed the Kingdom's monarchy and broadly broke it down into the ruler and his extended ruling family. Seniority in age has long been very important factor in the relationships among the family's figures, in addition, of course, to superiority in responsibilities, which have been very much related to the capabilities of individuals. In the context of the relationship between the new committee and the MC, the head of the former, Prince Nayif, is the uncle of the chairperson of the MC, Prince Saud Al-Faisal, and older than the latter.<sup>52</sup> Thus, he would preside, and a governmental body under him would generally by default chair a similar body under his younger nephew. Interestingly, the literature of the MC was decisive in as much as the text of the COM was vague. The writings of the MC's work would frequently refer to the new committee as the Higher Ministerial Committee, which is why this thesis refers to the new committee as the HMC (MOC, 2000).

Generally, the creation of the HMC had been connected to the perception of Saudi Arabia as unique, a perception that presented in the introductory chapter as one of the reasons for embarking on this study. Throughout the WTO accession negotiations, the Saudi officials would emphasise the uniqueness of their country. In doing so, they painted that quality with a religious colour. They used such a character to defend, as it will be explained later, the Kingdom's stance on issues like the demands of some members in the WP to include agricultural items in the Saudi's offers, which were firmly prohibited by the *Shariah*. In frequent cases, they would extend this position of defence to some religiously disputable issues, such as insurance and audio/visual services.<sup>53</sup>

Another reason for establishing the HMC was the socio-political dimension of unemployment. As mentioned, tackling the challenge of unemployment among young Saudis was one of the economic reasons in the effort made by the MC and the SNT, during this phase, to speed the process of the WTO accession. There, however, the perception was different. The solution to the problem was to come as a result of an economic expansion and diversification caused by attracting foreign investments and

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<sup>52</sup> As to responsibilities, Saudi Arabia has generally resembled most Arab countries, where institutions of security, represented by interior ministries, have very superior positions in the states hierarchies.

<sup>53</sup> There was a common understanding in Saudi Arabia, including the religious establishment, that commitments in the audio/visual sub-sector would lead to have cinemas in the country, which were officially illegal due to religious reasons that underlined the conservative nature of Saudi society.

finding new international markets through the aimed at accession. In other words, the solution in this perception was a long-term one.

However, the HMC was rather concerned about the unemployment problem in a much shorter span. The best evidence of the impatience with regard to economic changes was that the minister of the interior was in charge of the employment programme, the 'Saudisation', rather than the minister of economy and planning, for example. This was an indication that the matter was considered as relating to security and stability. In this, the interior minister would care more about imposing a quota of Saudi employees on businesses than about how qualified they were. Amidst the perplexity caused by the continual protraction of accession, the interior minister probably feared that the generally pro-WTO teams in the SNT and the MC might sacrifice the issue of employment for the sake of accession. While presiding over the new HMC, Nayif was giving statements to the media that 'Saudisation' was a strategic choice and that the objective was to fill all jobs with Saudis (Arab News, 2003). Such statements reflected a rigid position towards the WTO, which would present itself in the dealing between the HMC and the MC in the beginning of the next phase.

### **5.3.2 Associated External Developments**

In addition to the HMC and all associated political infringements, there were two international events that resulted in impeding the Saudi accession negotiations. The first was the WTO third ministerial conference in Seattle late 1999, which was supposed to launch a new round of global trading negotiations after the UR. The failure of the conference and the masses of public protest against it were a major setback for the organization as a whole. Questions emerged regarding the validity of what it stood for. As mentioned in the introductory chapter, the developments in Seattle, among others, gave rise among non-members to reflections about the necessity of joining the WTO. This was also true for Saudi Arabia (Al-Ohaly, Interview, 5 May 2004).

The second factor was the new development in the oil market. The advent of the new millennium saw an increase in oil prices after years of economic calamity. As seeking the WTO accession was partially seen as an exit from the domestic economic problems



caused by the drop in oil prices, the improvement in such prices should have had a reverse effect. Some began to voice their concerns about this internally and questioned the need for Saudi Arabia to join this demanding organization in light of the increase of oil prices (Al-Ohaly, Interview, 5 May 2004).

#### **5.4 Analysis**

Unlike during the first phase of the slow-paced proceedings, timing became a concern, particularly to the governmental agents. There were indications that the MC sensed the importance of time with the beginning of the second phase. Upon reaching this stage, the MC was more experienced as to what the accession negotiations really were about. The MC, along with the SNT, experienced at firsthand how the demands and positions of the WP members, especially the Quad countries, were becoming tougher as the negotiations proceeded (MOFA, 1997). As the MC soon realised, the bar of demands was raised whenever an acceding country seemed to reach a requested target (Al-Jasir, Interview, 5 April 2006).

In fact, it was at this time that the MC plainly pointed out for the first time that protraction in the WTO accession was not in the Kingdom's best interests (MOFA, 1997). Even more significantly, the MC specified the year 2000 as a self-targeted deadline for accession. Hence, this called for taking the particular steps that had so far proven, as in the first phase, an impediment to the Saudi accession (MOFA, 1998). As an example, the MC reiterated the call to make the accession process a full-time job for the SNT members, since their work for the WTO accession came, as mentioned, in addition to their original official responsibilities (MOFA, 1997).

To speed up the process even further, the MOC invited the chairperson of the WP of the Saudi accession case to make a checklist of the binding issues with the WP members and a summary of the latter's demands, along with his suggestions on how Saudi Arabia could best go about handling such demands. The MC adopted this checklist as the base for designing offers since the sixth round of its accession negotiations in 1999 (MOC, 1999).

Another important indication of the issue of time, the urgency of which was sensed by the MC, was the change in the Kingdom's aim in the accession negotiations. It set out the negotiations in this phase with the target of maintaining Saudi Arabia's best interests, which in part was to achieve similar terms and conditions to those secured by some other GCC states that had joined the GATT/WTO system much earlier. As this was proving a very difficult goal to achieve because most of those states had acceded to the multilateral trading system through succession not accession, as explained in Chapter Two, and for the sake of not delaying the process any longer, the MC changed the accession's primary objective. Thus, instead of repeatedly insisting on securing the best terms and conditions in the accession in a manner that would further the Kingdom's interests, the Saudi negotiators were advised to focus on the macro interests of the country through trying to reduce any harmful conditions that might affect the country's economy (MOC, 25 April 1999; COM, 1999).

In this light, the MC and the SNT were, apart from the problematic subjects, largely responsive to the demands made round after round by the WP members. The Kingdom's position on the issue of tariffs on industrial goods is a case in point. However important it was, the pressure of time was not the sole element in shaping such a positive position by the MC and the SNT.

The benefit/cost assessment made in 1999 emphasised the importance of the WTO accession to the Saudi economy. Well into the phase, the importance attached to the economic benefits from the WTO was still weighing out, in a period of economic reform, the reservations that were emerging about the accession. Indications for this were the issuance of a new investment law in 2000 and the establishment of SAGIA.

Indeed, economic factors became crucial, as far as the endeavour to join the WTO was concerned. The Kingdom wanted to join the WTO to attract foreign investments and to have better international market access for its industry, particularly petrochemicals, so that it could diversify its economy and generate jobs for young Saudis. Furthermore, the Kingdom conspicuously realised, as indicated in the assessment, that the WTO had already gone a long way in controlling world trade and this was becoming a pressing fact that the Kingdom, as a trading country itself, could not underestimate.

Even when the MC made the aforementioned change in the wording of the accession's aim, the crucial importance of the economic factor remained, albeit in a passive manner. The change of the aim, which was made for the sake of speeding up the accession, basically meant that if the WTO could not benefit the domestic economy, then, at least it should not affect it negatively.

Such general pragmatism on the part of the MC in responding to the WP's demands and the importance that this committee attached to the economic aspect could largely be attributed to the nature of its membership. As pointed out, the considerable portion of the major cabinet reshuffle in 1995 went to newcomers with high degrees from Western universities. This trend extended to the MOC and the MC. The availability of such individuals was an outcome of the policy started in the mid-1970s to enlarge the pool of technocrats to be able to run a modern economy that was expected to emerge out of the Kingdom's era of oil boom. In general, they demonstrated an understanding of the global developments that increased the importance of the multilateral trading system. As far as the developments of the accession negotiations allowed, they worked hard for some time to further the case of accession in a purely professional manner that tried to emphasise the benefit and costs of this accession.

Despite these positive efforts from the MC, the Kingdom's accession suffered, as reflected in this second phase, from its institutional fabric. As pointed out in Chapter Three and early in this chapter, there was more than one formal agent in charge of the Saudi WTO accession. This was what the minister of foreign affairs and the minister of commerce referred to, at a later stage of the accession process, as multiple points of reference and duplication of work.

A closer look at the work of those agents from within will illustrate major defects. A clear example for this was the position of the minister of agriculture and the COM. More than once, as discussed, the former would bypass the MC, a committee to which he belonged, and use the authority of the COM to change sometimes agricultural-related offers that had already been approved by the COM itself. This, to a large extent, reflected an existing incoherence in the work of those agents. In addition, it revealed that the MOC and the MC lacked the authority to push the process in a manner suitable

to the criticality of the time pressure. The year 2000 was approaching, and with it the deadline set by the MC for Saudi Arabia to accede to the WTO. Yet, the minister of agriculture and the COM behind him were still insisting on requests that plainly seemed unachievable, such as securing a long transitional period to reduce agricultural subsidies.

However, the official stance with regard to the example of agriculture cannot be merely confined to the institutional defect and abstracted from the business situation. In the case of the MOA's defence of high tariff rates on some of the milk products, for instance, it is important to underline the already mentioned fact that the producers were large companies as far as the characteristics of the Saudi economy indicated earlier were concerned. According to some of the interviewees, the government treated them advantageously. Moreover, the biggest of these companies belonged, as mentioned in footnote (43), to individuals from the ruling family.

Such a multiplicity of agents and the low level of coherence among them, which at points reduced progress in some areas to zero, is an indication of the effect of Tsebelis' concept of veto players. As in Chapter Three, the work of a policy was a function of the number of veto players and the cohesion among them. In the case of the Saudi accession, the number of formal agents directly involved and the level of co-ordination among them, particularly the MC and the HMC, slowed the accession process and was one of the main reasons why the negotiations came to a halt after the negotiation round of October 2000.

Apart from this flaw in the work of the institutional agents, there were complications at the level of negotiated issues. The best example for this was the negotiations over the services sector. For two consecutive rounds of the accession negotiations, the fourth and fifth, the related offer presented by the Kingdom was merely the current status quo at the time. For an acceding country that only wanted to preserve the status quo, responding to the demands of the WP members to make commitments in areas such as financial services, distributions and telecommunications would have meant making a leap in opening this sector.

Thus, even those in the Kingdom who were in favour of an expeditious accession showed signs of caution. As discussed, SAMA foresaw the eventual inevitability of services liberalisation, which was in itself a good indication that SAMA had understood the trajectory of international economy in a world that was growing more interdependent. Moreover, SAMA's deputy governor at the time headed the services issue team in the SNT, and he agreed with the general position of the MC to accelerate the Kingdom's accession process (Al-Jasir, Interview, 05 April 2006) particularly during this phase, Phase Two.

Yet, while the MC was reviewing the outcomes of the back-and-forth talks with the WP prior to going for the fifth round of the Kingdom's WTO accession, SAMA was arguing that the status quo of the sector was still considered generous compared with many of the WTO incumbent members. Therefore, it stressed that the Kingdom should make no new commitments. Indeed, Saudi Arabia's offer for the fifth round of the accession negotiations in November 1998 for the second time did not include any new commitments in the field of financial services.

To some, this meant that SAMA could influence such a financial-services-free offer (Al-Shanbary, Interview, 11 November 2005; Al-Hasher, Interview, 18 April 2002). That was partly true. However, it was also true that the MC should have demonstrated stronger leadership in this respect. It was problematic to accept to enter a negotiation in 1998 with no commitments in such an important sector to the WP members when the year 2000 had already been set as a deadline from the Saudi side to finalise the Kingdom's accession to the WTO. What made it even more difficult was the U.S.'s general firm position in the negotiations not to compare an offer made by an acceding country, as SAMA was internally arguing, with the current market situations in the WTO incumbent members. According to the U.S., such comparisons should be confined to the market situations in other acceding states.

As in the above-mentioned case of the MOA, whose behaviour has to be seen in the context of the agricultural business situation, this stance of SAMA could not be viewed independently of the Saudi banks. Banks were in a strong position and their interests were well protected by SAMA. In the negotiations, the SNT would present the

argument that the non-issuance of banking licenses was due to market saturation. However, the situation of the market was rather a sort of banking cartel. In fact, from the 1980s to the beginnings of the new millennium, only seven banks operated in the Kingdom. This was a relatively small number for the biggest economy in the Middle East.

The complexity of the services sector was not confined to the financial services. The MC found itself, upon the position taken by the PTT not to liberalise, defending the status quo of the telecommunications sector as well. In fact, the economic factors related to services at some point during the phase seemed to push the Kingdom in two opposite directions. On the one hand, the economic circumstances in the second half of the 1990s were provoking reform. There was a perceivable need for reform to free markets and attract investments, and that was what Saudi Arabia was generally willing to do. The investment law of 2000 and SAGIA are good examples for this. On the other hand, the U.S. and the EU were persistent in making some very difficult demands from the Saudi point of view, especially with respect to opening the sensitive sub-sector of distribution, including the wholesale and retail services.

Similar to the large impact of services on the accession process, the issue of TRIPS and its related developments was of a considerable effect as well, especially where it intersected with religion. In 1998, the MC dropped the explicit request to have a developing country status and, hence, presented consecutive offers to reduce the transitional periods it requested for the purpose of implementing TRIPS-related agreements. This stance adopted by the MC led to increasing internal concerns. The best indication was the later implicit apportioning of blame from the HMC, which argued that the MC/SNT had not seized the benefit of proclaiming the Kingdom to be a developing country.

However, the proposition of the minister of commerce to form a committee to ensure consistency between domestic regulations and the WTO was perhaps another aspect adding to the internal fear of the organization. Unfortunately, the minister's proposition came around the time when the U.S. introduced its provocative request concerning the forbidden agricultural goods. This, as discussed, had religious implications. In fact, the

adding of the precautionary text by the COM to the commerce minister's recommendation, which maintained the supremacy of the *Shariah*, and the formation of the HMC, which asserted the country's uniqueness, reflected that the concerns were serious.

Nonetheless, the demands of the WP members, particularly the U.S., extended to include the request to review the drafts of TRIPS-related laws before having them officially approved. As mentioned, this was impossible as far as the Saudi leadership was concerned. However, it was not only the leadership or, in this case, the COM that was opposed. It would have been a risky move if the MC had reflected on having the COM consider this demand, as it had previously suggested that the COM consider complying with the request for transitional periods to implement TRIPS. The HMC was established by the COM just around that time in the light of demands of this kind. For its part, the MC was aware that the HMC had been established because worries about the accession were mounting, particularly in the area of rules and regulations. Had the MC recommended to the COM that the Kingdom contemplate the demand of handing its drafts of laws over to the WTO before formally endorsing them, it would probably have been taken as a sign of weakness.

It is important to point out that, by the time the HMC was established, the MC had not made any major concession that would have jeopardised the Kingdom's economy or compromised religious principles during the accession negotiations. In fact, the domestic apprehension of the WTO thus far was largely due to speculation. The speculation most likely resulted from the limited amount of information that was available to those not directly involved, and that was a result of the overall secret nature of the accession negotiations. As the Kingdom's accession attempt was still dragging on from 1993, outsiders were left to make their own assumptions and interpretations.

Unfortunately for the accession, part of this apprehension was 'home-made' by the MC. In this, Saudi officials involved in the accession negotiations agitated, knowingly or unknowingly, the internal concern that the Kingdom was being pressured by the WTO to give up to some of its religious principles. More than once around the end of the 1990s,

they would blame the protracted accession on the WTO's pressure to yield in religious issues (Arab News, 2001).

As a matter of fact, the MC and the SNT sometimes abused the religious argument, as in the sub-issue of insurance. Although religion was generally fundamental to Saudi Arabia's accession efforts, the religion's own view of issues differed. In other words, Islam is more decisive about some issues than others. For example, the religious prohibition against alcohol and pork is more explicit than that against insurance.

According to *Sheikh Al-Dawood* and *Sheikh Al-Abduljabar*, the issues perceived as important by the religious establishment, as far as the Kingdom's accession was concerned, were related to two broad categories. The first would include any subject that was deemed to be in direct conflict with the *Shariah*. For instance, Saudi Arabia must not, because of religion, issue patents for equipment used in alcohol production. The second category contained religiously disputable subjects, which were therefore of secondary importance to the religious establishment. Insurance was mentioned by both of the interviewees as an example of issues in the second category, as the matter was still disputable (Al-Dawood, Interview, 03 May 2004; Al-Abduljabar, Interview, 03 May 2004).

In fact, insurance had been a subject of religious considerations for years before the sixth round of the Saudi accession negotiations. In 1994, the Commission of Higher *Ulama* decided that the concept of insurance was not wholly incompatible with the *Shariah*. The *Ulama* differentiated in this respect between two kinds of insurance: conventional, or commercial, and cooperative.<sup>54</sup> It concluded that only the latter was acceptable as far as the *Shariah* was concerned (Al-Dawood, Interview, 02 April 2006).

This emphasised that the stress on religion during the negotiations was sometimes raised in unnecessary situations. As mentioned, the frequent statements by some of the SNT and the MC's members that the Kingdom was being pressured to make concessions in religion-related matters led the religious establishment to develop a suspicious stance

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<sup>54</sup> According to a prominent Saudi Muslim scholar, *Sheikh Muhammad bin Saalih al-Uthaymeen*, "*The term cooperative does not mean compensation (as in commercial insurance), it only means mutual cooperation in times of affliction and accidents*" FatwaIslam.com, last accessed 20/06/2011.



towards the WTO. This, in turn, inhibited the Kingdom's accession process, in general, and protracted this phase in particular, which, unlike the previous phase, experienced an active boost.

Apart from the internal interaction, the fact that the demands of the WP touched some sensitive economic, political and cultural aspects of Saudi Arabia several times during this phase reflects the leverage that the WTO incumbent members could have in the accession negotiations over acceding countries. It illustrates, at the same time, the lack of sufficient rules that would govern the accession negotiations, a point that was discussed in Chapter Two. In this case, Canada took advantage of the general and unspecific accession rule about leaving the terms of any accession to the negotiations. As such, it could return to the multilateral negotiations of the eighth round and re-open some issues that Saudi Arabia thought it had finalised with Canada.

Furthermore, the Canadian position of re-opening some issues proved to some in Saudi Arabia that the roles practiced in the accession negotiations by the Quad countries in particular were reversed. While the Kingdom's aforementioned economic and political cards for the eighth round of negotiations in October 2000 seemed to be playing relatively well with some of the Quad members, such as the EU, Canada unexpectedly surfaced around the end of this eighth round to stress that there were still some unsettled issues related to the Saudi commitments in the services sector.

Concerning these positions from the WP members and particularly those of the Quad, one might question the justification of the U.S. position in the negotiations, which seemed, in a number of instances, to be inflexible and persistent. It appeared as such despite the 'special relationship' between the two countries. There were two plausible reasons for this. One was linked to the changes in the international new configuration of power and priorities. The other was related to changes at the top executive level of the U.S.

As mentioned, the conclusion of the UR and the establishment of the WTO came after the collapse of the Soviet Union and the failure of socialism as practiced by countries in the Soviet's orbit, and others in the Third World. With the disappearance of the only

strategically competitive state, the U.S. became the only superpower on the international stage. More importantly, perhaps, the economic philosophy of liberalisation, which the U.S. represented, began to gain universal acceptance at the time.

Hence, the U.S. felt it was not necessary anymore to accommodate acceding countries for political reasons. It had previously done so, as indicated in the previous chapter, during the GATT era in an effort to weaken the Soviet Union's sphere of influence. Furthermore, in order to promote the spread of its economic ideas of free market and trade liberalisation, which were linked to the Soviet Union's downfall, the U.S. had to enforce new rules for the accession game: economy and technicality.

In fact, the Clinton administration took a clear interest in that, and championed global free trade. This leads to the second part of the answer regarding the U.S. position towards the Kingdom's WTO accession. Unlike the intimate and personal relationship with the previous administration of George H.W. Bush, which reached a climax point, as indicated, in 1990 in the coalition to liberate Kuwait, the new Democratic administration, which came into office a year before Saudi Arabia applied to the GATT, showed less interest in keeping the bilateral relationship at such an intimate level. One indication for this was that the White House became less accessible for the Saudi ambassador in Washington during this administration's tenure (Unger, 2004)<sup>55</sup>.

## **5.5 Conclusion**

Given the manner in which Phase One had ended, it was anticipated that Phase Two would be more intense in terms of mobilising the internal efforts to accede to the WTO. There is no better indication for the intensity of the phase, at least compared to Phase One, than the fact that the accession rounds with the WP moved during this phase from the question-and-answer sessions to the actual negotiations. The phase had five rounds of negotiations, from round four to round eight. They took place in a context that helped to enhance the case for a timely Saudi accession to the WTO.

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<sup>55</sup>See also, in this regard, "*The Vanishing Lobby*", [www.economist.com](http://www.economist.com), last access 27. 04. 2005.

Unlike the slow-paced proceedings that characterised Phase One, there were signs from the beginning of this phase that the governmental agents responsible for the Kingdom's WTO accession had sensed the importance of the time factor. Specifically, the MC and the SNT had experienced for themselves the complexity of the accession negotiations by directly encountering the WP incumbent members. They realised that the demands and positions of the WP members, especially the Quad states among them, were becoming tougher as the negotiations proceeded. Thus, they decided that the protraction of the accession would not serve Saudi Arabia's interests, and specified the year 2000 as a self-targeted deadline for the Kingdom to finalise the accession process.

In addition, the critical economic situation worked to reinforce the economic argument for joining the organization. As unemployment was rising phenomenally and oil revenues were unable to balance out the consecutive budget deficits due to the collapse of prices in 1998, the government had to turn seriously to economic reform. Hence, for instance, a new investment law that provided for 100% foreign ownership was issued, and a general investment authority was established to streamline investment procedures. In addition to the fact that such developments helped in the process to improve the Kingdom's offer in the negotiations in important areas like services, the whole context of economic difficulty worked as a catalyst to the calls to seize the economic benefits that the WTO promised. Such calls came mainly from the MC and the SNT, and reflected at the same time a tendency in favour of economic liberalisation. This tendency was boosted by the reshuffle in the top posts in the country in 1995, which largely filled such high-ranking positions with technocrats and applied to the COM, MC and the *Shura* council as well.

Although the economic argument was salient, it was not inclusive. The business community, for example, repeatedly displayed a strong resistance, e.g., regarding issues like opening the distribution services by making commitments in the negotiations on the wholesale and retail sub-sectors. More importantly, however, the economic argument for the WTO accession met in the process with some cultural and political inhibitions. The uniqueness of Saudi Arabia, which stemmed from applying the Islamic *Shariah*, was thought domestically to be under threat. The demands of the WP members

extended, as the religious establishment in the Kingdom perceived it, to encroach on the religion of the land. Since this was important for the legitimacy of the regime itself, the government, represented by the COM, was sensitive to such a perception, which was spreading as the negotiations kept dragging on. Hence, the COM decided in 1999 to establish the HMC, and furthermore, to issue a precautionary directive stressing not to accept any WTO-related agreement that might violate the precedence of the *Shariah*.

In addition to religion, the formation of the HMC also had a socio-political backdrop. Unemployment was not solely perceived as an economic problem, but as a social and political issue as well, as it might, if it kept increasing, endanger the country's stability. In light of this, addressing the unemployment in the Kingdom through the 'Saudisation' programme became the responsibility of the MOI, which was also to lead the HMC. At the same time as the WP members were demanding in the accession negotiations to increase the pool of foreign workers in Saudi companies and facilitate their entry into the Kingdom, the minister of the interior was saying that the aim was to fill all jobs with Saudi citizens.

The difference in interests and perceptions, right after the establishment of the HMC, resulted in the abandonment of the deadline to accede to the WTO in 2000, which the MC had set itself. In order to iron out such differences and proceed forcefully towards the accession, a political mentor would have been needed. However, the deteriorating health of King Fahd at that time meant that the WTO issue was not provided with the needed political support.

The WTO accession negotiations were not only difficult, but touched a wide range of issues as well. Seven issues were important during this phase. They were: tariffs on industrial goods, agriculture, intellectual property rights, government procurement, services, dual pricing of gas and Israel. Although they were not the only issues, they were decisive in shaping Phase Two, and the whole Saudi accession issue as well.

During the course of negotiating these issues, the Kingdom would usually start with a position, and then begin to modify it not only in the light of how uncompromising the position of the demander in the WP was, but also according to the domestic interplay

and the wider economic and political context. At a later point of the phase, it was clear that negotiating these issues resulted in overlapping interests between economy, politics and religion. The inflexibility of some of the Quad members, especially the U.S., and their disregard for the complexity that this intertwinement between the economic, political and religious factors was creating made it very difficult for the MC and the SNT to transcend the internal impediment, which was largely reflected by the establishment of the HMC.

In addition, the fiasco with which the Ministerial Conference ended its work late 1999 contributed to lessen the prestige of the organization as far as those who were interested were concerned. Another factor that made accession again less mandatory was the upwards turn of oil prices in the beginning of 2000. Accordingly, the Saudi people questioned the need to be a WTO member. All these factors contributed to bringing the Kingdom's accession negotiations to a halt in 2000.

