EGYPT

In 1998, the U.S. trade surplus with Egypt was $2.4 billion, a decrease of $783 million from the U.S. trade surplus of $3.2 billion in 1997. U.S. merchandise exports to Egypt were approximately $3.1 billion, an decrease of $780 million (20.3 percent) from the level of U.S. exports to Egypt in 1997. Egypt was the United States'35gh largest export market in 1998. U.S. imports from Egypt were about $660 million in 1998, an increase of $3 million (0.4 percent) from the level of imports in1997.

The stock of U.S. foreign direct investment (FDI) in Egypt in 1997 was $1.6 billion, an increase of over 21 percent from the level of U.S. FDI in 1996. U.S. FDI in Egypt is concentrated largely in the petroleum, manufacturing, and wholesale sectors.

IMPORT POLICIES

The Government of Egypt appeared to move in contradictory directions on import policy in 1998. The government frequently reiterated its commitment to economic reform and further liberalization of its highly centralized and regulated economy, and took steps to encourage trade, including the reduction of some tariffs. Egypt ratified the WTO Agreement on Financial Services and signaled its intent to accede to the WTO Basic Telecommunications Agreement and Information Technology Agreement. However, in 1998, Egypt implemented restrictive trade measures such as a decree prohibiting transshipment of all imported durable and non-durable goods and establishing new certificate of origin requirements for those goods. Despite a series of tariff reductions, tariff rates on a number of products remain high, and mandatory quality control standards and other non-tariff barriers restrict imports of some U.S. products.

Tariffs

In 1998, Egypt reduced the maximum tariff rate on most products from 50 percent to 40 percent and consolidated rates of 35 to 45 percent at 30 percent. According to the Egyptian customs service, Egypt's average trade-weighted tariff was 15 percent in 1998. Egypt also assesses an import surcharge of 2 percent to 3 percent. Despite tariff reductions, Egypt's rates are still relatively high compared to other developing countries with large internal markets and diversified industrial economies. In addition, Egypt maintains a number of exceptions to its maximum tariff levels, as well as various surcharges and taxes on imports. High rates apply to automobiles with engines larger than 1300 cc (85 to 110 percent, plus steep sales taxes), alcoholic beverages, certain luxury items, whole poultry (70 percent), canned fruit products (55 percent), confections (21 to 70 percent), and textiles (54 percent, plus 10 percent sales tax). According to industry sources, foreign movies are subject to duties and import taxes equalling approximately 87 percent of the value of a film, as well as a 10 percent sales tax. Egypt also applies a discriminatory sales tax on high quality imported flour of 10 percent (in addition to a 5 percent tariff) which does not apply to locally produced flour. In addition, applied tariffs on several dairy products, including non-fat dry milk, whey powder, grated cheese, and processed and other cheeses, exceed Egypt's WTO-bound rates.

Customs Procedures

In 1993, Egypt adopted the harmonized system of customs classification. Nonetheless, exporters and importers claim that customs duty valuation often is arbitrary and that the rates charged often are higher than prescribed in the tariff code. Tariffs are calculated using the so-called "Egyptian selling price," based on the commercial invoice accompanying a product the first time it is imported. Customs authorities retain information from the original commercial invoice and expect subsequent imports of the same product (regardless of the supplier) to have a value no lower than that noted on the invoice from the first shipment. As a result of this presumption of increasing prices, and the belief that under-invoicing is widely practiced, customs officials routinely increase invoice values from 10-30 percent for customs valuation purposes.

In an effort to address some of these problems, Egypt is implementing an AID-funded program of training and technical assistance to automate customs valuation and processing in Egypt's major ports.

Import Bans

While Egypt has eliminated most outright import bans, the notable exceptions are the bans on poultry parts and apparel products. In accordance with its obligations under the WTO Agreement on Textiles and Clothing, Egypt lifted the import ban on most textiles on January 1, 1998. The remaining import ban on apparel is due to be eliminated in 2001. An import ban on whole poultry was removed in 1997.

