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Egypt

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Foreword

This publication is based on a report prepared to support the examination of Egypt by the OECD Investment Committee as part of the process of Egypt's adherence to the OECD Declaration on International Investment and Multinational Enterprises. *This examination took place in March 2007 at OECD headquarters in Paris, France. The Egyptian delegation was led by Egypt's Minister of Investment, H.E. Dr. Mahmoud Mohieldin. The report benefited from the views of the Egyptian authorities, members of the OECD Investment Committee, and consultations with the private sector and other partners.*

The documentation underpinning the report was prepared by Michael V. Gestrin, Senior Economist in the Investment Division, headed by Pierre Poret, in the OECD Directorate for Financial and Enterprise Affairs. Other parts of the OECD Secretariat which contributed inputs included the Centre for Tax Policy and Administration, the Competition Division, the Anti-Corruption Division and the Trade Directorate. Sebastian Gerlach, Investment Division, assisted in the development of Annex F of the report. The Investment Division's communication officer is Pamela Duffin.

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Preface

On 11 July 2007, Egypt became the 40th country to adhere to the OECD Declaration on International Investment and Multinational Enterprises. *This Declaration is a way for governments to commit to improving their investment climates, ensuring equal treatment for foreign and domestic investors and encouraging the positive contribution that multinational companies can bring to economic and social progress.*

The OECD's invitation to adhere to the OECD Declaration comes in recognition of Egypt's impressive progress in recent years in pursuing policy reforms aimed at improving the country's investment climate. This report, which is the result of a co-operative effort between Egypt and the OECD Investment Committee, uses a new OECD policy instrument, the Policy Framework for Investment, to review Egypt's achievements and consider remaining challenges that lie ahead.

Egypt's adherence to the Declaration will ensure that the benefits which both Egypt and the OECD have drawn from their recent close co-operation will continue. Egypt will be better able to draw on the OECD's large fund of experience with international investment issues through regular participation in the work of the OECD Investment Committee. On the other hand, the work of the OECD will be enriched by Egypt's unique experience, being the first Arab and African country to adhere to the OECD Declaration and the current Chair of the Middle East and North Africa (MENA) OECD Investment Programme. Together, we hope and expect that Egypt's adherence to the OECD Declaration will mark the beginning of an even deeper and more fruitful co-operation in the future.

H.E. Mahmoud Mohieldin
Minister of Investment of Egypt

Angel Gurría
Secretary-General of the OECD

Executive Summary and Recommendations

International direct investment inflows to Egypt have increased rapidly in recent years…

Historically, Egypt has not been a major destination for international direct investment. However, inward flows have been rising rapidly and steadily in recent years. Between 2000/01 and 2006/07, foreign direct investment (FDI) inflows increased more than fifteenfold. The distribution of these flows has also been changing, with the share of flows going into manufacturing and services increasing from around 30% in 2004/05 to around 70% in 2005/06, while the share going into petroleum has experienced a commensurate decline.

… as the country creates a more favourable environment for investment

These increasing FDI inflows have been largely in response to the ambitious reform programme started in 2004. Openness to foreign direct investment has been a core element of these reforms. The principle of national treatment of foreign investors is enshrined in general investment legislation. Foreign investment in manufacturing has been fully liberalised (with the exception of defence-related industries), and foreign equity participation in financial services and privately operated telecommunications services is now permitted up to 100%. With the recent migration of the investor protections and many of the benefits provided by the specialised Investment Guarantees and Incentives Law to the more generally applicable Companies Law, the Egyptian authorities are progressing towards a fully unified investment regime, in line with OECD recommended best practices. However, further efforts for improving the broader policy framework for investment are still needed.

Important impediments to foreign investment remain in place…

Egypt maintains certain limitations on foreign investment. Sectoral exceptions to national treatment include limits on foreign ownership in construction, maritime and air transport, courier services, foreign trading intermediation and preferential treatment arrangements for domestic bidders in public procurement. These are reflected in the list of exceptions (Annex D) which Egypt has lodged under the National Treatment instrument of the OECD Declaration (Annex G) and agrees to subject to periodic examinations in accordance with the instrument's disciplines. As part of the process of Egypt's adherence to the Declaration, the government has indicated a timetable to phase out the restrictions in construction, courier services, and with respect to commercial agents in relation to exports. Other discriminatory restrictions apply to foreign commercial presence in the form of branches in the insurance sector and in legal, accounting and other professions which can only be practiced by Egyptian natural persons. These exceptions and other restrictions are also present in a number of OECD and other adhering countries.

Maximum quotas for foreigners sitting on companies' boards of directors in certain sectors or as a percentage of employees can also discourage foreign investment. Remaining public monopolies in some sectors, such as fixed-line telecommunications and electricity production and distribution, are important obstacles to market access as well. These barriers are captured in Egypt's list of "other measures reported for transparency" under the National Treatment instrument (Annex E).

While registration procedures have been considerably simplified in large part due to the one-stop-shop facilities offered to enterprises, some licensing procedures remain lengthy and unduly complex. The temporary suspension of issuing licenses to investors, foreign and domestic alike, which at present appears to apply in banking (pending consolidation in the sector), travel agency services (pending passage of new regulations) and in selected sectors that are especially energy intensive (as part of government efforts to manage energy demand and supply) is another problem investors have frequently encountered which calls for rapid resolution.

Addressing these impediments to investment (including domestic investment) is an important part of the ongoing reform agenda, which includes the continued progressive privatisation of state-owned enterprises, ongoing support for the recently established competition authority, further improvements of the customs administration, effective enforcement of the intellectual property rights law, promoting public sector integrity and intensifying the fight against corruption.

Egypt will also support responsible business conduct…

With regard to the Guidelines for Multinational Enterprises which are an integral part of the OECD Declaration, Egypt will establish a National Contact Point (NCP) at the Ministry of Investment. The Egyptian NCP should be visible, accessible, transparent and accountable and serve to make the Guidelines better known to businesses, labour representatives, and other interested parts of Egyptian civil society. Egypt has already subscribed to most of the multilateral instruments underpinning the principles and standards embodied in the Guidelines.

and other principles contained in the Declaration

As an adherent to the Declaration, the Egyptian government has also accepted the commitments under the International Investment Incentives and Disincentives instrument by which countries recognise the need to give due weight to the interest of other adhering countries affected by laws and practices in this field and endeavour to make measures as transparent as possible, and under the Conflicting Requirements instrument by which countries shall co-operate so as to avoid or minimise the imposition of conflicting requirements on multinational enterprises.

ISBN 978-92-64-03461-7
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Chapter 1

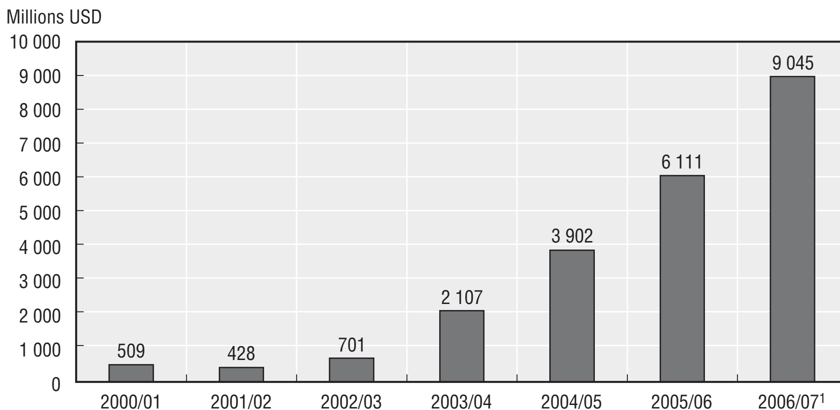
Egypt's Evolving Position in the Global Economy

Key points. *Egypt has not been a major host country for FDI but in recent years the trend in inward FDI flows has increased sharply. This increase has been accompanied by a diversification of inward flows away from the petroleum sector and into manufacturing the services. Egypt engages actively in international investment negotiations, being a party to 67 ratified bilateral investment treaties, and ongoing investment negotiations with the United States, the EU, and many of its regional neighbours. It is also a member of the World Trade Organization (WTO) and a signatory to the International Centre for the Settlement of Investment Disputes (ICSID) Convention.*

1. Trends in investment patterns

Historically, Egypt has not been a major destination for international direct investment, having received only about US$ 8 billion in inflows during the decade 1995-2004 (see Annex A for cross-country comparisons). However, in recent years inward flows have accelerated rapidly, from around half a billion dollars per annum before 2003/04 to over US$ 9 billion in just the first three quarters of the 2007 financial year (Figure 1.1).[1] The average annual increase in FDI inflows since 2001/02 has been over 100 per cent. By way of comparison, over the same period the average annual increase in FDI inflows globally was 7 per cent and for developing countries 17 per cent.

Figure 1.1. **Net FDI inflows, 2000/01-2006/07**



1. Data for first three quarters of 2006/07.

Source: Egypt, Ministry of Investment.

Data for 2005/06 and the first three quarters of 2006/07 suggest that the sectoral composition of inflows might be changing, most notably with respect to the balance between FDI into petroleum and other economic sectors (Table 1.1). In 2004/05, petroleum accounted for 67 per cent of total inflows. In 2005/06, it accounted for only 30 per cent. This reversal resulted from a 31 per cent decline of FDI flows into the petroleum sector and strong increases into manufacturing and certain services. FDI inflows into tourism increased twelvefold between 2004/05 and 2005/06, and inflows into the financial sector

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increased by a factor of five. Inflows during the first three quarters of 2006/07 suggest that this shift in the composition of inward FDI from petroleum to manufacturing and services is persisting.[2]

Table 1.1. **Net FDI in petroleum and non-petroleum sectors**

Item	FY 2004/2005		FY 2005/2006		FY 2006/2007[1]	
	USD million	% of total	USD million	% of total	USD million	% of total
Inward FDI in non-petroleum sectors	1 264	32.4	4 279	70	5 649	62
Inward FDI in the petroleum sector	2 638	67.6	1 832	30	3 396	38
Total	3 902	100	6 111.4	100	9 045	100

1. Data for the first three quarters of 2006/07.

The most important sources of FDI for Egypt in the 2000s have been the United States and the European Union, accounting together for 84 per cent of Egypt's average annual inflows over the six years 2000/01 through 2005/06 (Table 1.2). Investment from other Arab countries was particularly low in 2000/01 through 2002/03, averaging less than 3 per cent of total inflows, but showed some improvement beginning in 2003/04. Low intra-regional flows could be due in part to low levels of regional economic integration (discussed further below).

Table 1.2. **Gross inward FDI flows, selected countries of origin, 2000/01 through 2005/06 (US$ million)**

	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06
Inflows	**510.1**	**532.0**	**891.9**	**435.0**	**4 134.5**	**9 097.9**
United States	196.2	159.0	277.5	229.4	2 040.1	4 553.5
EU	277.3	363.2	584.4	42.5	813.9	2 939.9
Arab countries	12.1	3.5	15.4	152.2	213.6	554.5
Other countries	24.5	6.3	14.6	10.9	1 066.9	1 050.0

Source: Information provided by the Ministry of Investment.

Egypt's outward FDI has generally remained modest relative to inward investment, averaging around US$ 60 million per annum during the period 2000/01 through 2005/06. One recent development that is not yet reflected in the aggregate outward FDI data was the acquisition in May 2005 of a European telecommunications company by Weather Investments, the financing arm of Orascom Telecom Holding, an Egyptian conglomerate, for US$ 12.8 billion, including approximately US$ 5 billion in equity and the remainder in the assumption and refinancing of the European company's debt.

Box 1.1. **Improving international investment statistics in Egypt**

The Central Bank of Egypt compiles and disseminates foreign direct investment statistics of Egypt as a part of the balance of payments statistics. Recognising the role of high quality investment statistics in underpinning informed investment policy, the Ministry of Investment has initiated a transition from the current transaction based approach to a survey method, which is widely used in OECD countries. An Advisory Committee, headed by the Ministry of Investment, has been established to co-ordinate contributions to this initiative from various national and international agencies, including the IMF and the OECD. The committee includes representatives from the Central Bank of Egypt, the Ministry of Investment, the Ministry of Petroleum, the Ministry of Housing, the Central Agency for Public Mobilization and Statistics and the General Authority for Investment and Free Zones.

The implementation of a survey-based system, designed according to the standards of the IMF Balance of Payments Manual and the OECD Benchmark Definition of Foreign Direct Investment, has been approved by the Advisory Committee and a business register has been developed to include all foreign direct investment enterprises resident in Egypt, coded according to International Standard Industry Classification (ISIC). The survey-based system being developed is still work in progress, with completion of the transition over to the new survey-based methodology planned for mid-2008.

Source: Egypt, Ministry of Investment

2. Egypt's international investment-related commitments

Egypt is one of the most active developing countries with respect to the negotiation of international agreements dealing with investment issues. The following sections provide an overview of the variety of international agreements currently in place.

2.1. Egypt and EU

Egypt has negotiated bilateral investment treaties (BITs) with all but two EU members.[3] The oldest of these is with France (entry into force October 1975) the youngest is with Germany, which was signed in June 2005. As an example of the coverage of Egypt's recent BITs, this agreement provides:

- a broad, asset-based, definition of investment (Article 1);
- a commitment to not subjecting "investments in its territory owned or controlled by investors of the other Contracting State to treatment less favourable than it accords to investment of its own investors or to investment of investors of any third State" (national treatment and MFN, Article 3);

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- protections against direct and indirect expropriation "except for the public benefit and against compensation" (Article 4);
- provisions for the free transfer of all payments associated with an investment (Article 5); and
- provisions for both state-state and investor-state dispute resolution (the latter through ICSID) (Articles 8 and 9).