The following table will display the internal, external, political and economic elements that had the most effect during the phase.

**Table 5-11: Elements Important to Phase 2**

|                 | <b>Economic</b>  | <b>Political</b>   |
|-----------------|--|--|
| <b>Internal</b> | <ul style="list-style-type: none"> <li>- Cost and benefit analysis of accession: positive perception about the possibility of economic gain.</li> <li>- Issues overlapping: economic demands encroaching on some religious and political elements, signs of inhibitions.</li> <li>- Business community: showing at some point a resistance to some issues such as opening the distribution sub-sector.</li> <li>- Complexity of issues presented by U.S. and EU: promoting the focusing on economic and technical factors, but still no total abandonment of political effort.</li> </ul>  | <ul style="list-style-type: none"> <li>- Encroachment on religious and political domestic aspects: creating internal concerns pertaining to the WTO.</li> <li>- HMC: reflecting the mounting internal concerns regarding the accession.</li> <li>- A mentor of the efforts to accede: lack of such a political sponsor.</li> <li>- Incoherence and politics among governmental agents.</li> <li>- Issue of trading with Israel was adding to the inhibitions.</li> </ul> |
| <b>External</b> | <ul style="list-style-type: none"> <li>- 1998 collapse in oil prices: looking for solutions to an ailing Saudi economy, the WTO accession as one option.</li> <li>- WP raising the bar of economic demands round after round: delaying accession not serving the Kingdom's interests.</li> <li>- U.S.: Clinton administration championing global trade liberalisation based on the WTO principle of 'single undertaking'</li> <li>- Oil prices increase with the commencement of the new millennium: suggestions of Saudis hardening their negotiating position.</li> <li>- Failure of Seattle: the WTO seemed less attractive.</li> </ul> | <ul style="list-style-type: none"> <li>- WP requesting to review domestic rules before being officially endorsed: sovereignty's breach.</li> <li>- Trading with Israel: a boycott applied according to a collective Arab decision.</li> </ul>  |

## **Chapter 6 Phase Three 2001-2005**

The eighth round of the Kingdom's accession negotiations in October 2000 was the last before the second phase came to an end. The following few months were spent in arguments and counterarguments specifically between the MC and the newly established HMC, amid which the focus shifted to re-define priorities, and hence the negotiations with the WP to join the WTO were suspended. The halt of the negotiations was mainly due to internal and external disputes over the issues that were the subject of the previous phase: Islamic principles, labour, TRIPS related laws, trade relations with Israel, some services sub-sectors (retailing trade – telecommunications – insurance) and gas pricing.

Phase Two was generally characterised by the salience of economic elements. Phase Three, however, would take a rather political turn. It was intense in terms of internal politics especially between the MC and the HMC. Moreover, political elements, including the emergence of a political mentor, were crucial in bringing Saudi Arabia closer to the WTO in the course of this phase. They were essential to finally bringing Saudi Arabia to sign the protocol of the accession to the organization.

### **6.1 Internal Situation after the 'Pause'**

In 2000, the oil markets witnessed a considerable upward turn. The price of oil jumped approximately by US\$10 per barrel from 1999. As a result, the growth in the Kingdom's GDP went from 0.4% in 1999 to 4.5% in 2000 (Saudi-American Bank, 2001:1). Some have argued, as mentioned in the previous chapter, that this led the Kingdom to harden its position in October 2000, when it last negotiated with the WP members. Al-Ohaly believes that this was in fact a reason for the freeze in the accession negotiations, as some in the Kingdom were saying that the country was doing pretty well without the WTO (Interview, 5 May 2004). However, the actual measures taken by the government were rather pointing in the other direction.

The government has worked since 1998 towards economic reform even if the improvement in the oil prices in 2000 slowed, as some argued, this process of economic change, partially represented by the weakened attempt to accede to the WTO.

Therefore, the government made it a strategic goal to attract investments regardless of the condition of the economy. Even the business community, which had experienced the decrease in government spending in the previous two decades, now emphasised the importance of capital inflow through foreign investments. Many in the business community, according to Al-Sheik, came to realise this. In a nutshell, as he put it, “*if we do not have investment, we do not have an economy*” (Alsheik, Interview, 28 April 2004).

### **6.1.1 Reform Steps**

In addition to the aforementioned new investment law of April 2000 and SAGIA, the government aimed to manage its reform efforts by establishing new governmental bodies to streamline economic projects and avoid hectic bureaucratic procedures. In August 1999, the government announced the formation of the Supreme Economic Council (SEC) to evaluate industrial, agricultural and labour policies. The SEC was to supervise the privatisation policies as well. Also, the government established in January 2000 the Supreme Council for Petroleum and Minerals (SCPM) as a body responsible for policymaking on petroleum, gas and other hydrocarbon materials. The SCPM passed, to this effect, the gas initiative of Crown Prince Abdullah, the current king, which invited foreign companies to develop natural gas fields in the Kingdom. Moreover, the country for the first time moved towards openness in terms of tourism. In April 2000, the government set up the Supreme Commission of Tourism (SCT) to exploit the potentials of the Kingdom in this area and to encourage investment from the private sector (Embassy of Saudi Arabia-Washington, 2004: 10-11) (appendix 4-6).

The chain of reforming steps, embodied in issuing laws and setting up councils, that started around the end of the 1990s was mainly governmental. As discussed in Chapter Three, major projects in the Kingdom – whether they were political, economic or social – would traditionally need a ‘mentor’ to create the momentum required. As also mentioned in examining the previous two phases, the Kingdom’s WTO accession project lacked such a mentor. This was not the case around the end of the 1990s, however.



Those reforming initiatives required significant political back-up, especially in light of the positive signs from the oil markets in 2000, which provided for the tendency to relax the new reforming efforts. The crown prince at the time, King Abdullah, assumed the mentor's role of economic reform in general. Even before the SCPM passed it, he was the one who took the initiative to open the gas sector in the Kingdom for foreign investment when he invited international oil companies to submit their proposals in September 1998. He himself became the head of the SEC, which after its establishment in August 1999 assumed the highest authority in directing the Kingdom's economic policies. Abdullah has since been the figure that officials and ordinary citizens would refer to when talking about reform in the Kingdom (MEMRI, 2009; Ministry of Commerce and Industry, 2006; Times Online, 2004; The Financial Times, 2002). As indicated in the previous chapter, the business community referred to his *Majlis* when the issue of opening the distribution services came up in the accession negotiations.

The new atmosphere with respect to economic reform had a cumulative effect in the country. Generally, the interviews conducted with the businesspersons in Chapter Four, Phase One, did not reflect an integrated fierce resistance to the idea of the WTO. They had some concerns and acted upon them when they saw necessary, as seen in the examples in Phase Two. Yet even when they acted, they did so in an ad-hoc manner, objecting to individual issues at particular points. However, they were not against liberalisation per se. As mentioned in that chapter, the concept of liberalisation, which the WTO promised to embody, was not devoid of appeal to any business community, including that of Saudi Arabia.

Thus, the internal environment was suitable for a positive accumulation of economic liberalisation as far as the business community was concerned. In fact, the aforementioned cuts in spending by the government, on which the business community had heavily depended, and the call of the Sixth Five-Year Development Plan for the business community to play a rather larger role in the economy needed an official enhancing of the liberty of this community to act in a manner that would be responsive to such a call. In this, several prominent businesspersons interviewed stressed the

importance of upgrading the condition of the regulatory system in the Kingdom, which was an important premise of any reforming attempt.

Thus, the general internal atmosphere around the year 2000 was inclined towards reforming the economy. The business community, which used Abdullah's own *Majlis* several times to convey concerns about some aspects of the accession, seemed generally to support his latest reforming efforts. In fact, it predicted some fruitful results of the reforming plans. For instance, it was anticipated that the business community would have a high share of investment in the assets that the government would divest (Alsheik, Interview, 28 April 2004). In a reception in his *Majlis*, Abdullah told a large group of businessmen: "[B]e assured, God willing, your government will continue to boost and facilitate investment" (Arab News, 2001). In terms of numbers, the government gave away 583 projects to foreign and local investors through SAGIA between 2000 and 2001, which was worth about US\$10 billion (Arab News, 2001).

On the regulatory part of this reforming attitude, strengthening economic and trade-related rules and regulations became, as indicated, a frequent demand among the business community. A member of a well-known business family in the Kingdom said that it was better for the Saudi business community to work in a strong regulated system, even if that would regulate the relation with the government, where some businesses in fact benefited from the current informality (Al-Zamil, Interview, 04 September 2000). This also demonstrated an increase of confidence on the part of the business community, which had doubled, according to the deputy minister of industry, the volume of its businesses in the previous ten years (Arab News, 2000). In fact, the private-sector gross fixed capital formation by 2000 was approximately three times as high as it had been in 1986. Moreover, as a proportion of total investment, the private sector accounted for more than three-quarters of all gross fixed capital formation in the Kingdom between 1996 and 2000 (Niblock and Malik, 2007: 130).

The business community's increasingly positive attitude towards economic reform and its support of Abdullah's effort resembled, to some extent, the business community and reform effort in Turkey. There, the government had directed the economic activities until the 1970s, in accordance with the prevailing ideology of the time, which advocated

import-substitution policies. As it became clear by the late 1970s that interventionist policies had exhausted their ability to deliver economic growth, the Businessmen's Association deserted the old ideology and started to publicly advocate policy reform (Bates and Krueger, 1993: 450-451). This new attitude in Turkey came in support of the new attitude towards economic opening adopted by the new political leader of the day, Turgut Ozal.

The reforming attitude that was building up around that time had a technocratic link as well. As it came in the previous two phases, the 1990s witnessed for the first time a sweeping trend towards filling high positions in the government with technocrats. The same trend was experienced in the *Shura* since its establishment in 1992. As many in the COM and the *Shura* had enjoyed a Western education, they were in general proponents of economic reform that was based on regulation and privatisation. A vocal economist in the *Shura*, Bu Hulaiga, was continuously urging for adding momentum to the government's privatisation project (Arab News, 2000). Such calls resonated with the general attitude in the *Shura*, which acted promptly on the reform-related laws referred to it by the COM (Fadil, Interview, 03 February 2009).

In broad terms, the attitude of the Saudi technocrats resembled that in the broader Arab world. In a study on their position towards globalisation, Al-Said and Harrigan indicated that Arab technocrats were generally of same opinion as the IFI such as the IMF and the World Bank, which preached liberalisation and privatisation as an economic panacea (El-Said and Harrigan, 2006).

### **6.1.2 Accession Issue during the 'Pause'**

The situation during this period experienced a parallel influence. On one hand, the aforesaid drive for reform was incrementally taking shape. On the other hand, the politics played by the MC and the HMC specifically began to make its mark.

Establishing the HMC coincided with the sixth round of the Saudi accession negotiations in June 1999. However, the first movement from the HMC came after the eighth round (October 2000). It met in January 2001 and June 2001. In the second

meeting, in which the minister of foreign affairs was absent, the HMC produced minutes of its convention that emphasised the following points:

- The importance of acquaintance with the accession requirements and preparing for post-accession;
- Some of the accession requirements needed revision in light of the principle of *Shariah*;
- The commitment to some of the agreements might affect the ‘Saudisation’ policy;
- The acceptance of some of the terms and conditions could be of importance for the state’s internal and external policies and its stability and security;
- The MC had not included oil in the accession negotiations, although it was the single most important Saudi commodity;
- The accession required removing the boycott on Israel;
- The internal strategy of accession had not been clear thus far;
- The internal process needed more transparency, discussion and participation of non-governmental bodies;
- Some conditions imposed on the Kingdom went beyond trade;
- The Kingdom did not secure the flexibilities enjoyed by developing states (HMC, 2001).

The points reflect two main things: unawareness and imprecision. Unawareness because the HMC seemed not only unfamiliar, as indicated in the first point of its minute, with the WTO requirements, but also with some of the domestic policies. For example, the non-inclusion of oil in the accession process was not the MC’s decision; it was state policy consistent with a decision made by the GCC countries to avoid submitting this strategic commodity as a subject for negotiation. Also, the MC had not ruled out the participation of non-governmental bodies; rather, this was an old decision made by the COM in the commencement of the process. In fact, the MC took the initiative at some stage and invited, as mentioned, figures from the business community to take part in the accession’s effort. As to imprecision, the minutes were too general in some parts, and

adopting them meant virtually demolishing an on-going process and starting all over again.

In fact, this was what happened to a large extent. Nayif was in charge of the 'Saudisation' programme to solve the vastly increasing problem of unemployment. The minutes plainly named this programme as an issue for the HMC. As this was followed in the minutes by a point emphasising preserving the country's security and stability, one could infer the connection between the worries that 'Saudisation' might fail because of the WTO accession and the possible consequences for the Kingdom's stability. Furthermore, the fear of the accession's effects on religion was mounting for the reasons previously explained, and rumours spread that alcohol and pork products might have to be licensed in the Kingdom. Due to these and other issues discussed in the minutes, the HMC decided that several ministries should study the terms and conditions of accession and its related documents. Subsequently, the ministries should assess the potential challenges and report them to the committee. In addition, the HMC decided that the MC's recommendations for the Saudi offers in the negotiations should go to the HMC before the COM (HMC, 2001).

The points raised by the HMC did not go without a reaction from the MC. Separate responses came from the minister of foreign affairs, as chairperson of the MC, and the minister of commerce, as the person immediately responsible for the accession file in the government. The minister of foreign affairs explained some points and refuted others. He brought to the attention of the HMC the fact that the exclusion of oil in the negotiations was in conformity with a decision made by the higher council of the GCC. He also explained that the rules in the U.S. would not accept the accession of a state that exempted Israel from all trade. As to the opaqueness of the strategy of accession thus far, the minister stated that this implied an accusation that the MC was not doing its job. Furthermore, he wondered how exactly the requirements of the WTO accession would affect the principles of the *Shariah* (MOFA, 2001). In the process of this reaction, the MC's chairperson asked the minister of the interior to defer the abovementioned study on assessing the anticipated challenges on the pretext that that was difficult before

signing bilateral agreements with some major trade partners to Saudi Arabia such as the EU and the U.S. (MOFA, 2001).

For his part, the minister of commerce explained that the accession would not affect the 'Saudisation' programme. In this respect, he indicated that the MC and his ministry had always defended the Kingdom's position concerning the degree of opening the Saudi markets to foreign labour. He pointed out as well that the MC observed transparency in its work as it was composed of all closely related governmental ministries and that invitations to participate had been extended occasionally to some other governmental departments (MOC, 2001; MOC, 2001).

In any event, both ministers agreed that what was stated in the minutes and the decisions of the HMC constituted multiple points of references, duplication of work and, in turn, would protract the Kingdom's accession even more. The chairperson of the HMC decided, however, to endorse the minute and to carry out those decisions. For the Saudi political context, what mattered was that the minister of foreign affairs and the minister of commerce had to come to terms with what the chairperson of the HMC had decided.

On the part of reforming efforts, according to the timeline offered in this thesis, the WTO accession was first contemplated in 1985. The official decision to join the world multilateral trading system represented by the GATT came in 1993. Between these two dates, and when the application was converted in 1995 to accede to the WTO, the accession issue was independent of the talks about reform. In fact, the primary governmental sources gathered in this study did not refer to the reform efforts by name. Unlike experiences elsewhere, the concept of economic reform is relatively new in Saudi Arabia. It began to take shape in the late 1990s.

Indeed, the recent economic reforming attitude, which had begun to take shape, provided the aim of becoming part of the WTO with a new and wider framework. In other words, the argument for accession became a component of the argument for reform (Arab News, 2000; MOFA, 2004; Bhala, 2004: 776; UNDP, 2000).

Around that time, a comprehensive economic reform took precedence over the issue of the WTO accession –which was basically a good thing for the accession. The indirect talks about the accession did not provoke the same circumstances, e.g. religious objections, that had caused the negotiations with the WP to come to a stalemate around the end of Phase Two. Surely, however, while the reform programme was broader than a narrow focus on WTO compliance, the changes in the economic regulatory framework had been undertaken with an eye to keeping them consistent with the WTO requirements (Chamber of Commerce & Industry - Eastern Province, 2006: 22).

The former U.S. ambassador to Saudi Arabia, who was stationed in Riyadh amidst those economic changes, stated that it was the right time to reassess the WTO accession with the Saudi officials as it was not only important to the Kingdom, but to U.S. interests as well.<sup>56</sup> Realising that there had been no negotiations since October 2000, he asked Abdullah, as the crown prince at the time, how important accession still was to Saudi Arabia. According to the ambassador, Abdullah assured him that although the accession negotiations were paused, the accession issue was rather high on the Saudi agenda (Middle East Policy Council, 2006: 6). This position was accompanied by an important move. The SEC, headed by Abdullah, decided in 2001 to slash the tariff rates on goods from 12% to 5% across the board, except for some protected items (MFNE, 2001).

Meanwhile, the governmental agents concerned, mainly the MC and the HMC, were still continuing their internal deliberations and arguments. As indicated above, different ministries, especially from the MC, had to deal with the disputed decision of the head of the HMC to embark individually on examining the expected challenges of the accession. That decision decreed that results should be first submitted to the HMC.

In its study, the MFNE indicated that in light of the aforementioned recent general reduction in tariff rates (from 12% to 5%), only 256 industrial goods out of approximately 5600 items would suffer from the WTO accession, as the last fall-back

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<sup>56</sup> Speaking about the economic importance of Muslim countries to his home state, Kansas, Bhala pointed out that the political spotlight on America's support for "Israel" and its alliance with the EU overshadowed some economic facts. For example, in the early 2000s, Kansas exported roughly the same range of values to Saudi Arabia, Ireland and "Israel", with Kansas shipping nearly two-thirds as much to Saudi Arabia as to the other two countries (Bhala, 2004: 758).

position offered in a negotiation with regard to the tariff rates on those 5600 items was higher than the rates applied. Thus, the accession would not have much of an effect on the revenues generated by tariffs (MFNE, 2001).

As in the study of the MFNE, the MIE agreed that the general 5% tariff rate currently applied to most industrial items reduced the negative effect of the WTO in this matter. The ministry also reported that the Kingdom was 27<sup>th</sup> among the biggest importing nations, which made it an important market to the members of the WTO. At the same time, however, the Kingdom's production capacity was still limited, and its non-oil exports constituted only 11% of the country's total exports. It pointed out in this respect that accession to the WTO was an important means to increase the percentage share of non-oil exports, particularly petrochemicals. To the MIE, the benefits to the petrochemical industry would outweigh the difficulties that medium-sized and small businesses were likely to face because of the WTO (MIE, 2001).

The Ministry of Labour and Social Affairs was not a member in the MC, and therefore did not have a direct role in the accession issue. However, the internal programme of 'Saudisation' and the trend to standardise international labour environment, which started in the WTO Ministerial Conference in Singapore in 1996, made it important to receive this ministry's input at this particular stage. The ministry referred to the decision of the COM in April 2001 concerning the formation of labour committees in businesses that have more than 100 Saudi workers for the purpose of promoting the concept of collective bargaining. It said that this method was compatible with the labour environment in Saudi Arabia, where the expatriate workforce outnumbered the national one, and that the International Labour Organisation had taken note of the Kingdom's views on the matter (Ministry of Labour and Social Affairs, 2001).

Regarding the important MPMR, its minister himself met with a sub-committee of the HMC that included three ministers of state, the minister of commerce and the deputy minister of finance. The minister of petroleum highlighted that the WP members had not raised the issue of oil in the Kingdom's accession negotiations except as it pertained to gas pricing. In the issue of pricing of gas, the WP members and especially the EU and the U.S. criticised that the Kingdom had a double pricing policy in this area. He



said, however, that the COM was about to approve his ministry's proposal – explained in the previous chapter – of deciding the gas prices at arms' length. The minister added that such an approval would remove a major obstacle concerning the country's accession. Reacting to another critical issue, the minister answered a question regarding the prospect of including energy services in any possible future negotiations with the Kingdom. He stated that such services would relate to supporting activities like consulting, engineering, exploring, construction and pipelines. According to his explanation, those kinds of services were complicated and highly specialised. Thus, only a very limited number of international companies would be able to provide these services. In addition, Saudi ARAMCO did in fact already sub-contract some of these services to foreign companies. In light of all this, joining the WTO would not be a problem from the point of view of MPMR. In fact, it would enable the Kingdom to be present when all issues relating to oil were being negotiated (HMC, 2001).

The MOP, which was a member in the MC, spoke in its report about the pros and cons of the WTO. According to the report, joining the WTO would have negative effects on the Kingdom's macro economy, as it would reduce the GDP growth rate and increase inflation. However, the effects on some sectors, particularly the petrochemical sector, would be positive (MOP, 2001).

At the same time, remaining outside of the WTO would, according to the MOP, negatively impact the volume of investment, especially foreign investment. It would also make Saudi businesses susceptible to foreign charges like those related to dumping. Moreover, remaining aloof from the organization would, in the long term, cause the Saudi economy to be isolated from the rest of the world. Therefore, the MOP called for a contingency plan to deal with post-accession issues if accession was to take place (HMC, 2001).

The HMC picked out the contingency plan proposed by the MOP and asked whether that ministry was able to handle the plan it suggested. On behalf of his ministry, the minister of planning said that such a proposed plan would be better managed by the MOC because the issue of the WTO was its responsibility. In addition, the MOC, according to the minister of planning, had over the years accumulated a great deal of experience

about the accession subject as a whole. This provided an opportunity for the minister of commerce to reiterate the limitation of resources that the MOC had to work with during the negotiations years, e.g., not having a negotiating team whose members were devoted only to the accession job, as it was pointed out in Phase One. The commerce minister stated further that this had been understandable when the Kingdom first started the accession negotiations due to the economic condition in the mid-1990s. He expressed the hope that the establishment of the HMC, and particularly the chairmanship of the minister of interior, would increase the seriousness of approach towards the WTO, including allocating better resources to those responsible for managing the accession (HMC, 2001).

It is clear that the accession was not a dead issue in the Kingdom even after the negotiations came to an impasse at the end of 2000. Moreover, the majority still realised the importance of the WTO membership. However, the internal talks concerning the accession were still to some extent circling around old points, instead of looking forward. For instance, the HMC made a long gone topic resurface. As mentioned in Phase Two, way before the 'pause', the MC dropped the request of considering the Kingdom a developing country. Yet, during this stage of the post-'pause', the HMC again questioned why the Kingdom could not try to accede to the WTO as a developing country (HMC, 2001).

On the other hand, it does not seem that the concerns of the religious establishment, which had been one of the reasons for the 'pause', were intensively addressed in those internal deliberations apart from what it came in the minutes of the June's meeting headed by the HMC. Even on the economic front, which had lately shown a new wave of inclination towards the WTO, there still was an uncertainty of some kind. This was illustrated by the fact that, two months after its aforementioned decision to slash tariff rates across the board from 12% to 5%, the SEC revoked this decision with respect to many individual industrial and agricultural items. After the decision was applied, complaints were heard that it had been taken in an overly hasty manner (Al-Obaid, Interview, 08 May 2002).

## 6.2 9/11

The 11 September 2001 attacks on New York and Washington D.C. were so big as to mark a crucial turning point in international relations. Saudi Arabia, in particular, was to face a serious challenge caused by the event. The participation of 15 Saudis in the attacks, in addition to several Saudi nationals and organisations that were identified as alleged supporters of terrorism, have called into question the Kingdom's international reliability. The 9/11 events created an official atmosphere of scepticism about Saudi-American relations that had previously been described as 'special'. Sceptics in Congress and the media began drawing uncomfortable attention to the Saudis' role in general including the propagation of stark worldview among the world's Muslims (TIME, 2002). On the whole, the events were "*a disaster*" for Saudi Arabia, as the current Saudi Ambassador to the U.S. described it (Congressional Research Service, 2009: 6-12).

As a result, Saudi Arabia was no longer portrayed in the American political circles and in the internationally influential American media as simply a foreign country with massive oil resources. Since the attacks, the image of the Kingdom has also been linked to terrorism. In addition to the accusation of harbouring terrorism, the 9/11 events made the Kingdom face attacks on a host of issues ranging from child custody and women's rights to education (Alyas, 2007:1).

### 6.2.1 The Kingdom Exposed

In an article in the Financial Times, Cordesman stated:

*"Since the attack on the World Trade Centre and the Pentagon on September 11 2001, there has been an increasing tendency to treat Saudi Arabia not Mr bin Laden, as the enemy. The result has been a flood of criticism of the Saudi leadership, Saudi social practices and the Saudi interpretation of Islam. In some cases, an entire society is treated as if it were composed of terrorists"* (Financial Times, 2003).

This reflects how encompassing the circle of criticism of the Kingdom became. The U.S. Congress's discourse on Saudi Arabia since late 2001 has been characterised by questioning the reliability of the Kingdom as an ally. During the 107<sup>th</sup> and 108<sup>th</sup> Congresses, some members frequently criticised what they perceived to be Saudi

policies that might have contributed to the growth of terrorist threats to the U.S. and other states. In the 109<sup>th</sup> Congress, some members continued to express concerns about the Saudi government's counterterrorism policies and its domestic reform efforts (Congressional Research Service, 2009: 6-12).

Some of the harshest critics in the media and on Capitol Hill sought to portray the Kingdom's rulers as intimately involved with al-Qaeda. The unconvincing evidences, in this regard, did not stop some in the Congress from believing in the existence of such a link between the Saudi government and al-Qaeda. The Senate Intelligence Committee Chairman at the time, Bob Graham, did not dismiss the possibility that a foreign government (the Saudi government) provided support to some the Sept. 11 hijackers (TIME, 2002).

