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EGYPTIAN FOREIGN TRADE AND AGRICULTURE POLICIES: CHALLENGES AND GLIMPSES OF HOPE

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The first contribution to the CITA Working Papers Series – CITA Working Paper #1-2010 – was focused on international legal regimes to balance the protection of prairies and grasslands with their agricultural use. CITA Working Paper #2-2011, written by Dr. Surendra Bhandari, provided a country study on Nepal in the context of international trade and agriculture. Working Paper #3-2011, written by Ms. Jomana Qaddour, provided a country study on Syria in the context of international trade and agriculture. Now CITA is pleased to post CITA Working Paper #4-2011, providing a country study on Egypt in the context of international trade and agriculture. Written by an Egyptian lawyer and scholar, this Working Paper #4-2011 offers insights into the challenges facing that country's economic sector in the face of both internal and external changes. Comments on the paper are welcome, particularly in the form of either (i) direct communications with the author (heba.hazzaa@gmail.com) or (ii) submission of a contribution to the CITA Working Papers Series on this or a related topic.

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EGYPTIAN FOREIGN TRADE AND AGRICULTURE POLICIES: CHALLENGES AND GLIMPSES OF HOPE

Heba Hazzaa *

S y n o p s i s

This paper discusses the effects of the recent events in Egypt on the country's Trade and Agricultural policy. Egypt's new government faces various challenges; some inherited from the old regime and others are brought about by the recent events. The Egyptian revolution toppled President Mubarak's regime and set new priorities for the overall economic policy. The political changes will inevitably reshape the country's trade policy and trade relations. Agricultural policies occupy a significant place in the new government's agenda as self sufficiency of strategic crops becomes a priority.

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Introduction

Egypt entered recently into turmoil. Although the political scene in Egypt before January 25, 2011 was full of signs, no one could have predicted what happened in the days following January 25. The political scene in Egypt began to change since 2000, when a grassroots movement named “Kefaya” (“Enough”) protested against President Hosni Mubarak’s rule for 20 years and the ongoing succession scheme. Gamal Mubarak, Mubarak’s youngest son, was being groomed as the next president of Egypt. Since 2000, opposition movements lead demonstrations (in fairly modest numbers) to protest police brutality, the flagrant election fraud, worsening economic conditions and corruption.

Observers of the increased poverty and long bread lines predicted a “revolution of hunger bitten Egyptians”[1]. Egypt’s status as a net importer of basic food supplies and strategic crops was indeed a matter of national security.

This scenario did not take place. Instead, on January 25, 2011 highly organized and educated upper middle class youth protested against the stagnated political situation, the malfunctioning socioeconomic system and crushing poverty.

On the 25 of January tens of thousands of demonstrators chanted “Welfare, Freedom and Human dignity” as they stormed the streets in Egypt on the first day of what turned out to be a revolution that changed the face of Egypt. Faced with police brutality and inspired by the success of the Tunisian revolution, the crowds in Tahrir and all over Egypt demanded the “regime fall” for 18 days.

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[1] *Ellen Knickmeyer,* In Egypt, Upper Crust Gets the Bread Shortage Exposes Inequities, Washington Post published on April5, 2008 *available at http://www.washingtonpost.com/wp-dyn/content/article/2008/04/04/AR2008040403937.html?hpid=moreheadlines&sub=AR*

Mubarak, age 82, stepped down on February 11, 2011 after the military announced it is siding with the "legitimate aspirations of the Egyptian people". Mubarak delegated his powers to the Supreme Military Council and left with his family to Sharm El Sheik.

The days that followed Mubarak's stepping down were and still are uncertain. The country is undergoing a difficult and challenging transition.

Attempting to address issues relating to Trade and Agriculture policies in Egypt now may be difficult; the main policy makers who were in charge of Egypt's foreign Trade and Agricultural policies are now under investigation for corruption charges and their policies are being revised. By the end of 2011, Egypt will have a newly elected president and parliament and a the drafting of a new constitution will begin[2].

The paper is divided into two sections. The first section presents a background to the overall setting namely Egypt's membership in various multilateral and regional trade agreements, the country's main trade partners and the principal exports and imports.

The second section then shifts the focus to the different challenges facing Egypt's Foreign Trade and Agriculture. These involve challenges inherited from the policies of the previous regime (such as food shortages and decreasing arable land) as well as immediate and midterm challenges to Egypt's Foreign Trade and Agriculture brought on by the current events as the country transitions to a new form of government.

[2] This paper was drafted for publication by January 2011, but the events that rocked the Egyptian scene since made it necessary to revise and edit the paper. Although the bulk of the paper was researched before the events that took place on and after January 25, the original version of the paper pinpointed the economic precursors to the Revolution: the worsening economic conditions, the negative trade balance, lack of basic food security and corruption.

The immediate challenges center around the security situation, excessive transgressions on arable fertile land and strikes in public and private sectors.

The midterm challenges are restoring confidence in the overall Egyptian economy, increasing production of strategic crops and expanding arable land.

In conclusion I offer some general recommendations. Egypt is going through difficult times. Despite what seems now as an anti private sector sentiment[3], it is unlikely that Egypt will abandon its pro business capital system[4]. The new government is faced with increased demands for "social justice" represented in demands for minimum wages and secured access to basic services. This means that the government will have to increase its resources and strike the appropriate balance between securing basic services for its very angry citizens and securing a pro investment climate.

As for Agriculture, achieving self sufficiency of wheat, improving agricultural education and reaching out for farmers should be priorities of any new government.

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[3] Caused by the witch-hunt mentality that is spreading between laymen in Egypt as a result of the widespread investigations into the wealth of former officials and businessmen connected to the former regime and those involved in privatizations of the public sector.

[4] The constitutional declaration which governs the transition period issued by the Supreme Military Council on March 30 , 2011 states that " The economic activity in the Arab Republic of Egypt is based on incentivizing economic activity, social justice, protection of all kinds of property rights and protecting the rights of the workers (Art. 5 Of the Constitutional Declaration) . The new constitution that will be drafted by a general assembly starting September 2011 will decide on the economic theory that will guide the economic activity. For instance the previous constitution of 1971 specified that the economic system is the socialist system and that the public sector is the spearhead of economic development (Art. 5 Of the Egyptian Permanent Constitution of 1971). In 2005 this article was changed to correspond to the government's privatization program and its capitalist policies.

SECTION ONE: EGYPT'S MEMBERSHIP IN TRADE ORGANIZATIONS, ITS OVERALL TRADE BALANCE AND PRINCIPAL TRADING PARTNERS

I. Membership in Trade Organizations and Agreements.

Egypt has been a member of WTO since June 1995. Within the WTO Egypt is a part of a negotiating group which consists of 23 developing countries seeking a "push for the elimination of agricultural subsidies in rich countries, [and] serving to emphasize the unfulfilled promise of the Doha Development Round to produce trade policies that would especially benefit developing countries."[5]

The country is also a member of different and diverse Trade arrangements.[6]

Egypt signed in 2001 the European Egyptian Association Agreement modeled after the Euro Mediterranean partnership agreements (EuroMed)[7]. The EuroMed incorporates a " free trade arrangements for industrial goods, concessionary arrangements for trade in agricultural products, and opens up the prospect for greater liberalization of trade in services, and farm goods."

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[5] Global Trade negotiations Country Summary, Center for International Development at Harvard University *available at* http://www.cid.harvard.edu/cidtrade/gov/egyptgov.html

[6] Egypt's geographical location and its close relations with Arab, Middle Eastern, Mediterranean and African countries might explain the country's often overlapping Trade agreements. For an in-depth analysis of the overlapping Trade Agreements *see* Tamer Afifi, *The Challenge of Implementing the Overlapping Regional Trade Agreements in Egypt, Inaugural Dissertation*, University of Friedrich-Alexander Germany, at p. 25 , March 28, 2007 *available at* ***http://www.opus.ub.unierlangen.de/opus/volltexte/2007/590/pdf/TamerAfifiDissertation.PDF*** . **H**ereinafter referred to as [Afifi].

