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EGYPT PUBLIC LAND MANAGEMENT STRATEGY**

**VOLUME II: BACKGROUND NOTES ON ACCESS TO PUBLIC LAND BY INVESTMENT
SECTOR: INDUSTRY, TOURISM, AGRICULTURE, AND REAL ESTATE
DEVELOPMENT**

DRAFT

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Abbreviations and Acronyms

ARA	Agrarian Reform Authority
EEAA	Egyptian Environmental Affairs Agency
ESA	Egyptian Survey Authority
GOE	Government of Egypt
GAFI	General Authority for Free Zones and Investment
GAID	General Authority for Industrial Development
GARPAD	General Authority for Reconstruction Projects and Agricultural Development
GOPP	General Organization for Physical Planning
HCSLM	Higher Committee for State Land Management
HCSLV	Higher Committee for State Land Valuation
ICA	Investment Climate Assessment
ITDP	Integrated Tourism Development Project
LTDP	Limited Tourism Development Project
MALR	Ministry of Agriculture and Land Reclamation
MHUUD	Ministry of Housing, Utilities and Urban Development
MIWR	Ministry of Irrigation and Water Resources
MODMP	Ministry of Defense and Military Production
MOT	Ministry of Tourism
NCPSLU	National Center for Planning State Land Uses
PDG	Policy Development Group
REDA	Regional Economic Development Authority
REPD	Real Estate Publicity Department
RETD	Real Estate Tax Department
SEZ	Special Economic Zone
SEZA	Special Economic Zone Authority
SLA	State Land Authority
SLM	State Land Management
TDA	Tourism Development Authority
WDSVDHC	West Delta and South Valley Development Holding Company

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Arabic Terms

Amlak Amiriya/al Dawla	Literally State Assets, means land in State or public-ownership
Arady Bour	Neglected or abandoned/uncultivated agricultural lands
Arady Gheir Mokhassassa	State land that has not (yet) been designated a land use and thus was not assigned to a controlling authority (i.e. within the State's public domain)
Arady Mokhassassa	State land which has been designated a specific land use and assigned a controlling authority (i.e. could be State's public or private domain)
Ash' waiyat	Literally haphazard or disorganized, refers to slums and informal and/or squatter settlements
Cordon	French word, refers in Arabic to the boundary of local government's administrative jurisdiction
El-Defaa El-Madani	Civil Defense Department, under the Ministry of Interior, responsible for firefighting
Feddan	Unit of measurement of agricultural land, equal 4,200square meters
Haiet El-Aamaliat	Operations department, Ministry of Defense and Military Production
Haiez	Urban planning and development boundary
Haq Intifaa	Right of use/usufruct
Hiyaza	Adverse possession
Jihaz Himayat Amlak Al Dawla	State Asset Protection Agency, under the Governorates
Kashf al mokalafat	Real Estate Tax Department's agricultural and urban land and property tax registry
Mujama' ah Ashriya	Consortium of large insurance companies that issues building insurance policy upon review by consultants of the construction drawings, within the building permit process
Mulk horr	Land in private ownership
Naql Ossoul	Transfer of assets
Saha Tawqi'e	Procedure undertaken in court to authenticate land/property transfer deeds, often used to confer some form of legality on informal transactions of land and property and perceived by some as a proxy to registration
Saha wa Nafaz	Low-cost procedure undertaken in court as a proxy to registration, in which the claimant upon purchasing land/property uses the transfer deed to dispute the right of the seller to the property in question, and which leads the court to examine the chain of ownership (lasts several years)
Sejel ainee	Parcel-based deed registration (system) or parcel-based deed register
Shahr akary	Real Estate Publicity (i.e. Land and Property) Registry
Sejel shakhsee	Person-based deed registration (system) or person-based deed register
Takhssiss	Literally allocation of land; refers to conditional transfer of land ownership subject to certain conditions (retaining the land use unchanged, paying price installments)
Tanzim	Building line
Waqf (plural Awqaf)	Trust/endowment, land held in trust for religious or charitable purposes, and administered by the Ministry of Awqaf
Zimam	Boundaries of cultivated and uncultivated agricultural lands that have been historically surveyed by the Egyptian Survey Authority and included in the Real Estate Tax Department's land and property tax registry and which are subject to the agricultural land or property tax