In addition to BITs, economic relations between Egypt and the EU are governed by a broader Euro-Mediterranean Association Agreement, which was negotiated within the context of the Euro-Mediterranean Partnership (the Barcelona Process) and entered into force on 1 June 2004, replacing the 1977 Co-operation Agreement. This Association Agreement is mainly focussed on trade issues and provides for the establishment of a free-trade area by 2019. With respect to investment issues, it reaffirms Egypt's GATS and TRIPs commitments at the WTO and stipulates that by June 2008 Egypt should have acceded to six major international agreements dealing with intellectual property rights.[4]

2.2. Egypt and United States

The main instrument governing United States investment in Egypt is a BIT which was signed in September 1982, modified in March 1986, and entered into force in 1992. This agreement provides, *inter alia*, for a broad definition of investment, the right of establishment with the better of national or most-favoured nation treatment, and recourse to ICSID arbitration for the settlement of investor-state disputes. An interesting feature of this BIT concerns Egypt's negative list of sectors exempted from the national treatment obligations of the BIT. These included:

> "Air and sea transportation; maritime agencies; land transportation other than that of tourism; mail, telecommunication, telegraph services and other public services which are state monopolies; banking and insurance; commercial activity such as distribution, wholesaling, retailing, import and export activities; commercial agency and broker activities; ownership of real estate; use of land; natural resources; national loans; radio, television, and the issuance of newspapers and magazines."

Although some restrictions on foreign ownership can still be found in several of these sectors, most of these sectors are now open to foreign participation by virtue of various legal amendments that have been introduced in recent years.

In addition to this BIT, Egypt and the United States signed a Trade and Investment Framework Agreement (TIFA) in July 1999. The United States has negotiated TIFAs with 14 MENA countries. TIFAs are intended as precursors to the negotiation of full-fledged free-trade agreements. The US-Egypt TIFA

establishes a Council on Trade and Investment composed of representatives of both governments. The Council meets regularly to discuss specific trade and investment matters; separate working groups have been established to deal with customs administration and reform, government procurement, sanitary and phytosanitary (SPS) issues, and agricultural tariff issues.

A feature of Egypt's trade relations with the United States having a bearing on the investment climate concerns the so-called "qualified industrial zones" (QIZ). These originate from a trade protocol between the United States, Egypt, and Israel which was signed in December 2004 and accords goods that meet certain rules of origin duty-free access to the United States. To qualify, goods produced in a QIZ (in effect an export processing zone) must have at least 35 per cent combined Egyptian and Israeli value added, of which at least 11.7 per cent must be Israeli value added. In November 2005, the USTR extended the programme by designating a new QIZ in Egypt's central delta region, and approved the expansion of two existing QIZs in Cairo and the Suez Canal zone, opening the way for stronger economic ties among Egypt, Israel and the United States.

Although not an investment agreement, the QIZ highlights the close relationship that can exist between trade agreements and the investment climate. In this case the government has used the QIZ programme in an active investment promotion campaign, especially in industries that face relatively high trade barriers in the United States, including textile and apparel, various agricultural products, ceramics and glass, and furniture, among others.

2.3. Regional arrangements

2.3.1. BITs in the MENA region and Africa

Of the 17 countries that participate in the MENA-OECD Investment Programme, Egypt has negotiated BITs with 15 of these, all of which are in force. It has an additional 28 BITs with other African countries. However, only 5 of these have entered into force.

2.3.2. Agreement with Jordan, Morocco and Tunisia

Egypt, Jordan, Morocco and Tunisia signed a free-trade in February 2004. The Agadir Agreement was supposed to enter into force in January 2006, but this has been delayed due to problems with the ratification process in Morocco. The objective of this agreement is the removal of substantially all tariffs on trade, leading to a free trade area encompassing 100 million people and a combined domestic product of approximately US$ 200 billion. Although the agreement does not have an investment chapter, it does cover policy issues that are relevant from an investment climate perspective, including government procurement, financial services, intellectual property and dispute settlement.

2.3.3. Greater Arab Free-Trade Area (GAFTA)

The Greater Arab Free-Trade Area (GAFTA) came into effect in January 1997 when the 17 signatories agreed to reduce tariffs on intra-regional trade in manufactured goods (the agreement does not cover services) by 10 per cent annually over a 10-year period. This schedule for achieving free trade was accelerated in 2000 and with a final 20 per cent cut in 2005 the phased reduction was completed. However, a safeguard provision has been liberally used to lodge exceptions, thus essentially rendering the GAFTA irrelevant in real terms, with intra-Arab trade largely unchanged, even falling slightly from 9.1 per cent of the region's total trade in 1997 to 8.8 per cent in 2004.[5] The resultant small size of the regionally integrated market is also one of the main reasons that intra-regional investment has remained so low and that Egypt has turned to smaller, more manageable groupings such as Agadir Agreement.

2.3.4. Common Market for Eastern and Southern Africa (COMESA)

Egypt became a member of the 20-nation COMESA in June 1998,[6] the same year its members agreed to establish a COMESA Investment Area.[7] The regional investment agency established to co-ordinate the COMESA Investment Area negotiations is based in Cairo. Although a target date for completing the COMESA Investment Area has not been set, a draft agreement with bracketed text has been developed and was under negotiation at time of writing. Key features of the draft text include indications that the agreement will contain a definition of a "COMESA investor" which will be based upon a threshold of local ownership. The definition of a COMESA investor will determine whether investors in the regional will be granted the protections and benefits the agreement has to offer, including national treatment and MFN. However, the text also indicates that for purposes of national treatment and MFN the distinction between COMESA and non-COMESA investors would be eliminated by 2020. Given its more advanced status as an outward investor among COMESA countries, the COMESA Investment Area could potentially provide significant opportunities for Egyptian investors in Africa.

2.3.5. Membership in international organisations and regional/country groupings

Annex C lists the major international organisations and various regional groupings to which Egypt belongs. From an international investment perspective, two of these stand out as being particularly relevant; the World Trade Organization (WTO) and the Convention on the Settlement of Investment Disputes Between States and National of Other States (the ICSID Convention).

2.3.6. Egypt in the WTO

Egypt has been a contracting party to the GATT since 1970 and a WTO member since June 1995. The most relevant WTO agreements from an investment perspective by virtue of addressing policy issues that can directly affect investors are the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), the Agreement on Trade-Related Investment Measures (TRIMs), the Agreement on Subsidies and Countervailing Measures (ASCM), and the plurilateral Agreement on Government Procurement.

With respect to the GATS, Egypt submitted its Schedule of Specific Commitments in 1994. Given that the current Doha Round of negotiations has not been completed, this schedule continues to represent Egypt's binding position with respect to services trade at the WTO, including its mode 3 (commercial presence) commitments. Egypt is one of the 30 countries to have submitted a conditional Revised Offer in 2005.[8]

Concerning other investment-relevant WTO agreements, Egypt has reaffirmed its commitment to upholding its TRIPs commitments on a number of occasions. With respect to the TRIMs Agreement, Egypt, like many other countries, requested a 5-year extension in January 2001 to remove its remaining non-conforming measures but the government has indicated that it is now fully compliant with its TRIMs obligations. Egypt is not a signatory to the plurilateral Agreement on Government Procurement.

Notes

1. These are the most recent data available at time of publication. Egypt's financial year ends in June.
2. For recent and planned future improvements to Egypt's FDI data collection methods see Box 1.1.
3. Estonia and Ireland. For a complete list of Egypt's BITs, see Annex B.
4. These are; the Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, 1961); Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (1977, amended 1980); the Patent Cooperation Treaty (Washington 1970, amended in 1979 and modified in 1984); the International Convention for Protection of New Varieties of Plants (UPOV) (Geneva Act 1991); Nice Agreement concerning the international Classification of Goods and Services for the Purpose of the Registration of Marks (Geneva Act 1977 and amended in 1979); and the Protocol relating to the Madrid Agreement concerning the international registration of Marks (Madrid 1989). At the time of writing, Egypt had put into force the Nice Agreement and the Patent Cooperation Treaty (PCT). Source: WIPO.
5. UNESCWA (2005). Annual Review of Developments in Globalisation and Regional Integration in the Countries in the ESCWA Region, 2005 (United Nations: New York).

6. The other members are Angola, Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. Lesotho, Mozambique and Tanzania have withdrawn.
7. Before 1998 COMESA was a traditional FTA with a focus on trade in goods. In 1992, COMESA countries decided to establish a monetary union by 2025.
8. Due to differences in coverage and approaches to scheduling commitments between the WTO GATS and the OECD National Treatment Instrument, Egypt's GATS commitments and exceptions are not directly comparable with the proposed exceptions to national treatment in Annex D.

ISBN 978-92-64-03461-7
OECD Investment Policy Reviews: Egypt
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Chapter 2

Egypt's Policy Framework for Investment

Key points. *Egypt is the first country to conduct a formal investment policy review based upon the Policy Framework for Investment (PFI). This analysis reveals that Egypt's efforts to improve the investment climate have been horizontal in nature. Investment has been encouraged through non-discriminatory investment policies, a pro-active strategy of investment promotion emphasising the role of government as a service provider rather than as a regulator, a drastic reduction of trade impediments to capital imports and the streamlining of previously cumbersome and costly customs procedures, and the adoption of a competition law and the establishment of a dedicated competition authority.*

The rapid increase in FDI inflows described in the previous section is largely due to a wide-ranging reform programme aimed at improving the investment climate (for both foreign and domestic investors), including efforts to reduce and streamline administrative procedures, the initiation of a privatisation programme, a major reform of the tax system, and the establishment of a new ministry in July 2004 specifically responsible for investment policy.[1]

This section evaluates the impact of these reforms and the current state of the regulatory and legal framework for investment. The analysis is roughly structured around the Policy Framework for Investment (PFI) (see Box 2.1).[2] The first four chapters of the PFI, dealing with investment policy, investment promotion and facilitation, trade policy, and competition policy, are dealt with in considerable detail. The policy issues covered in other chapters of the PFI are also surveyed, albeit more briefly. Egypt was actively involved in the development of the PFI and was the first country to undertake an independent self-evaluation based upon the first three chapters of the PFI, the results of which have facilitated the present OECD evaluation.

1. Investment policy

The quality of investment policies directly influences the decisions of all investors, be they small or large, domestic or foreign. Transparency, property protection and non-discrimination are investment policy principles that underpin efforts to create a sound investment environment for all. This section reviews Egypt's investment policies with respect to the issues covered in Chapter 1 of the PFI and concludes with a summary of areas which should be given priority in future reforms and where improvements are possible.

> What steps has the government taken to ensure that the laws and regulations dealing with investment and investors, including small and medium sized enterprises, and their implementation and enforcement are clear, transparent, readily accessible and do not impose unnecessary burdens?

Most laws, regulations, and decrees of relevance to investors are available on the Internet at the website of the General Authority for Investment and Free Zones (GAFI) (*www.gafinet.org/*) and on the website of the Ministry of Investment (*www.investment.gov.eg/MOI_Portal/*). Many of these have been

Box 2.1. **The Policy Framework for Investment**

The Policy Framework for Investment (PFI) was developed to help governments "mobilise private investment that supports steady economic growth and sustainable development, and thus contribute to the prosperity of countries and their citizens and the fight against poverty" (PFI Preamble). Inspired by the 2002 United Nations Monterrey Consensus on Financing for Development, which ascribes to governments the responsibility for creating the right conditions for private investment to flourish, the PFI aims to support development and the fight against poverty and to promote responsible participation of all governments in the global economy.

The PFI represents the most comprehensive multilaterally backed approach to date for improving investment conditions. It addresses some 82 questions to governments in 10 policy areas to help them design and implement good policy practices for attracting and maximising the benefits of investment. The PFI is based on the common values of rule of law, transparency, non-discrimination, protection of property rights in tandem with other human rights, public and corporate sector integrity, and international co-operation.

Any interested government was welcome to participate in developing the PFI, and some 60 OECD and non-OECD governments took part. Business, labour, civil society, and other international organisations, such as the World Bank, also played an active role, and regional dialogues and public consultations were organised around the world.

The PFI was endorsed by OECD ministers in 2006, when they called on the OECD to continue to work with non member governments and other inter governmental organisations to promote its active use. Egypt was the first country to undertake a PFI based self assessment.

translated into English but many other key documents, such as the Companies Law (law 159 of 1981), the Customs Law (law 14 of 2004), and the Intellectual Property Rights Law (law 82 of 2002) are still only available in Arabic.

Three laws provide the "core" legal framework for all commercial investment in Egypt, excluding hydrocarbon exploration and production: the Companies Law (law 159 of 1981), the Investment Guarantees and Incentives Law (law 8 of 1997), and the Law of Economic Zones of a Special Nature (law 83 of 2002).[3] In addition, law 94, which is an amendment to the existing Companies Law and Investment Law has as its objective to eventually unify the regulatory framework for all investors under the Companies Law, thus eliminating different and sometimes overlapping regulatory frameworks within the economy. The Companies Law deals with three forms of companies (partnerships limited by shares, limited liability companies, and joint stock

companies) and, in the original version of the law, administrative license requirements were spelled out.[4] With the revision of the Companies Law in 1998 (law 3), these administrative licensing requirements were mostly dropped in place of notification requirements. Full partnerships and limited partnerships are covered by the 1997 Code of Commerce. Foreign investment in upstream oil and gas exploration and development comes under the authority of the Ministry of Oil. Such investment generally involve production-sharing agreements between the foreign company and the ministry, which are codified in individual laws for each investment.