The neo-conservatives whose influence became ubiquitous with the beginning of the new century and the arrival of George W. Bush to the White House took an antagonistic attitude towards Saudi Arabia. Their representatives in and around the U.S. government kept reminding the world of the inherent evil of the Saudi regime. Senior advisors close to the Bush administration, particularly from the Defence Policy Board, consistently argued that key figures in the Kingdom had funded Islamic extremists (Business Monitor International, 2003: 8). In a presentation given to the Defence Policy Board in July 2002, the presenter analysed the Kingdom from within. He maintained that the influential principles of Wahhabism loathed modernity, democracy and open society. He further charged that "*Saudis are active at every level of the terror chain, from planners to financiers, from cadre to foot soldier, from ideologist to cheerleader*" (Murawiec, 2002). A notorious depiction of Saudi Arabia in a report prepared by a think-tank close to the neo-conservatives tells how far the sentiments had gone against the Kingdom. In a report made by RAND Corporation, Saudi Arabia was described as "*the kernel of evil*" (The Independent, 2003). In fact, the right-wing circles in Washington made their hankering for the overthrow of the ruling House of Saud itself quite palpable (Washington Post, 2002).

In addition to such circles with governmental connection, pressure on Saudi Arabia mounted from all other sides. The Western media in general, and the media in the U.S.

in particular, started, from 9/11 to approximately late 2004, a campaign of demonising Saudi Arabia. Major international newspapers would carry extreme headlines about the Kingdom such as “*Isolated abroad, hated at home: House of Saud faces uncertain future*” (The Independent, 2004: 5); “*The corrupt, feudal world of the House of Saud*” (The Independent, 2003); “*The US and Britain are straining to shore up a hated autocracy: Saudi Arabia created the monster now devouring it*” (The Guardian, 2004); “*Danger money for expats as the Saudi exodus grows*” (The Guardian, 2004); “*The House of Saud is doomed by its contradictions*” (Times Online, 2004); “*Saudi Arabia detains reformists*” (Reuters, 2004); “*Paying the price for incompetence*” (The Guardian, 2004).

This negative campaign, referred to by Cordesman as “*The cycle of US ‘Saudi bashing’ by the Congress and US media*” (Saudi-American Forum, 2004: 3), was anxiously observed in the Kingdom and at the highest level. Talking in his *Majlis* to an audience of officials, *Ulama* and the business community, Abdullah lashed out against the foreign media campaign against the Kingdom. He said “*By now, you are aware of the situation and the deliberate and malicious campaign against your country. You have a duty to explain to those you know the (real) situation in your country*” (Arab News, 2001).

The common denominator of the criticisms against the Kingdom was that the country needed to change. They charged that Saudi Arabia had managed to fend off the waves of modernity and democracy for more than seven decades since the country’s foundation. The lack of any outlet for political expression, the overwhelming weight of religion in all aspects of social life and the ruling family’s monopoly on politics had exacerbated the disillusionment of Saudi youth, who finding it increasingly difficult to secure jobs, as well as the radicalisation of society. Among the features criticised, the spotlight was turned on the Kingdom’s educational system. Because of its intensive religious curricula, commentators in the U.S. and the West charged that the system was breeding extremists. As such, oil supplies in Saudi Arabia were in the hands of ideologically extremists and the politically corrupt, and hence they were in danger (Economist.com, 2004; Financial Times, 2002; Financial Times, 2002; Economist.com, 2004; The Independent, 2004: 5; Daily Telegraph, 2004).

Combining what Cordesman had referred to as the cycle of “*Saudi bashing*” by the media with the neo-conservatives’ anti-Saudi position had a considerable impact on the Saudi government. It probably was the greatest threat faced by the Saudi regime since the inception of the state (Business Monitor International, 2003: 7). Both took place in a context of perilous developments. The U.S.-U.K. campaign for war against Iraq was building up. In March 2003, the war broke out and caused a regime change in Iraq. In parallel, the Bush administration was preaching the importance of liberty for the whole region and spreading plans about a new Middle East. Bush was quoted as saying:

*“As long as the Middle East remains a place of tyranny and despair and anger, it will continue to produce men and movements that threaten the safety of America and our friends. So America is pursuing a forward strategy of freedom in the greater Middle East. We will challenge the enemies of reform, confront the allies of terror, and expect a higher standard from our friend”* (Zuhur, 2005).

The pressure was not confined to this. The Kingdom experienced a wave of an internal violence in the years following 9/11. A series of Al-Qaeda-linked major bombing and clashes with security forces took place in the Saudi capital and other regions. The violence mounted, in some opinions, to low-intensity civil war. As a result, foreign companies offered to repatriate the families of their staff. Some considered relocating to neighbouring Bahrain (The Guardian, 2004). The situation led to the first meeting ever between the Saudi leadership, represented by Prince Saud Al-Faisal, and the foreign community in the Kingdom, in which the former agreed to improve security (Daily Telegraph, 2004). Thus, when taken together with the external pressure, the internal challenge was, in fact, as the Business Monitor International described it, the greatest threat ever faced by the Kingdom.

### **6.2.2 The Reaction**

In a speech to the UN Human Rights Commission in Geneva, Saudi Assistant Deputy Foreign Minister Prince Turki bin Muhammad maintained that “*Saudi Arabia will not be dictated to by outside forces on reforms*” (Arab News, 2004). Similarly, in a lecture in the European Policy Centre in Brussels, Foreign Minister Saud Al-Faisal commented on the talks about American plans to impose reforms on the Middle Eastern countries. He

pointed out that he had no knowledge of such plans apart from what the international media was speculating. He added that in any case, however, past experience suggested that attempts by external powers to impose reforms were doomed to failure (Asharq Al-Awsat, 2004: 4).

Such statements reflect the pressure that the Saudi government was under. Unlike the former attempts of reform, however, the reform expected from Saudi Arabia amid these developments would go this time beyond fixing the economy, especially in view of the international criticism of the Kingdom in the aftermath of 9/11 on a host of issues, including politics and society. More specifically, the focus of the period was subjects like freedom of speech, women's equality and human rights (TIME, 2002; Washington Post, 2002).

The general response from the Kingdom was not to stand up against such withering criticism and calls for change, especially since they mostly came from the U.S., the strategic superpower ally that was mobilising international forces to remove the leadership of the neighbouring Iraq and was forging, according to speculations, new schemes for the whole Middle East. In addition, the Saudi government was not happy, or rather anxious, about the fact that the U.S. government was limited in explaining its real positions by what was being said in Washington's official circles and in global media (MOFA, 2004). In most of the time immediately after the 9/11 events, the U.S. administration stood by and left Saudi officials on their own to answer accusations of involvement in terrorism (Bronson, 2006: 233). Thus, with a shaken sense of security, the Saudi leaders realised that they had to embark on a wider sort of reform, but, according to Abdullah's view, a reform drive that was commensurate with the Kingdom's circumstances and in accordance with its own pace. In other words, the reform was to be gradual lest it disturb the status quo dramatically (Gulf Research Centre, 2003: 34-35; Economist.com, 2004).

This view was echoed in statements by top officials. For instance, Saud Al-Faisal, who argued against an externally imposed reform, did not deny the need of reform in the Arab world, including of course his country. He did not rule out, in this respect, seeking outsider help particularly from Europe and the U.S. Likewise, the Assistant Deputy

Foreign Minister stressed, in his rejection of foreign dictations, the Kingdom's serious intent to draw upon the experience and knowledge of others (Asharq Al-Awsat, 2004; Arab News, 2004).

In dealing with this “*suffocating crisis*”, as Abdullah described it (Survey, 2002: 17), the government took some unprecedented steps. The speech of King Fahd, who had suffered a series of strokes since 1995, to the *Shura* in 2003 indicated an official start of these steps. The King outlined some reforming aspects for his government. He first mentioned the Saudi people's rejection of terrorism, and stated that the government would work to root it out in all of its forms. Then he spoke about developing the judicial system within the framework of a political and administrative reform process in the country. In this context, the King announced for the first time the establishment of a nongovernmental committee for human rights. Socially, he pointed out that the government would broaden work opportunities for women (Gulf Research Centre, 2003: 6-7).

In addition, the leadership in the Kingdom moved to relax controls over public discourse, which triggered an outpouring of opinions and debate among intellectuals and leading figures from various segments of society. The idea of permitting public dialogue was a sound policy for Abdullah, who was the crown prince at the time. The National Dialogue Centre he sponsored provided a venue for the expression of social discontent, while demonstrating to a critical world the regime's commitment to greater openness in Saudi society (Dekmejian, 2003: 404).

Though in a limited manner, elections were introduced for the first time in the Saudi society. In October 2003, the government approved groundbreaking plans to streamline local municipalities by introducing elections for half of the members of each municipal council to ensure that citizens have a voice in local affairs. For the government, the proposal of elections marked an important step in the Kingdom's on-going reform agenda, and it briefed a visiting team of UN experts on the measures completed relating the process (Embassy of Saudi Arabia-Washington, 2004: 3-4).



At the international level, and to ease the unprecedented American pressure, the Kingdom proposed in 2002 a peace initiative between Arabs and Israelis. Abdullah called for a full Israeli withdrawal from the occupied territories in return for full normalisation of relations between Arab states and Israelis (Congressional Research Service, 2009: 26). This moderate position on the Arab-Israeli conflict was an essential trade-off between the Saudi government and the U.S. (The Guardian, 2003). The peace initiative was a chance to enhance such a position, especially since it came to calm the inflammation of the situation caused by the breakout of the second Palestinian Intifada (Questia.com, 2007).

More significantly, however, changes reached the realm of the religious establishment. The Wahhabi interpretation of Islam was, as mentioned, at the centre of the U.S. and the Western states' criticism. They charged that its rigid and narrow approach had isolated the Saudi society from the rest of the world and finally resulted in the terrorist attacks on New York and Washington. Because of that, they did not only demand that the Saudis wage a security and financial war against terrorism, to which the latter was responding, but to wage a similar and simultaneous war on the intellectual front as well. In other words, the Saudis were pressured to rein in Wahhabism and those who represented it, the religious establishment.

According to Al-Rasheed, Wahhabism – which had served from the inception of the Saudi state as a source of the regime's legitimacy – had in the meantime become a source of trouble and friction with the U.S. and the Western world (Al-Mushahid Assiyasi, 2004: 18-20). It was believed that Abdullah, as a crown prince, had promised Bush when they met in Texas in April 2002 to restrain the “*religious police*” and to begin the process of reforming the educational curriculum to remove its fundamentalist tendencies (The Guardian, 2003; Bronson, 2006: 258). In fact, many changes were introduced, in this respect, to school textbooks. The Ministry of Education set up a special committee for this purpose. Commenting on such moves, a professor at Muhammad bin Saud Islamic University in Riyadh said that this was a reaction to foreign attacks from Zionist institutions and the U.S., who were exploiting the events of 9/11 to wage war against the Kingdom and its religious principles (Al-Hayat, 2004: 17).

At the level of curbing the activities of some of the *Ulama*, the Minister of Islamic affairs made a statement in May 2003 that the government would not tolerate unacceptable messages made by Saudi religious preachers operating abroad (Al-Watan, 2003: 23).

In agreement with what Al-Rasheed thought about Wahhabism becoming a source of friction with the outside world, Al-Shatti said that as international relations became more interdependent, the Kingdom could not hold on to this local and exclusive Wahhabism as the main source of its political system's legitimacy. He thought that the Saudi leadership was probably considering putting off some of the extremists, who saw in themselves representatives of Wahhabism, in an effort to widen the base of the political legitimacy (Al-Shatti, Interview, 16 June 2004). Indeed, the developments that were taking place around that period indicated that the government was heading in that direction.

The post-9/11 period was a propitious time for liberals in the Kingdom to stage a comeback after being marginalised by the religious establishment for decades (Dekmejian, 2003: 404). In fact, the post-9/11 years were unprecedented in terms of the domestic criticism of the religious establishment in the Saudi press. More importantly, the government itself diagnosed that the extreme positions taken by some in the religious establishment constituted an obstacle to the government's reforming obligations. Thus, it was in favour of encouraging the position of liberals and the moderates from the religious establishment who called for openness towards the world (MOFA, 2004).

The continuous criticism of the religious establishment affected its societal status. Its response, though, was obviously limited. *Sheikh* Al-Dawood said that it was part of the *Hanbali* school of thought that the *Ulama* would preach the society and advise the ruler. However, irrespective of what the latter decides, they and the whole society, according to this school, should display obedience (Al-Dawood, Interview, 02 April 2006).

### **6.3 Resuming Negotiations**

Saud Al-Faisal, minister of foreign affairs and chairman of the MC, surprised the Saudi economic circles in July 2003 by a statement in which he said that the Kingdom's WTO

accession was coming closer (Asharq Al-Awsat, 2003: 18). It was a surprise given the circumstances around the end of Phase Two, which had led to the 'pause, and the arguments between the HMC and the MC at the start of this phase. A month later, the Kingdom signed a bilateral agreement with none other than the EU, which had been one of the toughest parties in the Saudi accession negotiations (The EIU, 2003: 5). In the light of such developments, Saudi officials began to announce expectations that the rest of the negotiations would not be complicated, including those with the U.S., and the country prepared itself to go for the ninth round of negotiations with the WP, the first since October 2000.<sup>57</sup>

### **6.3.1 How Did the Resumption Come About?**

The post-9/11 context was undoubtedly different from the era that had preceded it. At the end of Phase Two and the beginning of this phase, there were some disagreements between the MC and the HMC, internal controversies raised by the religious establishment over WTO religious-related subjects and a lack of a real political will to overcome some difficult issues in the negotiations. The aim and steps of economic reform that started around the end of Phase Two were not strong and persistent enough to outweigh those complexities where religion, politics and economics had overlapped. What the 9/11 attacks had mainly achieved, during Phase Three, was to provide the political will needed for sometime as far as the WTO accession was concerned.

The relation between reform and WTO accession has generally been one of mutual reinforcement in acceding countries. In Phase Two, when economic reasons for joining the organization were salient, the Kingdom's economic reforming procedures were sometimes taken into the process of negotiating the accession. Well into Phase Three, as the country embarked on a much wider scope of reform, WTO accession became an integral part of that more comprehensive reform programme.<sup>58</sup> The programme that had included evaluating the educational curriculum, opening national dialogue and holding local elections could not leave the issue of the WTO accession in the same static position

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<sup>57</sup> In a statement to Asharq Al-Awsat newspaper on 1 September 2003, Minister of State Abdullah Zainal said that negotiations with the U.S. would not constitute an obstacle.

<sup>58</sup> Some of the writings that discussed different aspect of reform, the WTO and Saudi Arabia subscribed to the opinion that the WTO had become part and parcel of a package of reform.

in which Phase Two had left it. After all, the Kingdom was largely trying to ease the external and domestic pressures by embarking on those reforming steps, and remaining aloof from the WTO would have been inconsistent with such an effort. Some foreign circles had charged that the Saudi society was generally closed, and thus incompatible with being part of this universal organization in terms of its membership and effect. The organization had become, as the chief economist and vice-president of Riyadh Bank stated in discussing the Saudi accession, “*a symbol of international respect and acceptance*” (MEED, 2005).

The impetus that reform plans in Saudi Arabia offered to the country’s WTO accession bid is demonstrated by the number of laws that were enacted for that purpose. As argued in the literature on the WTO accession aspect presented in Chapter Two, the time period of negotiations, and particularly that of question-and-answer sessions, offered an opportunity for acceding countries to work on aligning laws and rules to the WTO standards. The Kingdom officially applied to join the multilateral trading system in 1993 and spent approximately seven years between responding to enquiries from the GATT/WTO members and actual negotiations until the ‘pause’ in 2000. However, a limited number of laws and regulations were produced during that period. In contrast, from the beginning of 2001 until 2003 and a little beyond, the Kingdom put into effect about 19 new WTO-related laws, including the essential one of the capital market. Those laws were part of a package of 42 laws covering various aspects of the government’s reform effort, according to Minister Yamani (Ministry of Commerce and Industry, 2006).

In addition, the government reshuffle in the COM in 2003 was described in the Saudi media as a reforming reshuffle. It was all the more so because of the structural change in some ministries, including the one responsible for the WTO accession file, the MOC. The MOC was merged with the MIE to become the Ministry of Commerce and Industry, with the electricity portfolio being detached and placed under the responsibility of

another ministry.<sup>59</sup> The merger was associated with the appointment of the new minister, Dr. Hashim Yamani, who had been the minister of the old MIE. The appointment of Yamani was not a coincidence. His enthusiasm about the WTO made him the right person, according to some observers in the U.S. and the EU, to help Abdullah's wider reforming agenda related to membership in that organization (Nicora, Interview, 21 October 2003; MEED, 2003).

### **6.3.2 The Phase's Negotiations**

Speaking to the WP members in the 9<sup>th</sup> session of the Kingdom's accession negotiations on 23 October 2003, Yamani reminded them that this round came almost three years after the 8<sup>th</sup> session in October 2000. From then up to this 9<sup>th</sup> meeting, according to the minister, the Kingdom had devoted its full attention to promulgating 25 trade-related laws and regulations. In this address, Yamani made some important announcements. He said that Saudi Arabia agreed to the trading rights that the U.S. had added to the list of demands near the end of Phase Two. The Kingdom, he said, would apply agreements such as TRIPS and Customs Valuation from the date of accession. As to GPA, which had met with firm objection before, Yamani indicated that the Saudi government was willing to revise its position. More important, however, was his announcement that the government had cancelled the natural gas liquid pricing system (WTO, 2003). That system caused, as mainly the EU charged, a dual pricing of gas, which in turn created a major stumbling block to the negotiations, especially with the Europeans.

Coinciding with these announcements in Geneva, the news came out from Riyadh that the Saudi government would open the telecommunications sector. Therefore, the messages from Geneva and Riyadh put together removed some important obstacles that previous phases of negotiations had not been able to transcend. As for the EU, the situation up to the end of Phase Two was that it showed understanding for the Kingdom's positions with regard to excluding items incompatible with religion from the Saudi offer. In addition, the new law of investment that allowed 100% foreign

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<sup>59</sup> Regardless of the change in the name of the ministry from the Ministry of Commerce to the Ministry of Commerce and Industry, the thesis will keep using the MOC abbreviation for the sake of avoiding confusion.

ownership of businesses and the 2001 tariff reduction across the board drew the EU closer to the bilateral agreement. It was, however, the Saudi's revision of its gas pricing system that led to the actual signing with the Europeans, since this had been their most important request from the Kingdom for a considerable period of the negotiations.

Likewise, the fresh momentum gained by the economic offers outlined above and the new political back-up helped to accelerate bilateral agreements with a large number of incumbent WTO members. In fact, the Saudis signed more agreements in less than one year of this phase than they had in the previous two phases. Between August 2003 and February 2004, the Kingdom signed 16 bilateral agreements, including that with the EU, as compared to 14 agreements signed from 1993 up to 2001 (Asharq Al-Awsat, 2004: 11). The quick progress in the negotiations astonished even the WTO chief at the time, Supachai Panitchpadki. He commented that "*The bilateral negotiations that Saudi Arabia has been conducting have moved very quickly, rather more quickly than I have expected*" (Reuters, 2004). There were four more agreements to be signed, including the most important one with the U.S. However, in light of the fast progress witnessed in the negotiations, the deputy minister of MOC expected a positive ending to the Saudi accession process in April 2004 (Asharq Al-Awsat, 2004).

### **6.3.2.1 Negotiations with the U.S.**

The bilateral negotiations with the U.S. ended in Phase Two with what the Saudis thought was an insensitive American position with respect to access to the Saudi market for religiously forbidden items. As the American list of demands was the largest, the outstanding issues contained applying TRIPS from the date of accession, opening some services sub-sectors such as telecommunications, financial services and insurance. The U.S. had requested opening the sub-sector of wholesale and retail trade as well, which in turn was a severe demand as far as the Saudi side was concerned. In addition, the U.S. expressed worries about the legal system in the Kingdom that might negatively affect the rights of foreign investors.

The announcements made above by Yamani and the news that Riyadh would open some services' sub-sectors worked to remove a number of these pending topics. Specifically,

these were TRIPS, telecommunications and distribution services. The announcement that the Saudi government intended to integrate all legal entities under the supervision of the Ministry of Justice aimed at mitigating the concerns about securing the legal rights of foreign investors (Asharq Al-Awsat, 1999: 14). As to financial services and insurance, the Kingdom made some improvements to its former position up to the end of Phase Two. It presented a new law for insurance as one of the 25 trade-related laws enacted during the period 2001-2003, according to the above-mentioned speech by Yamani to the 9<sup>th</sup> meeting of Saudi Arabia's accession negotiations. However, they were not good enough for the U.S. negotiators.

Despite commending the latest progress, Robert Zoellick, the U.S. Trade Representative at the time, insisted that the American side still had a problem with the Saudis' position, particularly in the areas of services and insurance. He mentioned, in this context, that the Saudis had lately adopted many trade-related laws, but what they needed, as far as the U.S. was concerned, was to start applying them (Al-Hayat, 2004). For instance, although Saudi Arabia had completed its TRIPS-related laws and expressed the willingness to apply them from the date of accession with no transitional period, the U.S. was concerned about the Saudi mechanisms of combating illegal copying of American productions in the Kingdom's market (Al-Watan, 2005).

In an acknowledgement of the legal concerns, Al-Alamy proclaimed in a statement to the media that WTO-related laws had been officially endorsed. What was expected to follow was a decision on the procedures of implementation that he expected would take several months (Asharq Al-Awsat, 2004). Concerning the financial services sub-sector, many restrictions on foreign entities that wished to provide banking services in the Kingdom were removed. Whereas joint venture banking had previously been the only way for foreigners to provide financial services, the new regime allowed foreign entities to engage in direct branching. Thus, a foreign bank could now establish and operate a branch in the Kingdom. In joint venturing, the Saudi's new offer for this phase permitted the foreign partner to hold up to 60% of the shares, compared to 49% in the offer of Phase Two (Rao, 2006: 5-6). Although the American demand was to expand this percentage to 100%, some international banks began to benefit from such new

regulations. For instance, SAMA approved branch licences for Deutsche Bank and HSBC during 2003-2004 (FT.com, 2004).

Insurance was a particularly important subject to the U.S., according to Minister Yamani, because, as the biggest country in the world in this field, it had a large stake in it. The minister pointed out that the U.S. wanted better opportunities for its insurance companies in the Saudi market than what the new insurance law offered (Al-Hayat, 2004:11). The new law of 2003 established a cooperative insurance system based on the *Shariah*. One of the main features of the law allowed foreign insurance providers to establish and operate branches in the Kingdom. It provided a three-year transition period during which foreign entities already providing non-cooperative insurance should convert to cooperative insurance companies<sup>60</sup> (Rao, 2006: 6).

Commenting on the U.S. position concerning insurance, which Zoellick had identified as a major obstacle at this stage of the negotiations, Yamani told the Saudi press that the Americans still had some enquiries about the new law (Al-Watan, 2004). However, that position of the U.S. became even more difficult after the laws implementing regulations were announced in April 2004. The regulations mandated that a foreign provider of insurance services should have a minimum capital of roughly US\$25 million. In addition, foreign providers of the service were allowed only one branch in a Saudi province (Arab News, 2004). To the U.S. negotiators, this was a very high amount that would constitute an impediment to competition (Al-Watan, 2004).

Along with insurance, there were a few topics that the two sides were still negotiating over. For instance, the U.S. was concerned about the role of state-owned companies, whose trading activities the Saudi government later restricted (Al-Hayat, 2004: 11). The Grain Silos and Flour Mills Organisation (GSFMO), which had been an issue since the early stages of questions and answers in the accession negotiations, was included on the list of government entities subject to privatisation. Sanitary and phytosanitary issues were still contentious as well, particularly concerning food shelf-life restrictions (Al-Watan, 2005). The Kingdom had argued for a short shelf life due to the country's hot

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<sup>60</sup> As mentioned in the previous phases, some local and foreign businesses were actually providing commercial insurance services taking advantage of the former lack of a related legal system.



climate, but at the end, when both parties were finalising the accession deal in Phase Three, the Kingdom agreed to replace its standards in this area with the widely used system of ‘use-by-dates’ (Rao, 2006: 6). Also, until the last stage of negotiations, the U.S. was requesting to see the Saudi negative list of investment reduced further (Al-Hayat, 2005: 13) (appendix 5-6).

At this point of Phase Three, however, insurance was the focus of bargaining, according to American and Saudi negotiators (Financial Times, 2004; Al-Watan, 2004). The difficulty of this issue was reflected by the decision of the MOC to set up a committee to concentrate specifically on the arguments with the American side over insurance. Furthermore, in an interview, Zainal, the state minister at the time and the current minister of commerce and industry, said that if the U.S. could not understand the Saudi co-operative system of insurance, which was based on the principle of the *Shariah*, no bilateral agreement might be reached (Zainal, Interview, 17 June 2004)<sup>61</sup>.

### **6.3.2.2 Gas Pricing System**

The issue of the pricing of gas was decisive around the end of Phase Two. At this point, Saudi Arabia argued that accusing it of having a dual pricing system for gas was in fact an attempt to deny it the benefit of its comparative advantage in energy, which probably was the only significant comparative advantage held by the Kingdom. Thus, it was striking, even with the aforesaid pressure of 9/11, to witness the Kingdom conceding in this area and making special arrangements with the Europeans who were, more than anyone else, pressing the Saudis in this issue. This is what Yamani expressed in the 9<sup>th</sup> session of the Kingdom’s accession negotiations in October 2003 when he announced that the Saudi government had cancelled the natural gas liquid pricing system (WTO, 2003:7).