Removal of an item from the banned list does not, however, eliminate all import obstacles. In the case of textiles, tariffs were set at 54 percent, plus a 10 percent sales tax, and a 1 percent service fee. In replacing the ban on whole poultry, Egypt initially set a tariff of 80 percent and introduced an arbitrary import reference prince of $1,500 per metric ton, yielding an effective tariff rate of over 100 percent. For 1999, Egypt has lowered the poultry tariff to 70 percent, in accordance with its WTO commitment to reduce the duty to 60 percent by the year 2005. Egypt also has begun to reduce tariffs on 289 other agricultural products. The United States will continue to monitor Egypt's progress on tariff reductions through the WTO Committee on Agriculture.

Although most outright import bans have been eliminated, the Egyptian Government has implemented several new measures which may have had a similar negative impact on trade. In November 1998, Egypt announced Decree 619 requiring that all consumer goods be imported directly from the country of origin. Decree 619 also imposed a certificate of origin requirement for imports. Also in November 1998, the government implemented decrees 577 and 580 stipulating that automobiles must be imported in the year of manufacture. The sudden and unexpected enactment of these decrees, as well as their impact on trade, have raised concerns among U.S. exporters. The measures also appear to be inconsistent with Egypt's GATT/WTO obligations and with the government's stated commitment to trade liberalization.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Many import items are subject to mandatory quality standards and inspections that go beyond normal health and safety requirements. As of October 1998, 135 items were subject to these controls, including foodstuffs, spare parts, construction products, electronic devices, appliances, and many consumer goods. Food imports, in particular, are subject to confusing and arbitrary quality standards. For example, Egyptian standard no. 1522 (1991) requires that meat imported for direct consumption contain no more than 7 percent fat, a level virtually impossible to reach for premium beef. As a result, U.S. exporters lose up to $2 million annually in sales of high quality beef.

While standard international practice generally allows industry to regulate the shelf-life of products, the Government of Egypt requires that many imports (mainly foodstuffs) entering Egyptian ports must have 50 percent or more of their shelf life remaining. However, Egyptian shelf life standards ignore quality differences between producers and often have been established without any scientific justification. An August 1994 decree extended shelf life standards to certain non-food imports, such as syringes and catheters.

Increasingly frustrated by problems with quarantine inspection, some importers have begun scheduling pre-inspection visits to the United States to facilitate import procedures upon arrival in Egypt. Exporters of agricultural and other products are frequently handicapped by the lack of advance notification on changes in import regulations, as in the case of new animal health requirements implemented in 1998 which restricted imports of U.S. dairy cattle. In general, Egypt should adhere to WTO guidelines on notification of changes in its import regulations.

Although Egyptian authorities stress that standards applied to imports are the same as those applied to domestically-produced goods, importers report that testing procedures for imports often differ and note that inadequately equipped labs and faulty analysis frequently result in inaccurate test results.

Further complicating import inspection procedures, five Egyptian ministries regulate agricultural imports: the Ministries of Agriculture, Health, Economy, Industry, and Scientific research. Ministry regulations sometimes conflict and often are inconsistent with international standards or practices. For example, Ministry of Health guidelines conflict with Ministry of Industry meat labeling regulations, which require that a label with the importer's name be included inside the packaging. This requirement also raises processing costs and discourages some exporters from competing in the market, generally resulting in higher prices to the consumer.

GOVERNMENT PROCUREMENT

Egypt is not a signatory of the WTO Agreement on Government Procurement. In 1998, Egypt passed a law outlining new regulations for government procurement. Among its provisions, the new law prohibits transforming a bid into a tender (a major defect of earlier legislation). In addition, it mandates that technical factors be considered in addition to price in the awarding of contracts. Previously, publicly-owned companies received preference, but under the new law, this preference only applies when the bid of the publicly-owned firm is within 15 percent of the other bids. The law also seeks to increase contractor rights through such steps as mandating the immediate return of deposits once the government announces the results of a tender. This law makes a number of positive changes to Egypt's government procurement practices, among them the requirement for an explanation of the grounds for a contract award. Concerns about transparency remain, however. For example, the Prime Minister has the authority to authorize the method of tendering for specific entities according to terms, conditions and rules which he determines.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Egypt is a member of the World Trade Organization (WTO), but as a least developed country the Egyptian Government may avail itself of a transitional period for complying with obligations under the Trade Related Aspects of Intellectual Property (TRIPs) Agreement. Egypt is a member of the World Intellectual Property Organization (WIPO), and is a signatory to Berne Convention for the protection of literary and artistic works (copyright) and the Paris Convention for the protection of industrial property (patent and trademark), and the Madrid Agreement Concerning the International Registration of Marks (Stockholm Act of 1967). The U.S. Trade Representative placed Egypt on the "Special 301" Priority Watch List in 1997 and 1998 due to a lack of progress in patent protection and in the enforcement of copyright protection despite an extensive program of assistance in the intellectual property area.