Table of Contents

TABLE OF CONTENTS	I
LIST OF TABLES	III
LIST OF FIGURES	III
LIST OF BOXES	III
CHAPTER 1. INTRODUCTION	1
CHAPTER 2. ACCESS TO AND DEVELOPMENT OF PUBLIC LAND FOR INDUSTRIAL INVESTMENT.....	2
2.1 Access to public land for industrial development.....	2
Options for Location, Incentives and Restrictions	2
Problems of Access to Land for New Investments or Expansion	6
Procedures of Access, Terms and Conditions	9
Ownership/Access Restrictions:.....	15
The Establishment of General Authority for Industrial Development (GAID)	23
2.2 Land Development Process	26
Obtaining a Building Permit	26
Obtaining Utility Connections	29
2.3 Conclusions and Recommendations.....	30
Conclusions	30
Recommendations	32
CHAPTER 3. ACCESS TO AND DEVELOPMENT OF PUBLIC LAND FOR TOURISM INVESTMENT.....	34
3.1 Access to public land for tourism development	34
Institutional and Regulatory Framework Responsible for Tourism Development on Public Land outside Zimam	34
Procedures, terms and conditions for Access to Public Land for Tourism Development outside of the Zimam	43
Institutional and Regulatory Framework Responsible for Tourism Development on Public Land inside Zimam	47
3.2 Land Development Process	49
Obtaining Building Permits	51
Obtaining Adequate Infrastructure Services	51
3.3 Conclusions	51
CHAPTER 4. ACCESS TO AND DEVELOPMENT OF PUBLIC LAND FOR REAL ESTATE INVESTMENT.....	53
4.1 Access to Public Land for Real Estate Development in Egypt	53
Institutional and Regulatory Framework governing Access to Public Land for Real Estate Development outside Zimam/in New Urban Communities.....	53
Procedures for Access to Public Land for Real Estate Development outside of the Zimam in New Urban Communities.....	55
Institutional Framework and Procedures for Access to Public Land for Real Estate Development inside Zimam (within Governorates).....	65
4.2 Land Development Process	67
Land Development outside of the Zimam.....	67

Land Development within the Zimam	69
4.3 Conclusions	71
CHAPTER 5. ACCESS TO AND DEVELOPMENT OF PUBLIC LAND FOR AGRICULTURE AND LAND RECLAMATION INVESTMENT	73
5.1 Access to Public Land for Agriculture and Land Reclamation in Egypt.....	74
Institutional and Regulatory Framework Responsible for Access to Public Land for Agriculture and Land Reclamation Outside of the Zimam	75
Procedures for Access to Public Land for Agriculture and Agro-business Development outside of the Zimam	77
Institutional and Regulatory Framework Responsible for Agriculture and Agro-business Development on Public Land within 2 Km outside the Zimam.....	90
5.2 Land Development Process	92
5.3 Conclusions	94

List of Tables

Table 2.1. State of Public Free Zones in Egypt as of September 30, 2004.....	3
Table 2.2. Investment choices, incentives and guarantees by Law.....	4
Table 2.3. State of Inland Industrial Zones in Egypt.....	17
Table 2.4. State of Industrial Zones in New Urban Communities in Egypt.....	21
Table 2.5 Delay in Obtaining the Building Permit and Utility Connections by Firm Size.....	30
Table 2.6 Percent of firms rating access to land as a major or severe problem by year of establishment.....	31
Table 2.7 Percent of firms rating access to land as a major or severe problem by firm size.....	31
Table 3.1 Applicable planning and land development criteria for tourism projects.....	50
Table 4.1 Total land area available for development within New Urban Communities and the state of infrastructure.....	58
Table 4.2 Land development and building regulations imposed by NUCA by land use.....	64
Table 5.1 Evolution of Land Reclamation Areas until FY2003-04.....	74
Table 5.2 Status of Land Reclamation in the 2017 National Development Plan.....	79
Table 5.3 Land reclamation areas in Governorates according to status, FY 2003-04 (in 1,000's Feddans).....	80
Table 5.4 Land Reclamation areas under GARPAD and ARA by Governorates, FY 2003/2004 (in 1,000's Feddans).....	81