Al-Sadhan, Head of SABIC Legal Affairs, thought this was the wrong move on the part of the Kingdom. He said that it was rushed by individuals in the MOC who thought that it would help to secure an agreement with the EU, and thus put pressure on the U.S. In doing so, according to Al-Sadhan, they ignored the longstanding argument of SABIC,

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<sup>61</sup> Minister Zainal left his position as the Minister of Commerce and Industry in 2012.

which denied even the existence of any sort of dual pricing in the Saudi's gas pricing policy. However, in the middle of 2004, some influential officials concerned with the WTO accession realised that the Kingdom had made a mistake in this regard. They called SABIC and asked it to revitalise its argument about gas pricing. As it was still negotiating its accession, the Kingdom expressed that there was a misunderstanding pertaining to its policy of gas pricing (Al-Sadhan, Interview, 03 April 2006).

The re-opening of the issue of gas pricing with the EU coincided with the complications in the negotiations with the U.S. over the issue of insurance. The U.S. had brought the matter of gas pricing up from time to time, but generally the U.S. was not as enthusiastic about the subject as the EU was. In fact, the biggest future competition expected in this area was between the EU, represented by Germany, and Saudi Arabia, not between the latter and the U.S. Saudi Arabia was the seventh biggest country in petrochemicals production; Germany was the first country in this field. However, Saudi Arabia will replace Germany as the biggest petrochemical country by 2015. Both were fighting over important markets such as China at the time, and still continue to do so (Middle East Policy Council, 2006: 10-11).

Hence, the U.S. was relatively out of the picture as far as the issue of gas pricing was concerned. In fact, the U.S. might have intended this state of affairs. At a time when the two countries, Saudi Arabia and the U.S., were negotiating the Kingdom's WTO accession, some giant American companies were negotiating gas exploration concessions in Saudi Arabia upon Abdullah's aforementioned gas initiative. If they were to succeed, they might themselves also benefit from the Kingdom's comparative advantage in energy.<sup>62</sup>

### **6.3.2.3 U.S. Reaction to Developments in Negotiations with Saudis**

Based on the difficulties that presented themselves at this late stage of the negotiations, the Kingdom decided in October 2004 to postpone the official accession effort until after the presidential elections in the U.S. A Saudi official said that the Kingdom would resume the WTO accession negotiations with the U.S., the only country with which the

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<sup>62</sup> The deal was won at the end by small European companies with partnership of Saudi ARAMCO.

Kingdom had not yet signed a bilateral agreement, in December 2004. Some observers thought that this would not change much (Asharq Al-Awsat, 2004: 11). However, as the aftermath of 9/11 changed the Saudi position, it changed the respective U.S. position as well.

Although Saudi Arabia was condemned because of 9/11, as explained earlier, it was a country that the U.S. could not afford not to have on board in the years following that event. The Kingdom did have an important place in the American plans for the so-called war on terrorism. The U.S. thought that the role of Saudi Arabia would be crucial in cutting financial supplies to extremist groups in the Islamic world. In fact, the Kingdom had already shown its importance in this respect, as the Financial Action Task Force of the OECD praised the Saudis in a confidential report for the world-class laws they had put in place to combat the financing of terrorism (Financial Times, 2004).

The U.S. administration knew that unlike the agony inflicted by the Saudi participation in 9/11, the leadership in the Kingdom had generally been of very much favourable attitude towards the U.S. However, the return of the relationship to its old heights could not be a sudden after the tragic events. The best political cover for amending the bilateral relations came through the 9/11 Commission Report issued in 2004. It provided the Bush administration with the justification to re-engage and re-build the strong bonds with Saudi Arabia, a needed move that reached its peak in the Abdullah-Bush's summit in Texas summit in 2005. The Report pointed out that Saudi Arabia had long been considered the primary source of al Qaeda, but concluded by stating that "*we have found no evidence that the Saudi government as an institution or senior Saudi officials individually funded the organization*" (The 9/11 Commission Report, 2004: 171).

In addition, after 9/11 and the need for Saudi Arabia in the financial and intellectual combat against terrorism, the U.S. administration spread its vision of a policy on 'forwarding freedom' in the Middle East. Such a policy would overlap with the old built-in U.S. policy in the region, in which Israel constituted a key element (Zuhur, 2005: 40). Thus, the U.S. would need to co-ordinate with regional powers like Saudi Arabia. In this connection, the very same Saudi Arabia had just issued a peace initiative

for the Arab-Israeli conflict, which was accepted by all Arab states and adopted in a summit in Beirut in 2002 as the Arab Peace Initiative. Although the U.S. government did not adopt the initiative, it praised it and emphasised that it had important elements that all parties, including the U.S. as a broker, could build on.

On another front, the U.S.'s need for Saudi oil was forecasted to increase. The U.S. Department of Energy estimated that the global economy required Gulf oil production capacity to expand from 22.4 million barrels per day (mbd) in 2001 to 24.5 mbd in 2005, 28.7 mbd in 2010, 33.0 mbd in 2015 and 45.2 mbd in 2025. Saudi production alone must, according to the estimate, increase from 10.2 mbd in 2001 to 23.8 mbd in 2025 – an increase of 133% (Saudi-American Forum, 2004: 1). This and the second oil boom, which began in 2001 and was illustrated by the upward spiral in oil prices, made it necessary for the U.S. government to seek the close co-operation of Saudi Arabia in this regard. In a meeting in Texas in 2005, Bush urged Abdullah that the Kingdom should increase its oil production for the sake of calming down oil markets (Berman, 2005).

The 2005 meeting took place in April, just seven months before the Saudi WTO accession was finalised. One year earlier, a similar meeting had taken place between the two leaders, also in Texas. Seizing the opportunity presented by the developments explained above, the Kingdom made some trade-offs as far as its WTO accession was concerned. Whereas the summit of April 2004 was mainly devoted to ironing out the aftermath of 9/11, the April 2005 meeting had the WTO accession as a major agenda item. According to Assistant Minister of Petroleum Prince Abdul Aziz bin Salman, *“King Abdullah’s meeting with US President George W. Bush in his Texas ranch in April, while he was crown prince,<sup>63</sup> had facilitated the Kingdom’s WTO entry”* (Arab News, 2005).

Around the two summits, the Saudi and U.S. negotiators would sit down to negotiate for extended period of times. For instance, one set of these mutual meetings in Washington continued from April to September 2005 (Al-Watan, 2005). The situation here was significantly different from that of Phase Two. In that phase, it was not easy to get hold

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<sup>63</sup> Abdullah became King in August 2005.

of the U.S. negotiators. A lot of time had been wasted on useless phone calls and faxes, but the Americans had dedicated only little time to extensive face-to-face negotiations (Faqeeh, Interview, 06 April 2006). In fact, the former commerce minister brought this point up in his bilateral meeting with the USTR chief in Geneva at the conclusion of the 8<sup>th</sup> session of the Kingdom's accession negotiations in October 2000, which preceded the 'pause'. Then, the minister emphasised the importance that both sides intensify the bilateral discussions over the pending issues between the two countries (MOC, 2000).

This difference between the two phases was a sign that gaps were closing. Along with Abdullah and Bush, other top politicians in the American administration became enthusiastic about having Saudi Arabia in the WTO, including Vice President Dick Cheney and State Secretary Colin Powell. They thought the accession would help the Saudi effort for reform (Middle East Policy Council, 2006: 6). At the time when the U.S. was challenged by fundamentalism, it was important to the Americans and the Europeans to draw the most influential Islamic state firmly into the Western-led web of multinational institutions like the WTO (Financial Times, 2003: 8). Along these lines, U.S. Trade Representative Rob Portman said that the Bush Administration had decided to sign a WTO accession deal with Saudi Arabia. Portman stated: "*We will see greater openness, further development of the rule of law and political and economic reform in Saudi Arabia*" (aljazeera.net, 2005).

#### **6.4 The Membership**

On 11 November 2005, the organization's General Council endorsed the entry terms of the Saudi WTO accession and the Kingdom officially became the 149<sup>th</sup> member of the WTO on 11 December 2005. In this regard, Abdul Aziz bin Salman said that the Kingdom had received more concessions from the U.S. than any other acceding country. With respect to the issue of gas pricing, which the Europeans raised again near the end of Phase Three, bin Salman said that it had also been solved by a personal political intervention by Abdullah, the crown prince at the time, with Tony Blair, the former British prime minister. As the latter's country was at the time chairing the EU, it played an important role in resolving this issue (Arab news, 2005). Thus, the Kingdom

kept its current policy for gas pricing in place (SABIC, 2006: 22). After all, cooperating in combating terrorism and oil were no less important to the EU than the U.S.

## **6.5 Analysis**

The pause of negotiations did not omit some of the important elements in pushing for the accession in the first place, especially in Phase Two. Major economic reasons such as debt, unemployment and the need for fresh investments were all still in effect (Alsheik, Interview, 28 April 2004). In fact, the positive economic change in 2000 could not conceal the reality that just a year earlier, the country's debt had been larger than its economy (TIME, 2009: 44). According to Champion, the oil crash of 1998 and its critical economic consequences provided the regime in Saudi Arabia with a renewed incentive to embark on the long-debated diversification of its economy (2003: 145). What emphasised Champion's point is the statement indicated earlier by King Abdullah, the crown prince at the time, about the state of the economy in 1998. Although it was quite unusual at the time for the leadership in the Kingdom to address economic issues, Abdullah told the Saudis that the boom era of the 1970s was officially over. Accordingly, what the economy needed at that time was economic reform, as indicated in the previous chapter.

The reasons for Abdullah to assume this role of a reformer, as far as this thesis is concerned, are multiple. He was the heir apparent at the time and officially the second-ranking figure in the country. When his elder brother, Fahd, became critically ill in 1995, Abdullah assumed the role of the *de facto* leader. The difficult economic situation required the mentorship of someone of his high profile to promote the attempts of repairing the economy—not least because the shape of the economy has always been important to the political system since distribution of largesse has been an element of enhancing political legitimacy (Champion, 2003: 77).

It was a logical step to have Abdullah in particular sponsor the economic reforming efforts around that time. As acting king, he demonstrated spending discipline. As a result, over the years he gained a good reputation as being honest and austere (Economist.com, 2001; Times Online, 2004). Such qualities seemed particularly

compatible when the issue at stake was how to treat an ailing economy, as disciplined spending would most likely be an element involved.

Reform in its economic aspect continued and expanded to include other aspects as the years went by, until and after Abdullah officially acceded to the throne in 2005. Chapter Three showed how after Faisal, the leadership in Saudi Arabia turned into a form of collective leadership where different senior princes bolstered their positions in the political life of the country. Seizing the opportunities presented by the events that took place between 1995 and 2005, e.g. the economic crisis and the illness of Fahd, the entourage that surrounded Abdullah worked to project him as a reformer. Portraying him as such gained him internal popularity and external respect, which in return enhanced his leadership.<sup>64</sup>

Even with the ‘pause’ and stumbling internal and external circumstances of the accession negotiations discussed in Phase Two, it was difficult for the Kingdom completely to drop the idea of joining the WTO at this stage. Such abstention would have obstructed the simultaneous general reforming attempts of the economy, which Abdullah was championing.

The previous two phases lacked the political mentorship that, as the thesis argues, was particularly important to the Saudi accession process. The diverging views between MC and HMC and the religious concerns were neither resolved nor disappeared. However, the leadership in the Kingdom sensed that now the survival of the whole regime was probably at stake, and thus everything else could be postponed or pushed aside. In that context, the government was willing to undertake reform that went for the first time beyond economic and administrative aspects to touch on some of the hitherto unthinkable subjects like restraining the powers of the religious establishment and widening the base of political legitimacy to include liberal voices. In this light, the previous obstacles to the WTO accession, especially those encountered during Phase Two and the opening of Phase Three, appeared less difficult to transcend in the process

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<sup>64</sup> Being a reformer is a recent projection of King Abdullah who used to be portrayed in earlier years as a champion of the old tribal heritage (See Madawi Al-Rasheed series of articles: *Saudi Arabia: to where?*, Al-Safeer Lebanese Newspaper, 04/03/2009, (in Arabic) [www.madawialrasheed.org](http://www.madawialrasheed.org)).

of undertaking such a wider reform that began to take place after the 9/11 period of Phase Three.

As far as this study is concerned, the 9/11 and what came immediately after represented the most critical time in the Saudi-U.S. relationship. The review of this relationship in Chapter Three reflected that it had experienced some difficult times like the ones during Kennedy and Nixon's tenures. In those examples, however, the divergence between the two was usually over issues that involved a third party, such as the Palestinians or the Israelis. In 9/11 the collision was direct. Thus, the threat to the relations was real especially to the Saudis who had invested a lot over the years to sustain the friendship of this strategic ally.

There are writers who would deny a direct link between 9/11 and the Kingdom's accession to the WTO. Hertog, for instance, argued for such a denial on the basis that the push for accession came one and a half years after the 9/11 attacks (Hertog, 2008: 19). To this study, the immediate time after 9/11 was mainly devoted to iron out political disagreements with the U.S. In the process, the Kingdom was engaging in a first of its kind political-economic reform, which included, as argued here, the serious work for joining this organization. In other words, the push for accession did not start in 2003, as Hertog argued. It began earlier than that, but within a larger reforming framework, as this study argued.

The late reforming effort on the part of Saudi Arabia fitted well the U.S. new approach to the bilateral relations with the Kingdom. Reform became crucial in amending the relationship between the two countries. As mentioned, the U.S. administration was more convinced at the final stages of the Saudi Arabian accession to the WTO that the accession would help the reforming efforts in the Kingdom. In fact, even the 9/11 Commission Report resonated with this new thought of the top officials in the administration and USTR. In its recommendations, the Report stated that the U.S.-Kingdom's bilateral relations "*should include shared commitment to political and economic reform*" (The 9/11 Commission Report, 2004: 171-374).



Probably, such a new approach found its origin in the U.S. worldwide perspective that began to develop around the new millennium. The perspective was basically about making a connection between trade and reform in its various forms. Condoleezza Rice, former secretary of state and an advocate of the new Middle East, articulated such a perspective. In an article on promoting national interests, she wrote *“It is in America’s interest to strengthen the hands of those who seek economic integration because this will probably lead to sustained and organized pressure for political liberalization”*. Although no guarantees, Rice said that in many cases *“the link between democracy and economic liberalization has proven powerful over the long run”*. In her final analysis, in this regard, she stressed that *“Trade and economic interaction are, in fact, good not only for America’s economic growth but for its political aims as well”* (Rice, 2000: 55).

The reform perceived by the West in general and the U.S. in particular was, in part, to impose some restrictions or modifications on some of the religious manifestations in the Kingdom. It is like in the examples of the callings to restrain the ‘religious police’ or to change the education curricula. Yet, the religious aspect turned out to be important even to these external powers themselves. Their effort, particularly the U.S., to fight extremism would very much be in need to make use of the religious clout that the Kingdom represented in formulating an intellectual argument against this phenomenon.

## **6.6 Conclusion**

After the halt of the accession negotiations at the end of Phase Two, many observers thought that some of the incentives for the Kingdom to join the WTO had evaporated. They attributed this to the turn in oil prices, which started to experience continual quick increases since the start of the year 2000.

However, despite the halt in the negotiations, the fact that many serious economic problems remained could not be concealed. In fact, the oil crisis of 1998 had already put the government on the path of reform, in which the government and the business community came to realise the importance of continuing the negotiations.

Thus, several reforming steps were undertaken in addition to the new law of investment and SAGIA. The establishments of the SEC, SCPM and SCT were a case in point. In

Abdullah, these governmental reform initiatives found the mentor whose existence was important to advance major projects in the Kingdom, as this thesis has argued.

As to the business community, the new atmosphere with respect to economic reform was making a cumulative positive effect on its part. The business community's objection to the WTO was not absolute from the beginning, but was argued in an ad-hoc manner. By this time, this community was urging for more privatisation initiatives and seeking better governmental enhancement to the regulatory environment in the Kingdom, which in itself was fundamental to any reforming attempt. Therefore, their newly developed attitude was generally in support of Abdullah's reforming efforts.

Abdullah's effort found another important source of support. It came from the technocrats that had filled most high-ranking posts in the country since 1995. The best example for this was in the *Shura*, which acted promptly on the reform-related laws referred to it by the COM.

In the course of such efforts, which reflected a reforming trend, it was difficult completely to drop the idea of joining the WTO. In fact, any such act would contradict the simultaneous economic reforms. Thus, the attempt to accede to the WTO coincided during that particular time with the wider reform efforts, and this simultaneity was in some ways good for the accession, inasmuch as the indirect proceedings with the WTO avoided provoking the internal elements that had caused the stalemate at the end of the previous phase.

Hence, the MC and the HMC continued their deliberations and arguments. In this situation, different concerned ministries were studying the situation and were reporting, as decided, to the HMC. In general, they supported the proceedings related to the accession on economic grounds. Such talks were important, as far as the accession issue was concerned, even if they were confined to the governmental agents. They at least reflected that despite being 'paused', the issue was not dead.

Amid this the event of 9/11 occurred. As most of those who had carried out the attacks in New York and Washington were Saudis, Saudi Arabia was widely alleged, especially

in the West, to be a safe haven for terrorists. Accordingly, the country was exposed to a massive international campaign of criticism, led by the U.S. In the process, the campaign portrayed Saudi society as an isolated one that could not be integrated with the more interdependent world. That situation, according to the allegations, was an ideal breeding ground for terrorists.

As a consequence, a change that was not only economic, but also social and political in nature was inevitable. The external developments resonated with increasing internal political demands to mitigate the eruption of domestic violence perpetrated by groups affiliated to Al-Qaeda. As the situation turned, according to some analysts, into a low-intensity civil war, many expatriates considered leaving the country.

This was probably the most dangerous situation that Saudi Arabia had found itself in since its establishment in 1932. Thus, it decided not to oppose such vociferous internal and external calls for a wider reform. It relaxed control over the coverage of public discourse in the domestic media. It announced reforms in the judicial system. Leading the reforming steps, Abdullah encouraged a public dialogue through the National Dialogue Centre that he established as a venue for the expression of social discontent. Elections were introduced for the first time by electing half of the members in municipal councils. More significantly, perhaps, the Kingdom was responsive to the pressure, especially from the U.S., to rein in the religious establishment by limiting its influence in education, for example.

The 9/11 attacks provided the Kingdom's WTO accession effort with the political will that had been lacking for sometime during the previous two phases of the process. In this situation, the religious establishment was willing to follow, as one of the fundamental precepts of the *Hanbali* school of thought was obedience to the leader of the nation.

Joining the organization became an important step to disperse the impression that the Saudi society was isolated. If it was possible to make some social and political compromises in responding to the internal and external events, then it should have been

easier, in the Saudi context, to make similar compromises on economic matters including the accession to the WTO.

**Table 6-1: Elements Important to Phase 3**

|                 | <b>Economic</b>   | <b>Political</b>   |
|-----------------|---|--|
| <b>Internal</b> | <ul style="list-style-type: none"> <li>- 2<sup>nd</sup> oil boom: better momentum in the negotiations.</li> <li>- Business community: increasingly positive stance towards the WTO.</li> <li>- Technocrats: enhancement of reform efforts.</li> </ul> | <ul style="list-style-type: none"> <li>- 9/11: internal calls for reform.</li> <li>- Political commitment: the emergence of a mentor.</li> <li>- Religious establishment: essentiality of following the ultimate opinion of the leader.</li> </ul> |
| <b>External</b> | <ul style="list-style-type: none"> <li>- 2<sup>nd</sup> oil boom: necessity of cooperation with the Kingdom.</li> </ul>   | <ul style="list-style-type: none"> <li>- 9/11: massive criticism and pressure for reform.</li> <li>- War on terrorism: necessity of cooperation with the Kingdom.</li> </ul>   |

## Chapter 7 Conclusion

Acceding to the WTO is a long and exhausting process. An acceding country should expect to spend years in answering questions, negotiating demands and making concessions. In light of this, what would be the factors that make an acceding country endure such a procedure?

This thesis has posed this question with regard to the accession case of Saudi Arabia. The literature of the WTO accession provides a set of factors that can serve to answer the question in general. For instance, it would attribute a country's bid to accede to the organization to a desire for integration with the world economy, the chance to lock in domestic reforms and the prospect of opening new markets for domestic products.

However, the length of time that accession processes normally take, which on average is several years, indicates, as far as this study is concerned, that the factors presented in the literature cannot be sufficient. The years of accession negotiations and the fact that they widely differ from case to case – from two to 19 years – point to the importance of particular politics in the backdrop. Such political factors affect the factors that shape an accession process in a manner that enhances their particular relevance to that specific case.

Accordingly, the thesis aimed at demonstrating the real factors that shaped the accession of Saudi Arabia. In this, the thesis broadly referred to the IR approaches that concentrate on domestic variables in making international policy decisions: society-centred approaches and state-centred approaches. More specifically, the thesis attempted to apply the concepts with which these approaches frequently operate: interests and institutions. In addition, the thesis took into account the role of influential individuals, in accordance with one line of thinking within the state-centred approaches in particular.

The reason for referring to such approaches and concepts is related to the nature of the decision to accede to the WTO. If a state decides to join this organization, it means that this state is adjusting its trade policy to the rules and regulations of this international

multilateral trading system. Perhaps more than any other policies, trade policy has direct domestic consequences. Trade policy tools such as tariff rates, quotas and non-tariff barriers affect the interest of a broad range of groups in the society and can redistribute gains among them. Hence, trade policy normally involves a great deal of internal politics. In fact, it has been said that trade policy is the stuff of domestic politics.

A focus on domestic elements should not, however, mean that the importance of external circumstances is discounted. As an accession case cannot be isolated from the surrounding internal politics, it can neither be neutral towards international events. In fact, focusing on state institutions and societal groups is one of the three levels of analysis in the IR. The other two levels concentrate on international systems and the individual, respectively. Adopting one of them in a study does not mean that the others are completely excluded.

As such, the thesis hypothesised that studying domestic interactions that were at play throughout the years of the accession process can better explain the accession of Saudi Arabia to the WTO. The factors that were anticipated by the thesis to have shaped the Kingdom's accession were divided into two broad categories: internal and external. The first category included societal interests, namely the business community and religious establishment. It contained institutions as well. As institutions can be conceptualised as both structures and agents, the sub-factors under this element were divided accordingly. Structurally, therefore, they comprised religion, the monarchy, the BLG and the *Majlis*. As to agency, they included the COM, HMC, MC, SNT, the *Shura* and some political figures closely involved in the country's accession project. In addition to interests and institutions, there were also elements that were decisive as far as the negotiations were concerned, namely, the petrochemical industry and the services sector.

With regard to external factors that cannot be overlooked, the thesis highlighted the importance of oil and international market fluctuations in terms of prices and production. The factor of oil has had particularly far-reaching effects. Specifically, its discovery in 1938 exposed the Kingdom to the outside world and, by extension, made it relatively receptive to developments of international dimensions.

Some important characteristics of Saudi Arabia have, in fact, influenced how the thesis sub-hypothesised the effect of the abovementioned factors on the Kingdom's WTO accession taking into account that the Saudi case was among the most protracted in spite of its relatively open economy that never experienced a communist activity such as in the other protracted cases of China and Russia. Among these characteristics was the fact that Saudi Arabia represents one of the few monarchies in the world where monarchs possess absolute power especially in the area of formulating international-related policies. In a similar regime, it would have been expected that one person or a small circle of persons unitarily make decisions. The expectation reflected a limited internal politics.

However, the extended years of the Saudi case, contradicted such an assumption. As far as this study is concerned, there were, in fact, indications for the existence of such politics and they lied in the economic and legal systems of the country. The 'rentier' paradigm, in which the Saudi Arabian economy has generally been placed in the literature, would assume a situation of resistance to the GATT/WTO by the business community that lived, according to that paradigm, off the government's rents. Similarly, the multilateral trading system's expansion in terms of extending its legal authority indicated a provocation to particular groups in the Kingdom in light of the great legal and cultural regard to the principles of the *Shariah*.

In addition, the central type of government that the Saudi authoritative monarchy represents could experience a political interaction within itself. Although centrality might imply a limited number of effective agents, the number and nature of such agents would essentially depend on the issue at hand. In the case of the Kingdom's WTO accession, several governmental agents were directly involved. They specifically were the abovementioned COM, HMC, MC and SNT. The multiplicity of those agents led this study to sub-hypothesise the effect of the theory of 'veto players'.

According to the thesis, the element of time is important as far as accessions are concerned. It exposes such processes to the surrounding internal and external changes. The years of the Saudi Arabian accession process have mostly coincided with the momentum gained by the concept of economic reform over the two previous decades, as

the 1980s and 1990s were a period of unprecedented economic reform in the history of developing countries. After 9/11, the limits of reform extended, as far as the Kingdom was concerned, to include, in addition to economic, political dimensions as well. For the generally intrinsic and correlated relations between reform and accession to the WTO, it was postulated that reform was of a positive effect on the Kingdom's accession process.

Lastly, in the course of generating sub-hypotheses, the jurisdictional expansion of the WTO over the years seemed to impinge on domestic legal affairs of acceding countries. In addition, although multilateral, the WTO gave way to the bilateral dimension when it came to the issue of accession specifically, as no application can be approved without being individually accepted by all interested incumbent members. Customarily, the 'Quad' countries, among the WTO's members, have been influential in all accessions, as they have usually been able to push applicants to make very heavy commitments. As such, it was assumed herein that this aspect of the WTO as an organization might have retarded the progress of the accession case of Saudi Arabia.

