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**Development Economic Policy Reform Analysis (DEPRA) Project**

*Final Report*

**EGYPT: Obligations and Commitments under the  
GATT/WTO Agreements**

**Prepared for  
The Government of Egypt  
Ministry of Trade and Supply**

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**Submitted by  
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## ACRONYMS

ADA	The Agreement on Implementation of Article VI of the GATT'94 (re: Antidumping, Countervailing Measures)
AG	The Agreement on Agriculture
AMS	Aggregate Measure of Support
ATC	The Agreement on Textiles & Clothing
BPU	Balance of Payments Understanding
CRFT	The Agreement on Trade in Civil Aircraft
CV	The Agreement on Customs Valuation
DEPRA	Development Economic Policy Reform Analysis Project
DEPRA/MOTS	DEPRA Project Office/Ministry of Trade and Supply
DSU	Dispute Settlement Understanding
FA	Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs & Trade
GOE	Government of Egypt
IMF	International Monetary Fund
IPL	The Agreement on Import Licensing Procedures
IPR	Intellectual Property Rights
ISO	International Standards Organization
MFN	Most Favored Nation (Treatment)
MARPRO	Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994
MTN	Multilateral Trade Negotiations
NTM	Non-Tariff Measure
PSI	The Agreement on Pre-Shipment Inspection
RAU	Regional Agreements Understanding (Art. XXIV)
SCM	The Agreement on Subsidies & Countervailing Duties
SFG	The Agreement on Safeguards
SPS	The Agreement on Sanitary & Phytosanitary Standards
TBT	The Agreement on Technical Barriers to Trade
TRIPS	The Agreement on Trade-Related Intellectual Property Rights
TPRM	Trade Policy Review Mechanism
TRIMS	The Agreement on Trade-Related Investment Measures
UAR	United Arab Republic
UN	United Nations
USAID	United States Agency for International Development
USAID/Egypt	USAID Mission in Egypt
WTO	World Trade Organization
WTOA	Agreement Establishing the World Trade Organization

## **PREFACE**

This report is based upon a study conducted by the Development Economic Policy Reform Analysis (“DEPRA”) Project, under contract to the United States Agency for International Development, Office of Economic Analysis and Policy, Cairo, Egypt (“USAID/Egypt”) (Contract No. 263-C-00-00001-00), in response to a request from the Egyptian Minister of Trade and Supply.

The DEPRA Project is intended to encourage and support macroeconomic reform in Egypt through the provision of technical assistance and services to the Ministries of Economy and of Trade and Supply, with substantive focus on the areas of international trade/investment liberalization, deregulation of the economy, and financial sector strengthening.

The study was conducted by James L. Kenworthy, Esq., of Nathan Associates Inc., formerly Chief-of-Party and Senior International Trade Policy Advisor for the DEPRA Project. Mr. Kenworthy wishes to express his gratitude to the assistance provided by the staff of the DEPRA/MOTS office in the Ministry of Trade and Supply, particularly Dr. John Suomela and Mr. Abdel Wahab Heikal and by the Ministry of Trade and Supply’s staff attached to the Egyptian Mission to the International Agencies in Geneva, in particular Mr. Lotfy A. Hameed of that office.

The views expressed herein are solely those of the author and are not intended as statements of policy or opinion of either USAID/Egypt, the Ministry of Trade and Supply, or of Nathan Associates Inc.

## EXECUTIVE SUMMARY

The Government of the Arab Republic of Egypt signed the General Agreement on Tariffs and Trade (“GATT”) in 1947 and, shortly after conclusion of the GATT-sponsored Uruguay Round of multilateral trade negotiations and establishment of the World Trade Organization (“WTO”) in 1994, acceded to the WTO on 30 June 1995. Under the so-called “Single Undertaking” requirement of the Final Act Embodying the Results of the Uruguay Round signed at Marrakesh on 15 April 1994, all countries that signed the Final Act, and all those that subsequently acceded to WTO membership since then, are *obligated as a condition of their membership* to implement the obligations embodied in all of the GATT’94/WTO Multilateral Agreements. The Single Undertaking does *not* apply to the so-called “Plurilateral Agreements” which are binding *only* on the signatories thereof. Egypt is a signatory *only* of the plurilateral Agreement on Trade in Civil Aircraft.

The Final Act, which incorporates the Agreement Establishing the WTO, the GATT 1994, the Marrakesh Protocol (with its national schedules of bound tariff and non-tariff commitments), the Multilateral Agreements, the Plurilateral Agreements, and the various Understandings, Ministerial Decisions, and Declarations, that interpret and apply the foregoing, comprise some 50 separate legal instruments and some 550 pages of text. The Government of Egypt has steadfastly maintained since its accession to the WTO, that Egypt will comply with all obligations and commitments binding upon it under this vast framework of rules and procedures for global trade. H. E. The Minister of Trade and Supply, Dr. Ahmed H. Goueli, commissioned this study to clarify and to advise government officials and officers and managers of public and private sector commercial entities as to the scope and nature of these obligations and commitments.

The basic, underlying premise for the GATT and the WTO was that all of its Members would agree to broad *principles* governing international trade relations and, upon these principles, build a consensus-based system of rights and obligations between the parties thereto. These rights and obligations are embodied principally in the four *core* principles of the GATT/WTO and certain subsidiary principles contained in the GATT’94 as interpreted, clarified, and applied in the Multilateral Agreements. The four core principles are those relating to: (1) Most Favored Nation (“MFN”) Treatment; (2) National Treatment; (3) Reduction of Barriers to Trade; and (4) the Prohibition of Quantitative Restrictions and the Tariffication of Non-Tariff Barriers to Trade (“NTBs”). The subsidiary principles include: (a) Transparency; (b) Consultation; (c) Dispute Resolution; (d) attention to the Special Needs of Developing Country Members; (e) “Fair” as well as “Open” Trade; and (f) the availability of Safeguards to protect a Member nation’s vital interests.

The basic distinction characterizing a Member’s GATT/WTO obligations is one between “*Substantive*” obligations and “*Transparency-Focused*” obligations. Within the category of “*Substantive*” obligations, one can distinguish at least three subsets thereof: (1) the overall “*Single Undertaking*” obligation to comply with and implement *all* of the GATT’94/WTO Multilateral Agreements as a *condition of membership*; (2) the “*General*” substantive obligations to implement the basic *principles* of the GATT, e.g., (a) MFN Treatment (Article I), (b) National Treatment (Article III), (c) Reduction of Tariff Barriers

(Article II), and (d) Tariffication of Barriers to Trade (Article XI), as well as some of the subsidiary principles identified above; and (3) what can be called “*Specific*” substantive obligations, e.g., requirements to implement the various remaining provisions of the GATT’94, the Multilateral Agreements, and those Plurilateral Agreements to which a Member is a signatory.

*Transparency-Focused* obligations are intended to ensure the discoverability of a Member country’s trade-related policies and legal/regulatory regime through notification thereof to, and issue-oriented consultation with, other WTO Members as well as fairness and basic due process in the administration of the laws, regulations, and procedures that affect both Member governments and their nationals engaged in international trade.

But the obligations a Member assumes as a condition of its involvement with the GATT/WTO may actually be *qualified* or *limited* by its availing itself of “*Commitments*”, “*Reservations*”, or certain “*Status Derogations*” which either *exempt* them, wholly or in part, from such obligations or authorize *delays* in the implementation thereof, as provided for either in the GATT’94 itself or in the various Multilateral Agreements. Thus, for example, Egypt’s general tariff reduction *obligations* under GATT’94 Article II are entirely dependent on its *actual* tariff binding *commitments* given by it in the nearly 200 pages of its Schedule LXIII attached to the Marrakesh Protocol to the GATT’94 (see Appendix A hereof). Similarly, its general *obligations* to liberalize trade in Services, found in the General Agreement on Trade in Services (“GATS”), are subject to *specific commitments* found in its schedules annexed to the GATS (see Appendix B). But, while one can distinguish between *obligations* and *commitments* in that the latter may change the scope of the former, the *giving* of such commitments themselves operates to establish *obligations* as such, which can be enforced through the WTO dispute resolution process and failure to implement which can lead to WTO-authorized retaliation by other WTO trading partners.

“*Reservations*” generally imply that a WTO Member country *recognizes* the general legitimacy of an obligation resulting from the GATT’94/WTO Agreements, but expressly “*reserves*” the right to *condition* its compliance therewith either wholly (for substantive reasons) or in part to facilitate the process of its ultimate implementation (e.g., to delay or “phase-in” such implementation). But, unless *otherwise* expressly permitted under specific provisions of the GATT’94 or the Multilateral (or Plurilateral) Agreements, a reservation may be taken *only* when *accepted* by *all* WTO Members (or in realistic practice, if it is not rejected by any Member). Egypt has availed itself of certain reservations with regard to the Agreements on Textiles/Clothing, Customs Valuation, and Import Licensing Procedures. Finally, Egypt’s classification as a *developing* country enables it to invoke certain special and differential treatment afforded developing countries under the GATT/WTO in recognition of the special developmental concerns and problems of implementation thereof (referred to as a “*status derogation*”) that has the effect of limiting or otherwise conditioning the applicability of general GATT/WTO obligations. These derogations from otherwise applicable obligations may be found in the GATT’94 itself (for example, in the Article XVIII exception affording developing countries flexibility to protect infant industries) or in various provisions of the Uruguay Round agreements that have the effect of *easing* otherwise applicable rules, providing *different* rules, imposing *fewer* obligations, or *delaying* implementation of obligations. Finally, the Agreement Establishing the WTO authorizes the WTO, “in exceptional circumstances”, to *waive* an obligation confronting a Member country if such decision is approved by a 3/4ths majority of Members.



This study has intensively reviewed all articles of the GATT'94 and each of the Multilateral Agreements and major subsidiary instruments (as well as the plurilateral Civil Aircraft Agreement to which Egypt is a signatory) to identify and record *specifically, each and every* one of Egypt's obligations thereunder. This "inventory" of Egypt's obligations is found in Appendix C. But, because of the large volume thereof, Section 4 of the study report contains a summary of the Uruguay Round agreements that attempts to summarize major obligations thereunder. For purposes of the Appendix C "inventory", obligations have been allocated among five specific categories: "Substantive", "Transparency-Procedural", "Transparency-Consultation", "Transparency-Notification", and "Transparency-Enquiry/Contact Points".

The scope and volume of obligations inventoried in Appendix C is awesome. They total 853 separate, specific obligation entries comprised of the following: "Substantive" (452), "Procedural" (179), "Consultation" (87), "Notification" (125), and "Enquiry/Contact Points" (10). The study finds that the Uruguay Round Agreements dramatically expanded the number of obligations originally enjoined on the Contracting Parties of the pre-Uruguay Round GATT. The more explicit specification and extensive elaboration of substantive "rules" under the various agreements is responsible for much of this increase in the complexity of the framework of rules affecting global trade, but it is clear also that essentially *non-substantive* procedural and consultation/notification rules added to the significant increase in the volume of requirements. Based solely on *number of substantive* obligations, we found the following Uruguay Round agreements lead in *complexity*: Trade-Related Intellectual Property/TRIPS (52); Anti-Dumping Agreement (49); Subsidies/Countervailing Measures/SCM (46); General Agreement on Trade in Services/GATS (33); Technical Barriers to Trade/TBT (25); Sanitary & Phytosanitary Measures/SPS (22); Textiles/ Clothing (22); Safeguards (21); Dispute Settlement Understanding/DSU (20); Pre-Shipment Inspection/PSI (15); Import Licensing (15); and Agriculture (10). [See Chart 4: Number of Egyptian Obligations Per GATT/WTO Agreement or Other Instrument.]

Given this large number of obligations assumed by Egypt as a condition to its WTO Membership, the question naturally arises as to what practical consequences they have for the GOE in trying to implement them in formulating its international trade policies, developing its trade-related legal/regulatory regimes, its continued involvement with the WTO, and, ultimately, in realizing its aspirations for an increased participation in global trade. First it can be said that Egypt confronts essentially the same obligations as most other *developing* country Members of the WTO – and shares with them the burden of implementing such obligations. The GATT/WTO recognizes that for developing nations, it will take more time and require considerable technical assistance from the developed nations. So Egypt must work assiduously to invite opportunities for realizing such assistance in assimilating its obligations in its trade-related legal/regulatory regimes, administrative procedures, and policy formation. To do so is in Egypt's best interests. It has staked its economic future on achieving domestic economic growth, jobs, and an enhanced standard of living through increased exports. But trading nations multiply the opportunities for accessing foreign markets for their exports only by *themselves* reciprocating in kind. The GATT/WTO framework of rules facilitates this tradeoff, providing rules that open markets while affording adequate protections against "unfair" trade and protecting nations' rights to vindicate vital national interests. Secondly, however, much of the developing world looks to Egypt to fulfill its traditional leadership role within the international community, particularly as an advocate for their economic and commercial

interests. But, to do so credibly and effectively, Egypt must become a *model* for them in its understanding of its GATT/WTO obligations and implementing them.

Moreover, the situation may not be as dire as it appears for two reasons. First, many of the obligations inventoried in this study are essentially generic and are found in similar form in a number of the WTO Agreements. Secondly, GATT history suggests that the *effective* measures of a country's obligations are the *number* and *success* of complaints by its WTO trading partners alleging its failure to implement particular obligations that are ultimately *resolved* through consultation or *upheld* against it through the dispute settlement process. To-date, it appears *no* resort to dispute resolution has been invoked against Egypt since its accession to the WTO on 30 June 1994.

While the number of obligations enjoined upon Egypt is vast, their very volume argues that Egypt should rationally allocate its efforts to understand and apply them in its trade policy formation process; it needs, in effect, to undertake a cost/benefit evaluation among its many obligations of their *relative* importance so as to assess and *prioritize* them, thereby to better manage its capacities to implement those that are found *critical* to its immediate export expansion goals through accommodating its trading partners' concerns for reasonable access to its domestic markets. One aspect of this will be to determine *which* of its obligations are so *sensitive* to its trading partners that its failure to address and implement them in the near term may operate to "chill" any receptiveness on the part of such trading partners to facilitate the access of Egyptian exports to their own markets.

The recent WTO Trade Policy Review of Egypt's trade policies and legal/regulatory regime can be of significant utility in this regard. A review of the questions posed to the GOE by WTO trading partners participating in the review may be the most realistic indicator of the substantive concerns thereof about Egypt's implementation of its GATT/WTO obligations. They could form a practical basis for Egypt in focusing upon and addressing compliance concerns of trading partners that could affect its exports' access to their markets, thereby serving to rationalize its efforts to manage such obligations. In this regard, at least 13 WTO Member countries participated in the question/answer forum including Egypt's major trading partners (Australia, Canada, European Union, Japan, and the United States). Based on the number of times these nations raised a particular trade issue or concern, it appears the most important thereof were, in order of concern: (1) standards/quality controls, (2) Decree 619/Rules-of-Origin, and (3) customs tariffs/fees and other charges. Other issues of concern (raised by at least three countries each) were: anti-dumping administration, packaging/labeling requirements, and quantitative restrictions (cement, poultry, textiles, and vehicles).

# EGYPT: Obligations and Commitments under the GATT/WTO Agreements

## 1.0 INTRODUCTION

The General Agreement on Tariffs and Trade (“GATT”), originally concluded in 1947, initiated a multilateral effort to achieve the liberalization of global trade through achievement of across-the-board reductions in national tariffs and the development of consensus-based rules for the conduct of international trade through successive “rounds” of multilateral trade negotiations (“MTNs”). Beginning in 1963 with the Kennedy Round, multilateral negotiations began to focus not only on tariff reduction, but also on so-called non-tariff measures (“NTMs”), many of which were innovated by nations to avoid the domestic competitive consequences of tariff reduction commitments made in prior rounds. During these successive rounds, culminating in the Uruguay Round MTN concluded in Marrakesh on 15 April 1994, various agreements or codes of behavior were negotiated among an ever increasing number of GATT contracting parties. These rules, currently embodied in the GATT as amended over time and, in particular, by the Uruguay Round agreements (“GATT 1994”) and the Agreement Establishing the World Trade Organization (“WTO”), establish the current basic international framework of rules governing global trade, which impose certain obligations and confer certain rights on WTO Member countries.

From the original 23 Contracting Parties that signed the GATT in 1947, the organization has grown to include 135 Member countries and customs territories. The Arab Republic of Egypt became a Contracting Party of the original GATT on 9 May 1970 and acceded to Membership in the existing WTO effective 30 June 1995. Members of the WTO\* are bound by *treaty obligation* to observe the GATT’94/WTO rules governing international trade in global markets except to the extent that, as “developing nations” or “least developed nations”, they are eligible for “Special or Differential Treatment” under which they are permitted a longer period of time within which to phase in the implementation of such obligations or, in the case of least developed nations, are exempted entirely from most such obligations while they remain in that category. In addition, in some instances, the obligations set forth in certain of the agreements are limited in their application to Member countries by binding *commitments* tabled thereby or because of certain *reservations* noted that limit requirements enjoined upon them under the agreements.

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- Signatories of the original GATT (‘1947’) were referred to as “Contracting Parties” and the entity of the GATT itself – technically an “agreement” rather than an organization – was referred to as the “Contracting Parties”. Countries that subsequently founded or acceded to the post-Uruguay Round World Trade Organization are referred to as “Members”, although the GATT1994 still employs the term “Contracting Parties”. For purposes of *this* study report and the outline of GATT/WTO obligations contained in Appendix C, the terms are used interchangeably.

The Minister of Trade and Supply and other high officials of the Government of Egypt (“GOE”) have consistently stated that, as a Member country of the WTO and a Contracting Party of the GATT ’94, it is the policy of the GOE to observe and meet all of its obligations and commitments thereunder. But this policy as occasioned occasional controversy within the GOE and Egypt’s private sector relating to concerns for the welfare and other distributive impacts within the Egyptian economy and society that may result from implementation of such obligations and commitments. Concern has been expressed as to whether or not there is within the Government and the Egyptian private sector a full appreciation of the scope of such obligations and commitments sufficiently to make informed policy decisions and advance legislative proposals required to implement them in law and practice in Egypt.

With this concern in mind, His Excellency the Minister of Trade and Supply has requested the DEPRA Project to undertake to determine, inventory, and to enumerate accurately and in outline form the actual obligations and commitments of the GOE under the GATT’94/WTO agreements. This study is intended to respond to that request. The study’s objective is to assist the GOE to fully understand and appreciate Egypt’s obligations and commitments under the GATT’94/WTO as well as to lay a factual basis for future analytical studies by the DEPRA Project or others for assessing the costs/benefits and distributive economic/welfare impacts of Egypt’s meeting such obligations.

The study has involved an intense review of the more than 29 separate legal texts comprising the GATT 1994, the WTO Agreement, and the subsidiary agreements, as well as 25 more ministerial decisions, understandings, and declarations that interpret and apply a Member’s obligations as a signatory to the WTO. The author has traveled twice to Geneva, Switzerland, the headquarters of the WTO, to meet with staff of the WTO and discuss the obligations incorporated in the WTO’s framework of rules and their application to Egypt.

## CHART 1

### Articles of the General Agreement on Tariffs & Trade (The “GATT”)

#### Part I

Article I	General Most-Favored Nation Treatment
Article II	Schedules of Concessions

#### Part II

Article III	National Treatment on Internal Taxation and Regulation
Article IV	Special Provisions relating to Cinematograph Films
Article V	Freedom of Transit
Article VI	Anti-Dumping & Countervailing Duties
Article VII	Valuation for Customs Purposes
Article VIII	Fees & Formalities Connected with Importation & Exportation
Article IX	Marks of Origin
Article X	Publication & Administration of Trade Regulation
Article XI	General Elimination of Quantitative Restrictions
Article XII	Restrictions to Safeguard the Balance of Payments
Article XIII	Non-Discriminatory Administration of Quantitative Restrictions
Article XIV	Exceptions to the Rule of Non-Discrimination
Article XV	Exchange Arrangements
Article XVI	Subsidies
Article XVII	State Trading Enterprises
Article XVIII	Governmental Assistance to Economic Development
Article XIX	Emergency Action on Imports of Particular Products
Article XX	General Exceptions
Article XXI	Security Exceptions
Article XXII	Consultation
Article XXIII	Nullification or Impairment

#### Part III

Article XXIV	Territorial Application – Frontier Traffic – Customs Unions & Free-Trade Areas
Article XXV	Joint Action by the Contracting Parties
Article XXVI	Acceptance, entry into Force & Registration
Article XXVII	Withholding or Withdrawal of Concessions
Article XXVIII	Modification of Schedules
Article XXVIII bis	Tariff Negotiations
Article XXIX	The Relation of This Agreement to the Havana Charter
Article XXX	Amendments
Article XXXI	Withdrawal
Article XXXII	Contracting Parties
Article XXXIII	Accession
Article XXXIV	Annexes
Article XXXV	Non-Application of the Agreement Between Particular Contracting Parties

#### Part IV Trade & Development

Article XXXVI	Principles and Objectives
Article XXXVII	Commitments
Article XXXVIII	Joint Action

## 2.0 GATT: CENTRAL CONCEPTS/BASIC PRINCIPLES

The General Agreement on Tariffs and Trade or “GATT” has operated since 1947 as both the primary forum for international trade diplomacy and as the basic frame-work for international rules governing global trade. Concluded in 1947 and signed by its 23 original Contracting Parties, the GATT was intended as one of the four institutional pillars for the construction of the post-World War II structure for preserving world peace and stimulating economic growth through: (1) international political consultation (United Nations), (2) international monetary cooperation (International Monetary Fund), (3) international economic development (World Bank), and (4) open markets through global trade liberalization (GATT).

The basic objective of the GATT was to progressively reduce national barriers to international trade, (a) initially through across-the-board tariff reduction, (b) later the removal of non-tariff measures, and (c) eventually, the development of global standards for fair trade. The fundamental premise of the GATT in pursuing its objectives was then, and remains today, that enforceable rules to reduce trade barriers and to facilitate trade liberalization and expansion are most likely and, there-fore, best formulated through multilateral consensus in a global forum bringing together all nations, developed and developing, rich and poor.

The GATT/WTO operates by means of consensus-based global rules for trade in Goods (and, since 1995, Services) that establish a consistent, and predictable trading system emphasizing *Non-Discrimination* in market access among Member countries, transparency, consultation, and regular review of national trade regimes as well as a structure and a procedure for resolving trade-related disputes among Members. The basic, underlying premise for the GATT was that all of its Contracting Parties would agree to broad *principles* governing trade relations and the use of trade-restricting measures (tariffs, non-tariff measures) and, upon these principles, build a system of *rights* and *obligations* between the parties.

### 2.1 GATT/WTO: Core Principles

These rights and *obligations* are embodied in the four *core* principles of the GATT/WTO, e.g.,

#### 2.1.1 Most Favored Nation (“MFN”) Treatment

One of the two basic *non-discrimination* principles, found in Article I of the GATT, it means that, with regard to the imposition of customs duties or the application of NTMs, and all rules and formalities related thereto:

- any advantage, privilege, or immunity granted by any Member country [say, Egypt] to any product originating in another country (whether or not a WTO Member country) must also be accorded to the same products of *all other* WTO Member countries

or, put another way,

- the most favored treatment extended by one WTO Member to *any* other trading partner (whether or not a WTO Member) *must* be extended to *all* other Member countries.
- MFN relates to Non-Discrimination in the treatment of goods *prior to* and *during entry* into the customs territory of a Member country.

### 2.1.2 National Treatment

The other basic *non-discrimination principle*, found in Article III of the GATT, it means that a WTO Member country must treat products *imported* from any other WTO Member country *no different from* (e.g., the same as) *domestically-produced* products, with regard to taxation, standards conformity, and all other restrictions.

- National Treatment relates to Non-Discrimination against foreign products *after entry* into the customs territory of a Member country.

### 2.1.3 Reduction of Barriers to Trade

Found in Article II of the GATT, it recognizes that international trade is a “give/get” transaction, in that nations must concede market access to *imports* (“give”) in order to gain market access for their *exports* (“get”) and that market access is best achieved through *mutual* concessions for (a) the progressive *reduction* of tariff barriers and (b) the *binding* of *maximum* levels of customs duties per product. Having conceded reduction and binding of tariffs in order to achieve greater market access, Member countries are *obliged* to implement and carry through such *commitments*. Therefore, generally, Members may refuse to implement or withdraw their commitments only by providing *compensation* intended to restore the balance of benefits from the concessions they have made to their WTO trading partners (Article XXVIII).

### 2.1.4 Tariffication of Non-Tariff Barriers

Found in Article XI of the GATT, it establishes a bias toward the use of *tariffs* and against *non-tariff measures* (import bans, quotas generally) as the means Member countries should utilize in acting to protect domestic industries from imports (often to get around commitments to tariff reduction). Article XI provides for the “general elimination of *quantitative* restrictions” through their “*tariffication*”, e.g., their conversion to *tariff-equivalents* and, eventually, the progressive reduction of the resulting tariffs to agreed maximum (“bound”) tariff levels. Tariffication provides trading partners with a greater degree of market access predictability, stabilizing the trading relationship.

## 2.2 GATT/WTO: Other Basic Principles

But, in addition to these primordial principles, the GATT incorporates other important principles whose application permits the effective, efficient working out of the four core principles. These include:

### 2.2.1 Transparency

One aspect of the principle of Transparency is embodied in the *publication* and *discoverability* requirements of Article X of the GATT while other applications of the principle is found in the numerous *notification* requirements of the GATT and the various WTO agreements. Another aspect is the operation of the Trade Policy Review Mechanism (TPRM).

Article X requires that all Member country laws, regulations, administrative rulings or judicial decisions (as well as all non-WTO multilateral or bilateral agreements relating to trade) that *affect* trade among Member countries must be *published* and made *discoverable* by Member governments and their traders and that such laws, regulations, etc. be enforced in a *uniform, impartial, and reasonable* manner that permits *awareness*, and promotes *consistency* and *predictability* for other Members and their nationals.

Throughout the GATT '94 and the WTO agreements there are provisions requiring Member countries to notify their adoption of trade measures affecting the operation of the GATT'94/WTO and their application of trade rules. The goal of notification requirements is to contribute to the transparency of Members' trade regimes, to facilitate surveillance mechanisms for determining the observance by Member countries of obligations and commitments, and to give other Member countries timely notice and opportunity to consult regarding actions taken by Members that affect the market access rights of their nationals.

The TPRM was established by the GATT in 1989 with the objective that it would "contribute to improved adherence by all contracting parties to GATT rules, disciplines and commitments, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade *policies* and *practices* of contracting parties." It provides for a periodic review of the a Member country's trade-related legal/regulatory regime and macro-economic practices affecting trade and other Members. Egypt's first TPRM review was conducted in 1992. One of the Annex agreements to the Agreement Establishing the WTO relates to the TPRM which established the WTO's Trade Policy Review Body to conduct the reviews, which, in the case of developing country Members like Egypt are scheduled every six years. The TPRM review process for Egypt concluded at the end of June 1999 (see Section 5.3 hereof and Chart 6 of this report).

### 2.2.2 Consultation

Found in Article XXII of the GATT, the principle of consultation



covers both formal and informal consultation. Article XXII provides that each Member must afford sympathetic consideration to and opportunity to any other Member with respect to issues and concerns relating to the operation of the GATT. Formal consultation is required in order to trigger the dispute resolution procedures of Article XXIII of the GATT while informal consultation is encouraged whenever Members have issues or other concerns to discuss with other Members, with the object of promoting bilateral resolution of problems to avoid formal dispute resolution. Nearly all of the WTO agreements have provisions requiring or encouraging consultation to smooth out the operations of the rules provided for therein.

### 2.2.3 Dispute Resolution

Found in Article XXIII of the GATT, Dispute Resolution is intended to resolve issues of “nullification or impairment” of GATT/WTO benefits between Members by providing for a procedure that avoids unilateral action that could destroy the consensus basis for GATT’s global trade rules and develops acceptable precedents for the application of GATT rules. Under Article XXII:1, nullification or impairment could occur as the result of: (1) the *failure* of a Member to *carry out its obligations* under the GATT; (2) the application by a Member of *any* measure *whether or not* it conflicts with provisions of the GATT; and (3) the existence of any other situation. Some of the WTO substantive agreements provide for agreement-specific dispute resolution procedures but most incorporate the Article XXIII procedure as applied through the Uruguay Round’s Understanding on Rules and Procedures Governing the Settlement of Disputes (the “DSU”).

### 2.2.4 Special Needs of Developing Countries

Over 100 of the WTO’s 135 Member countries are considered to be either “Developing Countries” or “Least Developed Countries”. For most purposes, Egypt is treated as a developing country. The GATT has a special section (Part IV) that includes provisions encouraging the application of “non-reciprocity” or “special and differential treatment” that recognizes that developed countries should not expect developing countries to match their concessions to them. Several of the WTO agreements acknowledge the special needs of developing and least-developed countries by permitting them longer periods of time within which to fully implement obligations established by such agreements, or, in the case of least-developed countries, to exempt them entirely from such obligations while in that status (see Section 3.5.3 of this report)..

### 2.2.5 Fair Trade/Competition

The opening up of national markets in implementation of concessions regarding market access sometimes gives rise to certain abuses in the form of unfair competition that threatens the viability of a country’s domestic producers. The GATT recognized in Articles VI and XVI that *free* trade should also be *fair* trade. The WTO agreements extend and clarify the rules laid down in the GATT upon which Member countries can impose compensating duties on two forms of

“unfair” competition, *dumping* and *subsidies*, in the form of *anti-dumping* and *countervailing* duties.

#### 2.2.6 Availability of “Safeguard” Exceptions

The GATT also recognizes that “free trade” cannot always be universally applied, but that certain justifiable exceptions must be allowed to permit Member countries to cope with unforeseen circumstances or critical situations with regard to which it is generally accepted that national policies must override international obligations. As a result, the GATT allows departures from its general disciplines, e.g., Article XIX (and the Uruguay Round Agreement on Safeguards) allows for emergency action to restrict imports of particular products to deal with the unforeseen disruptive domestic market impacts of imports surges occurring as a result of trade concessions; Article XX sets out a number of exceptions for public morality, protection of human life, relating to gold/silver, products of prison labor, products in short supply, and restrictions necessary to secure compliance with GATT-consistent laws and regulations; and Article XXI permits certain national security exceptions. The GATT, in Articles XII (for developed nations) and XVIII (for developing nations) also allows for the imposition of trade restrictions to safeguard a nation’s balance of payments and, in the case of developing countries, to promote “infant” industries or maintain a certain level of foreign exchange reserves. Finally, the GATT allows for certain exceptions to its rules for MFN trade concessions made by members in the case of regional or bilateral economic integration arrangements, such as customs unions and free trade areas (Article XXIV).

### 3.0 GATT: FRAMEWORK/NATURE OF OBLIGATIONS

#### 3.1 The Emergence of GATT Rules/Obligations

The General Agreement on Tariffs and Trade originally concluded in 1947 constituted a package of multilaterally-negotiated trade concessions and over 30 Articles establishing the principles and setting the rules that were to govern global trade for nearly 50 years. During that time, the GATT's basic legal text remained the same, but its expanding membership of nations engaged in a series of multilateral trade negotiations or "rounds" initially focused on the progressive reduction of tariffs and subsequently on the development of "plurilateral" agreements embodying codes of practice in various substantive areas binding only upon the signatories thereof. These rounds, the number of countries involved and the subject matter included the following: (1) 1947 Geneva, Tariffs - 23 countries; (2) 1949 Annecy, Tariffs - 13; (3) Torquay, Tariffs - 38; (4) 1956 Geneva, Tariffs - 26; (5) Dillon Round, Tariffs - 26; (6) Kennedy Round, Tariffs, Anti-Dumping Code - 62; (7) Tokyo Round, Tariffs, NTMs (non-tariff barriers) - 102; and (8) Uruguay Round, Tariffs, Creation of the WTO, Dispute Settlement, Agriculture, IPR, Services, Textiles/Clothing - 123.

The Uruguay Round culminated in a dramatic change in the number and character of GATT-sponsored international rules for global trade and extended GATT disciplines to important new areas. Unlike the original GATT-sponsored plurilateral agreements, the new agreements were to be binding on *all* contracting parties. The GATT itself, as amended over the lengthy period since 1947, emerged as the GATT 1994 (Chart 1 indicates the basic structure of the GATT). The Agreement Establishing the World Trade Organization set in place an operating entity for the administration of the GATT '94 and the various Uruguay Round agreements, serving as the principal forum for the development, interpretation, and application of the GATT'94/WTO rules as well as for consultation, negotiation, and dispute resolution.

#### 3.2 The GATT/WTO Framework of Rules/Obligations

The "Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations" signed at Marrakesh on 15 April 1994 is 550 pages long and incorporates over 50 legal texts comprising the Agreement Establishing the WTO, the GATT 1994, and Uruguay Round agreements plus Understandings, Ministerial Decisions, and Declarations, which, in the aggregate establish the framework of international rules for global trade administered by the WTO. The documents embodying that entire framework as applicable to *Egypt* are enumerated in Chart 2. It should be noted that the GATT 1994 itself *includes*: (a) the text of the GATT 1947 as amended up to 01 January 1995; (b) past protocols of tariff concessions; (c) GATT accession protocols; (d) all waiver decisions in force as of 01 January 1995; and (e) other decisions of the Contracting Parties issued up to 01 January 1995.

## CHART 2

### The GATT/WTO Framework of Rules/Disciplines For Global Trade Applicable to Egypt

- 01 The Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations (Marrakesh, 15 April 1994).
- 02 Agreement Establishing the World Trade Organization  
  
ANNEX 1  
  
Annex 1A: Agreements on Trade in *GOODS*
- 03 GENERAL AGREEMENT ON TARIFFS & TRADE 1994
- 04 (a) Understanding on the Interpretation of Article II:1(b)  
(re: Implementation of MFN)
- 05 (b) Understanding on the Interpretation of Article XVII  
(re: State Trading)
- 06 (c) Understanding on Balance-of-Payments Provisions  
(re: Articles XII & XVIII)
- 07 (d) Understanding on the Interpretation of Article XXIV  
(re: Regional Economic Arrangements – Customs/  
Free Trade Areas)
- 08 (e) Understanding on the Interpretation of Article XXV  
(re: Joint Action)
- 09 (f) Understanding on the Interpretation of Article XXVIII  
(re: Modification of Schedules)
- 10 (g) Understanding on the Interpretation of Article XXXV  
(re: Non-Application)
- 11 Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994 (“GATT’94”)
- 12 Agreement on Agriculture
- 13 Agreement on Application of Sanitary & Phytosanitary Measures [SPS]
- 14 Agreement on Textiles & Clothing [ATC]
- 15 Agreement on Technical Barriers to Trade [TBT]
- 16 Agreement on Trade-Related Investment Measures [TRIMS]
- 17 Agreement on Implementation of Article VI of the GATT ’94  
(re: Antidumping and Countervailing Measures)

## CHART 2

### The GATT/WTO Framework of Rules/Disciplines For Global Trade Applicable to Egypt (Cont. 2)

- 18 Agreement on Implementation of Article VII of the GATT '94  
(re: Customs Valuation)
- 19 Agreement on Pre-Shipment Inspection [PSI]
- 20 Agreement on Rules-of-Origin
- 21 Agreement on Import Licensing Procedures
- 22 Agreement on Subsidies & Countervailing Measures  
(re: GATT '94 Article XVI)
- 23 Agreement on Safeguards  
(re: GATT '94 Article XIX)
- 24 ANNEX 1B: General Agreement on Trade in *SERVICES* [GATS]
- 25 ANNEX 1C: Agreement on Trade-Related Aspects of Intellectual  
Property Rights [TRIPS]
- 26 ANNEX 2: Understanding on Rules & Procedures Governing the  
Settlement of Disputes [DSU]  
(re: GATT '94 Article XXIII)
- 27 ANNEX 3: Trade Policy Review Mechanism [TPRM]
- ANNEX 4: The *Plurilateral* Agreements
- 28 ANNEX 4A: Agreement on Trade in Civil Aircraft
- MINISTERIAL DECISIONS, DECLARATIONS, UNDERSTANDINGS
- 29 Decision on Measures in Favour of Least-Developed Countries
- 30 Declaration on the Contribution of the WTO to Achieving Greater  
Coherence in Global Economic Policymaking
- 31 Decision on Notification Procedures
- CUSTOMS VALUATION
- 32 (a) Decision Regarding Cases Where Customs Administrations Have  
Reason to Doubt the Truth or Accuracy of Declared Value
- 33 (b) Texts Relating to Minimum Values & Imports by Sole Agents,  
Sole Distributors, & Sole Concessionaires

## CHART 2

### **The GATT/WTO Framework of Rules/Disciplines For Global Trade Applicable to Egypt (Cont. 3)**

#### TECHNICAL BARRIERS TO TRADE

- 34 (a) Proposed Understanding on WTO-ISO Standards Information System
- 35 (b) Decision on Review of the ISO/IEC Information Centre Publication

#### GENERAL AGREEMENT ON TRADE IN SERVICES [GATS]

- 36 (a) Decision on Institutional Arrangements for the GATS
- 37 (b) Decision on Certain Dispute Settlement Procedures for the GATS
- 38 (c) Decision Concerning Paragraph (b) of Article XIV of the GATS
- 39 (d) Decision on Negotiations on Basic Telecommunications
- 40 (e) Understanding on Commitments in Financial Services
- 41 (f) Decision on Financial Services
- 42 (g) Decision Concerning Professional Services
- 43 (h) Decision on Movement of Natural Persons

#### AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE GATT '94 (re: Antidumping)

- 44 (a) Decision on Anti-Circumvention
- 45 (b) Decision on Standard of Review for Dispute Settlement Panels
- 46 (c) Decision on Dispute Settlement Pursuant to the Agreement on  
Implementation of Article VI of GATT'94 or Part V of the Agreement  
On Subsidies & Countervailing Measures
- 47 Decision on Measures Concerning the Possible Negative Effects of the  
Reform Program on Least-Developed & Net Food-Importing Developing  
Countries (Note: Egypt is classified as a Net Food-Importing Developing  
Country)
- 48 Decision on Implementation of Article XXIV:2 of the Agreement on  
Government Procurement (not applicable to Egypt)
- 49 Decision on Improvements to the GATT Dispute Settlement Rules  
and Procedures

#### POST-URUGUAY ROUND PLURILATERAL AGREEMENTS

- 50 Information Technology Agreement

All these changes in the number and scope of GATT<sup>47</sup> provisions represents a significant change in the *nature* of the whole global framework for international trade, from a relatively general, consensus-based set of “principles” relatively loosely applied and essentially unenforceable as such, to a much larger, significantly more complex, body of “rules” enforceable through a nearly judicial dispute resolution system.

### 3.3 The Scope of the GATT/WTO “Single Undertaking”

Prior to the conclusion of the Uruguay Round, Contracting Parties of the GATT, while obligated to comply with *all* of the articles of the GATT (as signatories thereof), were obliged to comply only with the provisions of the various substantive agreements or “Codes” to which they had given their assent by having *signed* the particular agreement. But, Article II.2 of the Marrakesh Agreement Establishing the World Trade Organization, provides that “[t]he agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as the ‘Multilateral Trade Agreements’) are *integral parts* of this Agreement, *binding on all Members*.” Likewise, Article XIV:1 of the Agreement Establishing the WTO provides that “[t]his Agreement shall be open for acceptance . . . such acceptance shall apply to this Agreement *and the Multilateral Trade Agreements* annexed hereto.” (For an enumeration of the specific agreements referred to in Article XIV:1, see Chart 2.)

This language establishes the so-called “*Single Undertaking*” rubric under which *all* countries that signed the Marrakesh Agreement (as well as all of those that have acceded to the WTO since that time) are obligated *as a condition of their Membership* to observe and implement the obligations embodied in *all* of the GATT<sup>94</sup>/WTO *Multilateral Agreements*. Beyond these 19 GATT, WTO, and other agreements. There is a significant body of legal instruments that *interpret* and *apply* them, e.g., the 23 specific Understandings, Declarations, and Ministerial Decisions adopted as part of the Uruguay Round or subsequently. Paragraph 2(b) of the actual signed instrument of the Uruguay Round, the “Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations” states clearly that “[b]y signing the present Final Act, the representatives agree . . . (b) to adopt the Ministerial Declarations and Decisions.”

The Single Undertaking *does not* apply to the so-called “Plurilateral” Agreements also negotiated during the Uruguay Round, which are binding *only* upon the *signatories* thereto – of which there were originally four: the agreements on Civil Aircraft, Government Procurement, the Arrangement Regarding Bovine Meat, and the International Dairy Arrangement. The latter two have been “suspended” for lack of sufficient signatories. Egypt is a signatory *only* of the Agreement on Trade in Civil Aircraft and *not* of the Agreement on Government Procurement.

## CHART 3

### Topical Chart of GATT'94/WTO Agreements

#### **PART A – The GATT 1994**

- A. Non-Discrimination
- 1) Article I - Most-Favored Nation
  - 2) Article III - National Treatment
  - 3) Article XIII - Non-Discriminatory Administration of Quantitative Restrictions
  - 4) Article XIV - Exceptions to the Rule of Non-Discrimination
- B. Concessions/Binding of Tariffs & Non-Tariff Barriers
- 1) Article II - Schedules of Concessions
  - 2) Article XXIII - Nullification or Impairment
  - 3) Article XXIV - Territorial Application – Customs Unions & Free Trade Areas
  - 4) Article XXVII - Withholding or Withdrawal of Concessions
  - 5) Article XXVIII - Modification of Schedules
- C. Quantitative Restrictions
- 1) Article XI - General Elimination of Quantitative Restrictions
  - 2) Article XIII - Non-Discriminatory Administration of Quantitative Restrictions
  - 3) Article XIV - Exceptions to the Rule of Non-Discrimination
- D. Trade Facilitation
- 1) Article V - Freedom of Transit
  - 2) Article VIII - Fees & Formalities
- E. Trade Regulation
- 1) Article VII - Customs Valuation
  - 2) Article IX - Marks of Origin
  - 3) Article X - Publication & Administration of Trade Regulations
- F. Unfair Trade Remedies
- 1) Article VI - Anti-Dumping & Countervailing Duties
  - 2) Article XVI - Subsidies
- G. Safeguards/Authorized Deviations from GATT Rules
- 1) Article XII - Restrictions to Safeguard Balance of Payments (Developed Countries)
  - 2) Article XVIII - Governmental Assistance to Economic Development (Developing Countries)
  - 3) Article XIX - Emergency Action on Imports of Particular Products
  - 4) Article XX - General Exceptions
  - 5) Article XXI - Security Exceptions



## CHART 3

### Topical Chart of GATT'94/WTO Agreements

#### **PART B – Uruguay Round Agreements**

##### I. Uruguay Round Final Act

##### II. Goods-Related Agreements

###### A. Keystone (Basic) Agreements:

- 1) GATT 1994
- 2) Marrakesh Protocol

###### B. Trade-Facilitating Agreements

- 1) Customs Valuation
- 2) Pre-Shipment Inspection (PSI)

###### C. Trade-Regulating Agreements

- 1) Technical Barriers to Trade (TBT)
- 2) Import Licensing
- 3) Rules-of-Origin
- 4) Sanitary & Phytosanitary Standards (SPS)
- 5) State Trading
- 6) Government Procurement (*Plurilateral – Egypt not a Signatory*)

###### D. Safeguards/Escape Clause Agreements

- 1) Safeguards

###### E. “Unfair Trade” Remedy Agreements

- 1) Implementation of Article VI / Anti-Dumping
- 2) Subsidies / Countervailing Measures

###### F. Sectorally-Focused Agreements

- 1) Agriculture
- 2) Textiles/Clothing
- 3) Civil Aircraft (*Plurilateral*)

##### III. Non Goods-Related Agreements

- 1) Trade-Related Investment Measures (TRIMS)
- 2) General Agreement on Trade in Services (GATS)
- 3) Trade-Related Intellectual Property (TRIPS)

##### IV. Institutional/Structural/Processes

- 1) Agreement Establishing the WTO
- 2) Dispute Settlement Understanding (DSU)
- 3) Trade Policy Review Mechanism (TPRM)

### 3.4 The Nature of GATT/WTO Obligations

3.4.1 “Substantive” Obligations - In a sense, the basic distinction characterizing a Member’s GATT/WTO obligations is one between “substantive” obligations and non-substantive, transparency-focused obligations. Within the subset of “substantive” obligations one can distinguish at least three: (1) the overall “Single Undertaking” obligation to comply with and implement *all* of the GATT 1994 and WTO *multilateral* agreements; (2) what can be called the “*General*” substantive obligations to implement the basic *principles* of the GATT, e.g., (a) MFN treatment (Article I), (b) National treatment (Article III), (c) Reduction of Barriers to Trade (Article II), and (d) Tariffication of Barriers to Trade (Article XI); and (3) what can be called “*Specific*” or “*Sectoral*” substantive obligations, e.g., obligations to observe and implement the various remaining provisions of the GATT’94, the WTO multilateral agreements, and those plurilateral agreements to which the Member is a signatory.

3.4.2 “Transparency” Obligations - The remaining obligations, while no less binding upon Members under the Single Undertaking, are not so much substantive in nature as “*transparency*” oriented, designed to ensure the publication and discoverability of Member’s trade-related legal/regulatory regimes and actions taken that have trade-related impacts on other Members and their traders, to facilitate surveillance of the observance of obligations and commitments, and to give other Member countries timely notice and the opportunity to consult regarding actions of Members that might affect the market access of other Members’ nationals. Within the subset of “transparency” obligations one can include: (1) Procedural, relating to the application of transparency and due-process concepts to the *formulation*, administration, and enforcement of inter-national trade-related governmental actions; (2) Consultation, relating to the requirements of the GATT’94 or of the multilateral or plurilateral agreements that ensure the ability of Member countries to discuss on a bilateral or multilateral basis, issues or concerns of the interpretation, application, or enforcement of their GATT’ obligations; (3) Notifications, designed to provide timely notice of actions or developments within a Member or between Members that can affect the rights of other Members under the GATT/WTO framework of rules for global trade; and (4) certain specific requirements to facilitate transparency such as the establishment of “enquiry points”, “contact points” or notification authorities to make information available either to WTO Member governments or to their traders or other interested parties.

### 3.5 Modifiers to GATT/WTO Obligations

While, as a *general* rule, *all* Member countries of the WTO have agreed, under the Single Undertaking concept, to be bound by all of the requirements of the GATT’94 and WTO agreements, in fact, many Members may actually limit the nature and extent of their responsibility to comply with such provisions –through specific “*commitments*” or “*reservations*” – authority for which is incorporated into a particular agreement or is provided for in separate legal instruments to that effect. Moreover, some Member countries benefit from what can be called “*status derogations*” which, by reason of their status, *exempts* them entirely from obligations enjoined on other Members while they remain in that status, or authorize *delays* in the implementation of their obligations phased-in over a period of time provided for in a given agreement. Finally, some obligations of Members may be *waived*.

Thus, a Member's obligations may be *qualified* or *conditioned* in one of the following ways:

3.5.1 "Commitments" - In some cases, for instance in the schedules of tariff concessions submitted at the end of the Uruguay Round under Article II of the GATT, the obligations of Market Access, MFN treatment, and Tariffication of NTMs, are dependent almost entirely on the actual "*commitments*" made by each Member – for example, developing countries generally were required to bind fewer tariffs than developed countries. These tariff binding and administration commitments were determined by each Member country and, for Egypt, are found in the nearly 200 pages the GATT'94 Article II Schedule LXIII (the *structure* or basic divisions of Egypt's schedules appear in Chart 3, and the actual *schedules* themselves are attached as APPENDIX A hereof).

Examples of Egypt's commitments taken from its Schedules are the "Staging Notes", which indicate the "staging" of Egypt's bound tariffs:

- as to *Agricultural* Items that tariff reductions are subject to A "10 years implementation period [which] begins when the WTO Agreement enters into force";
- as to *Non-Textile Industrial Items*, for tariff reductions "starting on a base of 10 percentage points above the final offer's rate – will be implemented over five years period; in five equal stages; beginning on the day the WTO Agreement enters into force, Until the end of the 5 years period, the base rate (the offer rate + ten percentage points) will be bound at the specified levels of reduction."
- as to *Textile Items*", for tariff reductions "starting on a base of 30 percentage points above the final offer's rate – will be implemented over 10 years period; in 10 equal stages; beginning on the day the WTO Agreement enters into force. Until the end of the 10 years period, the base rate (the offer rate + thirty percentage points) will be bound at the specified levels of reduction."

Similarly, a country's commitments under the non-tariff sectorally-specific agreements may be limited by another set of schedules, e.g., the so-called "*positive*" or "*negative*" schedules tabled by Member countries to the GATS ("Schedules of Specific Commitments and Lists of Exemptions from Article II of the General Agreement on Trade in Services") found in the various protocols to the GATS, e.g.,

- Second Protocol: general schedules of commitments and exemptions;
- Third Protocol: commitments relating to movement of natural persons (none tabled by Egypt);

- Fourth Protocol: commitments relating to telecommunications (none tabled by Egypt); and
- Fifth Protocol: specific commitments and lists of exemptions relating to financial services.

(Egypt submitted schedules of commitments and exemptions in all but the Fourth Protocol and these are attached hereto in APPENDIX B.)

Certain obligations found in the Uruguay Round Agreement on Agriculture are also qualified by commitments, e.g., the special treatment and minimum access concessions incorporated into a Member's Article II schedules, for example, with regard to "special treatment for non-trade concerns" in ST-Annex 5 of Section I-B of Part I of the Schedules or "Minimum Market Access" specified in Section I-B of Part I of a Member's Schedule (no commitments made by Egypt in either of these entries) or "Total AMS Commitments" (essentially the annual level of support for producers of basic agricultural products) found in Section I of Part IV of the schedules (in Egypt's case, a document is referenced "AGST/EGY" which may describe Egypt's levels and forms of support in budgetary terms, but the document apparently is no longer available.) Egypt's agricultural commitments are found in Parts I and IV of its Article II Schedules (See Appendix A).

Thus, while one can distinguish between "obligations" of the WTO and "commitments" made under the WTO, it is important to realize that, notwithstanding that "commitments" change the *scope* of basic obligations, they are themselves treated as *obligations* as such, which must be implemented in order for a Member country to be considered "in compliance with" its WTO obligations, and failure to follow through on such commitments, like failure to observe basic obligations, subjects a Member to liability for claims of "nullification and impairment" by those of its trading partners that rely on realizing the benefits of such commitments.

3.5.2 "Reservations" - This term generally implies that a Member country recognizes the general legitimacy of an obligation resulting from the provisions of the GATT'94 or of the WTO agreements, but expressly "*reserves*" the right to condition its application to it either wholly or to facilitate the process of its ultimate implementation, e.g., to assert the need for a "phase in" of implementation. Reservations are most often asserted by countries in the process of accession to the GATT (and now the WTO). For example, Egypt obtained approval of the Working Party considering its 1975 GATT accession when it asserted a reservation relating to its reliance on its (then) "Consolidated Economic Development Tax" on imports into the UAR, which were considered as having an "effect equivalent to a customs duty" and requested time within which to phase-out the tax. Under its approved reservation, it was allowed to continue the tax until it finally expired at the end of 1990.

The GATT'94 appears to contain no explicit language authorizing reservations to GATT'94 requirements as such, but practice over the years has led to the admissibility of reservations *provided* that such a reservation is *accepted* by *all* Contracting Parties (now WTO Members) or, in GATT practice, "not rejected" by any Member. The Agreement Establishing the WTO provides, in Article XVI:3

thereof, that “[n]o reservations may be made in respect of any provision of *this Agreement*. Reservations in respect of any of the provisions of the *Multilateral Trade Agreements* may only be made *to the extent provided for* in those Agreements. This requirement has been incorporated in certain of the Uruguay Round agreements which provide that “reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members” (in standards GATT/WTO practice, “if not opposed by any other Member”) [e.g., Agreement on Technical Barriers to Trade, Article 15.1; Agreement on Import Licensing Procedures, Article 8.1]. Others explicitly *authorize* reservations to be taken subject to certain criteria or conditions set forth therein, e.g., Article 20.1 of the Customs Valuation Agreement which authorizes developing countries to delay application of the Agreement for five years.

Egypt *has* taken a number of reservations in some of the WTO agreements. Based on notifications submitted by Egypt, these include:

Agreement on Customs Valuation:

- Under Article 20.1 to delay application of the Customs Valuation Agreement for 5 years
- Under Article 20.2 to delay application of subsection 2(b)(iii) for another 3 years.
- Developing country’s right to retain minimum values for imported goods under the CV Agreement Annex III, Para. 2.
- Developing country’s right to reversal of the sequential order of value determination under Article 4 as authorized in the CV Agreement Annex III, Para. 3.
- Developing country’s right regarding the unit price of imported foods after further processing under the CV Agreement Annex III, Para. 4

Agreement on Import Licensing Procedures:

- Developing country’s right to delayed (two years) application of Article 2.2(a)(ii) & (iii) because of difficulties with the processing of import license applications.

Agreement on Textiles and Clothing:

- Reservation of right to use ATC Agreement’s Special Safeguard for Integration under Articles 2.6, 2.7.
- Reservation of right to use Article XIX safeguards under Article 6 of ATC Agreement.

### 3.5.3 Developing Countries: Special & Differential Treatment -

As indicated earlier, the GATT and the subsequent package of WTO agreements recognized the special problems and concerns of developing countries and have and continue to provide special treatment for them that, explicitly or implicitly, qualifies the requirements of compliance with GATT/WTO obligations. Article XVIII of the GATT affords flexibility to developing countries to protect infant industries and to use quantitative import restrictions to address balance-of-payments difficulties. In 1965, a protocol adopted added Part IV to the GATT (Articles XXXVI, XXXVII, and XXXVIII). These essentially articulated the goals for according developing countries *non-reciprocal* concessionary treatment for their products and providing technical assistance for their development but did not address derogations from the liability for GATT obligations. The so-called “Enabling Clause” (Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries) adopted in November, 1979 also permits preferential treatment to be given to and exchanged among, developing countries and authorizes especially favorable treatment for least-developed countries.

This approach continues through the Uruguay Round to the present. The Uruguay Round’s Ministerial Decision on Measures in Favor of Least-Developed Countries affords them special treatment with regard to nearly all aspects of the Uruguay Round agreements, while requiring regular review of their need therefor. The Decision permits least-developed WTO Member countries to apply *only* those obligations that are *consistent* with their *development needs* and *institutional capabilities*. In addition, however, most of the individual Uruguay Round agreements include specific provisions permitting developing countries more flexibility in implementing WTO rules and obligations. But many of these special provisions do not operate *automatically* and must be specifically invoked or requested by the developing (or least-developed) Member country.

[The application of the terms “developing country” and “least-developed country is of significance to Egypt. The term “developing country” is a matter of self-classification by each WTO Member country, and individual Member countries can decide for themselves whether to treat another Member country as “developed” or “developing”. On the other hand, the term “least-developed country” is determined by criteria developed by the United Nations classification system relating generally to per-capita income. Our understanding is that Egypt no longer qualifies under U.N. criteria for the status of “least-developed” country, but is accepted universally in the WTO as a developing country, indeed, one of the leaders of the Group of 77 Developing Countries.

The Uruguay Round agreements and understandings are considerably more significant than provisions of the GATT’94 itself to developing countries in terms of their opportunities for special and differential treatment. Most of them provide some form of special treatment – these include (together with abbreviations used in the Appendix C inventory of obligations – and see also “Acronyms” on page 5 hereof):

- Easing of Rules: (Agric., GATS, SCM, Safeguards, TRIMS, BPU);
- Differing Rules: (ATC, CV, GATS, SCM, TBT, Safeguards)
- Fewer Obligations: (Agric., GATS, IPL, SCM, TBT)
- Delayed Implementation: (Agric., ATC, CV, GATS, IPL, SCM, SPS, TBT, TRIMS, TRIPS, TPRM)

[Chart 4 sets forth the specific instances of qualified obligations applicable to Egypt under the various Uruguay Round Agreements.]

3.5.4 “Waiver” of Certain Obligations – The GATT/WTO affords Member countries waivers of certain obligations. Article XXV:5 provides that “. . . in exceptional circumstances not elsewhere provided for in the [GATT], the Contracting Parties may waive an obligation imposed . . . by this Agreement; *provided* that any such decision shall be approved by a two-thirds majority of the votes cast *and* that such majority shall comprise more than half of the Contracting Parties. Article XVI:3 of the Agreement Establishing the WTO provides that “in exceptional circumstances, the Ministerial Conference (of the WTO) may . . . *wave* an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, *provided* that any such decision shall be taken by *three-fourths* of the Members unless otherwise provided for . . .” But Footnote 4 to Article IX:3 indicates that “[a] decision to grant a waiver in respect of any obligation subject to a *transition* period or a period for *staged implementation* that the requesting Member *has not performed by the end of the relevant period* shall be taken *only by consensus*.”

### **3.6 Classification of GATT/WTO Obligations in This Report**

The goal of this report is to advise H.E. the Minister of Trade and Supply on exactly what are *Egypt’s* obligations and commitments to the WTO under the GATT’94 and the WTO agreements and other legal instruments. The Minister requested an “outline” of “each and every one” of Egypt’s obligations and commitments and to that end we have prepared outlines of the GATT’94 and each of the Uruguay Round agreements, and major understandings, decisions, declarations, etc. The definitive outlines of the GATT’94 and the major Uruguay Round/WTO agreements are found in APPENDIX C hereof. For purposes of organization, we have allocated obligations among two basic categories: (1) “Substantive” Obligations; and (2) “Transparency Obligations, and sub-categorized the latter among four types: (a) “Procedural”, (b) “Consultation”, (c) “Notification”, and (d) “Enquiry/Contact Point”. Within these five categories or sub-categories, we have given *each* separately-identifiable obligation in the GATT’94 or any WTO agreement a code number that can be utilized to more quickly locate and describe each such obligation or to aggregate generically-similar obligations and, possibly, incorporated into a computer software for ease of identification and analysis. For example, in the Agricultural Agreement, *substantive* obligations are coded as “Ag/S”, while *transparency* obligations may be coded either “Ag/P”, “Ag/C”, or “Ag/N”. Similarly, for the Agreement on Trade-Related Intellectual Property (TRIPS), substantive obligations are coded “TRIPS/S”,

while transparency obligations are coded “TRIPS/P”, “TRIPS/C”, “TRIPS/N” or “TRIPS/ECP” with a separate number for each one. For example, in the outline for the Agreement on Trade-Related Investment Measures (TRIMS), Egypt’s third substantive obligation appears as follows:

**“TRIMS/S 3** During its TRIMS transition period (5 years), Egypt must not modify the terms of any TRIM notified under Article 5, Para. 1 so as to *increase* the degree of inconsistency with the requirements of TRIMS Article 2 (e.g., “*standstill*” requirement on TRIMS previously notified). [TRIMS Art. 5, Para. 4]”

An example of a transparency notification under the Agreement on Textiles and Clothing (ATC) is Notification obligation number 12:

**“ATC/N 12** Notification of all *non*-MFA QRs on Textile/Clothing maintained by a Member as of the entry into effect of the ATC, whether or not GATT-consistent (or copies of notifications to other GATT/WTO bodies) (One-time Only, due 01 March 1995, or, for Egypt, 30 August 1995). [Art. 3:1]”



## 4.0 SUMMARY OF EGYPT'S MAJOR GATT/WTO OBLIGATIONS

### 4.1 Introduction

Appendix C contains outlines of Egypt's specific obligations under the GATT/WTO Agreements. The outlines specify each and every determinable obligation based on an intensive review of the texts of the GATT'94 and the various WTO-related agreements. These comprise the 38 articles of the GATT'94 and 28 agreements or understandings. In total, our review separately identifies 853 distinguishable obligations under these agreements or understandings, comprising:

- 853 Total Obligations
  - P 452 substantive obligations
  - ⇒ 401 transparency obligations, including
    - 179 procedural obligations
    - 87 consultation obligations
    - 125 notification obligations, and
    - 10 enquiry/contact point obligations.

This outline is based on legal conclusions drawn as to the obligatory form of the *English* version of the provisions of the instruments reviewed. It is possible French or Spanish (the other two official languages of the WTO) articulations of the same provisions might produce different conclusions as to the obligatory (versus the hortatory) nature of such provisions. The result is a mass of obligations well in excess of what the Minister may have intended when he requested an outline of "each and every obligation and commitment" under the GATT/WTO Agreements. Indeed, the result is so lengthy as to suggest a considerable winnowing down of the large number of definable obligations in order to meet the policy purposes of the Minister's request. Therefore, in this Section, an effort has been made to review the instruments again, as well as certain WTO explanatory materials to briefly describe the nature of the agreements and enumerate the *most important* obligations created for Egypt thereunder.

### 4.2 Summary of Major GATT Obligations

The original GATT, concluded by 22 nations in 1947, laid down certain basic Principles to govern and to guide trade relations and policies among its contracting parties. These principles have been continued and taken over by the GATT 1994, and *together with* the other related Uruguay Round agreements, now represent the basic *goods*-related obligations of WTO Member countries.

The core principles of the GATT'94 define the most basic obligations for any Member country of the WTO. They include: (1) MFN (Article I); (2) reduction and binding of tariffs (Article II); (3) National Treatment (Article III); and (4) limitation of protective measures to tariffs (Article XI).

## CHART 4

**Structure of Egypt's GATT/WTO Schedules**  
**Of Tariff and Non-Tariff Concessions**  
**(Under GATT 1994 Article II as annexed to the Marrakesh Protocol)**  
**(See Full Text at Appendix A)**

### Schedule LXIII – EGYPT

General Remarks/Staging Notes (1 page)

- For - Non-Textile Industrial Items
- Textile Items
- Agricultural Items

Part I – Most-Favored Nation Tariff

Section I - Agricultural Products (26 pages)

Section I-A - Tariffs (25 pages)

Section I-B - Tariff Quotas (none – 1 page)

Section II - Other Products (189 pages)

Part II – Preferential Tariff (“nil” – 1 page)

Part III – Non-Tariff Concessions (2 pages)

(all Textiles/Clothing, Related Items)

Part IV – Agricultural Products: Commitments  
Limiting Subsidization

[Art. 3 of the Uruguay Round Agriculture Agreement]

Section I - Domestic Support: Total AMS Commitments  
(none – 1 page, but note document cited: *agst/egy*)

Section II - Export Subsidies: Budgetary Outlay & Quantity  
Reduction Commitments (none - 1 page)

Section III - Commitments Limiting the Scope of Export  
Subsidies (none - 1 page)

4.2.1 GATT Article I – Most Favored Nation Treatment - MFN (“Most Favored Nation”) Treatment requires Egypt, as a WTO Member, to grant to *all other* WTO Member countries treatment *no less favorable* than it extends to its “most favored” trading partner, e.g., it obliges Egypt *not* to discriminate against any WTO Member in terms of the treatment it accords to any trading partner (subject to the exceptions noted). This non-discrimination obligation applies to customs duties and other charges to imports or exports, taxes, and all rules by which they are applied.

4.2.2 Binding and Reduction of Tariffs - The second core principle is that Egypt is obliged to implement its *commitments*, given under Article II of the GATT’94, to *bind maximum levels* of tariffs and other charges on imports of specified goods recorded in its national schedules, which, upon its accession to the WTO on 30 June 1995, were incorporated into the body of national schedules attached to the Marrakesh Protocol. Because of the application of the MFN principle, these commitments apply to imports from *any other* WTO Member country. In addition, Article II of the GATT’94 imposes still another significant obligation upon Egypt – that is to *reduce* its bound tariffs according to a scheduled prescribed therein, e.g., in five equal annual installments beginning on 01 January 1995 and to have been completed on 01 January 1999 *unless otherwise specifically stated differently* in Egypt’s Article II schedules. Countries that acceded to the WTO *after* the 01 January 1995 date on which the Agreement Establishing the WTO entered into effect and thereafter submitted their schedules for Article II of the GATT’94 (as is the case with Egypt which acceded to the WTO as of 30 June 1995) are required to catch up with the schedule for reduction of bound tariffs by making, immediately upon acceding to the WTO, the cuts called for by that date. Thus, unless otherwise specified in its Article II schedules (which does not *appear* to be the case) Egypt was obligated to *complete* its phased reduction of bound tariffs by 01 January this year (1999).

4.2.3 National Treatment – The third core principle is that of National Treatment, which means that, under Article III of the GATT’94, Egypt is obliged to treat the products of *all other* WTO Member countries the same as it treats *like* products of *domestic* producers, e.g., it is obliged *not* to discriminate against foreign-produced imported products and in favor of those produced within Egypt, once such foreign products have entered the customs territory of Egypt. Thus, neither such imported products nor their foreign producers may be required to incur higher taxes or other charges or be subjected to more onerous rules, regulations, or standards once *within* Egypt than those confronted by domestic products or their producers.

4.2.4 Elimination of Quantitative Restrictions/Tariffication – The fourth core principle of the GATT is that Member countries (Egypt) must not, generally, protect domestic manufacturers from imports through *quantitative restrictions* (bans or quotas) under GATT’94 Article XI, but should convert such restrictions to *tariff equivalents* (“tariffy”) which are subjected to reduction commitments as are bound tariffs under Article II of the GATT. This principle is subject to certain exceptions permitted to (a) deal with urgent balance-of-payments problems (under Article XII for developed Members and Article XVIII:B for developing Members like Egypt) and (b) to “safeguard” under GATT’94 Article XIX against unforeseen import surges resulting from tariff commitments when such increased imports cause or threaten to cause *serious* injury to domestic manufacturers of a like or directly competitive product.

These four principles, in a generic sense, comprise Egypt's most important basic obligations under the GATT'94. There are *other* principles designed to facilitate the implementation of these four and/or to facilitate the working out of the GATT system (see section 2.2 of this report), as well as a number of other articles of the GATT that essentially interpret and apply the four core principles. Many of the Uruguay Round agreements, which otherwise address a broad spectrum of substantive and sectoral concerns, also contain provisions that apply, as obligations under those agreements, the four principles described above. In particular, the most important of the four principles, MFN Treatment, is also given priority status in Article 2 of the General Agreement on Trade in Services – or “GATS” and in Article 4 of the Agreement on Trade-Related Aspects of Intellectual Property Rights – or “TRIPS”, with the result that it is applied to all three main areas of trade – goods, services, and IPR. Similarly, the National Treatment principle is found in Article 17 of the GATS and Article 3 of the TRIPS, extending that obligation to all three main areas of trade.

### 4.3 Other GATT “Institutional” Instruments

4.3.1 The Marrakesh Protocol – The Marrakesh Protocol to the GATT'94 signed on 15 April 1994, is the *operative legal instrument* by which each WTO Member country's commitments under the Uruguay Round to eliminate or reduce tariff rates and non-tariff barriers applicable to goods became an integral part of the GATT 1994, and constitutes, therefore, a *major* obligation of Egypt under the GATT/WTO Agreements, e.g., to honor its over 200 pages of tariff bindings and other commitments scheduled under Article II of the GATT'94. Under the terms of the Protocol, each individual national schedule is incorporated into the overall schedules of the GATT'94 on the date that country becomes a Member, in the case of Egypt, on 30 June 1995. These schedules *also* incorporate the tariff and non-tariff commitments made by each Member under the Uruguay Round Agreement on Agriculture (Schedule Part I – Section I and Part IV). The non-schedule provisions of the Protocol establish the timetables for implementing the non-agricultural tariff commitments and the rules by which the agreed concessions reflected in the schedules are to be applied. The basic implementation schedule is that the tariff reductions are required to be made in five equal annual installments beginning on 01 January 1995 and completed by 01 January 1999.

4.3.2 “Understandings” Affecting the GATT'94 – Seven different “under-standings” were negotiated during the Uruguay Round which have the effect of interpreting various provisions of the GATT'94 without qualifying as major agreements of the Round. They include documents relating to: the implementation of MFN under Article II (e.g., in a Member's schedules); rules relating to State Trading (Art. XVII); administration of balance-of-payments restrictions on imports (Arts. XII and XVIII); exceptions to MFN for regional economic arrangements (Free Trade Areas, Customs Unions)(Art. XXIV); joint action (Art. XXV); modification of schedules (Art. XXVIII); and non-application (Art. XXXV). In interpreting and, sometimes, adding to, the substance of certain articles they, in effect, change the application or meaning of the articles under the GATT 1947 to new or expanded ones under the GATT1994. Since they are essentially technical changes in nature, they are not described herein but are referred to in the outlines of the articles of the GATT'94 affected found in Appendix C.

#### 4.4 The Uruguay Round Agreements: *Trade in Goods*

In addition to the renewed General Agreement on Tariffs and Trade and certain understandings relating to articles of the GATT, the Uruguay Round of multilateral trade negotiations also produced 14 significant substantive/sectoral agreements (the so-called “Multilateral” Agreements) binding upon *all* WTO Member countries, the Dispute Settlement Understanding, and incorporated into the WTO framework four so-called “plurilateral” agreements binding only upon their signatories, as well as a number of other declarations interpreting and applying the foregoing. The multilateral agreements include those on: Agriculture; Sanitary and Phytosanitary Measures; Textiles & Clothing; Technical Barriers to Trade; Trade-Related Investment Measures; Implementation of GATT Article VI (Anti-Dumping); Implementation of GATT Article VII (Customs Valuation); Rules-of-Origin; Pre-Shipment Inspection; Import Licensing Procedures; Subsidies & Countervailing Measures; Safeguards; the General Agreement on Trade in Services; and the Agreement on Trade-Related Aspects of Intellectual Property Rights. The only plurilateral agreement applicable to Egypt is the Agreement on Trade in Civil Aircraft. All of these are analyzed in detail and all of their obligations specified in Annex C hereof. The following presents only a brief description of each and the most important obligations enjoined on Egypt

4.4.1 Agriculture Agreement – The 1947 GATT rules, with applicable accession conditions and waivers, permitted GATT parties to maintain greater protection against agricultural imports than was allowed for industrial goods. The Uruguay Round Agreement on Agriculture commits *all* WTO Members to long-term reform of agricultural policies to make trade therein more open and fair. Reform is made possible through both the terms of the Agreement itself, as they apply *generally* to Members, *and* to the *individual commitments* of Members incorporated into the national schedules of each attached to the Marrakesh Protocol. The most significant provisions of the Agreement itself are those relating to Market Access, Domestic Support, and Export Subsidies.

The key aspects of the Agreement’s *market access* provisions are the establishment of a *tariff-only* regime through the process of “tariffication”, *tariff reduction*, and the *binding* of *all* agricultural tariffs. “Tariffication” constitutes a process or methodology through which *non-tariff barriers* are converted to *tariff equivalents*, reflecting the basic GATT principle that protection should only be afforded through import duties or tariffs. The Agreement requires that *all* quantitative restrictions (quotas), variable levies, import bans, or other non-tariff measures must be replaced by an import duty set at a level that provides substantially equivalent protection in tariff terms as the combination of former tariffs and *non-tariff* barriers applicable to affected imported products provided their domestic producers. The Agreement also, by its terms, required Member countries to maintain certain *minimum access opportunities* and to *reduce* and to *bind all* their customs duties on agricultural products (former applied duties *and* tariff equivalents of NTBs). But these *general* market access obligations which apply to all Members are basically *qualified* by *specific tariff reduction* and other *commitments* agreed to by *each* Member and incorporated in its national schedules attached to the Marrakesh Protocol. It is *these specific commitments* that constitute a Member’s effective *obligations* under the Agreement, for failure to implement which they may be liable to claims for nullification or impairment and subjected to dispute settlement procedures. These commitments are further qualified by the authorization of “special safeguard action” to remedy a surge of imports resulting from the tariffication of NTBs as well

as certain provisions for the “special treatment” of specific commodities applicable only to certain countries under strict conditions.

The Agreement’s *domestic support* provisions are intended to shift countries away from production and trade-distorting practices. They require each Member that provides so-called “Amber Light” support measures that can affect agricultural commodities to make reductions in the aggregate monetary value of such measures. The reduction requirements are reflected in Section I of Part IV of a Member’s national schedules. In the case of Egypt, however, its Part IV/Section I schedule does not reflect *any* “Domestic Support/Total AMS Reduction Commitments and reference only a document “AGST/EGY”(apparently no longer available) which implies it neither maintained nor maintains any such programs. This is supported by the fact that Egypt apparently has *never* notified such programs, either existing ones (Table DS:1) nor new/modified ones (DS:2) among its required periodic notifications to the WTO. It should also be noted that developing countries, like Egypt, are *not* obligated, in any case, to reduce domestic support measures which are “an *integral part* of their *development programs*.”

Finally, the Agreement establishes new rules to govern *export subsidies* covering agricultural products. Indeed, it *prohibits* all export subsidies unless they qualify for one of four exceptions, e.g., (1) those already subject to *reduction commitments* specified in Section II of Part IV of a Member’s schedules; (2) those *consistent* with the Agreement’s provisions for “special and differential treatment” for developing countries; (3) spending in export subsidies specified in a Member’s schedules covered by certain “downstream flexibility” provisions; and (4) export subsidies *not covered* by reduction commitments *provided* they *conform* the Agreement’s “anti-circumvention” disciplines. Export subsidies subject to reduction commitments (if given) in a Member’s schedules are subject to reduction commitments of 24 % in value and 14 % in quantity (for developing countries) over a 10 year period. *However*, Section II of Part IV of Egypt’s schedules do not indicate its maintenance of *any* “Export Subsidies: Budgetary Outlay and Quantity Reduction Commitments”, nor has Egypt ever suggested the existence, then or currently, of such subsidies in its Tables ES-1 and ES-2 notifications to the WTO.

