EGYPT

In 1997, the U.S. trade surplus with Egypt was $3.2 billion, an increase of $702 million from the U.S. trade surplus of $2.5 billion in 1996. U.S. merchandise exports to Egypt were $3.8 billion, an increase of $694 million (22 percent) from the level of U.S. exports to Egypt in 1996. U.S. imports from Egypt were $658 million in 1997, a reduction of $7 million (1.1 percent) from the level of imports in 1996.

The stock of U.S. foreign direct investment (FDI) in Egypt in 1996 was $1.6 billion, compared to $1.4 billion in 1995. 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 June 1995.

Tariffs

Egypt's current customs regime came into effect in 1986, significantly reducing tariffs. Further reductions have been made in five of the past seven years, including in 1997. With some exceptions, Egypt's maximum tariff stands at 50 percent, with a trade weighted average of 17 percent in 1996. 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. In early 1993, the tariff range was narrowed to between 5 and 80 percent, although some exceptions were maintained. In March 1994, 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 capital commodities.

Effective October 1, 1996, Egypt again reduced tariffs across the board by 10 to 15 percent, lowering the maximum tariff from 70 percent to 55 percent. The maximum tariff was further reduced to 50 percent in July 1997. Another round of cuts in August 1997 lowered rates on a number of selected capital and consumer goods. Rates went from 30 percent to 5 percent on computer software, from 30 percent to 15 percent on various processed foods, and from 35 percent to 10 percent on gold jewelry.

As for exceptions, high rates still apply to automobiles with engines larger than 1300cc (135 percent), alcoholic beverages, certain luxury items, poultry, and textiles. Egyptian customs assess a two or three percent service fee on imports, depending on the tariff applied. Items having tariffs of less than 30 percent are subject to a 2 percent service fee and items subject to tariffs higher than 30 percent are subject to a service fee of 3 percent. In addition, Egypt discriminates against some imports by imposing offsetting sales taxes. For example, imported flour carries a 10 percent sales tax (in addition to customs duties), which does not apply to locally produced flour.

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 prescribed 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 10-30 percent for customs valuation purposes.

Import Bans

All commodities may be freely imported into Egypt upon payment of the assigned duty and provided they may meet existing import requirements, except for poultry parts and certain textiles and apparel items on a list banned from import. 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.

Despite this progress, Egypt imposes obstacles to imports of previously-banned products. The tariff on whole poultry, removed from the ban in July 1997, was set at 80 percent, but also pegged to an import reference price, thus effectively raising the applicable duty rate to over 100 percent of the C&F price. The impact on U.S. export sales has yet to be calculated. Egypt is committed to cut its poultry tariff to 60 percent by 2005. Egypt has started the reduction of tariffs on 289 agricultural products and will soon start the cut in whole poultry tariffs. The U.S. will continue to monitor Egyptian progress in the WTO Committee on Agriculture.

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. Tariffs on these items were set at 54 percent, plus a 10 percent sales tax, and a percent service fee.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Egypt requires many imports to be inspected for quality control before importation. The list now consists of 131 items, including foodstuffs, spare parts, construction products, electronic devices, appliances, and many consumer goods. 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.

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 (mainly food) products entering Egyptian ports must 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, Egyptian Standard No. 1522 of 1991 concerning inspection of imported frozen meat requires that meat imported for direct consumption contain no more than 7 percent fat, a level virtually never reached in premium beef exports. Sales of up to $2 million of high quality U.S. beef annually have been jeopardized.

Decrees recently issued by the Ministry of Agriculture and Ministry of Trade and Supply are expected to have an immediate detrimental effect on U.S. exports of meat and poultry to Egypt, unless current efforts to have them modified or rescinded are successful. For example, a decree issued by the Ministry of Trade and Supply in November 1997 requires, inter alia, that the name and address of the Egyptian importer be included on the label which must be inserted in each package. That information often is not available at the time the product is packed. The decree signed by the Minister of Agriculture, but not yet in effect, would require Egyptian importers to cover the cost of pre-inspection at site of all consignments destined for the Egyptian market, a cost that importers who deal in small quantities will not be able to afford.

GOVERNMENT PROCUREMENT

Egypt by law gives national bidders a 15 percent price advantage on government tenders. Closed bidding is rare, as a national law requires tendering for all significant projects. The tender process is subject to frequent complaints of lack of transparency, poor enforcement of rules, and rigged outcomes. As in other markets, U.S. companies claim that European and Asian competitors make payments to win tenders that are forbidden under U.S. law. Such claims are difficult to assess. Egypt is not a signatory of the WTO Government Procurement Agreement.

The government recently proposed amendments to its 1983 procurement law to the Egyptian parliament, but withdrew them for further study before the last session ended in June 1997. However, changes to the 1994 statute governing arbitration approved in 1997 allow the parties to agree to appoint any accepted legal body to arbitrate disputes between public enterprises and private domestic and international suppliers. In the past, the only recourse was the state council, which was taking years, in some cases, to settle disputes.

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, is obligated to protect U.S. artistic works, inventions, and trademarks. The government passed an improved copyright law in 1992 and added software protection in early 1994.

The United States is working closely with Egypt to improve intellectual property rights protection. However, due to lack of progress in this area, the U.S. Trade Representative placed Egypt on the Special 301 "watch list" in 1996 and the "priority watch list" in 1997.

