EGYPT

In 1996, the U.S. trade surplus with Egypt was $2.5 billion, an increase of $102 million from the U.S. trade surplus of $2.4 billion in 1995. U.S. merchandise exports to Egypt were $3.1 billion, an increase of $161 million (5.4 percent) from the level of U.S. exports to Egypt in 1995. Egypt was the United States' thirty-fourth largest export market in 1996. U.S. imports from Egypt were $665 million in 1996, an increase of $59 million (9.7 percent) from the level of imports in 1995.

The stock of U.S. foreign direct investment (FDI) in Egypt in 1995 was $1.4 billion, a decrease of 0.2 percent from the level of U.S. FDI in 1994. U.S. FDI in Egypt is concentrated largely in the petroleum, banking, and manufacturing sectors.

IMPORT POLICIES

U.S. exports face a number of import barriers, such as high tariffs and quality control requirements that discriminate against imports. In 1996, Egypt's new prime minister reaffirmed the country's commitment to an economic reform program, supported by the IMF and the World Bank, to liberalize Egypt's highly centralized and regulated economy. Trade liberalization is an integral element of Egypt's reform program. Egypt acceded to the World Trade Organization (WTO) in April 1995.

Tariffs

Egypt's current customs regime came into effect in 1986, significantly reducing tariffs. Further reductions were made in 1990, 1991, 1993, 1994, and 1996. Nevertheless, Egyptian tariffs are still relatively high compared to other developing countries with large internal markets and diversified industrial economies.

Since 1990, Egypt has gradually rationalized and lowered its tariff schedule, although some exceptions remain in place. In early 1993, the tariff range was narrowed to between 5 and 80 percent. In March 1994, Egypt further reduced tariffs. The maximum tariff rate was cut to 70 percent, and tariffs between 30 and 70 percent were reduced by 10 percentage points. In February 1995, the government reduced the customs duty on 18 categories of machinery and other durable imported goods to a flat rate of 10 percent. In January 1996, the government made a similar reduction on 25 other capital commodities. On October 1, 1996, Egypt reduced tariffs across the board by 10 to 15 percent, lowering the maximum tariff from 70 to 55 percent.

As for exceptions, high rates still apply to automobiles with engines larger than 1300cc (135 percent), alcoholic beverages, certain luxury items, and poultry. Further, Egyptian customs assess a service fee of 3 to 4 percent on imports, depending on the tariff applied. In addition, Egypt discriminates against imported flour by charging a 10 percent sales tax (in addition to customs duties), which does not apply to locally produced flour.

Egypt

Customs Procedures

In 1993, Egypt adopted the harmonized system of customs classification. Exporters and importers claim, however, that customs duty assessment is often arbitrary, and rates charged are often higher than those in in the tariff code. Tariff valuation is calculated from the so-called "Egyptian selling price," which is based on the commercial invoice that accompanies 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 to 30 percent for customs valuation purposes.

Import Bans

All commodities may be imported freely into Egypt upon payment of the assigned duty, except for those on a list of items banned from import. The import ban now applies only to textiles, apparel (to be abolished after the WTO's eight year transition period for textile expires), and poultry (currently maintained in apparent violation of WTO commitments).

Exemptions from the import ban list significantly reduce its impact. According to August 1993 regulations, an item may be imported if it is required for the petroleum, military, tourism or civil aviation sectors, or is a necessary production input approved by the appropriate minister. Because of these exemptions, the ban list has had a limited impact on U.S. exports, with the exception of poultry. Despite complaints by the United States in the WTO's Agriculture Committee, Egypt has not removed poultry from the import ban list.

Despite this progress, Egypt imposes obstacles to importing previously-banned products. Substantial increases in the duty rates of several products such as tractors, cement, and frozen vegetables were imposed immediately after their removal from the ban list in August 1992. The tariff on poultry, which remains on the import ban list, was increased from 5 to 70 percent.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Many items removed from the ban list, including meats, fruits, vegetables, household appliances, and transformers, were added to the list of commodities requiring inspection for quality control before importation. Agricultural commodities have been increasingly subject to quarantine inspection, so much so that some importers have begun scheduling pre-inspection visits to the U.S. to facilitate import procedures upon arrival in Egypt. In August 1994, five more items were added to the quality control list, which now consists of 131 items, including foodstuffs, spare parts, construction products, electronic devices, appliances, and many consumer goods.