[7] "The agreement with Egypt incorporates free trade arrangements for industrial goods, concessionary arrangements for trade in agricultural products, and opens up the prospect for greater liberalization of trade in services, and farm goods. The Association Agreement was signed in Luxembourg on 25 June 2001 and entered into force on 1 June 2004, following ratification by the Member States and by Egypt. It replaces the earlier Co-operation Agreement of 1977. A Protocol has been concluded which amends the Agreement to accommodate the enlargement of the Union to 25 Member States in 2004." *See* The European Union External Access *available at http://www.eeas.europa.eu/egypt/eu-egypt_agreement/index_en.htm*

The Agadir Agreement was signed in 2004 between Egypt, Morocco, Jordan and Tunisia to establish free trade zones between the countries. The Agadir Agreement is endorsed by the EU and is part of the planned European Mediterranean Free Trade Zone[8].

Egypt is a member of the Greater Arab Free trade Agreement (GAFTA[9]). GAFTA aims at eliminating tariffs and non tariff trade barriers between member countries (the zero tariff point was reached in 2005[10]).

Egypt also joined the Common Market for Eastern and Southern African countries (COMESA) in 1998[11]. Trade between Egypt and African countries has not realized its full potential yet although there is demand for Egyptian products in most Eastern African countries and the zero tariff point has been already reached.

In August 2010 Egypt signed a free trade Agreement with the Southern Common Market trading bloc (MERCOSUR).Egypt is the first African and Arab country to sign a Trade agreement with MERCOSUR.

It is clear that Egypt has diverse trade partners and a web of Trade agreements that sometimes overlap.

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[8] A statement by the European Commissioner for Trade *available at* http://trade.ec.europa.eu/doclib/docs/2006/march/tradoc_127729.pdf

[9] GAFTA is otherwise referred to as the Pan Arab Free Trade Agreement or PAFTA. GAFTA has 18 member states. Those members are : Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen, Algeria, Sudan, Palestine.

[10] According to Article XXIV of the GATT Agreement, Free trade agreements such as GAFTA are recognized as exemptions to the Most Favored Nations rule. Non GAFTA WTO members cannot therefore ask for MFN or zero tariff on their products.

[11] The members of COMESA are: Burundi, Comoros, D.R. Congo, Djibouti, Egypt, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

II. Main Trade partners.

The EU is the largest trade partner with 36.3% of total Egyptian exports and imports followed by the US with 18.4%[12]. Trade with Asian countries excluding Arab Asian countries is next at 16.8%. Trade with Arab countries registered a total of 11.4% of Egyptian foreign trade.

A. Trading with the E.U.

1. The EU-Egypt Association Agreement (EuroMed)

Unlike the trade relation with the U.S., trading with the E.U. was not seriously affected by local Egyptian politics[13]. Although the European Egyptian Association Agreement emphasizes in its preamble on "the importance of the principles of the United Nations Charter, in particular the observance of human rights, democratic principles and economic freedom [.]", this "emphasis" has never held both parties from actively pursuing the trade benefits of agreement[14] despite Egypt's record on such issues of human rights, democratic principles and economic freedom.[15]

The European Egyptian Association Agreement is not a narrow "free trade agreement", rather a comprehensive co-operation agreement. Trade in services, however, is not within the scope of the

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[12] Annual report FY 2008/2009 published by the Central Bank of Egypt (CBE), p. 90 *available at* *http://www.cbe.org.eg/public/Annual_2008-2009.pdf* last visited on August 21, 2010. Hereinafter referred to as [CBE note].

[13] The former minister of Trade Rachid Mohamad Rachid implied that it is easier to "do business" when the economic or trade relations are not linked to politics such as the case with the U.S. *see* Mure Dickie, *Egypt says China will be biggest trading partner in eight years,* FINANCIAL TIMES , September 7, 2006 *available at* http://www.ft.com/cms/s/0/7bfc93ee-3e0d-11db-bd60-0000779e2340.html#axzz1Jv7PGS3Y

[14] Unlike the situation with the U.S. free trade talks towards an Agreement.

[15] EU statement at the sixth meeting of the EU- Egypt Association Council held in Luxembourg in April 2010. *Available at* http://www.eeas.europa.eu/egypt/aa/2010_eu-egypt_statement_en.pdf

agreement and agricultural products are not liberalized as they are subject to the stricter tariff reduction schedules compared to industrial products.[16]

After the EU expanded its membership in 2004 by adding 10 states, a new initiative was launched to create a neighborhood of European and Mediterranean countries that share common values and govern according to principles of "democracy, rule of law, good governance and respect for human rights". The partners in the European Neighborhood Protocol (ENP) are promised a "stake in the [European] Internal market" by liberalizing trade in agriculture and services with the states that satisfy the ENP's principles.[17] The ENP protocols are individually tailored to every country's needs and internal situation.

2. Subsidies and protectionism.

The EU has a comprehensive system of agricultural subsidies (The Common Agricultural Policy (CAP)). CAP represents about 34% of the EU annual budget[18]. Under CAP the EU subsidizes farmers, land ownership and specific crop production and guarantees minimum entry price for imported goods. Egyptian Agricultural and food exports are affected by CAP. For example the Egyptian exports of fruits and vegetables are subject to import quotas (if the quantities exported are within the quota then the products are subject to zero or reduced tariff. If the quantities exceed the quotas then the products

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[16] *See* The European Union External Access *available at* *http://www.eeas.europa.eu/egypt/eu-egypt_agreement/index_en.htm*

[17] Bernard Hoekman, *From Euro-Med Partnership to European Neighborhood: Deeper Integration A La Carte and Economic Development,* at 34, EGYPTIAN CENTER FOR ECONOMIC STUDIES, WORKING PAPER NO. 103, July 2005, *available at* *http://www.eces.org.eg/Uploaded_Files/%7BB72751D2-9B28-40A8-8643-0DA26B37D88E%7D_ECESWP103e.pdf*

[18] An overview of the CAP System is found at http://europa.eu/pol/agr/index_en.htm

become subject to higher tariffs), export windows (for example oranges are banned from entering the EU markets from December to May), and minimum entry prices.[19]

During Doha round of trade talks the CAP was criticized by Egypt and other developing countries and the EU proposed eliminating the CAP by 2013[20].

3. Health and Environmental standards.

Egyptian Agriculture and food exports are usually produced by small to medium scale producers. Small scale producers are at a disadvantage when it comes to compliance with the strict Health and Environmental (H&E) standards imposed by the EU since compliance with H&E standards require high technical and financial facilities[21]. The intensive use of chemical fertilizers and pesticides and the weak monitoring and inspection from relevant government authorities exposes the Egyptian Agriculture and food exports to strict scrutiny from EU inspection authorities.[22]

Overall Trade with the EU has been advancing in a consistent manner. Nevertheless it is still under its potential. The recent direction of Egyptian trade policies

B. Trading with the U.S.

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[19] A more detailed discussion of the various protection measures is outlined by Omneia Helmy, *Competitiveness of Egypt in the EU Market for fruits and vegetables,* at 15-17, THE EGYPTIAN CENTER FOR ECONOMIC STUDIES, Working paper no 154, March 2010, *available at* *http://www.eces.org.eg/Uploaded_Files/%7BF46615BF-5621-4401-868C-2B5318E52167%7D_ECESWP154-E.pdf* . Hereinafter referred to as [Helmy].