4.4.2 Agreement on Sanitary & Phytosanitary Measures (“SPS”) – Article XX(b) of the GATT’94 recognizes the right of governments to restrict trade when *necessary* to protect human, animal, or plant life or health, *provided* that such measures are not applied as a *disguised restriction* on trade or *unjustifiably* discriminates between countries with the same conditions. The Uruguay Round SPS Agreement is largely modeled on the Agreement on Technical Barriers to Trade (“TBT”) and seeks to ensure that the effects on *trade* of government actions to ensure *safety* of food and protection of animal and plant *health* are kept to a minimum.

While the SPS Agreement recognizes the right of governments, like Egypt, to take measures for safety and health, it requires that they (a) are applied only to the extent *necessary* to protect life or health, (b) are based on *scientific principles*, and (c) are not maintained if *scientific evidence* is lacking. Thus, in effect, SPS measures can be applied (1) *only* on the basis of laboratory testing and analysis and (2) if *genuine* concerns about food safety or serious threats to animal or plant health have been *identified* (although governments can impose *provisional* restrictions when *sufficient* scientific information is not yet available). The Agreement essentially gives governments two alternatives in meeting these obligations. The first is to base their measures on standards, guidelines and recommendations developed by the

relevant *international technical bodies*, where these *exist*. Measures based thereon are *presumed* consistent with the SPS Agreement. Or the measures can be set at a *higher* level of protection *if* there is a *scientific justification* therefor, or a risk assessed in the light of criteria set forth in the Agreement that is considered to make such protection appropriate. So, where *no* relevant international standard *exists*, the measure *must* be based on a *risk assessment*. Members are required to accept as *equivalent* to their own the practices of another country that *result* in the *same* level of health protection, even if *different* from their own.

Annex C to the SPS Agreement sets forth detailed requirements for the control, inspection, and approval procedures used by WTO Members. These require National Treatment, publication, limitation of fees to actual costs, provisions to ensure transparency, including notification of SPS measures and new regulations, and establishment of a single enquiry point in each administration to give interested parties information regarding SPS measures. Developing countries, like Egypt, had until the end of 1996 to implement provisions of the SPS Agreement.

4.4.3 Agreement on Textiles & Clothing (“ATC”) – The Uruguay Round Agreement on Textiles & Clothing is intended to reintegrate world trade in textile and clothing products back *into* the framework of GATT rules and *out of* the special arrangements therefor that have primarily had the effect of restricting exports in a sector in which developing nations have demonstrated clear comparative advantage. In this sense, unlike all of the other Uruguay Round agreements, which provide *permanent, ongoing* rules for international trade, the ATC is envisioned as *temporary*, for a period of 10 years only. The Agreement establishes a 10 year period for the gradual enlargement of all quantitative restrictions on imports of textiles and clothing, subject to a special, transitional safeguard arrangement. Since the object of the ATC is to *re-integrate* the sector under GATT disciplines, rights and obligations of Members of the WTO under the GATT and other WTO Agreements are *not* affected. Products covered by the Agreement are listed in the 30 pages of six-digit Harmonized System descriptions contained in its Annex.

The transition process is to proceed along two parallel tracks: one is the gradual removal of the products covered by the current MultiFibre Agreement (MFA) and their coverage under the GATT’94 and the second provides for the phased enlargement of MFA-based quotas for products still restricted thereunder. *Both* processes are to take place on parallel tracks in three successive stages lasting three, four, and three years respectively (1995-1998, 1998-2002, and 2002-2005). No *new* restrictions beyond those in place on 31 December 1994 may be introduced, except as provided for in the ATC itself or under GATT provisions. *All* WTO Members, including Egypt, must apply the integration program, *even if* they did not apply MFA-based restrictions, *unless* they specifically renounce the right to use the ATC’s special transitional safeguard mechanism to deal with potential import surges. Egypt notified its intention to invoke the special transitional safeguard and thereby *is obligated* to implement the integration program.

Thus, on 01 January 1995 (in effect, on 30 June 1995 when Egypt acceded to the WTO but *effective* 01 January 1995) *importing* Members were required to integrate *not less than 16 %* of covered products – as measured by their 1990 volume of imports. On 01 January 1998 it was required to integrate a further *17 %* of covered products, and another *18 %* on 01 January 2002, with the remaining *49 %* of covered products integrated under the GATT by 01 January 2005. The choice of products to be integrated at any phase is left up to Egypt,

except that products from the four main product areas (tops and yarns, fabrics, made-up textile products, and clothing) *must* be included in each integration.

While the product integration process goes on as described above, the liberalization of *growth rates* for *quantities* of products whose importation remains restricted under the MFA also undergoes phased enlargement. The required quota increase is related to the growth rate originally notified. Thus, during the *first* stage of the transition period (the three years 1995 through 1997), the notified growth rate is to be increased by a factor of *at least 16 %*. In the *second* stage (1998-2001) and *third* stage (2002-2004), the rates are to be raised by a further *25 %* and *27 %*, respectively. Faster rates for the first and second stages apply for certain small suppliers. WTO Members are also obliged to enact or maintain laws or administrative procedures to effectively counteract efforts to circumvent the reintegration process by transshipment, rerouting, and false declarations on documents.

The ATC provides that, during the transitional period, a specific transitional safeguard mechanism shall be available if surges in imports of a product (a) not *currently* under restraint and (b) not yet *integrated* into GATT'94 causes or threatens serious damage to domestic producers. Unlike the basic GATT Article XIX Safeguards remedy, it may be applied against particular a supplying Member. However, no restriction thereunder may be applied lower than the *actual* level of imports from that source during a recent 12-month period nor may the restrictions remain in place for more than *three* years.

4.4.4 Agreement on Technical Barriers to Trade ("TBT") – The Uruguay Round TBT Agreement builds on the 1979 code on Technical Barriers to Trade. Unlike that code, however, which bound only its signatories, the new TBT binds all WTO members and covers considerably more territory. It is designed to respond to two major policy concerns: (1) technical regulations and standards should not create *unnecessary barriers* to international trade but (2) WTO Members must be enabled to protect national security, prevent deceptive practices, and protect human health or safety, animal or plant life. In the latter sense, like the SPS Agreement described above, it interprets and applies the safeguard rules of Article XX(b) of the GATT'94.

The TBT requires that standards and regulations may not be drawn up with the aim of *restricting trade* and that, WTO Members in applying them must adhere to basic GATT principles of Most Favored Nation and National Treatment. The TBT applies these disciplines to (a) the preparation, adoption, and application of *technical regulations*; (b) the preparation, adoption, and application of *standards*; and (c) *conformity assessment procedures* to confirm that technical regulations and standards have been complied with, including testing, certification, sampling inspection, evaluation, registration, accreditation, and approval. ("Technical Regulations" are defined as *mandatory* requirements, usually imposed by governmental authority. "Standards" are defined as *voluntary*, generally prescribed by non-governmental bodies.)

Thus, the TBT obliges that technical regulations, standards, and conformity assessment procedures must be applied to products imported from other WTO Members in a manner *no less favorable* than applied either to products originating in any *other* country (MFN) or to like products of *national* origin (National Treatment). It also requires that these regulations, standards, and procedures are not to be prepared, adopted, or applied with the *intention* or the *effect* of creating *unnecessary* obstacles to trade. For technical regulations, this means that



they not be more trade-restrictive than necessary to fulfill a *legitimate* objective, taking into account the *risks* that non-fulfillment would create. If relevant *international* standards exist, they must generally be used as the basis for formulating the technical regulation. Members are obliged to take such reasonable measures as available to them to ensure that non-central governmental bodies comply with TBT provisions on preparation, adoption, and application of technical regulations and conformity assessment procedures. The Agreement establishes a Code of Good Practice for the Preparation, Adoption, and Application of Standards applicable to all *voluntary* standards, and obliges Members' central government bodies to accept and comply with the provisions of the Code. With regard to conformity assessment procedures, they must be undertaken and completed as *quickly as possible*, with *no* more information required than *necessary* and testing facilities *conveniently* located.

In the area of transparency, the TBT requires that each Member establish a national enquiry point to respond to all reasonable enquiries from other Members about its technical regulations, standards, and conformity assessment procedures. And it requires Members to submit notifications to the WTO of changes in such measures and procedures. They are also required to notify regulations and procedures prepared by local governments.

With regard to *developing countries*, the Agreement recognizes that they may adopt regulations, standards, and processes reflecting indigenous technology and production methods and process and that, when they do so, they should not be expected to apply international standards not *appropriate* to their development, financial, and trade needs. It also allows the grant of specified, time-limited exceptions by the WTO Committee on Technical Barriers to Trade to developing countries with difficulties in meeting obligations under the TBT because of their special development and trade needs and their stage of technological development.

4.4.5 Agreement on Trade-Related Investment Measures ("TRIMS") – This Agreement identifies measures often associated with investment or investment-promotion that are considered inconsistent with the GATT because of their negative impact on trade, e.g., trade-related investment measures or "TRIMS" and requires their phasing out. The Agreement provides that no Member country shall apply any TRIM that is inconsistent with Article III (National Treatment) or Article XI (Prohibition of Quantitative Restrictions). The prohibition covers such measures not only if they are a matter of law or governmental regulation but also if compliance with them "is necessary to obtain an advantage." No distinction is made between measures imposed on foreign direct investment versus domestic investment.

Article III of the GATT '94, which sets forth the basic GATT principle of National Treatment, provides that products imported from another WTO Member country must be treated no less favorably than domestically-produced products. The TRIMS Agreement describes the following as inconsistent with Article III and prohibits them:

- so-called "domestic content" provisions that require that an enterprise must buy or use products of from a *domestic* source or of *domestic* origin; and
- provisions that require that an enterprise's use of imported inputs or other supplies must be limited to a given percentage related, in terms of volume

or value, of *domestic* products.

Article XI prohibits the use of quantitative restrictions on imports or exports. The TRIMS Agreement describes the following as inconsistent with Article XI and prohibits them:

- restriction of *imports* by an enterprise of products in local production, either generally or in terms of the volume or value of local products it *exports* (sometimes referred to as a “balancing requirement”);
- restrictions on an enterprise’s access to foreign exchange to *pay for imports* to a percentage reflecting its foreign exchange earnings from *exports*; and
- restrictions on an enterprise’s *exports* of products for most purposes.

But the TRIMS also provides specifically that any *exceptions* permitted under the GATT to the above prohibitions continue to apply, e.g., where there are justifiable reasons relating to balance-of-payments, etc.

TRIMS Agreement regulation of trade-related investment measures starts with notification requirements. The Agreement required that all TRIMS inconsistent with GATT provisions (as described above) existing as of the entry into effect of the WTO Agreement must be notified within 90 days thereof – or, as in the case of Egypt, has been interpreted to mean that such notification was required within 90 days of Egypt’s accession to the WTO (approximately 01 October 1995). More importantly, the Agreement requires that all inconsistent TRIMS be eliminated over a period, for developing nations like Egypt, ending 01 January 2000. Moreover, no Member may, during this transition period, introduce *new* measures inconsistent with the GATT nor *increase* the inconsistency of existing measures therewith.

4.4.6 Agreement on Implementation of GATT Article VI – Anti-Dumping Agreement – “Dumping” of goods in international trade has the general meaning of sales of an exported product into a foreign market (for example, Egypt) at a price *below* the price at which the same product is usually sold in its *home* (domestic producers’) market. Article VI of the GATT’94 treats dumping as an “unfair” international trade practice and permits an importing country (e.g., Egypt) to respond to such a practice *if* the dumping causes, or threatens to cause, *material injury* to an established domestic industry in a Member country producing a like or directly competitive product, *or materially retards* the establishment of a domestic industry therefor. The remedy permitted under Article VI is imposition of additional duties – Anti-Dumping Duties – (beyond the normally applicable tariffs) in an amount *equal* to, but not *greater* than the margin of dumping.

Although anti-dumping codes were negotiated before the Uruguay Round’s Agreement on Implementation of Article VI (the “Anti-Dumping” or “AD” Agreement) designed to interpret and apply Article VI, the Uruguay Round Agreement significantly elaborated upon the provisions of Article VI of the GATT and the prior codes and, under the Single Undertaking concept, applies the many substantive and procedural requirements of the AD Agreement to *all* WTO Member countries.

Under Article VI, as interpreted and applied by the AD Agreement, an anti-dumping duty may *only* be applied under the substantive rules of Article VI of the GATT’94 and the AD

Agreement and pursuant to investigations initiated and conducted in accordance with the many procedural rules of the AD Agreement. The rules of the AD Agreement govern (a) *how* to establish *whether* imported goods are being dumped (criteria, methodology); (b) *how* to establish *whether* the dumped imports are causing or threatening to cause injury to or material retardation of the domestic industry (criteria, methodology); and (c) the procedures for investigations, collection of information, determinations (initial, provisional, final), review (administrative, judicial), and termination of anti-dumping duties.

Under the AD Agreement, a product may only be determined to be “dumped” “if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the *like* product when destined for consumption in the exporting country.” If the like product isn’t actually sold in the producing country, two alternative tests must be employed: (a) a comparison of the export price of the goods allegedly being dumped with the price at which the product is sold when exported to another country’s market; or (b) calculating a “constructed” normal value calculated by adding together the exporter’s production costs, administrative and other costs, and reasonable profit. “Costs” must normally be calculated on the basis of exporter or producer records, taking into account all available evidence.

With regard to injury, or threat thereof, the AD Agreement requires that injury must be determined on the basis of *positive evidence*, and involve examination of both (a) the volume of the dumped imports and their effect on prices in the domestic market, and (b) the impact of those imports on domestic producers of the like product. Investigators must also look at other factors that may be causing injury, including non-dumped imports, falling demand, changing consumption patterns, and technological developments and must not attribute to imports the injury resulting from these factors. Where imports are alleged to “threaten” material injury, the determination must be based again on “facts and not merely on allegation, conjecture, or remote possibility.”

The AD Agreement imposes several procedural requirements intended to ensure the *transparency of application* of the substantive criteria for dumping and injury. They govern the *stages* of a dumping case, e.g., initiation; investigation; provisional measures; price undertakings; imposition of anti-dumping duties; administrative and/or judicial review; and final termination, the so-called “sunset” requirement. No investigation may be initiated without support of the domestic industry allegedly injured or threatened therewith. The application must provide information – and the investigation confirm – on dumping, injury, and the causal link between the two. Dumping and injury are investigated simultaneously and the investigation terminated if evidence on the existence of either is found insufficient or if the “margin” of dumping is found to be *de minimis*. Public notice must be given of all stages of the process and all interested parties given the opportunity to submit evidence, review evidence submitted by others, and/or express their views. If the required information is *not* forthcoming, the investigating authorities *may* make a determination on the basis of the *facts available*. Provisional measures, permitted to be applied in critical circumstances to prevent or remedy injury, may not be applied earlier than 60 days after initiation of the investigation nor be applied over more than four months. Member countries are required to maintain independent administrative, judicial or arbitral tribunals to afford prompt review of administrative actions and determinations.

Finally, the AD Agreement imposes a number of obligations relating to the *application* of anti-dumping duties. Such duties must not *exceed* the *margin* of dumping and must be imposed on a non-discriminatory basis on imports from *all* sources except those from whom price undertakings have been accepted. Anti-dumping duties may remain in effect only for as long as and to the extent necessary to counteract dumping that causes or threatens injury, must be reviewed regularly, but must, in any case, be terminated within 5 years (“sunset clause”) unless a review determines that their expiration would lead to continuation or recurrence of dumping and injury.

4.4.7 Agreement on Implementation of Article XVI – Subsidies & Countervailing Measures – Anti-Dumping actions are predicated on “unfair trade” practices attributable to one or more individual, commercial producing or exporting entities and their effects on the domestic industry of importing countries. Article XVI of the GATT’94 and the Uruguay Round Agreement on Subsidies and Countervailing Measures (“SCM” Agreement) address the injurious effects of an unfair trade practice of the governments or other public authorities of exporting countries, e.g., their “subsidization” of production and or exports and the injurious effects thereof caused to the domestic industry of an importing country.

Article XVI:B of the GATT’94 states that GATT signatories (now WTO Member countries) may not subsidize exports of a *primary* product in a way that would give the subsidizing country “more than an equitable share of world export trade in that product.” The SCM Agreement goes further to impose binding disciplines on the provision of subsidies related to production and other non-trade factors, and, under certain circumstances permits subsidies to be challenged *without regard* to their adverse effects on trade. The new Agreement adopts a “traffic light” approach to subsidies, defining certain subsidies as unlikely to cause harm to trade (e.g. “green light” or permissible subsidies – exempt from challenge), while prohibiting outright other subsidies seen as clearly harmful to trade (“red light” subsidies) and establishing a large category of in-between subsidies (“amber” or “yellow light” subsidies) not prohibited as such but which may be responded against if found “actionable” e.g. to result in “serious prejudice”, “injury” or threat thereof, or “nullification or impairment” of benefits under the GATT’94/WTO Agreements. The SCM Agreement, with its 11 “parts” and seven annexes, is the single longest WTO agreement, comprising nearly one-tenth of the entire text of the Uruguay Round agreements, with specific rules both *regulating* the *use* of subsidies and establishing *remedies* therefor. In terms of *remedies*, it operates substantively and procedurally very similar to the Agreement on Anti-Dumping, and the two, together, constitute the most detailed and complex of all of the GATT/WTO rules for global trade. But the SCM Agreement also contains the most extensive provisions for special application reflecting the concerns and needs of *developing* countries. It should also be noted that the SCM Agreement *does not* apply to *agricultural* subsidies, which are governed instead by provisions of the Uruguay Round Agreement on Agriculture, described earlier.

Under the SCM Agreement, a “subsidy” is deemed to exist *if*: (a)(1) there is a financial contribution by a Member government where: (i) it involves a direct transfer of funds (grants, loans, equity) or assumption of liabilities, (ii) government revenue otherwise due is not collected (foregone, forgiven – for example, as tax incentives), (iii) a government provides goods or services or purchases production, and/or (iv) underwrites a payment mechanism or entrusts or directs a private body to undertake one of the foregoing, *or* (a)(2) provides any form of income or price support, *and* (b) a *benefit* is thereby conferred. But, only subsidies that are *specific* are subject to the disciplines of the SCM Agreement, which recognizes four

types of specificity: (a) enterprise; (b) industry or sectoral; (c) regional; and (d) prohibited (“red light”), e.g., linked either to (i) *export* performance (e.g., *contingent* on export performance) or (ii) use of *domestic* inputs (so-called “*import substitution*” subsidies). Annex I of the SCM Agreement sets out an illustrative list of export subsidies that includes not only *direct* subsidies contingent on the volume or value of actual exports, but also *export-linked practices* such as exemptions from taxes and social welfare charges, non-commercial export credit guarantees, etc.

The remedies available to respond to prohibited or actionable subsidies are specific to the kind of subsidy involved. If a Member country believes another Member is providing a *prohibited* subsidy, it can request consultations and, if unresolved thereby, can request dispute settlement under Articles XXII and XXIII of the GATT’94, under rules tailored specifically to subsidy concepts and concerns, and subject also to different time prescriptions. If a measure is found to be a prohibited subsidy and the offending government fails to withdraw or ameliorate its effects within a specified time period, the complaining country may take retaliatory measures, e.g., withdrawal of appropriate GATT benefits or concessions (which could, in effect, have results very similar to imposition of extra or “countervailing” duties).

Subsidies are considered “*actionable*” if they produce effects *adverse* to the interests of Member countries. Three types of “adverse” effects are possible: (1) *injury* (or threat thereof) to the domestic industry of the importing country; (2) *nullification* or *impairment* of benefits accruing under GATT’94; and/or (3) “*serious prejudice*” to the interests of another Member. As under the Anti-Dumping Agreement, a Member may impose an additional or “countervailing” duty if it determines that an *actionable* subsidy is causing, or threatening to cause, *material injury* to a domestic industry. Alternatively, the importing Member may challenge an injurious subsidy under the consultation/dispute settlement provisions of Articles XXII and XXIII of the GATT, But, while it may *pursue* both remedies (dispute resolution/retaliation and imposition of countervailing duties) at the same time, it may only *apply* one of them.

If, instead of *injury*, a Member country alleges that an *actionable* subsidy has resulted in either *nullification/impairment* or *serious prejudice*, its effective remedy is to pursue only consultation/dispute settlement under the provisions of Articles XXII and XXIII of the GATT’94. Unlike the gravamen of “injury” which relates to the effects of imports on a Member’s *domestic* producers, Nullification/Impairment and Serious Prejudice focus on the effects on the complaining Member’s *external* markets.

“Nullification or Impairment” essentially describe a situation in which, as a result of another’s subsidy, a Member finds that it is effectively denied the benefit, in whole or in part, of the enhanced market access it expected as a result of the subsidizing Member’s tariff binding or other concessions under Article II of the GATT’94, which formed the consideration for its own concessions to the subsidizing Member. Thus, *serious prejudice* can result when: (1) exports from the complaining Member into the market of the subsidizing Member or into a *third* market are *displaced* or *impeded*; (2) significant *price* undercutting, suppression, or depression are caused – as compared to sales of a like product of another Member in the same market; (3) the subsidized product causes significant loss of sales in the *same* market; or (4) the subsidy leads to an increase in the *subsidizing* Member’s share in the *world* market for a primary product. Unlike GATT Article XVI and the prior, plurilateral, Tokyo Round subsidies code, while, in most cases, a complaining Member must demonstrate (e.g., “prove”) existence

of serious prejudice, it is deemed (presumed) to exist if a subsidy: (a) amounts to more than 5 % of the value of the product; (b) is given to cover operating losses of an industry; (c) given to facilitate restructuring; or (d) takes the form of direct forgiveness of debt. The effect is to shift the “burden of proof” from the *complaining* Member country to the *respondent* Member. However, the provision of the SCM Agreement authorizing this shifting of the burden of proof has been adopted only on a *temporary* basis, scheduled to terminate at the end of 1999, unless renewed in the forthcoming Year 2000 multilateral trade negotiations round. In any case, *if* a subsidy is found to have adverse effects – nullification/impairment, serious prejudice – the subsidizing Member must either *withdraw* the subsidy or *remove* or ameliorate its effects within six months of a WTO panel or Appellate Body decision *or* the complaining Member will be authorized to retaliate, usually by canceling roughly equivalent Article II concessions or other benefits to the subsidizing Member.

While the SCM Agreement’s category of “green light” subsidies are neither “prohibited” nor “actionable”, it does provide a remedy for certain “green” subsidies that can, in fact, have serious adverse effects on domestic industries in importing countries. These include: (1) assistance for basic research which *exceeds* a maximum of 75 % of the cost thereof or exceeds 50 % of funds for pre-competitive development; (2) assistance to disadvantaged areas if such assistance is limited to *specific* industries or enterprises therein; and (3) assistance to adapt existing facilities to new environmental requirements if such help is given on more than a one-time-only basis or exceeds 20 % of total costs and is not otherwise generally available. In these cases, if the WTO Committee on Subsidies and Countervailing Duties finds adverse effects resulting therefrom and the subsidizing Member fails to modify the subsidy program so as to remove such adverse effects, it may authorize “appropriate countermeasures”. But, like the provision for presumption of serious prejudice applicable to certain cases of actionable subsidies, these remedies for certain “green light” subsidies have been authorized for only a five year period that will terminate as of the end of 1999 unless renewed in future trade negotiations.

A countervailing duty is a special duty levied for the purpose of *offsetting* any subsidy bestowed directly or indirectly upon the manufacture, production, or export of any merchandise. While the investigation under the SCM Agreement differs from an anti-dumping investigation in terms of the substantive criteria and methodology for determining the *existence* and *actionability* of a subsidy, the rules governing determination of *injury* or threat thereof and *causality* are virtually the same and, so, they are not described here. While a margin of dumping of 2 % or less must be disregarded as *de minimis*, a subsidy need be disregarded only if it constitutes less than one percent of the value of the goods. Although both agreements provide for disregarding of “negligible” volume of imports, the SCM Agreement applies this *only* to *developing countries*. Unlike the Anti-Dumping Agreement wherein undertakings are limited only to specific commercial producers or exporters, under the SCM Agreement they may take two forms: (a) those made by subsidizing *governments* to eliminate or limit a subsidy, and (b) those made by producer/exporters therein to revise their prices so as to eliminate the injurious effects of such subsidies.

As indicated above, the SCM Agreement has a number of provisions modifying its applicability to *developing* nation Members. While *developed* Members are given *three* years within which to phase-out prohibited subsidies (to end of 1997), *developing* nations are allowed *eight* years (to end of 2002), a period that could be *extended* by the WTO Committee on Subsidies and Countervailing Duties if justified by economic, financial, and/or

developmental needs. But neither developed nor developing Member may increase the *level* of export subsidies during its respective *transition* period (often referred to as a “standstill” obligation), and developing countries must remove them if, during their transition period, they prove to be inconsistent with their development needs. And, if, during its transition period, a *developing* nation reaches “*export competitiveness*” in a particular product (e.g., a share of at least 3.25 % of world trade therein for two consecutive years), it must phase out applicable subsidies within two years (of the year of reaching such competitiveness). Developing countries have *five* years within which to remove import-substituting subsidies. Developing countries are *not* subject to the *presumption* transferring the burden of proof applicable to establishing adverse effects of actionable subsidies nor are developing countries subject to *any* action alleging serious prejudice except for those otherwise subject to the presumption (for developed countries) just described. And, finally, certain developing country subsidies directly linked to a privatization program are not actionable (though they may be subject to countervailing duties) in terms of consultation/dispute resolution/retaliation if granted for only a limited time and the program actually results in privatization of the enterprise affected. Countervailing Duty actions against developing countries must be terminated if the subsidy found to exist represents 2 % or less of the product’s *value* or less than 4 % of the importing country’s *market* (unless aggregate developing country shares thereof total *more* than 9 % of such market).

4.4.8 Agreement on Safeguards – GATT Article XIX provided a remedy (“emergency action”) to WTO Members to deal with the *unforeseen* surges in imports that may occur as a result of tariff or other concessions made under Article II of the GATT in the schedules submitted by each Member and annexed to the Marrakesh Protocol – concessions which cause or threaten to cause “*serious*” injury to a domestic industry producing like products in the importing country. The Uruguay Round Agreement on Safeguards (SFG) interprets and applies Article XIX and relates *only* to GATT Article XIX safeguards and *not* to those authorized under other articles of the GATT (Articles XII, XVIII, XX, and XXI). In the United States and certain other WTO Member countries, the remedy is often referred to as the “Escape Clause”. But, unlike Anti-Dumping and Subsidies/Countervailing Duties, which are considered to be remedies for “unfair trade practices” and which involve sometimes similar concepts and procedures, Article XIX Safeguards do not focus on “unfairness” – rather the central focus is on the “*surge*” or dramatic increase in imports resulting from tariff concessions and on the resulting *serious* injury or threat thereof caused by such imports. The injury requirement established for application of safeguards is greater than for anti-dumping and subsidies/countervailing duties – “*serious*” as opposed to “material” injury, with a consequent tightening of the logical elements of causality between increased imports and serious injury. And the SCM Agreement does not require that an import surge have been “unforeseen”.

The remedy is farther reaching. If the Importing Member country finds that imports of a particular product, as a result of tariff concessions or other GATT obligations under-taken by that Member, increase unexpectedly to such a point and under such conditions that they cause or threaten *serious* injury to domestic producers of a like or directly competitive product, the government of the importing country may *withdraw* the concession or obligation. But, it will thereby incur an obligation to provide *compensation* by offering some *other* concession and its failure to do so may permit the affected exporting Member country to retaliate by withdrawing equivalent concessions from the Member applying safeguards in the first place.

Until the Uruguay Round Safeguards Agreement, Article XIX was not often invoked because of the difficulty of showing that imports were “*unforeseen*” or had actually increased *because* of tariff concessions or other GATT-sponsored obligation and the (then) obligation to administer any safeguards on an MFN basis, e.g., restricting them from *all* sources or none. Instead, governments seeking safeguard relief preferred to negotiate *ad-hoc* agreements with major supplying countries, resulting in so-called “*voluntary restraint agreements*” (VRAs) or “*orderly marketing agreements*” (OMAs), frequently referred to as “Grey Measures” because of their apparent inconsistency with applicable GATT safeguard rules, but allowed nevertheless because they were “voluntary” and generally administered by the government of the *exporting* country.

The basic rules of the Safeguards Agreement deal with (1) the requirements that must be fulfilled *before* a safeguard measure may be applied; (2) the rules governing the *application* of safeguards; (3) compensation or offsetting action to which such measures may give rise; (4) the removal and prohibition of grey measures; and (5) the procedures to facilitate effective administration of the Agreement. The substantive/legal basis for applying safeguards requires (a) a *determination* by the importing Member country; (b) that *increased quantities of imports*; (c) are *causing* or *threatening to cause*; (d) *serious injury*; (e) to the *domestic industry*; (f) producing a *like* or *directly competitive* product(s). “Serious” injury is defined to mean “significant overall impairment” of the domestic industry’s position and the “threat of serious injury” requires an evaluation of “all relevant factors of an objective and quantifiable nature having a bearing on the situation of the industry.” Unless the investigation demonstrates positive evidence of a causal link between the increased imports and the injury or threat thereof, no affirmative determination may be made, since injury caused by *other* factors may not be blamed on the imports.

As with anti-dumping and countervailing duty actions, there must be an overall transparency to the process. The determination must result from a proper investigation by authorities to establish the five elements enumerated above. The investigation must be based on *published* procedure, provide reasonable notice to all affected parties, public hearings or other means for such parties to present evidence and views, and to respond to opposing information and views, with confidential treatment of normally proprietary information. The determination decision must be published and present findings and conclusions of law on all issues of fact and law. Unlike anti-dumping and countervailing duty actions, however, the SFG does not set requirements on who may seek relief or on the initiation of investigations, and the “domestic industry” is rather more widely defined. The increase in imports may be either absolute or relative to domestic production.

Under the SFG Agreement, safeguards may be used only to the extent needed to prevent or remedy serious injury and to help *adjustment*. Quantitative restrictions (“quotas”) may be used but not to restrict imports of the product below the *average* level of the last three years, unless there is clear justification that a lower level is needed to prevent or remedy the injury. The general principle is that such quotas are to be applied regardless of the *source* country of supply and that if they are allocated among supply countries, such allocation should reflect the *past market share* of each supplier country. However, the Agreement also permits quotas to be allocated on a basis not reflecting actual share history (quota modulation) so as to hit some suppliers harder than others, but may be used *only* to deal with *actual* documented injury and not *threat* thereof. But such action must be approved in advance by the WTO Committee on



Subsidies and Countervailing Measures. Safeguard measures may be applied *provisionally* “in critical circumstances where delay would cause damage which it would be difficult to repair”, but may not extend for more than *200 days* during which the investigation must move forward.

Unlike Article XIX, the rules on duration of safeguards are new, complicated, and important. Article XIX set no time limits. The SFG Agreement, however, provides incentives to keep them short and to avoid their renewal. Again the duration principle applies: safeguards should be maintained only for as long as necessary to prevent or remedy serious injury and facilitate adjustment. The standard allowable limit is *four* years, which may be extended, in no more restrictive form, to a maximum of *eight* years if it has been determined that continuation is *necessary and* that the industry is, in fact, *adjusting*. After the first year of application, the measure must be progressively liberalized. Once a measure is terminated or removed, no *new* safeguard may be applied to the same product until after an interval of at least as long as the duration of the original measure, but in no event less than two years. *Developing* nations are given wider latitude in the maintenance of safeguards – including a maximum duration of two years longer than permitted developed countries.

The SFG Agreement requires a Member country applying safeguards to enter into consultation with supply countries in order to reach agreement on the provision to them of “equivalent” compensation for their exports made subject to safeguard restraints. Failing agreement, the affected supply countries can suspend equivalent concessions or other obligations with 30 days notice, but may not exercise such right during the first *three* years a safeguard is in effect. Moreover, a safeguard measure may not be applied to exports originating in any *developing country* Member whose share of the relevant imports is less than 3 %, except that such exemption does *not* apply if the *collective* import share of developing country Members is more than 9 %.

4.4.9 Agreement on Customs Valuation – Prior to the Uruguay Round, GATT Article VII established certain principles for the process of valuing imports for purposes of the application of appropriate tariffs – whether standard GATT-bound MFN tariffs, preferential tariffs under regional or bilateral trade arrangements, or otherwise. That article’s basic valuation principles were twofold: (1) the value of imported products for customs purposes should be based on the *actual value* of the imported merchandise (and *not* on domestically-produced goods, or on arbitrary or fictitious values) and (2) “actual value”, in turn, should be the price at which a product is actually sold in the ordinary course of trade under fully competitive conditions.” The problem was that, while there was consensus among the GATT contracting parties as to the validity of the principles, there was little consensus as to their application in practice by customs authorities around the world. So, during the Tokyo Round, an effort was made to develop more explicit rules of application of the principles through negotiation of a customs code, but which was, at the time, binding only upon its signatories, most of which were *developed* rather than *developing* nations. During the Uruguay Round, the code was re-examined and re-negotiated to adapt it in ways more acceptable to developing countries. The technically-detailed Uruguay Round Customs Valuation Agreement resulted, which interprets and applies the principles of GATT’94 Article VII and now is binding on *all* WTO Member countries.

The detailed rules for application of the Article VII principles are designed to *reduce* the opportunities for *arbitrary* valuation. So the Agreement establishes a set of six alternative

methods of valuing imports (or tests) that are to be applied in order of allowability only if value cannot be determined by more preferred methods, e.g., the first method is to be used and the second, and third, and so on *only* if the earlier methods are inapplicable or not susceptible of implementation. The first method bases customs value on the “*transaction value*”, e.g., the price *actually paid* for the goods when sold for export to the country of importation. The successive alternatives determine value by the (a) the transaction value of identical goods, or (b) of similar goods, or (c) by looking at sales prices, or (d) production costs, or (e) finally, a composite method providing some flexibility but nonetheless explicitly excluding several other possible approaches to valuation. These methods are limited to determining the value of goods for the levying of *ad valorem* tariffs on imports and not the less common tariffs based on quantities or weight of imported goods.

When proceeding with the basic methodology of basing value on the transaction value, the Agreement nonetheless allows for changing the value to reflect certain costs not reflected in the actual invoiced price, such as royalties or license fees, packing costs, and depending on the invoiced price quotes (whether “FOB” or “CIF”) adding in insurance and freight costs, subject to the caveat that duty may not be charged on invoiced expenses which arise *after* the goods are entered into customs. The Agreement foresees that situations can arise in which customs authorities would have reasonable doubts that the transaction value would be a fair basis for levying duties, for example, inter-company transactions, restrictions on resale of the product, inclusion of amounts later to be paid as commissions, etc. But, if customs authorities have doubts regarding the validity of the transaction price in determining value for tariff purposes, they must afford the importer the opportunity to *demonstrate* that the price *is* fair, for example, by showing that it is close to a previously-accepted price for identical or similar goods.

If – and *only if* – the customs authorities determine that the transaction price *is not* an accurate basis for valuation of the imported product, they may then employ the *second* test, which is determination of value on the basis of the transaction value of *identical* goods or, if identical goods, moving on to the *third* test, basing the determination on the transaction value of the most nearly *similar* goods. The *fourth* test is based on a version of the price at which the actual goods (or identical or similar goods) are sold in the importing country to an *unrelated* buyer, with appropriate deductions. The *fifth* test, based on “*computed value*” consists of adding various prescribed additional amounts (profits, expenses of sale, freight) to the *cost of production* (materials, fabrication, processing). Under one exception, the fourth and fifth tests *may* be reversed upon *request* of the *importer*. Only if *none* of the foregoing tests can reasonably be applied may the customs authorities use any other means of establishing the value of the goods being imported, and, even then, the Agreement requires them to use means “consistent with” the Agreement. In particular, the Agreement *prohibits* certain methods whose use in the past had led to exaggerated valuations and led to the Tokyo Round code, including valuation on the basis of the selling price of competing domestic products and use of an arbitrary minimum value.

The Agreement does not, however, restrict the right of customs officials to confirm that statements or documents presented are true and accurate. And under a Ministerial Decision adopted after conclusion of the negotiation of the Agreement itself, if customs authorities have reason to doubt the accuracy or truth of the particulars or documentation produced in support of a declared transaction value, they may ask the importer to provide *further* explanation or *evidence* demonstrating that the *declared* value corresponds to the *actual* value. If convincing

evidence is not provided, the authorities may conclude the goods cannot be valued by the first test. Transparency rules include requirements for the written notification to an importer of the reasons for a given valuation decision, confidentiality for proprietary information, and publication of regulations. Procedurally, the Agreement provides a right for an importer to withdraw goods from customs under bond if valuation is delayed, and the requirement that a Member country afford importers a right of appeal to judicial authority against administrative valuation decisions.

There are special provisions responding to the concerns of developing countries like Egypt. They have the right *to delay* application of the entire Agreement until *five* years after their accession to the WTO and to delay for an additional *three* years an obligation to employ the *fifth* valuation test (Egypt apparently has notified such reservations, delaying application of the entire Agreement until 01 January 2000 and the fifth test requirement until 01 January 2003). Similarly, developing countries that *currently* value goods on the basis of officially-established *minimum values* may, subject to certain conditions, retain these values “on a limited and transitional basis” (presumably through their allotted transitional period). They may also reserve the right to refuse importers’ requests for reversing the order of the fourth and fifth valuation tests. (Our understanding is that Egypt has also notified reservations for *each* of the foregoing.)

4.4.10 Agreement on Pre-Shipment Inspection – Although Egypt does not *now* employ pre-shipment inspection (“PSI”) nor implement the Uruguay Round Agreement on Pre-Shipment Inspection, it has indicated that possibility remains under consideration. This discussion of the PSI Agreement is included in the event the GOE does, at some point in the future, decided to utilize PSI as governed by the Agreement. The use of private sector companies to inspect, classify, and value imports into a client country *before* being shipped by their producer or exporter has been increasingly used by developing nations whose customs and other bureaucracies have not yet developed the experience to do so upon entry into their customs territory. The use of PSI firms is focused upon inspections of exported products so as to produce a “clean report of findings” as a condition for clearing imports through client countries’ customs and/or for releasing the necessary foreign exchange to pay for such imports. The idea is to draw upon the specialized expertise of outside inspection firms to determine the real value of goods and to confirm that it matches their declared value for purposes of assessing and collecting customs duties. Many developing nations find this an efficient and effective way to prevent fraud – whether through under-declaration (with its consequent loss of revenue) or over-declaration (as a means of illegal export of capital or capital flight). On the other hand, exporters have expressed concerns that use of PSI impedes normal trade by causing delays, increasing their costs, and sometimes resulting in conflicts of interest for PSI firms (especially if they are compensated by a percentage of fiscal receipts). These concerns led to the negotiation of the Uruguay Round PSI Agreement with the goal of establishing for exporting and importing countries and exporters and importers a framework of rights and obligations based on non-discrimination and transparency and providing guidelines for the use of outside inspection firms as well as providing a procedure for the resolution of disputes that may arise between traders and PSI inspectors.

The Agreement recognizes the need for some of the developing WTO Member countries to draw upon PSI “for as long and in so far as it is necessary to verify the quality, quantity or price of imported goods” so as to facilitate, rather than impede, international trade. The most significant portion of the PSI Agreement relates to “Obligation of [PSI] User members”, with

major emphasis on the process of *price verification*. Under the Agreement, PSI inspection firms (or “entities” under the Agreement) must base price comparison for the verification of the export price on the price(s) of *identical* or similar goods offered for export from the *same* country of *exportation* at or about the *same* time, under *competitive* and *comparable conditions* of sale, in conformity with *customary* commercial practices and *net* of any applicable standard discounts. PSI entities may reject a contract price *only if* they can demonstrate that their findings of an unsatisfactory price are based on the above criteria. This criteria meets the concerns of some developing countries in that it does *not* restrict comparisons to goods sold to the same country, so that selling prices in their markets may not be set unreasonably higher compared to sales prices to other countries. Under the Agreement, an acceptable price comparison must be based only on prices that are *validly* comparable, taking into account relevant economic factors in importing countries, and *may not* be based simply on lowest price. It must make appropriate allowance for the terms of the sales contract with various adjusting factors. Like the Customs Valuation Agreement, price determinations may *not* be based on the selling price of domestically-produced goods in the importing country, the price of exports from *another* country, or on arbitrary or fictitious prices or values. Inspections must not discriminate among similar goods from different exporting countries (e.g., apply MFN Treatment of GATT’94 Article I) and must meet the National Treatment requirements of GATT’94 Article III (they may not apply rules stricter than those applied to domestic products in the importing country).

The PSI Agreement also contains a number of transparency requirements. Exporters must be fully informed as to inspection procedures and criteria, relevant laws, their rights against the inspection entities, and minimum shipment values covered by inspection requirements. Proprietary information must be treated as confidential and unnecessary or unreasonable delays in inspection avoided. Within five days of the inspection, PSI entities must deliver either a “clean report of findings” or a detailed written explanation of why it cannot be issued. PSI entities must establish procedures to avoid conflicts of interest and must have one official at each port where they have an inspection office to receive, consider, and decide upon exporter appeals or grievances. Finally, the Agreement provides for rapid and independent review and settlement of disputes. If a dispute cannot be settled between the exporter and the PSI entity within *two* days, either party may refer the matter for review by an *independent* entity jointly established for that purpose between an organization representing PSI entities and another representing exporters. Decisions must be taken within *eight* working days of the request with panel decisions binding on all parties, except that Member governments retain the right to invoke dispute resolution under provisions of the GATT.

4.4.11 Agreement on Rules-of-Origin – The determination of the country of origin of an imported product is important to various aspects of international trade e.g., to determine applicable duties depending on whether such product qualifies for GATT-bound MFN duties, preferential duties, otherwise applicable duties, etc., as well as for product origin marking, the management of import quotas, trade remedies or other restrictions, and the collection of international trade data. A problem arises, however, if the materials or components of an imported product come from different countries or have undergone processing in a number of countries. While in practice, there have been several methodologies utilized to determine *the* national origin of a product, the most widely applied criterion has been to attribute the product’s origin to the country wherein the last *substantial transformation* occurred, e.g., wherein the its customs classification last changed (say from a collection of different inputs to a final product). But another widely applied determinant has been the “*percentage criterion*”,

essentially attributing origin to the country in which the highest proportion of its total value was added to it. The problem confronted by trade negotiators historically has been that no single origin rules or criterion have been recognized or applied.

The goal of the Uruguay Round Agreement on Rules-of-Origin was twofold: (a) to develop and manage a work program to establish new harmonized rules for the determination of origin, and (b) to provide some currently applicable consensus principles for Member countries to apply in the interim from the entry into force of the WTO Agreement until the work program elaborates globally-accepted rules therefor. In the meantime, the consensus principles are enjoined upon WTO Member countries as obligations to be observed pending the completion of the task of achieving harmonized, global rules.

The basic principles whose implementation is enjoined on WTO Member countries under the Agreement provide that: (a) rules-of-origin must not be used as *instruments of trade policy*; (b) that the rules currently implemented should be objective, predictable, coherent, and based on *positive* standards; and that (c) the origin of a product should be determined to be *either* (i) the country where it has been *wholly obtained*, or (2) when *more* than one country has been involved in its production, origin should be based on the country where the *last substantial transformation* occurred. Meanwhile, the harmonization program, which was originally intended to be completed in July 1998 has not been completed and the new completion date is November 1999. Much of this work has involved the review of the product lines of the Harmonized System one-by-one to establish agreed “substantially transformed” statement for each product.

The Agreement, however, sets certain guidelines for the establishment of new, permanent, global rules as part of the harmonization program that are very similar to the interim principles to be implemented during the process of harmonization. These require that a Member’s rules must be clearly defined and published. They may not be used as instruments to pursue trade objectives; to create restrictive, distorting or disruptive effects on international trade; or to require fulfillment of conditions not related to the manufacturing or processing of the product concerned. They are to be based on a positive standard, although negative ones may be used as a secondary input for clarification. Origin rules applied to imports and exports must not discriminate among a Member’s WTO trading partners (except under preferential arrangements permitted under the GATT’94) nor be more stringent than those applied to domestic products. The rules must be administered consistently, uniformly, impartially, and reasonably. Once the harmonization program has been concluded and accepted by the WTO’s Committee on Rules-of-Origin, they must be applied by *all* Member countries of the WTO.

4.4.12 Agreement on Import Licensing – Import licenses are used as a tool for applying trade policies, either to administer quantitative or other import restrictions or as a means of tracking imports, normally for statistical purposes. Egypt’s notifications to the WTO since its accession thereto suggest that the GOE has *not* maintained import licensing over the period since. Nevertheless, a brief description is included herein.

The Agreement on Import Licensing sets forth principles and rules to govern a Member’s import licensing regime so as to prevent it from being an obstacle to trade. *Developing* country Members were given two years from accession to meet requirements for automatic licensing (e.g., in the case of Egypt, presumably to 01 July 1997). Licenses are classified as “*automatic*” or “*non-automatic*” by the Agreement. The Agreement provides rules for both,

with the aim of reducing the scope for discrimination and introducing transparency into the administration of such procedures. These include provisions requiring that all rules as well as relevant information regarding eligibility to apply for a license and application procedures and requirements should be published; notices of the institution of an import licensing requirement should be published no less than 21 days prior to its entry into effect as well as prior to the effectiveness of any changes therein; license applications and renewal forms should be simple, requiring only such information and such documentation as is necessary; and applications should not be refused or applicants subjected to undue penalties for *minor* errors or omissions.

The Agreement defines “*automatic*” licensing as import licensing where approval of the application is granted in *all* cases and has no restrictive effects on trade. It is acceptable “whenever *other* appropriate procedures are not available . . . and as long as its underlying administrative purposes cannot be achieved in a more appropriate way.” The Agreement requires that: (a) anyone legally qualified to import the products concerned must be able to apply for, and receive a license; (b) applications must be acceptable on *any* working day before the goods are cleared through customs; and (c) applications in due form *must* be approved either immediately or within not more than 10 working days.

Any licensing procedures not meeting the foregoing conditions are considered to be “*non-automatic*” and are subject to more rigid conditions. The basic requirement is that such licensing procedures must not restrict or distort trade any further than the measures it applies. Traders must be notified of the bases on which the license may be granted and other Member governments with a trading interest have a right to receive detailed information about how licenses have been distributed and about trade in the products concerned. If the licenses are designed to administer import quotas, information must be published regarding the volume or value of quotas and the dates to which they apply. If the quotas are allocated among supplying countries, all interested supplying countries must be informed in advance as well as the public. Any importer that fulfils the legal and administrative requirements must be eligible to apply and be considered for a license and be advised of its right to a review or appeal of any refusal of such license. If quotas are allocated on a first-come, first-served basis, the applications must be considered within 30 days, or if aggregated and considered simultaneously, within 60 days. Licenses must be valid for long enough to permit imports even from distant sources and large enough to permit “economic” quantities. Account should be taken in acting upon a license application of whether the applicant has made full use of licenses previously granted, and some opportunity afforded to new importers, and, especially, to those who supply the products from *developing* countries.

#### **4.5 Uruguay Round Agreements: *Trade in Services, Intellectual Property Rights***

The Uruguay Round resulted in the extension of WTO-sponsored global rules to two significant areas involved with international trade *not* previously governed by the GATT: *Services* and *Trade-Related Intellectual Property Rights*. They present a host of new issues and rules that are among the most voluminous and detailed of the new WTO framework for global trade.

4.5.1 General Agreement on Trade in Services – The new General Agreement on Trade in Services (“GATS”) extends, for the first time, a global framework of WTO-sponsored rules and commitments to the huge and still growing areas of Services, considered aggregating possibly as much as a quarter of all international trade. While the reach of GATS extends to

*all* forms of international trade in Services, elaborating obligations upon Member countries, it also operates very much like the GATT'94 Article II framework of tariff concessions, e.g., the *general* obligations for the most part are *qualified* by *specific commitments* given by each Member country – also in schedules – that specify its *particular* obligation in each, or certainly in most, service areas.

The GATS consists of three main elements: (1) a set of *general* principles and rules derived essentially from the basic GATT that apply *across-the-board* to *all* Member countries with regard to (a) *all* service sectors *not* otherwise *subjected* to specific commitments and (b) to those service sectors that *are* subject to specific commitments to the extent the commitments do not *explicitly* alter or vary their applicability to the services covered by the specific commitments; (2) the schedules of commitments tabled by each Member country explicitly specifying for each service sector its degree of liberalization or not thereof; and (3) other rules affecting trade in Services elaborated either in annexes to the GATS or in Ministerial Decisions effected thereafter. The combined effect of these three elements is that, for any given WTO Member, its *obligations* under the GATS are defined essentially by what it has specifically *agreed to* and *undertaken* in its own schedule for each service or service sector. The GATS also includes an understanding that subsequent, periodic negotiations will be undertaken on a general or on a sector-specific basis to progressively further liberalize trade in services.

Very generally, the principles and related rules prescribed for trade in services are similar to those under the GATT for trade in goods. They include *general* obligations to extend Most-Favored Nation (“MFN”) Treatment and National Treatment and to ensure transparency in the administration of Members’ regimes governing trade in services. MFN Treatment means that a Member country must treat the services and services suppliers of one foreign country no less favorably than it treats those of any other foreign country. National Treatment means it treats services and service suppliers of other Member nations no less favorably than it treats its own domestic services and service suppliers. Transparency generally means that government policies on services be published and discoverable. These GATS rules apply to *all* measures of Member countries affecting services, including those taken by regional and local governments or by non-governmental bodies exercising regulatory authorities, *except* those services supplied by governmental units on other than a commercial basis or in competition with other service suppliers.

In addition, the GATS introduced a principle *not* included in the original GATT Agreement, e.g., a “Market Access” obligation. “Market Access” means the openness of a country’s market to exporting countries, e.g., the willingness of its trade regime to permit imports to enter and compete relatively unimpeded with similarly-produced goods (or services). The GATS, in effect, prohibits *six* types of “Market Access” restrictions involving limitations on international provision of Services. These include limitations on: (1) the *number* of foreign service suppliers allowed; (2) the *value* of service-related transactions or assets; (3) the total *volume* of service outputs; (4) the *number of natural persons* that may be employed; (5) the *type of legal entity* through which services may be supplied (affiliates/ subsidiaries, branches); and (6) the participation of *foreign capital* via either a maximum percentage limitation on foreign equity or on the absolute value thereof.

*However*, as a *condition precedent* to the *applicability* of these general GATS prohibitions, each Uruguay Round participant (and others acceding to the WTO) was allowed to table

schedules (in a process similar to the schedules of tariff and non-tariff commitments under GATT'94 Article II) stating *explicitly* its *specific* commitments for the opening up of various service sectors and *specifying* the *extent* to which it would *apply* the general rules governing Services described above. These schedules are what effectively commit WTO Member countries to limit particular barriers to trade in services and operate thereby to define their *obligations* under the GATS. These GATS schedules are annexed to the GATS Agreement. Most Members' schedule commitments only bind or guarantee the *current* degree of access for foreign suppliers will not be *lessened* (a so-called "standstill" commitment), while other commitments promise to *expand* access for specified service sectors. Unlike the schedules of bound tariffs and other tariff or non-tariff commitments annexed to the Marrakesh Protocol, neither the GATS itself nor the schedules annexed thereto are part of the GATT'94, which deals solely with *goods*, but are a completely separate and independent instrument attached to the Final Act and *also* administered by the WTO.

A complicating factor for understanding the commitments (and, thereby, the obligations) undertaken in the schedules of Member countries is that the GATS Agreement applies its rules to *four* specific "*modes of supply*" for Services: (1) *cross-border* supply of a service, e.g., not requiring the physical movement of the service *supplier* across a national border; (2) *consumption abroad*, e.g., provision of services accomplished through *movement* of the *consumer* across a national border (for example, tourism); (3) *commercial presence*, e.g., services supplied *in the territory* of a Member by *foreign* entities that have established a *commercial presence* therein; and (4) *natural persons*, e.g., provision of services requiring the *temporary* movement of *natural persons* across a national border (e.g., laborers, consultants).

A further complicating factor is that the actual *commitments* made by Member countries to the two basic GATS obligations of MFN, National Treatment, and Market Access – are determined from a Member's schedules via so-called "positive" and "negative" lists. For example, the extension of National Treatment is determined by a "conditional" *positive* list, e.g., National Treatment will only be applied to service sectors *listed* in a Member's schedule and *then only* as to *existing* measures *not otherwise exempted*. Similarly, the Market Access principle is subject to a *positive* list in that it will be applied only to service sectors *listed* thereon. Extension of MFN, however, is subject to a *negative* list in that it applies to *all* services *except* those listed by the Member in its schedule. Moreover, although the negative list constitutes a *general* obligation of the Member as to service sectors *not* appearing on its *negative* list, an annex to the GATS allowed Members to invoke a one-time-only exemption to MFN for certain sectors not appearing on their negative list, such exemption to last for no more than 10 years (not beyond 2004) unless otherwise stated in the exemption. Some 70 WTO Members notified such exemptions.

In addition to these *sector-specific* positive/negative list commitments, Members *may* have made one or more so-called "*horizontal*" (e.g., cross-sector) commitments to do or refrain from doing certain actions that affect imports of services, *independent* of any *specific* sector. These include: (1) making available a compilation of laws and policies that restrict the use of a mode of supply by foreign suppliers; (2) refraining from application of an "economic needs" test as a condition for permitting foreign service providers to access its domestic market, e.g., allowing such access *only if* domestic providers do not exist or are *unable* to supply market needs (Egypt has reserved this right with regard to certain banking and insurance services); and (3) reducing the use of general licensing or specific approval requirements solely as non-tariff barriers. As with National treatment and MFN, to the extent commitments *are* made with



regard to any of the foregoing, they must be specified with regard to *each* of the four modes of service supply described above.

A Member's service sector commitments under the GATS are made with regard to a detailed listing of major service sectors and, within each of these, to various significant subsectors. The *basic* service sectors are: (1) Business; (2) Communications; (3) Construction and Related Engineering; (4) Distribution; (5) Educational; (6) Environmental; (7) Financial; (8) Health-Related; (9) Tourism and Travel-Related; (10) Recreational, Cultural, Sporting; (11) Transport; and (12) "Other Services Not Included Else-where." The annexed commitment schedules divide these basic sectors into 55 *sub-sectors*, based on the International Standard Industrial Classification system utilized by the GATT/WTO. So, to determine a particular country's commitments under the GATS, it is necessary to examine its schedules *not only* for National Treatment, MFN, and Market Access, but also, for *each* of these, the *specific* commitments made regarding them for *each* of the four modes of supply. There are 12 basic service sectors and, within these, some 55 subsectors or a total of 165 in all (but of which the WTO considers 10 to overlap, so that the operative number is 155). If a Member country tabled specific commitments as to National Treatment, MFN, and Market Access for *each* of these 155 sub-sectors *and* applied *each* of these 155 subsectors to *all four* modes of supply (155 x 4), the result would be 620 separate, specific commitments, *not including horizontal* commitments that may have been given. Egypt tabled 104 specific service sector commitments which can be found in its GATS schedules attached hereto as Annex B (a number that does not include subsequent commitments given in an agreement on Financial Services concluded after the Uruguay Round).

Similar to GATT'94 Article XXIV, Article V of the GATS permits any WTO Member to enter into an agreement to *further* liberalize trade in services only with specific other countries that are parties to a trade liberalization or economic integration arrangement, *provided*, that arrangement has "substantial sectoral coverage", eliminates measures that discriminate against service suppliers of Member countries not included in the arrangement, and prohibits *new* or more *discriminatory* measures. Unlike the GATT, however, "substantial sectoral coverage" is defined so as to prohibit any arrangement provisions *exclude any* of the four modes of supply. And the arrangement must not result in an *overall increase* in the trade barriers non-members face in trading in services, or it may subject members of the arrangement to requirements provide third countries which are WTO Members to compensation for any benefits under the GATT/WTO lost be reason of the arrangement. A related exception from the MFN rule affecting *movement of natural persons* under GATS Article V bis allows countries to conclude agreements that establish full integration of labor markets.

It should also be noted that Article XII of the GATS parallels the provisions of the GATT Articles XII and XVIII:B, in that it permits a Member to impose restrictions on trade in services with regard to which it has given commitments in order to address *serious balance-of-payments* situations, and *developing* countries (like Egypt) are allowed to use such restrictions to maintain a *level of reserves adequate for their development programs*. However, such restrictions must: (1) not *discriminate* among WTO Member countries; (2) not cause *unnecessary* damage to the interests of other Members; (3) be more restrictive than *necessary* in the circumstances; and (4) not be adopted or maintained to *protect a particular sector*.

Other GATS rules of particular note are that Members are generally exempt therefrom as to government procurement and certain security or other requirements, provided that such exceptions are not applied as a “means of arbitrary or unjustifiable *discrimination* among countries where *like conditions prevail* or as a *disguised restriction* on trade in services. Members may not restrict international transfers and payments for current transactions related to specific services commitments they have undertaken except as noted above.

Finally, like GATT’94 Articles XXVII and XXVIII, the GATS foresees and provides for the possibility that a Member may have reason to consider the withdrawal or modification of its commitments under the GATS. Article XXI of the *GATS* permits a Member, not prior to the expiration of three years from the GATS entry into force (e.g., by 01 Jan. 1998) to withdraw or modify a scheduled commitment upon at least *3 months* notice of its intent to do so, reasonable consultation, and subject to compensation to readjust the balance of advantage in commitments with any other WTO member affected by such change. If consultation or negotiations fail to lead to an agreement regarding compensation, a complaining Member can require arbitration to determine the appropriate compensation, and the withdrawal/ modification action may not be taken until compensatory adjustments have been *made*. Should this requirement be ignored, the affected Member(s) have the right to retaliate by withdrawing “substantially equivalent” commitments.

4.5.2 Agreement on Trade-Related Intellectual Property Rights – Like the GATS, the Agreement on Trade-Related Intellectual Property Rights (“TRIPS”) breaks new ground in extending a GATT-regulatory framework to an area – intellectual property rights (“IPR”) – not previously regulated by GATT. The basic goal of the Agreement is to provide *adequate* and *effective* protection to intellectual property rights in order to ensure that innovators benefit from their creativity and investment in it and are encouraged to continue to create, with the expectation that such will contribute to the promotion of technological innovation and, thereby, to social and economic welfare. In drawing upon a number of IPR-related conventions and other international agreements relating to aspects of IPR, and in mandating new rights, rules, and procedures, the TRIPS Agreement has resulted in a highly complex legal system, provisions of which have not yet been tested by the institutions, procedures, and precedents of the WTO, including dispute settlement.

The term “intellectual property” generally refers to products of the human mind effected through the process of creativity or innovation, rather than manufactured goods, but which may ultimately become manifested in tangible goods that can be traded. As enumerated in the TRIPS Agreement, IPR includes: patents, copyrights, trademarks, geographical indications, industrial designs, layout designs of integrated circuits, and undisclosed proprietary information, including trade secrets. The TRIPS Agreement establishes general obligations requiring the implementation of MFN (no discrimination between foreigners) and National Treatment (no discrimination *against* foreigners) relating to IPR. It sets *minimum* standards of protection for each subset thereof, requires Member countries to provide procedure and remedies so that such standards can be *enforced*, and affords an effective process for the resolution of disputes regarding IPR between Member governments. But, *unlike* any of the other GATT/WTO Agreements, it goes beyond the general or particular obligations established by the TRIPS itself, and incorporates by reference obligations derived from at least one other international agreement (the Paris Convention) as *obligations of the TRIPS Agreement*, observance of which is thereby subject to the Single Undertaking concept. Member countries are thus required to implement the standards as obligations of WTO

membership. But, *how* they choose to provide the protection mandated in terms of their national IPR legal/regulatory regimes and practices is essentially up to each Member, provided they comply with the provisions of the Agreement. Moreover, the standards the TRIPS Agreement establishes are characterized as *minimum* standards, meaning that Member countries may provide an even *higher* level of protection for IPR.

Copyright and Related Rights – As stated above, the TRIPS Agreement incorporates by reference a number of the major obligations of other international agreements. In the case of copyright protection, WTO members must comply with substantive provisions of the Berne Convention, which provide rules relating to subject matter to be protected, rights conferred, and protection of pre-existing works, although the TRIPS does not incorporate obligations of Berne relating to the establishment and protection of so-called “moral rights”. The main additions to or clarifications of the Berne Convention regulation of copyright and related rights found in the TRIPS include: (1) a requirement to protect computer programs as *literary works* and to protect databases or other compilations whose arrangement or selection makes them intellectual creations; (2) a requirement to give authors of computer programs and films the right to authorize or prohibit commercial rental of their copyrighted works; and (3) a requirement that limitations or exceptions to exclusive rights be limited to special cases that do not conflict with normal exploitation of the works concerned or unreasonably prejudice the right-holder’s legitimate rights. Where the term of protection is tied to the life of the author, e.g., 50 years under the Berne Convention, a work must be protected under TRIPS from the date of publication or, if not published, within 50 years of being made for 50 years from the year it was made. The TRIPS also extends protection to so-called “related rights”, referring to the rights of performers, producers of sound recordings (phonograms) and broadcasters, when not covered by copyright. Moreover, performers are given the right to prevent unauthorized sound recordings or broadcasting of their performances and copying of such recordings. Similarly, producers of sound recordings are given exclusive rights over reproduction of their recordings as well as exclusive rental rights for them. The rights of performers and producers must be protected for at least 50 years and those of broadcasters for at least 20 years.

Trademarks – For trademarks, the TRIPS Agreement establishes the basic rule for whether subject matter is protectable is that any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of another must be eligible for registration as a trademark, *provided* that it is visually perceptible. Service marks are protectable in the same way as marks distinguishing goods. Cancellation of a mark on the grounds of non-use cannot take place before three years of uninterrupted non-use has elapsed. Registration must be for a minimum of *seven* years. Use of the trademark in the course of trade must not be unjustifiably encumbered by special requirements, such as use with another trademark, in a special form, or in a manner detrimental to its capability to distinguish the goods or services.

Geographical Indications – “Geographical indications” are defined by the TRIPS as “indications that identify a good as *originating* in the territory of a Member, or a region or locality in that territory, where a given *quality, reputation* or other *characteristic* is essentially *attributable to its geographical origin*”, e.g., “Cheddar” cheese, “Champagne”. Under the TRIPS, a Member is obligated to afford means to interested parties to prevent use which might *mislead* the public about the true geographical origin of goods. Especially strong protection given to geographical indications that identify wines and spirits.

Industrial Designs – The Agreement requires Members to provide at least 10 years’ protection to independently-created industrial designs that are *new* or *original*. *Textile* designs are given special attention: requirements set for obtaining protection (cost, examination, publication) must not stand in the way of gaining such protection. Members must afford owners of a protected design the ability to stop unauthorized third parties from making, selling, or importing, for commercial purposes, products which *copy* the design.

Patents – Under the Paris Convention, a country is permitted to define for itself which inventions may be patentable, what right result therefrom, the exceptions to such rights, and how long the protection continues. The TRIPS Agreement, sets out binding standards for all these. It provides that a Member must permit a person to obtain a patent for any invention, whether the concern *products* or *processes*, and in all fields of technology, subject only to the requirement that the invention must be *new*, involve an *inventive* step (e.g., be “non-obvious”), and be “useful” (capable of industrial application). The Agreement sets out the rights of a patent-holder, e.g., to prevent unauthorized persons from making, using, selling, or importing any *product* covered by the patent. If a *process* is involved, the patent holder must be afforded the possibility of preventing the unauthorized use, sale, or importation of products *directly* obtained by that process. A Member may authorize compulsory licensing and/or government use of a patent without owner’s authorization, but only subject to a number of conditions. The period of patent protection must be at least 20 years from the date of *filing* of the patent application.

Integrated Circuits – TRIPS requires Members to protect the layout designs (“topographies”) of integrated circuits in accordance with the IPIC Treaty of 1989, subject to four provisions imposed by the TRIPS relating to term of protection, treatment of “innocent” infringers, applicability to articles containing infringing integrated circuits, and compulsory licensing. Members must prohibit by law the unauthorized importation, sale or other commercial distribution of a protected layout design, of integrated circuits incorporating such a design, or of articles containing such integrated circuits. Protection must be given to layout designs for a minimum of 10 years.

Undisclosed Information – Such information includes so-called “trade secrets” or “know-how”. Members must afford protection to such information if it is secret or has been subject to reasonable steps to maintain it secret. The TRIPS requires that a person lawfully in control of such information must be afforded the possibility of preventing it from being disclosed to, acquired by, or used by others without his consent “in a manner contrary to honest commercial practice.” Confidential data submitted to governments in order to obtain marketing approval for pharmaceuticals or agricultural chemicals must also be protected against unfair commercial use.

The TRIPS ordains a number of detailed legal procedures and remedies that must be implemented by Member countries to enable owners or “rights holders” of intellectual property to enforce their rights. It describes the authorities that must be conferred upon courts to set remedies and requirements for the effectiveness of judicial remedies. The enforcement provisions of the TRIPS cover: general obligations, civil and administrative remedies and procedures, provisional measures, and criminal procedures. Each Member must provide procedures for effective action against infringement of IPR covered by the TRIPS while ensuring against the creation of *barriers* to legitimate trade. It requires civil injunctive remedies to prevent infringement of rights. Each Member must provide means by which rights

holders can obtain the cooperation of customs authorities to stop infringing goods at the border. Members must establish “contact points” in appropriate agencies to make available information regarding trade in counterfeit or pirated goods. Finally, the TRIPS requires *publication* of all laws, measures, and decisions of general application affecting the enforcement of intellectual property rights.

All WTO Members have been required since 01 January 1996 to extend to other WTO Members MFN and National Treatment. Most other TRIPS obligations will not apply to *developing* countries like Egypt until 01 January 2000, although such countries may *not* alter their intellectual property laws during this transition period so as to *increase* their inconsistency with the provisions of the TRIPS Agreement (“standstill clause”). Developing countries that have not previously extended patent treatment to pharmaceuticals and agricultural chemicals must do so by 01 January 2005. They must also allow patent applications to be *filed* (the so-called “mail box” facility) for these products so that not only inventions *after* that date but those covered by applications filed during the 1995-2005 transition period will be enabled to obtain patent protection *from* January 2005 and, once they have approved the marketing of such products in their territory, must grant *exclusive* rights for five years or until a patent thereon is granted or refused.

## 5.0 MANAGING EGYPT'S GATT/WTO OBLIGATIONS

### 5.1 Introduction

Given the large number of obligations and commitments undertaken by Egypt incident to its membership in the WTO, the question naturally arises as to what real, practical meaning they have for the GOE in terms of trying to meet and implement such obligations and commitments in formulating its international trade policies, developing its trade-related legal/regulatory regimes, its continued involvement with the WTO, and, ultimately, its aspirations for an increased participation in global trade.

### 5.2 A “Responsibility” Approach

First it can be said that, with the exception of the so-called “least developed nations,” Egypt confronts essentially the same obligations, albeit qualified by its commitments, as most other Members of the WTO – indeed, the obligations of developed countries are even greater in scope. While their number and complexity may weigh heavily on it and even tax at times its capacities in terms of experience, structure, and authorities to apply the framework of WTO rules for global trade, it shares this burden with many other nations. Indeed, the negotiators of the Uruguay Round recognized that, for *developing* nations like Egypt, effectively to undertake meeting such obligations will take more time and require considerable technical assistance from the *developed* nations, an activity that is enjoined upon developed nations in the GATT’94 itself and in many of the Multilateral Agreements. Egypt therefore must work assiduously to create opportunities for cooperation and technical assistance, from not only the developed countries’ individual national programs but from the WTO and other international bodies, so as to assimilate such obligations in their trade-related legal/regulatory regimes, administrative procedures, and practices, and to educate their government officials to that end, as well as to increase the understanding of its commercial traders of the framework of rules for global trade.

To do so is in Egypt’s own best interests. It has staked its economic future on achieving domestic economic growth, jobs, and an enhanced standard of living on dramatically increasing its exports to the rest of the world. But international trade is essentially a “give/get” activity – trading nations, like individual traders, multiply opportunities for accessing markets abroad for their products only by themselves committing to reciprocal opportunities for access to their domestic markets. The GATT/WTO framework of rules for international trade facilitate this tradeoff for all players by providing rules that open markets and increase trade while providing adequate protections against “unfair” trade and protecting nations’ rights to vindicate vital national interests.

Secondly, however, much of the developing world, and certainly MENA region countries, look to Egypt to fulfill its traditional leadership role within the international community, particularly as an advocate for their economic and commercial interests. But, to do so credibly and effectively, Egypt must become a model for them in developing an understanding of its GATT/WTO obligations and implementing them in ways that facilitate its enhanced presence in global markets while preserving the viability of its domestic manufacturing base and dynamism of its internal market. Egypt’s constructive participation in

## Chart 5

### Number of Egyptian Obligations Per GATT/WTO Agreement or Other Instrument

Instrument	Total	Substantive	Procedural	Consultation	Notification	Enquiry Contact Points
Final Act/Uruguay	1	1				
WTO Agreement	6	6				
GATT I	1	1				
GATT II	6	5		1		
GATT II Under.	4	3		1		
GATT III	7	7				
GATT IV	1	1				
GATT V	4	4				
GATT VI (see ADA)	6	5			1	
GATT VII (see CV)	5	4	1			
GATT VIII	3	3				
GATT IX	4	3		1		
GATT X	4	4				
GATT XI	3	2	1			
GATT XII						
GATT XIII	8	4	1	1	2	
GATT XIV	1	1				
GATT XV	1	1				
GATT XVI (see SCM)	4	2	0	1	1	
GATT XVII	5	3				2
GATT XVII (Under)	2					2
GATT XVIII	15	6		6	3	
GATT XVIII (Under)	11	6	1	2	2	
GATT XIX (see SFGs)	6	3		1	2	
GATT XX	1	1				
GATT XXI						
GATT XXII	1			1		
GATT XXIII (see DSU)	1	1				
GATT XXIV	6	4			2	
GATT XXIV (Under)1	7	3		2	2	
GATT XXV	1	1				
GATT XXVI						
GATT XXVII	2			1	1	
GATT XXVIII	2	1		1		
GATT XXIX						
GATT XXX						
GATT XXXI	1				1	
GATT XXXII						
GATT XXXIII						
GATT XXXIV						
GATT XXXV						
GATT XXXVI						
GATT XXXVII	3	1		2		
GATT XXXVIII	1	1				

Instrument	Total	Substantive	Procedural	Consultation	Notification	Enquiry Contact Points
Marrakosh Protocol	7	5		1	1	
Agriculture	23	10		4	9	
SPS	53	22	24	3	2	2
ATC	54	22		8	24	
TBT	77	25	34	4	9	5
TRIMS	8	3		2	3	
ADA (see GATT VI)	80	49	25	3	3	
Cust. Valuation (see VII)	18	4	10	1	3	
PSI	30	15	11	3	1	
Rules-of-Origin	18	9	6	1	2	
Import Licensing	40	15	14	4	6	1
SCM (see art. XVI)	92	46	25	11	10	
Safeguards (see art. XIX)	33	21	3	4	5	
GATS	59	33	4	6	14	2
TRIPS	73	52	13	5	3	
DSU	33	20	6	3	4	
TPRM	3	1			2	
Civil Aircraft	18	12		3	3	
TOTALS	853	452	179	87	125	10

the WTO since its inception, based on a review of its many interventions on its own behalf and that of other developing countries, suggests that it has the drive, abilities, and motivation necessary for maximizing its interests within that very framework of rules for global trade.

Moreover, the large number of obligations and commitments may not be so burdensome as they appear for two reasons. First, many of these obligations are rather generic – for example the Anti-Dumping and Subsidies/ Countervailing Measures Agreements contain a number of *similar* substantive provisions, while their procedural requirements are virtually the same; the Agreements on Technical Barriers to Trade and Sanitary/Phytosanitary Standards have similar substantive provisions and, again, almost exactly the same procedural requirements. But, secondly, practice from the very early days of the GATT suggests that the *effective* measure of a Member country’s compliance with obligations under the GATT/WTO framework is the *number* and *success* of *allegations* by its WTO trading partners of its failure to implement particular obligations that are *ultimately* resolved against it through consultation and/or dispute resolution. (The degree to which countries will complain about another country’s compliance with its “obligations” usually is related to the *size* of the potential markets at issue and the *share* thereof they feel they can develop.) And, in this regard, no *single* Member or *group* of Members of the WTO are *competent* (apart, realistically, from application of their own national legislation) to determine another Member’s WTO obligations or compliance therewith, which is a judgement that may only be reached within the WTO dispute resolution process under Article XXIII of the GATT’94 as applied by the Dispute Settlement Understanding through conclusions reached by impartial panels and/or the WTO Appellate Body. The great leap forward in dispute resolution effected during the Uruguay Round was to give this process a degree of certainty in the effectiveness its and in the implementation of its findings. A major benefit for *developing* countries resulting from the Uruguay Round is that they are both enabled to *vindicate* their rights under the GATT/WTO framework *and* shield themselves from *unwarranted* assertions of non-compliance with their obligations because of



the increasingly impartial *judicial* process to which complaints and enforcement demands must submit. In this regard, it is important to note that *no* dispute resolution has been invoked against Egypt since its accession to the WTO on 30 June 1995 and, indeed, it appears that *none* have ever been invoked against it under the GATT as well.