The thesis divided the Saudi Arabian accession case into three main phases in examining the main and the sub-hypotheses recapitulated above. This structure, far from being random, was essentially based on the observation of different metamorphoses in the Kingdom's WTO accession, which are assumed herein to have resulted from indigenous interaction. Due to such metamorphoses, each of the three phases was determined by a particular characteristic as far as this study is concerned.

The first phase, which ran from 1985 to 1996, was marked by a low profile and a lack of real enthusiasm. The second phase took place from 1997 to 2000, when the overall salience of economic factors came to the fore. The third and last phase lasted from 2001 to 2005, the date at which Saudi Arabia officially acceded to the WTO. The phase was characterised by a weighted political involvement.

To a large extent, internal politics moulded Phase One. At this stage, the business community and religious establishment displayed limited interests and limited concerns as far as acceding to the GATT/WTO was concerned. In the period of pre-official application, the business community received only little information about the



multilateral trading system and the Kingdom's official attempt to become a member. After the application to the GATT in 1993 and its conversion to the WTO in 1995, the business community began to develop a general acquaintance with the accession issue.

The 'rentier' paradigm would assume that the business community, as it lived off governmental subsidies, would ardently resist attempts like joining the GATT/WTO system. However, the business community did not display such a stance in this phase. Whether one agrees or disagrees with the 'rentier' state paradigm, there were two plausible reasons for this position. First, some of the issues that might have caused irritation, namely the GATTs and TRIPS, were only introduced after the transformation of the GATT into the WTO in 1995, at which point this phase was around ending. Thus, the phase did not overall experience the difficulty of going through such extremely complicated issues. Second, no actual negotiations were held throughout the phase. The encounter with the WP was mainly confined to clarifying the Saudi trading system.

In fact, the limited role for the business community during the phase was also, in the opinion of some, imposed by the government, which did not debate the case while contemplating the accession issue and after it had decided to accede to this global trading system. This could partially be attributed to the state of the economy at a time when the government was not only managing the economy, but also assuming the role of the initiator and implementer of the economic transformation of the country after the first oil boom in the 1970s.

The chief concern of the religious establishment during all the accession years was to prevent WTO rules and regulations from encroaching on the Kingdom's legal and social codes. There were no signs of such infringements during Phase One. Until 1995, one year before the phase ended, the multilateral trading system was represented by the GATT, and concentrated on reducing tariff rates on products crossing borders. In addition, there were no negotiations involving the Saudi application until the year of 1997 that marked the beginning of the following phase, Phase Two, and hence no demands that might have been considered offensive as far as religion was concerned had been presented yet by the WP members.

The lack of overt engagement by the business community and religious establishment during this phase should have made it simple for the government to promptly put its attempt of acceding to the world trading system into action, especially considering the fact that it was in predominant control of the economy during that particular time. However, this did not happen. A large number of governmental agents became directly involved. Therefore, the important internal elements of consultation and consensus were sometimes difficult to obtain, particularly in the absence of real political support. For instance, it took from 1985 to 1993 to finally come to the official decision of joining the GATT after the issue had been circulated among government departments for a whole eight years.

More instrumental to this governmental agents' failure to seize the opportunity presented by the relative neutrality of the business community and religious establishment during that phase was how those agents themselves perceived the GATT, whose presence occupied most of Phase One's years. Despite the economic challenges caused by the developments in oil markets until the mid-1990s, the government did not see the GATT as a real window for economic solutions, as the latter was primarily concerned with reductions in tariff rates.

In addition, the regional and international politics had a direct and indirect impact with regard to the Kingdom's official handling of the accession issue. Regional events such as the Second Gulf War diverted the attention of the government from big projects like joining the GATT/WTO system. As a result, the case found no political sponsor, which is usually an important aspect of advancing major initiatives in Saudi politics. Internationally, a significant part of Phase One took place during the Cold War. During that time, the issue of acceding to the multilateral trading system was, to some extent, muddled up with strategic considerations. As a major regional ally of the U.S., Saudi Arabia did not feel that becoming a party to the global trading system represented by the GATT was a compelling issue, or that its membership was in many areas a matter of international request.

The turning point of this phase occurred towards its end. The oil troubles were coupled with the major depreciation of the U.S. dollar in 1995. That very same year, the IMF

issued an unprecedented warning about the perilous state of Saudi Arabia's economy and its need for real adjustment. At the same time, international economic interdependency was gaining ground, especially after the collapse of the Soviet bloc around the beginning of the 1990s. One main result of this was the spread of the concept of economic reform in the developing world. These developments signalled that the Saudi WTO accession case was about to change its course. In fact, the atmosphere was building up momentum towards a more active upcoming phase.

The first indicator that the second phase was more active was the start of the actual negotiations in 1997. Furthermore, the changes that marked the end of the previous phase, such as the increasing momentum of economic reform, indicated that economic factors would be salient during this second phase –whether one argued in favour of accession in order to promote one economic sector, or whether one rejected accession in order to protect another.

In addition to the concomitant increase in the attention devoted to WTO accession at the end of Phase One, some contextual elements intervened to further the case of the accession especially on economic grounds. After years of decline, oil prices hit a rock bottom of nearly US\$10 in 1998, probably the worst in decades. The formidable looming challenge in 1998 led the Kingdom to take remarkable economic initiatives like opening the gas sector and issuing new investment laws, which went far beyond previous policies implemented when faced with economic challenges. This simultaneously helped to advance the WTO accession issue.

This advancement of the case urged the government to weigh the importance of accession in terms of the benefits and costs expected. Assisted by technocrats, who were at the time filling high posts in the COM, MC and other government departments, the benefits/costs analysis ended in 1999 with the recommendation to join the WTO as soon as possible. The main justification was that the global interdependent system had reached a high level of formation through the successive rounds of the multilateral trade negotiations conducted by this organization. In this, the governmental analysis indicated that the incumbent WTO members at the time controlled 85% of the world trade.

As part of this overall push, Saudi Arabia was making increasing effort to accede to the WTO. In what was an important sign for this decision, the MC envisioned for the first time a specific role for the business community in parallel to the official endeavour. It emphasised the need to form a consultation team consisting of business persons to assist the SNT. The aim was that this team should pressure the foreign partners of the Saudi private sector to convince their native countries not to keep insisting on a further economic liberalisation in the Kingdom, especially with respect to the domestic financial market.

This increase of importance in the economic aspect during this phase was associated with a very important factor: time. Unlike the first phase of the slow-paced proceedings, the time factor became a matter of concern during this phase particularly to the governmental agents. In this, the MC plainly pointed out that protraction in the accession was not in the best interests of the Kingdom. Moreover, it set itself the year 2000 as a deadline for acceding to the WTO.

However, this active approach and economic saliency met with inhibitions at one stage towards the end of the phase. The issues negotiated over the years of the phase proliferated in their ramifications to the degree that economy, politics and religion intrinsically intersected in a manner that complicated the negotiations, particularly in issues like the services sector and TRIPS. In some other issues, such as agriculture, there were outright demands by the WP that plainly violated the *Shariah*.

This resulted in the business community and religious establishment being outspoken about what concerned them. They used the *Majlis* of the leaders, especially that of Abdullah, crown prince at the time, to express their anxiety. Both groups were important and their demands had to be attended to by the leadership. As the proclamation of implementing the *Shariah* was the main justification for establishing the Saudi state, the appeasement of the religious establishment had always been essential for maintaining political legitimacy. As to the business community, Phase Two saw the government insisting on its vital role in enlarging the Saudi economy as stated in the five-year development plans. Thus, it was also important to take into consideration the view of this group, as seen in the example of the distribution issue.

In addition to the concerns of the business community and religious establishment, the government had its own reservations. It was thought that some of the WP members' demands in services, such as opening the retail and wholesale trade, could jeopardise the official plans to address unemployment through the 'Saudisation' of the workforce. Since it owned 70% of the petrochemical industry, the government was also keen not to have the MC and the SNT yield to the demand of the WP, particularly the EU, to abandon the discount given to the local petrochemical industry so that it could benefit from the Kingdom's comparative advantage in this area in finding new international markets. This, after all, was one of the main factors driving Saudi Arabia to seek accession to the WTO. The government regarded as a clear breach of its sovereignty the request by the U.S. and some other members to review the new Saudi WTO-related rules before they were officially enacted –a request that came late in the negotiations of the phase.

The international political developments that accompanied the start of actual Saudi negotiations in 1997 did not help to lessen the WP's rigid positions, particularly that of the U.S. After the end of the Cold War, the U.S. did not feel that it was necessary anymore to accommodate acceding countries for political reasons, as had sometimes been the case during the GATT period. In fact, the Clinton administration became a champion of trade liberalisation based on the rules and regulations of the WTO and the organization's basic principle of single undertaken.

In the light of such internal and external circumstances of the negotiations, the COM formed the HMC in 1999. It was another governmental agent to participate in handling the Kingdom's accession to the WTO. Although it had not been precisely defined by the COM as being superior to the MC, the HMC assumed this position by default, in accordance with the conventions of internal politics in Saudi Arabia.

This situation was coupled to other developments. One was the failure of the conference in Seattle in 1999, which affected the image of the WTO and added to the arguments of the accession sceptics. The other was the upward turn in oil prices at the end of 1999, which led some in the Kingdom to argue that Saudi Arabia could do better without being

a member to the WTO. The result of all of that was the 'pause' in the negotiations with the WP in 2000.

Over approximately the next two years, which marked the commencement of Phase Three, there was a wide gap between how both the MC and the HMC perceived the accession process and the progress made with regard to the Kingdom's application. To the MC, the new outlines set by the HMC on how to proceed virtually amounted to repealing all on-going efforts and starting all over again. The disagreement on how best to continue the Saudi WTO accession process and the insistence of the HMC on some points that the WP would not agree to whatsoever, such as considering Saudi Arabia a developing country, were a case in point.

The MC-HMC's debate meant that the 'pause' did not indicate the death of the accession process. In reality, the 'pause' of the negotiations did not conceal the fact that there was still a need for an economic reform as the country's debt was greater than its GDP. Such a reform was implemented by promoting economic initiatives, issuing laws and setting up councils. More significantly, those reforming steps found in Crown Prince Abdullah, the later king, the kind of political mentor needed to promote issues in Saudi internal politics.

The new atmosphere with respect to economic reform had a cumulative effect. From the beginning, the business community's position towards the GATT/WTO was not marked by integrated fierce resistance. Largely, its objection to this multilateral trading system was related to the ad-hoc manner of dealing with particular issues of concern to it. Thus, it did not take much for the business community at this stage (2000-2001) to become supporter of the reform steps sponsored by Abdullah. In fact, as the government was cutting spending in the face of its financial problems, the business community needed the expansion in liberty that economic reform was expected to provide in order to have a better control in searching for new opportunities.

A very important turn among these developments was that the issue of the WTO accession became part of the wider reforming attempt. This was good for the accession

issue. It was because the indirect talks about the issue did not cause provocation, e.g. of a religious nature, that a stalemate resulted at the end of Phase Two.

The political elements that had hampered the economic salience around the end of the previous Phase Two worked to further the accession issue in Phase Three. In addition to the appearance of the political mentor, the events of 9/11 were decisive in this regard. After the attacks in the U.S., the Kingdom came under a wide international criticism especially in the EU countries and the U.S. It was unprecedented. The criticism broadly portrayed the entire Saudi way of life as fertile ground for terrorism. This international pressure was internally exploited by Al-Qaeda affiliated groups in the Kingdom, which targeted expatriates in aiming to further the international embarrassment of the government.

The general response from the Saudi government was not to stand against such pressure. In fact, its stance was one of general responsiveness to the calls for change, especially since they mostly came from its strategic superpower ally, the U.S. Accordingly, under the circumstances prevailing in an increasingly volatile region, the leadership in the Kingdom decided to embark on a broader reform that would go beyond reforming the economy to include social and political aspects.

Such a wider reform could not leave the issue of the WTO accession aside. The new reform programme, which included sensitive issues such as evaluating the educational curriculum, starting a national dialogue and holding local elections, would surely overcome the political inhibitions that had caused delay in Phase Two. Thus, under the circumstances, the chairman of the MC announced in July 2003 that the Kingdom was returning to the negotiations and that accession was expected to be imminent. What was particularly striking about this was the pace at which this new phase proceeded. Embraced by political sponsorship, the rules and regulations enacted for the sake of the WTO accession during Phase Three (2001-2005) were by far more than the WTO-related rules and regulations enacted in Phase Two and Phase One (1985-2000) combined.

The business community was moving at the time towards support for the reforming effort backed by Abdullah even before the event of 9/11. The religious establishment, on the other hand, had its reservations and stated them vocally around the end of Phase Two. Without neglecting its concerns, the religious establishment did not voice them excessively during Phase Three. It saw that the political system had decided to amend the damage resulting from 9/11, as it was important for that system itself to survive. Based on the precepts of the *Hanbali* school of thought, which they belonged to, the *Ulama* decided that they ultimately had to show obedience to the path the leadership had chosen.

In addition to this, the U.S. thought that it was important to have Saudi Arabia on board in its so-called war on terrorism, particularly on the financial front. The U.S. and some of the EU states also felt the need to cooperate with the Kingdom as far as oil production was concerned, as oil prices had been rapidly increasing since the start of the 21<sup>st</sup> century. The Saudi government seized the circumstances to promote its own agenda of WTO accession. In this context, Abdullah treated the accession matter as a main item on his agenda for the meeting with Bush in April 2005.

The new Saudi internal reforming programme provoked by the event of 9/11, as well as the need of the West to cooperate with Saudi Arabia in order to combat terrorism and expand oil production to mitigate the rise in oil prices, brought the Kingdom's WTO accession process to a formal positive ending in 2005.

The analysis of the various phases clearly shows the relevance of the hypotheses that this thesis had spelled out. Examining the internal interplay in light of the domestic and international developments that took place over the years of the accession process provided a plausible account of the factors that shaped Saudi Arabia's accession, which was the main hypothesis of the thesis. In essence, the resulting account is far more comprehensive than if the argument had only relied on the incentives for joining the WTO, which the literature on accession usually presents.

In addition, the aspects of societal interests, formal institutions, reform and the WTO as an organization, which were underlined for the sake of generating some sub-hypotheses



out of the main hypothesis, resulted in, as far as this study is concerned, the following insights:

1. The fact that Saudi Arabia is a ruling monarchy did not rule out the existence of internal politics that play a part in protracting the government's decision to join the organization. It took from 1993-2005 to have the government's official decision to accede to the GATT/WTO executed, and this largely reflected a considerable significance of internal politics, indicating that societal interests were at work. However, there was a slight exception as far as the thesis's sub-hypotheses were concerned. The business community in the Kingdom did play politics in protracting the accession, particularly during Phase Two. Its use of the crown prince's *Majlis* in conveying concerns over issues such as distribution services can be regarded as an example in this respect. Nonetheless, the business community's objection to the WTO manifested itself in a rather ad-hoc manner and was not consistent throughout the process. Such an initial position helped at the end (Phase Three) to make a change in the business community's attitude, as it became generally of support to Abdullah's attempts for reform.

2. As to the factor of institutions, several governmental agents were directly involved in the Kingdom's accession. Such multiple veto points decreased the cohesion among the agents involved in a manner that protracted the case. The examination of the thesis illustrated the effect of veto points, manifold instances of which negatively affected the WTO accession process (e.g. the position of minister of agriculture and the HMC-MC's arguments).

3. Fundamental internal and external developments, to which the Saudi accession case was sensitive, were of noticeable effect. The sharp drop in oil revenues resulted in a responsive attitude to the concept of reform. The pressure exerted on Saudi Arabia after the events of 9/11, particularly by the U.S., reinforced such an attitude. It was seemed that the survival of the political system as a whole was at risk. The outcome of both the economic and political pressure for reform, promoted the accession issue. In the thesis's third phase, the issue of the WTO accession was progressing within the wider framework of reform of its economic and political appearances. This was good for the

accession process, as far as this study is concerned, because it saved the process the direct old criticism which had led to the earlier 'pause'.

4. The expansion of the multilateral trading system represented by the WTO did complicate the Saudi accession case as economic issues intersected with religious and political ones. In connection with this effect, the ostensible leverage that the WTO incumbent members, particularly the Quad countries, had in the accession negotiations led them to raise the bar of demands constantly in a way that further complicated the bilateral negotiations over the Kingdom's accession bid.

Referring to the line of enquiry in IR that focuses on domestic politics in explaining international policy of a particular state was crucial for examining the aforementioned main and sub-hypotheses. The importance and applicability of this approach is to a large extent due to the nature of the subject. As established in the thesis, the decision to seek WTO accession is a form of international trade policy. There may be no other foreign policy with more domestic consequences than external trade policy.

Because accession to the WTO is different from many other policies in terms of the length of time involved, it is highly susceptible to the effects of internal politics – which without referring to domestic politics as a point of analysis would be left unexamined. In fact, the society-centred and the state-centred approaches applied herein by analysing the related interests and institutions allowed all essential domestic factors involved in the Kingdom's accession to be listed, whether they were formal ones, like the governmental bodies, or informal ones, such as the business community. For instance, the application of this approach underlined the role of a group that is specific to the Saudi case, the religious establishment. Moreover, it allowed for discerning the roles– whether active or passive – of important individuals, such as Abdullah and Fahd.

As adopting a level of analysis does not mean dismissing factors operating on other levels as far as IR is concerned, the thesis highlighted the benefits of referring to externalities as well in providing this account of the Saudi WTO accession. Indeed, they proved essential. There is no better example of this than the effect of the events of 9/11.

In fact, they constituted a turning point in the Kingdom's accession, as was explained in the examination of Phase Three.

There are several points that can be learned from this account of the WTO accession of Saudi Arabia. It set out on this investigation by basically asking what factors would shape a nation-state decision to accede to an international organisation like the WTO and perhaps cede, in the process of accession, some of its national authority in accordance with the WTO's far-reaching demands. The case of the Kingdom's accession demonstrates that the answer to such a question can be given on two levels.

The first level is that of the organization itself. Since the transformation of the multilateral trading system from the GATT to the WTO in 1995, the accession to the organization has become a package deal under the 'single undertaking' principle. Therefore, an acceding country cannot pick and choose while negotiating its membership. At some stage, membership in the WTO became indispensable to Saudi Arabia, as well as to other acceding countries, for reasons inherent in the organization itself. For instance, joining the WTO became vital for attracting foreign investment and finding new world markets. As these two components became key parts of the Kingdom's strategy for economic reform, which started to take shape in the second half of the 1990s, it became necessary to make concessions on some of the parts that the Kingdom disagreed with.

The second level touches upon the question of whether the WTO accession's context was mainly dominated by internal or external factors. Even with such a perceived economic necessity, the benefit of membership alone could not sometimes overcome the inhibitions resulting from the fact that its requirements encroached on matters of national sovereignty. In the case of Saudi Arabia, the context of the accession made it very difficult for this trading country not to join the WTO. The fact that the organization was becoming a universal institution, with its incumbent members controlling more than 85% of the world trade as of 1998, created a great deal of pressure to propel the Kingdom's accession effort forward. Otherwise, the prospect for Saudi Arabia was to be isolated with a group mainly consisting of marginal economies. More decisive, however, was the post-9/11 context. When the survival of the political system as a

whole was at stake, the Saudi government yielded to some external demands that, in terms of their political nature, transcended what had previously been regarded as interference by the WTO in internal social and political affairs. In view of this amenability to making concessions, it became more acceptable in Phase Three for the Kingdom to overcome the reservations towards the WTO that had prevailed during Phase Two.

Another point worth emphasising in the framework of this study is that the conceptualisation of the state as a unitary actor is not applicable even in the case of an absolute monarchy like Saudi Arabia. Various interests can coexist and, more importantly, affect state policy. The roles of the religious establishment and the business community in the process of the Saudi accession are cases in point.

Related to the previous point, the interplay of various interests and the resulting internal politics are not exclusive features of democratic states. The IR literature on the concepts of interests and institutions often confines the discussion of these concepts to democratic societies. Though it is not always explicitly stated, most of the models and examples found in the literature relate to democratic features such as political parties, official interest groups and parliaments. However, internal political dynamics similar to those of democratic countries can also exist in countries not internationally classified as democratic, as in the case of Saudi Arabia. Hence, such countries can develop their own indigenous channels for internal politics like the Saudi *Majlis*, which became a feature specific to the Kingdom.

Indeed, embarking on numerous studies on WTO accessions similar to this in-depth account can make a balance in literature, which focuses, as indicated above, on democratic examples. By considering a diverse experiences, as acceding countries have mainly been either developing, least developed or countries in economic transition, similar studies will add a measurable value to the literature of the IR, especially that of concentration on society-centred and state-centred approaches, and the related concepts of interests and institutions.

In addition, conducting researches similar to this thesis will benefit the literature on the WTO in general. As mentioned by one of the interviewees, accession experiences for the majority of the acceding countries are scattered in many formal and informal sources and are not usually found in integrated studies. Let alone, in this regard, the secrecy with which accession processes has been dealt with on both sides: the acceding countries and the WTO. For the WTO, as an organization, such comprehensive studies on accessions and the internal politics that take place in the process of negotiating those accessions will be of help in understanding the political economies of its prospect members. As negotiations in the WTO are not confined to accessions but they are rather a continual process, such a better understanding of internal political economies might help the multilateral trading system, represented by the WTO, avoid future obstacles similar to the ones that have all along impeded accessions. This is an essential matter, especially in light of the current general pause of the Doha round, which is affecting the image of the organization as a whole.

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Al-Abduljabar, SF, Saudi Ministry of Justice, 3 May 2004. (Sheik Fahd is a colleague of Sheikh Al-Dawood in the Ministry of Justice and his interview was conducted immediately after the one that was held with the latter)

Al-Alamy, F, Former Head of Technical Negotiating Team, Ministry of Commerce and Industry, Saudi Arabia, 2 May 2002. (The interview with Dr. Al-Alamy was conducted in person in Riyadh while on a fieldwork upon a recommendation of the minister of commerce at the time. As leading the Saudi technical negotiating team for many years, Dr Al-Alamy is generally an important primary source of information about the Kingdom's accession to the WTO).

Al-Ameen, SM, Former Saudi Chairman of the Grievances Board, Riyadh, 5 April 2006. (The interview was conducted in his office in Riyadh prior to his promotion to the chairmanship of the Grievances Board. At the time of the interview, Sheik Al-Ameen was the main expert in the SNT in pertaining to the culture aspect of TRIPs. His information of the subject was of a high importance to this study. He gave an authentic view about how high the religious aspect was placed as far as the Saudi negotiators were concerned)

Al-Awadi, AR, Secretary-Bahrain Economic Society, 11 June 2007. (The interview was conducted over the phone. As a Bahraini official, Mr. Al-Awadi was an important primary source as far as the section on the Bahraini succession was concerned)

Al-Dawood, SZ, Saudi Ministry of Justice, Riyadh, 3 May 2004. (The interview was held in Sheikh Al-Dawood's office in the Ministry of Justice Head Quarters in Riyadh. The interview was conducted upon a permission that was sought by the researcher from the Minister of Justice himself. As mentioned in the thesis, it might not to hold an official interview with such scholars. Thus, the interview with Sheikh Al-Dawood was important in giving an authentic opinion that is related to the religious aspect in the Kingdom's WTO accession)

Al-Dawood, SZ, Saudi Ministry of Justice, Riyadh, 2 April 2006. (This was a second time to interview Sheikh Al-Dawood and the interview was conducted in the Ministry of Justice)

Al-Eatani, F, King Abdul Aziz University, Jeddah, 26 March 2006. (The interview was held in his office in Jeddah. Dr. Al-Eatani is a professor of economics at the Jeddah-located King Abdul Aziz University with an interest in the Saudi WTO accession. The interview with him was important in terms of learning some of the developments in the negotiations at its late stages)

Al-Hasher, H, Ministry of Foreign Affairs, Riyadh, 18 April 2002. (The interview took place in Jeddah while on a fieldwork. (The interview was conducted in his office in Riyadh. As in the case of meeting the Ministry of Foreign Affairs' Deputy for Economic and Cultural Affairs, Dr. Al-Sa'doun, it was important to meet with officials from MOFA as it was taking the chairmanship of the Ministerial Committee (MC))

Al-Hinai, H Oman Deputy Permanent Representative to the World Trade Organization, World Trade Organization Headquarter, Geneva, 16 August 2005. . (The interview was held in person in the WTO Head Quarter in Geneva while on a fieldwork. Miss Al-Hinai is an important primary source on her country's accession, which is briefly discussed in Chapter Two as an example of the difficulty of the accession process. She has been in her position as a member of Oman's delegation to the WTO for quite long time)

Al-Jasir, M, Governor of Saudi Arabian Monetary Agency (SAMA), Riyadh, 5 April 2006. (The interview took place in Jeddah while on a fieldwork. Mr. Al-Khuraiji was another consultant interviewed. His views were important, in this regard, as consultants could provide thoughts that extended the sometimes narrow-focused interest of a businessman concerned with a particular sort of business)

Al-Khuraiji, O, Saudi Law Consultant, Jeddah, 25 April 2004. (The interview took place in Jeddah while on a fieldwork. Mr. Al-Khuraiji was another consultant interviewed. His views were important, in this regard, as consultants could provide thoughts that extended the sometimes narrow-focused interest of a businessman concerned with a particular sort of business)

Al-Muhanna, I, the Saudi Ministry of Petroleum and Mineral Reserves, Riyadh, 1 June 2002. (The interview with Mr. Al-Muhanna was in his office in Riyadh. It was important to have an official interviewee from the oil sector. Mr. Al-Muhanna was particularly helpful in providing the researcher with some studies pertaining to oil and trade like the one conducted by J.D.A Cuddy)

Al-Nujaidi, A, Ministry of Industry and Electricity, Riyadh, 6 May 2002. (The interview was held in Mr. Al-Nujaidi's office in Riyadh. Mr. Al-Nujaidi participated at some point in the accession negotiations and his experience was helpful to get a good sense of what was going on during the process)

Al-Obaid, A, Deputy Minister of Agriculture, Riyadh, 8 May 2002. (The interview was conducted in his office at the Ministry of Agriculture in Riyadh. Dr. Al-Obaid was a member in the SNT and it was important to this thesis to have the views of such members as they constituted a valuable primary source)

Al-Ohaly, M, Saudi Businessman, Riyadh, 5 May 2004.(The interview was held in his office in Riyadh while on a fieldwork. Mr. Al-Ohaly represents a well-known family business in Saudi Arabia. He is of a considerable understanding of the internal and external economic issues. His views were important in observing some of the changes in the course of the Saudi accession negotiations particularly at the later stages of the negotiations)

Al-Rajhi, K Saudi businessman-Watania Poultry, Riyadh, 5 May 2004. (The interview was conducted in Mr. Al-Rajhi's office in Riyadh. As agriculture was one of the important issues in the Saudi accession, it was important to take the opinion of a prominent businessperson in this field)

Al-Sadhan, A, Head of Legal Department at Saudi Arabian Basic Industries Company, Riyadh, 03 April 2006.(The interview was conducted in SABIC Head Quarter in Riyadh while the researcher was on a fieldwork. Mr. Al-Sadhan took part in the accession negotiations. This and his position as the head of the legal affairs in the company allow the researcher to have a better idea about what was going on concerning the important issue of petrochemicals)

Al-Sa'doun, Y ,Deputy Minister of the Saudi Ministry of Foreign Affairs for Economic and Cultural Affairs, Riyadh, 26 April 2002. (The interview was conducted in Riyadh while the researcher was on a fieldwork. Before taking this position, Dr. Al-Sa'doun was the head of the International Organisations Department at the Ministry of Commerce. By virtue of that post, he participated in the Kingdom's accession negotiations in its early years).