Under the Companies Law (as revised by law 3), foreign companies choosing to make "inland" investments may also establish branches or representative offices in Egypt. Branches of foreign companies are governed by many of the same rules as partnerships limited by shares, limited liability companies, and joint stock companies, including restrictions on the number of foreigners in the workforce of the enterprise (10 per cent) and their share of total payroll (20 per cent). Representative offices of foreign companies can also be established under the authority of the Companies Law but these may not engage in any commercial activity.

The Investment Guarantees and Incentives Law is more specialised than the Companies Law, dealing as it does with investments in certain specified activities as well as activities located in designated free zones (see Box 2.2).[5] Egypt presently has 9 fully functioning public free zones. Almost three times as many companies were registered in 2005 under the Investment Guarantees and Incentives Law as under the Companies law. As mentioned above, the government is currently in the process of creating a more uniform legal environment for investment by shifting the benefits of the Investment Guarantees and Incentives Law into the Companies Law.

The Law on Economic Zones of a Special Nature (EZSN) (law 83 of 2002) allows the establishment of zones with special benefits for investment. The first zone created under the law was the Economic Zone of the North-West Gulf of Suez, 45 kilometres south-east of Suez City. A second EZSN is being considered for the area of East Port Said. An interesting feature of the EZSNs concerns the degree of administrative and legal independence and authority imparted by law 83 to the Board of Directors of an EZSN. According to the law, the Board of Directors has authority over the design, implementation, and enforcement of rules and regulations concerning urban planning, issuing licenses, granting environmental authorizations, managing seaports and airports, approving the rules regulating labour and social insurance systems within the Zone, deciding training requirements, including those involving investors, and setting systems and procedures for imports and exports, among others. Customs and tax matters are intended to be dealt with by a "Supreme Customs Committee" and a "Supreme Taxation Committee" established for an EZSN.

Box 2.2. **Activities covered by the Investment Guarantees and Incentives Law (Article 1, Law 8)**

Air transportation and directly related services.

Animal, poultry and fish farming.

Financial leasing.

Hospital and medical centres offering 10% of their service capacity free of charge.

Hotels, motels, boarding houses, tourist villages, tourist travel and transportation.

Housing projects whose units are to be leased unfurnished for non administrative purposes.

Industry and mining.

Infrastructure relating to drinking water, sewage, electricity, roads, and communications services.

Oil services in support of exploration and the transport and delivery of natural gas.

Overseas maritime transport.

Production of computer software and systems.

Projects funded by the Social Fund for Development.

Reclamation and cultivation of barren and/or desert lands.

Transport of goods in refrigerated vans; refrigerators for the preservation of agricultural products, industrial products, and foodstuffs; container depots and grain silos.

Underwriting subscriptions to securities.

Venture capital.

Source: Ministry of Investment, Law 8, Article 1.

What steps has the government taken towards the progressive establishment of timely, secure and effective methods of ownership registration for land and other forms of property?

Ownership registration for land and other forms of property has at times been a serious problem for investors in Egypt. According to the World Bank,[6] registering property in Egypt requires on average 7 procedures, takes 193 days, and costs 5.9 per cent of the value of the property. Recent reforms have been aimed at addressing this issue. These include a new law of 2006 that limits

property registration fees at a maximum of EGP 2 000[7], a proposal for a new Unified Construction Law aimed at streamlining the issuance of construction licenses, and the establishment of a one-stop-shop for property registration, with the aim of reducing the time it takes to register property to one week.

> Has the government implemented laws and regulations for the protection of intellectual property rights and effective enforcement mechanisms? Does the level of protection encourage innovation and investment by domestic and foreign firms? What steps has the government taken to develop strategies, policies and programmes to meet the intellectual property needs of SMEs?

Law No. 82 of 2002 pertaining to the Protection of Intellectual Property Rights in Egypt provides protection for most forms of intellectual property.[8] However, the last of the implementing regulations for the new law were only issued on April 14, 2005. As such, it is still too early to tell what impact the law will have. Weak intellectual property rights have been a long-standing concern for investors in Egypt, which has been on the United States Trade Representative's Priority Watch List since 2004 for "shortcoming related to unauthorized marketing approvals granted for patent-infringing pharmaceutical products, deficiencies in Egypt's IPR enforcement regimes for copyrights and trademarks, and problems with its judicial system". With a view towards bolstering the new domestic legislation, the Euro-Mediterranean Association Agreement between the EU and Egypt includes a requirement that Egypt accede to a number of international agreements dealing with IPR. One feature of the new law that could prove problematic in its implementation concerns the division of responsibilities for different forms of intellectual property across different ministries. The Ministry of Trade and Industry is responsible for trademarks, the Ministry of Higher Education and Scientific Research is responsible for patents, the Ministry of Culture is responsible for copyrights and the Ministry of Communication and Information Technology is responsible for digital piracy.

Apart from the new IPR law and Egypt's commitment to extend its international IPR commitments in accordance with the Euro-Mediterranean Association Agreement, Egypt also initiated a programme to train customs officials within the context of its Border Measures for the Protection of Intellectual Property Rights Instructions No. 770 of 2005. As part of this initiative, the government has worked closely with the private sector, even agreeing a memorandum of understanding with Nestlé in December 2006, involving the training of customs officers to help them identify counterfeit goods.

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According to GAFI estimates, SMEs account for approximately 70% of GDP (compared with only 40% in the early 1990s), 75% of the total labour force, and 75% of value added. The government has initiated a number of programmes aimed at supporting SMEs and overcoming challenges faced by SMEs such as inadequate access to financial services, insufficient supply of skilled labour, difficult access to international technology, limited access to markets, and regulatory constraints. For example, the Ministry of Trade and Industry has developed "trade points" to provide better services to small export oriented firms, capacity building training on export promotion, and direct support through the Export Promotion Bank. Despite the emphasis placed upon the need to support entrepreneurship and innovation at the heart of many of these programmes aimed at supporting SMEs, the government has not yet developed any programmes aimed at protecting the intellectual property rights of SMEs. Financing for SMEs is also a problem in Egypt, as the formulation by SMEs and evaluation by banks of formal business proposals is not yet common business practice.

In addition to the Intellectual Property Law of 2002 (No. 82), Egypt's Commercial Code (law 17 of 1999) also deals with intellectual property issues and contains provisions aimed at promoting indigenous technological capacity. Specifically, this law stipulates that contracts involving the transfer of technology between foreign and domestic firms may not contain certain conditions that limit how the local party to such a contract uses the technology provided by the foreign partner. Prohibited contractual conditions include limits on the ability of local firms to modify the technology provided, requirements that the local partner use specific trademarks to distinguish products produced using a particular technology, conditions pertaining to the volume of production, pricing, method of distribution or export, participation of the supplier in the operating of the domestic partner, and limits on the ability to the domestic partner to source components involved in production from firms other than the supplier of the technology. The most controversial provision of the law is contained in Article 87, which stipulates that disputes arising in commercial contracts involving technology transfer between foreign and domestic firms may only be heard before Egyptian courts and under Egyptian law. In other words, provisions in a contract between a foreign and a domestic firm that provide for recourse to international arbitration or to a legal system outside of Egypt are considered invalid under law 82. At time of writing, a case to determine the constitutional legality of this provision was before the Egyptian Supreme Constitutional Court.[9]

> Is the system of contract enforcement effective and widely accessible to all investors? What alternative systems of dispute settlement has the government established to ensure the widest possible scope of protection at a reasonable cost?

At the time of writing draft legislation aimed at improving the currently cumbersome system of contract enforcement through the establishment of Specialised Economic Courts is being revised in order to be submitted to parliament. In addition, larger disputes between the private sector and the government are dealt with by a ministerial committee headed by the Minister of Justice which meets once a month. There is also a separate system of administrative courts, which falls within the jurisdiction of the Council of State, a body empowered to hear actions brought by persons challenging the validity of presidential decrees and ministerial decisions, as well as disputes involving contracts with the government.[10] Parallel efforts, however, have been recently undertaken to improve the ease of litigation in anticipation of the passing of comprehensive legislation. These include the activation of the Ministerial Investment Dispute Resolution Committee, a conciliation system managed by GAFI which allows a quick resolution of administrative disputes where investors are involved, as well as the initiation of "Investment Circuits" within the judicial system.

These improvements to the system of contract enforcement should significantly improve conditions for investors who have had to contend with up to 55 procedures for resolving disputes and costs which represent on average 20% of the value of a claim.[11] That the specialised courts will deal with disputes involving relatively modest sums (starting around US$ 1.7 million) should provide SMEs in particular with better coverage.

> Does the government maintain a policy of timely, adequate and effective compensation for expropriation also consistent with its obligations under international law? What explicit and well defined limits on the ability to expropriate has the government established? What independent channels exist for reviewing the exercise of this power or for contesting it?

The issue of expropriation is addressed in the Investment Incentives and Guarantees Law (law 8), which provides that "companies and establishments may not be nationalized or confiscated" (Article 8). This reaffirms the guarantees against expropriation as well as for fair compensation provided for

in the old investment law (law 230 of 1989). The Law of Economic Zones of a Special Nature (law 83 of 2002) also contains provisions against expropriation which stipulate that companies "working in the Zone shall not be nationalized" (Article 43), nor shall their funds be seized "without a court ruling" (Article 44). The latter provision is important insofar as it emphasizes the role of the judiciary in limiting the ability of the government to expropriate. The more general Companies Law (law 159), which is applicable to all investments not covered by law 8, was silent on the this issue (although there was an explicit guarantee) until its amendment in 2005 by law 95 and since then all investments under law 159 are explicitly covered by the same protection.

> Has the government taken steps to establish non discrimination as a general principle underpinning laws and regulations governing investment? In the exercise of its right to regulate and to deliver public services, does the government have mechanisms in place to ensure transparency of remaining discriminatory restrictions on international investment and to periodically review their costs against their intended public purpose? Has the government reviewed restrictions affecting the free transfer of capital and profits and their effect on attracting international investment?

Non-discrimination is a general principle that underpins the laws and regulations governing investment in Egypt. This is reflected in the recognition of this principle in Egypt's extensive international treaty network dealing with international investment, the lack of any distinction between the treatment accorded to domestic and international investors in Egyptian law (*i.e.* Egypt does not have a separate law dealing with FDI or foreign investors), and its increasingly open investment environment.

The main formal restrictions to FDI in Egypt take the form of either outright foreign equity restrictions, operational restrictions limiting certain forms of business activity, and various impediments to market access.[12]

The sectors in which foreign investment is limited by explicit equity restrictions are construction, air and maritime transport, and foreign trading intermediation. In construction, investment is only allowed in the form of joint-venture companies in which foreign equity is limited to 49%. In addition, for certain sub-sectors in construction, namely electrical wiring and other finishing work, foreign participation is only permitted for contracts exceeding US$ 10 million. The same joint-venture 49% equity limit applies to foreign investment to the maritime transport industry. However, in various ancillary services (such as various port services), foreign investors may own up to 75%. Foreign investment in both international and domestic airlines is also limited

to 49% and this sector has received minimal foreign investment.[13] An economic needs test applies to establishment in courier services.

Certain operational restrictions place limits on conducting certain types of business activity. These include limits on:

- branches: Branches and agencies of foreign insurance companies established in Egypt can only operate in free zones and their transactions are confined to convertible currencies;
- professional services: Insurance intermediation services (brokers and agents) and professional services, such as legal services, accounting, architectural, and engineering services, can only be supplied by Egyptian natural persons (*i.e.* a nationality requirement applies and incorporation is not permitted). For example, only Egyptian nationals are permitted to appear before a court. Thus, while a foreign law firm is not prohibited from establishing a representative office in Egypt (*e.g.* to provide legal advisory services to its international clients), it would not be permitted to actually represent a client in a court of law;[14]
- corporate organisation: A work permit for foreign natural persons is required from the government (obtainable at the "one-stop-shop"). The number of foreign natural persons employed in any enterprise, regardless of the number of branches, shall not exceed 10% of the total number of persons employed. Companies operating in a free zone may have up to 25% non-Egyptian national employees. These limits can be exceeded if an explicit exemption is received from the government. Certain limits on the employment of foreign workers are stricter in the maritime sector than in most other sectors of the economy.

The main limits to market access that affect foreign investors in Egypt (as well as domestic investors) include:

- *the temporary suspension of issuing licenses:* The government has temporarily stopped issuing licenses for tourist operators while the tourism law is being reviewed. Licenses have also been restricted in the tourist travel sector to reflect non-discriminatory applications of regulatory or capacity considerations. For example, the number of tourist boat operator licenses is limited according to the available dockage capacity on the Nile. Another capacity issue which the government has sought to manage on a non-discriminatory basis through licensing concerns the balance in energy demand from certain energy intensive sectors (such as fertiliser production, aluminium, iron and steel) and the available energy supply. The banking sector has also been subject to a licensing "pause" in recent years, as part of the government's effort to increase efficiency through consolidation among the existing participants. As such, even though the banking sector is completely open to foreign investment, entry is currently only possible in practice through the acquisition of an incumbent;

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- *monopolies:* A number of sectors are dominated by public monopolies that either limit or preclude additional investment. For example, although the insurance sector has been opened to foreign investment, the sector continues to be dominated by state-owned firms, which private firms are regulated to subsidise. According to its GATS commitments, private insurance companies must cede 50% on a risk premium basis of what exceeds the retention limits of their direct life insurance transactions (10% for non-life) carried out in Egypt to the Egyptian Reinsurance Company and 5% of treaties must be ceded to the African Reinsurance Company (Insurance Law 156 of 1998).[15] In telecommunications, although this sector has been significantly opened to foreign investment, Telecom Egypt's monopoly over fixed-line domestic and international services has been extended through 2008.[16] EgyptAir also has a dominant position with respect to both international and cabotage services. Other important monopolies in the economy include electricity production and distribution, gas distribution, railway transportation, and postal services.