### 5.3 Accommodating to GATT/WTO Obligations

While the number of obligations incumbent upon Egypt is vast, their very volume requires that the GOE rationally allocate its efforts to understand and apply them in its trade policy formulation process and legal/regulatory regime – it cannot all be done at once and it will take time. Egypt needs, in effect, to undertake an evaluation among these many obligations of their *relative* importance, both for Egypt and for its trade relationships with other WTO Member countries, and assess and manage, as necessary, its capacities to implement those that are found to be critical to its near term efforts to stimulate enhanced market access and increasing its own exports while accommodating its trading partners' concerns for reasonable access to its markets. From its own standpoint, it needs to determine specifically those of its obligations compliance with which would promote *incremental* market access for Egyptian exports by accommo-dating prospective trading partners' concerns for the fulfillment of such obligations. For example, while, of course the *spirit* of the GATT/WTO requires compliance with *all* obligations and commitments, those embodied in certain of the sectorally-focused agreements that are not directly pertinent to Egypt's export capacities *or* to those of its trading partners in terms of realizable exports for either may not deserve the GOE's immediate attention, since it serves no tangible short run interests of Egypt to pursue them and it is unlikely Egypt's trading partners will seek to enforce them. Since it is unlikely Egypt can quickly implement *all* of the nearly 750 separate obligations inventoried in this study, it needs, in effect, to initiate a form of cost/benefit analysis upon the basis of which to *prioritize* its efforts over time to implement the most *important* of them. Certainly one aspect of this will be to determine which obligations are so *sensitive* to Egypt's trading partners that its failure to address and implement them in the near term may operate to "chill" any receptiveness on their part to facilitate Egyptian exports to their markets.

The recent WTO Trade Policy Review ("TPR") of Egypt's trade regime can be of significant utility in this regard. The Trade Policy Review Mechanism, originally initiated by the GATT prior to the Uruguay Round, was enhanced during the Round and now provides for a periodic thoroughgoing review of nearly all aspects of any Member's trade policies and trade regime. For countries like Egypt, it occurs on an every six year basis. Egypt's first TPR was accomplished in 1992-93 and its most recent one was initiated in September 1998 and completed in July of 1999. The process essentially operates on the basis of an initial report to the WTO on Egypt's trade policies and regime prepared by the GOE and a subsequent intensive analysis thereof prepared by the WTO Secretariat's Trade Policy Review Body. Once these have been prepared and circulated to the WTO Members. Incident to the process, a working group of WTO Member countries is established composed of those Members who have trading interests with the country whose regime is being reviewed. It is this body that "discusses" the member government's and the Secretariat's reports and then arranges for a dialogue between members of the working group and government trade officials of the country being reviewed. Much of the dialogue involves questions by the country members of the working group to such officials, who may respond orally or prepare a written response to the questions posed.

We recently had occasion to review a record of the questions posed by the members of the Egypt Trade Policy Review working group. A number of questions were posed to the GOE which reveal the substantive concerns of a number of its WTO trading partners about Egypt's policies and trade regime. These questions, in effect, distill for the GOE the areas of concern of Egypt's trading partners about the implementation of its GATT/ WTO obligations and they could form a sensible basis for enabling Egypt to focus upon and address compliance concerns whose resolution may promote greater market access possibilities for Egypt with those trading partners and serve to rationalize its efforts to assimilate its GATT/WTO obligations.

Chart 6 hereof summarizes by (a) subject matter and (b) Member country the concerns of Egypt's WTO trading partners as well as (c) suggesting the relative importance of such concerns in terms of the number of countries advancing them in question/answer portion of the TPR process. At least 13 WTO Members participated in the question/answer forum including Egypt's most important trading partners, e.g., Australia, Canada, European Union, Japan, and the United States. (Interestingly, it appears that no other MENA area countries participated.) Based on the number of times raised by the various participants, the most important trade issue concerns were: (1) standards/quality controls, conformity inspections (by 10 countries); (2) Decree 619/ rules-of-origin (by 7 countries); and (3) customs/tariffs/fees & other charges (by 6 countries). Other issues of concern (raised by 3 countries each) included: anti-dumping administration, packaging/labeling requirements, and quantitative restrictions (relating to cement, poultry, textiles, and vehicles).

## CHART 6

### **Major Trade Issue Concerns Raised by Egypt's WTO Trading Partners Incident to the WTO Trade Policy Review of Egypt\***

#### **A. By Subject Matter**

<u>Substantive Issue Areas</u>	<u>Countries Raising Questions for Egypt</u>
Anti-Dumping Administration	Canada, EU, Romania, Switzerland
Anti-Trust/Competition law/policy	Japan
Child Labor	USA
Customs Operations/Procedures/Transparency Customs/Tariffs/Fees & Other Charges Customs Valuation	EU, Hong Kong, Romania Australia, EU, Hong Kong, Japan, Switzerland, USA Japan
Decree 619/Rules-of-Origin	EU, Hungary, Japan, Korea, New Zealand, Switzerland, USA
Decree 553/Marks of Origin	Japan
Environmental Regulation/Impact on Trade	Japan
Foreign Direct Investment/Profits Repatriation Foreign Direct Investment/Importers' Nationality Restrictions	Switzerland, USA Hong Kong, USA
Free Zone Sales	Switzerland
Government Procurement	Canada, EU
Imports/Restrictions on Foreign Exchange for Letters of Credit	EU, Korea, USA
Packaging/Labeling Requirements	Australia, EU, Korea, Switzerland
Pre-Shipment Inspection/PSI	Hong Kong, Japan
Privatization Policy/General Privatization/Banking Sector Privatization/Tourism Sector	Canada USA Hong Kong
Quantitative Restrictions/Cement	Romania
Quantitative Restrictions/Poultry	USA
Quantitative Restrictions/Textiles	Hong Kong, Japan
Quantitative Restrictions/Vehicles	EU
Regional Agreements/COMESA, GAFTA	Australia, Canada, New Zealand

## CHART 6 (Cont., Pg. 2)

### Major Trade Issue Concerns Raised by Egypt's WTO Trading Partners

#### A. By Subject Matter (Cont.)

<u>Substantive Issue Areas</u>	<u>Countries Raising Questions for Egypt</u>
Services/Financial	Hong Kong, Switzerland
Services/Maritime	Japan, Norway
Services/Tourism	Hong Kong, Switzerland
Share of World Export (Egypt's)	New Zealand
Standards/Quality Controls	Australia, Canada, Czech Rep., EU, Hong
Conformity Inspections/General	Kong, Hungary, Japan, Korea, New Zealand
Standards: TBT/SPS – Cosmetics	Switzerland
Standards: TBT/SPS – Meat	EU
Telecommunications	EU
TRIPS/Intellectual Property Rights	Hong Kong, Switzerland, USA
Transparency – (1) Enquiry Points	EU, Japan, Switzerland
(2) Publication/Notice of Changes in Regs.	Japan

## CHART 6

### **Major Trade Issue Concerns Raised by Egypt's WTO Trading Partners Incident to the WTO Trade Policy Review of Egypt**

#### **B. By WTO Member Country**

<u>Country</u>	<u>Substantive Issue Areas Addressed</u>
Australia	<ul style="list-style-type: none"><li>- Customs/Tariffs/Fees &amp; Other Charges</li><li>- Packaging/Labeling Requirements</li><li>- Regional Agreements/COMESA, GAFTA</li><li>- Standards/Quality Controls, Conformity Inspections</li></ul>
Canada	<ul style="list-style-type: none"><li>- Anti-Dumping Administration</li><li>- Government Procurement</li><li>- Privatization Policy/General</li><li>- Regional Agreements/COMESA</li><li>- Standards/Quality Controls, Conformity Inspections</li></ul>
Czech Republic	<ul style="list-style-type: none"><li>- Standards/Quality Controls, Conformity Inspections</li></ul>
European Union	<ul style="list-style-type: none"><li>- Anti-Dumping Administration</li><li>- Customs Operations/Procedures/Transparency</li><li>- Customs/Tariffs/Fees &amp; Other Charges</li><li>- Decree 619/Rules-of-Origin</li><li>- Government Procurement</li><li>- Imports/Restrictions on Foreign Exchange for Letters of Credit</li><li>- Packaging/Labeling Requirements</li><li>- Quantitative Restrictions/Vehicles</li><li>- Standards/Quality Controls, Conformity Inspections</li><li>- Standards: TBT/SPS – Cosmetics, Meat</li><li>- TRIPS/Intellectual Property Rights</li></ul>
Hong Kong, China	<ul style="list-style-type: none"><li>- Customs Operations/Procedures/Transparency</li><li>- Customs/Tariffs/Fees &amp; Other Charges</li><li>- FDI/Importers' Nationality Restrictions</li><li>- Pre-Shipment Inspection/PSI</li><li>- Privatization/Tourism Sector</li><li>- Quantitative Restrictions/Textiles</li><li>- Services/Financial</li><li>- Services/Tourism</li><li>- Standards/Quality Controls, Conformity Inspections</li><li>- Telecommunications</li></ul>
Hungary	<ul style="list-style-type: none"><li>- Decree 619/Rules-of-Origin</li><li>- Standards/Quality Controls, Conformity Inspections</li></ul>

## CHART 6 (Cont Pg. 3)

### Major Trade Issue Concerns Raised by Egypt's WTO Trading Partners

#### **B. By WTO Member Country (Cont.)**

Japan	<ul style="list-style-type: none"><li>- Anti-Trust/Competition law/policy</li><li>- Customs/Tariffs/Fees &amp; Other Charges</li><li>- Customs Valuation</li><li>- Decree 619/Rules-of-Origin</li><li>- Decree 553/Marks of Origin</li><li>- Environmental Regulations/Impact on Trade</li><li>- Pre-Shipment Inspection/PSI</li><li>- Quantitative Restrictions/Textiles</li><li>- Services/Maritime</li><li>- Standards/Quality Controls, Conformity Inspections</li><li>- TRIPS/Intellectual Property Rights</li><li>- Transparency: (1) Enquiry Points, (2) Publication, Notice of Changes in Regulations</li></ul>
Korea [Rep. of]	<ul style="list-style-type: none"><li>- Decree 619/Rules-of-Origin</li><li>- Imports/Restrictions on Foreign Exchange for Letters of Credit</li><li>- Packaging/Labeling Requirements</li><li>- Standards/Quality Controls, Conformity Inspections</li></ul>
New Zealand	<ul style="list-style-type: none"><li>- Decree 619/Rules-of-Origin</li><li>- Regional Agreements/COMESA</li><li>- Share of World Exports (Egypt's)</li><li>- Standards/Quality Controls, Conformity Inspections</li></ul>
Norway	<ul style="list-style-type: none"><li>- Services/Maritime</li></ul>
Romania	<ul style="list-style-type: none"><li>- Anti-Dumping Administration</li><li>- Customs Operations/Procedures/Transparency</li><li>- Quantitative Restrictions/Cement</li></ul>
Switzerland	<ul style="list-style-type: none"><li>- Anti-Dumping Administration</li><li>- Customs/Tariffs/Fees &amp; Other Charges</li><li>- Decree 619/Rules-of-Origin</li><li>- FDI/Profits Repatriation</li><li>- Free Zone Sales</li><li>- Packaging/Labeling Requirements</li><li>- Services/Financial</li><li>- Standards/Quality Controls, Conformity Inspections</li><li>- Telecommunications</li><li>- TRIPS/Intellectual Property Rights</li></ul>
USA	<ul style="list-style-type: none"><li>- Child Labor</li><li>- Customs/Tariffs/Fees &amp; Other Charges</li><li>- Decree 619/Rules-of-Origin</li><li>- FDI/Profits Repatriation</li><li>- FDI/Importers' Nationality Restrictions</li><li>- Imports/Restrictions on Foreign Exchange for Letters of Credit</li><li>- Privatization/Banking Sector</li><li>- Quantitative Restrictions/Poultry</li><li>- Telecommunications</li></ul>

## CHART 6 (Cont. Pg. 4)

### Major Trade Issue Concerns Raised by Egypt's WTO Trading Partners Incident to the WTO Trade Policy Review of Egypt

#### C. Number of Countries Raising Issue

<u>Number of Times Raised</u>	<u>Substantive Issue Area</u>
10	- Standards/Quality Controls, Conformity Inspections
7	- Decree 619/Rules-of-Origin
6	- Customs/Tariffs/Fees & Other Charges
4	- Anti-Dumping Administration - Packaging/Labeling Requirements - Quantitative Restrictions (Cement, Poultry, Textiles, Vehicles)
3	- Customs Operations/Procedures/Transparency - Imports/Restrictions on Foreign Exchange for Letters of Credit - Privatization (General, Banking, Tourism Sectors) - Regional Agreements/ COMESA (3), GAFTA (2) - Services (Financial, Maritime, Tourism) - TRIPS/Intellectual Property Rights
2	- FDI/Profits Repatriation - FDI/Importers' Nationality Restrictions - Government Procurement - Pre-Shipment Inspection - Telecommunications
1	- Anti-Trust/Competition Law/Policy - Child Labor - Customs Valuation - Decree 553/Marks of Origin - Environmental Regulation/Impact on Trade - Free Zone Sales - Share of World Exports (Egypt's) - Standards: TBT/SPS (re: Cosmetics, Meat) - Transparency – (1) Enquiry Points, (2) Publication/Notice of Changes in Regulations

## APPENDIX C

### Outlines and Commitments under the GATT/WTO Agreements

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**The Final Act Embodying the Results of The  
Uruguay Round of Multilateral Trade Negotiations**

**A. Substantive Obligations**

**FA/S 1** By signing and ratifying the Final Act, Egypt has agreed to “adopt [all of] the Ministerial *Declarations* and *Decisions*” and is, thereby, obligated to implement them as indicated in their terms. [Paragraph 2(b)] These include:

- Decision on Measures in Favor of Least-Developed Countries
- Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking
- Decision on Notification Procedures
- Declaration on the Relationship of the World Trade Organization with the International Monetary Fund
- Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net Food-Importing Developing Countries
- Decision on Notification of First Integration Under Article 2.6 of the Agreement on Textiles and Clothing
- Decision on Proposed Understanding on WTO-ISO Standards Information System
- Decision on Review of the ISO/IEC Information Center Publication
- Decision on Anti-Circumvention [re: Antidumping]
- Decision on Review of Article 17.6 of the Agreement On Implementation of Article VI [re: Antidumping]
- Declaration on Dispute Settlement Pursuant to the Agreement on Implementation of Article VI of the GATT’94 [re: Antidumping]
- Decision Regarding Cases Where customs Administration have Reasons to Doubt the Truth or Accuracy

of the Declared Value [re: Agreement on Customs Valuation]

- Decision on Texts Relating to Minimum Values and Imports by Sole Distributors and Sole Concessionaires [re: Agreement on Customs Valuation]
- Decision on Institutional Arrangements for the General Agreement on Trade in Services
- Decision on Certain Dispute Settlement Procedures for The General Agreement on Trade in Services
- Decision on Trade in Services and the Environment
- Decision on Negotiations on Movement of Natural Persons
- Decision on Financial Services
- Decision on Negotiations on Maritime Transport Services
- Decision on Negotiations on Basic Telecommunications
- Decision on Professional Services
- Decision on Accession to the Agreement on Government Procurement
- Decision on the Application and Review of the Understanding on Rules and Procedures Governing The Settlement of Disputes

**B. Transparency Obligations: Procedural/Notification/Consultation**

None.

**Agreement Establishing the World Trade Organization**  
**(“WTO”)**

**I. Substantive Obligations**

**WTOA/S 1**

Egypt is required, as a signatory to the Final Act (of the Uruguay Round) to comply with *this* Agreement and *all the Multilateral Trade Agreements and associated legal instruments* found in *Annexes 1, 2, and 3* thereof. [Art. II:2]

[Note: This, together with Paragraph 2(b) of the Final Act, reflects and implements the *Single Undertaking*, under which the Agreement Establishing the WTO, the GATT’94, the Multilateral Trade Agreements, and associated legal instruments are *binding*, as a condition of membership, on *all* Member countries of the WTO except as to which *reservations* have been taken or *waivers* have been granted.]

[Note: Article XVI:5 states that “*No* reservations may be made in respect to any provision of *this* Agreement. Reservations made in respect of any of the provisions of the Multilateral Trade Agreements may *only* be made *to the extent provided for* in those Agreements. . .”]

[Note: Article IX:3 provides that “in exceptional circumstances, the Ministerial Conference may . . . *waive* an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, *provided* that any such decision shall be taken by three fourths of the Members unless otherwise provided for. . .” Footnote 4 to Article IX:3, however, indicates that “A decision to grant a waiver in respect of any obligation subject to a *transition* period or a period for *staged implementation* that the requesting Member *has not performed by the end of the relevant period* shall be taken *only by consensus*.”]

[Note: Article X:3, relating to *amendments* to this Agreement or any of the Multilateral Trade Agreements, provides that “amendments . . . of a nature that would *alter* the rights and *obligations* of the Members, shall take effect . . . upon acceptance by *two-thirds* of the Members . . .”]

**WTOA/S 2**

Egypt is only required to comply with and implement those *Plurilateral* agreements (Annex 4 of the Agreement Establishing the WTO) which it has *accepted* (e.g., signed). [Art. II:3]

[Note: The Plurilateral Agreements originally included the:

- Agreement on Trade in Civil Aircraft
- Agreement on Government Procurement
- Agreement on International Dairy Agreement
- International Bovine Meat Agreement.

Egypt is a signatory *only* of the Agreement on Trade in Civil Aircraft. It is *not* a signatory to the Agreement on Government Procurement. The Dairy and Bovine Meat Agreements have lapsed and are no longer effective for lack of sufficient signatories.]

**WTOA/S 3**

Upon its acceptance of this Agreement *after* its entry into force, Egypt was obligated to implement the concessions and obligations of the Multi-lateral Trade Agreements *as of* the date of the entry into force of this Agreement “as if it had accepted this Agreement on the date of its *entry into force*.” [Art. XIV:2]

[Note: Egypt acceded to the WTO [Agreement] as of *30 June 1995*, but this provision requires that it must have begun implementing its obligations thereunder *as of 01 January 1995*, e.g., *nunc pro tunc*.]

**WTOA/S 4**

Egypt is required to ensure “the *conformity* of its laws, regulations, and administrative procedures with its *obligations*” as provided in the Agreements annexed to this Agreement. [Art. XVI:4]

**WTOA/S 5**

Egypt is required promptly to contribute its *share* in the expenses of the WTO in accordance with the financial regulations adopted by the General Council. [Art. VII:4]

**WTOA/S 6**

Egypt must accord (a) to the WTO as an organization, and (b) to its officials and representatives, the privileges and immunities stipulated in the United Nations Convention on the Privileges and Immunities of the Specialized Agencies as are necessary for the independent exercise of WTO functions. [Art. VIII:3 and 4]

**II. Transparency Obligations**

- A. **Transparency Obligations/Procedural – (none)**
- B. **Transparency Obligations/Consultation – (none)**
- C. **Transparency Obligations/Notification – (none)**
- D. **Transparency Obligations/Inquiry, Contact Points – (none)**

## ARTICLE I

### General Agreement on Tariffs & Trade 1994

#### “Most Favored Nation” Treatment

#### I. Substantive Obligations

##### GATT/IS 1

Obliges Egypt to extend Most Favored Nation (“MFN”) Treatment to all other WTO Members with regard to:

- a) customs duties/tariffs [bound or unbound]
- b) charges of any kind imposed on imports or exports
- c) regarding the method of levying such duties and charges, and
- d) all rules and formalities in connection with imports and exports.

[GATT’94 Art. I:1]

[NOTE: The Decision of the Contracting Parties of 28 November 1979 (the “Enabling Clause”) authorizes departures from the above general rule, *inter alia*, with regard to “regional or global arrangements entered into amongst less-developed contracting parties for mutual reduction or elimination of tariffs, and , in accordance with criteria or conditions which may be prescribed by the CONTRACTING PARTIES (read “WTO Member countries”), for the Mutual reduction or elimination of non-tariff measures, on products imported from one another.

#### II. Transparency Obligations – (none)

## ARTICLE II

### The General Agreement on Tariffs & Trade 1994

#### Schedules of Tariff Commitments/Bindings

##### I. Substantive Obligations

**GATT/II/S 1** Egypt is obliged to accord to the commerce of any other Member of the WTO treatment no less favorable than that committed to in the various *Schedules of tariff and non-tariff* concessions annexed to the GATT'94. [GATT '94 Art. II:1(a)].

[NOTE: A country's Schedule II tariff concessions are found in Annex 1 to the Agreement Establishing the WTO in the "Uruguay Round Protocol: GATT1994 – Schedules of Tariff Commitments". Egypt's Uruguay Round tariff and non-tariff concessions are annexed to this report as APPENDIX A.]

**GATT/II/S 2** Egypt must exempt products described in Part I of its Schedules (and subject to the terms set forth therein) from ordinary customs duties in excess of those set forth in Part I and from all other duties or charges in excess thereof. [GATT'94, Art. II:1(b)]

[NOTE: Part I of the Schedules includes tariffs and tariff quotas on agricultural and industrial products.]

**GATT/II/S 3** A Member must exempt from ordinary customs duties in excess of those set forth in Part II of the Schedules, products of other WTO Members described in Part II of the Schedules that are entitled to *preferential tariffs*.

[Egypt's Article II Schedules indicate *no* tariff preferences in Part II of the Schedules.]

**GATT/II/S 4** Egypt must not alter its method of *determining* dutiable value or of converting currencies *so as to impair* the value of any of the concessions contained in its Schedules. [GATT'94 Art. I:3]

**GATT/II/S 5** If Egypt maintains or institutes a monopoly on the importation of any product described in its Schedules, it must not – except as *provided for in* such Schedule – operate

the monopoly so as to afford protection *in excess* of that provided for in its Schedule. [GATT'94 Art. I:4]

## **II. Transparency Obligations – Consultations**

**GATT/II/C 1** If Egypt considers that a product is not receiving from another Member country the treatment it believes to have been contemplated by a concession provided for in the latter's Schedules, it must bring the matter directly to the attention of the other Member (e.g., request consultations) with a view toward adjustment of the matter. [GATT'94 Art. I:5]

### **Understanding on the Interpretation of Article II:1(b) Of the General Agreement on Tariffs & Trade 1994**

#### **I. Substantive Obligations**

**GATT/II/U/S 1** In order to ensure transparency of legal rights and obligations, Egypt must record any “*other duties and charges*” in respect of *all* tariff bindings in its Schedules, and the nature and level of any “*other duties and charges*” levied on bound tariff items shown in its Schedules *against* the tariff item to which they *apply*. [GATT/II/U, Paras. 1 & 3]

**GATT/II/U/S 2** Egypt may not *increase* the level of “other duties or charges recorded in its Schedules *above* the level obtaining at the *time of first incorporation of the concession* in that Schedule. [GATT/II/U, Para. 4]

**GATT/II/U/S 3** Egypt may not subsequently add to its Schedules any “other duties or charges” omitted from a Schedule at the time of the deposit of that instrument with the GATT or the WTO *and* any “other duty or charge” recorded at a level *lower* than that prevailing on the date of deposit *may not be restored* to that level unless such additions or changes were made within six month of the date of deposit of the Schedule. [GATT/II/U, Para. 7]

#### **II. Transparency Obligations – Consultation**

**GATT/II/U/C 1** For purposes of any disputes arising under this Understanding, Egypt must apply the Consultation and Dispute Settlement provisions of Articles XXII and XXIII of The GATT'94. [GATT/II/U, Para. 6]



## ARTICLE III

### General Agreement on Tariffs & Trade 1994

#### National Treatment

##### I. Substantive Obligations

**GATT/III/S 1** The GOE shall not subject, directly or indirectly, the products of any other [WTO Member country] imported into its territory to internal taxes or other internal charges of any kind *in excess* of those applied, directly or indirectly, to *like* domestic products. [GATT/III Art. III:2]

**GATT/III/S 2** The GOE may not otherwise apply internal taxes or other internal charges to imported or domestic products so as to afford *protection* to *domestic* production. [GATT/III Arts. III:2 & III:1]

**GATT/III/S 3** The GOE must accord treatment to the products of any Member country imported into Egypt *no less favorable* than that accorded to *like* products of Egyptian origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. [GATT/III Art. III:4]

[NOTE: This does not prevent application of differential internal transportation charges which are based *exclusively* on the economic operation of the means of transport and *not* on the nationality of the product. [GATT/III Art. III:4]

**GATT/III/S 4** The GOE may not establish or maintain any internal *quantitative* regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified *amount* or *proportion* of any product which is the subject of the regulation must be supplied from *domestic sources*. [GATT/III Art. III:5]

**GATT/III/S 5** The GOE may not otherwise apply internal quantitative regulations so as to afford *protection* to *domestic* production. [GAT III Art. III:5, III:6, III:1]

**GATT/III/S 6** The GOE may not apply any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions in such a manner as to *allocate* any such amount or proportion among *external sources of supply*. [GATT III, Art. III:7]

**GATT/III/S 7**

The GOE must *take account* of the interests of exporting parties with regard to any internal *maximum* price control measures, which, even though conforming to the *other* provisions of Article III, could have effects prejudicial to the interests of Members supplying imported products. GATT III, Art. III:9]

**II. Transparency Obligations – (none)**

## ARTICLE IV

### General Agreement on Tariffs & Trade 1994

#### Cinematograph Films

##### I. Substantive Obligations

###### GATT/IV/S 1

If the GOE establishes or maintains internal quantitative regulations relating to exposed cinematograph films, such regulations must take the form of *screen quotas* which:

- a) may require the exhibition of such films of national origin during a specified minimum proportion of the total screen time actually utilized, over a period of not less than one year, in the commercial exhibition of all films of whatever origin, and shall be computed on the basis of screen time per theater per year.
- b) except for screen time reserved for films of national origin under a screen quota, screen time . . . shall not be allocated formally or in effect among sources of supply.
- c) Notwithstanding (b), any Member may maintain screen quotas conforming to the requirements of (a) which reserve a minimum proportion of screen time for films of a specified origin other than that of the Member imposing such screen quotas.
- d) screen quotas shall be subject to negotiation for their limitation, liberalization, or elimination.

[GATT/VI Art. IV]

##### II. Transparency Obligations – (none)

## ARTICLE V

### General Agreement on Tariffs & Trade 1994

#### Freedom of Transit

##### I. Substantive Obligations

**GATT/V/S 1** Egypt must afford freedom of transit to the products of other Members via routes most convenient for international transit to or from the territory of other Members. It may make not distinction based on the flag of a vessel, place of origin of goods, departure, entry, exit, or destination, or on any circumstances relating to the ownership of goods, of vessels, or other means of transport.  
[GATT/V Art. V:2]

**GATT/V/S 2** Egypt must accord to products which have been in transit through the territory of any other Member treatment *no less favorable* that that which would have been accorded to such products had they been transported from their place of origin to their destination without going through its territory.  
[GATT/V Art. V:6]

[NOTE: Egypt may, however, maintain requirements of direct consignment with respect to goods for which such direct consignment is a requisite of eligibility for entry of goods at *preferential* rates of duty or has relation to its prescribed method of valuation for duty purposes. (Art. V:6)]

**GATT/V/S 3** With regard to all charges, regulations, and formalities in connection with transit of goods through Egypt, the GOE must accord to traffic in transit to or From the territory of another Member, treatment *no less Favorable* than the treatment it accords to traffic in transit from any third country. (*e.g., MFN Treatment*).  
[GATT/V Art. V:5]

**GATT/V/S 4** Except for cases of failure to comply with applicable customs laws and regulations, while Egypt may require that traffic in transit be entered at the proper customs house, it may not subject such traffic to any unnecessary delays or restrictions, and the goods shall be exempt from customs duties and from all other transit duties or other charges except for transportation charges or those commensurate with administrative expenses

entailed by transit or the cost of services rendered. All such charges shall be reasonable, having regard to the conditions of traffic. [GATT/V Art. V:3,V:4]

[NOTE: The provisions of Article V *do not* apply to the *operation* of aircraft in transit, but do apply to air transit of goods, including baggage. (Art. V:7)]

**II. Transparency Obligations – (none)**

**ARTICLE VI**

**General Agreement on Tariffs & Trade 1994**

**Anti-Dumping and Countervailing Duties  
(Combined with the Uruguay Round Agreement on  
Implementation of Article VI of the General Agreement  
On Tariffs and Trade 1994)**

**ARTICLE VII**

**General Agreement on Tariffs & Trade 1994**

**Customs Valuation**

**(Combined with the Uruguay Round Agreement on  
Customs Valuation)**

## ARTICLE VIII

### General Agreement on Tariffs & Trade 1994

#### Fees & Formalities Connected With Importation & Exportation

##### I. Substantive Obligations

**GATT/VIII/S 1** Fees and charges of whatever character imposed by the GOE on or in connection with importation or exportation (other than import and export duties and taxes consistent with Article III) shall be limited in amount to the approximate cost of services rendered and *shall not* represent *indirect protection* to domestic products *or* a taxation of imports or exports for *fiscal purposes*.  
[GATT/VIII Art. VIII:1(a)]

[NOTE: With regard to the above, Paragraph 2 of the Interpretative Note *Ad* Article VIII from Annex I states as follows:

“It would be consistent with paragraph 1 if, on the importation of products from the territory of a contracting party into the territory of another contracting party, the production of certificates of origin should only be required to the extent that is *strictly indispensable*.”]

**GATT/VIII/S 2** Egypt may *not* impose *substantial* penalties for *minor* breaches of customs regulations or procedural requirements. *In particular*, no penalty imposed in respect of any omission or mistake in customs documentation which is *easily rectifiable* and *obviously* made *without fraudulent intent* or *gross negligence* shall be greater than *necessary* to serve merely as a *warning*.  
[GATT/VIII Art. VIII:3]

**GATT/VIII/S 3** Egypt shall, *upon request* by another Member, review the operation of its laws and regulations in the light of the provisions of *this Article*.  
[GATT/VIII Art. VIII:2]

##### II. Transparency Obligations – (none)

## ARTICLE IX

### General Agreement on Tariffs & Trade 1994

#### Marks of Origin

##### I. Substantive Obligations

**GATT/IX/S 1** The GOE must accord to the products of other Members, treatment with regard to marking requirements *No less favorable* than the treatment accorded to *like* products of any *third* country (e.g., MFN treatment).  
[GATT/IX:1]

[NOTE: Article IX, Para. 2 states that: “The contracting parties recognize that, in adopting and enforcing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries *should be reduced to a minimum, due regard being had to the necessity* of protecting consumers against *fraudulent or misleading indications.*”]

**GATT/IX/S 3** The GOE’s laws and regulations relating to the marking of imported products must be such as to permit compliance *without seriously damaging* the products, or *materially reducing* their value, or *unreasonably increasing* their cost. [GATT/IX:4]

[NOTE: Article IX:3 suggests that “whenever it is administratively *practicable* to do so, contracting parties *should* permit required marks of origin to be affixed *at the time of importation.*”]

[NOTE: Article IX:5 also states that “as a general rule, no special *duty* or *penalty* should be imposed by any contracting party for failure to comply with marking requirements *prior* to importation *unless corrective* marking is *unreasonably* delayed or *deceptive* marks have been affixed or the required marking has been *intentionally omitted.*”]

**GATT/IX/S 3** Egypt must cooperate with other [Members] to prevent the use of trade names in such manner as to *misrepresent* the *true* origin of a product, to the detriment of such distinctive regional or geographical names of products in its territory as are *protected by its legislation.* GATT/IX:6]

##### II. Transparency Obligations

A. Transparency Obligations – Procedural – (none)



**B. Transparency Obligations – Consultation**

**GATT/IX/C 1**

The GOE must accord full and sympathetic consideration to requests or representations (for consultation) that may be made by other [Members} regarding the application of the undertaking set forth in Paragraph 6 (GATT/IX/S 3) to names of products which have been communicated to it by another [Member]. [GATT/IX/C 1]

**C. Transparency Obligations – Notification – (none)**

## ARTICLE X

### General Agreement on Tariffs & Trade 1994

#### Publication and Administration of Trade Regulations

##### I. Substantive Obligations

###### GATT/X/S 1

The GOE must publish *promptly*, in such a manner as to enable governments and traders to become acquainted with them, all laws, regulations, judicial decisions, and administrative rulings of general application pertaining to:

- a) classification or valuation of products for customs purposes;
- b) rates of duty, taxes or other charges;
- c) requirements, restrictions, or prohibitions on imports or exports;
- d) on the transfer of payments therefor;
- e) affecting the sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing, or other use of imports or exports,
- f) agreements affecting international trade policy in force between the governments or agencies of any Member and another Member or Members.

[GATT/X Art. X:1]

###### GATT/X/S 2

Egypt must administer the above laws, regulations, judicial decisions, and administrative rulings in a *uniform, Impartial, and reasonable* manner. [GATT/X Art. X:3(a)]

###### GATT/X/S 3

The GOE may not *enforce* any measure of general application effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction, or prohibition on imports, or on the transfer of payments therefor, *before it is officially published*. [GATT/X Art. X:2]

###### GATT/X/S 4

The GOE must maintain, or institute as soon as *practicable*, judicial, arbitral, or administrative *tribunals* or *procedures* for the purpose, *inter alia*, of the *prompt review* and *correction* of administrative action relating to Customs matters, which tribunals or procedures shall be

*independent* of the agencies for administrative enforcement and whose decisions shall govern and be implemented by the practice of such administrative agencies.  
[GATT/X Art. X:3(b)]

[*but* this does *not* require Egypt to eliminate or substitute the above for procedures in effect that provide, in fact, for an *objective* and *impartial* review of administrative action, *even though*, not fully or formally *independent* of the agencies entrusted with administrative enforcement.  
[GATT/X Art. X:3(c)]

## ARTICLE XI

### General Agreement on Tariffs & Trade 1994

#### General Elimination of Quantitative Restrictions

##### I. Substantive Obligations

###### GATT/XI/S 1

The GOE may *not* prohibit or impose restrictions *other than* duties, taxes or other charges – whether through quotas, import or export licenses, or other measures – on the *importation* of any product of another (Member) or on the *exportation* or sale for export of any product destined for the territory of another (Member) . . . *EXCEPT*:

- a) *export* prohibitions to prevent *short supply*,
- b) *import* and *export* prohibitions/restrictions *necessary* to the application of *standards* or *regulations* relating to the following activities involving *commodities*:
  - classification
  - grading
  - marketing
- c) *import* restrictions on *agricultural* or *fisheries* products *necessary* to enforce government measure to:
  - (i) restrict quantities of the like or directly competitive product permitted to be marketed or produced, *or*
  - (ii) remove a *temporary surplus* of the like or directly competitive domestic product, *or*
  - (iii) restrict quantities permitted to be produced of any *animal* product, the (domestic) production of which is directly dependent thereon.

[GATT/XI:1, 2]

###### GATT/XI/S 2

Any GOE import restriction on an agricultural or fisheries product intended to restrict the quantities of a like or directly competitive product permitted to be marketed or produced (eg., under GATT Art XI:2(c)(i)) must *not* be such as to reduce the total of imports relative to the total of domestic product *as compared to* the relative *proportions* of the *imported* and *domestic* products reasonably to be expected in the *absence* of such restrictions,  
*and*  
in *determining* this proportion, the GOE must pay “due regard” to:

- the proportion during a previous representative period and
- any *special factors* which may have affected or be affecting trade in the product concerned.

[GATT/XI:2]

[NOTE: In addition to the above specific exceptions found within Article XI:2, the use of quantitative measures is:

- a) *specifically authorized* subject to conditions set forth therein, by GATT Articles XIV:5, XV:9(b), & XVIII.
- b) subject to general conditions relating to *non-discrimination* in the administration of quantitative restrictions in GATT Article XIII.]

## II. Transparency Obligations

- A. Transparency Obligations - Procedural
- B. Transparency Obligations - Notification

### GATT/XI/P 1

If the GOE imposes any quantitative restriction on imports relating to agricultural or fisheries products (under Art. XI:2(c)), it must give *public notice* of the *quantity* or *value* of the product permitted to be imported during any specified period and of any *changes* permitted therein. [GATT/XI:2]

## ARTICLE XII

### General Agreement on Tariffs & Trade 1994

#### Restrictions to Safeguard the Balance of Payments

[NOTE: Article XII – Like GATT Article XVIII:B – permits countries to introduce trade restrictions, including quantitative restrictions, to address balance-of-payments problems as one of the major exceptions to the basic GATT principle prohibiting use of quantitative restrictions (GATT Article XI). But, with the addition in 1957 of Article XVIII:B made specifically applicable to *developing* countries for the *same* purpose, and the conclusion of the Uruguay Round Understanding on Balance-of-Payments Provisions of the [GATT'94], Article XII now applies *only* to *developed* nations and is no longer relevant to developing countries like Egypt.]

## ARTICLE XIII

### General Agreement on Tariffs & Trade 1994

#### Non-Discriminatory Administration of Quantitative Restrictions

[NOTE: The provisions of this article apply to *both* (a) *quantitative* restrictions on imports and (b) *tariff quotas* (or “tariff rate quotas”) – See GATT Art. XIII:5.]

[NOTE Also: The *exceptions* to these rules on Non-Discrimination found in GATT Article XIV.]

#### I. Substantive Obligations

**GATT/XIII/S 1**                      No prohibition or restriction may be applied by the GOE on the importation of any product of another Member or on the exportation of any product destined for the territory of any Member (otherwise permitted by one of the exceptions to Article XI) *unless* the importation of the like product of *all third countries* or the exportation of the like product to *all third countries* is *similarly prohibited or restricted* (e.g., a form of MFN-type *non-discrimination*).  
[GATT/XIII:1]

**GATT/XIII/S 2**                      If the GOE applies import restrictions to any product of another Member, it must “aim” at a *distribution* of trade therein “approaching as closely as possible” the *shares* which the various Member countries *might be expected* in the absence of such restrictions, *and* must:

- a) whenever *possible, fix* a quota representing the total amount of permitted imports  
and
- b) may not require import licenses or permits for importation of the product concerned, *except unless*:
  - (i) quotas are not *practicable*  
or
  - (ii) quotas are *allocated* among the supplying countries.

[GATT/XIII:2]

**GATT/XIII/S 3**                      In cases in which a quota *is* to be allocated among supplying countries, the GOE *must*:

- a) seek *agreement* with such supplying countries with respect to the allocation of *share* in the quota among those countries having a *substantial* interest in supplying the product concerned  
or

- b) if such an agreement is not *reasonably practicable*, the GOE may *allot* to Members having a *substantial* interest in supplying the product, *shares* based upon *proportions* supplied by such Members during a previous representative period, of the total *quantity* or *value* of imports of the product, “due account” being taken of any *special factors* which may have affected or may be affecting trade in the product.

[GATT/XIII:2(a),(b)]

**GATT/XIII/S 4**

If shares of a quota are *agreed* among the supplying countries, or are *allocated* among them by the GOE, it may *not* impose any *conditions* or *formalities* which could *prevent* any Member from *utilizing fully* the share of any such total quantity or value which has been allotted to it for any period.

[GATT/XIII:2(d)]

**II. Transparency Obligations**

**A. Transparency Obligations – Procedural**

**GATT/XIII/P 1**

In cases in which the GOE issues import licenses in connection with import restrictions, it must provide *public notice* of the *total* quantity or value of the product which may be imported during any specified future period and of any changes therein. [GATT/XIII:3(b)]

**B. Transparency Obligations - Consultation**

**GATT/XIII/C 1**

The GOE must consult promptly, upon *request* of any other Member, with regard to any restrictions imposed upon imports regarding the based period used for any allocation of shares of an import quota or special factors taken into account in establishing such a quota or shares regarding the need for *adjustment* of the proportion determined or the base period selected or for *reappraisal* of special factors, or with regard to the *elimination* of any conditions, formalities, or other provisions established *unilaterally* by the GOE relating to the allocation of a quota or its unrestricted utilization. [GATT/XIII:4]

**C. Transparency Obligations - Notification**

**GATT/XIII/N 1**

In cases in which the GOE utilizes import licenses in connection with import restrictions, it must provide, *upon request* of any Member having an *interest* in trade in the product concerned, all *relevant* information concerning the administration of the restrictions, the import licenses granted over a recent period, and the distribution of such licenses among supplying countries (but it need not *identify* names of importing or supplying *enterprises*).

[GATT/XIII:3(a)]



**GATT/XIII/N 2**

In the event the GOE allocates share of a quota among supplying countries, it must promptly inform all other Members having an *interest in supplying* the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and given *public* notice thereof.  
[GATT/XIII:3(c)]

## ARTICLE XIV

### General Agreement on Tariffs & Trade 1994

#### Exceptions to the Rule of Non-Discrimination

[NOTE: GATT Article XIV permits WTO Member countries and Member countries which are parties to certain regional or other preferential trade arrangements (free trade areas, customs unions) who have imposed import restrictions otherwise specifically exempted under GATT articles to avoid , the non-discrimination obligations of Article XIII, with regard to certain international payments or exchange transactions permitted under provisions of the Article of Agreement of the International Monetary Fund (“IMF”). It also permits a Member to apply certain “measures to direct its exports in such manner as to increase its earnings of currencies” under IMF rules.]

#### I. Substantive Obligations

##### GATT/XIV/S 1

If the GOE were applying import restrictions under authority of GATT Article XVIII:B (see below), it may *only* deviate from (non-discrimination) provisions of Article XIII in respect to a *small* part of its external trade where the benefits to it or other concerned Members *outweigh* any injury which might result to any other Member, *and only*, with the *consent* of other Members of the (now WTO). [GATT/XIV:2]

## ARTICLE XV

### General Agreement on Tariffs & Trade 1994

#### Exchange Arrangements

[NOTE: GATT Article XV essentially relates to the interrelationship of the (now) WTO with the IMF and provides that the WTO will defer to the IMF with regard to exchange issues while retaining its competency to regulate but also to coordinate with the IMF with regard to quantitative Restrictions and other *trade issues*.]

#### I. Substantive Obligations

##### GATT/XV/S 1

The GOE may not, by means of any *exchange-related* action or by any *trade* action, *frustrate* the *intent* of the Articles Of Agreement of the IMF. [GATT/XV:4]

**ARTICLE XVI**

**General Agreement on Tariffs & Trade 1994**

**Subsidies**

**(Combined with the Uruguay Round Agreement  
on Subsidies & Countervailing Measures)**

## ARTICLE XVII

### State Trading Enterprises

[NOTE: See also the *Understanding on the Interpretation of Article XVII of the GATT 1994* immediately following.]

[NOTE: The Understanding on Interpretation of Article XVII defines enterprises subject to Article XVII as:

“Governmental and non-governmental enterprises, including marketing boards which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports.”  
(GATT Art. XVII Understanding, Para. 1).]

#### **I. Substantive Obligations**

**GATT/XVII/S 1** If the GOE establishes or maintains a State enterprise or grant to *any* enterprise *exclusive* or *special privileges*, such enterprise *must*, in its purchases or sales involving either *imports* or *exports*, act in a manner *consistent* with the general principles of *non-discriminatory* treatment prescribed in the (GATT '94) for governmental measures affecting imports or exports by *private traders*, *except* for imports of products for immediate or ultimate consumption in *governmental* use and not otherwise for resale or use in the production of goods for sale. [GATT/XVII:1(a)]

**GATT/XVII/S 2** Egyptian state-owned enterprises must:

- a) make any purchases or sales solely in accordance with *commercial* considerations, including
  - price
  - quality
  - availability
  - marketability
  - transportation, or
  - other conditions of purchase or saleand
- b) afford the enterprises of other (Members) *adequate opportunity*, in accordance with *customary business practices*, to *compete* for participation in such purchases or sales. [GATT/XVII:1(b)]

**GATT/XVII/S 3** The GOE may not *prevent any* enterprise (whether or not an enterprise described in Article XVII) under its jurisdiction from acting in *accordance* with the principles of GATT/XVII:1(a) or (b). [GATT/XVII:1(c)]

**I. Transparency Obligations**

**A. Transparency Obligations – Procedural - (none)**

**B. Transparency Obligations – Consultation – (none)**

**C. Transparency Obligations – Notification**

**GATT/XVII/N 1** The GOE must notify to the WTO all products that are *Imported* or *exported* into or from its territory by (1) State enterprises or (b) enterprises to whom it grants exclusive or special privileges. [GATT/XVII:4(a)]

**GATT/XVII/N 2** The GOE, *if* it establishes, maintains, or authorizes an export monopoly of a product which is *not* the subject of an Article II tariff or non-tariff barrier concession, shall, upon the *request* of another Member having a substantial trade in the product concerned, inform the (WTO) of the import *mark up* on the product during a recent representative period, or, if such is not possible, of the resale price charged for the product. [GATT/XVII:4(b)]

**Understanding on the Interpretation of Article XVII  
Of the GATT 1994**

**I. Substantive Obligations – (none)**

**II. Transparency Obligations**

**A. Transparency Obligations – Procedural – (none)**

**B. Transparency Obligations – Consultation – (none)**

**C. Transparency Obligations – Notification**

**GATT/XVII/N 1** The GOE must notify, if applicable, to the WTO Council for Trade in Goods all State enterprises and other enterprises to whom it grants exclusive or special privileges relating to the importation goods for commercial sale and consumption. Such notification must be made on the Questionnaire on State Trading, and must be made *whether* or *not* imports or exports have in fact taken place. [GATT Art. XVII Understanding, Para. 1, 3]

**GATT/XVII/N 2** The GOE must conduct a review of its policy toward the submission of notifications on State trading enterprises to the Council for Trade in Goods. [GATT Art. XVII, Understanding, Para. 2]

## ARTICLE XVIII

### Governmental Assistance in Economic Development

[NOTE: See also the *Understanding on Balance-of-Payments Provisions of the GATT 1994* immediately following.]

[NOTE: Article XVIII authorizes, for certain countries with “low standards of living” which are in the “early stages of development”, in order to implement policies and programs of economic development or to safeguard their balance of payments, to take certain protective or other means affecting imports that may otherwise be inconsistent with other provisions of the GATT to:

- a) grant protection required for the establishment of a particular industry and/or
- b) to apply quantitative restrictions for balance of payments purposes.  
(GATT/XVIII:2)]

#### **I. Substantive Obligations**

**GATT/XVIII/S 1** Should the GOE, in order to promote the establishment of a particular industry, consider it desirable to *modify* or *withdraw* a tariff binding or non-tariff concession included in its Schedules to Article II of the GATT’94, and negotiations with affected Member countries *fail* to reach agreement on compensation therefor, the GOE *may* proceed to modify or withdraw such concessions *but only if*:

- a) the [WTO] finds that the GOE has offered *adequate compensation* and made *every effort* to reach an agreement thereon
- and
- b) actually *implements* such compensatory adjustment *at the same time*.

**GATT/XVIII/S 2** The GOE, in order to safeguard its *external level of Reserves* adequate for the implementation of its program of economic development, may impose restrictions on the *Quantity* or *value* of merchandise permitted to be *exported* *Only if* such restrictions do not *exceed* those *necessary* to:

- a) forestall the threat of, or to stop, a *serious* decline in its *monetary reserves*,
- or

b) if it has *inadequate* monetary reserves, to achieve a *reasonable* rate of increase in its reserves  
*and*

“due regard” must be paid to any *special factors* which may be affecting its reserves or need therefor, including, where special *external credits* or other resources are available to it, the need to provide for the *appropriate* use of such credits or resources.  
[GATT/XVIII:9]

**GATT/XVIII/S 3** In applying restrictions to address a serious decline in its monetary reserves so as to ensure a level of adequate reserves, the GOE *may* only give *Priority* to the importation of products deemed more essential under its economic development policy, *provided* such restrictions do *not*:

a) cause *unnecessary* damage to the commercial or *economic* interests of any other (WTO Member)

*and*

b) *unreasonably* prevent importation of any goods in *minimum* commercial quantities, the exclusion of which would *impair* regular channels of trade.

[GATT/XVIII:10]

**GATT/XVIII/S 4** While the GOE *may* apply restrictions to address a serious decline in its monetary reserves so as to ensure a level of adequate reserves under GATT’94 Article XVIII:B, it must not *deviate* thereby *in any way* from the:

a) MFN provisions of GATT’94 Article I,

b) The provisions of GATT’94 Article II (tariff and non-tariff concessions/commitments) and

c) the Non-Discrimination requirements of GATT Article XIII.

[GATT/XVIII:20]

**GATT/XVIII/S 5** If the GOE imposes any restrictions on imports under GATT Article XVIII:B, it must:

a) *progressively relax* such restrictions as *conditions* improve and

b) *eliminate* them when conditions *no longer justify* such maintenance.

[GATT/XVIII:11]

**GATT/XVIII/S 6** If the GOE finds that governmental assistance is required to promote the establishment of a particular industry, but that *no* measure consistent with other provisions of the GATT’94 is *practicable* to achieve such objective, it *may* take such action but *only if*:

a) such measures are concurred in by the [WTO] *or* the time period therefor *has passed*

*or*

b) if the measure affects imports of a product which is the subject of a *concession* granted in its GATT Article II Schedules, it has *received* the concurrence of the [WTO], *provided* that, if the industry receiving such assistance has *already started production*, the GOE may, *after* informing the [WTO], take such measures as may be *necessary* to prevent, during that period, imports of the product concerned from *increasing* above a *normal* level. [GATT/XVIII:14]

**I. Transparency Obligations**

**A. Transparency Obligations- Procedural – (none)**

**B. Transparency Obligations – Consultation**

**GATT/XVIII/C 1** If the GOE considers it desirable, in order to promote establishment of a particular industry, to modify or withdraw a concession included in its GATT Article II Schedules, after notifying the [WTO] it must enter into negotiations with any [WTO Member] with which such concession was negotiated, and with any other Member determined by the WTO to have a substantial interest therein with a view toward an agreement on appropriate compensatory adjustments therefor. [GATT/XVIII:7(a)]

**GATT/XVIII/C 2** If the GOE applies *new* restrictions or *raises* the general level of its existing restrictions by a *substantial intensification* of measures authorized to safeguard its external financial position and ensure an appropriate level of its reserves for its economic development under GATT Article XVIII:B in circumstances where *prior* consultation is not *practicable*, consult with the [WTO] as to:

- a) the nature of its balance of payments difficulties,
- b) alternative corrective measures that may be available, and
- c) the possible effect of restrictions on the economies of other [Members].

[GATT/XVIII:12(a)]

**GATT/XVIII/C 3** On a date two years from a date determined by the [WTO] with regard to the institution of any restrictions under GATT Article XVIII:B, the GOE, if it continues to apply such restrictions, must enter into consultations at intervals of no less than two years according to a program to be drawn up for that purpose each year by the WTO. [GATT/XVIII:12(b)]

**GATT/XVIII/C 4** If *requested* by the [WTO] to do so, the GOE must consult with them as to the purpose of any proposed Article XVIII:B restrictions, alternative measures available under the GATT'94, and the possible effects thereof on the commercial



and economic interests of other Members. [GATT/XVIII:16]

**GATT/XVIII/C 5** If the proposed measure affects a product that is the subject of a concession included in one of Egypt's GATT'94 Article II Schedules, the GOE must enter into consultations with any other Member with which the concession was originally negotiated and with any other Member determined by the [WTO] to have a substantial interest therein. [GATT/XVIII:18]

**GATT/XVIII/C 6** If the GOE is *affected* by another Member's measures applied under authority of GATT'94 Article XVIII:B, failing agreement with such Member for compensation, the GOE *may* suspend the application of any *substantially equivalent* concessions or other obligations under the GATT'94, provided that:

- a) it provides the [WTO] with 60 days prior notice,
- b) the [WTO] *approves* such suspension; and
- c) it affords *adequate opportunity* for consultation with regard thereto.

[GATT/XVIII:21]

**A. Transparency Obligation – Notification**

**GATT/XVIII/N 1** If the GOE considers it desirable, in order to promote establishment of a particular industry, to modify or withdraw a concession included in it GATT Article II Schedules, it must *notify* the [WTO] to such effect for the purposes of consultation. [GATT/XVIII:7(a) – See GATT/XVIII/C 1]

**GATT/XVIII/N 2** If the GOE finds that governmental assistance is required to promote the establishment of a particular industry, but that *no* measure consistent with the other provisions of the GATT'94 are *practicable* to achieve such objective, it must notify the [WTO] and indicate the specific measure affecting imports which it proposes to take. If, within 90 days after such notification, the WTO has not *concurred* in such measure, the GOE may nevertheless introduce such measure *after* notifying the [WTO] to that effect. [GATT/XVIII:14]

**GATT/XVIII/N 3** If the GOE is *affected* by another Member's measure applied under Article XVIII:B, failing agreement with such Member for compensation, the GOE *may* suspend the application of any *substantially equivalent* concession or other obligation under the GATT'94, provided, *inter alia*, it provides the WTO with 60 days *prior notice*. [GATT/XVIII:21 – see GATT/XVIII/C 6]

**Understanding on the Balance-of-Payments Provisions**  
**Of the GATT 1994 (“BPU”)**

**I. Substantive Obligations**

- BPU/S 1**                    If the GOE has imposed restrictive import measures for balance-of-payments purposes under GATT’94 Article XVIII:B, it must, *as soon as possible* (after entry into effect of the WTO Agreement) announce *publicly* its *time-schedule* for the *removal* thereof, taking into account that such schedule may be modified to take into account changes in the balance-of-payments situation and, *if* it does *not* announce such a schedule, it must “provide *justification* as to the *reasons* therefor. [BPU, Para. 1]
- BPU/S 2**                    The GOE is committed, if it has imposed restrictive import measures for balance-of-payments purposes under GATT’94 Article XVIII:B, to give preference to those measures which have the *least disruptive* effect on trade (e.g, “price-based measures” including import surcharges, import deposit requirements) and, if such price-based measures *exceed* the bound duty, the GOE must indicate the amount by which they do so *clearly* and *separately* in any notifications effected under the BPU. [BPU, Para. 2]
- BPU/S 3**                    If the GOE applies, for balance-of-payments reasons, *quantitative* restrictions in place of *price-based* restrictions, it must provide *justification* as to the *reasons* why price-based measures are not an *adequate* instrument to deal with the balance-of-payments situation. [BPU, Para. 3]
- BPU/S 4**                    If the GOE imposes import restrictions for balance-of-payments purposes under GATT Article XVIII:B, it may not apply *more than one* type of restrictive import measure on the *same* product. [BPU, Para. 3]
- BPU/S 5**                    If the GOE imposes import restrictions for balance-of-payments purposes under GATT Article XVIII:B, such measure may *only* be applied to control the *general level* of imports and may not *exceed* what is *necessary* to address the balance-of-payments situation. *Appropriate justification* must be provided as to:
- a) the *criteria* used to *which* products are *subject* to restriction, and
  - b) the *criteria* used to *determine* allowable import quantities or values. [BPU, Para. 4]
- BPU/S 6**                    If the GOE imposes quantitative restrictions for balance-

of-payments purposes, it must use *discretionary licensing only* when *unavoidable* and shall *phase it out* progressively.  
[BPU, Para. 4]

## **I. Transparency Obligations**

### **A. Transparency Obligations – Procedural**

**BPU/P 1** If the GOE imposes import restrictions for balance-of-payments purposes under GATT Article XVIII:B, “in order to *minimize* any incidental protective effects”, it shall administer such restrictions in a *transparent* manner. [BPU, Para. 4]

### **B. Transparency Obligations – Consultation**

**BPU/C 1** If the GOE imposes import restrictions for balance-of-payments purposes under GATT Article XVIII:B, it shall indicate in *successive* consultations the *progress* made in *significantly reducing* the *incidence* and restrictive *effect* thereof.  
[BPU, Para. 3]

**BPU/C 2** If the GOE imposes *new* import restrictions for balance-of-payments purposes under GATT Article XVIII:B or *raises* the *general level* of its *existing* restrictions by a *substantial intensification* of such measures, it must enter into consultations within four months *after* adoption of such measures. Information included in its consultation documents should include the following:

- a) an overview of the balance-of-payments situation and prospects, including internal and external factors having a bearing on the situation and domestic policy measures taken in order to restore equilibrium;
- b) full description of the restrictions applied, their *legal* basis, and steps taken to reduce incidental protective effects;
- c) measures taken since the last consultation to liberalize import restrictions in the light of the conclusions of the WTO Balance-of-Payments Committee  
and
- d) a plan for the elimination and progressive relaxation of remaining restrictions.

[BPU, Para. 6, 11]

### **A. Transparency Obligations – Notification**

**BPU/N 1** If the GOE applies import restrictions to address balance-of-payments problems under GATT Article XVIII:B, it

must notify, not later than 30 days after their announcement, any significant changes in the application of restrictive import measures as well as any time-schedules for the removal thereof.  
[BPU, Para 9]

**BPU/N 2**

If the GOE applies import restrictions to address balance-of-payments problems under GATT Article XVIII:B, it must notify the WTO General Council *annually* a consolidated notification including all changes in laws, regulations, policy statements, or public notices, for examination by other Members. [BPU, Para. 9]

## ARTICLE XIX

### Emergency Action on Imports of Particular Products

#### (Combined with the Uruguay Round Agreement on Safeguards)

## ARTICLE XX

### General [Safeguard] Exceptions

#### I. Substantive Obligations

- GATT/XX/S 1 The GOE may adopt or enforce the following-described measures, *provided* that, such measures are *not*:
- a) applied in a manner which would constitute a means of *arbitrary or unjustifiable discrimination* between countries where the same condition prevail
  - or
  - b) a *disguised restriction* on international trade:
- and *are*:
- necessary to protect public morals;
  - necessary to protect human, animal or plant life or health;
  - relating to importation or exportation of gold or silver;
  - necessary to secure compliance with laws or regulations which are not inconsistent with the GATT, including those relating to:
    - customs enforcement
    - enforcement of monopolies under Art. II and Art. XVII
    - protection of patents, trade marks, and copyrights
    - prevention of deceptive practices
  - relating to products of prison labor;
  - imposed for protection of national artistic, historic or archaeological treasures;
  - relating to conservation of exhaustible natural resources
  - undertaken in pursuance of intergovernmental commodity agreements
  - undertaken to deal with short supply situations
- [GATT/XX]

#### II. Transparency Obligations – (none)

## ARTICLE XXI

### Security Exceptions

[NOTE: Permits a WTO Member country to take any measures (including import/export restrictions) deemed necessary to protect its essential national security interests relating to:

- fissionable materials
- traffic in arms and materiel of war
- taken in time of war or emergencies in international relations
- pursuant to United Nations peace & security obligations
- preserve national security confidential information.

[(GATT/XXI)]

No Specific obligations stated.

## ARTICLE XXII

### Consultation

[NOTE: GATT '94 Articles XXII (Consultation) and XXIII (Nullification or Impairment) are the GATT/WTO's *basic* provisions for negotiation of trade issues arising among WTO Members and their resolution through the Dispute Settlement process. They govern not only issues arising under the GATT itself, but may be invoked under specific provisions found in most of the Multilateral Agreements, although, in some cases, additional provisions in such Agreements may vary the application of Articles XXII and XXIII.]

#### I. Substantive Obligations

**GATT/XXII/C 1** The GOE must accord *sympathetic consideration* to, and must afford *adequate opportunity* for consultations regarding such representations as may be made by another (Member) with respect to any matter affecting operation of the (GATT'94). [GATT/XXII:1]

## ARTICLE XXIII

### Nullification or Impairment

(Combined with the Understanding on Rules & Procedures  
Governing the Settlement of Disputes – “DSU” – below)

## ARTICLE XXIV

### Territorial Application – Frontier Traffic Customs Unions & Free Trade Areas

[NOTE: GATT '94 Article XXIV provides the basic GATT/WTO “regulatory” framework for reciprocal, concessionary preferential trade arrangements, basically “customs unions” (“CUs”) and “free trade areas” (“FTAs”). It is supplemented by the Uruguay Round *Understanding on the Interpretation of Article XXIV of the GATT'94* which implements or applies certain of the obligations of Article XXIV so that, to avoid duplication of obligations, provisions of *both* Article XXIV *and* the Understanding are cited as authority therefor (note that many of these obligations bind *several* countries rather than only a single country, although they constitute obligations of *each* WTO Member country that is a party thereto. Together, the provisions are intended to vindicate and apply two basic principles enunciated in Article XXIV:4, e.g., that such arrangements should:

- a) *facilitate* trade between *parties* to the arrangement  
and
- b) *not to raise barriers* to the trade of other WTO Members which are *not* parties to the arrangement

(in other words, trade *creation* not trade *diversion*).

### **I. Substantive Obligations**

**GATT/XXIV/S 1** The GATT will not prevent formation of a *Customs Union* or a *Free Trade Area* provided that:

- a) in the case of a *Customs Union*:  
the duties and other regulations imposed by the *arrangement* on trade of WTO Members *not* parties to the arrangement “shall not, *on the whole*, be *higher* or *more restrictive* than the *general incidence* of duties or other regulations applicable” thereto of the parties *prior* to formation of the arrangement.  
*and*
- b) in the case of a *Free Trade Area*:  
the duties and other regulations applicable by *each* of the *parties* to the FTA to the trade of WTO Members *not* parties to the arrangement “shall not be *higher* or *more restrictive*” than the corresponding duties



and other regulations applicable previously to such non-parties *prior* to formation of the arrangement;

*and if*

c) any interim agreement for either a CU or an FTA includes a *plan* or *schedule* for the formation of such arrangement within a *reasonable time*.

(The Understanding provides that “reasonable length of time” should not normally *exceed 10* years. RAU:3)

[GATT/XXIV:5]

**GATT/XXIV/S 2** If the GOE (or *any* other party) as a member of a *Customs Union* proposes to increase any of its *bound* duties specified in its GATT Article II Schedules with respect to any *non-member*, it must do so through the “Modification of Schedules” procedures of GATT Article XXVIII (see below). [GATT/XXIV:6, RAU:4-6]

**GATT/XXIV/S 3** A Customs Union (and Egypt, if a party implementing it) must:

a) eliminate all duties and other restrictive regulations of commerce with regard to *substantially* all trade among the parties thereto (or at least with respect to *substantially* all trade in products originating therein)

*and*

b) apply *substantially* the *same* duties and other regulations of commerce applied by each of the parties to the CU to the trade of of WTO Member countries *not parties* to the CU (e.g., uniform tariffs etc.)

[GATT/XXIV:8(a)]

**GATT/XXIV/S 4** The GOE must take (*presumably* as a party to a CU or an FTA) such *reasonable* measures as may be *available* to it to ensure observance of the provisions of the GATT’94 by the regional and local governments and authorities within its territory.

[GATT/XXIV:12, RAU:13]

## **I. Transparency Obligations**

**A. Transparency Obligations – Procedural – (none)**

**B. Transparency Obligations – Consultation – (none)**

**C. Transparency Obligations – Notification**

**GATT/XXIV/N 1** If Egypt is considering entry into a Customs Union or a Free Trade Area arrangement, or adhering to an interim agreement for the same, it must promptly notify the WTO

Council for Trade in Goods and make available to it such information regarding the proposed arrangement as will enable them to review and make recommendations to WTO Members as it deems appropriate.

[GATT/XXIV:7(a)]

**GATT/XXIV/N 2** Any substantial change in the plan or schedule for the formation of a CU or an FTA must be notified to the WTO Council for Trade in Goods (by Egypt if involved therewith or jointly with others involved). [GATT/XXIV:7(c)]

**Understanding on the Interpretation of Article XXIV  
of the GATT'94 ("RAU")**

**I. Substantive Obligations**

**RAU/S/ 1**                 With regard to any proposal to reduce bound duties by Egypt as a member of a Customs Union and its application of the procedures of GATT'94 Article XXVIII (see GATT/XXIV/S 2), negotiations therefor *must* be commenced *before* any tariff concessions are modified or withdrawn and such negotiations shall take "due account" of reductions of duties on the *same* tariff line made by *other* parties to the CU upon its formation. [RAU:4,5]

**RAU/S/ 2**                 If an interim agreement relating to the establishment of a Customs Union or Free Trade Area arrangement has been notified to the WTO under GATT'94 Article XXIV:7(a), and the WTO Council on Trade in Goods has recommended modifications to such agreement, the parties thereto (including Egypt if involved therein) must not maintain or put such agreement *into force* if they are *not* prepared to *modify* it in accordance with such *recommendations*. [RAU:10]

**RAU/S/ 3**                 In the event Dispute Settlement (GATT'94 Articles XXII and XXIII) have been initiated with regard to any issues relating to application of Article XXIV by regional or local governments within the territory of Egypt, the GOE must take such *reasonable* measures as may be available to it to ensure its observance. [RAU:14]

**II. Transparency Obligations**

**A.                         Transparency Obligations – Procedural – (none)**

**B.                         Transparency Obligations – Consultation**

**RAU/C/ 1**                 The GOE must abide by the consultation and dispute settlement provisions of GATT'94 Articles XXII and XXIII with regard to any issues or disputes arising with regard to the application of article XXIV to any Customs Union or Free Trade Area arrangement to which it is a *party*. [RAU:12]

**RAU/C/ 2**                 The GOE must accord *sympathetic consideration* and *afford adequate opportunity* for consultation regarding any representation made by any other WTO Member regarding measures affecting the operation of the GATT'94 taken within its territory.

**C. Transparency Obligations – Notification**

**RAU/N/ 1**                    The GOE, if a party to either a Customs Union or a Free Trade Area arrangement *interim agreement*, must notify any *substantial* changes therein to the WTO Council for Trade in Goods. [RAU:9]

**RAU/N/ 2**                    If a party to or otherwise involved with an interim agreement for establishment of a Customs Union or Free Trade Area arrangement, the GOE must *periodically* notify the WTO regarding operation of such arrangement. [RAU:11]

## ARTICLE XXV

### Joint Action by the Contracting Parties

#### I. Substantive Obligations

##### GATT/XXV/S 1

The GOE must meet “from time to time” with other [Members] for the purpose of giving effect to those provisions of the GATT’94 which involve joint action, and with a view to facilitating the operation and furthering the objectives of the GATT’94. [GATT/XXV:1]

#### II. Transparency Obligations – (none)

## ARTICLE XXVI

### Acceptance, Entry Into Force and Registration

**(Deals with the diplomatic mechanics of signature, ratification, entry into force etc., no defined obligations.)**

## ARTICLE XXVII

### Withholding or Withdrawal of Concessions

(Deals with the right of a Contracting Party to withhold or withdraw concessions from non-Members.0

I. Substantive Obligations – (none)

II. Transparency Obligations

A. Transparency Obligations – Consultation

**GATT/XXVII/C 1** If the GOE takes action to withhold or withdraw GATT concessions from any *non*-Member, it must consult with any other Member having a substantial interest in the product(s) concerned. [GATT/XXVII]

B. Transparency Obligations – Notification

**GATT/XXVII/N 1** If the GOE takes action to withhold or withdraw GATT concessions from any *non*-Member, it must notify the [WTO]. [GATT/XXVII]

## ARTICLE XXVIII

### Modification of Schedules

(Permits the Contracting Parties every 3 years to renegotiate withdrawals or modifications of concessions in exchange for compensation therefor, subject to review by the [WTO])

#### I. Substantive Obligations

**GATT/XXVIII/S 1** If the GOE enters into negotiations and an agreement with other [Members] for the withdrawal or modification of concessions subject to provisions for compensatory adjustment with respect to other products, it must “endeavor” to maintain thereby a *general* level of *reciprocal* and *mutually advantageous* concessions not *less favorable* to trade than that provided for under the GATT’94 *prior* to such negotiations. [GATT/XXVIII:2]

#### II. Transparency Obligations

##### A. Transparency Obligations – Consultation

**GATT/XXVIII/C 1** If the GOE enters into negotiations with another Member for the withdrawal or modification of concessions with respect to certain products, it must consult with regard thereto with all *Other* Members determined by the WTO to have a *substantial interest* in such concession. [GATT/XXVIII:1]

## ARTICLE XXVIII bis

### Tariff Negotiation

(Authorizes periodic rounds of tariff negotiations,  
no defined obligations)

## ARTICLE XXIX

### The Relation of this Agreement to the Havana Charter

(obsolete)

## ARTICLE XXX

(Provides for adoption of amendments to the GATT upon acceptance by two-thirds of the Contracting Parties –  
no defined obligations)

## ARTICLE XXXI

### Withdrawal (from GATT)

(Permits a Contracting Party to withdraw from the GATT)

I. Substantive Obligation – (none)

II. Transparency Obligations

A. Transparency Obligation – Notification

GATT/XXXI/N 1 If the GOE were to determine to withdraw from the [WTO], such intention to withdraw must be notified to the WTO *at least six months* prior to the intended effective date. [GATT/XXXI]

## ARTICLE XXXII

### Contracting Parties

(Describes status of “Contracting Parties”, no defined obligations)

## ARTICLE XXXIII

### Accession

(Requires a two-thirds majority of current Members to approve accession to the GATT (now WTO) by non-Members – no defined obligations)

## ARTICLE XXXIV

Non-Application of the Agreement Among Particular Contracting Parties

(Provides that a Contracting Party may withhold application of any concession to a party acceding to the [WTO] *if* they have not entered into tariff negotiations – no defined obligations.)



## PART IV

### TRADE AND DEVELOPMENT

[NOTE: Part IV of the GATT'94 dealing with "Trade and Development" essentially defines the special needs of developing countries with regard to implementing GATT/WTO obligations with regard to their economic development requirements and concerns and the need for *developed* nations to accord to these needs and concerns in implementing (and enforcing) provisions of the GATT'94 and the Multilateral Agreements and for them to provide developing Member countries such technical and other assistance as needed to fully integrate them into world trade community and equip them to undertake the obligations specified in the GATT/WTO framework of global trade rules. Part IV defines specific obligations for *developed* nations, but does *not* do so for *developing nations* as such.]

#### ARTICLE XXXVI

##### Principles and Objectives

#### ARTICLE XXXVII

##### Commitments

##### I. Substantive Obligations

**GATT/XXXVII/S 1** Less-developed WTO Members (like Egypt) must take *appropriate* action in implementation of the provisions of GATT Part IV for the benefit of the trade of *other* less-developed Members, in so far as such action is *consistent* with its individual present and future development, financial, and trade needs taking into account past trade developments as well as the trade interests of less-developed Members as a *whole*. [GATT/XXXVII:4]

##### II. Transparency Obligations

##### A. Transparency Obligations – Consultation

**GATT/XXXVII/C 1** The GOE must, if *requested* consult with any Member concerned with respect to any matter with a view toward reaching solutions satisfactory to *all* Members in order to further the objectives of Part IV of the GATT'94.

**GATT/XXXVII/C 2** The GOE must afford to any other Member country full and prompt opportunity for consultations under the normal procedures of the GATT'94 with respect to any matter or difficulty which may arise thereunder. [GATT/XXXVII:5]

## ARTICLE XXXVIII

### Joint Action

#### I. Substantive Obligations

**GATT/XXXVIII/S 1** The GOE must collaborate jointly, within the framework of the GATT'94 and *elsewhere*, as *appropriate*, to further the objectives of Part IV of the GATT'94. [GATT/XXXVIII:1]

In *particular*:

- a) to provide improved and acceptable conditions of market access to world markets for *primary* products;
- b) seek collaboration in matters of trade and development policy with international organizations, including the UNCTAD;
- c) collaborate in analyzing development plans and policies of developing nations and examining their trade relationships;
- d) keep under continuous review the development of feasible methods to expand trade for economic development; and
- e) establish such institutional arrangement as may be necessary to further the objectives of Part IV.

**Marrakech Protocol to the  
General Agreement on Tariffs and Trade 1994  
("GATT'94")**

[Note: The Marrakesh Protocol to the GATT'94 is the document to which are attached a Member country's GATT Article II *Schedules* of Tariff and Non-Tariff Concessions resulting from the negotiations during the Uruguay Round of multilateral trade negotiations and are, in effect, the consideration given for receiving and benefiting from the tariff and non-tariff concessions of other Member countries.]

**I. Substantive Obligations**

**PRO/S 1**                      The tariff reduction concessions agreed to by Egypt and contained in its Schedules must be implemented in five *equal* rate reductions, *except as otherwise specified* in Egypt's schedule, with the reductions made effective within *four* years of the entry into force of the WTO Agreement (01 January 1995), e.g., by 01 January 1999, *except unless otherwise specified* in Egypt's Schedule. [Paragraph 2]

[Note: In its Schedules, the GOE adhered to the above-described obligatory bound tariff reduction scenario *except* for the following:

Staging Notes:

For Non-Textile Industrial Items:

“Tariffs reductions – starting on a base of *10* percentage points above the final offer's rate – will be implemented over *five* years period: in five *equal* stages; beginning on the day the WTO Agreement enters into force. Until the end of the 5 years period, the base rate (the offer rate + ten percentage points) will be bound at the specified levels of reduction.”

For Textile Items:

“Tariffs reductions – starting on a base period of *30* percentage points above the final offer's rate – will be implemented over *10* years period; in *10 equal* stages; beginning on the day the WTO Agreement enters into force. Until the end of the 10 years period, the base rate, (the offer rate + thirty percentage points) will be bound at the specified levels of reduction.”

For Agriculture Items

“10 years implementation period begins when the WTO Agreement enters into force.”]

[NOTE: The WTO Annual Report for 1998 states that:

“The implementation of the Uruguay Round tariff cuts has proceeded *according to schedule*. To-date, *no complaint* has been received regarding the failure of a Member to fulfill its tariff-reduction commitments.”