[20] BBC world, *EU offers to end EU subsidies,* 10 May 2004, *available at* *http://news.bbc.co.uk/2/hi/business/3700435.stm*

[21] Dina Mandour, *Revisiting the Unfinished Debate of the Impact of Health and Environmental Measures on Egyptian Agro-food Exports to the EU*, at 8, Paper submitted at THE ECONOMIC RESEARCH FORUM 13TH ANNUAL CONFERENCE, December, 2006. Hereinafter referred to as [Mandour]. Mandour mentions that "Nevertheless, there is a recent trend of organizing agricultural production in large scale managed farms which have high potential to improve control on quality and health conditions compared to smaller producers and facilitates cooperation between food processors and agricultural producers."

[22] Mandour *supra* note *21* at 9.

1. Aid or Trade

Aid, rather than investment or trade, was the prevalent feature of US Egyptian economic relations for the most part of the 20th century[23]. Political differences over the financing of the High Dam and Arms deals[24] lead to suspension of food aid for two years (1957-1958)[25]. Aid was resumed until President Nasser refused US Aid in 1966. Aid was not resumed until 1974.

It was not until Egypt signed the Camp David Peace accord with Israel in 1978 that there was a shift in both aid to Egypt and trade and investment prospective. When it came to Aid, Egypt and Israel were the recipients of 47% of all US foreign aid[26]. As for Trade and Investment, Egypt was the first country to sign a Bilateral Investment Treaty (BIT) under the US bilateral Investment treaties program initiated in 1981[27]. The BIT program was designed to protect American investments in developing

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[23] For a general overview of US Aid to Egypt *see* Hana M. Ebeld, *Money Can't Buy Love USAID Assistance to Egypt*, ARAB TRADE INSIGHTS VOL. 1 no. 2, 2007, *available at* www.arabinsight.org . Hereinafter referred to as [Ebeld].

[24] Ebeld, *supra* note 23 *at* 106. Ebeld notes that "by the mid-1950s, obstacles to U.S.-Egypt relations arose on different issues, most importantly the financing of the Aswan High Dam, located on the first cataract of the Nile River in southwest Egypt. By that time, the United States had backed away from their share of the project's financing due to close Egypt-Soviet Union ties, "namely the exchange of cotton for military supplies, and the purchase of military equipment from Czechoslovakia"

[25] Gamal M. Siam and André Croppenstedt, *An Assessment of the Impact of Wheat Market Liberalization in Egypt: A Multi-Market Model Approach*, at p. 3, ESA Working Paper No. 07-15, May 2007, *available at* www.fao.org/es/esa. hereinafter referred to as Siam and Croppenstedt. The writers note that: "In 1956 Egypt received US $ 70 million in Title I concessional food aid but political differences led to a suspension of US economic assistance in 1957 and 1958. US policy changed again during the Eisenhower and Kennedy administrations and by 1963 Egypt was the world's largest percapita consumer of American food aid. Then, with relations deteriorating, the US withheld payments on a 3 year PL 480 agreement and in 1966 President Nasser rejected US food aid altogether."

[26] Ebeld, *supra* note 23 *at* 100.

[27] The BIT was modified and the final text was not reached until 1986 as a result of multiple requests for renegotiation. The treaty came into force in 1992. *See Egypt Bilateral Investment Treaty,* Trade Compliance Services, *available at* *http://tcc.export.gov/Trade_Agreements/All_Trade_Agreements/exp_002813.asp*

countries from expropriation, unfair treatment and discrimination. The BIT was not intended to liberalize trade per se, but it provided protection for U.S. investments.

2. Towards a US Egypt Free Trade Agreement.

Egypt under former President Hosni Mubarak has been described as “strong alley” to the U.S. in the Middle East. The former regime played a role in representing American interests in the region through fighting terror and extremism (even if at the expense of basic freedoms for Egyptians in their country), rendition and resisting Iranian influence in the Middle East.

In 1999 both countries signed the Trade and Investment framework Agreement (TIFA). TIFA was intended to foster “dialogue” towards a more comprehensive trade agreement. Trade negotiations under TIFA were at best described as sluggish; TIFA council met only 4 times in 11 years (the last of which was in 2005)[28] and nothing significant transpired of TIFA trade negotiations.

The Iraq war seemed to increase US interest in a free trade agreement with the Middle Eastern countries. In May 2003 President Bush announced the US Middle East Free Trade Area initiative (MEFTA)[29]. In that context the US signed FTAs with Bahrain, Oman and Morocco. The US had already an FTA in place with Israel (1985) and Jordan (2001)[30]. MEFTA initiative failed to deliver a US Egypt FTA. Setbacks in Egypt’s political scene were often cited as the reason for the delayed US-Egypt FTA[31].

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[28] Barbra Kotchwar and Jeffrey J. Schott, *Reengaging Egypt: Options for US-Egypt Economic Relations,* at 13, POLICY ANALYSES IN INTERNATIONAL ECONOMICS 90, Peterson Institute for International Economics, January 2010. Hereinafter referred to as [Kotchwar and Schott].

[29] Galal and Lawrence note *infra note 38* at 300.

[30] Kotchwar and Schott *supra* note 28 at 13.

[31] Kotchwar and Schott *supra* note 28 at 13.

It seems however that democracy and human rights are not always a prerequisite when it comes to US FTA partners. Jordan, Israel, Morocco, Oman and Bahrain do not necessarily hold a clean bill in democracy and human rights.

In November 2004 House Representatives on the Ways and Means Committee visited the region. The delegation discussed the prospects of a US Egypt FTA[32]. They highlighted their areas of concern with regards to Egypt's readiness and willingness to be part of MEFTA or to sign a free trade agreement. The main concerns expressed by the US delegation were: 1) Egypt's authorization of copy cat of US pharmaceuticals, 2) Egypt's suspension of BSE beef imports, and 3) Egypt's ban on US poultry due to Islamic dietary requirement[33]. The delegation reached a conclusion that "Egypt does not seem to have a sense of urgency about the timing to negotiate an FTA and seems instead to rely on its size in the region, its relationship with the United States, and its strategic importance."[34]

Whereas reciprocal economic and political benefits from a US Egypt FTA are advocated by many researchers[35], the most recent US FTA with Oman and Morocco do not seem to generate the same reciprocal economic benefits. For example Galal and Lawrence describe the economic and strategic benefits from a US Morocco FTA as small, peripheral and maybe counterproductive[36].

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[32] COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES REPORT ON TRADE MISSION TO TUNISIA, JORDAN , OMAN AND EGYPT, at 6, 108th Congress 2d Session, January 2005, The delegation mentioned that there is an "objective ruler" against which all candidates for FTAs are measured. …[B]ilateral trade agreements receive favorable Congressional consideration only if they meet a set of objective standards that all FTA partners must reach, unlike the European model, which is based on a more mercantile approach. Egypt must meet those same standards, or the agreement will be very difficult to move through Congress for approval and implementation. If Egypt is unable to meet those standards, the MEFTA process will continue without Egypt."Hereinafter referred to as [Ways and Means Committee report].

[33] Ways and Means Committee report *supra* note 32 at 6.

[34] Ways and Means Committee report *supra* note 32 at 6.

[35] *See* Kotchwar and Schott *supra* note28 and Galal and Lawrence *infra* note 38 .

[36] Galal and Lawrence *infra* note 38 at 326.

3. The Qualified Industrial Zones: Egypt's only gate to duty free U.S. markets

With an FTA out of sight, Egypt signed the Qualifying Industrial Zones agreement (QIZ) in December 2004. As per Section 9 of the United States-Israel Free Trade Area Implementation Act of 1985 as amended, QIZ protocols allow countries to export goods to the United States duty free provided that at least a specified percent (in Egypt's case 35 percent) of the value is added through processing in a designated QIZ and of that specified percent, a specified percentage must be Israeli content.[37] So far Egyptian QIZ products have been limited to textiles and apparels.