In some sectors, such as construction, the relevant laws or regulations refer to the provision of licenses only on a reciprocal basis. The Egyptian authorities have confirmed however that any such reciprocity conditions are not applicable to OECD and other adhering countries.

The main mechanisms used by the government to ensure transparency of its discriminatory restrictions has been the effective use of the Internet and the establishment of the one-stop-shop which deals with all regulatory requirements applicable to investors from all branches of government. As such, remaining discriminatory restrictions on international investment are reasonably clear and transparent. Ways in which the legal and regulatory framework for investment could be made even more transparent include increased use of plain language drafting, the issuance of interpretive and explanatory documentation by the government,[17] and the translation of more key laws and regulations.

Most of the restrictions mentioned above are being reviewed by the government with a view to their eventual reduction or elimination. For example, an amendment to law 38 for the tourism sector is under consideration which would aim to eliminate any remaining obstacles on foreign investment in the travel agency segment and a ministerial decree in late 2006 removed any remaining restrictions on residential tourism (the purchase of holiday residences by foreigners in Egypt). Other initiatives being considered include further privatisation of Telecom Egypt (although the company's monopoly position has been extended through 2008), the eventual issuance of a fourth mobile operator license, lowering or eliminating equity limits in the construction industry, and the privatisation of the dominant state-controlled insurance companies.

The government does not maintain any restrictions on the free transfers of either capital or profits.

> Are investment policy authorities working with their counterparts in other economies to expand international treaties on the promotion and protection of investment? Has the government reviewed existing international treaties and commitments periodically to determine whether their provisions create a more attractive environment for investment? What measures exist to ensure effective compliance with the country's commitments under its international investment agreements?

Egypt has been one of the most active countries in pursuing international investment diplomacy at the bilateral, regional and multilateral levels. Bilateral investment treaties (BITs) have been the instrument of choice for the government, having signed 59 bilateral investment treaties since 1995, and 27 since 2000 (Annex B). The pace of BIT negotiations has slowed in recent years mainly reflecting the fact that relevant new BIT partners are starting to become scarce. In addition, Egypt has negotiated a variety of international agreements dealing with investment issues with its major trading and investment partners (see Chapter 1, Section 2). An important feature of Egypt's international treaty network is that it is not limited to north-south arrangements. Egypt has also been active in negotiating south-south agreements dealing with investment issues, including a recent MOU with China.

Egypt's international investment treaty network is eclectic both with respect to its geographic scope and the quality of the agreements that have been negotiated. Some areas of this network would seem to be in need of remedial attention. For example, as mentioned previously, of the 28 BITs negotiated with other African countries (not counting other MENA countries) only 5 have entered into force (Comoros, Mali, Malawi, Somalia and Sudan). These "dormant" BITs could become more relevant as Egypt's role as an outward investor in the region develops.

In an effort to bring some consistency to Egypt's BIT network, the Ministry of Investment has had authority for negotiating and concluding BITs since 2004, a mandate that was previously entrusted to the Ministry of International Co-operation. Towards greater coherence, the Ministry of Investment is developing an "Egyptian Investment Agreement Model" and reviewing existing agreements.

> Has the government ratified and implemented binding international arbitration instruments for the settlement of investment disputes?

International investors in Egypt have recourse to several avenues of international arbitration.[18] A local body of arbitration is the Cairo Regional Center for International Commercial Arbitration, which follows UNCITRAL rules. Arbitrations are also allowed either in Egypt or abroad through the ICC rules. Furthermore, as mentioned above, Egypt has been a signatory to ICSID since June 1972 and most of the BITs it has negotiated contain provisions allowing for binding arbitration under ICSID rules. Egypt currently has 4 pending ICSID cases and 6 cases that have been resolved. Egypt's commitments to investor-state dispute settlement mechanisms have been consistently upheld in domestic courts.

Egypt is also a signatory to the New York Convention (1958), the Washington Convention (1965), and the Convention on the Settlement of Investment Disputes between the Arab States and the National of other States (1974).

2. Investment promotion and facilitation

As the previous section based upon Chapter 1 of the PFI indicated, Egypt's investment regime has evolved since the mid-1990s away from dirigisme towards a more open approach, including a strong promotion and facilitation dimension. This section takes a closer look at how Egypt's promotion and facilitation activities (Chapter 2 of the PFI) are supporting a healthy investment environment. Investment promotion and facilitation measures, including incentives, can be effective instruments to attract investment provided they aim to correct for market failures and are developed in a way that can leverage the strong points of a country's investment environment.

> Does the government have a strategy for developing a sound, broad based business environment and within this strategy, what role is given to investment promotion and facilitation measures?

A new Ministry of Investment came into office in July 2004 to oversee investment policy, coordinate among various ministries with investment-related areas of responsibility, and provide dispute settlement services for investors. The new ministry supervises the Capital Market Authority, the Egyptian Insurance Supervisory Authority, the Mortgage Finance Authority, the privatization programme, and the General Authority for Investment and Free Zones (GAFI), as well as the Special Economic Zone Authority.

The mandate of the new Ministry of Investment is to improve the business climate in Egypt (for both domestic and foreign investors) within the context of a broader five-pronged economic reform strategy, including legislative reform, monetary reform, tax reform, trade policy reform and investment policy reform.

One of the centre-pieces of the government's investment promotion efforts consist of the range of incentives associated with the Free Zones. These include financial and fiscal incentives, as well as relief from many of the burdensome requirements that prevail in the rest of the economy, such as onerous licensing requirements and certain labour laws, such as the requirement to distribute 10 per cent of profits to employees and the requirement to include a labour representative on the board of directors.[19] In addition, investors in all investments under law 8 or the general Companies Law (law 159 of 1981) are given guarantees against expropriation and price controls, and tariffs on imported capital goods are reduced to a uniform 5 per cent. In addition, some incentives may be given by decision of the Council of Ministers for investment that brings exceptional benefits to the national economy, such as technology transfer.

Has the government established an investment promotion agency (IPA)? To what extent has the structure, mission, and legal status of the IPA been informed by and benchmarked against international good practices?

The General Authority for Investment and Free Zones (GAFI) is the authority concerned with both regulating and promoting investment. Although this agency has existed for many years, its mandate was considerably strengthened and broadened with the establishment of the new Ministry of Investment in 2004. At this time the mandate of GAFI shifted from a regulatory focus to its current role as a proactive investment promotion agency. GAFI has been mandated to act as a "one-stop-shop" for investment, with authority over the start up of a business and a role to facilitate any other requirements during the life-cycle of a business. This new role for GAFI is enshrined in law 13 of 2004.

The structure of promotional activities of GAFI was developed with the assistance of the Multilateral Investment Guarantee Agency (MIGA) of the World Bank based upon global best practices and the IPAs in countries that have been most successful in attracting FDI, such as Ireland, Singapore, Malaysia and the Czech Republic.

> Is the IPA adequately funded and is its performance in terms of attracting investment regularly reviewed? What indicators have been established for monitoring the performance of the agency?

GAFI has an incentive-based budget system. A significant share of GAFI's budget comes from fees collected from investors in the free zones that it manages. Manufacturers, storage facilities, and service providers in the Free Zones are all charged 1 per cent of either value added, value stored, or annual revenue, respectively. Land is rented at US$ 3.50 per square metre for industrial projects and US$ 7 per square metre for all other projects. GAFI also has the authority to allow private free zones, which are simply individual firms not physically located in a free zone but enjoying the same benefits. In addition, an annual charge of 1% is payable to GAFI on the c.i.f. value of commodities entering a free zone for storage, and for manufactured and assembled items exiting a free zone.[20] Goods that transit a free zone are exempt from this charge, whereas the charge for services activities is 1% of total revenues realized.[21] There is also a service fee of 0.05% of the capital cost of projects, payable annually to GAFI.[22]

GAFI's performance is regularly reviewed and evaluated by its board of directors on the basis of a number of indicators, including the number of new projects registered, the volume of inward FDI flows, the number of jobs created, and exports. The board of directors is comprised of 4 government officials (the Chairman of GAFI and 3 vice-Chairmen) and 7 high-ranking private sector representatives, including currently one representative from a foreign MNE. The board meets approximately every two weeks and reviews the performance and strategy of GAFI on the basis of independent assessments of various dimensions of performance (*e.g.* publicity campaigns, investor satisfactions surveys).

> How has the government sought to streamline administrative procedures to quicken and to reduce the cost of establishing a new investment? In its capacity as a facilitator for investors, does the IPA take full advantage of information on the problems encountered from established investors?
>
> To what extent does the IPA promote and maintain dialogue mechanisms with investors? Does the government consult with the IPA on matters having an impact on investment?

Although GAFI is mandated to act as a one-stop-shop, much more can be done to streamline administrative procedures. Indeed, while GAFI does make the life of investors much easier by centralising various requirements, the number of such requirements can still be high. Although GAFI promises that

Box 2.3. **Phases involved in establishing an enterprise in Egypt**

A. In the pre-establishment phase, the investor chooses the sector/activity in which he desires to invest, based on which the process to be followed and approvals to be obtained are determined. GAFI oversees 69 activities, and the investor deals with 71 entities under the responsibility of 22 ministries. The minimum is 8 entities for the investor to deal with, and a maximum of 25 entities, varying according to the activity.

B. Phase of establishment:

Required procedures to incorporate a company:

- An application to establish the company should be submitted on the special form prepared for such purpose.
- Selecting the type of the company (a joint stock company, a limited partnership).
- Obtaining a certificate from the Commercial Register proving that the name of the company is unique and shall not cause confusion.
- Issuing the power of attorney to take the necessary procedures to incorporate the company.
- Preparing a landscape map showing the site of your project in case the project is located in one of the governorates of North or South Sinai.
- Obtaining a certificate from CMA if the capital of the company contains a corporeal share.
- Issuing a bank certificate proving that 10% of the issued capital has been deposited (in the case of joint stock companies) or that the amount of capital is paid in full (in the case of a limited liability company).

Required procedures to register a foreign company's branch:

- An application to the head of the investment commercial registration.
- A photocopy of the constitutive structure of the head office.
- A copy of the head company resolution to assign a manager for the branch in Egypt.
- A copy of the head company declaration of having no previous branch in Egypt.
- A bank certificate proving transferring an amount of hard currency equal to LE 5 000 under the branch name.
- A copy of the possession or lease contract for the place, or the contracting contract approval.
- The approvals of the concerned ministry according to the company's activity and the ministry of supply.
- An Arabic version of said documents should be endorsed by Egyptian Embassy.

Box 2.3. Phases involved in establishing an enterprise in Egypt *(cont.)*

C. Phase of preparation towards operation:

- Purchasing the land.
- Obtaining the license for building from the municipalities.
- Purchasing/importing the equipment.
- Obtaining the license to operate (doc. 453 municipalities): from 1 to 6 months.
- Obtaining the approval from the technical bodies supervising this activity (there are different procedures depending on the activity).

D. Phase of operation:

- Operations kick-off date: 4 weeks.
- Consulting the legal advisor: If YES then go ahead, if NO then go to the Expansions Committee for further steps ending with approval/disapproval.
- Report to be approved by the Chairman of GAFI.
- Notifying the Tax Authority.

Source: Ministry of Investment/GAFI.

it will process all the requirements for an application within 72 hours (and assigns an employee to take responsibility for each investor), this system is likely to come under severe strain at times when the number of investment projects increase if the number of different requirements are not reduced. In effect, the administrative burden of making an investment in Egypt largely remains (see Box 2.3), but has been shifted to some extent from the investor onto GAFI. Soon, GAFI will introduce a number of new initiatives aimed at facilitating investment. Among them will be the issuance of industrial licenses from the one-stop-shop, the fast track issuance of tax cards, and the addition of the foreign office authentication service allowing for faster authentication of foreign investors documents concluded abroad.

With respect to the monitoring of established investors, GAFI does conduct regular surveys and has established a complaints department for investors. However, as this information is not made public, it is difficult to know to what extent it informs further improvements to the system. That GAFI operates within the Ministry of Investment, along with other agencies that are relevant from an investment perspective, ensures that the agency is consulted and involved in matters having an impact on investment. Furthermore, the Ministry of Investment and the Ministry of Trade and

Industry maintain close ties which further ensures coherence in policy on investment matters.

Although the overall promotion and facilitation framework in Egypt remains exemplary, the streamlining of administrative procedures and communications with existing investors is an area where significant improvements are still possible.

> What mechanisms has the government established for the evaluation of the costs and benefits of investment incentives, their appropriate duration, their transparency, and their impact on the economic interests of other countries?

Apart from tax incentives, covered in a separate section below, Egypt seeks to promote investment by offering various benefits either to favoured sectors (see Box 2.2) or to firms operating under special programmes, such as the Free Zones (including the so-called Private Free Zones), the Qualifying Industrial Zones (QIZs), and the Special Economic Zones. In exchange for their contribution to regional development to exports (firms in Free Zones are expected to export 50 per cent of their production) and value added (firms in QIZs are subject to a 35 per cent local content requirement, of which 11.7 per cent must be Israeli), firms receive a range of benefits, including tax breaks, exemption from customs duties on capital inputs and other imports associated with running a business, exemption from a wide range of regulations, more relaxed labour laws, and subsidised energy and water.