LIST OF FIGURES

Figure 2.1 Government expenditure on infrastructure versus private investment in inland industrial estates.....	12
Figure 2.2 Access to land as a constraint to business development: international comparisons ...	31
Figure 3.1 Tourism Development Authority Organization Structure.....	37
Figure 3.2. Coastal Areas (with 5 km. Depth) allocated to TDA for Tourism Development.....	38
Figure 3.3 The Current Complex Institutional Landscape controlling land development within Northwestern Suez Gulf Area.....	42
Figure 4.1 National Plan for Development and Construction till 2017.....	56
Figure 4.2 Existing and planned land area for real estate development by Cairo and Giza Governorates.....	66
Figure 5.1 GARPAD's Organizational Structure.....	76
Figure 5.2 Total Land Allocated for Reclamation in the 2017 National Development Map.....	78

List of Boxes

Box 2.1 Problems Facing Large Investor Groups in Agriculture and Agro-Industry.....	5
Box 2.2 Incremental Expansion of a Small Enterprise.....	7
Box 2.3 Planning Ahead for the Expansion of a Large Enterprise.....	9
Box 3.1: Porto Marina Tourism Development Project on the North Western Coast.....	36
Box 3.2 Regulations and Conditions set by EEAA for Environmental Protection.....	40
Box 3.3 Losses to investors as a result of lack of coordination between TDA and EEAA.....	40
Box 3.4 Tourism Development in Nabq- South Sinai.....	41
Box 3.5 Examples of Tourism Development Projects suffering from Interference between several governmental organizations.....	41
Box 3.6 Tourism Development in North West of Suez Gulf- A battle of Shifting Priorities.....	42

Box 3.7 Land disputes between investors, customary owners and city council in Dahab.....	48
Box 4.1 LAW No. 59, 1979—NUCAs authority over real estate development.....	54
Box 4.2 <i>Madinaty</i> , a new real estate development through partnership.....	61
Box 4.3 <i>Ebad El-Rahman</i> City in Cairo	71
Box 5.1 The story of a leading Holding Company on Cairo Alex Road: a struggle for success!	86
Box 5.2 The Experience of A Leading Holding Company in Agro-business in Egypt.....	86
Box 5.3 The struggle for growth!	87
Box 5.4 The experience of three major companies in southern Egypt	88
Box 5.5 The loss of 1.1 billion LE and the 2017 National Investment Map	89
Box 5.6 Ownership vs. Haq Intifa'a for agricultural and agro-business development.....	90
Box 5.7 The 8-year land acquisition process in Aswan.....	90

Chapter 1. Introduction

1. The following four notes seek to understand the obstacles facing potential investors seeking to access public land for investment in the following sectors: (i) industrial manufacturing; (ii) real estate development; (iii) tourism; (iv) agriculture and land reclamation, as well as the constraints facing the land development process in each case. Each note examines the institutions and laws governing access to and development of public land for the concerned sector and the applicable procedures according to the investment location (whether an existing city, new town, desert land, etc) and the restrictions facing investors, if any. The findings of each note are based on: (i) interviews with key officials at the main institutions involved with the land allocation and development process; (ii) feedback from selected local and international investors based in Egypt to develop an understanding of land-related issues and obstacles facing them; (iii) input from experienced legal and land/urban development consultants to map out sector-specific legal and institutional frameworks and the key issues in the existing systems for public land management and development controls; (iv) analysis of available legal texts, studies, plans, and other information; and (v) for the case of industrial manufacturing, the survey results of the Investment Climate Assessment Study undertaken in 2004 using a randomly selected sample of 977 firms and the follow-up survey in 2005 with a randomly selected panel of 300 firms from the larger sample.

2. Each sectoral note is organized as follows. The first section examines access to public land for investment in the sector, including options for location, incentives and restrictions, problems of access of new land and for expansion, the institutions controlling public land in each location and procedures of access within the zimam (i.e. in Governorates) and outside of the zimam (i.e. new Towns and other locations such as Special Economic Zones), with the applicable terms and conditions, and restrictions on investors, if any. The second section examines key issues related to land development, namely obtaining building permits and utility connections. The third section concludes.