With the EU-Egyptian Association Agreement in place, EU's exports to Egyptian markets enjoy a reduced tariff. According to the EU Association Agreement tariffs on EU exports to Egypt will be eliminated in 2016 (with the exception of Automobiles). US exports will thus be at a serious disadvantage compared to EU exports if an agreement on a FTA was not reached[38].

Whereas the US Egypt FTA seems to be conditional upon political reform, there are some trade related issues that were highlighted by the Ways and Means committee report[39]. These trade related issues can be certainly negotiated if there is a political will on both sides to pursue a FTA.

It is yet to be seen if the political changes in Egypt will bring about a new start for a US Egypt FTA talks. Although, the issue of copying US pharmaceutical products is likely to present a tough

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[37] Kotchwar and Schott *supra* note 28.

[38] Ahmad Galal and Robert Z. Lawrence, *Egypt, Morocco and the United States*, at 306 FREE TRADE AGREEMENTS Chapter 11, PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS, 2003 *available at* http://www.piie.com/publications/chapters_preview/375/11iie3616.pdf . Hereinafter referred to as Galal and Lawrence.

[39] Ways and Means Committee report *supra* note 32 at 6.

hurdle because of the sensitivity of the pharmaceutical industry in Egypt and its direct impact on large sections of Egyptians.

C. Inter Arab Trade

1. What is GAFTA?

GAFTA (The Greater Arab Free Trade Agreement) is a free trade agreement between members of the Arab League. Signed in 1997 by 14 Arab states, GAFTA now has 19 member states[40]. Three less developed Arab countries[41] enjoy a preferential treatment. GAFTA is designed to gradually lower tariffs on goods of Arab origin to reach zero point in ten years and to eliminate technical barriers to trade (TBT). The Economic and Social Council (ESC) within the League of Arab states is the entity entrusted with the implementation and follow up of GAFTA.

2. Problems with GAFTA implementation.

a. Rules of Origins

The GAFTA treaty provides for general rules governing the Rules of Origin (RoO) under the treaty. Article 9 paragraph 1 states that: "In order for a good to be considered of "Arab origin" for purposes of this treaty, the good must satisfy the Rules of Origin approved by the ESC and to have at least 40% of the value added at production completion from a member state."[42] The executive program

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[40] GAFTA has 18 member states. Those members are : Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen, Algeria, Sudan, Palestine. Palestinian goods are given a preferential treatment in that they are not subject to any tariffs or negative lists because of the difficult production conditions under the Israeli occupation.

[41] These countries are Comoros, Mauritania and Somalia.

[42] This is the author's translation of Article 2 of the GAFTA. The original Arabic text is *available at* http://www.arableagueonline.org/las/arabic/details_ar.jsp?art_id=349&level_id=110&page_no=3

for Rules of Origin issued by the ESC in 1997 provided for temporary and transitional RoO (Rule 13 of the executive program). Until now the ESC has been unable to reach the detailed RoO.

Despite the fact that the zero tariff point was effectively reached, Egypt excludes most goods from GAFTA's tariff reduction schedules, pending an agreement on the detailed RoO[43]. As per Article 15 of GAFTA, member states may submit a list of goods to be exempt from the tariff reduction schedules (the Negative List). The negative list was allowed to stand for four years provided that the total of exempt products may not exceed 15% of the country's export to other GAFTA members. Five out of the six Arab countries who filed negative lists filed notifications for cancellation of the negative lists. Egypt tied its elimination of the negative list with "finalizing a protocol on the detailed rules of origins"[44]. Egypt is concerned about unfair competition in two of its sensitive industries (textiles and automobiles) from non Arab goods that could enter the GAFTA market under the current general RoO protocol.[45]

Egypt's position on the RoO finds support under Ad Article XXIV: 9 of the GATT agreement[46]. Jordan and some Gulf states threatened to reciprocate against Egypt since the ESC's decision to eliminate the negative lists was not conditional upon reaching an agreement on the detailed protocol.[47]

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[43] Tamer Afifi, *Egypt in an Arab-African-Sandwich: Are GAFTA and COMESA to be implemented?,* at p. 5, CONFERENCE ON MIDDLE EAST AND NORTH AFRICAN ECONOMIES: PAST PERSPECTIVES AND FUTURE CHALLENGES, Brussels, June 2005 *available at* http://www.ecomod.net/conferences/middle_east_2005/middle_east_2005_papers/Afifi.PDF . hereinafter referred to as Afifi conference note.

[44] Hanaa Khier El Deen and Ahmad Ghoniem, *The Economic and regulatory policy implications of overlapping preferential trade agreements in the Arab countries: The Case of Egypt*, 2, ECONOMIC REFORM FORUM 2004-2005. Hereinafter referred to as El Deen and Ghoniem.

[45] El Deen and Ghoniem supra note 44 *at* 2.

[46] Ad Article XXIV: 9 states that: "It is understood that the provisions of Article I would require that, when a product which has been imported into the territory of a member of a customs union or free-trade area at a preferential rate of duty is re-exported to the territory of another member of such union or area, the latter member should collect a duty equal to the difference between the duty already paid and any higher duty that would be payable if the product were being imported

The new Egyptian government may be less inclined to lead the talks towards a detailed RoO protocol as this will mean that the troubled Egyptian industry will face new competition from Arab products.

b. Lack of Dispute Settlement mechanism

Another serious impediment to GAFTA application is the lack of a technical dispute resolution mechanism. Disputes relating to Sanitary and Phytosanitary measures and Technical Barriers to Trade TBT measures often remain unresolved under GAFTA. Member states often use bilateral consultations or unilateral relations.[48]

c. Overlapping trade treaties

Egypt's inter Arab bilateral trade agreements overlap and sometimes contradict GAFTA. "In many cases, Egypt chooses between applying the rules of GAFTA and the rules of the bilateral agreements according to the 'wish' of the exporters. In the cases of disputes the Egyptian authorities usually prefer to be dealing with them under the auspices of bilateral agreements rather than GAFTA. The main reason is that bilateral agreements have regular committee meetings where problems can be discussed and solved, whereas in the case of GAFTA a comprehensive dispute settlement mechanism is still missing."[49]

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directly into its territory." On the other hand Egypt "gladly" fulfilled its commitment under the COMESA to 100% elimination of tariffs by October 2000. Of course in the case of Inter African Trade Egypt as an exporter stands to win the most by elimination of tariffs and relaxation of other non tariff barriers (NTBs).

[47] El Deen and Ghoniem note *supra note 44 at* 2.

[48] Afifi conference *supra note 43 at* 7-8.

[49] Afifi conference note *supra note 43 at* 8.

III. Negative Trade balance and a survey of principal exports and imports.

A. Trade Balance

Egypt is a net importer. After the July 23, 1952 Revolution Egypt adopted a socialist economic policy. Under President Nasser (1956-1970) trade policy was based on import substitution and trade protectionism. Nasser successor President Sadat (1970-1981) implemented the "Open door" economic policy in 1974, which opened the Egyptian economy to imports without considerable investment in domestic industry or production. The result was large deficits due to extravagant consumer related imports and weak domestic production. The trade balance has, since 1974[50], registered a significant gap between imports and exports. Under former President Mubarak (1982-2011) Egyptian industry was booming and trade relation were expanded. The trade deficit, however, continued to grow (in the year 2008/2009 the trade deficit was USD 25.2 billion[51]). The larger population of Egyptians did not reap the fruits of investment or expanded trade relations; they only felt the brunt of lack of basic services and increased poverty.