There is no specific programme aimed at evaluating the effectiveness of the various incentives mentioned above. Indeed, some of these incentives could be creating important economic distortions. For example, the elimination of customs duties on essential instruments and machinery in the Free Zones is a recognition of the important impact of import tariffs on products that constitute important components in investment value chains. This raises the question as to the impact of these same tariffs on investment in the rest of the economy.

> What steps has the government taken to promote investment linkages between businesses, especially between foreign affiliates and local enterprises? What measures has the government put in place to address the specific investment obstacles faced by SMEs?

The government has initiated a number of programmes aimed at promoting SMEs, including various financial and fiscal incentives, relaxed regulations concerning imports and exports, and preferential treatment for government procurement contracts. The government has also started a "National Suppliers Development Programme" which aims to boost the efficiency and international competitiveness of Egyptian SMEs. One of the most important legislative changes affecting SMEs concerns the recent lowering of the minimum capital requirement for limited liability companies from 50 000 to 1 000 Egyptian pounds.[23] However, despite these efforts, SMEs have to wait much longer than larger firms for basic services. For example, SMEs have to wait an average of over 90 days to get a telephone connection and over 100 days for an electricity connection.[24]

Has the government made use of international and regional initiatives aimed at building investment promotion expertise, such as those offered by the World Bank and other intergovernmental organisations? Has the IPA joined regional and international networks?

To what extent has the government taken advantage of information exchange networks for promoting investment?

GAFI has taken full advantage of the services offered by the World Bank (MIGA in particular), UNCTAD and other intergovernmental organisations, including the OECD. It is also a member of the Euro-Mediterranean network of Investment Promotion Agencies (ANIMA) and an active member of the World Association of Investment Promotion Agencies (WAIPA), which it joined in 1997. In 2006, Egypt – as a member of the Steering Committee of WAIPA representing the African Continent – hosted the annual WAIPA Regional Conference in the resort city of Sharm El Sheikh.

3. Trade policy

Policies relating to trade in goods and services can support more and better quality investment by expanding opportunities to reap scale economies and by facilitating integration into global supply chains, boosting productivity and rates of return on investment. Many of the improvements to Egypt's investment climate in recent years have been achieved through trade policy reforms.

What recent efforts has the government undertaken to reduce the compliance costs of customs, regulatory and administrative procedures at the border?

Prior to 2004, the trade regime was characterised by a multitude of different charges and levies in addition to the tariff schedules. This complicated the calculation of the final cost of imports due to the administrative discretion associated with the application of such charges, thus creating uncertainty for businesses that depended upon imported inputs. For example, products with customs duties between 5 and 29 per cent are subject to an additional levy of 2 per cent, while products subject to custom duties above 30 per cent are subject to an additional levy of 4 per cent. In 2004, all such additional charges on imports were eliminated, thus considerably reducing uncertainty for importers.

More recently, Egypt unilaterally reduced its weighted average applied MFN tariff rate from 9 per cent to 6.9% in February 2007. All surcharges and service fees, such as inspection fees for food, have been abolished. These could reach up to 5 per cent of the value of imported goods in some cases. Particular efforts have been directed towards removing impediments to intermediate inputs. With the number of customs procedures and approvals reduced from 26 to around 5, this is the policy area in which Egypt performs best in the World Bank's Doing Business rankings (83rd in 2007 and 1st in terms of level of reform effort). The average time for clearing customs according to the government is down to 2 days. In some cases, the General Organization for Exports and Imports Control will issue a temporary release of imported goods until the needed documentation is fully completed.

What steps has the government taken to reduce trade policy uncertainty and to increase trade policy predictability for investors? Are investors and other interested parties consulted on planned changes to trade policy?

One of the main channels through which the government has sought to increase trade policy predictability for investors has been through the negotiation of a number of trade agreements with Egypt's main trading partners (see Chapter 1, Section 2), thus securing both access to key markets for exporters as well as access to internationally competitive sources of intermediate inputs for importers. In addition, Egypt has improved predictability by making public its objectives in trade negotiations as, for example, in the case of the publication of its conditional Revised Offer in the WTO GATS negotiations. Although the extent to which the government directly consults with interested parties on planned changes to trade policy is not clear, the authorities have used measures of investor satisfaction to guide and evaluate progress in trade policy reforms (see previous question).

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How actively is the government increasing investment opportunities through market expanding international trade agreements and through the implementation of its WTO commitments?

Efforts to improve market access through bilateral, regional and multilateral efforts have been at the centre of Egypt's efforts to promote more and better investment. For a detailed discussion of Egypt's international relations on trade and investment (see Chapter 1, Section 2).

How are trade policies that favour investment in some industries and discourage it in others reviewed with a view to reducing the costs associated with these distortions?

Egypt's trade regime has become much more transparent and balanced with the reforms that started in 2004. However, one potential problem for investors concerns tariff escalation. This is the tendency for tariffs in a particular industry to increase with value-added. While tariff escalation is often used to encourage investment in particular industries (*i.e.* import substituting investment), production that is protected in this way will tend to lag behind global quality standards and performance. This in turn will have a negative downstream impact on investment for industries that need to use these products as intermediate inputs. Prior to the introduction in February 2007 of the new customs schedules, the average tariff on fully processed products was on average over 5 times the average tariff on raw materials. It is too early to tell to what extent the new schedules have reduced this problem.

To what extent do trade policies raise the cost of inputs of goods and services, thereby discouraging investment in industries that depend upon sourcing at competitive world prices?

The previous two questions addressed trade policies that affect trade in physical goods that serve as inputs into production, thereby influencing the investment environment. Services are another important component of value added in virtually every industry and, as such, policies that affect trade in services play an important role in shaping the quality of the investment environment.

Egypt has actively promoted trade in services, including through mode 3 (commercial presence). Services account for around half of Egypt's GDP. Egypt's conditional revised GATS schedule of commitments during the Doha Round expands its schedule of horizontal as well as sector-specific commitments.[25] At the horizontal level, Egypt conditional revised offer proposes an expansion of its commitments on the entry and temporary stay of natural persons. Further sector-specific commitments on market access are proposed in construction and related engineering services, insurance and banking services, computer services, courier services and air transport services.

> If a country's trade policy has a negative effect on developing country exports, what alternative means of accomplishing public policy objectives has the government considered, taking into account the dampening effect that such a restrictive trade policy also has on investment?
>
> To what extent does trade policy support and attract investment through measures that address sectoral weaknesses in developing countries (*e.g.* export finance and import insurance)?

Within the context of its regional trade relations, Egypt has offered duty-free access to a number of LDCs within the context of COMESA. Furthermore, Egypt has actively pursued both trade and investment agreements with other developing countries in its efforts to promote south-south trade and investment, including a reduction of tariffs for certain LDC imports of 10% in 2000.

The Export Development Bank of Egypt (EDBE), established in 1983, provides short- and medium-term loans and bank guarantees for exporters. It also provides credit for imports that are intended as inputs into products primarily intended for export. In 1992, the EDBE established the Export Credit and Guarantee Company (ECGC) to help exporters improve their marketing efforts and to develop new markets.

4. Competition policy

Competition policy favours innovation and contributes to conditions conducive to new investment. Sound competition policy also helps to transmit the wider benefits of investment to society. Egypt introduced its first competition law, the *Law on the protection of Competition and Prohibition of Monopolistic Practices,* in early 2005 and established the Egyptian Competition Authority (ECA) shortly after that. By mid-2006, the ECA started accepting complaints and, around the same time, it initiated investigations of the steel and cement sectors. In light of this very short history, the following analysis based upon selected questions from the competition policy chapter of the PFI is very preliminary in nature.

> To what extent, and how, have the competition authorities addressed anti-competitive practices by incumbent enterprises, including state-owned enterprises, that inhibit investment?

Although it is too early to know how actively the ECA will wield its authority, the new law applies to all natural and juristic persons undertaking economic activity in the market. This includes state-owned enterprises and private firms. The only exception is for public utilities run by the state. The law provides for two exemptions; namely, agreements and practices of private firms running public utilities (provided that the exemption leads to benefits for consumers that outweigh the anti-competitive effect). The second exemption covers agreements concluded by the government regarding essential products. The decisions taken by the Authority regarding the violations are final and not subject to ratification by any other authority. However, authority to refer cases to the courts rests with the Prime Minister.

> Do the competition authorities have the capacity to evaluate the impact of other policies on the ability of investors to enter the market? What channels of communication and co-operation have been established between competition authorities and other relevant government agencies?

The ECA is governed by a board of directors consisting of 15 members with representatives from different ministries, the private sector, the judiciary, and academia. The ministries with which the ECA maintains the closest ties are the Ministry of Trade and Industry and the Ministry of Investment.

> What is the role of the competition authorities in case of privatizations? Have competition considerations having a bearing on investment opportunities, such as not permitting market exclusivity clauses, been adequately addressed?

The competition law and the ECA were established in response to concerns that the main objective of the government's privatisation programme, namely to encourage greater economic efficiency, could be undermined if public monopolies came to be replaced by private ones. As such, the ECA is closely involved in the privatization process. According to the Competition Law, the Authority's role may take two forms. The first is to give advisory opinions to the government regarding the competitive position of firms to be privatized

and their effect on the market. The second is to monitor the privatized firms in conducting their economic activities.

Another recent reform is the Ministry of Trade and Industry's Consumer Protection Act (CPA), which was passed by Parliament in May 2006. The aim of the CPA is to ensure that the interests of consumers are protected, regardless of whether the products or services in question are being provided by public or private enterprises.

5. Other policy issues covered in the PFI

5.1. Tax policy

To fulfil their functions, all governments require taxation revenue. However, the level of the tax burden and the design of tax policy, including how it is administered, directly influence business costs and returns on investment. Sound tax policy enables governments to achieve public policy objectives while also supporting a favourable investment environment.

In 2005, the government brought in a new streamlined tax law to support both the country's broader development objectives as well as its investment attraction strategy. The corporate income tax rate was cut from between 32 and 40% down to a uniform 20% (with the exception of the oil and gas sector, to which the 40.55% rate continues to apply), all sector-, location- and business-specific holidays and exemptions were eliminated (about 3 000 in all), and electronic payment methods were introduced.[26] The result was a doubling of the number of filed tax returns between 2004 and 2005. Some exemptions are still available, such as from stamp duty, and notarization and registration fees are provided for up to three years from registration in the Commercial Register. In addition, all customs duties on capital imports by companies registered under the law were reduced to 5%.[27] Egypt has also introduced accelerated depreciation as an investment incentive, which is less distorting than tax holidays, various anti-avoidance mechanisms (*e.g.* thin capitalisation rules, transfer pricing rules) and residence-based taxation for corporate taxpayers to provide more neutral treatment between domestic investment and outbound FDI.

Egypt has large tax treaty network, including 45 treaties for the prevention of double taxation. These cover approximately two-thirds of the OECD's members.

5.2. Promoting responsible business conduct

Public policies promoting recognised concepts and principles for responsible business conduct, such as those recommended in the OECD Guidelines for Multinational Enterprises, help attract investments that contribute to sustainable development. Such policies include: providing an enabling environment which clearly defines respective roles of government and business; promoting dialogue

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on norms for business conduct; supporting private initiatives for responsible business conduct, and participating in international co-operation in support of responsible business conduct.

Egypt has a number of world class companies in this field (*e.g.* in accounting and audit, sustainable agriculture, medical services and sustainable investment management). However, the government in Egypt has had limited involvement to date in the promotion of responsible business conduct. This stems in part from the fact that before the privatisation programmes that started in the late 1990s the government was a dominant actor in the economy. As such, the issue was not so much the promotion of responsible business conduct in the private sector as the conduct of the government itself through its control over much of the economy. This experience could prove valuable in future government efforts aimed at promoting responsible business conduct. For example, although the primary role of Egypt's Administrative Control Authority (ACA) has been to combat corruption in the public sector, its activities have also aimed at promoting the participation of the private sector in the government's efforts to encourage business ethics and integrity in business transactions with public officials.

Egypt is a long-standing participant in numerous forums for inter-governmental co-operation for promoting international concepts and principles for responsible business conduct. For example, Egypt has both signed and ratified the United Nations Convention against Corruption and has adhered to all of the major international human rights instruments. It was also a founding member of the MENA-OECD Task Force on Business Integrity and Combating Bribery of Public Officials, which was established in 2005 as a forum for inter-governmental co-operation for promoting international standards and principles for business integrity in dealings with public officials.

Adherence to instruments and initiatives such as these creates responsibilities for governments, which commit to building these concepts and principles into their national policy frameworks. The resulting changes to national law and administrative practice, in turn, create responsibilities for companies. Egypt, like all countries, faces the challenge of making its international commitments meaningful to all members of Egyptian society, including companies. In addition, there is considerable future consolidation of the private sector's expertise in this area as Egypt's potential as an outward investor begins to realise itself, especially in the African region.

With regard to the Guidelines for Multinational Enterprises, the Egyptian National Contact Point (NCP) is being established at the Ministry of Investment in the second half of 2007. The NCP is being given the status of an independent department within the Ministry and will be available for consultations with businesses, labour representatives, NGOs and all other interested parties in

the OECD Guidelines. Indeed, the Egyptian government plans to establish links between the NCP and the National Committee for the Resolution of Investment Disputes, and its activities will benefit from guidance provided by an intergovernmental committee that will be headed by the Ministry of Investment and involving representatives from the Ministries of Trade and Industry, Finance, Labour, Telecommunications, Tourism, Foreign Affairs, as well as relevant business-related non-governmental organisations. The government plans to give the NCP a high level of visibility, accessibility, transparency and accountability. Links to the Guidelines (in English and Arabic) and other investment-related resources on the OECD website will be posted on the website of the Ministry of Investment and GAFI.