Egypt took measures in 1998 that could contribute positively to IPR enforcement and administration in the future. Progress was achieved in strengthening the operational and management capacities of its patent and trademark office, and the government adopted an "IPR reform plan" which includes plans to meet WTO TRIPs requirements as outlined below.

Copyrights

Since 1997, Egypt has strengthened the enforcement of copyright protection laws already on the books, although enforcement remains erratic and inadequate. Law 29 of 1994 amended the copyright law (Law 38 of 1992) to ensure that computer software was afforded protection as a literary work, allowing it a 50-year protection term. Law 38 of 1992, an amendment to the out-of-date 1954 copyright law, increased penalties against piracy and provided specific protection to computer software. A 1994 decree also clarified rental and public performance rights, protection for sound recordings, and the definition of personal use. Copyright piracy continues to affect most categories of works, including motion pictures (in video cassette format), sound recordings, printed matter (notably medical textbooks), and computer software. The U.S. motion picture industry alone is estimated to have lost $11 million in 1998 due to audiovisual piracy.

In the area of software piracy enforcement, the Government of Egypt has failed to target major pirate producers, and instead focused on small-scale end users. Much remains to be done in this area, including eliminating the use of pirated software and unauthorized copying of licensed software by government ministries and providing effective enforcement against major end-users of pirated materials.

Patents

The existing Egyptian patent law (Law 132 of 1949) provides protection below international standards. It contains overly broad compulsory licensing provisions and excludes from patentability substances prepared or produced by chemical processes if such products are intended for food or medicine. The patent term is 15 years from the application filing date, compared with the international standard of 20 years. A 5-year renewal may be obtained only if the invention is of special importance and has not been adequately worked to compensate patent holders for their efforts and expenses. In the area of pharmaceuticals and medicines, manufacturing processes are patentable, but the term for process patents is only 10 years. Compulsory licenses, which limit the effectiveness of patent protection, are granted if a patent is not worked in Egypt within three years or is worked inadequately.

Since 1992, U.S. experts have met regularly with Egyptian experts responsible for revising the patent law. Egypt has drafted, but not passed, legislation designed to improve patent protection by providing product versus process patents, and increasing the protection period to 20 years, and offering some limited improvements in the area of compulsory licensing. However, the government may opt to delay implementation of the legislation, once passed, to take advantage of the transition period for product patent protection for pharmaceuticals through 2005 granted to least developed countries under the WTO TRIPs agreement. The United States has conveyed its serious concerns to the Government of Egypt in this regard, and requested that Egypt expedite patent protection for pharmaceutical products.

Trademarks

Egypt is considering completely revising its laws in order to enhance significantly legal protection for trademarks and industrial designs. The current trademark law, Law 57 of 1939, is not enforced strenuously and the courts have only limited experience in adjudicating infringement cases. Fines amount to less than $100 per seizure, not per infringement. Judgments and enforcement must be made separately in each of the 26 governorates. In addition, in recent months, recording companies have experienced difficulties when attempting to transfer trademark registrations from one local agent to another. Egyptian Government employees undertook substantial USAID-funded training in 1998, training which should improve the quality and transparency of the trademark registration system.

Other Industrial Property

Trade Secrets: Egypt has no specific trade secrets legislation. Protection of commercially valuable information is possible through contractual agreement between parties. Breach of contractual terms of protection can be remedied in legal proceedings under either the civil or criminal code, depending on the severity of the damage caused.