Al-Shanbary, A, Saudi Resident Representative Office in Geneva, 11 November 2005. (The interview was held in the Office of Saudi Arabia Permanent Trade Representative to the WTO in Geneva while the researcher was on a fieldwork. Mr. Al-Shanbary lived approximately through the whole experience of the Saudi accession negotiations. Such an experience was supportive in expanding the understanding of the researcher of the nature of the accession process)

Al-Shatti, I, Kuwaiti Intellectual and President of Dar Almashora for Consulting Services, London, 16 June 2004.

Alsheik, S, Chief Economist at the National Commercial Bank (NCB), Jeddah, 28 April 2004. (The interview was in the NCB Head Quarters in Jeddah. The view of Dr. Alsheik was important in giving the researcher a clear picture about the condition of the Saudi economy during the time at which the effort of joining the WTO was taking place)

Al-Yami, M, former Manager of Coca-Cola Factory in Jeddah, 27 April 2004. (The interview was in Mr. Al-Yami's office in the factory in Jeddah while the researcher was on a fieldwork. As representing an industrial activity, his view was important in furthering the knowledge about how businesses concerned with industry had sensed the Kingdom's accession issue)

Al-Zamil, S, Saudi businessman, London, 4 September 2000. (The meeting with Mr. Al-Zamil was in London. He belongs to a well-know family business and his views were important in clarifying the perception of the business community and their attitude towards economic reform in the Kingdom)

Anonymous, A leading cars commercial agent, Jeddah, 26 April 2004. (The interview was conducted in his office in Jeddah. As a leading trade agent, the interview with him was an important addition of getting the sense about how businesses in this sector viewed the accession to the WTO)

Anonymous, Official in a supervisory role, Riyadh, 6 April2006. (The interview was conducted in Riyadh while on a fieldwork. The interviewee was generally of an official supervising role)

Aqeel, T, Saudi Financial Consultant, Jeddah, 25 April 2004. (The interview was held in Jeddah while on a fieldwork. As it is mentioned in the thesis, those who were in the consulting business generally voiced more optimistic view on the prospect of joining the WTO. Therefore, it was important to meet with whom he could represent the consultancy's sector. Mr. Aqeel is a well-know Saudi business consultant)

Batterjee, M, Vice President of Batterjee Trade Group, Jeddah, 25 April 2004. (The interview was conducted in the Group's main office in Jeddah while on a fieldwork. As industrial activity was one the Group's major components, Mr. Batterjee's view was important in knowing how businesspersons' involved in industry had sensed the idea of joining the WTO)

Bu-Hulaiga, I, former member of the Saudi Shura Council and Founder of JOATHA Group, a Consulting Firm, Riyadh, 28 March 2010.(The interview was held in Dr. Bu-Hulaiga's office in Riyadh. He is a prominent Saudi economist and currently as a member of the Shura Council. The interview was illuminating as far as the business community's position with regard to the WTO was concerned)

Fadil, S, member of the Saudi *Shura* Council, Riyadh, 3 February 2009. (The interview was in Riyadh while on a fieldwork. Dr. Fadil used to be a university professor and he is currently a member of the Shura Council. It was a short interview due to his busy schedule. However, it was revealing in terms of understanding the government's speedy action in ratifying the agreement of joining the WTO at the last end of the accession negotiations)

Faqeeh, O, Former Minister of Commerce, Riyadh, 6 April2006. (The interview was held in Riyadh after his departure from the MOC. His position as a former minister of commerce gave the information he provided about the Saudi accession a valuable importance)

Fayez,Z, Chief Executive Officer of Zuhair Fayez Partnership, 29 April 2004. (The interview was conducted in Mr. Fayez office in Jeddah while the researcher was on a fieldwork. He is a prominent businessman in the construction's sector. It was important to have a view from this sector as it was for sometime an important component of the

Saudi economy. Mr. Fayez's prestige in this field gave the view he provided a special important as far as construction and the accession was concerned)

Ghoth, K, Saudi businessman, Medina, 27 May 2004. (The interview took place in Medina. Mr. Ghoth was another businessman from the agricultural sector interviewed for the purpose of this study)

Greenidge, A, Senior Counsel at the US Mission to the World Trade Organization, World Trade Organization Headquarter, Geneva, 21 October 2003. (The interview was conducted in the WTO Head Quarter in Geneva while the researcher was there on fieldwork. As the accession negotiations with the US were the longest and the most difficult, it was important for the thesis to have primary sources of this sort)

Halaiqa, M, Jordan's chief negotiator for accession to the WTO, London, 03 April 2006. (The interview was conducted from London. Dr. Halaiqa was in Amman during the interview and he did not hold an official position at the time. Prior to his retirement he became a minister of commerce. His previous responsibilities as a minister and before that as the chief negotiator for accession to the WTO made of him an authentic primary reference on Jordan's accession experience).

Hammad, AZ, University of Al-Azhar, Cairo International Book Fair, Cairo, Egypt, 28 January 2009. (Sheikh Ahmad Zaki Hammad, a Muslim scholar, University of Al-Azhar, Cairo, Egypt. The interview was conducted in Cairo while visiting Cairo International Book Fair. As a scholar in Islamic studies, he was asked about the Islamic schools of thought particularly the Hanbali school)

Hasan, M, Economic Analyst, Albaraka Bank, Jeddah, 27 April 2004. (The interview was conducted in his office in Jeddah while on a fieldwork. Dr. Hasan is from the financial sector and it was important to meet with people of diverse activities in the business community)

Hazimeh, F, Counsellor, Director of the Economic Bureau at Permanent Mission of Jordon to the WTO, Geneva, February 2010.

Jamjoom, K, Saudi businessman, Jamjoom Industry for Medical Supplies, Jeddah, 29 February 2005. (The interview was conducted in Jeddah. Interviewing Mr. Jamjoom was important in sensing the concerns of the business community, in general, and those who belonged to the industrial sector, in particular, as far as the accession was concerned)

Jamjoom, M, Saudi businessman (Jamjoom Pharma), Jeddah, 15 January 2005. (The interview was held in Jeddah. Jamjoom Pharma is a big industrial project in Saudi Arabia and the interview with Mr. Jamjoom was to improve on understanding the perception of the WTO as far as this sector was concerned)

Kader, R, Ministry of Commerce, Bahrain, 12 June 2007. (The interview was conducted over the phone as Dr. Kader was in Manama, Bahrain's capital. Dr. Kader is a foreign



expert on trade issues and the researcher was recommended to ask him about the Bahraini's succession to the GATT/WTO by Bahraini officials at the ministry).

Kadi, Y, Saudi businessman, Jeddah, 28 April 2004. (The interview was held in Jeddah. Mr. Kadi is a businessman of international investments and thus, he tried to keep abreast with what was going on in relation to the Kingdom's WTO accession)

Kasper, B, US Mission in Geneva, 21 October 2003. (The interview was conducted in the office of the US Mission to the WTO while the researcher was on a fieldwork. Mr. Kasper took an active part in the negotiations with Saudi Arabia. The reasonable length of time he gave to this interview and his openness in the discussion were illuminating and informative)

Kurdi, K, Saudi businessman, Riyadh, 20 April 2002. (The interview with Dr. Kurdi was held in his office in Riyadh while on a fieldwork for the purpose of this study. Generally, Dr. Kurdi is a Saudi businessman with a good knowledge of international economic issues particularly that related to the WTO and the Saudis acceding to it)

Kurdi, O, former Secretary-General of the Council of the Saudi Chambers of Commerce and Financial Consultant, Riyadh, 5 May 2004. (The interview was held in Eng. Kurdi's office in Riyadh before him being appointed as a member in the Shura. As a consultant and a former Secretary-General of the Saudi chambers, he is of a large experience in the Saudi economy and in international economic issues including that related to the WOT)

Mahdy, S, Chamber of Commerce, Riyadh, 18 June 2009. (The interview was in Riyadh while on a fieldwork. Dr. Mahdy works as a researcher in the Riyadh Chamber of Commerce. Interviewing him was important in providing some numbers that were otherwise difficult to find)

Milthorp, P, Accession Division - World Trade Organization Head Quarter in Geneva, 22 October 2003. (The interview was held in Mr. Milthorp's office at the WTO Head Quarter in Geneva. Meeting an official from the organisation's Secretariat and especially from the Accession Division was important in enriching the research. Mr. Milthorp's views about the pace with which the Saudis proceeded emphasized, as far as the researcher is concerned, the point that the Saudi accession case went through different phases)

Montano, World Trade Organization, Ecuador's Mission, London, 6 March 2007. (The interview was conducted from London over the phone. Ecuador was to be one the examples given in Chapter Two on the complexity of the WTO accession negotiations, but plans were changing along the writing process and the examples given were confined to the three Arab countries indicated in that chapter. However, the remark made by Mr. Montano regarding the lack of integrated studies on most acceding countries' accession negotiations was of a support to the significance of this study).

Nicora, MP, EU Mission in Geneva, Geneva, 21 October 2003. (The interview was held in the WTO Head Quarter in Geneva while the researcher was on a fieldwork. The significance of this interview came from the importance of that the EU represents in

every WTO accession negotiation. Although short, the interview was important to see how the other side in the negotiations perceived the prolonged accession process of Saudi Arabia)

Rajab, A, Ministry of Commerce Undersecretary for Legal Affairs, Riyadh, 2 May 2002. (The interview was conducted in his office at the ministry. Dr. Rajab is currently a member in the Shura Council and was for sometime a member in the SNT. According to his expertise in legal affairs, Dr. Rajab was a primary source to be asked about issues such as TRIPs and “Israel”)

Tamer, F, Managing Partner of Tamer Group, Jeddah, 26 April 2004. (The interview was held in Mr. Tamer’s office in Jeddah while on a fieldwork. Trade agency constituted an essential element in the Saudi economy and, thus, knowing the opinion of an important Saudi Trade Agency like Tamer Group was of a particular importance)

Yamani, SAZ, Former Saudi Minister of Oil, Seventh Annual Symposium of the Centre for Global Energy Studies (CGES): “What Future for OPEC?” 6th and 7th October 2003, Bagshot, Surrey, UK, 6 October 2003. (Meeting with Sheikh Yamani was while attending the Seventh Annual Symposium of the Centre for Global Energy Studies (CGES): “What Future for OPEC?” 6th and 7th October 2003, Bagshot, Surrey, UK)

Zainal, A, Current Saudi Minister of Commerce and Industry, London, 17 June 2004.(The interview was in London while the minister was attending a conference on economic reform in the Arab world. At the time of the interview, Mr. Zainal was a minister of state and not yet the commerce minister. Talking to him was important in having a sense of the situation of negotiations at it very final stages)

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## **Appendices**

|   |     |
|---|-----|
| Appendix 1-4: Saudi Arabia's Memorandum .....                       | 345 |
| Appendix 2-4: Conversion of the Saudi Application to GATT/WTO ..... | 364 |
| Appendix 3-5: Saudi WP .....  | 366 |
| Appendix 4-6: Saudi Reform Initiatives .....                        | 367 |
| Appendix 5-6: Negative List .....                                   | 373 |



## Appendix 1-4: Saudi Arabia's Memorandum

L/7489

Page 1

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**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

RESTRICTED

L 7489

5 July 1994

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ACCESSION OF THE KINGDOM OF SAUDI ARABIA

Memorandum on the Foreign Trade Regime

The following Memorandum on the Foreign Trade Regime has been received from the Government of the Kingdom of Saudi Arabia. In order that the matter may be examined by the Working Party (L/7287/Rev. 1), contracting parties are requested to communicate to the Secretariat by 15 August 1994 any questions they may wish to put concerning the matters dealt with in the Memorandum, for transmission to the authorities of the Kingdom of Saudi Arabia.

CHAPTER I - INTRODUCTION

- free market economy  
- support for the private sector  
and economy  
generally have been oriented in terms of exports  
with private sector  
improvement  
Plans for development  
1-4

1. Over the last 25 years, the Kingdom of Saudi Arabia has become a modern State with a strong economic base and sophisticated infrastructure. Islamic values have been stressed, as reflected in the Government's preference for a free market economy and the support for the private sector's participation in the development process. At the same time, government initiatives have been used to influence economic activity when necessary, in order to protect the interest of the individual and society.

2. The economic development of the Kingdom has largely depended on the utilization of its large oil and gas reserves. Saudi Arabia is currently the largest producer of oil in the world and one of the world's largest producers of natural gas. The availability of these resources has given rise to an economy typical of oil-rich developing countries. It is characterized by a major concentration of exports on a single product and a high propensity to import. However, the Kingdom is aware that dependency on a depleting resource can be unhealthy and has made a strong effort to prepare for the future by encouraging diversification of its economy.

3. Since 1971, Saudi Arabia has adopted a system of comprehensive planning for economic and social development, based on Islamic values and principles, to guide development in a coordinated and balanced direction. The first and second plans stressed the construction of a modern infrastructure, the improvement of government services, and the development of human resources. The third and fourth plans emphasized the diversification of the economy and improvement in health, education, training and other social services.

4. The achievements of the past two decades have been impressive. Non-oil GDP has increased five-fold since 1971 and private investment has increased seven-fold. Infant mortality rates have dropped by over 75 per cent and the ratio of physicians per person has improved by more than 90 per cent. School enrolment has risen from a little over 500,000 to more than 3 million and the Kingdom currently has among the lowest pupil-teacher ratios in the world.

Trade

5. Saudi Arabia has also made great strides in its trade with other nations of the world. Among the developing countries, it ranks sixth in the world in the value of traded goods, although a large proportion is accounted for by petroleum exports. Of the top 40 trading countries in the world, Saudi Arabia ranked sixth in the growth of trade over the period 1977-1992.

KSA ranks sixth in the developing world in the value of traded goods

Although the Sec. 1 has the right to be WTO to do so!!

6. The Kingdom maintains one of the least restrictive exchange and trade systems in the world. It maintains no exchange restrictions and does not impose trade restrictions for balance-of-payments reasons. Trade restrictions are limited to religious, health, and security reasons.

7. In light of the increasing importance of Saudi Arabia in the international trading system and the large impact that GATT rules and regulations have on international trade, the Kingdom has decided to request accession to the GATT in accordance with Article XXXIII. It intends to assume all obligations and rights under the GATT as a contracting party. As a developing country, the Kingdom attaches particular importance to Article XXXVI.

accession XXXIII

Join as a developing country

CHAPTER II - ECONOMY AND FOREIGN TRADE

1. Economy

(a) General description

8. Saudi Arabia is located on the Arabian Peninsula in Southwest Asia. It is bordered on the north by Kuwait, Iraq and Jordan, on the west by the Red Sea, on the south by Yemen and Oman, and on the east by Qatar, the United Arab Emirates and the Arab Gulf. It is connected to Bahrain by a causeway.

9. The Kingdom has a large land area, mostly desert, with a relatively small population. On a land area of 2.15 million square kilometres lives a population of some 17 million, giving it a density of 8 people per square kilometre. The number of Saudi nationals is roughly 12.5 million, with foreign nationals making up the rest. Approximately 75 per cent of the country's population lives in urban areas.

10. The country is the world's largest producer and exporter of oil. Production of crude oil in Saudi Arabia has averaged about eight million barrels per day over the past few years, compared to a world total of about 67 million barrels per day. The Kingdom holds over 250 billion barrels of recoverable reserves of oil, roughly one quarter of the world total.

11. Saudi Arabia is heavily dependent on oil exports for its economic well-being. Thus, it is similar to many other developing countries whose economies depend primarily on economic conditions in export markets, particularly the markets in the industrialized countries. As is the case in most developing countries, Saudi Arabia has attempted to promote growth in its industrial sector but, at 4.5 per cent of GDP in 1991, it still remains a small part of the economy.

*Economy of developing country depends on economic conditions in export markets*

(b) Main directions 1.1.2

12. Since 1970, the Kingdom of Saudi Arabia has adopted a series of five-year plans to guide the economic and social development of the country. These plans integrate the development actions of the Government with the dynamism of the private sector, in a free market economy, under the umbrella of Islamic values. Each plan has been designed in accordance with the respective capabilities of the Government and of the private sector, and the evolving maturity of the economy.

13. In addition to the underlying objectives of the preservation of Islamic values and the provision of national security, there are a number of other broad goals that the five-year plans aspire to achieve. These include diversification of the economy, improvement of living standards, regional development within the Kingdom, strengthening of the role of the private sector, broadening the linkages between the Kingdom and other nations, development and sustenance of the physical infrastructure, and development of human resources.

14. The main focus of the current, or fifth, five-year plan is the acceleration of the process of economic diversification with the ultimate goal of having a fully developed economy. While oil will continue to be a vital part of the Saudi economy for a long time, the goal is to use petroleum as a resource for diversified industrial growth and reducing the country's dependence on the world oil market. The rapid growth of the Saudi population also necessitates the establishment of a diversified economy capable of sustaining a relatively

*Main plan has been designed in accordance with the evolving maturity of the economy*

high standard of living for a population which is projected to more than double in the next 20 years.

*The main basis is with the private sector as a whole in the govt. Dr. Alamy*

15. Saudi Arabia believes that diversification of its economy can only be achieved through much broader private sector participation in the economy. The private sector has already begun to pursue a wide range of business opportunities unrelated to government expenditures and this trend is expected to accelerate as private sector management, production and marketing capabilities strengthen and the competitive atmosphere improves. Institutional support for private sector-led growth and diversification will be provided by the Government, through rapid development of the Kingdom's banking and financial sector and financial markets, as well as a widening range of business services.

*Diversification through more private sector participation*

16. In order to deepen the development process and attain the status of a developed country, Saudi Arabia recognizes the need to build a technology base. While some advancement has been made in keeping up to date with global scientific and technological developments, this has largely been through the import of sophisticated technology owned by foreign partners. The Kingdom still has a long way to go to attain the level of indigenous technological capability that exists in developed countries. The Government will assist in this effort primarily through the expansion and improvement of educational courses and facilities related to science and technology at all levels, as well as improvement of the overall structural support for private sector initiatives.

*???*

17. While Saudi Arabia intends to increase the focus of education on science and technology, it will continue to devote substantial resources to other human resource areas as well. The Government is aware of the need to impart to its citizens the knowledge and skills that will enable them to participate effectively in all social, economic and cultural activities. Particular importance is attached to further development of vocational and technical education so that the country's skilled manpower needs can be increasingly met by indigenous, as opposed to expatriate, labour.

18. In addition to education, policy emphasis will continue to be placed on the provision of primary health services. Because of the growing demand and rising costs for these services, the Government hopes to increase private sector participation in the health field. However, the public sector will continue to expand its support for the primary care network in all areas of the Kingdom.

19. Because of its effects on the quality of life and the general well-being of its people, the Kingdom of Saudi Arabia accords considerable attention to environmental protection and conservation. The Government's concern for the environment is expressed in the workings of the Meteorology and Environmental Protection Administration (MEPA), the Environmental Protection Coordination Commission (EPCC) and the National Commission for Wildlife Conservation and Development (NCWCD). The increasing worldwide cultural, economic and political awareness of nature, the environment and the pressing need for its protection is compatible with the Kingdom's cultural and religious heritage and the thrust of its development plans.

*Environment*

(c) Current economic situation

20. Saudi Arabia's gross domestic product is estimated to have risen by 2.9 per cent during 1992 to a total of about \$119 billion. GDP per capita was roughly US\$7,100. The oil and non-oil sectors registered increases of 4.4 per cent and 2.1 per cent, respectively. Within the non-oil sector, the private sector rose by 2.1 per cent and the Government sector by 2.2 per cent.

21. The non-oil sector of the economy contributed over 62 per cent of total economic output in 1991, at current prices. By economic activity, construction accounted for 8.6 per cent of GDP, trade for 7.0 per cent, and agriculture, forestry and fishing for 6.3 per cent. Since 1984, the agriculture sector has seen the greatest growth of any economic sector in Saudi Arabia.

Government

22. At 34 per cent, government services accounted for the single largest share of the non-oil (excludes oil and gas production and petroleum refining) economy in 1991. The Government sector as a whole produced 28 per cent of GDP. From an expenditure point of view, the Government accounted for 48 per cent of consumption expenditure and 58 per cent of gross fixed capital formation in 1991.

23. The oil sector continues to play a central role in Saudi Arabia's economy. In current prices, it accounted for 36.5 per cent of the country's economic output in 1991. Furthermore, over the period 1986-1991, the value of crude oil and petroleum product exports accounted for an average 71 per cent and 18 per cent of the total value of exports, respectively.

24. Saudi Arabia saw a large increase in oil output in 1990 and 1991 due to the need to compensate for the loss of Iraqi and Kuwaiti oil in world markets. As a result, real economic growth jumped 10.7 per cent in 1990 and 9.7 per cent in 1991. Economic growth tapered off to 2.9 per cent in 1992 with the gross domestic product totalling about \$119 billion.

tapered off

25. The cost of living index for all consumers recorded a decline of 0.4 per cent in 1992 as opposed to a 4.6 per cent rise in 1991. The overall improvement was largely attributable to cuts in the prices of gasoline, electricity, telephone services, and import wharfage charges in March 1992. A drop in shipping charges and reduction in demand following the end of the Gulf war were also major factors in the decline.

26. The national budget for 1994 projects revenues and expenditures at SR160 billion, or about \$43 billion. Spending will be cut by 20 per cent from the 1993 budgeted levels due to the impact of falling oil prices on the Kingdom's revenues. In 1993 the budget set spending at SR196.95 billion and revenues at SR169.15 billion, leaving a deficit of SR27.8 billion.

(d) Division of authority 1.2.3

27. The final authority for all matters related to the national economy and foreign trade rests with the Central Government.

2. Foreign trade 1.1.3

28. Foreign trade plays a central role in the Saudi Arabian economy. During the period 1981-1991, exports averaged approximately 44 per cent of nominal GDP and imports averaged some 25 per cent of GDP. In addition, receipts derived from oil exports represent over 80 per cent of total government receipts during the 1981-1991 period.

29. Exports largely consist of crude oil and its derivatives. In 1992, total exports amounted to \$47 billion while oil (crude and products except for bunker) exports totalled \$43 billion. Of the non-oil exports, petrochemicals generally hold a two-thirds share. The other one-third is composed of base metals, agricultural products, and miscellaneous products.

Exports

30. Industrialized nations are the most important markets for Saudi Arabian exports. In 1991, the United States purchased the largest share of Saudi exports, 23 per cent, and Japan the second largest, 16 per cent. The newly industrialized countries of East Asia are becoming an increasingly important destination for Saudi goods with Korea and Singapore being the fourth and fifth largest importers of Saudi goods, respectively. The Gulf Cooperation Council States, as a whole, are the largest importers of Saudi non-oil exports.

Imports

31. Saudi Arabia imports a wide variety of goods. The two largest categories of imports in 1992, transportation equipment and machinery and electrical equipment, made up 45 per cent of all imports. Other categories of imports of significance are base metals, textiles, chemicals and foods.

32. Imports have increased rapidly in the past several years, rising from \$19 billion in 1989 to \$30 billion in 1992. The most important sources of imports are the OECD countries with the US, Japan, and the United Kingdom comprising the top three spots, respectively, in 1992. The OECD as a whole was the source of over 80 per cent of Saudi Arabian imports in 1992.

33. The Kingdom has had a positive merchandise trade balance for a number of years. During the 1980s, the balance fell from over \$82 billion in 1981 to \$5.1 billion in 1986. In 1992, the balance was roughly \$16.8 billion, a decline of about \$5 billion from 1991.