Copyrights

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

The People's Assembly passed amendments to Egypt's 1954 copyright law in June 1992. Penalties against piracy were increased 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 WTO TRIPs Agreement. The government initially made considerable progress in enforcing the new amendments, but suspended enforcement for a one year period beginning in June 1996. The U.S. government and U.S. firms have worked closely with Egypt in this area, and steps to combat software piracy were resumed in August 1997. However, much remains to be done, including curbing the use of unauthorized software by government ministries and providing effective enforcement against end-user video, sound recording and book piracy.

Patents

The 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 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.

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 made using a process patented in Egypt.

Since 1992, U.S. experts have met regularly with Egyptian experts responsible for revising the 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 U.S. is concerned about a delay in 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 improved, new patent legislation to the People's Assembly soon, although it did not do so during 1997.

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 completely revising its laws in order to enhance significantly legal protection for trademarks and industrial designs.

SERVICES BARRIERS

The Egyptian government maintains a monopoly on many service industries either partially or entirely, including notably airports and ports. However, private firms dominate advertising, accounting, car rental, and a wide range of consulting services. Egypt made commitments as part of the 1997 WTO Financial Services Agreement, and is currently modifying laws and regulations in accordance with its commitments.

Banking

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. Foreign brokers are permitted to operate in the Egyptian stock exchange. In June 1996, the parliament passed a bill amending the banking law and allowing foreign ownership in joint venture banks to exceed 49 percent, thus encouraging greater competition. Egypt made commitments in the WTO which reflect this change in law.

In 1997, the privatization of one of the four national banks, which dominate the market with more than 70 percent of deposits, was under discussion. An amendment to the banking law has to be passed in order to allow the privatization.

Securities

International investors are permitted to operate in the Egyptian stock market largely without restriction. Several new entrants, including U.S. and European firms, have established or purchased stakes in brokerage firms in 1997. Egypt's WTO financial services commitments in the securities sector guarantee unrestricted market access and national treatment in the sector.

Insurance

A law passed in 1995 permits foreign companies to hold minority stakes 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 since the activities in the free trade zones are limited and since Egypt requires mandatory cessions in the reinsurance market.

Four public-sector companies (one of which is a reinsurance company) dominate the market. There are five private sector insurance companies, three of which are joint ventures with U.S. firms. Two of the joint ventures are operating in the free zones. Effective January 1, 1998, foreign insurance companies can operate in Egypt with up to 100 percent ownership, but only in free trade zones.

In the WTO financial services negotiations, Egypt committed to eliminate the 49% foreign equity restrictions for operations outside the free trade zones by December 31, 1999 and allow up to 51% foreign equity. Egypt, however, still prohibits foreign insurance companies to set up agencies or branches. In its WTO offer, 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 but made no commitments to allow brokerage firms to establish in Egypt to provide services via a commercial presence - an aspect of the Egyptian market which still remains closed to foreign firms.

Telecommunications

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. These contracts include fixed line and equivalent services as well as pay telephones. The former ARENTO (Arab Republic of Egypt National Telecommunications Organization) which became known as TELECOM Egypt in 1997, is also preparing to spin off mobile telephone operations to a new company or companies with some private ownership. Mobile telephone became available in Egypt in November 1996 and demand is high.

Egypt was not a signatory to the WTO Basic Telecommunications Agreement concluded in February 1997 and was not involved in the negotiations. Improvement in TELECOM Egypt procurement procedures and the overall regulatory framework of the multi-billion dollar Egyptian telecommunications market would help ensure that U.S. firms can compete fairly.

Maritime Transportation

Maritime transport lines have in recent history been operated as a government monopoly. As of January 6, 1998, this changed when the Egyptian parliament passed a law allowing private ownership of maritime transportation companies. Inefficient state run ports and airports have imposed heavy costs on the Egyptian economy, constituting a barrier to increased trade and investment.

Other Service Barriers

Egypt maintains several other barriers to the provision of services by U.S. firms, including a screen quota for foreign motion pictures. 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 enforce the treaty's obligations directly including through international arbitration. Generally, current Egyptian law meets or surpasses BIT standards in all categories.

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 military and related products, as well as investment 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.

In May 1997, President Mubarak signed a new law reaffirming basic guarantees for investors and modifying 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. Changes to Egyptian laws governing company formation were not included in the legislation as expected, but may go before the Egyptian parliament in 1998.

The new law still 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. As a result, grandfathering of pre-existing incentives has been denied to some recently established U.S. companies for planned expansions of operations in major cities.

Egypt has notified to the WTO measures that are inconsistent with its obligations under the WTO Agreement on Trade-Related Investment Measures (TRIMs). The measures deal with local content requirements in the economy in general. Proper notification allows developing-county WTO Members to maintain such measures for a five-year transitional period after entry into force of the WTO. Egypt therefore must eliminate these measures before January 1, 2000. The United States is working in the WTO Committee on TRIMs to ensure that WTO Members meet these obligations.

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 anti-competitive practices are a structural feature of the economy. Egypt hopes to pass an anti-trust law in 1998. Aspects of various laws dating from the 1960s and 1970s addressing dumping, monopolies, and price fixing will be affected.

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 investors (including U.S.) companies are losing money on some products. Foreign companies occasionally allege discrimination in granting of price increases.

While Egypt's business climate is steadily improving, the country is still in transition from a command to a market economy. Lack of transparency, excessive bureaucracy and red tape, and low- level corruption can also be seen as serious barriers to doing business in Egypt.