Semiconductor Chip Layout Design: There is no separate legislation protecting semiconductor chip layout design, although Egypt signed the Washington semiconductor convention.

SERVICES BARRIERS

The government passed legislation in 1998 which has the potential to significantly expand the role of the private sector in the banking and finance sectors. Laws were also passed reducing the government's monopolies on airport and port services. Private firms continue to dominate advertising, accounting, car rental, and a wide range of consulting services. Egypt is a signatory of the 1997 WTO Agreement on Financial Services.

Banking

The government in 1998 enacted legislation authorizing the privatization of Egypt's public sector banks. There is no announced time line for privatization of a state-owned bank. The law allows foreign ownership. Implementing regulations place a 10 percent cap on shares owned by any one party. In June1996, the People's Assembly passed a bill amending the banking law and allowing foreign ownership in joint venture banks to exceed 49 percent, thus encouraging greater competition.

Since March 1993, Egypt has allowed existing foreign bank branches to conduct local currency operations. Two U.S. bank branches have received licenses to do so. However, most foreign bank branch operations are subject to a government economic needs test which can be used to limit foreign access to the market.

Securities

International investors are permitted to operate in the Egyptian stock market largely without restriction. Foreign brokers, including U.S. and European firms, are permitted to operate in the Egyptian stock exchange and have established or purchased stakes in brokerage companies. Egypt's WTO financial services commitments in the securities sector provide for unrestricted market access and national treatment in the sector.

Insurance

Foreign participation in Egypt's insurance market was first permitted by a 1995 law allowing foreign companies to hold up to a 49 percent stake. Egypt passed an insurance law in 1998 which permits private sector entry into the capital of Egypt's three state-owned insurance companies. The law also removed all restrictions on minority foreign ownership of insurance firms and abolished the ban on service by foreign nationals as corporate officers. As in the banking sector, no target date has been announced for the privatization of a public sector insurance firm. Several foreign firms are awaiting approval of their applications to establish majority shares in existing joint venture firms or new companies. Egypt continues to prohibit foreign insurance companies from establishing agencies or branches. In its offer under the WTO Agreement on Financial Services, Egypt committed to relax its economic needs test in life, health, and personal accident insurance in the year 2000 and in non-life insurance in the year 2002. Egypt also made commitments to allow life and reinsurance brokerage on a cross border basis. However, foreign insurance brokerage firms still are not permitted to establish offices in Egypt.

Telecommunications

Egypt took major steps in 1998 to begin to open its telecommunications market to international participation. Two key government actions in 1998 altered the structure of Egyptian telecommunications: the March 1998 law establishing Telecom Egypt and the awarding of two mobile phone licenses to private sector-led consortia.. The March 1998 law laid the basis for changing the national telecommunications company (Arento) into Telecom Egypt, a joint stock company. Telecom Egypt currently is working to effect the managerial and legal changes needed to prepare the firm for offering to private investors, a step not expected to occur for two to three years. According to private sector analysts, Telecom Egypt also is working to improve the transparency and quality of its accounting, a key concern for potential future investors. In line with provisions of the March 1998 law, the government must maintain a majority share in Telecom Egypt and is not expected to sell more than 20 percent of the company.

The awarding of two licenses for the provision of mobile telephone services (to Misrfone and Mobinil) marked the first major entry of the private sector as operators in this sector. Telecom Egypt also awarded contracts to two firms to install and link-up pay phones. Foreign firms actively compete for contracts as Telecom Egypt works to expand and modernize its networks and switching equipment. However, in general, Telecom Egypt does not buy consulting or management services, and foreign firms do not currently play a significant operating role in Egypt's grid.

In 1998, the government indicated its intent to accede to the WTO Basic Telecommunications Agreement and the Information Technology Agreement. In addition, Telecom Egypt has been exploring ways to add value-added services to its network. These developments, and the 1998 actions which laid a base for privatizing part of Telecom Egypt, suggest that there may be growing prospects for U.S. firms in this sector.

Maritime and Air Transportation

In 1998, the government amended a 1964 law establishing the General Egyptian Maritime Organization to permit the private sector to carry out most maritime transport activities, including loading, supplying, and repairing ships. This measure ended the government's long-held monopoly in this sector. Egypt also passed a law permitting private firms to build and operate new airports.