B. Main Imports and Exports

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[50] Tareq Y. Ismael and Jacqueline S. Ismael, POLITICS AND GOVERNMENT IN THE MIDDLE EAST AND NORTH AFRICA, p. 343, University Press of Florida, 1991.

[51] CBE *supra* note 12 at 82. 2009 total Exports is L.E. 128 487 million whereas total Imports for 2009 is L.E. 249 969 million (a whopping deficit of L.E. 121 482 million). *See* Egyptian Foreign trade statistics *available at* http://www.tpegypt.gov.eg/ftrade/page1.aspx.

The top imports are industry related mainly; heavy machinery and metals[52]. The third major import is basic food supplies mainly wheat (Egypt is one of the largest importers of wheat worldwide[53]), corn, cooking oil, meat, poultry and vegetables etc[54]).[55]

Egypt's largest export income[56] comes from Petroleum and Gas exports[57]. Exports of crude oil, high-quality petroleum products, petrochemicals, Natural Gas and Liquefied natural Gas reached USD

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[52] Monthly Foreign Trade Statistics report March 2010, published by the Egyptian Ministry of Foreign Trade and Industry, p.33-35 *available at* http://www.tpegypt.gov.eg/statistics/MonthrepE.pdf last visited on October 1, 2010. Hereinafter referred to as Foreign trade statistics note.

[53] Kotschwar and Schott, *supra* note 28 at 26. Also see *Ola Galal, Egypt Asks Russia to Reschedule Wheat Export Deals*, BLOOMBERG BUSINESS WEEK August 10, 2010, *available at* http://www.businessweek.com/news/2010-08-08/egypt-asks-russia-to-reschedule-wheat-export-deals.html.

[54] Although the total number for food imports is not represented as one figure in Foreign trade statistics *supra* note 52, I added the numbers for the different categories of food imports.

[55] TRADE AND INDUSTRY QUARTERLY PERFORMANCE INDICATORS, at 25, Report by the Ministry of Trade and Industry April 2010, *available online at* http://www.mfti.gov.eg/english/foreign%20trade.htm.

[56] Exports in the Services sector represent 57% of the total export income. A breakdown of services exports is income from the Suez Canal (25.8%), Finance, Banking and Insurance (17.5%) Tourism (12%). *See* Bernard Hoekman and Denise Konan, *Economic Implications of a US –Egypt FTA*, at 46, Chapter 4 of "ANCHORING REFORM WITH A US –EGYPT FTA", PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS, May 2005, a*vailable at* http://www.petersoninstitute.org/publications/chapters_preview/3683/04iie3683.pdf . Hereinafter referred to as [Hoekman and Konan].

[57] The country's large oil reserves and recently tapped Gas reservoirs suggest that Petroleum and Gas will remain on top of the export list *see* U.S. Energy Information Administration, Country Analysis Brief *available at* http://www.eia.doe.gov/cabs/Egypt/NaturalGas.html *last visited* on August 21, 2010. Hereinafter referred to as EIA. However, increased domestic demand for energy may significantly impact the Oil and gas export paradigm. *See Egypt: Union Fenosa might need to import*, EGYPT OIL AND GAS, March 1, 2010, *available at* http://www.egyptoil-gas.com/read_article_local.php?NID=1320 last visited on September 14, 2010.

15.4 billion in 2007/2008[58] and dropped to USD 11 billion in 2008/2009[59] (representing 40% of Egyptian export income.[60]

Paradoxically, Egypt imports Oil to cover the increasing local demand for fuel. The country also imports Natural Gas despite proven reserves. This situation is caused by multiple factors: 1) Egypt's geographical proximity to the EU and Mediterranean markets gives it a comparative advantage at exporting Oil and Natural Gas (despite increasing local demand[61]) to these markets. Oil exports to international markets secure foreign currency reserves which are then used to import much needed food supplies. 2) Egypt's refining capacity exceeds its production capacity[62], therefore the country imports crude oil to refine it and then export the refined product. In the meanwhile, domestic consumption of Oil and demand for Gas[63] is increasing which might significantly change the current Oil and Gas import-export scheme. The Oil and Gas exports are likely to change in light of a recent court judgment that nullifies the export of Gas to Israel and the corruption investigations that are probing Egypt's Gas export

[58] "*Egyptian Minister of Petroleum: Major projects in the Pipeline*" an interview by Dalia Emam with Sameh Fahmi Egypt's former Minister of Petroleum, GAT May/June 2009 *Available at* http://aegypten.ahk.de/index.php?id=1241&L=15 last visited on August 21, 2010.

[59] Quarterly Indicators *supra* note *55* at p.21.

[60] Quarterly Indicators *supra* note *55* at p.21.

[61] Much of the domestic demand is for Gasoline and fuel products which are until now subsidized by the Government. Recent steps towards lifting the subsidies have been met by public opposition. Cement and Steel industries have also benefited from the subsidies and are fighting to keep it.

[62] EIA *supra* note 57.

[63] The most recent power outages in August 2010 has started the discussion over the accuracy of high Natural Gas reserves and the real benefits of exporting Natural Gas (specifically to Israel). The main gas pipeline to Israel and Jordan has been bombed in February and April 2011.

contracts (implicating former Petroleum minister Sameh Fahmy, Hussien Salem a well connected Business Tycoon as well as Gamal Mubarak)[64].

Egypt also exports some agricultural and food products[65] to the EU, Saudi Arabia (mostly horticulture products such as potatoes, citrus, table grapes, strawberries, melons, mangoes, and green beans) and the U.S. (in this case mainly Cotton and textile products through the QIZ).

I now turn to examine the challenges that face Egypt as it transitions to a new government.

SECTION TWO: THE CHALLENGES FACING EGYPTIAN TRADE AND AGRICULTURE

Although the numbers for economic growth since 2004 looked promising (even reaching 8% before the 2008 global financial crisis) but the gap between the rich and the poor in Egypt grew even faster[66]. In 2008 Egypt witnessed critical food shortages because of the increase in imported wheat prices. In 2010 several groups of workers and government employees protested wages inequality. Although a detailed discussion of roots of extreme poverty, reasons for wages inequality and other economic issues are outside the strict scope of this paper (as it deals with Trade in general and Trade in Agriculture), but understanding the overall economic conditions creates the necessary backdrop for the challenges that face the new Egyptian Government in resuming Trade and enhancing Agriculture.

I. Inherited Challenges

[64] Ola Galal, Nayla Razzouk and Alaa Shahine, *Blast Hits Egypt-Israel Gas Pipeline, Forcing Supply Halt, Ministry Says*, BLOOMBERG BUSINESS, April 24, 2011 *available at* http://www.bloomberg.com/news/2011-04-27/blast-hits-egypt-israel-gas-pipeline-forcing-supply-halt-ministry-says.html

[65] In 2009 Agricultural exports were valued at USD 2.120 billion. *See* Quarterly Indicators *supra* note *55* at p.20..

[66] Isobel Coleman, *Egypt's Uphill Economic struggles*, COUNCIL ON FOREIGN RELATIONS, February 2, 2011 *available at* *http://www.cfr.org/africa/egypts-uphill-economic-struggles/p23985*.

It is unfair and academically incorrect to claim that Egypt's foreign trade, during the Mubarak era, was based entirely on faulty policies. The country has entered multilateral and bilateral trade agreements that opened International markets for Egyptian products. On the other hand, general economic policies and government corruption were detrimental to middle class and impoverished Egyptians.

Agricultural policy, during the Mubarak years, has had a negative effect on the lives of many Egyptians and has drawn strong public criticism.

In the following paragraphs I will examine the different challenges that the new regime in Egypt has to face as direct consequence of the previous policies.