5.3. Human resource development

Human resource development (HRD) is a prerequisite needed to identify and to seize investment opportunities, yet many countries underinvest in human resource development due in part to a range of market failures. Policies that develop and maintain a skilled, adaptable and healthy population, and ensure the full and productive deployment of human resources, thus support a favourable investment environment.

The Egyptian government has given high priority to human resource development issues, including a 20-year programme to upgrade the education system, with targets for increasing early childhood education from the current levels of around 13 per cent to 60 per cent by 2010. This will involve an investment of US$ 108 million in the education system (including US$ 20 million from the World Bank). The importance of education is underscored by the demographic distribution of the Egyptian population, approximately one-third of which is under the age of 15.

The private sector has been encouraged to play a role in HRD. For example, a number of companies in the computer, telecommunications, and tourist industries participate in voluntary human resource development programmes that have been agreed between governments, industry associations, and representatives from local and foreign companies. In some cases such arrangements have even resulted in non-binding targets, such as the agreement that 60% of top management in computer companies be Egyptian nationals after three years of establishment.[28] This voluntary agreement represents an attempt by the government to achieve a balance between, on the one hand, the lack of local expertise, and, on the other hand, a desire to promote the development of indigenous capacity.

The promotion of the health care system has been another important element in the government's broader HRD strategy. For example, in a World Bank survey of the coverage of immunization programmes for children in

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44 developing countries, Egypt had the best performance having achieved virtually universal coverage, including across different socio-economic groups in society (*i.e.* coverage for the poor is practically as good as that for the rich).[29] Health care expenditures are approximately 6% of GDP, up from about 4% in 1995.[30]

5.4. *Infrastructure and financial sector development*

Sound infrastructure development policies ensure scarce resources are channelled to the most promising projects and address bottlenecks limiting private investment. Effective financial sector policies facilitate enterprises and entrepreneurs to realise their investment ideas within a stable environment.

The reforms initiated in 2004 have significantly opened up both the infrastructure and the financial sectors to private investors, both domestic and foreign. With respect to infrastructure, the focus has been on transportation and telecommunications since 1998. Recent transportation initiatives have included new legislation in June 2006 allowing private sector investment in the railway sector for the first time, a memorandum of understanding involving a consortium of international firms for US$ 30 billion of investment in highway, railroad, and seaport projects, and plans underway to more than double the capacity of Cairo International Airport through the construction of a new third terminal, involving two foreign partners, TAV Airports Holding Company (Turkey) and ARINC Managed Services (United States).

With respect to telecommunications, the reform process started in 1998 with the establishment of an independent regulatory authority and the incorporation of the government-owned operator, Telecom Egypt. The new Telecommunications Law (law 10) was passed in 2003. Although Telecom Egypt is still the sole provider of fixed-line telephony, the government recently sold a 20% stake in the company through an initial public offering on the Cairo and Alexandria Stock Exchange and the London Stock Exchange. Mobile services are controlled by private firms and most recently the government auctioned a third mobile phone operator license for US$ 2.9 billion.[31] The government is also in the early stages of licensing operators for international gateways and for the provision of international services in Egypt.

Reform of the financial sector has been another priority sector for the government. The reforms in this sector have been managed by the Banking Reform Unit within the Central Bank of Egypt following the adoption of a new banking law passed in 2003. The reforms have combined efforts to bring about consolidation in the banking sector with significant privatisation. Most recently, the Italian bank San Paolo took control of Bank of Alexandria, the first Egyptian bank to be privatised in a transaction worth US$ 1.6 billion.[32] One of the key provisions driving consolidation has been a stricter capital requirement

of 500 million Egyptian pounds (approximately US$ 87 million), which forced many smaller banks to seek partners. All but one of the five bids for the Bank of Alexandria involved foreign participation. This latest deal results in a financial sector that is now approximately divided 50-50 between private and public ownership and approximately 70-30 domestic *versus* foreign ownership.

5.5. *Public governance*

Regulatory quality and public sector integrity are two dimensions of public governance that critically matter for the confidence and decisions of all investors and for reaping the development benefits of investment. While there is no single model for good public governance, there are commonly accepted standards of public governance to assist governments in assuming their roles effectively.

The Ministry of Investment has made public sector integrity and fighting corruption integral elements of the reforms aimed at increasing private investment that were launched in 2004. This has included the adoption of a new Anti-Money Laundering Law in 2002 (law 80) and the initiation of a joint project with the UNDP in late 2006 aimed at developing a new "transparency of information" law. Egypt ratified the United Nations Convention against Corruption (UNCAC) in February 2005, which obliges the signatories to implement a wide and detailed range of anti-corruption measures affecting their laws, institutions and practices. These measures aim to promote the prevention, detection and sanctioning of corruption, as well as the international cooperation between the signatories.

In addition, the government has put in place measures aimed at combating active bribery of Egyptian public officials. Active bribery of public officials is a serious offence under Egyptian law. As part of its larger effort to combat bribery, the action of giving reward to Egyptian public officials for the purpose of influencing the public official's decision making in the discharge of his public function (*i.e.*"trading in influence") is also penalized. Egyptian tender laws contain provisions that foresee the disqualification of bidders found guilty of bribery in a public procurement contract. Furthermore, Egypt's anti-money laundering legislation provides the possibility for courts to hold liable persons involved in the laundering of assets derived from bribery. Such measures are expected to be strengthened as Egypt has ratified the UN Convention against Corruption and in the framework of the MENA-OECD Task Force, in which Egypt has actively participated since its establishment in June 2005.

As with many other reforms of the country's investment climate, Egypt's efforts to improve its governance framework are at an early stage of

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implementation and, as such, an evaluation of the ultimate impact of these reforms will require more time. Egypt is currently ranked 70th on Transparency International's annual Corruption Perception Index.

Notes

1. The Ministry of Investment oversees and coordinates the activities of a number of different investment-related government bodies, including the Capital Market Authority, the Egyptian Insurance Supervisory Authority, the General Authority for Real Estate Mortgage Affairs, the General Authority for Free Zones and Investment (GAFI), and the privatization programme.
2. Egypt is the first country to conduct a PFI-based self-assessment as well as an examination making use of the PFI within the context of its adherence to the Declaration.
3. Other laws of relevance to foreign investment include the Special Economic Zones Law (law 83 of 2002), the Commercial Register Law (law 34 of 1976); the Income Tax Law (law 157 of 1981); the Industrial Licensing Law (law 21 of 1958); the New Urban Communities Law (law 59 of 1979); and the Industrial Shops Law (law 453 of 1954).
4. Kosheri, Rashed and Riad (2006), "Egyptian business and commercial laws", in *Yearbook of Islamic and Middle Eastern Law*, Vol. 12 (Brill Academic Publishers: Boston).
5. Article 1 of law 8 specifies these sectors and establishes that the Cabinet of Ministers may add other activities to those already mentioned.
6. World Bank (2006), *Doing Business 2007: How to Reform*.
7. Approximately US$ 350.
8. The new law covers trademarks, commercial data, geographical indications, patents of invention, utility models, layout designs of integrated circuits, undisclosed information, industrial designs and models, copyright and related rights and plant varieties. Original works of literature, art and science, regardless of type, importance or purpose are also protected. This includes works of art expressed in writing, sound, drawings, photography and motion pictures, such as books, writings, speeches, oral works, plays, dramatic works, musical compositions, films, phonographic works, applied art, 3-D works, computer programmes and national folklore. Such works are protected for the lifetime of the author plus 50 years following his/her death. The law also provides protection for related rights including the rights of performers, producers of phonograms and broadcasting organisations. In order for protection to be effective, the work of art is to be original and include personal efforts, innovation and new arrangement.
9. Riad (2006), "Egyptian Business and Commercial Laws", in *Yearbood of Islamic and Middle Eastern Law,* Vol. 12 (Brill Academic Publishers: Leiden and Boston).
10. American Chamber of Commerce, Cairo, "Doing Business in Egypt: Laws of Business".
11. World Bank (2006), *Doing Business 2007: How to reform*.
12. The following discussion is based upon Annex D covering Egypt's proposed exceptions to national treatment and Annex E covering Egypt's proposed measures reported for transparency. See also the analysis in Chapter 2, Section 4 showing Egypt's relative openness to FDI.

13. One of the few foreign investments in this sector has been Euromediterranean Airlines, a subsidiary of Air Italia, which operates a single plane charter operation out of Sharm el Sheikh since January 2007.
14. It should be noted that since incorporation is not permitted in the provision of most professional services in Egypt, any restrictions in these sectors fall outside the scope of the National Treatment Instrument, which is only concerned with incorporated enterprises.
15. It should be noted however that applied measures and requirements are often less onerous than what is enshrined in binding GATS commitments.
16. Options for the eventual opening of the insurance and telecommunications sectors to foreign investment are currently under consideration by the government.
17. The documentation made available to investors on the GAFI and Ministry of Investment websites is generally promotional in nature.
18. Law 27 of 1994 and amendments 9 of 1997 and 8 of 2000.
19. Indeed, the Investment Guarantees and Incentives Law stipulates that "Projects established in public free zones shall not be subject to the provisions … of the Labour Code" (Article 43).
20. Law 8/1997, Section 3, Article 35.
21. Law 8/1997, Section 3, Article 35.
22. Law 8/1997 and its Executive Regulations, Part VII, Article 51. The minimum and maximum amounts are LE 300 and LE 3 000, respectively.
23. This change was influenced by the World Bank's Doing Business reports which found that the previous floor was acting as an impediment to new start-ups.
24. Stone, Andrew (2006).
25. WTO (2005), *Egypt: Revised Offer* (TN/S/O/EGY/Rev.1), 19 July 2005.
26. World Bank/KPMG, *Paying Taxes Survey 2007*.
27. Article 23 of law 8/1997.
28. Although phrased as a minimum local hiring quota, it should be noted that this provision allows foreign managers to account for up to 40% of senior positions, well above the statutory threshold of 10% that generally applies.
29. World Bank (2006), *World Development Report 2006* (World Bank: Washington, D.C.).
30. UNDP (2005), *Egypt Human Development Report 2005*.
31. IMF (2006), *Arab Republic of Egypt: 2006,* Article IV Consultation.
32. Prior to this, only minority stakes in other banks have been auctioned off.

ISBN 978-92-64-03461-7
OECD Investment Policy Review: Egypt
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ANNEX A

Average Annual FDI Inflows and Outflows, Selected Countries

Table A.1. **Total foreign direct investment inflows from 1995 to 2004**
In millions of US dollars

Country/Economy	Inflows	Country/Economy	Inflows
United States	1 414 829	Hungary	35 149
United Kingdom	549 789	Norway	34 401
China	442 425	Thailand	32 858
France	359 148	Malaysia	32 621
Germany	349 673	Venezuela	30 457
Luxembourg	274 922	India	28 306
Netherlands	273 180	Portugal	25 846
Canada	205 188	Colombia	25 498
Brazil	196 334	Israel	25 314
Spain	192 196	Chinese Taipei	21 315
Hong Kong, China	182 298	New Zealand	20 877
Sweden	159 317	Kazakhstan	19 199
Mexico	142 602	Peru	19 054
Ireland	136 089	South Africa	18 308
Australia	121 505	Romania	15 325
Singapore	100 746	Turkey	13 716
Italy	98 515	Azerbaijan	13 408
Belgium	81 906	Viet Nam	13 306
Denmark	75 136	Philippines	13 143
Switzerland	74 753	Angola	11 394
Argentina	71 948	Croatia	10 361
Japan	56 596	Morocco	9 874
Poland	56 272	Slovak Republic	9 515
Finland	49 537	Ecuador	9 315
Chile	47 965	Greece	8 451
Korea	47 804	**Egypt**	**8 148**
Austria	43 775	Estonia	4 535
Russian Federation	42 900	Slovenia	4 180
Czech Republic	41 404	Latvia	3 749

Note: Data are converted using the yearly average exchange rates.
Source: OECD International Investment Statistics, International Financial Statistics, IMF.

Table A.2. **Total foreign direct investment outflows from 1995 to 2004**
In millions of US dollars

Country/Economy	Outflows	Country/Economy	Outflows
United States	1 502 544	Mexico	8 964
United Kingdom	922 001	South Africa	7 770
France	663 062	Malaysia	7 681
Germany	431 913	Venezuela	5 610
Netherlands	362 968	Colombia	4 568
Luxembourg	309 861	Greece	4 537
Japan	280 681	Hungary	4 398
Spain	279 771	India	4 392
Canada	275 912	Turkey	4 388
Switzerland	196 385	Thailand	4 219
Hong Kong, China	168 014	Iceland	4 042
Sweden	160 936	Azerbaijan	3 992
Italy	125 480	Bahrain	2 873
Australia	72 941	Poland	1 839
Denmark	68 872	Czech Republic	1 641
Finland	67 365	Indonesia	1 488
Belgium	60 869	Croatia	1 447
Singapore	54 319	West Bank and Gaza	1 349
Chinese Taipei	50 150	New Zealand	1 293
Korea	39 866	Philippines	1 209
Austria	39 602	Slovenia	1 189
Norway	38 390	Estonia	1 069
Russian Federation	36 757	Libya	826
Portugal	35 734	Jamaica	720
Ireland	27 006	**Egypt**	**581**
China	23 057	Lithuania	370
Brazil	18 596	Latvia	186
Chile	15 618	Morocco	309
Israel	14 664	Slovak Republic	–185
Argentina	12 334		

Note: Data are converted using the yearly average exchange rates.
Source: OECD International Investment Statistics, International Financial Statistics, IMF.