Other Service Barriers

Egypt maintains several other barriers to the provision of services by U.S. firms. Foreign motion pictures are subject to a screen quota and limitations on the number of prints of a foreign film a distributor may import. Private and foreign air carriers may not operate charter flights to/from Cairo except with the approval of the national carrier. Only Egyptian nationals may become certified accountants.

INVESTMENT BARRIERS

Under the 1992 U.S.-Egypt Bilateral Investment Treaty (BIT), Egypt is obliged to maintain critical elements of an open investment regime, including national and MFN treatment of foreign investment (with exceptions limited by the Treaty), free financial transfers, and international law standards for expropriation and compensation. Moreover, the BIT establishes procedures for U.S. investors in Egypt to directly enforce the Treaty's obligations, including international arbitration. Generally, current Egyptian law meets or surpasses BIT standards in all categories.

A 1997 law reaffirmed basic guarantees for investors and modified the framework for investment incentives. It offers automatic approval for most new- to-market companies and particular advantages for investors in 16 sectors including agriculture, maritime, transportation, and computer software development. Automatic approval does not extend to military and related products. The 1997 law permits the General Authority for Free Zones and Investment (GAFI), now a unit of the Ministry of Economy, substantial discretion in granting investment incentives. In general, incentives are geographically based to encourage investment outside Cairo, with tax holidays up to 20 years available to companies located in parts of upper Egypt. Current tax law does not grandfather favorable tax treatment to investments in expanded capacity in existing operations.

The People's Assembly amended the Companies Law (Law 159 of 1981) in 1998 to streamline procedures for establishing a new firm. In addition, the government reaffirmed its commitment to introduce a "unified" companies law to rationalize the multiple laws addressing incorporation procedures and eligibility for tax benefits and other incentives, although it did not set a target date for this effort.

Under the WTO Agreement on Trade-related Investment Measures (TRIMs), Egypt must notify WTO members of measures that are inconsistent with its obligations under that agreement, and eliminate these measures before January 1, 2000. Egypt maintains preferential tariff rates for auto parts, which are granted in exchange for reaching specified levels of local content. Because Egypt, in its notification, stated that it had no local content provisions in the automobile sector, it appears to be in violation of its commitments under the TRIMs Agreement. U.S. companies have complained about this practice and about Egypt’s prohibitive tariff rates on a number of imported parts, which makes locally-produced products such as automobiles and boilers too expensive to export.

ANTICOMPETITIVE PRACTICES

Egypt does not have a basic law prohibiting anticompetitive practices of monopolies, cartels, or conflicts of interest. Given the relatively small size of the economy, most sectors are dominated by only a few players, whether private or public. Thus, anticompetitive practices are a structural feature of the economy. Egypt is in the process of developing an antitrust law which is expected to incorporate aspects of earlier legislation on dumping, monopolies, and price fixing.

ELECTRONIC COMMERCE

There are no specific barriers to electronic commerce in Egypt. Egypt has played an important role in WTO meetings on electronic commerce, circulating a paper associating the sophistication of telecom infrastructure in lesser-developed countries with the ability to succeed in the electronic commerce environment. Nonetheless, Egypt has not yet joined the Information Technology Agreement or made basic telecommunications commitments in the General Agreement on Trade in Services (GATS).

OTHER BARRIERS

The government controls prices in the important energy and pharmaceuticals sectors. In many instances, the government has not allowed pharmaceutical prices to rise with general inflation. U.S. and other foreign firms must therefore navigate in a pharmaceutical market featuring some of the lowest drug prices in the world. Foreign companies occasionally allege discrimination in the granting of price increases. In addition, many regulations regarding manufacture and registration of pharmaceuticals are opaque and vague. Furthermore, Egypt bans the import of many pharmaceuticals in finished dosage forms, and requires foreign companies to license the manufacture and sale of imported drugs to local companies.

While Egypt’s business climate is steadily improving, the country continues its transition from a command to a market economy. Lack of transparency, excessive bureaucracy and red tape, and low-level corruption are barriers to doing business in Egypt.