A. Importing 50% of Egypt's wheat needs and other basic food supplies.

1. Self sufficiency of wheat is a matter of national security

Egypt was once the bread basket of the old world, now the country is importing more than 50% of the stable crops and especially wheat[67]. Securing food imports (especially wheat) in volatile international markets[68] has caused the previous governments to face strong domestic criticism and raised angry voices of impoverished Egyptians which exploded on January 25.

Egypt used to secure its needs of wheat and other basic food supplies by importing from International markets.

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[67] Egypt is an ancient agricultural civilization. Gifted by the river Nile, its people accumulated a wealth of knowledge and techniques to farm their land. Professor Lowell N. Lewis (an agricultural scientist at the University of California) describes the food surplus in ancient Egypt in the following terms: "At any rate, Egypt seems to have had grain surpluses often enough that they could be stored in state granaries and even be exported. During Roman times it was one of the bread baskets of Rome." Lowell N. Lewis, *Agriculture in Ancient Egypt* available at *http://www.egyptianagriculture.com/horticulture.html*.

[68] Ola Galal, *Egypt Asks Russia to Reschedule Wheat Export Deals*, BLOOMBERG NEWS ONLINE August 8, 2010 *available at* *http://www.businessweek.com/news/2010-08-08/egypt-asks-russia-to-reschedule-wheat-export-deals.html*

Even in context of Aid, the Egyptians learned early on that receiving wheat as part of the U.S. Aid programs has its challenges; rifts in U.S.-Egyptian relations (especially in the 1950s) have caused wheat supply to be suspended[69].

Most recently, Russia (a major supplier of wheat imports) stopped scheduled wheat shipments to Egypt in 2010 due to drought adding at least $441.7 million to Egypt's budget.

Why then has Egypt pushed wheat self sufficiency to the sidelines? No one really knows. But another policy namely "cash crops" was being strongly advocated by the previous governments.

2. The Cash crops policy

The "cash crops" policy is a policy adopted by the government to encourage growing horticulture export products and then using the hard currency revenues from exporting the horticulture crops to import strategic crops such as wheat. Was the cash crops policy successful in securing Egypt's needs of strategic crops? The answer is no and here is why.

Although it might seem strange for such agricultural policies (whether to pursue self sufficiency of wheat or to adopt the cash for crops strategy) to be run as an oligarchy but this was unfortunately the case in Egypt. The lack of checks and balances and government accountability caused agricultural policies to be shaped away from the people's interests.

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[69]As Siam and Croppenstedt put it: "In 1956 Egypt received US $ 70 million in Title I concessional food aid but political differences led to a suspension of US economic assistance in 1957 and 1958. US policy changed again during the Eisenhower and Kennedy administrations and by 1963 Egypt was the world's largest per capita consumer of American food aid. Then, with relations deteriorating, the US withheld payments on a 3 year PL 480 agreement and in 1966 President Nasser rejected US food aid altogether (Dethier, 1991). Adding to political uncertainties was the country's experience with wheat price fluctuations in the early 1970s. The international price of wheat rose dramatically from US $ 60 to US $ 250 a ton by 1973 nearly trebling the country's import bill." Siam and Croppenstedt *supra* note 25 at3.

Yousif Wali[70], the minister of Agriculture from 1983 to 2004, started the cash crops policies claiming that "Egypt is better off growing Cantaloupe and strawberries than growing wheat and cotton, since horticulture exports are more economically rewarding than production of wheat for domestic consumption and cotton is a high water consumption crop[71]".

It is true that horticulture exports boomed and Egypt was able to establish a reliable connection with European markets in exporting horticultures. Success in exporting horticulture products, however, was not enough to offset the high import bill for wheat and other strategic crops. Domestic production of strategic crops is also still behind. For instance, Egypt is only 51 percent self-sufficient in wheat production[72]. In Egypt's case, self sufficiency of strategic crops is not a matter of national pride or choice rather a matter of national security.

After a long drawn media campaign over Wali's cash crops polices and allegations of corruption, Wali was removed from office[73] .Wali's successor, Ahmad El Laithy, had come into office with a plan

[70] Much of the media fervor over Wali can be traced directly to his close links to former president Mubarak and his efforts to cooperate with Israeli agricultural research entities. Wheat sufficiency was never on Wali's top agenda.

[71] On the issue of comparable profitability *see* John Ehab, *Egypt's wheat Dilemma*, AL MASRY AL YOUM ONLINE EDITION, August 18, 2010. *Available at* http://www.almasryalyoum.com/en/news/egypts-wheat-dilemma

[72] Siam and Croppenstedt *supra* note 25 at3.

[73] Wali's closest aides were indicted (some say as scape goats for the Minister) in two major criminal trials for importing banned carcinogenic fertilizers. Cancer rates in Egypt escalated to unprecedented levels in the past couple of years. There is an embedded belief among laymen and Journalists alike that the reason for that is the use of carcinogenic fertilizers and pesticides imported under Wali. Wali removed the committee that used to inspect pesticide and give import permissions and transferred its duties to himself. Some scientific research shows a strong link between exposure to fertilizers and pesticides and the increase in some cancer levels. For example *see* Ali H Zarzour , Mohie Selim, Alaa A Abd-Elsayed , Diaa A Hameed and Mohammad A AbdelAziz, *Muscle invasive bladder cancer in Upper Egypt: the shift in risk factors and tumor characteristics*, *available at* *http://www.biomedcentral.com/1471-2407/8/250* 29 August 2008.

to achieve self sufficiency in wheat production by 2012. El Laithy, who was removed from office after 14 months[74], said that:

> "For more than two decades now, … , agricultural strategy has emphasized cash crops, especially strawberries and cantaloupes that, in theory at least, could be exported at a premium and the foreign currency they generate used to pay Egypt's wheat import bill. This policy failed for simple reasons. The ministry failed to increase the land allocated to such crops sufficiently, and as a consequence they have not generated enough revenues to cover the spiraling cost of wheat on international markets."[75]

Following the popular uprising and change of government, it was not a surprise then to find that the newly appointed Minister of Agriculture is advocating wheat self sufficiency as a top priority.[76] A new Joint stock company for Agricultural Investment has been established in April, 2011 by Egyptian investors to cultivate new lands with wheat and other strategic crops[77]. Whether these new policies will achieve self sufficiency is yet to be seen.

B. Losing arable land

Studies have shown that Egypt will lose 17% of the fertile lands in the northern Delta by 2050[78]. The main reason for this is building on arable lands which turned the parts of the Nile valley banks into

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[74] *See* Mohamad El Sayed, *Food for thought* AL AHRAM WEEKLY ONLINE EDITION no. 893, April 17-23 2008, *available at* http://weekly.ahram.org.eg/2008/893/eg9.htm. hereinafter referred to as [El Sayed]

[75] El Sayed *supra* note 74.

[76] Abd El Mohsen Salama, *Abu Hadid : achieving wheat self sufficiency in two years*, ALAHRAM ONLINE EDITION *available at* *http://www.ahram.org.eg/Investigations/News/72435.aspx*

[77] Amani Gaber, *Egyptians abroad start a 3 Billion Egyptian Pound Initiative to grow wheat*, AL SHOROUK, April 30, 2011 *available at http://www.shorouknews.com/ContentData.aspx?id=443768*

[78] A statement by an official at the National Authority for Remote Sensing and Space Science, AL SHOUROK, May 22, 2009 *available at http://www.shorouknews.com/contentdata.aspx?id=45674*

a "concrete jungle". The problem has roots in the socialist policies of the Nasser Era as well as more recent failures by the government.

1. "Distribution of wealth": the 1952 Revolution and slicing the Nile valley.