Chapter 2. Access to and Development of public Land for Industrial Investment

2.1 Access to public land for industrial development

Options for Location, Incentives and Restrictions

1. The Urban Planning Law No.3 of 1982 required the designation of special zones for industrial developments, which would typically be zoned for light, medium or heavy industry. The Law stipulates that once such zones had been planned and serviced, a ban on the modification (i.e. expansion) of existing industrial establishments within cities would be issued by the concerned governor. The Law also empowered the Council of Ministers to issue a ban on locating new industrial developments within existing cities, but it seems that no such universal ban has been decreed. Thus far, issuing a ban on industrial expansion/new development seems to be part of Governors' prerogative applied to existing cities. In the case of Cairo, in 1983, the city was decreed to be "closed" to new industries, which was the main reason why new and expanding industrial establishments began (re)locating in the new urban communities surrounding the city (especially 6th of October new town at 35km southwest of Cairo and 10th of Ramadan new town at 55km to the northeast).

2. Today, an investor seeking to access public land in Egypt for developing an industrial manufacturing project has the choice of several predetermined locating options:

- (i) Public free zones¹ operated by the Ministry of investment's General Authority for Free Zones and Investment (GAFI), of which there are seven established zones: Ameriyah in Alexandria; Nasr City in Cairo; Port Said; Damietta; Ismailia; Suez; and Media City in 6th of October new city, and three under implementation in Shebin El-Kom in Menoufiya, East Port Said, and the first Upper Egypt FZ, Qeft in Qena (see Table 2.1). All FZ mainly accommodate manufacturing, storage and services projects, except for Media City which is primarily intended for media and related investments, tourism, and IT.
- (ii) Industrial zones in new cities/urban communities controlled and operated by independent authorities affiliated with the Ministry of Housing, Utilities and Urban Development's New Urban Communities Authority - NUCA (e.g. 6th of October and 10th of Ramadan in the Greater Cairo Region, New Ameriya and New Borg El Arab in Alexandria Governorate, etc). In total, there are 20 New Cities or New Urban Communities as they are known in Egypt, of which 15 have industrial zones (see Table 2.6). The Government of Egypt's plan is to transfer control over these industrial zones to the General Authority for Industrial Development (GAID), which was recently established in July 2005. The mandate of GAID is to consolidate control over all existing industrial estates in Egypt, in both new communities and Governorates, and oversee the development, management and operation of these zones and any new planned zone;
- (iii) Planned industrial zones in existing cities (called inland industrial zones), which fall under the jurisdiction of the Governorate in which these zones are located. Industrial zones established in areas beyond 2km from the cordon of a city usually require that NUCA transfers the land to the governorate in whose jurisdiction the site is found. There are 41 industrial zones in 19 Governorates (see Table 2.5). Control over these industrial zones is also planned to be transferred to the recently established GAID, but at the time of writing, control over industrial zones in new communities and Governorates had not yet been

¹ Existing inland investment projects may be granted free zone status subject to criteria (discussed later)

- transferred to GAID; and
- (iv) Special Economic Zones (SEZ), which are regulated through law No. 83 of 2002. These SEZ must be created by Presidential decree and would be managed by an independent SEZ authority that would control all aspects related to the development and operation of the zone in question. The first SEZ was established in the North West Suez Gulf area, although the establishment of the SEZ Authority followed the allocation of large areas of public land, about 40km², within the area in question by Suez Governorate to four large industrial land development companies. Little development has taken place to date, and part of the SEZ Authority mandate with support from the Ministry of Investment is to enable the area to develop to its potential. Another SEZ is under establishment in the East Port Said area.