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 differ and that tests are carried out with faulty equipment by testers who often make arbitrary judgments.

Five Egyptian ministries or agencies make rules for agricultural imports and issue permits: agriculture, health, economy, industry, and scientific research. The rules conflict and are not in accordance with international practice. For example, the Ministry of Health's regulations for labeling processed food conflict with those of the Ministry of Industry.

Further, Egypt sets the shelf life of processed foods by regulation, as opposed to the standard international practice of allowing producers to determine the life of their product. Early in 1994, the government decreed that food and certain other products entering Egyptian ports should have 50 percent or more of their shelf life remaining. Egyptian shelf life standards ignore quality differences between producers and often have been established without scientific basis. An August 1994 decree extended shelf life standards to certain non-food imports, such as syringes and catheters.

Product specifications also can be a barrier to trade. For example, the Ministry of Health requires that beef imported for direct human consumption have less than 7 percent fat, a level virtually never attained even in premium beef exports. Sales of up to $2 million of high quality U.S. beef annually have been jeopardized. Substantial sales of U.S. apples are estimated to be lost each year because the Ministry of Agriculture claims that the presence of dead insects constitutes a threat to local agriculture. The same concern over dead insects leads to mandatory refumigation of numerous grain shipments, significantly adding to the overall cost of importing the commodities.

Additional burdens to importers are caused by the Ministry of Agriculture's ability to refuse entry to imports because of the presence of cotton seeds, which ostensibly could harm Egypt's most important cash crop. Importers allege that cotton seeds are regularly "found" by inspectors in efforts to extort payments.

GOVERNMENT PROCUREMENT

Egypt by law gives national bidders a 15 percent price advantage. Closed bidding is rare, as national law requires tendering for all significant projects. Although the law states that no negotiations to modify tenders may take place except in final sessions with the lowest bidder, in practice bargaining with several competing low bidders is routine. The tender process is subject to frequent complaints of lack of transparency, poor enforcement of rules, and rigged outcomes. U.S. companies claim that European and Asian competitors make payments to win tenders that are forbidden under by U.S. law. Such claims are difficult to assess. Egypt is not a signatory of the WTO Government Procurement Agreement.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Egypt, as a party to the Berne Convention for the Protection of Literacy and Artistic Works and the Paris Convention for the Protection of Industrial Property, bears a commitment to protect U.S. inventions, trademarks, and artistic works. The government passed an improved copyright law in 1992 and added software protection in early 1994.

In April 1994, the U.S. Trade Representative (USTR) lowered Egypt from the "priority watch list" to the "watch list" due to improvements in copyright protection, and in April 1995, the USTR placed Egypt on the list of countries "to be monitored for progress achieved." In April 1996, Egypt was placed on the

Special 301 “watch list.” The United States is working closely with Egypt to improve intellectual property rights protection.

Copyrights

Copyright piracy, while still an issue, has been greatly reduced since 1993. It still affects most categories of works, including motion pictures (in video cassette format), sound recordings, printed matter (notably medical textbooks), and computer software.

The People's Assembly passed amendments to Egypt's 1954 copyright law in June 1992. Penalties against piracy were increased substantially and computer software was afforded specific protection. In March 1994, the People's Assembly passed additional amendments which treat computer software as a literary work, thus ensuring a fifty year term of protection consistent with the Berne Convention.

In April 1994, a ministerial decree established explicit protection for sound recordings, including rental rights and narrowed provisions for personal-use copying of computer software. The government made considerable progress in enforcing the new regulations in the business community, although much work remains to be done.

In a positive development, Egypt eliminated in 1993 its quota of 20 video cassette titles per foreign licensee. However, U.S. industry reports other discriminatory practices, including higher taxes applied to foreign-produced films and a screen quota which gives priority to exhibition of Egyptian films at certain times during the year.

Patents

The existing Egyptian patent law dates from 1949 and provides protection far 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 to be used as food or medicine. Moreover, the patent term is only 15 years from the application filing date, compared to 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.