Source: WTO Annual Report, 1998 (Vol.1) WTO Activities, Section IV Trade in Goods, Pg. 80]

**PRO/S 2**

Upon Egypt’s acceptance of the WTO Agreement *after* the date on which the WTO Agreement entered into force (01 January 1995), on the date the WTO Agreement becomes effective for *it* (01 June 1995), Egypt must make effective all rate reductions that have already taken place and make effective all remaining rate reductions on the schedule specified above (PRO/S 1). [Paragraph 2]

**PRO/S 3**

Egypt must make available for examination by other WTO Member countries, *upon request*, information related to its implementation of the concessions and commitments contained in the schedules annexed to this Protocol, without prejudice to the rights and obligations of such Members under the Agreements in Annex 1A of the WTO Agreement (e.g., the GATT’94 and the Multilateral Trade Agreements). [Paragraph 3]

**PRO/S 4**

*If* Egypt has withheld or withdrawn any concession in its Schedules attached to the GATT’94 with respect to any product for which the principal supplier is any other Uruguay Round participant which had not by then submitted its schedules, Egypt *must* reinstate or apply such concession on and after the date on which such Member *has* submitted its schedules to the GATT’94. [Paragraph 4]

**PRO/S 5**

In any case in which a concession in the Schedules submitted by Egypt to this Protocol to the *GATT’94 results* in treatment for a product *less favorable* than was provided for such product in Egypt’s schedules to the GATT’47, it shall be *deemed* to have taken appropriate action required under Article XXVIII of the GATT’47 or the GATT’94 e.g., “Modification of Schedules” so that the concession in its Schedules to the GATT’94 shall be effective.  
[Paragraph 7]

[Note: Paragraph 7 states that “the provisions of this paragraph shall apply *only* to *Egypt*, Peru, South Africa, and Uruguay.]

**II. Transparency Obligations**

**A. Transparency Obligations – Procedural**

(none)

**B. Transparency Obligations- Consultation**

**PRO/C 1** Egypt may not withhold or withdraw any concession under its Schedules with regard to a product of a Member which has not submitted its schedules to the Protocol (see PRO/S 4) *unless* consultations have been held, *upon request*, with such Member.  
[Paragraph 4]

**C. Transparency Obligations – Notifications**

**PRO/N 1** Egypt may not withhold or withdraw any concession under its Schedules with regard to a product of a Member which has not submitted its schedules to the Protocol (see PRO/S 4) *unless* it has provided *written notice* of its intention to do so to the Council for Trade in Goods.  
[Paragraph 4]

**D. Transparency Obligations – Inquiry, Contact Points – (none)**

## The Agreement on Agriculture

### **I. Substantive Obligations**

#### **A. Market Access:**

**AG/S 1** Egypt must convert existing (as of 30 June 1995 its WTO accession date) Non-Tariff Measures [NTMs] affecting Agricultural imports into tariff equivalents (“Tariffication”) as either bound duties or bound tariff rate quotas, [Art. 4:2]

[NTMs include:

- quantitative import restrictions
- variable import levies
- minimum import prices
- discretionary import licensing
- non-tariff measures of state trading enterprises
- voluntary export restraints]

[“Bound” refers to the maximum tariff that may be applied at the border committed to by the Member]

unless

- a) They are covered by the “Special Treatment” provisions of Annex 5, e.g.,
- relate to products that constitute less than 3% of domestic consumption in the base period (1986-88)
  - receive no export subsidies
  - are subject to effective production restrictions
  - are designated in Member’s schedule as subject to special treatment for non-trade concerns, e.g., “ST-Annex 5” in Section I-B of Part I of the Member’s Schedules and
  - permit minimum access specified in Section I-B of Part I of Member’s Schedules of from 4 to 8% of domestic consumption during the implementation period (10 years 1995 - 2004).

[Annex 5.1]

or

- b) They cover a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and comply with the Special Treatment requirements above and

provide:

- minimum access requirements of from 1 to 4% of corresponding domestic consumption during the base period
- and
- appropriate market access opportunities have been provided for in other products under the Agreement.

[Annex 5:7]

**AG/S 2**

Egypt may not maintain or introduce any new NTMs unless

- a) they are covered by the foregoing Special Treatment provisions
- or
- b) are authorized under the “Special Safeguard” Provision of Article 5 to deal with:
  - import volume surges above
  - or
  - import prices below certain “triggers”

[Art. 4.2]

**But**

- a) In order to avail itself of such safeguards, Egypt must have reserved its right to invoke them by having designated each such product in its Schedules with “SSG” as being subject to Special Safeguards [Art. 5:1]
- b) Safeguards may not be applied to imports within the initial tariff quota.

**AG/S 3**

Egypt must bind all agricultural import tariffs except that:

- a) Obligations to tariff and bind all NTMs and other agricultural tariffs does not apply to import restrictions maintained by developing countries for balance-of-payments concerns under provisions of GATT’94 or other multilateral trade agreements
- b) does not apply to products qualifying for Special Treatment under Annex 5
- or to
- c) Special Safeguards measures authorized under Art. 5.

**AG/S 4**

For *developing* countries like Egypt, existing *bound* tariffs and *bound* tariffied *NTMs* must be *reduced*:

- a) by an overall unweighted average of 24% and
- b) by a minimum 10% per specific product (tariff line)

**with reductions implemented from:**

- a) *bound* tariffs existing as of 01 January 1995  
and
- b) *unbound* tariffs as actually applied in September 1986 over 10 years  
(1995 – 2004)

**but also note that:**

- 1) According to the WTO these percentage figures are “*targets* used to calculate countries legally-binding ‘schedules’ of commitments . . . it is the tariff commitments listed in the *schedules* that are legally binding.” The tariff levels are those found in Section 1 of a country’s schedules appended to the Marrakesh Protocol to the Agreement Establishing the WTO.
- 2) Under “special and differential treatment” provisions for developing country Members, commodities subject to *unbound* tariffs at the beginning of the Uruguay Round may be *bound* at ceilings actually higher than pre-existing applied tariffs (*in place of* reduction requirements) and are subject to lower minimum access requirements.

**B. Subsidies – Export Subsidies**

**AG/S 5** Egypt *may not* provide export subsidies except:

- in conformity with the Agreement on Agriculture  
and
- with subsidy reduction commitments specified in its  
Schedules  
[Art. 8]

**AG/S 6** Even those subsidies *permitted* under Art. 9:1 subject to reduction commitments *may not* be applied in a manner which results in, or which threatens to lead to, circumvention of a Member’s export subsidy commitments, nor shall non-commercial transactions be used to circumvent such commitments. [Art. 10:1]

[Export subsidies subject to reduction commitments under Article 9 include:

- direct subsidies contingent on export performance
- disposal for export of non-commercial stocks at a price lower than the comparable price in the domestic market
- payments on the export of an agricultural product financed by governmental action
- subsidies on agricultural products contingent on their incorporation into exported products

Art. 9:1 & 9:4]



and  
such subsidies are subject to “bindings” limiting the quantity/  
volume and/or value/budgetary outlays for such subsidization  
[Art. 9:2]

with  
required reduction [from a 1986-1990 based period] of:

- a) 24% in the value/budgetary outlays for export subsidies  
and
- b) 10% reduction in the quantity of subsidized products over a 10 year  
period (1995-2004). [Art. 15].

[Note: Unlike tariffs and domestic support reduction figures which  
are “targets”, these reduction figures are legally binding.]

**AG/S 7** Egypt may not expand export subsidies *above* reduction  
levels reached after fulfilling the 10 year reduction commitments.

**C. Subsidies – Domestic Support**

**AG/S 8** Egypt may not provide domestic support subsidies  
if:

- a) they have not been *specified* in reduction commitments  
appearing in Part IV, Sections  
  
I or II of its Schedules [Art. 3:3]  
or
- b) are in *excess* of reduction commitment levels specified in  
Section I of Part IV of its Schedule  
[Art. 3.2]  
or
- c) if *exempted* from reduction commitments, if they have *more*  
than minimal trade-distorting effects on production  
[Annex 2:1]  
or
- d) are *exempted* under Art. 5:5(a) as direct payments under  
production-limiting programs based on fixed areas and  
yields, made on 85% or less of the base level of production,  
or are livestock payments made on a fixed number of head.  
unless  
they are *authorized*
- e) under Art. 6:2 (“Green Box” Subsidies)  
or
- b) under Annex 2:2 (“Government Service Programs”)

[*Green Box* Subsidies include:

- government assistance to encourage agricultural  
and rural development that are an integral part  
of development programs of developing countries

- investment subsidies generally available to agriculture in developing countries
- agricultural input subsidies generally available to low-income or resource-poor producers in developing countries
- support to encourage diversification from illicit narcotic crops

[Art. 6:2]

[*Government Service Programs* include:

- General services or benefits not involving direct payments to producers or processors
- Accumulation & holding of stocks for food security purposes
- Domestic food aid in kind or direct payments
- Decoupled income support
- Governmental financial participation in income insurance and income safety-net programs
- Payments for relief from natural disasters (including crop insurance)
- Structural adjustment assistance through producer retirement, resource retirement, or investment aid programs
- Payments under environmental programs and
- Payments under regional assistance programs

#### **AG/S 9**

Where *no* total AMS [Aggregate Measurement of Support] domestic support commitments are specified in Part IV of Egypt's Schedule, it may not provide domestic support *in excess of* the *de minimis* levels therefor set forth in Art. 6:4, e.g.,

- for *product-specific* support, in excess of 10% of the total value of production of the basic product in the year
- for *non product-specific* support, in excess of 10% of the Member's *total* agricultural production.

[Arts. 6:4(a) & (b); 7:2(b)]

#### **AG/S 10**

Where a total AMS *is* specified in Part IV of a developing country's schedule its reduction commitments are to be reduced from a based period of 1986-1988 by a total of 13% in equal annual installments over a 10 year (1995-2004) implementation period [Arts. 3.2, 15:2]

but note:

According to the WTO, these figures are “*targets* used to calculate countries’ legally-binding ‘schedules’ of commitments . . . it is the tariff commitments listed in the *schedules* that are legally binding.”

## II. Transparency Obligations

### A. Transparency Obligations – Procedural

(none)

### B. Transparency Obligations - Consultation

**AG/TC 1** A Member taking Special Safeguards action under Article 5:4 (imposition of additional *duties*) must afford any “*interested*” [read “affected”] Members the opportunity to consult with it with regard to the *conditions of application* of such action. [Art. 5:7]

**AG/TC 2** A Member taking Special Safeguards action under Article 5:1(b) [*any* Safeguards action, e.g., price or volume-based restraints] must afford any “interested” Members the opportunity to consult with it with regard to the *conditions of application* of such action. [Art. 5:7]

**AG/TC 3** Any Member instituting an *export prohibition* or *restriction* shall consult, *upon request*, with any other Member having a substantial interest as an importer with respect to any matter related to the measure in question. [Art. 12:1(b)]

**AG/TC 4** Members are required to consult *annually* in the Committee on Agriculture with respect to their participation in the normal growth of world trade in agricultural products within the framework of commitments on export subsidies of the Agreement on Agriculture. [Art. 18:5]

[Note: Article 19 of the Agreement, on “Consultation and Dispute Settlement” incorporates the requirements for consultation contemplating or incident to *dispute settlement* of GATT ’94 Articles XXII and XXIII, respectively, as elaborated and applied by the Dispute Settlement Understanding.]

### C. Transparency Obligations - Notifications

#### 1) Market Access

**AG/TN 1** Egypt is required to give notification to the WTO Committee on Agriculture of any *Special Safeguards* action with respect to any product with regard to which NTMs have been tariffied and which is designated for Special Safeguards (“SSG”) in its Schedule “as far in

Advance as may be practicable” but “in any event within 10 days of the implementation of such action.” [Art. 5:7] \*

[Note that the WTO and/or Committee on Agriculture, under Article 18.2 has imposed both *annual* and *ad-hoc* reporting requirements with regard to this notification obligation, and specified Table MA:3 for Price-Based Safeguards and Table MA:4 for Volume-Based Safeguards.]

[Note Also that, under the general notifications authority of Art. 18.2, The WTO requires notification of a Member’s annual *reservation* of its right to invoke Special Safeguards.]

**AG/TN 2** Egypt is required to notify the Committee on Agriculture of any Special Safeguards action involving imposition of *additional duties* under Art. 5:1 and 5:4 within 10 days of the implementation of such action (or, for perishable and seasonal products, upon the first action in any period).

**2) Domestic Support**

**AG/TN 3** Egypt must notify to the Committee on Agriculture, any *new* Domestic Support measure – or modification of an existing measure – for which *exemption from reduction commitments* is claimed under either Art. 6 (Green Box) or Annex 2. [Art. 18:3]

[Note that the WTO and/or the Committee on Agriculture have expanded this requirement under Article 18.2 into *annual* (Table DS: 1) and *ad-hoc* (Table DS:2) reporting requirements, the annual report due 90 days after the end of the year and the *ad-hoc* due within adoption of such measure.]

**3) Export Prohibitions/Restrictions**

**AG/TN 4** Egypt must give (*ad-hoc*) notice “as far in advance as practicable” to the Committee on Agriculture advising of the institution of any export prohibition or restriction. [Art. 12:1(b)] The Committee has also instituted an *annual* report requirement (Table ER:1) under Art.18.2.

**4) General Notification Requirements**

Article 18.2 states that reviews by the Committee on Agriculture of progress in implementation of commitments shall be undertaken “. . . on the basis of notifications . . . and at such intervals as shall be determined . . . [presumably by the Committee]. Under this *general* authority, the WTO has imposed the following notification obligations:

- AG/TN 5**                    An *initial* notification re: administration of agricultural quotas/commitments in Section IA or IB of Egypt's Schedule (Table MA:1). It was due, if *applicable*, in 1995.
- AG/TN 6**                    An *annual* notification of tariffs and other quota commitments recorded in Section IA or IB of Part I of Egypt's Schedule (Table MA:2), due 30 days after the end of calendar year.
- AG/TN 7**                    An *annual* notification of Egypt's reservation of its *right* (under designations thereof with regard to any product in Section IA of its Schedule) to invoke Special Safeguards measures (Table MA:5).
- AG/TN 8**                    An *annual* notification for Members maintaining export subsidies of yearly budgetary outlays and quantity reduction commitments (Table ES:1). The annual report is due 60 to 120 days after the end of the year *or a nil* report is required 30 days after the end of the year.
- AG/TN 9**                    An *annual* notification of total exports and annual export subsidy commitments (Table ES:2), due 60 to 120 days after the end of the year *or a nil* report due within 30 days after end of the year.

**Agreement on the Application of  
Sanitary and Phytosanitary Measures  
("SPS")**

**I. Substantive Obligations**

[Note: The SPS Agreement defines SPS Measures as "Any measure applied:

- (a) to protect animal or plant life or health . . . from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- (b) to protect human or animal life or health . . . from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
- (c) to protect human life or health . . . from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests;
- (d) to prevent or limit other damage . . . from the entry, establishment, or spread of pests.

[SPS Agreement, Annex A, Para. 1]

[Note also: The SPS Agreements states that SPS Measures may include:

- all relevant laws, decrees, regulations, requirements and procedures including end product criteria;
- processes and production methods;
- testing, inspection, certification and approval procedures;
- quarantine treatments including relevant requirements associated with the transport of animals or plants, or with materials necessary for their survival during transport;
- provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and
- packaging and labelling requirements directly related to food safety. [SPS Agmt., Annex A, Para. 1]

**A. Use of SPS Measures**

- SPS/S 1** The adoption and application of SPS measures by the GOE may *not* be *inconsistent* with the provisions of the SPS Agreement. [Art. 2.1]
- SPS/S 2** Egypt may apply SPS measures *only*:
- a) to the extent necessary to protect human, animal or plant life or health
  - b) if based on *scientific principles*, and
  - c) they are not maintained without sufficient *scientific evidence*.
- [Art. 2.2]
- SPS/S 3** Egypt must ensure that its SPS measures do not *arbitrarily* or *unjustifiably* discriminate between Members where identical or similar conditions prevail, including between Egypt and other Members. [Art. 2.3]
- SPS/S 4** Egypt's SPS measures must not be applied in a manner which would constitute a *disguised restriction* on international trade. [Art. 2.3]
- SPS/S 5** Where the appropriate level of SPS protection allows scope for the *phased* introduction of new SPS measures, longer time-frames for compliance should be accorded on products of interest to *developing* country members so as to maintain opportunities for their exports. [Art. 10.2]
- SPS/S 6** Egypt must ensure that their SPS measures are adapted to the SPS characteristics of the area (whether all or a part thereof) from which the product *originated* and to which it is *destined*. In assessing the SPS characteristics of a region, the GOE must take into account:
- the *level of prevalence* of specific diseases or pests;
  - the existence of *eradication* or *control* programs; and
  - appropriate *criteria* or *guidelines* developed by relevant *international* organizations. [Art. 6.1]
- SPS/S 7** In determining pest- or disease-free areas or low pest or disease prevalence, Egypt must take into account:

- geography;
- ecosystems;
- epidemiological surveillance; and
- the effectiveness of SPS controls.

[Art. 6.2]

**SPS/S 8** As an *exporting* country, if Egypt claims that areas within its territory are pest- or disease-free or areas of low pest or disease prevalence, it must provide the *necessary evidence* thereof, for which reason, it must give to the importing Member, *upon request, reasonable access* for inspection, testing or other relevant procedures. [Art. 6.3]

**SPS/S 9** Egypt must formulate and implement *positive* measures and mechanisms for the observance of the provisions of the SPS Agreement by *other* than central government bodies. [Art. 13]

**SPS/S 10** Egypt must take such reasonable measures as may be *available* to it to ensure that *non-governmental* entities, as well as *regional* bodies in which Egyptian entities are members, *comply* with the SPS Agreement and that the central government does not *rely* on the services of such organizations for the implementation of its SPS measures if such entities do not *comply* with the SPS Agreement. [Art. 13]

**SPS/S 11** The GOE must not take any measures that have the effect, directly or indirectly, of *requiring* or *encouraging* non-governmental or regional entities or local government bodies to act in a manner *inconsistent* with the SPS Agreement. [Art. 13]

**B. Harmonization of SPS Measures**

**SPS/S 12** Egypt must base its SPS measures on *international* standards, guidelines or recommendations:

- a) where they *exist*
- and*
- b) unless otherwise provided for in the SPS Agreement (in particular Art. 3.3)

[Art. 3.1]

[Note: SPS measures which *conform* to *international* standards, guidelines or recommendations shall be *deemed necessary* to protect human, animal, or plant life or health and *presumed consistent* with the GATT'94 and the SPS Agreement. Art. 3.2]



**SPS/S 13** If the GOE operates a system for the approval of the use of food additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs which prohibits or restricts access to its domestic markets for products based on the *absence* of approval, it must *consider* the use of a relevant *international* standard as the basis for access until a final determination is made.  
[SPS/Annex C, Para. 1 last sub-paragraph]

**SPS/S 14** Egypt may introduce or maintain SPS measures which result in a *higher level* of SPS protection than the relevant *international* standard, guideline, or recommendation:

- a) *if there is scientific justification* for it  
*or*
- b) as a consequence of the level of SPS protection it determines to be appropriate in accordance with the *Risk Assessment* provisions of Article 5, paras. 1 through 8.

[Art. 3.3]

[Note: The SPS Agmt. provides that: “. . . there is a *scientific justification* if, on the basis of an examination and evaluation of available scientific information in conformity with. . . the Agreement, a Member determines that the relevant international standards, guidelines or recommendations *are not sufficient* to achieve its appropriate level of SPS protection. Art. 3.3, Ft.nt. 2]

**SPS/S 15** *Notwithstanding* [SPS/S 8] any SPS measures adopted or maintained by the GOE which result in a level of SPS protection *different* from that which would be achieved by measures based on *international* standards, etc., must *not* be inconsistent with any *other* provisions of the SPS Agreement. [Art. 3.3]

**SPS/S 16** Egypt must accept the SPS measures of other Members as *equivalent*, even if these measures *differ* from its own or those of other Members trading in the *same* product, *if* the exporting Member objectively *demonstrates* to the *satisfaction* of the GOE that its measures achieve its *appropriate* level of SPS protection. [Art. 4.1]

[Note: for this purpose, the exporting Member must give reasonable access to Egypt for inspection, testing, and other relevant procedures. [Art. 4.1]

**C. Assessment / Appropriate Levels of Risk**

[Note: “Risk Assessment” is defined in the SPS Agreement

as “the evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing member according to the SPS measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on humans or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages, or feed-stuffs. SPS/Annex A, Para. 4]

**SPS/S 17** Egypt must ensure that its SPS measures are based on an *assessment*, as *appropriate* to the circumstances, of the *risk* to human, animal or plant life or health, *taking into account* risk assessment techniques developed by relevant *international* organizations.  
[Art. 5.1]

**SPS/S 18** In the assessment of risk, Egypt must take into account: *Scientific Factors*:

- *available* scientific evidence;
- relevant processes and production *methods*;
- relevant *inspection, sampling, and testing* methods;
- prevalence of *specific* diseases or pests;
- existence of *pest- or disease-free* areas;
- relevant *ecological and environmental* conditions; and
- *quarantine* or other treatment.

[Art. 5.2]

**SPS/S 19** In the assessment of risk, Egypt must take into account the: *Economic Factors*:

- potential damage in terms of *loss of production or sales* in the event of the entry, establishment, or spread of a pest or disease;
- *costs of control or eradication* in its territory ; *and*
- relative *cost-effectiveness of alternative approaches* to limiting risk.

[Art. 5.3]

**SPS/S 20** Egypt must, when determining the appropriate level of SPS protection, *take into account* the objective of *Minimizing negative trade effects*. [Art. 5.4]

**SPS/S 21** In the determination of the appropriate level of SPS Protection, Egypt *must*:

- a) avoid *arbitrary or unjustifiable* distinct-

ions if such distinctions result in *discrimination* or a *disguised restriction* on *international trade*. [Art. 5.5]

*and*

- b) *ensure* that its SPS measures are not more *trade-restrictive* than *required* to achieve their appropriate level of SPS protection, taking into account *technical* and *economic* feasibility. [Art. 5.6]

[Note: The SPS Agmt. states that “a measure is *not* more trade-restrictive than required *unless* there is *another* measure, *reasonably available* taking into account technical and economic feasibility, that achieves the appropriate level of SPS protection and is *significantly less restrictive* to trade. Art. 5.6, Ft.nt. 3]

#### SPS/S 22

Where, in cases where relevant scientific evidence is insufficient, Egypt may *provisionally* adopt SPS measures on the basis of available pertinent information, but it must:

- a) seek to obtain the *additional* information necessary for a *more objective* assessment of risk
- and*
- b) *review* the SPS measure accordingly within a *reasonable* time.

[Art. 5.7]

## II. Transparency Obligations

### A. Transparency Obligations – Procedural

#### 1. “Normal” Adoption/Promulgation – General Rules

##### SPS/P 1

If Egypt does *not* apply an *international* standard, guideline, or recommendation in adopting an SPS measure as a condition for importation, it *should* provide an indication of the *reasons* therefore, indicating whether or not it considers the international standard, etc., is not *stringent* enough to provide an appropriate level of SPS protection. [Art. 12.4]

##### SPS/P 2

Egypt must ensure that all SPS regulations that have been adopted are published *promptly* in such a manner so as to enable interested Members to become *acquainted* with them. [SPS/Annex B.1]

##### SPS/P 3

Egypt must ensure that where copies of documents are requested by interested Members, they are supplied at same price (if any), apart from the cost of delivery,

as to nationals of Egypt (e.g., National Treatment).

[SPS/Annex B.4]

**SPS/P 4** Except in urgent circumstances (see later), Egypt must allow a *reasonable interval* between publication of an SPS measure and its *entry into force* in order to allow time for exporting Members to *adapt* their products and *methods of production* to its SPS requirements.  
[SPS/Annex B.2]

2) **“Normal” Adoption/Promulgation – Specific Rules:**

**SPS/P 5** Egypt must, at an early stage for comments to be taken into account and amendments still introduced, *notify* other Members of:

- *products* to be covered by an SPS regulation
- the *objective* and *rationale* thereof

[SPS/Annex B.5(b)]

**SPS/P 6** Egypt must provide, *upon request* of other Members, copies of the proposed regulation and, whenever possible, *identify* the parts which in substance *deviate* from *international* standards, etc. [SPS/Annex B.5(c)]

**SPS/P 7** Egypt must, without discrimination, allow *reasonable* time for other Members to:

- make comments in writing
- discuss such comments *upon request* and
- *take* the comments and results of the discussions *into account* (in framing the final operative version). [SPS/Annex B.5]

[Note: these rules apply whenever:

- a) a relevant *international* standard, guideline, or recommendation *does not exist*  
*or*
- b) the [technical] content of a proposed SPS regulation is *not the same* as the content of an *international* standard, guideline, or recommendation  
*and*
- c) if the regulation may have a *significant* effect on *trade* of other Members  
*or*
- d) *urgent* problems of health protection have arisen or threaten to arise.

[SPS/Annex B.5 and B.6]

3) **“Urgent” Adoption/Promulgation**

**SPS/P 8** Where “*urgent*” problems of health protection arise or threaten to arise, Egypt may *omit* such of the above steps as it finds *necessary*, *provided* that it *notifies immediately* other Members with regard to:

- the *product(s)* covered
- the *objective* and *rationale* thereof
- the *nature* of the urgent problem.

[SPS/Annex B.6(a)]

**SPS/P 9** Egypt must *upon request*, provide copies of the regulations to other Members. [SPS/Annex B.6(b)]

**SPS/P 10** Egypt must also:

- allow other Members to make *comments* in writing *upon request*  
*and*
- take such comments and the results of the discussions *into account*.

[SPS/Annex B.6(c)]

4) **Local Governments/Non-Governmental Bodies**

**SPS/P 11** Egypt must formulate and implement positive *measures* and *mechanisms* for the observance of the provisions of the SPS Agreement by other than Central government bodies and take measures to ensure that non-governmental bodies, as well as regional bodies, *comply* with the Agreement. [Art. 13]

**SPS/P 12** Egypt may not take measures which *require* or *encourage* local governmental bodies or regional or non-governmental bodies to act in a manner *inconsistent* with provisions of the Agreement. [Art. 13]

5) **Control, Inspection & Approval Procedures – “CIAP”**

[Note: CIAP include: sampling, testing, inspection, certification and approval, or quarantine.

[SPS/Annex A.1 & C.1(c), Ft.nt. 7]

**SPS/P 13** Egypt must observe the provisions of Annex C in its SPS control, inspection, and approval procedures. [Art. 8]

**SPS/P 14** The GOE must ensure that, for each CIAP:

- it is *published*  
*or*
- the *anticipated processing time*

is *communicated* to the applicant.

[SPS/Annex C.1(b)]

- SPS/P 15** The GOE must limit *information requirements* to what is *necessary* for appropriate CIAP. [SPS/Annex C.1(c)]
- SPS/P 16** Upon receipt of the application, the GOE must *promptly* examine the completeness of the documentation And inform the applicant in a *precise* and *complete* manner of *all* deficiencies. [SPS/Annex C.1(b)]
- SPS/P 17** The GOE must transmit to the applicant *as soon as possible* the *results* of the procedure in a *precise* and *complete* manner so that *corrective* action may be taken if *necessary*. [SPS/Annex C.1(b)]
- SPS/P 18** *Upon request*, the GOE must advise the applicant of the *current stage* of the procedure, with any *delay explained* [SPS/Annex C.1(b)]
- SPS/P 19** The GOE must respect the *confidentiality* of information regarding imported products in the *same* manner as for *domestic* products (e.g., National Treatment) [SPS/Annex C.1(d)]
- SPS/P 20** The GOE must limit any requirements for CIAP of *individual specimens* to what is *reasonable* and *necessary*. [SPS/Annex C.1(e)]
- SPS/P 21** Fees charged by the GOE for CIAP on imported products must be *equitable* in relation to those charged on *like* domestic products or those originating in any other Member and should be *no higher* than the *actual* cost of the service. [SPS/Annex C.1(f)]
- SPS/P 22** The GOE must use the *same* criteria in the siting of Facilities used in CIAP and the selection of *samples* of Imported products as for domestic products (e.g., National Treatment). [SPS/Annex C.1(g)]
- SPS/P 23** If the GOE *changes product specifications* subsequent to its control and inspection, the procedures for the *modifications* must be limited to what is *necessary* to determine that *adequate confidence* exists that the product *still* meets the regulation concerned. [SPS/Annex C.1(h)]
- SPS/P 24** Egypt must provide applicants a procedure to review *complaints* concerning the operation of the CIAP and take *corrective action* when a complaint is *justified* [SPS/Annex C.1(I)]

**B. Transparency Obligations – Consultation**

**SPS/C 1** Egypt shall, *upon request*, enter into consultations with the aim of achieving bilateral and multilateral agreements on *recognition* of the *equivalence* of specified SPS measures. [Art. 4.2]

**SPS/C 2** When another Member believes that an Egyptian SPS measure is *constraining* its exports, or has the potential to do so, *and* that such measure is *not* based on relevant *international* standards, guidelines, or recommendations *or* these do *not exist*, Egypt must *upon request* provide an explanation of the *reasons* for such SPS measures to the Member so requesting.  
[Art. 5.8]

**SPS/C 3** Consultations requested by Egypt with respect to any matter affecting the operation of the SPS Agreement if undertaken with a view toward dispute resolution must be taken in accordance with the provisions of GATT Art. XXII as elaborated and applied by the Dispute Settlement understanding, except as otherwise provided in the SPS Agreement. [Art. 11.1]

**C. Transparency Obligations – Notifications**

**SPS/N 1** Egypt must notify changes in its SPS measures and provide information on their SPS measures in accordance with the transparency provisions of Annex B. [Art. 7]

**SPS/N 2** Egypt must, at an early stage for comments to be taken into account and amendments still introduced, *notify* other Members of:

- *products* to be covered by an SPS regulation
- *the objective* and *rationale* thereof

[SPS/Annex B.5(b) – Note: Same as SPS/P 5]

**D. Transparency Obligations – Inquiry/Contact Points**

**SPS/EC 1** Egypt must ensure that one *inquiry point* exists which is responsible for answers to all *reasonable* questions from interested Members and the provisions of relevant documents. [SPS/Annex B.3]

**SPS/EC 2** Egypt must designate a *single* central government authority as responsible for the implementation . . . of the provisions concerning *notification*, e.g., “notification authority”. [SPS/Annex B.10]

**The Agreement on Textiles and Clothing**  
**(“ATC”)**

**I. Substantive Obligations**

**General Provisions**

**ATC/S 1** Egypt must *terminate any* restrictions on Textiles/Clothing products existing at the time of entry into effect of the Agreement on Textiles and Clothing (ATC) [01 January 1995] that were not *notified* within 60 days of such entry into effect to the Textiles Monitoring Body (TMB). [Art. 2:4]

**ATC/S 2** Any *unilateral* measure(s) taken by Egypt under Article 3 of the Multifibre Agreement (MFA) *prior* to entry into effect of the ATC may *remain* in effect for the period specified therein but for no longer than *12 months* and then *only if* it was reviewed by the MFA Textile Surveillance Body (TSB). [Art. 2.5]

**ATC/S 3** All restrictions on Textiles/Clothing products *other than* those:

- maintained under the MFA,
- notified to the TMB in accordance with Art. 2.4,  
*and*
- covered by the integration and staging requirements  
ATC Article 2

must be *either*:

a) brought into *conformity* with the *GATT’94* within one year of the entry into force of the ATC

*or*

b) *phased out* progressively according to a program to be presented not later than six months after entry into effect of the ATC to the TMB by the Member maintaining such restrictions [Egypt, if applicable], which program shall provide for all such restrictions to be phased out over the duration of the ATC, e.g., 01 January 1995 to 01 January 2005.  
[Art. 2.1-5]

**ATC/S 4** Under the ATC, Egypt has agreed not to introduce any *new* quantitative restrictions on textile/clothing products or other Member countries of the WTO *other than*:

a) Those notified to the TMB under Art. 2:1 or the ATC *or* Articles 7 or 8 of the MFA



- b) Those introduced in accordance with the provisions of the ATC,  
*or*
- c) Those introduced under relevant GATT 94 provisions [but not including GATT 94 Art. XIX Safeguards actions taken with respect to products *not* integrated into the GATT 94 under the ATC (see below).  
[Art. 2.4 and Footnote 3]

**ATC/S 5**

Egypt has agreed that the introduction of *changes* (e.g., categorization of textiles/clothing products, rules, procedures, practices (including those related to the Harmonized System) occurring incident to the implementation or administration of restrictions applied and/or notified under the ATC, should not:

- a) upset the *balance* of rights and obligations between Members concerned under the ATC
- b) *adversely affect* the market access available to a Member
- c) impede the *full* utilization of such access, *or*
- d) *disrupt* trade under the ATC.  
[Art. 4:2]

**B. PRODUCT (Re-)Integration Into the GATT**

**ATC/S 6 First Integration**

Except as otherwise provided for in the ATC, on *30 June 1995* [when the ATC became effective as to Egypt upon its accession to the WTO] Egypt was required to have integrated into GATT 94 (e.g., removed pre-existing MFA or other textile/ clothing quotas thereon) products which in 1990 accounted for not less than *16%* of the total volume of products covered by the ATC [e.g., listed in the ATC *Annex*], which integrated products must have included products from each of the following four groups:

- Tops and Yarn
- Fabrics
- Made-Up Textile products
- Clothing

[Art. 2:6]

**ATC/S 7 Second Integration**

Except as otherwise provided for in the ATC, on *01 January 1998*, Egypt was required to have integrated into GATT 94 (e.g., removed existing MFA and other quotas thereon) products which in 1990 accounted for not less than *17%* of the total volume of products

covered by the ATC, which products must have included products from each of the four categories specified above. [Art. 2:8A]

**ATC/S 8 Third Integration**

Except as otherwise provided for in the ATC, on *01 January 2002* Egypt must integrate into GATT 94 (e.g., remove MFA and other quotas thereon) products which in 1990 accounted for not less than *18%* of the total volume of products covered by the ATC, which products must include products from each of the four categories specified above.  
[Art. 2:8B]

**ATC/S 9 Fourth Integration**

Except as otherwise provided for in the ATC, on *01 January 2005* Egypt must have integrated into GATT 94 (e.g., remove MFA and other quotas) on *all* (100%) restrictions on *all* (100%) Textile/Clothing products.  
[Art. 2:8C]

**C. RESTRICTION Volume Growth Rate Requirements**

**ATC/S 10 Stage 1: Beginning to 36<sup>th</sup> Month - (01 January 1995 – 31 December 1997)**

Except as may otherwise be:

- decided under ATC Art. 8:12  
(Dispute Resolution determinations)
- or*
- determined under ATC Articles 2 or 6  
(Safeguard levels of restraint),

During Stage 1, Egypt must in *each year* (1995, 1996, 1997) increase the level of existing MFA bilateral [quantitative] restrictions [notified under Art. 2:1] in force for the 12 month period prior to the ATC's entry into force [01 January 1995] by *not less* than:

- a) the MFA growth rate established for each such restriction
- b) increased by *16%* e.g.,

[MFA Growth Rate] X 16% = First Stage Annual Restriction  
Volume Increase

[Art. 2:13]

**ATC/S 11**      **Stage 2: 37<sup>th</sup> to the 84<sup>th</sup> Month**  
**(01 January 1998 – 31 December 2001)**

Except as may otherwise be decided under ATC Art. 8:12 or determined under ATC Articles 2 or 6,

During *Stage 2*, Egypt must in *each year* (1998, 1999, 2000, 2001) increase the level of existing MFA bilateral [quantitative] restrictions [notified under Art. 2:1] remaining from Stage 1 by *not less* than:

a) the MFA growth for such restrictions *during Stage 1*

b) increased by 25%, e.g.,

$$\begin{array}{l} \text{[First Stage Annual]} \quad \times \quad 25\% \quad = \quad \text{Second Stage Annual} \\ \text{[ Increase ]} \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \text{Restriction Volume Increase} \\ \text{[Art. 2:14(i)]} \end{array}$$

**ATC/S 12**      **Stage 3: 85<sup>th</sup> to the 120<sup>th</sup> Month**  
**(01 January 2002 – 31 December 2004)**

Except as may otherwise be decided under ATC Art. 8:12 or determined under ATC Articles 2 or 6,

During *Stage 3*, Egypt must in *each year* (2002, 2003, 2004) increase the level of existing MFA bilateral [quantitative] restrictions [notified under Art. 2:1] remaining from Stage 2 by *not less* than:

a) the MFA growth for such restrictions during *Stage 2*

b) increased by 27%, e.g.,

$$\begin{array}{l} \text{[Second Stage Annual]} \quad \times \quad 27\% \quad = \quad \text{Third Stage Annual} \\ \text{[ Increase ]} \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \text{Restriction Volume Increase} \\ \text{[Art. 2:14(ii)]} \end{array}$$

**D.      Application of GATT 94 Article XIX Safeguards**

**ATC/S 13**      If Egypt initiates a safeguards measure under GATT 94 Article XIX with respect to a particular product during a period of one year following its integration into the GATT 94 under Art. 2 of the ATC, the provisions of Article XIX must be observed [Art. 2:19]

*Except that:*

- if, incident to application of Article XIX safeguards, it utilizes non-tariff means (quantitative restrictions such as “Quotas”), such quotas shall be applied as set forth in GATT 94 Article XIII:2(d) (e.g., *allocation of*

*shares* of such quota among exporting Members affected) at the request of any such exporting Member whose exports of such product are subject to quotas at any time during the one-year period prior to initiation of the safeguard measures [Art. 2:20]

*and*

- the applicable level of such quotas shall not reduce the affected exports *below the level of* a recent representative period – in general, the average of exports from the affected exporting member in the last three representative years for which statistics are available. [Art. 2:20]

[Note: Egypt must allow the affected *Exporting Member* to administer such quotas (in effect as an export restriction like a Voluntary Export Restraint) [ATC Art. 2:20, 4:1]

- a) Exporting Members affected by such restrictions do not have the right to suspend concessions or obligations otherwise allowed under GATT 94 Article XIX:3(a). [ATC Art. 2:20]
- c) Importing Members *shall not* be obliged to *accept* shipments of products in excess of the quotas applied and notified under Article 2 (GATT 94 Art. XIX Safeguards) or under ATC Art. 6 (Transitional Safeguards). [ATC Art. 4:1]
- d) Members implementing quotas under ATC Art. 2 must make applicable with regard thereto all *flexibility* provisions (e.g., Swing, carryover, and carry forward) provided for under the MFA bilateral agreements for the 12 month period preceding entry into effect of the ATC, but *may not* impose aggregate quantitative limits on the *combined* use of such provisions. [Art. 2:16]
- e) Members implementing restrictions on the day preceding entry into effect of the ATC on exporting Members whose applicable restrictions represented 1.2% or less of the total volume of restrictions applied by the importing Member as of 31 Dec. 1991, must have provided such exporting members “meaningful improvement in access for their exports” upon the entry into effect of the ATC through advancement by one stage of the growth rates set forth in Art. 2:13 and 2:14 [e.g., implementing *Stage 2* beginning 01 Jan. 1995 or *Stage 3* beginning 01 Jan 1998] or through such equivalent changes as may be mutually agreed. [Art. 2:18]

## **E. Application of ATC Transitional Safeguards**

**ATC/S 14** Members which did not, as of the date of entry into effect of the ATC, maintain restrictions on products now covered by the ATC, were

required to *notify* the TMB within 60 days of the entry into effect of the ATC – and annually since then - of whether or not they wished to retain (reserve) the right to use Transitional Safeguards authorized under Article 6 of the ATC. [Art. 6:1]

**ATC/S 15**                    *If* Egypt reserved the right to use the ATC Transitional Safeguards, it may only apply such safeguards to products covered by the ATC that have *not*, at the time of such application, *been integrated* into the GATT 94 under the provisions of ATC Art. 2. [Art. 6:1]

**ATC/S 16**                    Egypt may employ ATC transitional safeguards under Art. 6 *only* on the basis of a determination by it that a particular product is being imported into its territory in such increased quantities as to cause *serious damage*, or actual *threat* thereof, to its domestic industry producing like and/or directly competitive products, as *demonstrated* by such increased quantities in total imports of that product and *not* by other factors such as technological change or changes in consumer preferences. [Art. 6:2]

[Note: Substantive conditions and notification/consultation requirements for applying transitional safeguards under ATC Art. 6 are found at Article 6 paragraphs 3 through 16].

## **F.        Administration/Enforcement**

**ATC/S 17**                    Egypt has agreed to establish the necessary legal provisions and administrative procedures to address and take action against circumvention of the ATC, whether by transshipment, rerouting, false declaration concerning country or place of origin, or falsification of official documents, and, consistent with its laws and procedures, to cooperate fully with other Members to address problems arising from circumvention. [Art. 5:1]

**ATC/S 18**                    Egypt has agreed to take necessary action, consistent with its laws and procedures, to prevent, investigate, and, where appropriate, take legal and/or administrative action against circumvention practices within its territory. [Art. 5:3]

**ATC/S 19**                    Egypt has agreed to cooperate, consistent with its laws and procedures, to cooperate fully to establish the relevant facts of circumvention in places of import, export, or transshipment and to cooperate, consistent with its laws and procedures, with the investigation of circumvention practices which increase restrained exports to Members maintaining import restrictions, exchange of documents, correspondence, reports, and facilitate plant visits and contacts. [Art. 5:3]

**ATC/S 20**                    Egypt has agreed that, where sufficient evidence of circumvention exists relative to the true country or place of origin of products covered by the ATC, it should take appropriate action to

address such a problem, including the denial of entry of goods, or where goods have already entered, the adjustment of charges against restraint levels to reflect the true country or place of origin, and, where transshipment has occurred through the territory of any Members, the introduction of restraints thereon.

[Art. 5:4]

**ATC/S 21** Egypt has agreed that, where there is evidence that false declarations as to fibre content, quantities, description, or classification of merchandise, it should take appropriate measures, consistent with its laws and procedures, against the exporters or importers involved. [Art. 5:4]

**G. General Incorporation of GATT 94 Disciplines**

**ATC/S 22** Egypt has agreed that, unless otherwise provided for in the ATC, it will take actions under the ATC in such a manner as to abide by GATT 94 rules and disciplines so as to avoid, *inter alia*, discrimination against imports in the textiles and clothing sector when taking measures for general trade policy reasons. [Art. 1:6, 7:1]

**II. Transparency Obligations**

**A. Transparency Obligations – Procedural - (none)**

**B. Transparency Obligations – Consultation**

**ATC/C 1** Members shall afford to each other adequate opportunity for consultations with respect to any matters affecting the operation of the ATC. [Art. 8:4]

**ATC/C 2** For purposes of implementing the ATC among Members parties to MFA-based bilateral restriction agreements, Members shall consult, upon request, to bring annual QR restrictions into alignment with the 12 month period immediately preceding entry into effect of the ATC. [Art. 2:3]

**ATC/C 3** An importing Member shall consult with affected exporting Members “whenever possible” *prior* to the introduction of changes affecting the administration of restrictions (e.g., categorization of products, rules, procedures or practices). When consultation prior to the implementation of such changes “is not feasible”, the Member initiating them shall “if possible” consult with affected Members within 60 days thereof with a view toward reaching a solution regarding appropriate and equitable adjustments. [Art. 4:2, 4:4]

**ATC/C 4** Whenever an importing Member *believes* that the provisions of the ATC or their ATC-based restrictions are being *circumvented* by

transshipment, re-routing, false declarations concerning country or place of origin, or falsification of documents and that inadequate measures to address such circumvention are being taken by other Members against such circumvention, it should consult with the Members concerned to arrive at a satisfactory solution. [Art. 5:2]

**ATC/C 5** Consultation with other affected Members are required *before* a Member *takes action* to deal with circumvention relating to country or source of *origin* when it has “sufficient evidence” thereof, with a view to arriving at a satisfactory solution. [Art. 5:4]

**ATC/C 6** If a Member believes that the ATC is being circumvented by false declarations as to fibre content, quantities, description, or classification of merchandise covered by the ATC and that *insufficient* measures are being applied by other Members to resolve such circumvention, it should consult with such Members “with a view to seeking a mutually satisfactory solution.” [Art. 5:6]

**ATC/C 7** A Member *proposing* to take action to apply Transitional Safeguards shall seek consultations with the Member(s) that could be affected by such action, providing the information described in Art.6:7. The consultation shall be held without delay and normally be completed within 60 days of the receipt of the request. [Art. 6:7]

**ATC/C 8** If Transitional Safeguard action is taken *provisionally* before consultation “in highly unusual and critical circumstances, where delay would cause damage difficult to repair”, the Member taking such action shall request consultation with affected Members “within 5 working days” of taking the provisional action. [Art. 6:11]

### **C. Transparency Obligations - Notification**

**ATC/N 1** Notification of all MFA-based Quantitative Restrictions (QRs) in force on the day before entry into effect of the ATC (02 January 1995) [One-Time Only – due within 60 days of entry into force of the ATC e.g., 01 March 1995 or, for Egypt, 30 August 1995). [Art. 2:1 & 2:7]

**ATC/N 2** Results of consultations to bring bilateral MFA-based yearly restriction periods into alignment with the 12 month period immediately preceding entry into effect of the ATC [Ad-Hoc] (if applicable to Egypt) [Art. 2:3]

**ATC/N 3** Details regarding products integrated into GATT 94 under the *First Integration* (16% on 01 March 1995 or, for Egypt, 30 August, 1995), by HS lines or categories (One-Time Only, due \_\_\_\_\_). [Art. 2:6, 2:7]

**ATC/N 4** Details regarding products integrated into GATT 94 under the *Second Integration* (17% on 01 January 1998, by HS lines or

categories) (One-Time Only, due 12 months prior to effective date, e.g., 01 January 1997) [Art. 2:8A, 2:11]

- ATC/N 5** Details regarding products integrated into GATT 94 under the *Third Integration* (18% on 01 January 2002, by HS lines or categories) (One-Time Only, due 12 months prior to effective date, e.g., 01 January 2002) [Art. 2:8B, 2:11]
- ATC/N 6** Details regarding products integrated into GATT 94 under the *Fourth Integration* (100% on 01 January 2005, by HS lines or categories) (One-Time Only, due 01 January 2004) [Art. 2:8C, 2:11]
- ATC/N 7** Notification of integration of products into GATT 94 *in advance of* required integration schedule (Ad-Hoc, due three months prior to effective date) [Art. 2:10]
- ATC/N 8** Notification of early elimination of restrictions, effective at the beginning of any agreement year (in advance of staging requirements under Arts. 13 and 14) (Ad-Hoc, due three months prior to effective date of elimination or 30 days with agreement of Member(s) concerned) [Art. 2:15]
- ATC/N 9** Bilateral administrative arrangements agreed to with other Members to carry out the integration and annual QR growth increases under Art. 2 (Ad-Hoc) [Art. 2:17]
- ATC/N 10** *De Minimis* shares (1.2% or less) of exporting Members of an importing Member's (Egypt, if applicable) total volume of restrictions as of 31 December 1991 (Ad-Hoc) [Art. 2:18]
- ATC/N 11** "Meaningful improvement" (advancement of a stage) by exporting Member of QR restriction growth for a *de minimis* exporter subject to restrictions as of 31 December 1991 (Ad-Hoc) [Art. 2:18]
- ATC/N 12** Notification of all *non*-MFA QRs on Textile/Clothing maintained by a Member as of the entry into effect of ATC, whether or not GATT-consistent (or copies of notifications to other GATT/WTO bodies) (One-Time Only, due 01 March 1995) [Art. 3:1]
- ATC/N 13** Restrictions notified under ATC Art. 3:1 [ATCN 12] brought into conformity with GATT 94 within one year from entry into effect of the ATC (One-Time Only, due six months after entry into effect of ATC, e.g., 30 June 1995) [Art. 3:2(a)]
- ATC/N 14** QRs notified under Art. 3:1 [ATC/N 12] for which there is a program of the importing Member for phase-out during the duration of the ATC (One-Time Only, due six months after entry into effect of ATC, e.g., 30 June 1995) [Art. 3:2(b)]



- ATC/N 15** Submission to TMB of copies of notifications submitted to other GATT/WTO bodies regarding any *new* restrictions on textile/clothing products taken under any GATT 94 provision (Ad-Hoc, due within 60 days of their coming into effect) [Art. 3:3]
- ATC/N 16** Changes in implementation of QRs, e.g., rules, procedures, practices, or categorization of products notified by Members introducing such changes (Ad-Hoc) [Art. 5:4]
- ATC/N 17** Notification of agreement by importing Member and affected exporting Members regarding appropriate action to respond to circumvention of QRs under the ATC or, in lieu of such agreement, referral of the matter to the TMB (Ad-Hoc) [Art. 5:4]
- ATC/N 18** Action actually taken by importing Member, whether or not under an agreement with exporting Member(s), to combat circumvention of ATC QRs (Ad-Hoc) [Art. 5:4]
- ATC/N 19** Notification of the retention by a Member (not maintaining ATC Art. 2 restrictions) of its right to use Transitional Safeguards for MFA-restricted products integrated into GATT 94 (One-Time only, due 01 March 1995) (NOTE: notified by Egypt in 1996) [Art. 2:7 para. 2 and 6:1]
- ATC/N 20** Details of restraint measures applied under Traditional Safeguards by reason of an agreement between the importing Member and exporting Member(s) (Ad-Hoc) [Art. 6:9]
- ATC/N 21** Provisional application of Transitional Safeguards restrictions under unusual/critical circumstances to avoid damage by reason of delay (Ad-Hoc, within five working days of such action) [Art. 6:11]
- ATC/N 22** Transitional Safeguards taken in the absence of an agreement, e.g., unilateral action (Ad-Hoc, due 90 days from implementation of the action) [Art. 6:11]
- ATC/N 23** Actions taken by importing Member under ATC Art. 7:1 to abide by GATT 94 rules and disciplines that have a bearing on its implementation of the ATC (Ad-Hoc) [Art. 7:2, Note Art. 1:6]
- ATC/N 24** Notification that a Member is unable to conform with recommendations of the TMB (Ad-Hoc, due one month after receipt of the recommendations) [Art. 8:10]

**WTO:**  
**Agreement on Textiles & Clothing**  
**Product Integration & Restriction Removal**  
**Requirements**  
**(Chart)**

**I. Product Integration**

<u>Date for Action</u>	<u>Integration</u>	<u>Percentage of Req. Integration</u>	<u>Date of Required Notification to WTO</u>	<u>Agmt. Article</u>
Entry into Force of WTO (01 January 1995)	First Integration	16 %	31 Dec 1995	2:7
01 Jan 1998	Second Integration	17 %	01 Jan 1997	2:8A
01 Jan 2002	Third Integration	18 %	01 Jan 2001	2.8B
01 Jan 2005	Final Integration	100 %	01 Jan 2004	2.8C

**II. Restriction Removal/QR Growth [Staging]**

<u>Stage</u>	<u>Month Staging to Be Completed</u>	<u>Initiation Date for Yearly Growth</u>	<u>QR Growth Requirement</u>	<u>Agmt. Article</u>
First	12	01 Jan – 31 Dec 1995	16 % X Applicable MFA Growth Rate	2:13
First	24	01 Jan – 31 Dec 1996	“	2:13
First	36	01 Jan – 31 Dec 1997	“	2:13
Second	48	01 Jan – 31 Dec 1998	25 % of First Stage Growth Rate	2:14(i)
Second	60	01 Jan – 31 Dec 1999	“	2:14(i)
Second	72	01 Jan – 31 Dec 2000	“	2:14(i)
Second	84	01 Jan – 31 Dec 2001	“	2:14(i)
Third	96	01 Jan – 31 Dec 2002	27 % of Second Stage Growth Rate	2:14(ii)
Third	108	01 Jan – 31 Dec 2003	“	2:14(ii)
Third	120	01 Jan – 31 Dec 2004	“	2:14(ii)

**The Agreement on Technical Barriers to Trade**  
**“TBT”**

**I. Substantive Obligations**

**A. Disciplines for Technical Regulations**

[Note: The TBT defines “Technical Regulation” as a “document which lays down product characteristics or their related processes and production methods, with which compliance is *mandatory*.” TBT Annex 1, Para. 1]

**TBT/S 1**                      With respect to technical regulations affecting products imported from another Member Country, Egypt must accord such products treatment *no less favorable* than that accorded products originating in any other country e.g., MFN Treatment. [Art. 2.1]

**TBT/S 2**                      Egypt must ensure that technical regulations are not prepared, adopted, or applied with a view to or the effect of creating *unnecessary* obstacles to trade – technical regulations must not be more trade restrictive than necessary to fulfill a *legitimate* objective. [Art. 2.2]

[Note: “legitimate objectives”, under the TBT, include:  
- national security  
- prevention of deceptive practices  
- protection of human health or safety  
- protection of animal or plant life or health  
- protection of the environment  
[Annex 1, Para.1]

**TBT/S 3**                      Egypt must not maintain technical regulations if:  
- the circumstances or objectives giving rise to their adoption *no longer exist*  
*or*  
- the changed circumstances or objectives can be addressed in a *less* trade-restrictive manner.  
[Art. 2.3]

**TBT/S 4**                      Where technical regulations are required, Egypt must use relevant *international* standards, or relevant parts thereof, *if* such standards *exist* or their completion is imminent *except* when such standards would be an *ineffective* or *inappropriate* means of fulfilling the GOE’s objectives. [Art. 2.4]

[BUT: as a *developing* country, Egypt is *not* expected to use international standards as a basis for its technical

regulations or standards, including test methods (e.g., conformity assessment), which are *not appropriate* to its *development, financial, or trade needs*. Art. 12.4]

**TBT/S 5** Egypt is required to give “positive consideration” to accepting technical regulations of *other* Members as equivalent, *provided* they are satisfied they *adequately* fulfill the objectives of Egypt’s own regulations. [Art. 2.7]

**TBT/S 6** Whenever [the GOE deems it] *appropriate*, Egypt must specify technical regulations based on:  
- product requirements in terms of *performance* rather than  
- design or descriptive *characteristics*. [Art. 2.8]

**TBT/S 7** Egypt must take *reasonable* measures to ensure compliance with the above requirements by local governmental or non-governmental bodies (except for notification). [Art. 3.1]

**TBT/S 8** Egypt may not take measures which require or encourage local governmental or non-governmental bodies to act in a manner *inconsistent* with the above requirements. [Art. 3.4]

**TBT/S 9** Egypt must formulate and implement positive measures and mechanisms to support observance of the above requirements by *other* than central government bodies. [Art. 3.5]

**B. Disciplines for Standards**

[Note: The TBT defines “Standards” as any “document approved by a recognized body that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is *not mandatory*.”  
TBT Annex 1, Para. 2]

**TBT/S 10** Egypt must:  
- ensure that its central government standardizing bodies *accept* and *comply* with the Code of Good Practice for the Preparation, Adoption, and Application of Standards (TBT Annex 3)  
*and*  
- take *reasonable* measures to ensure that local governmental and non-governmental bodies act in a manner *consistent* with the Code of Good Practice. [Art. 4.1]

- TBT/S 11** Egypt may *not* take any measures which have the effect of, directly or indirectly, requiring or encouraging such standardizing bodies to act in a manner *inconsistent* with the Code of Good Practice, *whether or not* such bodies have *accepted* the Code. [Art. 4.1]
- TBT/S 12** An Egyptian standardizing body must accord treatment to products originating in another member country:
- *no less favorable* than that accorded to like products of Egyptian origin [e.g., National Treatment]
- And*
- to like products originating in any *other* country [e.g., MFN Treatment] [Annex 3, Para. D]
- TBT/S 13** An Egyptian standardizing body must ensure that standards are not prepared, adopted, or applied with a view to, or with the effect of, creating *unnecessary* obstacles to trade. [Annex 3, Para. E]
- TBT/S 14** An Egyptian standardizing body must use *international* standards, or relevant parts thereof, as the basis of the standards it develops *if* such standards *exist* or their completion is imminent *except* if such international standards would be *ineffective* or *inappropriate*. [Annex 3, Para. F]
- [BUT: as a *developing* country, Egypt is *not* expected to use international standards as a basis for its standards, including test methods (e.g., conformity assessment), which are *not appropriate* to its *development, financial, or trade needs*. Art. 12.4]
- TBT/S 15** Whenever [the GOE deems it] appropriate, an Egyptian standardizing body must specify standards based on:
- product requirements in terms of *performance* rather than
  - design or descriptive *characteristics*. [Annex 3, Para. I]
- TBT/S 16** The Egyptian national member of ISO/IEC must make *every* effort to become a member and acquire the most advanced membership type possible of *ISONET* or to appoint another body to do so. [Annex 3, Para. K]

**C. Disciplines for Conformity Assessment**

- TBT/S 17** Egypt must ensure that, where a positive

assurance of conformity with technical regulations or standards is required, its competent central government bodies apply the procedural requirements for conformity assessment found TBT Article 5.1 (See – “Transparency Obligations – Procedural”) which are applicable, as well, to local governmental bodies (Art. 7) and non-governmental bodies (Art. 8).  
[Art. 5.1]

**TBT/S 18** Egypt must ensure that, whenever *possible*, the results of conformity assessment procedures in *other* Member Countries are *accepted, even if* those procedures *differ* from its own, *provided* it is *satisfied* such procedures offer an assurance of conformity with applicable technical regulations or standards *equivalent* to its own procedures.  
[Art. 6.1]

**TBT/S 19** Egypt must ensure that its conformity assessment procedures permit, as far as *practicable*, implementation of TBT Article 6.1 (above). [Art. 6.2]

**TBT/S 20** The GOE must take *reasonable* measures to ensure compliance by local governmental or non-governmental bodies with the procedural requirements for conformity assessment in Articles 5 and 6.  
[Art. 7.1, 8.1]

**TBT/S 21** Egypt may *not* take measures which require or encourage local governmental bodies to act in a manner *inconsistent* with the procedural provisions of Articles 5 and 6. [Art. 7.4]

**TBT/S 22** The GOE must ensure that Egypt’s central government bodies rely on conformity assessment procedures operated by non-governmental bodies *only if* these *comply* with the requirements of Articles 5 and 6 (except notification). [Art. 8.2]

**TBT/S 23** The GOE must take *reasonable* measures to ensure that international and regional systems for conformity assessment in which relevant bodies within Egypt are members *comply* with the provisions of Articles 5 and 6.  
[Art. 9.2]

**TBT/S 24** The GOE must not take any measures which have the effect, directly or indirectly, of requiring or encouraging international or regional systems for conformity assessment to act in a manner *inconsistent* with the provisions of Articles 5 and 6. [Art. 9.2]

**TBT/S 25** Egypt must ensure that its central government bodies rely on international or regional conformity assessment systems *only* to the extent that such systems *comply* with applicable provisions of Articles 5 and 6. [Art. 9.3]

[BUT: as a *developing* country, Egypt is *not* expected to use international standards as a basis for its technical regulations or standards, *including test methods* (e.g., conformity assessment procedures), which are *not appropriate* to its *development, financial, or trade needs*. Art. 12.4]

## II. Transparency Obligations

### A. Transparency Obligations – Procedural

#### 1) “Normal” Adoption/Promulgation – Technical Regulations/Conformity Assessment Procedures

Egypt must follow the following transparency *procedures* prescribed in the TBT Agreement for the *adoption or promulgation* of (a) technical Regulations and (b) conformity assessment procedures (“CAP”):

**TBT/P 1** Egypt must publish a *notice* in a publication at an *early appropriate* stage . . . to enable interested parties in other Members to become acquainted with it, that they *propose* to introduce:

- a technical regulation [Art. 2.9.1] or
- a CAP [Art. 5.6.1]

**TBT/P 2** Egypt must provide notification to other Member Countries of the WTO of the *products* to be covered by the

- technical regulation [Art. 2.9.2] or
- CAPs [Art. 5.6.2]

*together with* a brief indication of its *objective and rationale*, such notification to be made at an *early appropriate* stage when amendments can be introduced and comments taken into account.

**TBT/P 3** *Upon request*, Egypt must provide to other Members *particulars or copies* of and identify the parts thereof that *deviate* from relevant *international* standards or relevant guides or recommendations for CAPs issued by *international* standardizing bodies

- technical regulations [Art. 2.9.3]
- CAPs [Art. 5.6.3]

*and*

**TBT/P 4** without *discrimination*, allow *reasonable time* for other

Members to *make comments* in writing, *discuss* such comments *upon request*, and take them *into account* (in framing the final operative version.

- re: technical regulations [Art. 2.9.4]
- re: CAPs [Art. 5.6.4]

[These rules (TBT/P 1-4) apply *whenever*:

- a) a relevant international standard *does not exist* (for technical regulations) or a relevant guide or recommendation issued by an international standardizing body *does not exist* (for a CAP);  
*or*
- b) the technical content of a proposed technical regulation is *not in accordance* with that of relevant international standards or the technical content of a proposed CAP is not in accordance with relevant guides and recommendations of international standardizing bodies  
*and*
- c) either the technical regulation or the CAP may have a *significant effect* on the trade of other Members  
*or*
- d) there are *urgent* problems of safety, health, environmental protection or national security that require *immediate* action
  - re: technical regulations [Art. 2.9, 1.10]
  - re: CAP [Art. 5.6, 5.7]

#### **TBT/P 5**

Whenever Egypt has reached an agreement with one or more other countries on issues related to technical regulations, standards, or CAPs, which may have a *significant* impact on trade, it must make copies thereof available *upon request*. [Art. 10.7]

#### **2) Urgent Adoption/Promulgation – Technical Regulations/CAPs**

But, when there are “*urgent problems*” of safety, health, environmental protection or national security that arise or threaten to arise, Egypt adopt the regulation or the CAP *immediately*, subject to the following requirements:

#### **TBT/P 6**

Egypt must *immediately notify* the WTO of the action taken and indicate (a) the products covered and (b) the objective and rationale of the action taken, *including* the nature of the urgent problems)

- re: technical regulations [Art. 2.10.1]
- re: CAPs [Art. 5.7.1]



- TBT/P 7**                    *Upon request*, Egypt must provide copies to other Members
- re: technical regulations [Art. 2.10.2]
  - re: CAPs [Art. 5.7.2]
- TBT/P 8**                    Without *discrimination*, Egypt must allow other Members to present their *comments* in writing, *discuss* such comments, and take them *into account* (in framing the final, operative version).
- re: technical regulations [Art. 2.10.3]
  - re: CAPs [Art. 5.7.3]
- 3)                    **Other Adoption/Promulgation Rules**
- TBT/P 9**                    Egypt must allow a *reasonable interval* between publication and entry into force in order to allow time for producers in exporting countries to:
- a) adapt their products or methods of production to the technical regulation [Art. 2.12]
  - or
  - b) become acquainted with the new or changed CAPs [Art. 5.8]
- TBT/P 10**                    With regard to CAPs, Egypt must allow a *reasonable interval* between publication of CAPs and their entry into force in order to allow time for producers in exporting Members (“and particularly in *developing* country Members”) to adapt their products or methods of production to the requirements thereof. [Art. 5.9]
- 4)                    **Local Governments/Non-Governmental Bodies**
- TBT/P 11**                    Egypt must ensure that local governments and non-governmental bodies within Egypt observe the *same* foregoing procedural requirements (except for notifications and provision of copies of technical regulations and CAPs which are to be by the central government).
- re: technical regulations [Art. 3.1, 3.2]
  - re: CAPs [Art. 7]
- TBT/P 12**                    Egypt may not take measures which *require* or *encourage* local governmental or non-governmental bodies within Egypt to act in a manner *inconsistent* with the [procedural rules of Article 2 or 5]
- re: technical regulations [Art. 3.4]
  - re: CAPs [Art. 7.4]
  - re: non-governmental bodies/CAP [Art. 8.1]
- TBT/P 13**                    Egypt must formulate and *implement* positive measures and mechanisms for the observance of the procedural rules of Article 2 or 5 by other than central government bodies.

- re: technical regulations [Art. 3.5]
- re: CAPs [Art. 7.5]
- re: non-governmental bodies/CAP [Art. 8.2]

5) **Adoption of Standards**

**TBT/P 14** In the adoption of standards, Egypt must comply with the TBT's *Code of Good Practice* requirements for the *preparation, adoption, and application* of standards – the Code is found in TBT Annex 3. [Art. 4.1]

**TBT/P 15** An Egyptian standardizing (whether governmental or *non-governmental*) must:

- a) publish every six months its *work program* indicating the standards it has adopted or is *preparing* [TBT Annex 3, Para. J]

*And*

- b) make copies thereof available, *upon request*, to any interested party in a Member Country. [TBT/Annex 3, Para. P]

**TBT/P 16** *Before* adopting a standard, an Egyptian standardizing body must allow for a period of at least 60 days for the submission of comments by interested parties – *but* this period can be shortened for reasons of urgency arising from safety, health, or environmental protection. [TBT/Annex 3, Para. L]

**TBT/P 17** The standardizing body must provide a *draft* standard *upon request* of any interested party. [TBT/Annex 3, Para. M]

**TBT/P 18** The standardizing body must “*take into account*” any comments received in preparing the final, definitive standard. [TBT/Annex 3, Para. N]

**TBT/P 19** The standardizing body must *promptly publish* the final standard when it is adopted. [TBT/Annex 3, Para. Q]

**TBT/P 20** The standardizing body must make an *objective effort* to resolve any *complaints* regarding the standard adopted. [TBT/Annex 3, Para. Q]

6) **Administration of Conformity Assessment Procedures**

[Note: “Conformity Assessment Procedures” are “any procedures used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled. TBT/Annex 1, Para. 3]

- TBT/P 21** Egypt must undertake CAPs and complete them in a no *less* favorable order for imports as for like domestic products (e.g., National Treatment) [Art. 5.2.1]
- TBT/P 22** Information required of an applicant for a CAP must be limited to what is *necessary* to such procedure and to determine applicable fees. [Art. 5.2.3]
- TBT/P 23** The standard processing *period* for each CAP must be:  
- *published*  
*or*  
- *the anticipated* processing period *communicated* to an applicant (e.g., exporter, importer, or their government) *upon request* [Art. 5.2.2]
- TBT/P 24** The body conducting the CAP must *promptly* examine the completeness (adequacy) of the documentation and *inform* the applicant of *all deficiencies*. [Art. 5.2.2]
- TBT/P 25** The CAP-administering body must transmit “*as soon as possible*” the *results* of the assessment in a “precise and complete manner” to the applicant so that *corrective* action may be taken if necessary. [Art. 5.2.2]
- TBT/P 26** *Even if* the application has deficiencies, the CAP body must *proceed with the CAP* “as far as *practicable*” if the applicant so requests. [Art. 5.2.2]
- TBT/P 27** *Upon request*, the CAP body must inform the applicant of the *current stage* of the procedure, with any *delay explained*. [Art. 5.2.2]
- TBT/P 28** The CAP body must respect the *confidentiality* of information regarding imported products in the *same* manner as for *domestic* products (e.g., National Treatment). [Art. 5.2.4]
- TBT/P 29** Fees charged for CAP for imports from other Members must be *equitable* in relation to those charged for the assessment of like products of domestic origin (taking into account differences in communication, transport, and other costs) (e.g., National treatment) [Art. 5.2.5]
- TBT/P 30** The *situs* of facilities for CAP and the selection of *samples* should not cause *unnecessary* inconvenience to applicants or their agents. [Art. 5.2.6]
- TBT/P 31** If product specifications are *changed* subsequent to the

CAP, the CAP procedure for the modifications must be limited to what is *necessary* to determine that adequate confidence exists that the product still meets the technical regulation or standard as modified. [Art. 5.2.7]

**TBT/P 32** The GOE must provide applicants a procedure to *review complaints* concerning the operation of the CAP and take *corrective action* when a complaint is justified. [Art. 5.2.8]

#### **7) CAPs: Local Governments/Non-Governmental Bodies**

**TBT/P 33** Egypt must ensure that local governmental and non-governmental bodies follow the CAP administrative procedures prescribed above (except as to notification).  
- re: local governmental bodies [Art. 7]  
- re: non-governmental bodies [Art. 8]

**TBT/P 34** The GOE may not take any measures which *require* or *encourage* local governments, non-governmental bodies, or regional bodies to act in a manner *inconsistent* with the procedural requisites described above.  
- re: local governmental bodies [Art. 7.4]  
- re: non-governmental bodies [Art. 8.1]  
- re: regional bodies [Art. 9.2]

#### **B. Transparency Obligations – Consultation**

**TBT/C 1** When Egypt is preparing, adopting, or applying a technical regulation that may have a significant effect on the trade of another Member Country, it shall, *upon request*, consult there-with to explain the justification for the technical regulation in terms of Article 2:2 to 2:4. [Art. 2.5]

**TBT/C 2** Consultations requested by Egypt with respect to any matter affecting the operation of the TBT Agreement if undertaken with a view toward dispute resolution must be taken in accordance with the provisions of GATT Article XXII as elaborated and applied by the Dispute Settlement Understanding. [Art. 14.1]

**TBT/C 3** In their development and adoption of standards, Egyptian standardizing bodies must afford “*sympathetic consideration*” to, and *adequate opportunity* for, consultation regarding representations with respect to the operation of the Code of Good Practices by standardizing bodies [of other Members] that have accepted the Code and make an *objective* effort to solve any complaints. [TBT/Annex 3, Para. Q]

**TBT/C 4** If Egypt has reached agreement with any other country or countries on issues related to technical regulations, standards

or CAPs which may have a *significant* impact on trade, it and the other Members party to the agreement are “*encouraged*” to consult with other Members for the purpose of concluding similar agreements or of arranging for their participation in such agreement.

[Art. 10.7]

### C. Transparency Obligations – Notification

**TBT/N 1** Whenever Egypt adopts a *technical regulation* under the provisions of the TBT, it must notify other Member Countries with regard to:

- the products covered
- and
- the objective and rationale thereof

at an “*early, appropriate* stage, when amendments can still be introduced and comments taken into account.” [Art. 2.9.2]

**TBT/N 2** If, on the basis of an *urgent* problem of safety, health, environment, or national security, Egypt adopts a *technical regulation* without prior notice or opportunity for consultation under Article 2.10, it must notify *immediately* other Members with regard to:

- the particular technical regulation adopted,
- the products covered,
- the objective and rationale of the regulation,
- and
- the nature of the urgent problem.

[Art. 2.10.1]

**TBT/N 3** Whenever the GOE or an Egyptian standardizing body *proposes* to adopt a Conformity Assessment Procedure (“*CAP*”) which may have a significant impact on the trade of other Members, the GOE shall notify other Members regarding:

- the products to be covered
- the objective and rationale of the procedure

at an “*early appropriate* stage, when amendments can still be introduced and comments taken into account.” [Art. 5.6.2]

**TBT/N 4** If, on the basis of an *urgent* problem of safety, health, environment, or national security, the GOE or an Egyptian standardizing body adopts a CAP without prior notice or opportunity for consultation under Article 5.6.2, it must notify *immediately* other Members with regard to:

- the particular CAP
- the products covered
- the objective and rationale of the CAP
- and
- the nature of the urgent problem.

[Art. 5.7.1]

- TBT/N 5** The GOE must notify other Members describing technical regulations or CAPs maintained or adopted by *local* governments or standardizing bodies, setting forth the information contained in TBT/N 2 or TBT/N 3, *unless* the contents thereof are substantially the *same* as those of the central government previously notified to other Members.
- re: technical regulations [Art. 3.2]
  - re: CAPs [Art. 7.2]
- TBT/N 6** Whenever Egypt has reached an agreement with any other country or countries on issues related to technical regulations, standards, or CAPs which may have a *significant* impact on trade, it or at least one other Member party to such agreement shall notify all other Members regarding:
- the products covered
  - a brief description of the agreement.
- [Art. 10.7]
- TBT/N 7** Egypt must, promptly after the date on which the WTO Agreement entered into force *for it* [30 June 1995],
- a) notify the WTO Committee on Technical Barriers to Trade of measures *in Existence* or *taken [subsequently]* to ensure the implementation and administration of the TBT Agreement  
*and*
  - b) notify any changes in such measures.
- [Art. 15.2]
- TBT/N 8** Egyptian standardizing bodies that have *accepted* or *withdrawn* from the Code of Good Practice [TBT/Annex 3] shall Notify such fact to the *ISO/IEC* Information Center in Geneva.  
[TBT/Annex 3, Para. C]
- TBT/N 9** Egyptian standardizing bodies must notify the *ISO/IEC* of the adoption of their semi-annual work program no later than the date of publication thereof indicating:
- the name and address of such body
  - the name and issue of the publication
  - the period to which the work program applies
  - the price of the publication, and
  - how and where it can be obtained.
- [TBT/Annex 3, Para. J]

**D. Transparency Obligations – Inquiry/Contact Points**

- TBT/EC 1** Egypt must establish one or more *inquiry points* to answer all reasonable inquiries from other Members and interested parties therein. [Art. 10.1]

- TBT/EC 2** If the GOE establishes *more than one* inquiry point, it must:
- a) provide other Members “*complete* and *unambiguous* information on the *scope* of *responsibility* of each such inquiry point. [Art. 10.2]
  - and*
  - b) take all *reasonable* measures to ensure that such inquiry points are able to answer all *reasonable* inquiries from other Members and interested parties therein as well as to provide relevant *documents* or *information* relevant thereto. [Art. 10.3.1]
- TBT/EC 3** The GOE must take such *reasonable* measures as are available to it to ensure that when copies of documents are requested by other Members or interested parties therein, they are:
- made available at an *equitable price*
  - and*
  - are, except for the real cost of delivery, the *same* for nationals of other Members and nationals of Egypt. [Art. 10.4]
- TBT/EC 4** Egypt must designate a *single* central governmental *Notification Agency* responsible for implementing notification requirements under the TBT Agreement. [Art. 10.10]
- TBT/EC 5** If the GOE designates *more* than one central government agencies as responsible for implementation of notification responsibilities, it must provide to other Members *complete* and *unambiguous* information on the scope of responsibility of *each* of such agencies. [Art. 10.11]

**AGREEMENT ON TRADE-RELATED INVESTMENT MEASURES  
("TRIMS")**

**I. Substantive Obligations**

**TRIM/S 1** Egypt may not apply any trade-related investment measure that is inconsistent with:

- a) The National Treatment Requirements of Article III of GATT '94 (paragraph 4) or
- b) The general elimination of quantitative restriction Requirements of Article XI of GATT'94 (Para. 1)

*Unless* otherwise authorized under provisions of GATT '94. [TRIMS Art. 2.1 and Art. 3]

[But, a *developing* country member is free to deviate temporarily from this obligation under the provisions of:

- a) Article XVIII of GATT '94;
- b) The understanding of Balance on Payments Provisions of GATT'94; and
- c) The declaration on trade measures taken for B/P Purposes of 28 Nov. 1979).