34. Offsetting the positive trade balance has been a negative "services trade and transfers" balance. The deficit in services and transfers amounted to almost \$38 billion in 1991. As a result of the negative balance in services and transfers being larger than the positive balance in merchandise trade, Saudi Arabia has run a current account deficit since 1983.

"what is the transfer balance"

CHAPTER III - FOREIGN TRADE REGIME

1. Import regulations 1.3.1

(a) The evolution of the customs tariff regulation 1.3.2.2

Evolution of foreign trade regime

35. The evolution of Saudi Arabia's customs tariff regulation followed developments in its economy. In the 1970s, tariff rates in Saudi Arabia were generally very low. A rapid increase in oil revenues resulted in large current account and Government budget surpluses. That precluded the need for high tariffs for fiscal purposes. The lack of a significant non-oil economy and the virtual absence of domestic industries meant that tariffs were not required for protective purposes. The low tariffs also lessened somewhat the inflationary pressures that resulted from higher oil revenues. Most imports were charged a customs tariff of 3 per cent.

very low customs tariff

36. With the decline of the oil revenues in the 1980s, circumstances changed drastically. Oil prices declined and current account and budget deficits began to occur. The 1980s also witnessed the emergence, in an effort to diversify the economy, of a number of newly established domestic industries which required protection. These developments necessitated upward revision of the customs tariff. The generally applied rate of 3 per cent was raised to 12 per cent over time. Even that rate was reasonably low as compared with many other countries, developed and developing.

Customs tariff increased

tariff ↑

because oil revenues ↓ - establishment of domestic industry

37. The customs tariff has not been revised since 1988. 12%

38. The average effective tariff in the 1970s was 2.7 per cent. As a result of the revision of rates in the 1980s, the average effective rate in that period was 9.5 per cent. Since 1988, the average effective rate has declined: it was 8.6 per cent in 1989 and 7.9 per cent in 1991. The decline in the effective rate occurred primarily because of the relatively higher growth of imports of duty-free and low-tariff items, such as medicaments, with respect to total imports.

*what is the average effective tariff?*

1.3.1.2 (b) Customs tariff nomenclature, types of duties, general description of the tariff structure, main customs tariff groupings

39. The Kingdom of Saudi Arabia has been using the Harmonized Commodity Description and Coding System since 1 January 1991 to classify imports and exports. The 6,924 items in the tariff code are each designated with an eight digit number. The first six digits correspond to internationally recognized categories while the last two digits are specific to Saudi Arabia's own categorization of items.

40. The customs duties are generally ad valorem. There are very few specific or mixed duties. They cover about one per cent of the tariff lines.

41. Customs duties perform trade and fiscal functions: to this end, there are five different rates of custom tariff: 0 per cent, 7 per cent, 12 per cent, 20 per cent, and 30 per cent. The distribution of the 6,924 tariff lines falling within each tariff rate is as follows:

*what has become of this?*

| Tariff rate  | Tariff lines |
|--------------|--------------|
| 0 per cent:  | 189          |
| 7 per cent:  | 32           |
| 12 per cent: | 6,252        |
| 20 per cent: | 431          |
| 30 per cent: | 20           |

42. Items subject to zero tariff largely consist of basic foodstuff, medicaments, printed materials, and medical equipment. Those attracting a duty of 7 per cent consist of medical instruments and medical equipment. There are 6,252 items subject to a duty of 12 per cent which could be revised upward depending on fiscal conditions. The 431 items subject to a duty of 20 per cent are items that compete with domestically produced goods and are subjected therefore to custom duties of a trade nature. The highest tariff of 30 per cent on 20 items is applicable to tobacco and tobacco products whose use is discouraged by the Government on health grounds. Thus, currently only 451 items out of a total 6,924, or about 6 per cent of the items, attract duties of more than 12 per cent.

43. The share of 1990 imports, by value, for each of the five tariff categories was as follows:

|                      |       |
|----------------------|-------|
| Subject to no duty:  | 22.4% |
| Subject to 7% duty:  | 0.4%  |
| Subject to 12% duty: | 66.8% |
| Subject to 20% duty: | 9.3%  |
| Subject to 30% duty: | 1.1%  |

1.3.1.4(c) Import charges and fees

44. The Saudi Arabian Government does not impose any other import charges or fees. Charges for loading, unloading and storage are levied on imports in return for actual services rendered: they are not levied on the basis of value or on a flat ad valorem rate.

1. 2. 2 (d) Taxation regime

45. There are no internal taxes in the nature of turnover tax, value added tax, excise duties or similar taxes.

1. 3. 2 (e) Tariff preferences

46. Saudi Arabia signed an economic agreement with other Gulf Cooperation Council (GCC) Countries - Bahrain, Oman, Kuwait, Qatar and the United Arab Emirates in 1981 with the objective of integrating their economies. In furtherance of this objective, the GCC members formed a free-trade area in 1983. The free-trade-area agreement covers all trade in industrial and agricultural products. It allows products of GCC origin to enter duty-free into any of the other five member states. Products are considered to be of GCC origin if they contain a minimum 40 per cent GCC value added.

(f) Non-tariff measures, quotas and licensing system

47. A large majority of goods can be imported into Saudi Arabia free of any restrictions and without any authorization or import license.

48. The importation of a few products is prohibited or restricted. The Kingdom prohibits the production, consumption and import of products such as alcohol and meat and products of pigs and pork for religious reasons. The import of pornographic publications and material is also prohibited due to moral and religious values.

49. Some goods are prohibited from being imported for health and security reasons. For example, import of narcotics is not allowed. Also arms of all types and their parts and ammunition cannot be imported except by certain government agencies.

50. The import of two agricultural items is currently restricted to provide protection to domestically produced products. These are: dates and long-validity pasteurized liquid milk imported in containers of more than one litre. *1994 → however*

*restricted item*

(g) Customs valuation

51. Saudi Arabian customs valuation is based on the price actually paid or agreed to be paid for the imported good when it is packed and ready for shipment at the port of export plus expenses incurred until the goods reach the Kingdom. Such expenses principally include transport and freight charges and insurance incurred until the port of discharge. For mailed or air transported goods, the freight cost of goods is set for customs valuation at 0.5 Saudi Riyals per kilogram. In the event the customs authorities cannot obtain the freight charges actually paid, then the customs authorities will calculate the freight charges as a percentage of the f.o.b. value. *f.o.b. ?*

52. The value of the goods is in Saudi Riyals. The exchange rate used to determine the Saudi Riyal value of a good is determined according to the exchange rate published by the Saudi Arabian Monetary Agency (SAMA) on the day of customs declaration. SAMA exchange rates are revised daily and are determined by the actual market value of the Riyal with respect to other currencies. ?

*How is this the light that we Saudi riyal is actually pegged to Dollar*



1.3.1.9 (i) Customs formalities

55. Customs formalities are relatively simple and straightforward. Importers can get their goods cleared expeditiously on presentation of shipping documents, invoices and certificates of origin and on payment of duties, if any.

56. In the event there is a dispute about classification, the following steps will be observed:

1. An amicable settlement will be attempted, that is, to convince the importer of Customs opinion. If such a settlement is not reached, then
2. The dispute will be referred to an ad hoc customs committee, or "Classifications Committee" composed of tariff experts and a legal advisor. If the importer is still not convinced, then
3. The Customs Department will request a technical opinion from the Nomenclature and Classification Directorate at the Customs Cooperation Council in Brussels, Belgium.

1.3.3.2 (j) Standards and certification

57. All goods imported into Saudi Arabia must meet the Kingdoms standards and measures. The primary body responsible for these standards is the Saudi Arabian Standards Organization (SASO). SASO was established with the objective of formulating, adopting, publishing and distributing national standards for all commodities, products, symbols and sampling and test procedures within the Kingdom. It is a member of the International Standards Organization.

58. The purpose of standards and measures applied in the Kingdom is to provide safety and protect the health and welfare of consumers. Saudi standards and measures take into account the harsh environment in the Kingdom and the country's public morals and values. By the end of 1991, SASO had prepared 647 standards and measures, copies of which can be obtained from SASO or the main Chambers of Commerce in the Kingdom. Electrical equipment, automobiles, cigarettes, and baby formula are some of the most important goods covered by SASO standards and measures. SASO ensures international participation in the process of setting standards by circulating draft standards to the world market for comments prior to finalization of the standards.

هذه  
الجنة  
على  
الرف

59. Medicines and medical equipment are regulated by the Ministry of Health. Under these regulations, a certificate or endorsement of the Ministry of Health must have been obtained in order to clear the goods for sale within the Kingdom. The certificate or endorsement states that the goods conform to country's health standards and must be renewed every two years.

1.3.3.3 (k) Sanitary and phytosanitary measures

60. The Ministries of Agriculture and Commerce maintain sanitary and phytosanitary standards to ensure the safety and health of all imported foods, plants and animals. The use of sanitary and phytosanitary measures to regulate imports of foods, plants and animals is justified on the basis of the need to protect the safety of the agricultural, livestock and poultry industries as well as native plants and animals.

61. Consignments of animals such as livestock, poultry, and hatching eggs as well as unprocessed hides, hair, furs and wool are subject to Ministry of Agriculture and Water inspection and quarantine. Veterinary medicines are allowed to enter the Kingdom after receiving permission from the Ministries of Health and Agriculture. Agricultural consignments of fresh fruits, vegetables, seeds, grains, materials

11/1/90

used as animal fodder such as barley, sorghum and hay, organic fertilizers and agricultural pesticides are all subject to inspection and quarantine.

62. Importers of goods that do not satisfy sanitary and phytosanitary requirements have the option of re-exporting their goods out of the port area. If the goods are not removed, they are destroyed.

3.6  
2. Export regulations

1.3.2.2 (a) Customs tariff nomenclature, types of duties, customs tariff structure, weighted average level of duties on main customs tariff groupings

63. Saudi Arabia uses the Harmonized System for classification of exports; as for imports. Except for one item, there are no export duties. The only item subject to export tariff is: untanned hides and skins. The rate of duty is Saudi riyals 2,000 per ton.

1.3.2.4 (b) Export licensing system

64. Export of certain items is restricted to preserve the culture and wildlife of the Kingdom of Saudi Arabia. Exports of all non-farm animals and birds must be approved by the Wildlife Protection Commission. Also archaeological artifacts and certain antiquities can only be exported after receiving permission from the Department of Antiquities at the Ministry of Education.

65. The Saudi Arabian Government exercises some restrictions on exports. These controls prevent goods that are benefiting from domestic subsidies from leaving the Kingdom, thereby protecting the national treasury and precluding anti-dumping and countervailing actions by foreign countries. Examples of prohibited exports are livestock (except to the GCC States), baby formula, medicines, poultry, and animal fodder. Some export items are subject to special export permits. Wheat exports have to be approved by the Grain Silos and Flour Mills Organization. Exports of petroleum derivatives, except lubricating oils and certain types of asphalt, have to be approved by the Ministry of Petroleum. Agricultural tools and equipment can only be exported with the permission of the Saudi Agricultural Bank. Epla

1.3.2.5 (c) Other measures

66. There are no other measures to regulate exports.

1.3.2.6 3. Export incentives, including subsidies

67. The Kingdom of Saudi Arabia seeks to promote exports without giving direct subsidies. While the Kingdom has no national export credit agency, it does participate in three regional export credit programmes which are intended to minimize the risk of non-payment to exporters. The following are brief descriptions of the programmes offered by the Islamic Development Bank, the Inter-Arab Investment Guarantee Corporation, and the Arab Monetary Fund.

68. The Islamic Development Bank, a multilateral financial institution composed of 47 Organizations of Islamic Conference members, offers three different trade credit programmes. One is a long-term facility, with a maturity of 18 to 60 months, intended to cover 30-40 per cent of foreign trade deals. Another is a programme run by the IDB but using funds from Islamic banks to extend credits to intra-Islamic business transactions. Finally, an import credit programme based on the Islamic profit system (murabaha) covers up to 100 per cent of a transaction involving strategic products such as cement, fertilizers, industrial input building materials and feedstocks.

69. The Inter-Arab Investment Guarantee Corporation's "Export Credit Guarantee Scheme" was introduced in 1986 to encourage increased inter-Arab trade. The commercial risks covered include purchaser's bankruptcy, insolvency, or liquidation; his failure to pay for goods received; or his refusal to take up goods upon arrival. The non-commercial risks covered are the removal of permission for goods to enter a country for whatever reason; the seizure of goods by a country of transit; the prevention of payment by an importer due to government intervention; the refusal by a purchaser's national bank to allow financial settlement, or to cause substantial delays in such settlement; and local disturbances and military action which result in the inability of the purchaser to pay.

70. The Arab Monetary Fund, established in 1976 and <sup>located</sup> headquartered in Abu Dhabi, created the "Inter-Arab Trade Finance Programme" to promote the development of trade among Arab countries. It provides credit to national agencies to enable them to purchase financial instruments issued by those agencies, or to rediscount trade bills which have previously been purchased or discounted by them. The authorized capital of the programme has been set at \$500 million.

71. Saudi Arabia does not use any export subsidies.

4. Regulations of trade in transit 1.3.3.10

72. Goods in transit receive duty-free treatment under Article 53 of the Customs Laws. The Kingdom's policy regarding goods in transit is to allow them to be transported through the Kingdom without any discrimination on the kind of good or national origin, except if there are religious or national security concerns. The customs authorities have the right to inspect any goods in transit to prevent trafficking of prohibited goods such as narcotics. Saudi Arabia is a party to an agreement signed by Arab League countries to facilitate transit trade.

#### CHAPTER IV - OTHER POLICIES AFFECTING FOREIGN TRADE

1.3.3.1 1. Industrial policy

73. The Kingdom's industrial policy focuses on encouraging and expanding the manufacturing and natural resource-based industries. Within this context, the Fifth Development Plan (1990-1995) is pursuing the following objectives under the leadership of the Ministry of Industry and Electricity:

- Maximization of the domestic transformation of domestically produced raw materials and intermediate products, particularly oil derivatives and petrochemicals;
- Encouragement of import substitution industries whenever it is economic to do so, in order to achieve a reasonable level of self sufficiency;
- Encouragement of export-oriented industries which have a comparative advantage and the provision of adequate means and incentives required for their development;
- Integration and inter-linkages among activities in the industrial as well as other sectors;
- Improvement of labour productivity in the industrial sector;
- Strengthening of industrial cooperation among the Gulf countries and development of joint industrial projects;
- Promotion of the Kingdom's role in joint regional industrial projects.

Development of industrial cooperation with foreign countries for the prudent and well studied transfer of technology and the attraction of foreign capital.

74. The Law for the Protection and Encouragement of National Industry provides for a number of incentives to promote the industrial sector in the Kingdom. Under the Law, the State is charged with furnishing licensed industrial establishments, at a nominal rental fee, land needed for the construction of factories and dwelling places for the workers and employees. The Ministry of Industry and Electricity has established eight industrial cities throughout the Kingdom where such an arrangement can be made.

75. In addition, the Law for the Protection and Encouragement of National Industry allows certain goods which are imported for qualified industries to be exempt from customs duties. The goods include machinery, tools and equipment as well as their spare parts, and materials needed for packing. The granting of this privilege is subject to the approval of the Ministry of Industry and Electricity upon the recommendation of the Industrial Technical Office of the Ministry of Industry and Electricity.

*Recommendation of protection and assistance Ministry of Industry*  
76. Also under the Law, the Ministry of Industry and Electricity is charged with making recommendations to the Council of Ministers about taking measures to assist industries. Such measures include the imposition of protective tariffs on similar foreign imports and the provision of other forms of assistance to qualified industrial establishments.

*It should be clear the new investment authorities*  
77. The Government of Saudi Arabia realizes that achieving its industrial objectives requires a steady flow of technology and expertise into the Kingdom. Therefore, it welcomes the inflow of foreign capital and expertise, particularly in joint ventures with Saudi Arabian businessmen. The Foreign Capital Investment Committee, chaired by the Under Secretary of Ministry and Electricity, approves projects involving foreign investment to ensure that they are consistent with the nation's development plans.

78. Under the Foreign Capital Investment Regulations, foreign capital invested in industrial projects receives national treatment. The regulations also exempt industrial projects in which foreign capital is invested from income and corporate taxes for a period of ten years provided that at least 25 per cent of the project's capital is held by national capital and that such percentage remains intact throughout the tax exemption period.

79. The Saudi Industrial Development Fund (SIDF), established in 1974, plays a central role in the support of industrial development in the Kingdom. This support comes through the provision of soft loans to industrial establishments, both wholly domestic and joint ventures, for up to 50 per cent of the total cost of establishing or expanding industrial projects. There is no interest charged on these loans but there are administrative fees that reach to 2.5 per cent of the loan value. The Fund also provides advisory services in various areas. From its inception through the end of 1992, the SIDF has approved loans worth 21.7 billion Saudi Riyals for 1,216 industrial projects, of which joint ventures accounted for loans worth 8.7 billion Saudi Riyals for 388 projects.

*13.4.5*  
80. The Royal Commission for Jubail and Yanbu has also played a significant role in enhancing industrial development within Saudi Arabia. Established by a Royal Decree in 1975, the Royal Commission was created as an engine for industrial development in the east and west of the Kingdom. Its duties and objectives include, but are not limited to, the construction of state-of-the-art infrastructure, and protection of the environment.

*3.4*  
2. Agricultural policy

81. The State supports the development of the agricultural production base through encouraging investment in large-scale projects which utilize modern irrigation equipment and methods. It continues to encourage individual investments in agriculture, and supports investment in projects that adopt new

technologies. The Government supports these agricultural sectors primarily through distribution of land, technical assistance, marketing facilities, subsidized inputs such as feedstock, fertilizer and machinery, loans, and, in certain cases, guaranteed purchase prices. However, the system of support is currently under review by a Ministerial Committee.

82. The Saudi Agricultural Bank, under the auspices of the Ministry of Finance and National Economy, is the primary institution for extending loans to the private sector for investments in agriculture. The Bank provides short-term loans to finance seasonal production requirements, medium-term loans to purchase machinery and equipment, and long-term loans to buy, reclaim, and develop land.

11-2  
12  
3. Financial, budgetary and fiscal policy

83. The fiscal direction of the Kingdom can have a major impact on foreign trade since the Government is a major purchaser of foreign goods and services. As mentioned above, the Government accounts for about 50 per cent of consumption expenditure in the Kingdom, and imports of goods and services account for about half of domestic consumption. Also, an increase or decrease in government spending on domestic goods and services would have an impact on the level of imports purchased by domestic firms.

12  
12  
4. Foreign exchange and payments system, relations with the International Monetary Fund, and application of foreign exchange controls, and the banking sector

84. The currency of Saudi Arabia is the Saudi Arabian riyal. Its intervention currency is the US dollar and the rate against the riyal, currently Saudi Riyals 3.745 per US\$1, is determined by the Saudi Arabian Monetary Agency. There are no taxes or subsidies on purchases or sales of foreign exchange. The Kingdom formally accepts the obligations of Article VIII, Sections 2, 3, and 4 of the International Monetary Fund Agreement. No exchange control requirements are imposed on capital receipts or payments by residents or non-residents.

85. Saudi Arabia has a well developed and sophisticated banking system, rendering valuable services to the foreign trade sector. It has a network of 1,160 bank branches, with each serving, on an average, about 13,000 persons. It has great potential for making further advances in this direction as it is well capitalized, follows sound and enlightened banking practices, employs most modern banking technology and has ample resources at its disposal.

11-2  
12  
5. Foreign and domestic investment policy

86. The Government of Saudi Arabia encourages foreign capital to invest in the Kingdom in order to support the inflow of technology and expertise. Foreign investment is governed by Foreign Capital Investment Regulations and enjoys national treatment. There are no trade-related requirements attached to foreign investments.

3.3-9  
6. Government procurement

87. Government procurement practices are governed primarily by the Procurement of Government Purchases Law supplemented by interpretations or rulings on individual cases issued by the Ministry of Finance and National Economy. Under the Government Purchases Law, qualified Saudi nationals and wholly Saudi-owned firms are given priority for contracts, followed by mixed Saudi-foreign establishments, and finally, wholly foreign-owned firms. In addition, products produced within the Kingdom are given preference over foreign goods in supply contracts.

88. Council of Minister Resolution 1124 of the year 1403 (H) concerns the allocation of work to Saudi nationals under public works contracts. The resolution stipulates that foreign contractors as well as joint venture firms carrying out public works contracts must give at least 30 per cent of the work to Saudi individuals or companies which are registered in Saudi Arabia and are wholly owned by Saudi nationals.

89. The Standard Rules for Giving Priority in Government Purchases to National Products and Products of National Origin of the Arabian Gulf Cooperation Council States (known hereafter as "Standard Rules for Government Purchases") specify the conditions for giving priority to products produced in the Gulf Cooperation Council. Differentiation is made between "National Products" and "Products of National Origin". The former are products produced in one of the member States of the Gulf Cooperation Council and are given a ten per cent price or quality preference then purchased by the Government where the product is produced. The latter are products whose value added in the Council States is not less than 40 per cent. Products of National Origin are given a five per cent price preference in all Council States unless a National Product is not available in which case the former are given a ten per cent price or quality preference over foreign products.

1.3.3.6 7. State-trading enterprises

90. There are a few State-trading enterprises which are directly involved in the export and import of goods and services such as The Saudi Arabian Oil Company (Saudi Aramco) and the Grain Silos and Flour Mills Organization. These State-trading enterprises make purchases or sales solely in accordance with commercial considerations and act in a manner consistent with the general principles of non-discriminatory treatment.

91. Saudi Aramco is responsible for all exports and imports of goods and services related to the oil industry, both upstream and downstream, in Saudi Arabia. It also has a monopoly over the production of crude oil and natural gas in the Kingdom, with the exception of the Saudi Arabia-Kuwait Divided Zone. The Government's control over Saudi Aramco dates back to 1980 when it increased its shareholding in Aramco from 25 per cent to 100 per cent. Saudi Aramco itself was established by a Royal Decree in 1988. Although owned by the Government, Saudi Aramco is run like a private company with a board of directors chaired by the Minister of Petroleum and Mineral Resources.

92. The Grain Silos and Flour Mills Organization (GSFMO) was established by a Royal Decree in 1973 in order to support the development of the domestic agricultural sector, particularly wheat production for national security reasons. GSFMO was charged with forming a grain storage, flour production and animal feed processing conglomerate as well as with creating a stable market with fixed prices for grains in order to safeguard farmers from price fluctuations. It is the only organization allowed to import and export grains, flour, and animal feed.

1.3.3.6 8. Free-trade zones

93. There are no free-trade zones in Saudi Arabia.

1.3.2.6 9. Subsidy policy

94. The use of subsidies in the Kingdom has four main functions. First, to protect citizens, particularly the poor, from fluctuations in the prices of basic foods and essential items. Second, as a mechanism for distributing the benefits of the country's wealth. Third, to assist the destitute, families with special needs, students, and other deserving groups. Fourth, to assist in diversifying the country's economic base.

5.3.7 10. Free economic zones

95. There is nothing which is known as a "free economic zone" in Saudi Arabia.

5.1 11. Preferential trade arrangements or other special trade arrangements and agreements

96. Saudi Arabia has been an active participant in various trading arrangements with the objective of removing impediments to trade and bolstering the Kingdom's economic development. The two major arrangements involve the Gulf Cooperation Council and the Arab League. Please see the Section V below for further details.

3  
3.12 12. Protection of intellectual property rights

97. Intellectual property rights in Saudi Arabia are protected by three laws, namely, the Trade Marks Law, the Patents of Inventions Law, and the Law for the Protection of Copyrights. The current Trade Marks Law, which was approved in 1984 by Council of Ministers Resolution 75 of 1404(H), stipulates the conditions for protecting distinctive marks that are registered for use in Saudi Arabia. Both Saudi nationals and foreigners are allowed to register trade marks.

98. The Patents of Inventions Law, which was approved in 1989 by Royal Decree M. 38 of 1409(H) aims to secure the full protection of inventions within Saudi Arabia. The authority vested with the power to grant patents and to take action to protect them is the City of King Abdul' Aziz for Science and Technology. There is no distinction between Saudi nationals and non-nationals in respect of granting patents.

99. The Law for the Protection of Copyrights, approved in 1990 by Royal Decree M. 11 of 1410(H), is fully consistent with international standards. The law protects authors of a wide variety of expressive instruments, including books, paintings, motion pictures, and computer programmes from infringement and financial exploitation of their works without permission. It does not discriminate on the basis of nationality of the author. On 27 December 1993, the Council of Ministers approved the Kingdom's accession to the Universal Copyright Convention as revised in Paris on 24 July 1971.

5 CHAPTER V - INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

5.1 1. Bilateral trade and economic agreements and integration agreements

100. The most important international trade arrangement which Saudi Arabia participates in is the Gulf Cooperation Council's free-trade area. The Gulf Cooperation Council was formed in 1981 by the leaders of Saudi Arabia, Kuwait, Qatar, Bahrain, Oman and the United Arab Emirates to coordinate policies among the States in all fields, including economic and financial affairs, commerce, and customs. Accordingly, the members have spent much time on the rationalization and unification of the various customs regimes, the development of joint ventures, and the coordination of external trade policies.

101. In 1983, the Gulf Cooperation Council States established a free trade area. Goods originating in member States are allowed duty-free entry, provided that at least 40 per cent of the value added in each case is effected in a member State.