Compulsory licensing limits the effectiveness of patent protection. A compulsory license may be granted if the patent is not worked or is inadequately worked within three years following the patent grant. The law does not provide for the alternative period of four years from the date of filing, as the Stockholm Act of the Paris Convention requires. A patent may be forfeited for non-working two years after issuance of the first compulsory license. The Egyptian law's definition of infringement does not include the use, sale, or importation of a product manufactured through a process patented in Egypt.

In 1993 and 1994, U.S. experts met with Egyptian experts responsible for revising the patent law. The draft represents substantial progress toward implementation of a modern patent law. However, this legislation has never been finalized and submitted to the People’s Assembly.

The United States remains very concerned that Egypt has not yet passed a new, modern patent law. In addition, the United States is concerned about a delay in the implementation of pharmaceutical product protection until the year 2005. The value of U.S. export sales to Egypt lost due to deficient patent protection is unknown. Egypt has indicated that it is likely to submit an improved, new patent law to the People's Assembly soon, although the government did not do so during 1996.

Trademarks

Allegations of trademark infringement are made periodically by U.S. and other foreign firms operating in Egypt. The Egyptian trademark law 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, although criminal penalties are theoretically available. Egypt is currently considering revising its laws in order to significantly enhance legal protection for trademarks and industrial designs.

SERVICES BARRIERS

Insurance

A law passed in 1995 permits foreign companies to hold a minority stake in Egyptian insurance companies. Foreign firms may also operate as majority share holders in the free trade zones and in reinsurance, neither of which is likely to prove attractive to foreign investors. Four public-sector companies (one of which is a reinsurance company) dominate the market, although three private-sector Egyptian companies exist. Two joint ventures, with 49 percent foreign ownership, operate in the free trade zones.

Other Services Barriers

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. Foreign brokers are permitted to operate in the Egyptian stock exchange. In June 1996, the Egyptian Parliament passed a bill amending the banking law to allow foreign ownership in joint venture banks to exceed 49 percent, thus encouraging greater competition.

Despite these positive developments, Egypt maintains several barriers to the provision of services by U.S. firms. For example, only Egyptian nationals may become certified accountants. Private and foreign air carriers may not operate charter flights to and from Cairo except with the approval of the national carrier. As noted above, a screen quota exists for foreign motion pictures, and there is regular censorship of films and printed materials. Egypt has begun to open its telecommunications market to international participation by negotiating large build-own-operate-transfer style contracts with U.S. and other foreign companies.

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 enforce the treaty's obligations, including through international arbitration. Generally, current Egyptian law meets or surpasses BIT standards in all categories. Although new laws and regulations are being drafted, company formation and operations are still hampered by an outdated and unnecessarily complex regime.

In principle, investors are now assured of automatic approval for projects in sectors which do not appear on a "negative list." This "negative list" includes the following: military and related products; tobacco and tobacco products; and investments in the Sinai (except for exploration of oil, gas, and mineral resources). Amendments in 1995 permit majority Egyptian investments in the Sinai in any sector.

Despite liberalization, new investments benefiting from incentives offered under Law 230 (under which most foreign investments are registered) must be approved by the General Authority for Foreign Investment (GAFI). This process often causes lengthy delays, since GAFI's board meets on an irregular basis. In January 1996, the government announced that investment could begin without prior GAFI approval. While promising, the impact of this change remains unclear.

Review of applications for investments under Law 159 (which covers national firms that do not benefit from special incentives) often take six months even if the investments at issue do not appear on the "negative list." The United States addressed liberalization of Egyptian investment screening requirements within the Uruguay Round negotiations on TRIMs and continues to discuss the topic bilaterally.

ANTICOMPETITIVE PRACTICES

Egypt does not have laws prohibiting 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 hopes to pass an antitrust law during 1997.

OTHER BARRIERS

Outside of energy, pharmaceuticals is the most important area in which prices are controlled. In many instances, the government has not allowed pharmaceutical prices to rise with general inflation. As a result, Egypt has some of the lowest drug prices in the world, and many foreign (including U.S.) companies are losing money on some products. Foreign companies occasionally allege discrimination in granting of price increases. However, pricing of new-to-market drugs is administered fairly, using a cost-plus formula agreed to with the World Bank. Another area of difficulty for foreign pharmaceutical companies is that the Ministry of Health does not allow more than four similar drugs in the market, reducing companies' ability to expand their product lines.