[Note: The appendix to the TRIMS states that:

A. TRIMS that are inconsistent with the obligation of *national treatment* under GATT '94 Art. III, paragraph 4 *include* those:

1) which are mandatory or enforceable under domestic law or administrative rulings, or

2) *compliance with which is necessary to obtain an advantage* (incentives)

- a) *and* which impose a "domestic content" requirement in terms of either
  - purchase of inputs or
  - a required local production requirement by volume or value of product

or

b) impose a matching requirement between the value or volume of imports and those of domestic production.

B. TRIMS that are inconsistent with the obligation of *general elimination of quantitative restrictions* under GATT '94 Art. XI, Para. 1, include those



1. which are mandatory or enforceable under domestic law or administrative rulings or
2. compliance with which is necessary to obtain an advantage and which restrict
  - a) importation of inputs used in or related to local production, in volume or value, which enterprise *exports*; or
  - b) importation of production inputs by restricting an enterprise's access to foreign exchange to an amount related to the foreign exchange inflows attributable to its exports; or
  - c) the exports or sale for export by an enterprise of particular products by volume or value or as a proportion of volume or value of its local production.]

**TRIM/S 2** Egypt must *eliminate* all TRIMS which it has notified to the WTO (under Art. 5, Para. 1) within [as a developing country, five years] of the entry into force of the WTO, e.g., 01 January 2000 [TRIMS Art. 5, Paras. 1 and 2] except that in order not to disadvantage *established* enterprises subject to such TRIMS, may apply it to a *new* investment if

- a) the products of such investment are like to those of the established enterprise; and
- b) the application of such TRIM(s) is *necessary to avoid distorting* the conditions of competition between the established and the new investment. Any TRIM applied under this exception to new enterprise must be terminated at the *same* time as it is terminated for the established enterprise. [Art. 5, Para. 5]

**TRIM/S 3** During its TRIMS transition period (5 years), Egypt must not modify the terms of any TRIM notified under Article 5, Para. 1, so as to *increase* the degree of inconsistency with the requirements of TRIMS Article 2 (e.g., "*standstill*" requirement on TRIMS previously notified. [TRIMS Art. 5, Para. 4]

## II. Transparency Obligations

### A. Transparency Obligation – Procedural – (none)

### B. Transparency Obligation - Consultation

**TRIMS/C 1** Egypt must accord *sympathetic consideration* to requests for information and afford *adequate opportunity* for consultation on any matter arising from the TRIMS Agreement raised by another member, except: for information, the disclosure of which a) would impede law enforcement, b) otherwise be contrary to the public interest, or c) would prejudice the legitimate commercial interests of a particular enterprise, public or private. [Art. 6, Para. 3]

**TRIMS/C 2** Egypt must comply with the consultation provisions, with a view toward dispute settlement of issues arising under the TRIMS Agreement of Article XII of the GATT '94. [Art. 6, Para. 3]

**C. Transparency Obligations-Notification**

**TRIMS/N 1** Within 90 days after entry into force of the WTO [for Egypt 31 September 1995], Egypt must notify the WTO Council for Trade on Goods of all TRIMS they are applying that are *not* in conformity with the TRIMS Agreement along with their *principal features*. [Art. 5, Para. 1]

[NOTE: in the case of TRIMS that are applied under *discretionary* authority, *each* specific application must be *notified*.  
[Art. 5, Footnote 1]

**TRIMS/N 2** Egypt has “affirmed its commitment” and must comply with obligations regarding notification contained in:

- a) the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance adopted 28 Nov. 1979, and
- b) the Ministerial Decision on Notification Procedures adopted on 15 April 1994. [Art. 6, Para. 1]

**TRIMS/N 3** Egypt must notify the WTO Secretariat of publications in which Egyptian TRIMS may be found, *including* those supplied by local and regional governments and authorities within its territory. [Art. 6, Para. 2]

**GATT '94 – Article VI**  
**And**  
**The Agreement on Implementation of**  
**Article VI of the GATT '94**  
**(Anti-Dumping, Countervailing Duties)**

**I. Article VI of the GATT'94**

[NOTE: Article VI provides that: “In order to offset or prevent *dumping*, a contracting party may levy on any dumped product an *Anti-Dumping* duty *not greater in amount* than the *margin* of dumping in respect of such product. Article VI *also* deals very briefly with the imposition of *countervailing duties* but substantive and procedural rules for countervailing duties are more significantly governed by GATT '94 Article XVI and the Agreement on Subsidies and Countervailing Measures.]

**A. Substantive Provisions**

**GATTVIS 1**                      Egypt may not levy any *anti-dumping* (“AD”) or *countervailing duty* (“CVD”) on the importation of any product into its territory *unless* it determines that the *effect* of the dumping or subsidization is such as to *cause or threaten to cause material injury* to an established domestic industry, or is such as to *retard materially the establishment* of a domestic industry. [GATT VI:6(a)]

**GATTVIS 2**                      The GOE may *not* levy any *countervailing duty* on any product of another WTO Member imported into Egypt *in excess of* an amount equal to the *estimated bounty or subsidy* determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of *origin or exportation*, including any special subsidy to the transportation of such product. [GATT VI:3]

**GATTVIS 3**                      The GOE may not subject the product of any other WTO Member imported into Egypt to *both* anti-dumping *and* countervailing duties to compensate for the *same* situation of dumping or export subsidization. [GATT VI:5]

**GATTVIS 4**                      The GOE may not impose ADs or CVDs on the product of another Member imported into Egypt by reason of the *exemption* of such product from duties or taxes borne by such product when destined for consumption in the country of origin or exportation *or* by reason of the *refund* upon exportation of such duties or taxes. [GATT VI:4]

**GATTVI/S 5**

While the GOE, in *exceptional* circumstances, may levy CVDs *without* a finding of material injury or threat thereof without the *prior approval* of [GATT] in cases where it determines *delay* might cause *damage* which would be *difficult to repair*, in doing so, it must:

- a) immediately report such action to the [GATT],  
and
- b) promptly withdraw such CVD if the [GATT] disapproves such action.

[GATT VI:6(c)]

**B. Transparency Obligations**

**1) Transparency Obligations – Notification**

**GATTVI/N 1**

If the GOE invokes exceptional circumstances to justify the levying of CVDs *without* a finding of material injury or threat thereof, in cases where it determines delay might cause damage difficult to repair, it must *immediately report* [notify] such action to the Contracting Parties (e.g., now the WTO Committee on Subsidies and Countervailing Measures). [GATT VI:6(c)]

**Chart A**  
**Agreement on Implementation of GATT'94 Article VI**  
**(“Antidumping Agreement”**  
**Important Definitions**

<b>Dumping</b>	Dumping is an activity “. . . by which products of one country are introduced into the commerce of another country at <i>less than the normal value</i> thereof. [GATT'94 Art. VI:1]
<b>Normal Value</b>	A product is considered sold at <i>less than normal value</i> in an importing country, if the price of the product: (a) is <i>less than the comparable price</i> , in the <i>ordinary course of trade</i> , for the <i>like</i> product when destined for <i>consumption</i> in the <i>exporting</i> country, <i>or</i> (b) in the <i>absence</i> of such domestic price, is <i>less than</i> either: (i) the <i>highest comparable price</i> for the <i>like</i> product for <i>export</i> to any <i>third</i> country, in the ordinary course of trade, <i>or</i> (ii) the <i>cost of production</i> of the product in the country of <i>origin plus a reasonable addition</i> for <i>administrative, selling, and general costs and profit</i> . [GATT '94 Art. VI:1, ADA Art. 2.2]
<b>Margin of Dumping</b>	The <i>Margin of Dumping</i> is the <i>price difference</i> between the <i>normal value</i> of an exported product and the <i>price</i> at which it is entered into the commerce of the importing country, due <i>allowance</i> having been made for <i>differences in conditions and terms of sale</i> . [GATT'94 Art. VI:2]
<b>Like Product</b>	A product which is <i>identical</i> , i.e., <i>alike in all respects</i> to the product under consideration, <i>or</i> , in the absence of such a product, <i>another</i> product which, although not alike in <i>all</i> respects, has <i>characteristics closely resembling</i> those of the product under consideration. [ADA Art. 2.6]
<b>Domestic Industry</b>	The domestic producers as a whole of the <i>like</i> products <i>or</i> those of them whose <i>collective output</i> of the products constitutes a <i>major proportion</i> of the <i>total</i> domestic production of those products, <i>except</i> that when producers are <i>related</i> to the exporters or importers are themselves importers of the allegedly dumped product, the term “domestic industry” may be interpreted as referring to the <i>rest</i> of the producers. [ADA Art. 4.1(i)]
<b>Injury</b>	Means “. . . <i>material injury</i> to a domestic industry, <i>threat</i> of material injury to a domestic industry, or <i>material retardation</i> of the <i>establishment</i> of such an industry . . .” [ADA Art. 3, Footnote 9]

II. **Agreement on Implementation of Article VI of the GATT 1994**  
(The “Anti-Dumping Agreement” or “ADA”)

A. **Substantive Obligations**

1) **Basic Rules**

ADA/S 1 Any anti-dumping action taken by Egypt under its legislation or regulations, must be applied *only* as provided for in Article VI of the GATT’94 and the Uruguay Round Agreement on Implementation of Article VI (hereafter the “ADA”), *and* pursuant to an *investigation* initiated and conducted thereunder. [ADA Art. 1]

ADA/S 2 No specific action may be taken by the GOE against dumping of exports by another WTO Member *unless* taken in accordance with the provisions of the GATT’94 *as interpreted* by the Agreement on Implementation of Article VI of the GATT’94 (ADA). [ADA Art. 18.1]

ADA/S 3 Egypt must take *all necessary steps* to ensure the *conformity* of its laws, regulations, and administrative procedures with the provisions of the [ADA] “as they may *apply* to the Member in question” [Egypt]. [ADA Art. 18.5]

ADA/S 4 No *reservations* to the [ADA] may be taken by the GOE unless with the *consent* of the other Members. [ADA Art. 18.2]

2) **Determination of “Dumping” and the Margin of Dumping**

ADA/S 5 The GOE may consider a product as being “dumped”, i.e., introduced into Egypt at *less* than its *normal value*, if the *export price* of the product is *less* than the *comparable price*, in the *ordinary course of trade*, for the *like* product when destined for *consumption* in the *exporting* country. [ADA Art. 2.1]

ADA/S 6 But, when:

- a) there are *no* sales of the like product in the ordinary course of trade in the *domestic* market of the *exporting* country
- or*
- b) such sales do not permit a *proper comparison* because:
  - (i) of the particular market situation in the exporting country,
  - or*
  - (ii) of the *low volume* of sales in the domestic market of the exporting country (i.e., less than 5% of export sales to

Egypt), the GOE must determine the margin of dumping by comparison

with:

- a) a *comparable* price of the like product when exported to a *third country* (provided such price is “representative”) or
- b) the cost of *production* in the country of origin *plus* a *reasonable* amount for *administrative, selling, and general costs* and for *profits* (based on *actual* records).  
[ADA Art. 2.2 and 2.2.2]

**ADA/S 7**

In calculating *costs*, the GOE must consider *all available evidence* on the proper allocation of costs, including that which is made available by the exporter or producer, provided such allocations have been historically utilized thereby, in particular, in relation to establishing *appropriate amortization and depreciation* periods and allowances for capital expenditures and other development costs, and, *unless* already reflected therein, costs shall be *adjusted* appropriately. [ADA Art. 2.2.1.1]

**ADA/S 8**

While the GOE *may disregard* sales of the like product in the domestic markets of the exporting country or to third countries as not being in the *ordinary course of trade* in determining normal value, it may do so *only if* it determines that such sales are made within an *extended* period of time (6 to 12 months) in *substantial* quantities and are at prices which do not provide for *recovery* of all costs within a *reasonable* period of time. [ADA Art. 2.2.1]

**ADA/S 9**

The GOE must make a *fair* comparison between the *export price* and the *normal value*. The comparison must be made:

- a) at the *same level of trade* (normally *ex factory*) and
- b) in respect of sales made at (as nearly as *possible*) the *same time*, and *due allowance* must be made for differences which affect *price comparability*, e.g.,

- differences in *conditions* and *terms* of sale;
- taxation
- levels of trade
- quantities
- physical characteristics
- any other differences demonstrated to affect price comparability

but the GOE may not *duplicate* adjustments already made, and *if* in these cases price comparability *has* been affected, then the GOE must establish the normal value at a level of trade *equivalent* to the level of trade of the *constructed* export price.

[ADA Art. 2.4]

**ADA/S 10** The GOE must indicate to the parties in question *what* information is *necessary* to ensure a *fair* comparison, but *shall not* impose an *unreasonable* burden of proof on them.  
[ADA Art. 2.4]

**ADA/S 11** When the comparison between export price and normal value requires a *conversion of currencies*, the GOE must make such conversion using the *rate of exchange* on the *date of sale*, provided that, when a sale of foreign currency on forward markets is *directly linked* to the export sale, the rate of exchange in the *forward* sale shall be used. Fluctuations in exchange rates shall be ignored and the GOE must allow exporters *at least 60* days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation. [ADA Art. 2.4.1]

**ADA/S 12** The GOE shall “normally” establish the existence of margins of dumping on the basis of:

- a) a comparison of a *weighted average normal* with a *weighted average of prices* of all *comparable* export transactions
- or
- b) a comparison of normal value and export prices on a *transaction-to-transaction* basis.

[ADA Art. 2.4.2]

**ADA/S 13** In the case of products which are not imported *directly from the country of origin* but are exported to Egypt from an *intermediate* (third) country, the GOE must “normally” compare the price at which the products are sold from the country of export to *Egypt* with the *comparable* price in the country of export.  
[ADA Art. 2.5]

### 3) **Provisional Measures**

**ADA/S 14** The GOE may apply anti-dumping duties (“ADs”) on a *provisional* basis *only if*:

- a) -- an investigation has been initiated under Articles 5 and 6 of the ADA
  - a public notice has been given to that effect, and
  - interested Members and parties have been given
  - adequate opportunities to submit information and make comments.
- b) - a preliminary affirmative determination has been made of *dumping* and *injury* to a domestic industry



and

- c) - the competent authorities judge such measure *necessary* to prevent injury being caused during the investigation.

[ADA Art. 7.1]

**ADA/S 15**

Egypt may not apply provisional measures *sooner* than 60 days from the date of initiation of the investigation nor maintain them exceeding 4 months or, at the *request* of exporters representing a *significant percentage* of the trade involved, and at the decision of the GOE, for a period not exceeding 6 months.

[ADA Arts. 7.3, 7.4]

[NOTE: “Initiation” of an AD investigation is covered in detail in the section of “Transparency Obligations – Procedural” hereafter.]

**4)**

**Price Undertakings**

[NOTE: Article 8.1 of the ADA permits AD investigations to be “*suspended*” or “*terminated*” *without* imposition of provisional measures or anti-dumping duties upon receipt of *satisfactory* undertakings from any exporter:

- a) to *revise* its prices *or*
- b) to *cease* exports to the importing country at dumped prices

so as to satisfy authorities of the importing country that the injurious effect of the dumping is eliminated, on the condition that such price increases must not be *higher* than *necessary* to eliminate the margin of dumping.]

**ADA/S 16**

The GOE shall not *seek* or *accept* any price undertakings *unless* it has made a preliminary *affirmative* determination of dumping *and* injury *caused* by such dumping. [ADA Art. 8.2]

**ADA/S 17**

If the GOE considers acceptance of an undertaking offered by an exporter to be *impractical* or for other reasons (including reasons of general policy), it must provide the exporter with a *statement* of its *reasons* and give the exporter the *opportunity* to comment thereon. [ADA Art. 8.3]

**ADA/S 18**

If the GOE *accepts* a price undertaking, the investigation of dumping and injury shall *nevertheless* be completed if either the *exporter* or the *GOE* so decides, and:

- a) if an *affirmative* finding of dumping *and* injury is made, the undertaking shall continue consistent with its terms and the provisions of the ADA;

but

- b) if a *negative* finding of *either* dumping or injury is

made, the undertaking shall *automatically* lapse *except* where the finding was due in large part to the *existence* of the price undertaking, in which case the GOE may *require* that the undertaking be maintained for a *reasonable* period consistent with the ADA. [ADA Art. 8.4]

**ADA/S 19** While the GOE may *suggest* a price undertaking to an exporter, it *may not force* an exporter to enter into such an undertaking, and the *fact* that exporters do not *offer* such undertakings or *accept* the suggestion of an undertaking, must in no way *prejudice* the GOE's consideration of the case. [ADA Art. 8.5]

**ADA/S 20** In the event of a *violation* of an undertaking by an exporter, the GOE may take *expeditious* actions which may include *provisional* measures based on the *best information available*, including levying of duties entered for consumption *not more than 90* days before application of such provisional measures, but such retroactive assessment may not be applied to imports entered *before* violation of the undertaking. [ADA Art. 8.6]

**ADA/S 21** In the event of the acceptance of an undertaking by the GOE, it must provide a *public notice* of the suspension of its investigation and make available through a separate report *all relevant* information on matters of fact and law of its *reasons* for accepting the undertaking.  
[ADA Art. 12.2.3]

5) **Determination of Injury**

[NOTE: Article VI:6(a) of the GATT'94 provides that: "No contracting party shall levy any anti-dumping or countervailing duty on the importation of any product of the territory of another contracting party *unless* it *determines* that the *effect* of the dumping or subsidization . . . is such as to *cause* or *threaten material injury* to an established domestic industry, *or* is such as to *retard materially* the establishment of a domestic industry.]"

**ADA/S 22** A determination of "*injury*" by the GOE must be based on *positive evidence* and involve an *objective examination* of both:

- a) the *volume* of the dumped imports,
- b) the *effect* of the dumped imports on *prices* in the *Egyptian market* for *like* products, *and*
- c) the consequent *impact* of the dumped imports on *domestic producers* of such products.

[ADA Art. 3.1]

**ADA/S 23** In analyzing the *volume* of dumped imports, GOE authorities must consider whether there has been a *significant increase* in dumped imports, either in (a) *absolute* terms or (b)

relative to (i) *production* or (ii) *consumption* in Egypt.  
[ADA Art. 3.2]

**ADA/S 24** In analyzing the *effect* of the dumped imports on *prices*, the GOE must consider whether:

a) there has been a *significant price undercutting* by such imports *as compared with* the price of a *like* product produced in Egypt,

or

b) the *effect* of such imports is otherwise to *depress* prices to a *significant* degree

or

c) to *prevent price increases* which would otherwise have occurred to a *significant* degree.

[ADA Art. 3.2]

**ADA/S 25** If imports of a product from *more* than one country are *simultaneously* the subject of anti-dumping investigations, the GOE may only *cumulatively* assess effects of such imports *if*:

a) the margin of dumping established in relation to the imports from *each* country is *more* than *de minimis* (less than 2 % as a percentage of the export price)

*and*

the *volume* of imports from *each* country is not *negligible*

*and*

b) a cumulative assessment of the effects of the imports is *appropriate* in light of the *conditions of competition* between the *imported* products and the *conditions of competition* between the *imported* products and the *like Egyptian* product.

[ADA Art. 3.3]

[NOTE: Article 5.8 provides that the “. . . *volume* of dumped imports shall normally be regarded as *negligible* if the volume of dumped imports from a *particular* country is found to account for less than 3 percent of imports of the like product in the importing Member country (e.g., Egypt), *unless* countries which *individually* **account for less than 3 percent of the like product in the importing**. Member *collectively* account for *more* than 7 percent of imports of the like product in the importing Member.]

**ADA/S 26** The GOE's examination of the *impact* of the dumped imports on the domestic industry must include an *evaluation* of all *relevant economic factors* and *indices* having a bearing on the state of the industry, including:

- *actual* and *potential declines* in sales, profits, output, market share, productivity, return on investment, or utilization of capacity;
- factors affecting *domestic prices*;
- the *magnitude* of the margin of dumping;
- *actual* and *potential* negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments.

[ADA Art. 3.4]

**ADA/S 27**

In analyzing for the injurious *effect* of dumped imports, the GOE must demonstrate a *causal relationship* between the dumped imports and the *injury* to the domestic industry, based on an examination of all relevant evidence before authorities, and must *also* examine any known factors *other* than the dumped imports which are *at the same time* injuring the domestic industry, which injuries caused by these *other* factors must not be *attributable* to the dumped imports. [ADA Art. 3.5]

**ADA/S 28**

The GOE must *also* assess the effect of the dumped imports in relation to *domestic production* of the *like* product when available data permit separate identification of such production on the basis of such criteria production *process* and producers' *sales* and *profits*, *but*, if such separate identification of that production is not *possible*, the effects of the dumped imports shall be assessed by the examination of the production of the *narrowest group* or *range of products*, which *includes* the like product, for which the necessary information *can* be provided. [ADA Art. 3.6]

**ADA/S 29**

A determination by the GOE with regard to the *threat of material injury* must be based on *facts* and not merely on *allegation, conjecture, or remote possibility*, and should consider such factors as:

- (i) - a significant rate of increase of dumped imports indicating the *likelihood of substantially increased importation*;
- (ii) - sufficient freely disposable or imminent substantial increase in the *capacity* of the exporter suggesting the *likelihood of substantially increased imports*, taking into account the *availability of other export markets to absorb* any additional imports;
- (iii) - whether imports are entering at prices that will have a significant *depressing or suppressing* effect on domestic prices and would likely *increase demand* for further imports; and
- (iv) - *inventories* of the product being investigated.

[ADA Art. 3.7]

**ADA/S 30** Where injury is considered to be *threatened* by dumped imports, the GOE must consider and decide the application of anti-dumping measures with *special care*. [ADA Art. 3.8]

**ADA/S 31** In “exceptional circumstances”, the GOE may divide its territory into *two or more* competitive markets with the producers therein regarded as a *separate* industry for each, but may not do so *unless*:

- a) the producers within such market sell *all or almost all* of their production of the product in question in *that* market  
*and*
- b) the *demand* in *that* market is *not* to any *substantial degree* supplied by producers of the product located *elsewhere* in the territory,

so that injury may be found to exist *even where* a *major* portion of the total domestic industry is *not* injured, *provided*:

- a) there is a concentration of dumped imports into such an isolated market  
*and*
- b) the dumped imports are causing *injury* to the producers of *all* or *almost all* of the production *within* such market  
*and*
- c) anti-dumping duties shall be levied *only* on the product in question *consigned for final consumption* in *that* area.  
[ADA Art. 4.1(ii), 4.2]

**ADA/S 32** If Egyptian law does not permit the division of Egyptian territory into two or more competitive markets with separate domestic industries, Egypt may only levy anti-dumping duties without limitation on *all* markets if:

- a) the exporters have been given the opportunity to *cease* exporting at dumped prices to the area concerned or have failed to give adequate assurances in that regard under Article 8,  
*and*
- b) anti-dumping duties cannot be levied only on the products of specific producers which supply the area in question.  
[ADA Art. 4.2]

**ADA/S 33** If two or more countries have reached such a level of *economic integration* (customs union or free trade area as regulated under GATT'94 Article XXIV) that they have the characteristics of a *single, unified market*, the GOE must consider the *entire area of integration* as the domestic industry. [ADA Art. 4.3]

**ADA/S 34** The GOE must *reject* an application for investigation or *terminate* an AD investigation if it determines that there is not

sufficient evidence of *either dumping or injury* to justify proceeding further with the case. [ADA Art. 5.8]

**ADA/S 35**

The GOE must *immediately terminate* an investigation if it determines that:

a) the *margin* of dumping is *de-minimis* (e.g., the margin is *less* than 2 % of the export price),

*or*

b) the *volume* of dumped imports, *actual* or *potential* is *de-minimis* (e.g., from any *individual* country is *less* than 3 % *unless* countries which individually account for less than 3 % *collectively* account for *more* than 7 % of imports of the like product into Egypt,

*or*

c) the *injury* is *negligible*.

[ADA Art. 5.8]

**6) Imposition of Anti-Dumping Duties**

**ADA/S 36**

The GOE must *not* levy an anti-dumping duty on any imported product *in excess* of the *margin* of dumping established under ADA Article 2. [ADA Art. 9.3]

**ADA/S 37**

If the GOE imposes ADs on any product, it must *collect* such duty on a *non-discriminatory* basis on imports of such product from *all* sources *found* to be *dumped* into Egypt and *causing injury* – except as to imports from those sources from which price undertakings have been accepted, which sources must be identified. [ADA Art. 9.2]

**ADA/S 38**

The GOE must, as a rule, determine an *individual* margin of dumping for *each* known exporter or producer of the product under investigation, *but*, in cases where the *number* of exporters, producers, importers, or types of product involved is *so large* as to make such a determination *impracticable*, it may *limit* its examination *either* to:

a) a *reasonable* number of interested parties or products by using *samples* which are *statistically valid* on the basis of information *available* to it at the time of the selection,

*or*

b) the *largest percentage* of the *volume* of the exports from the country in question which can *reasonably* investigated,

*provided* that any such selection of exporters, producers, importers, or types of products shall *preferably* be chosen in *consultation* with and with the *consent* thereof.

[ADA Art. 6.10]

**ADA/S 39** If the GOE has *limited* its examination as provided for above (ADA/S 6), it must nevertheless determine an *individual* margin of dumping for any exporter or producer *not initially selected* who *submits the necessary information in time* for that information to be *considered* in the investigation, *except* where the number of exporters or producers is *so large* that individual examinations would be unduly burdensome to the GOE and prevent the *timely* completion of the investigation. [ADA Art. 6.10.2]

**ADA/S 40** If the GOE has *limited* its examinations provided for above (ADA/S 6), any AD applied to imports from exporters or producers *not included* in its examination *shall not exceed*:

- a) the weighted average margin of dumping established with respect to selected (included in investigation) exporters or producers,
- or*
- b) where liability for payment of ADs is calculated on the basis of a *prospective* normal value, the *differ-ence* between:
  - the weighted average normal value of the selected exporters or producers
  - and
  - the export prices of exporters or producers *not individually* examined

and the GOE must apply *individual* duties or normal values to imports from any exporter or producer *not included* in the examination who has *provided the necessary information* during the investigation. [ADA Art. 9.5]

**ADA/S 41** If the GOE assesses an anti-dumping duty on a *retrospective* basis, its determination of the final liability for payment of such duties must take place *as soon as possible*, “normally” within 12 months but not more than 18 months, after the date on which a request for a final assessment has been made, and any *refund* shall be made *promptly*, “normally” not more than 90 days following determination of final liability, and, in any case in which a refund is not made within such time, the GOE must provide an explanation *if* requested. [ADA Art. 9.3.1]

**ADA/S 42** If the GOE assesses an anti-dumping duty on a *prospective* basis, it must make provision for a *prompt* refund, *upon request*, of any duty paid *in excess* of the *margin* of dumping, the decision on which refund must “normally” take place within 12 months but not more than 18 months, after the date of such request by the importer, and the refund authorized should “normally” be made within 90 days of such decision. [ADA Art. 9.3.2]

6)

### Retroactivity of Anti-Dumping Duties

ADA/S 43

The GOE may *only* apply provisional measures and AD Duties to products which enter for consumption *after* the time When the *decision* to apply provisional measures under Articles 7.1 and 9.1 *enters into force*, *except* that AD duties *may* be levied *retroactively* for the period for which provisional measures have been applied:

- a) where a final determination of *injury* (but not *threat* thereof or *material retardation* of the establishment of an industry)  
*or*
- b) in the case of a final determination of *threat* of injury, where the effect of the dumped imports, in the *absence* of provisional measures *would have led* to a *determination* of injury.

[ADA Art. 10.1, 10.2]

ADA/S 44

Except as provided in Article 10.2 above (ADA/S 41), where a determination of *threat* of injury or *material retardation* is made, but *no injury has yet occurred*, a definitive AD duty may be imposed by the GOE *only from the date* of the determination of *threat of injury* or *material retardation*, and any cash deposit made during the period of application of the provisional measures *must be refunded* and/or any bonds *released* in an *expeditious* manner

*except if*

the competent authorities *determine* for the dumped product that:

- a) there is a *history* of dumping which *caused* injury  
*or*
- b) that the importer *was* or *should* have been *aware* the exporter practices dumping and that such dumping *would* cause injury,

then the definitive duties *may* be assessed but *not more than 90 days prior* to the date of the application of provisional measures *with respect to* products *entered for consumption prior* to the date of *initiation* of the investigation.

[ADA Arts. 10.4, 10.6, 10.8]

ADA/S 45

If the definitive AD duty is *higher* than the provisional duty paid or payable, the GOE may *not* collect the *difference*, but if it was *lower* than the provisional duty paid or payable, or than the amount estimated for the purpose of the security, the *difference* shall be *reimbursed* or the duty *recalculated*. If the final determination is *negative*, any cash deposit made during the period of application of the provisional measures must be *refunded* and any bonds *released* in an *expeditious* manner. [ADA Art. 10.3, 10.5]



7)

**Duration of Anti-Dumping Duties**

**ADA/S 46** The GOE may continue an anti-dumping duty in force *only as long as* and *to the extent necessary* to counteract dumping that is causing *injury*. [ADA Art. 11.1]

**ADA/S 47** The GOE must review the *need* for the continued imposition of the anti-dumping duty:  
a) where *warranted* on their *own* initiative,  
*or*  
b) after the elapse of a *reasonable* period of time *upon request* by any interested party which submits *positive* information *substantiating* the *need* for a review. [ADA Art. 11.2]

**ADA/S 48** The GOE must afford interested parties the right to request a review (subject to the evidentiary and procedural requirements of Article 6) to determine whether:  
a) continued imposition of an AD duty is *necessary* to offset dumping,  
and/or  
b) the injury would be likely to *continue* or *recur* if such duties were removed.  
any such review must be carried out expeditiously and normally be concluded within 12 months of its initiation. If after such a review, the authorities determine that the AD duty is *no longer warranted*, it must be terminated *immediately*. [ADA Art. 11.4]

**ADA/S 49** Notwithstanding Article 11.1 (ADA/S 44) and 11.2 (ADA/ S 45), the GOE *must terminate any* definitive AD duty not later than 5 years from the date of its imposition (or from the date of its most recent review if it covered *both* dumping and injury) *unless* the GOE determines, after a review initiated *before* that date upon its own initiative *or upon request* of the *domestic industry*, that *Expiry* of the duty would likely lead to *continuation* or *recurrence* of dumping and injury. [ADA Art. 11.3]

[NOTE: This kind of definite, required expiry of an action is often referred to as a “*sunset clause*.”]

**B. Transparency Obligations**

**1) Transparency Obligations – Procedural**

**ADA/P 1** The GOE may only initiate an investigation to determine the existence, degree, and effect of any alleged dumping, *either*:  
a) upon a written application by or on behalf of the domestic industry [ADA Art. 5.1]

*or*

- b) upon its *own initiative if, in special circumstances*, it has *sufficient* evidence of dumping, injury, and a *causal* link to justify initiation of the investigation.

[ADA Art. 5.6]

**ADA/P 2**

The GOE may not *accept* an application nor *initiate* an investigation *unless* the application includes *sufficient* evidence of:

- dumping
- existence of injury, *and*
- a causal link between the two.

[ADA Art. 5.2]

**ADA/P 3**

For the GOE to *accept* the application, it must contain such information as is *reasonably* available to the applicant regarding:

a) with regard to the applicant:

- identify of applicant,
- description of the *volume* and *value* of domestic production of *like* product by applicant,
- identification of the domestic industry and of all known producers of the like product or of associations thereof, and
- volume and value of like product attributable to *each*;

b) with regard to the product:

- complete description of the allegedly dumped product,
- names of the country or countries of origin or export thereof,
- identity of each known exporter or foreign producer thereof, and
- list of known importers of the product;

c) with regard to dumping information:

- the existence of dumping,
- the amount thereof
- the nature thereof
  
- prices at which the product is sold for consumption in the domestic markets of the country or countries of origin or export prices or
- [where appropriate] prices at which the product is first resold to an independent buyer in Egypt; and

d) with regard to material injury:

- evolution of the volume of allegedly dumped imports,
- effects of such imports on prices of the like product in Egypt’s market, and
- consequent impact on its market.

[ADA Art. 5.2]

**ADA/P 4** The GOE must review the *adequacy* and the *accuracy* of the application to determine whether the evidence is *sufficient* to *justify* opening of an investigation. [ADA Art. 5.3]

**ADA/P 5** The GOE may *not* initiate an investigation *unless* the competent authorities have *determined*, on the basis of an *examination* of the *degree of support* for, or *opposition* to, the application expressed by domestic producers, that the application has been made by or on behalf of the *domestic industry*, but *no* investigation may be initiated if domestic producers expressly supporting the application account for *less* than 25% of total production of the like product produced in Egypt. [ADA Art. 5.4]

[NOTE: ADA Art. 5.4 states that “the application shall be considered to have been made ‘by or on behalf of the domestic industry’ *if* it is *supported* by those domestic producers whose *collective* output constitutes *more than 50 %* of the *total* production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application.]

**ADA/P 6** The GOE must *avoid* any publicizing of the application for initiation of an AD investigation *until* it has made a decision to actually initiate the investigation. [ADA Art. 5.5]

**ADA/P 7** When the GOE is satisfied there *is* sufficient evidence to Justify an AD investigation, it must *notify* the WTO Member countries whose products are subject to such investigation and other interested parties known to have an interest therein and must also give *public notice* thereof, which must indicate:

- a) the name of the exporting country or countries;
- b) the products involved;
- c) the date of initiation of the investigation;
- d) the basis on which dumping is alleged;
- e) a summary of the factors on which the allegation of injury is based;
- f) the address to which representations by interested parties should be directed; and
- g) the time limits allowed to interested parties for making their views known.

[ADA Art. 12.1]

**ADA/P 8** The GOE must give public notice of each of the

following:

- a) any *preliminary determination*, whether affirmative or negative;
- b) any *final determination*, affirmative or negative;
- c) any decision to accept an undertaking under Art. 8;
- d) termination of any undertaking; and
- e) any *revocation* of a determination.

[ADA Art. 12.2]

**ADA/P 9**

In each such notice, the GOE must set forth or describe in a separate report in *sufficient* detail, the *findings* and *conclusions* reached on *all* issues of fact and law considered material by the investigating authorities. All such notices and reports must be *forwarded* to all interested WTO Member countries and parties.

[ADA Art. 12.2]

**ADA/P 10**

The GOE must give public notice of the imposition of any *provisional* measures or make available through a separate report sufficiently detailed explanations for the preliminary determination on the existence of dumping and injury and referring to matters of fact and law which have led to arguments being accepted or rejected. Such report shall contain, in particular:

- a) names of suppliers and countries involved;
- b) a description of the product sufficient for Customs purposes;
- c) the margins of dumping established and a full explanation of the reasons for the methodology used in the establishment and comparison of the export price and the normal value;
- d) considerations relevant to the injury determination; and
- e) the main reasons leading to the determination.

[ADA Art. 12.2.1]

**ADA/P 11**

The GOE must ensure that a public notice of the conclusion or suspension of an investigation in the case of an *affirmative* determination providing for the imposition of a definitive duty or acceptance of an undertaking shall contain or otherwise make available through a separate report, *all relevant* information on matters of fact and law and reasons which have led to the imposition of final measures or acceptance of an undertaking, while protecting confidential information. (Such notice must contain the information described in detail in ADA/P 10). [ADA Art. 12.2.2]

**ADA/P 12**

The GOE must consider evidence of *both* dumping and Injury *simultaneously*:

- a) in the decision *whether* or not to *initiate* the investigation and, thereafter,
- b) during the investigation itself of subsidy, injury, and causality

starting on a date not later than the *earliest* date on which provisional measures may be applied. [ADA Art. 5.7]

**ADA/P 13** The GOE must take due account – in considering evidence required to support the application and initiate the investigation – of any difficulties experienced by interested parties, in particular, of small companies, in supplying information and provide to them any assistance practicable. [ADA Art. 6.13]

**ADA/P 14** The GOE must not allow any investigation to *hinder* the procedures of *customs clearance*. [ADA Art. 5.9]

**ADA/P 15** The GOE must give all interested Members and interested parties in an AD investigation *notice* of the information that the competent authorities *require* and *ample* opportunity to present *in writing* all evidence which they consider relevant in respect of the investigation. [ADA Art. 6.1]

Specifically, this means that:

- a) exporters, foreign producers, or interested Members receiving questionnaires used in an AD investigation must be given *at least 30 days* for reply with due consideration for any request for extension for good cause shown. [ADA Art. 6.1.1]
- b) subject to *confidentiality* requirements, evidence presented in writing by any interested Member or party shall be made available to *all* others participating in the investigation. [ADA Art. 6.1.2]
- c) as soon as the investigation has been initiated, the GOE must, subject to confidentiality requirements, provide the *full* text of the written application to the authorities and *known* exporters of the exporting country and make it available, *upon request* to all other parties. [ADA Art. 6.1.3]

**ADA/P 16** The GOE must provide opportunities for *industrial users* of the product under investigation, and for representative *consumer Organizations*, in cases where the product is commonly sold at retail, to provide information relevant to the investigation regarding dumping, injury, and causality. [ADA Art. 6.12]

**ADA/P 17** Throughout any AD investigation, the GOE must afford to all interested parties a full opportunity for the defense of their interests, including providing opportunities for interested parties to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. But, no party shall be *obliged* to attend a meeting and their failure to do so must not be prejudicial to their case. All interested parties must be given the right, *on justification*, to present other information orally, but such oral information shall be taken into

account *only if subsequently* reproduced in writing and made available to all other interested parties. [ADA Art. 6.2, 6.3]

**ADA/P 18** The GOE must, whenever *practicable*, afford timely opportunities for *all* interested Members and parties to see *all information relevant* to the presentation of their cases which is not confidential and which has been *used* by the GOE in its AD investigation, and to use such information in the preparation of their presentations. [ADA Art. 6.4]

**ADA/P 19** The GOE must, upon *good cause shown*, treat as confidential any information which is by *nature* confidential or which is provided on a confidential basis by parties to the investigation – which requests must not be arbitrarily rejected – and shall not disclose such information *without* the *specific* permission of the party presenting it. [ADA Art. 6.5 & Footnote 18]

[However, the GOE must require interested Members or parties providing such confidential information to furnish *non-confidential summaries* thereof or provide a statement of reasons why it is not possible to provide it. [ADA Art. 6.5.1]

**ADA/P 20** The GOE must satisfy itself as to the *accuracy* of the information supplied by interested parties or Members (e.g., investigate to confirm it) upon which its findings are based and may, *only* in those circumstances in which an interested party or Member *refuses* access to, or otherwise does not provide necessary information within a reasonable period of time, or significantly *impedes* the investigation, base its preliminary and final determinations, *affirmative* or *negative* on the *facts available* (see ADA Annex II – “Best Information Available”). [ADA Art. 6.6, 6.8]

**ADA/P 21** In order to verify information provided or to obtain further details, the GOE may carry out investigations in the territory of other WTO Member countries *only if*:

- a) they obtain the agreement of the firms concerned,
- and
- b) the Member in whose territory the firm’s premises are located has been notified and not objected.

Such on-site investigations are subject to the procedures of ADA Annex I (“Procedures for On-the-Spot Investigations”). [ADA Art. 6.7]

**ADA/P 22** The GOE must *reject* an application or *terminate* an investigation *promptly* as soon as it is satisfied that there is not *sufficient* evidence either of dumping or injury to justify proceeding further in the investigation. [ADA Art. 5.8]

**ADA/P 23** Before making any final determination in the investi-

gation, the GOE must *inform* all interested parties of the *essential facts* under consideration which form the *basis* for its decision whether to apply definitive measures (e.g., AD duties), sufficiently in advance for the parties to defend their interests. [ADA Art. 6.9]

**ADA/P 24** Except in *special circumstances*, the GOE must conclude AD investigations within *one year* after their initiation and, *in no case*, more than 18 months. [ADA Art. 5.10]

**ADA/P 25** The GOE must maintain judicial, arbitral, or administrative tribunals or procedures for the *prompt* review of administrative actions relating to *final* determinations and reviews of determinations under Article 11 of the ADA. Such tribunals or procedures must be *independent* of the authorities responsible for the determination or review in question. [ADA Art. 13]

2) **Transparency Obligations – Consultation**

**ADA/C 1** The GOE must afford sympathetic consideration to, and adequate opportunity for, consultations with respect to any matter affecting operation of the AD Agreement. [ADA Art. 17.2]

**ADA/C 2** The GOE must afford sympathetic consideration to any WTO Member's request *in writing* for consultations with Egypt Because that Member believes that any benefit accruing to it, Directly or indirectly, under the AD Agreement is being *nullified or impaired* by Egypt or that achievement of any objective (of the Agreement) is being *impeded* by Egypt. [ADA Art. 17.3]

**ADA/C 3** Consultations with a view toward entering into dispute settlement regarding the AD Agreement must be governed by the Dispute Settlement Understanding (NOTE: this does not say GATT '94 Articles XXII and XXIII as is the case with the Agreement on Subsidies and Countervailing Duties, Art. 30). [ADA Art. 17.1]

3) **Transparency Obligations – Notification**

**ADA/N 1** The GOE must:

- a) notify to the WTO Committee on Anti-Dumping Practices *without delay* (an “Ad-Hoc” notification) *all* preliminary or final AD actions  
*and*
- b) submit a *semi-annual* report on all AD actions taken during the preceding 6 months.

[ADA Art. 16.4]

- ADA/N 2**            The GOE must notify the Anti-Dumping Committee regarding:
- a) which of its authorities are competent to initiate and to conduct AD investigations;
  - and*
  - b) its domestic procedures governing initiation and conduct of such investigations.
- [ADA Art. 16.5]

**ADA/N 3**            The GOE must notify the Anti-Dumping Committee of any *changes* in its laws and regulations relevant to the ADA and the administration of such laws and regulations. [ADA Art. 18.5]



**GATT 1994 – Article VII**  
**and**  
**The Agreement on Implementation of Article VII**  
**[Customs Valuation]**

**I. GATT 1994 – Article VII**

**A. Substantive Obligations**

- CV/S 1** Egypt has undertaken to give effect to the [Customs Valuation] principles set forth in GATT 94 Article VII in respect of all products subject to duties or other charges or restrictions on importation or exportation based upon or regulated in any manner by value. [GATT 94 Art. VII:1]
- CV/S 2** Egypt must determine the value of imported goods for customs purposes based on the *actual* value thereof or that of like merchandise and *not* on the value of merchandise of national origin or on arbitrary or fictitious values. [GATT 94 Art. VII:2(a)]
- CV/S 3** *Upon request* of any other Member, Egypt must review the operation of any of its laws or regulations relating to value for customs purposes in the light of the valuation principles of GATT 94 Art. VII (and the Uruguay Round Agreement on Implementation of Article VII). [GATT 94 Art. VII:1]
- CV/S 4** When necessary to determine the value for customs duty purposes of imported merchandise for Egypt to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be based, for each currency involved, on the par value as established pursuant to the IMF Articles of Agreement or the rate of exchange recognized by the IMF or in accordance with a special exchange agreement entered into with the IMF. [GATT 94 Art. VII:4(a) *but see* Customs Valuation Agreement, Art. 9 – CV/S \_\_]

**B. Transparency Obligations – Procedural**

- CV/P 1** The bases and method for determining the value of products subject to duties or other charges or restrictions based upon or regulated . . . should be given sufficient publicity to enable traders to estimate, with as reasonable degree of certainty, the value for customs purposes. [GATT 94 Art. VII:5]

## II. Customs Valuation Agreement (for Implementation of GATT 94 Art. VII)

### A. Substantive Obligations

**CV/S 5** Egypt must ensure the conformity of its laws, regulations, and administrative procedures with the provisions of the Customs Valuation Agreement.  
[CV Art. 22.1]

**CV/S 6** For purposes of the CV Agreement, Egypt must utilize information prepared in a manner consistent with generally accepted accounting principles in the country that are appropriate for the article in question.  
(Annex I, Interpretative Note re: Generally Accepted Accounting Principles, Para. 2]

**CV/S 7** Egypt should determine the customs value of imported goods utilizing the following tests in order indicated:

- a) the price *actually paid* or payable for the goods (Test 1)  
[CV Art. 1]
- b) the value of *identical* goods sold for export to the same country of importation and exported at or about the same time (Test 2) [CV Art. 2]
- c) the value of *similar* goods sold for export to the same country of importation and exported at or about the same time (Test 3) [CV Art. 3]
- d) the *unit price* at which the imported goods or identical or similar goods are sold in the greatest quantity at or about the same time of importation between unrelated parties as the goods being valued (if also between unrelated parties) (Test 4). [ CV Art. 4 & 5]
- e) the *sum* of:
  - (i) cost or value of materials and fabrication  
plus
  - (ii) an amount for profit and general expenses plus
  - (iii) costs of:
    - transport
    - loading/unloading
    - handling
    - *insurance*(Test 5) [CV Art. 4 & 6]

**CV/S 8** If, in determining the customs value of imported goods, it becomes necessary to *delay* the final determination of such customs value, Egypt must permit the importer of the goods to withdraw them from customs if, where required, the importer provides sufficient guarantee for the ultimate payment of customs duties determined to be due (release subject to bond). [CV Art. 13]

**B. Transparency Obligations**

**1) Transparency Obligations - Procedural**

**CV/P 2** Egypt must publish, in conformity with GATT 94 Article X, all laws, regulations, judicial decisions, and administrative rulings of general application giving effect to the CV Agreement. [CV Art. 12]

**CV/P 3** When Egyptian customs is unable to accept the importer's specification of transaction value without further inquiry, it should give the importer an opportunity to supply such *further detailed information* as may be necessary to examine the relevant aspects of the transaction. [Annex I Interpretative Note re: Customs Val. Agreement, Para. 2.3]

**CV/P 4** If Egyptian customs, on the basis of its doubt of the truth or accuracy of documents submitted by the importer support of its declaration of value, has requested further information but remains unconvinced of the truth or accuracy of the declared value, it must communicate to the importer in *writing* its grounds for doubting the truth or accuracy of the documents submitted and give the importer *reasonable opportunity* to respond. When a final decision is made, customs must communicate to the importer in *writing* its decision and the grounds therefor. [Decision Regarding Cases Where Customs Administrations have reasons to Doubt the Truth or Accuracy of the Declared Value, Para. 1]

**CV/P 5** If, in the light of information provided by the importer or otherwise, the customs administration has grounds for considering the *relationship* (between exporter and importer) may have influenced the price, the customs administration must communicate its grounds to the importer and give the importer a *reasonable opportunity* to respond. *If* the importer so *requests*, such communication must be in writing. [CV Art. 1.2(a)]

**CV/P 6** Upon importer's written *request*, Egyptian

Customs must give importer a *written explanation* of how the customs value of importer's goods was determined. [CV Art. 16]

**CV/P 7** Egypt must treat as confidential and not disclose without *specific permission* of the person or government providing it, all information which is by nature confidential or which is provided on a confidential basis for purposes of customs valuation. [CV Art. 10]

**CV/P 8** In regard to the determination of customs value, Egypt's law must provide, without penalty, for the right of appeal by the importer or any other person liable for the payment of duty. [CV Art. 11.1]

**CV/P 9** Egypt's law must give the right of appeal either (a) *within* the customs authority and/or (b) without penalty, to a *judicial* authority. [CV Art. 11.2]

**CV/P 10** Notice of the decision on appeal must be given to the appellant and the *reasons* for such decision shall be provided in *writing*. Appellant shall also be informed of any rights of *further* appeal. [CV Art. 11.3]

2) **Transparency Obligations – Consultation**

**CV/C 1** Egypt must afford sympathetic consideration to any request for consultation from another Member based on the latter's belief that any benefit accruing to it under the CV Agreement is being *nullified* or *impaired* or the achievement of any objective of the Agreement is being impeded, as a result of Egypt's actions relative to customs valuation under the Agreement. [CV Art. 19.2]

3) **Transparency Obligations – Notification**

**CV/N 1** Egypt - if it was *not* a party to the 1979 GATT Customs Valuation Agreement – must notify the Director General of the WTO if it wishes (as a *developing nation*) to *delay* application of the provisions of the Agreement for a period not exceeding 5 years from the date of entry into force of the WTO *for* Egypt – e.g., to 30 June 2000. [CV Art. 20.1]

**CV/N 2** In *addition* to CV/N 1, Egypt must notify the Director General/WTO if it wishes to *delay* application of Article 1.2(b)(iii) [customs value of similar or identical goods as determined under Test 5 of CV Art. 6] and CV Article 6 for *3 more* years following the 5 year initial delay. [CV Art. 20.2]

**CV/N 3**

Egypt must notify the WTO Committee on Customs Valuation of any changes in its laws and regulations relevant to the CV Agreement or the administration of such laws and regulations.  
[CV Art. 22.2]

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## **Agreement on Pre-Shipment Inspection (“PSI”)**

[NOTE: Pre-Shipment Inspection activities are all activities relating to the *verification of the quality, quantity, and price . . . and/or customs classification of goods to be exported to the territory of the “User Member”*. [Art. 1.3] The inspection is “by definition” carried out in the *territory of Exporter Members*. [Premises Clause]]

[NOTE: As of the date of this study, the GOE does *not* have a program of pre-shipment inspection, but this outline is included because of press and other reports that it is considering contracting out this function to outside, private PSI firms.]

### **I. Substantive Obligations**

#### **A. Requirements for the Administration of PSI – (by PSI User Countries, e.g., Importing Countries)**

(“User Members” mean a WTO Member the government or any governmental body of which mandates or contracts for PSI activities. [Art. 1.2])

**PSI/S 1**                    The GOE must take the *necessary* measures for the implementation of the PSI Agreement (*if it utilizes PSI*). [Art. 9.1] It must ensure that its laws and regulations shall not be *contrary* to the provisions of the PSI Agreement. [Art. 9.2]

**PSI/S 2**                    To the extent that Egypt employs PSI, it must ensure that PSI activities under its laws, regulations, and requirements respects the requirement of *National Treatment* as between domestic products and exported products subject to PSI in accordance with paragraph 4 of Article III of the GATT’94. [Art. 2]

**PSI/S 3**                    The GOE must ensure that all PSI activities, including issuance of a Clean Report of Findings or any note of non-issuance, are *performed in the customs territory from which the goods are exported* unless such inspection cannot be carried out therein because of the complex nature of the products involved, or if both parties agree, is performed in the customs territory in which the goods are *manufactured*. [Art. 2.3]

**PSI/S 4**                    The GOE must ensure that *quantity and quality* inspections are performed in accordance with *standards defined by the buyer and seller* in the purchase agreement, or, in the *absence* of such standards, that relevant international standards apply. [Art. 2.4]

**PSI/S 5**                    Egypt must promptly publish all applicable laws and regulations relating to PSI activities in such a manner as to enable other governments and traders to become acquainted

with them. [Art. Art. 2.8] *No* changes in the laws and regulations relating to PSI shall be *enforced before* such changes have been officially published. [Art. 5]

**PSI/S 6** Egypt must ensure that PSI entities treat all information received in the course of PSI activities as *business confidential* to the extent that such information is *not*:

- already published
- generally available to third parties, or
- otherwise in the public domain

and that PSI entities maintain procedures to this end. [Art. 2.9]

**PSI/S 7** Egypt must ensure that:

- a) PSI entities do not divulge confidential information to any third party (except to share such information with the GOE agencies that have mandated or contracted them and, then, *only* to the extent such information is *customarily required* for letters of credit or other forms of payment, or for customs, import licensing, or exchange control purposes.
- b) That confidential business information received from PSI entities is adequate safeguarded.

[Art. 2.11]

**PSI/S 8** The GOE must ensure that PSI entities *do not* request exporters to provide information regarding:

- manufacturing data related to industrial property or with regard to which a patent is pending;
- unpublished technical data other than that necessary to demonstrate compliance with technical regulations or standards;
- internal pricing, including manufacturing costs;
- profit levels
- terms of contracts between exporters and their suppliers unless needed to conduct the inspection.

[Art. 2.12]

**PSI/S 9** The GOE must ensure that PSI entities maintain procedures to avoid *conflicts of interest*:

- a) between PSI entities and any other entities *related* thereto, including those with a financial or commercial interest in the shipments to be inspected;

- b) between PSI entities and any other entities, including those *subject to* PSI (with the exception of government agencies mandating or contracting the inspections); and
  - c) with *divisions* of PSI entities engaged in activities other than those required to carry out PSI.
- [Art. 2.14]

**PSI/S 10**

The GOE shall ensure that PSI entities avoid *unreasonable, delays* in the inspection of shipments.  
[Art. 2.15]

**B.**

**Price Verification Requirements**

**PSI/S 11**

In order to prevent over- and under-invoicing and fraud, the GOE shall ensure that PSI entities conduct price verification according the guidelines specified in the PSI Agreement, e.g.,

- a) an exporter/importer contract price shall be rejected *only* if verified in conformity with criteria below:
- b) the price verification comparison shall be based on the price of *identical* or *similar* goods offered for *export* from the *same* country of exportation at or about the *same* time, under *competitive* and *comparable* conditions of sale, in conformity with *customary commercial practices net* of any applicable standard discounts.
- c) appropriate adjustments shall be made for terms of sales contract and applicable adjusting factors pertaining to the transaction, including but not limited to:
  - commercial level/quantity of sale
  - delivery periods and conditions
  - price escalation clauses
  - quality specifications
  - special design features
  - special shipping/packing specifications
  - order size
  - spot sales
  - seasonal influences
  - license or other IPR fees
  - services customarily separately invoiced
  - contractual relationship between the exporter/importer.

[Art. 2.20]

**PSI/S 12**

The GOE must ensure that the following are *not* used for price verification purposes:





- PSI/P 1** The GOE must ensure that PSI activities are carried out in a *transparent* manner. [Art. 2.4]
- PSI/P 2** The GOE must ensure that PSI activities are carried out in a *non-discriminatory* manner and that the *procedures* and *criteria* utilized are *objective* and are applied on an *equal* basis to *all* exporters affected by such activities, and must ensure the *uniform* performance of inspection by PSI entities mandated or contracted by it. [Art. 2.1]
- PSI/P 3** The GOE must ensure that PSI entities provide exporters with a *list* of all information necessary for them to comply with inspection requirements and such *actual* information as may be requested by them. Such information shall include:
- a reference to Egyptian laws/regulations relating to PSI procedures
  - criteria used for inspection and price/currency exchange-rate verification
  - exporters' rights vis-à-vis PSI entities, and
  - applicable appeal procedures.
  - *de minimis* values exempt from PSI
- [Art. 2.6, 2.22]
- PSI/P 4** The GOE shall ensure that PSI entities avoid *unreasonable delays* in the inspection of shipments and that, once an exporter and a PSI entity agree on an inspection date, the inspection is conducted *on that date* unless it is rescheduled on a mutually agreed basis or the PSI entity or the exporter are prevented from doing so by *force majeure*. [Art. 15]
- PSI/P 5** The GOE must ensure that, within 5 working days following receipt of the final documents and completion of the inspection, the PSI entity issues either a Clean Report of Findings or a *detailed written explanation* specifying the reasons for non-issuance and, in the latter case, gives the exporter the opportunity to present their *views in writing* and, if the exporter so *requests*, arranges for *re-inspection* at the *earliest* mutually convenient date. [Art. 2.16]
- PSI/P 6** The GOE must ensure that, *whenever requested* by the exporter, the PSI entity undertakes, *prior* to the date of physical inspection, a *preliminary* verification of price and, where applicable, of currency exchange rate, on the basis of the exporter/importer contract, the *pro forma* invoice, and, where

applicable, the application for import authorization, and that, *immediately* after preliminary verification, the PSI entity *informs* the exporter *in writing* either of their acceptance or of their *detailed reasons* for non-acceptance of the price and/or currency exchange rate. [Art. 2.17]

**PSI/P 7**

The GOE must ensure that a price or currency exchange rate that has been *accepted* by a PSI entity on the basis of a preliminary verification is *not* withdrawn, *providing* the goods conform to the import documentation and/or import license. [Art. 2.17]

**PSI/P 8**

The GOE must ensure that PSI entities send to exporters or designated representatives thereof, a Clean Report of Findings as *expeditiously as possible*, and, in the event of a clerical error in the Clean Report of Finding, that the PSI entity corrects the error and forwards the corrected information to the appropriate parties as *expeditiously as possible*. [Art. 2.18, 2.19]

**PSI/P 9**

The GOE shall ensure that PSI entities establish procedures to receive, consider, and render decisions concerning *grievances* raised by exporters and that information regarding such procedures are made available to exporters. [Art. 2.21]

**PSI/P 10**

The GOE shall ensure that the grievance procedures established by PSI entities (see PSI/P 5) are developed and maintained in accordance with the following guidelines:

- a) PSI entities shall designate officials available during normal business hours in each city or port in which they maintain inspection sites to *receive, consider, and render decisions* on exporter *grievances or appeals*.
- b) Exporters shall provide in writing facts concerning:
  - the specific transaction at issue,
  - the nature of the grievance, and
  - a suggested solution.
- c) The designated official shall render a decision *as soon as possible* after receipt of the documentation described above.

[Art. 2.21]

**PSI/P 11**

The GOE must take *reasonable* measures to ensure that, *two working days after submission* of the

grievance (described in PSI/P 5 above) *either* party may refer the dispute to *independent review* under the following procedures:

- a) The review shall be administered by an *independent* entity constituted *jointly* by an organization representing *PSI entities* (currently the International Federation of Inspection Agencies) and an organization representing *exporters* (currently the International Chamber of Commerce) for purposes of this PSI Agreement;
  - b) The independent entity shall establish lists of experts drawn from:
    - the organization representing PSI entities (e.g., IFIA),
    - the organization representing exporters (e.g., ICC), and
    - a section of *independent* trade experts nominated by the *independent entity*.
  - c) The list shall be updated annually and be publicly available.
  - d) The panel established shall operate according to the procedures mandated for it in Article 4 of the PSI Agreement.
  - e) The decision of the panel shall be binding on all parties to the dispute.
- [Art. 4(a)-(h)]

[NOTE: The Independent Entity was established by the Decision of the WTO General Council on 13 December 1995 – see WTO Doc. WT/L/125/Rev. 1 of 09 February 1996.]

## **B. Transparency Obligations – Consultation**

### **PSI/C 1**

The GOE must provide, *upon request*, information to WTO Members with regard to measures they have taken to ensure that PSI entities treat information received in the course of PSI activities as business confidential as required in Article 2.9 of the PSI Agreement. [Art. 2.10]

### **PSI/C 2**

The GOE shall consult with other WTO Members, *upon request*, with regard to any matter affecting the operation of the PSI Agreement, which consultations shall be governed by the Consultation provisions of GATT'94. Article XXII. [Art. 7]

**PSI/C 3** Any disputes among Members regarding the operation of the PSI Agreement shall be subject to the Dispute Resolution provisions of GATT'94 Article XXIII. [Art. 8]

**C. Transparency Obligations – Notifications**

**PSI/N 1** The GOE shall submit to the WTO Secretariat *copies* of all laws and regulations *implementing* the PSI Agreement as well as copies of *any other* laws and regulations *relating* to PSI activities as well as any *changes* there-in *immediately* after their publication. [Art. 5]

## The Agreement on Rules-of-Origin

[NOTE: The Agreement on Rules-of-Origin establishes *three distinct sets of disciplines* that define obligations of Member countries of the WTO:

- a) those found in Article 2 of the Agreement which states rules to be followed *pending* completion of the WTO program for harmonization of *non-preferential* rules of origin. *Article 2 rules* are the ones *currently binding* on all WTO Members.
- b) those found in Article 3 which state rules to be followed when the *program of harmonization is completed* (originally 3 years but has been extended until November 1999). The rules of Article 3 would be the basic WTO rules governing *non-preferential* Rules-of-Origin *when* the harmonization is achieved, e.g., the “regular” rules.
- c) those found in Annex II of the Agreement on Rules-of-Origin entitled “Common Declaration with Regard to Preferential Rules-of-Origin”. These rules, which are generally similar to the Article 2 and 3 rules *currently bind* WTO Members as to the use of rules-of-origin used to administer *preferential* trade agreements, e.g., free trade agreements, customs unions, etc.

In the following statement of Egypt’s obligations generic rules are cited to all of the above sources for the obligation.]

### **I. Substantive Obligations**

#### **A. Currently Applicable Rules/Obligations – e.g., the “Transition Period”**

##### **RO/S 1**

*Notwithstanding* the measure or instrument of commercial policy to which they are linked, the GOE must *not use* rules-of-origin as instruments to *pursue trade objectives, directly or indirectly*. [RO Art. 2(b)]

##### **RO/S 2**

When the GOE issues administrative determinations of general application for the implementation of Egyptian rules-of-origin, the *requirements* thereof shall be *clearly defined*. [RO Art. 2(a), Annex II-3(a)]

##### **RO/S 3**

The GOE must ensure that its rules-of-origin shall *not* themselves create *restrictive, distorting, or disruptive* effects on international trade, nor may the GOE impose *unduly strict* requirements or require the fulfillment of a certain condition *not*

*related to manufacturing or processing, as a prerequisite for the determination of the country of origin. [RO Art. 2(c)]*

**RO/S 4** The rules-of-origin applied by the GOE to imports and exports must not be *more stringent* than those it applies to determine whether or not a good is *domestic* and shall not *discriminate* between other WTO Members, *irrespective* of the affiliation of the *manufacturers* of the good concerned. (e.g., applies National Treatment and MFN principles to rules-of-origin). [RO Arts. 2(d), 3(b)]

**RO/S 5** The GOE must administer its rules-of-origin in a *consistent, uniform, impartial and reasonable manner*. [RO Arts. 2(e), 3(d)]

**RO/S 6** The GOE must based its rules-of-origin on a *positive* standard, but rules-of-origin that state what does *not* confer origin (negative standard) may be used as *part* of a *clarification* of a *positive* standard *or* in cases where a positive determination of origin is not *necessary*. [RO Art. 2(f), Annex II-3(b)]

**RO/S 7** The GOE, when it issues administrative determinations of general application relating to the application rules-of-origin to determine the origin of imported products, must observe the following:

- a) in cases where the criterion of *change of tariff classification* is applied, the rule and *any exceptions* to it, must *clearly specify* the *sub-heading* or *headings* within the tariff nomenclature addressed by the rule;
- b) in cases where the *ad-valorem percentage* criterion is applied, the *method* for *calculating* this percentage must also be indicated in the rules-of-origin; and
- c) in cases where the criterion of *manufacturing* or *processing operation* is prescribed, the operation that confers origin on the good concerned shall be *precisely specified*.

[RO Art. 2(a), Annex II-3(a)]

**RO/S 8** The GOE must publish all of its laws, regulations, and judicial and administrative rulings of general application as if they were subject to, and in accordance with, Article X:1 of the GATT 1994. [RO Arts. 2(g), 3(e), Annex II-3(a)]

[GATT Article X:1 provides, in pertinent part, “Laws, regulations, judicial decisions and administrative rulings of general application, made

effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor. . . shall be *published promptly* in such a manner as to *enable* governments and traders to become acquainted with them.]

**B. Rules/Obligations Applicable After Conclusion of the Harmonization Program – “Post-Transition Period”**

**RO/S 9**

The GOE *will* have to ensure that, under its Rules-of-Origin, the *country* to be determined as the *origin* of a particular good is *either*:

- a) the country where the good has been *wholly obtained*, or
- b) where *more* than one country is concerned in the production of the good, the country where the *last substantial transformation* has been carried out.

[RO Art. 3(b)]

**II. Transparency Obligations**

**A. Transparency Obligations – Procedural**

**RO/P 1**

The GOE must ensure that, upon the *request* of an exporter, importer or any person with a *justifiable cause*, assessments of the origin they would accord to a good are issued *as soon as possible*, but *no later than 150 days* after a request for such assessment, *provided* that *all necessary* elements have been submitted. Such requests must be accepted by the GOE *before* trade in the good *begins*. Such assessments must remain valid for *3 years*, *provided* the facts and conditions, including the rules-of-origin, under which they have been made, remain *comparable*.

[RO Art. 2(g), 3(f), Annex II-3(d)]

**RO/P 2**

The GOE must inform all parties concerned *in advance* (*presumably* in advance of any import action undertaken pursuant to an assessment made previously as described in RO/P 1), if the assessment made as to country of origin is *changed* by a decision *contrary* to such assessment in any subsequent review thereof.

[RO Art. 2(h), 3(f), Annex II-3(d)]

**RO/P 3**

The GOE may not, when introducing *changes* to its rules-of-origin or introducing any new rules-of-origin, apply such rules *retroactively* as that term is defined in *its* laws and regulations. [RO Art. 2(i), 3(g), Annex II-3(e)]

**RO/P 4**

Any administrative action which the GOE may



take in relation to the determination of origin must be *promptly reviewable* by judicial, arbitral, or administrative tribunals or procedures, *independent* of the authority issuing the determination, which can effect the modification or reversal of the determination.  
[RO Art. 2(j), 3(h), Annex II-3(f)]

**RO/P 5** The GOE must treat as strictly confidential, all information which is by nature *confidential* or which is provided on a *confidential basis* for the purpose of the application of rules-of-origin, and must *not disclose* it without the specific permission of the person or government providing such information (unless required to do so in judicial proceedings).  
[RO Art. 2(k), 3(i), Annex II-3(g)]

**RO/P 6** During the *transition period*, if the GOE introduces modifications, other than *de-minimis* modifications, to its rules-of-origin, or any *new* rules, it must publish a notice to that effect *at Least 60* days before the *entry into force* thereof in such a manner as to enable interested parties to become acquainted with its intention to do so, *unless exceptional circumstances* arise or threaten to arise, in which case it must publish such changes or new rules *as soon as possible*.  
[RO Art. 5.2]

**B. Transparency Obligations – Consultation**

**RO/C 1** Consultations with a view toward the settlement of Disputes regarding the implementation of the Agreement Rules-of-Origin shall be governed by the rules of Article XXII of the GATT 1994. [RO Art. 7]

**C. Transparency Obligations – Notification**

**RO/N 1** The GOE must have provided to the WTO Secretariat, within 90 days of the entry into force of the WTO Agreement, copies of all its rules-of-origin, judicial decisions, and administrative rulings of general application relating to rules-of-origin and it must *immediately* provide copies of the same if they have not heretofore been submitted to the WTO. [RO Art. 5.1]

**RO/N 2** The GOE must provide to the WTO Secretariat their *preferential* rules of origin, including a listing of the preferential arrangements to which they apply, as well as administrative rulings of general application relating there-to in effect on the date of entry into force (of the WTO Agreement), and, thereafter, all modifications thereto or new rules or subsequent administrative rulings. [RO Annex II-4]

## Agreement on Import Licensing Procedures

### **I. Substantive Obligations**

[Note A: “Import Licensing” is defined in the Agreement as: “...administrative procedures used for the operation of import licensing regimes requiring the submission of an application or other documentation (*other* than that required for customs purposes) to the relevant administrative body as a *prior condition* for importation into the customs territory of the importing member.” Art.1.1. see also GATT94 Art.XIII

Note B: Import licensing is broken up into two categories, e.g.:

- 1) “Automatic Import Licensing,” which is defined as “...import licensing where approval of the application is granted in *all* cases...” Art. 2.1 and
- 2) “Non-Automatic Import Licensing,” which is defined as “...import licensing not falling within the definition [of Automatic Import Licensing]” Art. 3.1]

- IPL/S 1**                    Egypt – If it employs import licensing – must ensure that the administrative procedures implementing its import licensing regime are in conformity with the relevant provisions of the GATT 1994 *as interpreted by the Import Licensing Agreement*. [Art. 1.2]
- IPL/S 2**                    Egypt must apply the rules for import licensing in a neutral manner and administer them fairly and equitably. [Art. 1.3]
- IPL/S 3**                    Egypt must make available to license holders the foreign exchange necessary to pay for licensed imports on the same basis as to importers of goods *not* requiring import licenses. [Art. 1.9]
- IPL/S 4**                    If Egypt has reasons to apply security exceptions to the administration of import licensing, it must do so in accord with the provisions/requirements of GATT 94 Art. XXI – National Security Safeguards. [Art. 1.10]
- IPL/S 5**                    Egypt must ensure that any person, firm, or institution which fulfills the legal and administrative requirements imposed by it shall be equally eligible to apply and to be considered for a license. [Art. 3.5(e)]
- IPL/S 6**                    Egypt may not administer automatic import licensing in such a manner as to have *restricting effects* on imports subject to automatic licensing. [Art. 2.2]

[Note: Automatic licensing procedures are *deemed* to have trade restricting effects *unless, inter alia*:

- 1) Any person, firm, or institution that fills the legal requirements of the importing member for engaging in import operations involving products subject to automatic licensing is equally eligible to apply for and to obtain import licenses;

- 2) Applications for licenses may be submitted on *any* working day prior to the customs clearance of the goods; and
- 3) Applications for licenses when submitted in *appropriate* and *complete* form are *approved immediately* on receipt – within a maximum of 10 working days.