Table 2.1. State of Public Free Zones in Egypt as of September 30, 2004

Public Free Zone	Established companies	Total area (ha)	Areas for investment projects (ha)	Areas allocated to investment projects (ha)				Vacant areas for investment projects (ha)		
				Industrial	Storage	Services	Total			
Alexandria	303	568	382	265	43	0.2	309	80.8%	74	19.2%
Port Said	110	71	47	32	15	0.2	47	100%	0	0
Nasr City	179	71	38	35	2	0.7	38	100%	0	0
Suez	75	32	22	7	3	0.9	11	48.2%	11	51.8%
Ismailia	38	42	35	17	2	0.4	20	57.7%	15	42.3%
Damietta	20	80	56	2	0.4	0.1	2	3.8%	54	96.2%
Media City	24	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total	749	865	579	357	66	2.4	426		153	

Source: GAFI

Note: Three other free zones in Shebin El Kom, Qeft and East Port Said are under establishment

3. The main rationale for establishing GAID was that, until then, investors seeking to access non-free-zone industrial land had to deal depending on location with any of 20 different entities, including NUCA (in addition to any of its 15 different new town authorities) and the 19 different Governorates that have inland industrial estates. Many of these entities had different sets of rules and procedures, applicable land prices (Governorates do not factor the cost of trunk infrastructure whereas NUCA does), and different availability of land and of infrastructure services. No one system, entity or location has consolidated information on all these issues, which investors need in choosing the optimal site to locate their activities. This fragmented institutional control over industrial estates among central and local government entities, the differentiation of procedures and lack of information made access to land for industrial development a very complex process for investors. The urgent need to consolidate and harmonize access to public land for industrial investments led the Ministry of Industry and Trade to establish GAID in 2005 (this is discussed later in more detail).

4. Overall, the large majority of investment incentives are tied to specific locations (Table 2.2 lists investment choices, incentives and guarantees by Law). Investment Law No. 8 of 1997 offered differential locating incentives in the aim of achieving the State's regional development policies. Investors received tax holidays for 5 years for locating within the "Old Valley", which increased to 10 years if they located in industrial zones in New Urban Communities or in upper Egypt (the Southern governorates from Beni Suef to Aswan and the Wadi Gadid Governorate) and to 20 years if they located in the New Valley (outside of the Nile Valley in places such as Toshka, East Owinat, and the oases). The newly enacted Tax Law No. 91 of 2005, however, has cancelled these tax exemptions (it also unified and lowered the corporate tax rate to 20%). The Law grandfathered existing operational investment projects benefiting from these tax exemptions until their date of expiration and it gave a

maximum period of three years for projects that were approved under Law No 8 of 1997 before the coming into effect of the Tax Law but which have not yet started operating.

5. Law No. 83 of 2002 on SEZ extends investment incentives to SEZ established by Presidential decree but it is also restricted to areas outside of the urban boundaries of cities and villages. Finally, for inland industrial zones in Upper Egypt, land is offered for free per the Presidential Decree No. 158 of 2001, provided that construction is completed and production starts within specific delays (in other industrial zones, prices range between LE50-150). At first, only those governorates south of Bani-Suef (Minya to Aswan) and Wadi Gadid qualified but later on Bani-Suef was added to the list.

Table 2.2. Investment choices, incentives and guarantees by Law

Legal framework	Investment Law (8/1997)	Special Economic Zones Law (83/2002)
Main incentives	<ul style="list-style-type: none"> • Tax exemption: (i) 5 yrs if in Old Valley; (ii) 10 yrs if in industrial zones, new communities & remote areas; (iii) 20 yrs if in New Valley (Toshka, oases) • Tax exemption for expansions for 5 yrs • Single unified import duty on imported capital assets (5%) • Exemption from stamp duty, notarization & registration fees for 5 yrs • Free Zones: exemption from all taxes & customs 	<ul style="list-style-type: none"> • Tariff exemption for equipment imports • Maximum 10% tax on profits • Maximum 5% tax on salaries/wages • Exemption from sales tax, stamp duties & State development duties • Similar treatment as customs free zone as custom bonded area
Guarantees, restrictions	<ul style="list-style-type: none"> • Unrestricted nationality or origin of capital • Free repatriation of capital and profits • No real estate/property expropriation • No price controls • Land in Public Free Zones allocated through lease 	<ul style="list-style-type: none"> • Land is allocated through lease
Note	<ul style="list-style-type: none"> • Tax exemptions cancelled under new Tax Law No. 91 of 2005; companies set up before this date are grandfathered 	<ul style="list-style-type: none"> • Tax exemptions cancelled under new Tax Law No. 91 of 2005; companies set up before this date grandfathered

Note: The basic companies incorporation law is Law No. 159 of 1981, which allows companies to be 100% foreign owned or have 100% foreign capital.