102. Saudi Arabia is also one of the member States of the Arab League, an organization which has agreed to work towards creating an Arab Common Market. With a view to achieving this objective, member States have concluded trade and tariff conventions. The Kingdom has played an active part in this programme, concluding trade and tariff conventions with other countries of the Arab League.

These conventions provide either for complete removal of tariffs between member States or for reduction of tariffs on goods exchanged among member countries of the League. The purpose of these agreements is to facilitate and promote trade among members of the Arab League and not to create obstacles to the trade of other countries.

103. The Kingdom maintains bilateral economic and technical agreements with a number of non-Arab countries. These agreements generally cover specialized aspects of the economic relationship and do not offer preferential treatment for imports or exports.

5.4 (2) Multilateral economic cooperation, membership in multilateral economic organizations

104. Saudi Arabia is a member of several multilateral economic organizations which, among other things, promote increased trade among members through cooperation and reduction of trade barriers. These institutions include the Arab Monetary Fund, the Arab Fund for Economic and Social Development, the Islamic Development Bank, the International Bank for Reconstruction and Development (World Bank), and the International Monetary Fund.

CHAPTER VI - LAWS AND LEGAL ACTS

1.2.4

(1) Laws and legal acts regulating the activity of the customs authority; responsible agencies

105. The following measures regulate the activity of the customs authority:

- (a) Customs Law;
- (b) Customs Tariff Schedule.

106. The responsible agency for implementing the above measures is the Customs Department in the Ministry of Finance and National Economy.

مسئول  
الوزارة  
مسئول  
الوزارة  
المسئول

107. The Council of Ministers is officially responsible for any change in the tariff rate, including the adoption of protective tariffs for the protection of national products upon the recommendation of a committee composed of representatives from the Ministry of Finance, Ministry of Industry and Electricity and Ministry of Commerce. The Minister of Finance and National Economy has the power to issue decisions related to the application of the tariff.

(2) Laws and legal acts relating to non-tariff regulation of imports, exports, trade in transit, and rules of origin; responsible agencies

108. The following measure covers non-tariff regulation of imports, exports, trade in transit, and rules of origin:

- (a) Customs Law.

109. The responsible agency for implementing the above measure is the Customs Department in the Ministry of Finance and National Economy.

(3) Laws and legal acts relating to foreign investment; responsible agencies

110. The following measure covers foreign investment:

- (a) Foreign Capital Investment Code.



111. The responsible agency for implementing the above measure is the Ministry of Industry and Electricity.

(4) Other laws and legal acts dealing with economic issues that affect trade; responsible agencies

112. The following are other laws and legal measures dealing with economic issues that affect trade:

- (c) Law for the Protection and Encouragement of National Industry;
- (d) Trademark Law;
- (e) Patents of Inventions Law;
- (f) Copyright Law;
- (g) Commercial Agencies Regulations.

113. The responsible agencies for implementing the above measures are the Ministry of Industry and Electricity, the Ministry of Commerce, the King Abdulaziz City for Science and Technology, and the Ministry of Information.

(5) Roles and responsibilities of various government agencies

114. The Ministry of Finance and National Economy is concerned with the development of all economic sectors. It includes the Customs Department, which is charged with implementing the Customs Law and Tariff Code and drafting customs regulations. The Ministry also includes the Central Department of Statistics which, among other things, compiles and publishes data on foreign trade. The Ministry is responsible for proposing to a committee of three (including itself, the Ministry of Industry and Electricity and the Ministry of Commerce) which national industries should benefit from the protection in local markets from imported products through a protective tariff. The committee makes its recommendations to the Council of Ministers.

115. The Ministry of Commerce, the principal Government agency concerned with the development, support and encouragement of commercial activities within the Kingdom, implements the Commercial Agency Regulations. It also represents Saudi Arabia in international panels and conferences dealing with commercial activities and studies ways and means for enhancing and encouraging commercial exchanges between Saudi Arabia and other countries. It also regulates the import and sale of certain goods to ensure they meet Saudi Arabian standards and do not violate trademark, patent, and copyright laws.

116. The Ministry of Industry and Electricity formulates policies and procedures which will promote industrial development within the Kingdom. Among its many duties, it produces a list of local products which are eligible for procurement by the Government. It is a member of the committee that proposes protective tariffs (see Ministry of Finance above).

117. The Ministry of Agriculture and Water is the principal Government organ responsible for the development and encouragement of the agricultural sector in Saudi Arabia. One of its responsibilities is ensuring that necessary sanitary and phytosanitary standards for fertilizer, agricultural and livestock imports are maintained. It also regulates the import and sale of agricultural machinery.

118. The Ministry of Health is primarily responsible for maintaining and supervising the health industry within the Kingdom. A trade-related responsibility is the regulation of the import and sale of medicaments and medical supplies.

119. The Saudi Arabian Standards Organization (SASO) establishes and approves national standard specifications for a variety of goods and products sold within the Kingdom. It also is involved in the sampling, inspection and testing of certain imports, such as electrical goods, to ensure that they meet the country's standards. SASO participates in international standardization activities in order to secure international recognition for Saudi standards and to keep abreast of all critical developments in this area.

120. The various Chambers of Commerce in Saudi Arabia, organized under the Council of Chambers of Commerce, assist the Ministry of Commerce in a wide variety of areas. Among their most important functions is the maintenance of lists of potential agents or representatives for foreign individuals and firms wishing to export their products to Saudi Arabia.

121. The Saudi Arabian Monetary Agency is charged with acting as the Government's banker. As such, it is responsible for managing the Government's financial and monetary affairs. Among its most important responsibilities are the minting of currency, stabilization of its value, and the supervision of banks and money changers. It also maintains accounts for the Government and accepts deposits from government organizations and invests them.

#### CHAPTER VII - PUBLICATIONS

3.1  
2.1  
(1) Foreign trade statistics, responsible agencies

122. The Central Department of Statistics within the Ministry of Finance and National Economy is responsible for compiling foreign trade statistics. It receives its data from the Customs Department.

(2) Publications related to statistics

123. The Central Department of Statistics within the Ministry of Finance and National Economy produces two annual publications containing foreign trade statistics. The first, entitled Foreign Trade Statistics, contains official Saudi Arabian import and export statistics by commodity and country. The second, entitled Statistical Yearbook, contains data on trade as well as a variety of other subjects such as government finances, agriculture, petroleum, prices, and private establishments. Copies can be purchased for a nominal fee by writing to the Director General of the Central Department of Statistics, P.O. Box 3735, Riyadh 1118.

124. The Saudi Arabian Monetary Agency also produces two annual publications containing statistics. The two reports are the Annual Report of the Saudi Arabian Monetary Agency and the Statistical Summary. Both review major economic developments in the Kingdom of Saudi Arabia during the relevant fiscal year.

ANNEX B

LAWS AND REGULATIONS

Customs Law [to be supplied]

Customs Tariff Schedule [to be supplied]

Foreign Capital Investment Code [to be supplied]

Law for the Protection and Encouragement of National Industry [to be supplied]

Trademark Law [to be supplied]

Patents of Inventions Law [to be supplied]

Copyright Law [to be supplied]

Commercial Agencies Regulations [to be supplied]

## Appendix 2-4: Conversion of the Saudi Application to GATT/WTO

# WORLD TRADE ORGANIZATION

RESTRICTED  
WT/ACC/SAU/1  
21 December 1995

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(95-4106)

Original: English

### ACCESSION OF SAUDI ARABIA

The Director-General has received the following communication from the Minister of Commerce of the Kingdom of Saudi Arabia.

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As you are aware the Government of the Kingdom of Saudi Arabia has applied for accession to GATT 1947 in a communication to the GATT Secretariat dated 23 June 1993. A Working Party has been established by the GATT Council of Representative on 21 July 1993. Since then, Saudi Arabia has submitted a Memorandum on its Foreign Trade Regime.

I am pleased to inform you that the Government of Saudi Arabia has now decided to seek accession to the World Trade Organization (WTO) under Article XII of the Agreement Establishing the World Trade Organization.

In this regard I appreciate that a communication in this context may be placed on the agenda of the next meeting of the General Council of the WTO.

---

Having regard to the decision adopted by the General Council on 31 January 1995, the existing Working Party on the Accession of Saudi Arabia to the GATT 1947 will be continued as a WTO Accession Working Party and Saudi Arabia will have observer status in the General Council and its subsidiary bodies. The Chairman will have to be nominated. The membership and terms of reference of the Working Party are reproduced on the following page.

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WORKING PARTY ON THE ACCESSION OF SAUDI ARABIA

Chairman: To be nominated

Membership

The membership is open to all Members indicating their wish to serve on the Working Party.

Terms of Reference

To examine the application of the Government of Saudi Arabia to accede to the World Trade Organization under Article XII, and to submit to the General Council recommendations which may include a draft Protocol of Accession.

## Appendix 3-5: Saudi WP

# WORLD TRADE ORGANIZATION

RESTRICTED  
WT/ACC/SAU/2/Rev.16  
18 February 2003

(03-1016)

### WORKING PARTY ON THE ACCESSION OF SAUDI ARABIA

*Chairman: H.E. Mr. Munir Akram (Pakistan)*

#### Membership:

|   |                    |                      |
|---|--------------------|----------------------|
| Argentina                                 | India              | Panama               |
| Australia                                 | Indonesia          | Paraguay             |
| Bahrain                                   | Israel             | Poland               |
| Bangladesh                                | Japan              | Qatar                |
| Brazil                                    | Jordan             | Romania              |
| Bulgaria                                  | Korea, Republic of | Senegal              |
| Canada                                    | Kuwait             | Slovak Republic      |
| Chile                                     | Kyrgyz Republic    | South Africa         |
| China                                     | Latvia             | Sri Lanka            |
| Colombia                                  | Lithuania          | Switzerland          |
| Costa Rica                                | Malaysia           | Chinese Taipei       |
| Croatia                                   | Mexico             | Thailand             |
| Cuba                                      | Morocco            | Tunisia              |
| Czech Republic                            | New Zealand        | Turkey               |
| Egypt                                     | Nicaragua          | United Arab Emirates |
| European Communities<br>and member States | Norway             | United States        |
| Hungary                                   | Oman               | Uruguay              |
|   | Pakistan           | Venezuela            |

#### Terms of Reference:

To examine the application of the Government of Saudi Arabia to accede to the World Trade Organization under Article XII, and to submit to the General Council recommendations which may include a draft Protocol of Accession.

## Appendix 4-6: Saudi Reform Initiatives

# WORLD TRADE ORGANIZATION

RESTRICTED  
WT/ACC/SAU/54  
4 April 2003

(03-1842)

Working Party on the  
Accession of the Kingdom of Saudi Arabia

Original: English

### ACCESSION OF THE KINGDOM OF SAUDI ARABIA

#### Highlights of Economic Reform and Restructuring

#### in the Kingdom of Saudi Arabia (March 2003)

The following information on the Highlights of Economic Reform and Restructuring in the Kingdom of Saudi Arabia (March 2003) has been received from the Ministry of Commerce of the Kingdom of Saudi Arabia and is reproduced hereunder.

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## INTRODUCTION

Over the last 30 years, coping with massive socio-economic changes, Saudi Arabia has emerged as a strong developing economy based increasingly on the private sector participation with up-to-date sophisticated infrastructure. This transformation has largely depended on the utilisation of the Kingdom's oil and gas reserves. The availability of these resources has given rise to an economy characterised by a major concentration of exports on a single product and a high propensity to import.

Since its inception, the Kingdom had adopted a free market economy philosophy, ensuring that private enterprises will always be the main focus of economic activity, while establishing an indicative planning approach to economic and social development based on Islamic values and principles, which guide the development in a coordinated balanced direction. Economic planning in the Kingdom provided an appropriate conceptual, practical and organizational framework for the development process, with all of its economic, social and institutional dimensions.

In addition to this underlined vision, the consecutive five year plans aspired to achieve a number of focused goals. These include diversification of economy, particularly through laying more emphasis on industry and agriculture, developing mineral resources, improvement of living standards and quality of life, achievement of balanced growth through all regions of the Kingdom, strengthening the role of the private sector, through encouraging its participation in various socio-economic projects, accelerating social and economic integration among GCC countries, and support economic cooperation with Arab, Islamic and other friendly countries.

Other objectives include development and sustenance of the Kingdom physical infrastructure, protection of the environment, development and utilisation of human resources through increasing the absorptive capacity of educational institutions. Over the past three decades, non-oil GDP increased more than fivefold and private investment increased sevenfold. While the total population tripled over the same period, infant mortality rate dropped by over 80 per cent and the ratio of physicians per person improved by more than 95 per cent. Saudi Arabia maintains one of the most liberal exchange and trade systems in the world. Of the top 40 trading countries in the WTO, Saudi Arabia ranked sixth in the growth of trade over the last three decades. Indeed, per every unit of GDP, Saudi Arabia trades four times more than most countries in the world.

### (a) Self-Imposed Economic Reform Strategy

As a developing country, where the oil sector represents the major component of the Kingdom's GDP and more than 85 per cent of its total exports, Saudi Arabia, in its endeavour to achieve sustainable development, has focused since 1998 on a self-imposed economic reform and restructuring strategy to facilitate the implementation of bold decisions through concerted efforts, aiming at diversifying its economic base through the creation of new productive stream to our GDP. The mainstay of this strategy aims at unleashing the vigour and vitality of the private sector through privatisation, foreign investment, service industries and further liberalisation of our trade policy.

Today, this strategy is focused on accelerating growth and reducing vulnerability of macroeconomic imbalances to oil price fluctuations. To achieve this objective the following reforms were implemented:

#### 1. Supreme Council for Petroleum and Mineral Affairs (SPMC)

Created by a Royal Decree on 27 September 1420H (1999), SPMC was entrusted with the development of a five year master plan for the Kingdom petroleum, gas and other hydrocarbon resources. This includes deciding the policies and strategies for petroleum, gas and other hydrocarbon



materials in the light of the national circumstances and interests and determining the size of production, and pricing plans of different fuel sources in the Kingdom.

One of the important decisions taken by SPMC was the Gas Initiative, which is based on the adoption of the value-chain concept whereby the ever growing demand for power generation and water desalination could be fulfilled. It is also expected to stimulate development and employment in the other sectors. The Gas Initiative is aimed at the development of natural gas fields and associated power and desalination plants, transmission pipelines and petrochemical projects. Eight multinational oil companies could invest up to more than US\$25 billion over the next five years, in gas exploration and production, as well as power generation, water desalination and petrochemical industries, which will be a major boost to the economy, increasing employment and future government revenues.

**2. Supreme Economic Council (SEC)**

The establishment of SEC on 12 January 1421H (2000) was a major step towards reorganising the Governments economic decision-making process. Its main purpose is to coordinate economic policy, speed up decision-making and follow up on the implementation of economic reform that has already been initiated. The Council since its establishment has taken some far-reaching important decisions for the benefit of the Saudi economy.

**3. Supreme Tourism Authority (STC)**

Another facet of economic diversification is the promotion of tourism in Saudi Arabia. The Kingdom has a great potential in this field as it offers many tourist attractions including a sampling of our rich cultural heritage and traditions. The establishment of STC on 22 April 1420H (1999) was a major step in promoting tourism in Saudi Arabia. It has been entrusted with the responsibility for the development of tourism in the Kingdom, to enhance the role of this sector in the economy and remove obstacles impeding its growth. The private sector is expected to play a major role in investment in tourism facilities.

**4. Saudi Arabian General Investment Authority (SAGIA)**

A milestone on the road to restructuring the national economy was the newly enacted Foreign Investment Law and the establishment of SAGIA. With the enjoyment of a full national treatment, 100 per cent foreign equity investments and other numerous benefits including reduction in tax rates, property ownership rights, etc., the new law will contribute to speeding up the process of diversification of the industrial base through transfer of technology and expertise from developed economies. As a "one-stop-shop" operation, SAGIA provides a very attractive and rewarding investment-friendly environment. Since its founding in 2001, SAGIA has approved nearly US\$11.3 billion, in foreign investment activity in Saudi Arabia.

**5. Food and Drugs Authority**

On 10 March 2003, the Council of Ministers set up a higher authority for the food and medicine sectors. The supervisory body will ensure the safe use of food, medicine, medical devices, chemicals, cosmetics and insecticides as well as electronic products.

**6. Reduction of Applied Customs Duties**

Saudi Arabia's current tariff policy is quite liberal. Average simple weighted duties are estimated at approximately 15 per cent for all goods and 17 per cent for agricultural goods. In a recent liberalisation effort, all the 12 per cent and seven per cent applied rates were reduced to five per cent effective from 25 March 1422H (2001). Currently, 92 per cent of all tariff line items are

subject to applied tariff rates of five per cent. Some essential goods are not subject to any import duty and only a small number of sensitive goods are subject to a 20 per cent customs duty mainly for the protection of infant industries. Saudi Arabia does not maintain any tariff quota system on imports or exports at present.

## **7. Privatization**

A major plank of restructuring the economy is the decision of privatization, aimed at continued expansion of the role of the private sector in economic activity. The new privatization strategy which was announced in early 1423H (2002), aims to establish legal and institutional framework in order to facilitate the implementation of privatization. Revenues from the sale of state enterprises will be used to reduce government debt.

### **(i) Saudi Telecommunications Company**

The Saudi process of privatizing this sector has already started. While 30 per cent of STC shares has recently been sold to the private sector, more shares will be offered to the public in the future.

### **(ii) Postal Services**

The Saudi postal authority will be made autonomous under an independent joint public-private sector board of directors. On 29 March 1423H (2002) the Government has permitted the private sector to invest in postal agencies. At present, all surface and mobile operations are carried out by national private firms and are supervised and followed by the Postal Directorate. Contracts were also awarded to the private sector for the maintenance of postal buildings and equipment.

### **(iii) Privatization of General Railway Organization**

The government is planning to construct railway network through the participation of the private sector on BOT basis. The Privatization Committee has studied the project and the Public Investment Fund has prepared the necessary implementation program in coordination with the Ministry of Transport, Ministry of Finance and National Economy, Ministry of Planning and General Ports Authority.

### **(iv) Privatization of Saudi Arabian Airlines (Saudia)**

Saudia has embarked on a privatization process with the idea of converting its ownership to the private sector. Contracts with appropriate firms to study the privatization of the state owned airlines have already been signed in early 1421H (2000).

### **(v) General Ports Authority**

The General Ports Authority (GPA) has awarded 21 projects to the private sector involving all types of services provided at the Kingdom's eight seaports such as handling of goods and providing maritime services. The private sector has been granted the right to utilise and operate the assets on commercial basis. King Fahd Vessel Repair Yards and two areas for re-exports at Jeddah Islamic Port and King Abdulaziz Port in Dammam have also been leased to the private sector. All contracts signed with the private sector included investment programmes, exceeding two billion riyals, for the supply of equipment and machinery, ownership of which will be converted to the Ports Authority at the end of the contracts.

**(vi) Petroleum Service Company**

A Petroleum Service Company was set up in 1422H (2001) as a joint-stock holding company with private sector participation to serve the major sectors such as oil, gas, petrochemicals and utilities.

**8. GCC Customs Union**

A momentous decision was taken by the GCC summit in December 2001 to establish a Customs Union starting from the beginning of 2003. The Summit also adopted the Common external Tariff of five per cent for most goods, with zero per cent for essential foodstuffs and pharmaceuticals. The decision will further integrate the economies of GCC member states, revitalise their industries and create an outward-looking block, benefiting the GCC economies as well as its major trading partners.

**(b) Legislative Progress**

In pursuance of the Kingdom's self-imposed socio-economic reform program, a number of trade-related laws and regulations have already been enacted. Those were as follows:

1. Import Licensing Guidelines. Issued by the Council of Ministers under No. 84 dated 1 April 1421H (2000);
2. Sanitary and Phytosanitary Measures. Issued by the Council of Ministers under No. 85 dated 1 April 1421H (2000);
3. The Law "On Ownership of Real Estate and Investment thereof by non-Saudis". Issued by the Council of Ministers under No. 89 dated 8 April 1421H (2000);
4. SASO Technical Directives. Issued by the Board of Directors under No. 104 dated 16 April 1421H (2000);
5. Shariah Procedural Law. Issued by the Council of Ministers under No. 115 dated 14 May 1421H (2000);
6. Approval of the Kingdom's accession to the Rotterdam Convention on Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade. Issued by the Council of Ministers under No. 124 dated 21 May 1421H (2000);
7. Press and Publication Law. Issued by the Council of Ministers under No. 211 dated 1 September 1421H (2000);
8. Private Colleges Implementing Regulations. Issued by the Council of Ministers under No. 212 dated 1 September 1421H (2000);
9. Negative List Excluded from Foreign Investment. Issued by the Supreme Economic Council under No. 17-23 dated 1 December 1423 (2002);
10. Accession to the Commission on Genetic Origins of Food and Agriculture. Issued by the Council of Ministers under No. 43 dated 6 February 1422H (2001);
11. Telecommunications Law and the approval of Saudi telecommunication governorate regulating authority. Issued by the Council of Ministers under No. 74 dated 5 March 1422H (2001);
12. Nullification of the relationship between foreign contractors and their Saudi agents. Issued by the Council of Ministers under No. 142 dated 20 May 1422H (2001);
13. Patents Law in the GCC. Issued by the Council of Ministers under No. 159 dated 1 June 1422H (2001);
14. Law of Practice of Law. Issued by the Council of Ministers under No. 199 dated 14 July 1422H (2001);
15. Industrial Estates and Technology Parks Regulating Authority. Issued by the Council of Ministers under No. 235 dated 27 August 1422H (2001);

16. Electrical Services Regulating Authority. Issued by the Council of Ministers under No. 236 dated 27 August 1422H (2001);
17. Trade Law on Agricultural Authority. Issued by the Council of Ministers under No. 35 dated 2 February 1423H (2002);
18. Private Accredited Laboratories Law. Issued by the Council of Ministers under No. 88 dated 25 January 1423H (2002);
19. Import Licensing Procedures. Issued by the Council of Ministers under No. 88 dated 6 April 1423H (2002);
20. Amendments of Trade Marks Law. Issued by the Council of Ministers under No. 140 dated 26 May 1423H (2002);
21. Approval of the Kingdom's accession to the Vienna Conventions on Treaties Law in 1969. Issued by the Council of Ministers under No. 165 dated 24 June 1423H (2002); and
22. Trade Information Law. Issued by the Council of Ministers under No. 94 dated 13 April 1423h (2002).

Moreover, other laws and regulations under different stages in the legislative process are:

1. Competition Law;
  2. Anti-dumping, Countervailing and Safeguard Measures Law;
  3. Sanitary and Phytosanitary Unified Procedures;
  4. Patents, Industrial Designs, Plant Varieties and Integrated Circuits Unified Law;
  5. Copyright Law; and
  6. Customs Measures Guidelines.
-

## Appendix 5-6: Negative List

### **WORLD TRADE ORGANIZATION**

RESTRICTED  
WT/ACC/SAU/50  
1 March 2001

(01-1018)

**Working Party on the Accession  
of the Kingdom of Saudi Arabia**

Original: English

#### **WORKING PARTY ON THE ACCESSION OF SAUDI ARABIA**

##### Foreign Investment

The Resident Representative of the Kingdom of Saudi Arabia has submitted the following communication dated 26 February 2001.

Please find attached a copy of the "Negative List" of the industrial sectors and services sectors which are excluded from foreign investment in the Kingdom. The attached list was passed by the Supreme Economic Council Resolution dated 17/11/1421 H, 11 February 2001.

The attached list was translated to the English language according to the Central Product Classification (CPC).

./.

**NEGATIVE LIST**

| <b>A.</b> | <b>INDUSTRIAL SECTOR</b>   | <b>CPC</b>   |
|-----------|--|--|
| 1.        | Exploration, mining and production of petroleum products   | -  |
| 2.        | Manufacturing of Military equipment and clothing   | -  |
| 3.        | Manufacturing of explosives for civilian use   | -  |
| <b>B.</b> | <b>SERVICES SECTOR</b>   |  |
| 1.        | Catering for Military personnel  | 643 – 641  |
| 2.        | Investigation and Security   | 873  |
| 3.        | All Insurance and Insurance-Related Services   | 812  |
| 4.        | Real estate investment in Makah Al-Mokaramah and Al-Madenah Al-Monaurah                                    | 821, 822   |
| 5.        | Travel agencies, tour operators and tourist guides services related to Hajj and Omrah                      | 7471, 7472   |
| 6.        | Placement and supply services of personnel, including labour recruitment and commercial employment offices | 872  |
| 7.        | Real estate commission services  | 821, 822   |
| 8.        | Printing and Publishing  | 88442  |
| 9.        | Distribution Services (Commission agents), (Wholesale Trade) and (Retailing)                               | 621, 622, 631 + 632, 6111 + 6113 + 6121                            |
| 10.       | Audiovisual services   | 9611, 9612, 9613, 7524   |
| 11.       | Educational Services (Primary education, Secondary education and Adult education)                          | 921, 922, 924  |
| 12.       | Telecommunications Services  | 7521, 7523, 7522, 7529, 7523, 843                                  |
| 13.       | Road and Air transport   | 7121, 7122, 7123, 7124, 6112 + 8867, 744, 731, 732, 734, 8868, 746 |
| 14.       | Services incidental to electrical energy distribution  | 887  |
| 15.       | Space transport  | 733  |
| 16.       | Pipeline transport   | 7131, 7139   |
| 17.       | Services provided by midwives, nurses, physiotherapists and paramedical personnel                          | 93191  |
| 18.       | Services incidental to fishing   | 882  |
| 19.       | Poison Centers, Blood Banks and Quarantine Services  | 9312, 93199  |