**IPL/S 7** Egypt may only use automatic import licensing and used: a) whenever other appropriate measures are not available; b) as long as the circumstances which gave rise to its introduction prevail; and c) its underlying administrative purposes cannot be achieved in a more appropriate way. [Art. 2.2]

**IPL/S 8** If used by Egypt, non-automatic licensing may not have trade-restrictive or trade-distortive effects on imports *additional* to those caused by imposition of the restriction. [Art. 3.2]

**IPL/S 9** Licenses issued by Egypt must be of reasonable duration and not so short as to *preclude* imports, nor shall the period of license validity preclude imports from distant sources except in special cases where imports are necessary to meet unforeseen short-term requirements. [Art. 3.5(g)]

**IPL/S 10** When administering *quotas*, Egypt may not prevent importation from being effected in accordance with the licenses issued nor discourage the full utilization of such quotas. [Art. 3.5(h)]

**IPL/S 11** When issuing licenses, Egypt must take into account the desirability of issuing licenses for products in *economic* quantities. [Art. 3.5(I)]

**IPL/S 12** In allocating licenses, Egypt must consider the import performance of the applicant, and give consideration as to whether licenses issued to applicants in the past have been fully utilized, and if not, must examine the reasons therefore and take them into account in allocating new licenses. [Art. 3.5(j)]

**IPL/S 13** In allocating licenses, Egypt must also consider ensuring a reasonable distribution of licenses to new importers, with special consideration given to importers of products originating in developing countries, and, in particular, in least-developed countries. [Art. 3.5(j)]

**IPLS 14** In cases of quotas administered through licenses which are not allocated among supplying countries, Egypt must allow license holders to freely choose the sources of imports. [Art. 3.5(k)]

**IPL/S 15** Egypt must ensure the conformity of its laws, regulations, and administrative procedures with the provisions of the Import Licensing Agreement. [Art. 8.2(a)]

## II. Transparency Obligations

### A. Transparency Obligations - Procedural

- IPL/P 1** Egypt must publish within 21 days prior to the effective date, but in no event later than the effective date, the rules and all information concerning procedures in the submission of applications, including the eligibility of persons, firms, and institutions to make such applications, the administrative process to which such applications should be directed and the lists of products subject to licensing requirements and similarly publish any exceptions, derogatives, or changes in or from the licensing rules or the list of products subject to import licensing. [Art. 4(a)]
- IPL/P 2** Egypt must ensure that application *forms* and renewal forms shall be as simple as possible, requiring only such information and documents as are considered strictly necessary for the proper functioning of the licensing regime. [Art. 5]
- IPL/P 3** Egypt must ensure that application and renewal *procedures* are as simple as possible. [Art. 6]
- IPL/P 4** Where there is a closing date for the submission of license applications, Egypt must allow for at least 21 days therefor and provide for an extension of time in circumstances where insufficient applications have been received within the 21-day period. [Art. 6]
- IL/P 5** Egypt must ensure that applicants shall have to approach only one administrative body in connection with their application but, where it is “strictly indispensable” to approach more than one administrative body, applicants shall not have to approach more than three. [Art. 6]
- IPL/P 6** Egypt shall not refuse any application for *minor* documentation errors (e.g., which do not alter basic data contained therein. [Art 7]
- IPL/P 7** Egypt may not impose any penalty *greater* than necessary to serve merely as a warning for any omission or mistake in documentation or procedures obviously made without fraudulent intent or gross negligence. [Art. 7]
- IPL/P 8** Egypt shall not refuse licensed imports for *minor* variations in value, quantity, or weight from amounts designated on the license due to differences occurring during shipment or involving differences incidental to bulk loading and other minor differences consistent with normal commercial practices. [Art. 8]
- IPL/P 9** Egypt must ensure that non-automatic licensing shall correspond in scope and duration to the import licensing measures it implements and is no more administratively burdensome than absolutely necessary to administer such measures. [Art. 3.2]

**IPL/P 10** If Egypt imposes licensing requirements for purposes *other* than implementation of quantitative restrictions, it must publish sufficient information for traders to know the basis for granting and/or allocating licenses. [Art. 3.3]

If Egypt provides for the possibility for persons, firms, or institutions to request *exceptions* or *derogations* from a licensing requirement, it must include this fact in the information published under Article 1, Paragraph 4 [IL/P 1] as well as information on how to make such a request and, to the extent possible, an indication of the circumstances under which such requests will be considered. [Art. 3.4]

**IPL/P 11** Egypt, if administering quotas by means of import licensing, must publish a) the overall amount of quotas to be applied by quantity and/or value, b) the opening and closing dates of quotas, and c) any changes therein, within 21 days prior to the effective date or, in no event later than the effective date, in such a manner so as to enable governments and traders to become acquainted with them. [Art. 3.5(b)]

**IPL/P 12** If a license application is *not* approved, Egypt must, upon request of the applicant, give it the reason therefor and afford the applicant a right of appeal or review in accordance with its domestic registration or procedures. [Art. 3.5(e)]

**IPL/P 13** Unless not possible for reasons outside its control, Egypt shall ensure that the period for processing applications shall not be longer than 30 days a) if applications are considered as and when received, e.g., on a first-come first-served basis, or b) no longer than 60 days if all applications are considered simultaneously, in which case, the period for processing applications must be considered as beginning on the day following the closing date of the announced application period. [Art. 3.5(f)]

**IPL/P 14** In the case of quotas administered through licenses *allocated* among supplying countries, the license granted by Egypt must clearly stipulate the countries or country. [Art. 3.5(k)]

**B. Transparency Obligations - Consultations**

**IPL/C 1** Egypt must afford adequate opportunity to other members to receive and become acquainted with comments in writing upon the rules and all information concerning procedures for the submission of applications for import licenses, a) including the eligibility of persons, firms, and institutions to make such applications, b) the administrative bodies to be approached therefor, and c) products subject to the licensing requirement. [Art. 1.4(a)]

**IPL/C 2** Members who wish to make written comments shall be given the opportunity to discuss their comments *upon request*, and Egypt must give “due consideration” to the comments and the results of the discussion. [Art. 1.4(6)]

**IPL/C 3**

Egypt must provide, upon request of any member having an interest in trade in the product concerned, all relevant information concerning:

- (i) administration of restrictions
- (ii) import licenses granted over a recent period
- (iii) distribution of such licenses among supplying countries, and
- (iv) where *practicable*, import statistics (value and/or volume) on products subject to import licensing. [*except* that “developing” members would *not* be expected to take additional administrative or financial burdens on this account.]

[Art. 3.5(a)]

**IPL/C 4**

Egypt shall consult with other members if they request consultations under GATT 97 Art. XXII with a view toward dispute settlement under GATT 94 Art. XXIII and all such consultations shall be governed by GATT 94 Art. XXII as applied by the OSU.

**C. Transparency Obligations - Notification****IPL/N 1**

Upon instituting any import licensing procedures or *changes* therein, Egypt must notify the WTO Committee on Import Licensing Procedures within 60 days of the publication thereof mandated in Art. 1.4(a) of the Import Licensing Agreement [See IL/S 6]. [Art. 5.1] Such notification must include:

- (a) list of products subject to licensing procedures;
- (b) contact point for information on eligibility;
- (c) administrative bodies for the submission of license application;
- (d) date and name of publication where licensing procedures are published;
- (e) indication of whether licensing procedure is automatic or non-automatic;
- (f) in case of automatic licensing procedures, their administrative purpose;
- (g) in case of non-automatic import licensing procedures, indication of the measures being implemented through the licensing procedure; and
- (h) expected duration of the licensing procedure if this can be estimated and, of not, why not. [Art. 5.2]

**IPL/N 2**

Egypt must notify the WTO Committee on Import Licensing in such a manner as to enable governments (of other members) to become familiar with the rules and information concerning procedures for the submission of applications for import licenses, including:

- Eligibility of persons, firms, and institutions to make such applications
- The administrative bodies to be approached therefor
- Lists of products subject to import licensing requirements

In such a manner as to enable members to become acquainted with them. [Art. 1.4(a)]

- IPL/N 3** Egypt must also notify the Committee of any exceptions, derogations from, or changes in the above. [Art. 1.4(a)]
- IPL/N 4** If Egypt, as a developing country member which was a party to the Agreement on Import Licensing Procedures of 12 April 1979, has specific difficulties with the requirements of Art. 2.2, subparagraphs (ii) and (iii) [see IL/S 6] and wishes to delay application thereof by not more than two years from the date of entry into force of the WTO Agreement *for such member* (30 June 1995), it must notify the Committee on Import Licensing to that effect. [Art. 1.1, Footnote 5]
- IPL/N 5** If Egypt in pursuance of import licensing restrictions is allocating quotas among supplying countries, it must promptly notify all other members having an interest in supplying the product concerns of the shares in the quota currently allocated by quantity or value within 21 days prior to the entry into effect of such restrictions or no later than the date of such entry into force in order to enable other members and their traders to become acquainted with them. [Art. 3.5]
- IPL/N 6** Egypt must notify the WTO Import Licensing Committee of any publication(s) in which the information required in Article 1, Paragraph 4 *will be* published. If any interested member considers that Egypt has not notified the institution of a licensing procedure or changes therein in accordance with the notification provisions of Art. 5, paras. 1, 2, and 3, it may bring the matter to Egypt's attention *after* which Egypt must make prompt notification of all such information. [Art. 5.5]

**D. Transparency Obligation – Inquiry/Contact Point**

- IPL/EC 1** Egypt must establish and notify the WTO Committee on Import Licensing of a *contact point* for information relating to import licensing eligibility. [Implied from Art. 5.2(b)]

**GATT '94 - Article XVI**  
**And**  
**The Agreement on Subsidies and Countervailing Measures**  
**(“SCM”)**

[NOTE: Applicability to Egypt – GATT'94 Article XVI and the Uruguay Round SCM Agreement can apply to Egypt under two different circumstances, e.g., (1) it applies to WTO Members *maintaining subsidies* (the prohibition or regulation of subsidies) and (2) it applies to those Members administering and *enforcing remedies* for *injury* caused to their domestic industries *against* Members whose subsidies resulted in such injury.]

**I. Article XVI of the GATT'94**

**A. Substantive Obligations**

**GATTXVI/S 1** Egypt must cease to grant (if it does), either directly or indirectly, *any* form of subsidy on the *export* of any product *other* than a *primary* product, which subsidy *results in* the sale of such product for export at a price *lower* than the *comparable* price charged for the like product to buyers in its domestic market. [Para. 4]

[Note: See definition of “Subsidy” in Article 1.1 of the SCM Agreement.]

**GATTXVI/S 2** If Egypt grants, directly or indirectly, any form of subsidy that operates to increase the export of any *primary* product from its territory, such subsidy *shall not be applied* in a manner which results in its having *more than an equitable share* of world export trade in that product . . . [Para. 3]

[Note: GATT'94 Article XVI Interpretative Note 2 defines “Primary Product” to mean “. . . any product of farm, forest or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.”]



## **Chart A**

### **Subsidies/Countervailing Measures: Important Definitions**

<b>Subsidy</b>	<p>A <i>subsidy</i> is deemed to exist if:</p> <p>(a)(1) there is a financial contribution by a government [Member] where</p> <ul style="list-style-type: none"><li>(i) government practice involves a direct transfer of funds (grants, loans, equity infusion), potential direct transfers of funds or liabilities (e.g., loan guarantees);</li><li>(ii) government revenue otherwise due is foregone or forgiven or otherwise not collected (e.g., fiscal incentives such as tax credits);</li><li>(iii) a government provides goods or services (other than general infrastructure) or purchases goods;</li><li>(iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the types of functions illustrated in (i) to (iii) above which would normally be vested in the government and the practice thereof does not differ from practices normally followed by governments</li></ul> <p style="text-align: center;"><i>or</i></p> <p>(a)(2) there is any form of income or price support in the sense of GATT'94 Article XVI,</p> <p style="text-align: center;"><i>And</i></p> <p>(b) a <i>benefit is thereby conferred</i>. [SCM Art. 1.1]</p> <p>Annex I of the SCM Agreement contains an Illustrative List of Export Subsidies [Chart B hereof].</p>
<b>Countervailing Duty</b>	<p>“. . . A special duty levied for the purpose of off-setting any subsidy bestowed directly or indirectly upon the manufacture, production or export of any merchandise, as provided for in . . .” GATT'94 Article VI:3. [SCM Article 10, Footnote 34]</p>
<b>Injury</b>	<p>Means “. . . material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry. . .” [SCM Art. 15, Footnote 43]</p>
<b>Domestic Industry</b>	<p>The term ‘domestic industry’ shall . . . be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that when producers are <i>related</i> to the exporters or importers or are themselves importers of the allegedly subsidized product or a like product from other countries, the term “domestic industry” may be interpreted as referring to the <i>rest</i> of the producers. [SCM Art. 16.1]</p>
<b>Like Product</b>	<p>Means a product which is <i>identical</i>, i.e., <i>alike in all respects</i> to the product under consideration, <i>or</i>, in the <i>absence</i> of such a product, another product which, although not alike in <i>all</i> respects, has <i>characteristics closely resembling</i> those of the product under consideration. [SCM Art. 15.1, Footnote 44]</p>
<b>Nullification or Impairment</b>	<p>Means the exporting country, by the artificial advantage provided its firms by its subsidies, <i>cancels or reduces</i> the trade <i>benefits</i> for the importing country of the Exporting country’s commitments to liberalize trade between them – [See GATT'94 Art. XXIII:1.]</p>

[NOTE: GATT Article XVI was essentially enforced by application of *countervailing measures* (e.g., duties) found in GATT Article VI (“Antidumping and Countervailing Duties”), but, as a result of the Uruguay Round SCM Agreement, Article XVI is largely interpreted and applied by the that Agreement. Article 32.1 of the *SCM* Agreement states that “No specific action against a subsidy of another Member can be taken except in accordance with the provisions of the GATT’94, *as interpreted by this Agreement (SCM Agreement).*” Nonetheless, the application of Countervailing Duties is *also* regulated by Article VI of the GATT *and by* the Uruguay Round Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the “AD/CVD Agreement”). Thus, any concerns relating to the rights and obligations affected by application of countervailing duties must be addressed by a consideration of *all four* instruments.]

**B. Transparency Obligations**

**1. Transparency Obligations – Procedural – (none)**

**2. Transparency Obligations – Consultation**

**GATTXVI/C 1** In any case in which it is determined (by the Contracting Parties) that *serious prejudice* to the interests of any other Contracting Party is caused or threatened by any subsidization by (Egypt), Egypt shall, *upon request*, discuss with such other Contracting Party or parties, the possibility of limiting the subsidization. [Para. 1]

**3. Transparency Obligation – Notification**

**GATTXVI/N 1** If Egypt grants or maintains any subsidy . . . which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the Contracting Parties in writing of:

- a) the *extent* and *nature* of the subsidization
- b) the estimated effect of such subsidization on the quantity of the affected product or products imported into or exported from its territory, and
- c) the circumstances making the subsidization necessary.

[Para. 1]

**II. Subsidies & Countervailing Measures (“SCM”) Agreement**

**A. Substantive Obligations**

**1) Regulation of Subsidies**

**SCM/S 1** Egypt must take all necessary steps, of a general particular character, to ensure the conformity of its laws,

regulations, and administrative procedures with the provisions of the SCM Agreement. [SCM Art. 32.4(a)]

**SCM/S 2**

Egypt may not grant or maintain subsidies that are:

- a) contingent, in law or in fact, whether solely or as one of several other conditions, upon *export performance*, including those illustrated in Annex I (CHART B);  
or
- b) contingent, whether solely or as one of several other conditions, upon the *use of domestic over imported goods* and  
such subsidies are “*prohibited*”. [SCM Art. 3.1, 3.2]

[These are formally referred to as “*Prohibited*” subsidies, but more informally referred to as “*Red Light*” subsidies]

[NOTE: The prohibition of *export subsidies* (if, indeed, Egypt currently *has* export subsidies) will not apply to Egypt as a *developing country* until 01 January 2003 (SCM Art. 27.2(b)) and *may not* apply until 01 January 2005 (Art. 27.3). The prohibition on *domestic content* subsidies will not apply to Egypt until 01 January 2000 (Art. 27.2 bis)]

**SCM/S 3**

*However*, if Egypt:

- a) *had no* export subsidies as of the entry into effect of the WTO Agreement, it could not *institute* such subsidies or
- b) if it *had* export subsidies, it could not *increase* the *level* or *scope* of such subsidies during the phase-out period, e.g., it was subject to a “*Standstill Obligation*”. [SCM Arts. 27.3, & 28.2]

**SCM/S 4**

*If* Egypt had any export subsidy programs existing on the date it signed the Agreement Establishing the WTO (approx. 30 June 1995) that were *inconsistent* with the SCM Agreement, it was required to bring them into conformity with the provisions of the SCM Agreement within three years from the date of entry into force of the WTO Agreement *for Egypt* (approx. 30 June 1998)]

**CHART B**  
**Illustrative List of Export Subsidies**  
**(Abridged from Annex I of the SCM Agreement)**

- a) Provision of *direct subsidies* to a firm or an industry *contingent upon export performance*.
- b) Currency retention schemes or any similar practices that involve a *bonus* on exports.
- c) Provision of *products* or *services* for use in *production of exported goods* on terms *more favorable* than for use in production for domestic market.
- d) Full or partial *exemption* from, *remission* of, or *deferral*, specifically related to exports of Direct taxes payable by industrial or commercial firms
- e) Allowance of *special deductions* in the calculation of taxes related directly to exports or export performance.
- f) *Exemption* from or *remission* of *indirect taxes* affecting production and distribution for *export in excess* of those levied on like products produced or distributed for domestic consumption.
- g) Exemption/remission/deferral of prior stage *cumulative indirect* taxes on goods/services in production of exports in *excess* of those for goods for domestic production.
- h) *Excess* remission of *Drawback* amounts levied on imported inputs consumed in the production of *exported* products.
  - (i) Provision of export credit guarantees or insurance at rates *inadequate to cover* long-term operating costs and losses of such programs.

Etc.

SCM/S 5

Moreover, if Egypt had (or has) export subsidies and, as a developing country, has reached *export competitiveness* in any subsidized product, it would be required to phase out its export subsidies thereon within eight years, presumably from the *year* it *achieved* export competitiveness. [SCM Art. 27.4].

[NOTE: “Export Competitiveness” means a country’s exports of a product have reached a share of at least 3.25% of world trade therein for two consecutive calendar years. [SCM Art. 27.5]]

SCM/S 6

Egypt *should* not cause, through the use of subsidies, *adverse effects* to the interests of other Members, meaning:

- a) *injury* to the domestic industry of another Member,
- b) *nullification* or *impairment* of benefits accruing, directly or indirectly, to other Members under the GATT’94, in particular, the benefits of concessions bound under Article II of GATT’94, or
- c) *serious prejudice* to the interests of another Member.

[SCM Art. 5.1]

*But*, even though a given subsidy meets the *definition* of subsidy in Article 1.1 of the SCM Agreement (see Definitions, CHART A), it will be considered “*Actionable*” (subject to Dispute Resolution under Article 4 or to imposition of Countervailing Duties under Articles 10-24), *only if* it is “*Specific*”, e.g.,

- a) *prohibited* under Article 3 (Art. 2.3) or
- b) limited only to *certain* (not all) enterprises (Art. 2.1(a)) or
- c) limited to certain enterprises within a *designated geographical region* (Art. 2.2)

[SCM Arts. 1.2 & 2]

[These are formally referred to as “*Actionable*” subsidies, or often, informally as “*Yellow Light*” subsidies.]

[NOTE: This does not apply to (a) certain types of subsidies that are granted within or linked directly to *privatization* programs of *developing* countries (SCM Art. 27.12), or (b) to *Agricultural* subsidies, which are regulated in Article 13 of the Uruguay Round Agreement on Agriculture (SCM Art. 6.9).]

[NOTE: “*Serious Prejudice*” is deemed to exist (except in the case of *developing countries*, with regard to which it must be *proven* – SCM Art. 27.7) if:

- total *ad-valorem* subsidization of a product *exceeds* 5 % (See SCM Annex IV)
- subsidy involves covering of *operating losses* of an industry or an enterprise, or

- subsidy involves *direct forgiveness* of government-held debt or *grants* to cover debt repayment.

[These criteria for “serious prejudice” apply only for a period of 5 years from the entry into force of the WTO Agreement, e.g., until 01 January 2000 unless extended. (SCM Art. 31)]

*and*

the subsidy *results* in any of the following effects (which may, *themselves*, constitute *serious prejudice*):

- displacement or impeding of *imports* of like product into the market of the *subsidizing* Member
- displacement or impeding of *exports* of like product of another Member from a *third country* market; or
- *significant price undercutting, suppression or lost sales* in the *same* market.

[SCM Art. 6.1, 2, & 3]

**SCM/S 7** If a WTO dispute resolution panel report or an Appellate Body report is adopted in which it is determined that an Egyptian subsidy has resulted in *adverse effects* to the interests of another Member, Egypt must take *appropriate* steps to *remove* the adverse effects or shall *withdraw* the subsidy in lieu of which action the other Member may be authorized to take counter measures against Egypt. [SCM Art. 7.8]

## 2) Remedies Available for Subsidies

[NOTE: The basic remedies for subsidies are: (1) dispute resolution asserting “*nullification or impairment*” authorizing countermeasures (SCM Art. 4 and/or 7) or a petition for imposition of *countervailing duties* (SCM Arts. 10 through 24), but the availability of either are subject to specific rules. Also note that the administration of one of these remedies, countervailing duties, is not only governed under Articles 10 – 24 of the SCM Agreement, but is *also* governed by Article VI of the GATT’94 and the Uruguay Round Agreement on Implementation of Article VI of the GATT’94.]

**SCM/S 8** In seeking remedies for either *prohibited* or *actionable* subsidies, Egypt may invoke either (a) dispute resolution/ countermeasures and/or (b) imposition of countervailing duties with regard to such subsidies of another Member country, but may elect *only* one thereof to remedy the injurious effects on its domestic industry, and, with regard to “*non-actionable*” subsidies (SCM Art. 8), may invoke *only* dispute settlement under Article 9 [SCM Art. 10, Footnote 33]

**SCM/S 9** In the event Egypt invokes dispute settlement anticipating

authority for countermeasures against a Member's maintaining of *Prohibited* subsidies and a panel decision is appealed to the WTO Appellate Body, the report of the Appellate Body must be accepted by Egypt and *all* the parties to the dispute unless the Dispute Settlement Body decides Not to adopt the report. [SCM Art. 4.0]

**SCM/S 10**

With regard to *developing countries* (e.g., those described in Annex VII of the SCM Agreement), Egypt may not impose countervailing duties on actionable subsidies other than those involving "serious prejudice" *unless*:

a) *nullification or impairment* of tariff concessions or other obligations under the GATT'94 is *found* to exist in such a way as to *displace* or *impede* like products into its market

*or*

b) *injury* to domestic industry in its market occurs as defined and applied in Article 15 of the SM Agreement.

[SCM Art. 27.8]

**SCM/S 11**

Egypt, if it alleges, incident to dispute resolution, that serious prejudice to its domestic industry has occurred as result of a Member's maintaining of actionable subsidies, must make available to the parties to the dispute and to the WTO Committee on Subsidies and Countervailing Measures, *all relevant* information that can be obtained as to the changes in market shares of the disputing parties as well as information relating to prices of the products involved [SCM Art. 6.6] and shall cooperate in the development of evidence to be examined by the Committee [SCM Annex V, Para. 1]

**SCM/S 12**

If a WTO panel report or an Appellate Body report *is* adopted, in which it is determined that any Egyptian subsidy has resulted in adverse effects to the interests of another Member under the SCM Agreement, it shall take *appropriate* steps either to *remove* the adverse effects or to *withdraw* the subsidy. [SCM Art. 7.8]

[NOTE: Under SCM Article 31, the provisions of the SCM Agreement relating to "Serious Prejudice" type subsidies (Art. 6.1) and to "Non-Actionable" type subsidies (Art. 8) and the dispute resolution/counter-measures remedy for the latter (Art. 9) apply for a period only of 5 years from the effectiveness of the Agreement Establishing the WTO (e.g., 01 January 2000) unless eventually extended by the WTO Committee on Subsidies and Countervailing Measures.]

**2) Administration of Countervailing Duties (Substantive Aspects)**

**a) Basic Requirements**

**SCM/S 13**

Egypt must take *all necessary steps* to ensure that the

imposition of a countervailing duty on any product imported into its territory is in accordance with the provisions of Article VI of the GATT'94 [See outline of GATT'94 and The Agreement on Implementation of Article VI of the GATT'94] *and* the terms of the SCM Agreement and that countervailing duties are imposed *only* Pursuant to investigations initiated and conducted in accord with The SCM Agreement. [SCM Art. 10]

**SCM/S 14** Egypt may not levy a countervailing duty on any imported product *in excess* of the subsidy found to exist, calculated in terms of subsidization per unit of the subsidized and exported product. [SCM Art. 19.4]

[NOTE: Article VI:3 of GATT'94 also provides that:  
"No countervailing duty shall be levied on any product of the territory of [a Member] imported into the territory of another [Member] *in excess* of an amount equal to the estimated bounty or subsidy determined to have been granted . . .]

**SCM/S 15** In cases where products are not imported into Egypt *directly* from the country of *origin* but are exported to it through an *Intermediate* country, the GOE shall apply the provisions of the SCM Agreement *as if* the transaction took place between the Country of *origin* and Egypt. [SCM Art. 11.8]

**b) Calculation of Subsidy**

**SCM/S 16** Any method used by Egypt's investigating authority to calculate the benefit to the recipient by any subsidy:

- a) must be provided for in its *national legislation* or *implementing regulations*;
- b) the application of which to each particular case must be *transparent* and *adequately explained*; and
- c) must be *consistent* with the guidelines therefor set forth in Article 14 of the SCM Agreement.

[SCM Art. 14]

**c) Provisional Measures**

**SCM/S 17** Egypt may apply countervailing duties on a *provisional* basis only if:

- a) - an investigation has been initiated under Article 11,  
- a public notice has been given to that effect,  
and  
- interested Members and parties have been given adequate opportunities to submit



information and make comments;

b) a preliminary affirmative determination has been made that:

- a subsidy exists
- and
- there is *material* injury or threat thereof to a domestic industry caused by subsidized imports
- and

c) the competent authorities judge such measures *necessary* to prevent further injury during the investigation.

[SCM Art. 17.1]

**SCM/S 18**

Egypt may not apply provisional measures *sooner* than 60 days from the date of initiation of the investigation nor maintain them exceeding four months. [SCM Art. 17.3, 17.4]

[Note: “Initiation” of a Subsidy investigation is covered in detail in the section of Transparency Obligations – Procedural hereafter]

**d) Determination of Injury**

[NOTE: Article VI:6(a) of the GATT’94 provides that:

“ No contracting party shall levy any . . . countervailing duty on the importation of any product of the territory of another contracting party *unless* it determines that the *effect* of the . . . subsidization . . . is such as to *cause* or *threaten to cause material injury* to an established domestic industry, or is such as to *retard materially the establishment* of a domestic industry.”]

**SCM/S 19**

A determination of “injury” by the GOE must be based on *positive evidence* and involve an *objective examination* of both:

- a) the effect of the subsidized imports on *prices* in the domestic market for *like* products,
- and*
- b) the consequent *impact* of such imports on the domestic producers of such products.

[SCM Art. 15.1]

**SCM/S 20**

In analyzing the *volume* of subsidized imports, GOE authorities must consider whether there has been a *significant* increase in such imports, *either* in (a) *absolute* terms or (b) *relative* to production or consumption in Egypt. [SCM Art. 15.2]

**SCM/S 21**

In analyzing the *effect* of the subsidized imports on *prices*, they must consider whether:

- a) there has been a *significant price undercutting* by such imports *as compared with* the price of a *like* product produced in Egypt  
*or*
- b) the *effect* of such imports is otherwise to *depress* prices to a *significant* degree  
*or*
- c) to *prevent price increases* which would otherwise have occurred to a *significant* degree.

[SCM Art. 15.2]

**SCM/S 22**

The GOE's examination of the *impact* of subsidized imports on the domestic industry must include an *evaluation* of all *relevant economic factors* and *indices* having a bearing on the state of the industry, including:

- actual and potential declines in output, sales, market share, profits, productivity, return on investment, or utilization of capacity
- factors affecting *domestic* prices; and
- *actual* and *potential* negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments.

[SCM Art. 15.4]

**SCM/S 23**

In analyzing for the injurious *effect* of subsidized imports, the GOE must demonstrate a *causal relationship* between the subsidized imports and the *injury* to the domestic industry, based on an examination of all relevant evidence before the authorities, and must also examine any known factors *other* than the subsidized imports which are *at the same time* injuring the domestic industry. [SCM Art. 15.5]

**SCM/S 24**

The GOE must also assess the effect of the subsidized imports in relation to the *domestic production* of the *like* product when available data permit separate identification of such production on the basis of such criteria as the production *process* and producers' *sales* and *profits*. [SCM Art. 15.6]

**SCM/S 25**

A determination by the GOE with regard to the *threat* of serious injury must be based on *facts* and not merely on *allegation*, *conjecture*, or remote *possibility*, and should consider such factors as:

- nature of the subsidy and trade effects *likely* to arise therefrom;
- a significant rate of increase of subsidized imports suggesting the likelihood of *substantially* increased imports thereof;

- sufficient freely disposable or imminent substantial increase in the *capacity* of the exporter suggesting the likelihood of substantially increased imports;
- whether imports are entering at prices likely to have a significant depressing or suppressing effect on domestic prices and would likely increase demand for more imports; and
- inventories of the product being investigated.

[SCM Art. 15.7]

**SCM/S 26**

If Egyptian law does not permit the division of Egyptian territory so as to divide its domestic industry into two or more competitive markets with separate domestic industries, so that injury may be found to one of them if not all of them, Egypt may only levy countervailing duties without limitation on all markets if:

- a) the exporters have been given an opportunity to *cease* exporting at subsidized prices to one or more of the areas or have failed to give adequate assurances in that regard under Article 18,
- and*
- b) countervailing duties cannot be levied only on the products of specific producers which supply the areas in question.

[SCM Art. 16.3]

**SCM/S 27**

If two or more countries have reached such a level of *economic integration* (customs union or free trade area as regulated under GATT'94 Article XXIV) that they have the characteristics of a *single, unified market*, the GOE must consider the *entire area of integration* as the domestic industry for purposes of administering countervailing duties. [SCM Art. 16.4]

**SCM/S 28**

If imports of a product from *more* than one country are *simultaneously* the subject of countervailing duty investigations, the GOE may only *cumulatively* assess effects of such imports if:

- a) the amount of subsidization established in relation to the imports from *each* country is *more* than *de minimis* (one % *ad valorem* in the case of developed countries under Art. 11.9 and 3% for developing countries (Egypt) listed in SCM Annex VII under Art. 27.10 & 11)
- and*
- b) a cumulative assessment of the effects of the imports is *appropriate* in light of the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic products.

[SCM Art. 15.3]

- SCM/S 29**                    The GOE *must immediately terminate* an investigation if it determines that:
- a) the subsidy is *de minimis* (e.g., *less than 1 % ad-valorem*), or
  - b) where the volume of subsidized imports, *actual or potential*, is *negligible*, or
  - c) the injury is *negligible*.
- [SCM Art. 11.9]
- SCM/S 30**                    The GOE *must terminate* any CV investigation of a product *as soon as* it has determined that:
- a) the overall level of subsidies granted upon the product does not *exceed 2 %* of its value/calculated on a per unit basis (or, in the case of *developing countries* listed in SCM Annex VII, *3 %* under Art. 27.10);  
*or*
  - b) the volume of the subsidized imports represents *less than 4 %* of the total imports for the like product in Egypt, *unless* imports from developing country members whose *individual shares* of total import represent *less than 4 % collectively* account for *more than 9 %* of total imports for the like product in Egypt.
- [SCM Art. 27.9]
- SCM/S 31**                    In the conduct of CV investigations for the development of evidence, the GOE may only carry out investigations in the territory of other Members (“on-site” investigations) if (a) they have *notified* such Member of their intent to do so and (b) such Member has *not objected* thereto. [SCM Art. 12.6]
- SCM/S 32**                    In its conduct of CV investigations in other Member Countries, the GOE may only carry out investigations on the premises of a firm therein if (a) the firm so *agrees* and (b) the Member country in which such premises are located is *notified* and does *not object* but the *procedures* set forth in SCM Annex VI shall apply to such investigations on the premises of any firm. [SCM Art. 12.6]
- SCM/S 33**                    The GOE, in its CV investigations, must comply with the rules for foreign on-site investigations set out in SCM Annex VI “Procedures for On-The-Spot Investigations Pursuant to Paragraph 6 of Article 12”, e.g.,
- a) authorities of the exporting country and the firms concerned should be informed of the intention to carry out on-the-spot investigation;

- b) if non-governmental experts are to be included on the investigating team, the authorities of the exporting country should be informed;
- c) as soon as the agreement of the firms to be investigated has been obtained, the names and addresses thereof should be notified to the authorities of the exporting country;
- d) sufficient advance notice should be given to the firms before the visit is made;
- e) visits to a firm to explain a questionnaire should only be made at the request of the exporting firm;
- f) but such a visit may only be made if the authorities conducting the investigation notify representatives of the country visited and they do not object to such a visit; and
- g) a verification visit to confirm information reported in the questionnaire should only be carried out if government of the other country is notified and does not object and the firm agrees.

[SCM Annex VI]

e) **Undertakings**

[Article 18 of the SCM permits CV investigations to be “*suspended*” or “*terminated*” without imposition of provisional measures or CV duties upon receipt of *satisfactory* undertakings under which:

- (i) the *government* of the exporting country agrees to *eliminate* or *limit* the subsidy or take other measures concerning its effects;
- or*
- (ii) the *exporter* agrees to *revise* its prices so that the investigating authorities are *satisfied* that the injurious effect of the subsidy is *eliminated* but that such price increases must not be *higher* than *necessary* to eliminate the amount of the subsidy.]

**SCM/S 34**

The GOE shall not seek or accept any undertakings *unless* it has made a preliminary *affirmative* determination of subsidization and injury caused by such subsidization and, in the case of undertakings from exporters, has obtained their consent. No exporter shall be *required* to enter into such an undertaking. [SCM Art. 18.2, 18.5]

**SCM/S 35**

If the GOE considers acceptance of an undertaking offered by an exporter to be impractical or inappropriate, it shall provide the exporter with a statement of its reasons therefor and give the exporter the opportunity to comment thereon. [SCM Art. 18.3]

**SCM/S 36** In the event of a violation of an undertaking by an exporter, the GOE may apply provisional measures which may include the retroactive levying of definitive CV duties, *but* such retroactive assessment may not be applied to imports entered *before* the violation of the undertaking. [SCM Art. 18.6]

**SCM/S 37** In the event of the acceptance of an undertaking by the GOE, it shall provide a public notice of the suspension of its investigation and make available through a separate report all relevant information on matters of fact and law its reasons for accepting the undertaking. [SCM Art. 22.5]

**f) Imposition/Collection of Countervailing Duties**

**SCM/S 38** The GOE may only impose a countervailing duty if:

- a) it has expended *reasonable* efforts to complete consultations with the Member maintaining the subsidy or exporters thereof to change prices, without success;
  - b) it has made a *final* determination of the:
    - *existence* and
    - *amount*of the subsidy  
and
  - c) that the effects of the subsidized imports are to cause or threaten to cause *injury* to a domestic industry  
and
  - d) it does so in accordance with the provisions of the SCM Agreement, particularly Article 19.
- [SCM Art. 19.1]

**SCM/S 39** If the GOE imposes a countervailing duty on any product, it must do so on a *non-discriminatory* basis on imports of such product from *all* sources *found* to be *subsidized* and *causing injury* – except as to those exporters which have renounced any subsidies in question or from which undertakings have been accepted. [SCM Art. 19.3]

**SCM/S 40** The GOE must afford to any exporter whose exports are subject to a definitive countervailing duty but who was *not actually investigated* for reasons *other* than its refusal to cooperate, the opportunity of an expedited review in order that the competent authorities promptly establish an individual CV duty rate for that exporter. [SCM Art. 19.3]

g) **Retroactivity of Countervailing Duties**

SCM/S 41

The GOE may *only* apply provisional measures and CV duties to products which enter for consumption *after* the time when the:

- a) decision to apply provisional measures under Art. 17.1 (SCM/S 17)  
and
- b) the conditions set forth in Art. 19.1 (SCM/S 36) have been made or met  
*except that*
  - 1) where a final determination of injury (but not a *threat* thereof) is made  
*Or*
  - 2) in the case of a final determination of *threat* of injury, where the effect of the subsidized imports, in the *absence* of provisional measures *would have* led to a *determination* of injury

CV duties *may* be levied *retroactively* for the period for which provisional measures are applied [SCM Art. 20.2]

SCM/S 42

Except as provided in Article 20.2 above (SCM/S39), where a determination of *threat* of injury or *material retardation* is made, *but no injury has yet occurred*, a definitive CV duty may be imposed by the GOE *only from the date* of the *determination of threat of injury* or material retardation, and any cash deposit made during the period of application of provisional measures *must be refunded* and/or any bonds released in an expeditious manner. [SCM Art. 20.4]

*except*

if, in *critical circumstances*, when the competent authorities find for the subsidized product that:

- 1) injury that is *difficult* to *repair* is caused by *massive* imports in a relatively *short* period which benefit from a subsidy inconsistent with the SCM Agreement  
*and*
- 2) where it is deemed *necessary* to *preclude the recurrence* of such injury, to assess CVs *retroactively* on such imports

the definitive CV duties *may* be assessed *not more than 90 days prior* to the date of application of provisional measures. [SCM Art. 20.6]

SCM/S 43

If the definitive CV duty is *higher* than the amount Guaranteed by the cash deposit or bond, the GOE may *not* collect the *difference*, but if the definitive duty is *less* than the amount guaranteed by the cash deposit or bond, the *excess* shall be *reimbursed* or the bond *released* in an expeditious manner. If the final determination is *negative*, any cash deposit made during the period of application of the provisional

measures shall be *refunded* and any bonds *released* in an expeditious manner. [SCM Arts. 20.3, 20.5]

**h) Duration of CV Duties**

**SCM/S 44** The GOE may continue a CV duty in force *only as long as* and *to the extent necessary* to counteract subsidization that is causing *injury*. [SCM Art. 21.1]

**SCM/S 45** The GOE shall review the *need* for the continued imposition of the CV duty:

- a) where warranted, on their *own* initiative
- or
- b) after the elapse of a reasonable period of time, *upon request* by any *interested party* which submits *positive* information *substantiating* the *need* for a review.

*Interested parties* must be afforded the right to request authorities to examine *whether* continued imposition of the CV duty is *necessary*.

*If*, after such a review, the authorities determine that the CV duty is *no longer warranted*, it shall be *terminated immediately*. [SCM Art. 21.2]

**SCM/S 46** Notwithstanding Arts. 21.1(SCM/S 41) and 21.2 (SCM/S 42), the GOE must terminate *any* definitive CV duty not later than *five years* from the date of its imposition (or from the date of its most recent review) *unless* the competent authorities determine, after a review initiated *before* that date upon its own initiative or upon request, that *expiry* of the duty would likely lead to *continuation* or *recurrence* of subsidization and injury. The duty may remain in force pending the outcome of such review. [SCM Art. 21.3]

[NOTE: This kind of definite expiry of an action is often referred to as a “*sunset clause*”]

**B. Transparency Obligations**

**1) Transparency Obligations – Procedural**

**SCM/P 1** GOE may initiate an investigation to determine the Existence, degree, and effect of any alleged subsidy, *either*

- a) upon a written application by or on behalf of the domestic industry [SCM Art. 11.1]
- or*
- b) upon its *own initiative if*, in *special circumstances*, they have *sufficient evidence* of the existence of a subsidy, injury, and a causal link, to justify initiation



of the investigation. [SCM Art. 11.6]

**SCM/P 2**

The GOE may not *accept* an application nor *initiate* an investigation *unless* the application includes sufficient evidence of:

- a) the existence of a subsidy
- b) existence of injury (“within the meaning of Article VI of the GATT’94 as interpreted by this Agreement”),  
and

c) a causal link between the subsidized imports and injury.  
[Simple assertion, *unsubstantiated* by *relevant evidence* may not be considered sufficient to meet the requirements for acceptance of an application.] [SCM Art. 11.2]

**SCM/P 3**

For the GOE to *accept* the application, it must contain such information as is *reasonably* available to the applicant regarding:

- a) regarding the *applicant*, e.g.,
  - identity of applicant
  - description of the volume & value of domestic production of *like* product by the applicant;
  - identification of the domestic industry and *all* known producers of the like product (or associations thereof)
  - value of domestic production of like product attributable to each.
- b) regarding the *product*, e.g.,
  - complete description of the allegedly subsidized product,
  - names of the country or countries of origin or export thereof,
  - identity of each known exporter or foreign producer, and
  - list of known importers of the product.
- c) regarding the *subsidy*, evidence of the:
  - existence thereof
  - amount thereof
  - nature thereof
- b) regarding *material injury*
  - evidence that the subsidized imports have *caused* the material injury
  - evolution of the *volume* of subsidized imports, effects of such imports on *prices* of the like product in domestic market
  - consequent *impact* on the domestic industry

[SCM Art. 11.2]

**SCM/P 4** The GOE must review the *adequacy* and the *accuracy* of the application to determine *whether* the evidence is *sufficient* to *justify* opening of an investigation. [SCM Art. 11.3]

**SCM/P 5** The GOE may *not* initiate an investigation *unless* the competent authorities have *determined* on the basis of an *examination* of the *degree of support* for, or *opposition* to, the application expressed by domestic producers., but no investigation may be initiated if domestic producers expressly supporting the application account for *less* than 25 % of total production of the like product produced by the domestic industry. [SCM Art. 11.4]

[NOTE: SCM Art. 11.4 states that “the application shall be considered to have been made ‘by or on behalf of the domestic industry’ *if* it is *supported* by those domestic producers whose *collective* out-put constitutes *more than 50 %* of the *total* production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application.]

**SCM/P 6** *Until* the GOE has made a decision to *initiate* an investigation, it must avoid any publicizing of the application for initiation of the investigation. [SCM Art. 11.5]

**SCM/P 7** When the GOE is satisfied there *is* sufficient evidence to justify an investigation, it must notify the Members whose products are subject to such investigation and other interested parties known to have an interest therein and shall also give public notice thereof. [SCM Art. 22.1] The public notice shall indicate:

- a) the name of the exporting country or countries involved;
- b) the products involved;
- c) date of the initiation of the investigation;
- d) a description of the subsidy practice(s) to be investigated;
- e) a summary of the factors on which the allegation of injury is based;
- f) the address to which representations by interested parties should be directed; and
- g) the time-limits allowed to interested parties for making their views known.

[SCM Art. 22.2]

**SCM/P 8** The GOE must give public notice of each of the following:

- a) any preliminary determination, whether affirmative or negative;
- b) any final determination, affirmative or negative;
- c) any decision to accept an undertaking under Art. 18.
- d) termination of any undertaking; and

e) any revocation of a determination.

Each such notice must set forth or describe in a separate report in sufficient detail the *findings* and *conclusions* reached on *all* issues of fact and law considered material by the investigating authorities. All such notices and reports must be forwarded to all interested Members and parties. [SCM Art. 22.3]

**SCM/P 9**

The GOE must give public notice of the imposition of any *provisional* measures or make available through a separate report sufficiently detailed explanations for the preliminary determination on the existence of a subsidy and injury and referring to matters of fact and law which have led to arguments being accepted or rejected. Such report shall contain, in particular:

- a) names of suppliers and countries involved;
- b) a description of the product sufficient for Customs purposes;
- c) the amount of the subsidy established and the basis on which its existence was determined;
- d) considerations relevant to the injury determination; and
- e) the main reasons leading to the determination.

[SCM Art. 22.4]

**SCM/P 10**

The GOE must ensure that a public notice of the conclusion or suspension of an investigation in the case of an *affirmative* determination providing for the imposition of a definitive duty or acceptance of an undertaking shall contain or otherwise make available through a separate report, *all relevant* information on matters of fact and law and reasons which have led to the imposition of final measures or acceptance of an undertaking, while protecting confidential information. [SCM Art. 22.5]

**SCM/P 11**

The GOE must consider evidence of both subsidy and injury *simultaneously*:

- a) in the decision *whether* or not to *initiate* the investigation and, thereafter,
- b) during the investigation itself of subsidy, injury, and causality, starting on a date not later than the *earliest* date on which *pro-visional* measures may be applied. [SCM Art. 11.7]

**SCM/P 12**

The GOE must take due account – in considering evidence required to support the application and initiate the investigation – of any difficulties experienced by interested parties, in particular, of small companies, in supplying information and provide to them any assistance practicable. [SCM Art. 12.11]

**SCM/P 13**

The GOE must not allow any investigation to hinder the procedures of customs clearance. [SCM Art. 11.10]

**SCM/P 14**

The GOE must give all interested Members and

interested parties in a CV duty investigation *notice* of the information that the competent authorities require and *ample* opportunity to present *in writing* all evidence which they consider relevant in respect of the investigation. [SCM Art. 12.1] Specifically, this means that:

- a) exporters, foreign producers, or interested Members receiving questionnaires used in a CV duty investigation must be given *at least 30 days* for reply with due consideration for any request for extension for good cause shown [SCM Art. 12.1.1]
- b) subject to confidentiality requirements, evidence presented in writing by any interested Member or party shall be made available to all others participating in the investigation. [SCM Art. 12.1.2]
- c) as soon as the investigation has been initiated, the GOE shall, subject to confidentiality requirements, provide the *full* text of the written application to the authorities and known exporters of the exporting country and make it available, *upon request*, to all other parties, [SCM Art. 1.2.3]

**SCM/P 15** The GOE must provide opportunities for *industrial users* of the product under investigation, and for representative *consumer organizations*, in cases where the product is commonly sold at retail, to provide information relevant to the investigation regarding subsidization, injury, and causality. [SCM Art. 12.10]

**SCM/P 16** The GOE shall afford to interested Members and interested parties the right, *upon justification*, to present information *orally*, and, thereafter, to reduce such submissions to writing. [SCM Art.12.2]

**SCM/P 17** The GOE may *only* base any decision on such information and arguments as were:

- a) on the *written record* of the competent authority, and
- b) which were made available to interested Members and parties participating in the investigation, subject to confidentiality requirements.

[SCM Art. 12.2]

**SCM/P 18** The GOE must, whenever *practicable*, afford timely opportunities for *all* interested Members and parties to see *all information relevant* to the presentation of their cases which is not confidential and which has been *used* by the GOE in its CV duty investigation, and to use such information in the preparation of their presentations. [SCM Art. 12.3]

**SCM/P 19** The GOE must, upon good cause shown, treat as confidential any information which is by *nature* confidential or which is provided on a confidential *basis* by parties to the investigation, and shall not disclose such information *without* the *specific* permission of the party submitting it. [SCM Art. 12.4]

[However, the GOE must require interested Members or parties providing such confidential information to furnish *non-confidential summaries* thereof or provide a statement of reasons which it is not possible to provide it. (SCM Art. 12.4.1)]

**SCM/P 20** The GOE must satisfy itself as to the accuracy of the information supplied by interested parties or Members (e.g., investigate to confirm) upon which its findings are based, except in circumstances in which an interested party or Member refuses access to, or otherwise does not provide necessary information within a reasonable period of time, or significantly impedes the investigation, in which case it may base its preliminary and final determinations, *affirmative* or *negative*, on the basis of the *facts available*. [SCM Arts. 12.5 & 12.7]

**SCM/P 21** The GOE may carry out investigations in the territory of other Members *only if* they have (a) given timely notice to such Member and (b) it has not objected to such investigation. The GOE may also carry out investigations on the premises of a firm and may examine its records *only if* (a) the firm so agrees and (b) the Member in whose territory the firm's premises are located has been notified and not objected. Such "on-the-spot" investigations are subject to the procedures of SCM Annex VI. [SCM Art. 12.6]

**SCM/P 22** The GOE must reject an application or terminate an investigation *promptly* as soon as it is satisfied that there is *not sufficient* evidence of *either* subsidization *or* injury to justify proceeding further in the investigation. [SCM Art. 11.9]

**SCM/P 23** Before making any final determination in the investigation, the GOE must inform all interested Members and parties of the essential facts under consideration which form the *basis* for the decision whether to apply definitive measures (e.g., duties), sufficiently in advance for the parties to defend their interests. [SCM Art. 12.8].

**SCM/P 24** Except in *special circumstances*, the GOE must conclude CV duty investigations within *one year* after their initiation and, in *no case*, more than *18 months*. [SCM Art. 11.11]

**SCM/P 25** The GOE must maintain judicial, arbitral or administrative tribunals or procedures for the *prompt* review of administrative actions relating to the *final* determinations and reviews of deter-maintains under Art. 21 of the SCM Agreement. Such tribunals or procedures must be *independent* of the authorities responsible for the determination

or review in question, and must provide access to all Interested parties who participated in the administrative proceeding and are directly and individually affected by the administrative action. [SCM Art. 23]

2) **Transparency Obligations - Consultation**

- SCM/C 1            If Egypt *requests* consultations with another Member because it has reason to believe that a prohibited subsidy is being granted or maintained by such Member, its request for consultation must include a statement of available evidence for the existence and nature of the subsidy involved. [SCM Art. 4.1,4.2]
- SCM/C 2            If Egypt *receives* such a request for consultation, it must *enter* into consultations *as quickly as possible* to *clarify* the facts of the situation and to *arrive at a mutually acceptable* solution. [SCM Art. 4.3]
- SCM/C 3            If Egypt *requests* consultation with another Member because it has reason to believe that any subsidy granted or maintained by that Member, results in or has resulted in injury to its domestic industry, nullification or impairment, or serious prejudice, its request must include a statement of available evidence for the existence and nature of the subsidy and injury involved. [SCM Art. 7.1, 7.2]
- SCM/C 4            If Egypt *receives* such a request, it must enter into consultations *as quickly as possible* to *clarify* the situation and to *arrive at a mutually acceptable* solution. [SCM Art. 7.3]
- SCM/C 5            If another Member requests consultations with Egypt regarding the serious adverse effects to its domestic industry of any Egyptian non-actionable subsidy (as described in Art. 8), which effects that member alleges cause damage difficult to repair, Egypt must enter into consultations *as quickly as possible* to clarify the situation and to arrive at a mutually acceptable solution. [SCM Art. 9.1, 9.2]
- SCM/C 6            As soon as possible after an application for investigation of a subsidy and injury has been accepted by Egypt under Article 11, but *before initiation* of any such investigation, Egypt must invite the Member whose products may be subject to such investigation to consult with it with the aim of clarifying the situation and arriving at a mutually acceptable solution. [SCM Art. 13.1]
- SCM/C 7            The GOE may not make a final determination of the existence and amount of a subsidy and any injury occurring thereby and impose CV duties *unless* it has made *reasonable* efforts to complete consultation under Article 13 or if the subsidy has been withdrawn. [SCM Art. 19.1]



e) statistical data permitting an assessment of the trade effects of the subsidy.  
[SCM Arts. 25.2, 25.3, 25.5]

**SCM/N 3** If Egypt considers it does *not* presently maintain any notifiable subsidies, it must nevertheless inform the Secretariat in writing of that fact each year (the so-called “Nil Return”). [SCM Art. 25.6]

**SCM/N 4** If Egypt is requested in writing by another Member pursuant to a notification, or with regard to matters which Egypt does not believe it is *required* to make a notification, it *must* provide such information as is requested *as quickly as possible* in a comprehensive and detailed manner so as to permit such Member to assess its compliance with the SCM Agreement. [SCM Art. 25.8, 25.9]

**SCM/N 5** The GOE must notify to the Committee without delay (“ad-hoc” notification) *all* preliminary and final CV actions and submit a semi-annual report on all CV duty actions taken during the preceding *6 months* (“Semi-Annual” Report). [SCM Art. 25.11]

**SCM/N 6** The GOE must notify the Committee regarding:  
a) which of its authorities are competent to initiate and conduct CV duty investigations; and  
b) its domestic procedures governing the initiation and conduct of such investigations.  
[SCM Art. 25.12]

**SCM/N 7** The GOE must notify those subsidies *not* subject to the remedy provisions of the SCM Agreement such as those granted for a limited time within and directly linked to privatization programs. [SCM Art. 27.12]

**SCM/N 8** The GOE must notify (if any) subsidy programs maintained by it *prior* to entry into effect of the Agreement Establishing the WTO which were/are *inconsistent* with the provisions of the SCM Agreement. [SCM Art. 28.1(i)]

**SCM/N 9** The GOE must notify the Committee of any *changes* in its laws and regulations relevant to the SCM Agreement and the administration of such laws and regulations.  
[SCM Art. 32.4(b)]

**SCM/N 10** *Whenever* Egypt becomes a party to any consultation or dispute resolution process under SCM Article 7 relating to any subsidy, it must notify the Committee *immediately* so as to cooperate with it in the development of evidence relevant thereto.  
[SCM Annex V, Para. 1]



**GATT '94 – Article XIX:**  
**Emergency Action on Imports of Particular Products**  
**and**  
**The Agreement on Safeguards**

[NOTE: GATT '94 Article XIX provides a basic remedy (“emergency action”) to WTO Members to deal with the unforeseen surges in imports that may occur as a result of tariff or other concessions, which cause or threaten to cause “serious” injury to a domestic industry in the importing *or* exporting country. The Uruguay Round Agreement on Safeguards relates *only* to GATT Article XIX-based safeguard measures and *not* to those authorized for other purposes under GATT '94 Articles XII, XVIII, XX, or XXI.]

**I. Article XIX of the GATT '94**

**A. Substantive Obligations**

**GATTXIX/S 1** Egypt may only invoke “emergency action” or “Safeguards” (e.g., suspend a GATT obligation or withdraw or modify a GATT concession) to restrict imports from other WTO Member countries *when* such imports, as an *unforeseen* development, have occurred as an effect of obligations incurred by Egypt under the WTO Agreement (including its tariff concessions) and are being imported in such increased quantities and under such conditions as to *cause or threaten* to cause *serious injury* to Egyptian producers of *like or directly competitive* products and, then, *only* to the extent and for *such time* as may be *necessary to prevent or remedy* such injury. [Para. 1(a)]

**GATTXIX/S 2** Egypt may only suspend an obligation or withdraw or modify a concession given to another Member country under a *preference* covering a product being imported into Egypt so as to *cause or threaten* to cause *serious injury* to domestic producers of a like or directly competitive product in the *exporting* country, *if* the *exporting* country *requests* Egypt to suspend the relevant obligation in whole or in part or to withdraw or modify the concession resulting from the premise and, then, *only* to the extent and for *such time* as may be *necessary to prevent or remedy* such injury. [Para. 1(b)]

**GATTXIX/S 3** *Before* taking emergency (safeguard) action described in GATTXIX/S 1 or 2, the GOE must give *notice in writing* to [GATT, now the WTO] “as far in advance as practicable” and afford those Member countries having a *substantial interest as exporters* of the product concerned the opportunity to consult with the GOE regarding such proposed action, *except* that, in *critical* circumstances “where delay would cause *damage* which it would be *difficult to repair*, such action may be taken *provisionally* on condition that consultation be effected *immediately after* such action. [Para. 2]

[NOTE: *Failure* to give advance notice could give an exporting country the right to *retaliate* against Egypt by suspending substantially equivalent concessions or other obligations under the GATT.]

**B. Transparency Obligations**

- 1) **Transparency Obligations – Procedural – (none)**
- 2) **Transparency Obligations – Consultation**

**GATTXIX/C 1** Except in critical circumstances, where delay would cause damage that would be difficult to repair, *before* Egypt takes any Safeguard action to restrict imports under GATT Article XIX, it must afford those Members “having a substantial interest as *exporters*” to consult with it regarding the proposed action. [Para. 2]

- 3) **Transparency Obligations – Notification**

**GATTXIX/N 1** Except in critical circumstances, where delay would cause damage that would be difficult to repair, *before* Egypt takes any Safeguard action to restrict imports under GATT Article XIX, it must give *notice in writing* to the [GATT, now the WTO, and, in particular, the Committee on Safeguards], and, when such notice is given with regard to a concession given under a *preference* (see GATTXIX/S 2), the notice must name the Member *country requesting* Egypt to take such action. [Para. 2]

**GATTXIX/N 2** If Egypt has become the *target* of another Member country invoking emergency action under GATT Article XIX and it wishes to avail itself of its right to retaliation (suspend application to such country of GATT obligations or concessions it has previously given under the GATT), it must provide 30 days *written notice* to the [GATT, now WTO, Committee on Safeguards], *before* taking such action. [Para. 3(a)]

## Chart A

### Emergency Action/Safeguards: Important Definitions

<b>Serious Injury</b>	Means a “significant overall impairment in the position of a domestic industry.” [SFG Para. 6(a)]
<b>Threat of Serious Injury</b>	Means serious injury that is <i>clearly imminent</i> . [SFG Para. 6(b)]
<b>Domestic Industry</b>	Means the producers as a whole of the like or directly competitive products operating within the territory of a Member, <i>or</i> those whose collective output of the like or directly competitive products constitutes a <i>major</i> proportion of the total domestic production of those products. [SFG Para. 6(c)]

## II. The Agreement on Safeguards

### A. Substantive Obligations

#### 1) Basic Rules

**SFG/S 1** The GOE may *not* take or seek any emergency action on imports of particular products as provided for in GATT '94 Article XIX *unless* such action *conforms* with the provisions of that article *applied in accordance with* the Agreement on Safeguards. [SFG Para. 22(a)]

[NOTE: SFG Para. 1 states that “this Agreement establishes rules for the application of safeguard measures which shall be understood to *mean* those measures provided for in Article XIX of the GATT 1994”. And Para. 22(c) provides that the SFG Agreement “does not apply to measures sought, taken or maintained by a Member pursuant to provisions of the GATT 1994 *other than* Article XIX, and Multilateral Trade Agreements in Annex 1A *other than* this Agreement, or pursuant to protocols and agreements or arrangements concluded within the framework of the GATT 1994.]

**SFG/S 2** The GOE must terminate all safeguard measures taken pursuant to GATT 1947 Article XIX that were *in existence* on the date of entry into force of the Agreement Establishing the WTO (01 January 1995) *not later than eight years* after the date on which they were *first applied* or *five years after* the date of entry into force of the WTO Agreement (e.g., 01 January 2000), *whichever comes later*. [SFG Para. 21]

#### 2) Requirements for Safeguards

**SFG/S 3** The GOE must not apply a safeguard measure to a product *unless* it has determined, pursuant to an investigation, that such product is being imported into Egypt

- a) in such *increased* quantities, *absolute* or *relative* to domestic production, and
- b) under such conditions as to *cause* or *threaten to cause serious injury* to the domestic industry that produces
- c) *like* or *directly competitive* products.

[SFG Para. 2 & 3(a)]

**SFG/S 4**

The GOE may not apply a *provisional* safeguard measure in the absence of a formal investigation *except in critical circumstances* where *delay* would cause *damage* that would be *difficult to repair*,

and, the provisional safeguard applied may not exceed 200 days,

during which such investigation and the *consultation* and *notifications* requirements of the SFG Agreement must be met (see Transparency Obligations – Consultation and –Notification hereafter),

and, if such provisional measure is taken, it “should” take the form of *tariff increases* to be *promptly refunded* if the subsequent investigation does not find that increased imports have *caused* or *threatened to cause serious injury* to Egypt’s domestic industry. [SFG Para. 3(a), 4]

**SFG/S 5**

The GOE may apply safeguard measures *only* to the extent *necessary* to *prevent* or *remedy* serious injury and to *facilitate adjustment*. [SFG Para. 8]

3) **Investigation**

**SFG/S 6**

In its investigation (to determine increased imports and serious injury or threat thereof), the GOE must evaluate *all relevant factors* of an *objective* and *quantifiable* nature having a bearing on the relevant Egyptian industry, in particular:

- a) the *rate* and *amount* of the *increase* in imports of the product concerned in *absolute* and *relative* terms,
- b) the *share* of the domestic market taken by increased imports, and
- c) *changes* in the level of:
  - sales
  - production
  - productivity
  - capacity utilization
  - profits and losses, and
  - employment.

[SFG Para. 7(a)]

**SFG/S 7** The GOE may not make a determination that increased imports have caused or threaten to cause serious injury to a domestic Egyptian industry *unless* its investigation has *demonstrated*, on the basis of *objective evidence*, the existence of the *causal link between* (a) such increased imports and (b) the serious injury or threat thereof such that, when *factors other* than increased imports are causing injury to the domestic industry *at the same time*, such injury *shall not be attributed to* increased imports.[SFG Para. 7(b)]

**4) Application of Safeguards**

**SFG/S 8** The GOE must apply safeguards to a product *irrespective* of its source, e.g., once having found that increased imports of the product are causing or threatening serious injury to the Egyptian industry producing the like or directly competitive product, its safeguards must be applied to *all* imports of the product *regardless of the country* from which exported. [SFG Para. 5]

**SFG/S 9** If the GOE applies a *quantitative restriction* (quota) as a safeguard, such measure must not *reduce* the allowable quantity of imports *below* the *average* of imports in the last three representative years for which statistics are *available*, *unless clear justification* is given that a *different* level is *necessary* to prevent or remedy serious injury. [SFG Para. 8]

**SFG/S 10** *Unless* the GOE has obtained an agreement among *all* other members having a substantial interest in supplying the product concerned, any *quota* imposed on imports shall be allotted by the GOE among supplying Members in proportion to the relative shares of the total quantity or value thereof supplied by such Members during a prior representative period, (due account being taken of any special factors which may have affected or be affecting trade in the product). [SFG Para. 9(a)]

**SFG/S 11** *Except* in the case of *threat* of serious injury, the GOE may only depart from the above obligation (SFG/S 10) pursuant to consultations with the WTO Committee on Safeguards after having demonstrated to the Committee that:

- a) imports from certain Members have increased *disproportionately* in relation to the total increase of imports of the product during the representative period,
- b) the reasons for the departure from [SFG/S 10] are *justified*, and
- c) the conditions of such departure are *equitable to all* suppliers of the product concerned.

[SFG Para. 9(b)]

**SFG/S 12** The GOE must not apply safeguard measures against products originating in a *developing country* Member *as long as* its *share* of imports into Egypt of the product concern *does not*

*exceed 3 %, provided that developing country Members with less than 3 % import share collectively account for not more than 9 % of total imports into Egypt of the product concerned.*  
[SFG Para. 19]

**SFG/S 13**

If the expected duration of a safeguard is *over* one year, the GOE must *progressively liberalize* it at *regular intervals* during the period of its application,  
and  
if such a measure is extended beyond its initial authorized period (see SFG/S 17), it shall not be *more restrictive* than during its initial period, and must *continue* to be *liberalized*.  
[SFG Para. 13]

**4) Prohibition of “Grey Measures”**

**SFG/S 14**

The GOE must not *seek, take, or maintain* any “voluntary” export restraints (“VERs”) or “Orderly Marketing” arrangements (“OMAs”) or any other similar measures on the export or the import side

*and* all such measures *existing* as of the date of the entry into force of the WTO Agreement must be *phased-out* according to *timetables* (which *should* have been) presented to the WTO Committee on Safeguards not later than 180 days after the date of entry into force of the WTO Agreement (e.g., 30 June 1995). [SFG Para. 22 (b) & 23]

[NOTE: Since Egypt did not *accede* to the WTO *until* 30 June 1995, presumably it should have had until *31 December* 1995 to present such “timetables” to the WTO, except that, under Article XIV:2 of the Agreement Establishing the World Trade Organization, upon its acceptance of that agreement *after* its entry into force, Egypt is obligated to implement the concessions and obligations of the Multilateral Trade Agreements (which include the Safeguards Agreement) “as if it had accepted this Agreement on the date of its *entry into force*.” But, presumably, the issue is now moot.]

**SFG/S 15**

The GOE must not encourage or support the adoption of VERs and/or OMAs by Egyptian public or private enterprises.[SFG Para. 24]

**5) Duration of Safeguards**

**SFG/S 16**

The GOE must *not* apply safeguard measures beyond the period of time *necessary* to *prevent* or *remedy* serious injury or to *facilitate adjustment*. [SFG Para. 10]

Normally such period must not *exceed 4 years, unless* extended, *except* that, Egypt, as a *developing country*, has the right to extend the period for up to *two* years beyond (for a total *initial* authorized period of *six* years) [SFG Para. 20]

**SFG/S 17** The GOE may *not* extend the application of safeguards beyond the initially authorized period (see SFG/S 15) *unless* it determines that maintenance of such measure:

- a) continues to be *necessary* to *prevent* or *remedy* serious injury,
- b) there is *evidence* the industry is *adjusting*, *and*
- c) the provisions of the SFG Agreement are observed.

[SFG Para. 11]

**SFG/S 18** In *any* case, the GOE may *not* maintain safeguards for a *total* period of more than 8 years *including*:

- the period of any *provisional* measure
- the period of *initial* application (for Egypt 6 years),
- and any *extension* thereof.

[SFG Para. 12]

**SFG/S 19** The GOE may not *re-apply* a safeguard measure to the import of a product that was originally applied *before* entry into force of the WTO Agreement, for a period of time *equal* to its *original* application (e.g., before entry into force of the WTO Agreement) *unless* a period of *non-application* shall pass of at least *two* years,

*except that* a safeguard measure with a duration of 180 days or less may be applied *again*, *if*:

- a) at least *one year* has elapsed since the date of introduction of a safeguard measure on the import of that product; *and*
- b) such a safeguard measure has not been applied on the *same* product *more* than *twice* in the *five* year period preceding the introduction of the measure.

[SFG Para. 14, 15]

## **6) Compensation/Retaliation for Safeguards**

**SFG/S 20** Should the GOE propose to apply or to extend a safeguard, it must “endeavour” to maintain a *substantially equivalent level of concessions* and *other obligations* to that existing between it and affected exporting Members through consultations therewith.

[SFG Para. 16]

**SFG/S 21** If Egypt is the *target* of safeguard measures proposed by another WTO Member, and no agreement is reached within 30 days in the consultations required (as described in SFG/S 20), then it may, not *later* than 90 days after application of such safeguard, *suspend* application of *substantially equivalent* concessions or other obligations under the GATT’94 to the trade of the Member applying the safeguard measure, provided:

- a) it has provided at least 30 days written notice to the WTO Council for Trade in Goods of its intention to do so, *and*

b) the Council has not disapproved thereof,  
*but,*  
such right of suspension may not be exercised for the *first three years* a safeguard measure has been in effect *if*  
a) it was taken to respond to an *absolute* (e.g., not *relative*) *increase* in imports, *and*  
b) the measure conforms to the requirements of the SFG Agreement.  
[SFG Para. 17, 18]

## **B. Transparency Obligations**

### **1) Transparency Obligations – Procedural**

**SFG/P 1** Upon its initiation of an investigation for purposes of the application of safeguard measures, the GOE must give *reasonable* notice to all interested parties and afford public hearings or other appropriate means by which importers, exporters, and other interested parties can present evidence and their views, including the opportunity to *respond* to the presentations of other parties and to submit their *views* as to whether or not application of a safeguard would be in the public interest and, afterward, the GOE must publish a report setting forth its *findings* and reasoned *conclusions* on all pertinent issues of fact and law. [SFG Para. 3(a)]

**SFG/P 2** The GOE must treat any information which is by nature confidential or which is provided on a confidential basis, upon cause being shown, as *confidential* and may not disclose it without *permission* of the submitting party, *but*, if it finds such a request is not warranted and if the submitting party is unwilling to make the information public or authorize its disclosure in generalized or summary form, the GOE would be free to disregard such information. [SFG Para. (3)(b)]

**SFG/P 3** *Promptly* upon the conclusion of its safeguards investigation, the GOE must publish a detailed analysis of the case under investigation as well as a demonstration of the relevance of the factors examined. [SFG Para. 7(c)]

### **2) Transparency Obligations – Consultation**

**SFG/C 1** If the GOE proposes to apply or to extend a safeguard measure, it must *first* consult with those Members having a substantial interest as *exporters* of the product, with a view toward, *inter alia*, reviewing the information on increased imports, injury, etc., exchanging views thereon, and reaching an understanding on ways to achieve a substantially equivalent level of concessions therefor. [SFG Para. 27]



**SFG/C 2** If the GOE desires to depart from the obligation to allocate shares of any quota imposed as a safeguard measure among supplying Member countries as authorized in SFG Para. 9(b), it must *first* consult, under the auspices of the WTO Committee on Safeguards, with all other Members having a substantial interest in supplying the product concerned. [SFG Para. 9(b)]

**SFG/C 3** If the GOE initiates a provisional application of safeguards under paragraphs 3 and 4 of the SFG Agreement, it must initiate consultations with those Members having a substantial interest therein as exporters of the product concerned *immediately after* such measure is taken. [SFG Para. 28]

**SFG/C 4** Consultations with a view toward the settlement of disputes regarding the implementation of the SFG Agreement must be governed by the Consultation/Dispute Settlement provisions of GATT '94 Articles XXII and XXIII. [SFG Para. 38]

### **3) Transparency Obligations – Notification**

**SFG/N 1** The GOE must notify promptly the WTO Committee on Safeguards of its laws, regulations, and administrative procedures relating to safeguard measures as well as any modifications therein. [SFG Para. 30]

**SFG/N 2** Any safeguards measures maintained by the GOE as of the date of entry into force of the WTO Agreement must have been notified to the Committee on Safeguards within 60 days after the entry into force of such agreement (see Note following SFG/S 14). [SFG Para. 31]

**SFG/N 3** The GOE must *immediately* notify (e.g., “ad-hoc” notification) the Committee on Safeguards upon:

- a) initiating an *investigatory process* relating to serious injury or threat thereof, and the reasons for it;
- b) making a *finding* of serious injury or threat thereof caused by increased imports; and
- c) taking a *decision* to apply or extend a safeguard measure,

and

in making such notice, must provide the Committee with *all pertinent information* which shall include:

- 1) evidence of serious injury or threat thereof caused by imports of the product concerned,
- 2) a *precise* description of the product involved
- 3) a *precise* description of the measure proposed
- 4) the proposed date of its introduction
- 5) the expected duration thereof, *and*
- 6) the timetable for its progressive liberalization.

[SFG Para. 25, 26]

**SFG/N 4**                    The GOE must notify those Members having a substantial interest as exporters of the product concerned, of any intention to apply provisional safeguard measures *before* taking such action. [SFG Para. 28]

**SFG/N 5**                    The GOE must notify *immediately* (e.g., “ad-hoc” notification) to the Committee on Safeguards the occurrence of any of the following:

- a) results of consultations with regard to proposed safeguard actions or actions taken,
- b) any form of compensation offered or given, and
- c) proposed suspension of concessions or other obligations.

[SFG Para. 29]

**The General Agreement on Services**  
**“GATS”**

**Substantive Obligations**

**A. Market Access/National Treatment**

**GATS/S 1** Egypt must accord, immediately and unconditionally, to services and service suppliers of any other Member, treatment no less favorable [e.g., “MFN”] than it accords to like services and service suppliers of any other country . . . [Art. 2.1]

*Except that*

a) it may maintain measures *inconsistent* with the above *if*:

(i) such measures are *listed in*  
and

(ii) *meet the conditions of the Annex on*  
Article II exemptions

[Art. 2.2]

*or*

b) it may confer preferential advantages to an adjacent country in order to facilitate frontier zone services locally produced and consumed.

[Art. 2.3]

**GATS/S 2** Egypt must accord services and service suppliers of any other Member treatment no less favorable than that provided for under the *terms, limitations, and conditions agreed and specified in its schedules*.

[Art. XVI.1]

[NOTE: Egypt’s GATS Schedules are found in APPENDIX B]

**GATS/S 3** Egypt must set out (inscribe) in schedules annexed to the GATS Agreement – which form an integral part thereof – *all of the specific commitments* (market access and national treatment) it has undertaken, indicating:

a) terms, limitations, conditions on market access.

b) conditions and qualifications to national treatment

c) undertakings relating to additional commitments

d) the time-frame for *implementation* of such commitments, and

e) the date of entry into force of such commitments.

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f) measures that are *inconsistent* with GATS Art. XVI (MFN) and Art. XVII (National Treatment).  
[Art. XX]

**GATS/S 3**

Egypt must accord to services and service suppliers of any other Member, with regard to all measures affecting the supply of such services, treatment *no less favorable* than it accords to its *domestic* services and service suppliers,

*But only*

a) in the *sectors* with regard to which it has made commitments inscribed *in its schedules*;

*and*

b) subject to any *conditions and qualifications* set forth in such schedules.

[Art. XVII.1]

**GATS/S 4**

Commitments negotiated by Egypt with other countries with respect to trade in services *not covered* by its Market Access (Art. XVI) or National Treatment (Art. XVII) commitments must *also* be inscribed in its services schedules. [Art. XVIII]

**B. Measures Implementing Services Commitments**

**GATS/S 5**

In sectors where *specific commitments* are undertaken, Egypt must ensure that all measures of general application affecting trade in services are administered in a *reasonable, objective, and impartial* manner. [Art. VI]

**GATS/S 6**

With respect to those Market Access commitments undertaken by Egypt (in its schedules), it may not maintain or adopt (unless otherwise *specified* in such schedules) the following measures:

a) limitations on the *number* of service suppliers.

- b) limitations on the total *value* or *volume* of services transactions, e.g.,:
    - (i) number = quotas
    - (ii) value/assets = economic needs test
  - c) limitations on the total *number* of service outputs.
  - d) limitations on the total number of natural persons that may be *employed*.
  - e) measures restricting or requiring specific types *legal entity* or joint venture through which a service supplier may supply a service.
  - f) limitations on the participation of *foreign* capital in a service supplier.
- [Art. XVI.2]

**GATS/S 7** Egypt must respond promptly to any request by another Member for specific information on any of its measures of general application or international agreements pertaining to operation of the GATS Agreement [Art. I.1 & 4] *except as to confidential* or law-related information. [Art. III bis]

**C. Modification/Withdrawal of Commitments**

**GATS/S 8** Egypt may *modify* or *withdraw* any commitment in its schedules within *three* years after such commitment entered into force [Art. XXI.1(a)]

*But*

such modification or withdrawal must be made according to such procedures therefor as are established by the WTO Council for Trade in Services. [Art. XXI.5]

**GATS/S 9** If any other Member believes Egypt's proposed modification or withdrawal may affect its benefits under the GATS, then Egypt, upon the request of such Member, must enter into negotiations to reach agreement on any necessary *compensatory adjustment* so as to maintain a general level of mutually-advantageous commitments not less favorable to trade than originally provided in Egypt's schedules. [Art. XXI.2]

**GATS/S 10** If agreement on such compensation cannot be negotiated, then, if arbitration is requested by such Member:

- a) Egypt must participate in such *arbitration*  
*and*
- b) may *not* modify or withdraw its commitment  
*until* it has made compensatory adjustments  
in conformity with the arbitral findings  
[Art. XXI.3 & 4]

**D. Transfers of Capital**

**GATS/S 11** In fulfilling its GATS obligations and commitments, Egypt must take such reasonable measures as are available to it to ensure their observance by *regional* and *local governments* and *non-governmental bodies* within its territory. [Art. I.3]

**GATS/S 12** If Egypt undertakes a market access commitment relating to the supply of a service by a service supplier of *another* Member through a *commercial presence* of such supplier in Egypt, it must allow related *transfers of capital* into Egypt. [Art. XVI.1 Ft.8]

**GATS/S 13** If Egypt undertakes a market access commitment relating to the supply of a service from the territory of another Member into its own territory, and if the cross-border transfer of capital is an *essential* part of such service, it must allow such movement of capital. [Art. XVI.1 Ft.8]

**GATS/S 14** Egypt may *not* impose restrictions on international transfers and payments for current transactions where these relate to its specific service commitments specified in its schedules. [Art. XI]

*except*

- a) in the event of serious balance-of-payments and external financial difficulties or threat thereof  
[Art. XII.1]

*and*

- b) subject to the conditions that such measures:
  - 1) shall *not discriminate* among Members
  - 2) are *consistent* with the IMF Articles of Agreement
  - 3) avoid *unnecessary* damage to the commercial, economic, and financial interests of any other Member
  - 4) do not exceed those *necessary* to deal with the balance-of-payments or financial difficulties,
  - 5) are not adopted or maintained for the purpose of *protecting* a particular domestic service sector,  
and

- 6) are *temporary* and are *phased-out* progressively as the balance-of-payments or financial situation improves.  
[Art. XII.2 & 3]

**E. Monopoly/Exclusive Suppliers**

**GATS/S 15** Egypt must ensure that any *monopoly supplier* of a service in its territory does not, in the supply of such service, act in a manner inconsistent with Egypt's obligations under GATS Article II and its specific scheduled commitments.  
[Art. VIII.1]

**GATS/S 16** Where an Egyptian monopoly supplier competes in the supply of a service:  
a) *outside* the scope of its monopoly rights  
b) but in an area subject to Egypt's *specific* service commitments,  
Egypt must ensure that such supplier does not *abuse* its monopoly position to act in a manner inconsistent with Egypt's commitments. [Art. VIII.2]

**GATS/S 17** The foregoing obligations apply as well in the case of *exclusive* service suppliers where Egypt:  
a) authorizes or establishes a small number of service suppliers,  
*and*  
b) substantially prevents competition among those suppliers in its territory.  
[Art. VIII.5]

**F. Regional/Recognition Agreements**

**GATS/S 18** Egypt may *not* become a party to or enter into an agreement liberalizing trade in services between or among the parties thereto  
a) *unless* it meets the criteria of Article V.1  
*and*  
b) it may *not* seek *compensation* for trade benefits accruing to any other Member from such agreement.  
[Art. V.1 & 8]

**GATS/S 19** With regard to the *movement of natural persons* supplying services for which Egypt has undertaken commitments, Egypt may *not* apply measures regulating the entry of such natural persons or the duration of their stay or protection thereof, in such a manner as to *nullify* or *impair* the benefits accruing to any Member under the terms of any *specific* commitment. [Annex on movement of Natural Persons, Para. 4]

**GATS/S 20** In sectors in which Egypt has undertaken specific commitments, it shall *not* apply licensing and qualification requirements and technical standards that *nullify* or *impair* such specific commitments in a manner that:

- a) does not comply with the criteria of Art. VI.4
- and*
- b) could not reasonably have been expected of such Member at the time it made the specific commitments in those sectors.