Source: GAFI publication: Egypt Land of Investment

6. Until June 2005, the process of locating an industrial project in a site identified by the investor on considerations of economic viability (a demand driven approach) was less obvious since the available investment incentives seemed designed to steer investors to specific locations (even GAFI publications point investors to the abovementioned areas). The one exception is that Law No. 8 of 1997 permits the granting of free zone status (so-called private FZ) to qualifying investors where they have located or seek to locate, whether inland or in new urban communities. To do so requires approval from GAFI and that the project satisfies the following requirements: (a) the project has already started operation; (b) exports shall not be less than 50% of its production; and (c) the building, walls, fences, and security satisfy the requirements specified in free zone administrative rules and regulations. The site in question must meet the following criteria: (i) be appropriate to the nature of the economic activity (e.g. near raw materials, etc), (ii) contribute to establishing new communities according to the State policies; (iii) the requested land area is not available in public free zones; and (iv) environmental protection standards and regulations are met. The problem, however, is

that these requirements again seem to steer the investor to such places as New Towns and remote areas that are favored by the State.

7. Locating a new industrial project within an existing city (i.e. in areas other than industrial zones) is legally not permissible usually through a Governor and/or Minister of Housing, Utilities and Urban Communities decree. In the case that an investor group acquires an existing industrial activity in a city, their ability to convert it to a new use is highly unlikely since obtaining permits for change of use, demolition and construction is made very difficult. The only seemingly feasible option is for the investor to pursue the same existing activity in the same establishment (without modification or improvements), which is clearly very restrictive.

8. Locating an agro-industrial project on agricultural land in Egypt today is very difficult within the existing laws, except if such development is to take place on desert land earmarked for reclamation into agriculture (Box 2.1). In general, agricultural lands (including uncultivated lands located within the overall arable surface and which could be cultivated) that are located outside of city cordons or village urban boundaries are protected against development and transformation to urban uses by a series of laws, including the Urban Planning Law No. 3 of 1982. Only 2% of agricultural land may be developed, which means that to undertake an agro-industrial project on one Feddan requires acquiring 50 Feddans of agricultural land. The case of one established investor in agriculture and agro-industries with a 30-Feddans agricultural land near one of the Delta cities highlights the difficulties and constraints facing the establishment of agro-industrial projects. When inspected, the investor was found to be in contravention of the law, having built the necessary packaging and processing plant for agricultural products and administrative buildings on 5% of the land. The investor was given two equally problematic options to come to conformity: (i) to demolish contravening buildings and clear 3% of the land or (ii) to have the non-permitted buildable area (3% of the land, in this case 0.9 Feddans or about 3,800m²) reclassified into urban land and thus charged the price differential (this solution would imply a 30-35 fold increase in the price of land, or LE1-2 million). This dispute is still not resolved.

Box 2.1 Problems Facing Large Investor Groups in Agriculture and Agro-Industry

A large established investor group employing over 2,500 workers in agriculture (mainly olives and grapes) and agro-industry (processing, bottling and packaging) considers land to be the main obstacle to their growth and future investment in Egypt. Access to agricultural land (including in land reclamation projects) has been very difficult for the group, which forced them in more than one occasion to buy land from squatters (*Wad'e Yad*). They then had to seek the authorization of numerous entities to be able to register the land and factory, including MODMP, Agriculture and Antiquities. Despite the passage of 12 years, they still have not obtained all the clearances needed to register their property. They also had a very hard time obtaining the approval of the MODMP needed for the construction permit, as the factory in question was supposed to have a 36m high chimney (above the permissible heights). The group has also been for the past 2 years looking for 30,000 Feddans to grow olives, but without success.