ANNEX B

Bilateral Investment Agreements Concluded by Egypt as at February 2007

	Date of signature	Date of entry into force
Albania	22 May 1993	6 April 1994
Algeria	29 March 1997	3 May 2000
Argentina	11 May 1992	3 December 1993
Armenia	9 June 1997	Ratification and notification not yet complete
Australia	3 May 2001	25 September 2002
Austria	12 April 2001	29 April 2002
Azerbaijan	24 October 2002	Not in force
Bahrain	17 September 1997	11 January 1999
Belarus	20 April 1997	18 January 1999
Belgium and Luxembourg	28 February 1999	24 May 2002
Benin	Initialed February 2001	Not signed yet
Bosnia and Herzegovina	11 March 1998	29 October 2001
Botswana	Initialed July 2003	Not signed yet
Bulgaria	15 March 1998	3 June 2000
Burundi	Initialed February 2001	Not signed yet
Cameroon	24 October 2000	Not ratified by both parties
Cambodia	Initialed June 2000	Not signed yet
Canada	13 November 1996	12 June 1997
Central African Republic	7 February 2000	Not ratified by both parties
Chad	12 March 1998	Not ratified by both parties
Chile	5 August 1999	Not ratified by both parties
China	21 April 1994	1 April 1996
Colombia	Initialed June 2000	Not signed yet
Comoros	13 November 1994	27 February 2000
Congo, Democratic Republic of (Congo-Kinshasa)	18 December 1998	Not ratified by both parties
Croatia	27 October 1997	2 May 1999
Cyprus	21 October 1998	9 June 1999
Czech Republic	29 May 1993	5 June 1994

	Date of signature	Date of entry into force
Denmark	24 June 1996	29 October 2000
Djibouti	21 July 1998	Not ratified by both parties
Ethiopia	27 July 2006	Not in force
Finland	3 March 2004	5 February 2005
France	22 December 1974	9 August 1975
Gabon	22 December 1997	Not in force. Notification procedures not completed yet
Georgia	3 June 1999	Not ratified by Egypt yet
Germany	16 June 2005	Ratified by the Egyptian side
Ghana	11 March 1998	Not ratified by both parties
Greece	16 July 1993	6 April 1995
Guinea, Konakry	6 March 1998	Not ratified by both parties
Hungary	23 May 1995	Not ratified by both parties
India	9 April 1997	22 November 2000
Indonesia	19 January 1994	1 December 1994
Islamic Republic of Iran	25 May 1977	Not ratified by both parties
Italy	2 March 1989	1 May 1994
Jamaica	10 February 1999	Not ratified by both parties
Japan	28 January 1977	14 December 1977
Jordan	8 May 1996	11 April 1998
Kazakhstan	24 February 1993	8 August 1996
Korea, Republic of	18 March 1996	25 May 1997
Democratic Peoples Republic of Korea	19 August 1999	12 January 2000
Kuwait	17 April 2001	26 April 2002
Latvia	24 April 1997	16 April 1998
Laos	Initialed on 27 June 2000	Not signed yet
Lebanon	16 March 1996	6 February 1997
Libyan Arab Jamahiriya	3 December 1990	4 July 1991
Lithuania	Initialed in 6/5/1998	Not signed yet
Macedonia (FYROM)	24 November 1999	Ratified by Macedonia
Malaysia	15 April 1997	3 February 2000
Malawi	21 October 1997	7 September 1999
Mali	9 March 1998	7 July 2000
Malta	20 February 1999	18 July 2000
Mauritius	Initialed July 2003	Not signed yet
Mongolia	27 April 2004	25 January 2005
Morocco	14 April 1997	27 June 1998
Mozambique	8 December 1998	Not ratified by Egypt yet
Netherlands	17 January 1996	20 January 1998
Niger	4 March 1998	Not ratified by Niger yet
Nigeria	20 June 2000	Not ratified by both parties
Oman	25 March 1998	3 May 2000
Pakistan	16 April 2000	Not ratified by Egypt yet
Palestinian Territory	28 April 1998	19 June 1999
Peru	Initialed June 2000	Not signed yet

	Date of signature	Date of entry into force
Philippines	Initialed June 2000	Not signed yet
Poland	1 July 1995	17 January 1998
Portugal	28 April 1999	23 December 2000
Qatar	12 February 1999	Not ratified by both parties
Romania	24 November 1994	3 April 1997
Russian Federation	23 September 1997	12 June 2000
Saudi Arabia	13 March 1990	18 December 1990
Senegal	5 March 1998	Not in force. Notification procedures not complete yet
Serbia and Montenegro	24 May 2005	Not ratified by both parties
Seychelles	22 January 2002	Not in force
Singapore	15 April 1997	22 March 2002
Slovak Republic	30 April 1997	1 January 2000
Slovenia	28 October 1998	7 February 2000
Somalia	29 May 1982	16 April 1983
South Africa	28 October 1998	Not ratified by both parties
Spain	3 November 1992	26 April 1994
Sri Lanka	11 March 1996	10 March 1998
Sudan	8 July 2001	1 April 2003
Swaziland	18 July 2000	Not ratified by both parties
Sweden	15 July 1978	29 January 1979
Switzerland	25 July 1973	4 June 1974
Syrian Arab Republic	28 April 1997	5 October 1998
Thailand	18 February 2000	4 March 2002
Togo	Initialled	Not signed yet
Turkey	4 October 1996	31 July 2002
Turkmenistan	23 May 1995	29 March 1996
Uganda	4 November 1995	Not ratified by both parties
Ukraine	22 December 1992	10 October 1993
United Arab Emirates	11 May 1997	11 January 1999
United Kingdom	11 June 1975	24 February 1976
Tanzania, United Republic	30 April 1997	Not ratified by both parties
Tunisia	8 December 1989	2 January 1991
United States	29/09/1982 and modified March 1986	27 June 1992
Uzbekistan	16 December 1992	8 February 1994
Viet Nam	6 September 1997	4 March 2002
Yemen	6 June 1996	10 April 1998
Zambia	28 April 2000	Not ratified by both parties
Zimbabwe	27 May 1999	Not ratified by both parties

Source: Government of Egypt, Ministry of Investment.

ANNEX C

Egypt's Membership in International Organisations and Regional/Country Groupings

International organisations and regional/country groupings

African Development Bank

African Union

Black-Sea Economic Co-operation (observer)

European Bank for Reconstruction and Development

G20

G77

International Atomic Energy Agency

International Labour Organization

International Monetary Fund

International Organization for Migration

Interpol

Islamic Development Bank

NEPAD Steering Committee

Non-Aligned Movement

Organization for Security and Co-operation in Europe (partner)

Organization of American States (observer)

United Nations

United Nations Conference on Trade and Development

United Nations Economic Commission for Africa

United Nations Educational, Scientific and Cultural Organization

United Nations Food and Agriculture Organization

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United Nations Industrial Development Organization

World Bank

World Health Organization

World Intellectual Property Organization

World Trade Organization

Adherence to key international agreements

Crime and corruption

United Nations Convention against Corruption (UNCAC), ratified on 25 February 2005

United Nations Convention against Transnational Organized Crime (UNCTOC), ratified on 5 March 2004

African Union Convention on Preventing and Combating Corruption, signed but not yet ratified

Environment

Convention on Wetlands of International Importance Especially as Waterfowl Habitat (1971)

Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) – (1973)

Convention on Protection of the Ozone Layer (1985)

Convention on Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989)

Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) – (1990)

Convention on Biological Diversity (1992)

Framework Convention on Climate Change (1992)

Convention on Combat Desertification in those countries experiencing serious drought and/or desertification, particularly in Africa (1994)

Convention on Nuclear Safety (1994), – signed, not yet ratified

Convention on Persistent Organic Pollutants (2001)

Fisheries

FAO Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas (1993)

United Nations Fish Stocks Agreement (1995), signed but not ratified

Human rights

International Covenant on Civil and Political Rights

International Covenant on Economic, Social and Cultural Rights

African Charter on Human and Peoples' Rights

International investment

Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (ICSID Convention)

Labour

8 Core ILO Conventions, all ratified:

Convention 29: Forced Labour Convention (1930)

Convention 87: Freedom of Association and Protection of the Right to Organise Convention (1948)

Convention 98: Right to Organise and Collective Bargaining Convention (1949)

Convention 100: Equal Remuneration Convention (1951)

Convention 105: Abolition of Forced Labour Convention (1957)

Convention 111: Discrimination (Employment and Occupation) Convention (1958)

Convention 138: Minimum Age Convention (1973)

Convention 182: Worst Forms of Child Labour Convention (1999)

Law of the sea

Convention on Law of the Sea (1982)

ANNEX D

Egypt's Exceptions to National Treatment

A. Exceptions at national level

I. Investment by established foreign-controlled enterprises

Land and real estate

Foreign investors can acquire land and real estate for business purposes except in Sinai and border land zones without prior approval (law 94 of 2005).

Construction

Foreign investment is only allowed in the form of joint-venture companies in which foreign equity shall not exceed 49%. In addition, foreign participation in electrical wiring and other building completion and finishing work is restricted to projects valued at over US$ 10 million (law 104 of 1992).

Maritime transport

Foreign investment is only allowed in the form of joint-venture companies in which foreign equity does not exceed 49%. For supporting services foreign equity should not exceed 75%. A prerequisite for a ship to fly the Egyptian flag is ownership by an Egyptian company and registry with the Egyptian ship register. Ninety-five per cent of crew must be Egyptian nationals whose salaries must be not less than 90% of the total paid up wages. For supporting services 25% of employees must be Egyptian nationals (Maritime Law 1 of 1998).

Air transport

Foreign investment in air transport is allowed up to 49% in companies involved in regular international and domestic flights (for both passenger and cargo services). Foreign investment up to 100% is permitted in ancillary services including maintenance and repair of aircraft, selling and marketing of air services and computer reservation systems (Ministry of Aviation, law 502 of 2005).

Courier services

Authorisation for foreign investment in courier services is required from the Egyptian National Postal Organisation (law 121/1982). Authorisations are granted on the basis of an economic needs test until 31 December 2009.

Commercial agents

Registration in the Register of Commercial Agents and Intermediaries is a condition for engagement in these activities and only Egyptian nationals and fully owned and managed Egyptian companies may be inscribed in the Register. Furthermore, only Egyptian nationals and fully Egyptian owned and managed companies may engage in imports into Egypt on condition of being registered in the register of importers (Commercial Law 17 of 1999).

II. Official aids and subsidies

None.

III. Tax obligations

None (Corporate Income Tax Law 7 of 2005).

IV. Government purchasing

Preference is given to domestic providers if their bids do not exceed the lowest foreign bid by 15% (Tender Regulation Law 89 of 1998).

V. Access to local finance

None.

B. Exceptions by territorial subdivisions

None.

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ANNEX E

Egypt's Measures Reported for Transparency

I. Measures based on public order and essential security considerations

Foreign investment is not permitted in the defence industry and in activities involving radioactive substances.

II. Monopolies and concessions

1. Public monopolies

- Fixed-line telecommunication: Telecom Egypt (TE) is Egypt's sole domestic fixed-line operator and sole international operator (Telecommunications Law 10 of 2003).
- Electricity production and distribution: Only minority shares of electricity distribution companies can be held by private shareholders (domestic and foreign). Egyptian electricity production and distribution is controlled by the Egyptian Electricity Holding Company (Electricity Law 18 of 1998).
- Gas distribution: The Egyptian Natural Gas Holding Company (ENGHC) and NATGAS, an Egyptian Joint Stock company, hold a 20-year concession to design, build, operate and manage the national natural gas transportation and distribution network on behalf of the Egyptian General Petroleum Corporation (EGPC).
- Railway transportation (Article 2 of law 152 of 1980): Private investors (foreign and domestic) may invest in the development of new rail networks but only if these do not compete with the existing government controlled network.
- Postal/delivery services: The Egyptian National Postal Organisation is protected from private competition by a postal agency fee of 10% of the revenues earned by private courier companies from all shipments under 20 kilos.

2. Private monopolies

None.

3. Concessions

The following areas may be subject to concessions from the government or quasi-government bodies:

- infrastructure;
- activities in the fields of tourism;
- oil and gas exploration and development;
- mobile telecommunication licences.

III. Other

- A work permit for foreign natural persons is required from the government (obtainable at the "one-stop shop"). The number of foreign natural persons employed in any enterprise, regardless of the number of branches, shall not exceed 10% of the total number of persons employed. Companies operating in a free zone may have up to 25% non-Egyptian national employees. These limits can be exceeded if an explicit exemption is received from the government (law 12 of 2003).

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ANNEX F

Egypt's Openness to FDI

This Annex evaluates Egypt's openness to FDI in 9 sectors using the OECD FDI Regulatory Restrictiveness Index (RRI – see Box).

Calculating the FDI regulatory restrictiveness index

The FDI regulatory restrictiveness index is calculated for 9 sectors. These are: *i)* professional services (including legal, accounting, architectural and engineering services); *ii)* telecommunications (fixed and mobile); *iii)* transport (air, road and maritime); *iv)* finance (including insurance and banking); *v)* distribution; *vi)* construction; *vii)* hotels and restaurants; *viii)* electricity; and *ix)* manufacturing.