[Art. VI.5]

**GATS/S 21** In sectors in which Egypt has made specific commitments regarding *professional services*, it must provide for adequate procedures to *verify* the competence of professionals of any other Member. [Art. VI.6]

**GATS/S 22** If Egypt is a party to an agreement or arrangement with another country providing for the *recognition* of educational or experience requirements or of licenses or certifications thereof, it must afford adequate *opportunity* for other interested Members to negotiate either accession to such agreement or arrangement or provisions comparable thereto. If Egypt extends such recognition autonomously, it must afford the *same* possibilities to any other Member. [Art. VII.2]

**GATS/S 23** Egypt may *not* accord recognition in a manner that would constitute a means of *discrimination* between countries in the application of its standards or criteria for the authorization, licensing, or certification of service suppliers or a disguised *restriction* on trade in services. [Art. VII.3]

## **G. Financial Services**

**GATS/S 24** While it may take *prudential measures* to protect investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial services supplier, or to ensure the integrity and stability of its financial system, Egypt may *not* apply such measures as a means to *avoid* its obligations and commitments under the GATS. [Annex on Financial Services, Para. 2(a) & (b)]

**GATS/S 25** If Egypt enters into an agreement or arrangement with another country providing for recognition of prudential measures of such country in determining how its measures regulating financial services shall be applied, it must afford an adequate opportunity for other interested Members to negotiate accession to such agreement or arrangement or to negotiate ones comparable to it.



*and*

If Egypt extends such recognition autonomously, it must afford the same possibilities to any other interested Member.

[Annex on Financial Services, Para. 2(a) & (b)]

## **H. Telecommunications**

[These provisions *may* no longer be applicable because of the conclusion of the recent WTO Agreement on Basic Telecommunications.]

**GATS/S 26** Egypt must ensure that the requirements of the GATS Annex on Telecommunications are applied with respect to suppliers of public telecommunications transport networks and services by whatever measures are necessary. [Annex on Telecommunications, Ft. 1]

**GATS/S 27** Egypt must ensure that any service supplier of another Member is accorded access to and use of public telecommunications transport networks and services on *reasonable* and *non-discriminatory* terms and conditions. [Annex on Telecommunications, Para. 5(a)]

*but*

Egypt, as a *developing country* Member, may place *reasonable* conditions on access to and use of public telecommunications transport networks and services *necessary* to strengthen its domestic telecommunications infrastructure and service capacity and to increase its participation in international trade in telecommunications services, *but*, such conditions must be *specified* in its schedules.

[Annex on Telecommunications, Para. 5 (g)]

**GATS/S 28** Egypt must ensure that no condition is imposed on access to and use of public telecommunications transport networks and services other than as necessary to:

a) safeguard public service responsibilities of suppliers

b) ensure that service suppliers of other Members do not supply services unless permitted pursuant to commitments therefor in Egypt's schedules;

*or*

c) protect the technical integrity of public telecommunications networks and services.

[Annex on Telecommunications, Para. 5(e)]

**GATS/S 29** Egypt must ensure that service suppliers of other Members have access to and use of any public

telecommunications transport network or service offered within or across its border, including private leased circuits and that such suppliers are permitted to:

- a) purchase or lease and attach terminal or other equipment which interfaces with the network and which is *necessary* to supply a supplier's services;
- b) interconnect private leased or owned circuits with public telecommunications transport networks and services or with circuits leased or owned by another service supplier; and
- c) use operating protocols of the service supplier's choice in the supply of its services – other than as necessary to ensure the availability of transport networks and services to the public generally.

[Annex on Telecommunications, Para. 5(b)]

**GATS/S 30** Egypt must ensure that service suppliers of other Members may use public telecommunications transport networks and services for the movement of information within and across borders, including for intra-corporate communications of such service suppliers, and for access to information contained in data bases or otherwise stored in machine-readable form within its territory. [Annex on Telecommunications, Para. 5(c)]

**GATS/S 31** While Egypt may take such measures as are *necessary* to ensure the *security* and *confidentiality* of messages, it may *not* apply such measures as a means of arbitrary or unjustifiable *discrimination* or as a disguised restriction on trade in services. [Annex on Telecommunications, Para. 5(d)]

**GATS/S 32** Until the implementation date to be determined in the Final Report of the Negotiating Group on Basic Telecommunications for WTO Negotiations on Basic Telecommunications, Egypt may *not* apply any measure affecting trade in basic telecommunications in such a manner as would improve its negotiating position and leverage. [Para. 7 of the Decision on Negotiations on Basic Telecommunications]

## **I. Maritime Transport Services**

**GATS/S 33** Until the implementation date to be determined in the Final Report of the Negotiating Group on Maritime Transport Services for WTO Negotiations on Maritime Transport, Egypt may not apply any measure affecting trade in maritime transport services - except in response to measures applied by other countries – in such a manner as to improve

their negotiating position and leverage. [Para. 7 of the Decision on Negotiations on Maritime Transport Services]

## II. Transparency Obligations

### A. Transparency Obligations – Procedural

**GATS/P 1** Egypt must publish promptly and, except in emergency situations, at the latest by the time of their *entry into force*, all relevant measures of general application that pertain to or affect the operation of the GATS. [Art. III.1]

**GATS/P 2** When authorization is required for the supply of a service for which a specific commitment has been made by Egypt, the competent authorities of Egypt must:

- a) within a reasonable time after submission of an application considered complete under domestic law and regulations, inform the applicant of the *decision* on the application,

*and*

- b) at the request of the applicant, provide without undue delay information concerning the *status* of the application.

[Art. VI.3]

**GATS/P 3** Egypt must maintain administrative, judicial, or arbitral tribunals or procedures which provide, upon request of an affected service provider, for the prompt *review* of, and, where justified, appropriate remedies for, administrative decisions affecting trade in services. If such procedures are not *independent* of the agency entrusted with the administrative decision concerned, it must ensure that the procedures do, in fact, provide for an *impartial* and *objective* review. [Art. VI.2(a)]

**GATS/P 4** [With respect to telecommunications services] Egypt must ensure that relevant information on conditions affecting access to and use of public telecommunications transport networks and services is publicly available. [Annex on Telecommunications, Para. 4]

### B. Transparency Obligations – Consultation

**GATS/C 1** Egypt must, *upon request* of any other Member, enter into consultations regarding business practices of its service suppliers that may *restrain* competition and thereby restrict trade in services, with a view to eliminating such practices if

any. Egypt must also cooperate in the supply of publicly-available, non-confidential information of relevance to the matter in question. [Art. IX]

**GATS/C 2** If Egypt adopts or maintains any restrictions on international transfers and payments for transactions relating to its specific service commitments taken to address serious balance-of-payments and/or external financial difficulties or threat thereof under GATS Art. XII, it must consult *promptly* with the WTO Committee on Balance-of-Payments regarding such restrictions. [Art. XII.5(a)]

**GATS/C 3** Egypt shall consult, *upon request*, with any Member which may be affected by Egypt's modification or withdrawal of any service commitment specified in its schedule and negotiate regarding any necessary compensation therefor. [Art. XXI.2(a)]

[But *no* compensation required if financial services are involved – per Decision on Financial Services, Para. 1]

**GATS/C 4** Egypt must afford adequate opportunity for consultation regarding any representations of other Members regarding *any* matter affecting operation of the GATS. [Art. XXII.1]

**GATS/C 5** Egypt must consult, *upon request*, with any other Member with regard to any new or amended measure affecting the access of the latter's service suppliers to public telecommunications transport networks and services for the movement of information within and across Egypt's borders. [Annex on Telecommunications, Para. 5(c)]

**GATS/C 6** Egypt must make appropriate arrangements for consultations, where relevant, with international organizations regarding international standards for global compatibility and inter-operability of telecommunications networks and services. [Annex on Telecommunications, Para. 7(b)]

### **C. Transparency Obligations – Notifications**

**GATS/N 1** Egypt must promptly and at least *annually* inform the WTO Council for Trade in Services of the introduction of any new, or changes to existing, laws, regulations, or administrative guidelines which significantly affect trade in services covered by its specific commitments under the GATS. [Art. III.3]

**GATS/N 2** Egypt must notify the Council on Trade in Services of its intention to modify or withdraw a specific commitment after *one year* from the date such commitment *entered into force*. [Art. X.2]

- GATS/N 3** Egypt must notify its intent to modify or withdraw a commitment under GATS Art. XXI to the Council on Trade in Services no later than *three months before* the intended date of *implementation* of such modification or withdrawal. [Art. XXI.2]
- GATS/N 4** If Egypt is a party to any integration agreement liberalizing trade in services, it must promptly notify any such agreement or any enlargement or significant modification of the agreement to the Council on Trade in Services. [Art. V.7(a)]
- GATS/N 5** If Egypt is a party to any integration agreement liberalizing trade in services which is implemented on the basis of a *time-frame*, it must report periodically to the Council on Trade in Services regarding its implementation. [Art. V.7(b)]
- GATS/N 6** If, in connection with the conclusion, enlargement, or modification of any integration agreement, Egypt intends to withdraw or modify a specific commitment which would be inconsistent with the terms and conditions set out in its schedule, it must provide *90 days* advance notice of such withdrawal or modification [ to the WTO Council on Trade in Services]. [Art. V.5]
- GATS/N 7** If Egypt is or becomes a party to any agreement establishing full integration of *labor markets* among the parties, it must notify such agreement to the Council on Trade in Services. [Art. V bis]
- GATS/N 8** Egypt must, within 12 months from the date on which the WTO Agreement takes effect for it [e.g., 30 June 1996] inform the Council on Trade in Services of its existing recognition measures and state whether such measures are based on other agreements or arrangements. [Art. VII.4(a)]
- GATS/N 9** Egypt must promptly notify the Council on Trade in Services, *as far in advance as possible*, of the opening of negotiations on a recognition agreement or arrangement in order to afford other interested Members adequate opportunity to participate in such negotiations. [Art. VII.4(b)]
- GATS/N 10** Egypt must promptly notify the Council on Trade in Services whenever it adopts *new* recognition measures or significantly modifies existing ones and whether such measures are based on other agreements or arrangements.[Art. VII.4(c)]
- GATS/N 11** If, after the date of entry into force of the WTO Agreement, Egypt grants *monopoly rights* for the supply of a service covered in its specific commitments, it must notify the

Council on Trade in Services no later than *three months before* the intended implementation of such grant of monopoly rights. [Art. VIII.4]

**GATS/N 12** Egypt must notify any restriction on *international transfers* and payments for current transactions regarding its specific commitments – or any changes in such restrictions – to the WTO General Council. [Art. XII.4]

**GATS/N 13** Egypt should exchange information with other Members regarding all subsidies relating to trade in services that it provides to its domestic service suppliers. [Art. XV.2]

**GATS/N 14** [Regarding telecommunications services] Egypt must notify any new or amended measures affecting the access of service suppliers of other Members to public telecommunications transport networks and services for the movement of information within and across its borders. [Annex on Telecommunications, Para. 5(c)]

**D. Transparency Obligations – Enquiry/Contact Points**

**GATS/EC 1** Egypt must establish one or more *enquiry points* to provide, *upon request*, specific information to other Members on any of its measures of general application or international agreements relevant to the GATS. [Art. III.4]

**GATS/EC 2** Egypt – to the extent possible – should establish *Contact points* within two years from the date of entry into Force of the WTO Agreement to facilitate the access of Service suppliers of *developing country* Members to its markets, including:

- a) commercial and technical aspects of the supply of services
- b) registration, recognition, and obtaining of professional qualifications, and
- c) the availability of services technology.

[Art. IV. 2]

**Agreement on Trade-Related Aspects of  
Intellectual Property Rights  
("TRIPS)**

**I. Substantive Obligations**

**A. General**

**TRIPS/S 1** Egypt must give effect (implement) the provisions of the TRIPS Agreement. [Art. 1.1]

**TRIPS/S 2** While Egypt *may* implement *more extensive* IPR protection than provided for in the TRIPS Agreement, such increased protection must *not* contravene provisions of the TRIPS Agreement. [Art. 1.1]

**TRIPS/S 3** Egypt must accord nationals of other WTO members the treatment [protection, term of protection enforcement] provided for in the TRIPS Agreement. [Art. 1.3]

**TRIPS/S 4** Egypt must also comply with the relevant provisions of:

a) specifically Articles 1 through 12 and 19 of the Paris Convention for the Protection of Industrial Property  
[See Chart 1 hereof]

*and*

b) generally with the:

- Berne Convention (protection of literary and artistic works)

and the

- Treaty on Intellectual Property in Respect of Integrated Circuits

[Art. 2]

**CHART A**  
**Egypt's Obligations Under the Paris Convention**

The following requirements are among the obligations of the Paris Convention for the Protection of Industrial Property (Paris Union) *incorporated by reference* as obligations of Egypt in Article 2.1 of the TRIPS Agreement. Egypt became a party to the Convention on 01 July 1951 and became a party to the Stockholm revision on 06 March 1975.

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- PARIS 1** Egypt is required to extend the same protection for industrial property to nationals of *other* Union members as it grants to its *own* nationals so that they have the *same* protection as Egyptian nationals and recourse to the *same* legal remedies for infringement of their industrial property rights as Egyptians (e.g., National Treatment) [Paris Conv. Art. 2(1), Art. 3] (see also TRIPS/S 3).
- PARIS 2** Egypt is required to recognize, for purposes of determining a right of priority for a patent or registration of a utility model, any application therefore filed in one of the other member countries of the Union. [Art. 4]
- PARIS 3** Egypt may not refuse the grant of a patent, nor may a patent granted in any other member of the Union be invalidated, on the grounds that the sale of the patented product in Egypt, or of any product obtained by means of a patented product, is subject to restrictions or limitations resulting from Egyptian law. [Art. 4 quart.]
- PARIS 4** While Egypt *may* provide for the compulsory licensing of a patent because of the right holder's failure to *work* the patent in Egypt, such a compulsory license may not be applied for (or granted) *prior* to four years from the date of filing of the patent application *or* three years from the grant of the patent – whichever period is longer – *and* any such compulsory license must be *non-exclusive* and *non-transferable*. [Art. 5A(2), (4)]
- PARIS 5** Egypt may not require any indication or mention of the patent, of the registration of a trademark, or of the deposit of an industrial design, *on* the goods produced under such as a *condition* for the recognition of the right to its protection. [Art. 5D]
- PARIS 6** Egypt must protect *industrial designs* under the Paris Convention. [Art. 5 quinq.]
- PARIS 7** When a product is imported into Egypt that is covered by an Egyptian patent for the process of manufacture thereof, Egypt must afford the Patentee all rights with regard to such imported product, as are accorded to it by its legislation for products *actually* manufactured in Egypt. [Art. 5 quat.]
- PARIS 8** Egypt may not refuse an application for registration of a Mark filed by a national of any Union country, nor may it invalidate its registration, on the grounds that its filing, registration, or renewal were not *effected* in Egypt. [Art. 6(2)]



## CHART A - Continued (2)

- PARIS 9** Egypt must, *upon request* of an interested party, refuse or cancel the registration or prohibit the use of a trademark which constitutes a reproduction, imitation, or translation of a mark already well-known in Egypt as the mark of a person entitled to the protections of the Paris Convention or which is liable to create confusion therewith, and to permit requests for such cancellation for a period of at least *five* years from the date of registration thereof. [Art. 6 bis, (1), (2)]
- PARIS 10** Egypt must accept for filing and provide protection to any trademark originally in a Union country *unless* such trademark:
- a) infringes rights acquired by third parties in Egypt;
  - b) is “devoid of distinctive character”; or
  - c) is contrary to morality and public order.
- [Art. 6 quinq.]
- PARIS 11** Although Egypt is *not* required to provide for the *registration* of Service Marks, it must nevertheless “undertake to *protect* service marks.” [Art. 6 sext.]
- PARIS 12** Egypt may not refuse registration of a trademark (itself) because of the *goods* to which it is to be applied. [Art. 7]
- PARIS 13** If an agent or representative in Egypt of a person that is the right holder of a mark in a Union country applies for the registration in Egypt of the mark in his *own* name (rather than in the name of the right holder), the GOE must afford the right holder the opportunity to *oppose* or to demand cancellation of such registration *if* the right holder did not authorize such use of the mark *or* if the agent or representative cannot *justify* its action. [Art. 6 sept.]
- PARIS 14** Egypt must accept for filing and protect Collective Marks belonging to associations the existence of which are not contrary to law, *even if* such associations do not have an industrial or commercial establishment in Egypt, nor may it refuse to protect such mark on grounds that such association is not established in Egypt or constituted according to its laws. [Art. 7 bis]
- PARIS 15** Egypt *must* protect a Trade Name originating in any of the Union countries, whether or not it forms part of a trademark and without necessity of the filing for registration thereof. [Art. 8]
- PARIS 16** To the extent of, and in the manner *permitted* by its laws, Egypt is required to seize (e.g., “shall be seized”) upon importation all goods unlawfully bearing a trademark or trade name entitled to legal protection in Egypt under the Paris Convention, or if its law does *not* permit such seizure, to prohibit the importation of such goods, *upon request* of the competent authority or any interested party. [Art. 9]
- PARIS 17** Egypt must seize upon importation, or refuse importation of goods directly or indirectly bearing a *false* indication of the source of the good (origin) or of the *identity* of the producer or manufacturer thereof. [Art. 10(1)]

**CHART A – Continued (3)**

**PARIS 18**

Egypt is required to assure to nationals of Union countries effective protection against *unfair* competition, including specifically against:

- a) acts that create *confusion* as to the establishment, goods, or
- b) industrial or commercial activities of a competitor;
  
- c) *false allegations* in the course of trade that discredit the same;
  
- d) indications or allegations which, in the course of trade, are
- e) liable to *mislead* the public as to the nature, manufacturing process, characteristics, quantity or suitability of goods for their purpose.

[Art. 10 bis]

**PARIS 19**

Egypt is required to establish a “special industrial property service and a central office for the communication to the public of patents, utility models, industrial designs, and trademarks, which service must publish an official periodical journal that contains:

- a) names of the proprietors of patents granted, with a
  - b) brief description of the inventions, and
  - c) a reproduction of registered trademarks.
-

**\*TRIPS/S 5** Egypt must accord nationals of other WTO members treatment no less favorable than it accords to its own nationals

- a) with regard to the rights of performers, producers of phonograms, and broadcasting organizations under the TRIPS Agreement; and
- b) with regard to all protections for IPR under the TRIPS Agreement *except* as otherwise provided for in:
  - Paris Convention
  - Berne Convention
  - or
  - Integrated Circuits Treaty\*but
- c) May avail themselves of such exceptions in relation to judicial/administrative procedures only:
  - (i) where such exceptions are necessary to secure compliance with laws/regulations consistent with provisions of the TRIPS Agreement,
  - and
  - (ii) where such practices are *not* applied in a manner which would constitute a *disguised restriction* on trade.[Art. 3.1, 3.2]

[Note: “Protection” of IPR is defined as including “matters affecting availability, acquisition, scope, maintenance, and enforcement of [IPR] as well as those matters affecting the use of IPR specifically addressed in the [TRIPS] Agreement.” [Art. 3.1, Footnote 3]

**TRIPS/S 6** Egypt must, with regard to IPR protection, accord to nationals of all other WTO members any advantage, favor, privilege, or immunity granted to the nationals of any country [MFN Treatment] *except* those:

- a) deriving from general law enforcement or judicial assistance not confined to IPR protection;
- b) covered by certain provisions of the Berne or Rome Conventions inconsistent therewith;
- c) involving protection of the rights of performers, phonogram producers, and broadcasters *not* provided under the TRIPS Agreement; and

- 
- Egypt is not a signatory to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, 1961.

- d) deriving from international IPR protection agreements which entered into force *before* the entry into force of the WTO Agreement (01 January 1995) if such agreements:
- have been notified to the WTO Council for TRIPS and
  - do not constitute an arbitrary or unjustifiable discrimination against nationals of other WTO members.
- [Art. 4]

**TRIPS/S 7**

Egypt, while it *may* adopt measures:

- to protect public health and nutrition,
- to promote the public interest in sectors of importance to socioeconomic and technological development,
- to prevent practices which *unreasonably* restrain trade or adversely affect the international transfer of technology,

must not formulate or enact such measures if they are *inconsistent* with the TRIPS Agreement. [Art. 8.1 and 8.2]

**B. Specific Forms of IPR**

1)

**Copyright**

**TRIPS/S 8**

Egypt must comply with *Articles 1 through 21* of the Berne convention and the appendix thereto [except WTO members shall not have rights/obligations under the TRIPS Agreement conferred under Article 6bis thereof]

[Note: Under TRIPS “Copyright”:

- a) covers:
- literary works
  - expressions
  - computer programs
  - *compilations* of data or other material which by *selection* or arrangement constitute intellectual creations (but *not* the data or material itself, which may otherwise be copyrighted as such)
- b) does not cover:
- ideas
  - procedures
  - methods of operation
  - mathematical concepts

[Arts. 9, 10]]

**TRIPS/S 9**

Egypt must accord authors and their successors the right to authorize or *prohibit* the commercial *rental* to the public of originals or copies of their copyrighted works, except

- a) with respect to the purchase or rental of originals or copies prior to the date of application of the TRIPS to Egypt,

- b) in the case of cinematographic works unless such rental has led to widespread copying of such works which is impairing the exclusive right of reproduction and
- c) in the case of computer programs where such program is not the “essential object” of the rental.

[Art. 11 and 70.5]

**TRIPS/S 10**

Egypt must also authorize producers and other rights holders with respect to phonograms the right to authorize or prohibit the commercial rental of phonograms except that

- a) with regard to originals or copies purchased prior to the date of application to Egypt of the TRIPS Agreement, or
- b) if it had in force on 15 April 1994 a system of equitable remuneration of right holders for the rental of phonograms it may maintain such systems provided that such system is not giving rise to the material impairment of the exclusive rights of reproduction of right holders.

[Art. 14.4 and 70.5]

**TRIPS/S 11**

Egypt must provide that:

- a) Performers shall have the possibility of preventing unauthorized
  - fixation on a phonogram of their unfixed performance
  - broadcasting by wireless and communication of their live performance;
- b) Producers of phonograms shall have the right to authorize or prohibit the direct or indirect reproduction of their phonograms;
- c) Broadcasting organizations have the right to prohibit, with regard to broadcasts, their
  - fixation
  - reproduction of fixation
  - rebroadcasting by wireless
  - communication to public.

[Note: If Egypt does not grant such rights to broadcasting organizations, it *must* afford to owners of copyright in the *subject matter* of the broadcasts with the possibility of preventing such acts subject to provisions of the Berne Convention.][Art. 14, 14.1, 14.2]

**TRIPS/S 12**

Egypt must ensure that the term of protection available under the TRIPS Agreement shall be for:

- a) Literary works (other than photographic or work of applied art) shall be:
  - (i) life of a natural person [creator] or
  - (ii) 50 years from
    - 1) the end of the calendar year of authorized

- publication or
- 2) If publication not authorized, 50 years from the making of the work or
- 3) 50 years from the end of the calendar year of making.

[Art. 12]

- b) Performers and/or producers of phonograms for 50 years from performance or fixation and [Art. 14.5]
- c) Broadcasting organizations – 20 years from the year of first broadcast. [Art. 14.5]

### TRIPS/S 13

Egypt may apply conditions, limitations, exceptions, or reservation to the rights as set forth above (TRIPS/S 11) to the extent permitted by the Rome Convention [Art. 14.6]. But, Egypt must confine any such limitations or exceptions to the protection of exclusive right certain *special cases* which *do not*

- a) conflict with the normal exploitation of a work
- d) do not unreasonably prejudice the legitimate interests of the right holder.

[Art. 13]

## 2) Trademarks

### TRIPS/S 14

Egypt may not deny registration of a trademark that constitutes *protectable subject matter* provided that it is visually perceptible. [Art. 15.1]

- [NB: “Protectable subject matter” includes: any sign or combination of signs, capable of *distinguishing* the goods or services of one undertaking from those of others, including:

- personal names
- letters
- numerals
- figurative elements
- combinations of colors.]

[Art. 15.1]]

### TRIPS/S 15

Although Egypt may make registrability dependent on “use,” actual use may not be a condition for ruling an application for registration [Art. 15.3] and if “use” is required to maintain a registration, Egypt may not cancel such registration before at least three years of non-use. [Art. 19.1]

### TRIPS/S 16

Egypt must not make the nature of the goods or services to which a trademark is applied a condition to registration thereof. [Art. 15.4]

- TRIPS/S 17** Egypt must:
- a) publish each trademark, either
    - 1) before it is registered or
    - 2) promptly thereafter
 and
  - b) afford a reasonable opportunity for petitions to cancel the registration. [Art. 15.5]
- TRIPS/S 18** Egypt must afford the owner of a registered trademark the *exclusive* right to prevent all third parties, not having the owner's consent, from using in the course of trade identical or similar signs for goods or services which are identical or similar to those with respect to which the TM is registered where such use would result in a likelihood of *confusion*, except as to prior or existing rights thereto. [Art. 16.1]
- TRIPS/S 19** Egypt must:
- a) provide for an initial TM registration term and each renewal thereof of no less than seven years each and
  - b) permit indefinite renewals of such registration. [Art. 18]
- TRIPS/S 20** Egypt may not *unjustifiably* condition the use of a TM by special requirements such as:
- use in a special form
  - use in a manner detrimental to its capability of distinguishing goods and services from other
- but it may prescribe use of the TM in identifying the producer of TM goods and services along with trademarks distinguishing other goods and services. [Art. 20]
- TRIPS/S 21** Egypt must not require the compulsory licensing of TMs. [Art. 21]
- TRIPS/S 22** With respect to geographical indications, Egypt must afford legal means for interested parties to prevent:
- a) use of any means in the designation or presentation of a good that indicates or suggests that such good originated in a geographical area *other than* the true place of origin in a manner which would mislead the public as to the actual geographical origin of the good; or
  - b) any use which constitutes “unfair competition” within the meaning of Article 10bis of the Paris Convention. [Art. 22.2]
- TRIPS/S 23** Egypt must either, if its law permits *or* at the request of an interested party, refuse or invalidate any registration of a TM which contains or consists of a geographical indication for goods *not* originating in the territory indicated *if* use of such indication in the TM for such goods would mislead the public as to the true place of origin. [Art. 22.3]

- TRIPS/S 24** Egypt must *refuse* or invalidate the registration of a trademark for *wines* or *spirits* which consist of or contains a geographical indication therefor with respect to any such wines or spirits which do not actually have such origin. [Art. 23.2]
- TRIPS/S 25** Egypt must afford to interested parties a legal means to prevent use of a geographical indication identifying wines or spirits for wines or spirits *not* originating in the place indicated by the geographical indication complained or, *even where* the *true* origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as “kino,” “type,” “style,” “imitation” or the like. [Art. 23.1]
- TRIPS/S 26** In the case of homonymous geographical indications, Egypt must afford protection to *each* indication and shall determine the practical conditions under which such indications will be differentiated from each other. [Art. 23.3]
- TRIPS/S 27** Egypt may not diminish the protection of geographical indications that existed in it immediately prior to the date of entry into force of the WTO Agreement. [Art. 24.3]
- TRIPS/S 28** Egypt must not adopt measures that prejudice the eligibility for or validity of the registration of a TM – or the right to use a TM – on the basis that such a TM is identical with, or similar to, a geographical indication. [Art. 24.5]

### 3. **Industrial Designs**

- TRIPS/S 29** Egypt must provide protection for independently-created industrial designs that are new or original (e.g., designs are “new” or “original” if they *significantly* differ from known designs or combinations of known design features). [Art. 25.1]
- TRIPS/S 30** Egypt must ensure that its requirements for securing protection for *textile* designs, in particular with regard to any
- cost
  - examination or
  - publication
- do not *unreasonably* impair the opportunity to seek and obtain such protection. [Art. 25.2]
- TRIPS/S 31** Egypt must accord the owner of a protected industrial design the right to prevent third parties not having the owner’s consent from:
- making
  - selling or
  - importing



articles bearing or embodying a design which is a copy or substantially a copy of the protected design, when such acts are undertaken for commercial purposes

*but*

Egypt may provide limited exceptions to the protection of industrial designs provided that such exceptions do not unreasonably:

- a) conflict with the normal exploitation of protected industrial designs *and*
- b) prejudice the legitimate interests of the owner of the protected design, taking into account the legitimate interests of third parties. [Art. 26.1, 26.2]

**TRIPS/S 32** Egypt's duration of protection for industrial designs must amount to at least 10 years. [Art. 26.3]

#### **4. Patents**

**TRIPS/S 33** Egypt is required to make patents available for any inventions, whether *product* or *process* in all fields of technology provided they:

- are new
- involve an inventive step and
- are capable of *industrial* applications

*and* without discrimination as to:

- place of invention
- field of technology or
- whether imported or locally-produced

*except* that

Egypt may exclude from patentability those inventions the prevention of commercial exploitation of which is *necessary* to:

- protect public order or morality
- protect human, animal, or plant life, or
- avoid serious prejudice to the environment

*provided* that such exclusion is not maintained merely because the exploitation is prohibited by law. [Art. 27.1, 27.2]

**TRIPS/S 34** While Egypt may exclude from patentability plants and animals other than micro-organisms and biological processes for their production (other than non-biological and microbiological processes), Egypt must provide for protection of plant varieties either by *patents* or by another such system or any combination thereof. [Art. 27.3]

**TRIPS/S 35** Egypt must provide patents that confer on their owners exclusive rights:

- a) in the case of a *product* – to *prevent* third parties without consent of the owner to:
  - make
  - use
  - offer for sale
  - sell or

- import
- or
- b) in the case of a *process* – to *prevent* third parties without consent of the owner to:
  - use
  - sell
  - offer for sale or
  - import
 the product(s) obtained directly by such process  
*and*
- c) in either case to assign or transfer by succession the patent and to conclude licensing contracts therefor.  
 [Art. 28.1, 28.2]

**TRIPS/S 36**

While Egypt may provide *limited* exceptions to the exclusive rights conferred by a patent, such exceptions must *not* unreasonably:

- a) conflict with a normal exploitation of the patent or
- b) prejudice the legitimate interests of the patent holder, taking into account the legitimate interests of third parties.  
 [Art. 30]

**TRIPS/S 37**

If Egypt's law allows for use of a patent other than as permitted in Article 30 [TRIPS/S 36] without authorization of the patent holder (including use by the government or third parties authorized by the government", Egypt must ensure that such use may only be upon the following conditions:

- a) such authorization shall be considered on its individual merits
- b) prior to such use, the proposed user must have made efforts to obtain authorization from the patent holder on commercial terms and conditions
- c) such use must be limited to the purpose for which it is authorized
- d) such use is non-exclusive
- e) such use is non-assignable
- f) such use is authorized predominantly for supply of the *domestic* market
- g) such use is terminated if and when the circumstances that led it to cease to exist and are unlikely to recur
- h) the patent holder is paid adequate remuneration
- i) the legal validity of decisions relating to such use are subject to judicial or other independent review and
- j) any decision relating to remuneration for such use is subject to judicial or other independent review

provided that conditions b) through f) are not applicable if such use is authorized to remedy a problem of anti-competitive impacts of such use. [Art. 31]

**TRIPS/S 38** Egypt must afford patent holders an opportunity for judicial review of any decision to revoke or forfeit a patent. [Art. 32]

**TRIPS/S 39** Egypt must provide a term of protection on patents of not less than 20 years from the date of filing therefor. [Art. 33]

**5. Integrated Circuits**

**TRIPS/S 40** Egypt must:

- a) provide protection to layout-designs (topographies) of integrated circuits in accordance with Articles 2 through 7, Article 12, and Article 16.3 of the Integrated Circuit Treaty and
- b) Comply with the provisions of the TRIPS Agreement affecting integrated circuits.

[Art. 35]

**TRIPS/S 41** Egypt must consider as unlawful if performed without authorization of the right holder: importing, selling, or otherwise distributing for commercial purposes:

- a protected layout-design;
- an integrated circuit incorporating a protected layout-design, or
- an article incorporating such an integrated circuit that continues to contain an unlawfully-produced layout-design

unless such acts were undertaken by a person who did not know or had no reasonable ground to know, when acquiring the integrated circuit, that it incorporated an unlawfully-reproduced layout-design. [Art. 36, 37]

**TRIPS/S 42** Egypt must provide that, *after* a person has received sufficient notice that the layout-design was unlawfully reproduced, such person shall be liable to pay the right holder a sum equivalent to a reasonable royalty for the use thereof – except as to its use of stock-on-hand or ordered prior to such notice. [Art. 37.1]

**TRIPS/S 43** Egypt must ensure that use by or for the government without authorization of the right holder of any layout-design or article incorporating such an integrated circuit or any involuntary licensing of a layout-design, shall be according to the conditions laid out in paragraphs (a) through (k) of Article 31 (e.g., TRIPS/S 36). [Art. 37.2]

**TRIPS/S 44** If Egypt *requires registration* as a condition for protection, the term thereof for layout-designs shall not end before

- a) expiration of 10 years from filing of the application for registration or
- b) from the first commercial exploitation thereof anywhere in the world

or

If Egypt does not require registration as a condition for protection, the term of protection shall be for no less than 10 years from the first commercial exploitation thereof anywhere in the world.

[Art. 38]

## 6. Confidentiality of Proprietary Information

### TRIPS/S 45

Egypt must accord natural and legal persons the possibility of protecting, e.g., preventing information within their control from being disclosed to or acquired by others without such persons' consent in a manner contrary to honest commercial practices, *provided that* such information:

- a) is secret, e.g., not generally known or accessible;
- b) has commercial *value because* it is secret, and
- c) has been subject to efforts by the person in control thereof to keep it secret.

[Art. 39.1, 39.2]

### TRIPS/S 46

Egypt must protect undisclosed test or other data relating to pharmaceutical or agricultural products that utilize new chemical entities submitted to the GOE as a condition for the approval of the marketing of such products from:

- a) unfair commercial use and
- b) disclosure except when necessary to protect the public.

[Art. 39.1, 39.3]

## 7. Control of Anti-Competitive Practices

### TRIPS/S 47

While Egypt may specify in its legislation licensing practices or conditions regarding IPR designed to avoid adverse effects on market competition by preventing or controlling such practices, such measures must be *consistent* with the provisions of the TRIPS Agreement. [Art. 40.1]

## 8. Enforcement of IPR-Substantive Requirements

### TRIPS/S 48

Egypt must ensure that its IPR enforcement procedures, whether administrative or judicial:

- a) are consistent with those specified in the TRIPS Agreement (see following-transparency obligations – general procedural),
- b) permit effective action against infringements of IPR covered in the TRIPS Agreement, and
- c) are applied in a manner that:
  - avoids creation of barriers to legitimate trade, and

- provides for safeguards against their abuse.  
[Art. 41.1, 41.2]

**TRIPS/S 49** Egypt must afford rights holders *civil* judicial procedures for enforcement of IPR under the TRIPS Agreement, including authority of its courts to

- a) order a party to cease and desist from and infringement, and
- b) prevent entry into commerce of imported goods involving infringement of IPR. [Art. 44.1]

**TRIPS/S 50** Egypt must provide for *criminal* procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale. [Art. 61]

## 9. Transitional/Special Rules

**TRIPS/S 51** During any *transitional period* for delayed application of the provisions of the TRIPS Agreement invoked and applied by Egypt, the GOE must ensure that any *changes* in its laws, regulations, and practices made during such period do *not* result in a *lesser degree of consistency* with the provisions of the TRIPS Agreement. [Art. 65.5]

**TRIPS/S 52** Since Egypt has not, since the date of entry into effect of the WTO Agreement, made patent protection available for *pharmaceutical* and *agricultural chemical* products (in accord with Article 27 of the TRIPS Agreement), the GOE must:

- a) provide, as from the date of entry into force of the WTO Agreement, a *means* by which applications for patents therefor can be filed (e.g., the “mailbox”);
- b) apply to such applications, as of the date of application of the TRIPS Agreement, the *criteria* for patentability in such agreement *as if* such criteria *were* being applied or, if *priority* is available and claimed, the priority date of the application;
- c) provide patent protection in accordance with the TRIPS Agreement effective from the date of the *grant* of the patent and for the remainder of the patent term counted From the filing date;
- d) grant *exclusive marketing rights* for a period of 5 years after the grant of marketing approval *or* until a product patent is approved or rejected, whichever is shorter, provided that a patent application has been filed and a patent granted therefor in another WTO member country.  
[Art. 70.8, 70.9]

## II. Transparency Obligations

### A) **Transparency Obligations - Procedural**

#### 1) **Civil and Administrative Remedies**

**TRIPS/P 1** Whether by administrative and/or judicial proceedings, Egypt must ensure that its IPR enforcement procedures:

- a) are fair and equitable,
- b) are not unnecessarily complicated or costly,
- c) entail unreasonable time limits or unwarranted delays,
- d) do not impose overly burdensome mandatory personal appearance requirement,

and that:

- a) defendants have a right to timely and written notice of the proceeding, which notice sufficiently details the basis of the claim,
- b) parties to the proceeding may be represented by independent legal counsel,
- c) all parties are entitled to present all relevant evidence to substantiate their claims,
- d) such procedures provide a means to identify and protect confidential information, and
- e) parties have an opportunity for judicial review of *final* administrative decisions and/or the legal aspects of initial judicial decisions on the merits of a case.

[Art. 41, 42]

**TRIPS/P 2** Egypt must ensure that, with respect to its IPR enforcement procedures its judicial authorities:

- a) have authority to order the production of evidence by the parties thereto, and
- b) in cases in which a party voluntarily and without good reason refuses or otherwise fails to provide necessary information to make preliminary and final determinations on the basis of the information submitted, subject to the right of the parties to be heard with respect to the allegations or such information.

[Art. 43]

**TRIPS/P 3** Egypt must provide that its judicial authorities have authority to:

- a) order an infringer of IPR to pay the right holder:
  - compensatory damages adequate to compensate for the injury realized from the knowing infringement of IPR (or

- of one who had reasonable grounds to know of its infringement)
  - expenses of enforcement of its IPR (including attorney fees)
  - b) order the non-commercial disposition of infringing goods or their destruction without compensation to the infringer and the same with regard to materials and implements predominantly used in the creation of infringing goods.
- [Art. 45, 46, 48]

[Note: With regard to counterfeit trademarked goods, the simple removal of the trademark wrongfully affixed thereto is not sufficient to permit release of such goods into the channels of commerce. Art. 46]

**TRIPS/P 4** Egypt may only exempt actions taken by public authorities incident to the enforcement of IPR from liability therefor where such actions are taken or were intended in good faith in the course of enforcement of the law. [Art. 48.2]

## 2) Provisional Enforcement Measures

**TRIPS/P 5** Egypt must ensure that its judicial authorities are authorized to order prompt and effective *provisional* measures to:

- a) prevent occurrence of infringement;
- b) prevent the entry of infringing goods into commerce, including the entry of improved goods after customs clearance;
- c) preserve evidence relevant to infringement; and
- d) avoid harm to the right holder occasioned by delay.

[Art. 50.1 and 50.2]

**TRIPS/P 6** In the administration of provisional measures, Egypt must ensure that its judicial authorities may require the applicant to provide such reasonably available evidence as will satisfy them that applicant is:

- a) the right holder of the IP for which infringement is asserted; and
- b) that applicant's IPR are being infringed or that such infringement is imminent.

[Art. 50.3]

**TRIPS/P 7** For purposes of provisional relief, Egypt must ensure that if provisional measures have been adopted *ex parte* (e.g., without a hearing) that:

- a) the parties affected are given timely notice thereof,
- b) such measures shall be reviewed upon request of the defendant to determine whether such measures should be confirmed, modified, or revoked,
- c) such measures shall, upon request of the defendant, be revoked if proceedings leading to a decision on the merits of

- the case are not initiated within either 31 calendar days or within a reasonable period determined by the judicial authority ordering such measures, and
- d) If such measures are revoked or no infringement or threat thereof is found on the merits that compensation for the defendant may be ordered.
- [Art. 50.4, 50.6, 50.7]

3) **Enforcement-Suspension of Entry**

**TRIPS/P 8**

Egypt must afford a right holder which has valid grounds for suspecting the importation of counterfeit trademark or pirated copyrighter goods to request the competent administrative or judicial authorities to order the suspension by its customs authorities of the entry of such goods. [Art. 51]

**TRIPS/P 9**

Egypt must ensure that any applicant seeking the suspension of customs entry of asserted infringing goods shall be required to:

a) provide adequate *evidence* of the infringement of its IPR,

b) supply a sufficiently detailed description of the goods for recognition by customs authorities.

[Art. 52]

**TRIPS/P 10**

Egypt must ensure that, with regard to applications for the suspension of entry of goods alleged to be infringing IPRs:

a) the competent authorities inform the applicant within a reasonable period of the acceptance or rejection of the application and the time period for which customs will take such action;

b) the competent authorities may require a security or other assurance to protect the interests of the defendant and/or to prevent abuse of such procedures;

c) the owner or consignee of such goods may obtain the release thereof upon posting sufficient security to protect the right holder against any infringement;

d) the importer and applicant are promptly notified of the suspension of release/entry of the goods;

e) that if no decision on the merits of the allegation of infringement or the requested measures have been reached within 10 working days, the goods may be released subject to conditions for their importation or exportation, subject to an extension of such period for another 10 working days;

f) authorities have no authority to order the applicant for suspension to pay the importer or consignee thereof for any injury sustained by reason of the wrongful detention of the goods;

g) competent authorities have the right to afford the right holder or the importer thereof the opportunity to have any



alleged infringing goods detained for inspection to substantiate such claim.

[Art. 54, 55, 56, 57]

**TRIPS/P 10**

If Egypt authorizes its competent authorities to act upon their *own initiative*, on evidence of the infringement of an IPR, to suspend the release of infringing goods, the GOE must:

- a) *notify* the right holder and the importer of such action and permit importer's appeal thereof subject to the conditions of Art. 55 (see TRIPS/P 10);
- b) exempt public authorities and officials from liability therefor only when such action is taken or intended in good faith;
- c) ensure the right of the defendant to seek judicial review, and
- d) in the case of counterfeit trademark goods, shall not allow their re-exportation in an unaltered state.

[Arts. 58, 59]

**4) Enforcement-Criminal**

**TRIPS/P 11**

In the case of *criminal* procedures applied by Egypt in cases of *willful* trademark counterfeiting or copyright piracy on a commercial scale, Egypt must make available the following *criminal* penalties/remedies:

- imprisonment and/or monetary fines sufficient to act as a deterrent to infringement, and where appropriate,
- seizure, forfeiture, or destruction of the infringing goods and of any implements the predominant use of which was in commission of the offense.

[Art. 61]

**TRIPS/P 12**

Any procedures and formalities prescribed by the GOE as a *condition* to the *acquisition* or maintenance of IPR must:

- a) be reasonable;
- b) be consistent with the provisions of the TRIPS Agreement;
- c) permit the granting or registration of such right within a reasonable time so as to avoid unwarranted curtailment of the period of protection; and
- d) any final administrative decisions with regard thereto must be subject to review by judicial or quasi-judicial authority.

[Art. 62]

## 5) Enforcement-Transitional

**TRIPS/P 13** In respect of any activity which become infringing under legislation enacted in conformity with the TRIPS Agreement, which activity commenced prior to the entry into force for Egypt of the WTO Agreement, and with regard to which Egyptian law provides for a limitation of remedies available to the right holder (grandfathering) with regard to such activity, the GOE must at least provide for the payment of equitable remuneration to the right holder. [Art. 70.4]

### **B. Transparency Obligations-Consultation**

**TRIPS/C 1** Upon written request from another WTO member, Egypt must make available thereto information regarding its laws, regulations, and *final* administrative rulings and judicial decisions of general application relating to the availability, scope, acquisition, enforcement, and prevention of the abuse of IPR under the TRIPS Agreement together with information relating to other international agreements concerning the subject matter of the TRIPS Agreement to which Egypt is a party. [Art. 63.3, 63.1]

**TRIPS/C 2** Egypt, upon request, shall enter into consultations with any other member which has cause to believe an IPR holder of Egypt is undertaking practices in violation of the requesting member's laws and regulations relating to contractual licensing of IPR and which wishes to secure compliance with such legislation, and shall cooperate through the supply of publicly-available non-confidential information relevant to the matter in question, subject to Egypt's domestic law and satisfactory agreement regarding the safeguarding of its confidentiality by the requesting member. [Art. 40.3]

**TRIPS/C 3** Egypt must consult, upon request, with any other member whose nationals or domiciliaries are subject to proceedings relating to alleged violations of Egypt's laws and regulations relating to contractual licensing of IPR. [Art. 40.4]

**TRIPS/C 4** Egypt must enter into negotiations (e.g., consultations) with other WTO members aimed at increasing the protection of individual geographical indications under Article 23. [Art. 24.1]

**TRIPS/C 5** Egypt must comply with the consultation provisions of Article XXII of the GATT '94 with regard to dispute settlement for issues arising under the TRIPS Agreement. [Art. 64.1]

### **C. Transparency Obligations-Notifications**

**TRIPS/N 1** Egypt must notify to the WTO Council for TRIPS any laws and regulations made effective by the GOE regarding the availability, scope,

acquisition, enforcement, or prevention of the abuse of IPRs under the TRIPS Agreement. [Art. 63.2]

**TRIPS/N 2** Egypt must notify to the Council for TRIPS its adherence to any international agreements related to the protection of IPR which modify the requirement that it extend MFN Treatment to all other WTO members relative to the protection of intellectual property. [Art. 4(d)]

**TRIPS/N 3** Egypt must notify the Council for TRIPS in the event it avails itself of possibilities under Article 6 of the Berne Convention (for Protection of Literary and Artistic Works) or Article 16.1(b) of the Rome Convention. [Art. 3.1]

**GATT '94 – Article XXIII**  
**and**  
**The Understanding on Rules and Procedures**  
**Governing the Settlement of Disputes**  
**(“DSU”)**

**I. Article XXIII of the GATT 1994**

**A. Substantive Obligations**

**GATTXXIII/S 1** If the GOE is approached by any other WTO Member country, which Member considers that any benefit accruing to it directly or indirectly under the GATT is being nullified or impaired, or that the attainment of any objective of the GATT is being impeded as a result of:

- a) the failure of Egypt to carry out its obligations under the GATT, or
- b) the application by Egypt of any measure, whether or not it conflicts with provisions of the GATT, or
- c) the existence of any other situation,

the GOE must give “sympathetic consideration to the representations or proposals made to it by such Member.

[GATT Art. XXIII, Para. 1]

**II. Understanding Governing the Settlement of Disputes – “DSU”**

**A. Substantive Obligations**

**DSU/S 1** The GOE is obligated to implement its adherence to the principles for the management of disputes heretofore applied under Articles XXII and XXIII of the GATT 1947 *and* the *rules* and *procedures* as elaborated and modified in the *DSU*.  
[DSU Art. 3.1]

**DSU/S 2** If Egypt seeks redress of a violation of obligations or nullification or impairment of benefits under the covered agreements *or* an impediment to the attainment of any objective thereof, it must *invoke* and *abide by*, the rules and procedures of the DSU and the GOE must not make any determinations regarding violations or nullification or impairment *unless* the same are consistent with the findings in a panel or Appellate Body report or an arbitration award under the DSU. [DSU Art. 23.1, 23.2]

**DSU/S 3** The GOE must observe the rules and procedures of the DSU with respect to:

- a) all disputes brought pursuant to the consultation and dispute settlement provisions of the WTO Multi-lateral Agreements of Appendix 1 of the DSU (see

Chart A)

and

b) to consultations and settlement of disputes between Members concerning their rights and obligations under The Agreement for Establishment of the WTO (see Chart A).  
[DSU Art. 1.1]

**DSU/S 4**            The GOE must observe the rules and procedures of the DSU with respect to dispute settlement for the agreements identified in Appendix 2 of the DSU (see Chart A) *subject to any special or additional* rules contained in *such agreements*.  
[DSU Art. 1.2]

**DSU/S 5**            When good offices, conciliation, or mediation (as preliminaries to formal consultation and establishment of dispute resolution panels) are entered into within 60 days after the date of receipt by Egypt of a request for consultations relating to an issue of failure to meet a GATT/WTO obligation or nullification or impairment claim, the GOE must allow a period of 60 days from the date of receipt *before* requesting establishment of a panel, *unless all* parties to the dispute agree that good offices, conciliation, or mediation have failed to settle the dispute. [DSU Art. 5.4]

**DSU/S 6**            If the GOE seeks establishment of a panel for purposes of resolving issues, it must make such request *in writing* and *include* therein the following:

- a) whether consultations were held
- b) identify the specific measure complained of, and
- c) provide a brief summary of the *legal* basis of the complaint sufficient to clearly present the problem.

[DSU Art. 6.2]

**DSU/S 7**            The GOE must not oppose nominations by the Secretariat to a panel to review any complaint to which the GOE is a party, except for compelling reason. [DSU Art. 8.6]

**DSU/S 8**            The GOE must permit GOE officials to serve as panelists for WTO dispute settlement is nominated by the Secretariat, but the GOE must *not* give them instructions or seek to influence them as individuals with regard to matters before the panel to which they have been appointed.  
[DSU Art. 8.8, 8.9]

**Chart A**  
**Agreements Covered by the Dispute Settlement Understanding**  
**Rules & Procedures**

- A. Agreement Establishing the World Trade Organization
- B. Multilateral Trade Agreements
  - 1) Annex 1 A Multilateral Agreements on Trade in Goods
    - a) GATT 1994
    - b) Marrakesh Protocol: GATT 1994 – Schedules of Tariff Commitments
    - c) Agreement on Agriculture
    - d) Agreement on Application of Sanitary & Phytosanitary Measures
    - e) Agreement on Textiles & Clothing
    - f) Agreement on Technical Barriers to Trade
    - g) Agreement on Trade-Related Investment Measures
    - h) Agreement on Implementation of Article VI of the GATT'94
    - i) Agreement on Implementation of Article VII of the GATT'94
    - j) Agreement on Pre-Shipment Inspection
    - k) Agreement on Rules-of-Origin
    - l) Agreement on Import Licensing Procedures
    - m) Agreement on Subsidies & Countervailing Measures
    - n) Agreement on Safeguards
  - 2) Annex 1 B General Agreement on Trade in Services
  - 3) Annex 1 C Agreement on Trade-Related Aspects of Intellectual Property Rights
- C. Plurilateral Agreements (Applicable to Egypt)
  - Agreement on Trade in Civil Aircraft

**DSU Rules/Procedures Subject to Special or Additional**  
**Rules/Procedures Contained in Following Agreements**

Agreement on Application of Phytosanitary Measures	Agreement on Implementation of Sanitary & Article VI (Anti-Dumping)
Agreement on Textiles & Clothing	Agreement on Implementation of Article VII (State Trading)
Agreement on Technical Barriers to Trade	General Agreement on Trade in Services
Agreement on Subsidies & Countervailing Measures	

- DSU/S 9**                    If the GOE is a party to a compliant being considered by a WTO dispute settlement panel, it must respond *promptly* and *fully* to any request from the panel for such information as the panel considers necessary and appropriate, but, any confidential information which it provides to the panel must *not* be revealed to others without formal authorization from the individual, body, or authorities providing such information.  
[DSU Art. 13.1]
- DSU/S 10**                    The GOE must not engage in any *ex parte* communication with either the panel or Appellate Body nor individual members thereof regarding any matter under their consideration.  
[DSU Art. 18]
- DSU/S 11**                    If the GOE has objections to a panel report in any dispute to which it is a party, it must give the panel *written reasons* to explain its objections for circulation at *least 10* days prior to the meeting of the WTO Dispute Settlement Body (“DSB”) at which the panel’s report will be considered.  
[DSW Art. 16.2]
- DSU/S 12**                    The GOE, if a party to dispute, must *unconditionally accept* the report of the Appellate Body *unless* the DSB decides by consensus *not* to adopt the Appellate Body’s report within 30 days of its circulation to Members. [DSU Art. 17.14]
- DSU/S 13**                    At a DSB meeting held 30 days after the date of adoption of the panel report *or* Appellate Body report, the GOE, *if* required to *take any action* thereunder, must inform the DSB of its *intentions* with respect to implementation of the recommendations and rulings of the DSB, *except that*, an extension of time is available if its compliance with that time period is not practicable. For as long as the matter remains on the DSB agenda, the GOE must, at least *10* days in advance of each DSB meeting, provide it with a *written status report* as to its progress in implementing the recommendations or rulings of the DSB.  
[DSU Art. 21.3, 21.6]
- DSU/S 14**                    If the GOE fails to bring a measure that may be found inconsistent with a covered agreement into compliance therewith or otherwise comply with the recommendations and rulings of the DSB within a *reasonable* period of time, it must, *if requested*, and *no later than* the expiry of the reasonable period of time, enter into negotiations with any party invoking the dispute settlement procedure, to develop mutually acceptable compensation. [DSU Art. 22.2]
- DSU/S 15**                    If the GOE is a complaining party, and decides to request authorization to suspend GATT/WTO concessions or other obligations as against a party failing to implement the

recommendations or rulings of the DSB, it must state the reasons for its request, in addition to the DSB, to other relevant WTO Councils, and relevant sectoral bodies. [DSU Art. 22.3(e)]

**DSU/S 16** If the GOE objects to the *level* of suspension proposed by the DSB, and the matter is referred to *arbitration*, the GOE may *not* suspend any concessions or other obligations during the course of the arbitration. The GOE must accept the arbitrator's decision as *final* and it may not, thereafter, seek another arbitration on the same issue(s). [DSU Art. 22.7, 25.3]

**DSU/S 17** If the GOE, as a complaining party, is authorized to suspend concessions or other obligations, such suspension must be *temporary*, and must only be applied until:

- a) the measure complained of has been removed,
  - b) the Member that must implement the DSB recommendation or ruling provides a *solution* to the nullification or impairment of benefits for Egypt, or
  - c) a mutually satisfactory solution is reached.
- [DSU Art. 22.8]

**DSU/S 18** If, in a situation in which the dispute settlement provisions of a covered agreement have been invoked with respect to measures taken by *regional* or *local* governments or authorities within Egypt's territory, and the DSB rules that a provision of a covered agreement has not been observed thereby, the GOE must take such *reasonable* measures as may be *available* to it to ensure observance. [DSU Art. 22.9]

**DSU/S 19** The GOE, if a party to a dispute or dispute settlement procedure under the DSU that involves a *least-developed* Member country, must give particular consideration to the special situation of least-developed countries and exercise *due restraint* in raising matters involving such a country under the DSU and, if nullification or impairment of its benefits are *found to result* from a measure of a least-developed Member, must exercise *due restraint* in asking for compensation or seeking authorization to suspend the application of concessions or other obligations pursuant to DSB procedures. [DSU Art. 24.1]

**DSU/S 20** If the GOE asserts that a measure or other action of another member does *not* violate as such an obligation under a covered agreement but *nonetheless* nullifies or impairs a benefit that would otherwise accrue to it or impedes the attainment of any objective of the covered agreements, or raises as an issue the existence of *any other situation*, the GOE must present to the DSB a *detailed justification* of such complaint. [DSU Art. 26.1, 26.2]



## B. Transparency Obligations

### 1) Transparency Obligations – Procedural

- DSU/P 1** If a party to a dispute, the GOE must submit its written submissions with the Secretariat for immediate transmission to the panel and to other parties to the dispute. [DSU Art. 12.6]
- DSU/P 2** If Egypt is the *complaining party*, it must submit its first submission *in advance of the responding party's* first submission, unless the panel decides the submissions should be made simultaneously. [DSU Art. 4.6]
- DSU/P 3** The GOE must treat as confidential information submitted to a panel by another Member which that Member has designated as “confidential”; if Egypt submits a confidential version of its written submissions to the panel, it must also, *upon request* of a Member, provide a *non-confidential summary* thereof that could be disclosed to the public. [DSU Appendix 3 “Working Procedures”, Para. 3]
- DSU/P 4** Prior to the second meeting of a panel, the GOE shall submit written rebuttals to any prior representations made to the panel by other parties. [DSU Appendix 3 – Para. 7]
- DSU/P 5** The GOE must make available to a panel and any other parties to a dispute before the panel – plus any invited third parties – written versions of its oral statements before the panel. [DSU Appendix 3 – Para. 9]
- DSU/P 6** Any presentations, rebuttals, or other statements made by the GOE, and any written submissions, including comments on the descriptive portion of a panel report and responses to questions put by the panel, must be made available by the GOE to all other parties before the panel. [DSU Appendix 3 – Para. 10]

### 2) Transparency Obligations – Consultation

[NOTE: See also GATT '94 Article XXII.]

- DSU/C 1** The GOE must accord *sympathetic consideration* to and afford *adequate opportunity* for consultation regarding any representations made by another Member concerning measures of the GOE affecting the operation of any covered agreement taken within Egypt. [DSU Art. 4.2]
- DSU/C 2** If a request for consultations is made to the GOE pursuant to a covered agreement, it must, unless otherwise agreed to:

a) reply to the request within *10 days* after the date of receipt of the request, and

b) enter into consultations in good faith within a period of *no more than 30 days* from receipt of the request, with a view to reaching a mutually satisfactory solution.

But, in cases of urgency, including those which concern perishable goods, the GOE must enter into *consultations* within a period of *no more than 10 days* from receipt of the request.

[DSU Art. 4.3, 4.8]

**DSU/C 3** Any request made by the GOE for consultations must be submitted in writing, notified to the DSB and relevant WTO Councils and committees and shall set forth the reasons for the request, including identification of measures at issue and an indication of the *legal* basis for the complaint. [DSU Art. 4.4]

### **3) Transparency Obligations – Notification**

**DSU/N 1** The GOE must notify to the DSB and relevant WTO Councils and committees all requests for consultation made by it to other Members, which notification must be in writing and must give the reasons for the request, including identification of the measures at issue and an indication of the *legal* basis for the complaint. [DSU Art. 4.4]

**DSU/N 2** The GOE must notify to the DSB and relevant WTO Councils and committees mutually agreed solutions to matters formally raised under the consultation and dispute settlement provisions of the covered agreements. [DSU Art. 3.6]

**DSU/N 3** The GOE's resort to arbitration, if any, under the DSU must be notified to all WTO Members *sufficiently in advance* of the actual commencement of the arbitration process.[DSU Art. 25.2]

**DSU/N 4** The GOE must notify to the DSB and to the relevant WTO Council or committee with respect to any arbitration award. [DSU Art. 25. 3]

## Annex 3

### **Trade Policy Review Mechanism** **(“TPRM”)**

[The Trade Policy Review Mechanism or “TPRM”, adopted by the GATT in 1989, is intended to facilitate the regular review and collective appreciation and evaluation of the full range of Member countries’ trade policies and practices as seen in the context of overall macroeconomic and structural policies, and the impact of such policies and practices on other Members and on the functioning of the multilateral trading system. It is *not* intended, however, to serve as a basis for the *enforcement* of specific obligations under the GATT’94/WTO multilateral trade agreements, for *dispute settlement* procedures, or to impose *new policy* commitments on Members.]

#### **I. Substantive Obligations**

##### **TPRM/S 1**

As part of a WTO trade policy review, Egypt must prepare a full report – in the form of a policy review – that describes its trade policies and practices based on an agreed format among WTO Members, in particular reporting on all aspects of trade policies covered by the GATT’94 and the Multilateral Trade Agreements and, where applicable, Plurilateral Agreements to which Egypt is a party. [Paragraphs C(v), D].

[NOTE: At the time of this report, Egypt is currently in the process of a WTO TPRM review. The GOE has submitted its Trade Policy Memorandum (copy not yet available) and the Secretariat has issued its Report which is attached as Appendix D hereof. The Secretariat’s Report (by the staff of the Trade Policies Review Division) is prepared on the basis of replies by the reviewed Member (Egypt), discussions with national authorities during the staffers’ visit to its capital, and information collected from other sources. TPRD staff visited Egypt last October. The complete TPRM Process takes about 10 months. The WTO TPRM Working Party for Egypt met on Thursday and Friday, 24 and 25 June 1999. Debate within the Working Party is “stimulated” by two discussant Member countries. Minutes of the meeting and the text of the TPRB Chairperson’s Concluding Remarks delivered at the conclusion of the meeting will be published sometime after the meeting.]

#### **II. Transparency Obligations**

**A. Transparency Obligations – Procedural – (none)**

**B. Transparency Obligations – Consultation – (none)**

**C. Transparency Obligations - Notification**

**TPRM/N 1**

Between the full TPRM periodic reviews, Egypt must “provide brief reports when there are significant *changes* in their trade policies and an *annual* update of *statistical information* according to a Member-agreed format, which information should be “to the greatest extent possible, *coordinated* with notifications required under the Multilateral Trade Agreements, and, where applicable, the Plurilateral Agreements. [Paragraph D]

**TPRM/N 2**

Egypt has agreed (with all other Members) “to Encourage and promote greater transparency within Their own system”, recognizing that the implementation of domestic transparency must be on a voluntary Basis and take into account a Member’s legal and Political system. [Paragraph B]

## (Plurilateral Agreements)

### The Agreement on Trade in Civil Aircraft

[NOTE: The Agreement on Trade in Civil Aircraft was concluded in Geneva on 12 April 1979 and entered into force on 01 January 1980. As of April 1999, it has 21 signatories. As a “plurilateral” agreement, The obligations of the Agreement bind *only* the signatory nations. Egypt is a signatory to the Agreement.]

#### **I. Substantive Obligations**

##### **CRFT/S 1**

As a signatory to the Agreement on Trade in Civil Aircraft, Egypt is obliged to:

- a) to *eliminate all customs duties and other charges* on the importation of products classified for customs purposes under the tariff headings listed in the Annex to the Agreement, *if* such products are for use in a civil aircraft or for incorporation therein, in the course of its manufacture, repair, maintenance, rebuilding, modification or conversion;
- b) to *eliminate all customs duties and other charges* of any kind levied on *repairs* on civil aircraft; *and*
- c) to incorporate in their respective GATT Schedules, *duty-free* or *duty-exempt* treatment for all products and repairs covered under the Agreement.

[CRFT Art. 2.1]

##### **CRFT/S 2**

As a signatory to the Agreement, Egypt has agreed that products covered by the descriptions in the Annex to the Agreement and *properly classified* under the Harmonized System codes must be accorded *duty-free* or *duty-exempt* treatment, if such products are for use in civil aircraft or ground flying trainers and for incorporation therein, *in the course of* their manufacture, repair, maintenance, rebuilding, modification, or conversion.

[CRFT Annex – Para. 2]

##### **CRFT/S 3**

As a signatory to the Agreement, Egypt must:

- a) adopt or adapt an end-use *system* of customs administration to give effect to its obligations under the Agreement;
- b) ensure that its end-use system provides *duty-*

*free or duty-exempt treatment comparable to the treatment provided by other Signatories and which is not an impediment to trade;*  
and

- c) inform other Signatories of its procedures for administering the end-use system.

[CRFT Art. 2.2]

**CRFT/S 4**

As a signatory to the Agreement, Egypt has agreed that civil aircraft certification requirements and specifications on operating and maintenance procedures shall be governed, as *between* the Signatories, by the provisions of the Agreement on Technical Barriers to Trade.  
[CRFT Art. 3.1]

**CRFT/S 5**

The GOE must not: *require* airlines, aircraft manufacturers, or other entities engaged in the purchase of civil aircraft, nor *exert unreasonable pressure* on them, to procure civil aircraft from any *particular* source, which would create *discrimination* against suppliers from any Signatory country.  
[CRFT Art. 4.2]

**CRFT/S 6**

The GOE must avoid attaching *inducements* of any kind to the sale or purchase of civil aircraft from any *particular* source which would create discrimination against suppliers from any Signatory country.  
[CRFT Art. 4.4]

**CRFT/S 7**

The GOE must not apply *quantitative* restrictions (import quotas) or import licensing requirements to restrict imports of civil aircraft or restrict, for commercial or competitive reasons, *exports* of civil aircraft to other Signatories, in a manner inconsistent with the applicable provisions of the GATT ('94). [CRFT Art. 5.1, 5.2]

**CRFT/S 8**

With regard to non-actionable subsidies under Art. 8 of the Agreement on Subsidies and Countervailing Duties providing governmental support for civil aircraft, the GOE must “seek to avoid” adverse effects on trade in civil air-craft, and must take into account the “special factors” which apply in the aircraft sector e.g., widespread governmental support in this area, their international economic interests, and

- the desire of producers of all Signatories to participate in the expansion of the world civil aircraft market.