Egyptian agricultural policy has lost its direction long ago. The 1952 Revolution[79] had a socialist agenda and one of its pillars was giving each poor peasant 5 Acre of fertile lands from the lands owned by Egypt's capitalists and elites. On September 9, 1952 the Agrarian reform law was issued and its main goal was to end the monopoly of the wealthy elite. The original beneficiaries of the 5 Acre policies eventually died and the land was passed over to newer generations of poorer peasants[80]. The end result is fragmented ownership of land by increasingly impoverished peasants who are unable to carry out large scale investments in new crops or agricultural techniques.

2. Farming concrete: losing the Nile valley in a concrete jungle.

A serious and related challenge for agricultural policy is the "concrete jungle." Owners of small pieces of land (very fertile land centrally located on the banks of the Nile) found it more economically rewarding to build multi story buildings and abandon farming altogether. The Government responded by criminalizing building on fertile land, leaving the more profound roots of the problem unsolved. The ancient Nile valley was overpopulated and there was no viable extension to help people live sustainably away from the old valley.

[79] For more information on the 1952 Revoltuin also known as the Free Officers movement *see* *http://en.wikipedia.org/wiki/Egyptian_Revolution_of_1952*

[80] Ironically what started as a purely socialists idea carried out by a centralized government spun out of control into a highly individualistic and decentralized reality.

Since the situation in the Nile valley has proven beyond repair[81], the previous government started looking for alternative solutions. Tushka is a major infrastructure project to create a "parallel valley" in the west southern Sahara of Egypt (pumping water from Lake Nasser into the western Sahara). The Government offered large multinational investors (mainly the Saudi Royal Prince El Walid) incentives to start farming the land in the Tushka project. Today and 14 years after the inception of the Tushka project in 1997 there is a soaring debate over the viability of the project and the lack of transparency that clouded El Walid's contract[82]. In 2006 only 23,000 Acre was cultivated (out of the projected 540,000). No new communities were established since basic infrastructure for urban living is virtually nonexistent. The most significant and profound criticism of the project is that the amount of water lost by evaporation along the 320 Km canal. This criticism becomes more important as Egypt is facing a strong threat to its water share from Ethiopia and other Nile Basin countries who signed the "Entebee Agreement".

C. The Entebee agreement and the threat to Egypt's Agriculture

Another inherited challenge that faces the Egyptian government now is the threat to its share of water as a result of the "Great Millennium Dam" project in Ethiopia.

The Nile basin countries are parties to two treaties[83]: the 1929 Agreement which was signed between Egypt on the one hand and Britain on behalf of its East African colonies and the 1959 Agreement between Egypt and the Sudan . The 1929 Treaty regulates water shares; giving Egypt what

[81] Due to fragmented ownership of land, building on fertile soil and the poor economic conditions of peasant farmers.

[82] For more on the nature of the criticism *see* Gamal Essam El Din *Parliamant to scrutinize Toshka,* ALAHRAM WEEKLY ONLINE, April 6-12, 2006 *available at* http://weekly.ahram.org.eg/2006/789/eg2.htm

[83] The countries of the Nile Basin are: Burundi, Democratic Republic of Congo, Egypt, Ethiopia, Kenya, Rwanda, Northern Sudan, Southern Sudan, Tanzania, Kenya and Uganda.

is usually described as the lion's share of 55 million cubic meter. But more importantly, the 1929 treaty gives Egypt the right to veto any water or electric project on the Nile "which would, … entail any prejudice to the interests of Egypt either reduce the quality of water arriving in Egypt, or modify the date of its arrival, or lower its level."[84] The upstream countries started to voice their concern, in the late 1990s, over the "Egyptian Veto" and described the 1929 treaty as void since it was signed by the British colonial authorities on their behalf. Although the upstream countries resist the 1929 Treaty, Egypt has never refused or vetoed a project by any upstream state. That said, six upstream countries signed the "Entebee Cooperation Agreement" in March 2011 whereby, pending ratification, the Agreement considers the 1929 Nile waters Agreement "Null and void."

Annulling the 1929 treaty and revoking Egypt's right to pre-approve any hydroelectric projects on the Nile River, means that the upstream countries can single handedly endanger Egypt's share of water thus ushering a humanitarian crisis. Ethiopia is leading the way for other basin countries by announcing the construction of the Great Millennium Dam on its borders with Sudan.

The Entebee Agreement is at odds with Article 6.1.d of the 1997 Convention on the Law of the Non-navigational Uses of International Watercourses. Article 6.1.d states that

> "1.Utilization of an international watercourse in an equitable and reasonable manner within the meaning of article 5 requires taking into account all relevant factors and circumstances, including:
> … (*d*) The effects of the use or uses of the watercourses in one watercourse State on other watercourse States; …" [85]

[84] For a comprehensive discussion and background of the Nile waters treaty *see* Patricia Kameri-Mbote, *From Conflict to cooperation in managing transboundary waters: the Nile Experience at 9,* LINKING ENVIRONMENT AND SECURITY – CONFLICT PREVENTION AND PEACE MAKING IN EAST AND HORN OF AFRICA, Heinrich Boell Foundation, 2005. *available at* http://www.ielrc.org/content/a0509.pdf

[85] THE UN CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES, MAY 1997.

This article can be invoked in defense of Egypt's objection to any water or electricity projects that would affect its share of waters.

But the new Egyptian government has started to work with the Nile basin countries in an effort to renegotiate the Entebee Agreement[86]. A high ranking ministerial delegation is set to visit Ethiopia in May 2011 in efforts to start dialogue over the "equitable use of the Nile river waters". A popular delegation of political activists has visited Uganda and Ethiopia to pave the way towards a renegotiation of the Entebee Agreement[87].

II. Immediate challenges

Isobel Coleman of the Council on Foreign Relations rightly noted that "Egypt's new government will be under immediate pressure to restore the confidence and stability required to keep shipping, tourism and foreign direct investment humming. Its ability to address the longer term, structural factors of persistent poverty, vulnerability to rising commodity prices and an uncompetitive educational system will determine whether it can meet the demands of its people."[88]

The immediate challenges facing the new Egyptian government center around the security situation, excessive transgressions on arable fertile land and strikes in public and private sectors.

A. The security situation and its effect on Trade

[86] Reem Leila, *New key, old padlock,* ALAHRAM WEEKLY ONLINE, April 14-20, 2011 *available at* *http://weekly.ahram.org.eg/2011/1043/eg9.htm*

[87] Tamim Elyan, *Visit to Ethiopia successful, says popular delegations*, The Daily News Egypt, may3, 2011 *available at* *http://www.thedailynewsegypt.com/egypt/visit-to-ethiopia-successful-says-popular-delegation.html*

[88] [Coleman note]

It is not uncommon that after revolutions or social upheavals, that some chaos occurs. Although there are no official figures for crime rates after the revolution, there is a reported increase in crimes by gangsters and prison escapees[89].

In January 28, 2011 the previous President ordered a curfew starting 6 pm until 8 am which in turn affected the movement of goods and workers. The curfew is limited now to three hours from 2 am to 5 am.

The battle in Egypt streets now is against lawlessness. The Egyptian criminal code as well as the Emergency law, in effect now, provides harsh sentences for criminals and outlaws. The government's ability to enforce the law and restore deterrence is what is at stake.

B. Removing excessive transgressions on arable land

Although the Egyptian constitution protected personal ownership (Article 5), but owners of land in the Nile valley are subject to strict restrictions on the use of their land in any non agricultural activity (Law no 116 for the year 1982). These restrictions are justified by the need to "preserve the agricultural land for future generations". Article 152 of the aforementioned law gives the owner the right to build a dwelling for himself and his family but prohibits the building of residential units on arable fertile land. The government has the right to remove any building not for agricultural or live stock use as well as the removal of any unfinished dwelling. Finished and inhabited dwellings may not be removed unless there is a court ruling to that effect[90].