For each sector, three main categories of restrictions are measured:

- the authorised level of foreign equity holdings (0-100 per cent);
- screening and discriminatory notification requirements;
- other restrictions, including limitations on foreign participation in boards of directors, on movement of personnel, and operational restrictions, such as domestic content requirements.

The restrictions are evaluated on a 0-1 scale with "0" corresponding to a completely open sector and "1" to a closed sector. Since a limitation on foreign equity is a decisive barrier, a ban on foreign ownership in a given sector implies a maximum score of 1 as the other restrictions become irrelevant. Market access barriers represented by state owned monopolies are also scored. The overall restrictiveness index is a weighted average of the sectoral indices, using fixed average FDI and trade shares for weighing individual sectors.

A number of important qualifications regarding the FDI regulatory restrictiveness scores apply. The measures do not capture non-policy institutional restrictions, or policies that may indirectly impinge on FDI, such as product market regulations. Nor is the extent of actual enforcement of restrictions factored into the calculations. Nonetheless, when the indices are used in combination with other variables they contribute to explaining variations among countries in attracting FDI.

Source: OECD (2007), "OECD's FDI Regulatory Restrictiveness Index: Revision and Extension to More Economies", *International Investment Perspectives*.

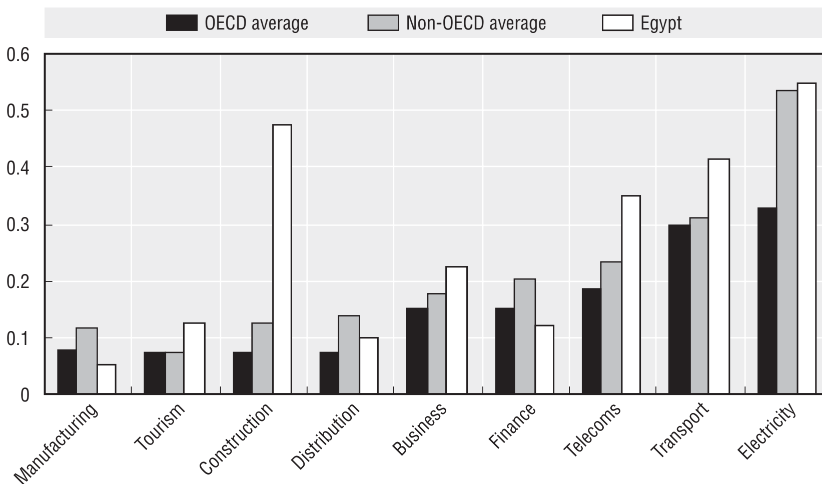
Egypt's regulatory restrictiveness index: A cross-sector comparison

Egypt's RRI is higher than the OECD average in seven of the nine sectors covered; tourism, construction, distribution, business services, telecommunications, transport and electricity. Its RRI is also higher than the non-OECD average in all of these areas except distribution, although to a much lesser extent. Egypt's average RRI for each sector is 94% higher than the OECD average and 37% higher than the non-OECD average.

The extent to which Egypt's average sectoral restrictiveness scores are higher than those for both OECD and non-OECD countries can be largely explained by the high RRI score for the construction segment. The laws and regulations on construction in Egypt include both equity restrictions (49%) as well employment requirements.

Another sector in which Egypt's RRI is higher than the OECD average is telecommunications. In this case the high score can be attributed almost wholly to the fixed-telecommunications sub-segment due to the dominant position of Telecom Egypt and limited privatisation in this sub-segment. In contrast, the mobile telecommunications sub-segment is very open to foreign investment. Egypt's least restrictive sectors, relative to the average restrictiveness in OECD and non-OECD countries, are manufacturing, financial services, and distribution. Figure F.1 summarises Egypt's RRI for each sector, along with the OECD and non-OECD averages.

Figure F.1. **Regulatory restrictiveness by industry, OECD and non-OECD averages and Egypt**



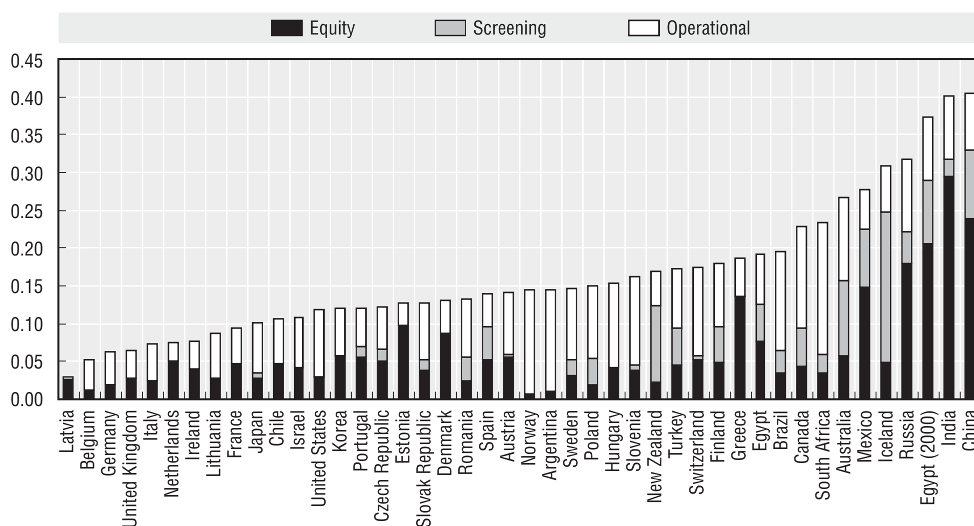
Source: OECD Investment Division.

Egypt's regulatory restrictiveness index: A cross-country comparison

Figure F.2 compares Egypt's average overall RRI with that of 42 other countries. Egypt's index score (0.21) is 40% higher than the OECD average (0.15) and much better than the average for the BRICS (Brazil, Russia, India, China, and South Africa) (0.311). Figure F.2 includes Egypt twice; once for 2006 and once for 2000, before many of the reforms of the current administration had been initiated. Over this period, Egypt's FDI regulatory restrictiveness index fell by 43 per cent. In 2000, Egypt ranked 41st out of 43. By 2006, its rank had improved to 33rd. This improvement in Egypt's level of regulatory restrictiveness closely matches the rapid growth in Egypt's FDI inflows over the same period.

Figure F.2 also provides a breakdown of each country's RRI according to the types of regulatory restrictions maintained on foreign investment, as between equity restrictions, screening requirements, and operational requirements. The decrease in Egypt's overall RRI rank from 41st to 33rd between 2000 and 2006 was due to reductions of all three types of restriction. However, the greatest gains mainly came from reductions in restrictions on equity requirements (the most prohibitive type of restriction).

Figure F.2. **Egypt's ranking in the OECD FDI regulatory restrictiveness index (2000 and 2006)**



Source: OECD Investment Division.

ANNEX G

Summary of the Main Provisions of the OECD Declaration on International Investment and Multinational Enterprises

Adherence to the *OECD Declaration on International Investment and Multinational Enterprises* implies acceptance of all its components as well as the related Decisions and Recommendations. The *OECD Declaration on International Investment and Multinational Enterprises* is a political agreement among adherent countries for co-operation on a wide range of investment issues. The Declaration contains four related elements: the national treatment instrument, the guidelines for multinational enterprises, an instrument on incentives and disincentives to international investment and an instrument on conflicting requirements. It is supplemented by legally binding Council Decisions on implementation procedures, and by Recommendations to adherents to encourage pursuit of its objectives, notably with regard to National Treatment.

National treatment

The national treatment instrument provides that adherents should, consistent with their needs to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security, accord to enterprises operating in their territories and owned or controlled by nationals of another member country treatment under their laws, regulations and administrative practices consistent with international law and no less favourable than that accorded in like situations to domestic enterprises.

Under the Third Revised Decision of the Council on National Treatment, adherents to the Declaration must notify the Organisation of all measures constituting exceptions to the national treatment principle within 60 days of their adoption and of any other measures which have a bearing on this

principle (the so-called "transparency measures"). These measures are periodically reviewed by the Investment Committee, the goal being the gradual removal of measures that do not conform to this principle.

Exceptions to national treatment fall into five categories: investments by established foreign-controlled companies, official aids and subsidies, tax obligations, access to local bank credit and the capital market, and government procurement.

Transparency measures include measures based on public order and national security interests, restrictions on activities in areas covered by monopolies, public aids and subsidies granted to government-owned enterprises by the state as a share.

The national treatment instrument is solely concerned with discriminatory measures that apply to established foreign-controlled enterprises.

Areas of existing public, private or mixed monopolies are to be recorded for the purpose of transparency since foreign-controlled and domestic private enterprises are subject to the same restrictions. The undertaking to apply national treatment comes into force as and when areas previously under monopoly are opened up. In such cases, access to these areas should be provided on a non-discriminatory basis. If restrictions prohibit or impede in any way the participation of foreign-controlled enterprises *vis-à-vis* their domestic counterparts, then these restrictions are to be reported as exceptions to national treatment. The objective is to ensure access to formerly closed sectors on an equal basis.

The 1991 Review confirmed the understanding reached in 1988 by the Committee on a standstill on national treatment measures. This understanding provides that adherents should avoid the introduction of new measures and practices, which constitute exceptions to the present national treatment instrument. Particular attention is to be given to this question in the Committee's work.

A number of Recommendations of the Council have also been addressed to adherents in the context of earlier horizontal examinations. Most of these recommendations were made to individual countries, but a number of them were of a general character. Concerning investment by established foreign-controlled enterprises, adherents should give priority in removing exceptions where most adherents do not find it necessary to maintain restrictions. In introducing new regulations in the services sectors, adherents should ensure that these measures do not result in the introduction of new exceptions to national treatment. Adherents should also give particular attention to ensuring that moves towards privatisation result in increasing the investment opportunities of both domestic and foreign-controlled enterprises so as to extend the application of the national treatment instrument.

In the area of official aids and subsidies, adherents should give priority attention to limiting the scope and application of measures which may have important distorting effects or which may significantly jeopardise the ability of foreign-controlled enterprises to compete on an equal footing with their domestic counterparts.

Finally, with regard to measures motivated by based on public order and essential security interests, adherents are encouraged to practice restraint and to circumscribe them to the areas where public order and essential considerations are predominant. Where motivations are mixed (*e.g.* partly commercial, partly national security), the measures concerned should be covered by exceptions rather than merely recorded for transparency purposes.

Guidelines for multinational enterprises

The guidelines constitute a set of voluntary recommendations to multinational enterprises in all the major areas of business ethics, including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition and taxation. Adhering governments have committed to promote them among multinational enterprises operating in or from their territories.

The instrument's distinctive implementation mechanisms include the operations of National Contact Points (NCP), which are government offices charged with promoting the guidelines and handling enquiries in the national context. NCPs in different countries shall co-operate if such need arises, on any matter covered by the guidelines relevant to their activities. NCPs shall also meet annually to share experiences and report to the Investment Committee.

The Investment Committee is responsible for periodically or at the request of an adhering country hold exchange of views on matters covered by the guidelines and periodically invite the Business and Industry Advisory Committee to the OECD (BIAC), the Trade Union Advisory Committee to the OECD (TUAC) ("the advisory bodies"), other non-governmental organisations to express their views as well as representatives of non-adhering countries on matters covered by the guidelines.

The Committee shall also be responsible for clarifications of the guidelines and for exchanging views on the activities of National Contact Points and shall periodically report to the Council on matters related to the guidelines.

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Incentives and disincentives

The instrument on investment incentives and disincentives recognises that adherents may be affected by this type of measure and stresses the need to strengthen international co-operation in this area. It first encourages them to make such measures as transparent as possible so that their scale and purpose can be easily determined. The instrument also provides for consultations and review procedures to make co-operation between adherents more effective. A considerable part of the work undertaken in this area is analytical, two studies being undertaken in the 1980s. Adherents may therefore be called upon to participate in studies on trends in and effects of incentives and disincentives on FDI and to provide information on their policies.

Conflicting requirements

The instrument on conflicting requirements provides that adherents should co-operate with a view to avoiding or minimising the imposition of conflicting requirements on multinational enterprises. In doing so, they shall take into account the general considerations and practical approaches recently annexed to the Declaration. This co-operative approach includes consultations on potential problems and giving due consideration to other country's interests in regulating their own economic affairs.

OECD PUBLICATIONS, 2, rue André-Pascal, 75775 PARIS CEDEX 16
PRINTED IN FRANCE
(20 2007 03 1 P) ISBN 978-92-64-03461-7 – No. 55675 2007

OECD Investment Policy Reviews

EGYPT

In July 2007, Egypt became the 40th country to adhere to the *OECD Declaration on International Investment and Multinational Enterprises*. The adherents to the Declaration commit to providing national treatment to foreign investors and promoting responsible international business conduct. During this process, Egypt undertook a thorough review by OECD members of its international investment policies using the *Policy Framework for Investment*. This publication presents the results of this review.

One of the main findings of the review is that international investors responded quickly to the government's policy reform efforts: foreign direct investment (FDI) into Egypt increased eightfold in just three years, diversifying away from the petroleum sector and bringing much-needed investment to a broad range of manufacturing and service industries. However, the review also shows that investment climate reforms take time and many challenges still lie ahead. These include ongoing efforts to phase out unnecessary sectoral restrictions on investment, maintaining the momentum for broadening the privatisation programme and encouraging entrepreneurship by promoting transparency, accountability and competition.

This review reflects the OECD's mission to help all governments improve their investment climates through peer learning and the sharing of best practices.

The full text of this book is available on line via these links:
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ISBN 978-92-64-03461-7
20 2007 03 1 P

9 789264 034617