[CRFT Art. 6.1]

**CRFT/S 9**

The GOE must not require or encourage, directly or indirectly, regional or local governments and

authorities or non-governmental bodies, or other bodies, to take action inconsistent with the provisions of the Agreement. [CRFT Art. 7]

**CRFT/S 10** Not later than the end of the third year from entry into force of the Agreement, the GOE and other signatory countries must enter into further negotiations with a view toward broadening and improving the Agreement on the basis of mutual reciprocity. [CRFT Art. 8.3]

**CRFT/S 11** The GOE may not enter any reservations to the provisions of the Agreement without the consent of the other Signatories. [CRFT ART. 9.2.1]

**CRFT/S 12** The GOE must ensure the conformity of its laws, regulations, and administrative procedures with the provisions of the Agreement on Trade in Civil Aircraft. [CRFT Art. 9.4.1]

### **III. Transparency Obligations**

#### **A. Transparency Obligations – Procedural**

#### **B. Transparency Obligations – Consultation**

**CRFT/C 1** The GOE must afford sympathetic consideration to and adequate opportunity for prompt consultations regarding representations made by another Signatory with respect to any matter affecting operation of the Agreement. [CRFT Art. 8.5]

**CRFT/C 2** With regard to the initiation, without prior consultation, of any investigation to determine the existence, degree, and effect of any alleged subsidy, and, in situations in which prior consultations were not held prior to such action, to enter into consultations to seek mutually agreed solution that would obviate the need for imposition of countervailing measures. [CRFT Art. 8.6]

**CRFT/C 3** The GOE must adhere to the consultation and dispute settlement provisions of Articles XXII and XXIII of the GATT and the Dispute Settlement Understanding with regard to issues of application or operation of the Agreement. [CRFT Art. 8.8]

**C.**

**Transparency Obligations – Notification**

**CRFT/N 1**

The GOE must notify other Signatories of the Agreement with regard to its adoption or adaptation of any end-use system of customs administration to give effect to the obligations of the Agreement. [CRFT Art. 2.2]

**CRFT/N 2**

The GOE must notify the WTO Committee on Trade in Civil Aircraft with regard to its institution, with or without prior consultation, of any investigation to determine the existence, degree, and effect of any alleged subsidy relating to trade in Civil Aircraft. [CRFT Art. 8.6]

**CRFT/N 3**

The GOE must notify the Committee on Trade in Civil Aircraft with regard to any changes in its laws and regulations relevant to the Agreement and the administration of such laws and regulations. [CRFT Art. 9.4.2]



**ANNEX D: Summary Chart for Egyptian WTO Notification Requirements**

Code	Notification Required	GATT Art. WTO Agmt Other Cite	Type	NIL Report Required?	Entity to be Notified	Standard Format Y/N, Cite	GOE Prior Notifications	GOE Notification Cites	Handbook or Other Informational Cite	GOE Notifications Due 95-98	GOE Notification Due in '99	Due Date(s)	Entry No.
MKT Access Concessions	Submission of consolidated tariff concession schedules	GATT ART. II BISO 275/22	One time only		Secretariat Market Access Comm.								1
MKT Access Concessions	Correction of duties and charges recorded in schedules	GATT Art. II: 1 (b)	One time only		Secretariat								2
MKT Access Concessions	Adjustment of specific duties/concessions	GATT ART.II: 6(a)	AD-HOC		Secretariat								3
Exchange Restrictions	Exchange restrictions affecting trade and payments	GATT ART.XV:8	AD-HOC										4
Taxation	Changes in tax adjustment legislation/practices affecting international trade	Decision of CPs BISSD 185/97	AD-HOC										5
QRs	Quantitative restrictions maintained	G/L/59 BISSD 315/211222	Initial 01Dec95		Secretariat		N [CRN Reminder]		WT/TC/Notif/MA/1-MA-1V, P6.2	1995			6
QRs	Quantitative restrictions maintained	G/L/59 BISSD 325/92	Biennial		Secretariat		N [CR Reminder]		WT/TC/Notif/MA/1-MA-1V, P6.2	1998/97	Yes	1-Dec	7
QRs	Changes in QR's previously notified	G/L/59 B 325/92	AD-HOC		Secretariat				WT/TC/Notif/MA/1-MA-1V				8
Mkt. Access NTBs	Institution of non-tariff barriers	B 315/227 B325/92	AD-HOC		Common Market Access								9
Mkt. Access	Protective measures affecting DC imports	Decision on examination of protective measures affecting imports from developing countries	AD-HOC		Comm. on Trade & Development								10
Integrated Data Base (IDB)	Tariff data by tariff line for unbound items & import data for all bound/unbound tariff items per IDB format	Decision on IDB 10Nov87 L/6290 B345/66R3	Annual		Secretariat				IDB user manual 4/19/94 IDB/URM/I				11
Market access import restrictions/ Gov't assistance to econ. Dev. & B/P concerns	Consolidated notification of all changes in laws, regs, policies, etc. regarding imposition or use of import restrictions for econ. Dev. Or B/P purposes [for developing countries]	GATT ART. XVIII IP9 of the understanding on B/P	Annual by 15Nov.		General Council				WT/TC/Notif/ BOP/1				12
Market access import restraints/ Gov't assistance to econ. Dev. & B/P concerns	New import restrictions imposed for B/P concerns	GATT ART. XVIII: B4 IP9 understanding	Annual		General Council				WT/TC/notif/ BDP/1-BOP-IV, P6.92 & WT/BOP/14				13
Market access import restrictions/ Gov't assistance to econ. Dev. & B/P concerns	New import restrictions imposed for B/P concerns	GATT ART. XVIII: B4 IP9 understanding	AD-HOC within 30 days of announce-ment		General Council								14
Market access import restraints/ Gov't assistance to econ. Dev. & B/P concerns	Modification/withdrawal of tariff schedules/commitments for establ. of new industry or new production	GATT ART. XVIII:B2 IP9 understanding	AD-HOC within 30 days of announce-ment		General Council				WT/TC/Notif/ BDP/1-				16
Market access import restraints/ Gov't assistance to econ. Dev. & B/P concerns	Gov't assistance required to promote establ. Of new industry in a developing country via non-tariff measures	GATT Art. XVIII:C TPS 13, 14	AD-HOC		General Council								17

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Market access import restraints/ Gov't assistance to econ. Dev. & B/P concerns	Special difficulties encountered by member country in promoting establ. of a new industry and need for specific import restraints	GATT ART. XVIII:C TP 14	AD-HOC		General Council								18
Market access import restraints/ Gov't assistance to econ. Dev. & B/P concerns	Gov't assistance to promote establ. of a particular industry in a developing country - use of non-tariff measures	GATT ART. XVIII: D TP 22	AD-HOC		General Council								19
Market access import restraints/ Gov't assistance to econ dev. & B/P concerns	Special difficulties encountered by a member country in promoting establ. Of a particular industry by non-tariff measures	GATT ART. XVIII: D TP 22	AD-HOC		General Council								20
Market access safeguards	Measures restricting trade for protection of human, animal or plant life health	GATT ART. XX(6)	AD-HOC						C/M/236, Pg. 6-7				21
Market access safeguards	Import restrictions imposed for reasons of nat'l. security	GATT ART. XXI							Decision on Art. XXI of 30 Nov '82, 45426, BISD 295/23				22
Consultation	Request for consultations under Art. XXII	GATT ART/ XXII	AD-HOC						Decision of CPS 10 Nov. 58 BISD 75/24				23
DSU dispute settlement	Notification of request for consultations under Art. XXIII:1 or for establishment of a panel under Art. XXIII:2	Understanding on notification, consultation, dispute settlement, etc. of 28 Nov. 1979 BIS D 265/210 & decision of 10 Nov. '58 BISD 75/24	AD-HOC		General Council				MTN/FR/W/17 of 01 Aug. 1978 Min. Dec. on Disp. Settl. 29 Nov. '82, B295/13 decision on disp. Settl. 30 Nov. 1984, B315/9 Decision of 12 April '89 B365/61 & 62				24
DSU dispute settlement	Notification of mutually-agreed solutions to matters raised to consultation for disp. Settl. Under provisions of covered (WTO) agreements	GATT ART. XXIII	AD-HOC		DSB & relevant council under agreement								25
State trading	New & full notification re state trading enterprises & products imported/exported by them - questionnaire	GATT ART/ XVII:4(a) & TPI & 3 understanding on Art. XVII	Triennial	Yes	Council for Tradeted in Goods	Yes questionnaire BISD 95/184-185 G/STR/3/98 B885/158	No		WT/TCNOTIF/STR/1-STR-1, Pg. 2 STR-4, 1995 [CRN reminder]				26
State trading	Annual update re changes in prior notifications regarding state trading enterprises/products	GATT ART. XVII: 4(a) & TP3 understanding	Annual by 30 June	Yes	Council for Trade in Goods		Yes 09/28/98	G/STR/N/4/EG Y	WT/TC/NOTIF/STR/1	1997 [CRN reminder cured in 1998?	Yes	30-Jun-99	27

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Regional agreements	Notification of member's prospective jointing of a customs union or free trade area - by developing country	Enabling Clause TP 4(a)	AD-HOC	No	Council on Trade and Development	Yes WT/COMTD/16	?		Decision of 28 Nov. '79 on differential & more favorable treatment reciprocity & fuller participation of developing countries BISD 265/203 WT/REG/W/6		Yes? GAFTA COMESA EUROMED	Unstated	28
Regional agreements	Notification by a developed country of its prospective joining of a CU or PTA	GATT ART. XXIV:7(a) & P7 of understanding on interpretation of Art. XXIV	AD-HOC	No	Council for Trade in Goods	Yes WT/REG/W/6	NR		Council decision of 25 Oct. '72, B 185/37 & B193/13				29
Regional agreements	Entry by a member country into an interim agreement for a CU or FTA	GATT ART. XXIV:7(a) & TP7 understanding	AD-HOC	No	Council for Trade in Goods	No	No		Notification examples WT/TC/NOTIF/REG II-REG-IV, Pgs. 2, 3				30
Regional agreements	Notification of substantial changes in the plan/schedule of previously notified interim agreement	TP5© TP9 understanding	AD-HOC	No	Council for Trade in Goods	No	No		REG-II, Pg. 2				31
Regional agreements	Periodic notifications on the operation of a CU or FTA	GATT ART. XXIV:II & BISD 185/38, P. 4	Biennial		Council for Trade in Goods				Council for trade in goods procedure G/L/286-Dec. '98				32
Regional agreements	Significant changes and/or developments in operations of CUs or FTAs	TP 11 understanding	AD-HOC										33
Regional agreements	Economic integration arrangements affecting trade in services	GATS Agmt. ART. V:7	AD-HOC		Council for Trade in Services		No		WT/TC/NOTIF/GATS				34
Regional agreements	Labor market effects of integration agreements (see also GATS #160, 161, 162)	GATS Agmt. ART. Vbis(b)	AD-HOC		Council for Trade in Services								35
Modification of schedules	Intention to withdraw or modify concession during "open season" [every 3 years]	GATT ART. XXVIII:1 & interpretative note TP3	Triennial 3 months prior to end of 3 yr. "season"	No	Secretariat	No			Procedures for negotiations under ART. XXVIII 10 Nov. '80 c/113 & corr. 1				36
Modification of schedules	Notification of open season right to withdraw/modify commitments during following 3 years	GATT ART/ XXVIII:5	Triennial 3 mos. Prior to end of 3 yr. Season	No	Secretariat	No	Yes 1996	G/MA/20	WT/TC/NOTIF/MA/1-				37
Modification of schedules	Notification of intention to withdraw/modify tariff concession	GATT ART. XXVIII:3 Interpretative note TP3	AD-HOC 30 days prior to action		Secretariat	No							38
Modification of schedules	Notice of withdrawal/modification of concession as a retaliatory measure	GATT ART. XXVIII:5	AD-HOC		Secretariat								39

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Modification of schedules	Notice of intent to negotiate for withdrawal/modification of a concession	GATT ART. XXVIII: TP1 procedures	AD-HOC		Secretariat				WT/TC/NOTIF/MA/I-MA-III, Pg. 2, TPI				40
Modification of schedules	Report on results of negotiation for withdrawal/modification of a concession	GATT ART. XXVIII: FP5, 7 procedures	AD-HOC		Secretariat	Yes a) joint letter Annex A b) report Annex C			WT/TC/NOTIF/MA/I-MA-III, Pg. 2				41
Modification of schedules	Notification of changes in national tariffs implementing previously modified modifications or tariff concessions	INTRO. TP of interpretative note to ART. XXVIII	AD-HOC "immediately"		Secretariat								42
Agriculture	Omotoa; modification re a demonstration pf agroc/ qiptascp.,ot,emts recorded om Scjed/ 1A or 1B of Part 1 of M.A. scheds. Table MA:2	Agmt. On Agric. Art. 18.2	Annual 30 days after end of calendar year	No	Comm. On Agric.	Yes G/AG/2, Pg. 2	No		WT/TC/NOTIF/AG/I-AG-IV, pg. 11				43
Agriculture	Tariff & other quota commitments recorded in Sec. 2A or 1B of Part 1 of M.A. schedules Table MA:2	Agmt. On Agric. Art. 18.2	Annual 30 days after end of calendar year	No	Comm. On Agric.	Yes GAG/2, Pg. 2	No		WT/TC/NOTIF/AG/1-AG-IV, Pg. 11				44
Agriculture	Members reserving right to invoke special safeguards Table MA:5	Agmt. On Agric. Arts. 5.7 & 18.2	Annual 30 days after end of calendar year	Yes G/AG/2 to 5	Comm. On Agric.	Yes G/AG/2, Pg. 2	No	"SSG" Reserv. Notation in Sched. Sec. 1-A	WT/TC/NOTIF/AG/1-G/AG/2				45
Agriculture	Member taking any safeguard action: Table 3 - price-based safeguard	Agmt. on Agric. Art. 5.7	AD-HOC Prior or NLT 10 days after	No	Comm. On Agric.	Yes G/AG/2, Pg., 5-10			WT/TC/NOTIF/AG/1-AG-IV, pg. 13				46
Agriculture	Member taking any safeguard action: Table MA:4 - volume-based safeguard	Agmt. On Agric. Art. 5.7	AD-HOC Prior to NLT 10 days after	No	Comm. On Agric.	Yes G/AG/2, pg. 5-10	No		WT/TC/NOTIF/AG/1-AG-IV, Pg. 15				47
Agriculture	Members providing domestic support (except LDCs) Table DS:1	Agmt. On Agric. Art. 18.2	Annual 90 days after end of year	Yes G/AG/2 (But Common Agric. Can set aside "nil rept" requirement	Comm on Agric.	Yes G/AG/2, pg. 13	No [CRN reminder]		WT/TC/NOTIF/AG/1-AG-IV, Pgs. 21-35 G/AG/2, pgs. 11-21	95, '96, '97 [Acc. To CRN reminder]	Yes	31 Mar '99	48
Agriculture	Members introducing new or modifying existing support measures Table DS:2	Agmt. On Agric. Art. 18.3	AD-HOC within 30 days of adoption	No	Comm. On Agric.	Yes G/AG/2, Pg. 23	No		WT/TC/NOTIF/AG/1-G/AG/2, Pg. 22				49
Agriculture	Members with export subsidies: budgetary outlays/quantity reduction commitments Table ES:1	Agmt. On Agric. Art. 18.2	Annual 60-120 days after end of year or nil rept. 30 days after end of year	Yes AG-IV ,Pg. 3, 38	Comm. On Agric.	Yes Directions G/AG/2, Pg. 24	No [CRN reminder]		WT/TC/NOTIF/AG/1-AG-IV, Pgs. 38-43	95, '96, '97 [CRN reminder]	Yes	Pgs. 24/30 NIL: 01/31	50

**ANNEX D: Summary Chart for Egyptian WTO Notification Requirements**

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Agriculture	Members with export subsidies: total exports, annual export subsidy commitment Table ES:2	Agmt. On Agric. Arts. 10 & 18.2	Annual 60-120 days after end of year of Nil Rept. 30 days after end of year	Yes G/AG/W/24 AG-IV, Pg. 44	Comm. On Agric.	Yes Directions G/AG/2, Pg. 24	No		WT/TC/NOTIF/AG/1-G/AG/2, Pgs. 24-30	None - BC Egypt not a "significant exporter"	No		51
Agriculture	Food aid donors - total food aid annual export subsidy commitments Table ES:3	Agmt. On Agric. Arts. 10 & 18.2	Annual	No (unless a food donor)	Comm. On Agric.	Yes Directions G/AG/2, Pgs. 24-25	No [CRN reminder]		WT/TC/NOTIF/Agric/1-AG-IV, Pgs. 46, 47	None - BC Egypt not a "food donor" @NB CRN says yes '95, '96, '97 [reminder]	No [CRN says yes] call		52
Agriculture	Members introducing new export restrictions (except dev. Countries that are not net exporters of product concerned Table ER:1	Agmt. on Agric. Art. 12.1(b)	Annual	No G/AG/W/24	Comm. On Agric.	Yes directions G/AG/2, Pgs. 31-32	No		WT/TC/NOTIF/AG/1-G/AG.2m Ogs, 31-32		No		53
Agriculture	Food donors providing food or tech./fin. Assistance to LDCs or net food-importing developing countries Table NF:1	Agmt. On Agric. Art. 16.2	Annual 60 days following "relevant period"	No [if not food donor] G/AG/W 24	Comm. On Agric.	Yes Directions G/AG/2, Pgs. 33, 34	No [CRN reminder]		WT/TC/NOTIF/AG/1-AG-IV, Pgs. 50, 51 G/AG/2, Pgs. 33, 34	No [Egypt not a food donor - CRN says yes {reminder}]	No [CRN says yes] - call		54
Agriculture	Other members [non-food donors] taking ad-hoc specific food aid actions Table NF:1	Agmt. On Agric. Art. 16.2	AD-HOC	No G/AG/W/24	Comm. On Agric.	Yes Directions G/AG/2, 33/34	No		WT/TC/NOTIF/AG/1-AG-IV, Pgs. 50, 51 G/AG/2 Pg. 34				55
SPS	Members introducing sanitary or phytosanitary regulations	SPS Agmt. Art. 7 Annex B/5-10	AD-HOC When drafts of regs. Are available	No	Secretariat	Yes "recommended procedures" G/SPS/7	No		WT/TC/NOTIF/SPS/1 G/SPS/7				56
SPS	Members introducing SPS regulations on emergency basis	SPS Agmt. Annex B/6	AD-HOC	No	Secretariat	"recommended procedures" G/SPS/7	No		WT/TC/NOTIF/SPS/1 G/SPS/W/32				57
SPS	Notification of enquiry point for receiving comments on draft SPS regulations	SPS Annex B:3 G/SPS/7	One time only One time only upon entry into force of WTO Agmt.	No									58
PSI	Submission of laws/regs. Implementing PSI agreement & other laws/regs. Relating to PSI	PSI Agmt. Art. 5	AD-HOC	Yes PSI-IV, Pg. 2	Secretariat	Examples PSI-IV, Pg. 2	No [CRN reminder]		WT/TC/NOTIF/PSI/1-PSI-IV, Pg. 1	Yes [CRN reminder]	Yes	Unstated	59
PSI	Changes in PSI-related laws/regs. Previously notified	PSI Agmt. Art. 5	AD-HOC	No	Secretariat	No But see PSI-IV, Pg. 2 examples	No		WT/TC/NOTIF/PSI/1-PSI-IV, Pg. 2				60
ATC textiles clothing	Member's adm. Arrangements to bring MFA quota year in line with ATC year	ATC Art. 2.3	AD-HOC		AD-HOC Textiles Monitoring Body	N	N		WT/TC/NOTIF/TEX/1				61

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ATC textiles clothing	Details of First Integration	ATC Art. 2.7							WT/TC/NOTIF/TEX/1-TEX-IV, Pg. 2 also				62
ATC textiles clothing	Members that have reserved right to use ATC special safeguard under Art. 6:1	ATC Art. 2.6	One time only 31 Dec. '95		AD-HOC Textiles Monitoring Body	Y TEX-IV, Pg. 2	Y 1996	G/TMB/N/196	WT/TC/NOTIF/TEX/1-TEX-1, Pg. 3, para 10				63
ATC textiles clothing	Members taking earlier integration than specified in ATC	ATC Art. 2.10	AD-HOC		AD-HOC Textiles Monitoring Body	N	N		WT/TC/NOTIF/TEX/1				64
ATC textiles clothing	Details of: - Second Integration - Third Integration - Fourth Integration	ATC Art. 2.11	2nd-01/9/1997 3rd - 01/2001 4th - 01/2005 At least 12 months prior to entry into effect		AD-HOC Textiles Monitoring Body	Y TEX-IV, Pg. 3	Y 1996	G/TMB/N/221	WT/TC/NOTIF/TEX/1-TEX-IV, Pg. 3				65
ATC textiles clothing	Member undertaking early elimination of QRs	ATC Art. 2.15	AD HOC		Textiles Monitoring Body		N						66
ATC textiles clothing	Members' ATC implementation adm. Arrangements	ATC Art. 2.17	AD-HOC		AD-HOC Textiles Monitoring Body		N						67
ATC textiles clothing	All non-MFA QRs whether or not consistent with the GATT	ATC Art. 3.1	One time only 01 Mar '95	N	Textiles Monitoring Body	Example TEX-IV, Pg. 4	Y 03/14/95; 02/06/96; 07/17/96	G/TMB/N/91 G/TMB/N/91 Add. 1, Add. 2	WT/TC/NOTIF/TEX/9-TEX-IV, Pg. 4				68
ATC textiles clothing	Members with certain QRs under the ATC brought into conformity with GATT '94	ATC Art. 3.2(a)	One time only 31 Dec. '95		Textiles Monitoring Body		N						69
ATC textiles clothing	Members with certain QRs notified under the ATC: program to phase out such restrictions	ATC Art. 3.2(6)	One time only 30 June '95		Textiles Monitoring Body								70
ATC textiles clothing	Notifications to other WTO bodies of QRs or changes in restrictions on textiles/clothing (see Art. 2)	ATC Art. 3.3	AD-HOC within 60 days of effectiveness of restrictions		Textiles Monitoring Body		Y 04/03/97	G/TMB/N/292					71
ATC textiles clothing	Changes in implementation of the adm. Of QRs in the absence of an agreement	ATC Art. 4.4	AD-HOC		Textiles Monitoring Body								72
ATC textiles clothing	All quantitative restrictions maintained under MFA Art. 4, 7 or 8 in force on 31 Dec. 1994, incl. Restraint levels, growth rates, & flexibility provisions	ATC Art. 2.1, 2.7	One time only 01 Mar 1995		Textiles Monitoring Body								73
ATC textiles clothing	Notification of agmt. Or referral to the TMB in the absence of mutual agmt., following investigation of circumvention	ATC Art. 5.4	AD-HOC		Textiles Monitoring Body								74
ATC textiles clothing	Action taken to prevent circumvention of the ATC	ATC Art. 5.4	AD-HOC		Textiles Monitoring Body				WT/TC/NOTIF/TEX/1-TEX-IV, Pg. 5				75
ATC textiles clothing	Member's reservation of right to use ATC Art. 6 safeguards	ATC Art. 6.1	One time only 30 June '95		Textiles Monitoring Body	Suggested TEX-IV, Pg. 5	Y G/TMB/N/26			3/1/95			76
ATC textiles clothing	Safeguards measures - details of agreed restraints from an ATC 6 action	ATC Art. 6.9	AD-HOC		Textiles Monitoring Body								77

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ATC textiles clothing	Safeguards taken in the absence of mutual agreement (i.e., unilateral) within 60 day consultation period	ATC Art. 6.10	AD-HOC		Textiles Monitoring Body								78
ATC textiles clothing	Provisional safeguard measures taken either unilaterally or subsequent to bilateral agmt (critical/unusual cir.).	ATC Art. 6.11	ADHOC 5 days after action		Textiles Monitoring Body								79
ATC textiles clothing	Implementation or not of actions to abide by GATT rules under Art. 7:1 having a bearing on implementation of the ATC	ATC Art. 7.2	AD-HOC		Textiles Monitoring Body		Y G/TMB/N/293	4/3/97					80
ATC textiles clothing	Notification that member is unable to conform to or implement a TMB recommendation	ATC Art. 8.10	AD-HOC		Textiles Monitoring Body								81
ATC textiles clothing	Notification that member is unable to accept further TMB recommendations & matter remains unresolved	ATC Art. 8.10	AD-HOC		Textiles Monitoring Body								82
TRIMS	TRIMS introduced 180 days or more prior to effectiveness of WTO TRIMS Agmt. & inconsistent with GATT Art. III and/or XI (QRs)	TRIMS Art. 5.1	AD-HOC One time only within 90 days of effectiveness of WTO for member	N	Council on Trade in Goods	Y G/TRIMS/1 TRIMS-IV, Pg. 2	Y Oct. 6, '95	G/TRIMS/N/1/E GY/1	WT/TC/NOTIF/TRIM S/1-TRIMS-IV, Pg. 2				83
TRIMS	TRIMS affecting new investments that are inconsistent with GATT Art. III or XI	TRIMS Art. 5.5	AD-HOC for 5 years from entry into effect		Council on Trade in Goods				WT/TC/NOTIF/TRIM S/1-TRIMS-IV, Pg. 2				84
TRIMS	Publications describing TRIMS	TRIMS Art. 6.2	AD-HOC for changes		Council on Trade in Goods				G/TRIMS/N/2/Rev. 4				85
TBT	Products to be covered by proposed tech. reg. & rationale, objective	TBT Art. 2.9.2	AD-HOC		Secretariat	Y G/TBT/6	Y 9/15/97; 01/09/98; 03/04/98; 06/05/98	G/TBT/NOTIF 97.505; 98.28; 98.127; 98.280; 98.206	WT/TC/NOTIF/TBT/1-G/TBT/1/Rev. 3				86
TBT	Urgent adoption of tech. reg. Without prior notice, objective, rationale, & nature of urgency	TBT Art. 2.10.1	AD-HOC		Secretariat				WT/TC/NOTIF/TBT/1-G/TBT/1/Rev. 3			10/7/98 Prov. Entry	87
TBT	Local gov't. tech. Regs. (if different from central gov't's)	TBT Art. 3.2	AD-HOC		Secretariat				WT/TC/NOTIF/TBT/1-G/TBT/1/Rev. 3				88
TBT	Products covered by a proposed conformity assessment procedures, objective & rationale	TBT Art. 5.6.2	AD-HOC		Secretariat				WT/TC/NOTIF/TBT/1-G/TBT/1/Rev. 3				89
TBT	Urgent adoption without prior notice/opportunity for comment of products to be subject to conformity assessment, objective, rationale & reason for urgency	TBT Art. 5.7.1	AD-HOC		Secretariat				WT/TC/NOTIF/TBT/1-G/TBT/1/Rev. 3				90
TBT	Conformity assessment procedure of local gov't. (if different from central gov't.)	TBT Art. 7.2	AD-HOC		Secretariat								91

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TBT	Agmt(s). with other countries related to tech. Regs. Or standards or conformity assessment procedures having a significant impact on trade	TBT Art. 10.7	AD-HOC	N	Secretariat	Y G/TBT/W/wt G/TBT/10.7/N N							92
TBT	Measures in existence or taken to ensure implementation of TBT (laws/regs./adm. Procedures	TBT Art. 15.2	One time only		Committee on TBT	Y G/TBT/1/Re v. 3	Y 07/11/97	G/TBT/2/Add. 34	WT/TC/NOTIF/TBT/1- G/TBT/1/Rev. 3				93
TBT	Changes in measures to implement/adm. TBT previously notified	TBT Art. 15.2	AD-HOC		Committee on TBT	Y G/TBT/1/Re v. 3							94
TBT	Designation of gov'tl. authority for implementing notification	TBT Art. 10.10, 10.11	One time only		Committee on TBT		? But not on reminder (call)			?			95
TBT	Acceptance/withdrawal from TBT Annex 3 code of good practice by country's standards authority	TBT Annex 3C	One time only (no time given)		ISO/IEC Info. Ctr. Geneva	Y G/TBT/W/4/ Reg 2 G/TBT/CS/1	Y 10/26/95	G/TBT/CS/N/17	WT/TC/NOTIF/TBT/1 - G/TBT/W/4/Rev. 1				96
TBT	Work programs (incl. Standards in development) adopted by member's standards bodies	TBT Annex 3C	Biennial		ISO/IEC Info. Ctr. Geneva	Y G/TBT/W/4/ Rev. 1	N [CRN Egypt notifications]		WT/TC/NOTIF/TBT/1	Y [Not in CRN call or reminder 1997]	y	Unstated	97
TBT	Mandatory labeling requirements not based substantially on a relevant int'l. standard that have a significant impact on trade or other members	TBT Art. 1.9 & (see handbook)	AD-HOC		Secretariat	N			Decision No. G/TBT/1/Rev. 3, Pg. 16				98
TBT	Enquiry point (notification	TBT Agmt. Art. 10.1	One time		Committee on TBT		N [CRN Egypt notifications]		WT/TC/NOTIF/TBT/1 - G/TBT/1/Rev. 3, Pgs. 17-19	Y [CRN Egypt notifications]	Y	Unstated	99
Antidumping Art. VI	Notification of authorities competent to conduct AD investigations & procedures governing initiation & conduct of AD investigations	ADP/Art. VI, Art. 16.5	Initial (upon entry into effect of WTO Agmt.)	Y	ADP-IV, Pg. 2 Committee on Antidumping Practices	Y PC/IPL/II			WT/TC/NOTIF/ADP/1 - G/ADP/N/1/Suppl. 1 ADP-IV, Pg. 2				100
Antidumping Art. VI	Notification of changes in authorities, domestic procedures for initiation/conduct of AD investigations (from those previously notified)	ADP/Art. VI Art. 16.5	AD-HOC	N	Committee on Antidumping Practices			G/ADP/N/1/EG Y/1	WT/TC/NOTIF/ADP/1 - ADP-IV, Pg. 2				101
Antidumping Art. VI	Notification of all laws/regs. Regarding anti-dumping investigations or reviews - copies	ADP/Art. VI Art. 18.5	Initial (by 15 Mar. '95)	Y	G/ADP/N/1/ Suppl. 1 Committee on Antidumping Practices	Y ADP-IV, Pg. 2	Y Old law Mar. '95 10/01/95	G/ADP/N/4/Add. 1	WT/TC/NOTIF/ADP/1 - G/ADP/N/1/Suppl. 1				102
Antidumping Art. VI	Changes in laws/regs. Re: AD investigations or reviews - copies	ADP/Art. VI Art. 18.5	AD-HOC	N	Committee on Antidumping Practices		Y New Law, Nov. '98 11/06/98	G/ADP/N/1/EG Y/2 & Rev. 1					103



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								G/ADP/N/22/Ad d. 1/Rev. 3; G/ADP/N/29/EG Y; G/ADP/N/35/EG Y; G/ADP/N/35/EG WT/TC/NOTIF/ADP/1 Y/Rev. 1; ; ADP-I, Pgs. 2-3; G/ADP/N/41/EG ADP-IV, Pg. 4; Y & Corr. 1				July-Dec. '98; Feb. '99; Jan- June '99; Aug. '99	
Antidumping Art. VI	AD actions taken in preceding six months	ADP/Art. VI Art. 16.4	Biennial	4	Committee on Antidumping Practices	3	Y '95 & '96; 06/02/98;						104
Antidumping Art. VI	Preliminary and/or final AD actions taken	ADP/Art. VI Art. 16.4	AD-HOC "without delay"	N	Committee on Antidumping Practices		Y	See above					105
Antidumping Art. VI	Notification to country whose exporter is involved in a properly documented petition & likely initiation of an investigation	ADP/Art. VI Art. 5.5	AD-HOC "as soon as possible after receipt of petition"	N	Exporter's Gov't.								106
Antidumping Art VI	Notification to country involved & other interested parties whose products are involved that there is sufficient evidence to justify initiation of an AD investigation	ADP/Art. VI Art. 12.1	AD-HOC "ASAP"	N	Exporter's Gov't. & "other interested parties"								107
SCM Agreement	Granting or maintaining of any subsidy that increases exports or reduces imports	GATT Art. XVI:1; SCM Art. 25.1-25.6	Triennial "new & full" 30 June	Y SCM Art. 25.6	Committee on SCM	Y Questionnaire re SCM Annex IV; BISD 95/193; 115/59; examples SCM-IV, Pg. 4	N [CRN reminder]		WT/TC/NOTIF/SCM/1; SCM-IV, Pgs. 2-7	"Deficient for all reporting periods '95 and '98 [CRN reminder]	Y	30-Jun	108
SCM Agreement	Granting or maintenance of any subsidy that increases exports or reduces imports	GATT Art. XVI:1; SCM Art. 25.1-25.6	Annual update 30 June	Y SCM Art. 25.6	Committee on SCM	Questionnaire ?	N		WT/TC/NOTIF/SCM/1; SCM-IV, Pgs. 2-7	"De ficient for all reporting periods - '96, 97	Y	30-Jun	109
SCM Agreement	Notification prior to implementation of any subsidy program for which Art. 8.2 (non-actionable subsidies) is invoked	SCM Art. 8.3	Initial AD-HOC		Committee on SCM	Y PC/IPL/II	N?		WT/TC/NOTIF/SCM/1	No CRN reminder	No CRN call		110
SCM Agreement	Annual update re expenditures for modifications in subsidies previously notified	SCM Art. 8.3	Annual		Committee on SCM								111
SCM Agreement	Imposition of CVD in advance of prior approval of CPs to avoid damage difficult to repair [e.g., provisional measures]	SCM Art. 17.1(a)	AD-HOC		Committee on SCM								112
SCM Agreement	Notification to countries whose exports are concerned & other interested parties there is sufficient evidence to justify initiation of a subsidies/CVD investigation	SCM Art. 221	AD-HOC		Exporting Gov't. "Other interested parties"								113

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SCM Agreement	All CVD actions taken in the preceding six months	SCM Art. 25.11	Biennial Feb., Aug.	Y SCM-IV, Pg. 10	Committee on SCM	Y G/SCM/2, pgs. 3-5	Y 12/01/95; 7/01/96; 10/21/96; 10/21/98	G/SCM/N/7/Add . 1; G/SCM/N/12/Add d. 1/Rev. 1; G/SCM/N/19/Add d. 1/Rev. 1; G/SCM/N/40/Add d. 1/Rev. 1	WT/TC/NOTIF/SCM/1-SCM-IV, Pg. 3-5	Jan-June '97; July-Dec. '97 [CRN reminder]	Y	July-Dec. '98; Feb. '99; Jan-June '99; Aug. '99	114
SCM Agreement	Preliminary or final CVD actions taken	SCM Art. 25.11	AD-HOC "without delay"		Committee on SCM	Y G/SCM/2			WT/TC/NOTIF/SCM/1; G/SCM 12				115
SCM Agreement	Authorities competent to initiate & conduct CVD investigations & procedures thereafter	SCM Art. 25.12	Initial "upon entry into WTO"		Committee on SCM				WT/TC/NOTIF/SCM/1				116
SCM Agreement	Changes in authorities & procedures previously notified	SCM Art. 25.10	AD-HOC		Committee on SCM				WT/COMTD/W/1				117
SCM Agreement	Examination of export subsidies	SCM Art. 27.11	AD-HOC		Committee on SCM	Y PC/IPL/II, Pg. 8, Annex 2			WT/TC/NOTIF/SCM/1; PC/IPL/II Annex 2				118
SCM Agreement	Debt relief on subsidies covering social costs inc. relinquishment of revenues & transfer of liabilities linked to a privatization program	SCM Art. 27.13	AD-HOC		Committee on SCM	Y PC/IPL/II, Pg. 8, Annex 3			WT/TC/NOTIF/SCM/1; PC/IPL/II , Annex 3				119
SCM Agreement	Subsidy programs ESTACOL.Prov. to signature of SCM Agmt. & which are inconsistent with SCM	SCM Art. 28.1	AD-HOC within 90 days after entry into effect of WTO		Committee on SCM	Y PC/IPL/II, Pg. 9, Annex 4			WT/TC/NOTIF/SCM/1; PC/IPL/II, Annex 4				120
SCM Agreement	Subsidy programs of members in transition from a centrally-planned to a market-based free enterprise economy that are essential to success of transition & are invoked under Art. 29.2	SCM Art. 29.3	AD-HOC "earliest practicable date"		Committee on SCM	Y PC/IPL/II, Annex 5			WT/TC/NOTIF/SCM/I ; PC/IPL/II, Annex 5				121
SCM Agreement	Notification of full text of all laws/regs. relevant to adm. Of CVD actions & SCM	SCM Art. 32.6	Initial by Mar. '95	Y	Committee on SCM	Y Examples SCM-IV, Pg. 8	Y old law ; 03/14/95; 03/14/95	G/SCM/N/1/EB Y/1; G/SCM/N/4/Add . 1	WT/TC/NOTIF/SCM/1; SCM-IV, Pgs. 8, 9; PC/IPL/II, Pg. 11; SCM-1, Pg. 4	N			122
SCM Agreement	Changes & full text thereof in all laws/regs. Relevant to adm. Of CVDs & the SCM	SCM Art. 32.6	AD-HOC		Committee on SCM	Y Examples; SCM-IV, Pg. 8	Y new law; 11/06/98; 11/26/98	G/SCM/N/1/EG Y/2; G/SCM/N/1/EG Y/2, Rev. 1	WT/TC/NOTIF/SCM/1-; SCM-IV, Pgs. 8, 9; PC/IPL/II, Pg. 11; SCM-1, Pg. 4				123
Safeguards Art. XIX	Notification of member's laws/regs./adm. Procedures relating to (Art. XIX) safeguards	Agmt. On Safeguards Art. 12.6	Initial "promptly after entry into WTO agreement"	Y SG-IV, Pg. 2	Committee on Safeguards	Y SG-IV, Pg. 2	02/06/96; 07/17/96	G/SG/N/1/EGY/1	WT/TC/NOTIF/SG/1; SG-IV, Pg. 2				124
Safeguards Art. XIX	Modifications to safeguards laws/regs./adm. Procedures initially notified	Agmt. On Safeguards Art. 12.6	AD-HOC	N	Committee on Safeguards	Y SG-IV, Pg. 2	Y 11/26/98	G/SG/N/1/EGY/2	WT/TC/NOTIF/SG/1; SG-IV, Pg. 2				125

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Safeguards Art. XIX	Safeguard measures pre-existing entry into effect of the SG Agmt.	SG Agmt Art. 12.7	One time only "60 days after WTO agmt. Enters into force	N	Committee on Safeguards		N		WT/TC/NOTIF/SG/1; SG-1				126
Safeguards Art. XIX	Changes in safeguard measures on grey area measures notifications	SG Agmt. Art. 12.7	AD-HOC	N	Committee on Safeguards		N		WT/TC/NOTIF/SG/1				127
Safeguards Art. XIX	Timetables for phasing out of pre-existing grey area measures, other safeguard-related import/export measures	SG Agmt. Art. 11.2	One time only "180 days after entry into effect of WTO agmt."	N	Committee on Safeguards		N		WT/TC/NOTIF/SG/1				128
Safeguards Art. XIX	Initiation of a safeguards investigation rel. to serious injury or threat thereof	GATT Art. XIX:2 & SG Agmt Art. 12.1(a)	AD-HOC "immediately"	N	Committee on Safeguards	Y G/SG/1	Y initiation 08/07/98	G/SG/N/6/EGY/1	WT/TC/NOTIF/SG/1				129
Safeguards Art. XIX	Finding of serious injury in a safeguard investigation	GATT Art. XIX:2 & SG Agmt. Art. 12.1(b)	AD-HOC "immediately"	N	Committee on Safeguards	Y G/SG/1	Finding 02/02/99	Provisional entry	WT/TC/NOTIF/SG/1				130
Safeguards Art. XIX	Decision to apply or extend an Art. XIX safeguard	GATT Art. XIX:2 & SG Agmt. Art. 12.1 <sup>o</sup>	AD-HOC "immediately"	N	Committee on Safeguards	Y G/SG/1	Y Decision 02/02/99	Provisional entry	WT/TC/NOTIF/SG/1				131
Safeguards Art. XIX	Invocation of critical circumstances for provisional imposition of safeguards to avoid damage otherwise un-repairable	GATT Art. XIX:3(a) & SG Agmt. Art. 12.4	AD-HOC	N	Committee on Safeguards	Y G/SG/1, Pg. 3	Y 08/07/98	G/SG/N/7/EGY/1	WT/TC/NOTIF/SG/1				132
Safeguards Art. XIX	Results of consultation regarding compensation to exporter members for implementation of safeguards	SG Agmt. Art. 12.5	AD-HOC "immediate" & joint with other member	N	Committee on Safeguards				WT/TC/NOTIF/SG/1				133
Safeguards Art. XIX	Results of mid-term review of safeguards measures under Art. 7.4	SG Agmt. Art. 12.5 & 7.4	AD-HOC	N	Committee on Safeguards	Y G/SG/W/1, Pg. 4			WT/TC/NOTIF/SG/1				134
Safeguards Art. XIX	Forms of compensation agreed between member implementing safeguards & exporter member under Art. 8.1	SG Agmt Art. 12.5 & 8.1	AD-HOC	N	Committee on Safeguards				WT/TC/NOTIF/SG/1				135
Safeguards Art. XIX	Agmt. On adequate compensation for safeguards	SG Agmt. Art. 12.5	AD-HOC joint with other member	N	Committee on Safeguards	Y G/SG/W/1, Pg. 4			WT/TC/NOTIF/SG/1				136
Safeguards Art. XIX	Notice of proposed suspension of concessions or commitments by exporter member failing agmt. on compensation for safeguards	GATT Art. XIX:3(a) & SG Agmt. Art. 8.2 & 12.5	AD-HOC	N	Council for Trade in Goods thru Committee on Safeguards	Y G/SG/W/1, Pg. 5			WT/TC/NOTIF/SG/1				137
Safeguards Art. XIX	Notification of non-application of safeguard measure against a product originating in a developing country per SG Art. 9.1	SG Agmt Art. 9.1, Ft. 2	AD-HOC "immediately"	N	Committee on Safeguards	Y G/SG/1, Pg. 1							138
Safeguards Art. XIX	Changes in list of developing countries exempted from safeguards measures (above)	SG Agmt. Art. 9.1, Ft. 1 & G/SG/1, Pg. 2	AD-HOC "immediately"	N	Committee on Safeguards	Y G/SG/1, Pg. 1							139

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Other Safeguards Art. XX(b)	Measures taken under Art. XX(b) to protect human, animal or plant life or health	GATT Art. XX(b)	AD-HOC	N	Secretariat								140
Other Safeguards Art. XXI	Actions taken under Art. XXI to protect essential security interests	GATT Art. XXI	AD-HOC	N	Secretariat								141
TPRM	Periodic full reports to the Trade Policy Review Body (incident to their regular reviews - for Egypt approx. every six years) on member's trade policies/practices	Annex 3 to Agmt. Establ. The WTO, IPD "Reporting"	"Full report" Approx. every six years		Trade Policy Review Body (Note: WTO TPRM review of Egypt is in progress.)	N			WT/TC/NOTIF/TPR/1				142
TPRM	Annual update of statistical information (coordinated with notifications under multilateral agmts.)	Annex 3 TPD	Annual		Trade Policy Review Body (Note: WTO TPRM review of Egypt is in progress.)								143
TPRM	Brief reports when there are "significant changes" in trade policies and practices	Annex 3 TPD	AD-HOC										144
Customs VAL Art. VII	Decision of a developing member to delay application of the CV agreement for 5 years (dev. Countries not party to the Tokyo Round CV code of '79)	CV Agmt. Art. 20.1	One time only "upon entry into effect of WTP Agmt.	N	Dir.Gen'l. WTO	Y Examples VAL-IV, Pg. 2	Y [Not listed in CRN Egy0t notification doc.]	G/L/223/Rev. 2, Pg. 23	WT/TC/NOTIF/VAL/1 ; VAL-IV, Pg. 2; G/VAL/5				145
Customs VAL Art. VII	Decision of a dev. Member to delay application of the CV Agmt. 2(b)(iii) for another 3 years under CV Art. 1.2 & 6	CV Agmt. Art. 20.2	One time only (as above)	N	Dir. Gen'l. WTO		Y [not listed in Egypt not. Doc.]	G/L/223/Rev. 2, Pg. 23	WT/TC/NOTIF/VAL/1 ; VAL-IV, Pg. 2; G/VAL/5				146
Customs VAL Art. VII	Notification of CV-related laws/regs. & response to checklist of CV issues	CV Agmt. Art. 22.1	One time only		Secretariat Committee on Customs Valuation	Y See checklist G/VAL/5, Annex; G/VAL/5, Pg. 5			WT/TC/NOTIF/VAL/1 ; G/VAL/5, Pg. 5; VAL-IV, Pg. 4				147
Customs VAL Art. VII	Changes in CV-related laws/regs.	CV Agmt. Art. 22.2	AD-HOC	N					WT/TC/NOTIF/VAL/1 ; G/VAL/5, Pg. 5				148
Customs VAL Art. VII	Developing country's reservation re CV Agmt. Art. 4 - reversal of sequential order at request of exporter under CV Agmt. Art. 4	CV Agmt. Annex III; Para. 3	One time only upon entry into force of WTO Agmt.	?	Committee on Customs Valuation		Y [not listed in CRN Egypt notif.]	G/L/223/Rev. 2, Pg. 23	WT/TC/NOTIF/VAL/1 ; VAL-IV, Pg. 2				149
Customs VAL Art. VII	Developing country's reservation re: price of imported foods after further processing under CV Agmt. Art. 5, Para. 2	CV Agmt. Annex III; Para. 4	One time only upon entry into effect of WTO Agmt.	N?	Committee on Customs Valuation		Y [not listed in CRN Egypt notif.]	G/L/223/Rev. 2, Pg. 23	WT/TC/NOTIF/VAL/1 ; VAL-IV, Pg. 2				150
Customs VAL Art. VII	Developing country's reservation retaining minimum values for imported goods	CV Agmt. Annex III; Para 2	One time only upon entry into effect of WTO Agmt.	N?	Committee on Customs Valuation			G/L/223/Rev. 2, Pg. 23	WT/TC/NOTIF/VAL/1 ; VAL-IV, Pg. 2				151

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Customs VAL Art. VII	Member's applic. Of decision on texts rel. to minimum values of imports by sole agents, distributors, or concessionaires (notification requirement applicable to members but no notifications received from any member.)	?	One time only	N	Committee on Customs Valuation								152
Customs VAL Art. VII	Member's applic. of decision on treatment of interest charges in customs value of imported goods (notification requirement applicable to members but no notifications received from any member)		One time only	N	Committee on Customs Valuation								153
Customs VAL Art. VII	Member's applic. Of decision on valuation of carrier media-bearing software for data processing equipment (notification requirement applicable to members but no notifications received from any member)		One time only	N	Committee on Customs Valuation								154
Customs VAL Art. VII	Member's applic. Of decision in cases when Customs has reasons to doubt the truth or accuracy of declared value (notification requirement applicable to members but no notifications received from any member)				Committee on Customs Valuation								155
Rules of Origin & Art. IX	Notification of existing non-preferential rules-of-origin, judicial decisions, & admin. Rulings of general applic. To rules-of-origin	Rules-of-Origin Agmt. Art. 5.1	One time only within 90 days of entry into effect of WTO Agmt. For member country 1995		Secretariat	Y Example RO-IV, Pg. 2	N		WT/TC/NOTIF/RO/1; RO-IV, Pg. 2	Y CRN reminder	Y CRN call	Unstated	156
Rules of Origin & Art. IX	Notification of existing preferential rules-of-origin & listing of preferential arrangements to which they apply	Rules-of-Origin Agmt. Art. 5.1 & Annex II, Para. 4	One time only "promptly after entry into force of WTO Agmt. For member country		Secretariat	Y Example RO-IV, Pg. 2	N		WT/TC/NOTIF/RO/1; RO-IV, Pg. 2	Y CRN reminder	Y CRN call	Unstated	157
Rules of Origin & Art. IX	Changes/modifications in preferential rules-of-origin previously notified	Rules-of-Origin Agmt. Art. 5.1 & Annex V, Para. 4	ADO-HOC "as soon as possible"		Secretariat	Y Example RO-IV, Pg. 2	?		WT/TC/NOTIF/RP/1; RO-IV, Pg. 2		GAFTA?; COMESA?; EUROMED partnership?		158
Rules of Origin & Art. IX	Notification of changes in laws/regs. Legislation concerning Marks-of-Origin	GATT Art. IX & Recommendations 21 Nov. 1958; BISD 75/3033 [also GATT L&P, Pg. 288											159
Import Licensing	Replies to annual questionnaire on import licensing procedures	Import Lic. Agmt. Arts. 7.2, 7.3	Annual by 30 September	Y G/L/223/Rev. v. 2	Secretariat	Y Instructions LIC-IV, Pg. 4	N G/L/223/Rev. 2, Pg. 26; None for: '95, '96, '97, '98						160

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Import Licensing	Submission/notification of publications of rules/regs. & other information relevant to import licensing	Import Lic. Agmt. Arts. 1.4(a), 5.4	AD-HOC "21 days prior to effectiveness of laws/regs./procs."		Secretariat & Committee on Import Licensing	Y Format LIC-IV, Pg. 3		WT/TC/NOTIF/LIC/1; LIC-IV, Pg. 3					161
Import Licensing	Changes to rules/regs. & other information re: imp. Lic. Previously notified	Import Lic. Agmt. Arts. 1.4(a), 8.2(b)	AD-HOC "21 days prior to effective date"	N	Secretariat	Y LIC-IV, Pg. 3	N CRN reminder	WT/TC/NOTIF/LIC/1; LIC-IV, Pg. 3	Y CRN reminder	Y CRN call	Unstated		162
Import Licensing	Delayed application of agmt. By developing country b.c. "difficulties" with lic. Appl. Procedures & time periods for 2 yrs. (bc not a party to '79 agmt.)	Import Lic. Agmt. Art. 2.2, FC5	AD-HOC		Committee on Import Licensing	Y LIC-IV, Pg. 2	NA(?) (b.c Egypt has no import licensing procedures? Was a party to the '79 agmt.?)	G/L/223/Rev. 2, Pgs. 5, 126	WT/TC/NOTIF/LIC/1; LIC-IV, Pg. 2				163
Import Licensing	Notification of institution of import licensing procedures	Import Lic. Agmt. Art. 5.1	AD-HOC within 60 days of publication		Committee on Import Licensing			WT/TC/NOTIF/LIC/1					164
Import Licensing	Notification of changes in import licensing procedures	Import Lic. Agmt. Art. 5.3	AD-HOC within 60 days of publication		Committee on Import Licensing			WT/TC/NOTIF/LIC/1					165
GATS	Changes to laws/regs. Affecting significantly trade in any sectors covered by member's specific commitments under GATS	GATS Art. III: 3	Annual	N	Council for Trade in Services	Y Example S/L/5: GATS-IV, Pgs. 2-5	N	WT/TC/NOTIF/GATS /1: GATS-IV, Pgs. 2-5	Y [CRN reminder] '95, '96, '97, '98	Y [CN call]	Unstated		166
GATS	Member's intention to withdraw (see also regional agreements nos. 28, 29) or modify a specific commitment in its GATS Art. II Sched. As a result of its participation in a preferential trading arrangement affecting services	GATS Art. V:5	AD-HOC	N	Council for Trade in Services								167
GATS	Member's participation in economic (see also regional agreements nos. 28, 29) integration arrangements affecting trade in services	GATS Art. V:7	AD-HOC		Council for Trade in Services								168
GATS	Member's participation in economic integration arrangements affecting service sector labor mkts.	GATS Art. Vbis (b)	AD-HOC		Council for Trade in Services								169
GATS	Member's establishment of enquiry/contract points	GATS Arts. III:4 & IV:2	One time only (1996)		Council for Trade in Services		Y CRS Egypt notifications chart 07/08/97	S/ENO.45					170

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GATS	Recognition agmts. & negotiations related thereto re reduce., experience, licenses, certificates & new measures associated therewith	GATS Art. VII:4	One time only (1996)		Council for Trade in Services								171
GATS	Grants of monopolies or exclusive supplier status for supply of services covered by special GATS commitments	GATS Art. VIII:4, 5	AD-HOC "3 mos. In advance"		Council for Trade in Services								172
GATS	Emergency safeguards resulting in modification/withdrawal of specific GATS commitments in effect for at least one year	GATS Art. X:2	AD-HOC		Council for Trade in Services								173
GATS	Balance of payments-based restrictions on specific GATS services commitments	GATS Art. XII:4			Council for Trade in Services								174
GATS	Exceptions considered necessary for essential security interests or U.N. obligations	GATS Art. XIV:2	AD-HOC		Council for Trade in Services								175
GATS	Modification or withdrawal of specific commitments under GATS & changes to GATS schedules (after passage of 3 yrs. Of schedule's effectiveness)	GATS Art. XXI:1(b)	AD-HOC No later than 3 months prior to effective date		Council for Trade in Services	Y S/L/5; GATS-IV, Pg. 5							176
GATS	Article II exemptions: termination of exemptions granted under	GATS Annex II; exemptions:7; GATS-V, Pg. 24	AD-HOC		Council for Trade in Services								177
TRIPS	Notification/submission of laws/regs. Relative to IPR (may be waived upon WIPO's establishment of a common register of IPR-related laws and regulations)	TRIPS Art. 63.2	Initial		Council for TRIPS	Y Laws/regs. Specific to IPR; TRIPS III, IP/C/3; TRIPS-IV, Pgs. 7-10	Y 09/20/95; 11/04/97	IP/N/1/EGY/1; Prov. Entry	WT/TC/NOTIF/TRIP S; TRIPS-III, 1 P/C/3; TRIPS-IV, Pgs. 7-19	Y "incomplete notification" [CRN reminder]	N [CRN call]		178
TRIPS	IPR/TRIPS contact points in member country	TRIPS Art. 69	Initial		Council for TRIPS	Other laws/regs.; TRIPS-IV, Pg. 11	Y 03/21/97	IP/N/3/Rev. 2/Add. 3					179
TRIPS	Changes in contact points information	TRIPS Art. 69	AD-HOC		Council for TRIPS				WT/TC/NOTIF/TRIP S/1; TRIPS-1, Pgs. 9-10				180
TRIPS	Establishment of TRIPS "mailbox" for pharmaceuticals & agric. chemicals under Art. 27	TRIPS Art. 70.8 & 70.9	AD-HOC		Council for TRIPS				WT/TC/NOTIF/TRIP S/1; TRIPS-1, Pg. 6				181
TRIPS	Eligibility of broadcasting orgs. For protection under TRIPS [in acc. With Art. 6.2 of Rome Conv.]	TRIPS Art. 1.3	AD-HOC		Council for TRIPS	Y TRIPS-IV, Pg. 2; IP/C/7			WT/TC/NOTIF/TRIP S/1; TRIPS-IV, Pg. 2; IP/C/7	Egypt not a signatory to Rome Convention?			182

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TRIPS	Eligibility of phonogram producers under Art. 5.3 of Rome Conv. (exclusion from protection)	TRIPS Art. 1.3	AD-HOC		Council for TRIPS				IP/C/W/3/Pgs. 1-8	Egypt not a signatory to Rome Convention?			183
TRIPS	Protection WRT registration/use of trademark under Art. 6 of Paris Conv./Stockholm Act of 1967 per Art. 63:2 TRIPS	TRIPS Art. 2.1	AD-HOC		Council for TRIPS								184
TRIPS	Limitation of rights-exclusion of broadcasting rights from TRIPS Art. 14.3 protection per Art. 13(d) of Rome Convention	TRIPS Art. 3.1	AD-HOC		Council for TRIPS					Egypt not a signatory to Rome Convention?			185
TRIPS	Eligibility for national treatment of copyrighted works in acc. With Article 6.3 of Berne Convention/Paris Act, 1971	TRIPS Art. 3.1	AD-HOC		Council for TRIPS								186
TRIPS	Notification of int'l. agreements effective before TRIPS effectiveness under which member derives an exception re GATS MFN for WTO member countries	TRIPS Art. 4(d)	AD-HOC		Council for TRIPS	Y TRIPS-IV, Pg. 5			WT/TC/NOTIF/TRIP S/1; TRIPS-IV, Pg. 5				187
<b>Multilateral Agreements</b>													
Civil Aircraft	End-use system of Customs adm. Providing duty-free or duty-exempt treatment for civil aircraft	CIV. AIRCRAFT Agmt. ART. 2.2	AD-HOC		Committee on Trade in Civil Aircraft								189
Civil Aircraft	Notification of institution of subsidy investigation without prior consultation	CIV. AIRCRAFT AGMT. ART. 8:6	AD-HOC		Committee on Trade in Civil Aircraft								190
Civil Aircraft	Changes in laws/regs. Relevant to Civil Aircraft Agmt. & procedures for its administration	CIV. AIRCRAFT AGMT. Art. 9.4.2	AD-HOC		Committee on Trade in Civil Aircraft								191
	[See also TBT Agreement, e.g., civil aircraft certification requirements/specs. On operating/maintenance operations governed as between signatories of the Civ. Aircraft Agmt. - by TBT Art. 3.1]												192
<b>Other Notification Requirements</b>													
	Prior notice of intention to liquidate substantial quantities of stocks of primary products accumulated as part of a national stockpile for defense purposes	CP Decision of ____; BISD 35/51	AD-HOC		Secretariat								194
	Identification of any goods produced & exported by a member but banned for sale to its domestic market for reasons of human health or safety	CP Decision of ____; BISD 295/19	AD-HOC		Secretariat				WT/TC/NOTIF/GATS /1: GATS-V, Pg. 31				195



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GATS?	Notification of intention to institute a reciprocal & proportionate cabotage restriction on use, lease, etc. of vessels by a member country in retaliation for cabotage restrictions of another member	GATS Annex on Maritime Services , Para. 3	AD-HOC										196

التقرير النهائي

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الجزء الأول: التقرير النهائي ملحق ج - الإطار الخاص بالالتزامات مصر في ظل  
الجات ومنظمة التجارة العالمية

معد لأجل

حكومة جمهورية مصر العربية  
وزارة التجارة والتموين

مقدمة الى

الوكالة الامريكية للتنمية الدولية

مقدمة من

شركة ناثان اسوشيتس انكوربوريشن

عقد رقم

٢٦٣—C٠٠-٩٦-٠٠٠٠١-٠٠



أغسطس ١٩٩٩

التقرير النهائى

## مصر: الالتزامات والتعهدات فى ظل اتفاقية الجات ومنظمة التجارة العالمية

معد لأجل

حكومة جمهورية مصر العربية  
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عقد رقم

٠٠-٠٠٠٠١-٩٦-٠٠-C-٢٦٣

أغسطس ١٩٩٩



## استهلال

هذا التقرير مبني على دراسة قام بإعدادها مشروع تحليل وإصلاح السياسات الاقتصادية والتنمية (دبرا) ، من خلال عقد مع الوكالة الأمريكية للتنمية الدولية بالقاهرة - مصر (عقد رقم ٢٦٣-٢-٠٠-٩٦-٠٠٠٠٠٠١-٠٠) ، بناء على طلب من الأستاذ الدكتور/ وزير التجارة والتموين.

ويهدف مشروع دبرا إلى تشجيع ومساندة الإصلاح الاقتصادي الكلي في مصر، وذلك من خلال تقديم المعونة الفنية والخدمات إلى وزارتي الاقتصاد، والتجارة والتموين، مع التركيز على الجوانب المرتبطة بتحرير التجارة والاستثمار الدوليين ، وتحرير الاقتصاد القومي، وتدعيم القطاع المالي.

وقام بإعداد هذه الدراسة الأستاذ/ جيمس كنورثي من مؤسسة ناثان أسوشيتس، والذي يعمل مستشار سياسات التجارة الدولية لمشروع دبرا، والرئيس السابق لفريق دبرا بوزارة التجارة والتموين. ويود الأستاذ كنورثي، أن يعبر عن العرفان بالفضل للمساندة التي قدمها فريق العاملين بمشروع دبرا بوزارة التجارة والتموين ، وعلى وجه الخصوص الدكتور/ جون سوميلا، والأستاذ عبد الوهاب هيكل، وخبراء وزارة التجارة والتموين الملحقين بالبعثة المصرية في الوكالات الدولية في جنيف، وبوجه خاص السيد لطفى حميد.

ومؤلف الدراسة هو المسئول الوحيد عن كافة الآراء الواردة بها، ولا تعبر عن التزام بسياسة معينة من جانب الوكالة الأمريكية للتنمية الدولية بمصر، أو وزارة التجارة والتموين، أو ناثان أسوشيتس إنكوربوريشن.

## ملخص تنفيذي

وقعت حكومة جمهورية مصر العربية على الانضمام إلى الاتفاقية العامة للتعريفات والتجارة ( الجات) في عام ١٩٤٧، وكذلك بمجرد الانتهاء من المفاوضات التجارية متعددة الأطراف في إطار جولة أوجواي ، التي أسفرت عن إنشاء منظمة التجارة العالمية في عام ١٩٩٤، انضمت مصر إليها في ٣٠ يونيو ١٩٩٥. وفي ضوء ما يسمى متطلبات "الالتزام الفردي" بالاتفاق النهائي، الذي يشتمل على نتائج جولة أوجواي الموقع عليها في مراكش في الخامس عشر من أبريل عام ١٩٩٤، تلتزم جميع الدول الموقعة ، والدول التي تنضم إلي منظمة التجارة العالمية، كشرط للعضوية، بأن تقوم بتنفيذ جميع الاتفاقات متعددة الأطراف لاتفاقية الجات ٩٤ بإنشاء منظمة التجارة العالمية. ولا ينطبق مبدأ الالتزام الفردي على ما يسمى بالاتفاقات التعددية، والتي تلزم الدول الموقعة عليها فقط. ومصر من الدول الموقعة على الاتفاق التعددي للنقل الجوي المدني فقط.

إن الاتفاق النهائي الذي تضمن اتفاق إنشاء منظمة التجارة العالمية، واتفاق الجات ١٩٩٤، وبروتوكول مراكش (بما يحتويه من الجداول الوطنية للتعريفات الملزمة، والتعهدات غير التعريفية) ، والاتفاقات متعددة الأطراف، والاتفاقات التعددية، والعديد من مذكرات التفاهم، والقرارات الوزارية، والإعلانات التي تفسر كيفية تطبيق كل ماسبق ذكره، ويشتمل على نحو ٥٠ أداة قانونية منفصلة، ونحو ٥٥٠ صفحة من النصوص. وقد أعلنت حكومة جمهورية مصر العربية ، منذ انضمامها الى منظمة التجارة العالمية، عزمها على الوفاء بكل الالتزامات والتعهدات الملزمة التي يضمها هذا الإطار الواسع للقواعد والإجراءات المتعلقة بالتجارة العالمية. وقد أصدر صاحب المعالي الأستاذ الدكتور/ احمد الجويلي، وزير التجارة والتموين توجيهاته بالقيام بهذه الدراسة من اجل الإيضاح وإسداء النصح للمسؤولين الحكوميين ومسؤولي ومديري الأجهزة التجارية العامة والخاصة، بكل ما يتعلق بنطاق وطبيعة هذه الالتزامات والتعهدات.

والفرضية الأساسية التي صاحبت الجات ومنظمة التجارة العالمية، هي أن جميع الدول الأعضاء توافق على المبادئ العريضة التي تحكم علاقات التجارة الدولية، ووفقاً لهذه المبادئ، يتم إنشاء نظام متفق عليه بشكل جماعي ، يوضح الحقوق والالتزامات بين الدول الأعضاء. تلك الحقوق والالتزامات، متضمنة أساسا داخل المبادئ الأربعة الأساسية للجات ومنظمة

التجارة العالمية، ومبادئ فرعية معينة موجودة في اتفاقية الجات ٩٤، حيث يقوم بتفسيرها، وإيضاحها، وتطبيقها، والاتفاقات متعددة الأطراف.

وتشتمل تلك المبادئ الرئيسية الأربعة على ما يلي:

- ١- شرط الدولة الأولى بالرعاية.
- ٢- مبدأ المعاملة الوطنية.
- ٣- مبدأ تخفيض عوائق التجارة.
- ٤- مبدأ منع القيود الكمية، وتعرفة العوائق غير الجمركية على التجارة.

وتضم المبادئ الفرعية ما يأتي:

- أ- الشفافية
- ب- التشاور
- ج- حل المنازعات
- د- الاهتمام بالاحتياجات الخاصة بالدول النامية الأعضاء
- هـ- التجارة العادلة والمفتوحة
- و- توافر شرط الحماية للمصالح الحيوية للدول الأعضاء

إن التفرقة الأساسية التي تميز التزامات الدول الأعضاء في الجات ومنظمة التجارة العالمية، تكون بين الالتزامات الجوهرية، والالتزامات الخاصة بالشفافية. وداخل نطاق الالتزامات الجوهرية، يستطيع المرء أن يميز، على الأقل، بين ثلاث مجموعات فرعية:

١- الالتزام الفردي الشامل بتنفيذ جميع الاتفاقات متعددة الأطراف للجات ٩٤، ومنظمة التجارة العالمية، كشرط للعضوية.

٢- الالتزامات الجوهرية العامة بتنفيذ المبادئ الأساسية للجات، أي:

أ) مبدأ شرط الدولة الأولى بالرعاية ( المادة ١ )

ب) مبدأ المعاملة الوطنية (المادة ٣)

ج) مبدأ تخفيض العوائق الجمركية ( المادة ٢ )

٣- الالتزامات الجوهرية المحددة، بمعنى المتطلبات اللازمة لتنفيذ الاتفاقات المختلفة المتبقية للجات ٩٤، والاتفاقات متعددة الأطراف، والاتفاقات التعددية التي توقع عليها الدولة العضو.

وتستهدف الالتزامات التي تركز على الشفافية على ضمان الكشف عن سياسات الدولة العضو المرتبطة بالتجارة، والنظام القانوني/ التنظيمي، وذلك من خلال إخطار الأعضاء الآخرين في منظمة التجارة العالمية والتشاور معهم، بالإضافة إلى العدالة، والتنفيذ من جانب الأجهزة

المسئولة عن القوانين، والتنظيمات، والإجراءات التي تؤثر على حكومات الدول الأعضاء ورعاياها الداخليين في عمليات تجارة دولية.

لكن الالتزامات التي يفترضها العضو على نفسه كشرط لانخراطه في الجات ومنظمة التجارة العالمية، والتي يمكن أن تكون محددة بالتعهدات التي يقطعها العضو على نفسه، والتحفظات التي يبديها، أو وضع القاصر الذي إما يستثنى كلياً أو جزئياً من مثل هذه الالتزامات أو يسمح ببعض التأخير في التنفيذ، سواء لقواعد الجات ٩٤ ذاتها، أو في الاتفاقات المختلفة متعددة الأطراف. لذلك، وعلى سبيل المثال، نجد أن التزامات مصر بإجراء تخفيض عام في التعريفات الجمركية في ظل الجات ٩٤، المادة الثانية، يعتمد كلية على تعهدات التعريفات الفعلية المربوطة، والموجودة في نحو ٢٠٠ صفحة بملحق بروتوكول مراكش للجات ٩٤ (أنظر الملحق أ). وبالمثل، نجد أن التزاماتها العامة بتحرير التجارة في الخدمات، الموجودة في الاتفاقية العامة لتجارة الخدمات، تخضع لتعهدات محددة، في الجداول الملحقة بالاتفاقية المعنية. ولكن، على حين يستطيع المرء أن يفرق بين الالتزامات والتعهدات، من حيث أن الأخيرة يمكن أن تغير نطاق الأولى، فإن تقديم مثل هذه التعهدات ينشئ مثل هذه الالتزامات، والتي تجبر الدولة على تنفيذها من خلال آلية فض المنازعات بمنظمة التجارة العالمية، وينجم عن الفشل في تنفيذ هذه الالتزامات وجود إجراءات تأريية من جانب الشركاء التجاريين الأعضاء في منظمة التجارة العالمية.

وتتضمن التحفظات، بشكل عام، أن الدولة العضو في منظمة التجارة العالمية، تعترف بشوعية أو صحة الالتزام الناجم عن اتفاقات الجات ٩٤، ومنظمة التجارة العالمية، ولكنها تعبر عن ضرورة حفظ حقها في أن تضع شرطاً للالتزامها سواء كلياً (بالنسبة للأمور الجوهرية) أو جزئياً لتيسير عملية التنفيذ النهائي (بمعنى تأخير أو تعديل طور التنفيذ). ولكن، ما لم يتم التعبير عن السماح بذلك في ظل قواعد محددة في اتفاقات الجات ٩٤ أو الاتفاقات متعددة الأطراف (أو التعددية)، يتم الأخذ بالتحفظ في حالة قبول جميع الدول الأعضاء في منظمة التجارة العالمية (أو عند الممارسة الفعلية، إذا لم يتم رفض ذلك من جانب أي عضو). وقد أتاحت مصر لنفسها عدة تحفظات تتعلق باتفاقيات المنسوجات والملابس، والتقييم الجمركي، وإجراءات تراخيص الاستيراد. وأخيراً، نجد أن تصنيف مصر كدولة نامية يمكنها من المطالبة بمعاملة خاصة تفضيلية تقدم للدول النامية في ظل الجات ومنظمة التجارة العالمية، في ضوء الاعتراف بالاهتمامات الإنمائية الخاصة، ومشاكل التنفيذ (ويشار إليها بوضع "القاصر") والذي يؤثر في شكل تقييد أو تكيف عملية تطبيق الالتزامات العامة للجات ومنظمة

التجارة العالمية. ومعاملة القاصر بالنسبة لمدى انطباق الالتزامات، موجودة في اتفاقية الجات ٩٤ ذاتها ( على سبيل المثال المادة تعطي الدول النامية استثناء يمكنها من حماية صناعاتها الوليدة بشكل يتسم بالمرونة)، أو في القواعد الأخرى لاتفاقيات جولة أوروغواي التي لها أثر تيسير القواعد القابلة للتطبيق، وتقديم قواعد مختلفة، وفرض التزامات أقل، أو تأخير تنفيذ الالتزامات. وأخيراً، نجد أن الاتفاق الذي تم بموجبه إنشاء منظمة التجارة العالمية، يسمح للمنظمة، في ظروف استثنائية، بالتخلي عن التزام يواجهه دولة عضو، إذا تمت الموافقة على ذلك بأغلبية ثلاثة أرباع (٤/٣) عدد الدول الأعضاء.

ولقد قامت هذه الدراسة بمراجعة مكثفة لجميع مواد الجات ٩٤، وكل واحد من الاتفاقيات متعددة الأطراف، والأدوات الفرعية الرئيسية (وكذلك الاتفاق التعددي للنقل الجوي المدني الذي وقعت عليه مصر) بقصد التعرف على، والتسجيل المحدد، لكل واحد من الالتزامات التي أخذتها مصر على عاتقها. يوضح الملحق (ج) التزامات مصر في هذا الخصوص. ونتيجة لاعتبارات كبر حجم الدراسة، فقد تضمن القسم الرابع من تقرير الدراسة ملخصاً لاتفاقيات جولة أوروغواي، وشكل محاولة لتلخيص الالتزامات الرئيسية التي تشتمل عليها. وعلى ذلك، فقد تم تقسيم الملحق (ج) الى خمسة مستويات محددة هي: الأمور الجوهرية، إجراءات تحقيق الشفافية، التشاور بخصوص الشفافية، الإخطار بوجود الشفافية، الاستعلام عن الشفافية من خلال نقاط اتصال.

إن نطاق وحجم الالتزامات الموجودة في الملحق (ج) يوقع الرهبة في النفس. فإجمالي الالتزامات يصل الى ٨٥٣ التزاماً منفصلاً، ويتضمن الالتزام المحدد ما يلي: (٤٥٣) من الأمور الجوهرية، (١٧٩) من الأمور الإجرائية، (٨٧) تشاور، (١٢٥) إخطار، (١٠) استعلام ونقاط اتصال.

وقد انتهت هذه الدراسة الى أن التزامات اتفاقيات جولة أوروغواي تزيد على خمسة أضعاف عدد الالتزامات المفروضة من جانب الأطراف المتعاقدة في فترة ما قبل جولة أوروغواي للجات. إن التحديد الأكثر وضوحاً، والتوسع المحكم للقواعد الجوهرية في ظل الاتفاقيات المتنوعة، يكون مسئولاً عن معظم هذه الزيادة في درجة تعقيد الإطار الذي يضم القواعد المؤثرة على التجارة العالمية، ولكن من الواضح أيضاً، أن الأمور الإجرائية غير الجوهرية بدرجة أساسية، وقواعد المشورة والإخطار قد أضافت إلى الزيادة الكبيرة في حجم المتطلبات. واستناداً على عدد الالتزامات الجوهرية بمفردها، وجدنا أنه في الاتفاقيات التي أعقبت جولة



أورجواي قد أدت الى التعقيد في: الأمور التجارية المرتبطة بالملكية الفكرية وعددها (٥٢)، اتفاق مواجهة الإغراق (٤٩)، الإعانات والتدابير المعوضة (٤٦)، الاتفاقية العامة لتجارة الخدمات (٣٣)، العوائق الفنية على التجارة (٢٥)، التدابير الصحية وتدابير الصحة النباتية والحيوانية (٢٢)، المنسوجات والملابس، (٢٢) الحماية (٢١)، التفاهم بشأن تسوية المنازعات (٢٠)، الفحص في مرحلة ما قبل الشحن (١٥)، تراخيص الاستيراد (١٥)، الزراعة (١٠). (انظر الرسم التخطيطي رقم ٤ والذي يوضح عدد الالتزامات المصرية لكل اتفاق من اتفاقات الجات ومنظمة التجارة العالمية أو أي أداة أخرى).

ومع التسليم بهذا العدد الكبير من التزامات التي تقع على عاتق مصر، فإن السؤال الذي ينبثق بشكل طبيعي هو: ما هي المستتبعات العملية التي تنتج عن محاولة الحكومة المصرية تنفيذ هذه التزامات عند صياغة سياسات التجارة الدولية الخاصة بها، وتطوير نظمها القانونية والإجرائية، واستمرارها في الانخراط في منظمة التجارة العالمية، وفي النهاية، تحقيق طموحاتها بزيادة مساهمتها في التجارة العالمية؟

أولاً: نستطيع القول أن مصر تواجه، في الأساس، نفس الالتزامات التي تواجهها معظم الدول النامية الأعضاء في منظمة التجارة العالمية، وتشارك معظم هذه الدول في تحمل أعباء مثل هذه الالتزامات.

وتعترف الجات ومنظمة التجارة العالمية أن الدول النامية سوف تحتاج الى بعض الوقت، وتتطلب قدراً كبيراً من المعونة الفنية من جانب الدول المتقدمة. لذلك، ينبغي على مصر أن تواظب على استغلال كافة الفرص للحصول على المساعدة التي تمكنها من استيعاب أثر التزاماتها من خلال نظمها القانونية والتنظيمية، والإجراءات الإدارية، ورسم السياسة. إن القيام بذلك يكون في صالح مصر لأقصى درجة. لقد رتبت مصر مستقبلها الاقتصادي على أساس أن تحقيق النمو الاقتصادي المحلي، والوظائف، وتحسين مستوى المعيشة، يتم من خلال زيادة الصادرات. وتقوم الدول المتاجرة بمضاعفة فرص دخول صادراتها للأسواق الأجنبية، فقط عن طريق تبادل المنافع. وإطار قواعد الجات ومنظمة التجارة العالمية يؤدي إلى تيسير ما يظهر من تعارض بين هذه المنافع، ويقدم القواعد التي تفتح الأسواق، بينما تقدم القدر الكافي من الحماية ضد التجارة غير العادلة، وحماية حقوق الدول في الدفاع عن مصالحها الوطنية.

ثانياً: ينتظر العديد من الدول النامية من مصر أن تقوم بدورها القيادي التقليدي داخل المجتمع الدولي، وعلى وجه الخصوص، لرعاية مصالحها الاقتصادية والتجارية. ولكن حتى تقوم مصر بهذا الدور بشكل يتسم بالمصداقية والفعالية، ينبغي أن تصبح نموذجاً لهم، من حيث فهم التزاماتها في إطار الجات ومنظمة التجارة العالمية، وتنفيذ هذه الالتزامات.

علاوة على ذلك، فإن الموقف ليس كئيباً كما يبدو، ويرجع ذلك لسببين هما:

١- العديد من الالتزامات التي تم حصرها في هذه الدراسة هي في الأساس شاملة، وتوجد في أشكال متشابهة في عدد من اتفاقات منظمة التجارة العالمية.

٢- يقول تاريخ الجات أن المقاييس الفعلية لمدى وفاء الدولة بالتزاماتها، يتضح من عدد، ودرجة نجاح الشكاوى التي يرفعها الشركاء التجاريون تحت زعم أن الدولة المعنية لم تستطع الوفاء بالتزامات معينة، والتي يتم حلها من خلال التشاور، أو من خلال عملية تسوية المنازعات. وحتى يومنا هذا، لم يحدث لجوء إلى حل للمنازعات ضد مصر منذ انضمامها إلى منظمة التجارة العالمية في ٣٠ يونيو ١٩٩٤.

وبينما يبدو عدد الالتزامات التي تقع على عاتق مصر كبيراً جداً، فإن هذا الحجم يحتاج من مصر أن تقوم بتوزيع جهودها بشكل رشيد، حتى تستطيع فهم وتطبيق هذه الالتزامات عند صياغة سياستها التجارية، فهي تحتاج في الواقع إلى القيام بعملية تقييم للتكلفة والعائد لهذه الالتزامات، ولأهميتها النسبية، حتى تستطيع تقدير هذه الالتزامات وعمل أولويات لها، حتى تستطيع حسن إدارة قدراتها على تنفيذ تلك الالتزامات التي تبدو حرجة بالنسبة لأهداف التوسع في التصدير بشكل عاجل، وذلك من خلال الإلمام بما يشغل الشركاء التجاريين عند دخول أسواقها المحلية. وأبرز مجال في هذا الصدد، هو تحديد أي الالتزامات تمثل حساسية للشركاء التجاريين، ذلك لأن الفشل في التعرف على، وتنفيذ هذه الالتزامات في المدى القريب، قد يؤدي إلى برود في استجابة هؤلاء الشركاء في تيسير دخول الصادرات المصرية إلى أسواقهم.

إن المراجعة الحالية من جانب منظمة التجارة العالمية للسياسات التجارية لمصر وللنظام القانوني والتنظيمي، يمكن أن يكون على جانب كبير من الأهمية في هذا الخصوص. إن مراجعة التساؤلات التي طرحها الشركاء التجاريون، الأعضاء في منظمة التجارة العالمية، على الحكومة المصرية، أثناء عملية المراجعة، قد يكون أكثر المؤشرات واقعية عن الاهتمامات الجوهرية المتعلقة بقيام مصر بتنفيذ التزاماتها في إطار الجات ومنظمة التجارة العالمية. فهي تشكل أساساً تطبيقياً لمصر، تستعين به عند التركيز على اعتبارات القلق التي

تساور الشركاء التجاريين بشأن تطبيق مصر لالتزاماتها، والذي يمكن أن يؤثر على قدرة الصادرات المصرية على دخول أسواق هؤلاء الشركاء، وبالتالي يحدث نوع من الترشيح فى الجهود المصرية إزاء هذه الالتزامات. وفى هذا الصدد، هناك على الأقل ١٣ دولة عضو فى منظمة التجارة العالمية تشارك فى ندوة للأسئلة والأجوبة، تضم الشركاء التجاريين الرئيسيين بالنسبة لمصر (استراليا وكندا والاتحاد الأوربي واليابان والولايات المتحدة). واستناداً إلى عدد المرات التى تطرح فيها هذه الدول قضية تجارية معينة، فإن ترتيب هذه الأمور حسب الأهمية يكون على النحو الآتي :

١. المواصفات ورقابة الجودة.
٢. القرار رقم ٩١٦ المتعلق بقواعد المنشأ.
٣. الضرائب الجمركية والرسوم ، وما شابه ذلك.

وهناك قضايا أخرى أثرت من جانب ثلاث دول على الأقل، كانت تتعلق بالأمور التالية: إدارة مواجهة الإغراق، متطلبات التعبئة والتغليف، القيود الكمية (على الأسمت، والدواجن، والمنسوجات، والسيارات).