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[89] Reuters, *Extortion bid causes gun battle in Cairo, 89 wounded,* THE DAILY NEWS EGYPT, May 5,2011 *available at* *http://www.thedailynewsegypt.com/crime-a-accidents/extortion-bid-causes-gun-battle-in-cairo-89-wounded-dp1.html*

[90] Case no 1867 /Judicial Year no 49, issued on January 4, 2008 (in Arabic) *available at* *http://www.kdaiaeldwla.com/edaria/edaria05-01.htm*

During the revolution, some owners of land in the Nile Valley used the absence of law enforcement to build residential units for sale on fertile lands in violation of the law. The scale of the violations was alarming; 60,000 case of land transgression were reported[91]. 3,500 Acres were compromised.

C. Dealing with strikes in public and private sectors

The most critical challenge to the Egyptian economy at large is the continuing strikes in public and private sectors. Employees request change of management and other financial incentives and benefits[92]. In an attempt to quell the rising demands of workers and employees the current government issued a law to criminalize protests, sit-ins and strikes in the public and private sectors which result in "disruption or interruption of work or production."[93] The law is highly controversial as it curtails essential freedoms of workers and employees and the government's ability to enforce such law remains questionable in light of continuing protests and strikes.

III. Midterm challenges

The midterm challenges are restoring confidence in the overall Egyptian economy, increasing production of strategic crops, expanding arable land and strengthening trade relations with existing as well as new partners.

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[91] Ashraf Atta, *stopping the hemorrhage of agricultural land,* AL AHRAM, *available at* *http://digital.ahram.org.eg/Motnw3a.aspx?Serial=449649&archid=11*

[92] Ben Hubbard and Tarek El-Tablawy, *Labor unrest grows after revolution*, THE DAILY NEWS EGYPT, February 15, 2011 *available at* *http://www.thedailynewsegypt.com/human-a-civil-rights/labor-unrest-grows-after-revolution.html*

[93] Lina El-Wardany, Egypt protests against anti protest laws, AL AHRAM, March 24, 2011 *available at* *http://english.ahram.org.eg/NewsContent/1/64/8484/Egypt/Politics-/Egypt-protests-against-antiprotest-law-.aspx*

A. Restoring confidence in the overall Egyptian Economy

The current government, as well as the Supreme Military council, has reiterated that Egypt is not going to be hostile to foreign investment nor should the ongoing investigations into corruption charges signal an anti business approach[94].

The general outlook for the Egyptian economy looks bleak as the IMF predicts Egyptian GDP to drop to 1% in 2011[95]. The main reasons for this negative forecast are decreasing tourism receipts, rising fuel prices and increase in international food prices.

The uncertainty that is engulfing Egypt's political scene is impacting its economic outlook. The current transitional government and the Supreme Military council are entrusted with Egypt's transition to democracy. An elected parliament and president and a newly drafted constitution may provide a platform for stability in Egypt.

B. Increasing production of strategic crops.

One of the main drivers of the January 25 revolution was basic foods insecurity. The current transitional government is aware that self sufficiency of wheat, a strategic crop, is a popular demand[96]. In order to achieve a considerable breakthrough in self sufficiency, there must be an investment in new breeds, government incentives for new companies and individuals and expanding the cultivated (reclaimed) lands.

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[94] Egypt's Minister of Trade and Industry: *Egypt is committed to economic reform and free trade,* ALSHOROUK, April 20, 2011 *available at http://shorouknews.com/contentData.aspx?id= 435800*

[96] Abd El Mohsen Salama, *Abu Hadid : achieving wheat self sufficiency in two years*, ALAHRAM ONLINE EDITION *available at* *http://www.ahram.org.eg/Investigations/News/72435.aspx*

C. Expanding arable land

Egyptians live on 5% of the total area of Egypt. This 5% represents the fertile Nile valley whereas the rest is Desert. This geological fact along with the continuously rising population resulted in transgressions on fertile lands in the Nile valley and overburdened infrastructure. Expanding beyond the crowded and overpopulated Nile valley has been on the previous government's agenda, but success was limited. Some infrastructure for major Agricultural projects has been laid, for example in Toshka in south western Egypt and El Salam Canal in north east Egypt[97], but the reclaimed areas fell beyond the projected results for such projects[98].

The previous governments were encouraging large scale companies to invest in reclaimed land and organic farms by selling thousands of Acres in Toshka for insignificant amounts of money (100 000 Acres were sold to Saudi Prince El Waleed in 1997 for L.E. 5 million). The policy was not a success; numerous allegations of corruption in the sale of land were raised (and are now being investigated) and the absences of true supervision on the companies' progress lead to delays in cultivating the land.

As a midterm goal, any coming government should reevaluate these projects and address the reasons for failure. The government will still need to incentivize large scale investors to undertake major agriculture projects, alongside small farmers to insure social justice. This time, large scale incentives should take a form of Public Private Partnerships (PPP) where ownership of the project is separated from management.

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[97] For more about these projects: The Egyptian Ministry for Water Resources and Irrigation *available at* http://www.mwri.gov.eg/En/projects.htm

[98] *Supra* at p 30. .

Venturing into a new land reclamation project even in near future could constitute a burden on the government's budget. But there are calls for a form of a public private partnership or even a public offering for a new ultra major development project: "The Development Corridor". "The Development Corridor", sponsored by Boston University Prof. Dr. Farouk El Baz, is a "superhighway west of the Nile from the Mediterranean Sea coastline to Lake Nasser. The proposal would provide numerous opportunities for the development of new communities, agriculture, industry, trade and tourism around a 2,000 km strip of the Western Desert."[99] The project is currently under heated public debate[100].

Conclusion

Egypt has a new face in International relations. The country has not yet fully transitioned to democracy nor has it achieved some sort of economic stability. There are some uncertainties as to the country's future; the security situation is still somewhat volatile, tourism has not been restored to its previous levels and the projected GDP for 2011 is a shy 1%[101].

As for trade policies it is a priority to encourage exports. For the short term, we are less likely to see reductions in tariffs for imports. Revision of contracts for sale of Natural Gas has begun in an attempt to increase the country's revenues from Gas exports.

A peaceful transition to democracy may open the door for more integration with the European Union and may empower the Egyptian U.S. talks towards a Free Trade Agreement. In order for the

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[99] For more on the "Development Corridor" *see* *http://faroukelbaz.com/index.php?option=com_content&view=article&id=22&Itemid=34*

[100] Taha Abdel Alim, The safe road or path of regret for the Egyptian revolution, an Op-ed at ALAHRAM WEEKLY, May 4, 2011 *available* at http://english.ahram.org.eg/NewsContentP/4/11363/Opinion/The-safe-road-or-path-of-regret-for-the-Egyptian-r.aspx

[101] *Supra at p.95.*

transition to have positive effects on Trade and investment in terms of increasing market access and encouraging entrepreneurs, the legal framework must incorporate anti corruption laws and conflict of interests law.

Egypt is fighting an uphill battle against structural and chronic problems such as poverty, unemployment, education and food security. Nevertheless, there might be a positive outcome from all the uncertainties that followed the revolution. First: The country has a moral force. More Egyptian interest is channeled towards Africa and the Middle East. Though, it is still too soon to see an improvement in US Egyptian FTA talks. Second: The anti corruption laws that are being prepared[102] will increase market access and encourage entrepreneurship. Third: there is a renewed public and governmental interest in Agriculture and self sufficiency from strategic crops which, if successful, will guard the country against crushing poverty.

Overall, Egypt's future may seem foggy after the revolution, but it is certainly full of hope.

[102] The Egyptian initiative for Prevention of Corruption is available at http://egipc.com/PageE.aspx?id=1 .