In 6th of October New Town, the group purchased a land parcel from an investor only to discover that there was a dispute between the seller and NUCA, which delayed the transfer of *Takhssiss*. Then, when applying for a permit for a change of use of the parcel in question, they were asked to pay the difference between the administrative price of land at the time of the first *Takhssiss* and the price of the land today. They also applied to buy another parcel in the same New Town to build a LE100 million glass factory (to manufacture bottles for their products but also for the market). However, due to the scarcity of serviced land at the time of the application and the fact that there were six interested investors, the New Urban Communities Authority resorted to a random selection process, which they lost.

9. It is important to note that the ban on development of agricultural lands was not very effective due to a combination of lax enforcement and its impracticality in the case of cities in the

Delta that were surrounded by agricultural lands preventing its growth. In the Greater Cairo Region, despite the ban, some 600 hectares of arable land were being urbanized each year until the mid-1980's, although the figure dropped to about 200 hectares per year towards the late 1980's. The ban was given renewed vigor recently with the issue of Military Decree No. 1 of 1996 and the application of stronger enforcement.

Problems of Access to Land for New Investments or Expansion

10. The main problem with the existing system of access to public land for industrial investment projects is that it is largely State or supply driven rather than a demand driven system in which the investor chooses where to locate subject to existing zoning regulations. In effect, the system consists of the State making available for investors serviced industrial lands in specific locations with predetermined land areas and often specific eligible industrial uses, while at the same time making location elsewhere legally impermissible or highly impractical due to extensive bureaucracy and high cost. The locating decision is also influenced by a system of active control through land use planning regulations that were set in a supply-driven top-down approach (master plans were typically centrally prepared without any gauge of market demand or investment needs and trends; in 2005 the General Organization of Physical Planning prepared a revised urban planning law that calls for decentralized land use planning, but it still has not been enacted or put into effect). Such rigid land use planning system was accompanied by a set of incentives and subsidies that favored certain locations over others. The choice of these locations was once again primarily State or supply driven to achieve the State's regional planning strategies (de-concentrating the population pattern away from the Nile valley and away from the Greater Cairo Region) and development policies (targeting the less developed areas especially in Upper Egypt). Spatially-based tax exemptions were repealed in June 2005 with the enactment of the New Tax Law. The Law singled out land reclamation projects (which take place on desert land and thus are spatially targeted) with a 10 year tax exemption of profits.

11. The government policy of restricting and/or biasing through the incentive system the location of industrial investments in New Urban Communities or in such remote areas as Toshka represents an inherent bias against Small and Medium Enterprises (SMEs), which need to be near their markets and to attract and retain workers by minimizing transportation costs. In addition, SMEs, which need less land and favor higher development density for their operations, are faced with restrictive planning and building regulations that impose a high cost on them such as 50% land coverage and minimum parcel sizes of 800-1,000m².

12. The New Town of 10th of Ramadan is a case in point. Land parcels available today in the city's industrial zones start from 1,000 m² (parcel sizes reach up to 100,000 m² and larger areas can also be arranged according to Town Authority officials). The only affordable option for Small and Medium Enterprises to locate in the city is therefore to buy some developer-built small modular industrial spaces of 100 m² each in one of the 12 clusters for small industries available (the total capacity is 2,000 such units). The problem however is that these units reportedly sell for LE 1,000-2,000 per square meter. And while 1,800 of these units have already been built, only 600 have been sold. Prohibitive cost and restriction of choice in addition to the constraints imposed by the location are the main factors explaining such limited demand by small enterprises for space. The cost of land also represented a particular constraint to Small and Medium Enterprises until very recently. Until September 2004, industrial land sold for LE140 per square meter for both small and large parcels alike. Land prices were then reduced to LE 95 for large parcels and LE 50 for smaller parcels, a reduction which is intended to encourage both types of investors but with particular attention to the small and medium enterprises' affordability.

13. On December 14, 2004, the Government of Egypt signed a new agreement establishing Qualifying Industrial Zones (QIZs) with the Governments of Israel and the USA. This represents a major and positive change of course in terms of location policy.² The idea of GoE is to extend QIZ status and incentives to willing investors established in existing industrial areas in three locations: Greater Cairo Region, Alexandria and Port Said. The decision to offer investment incentives to existing places of production represents an important precedent in unbundling investment incentives from the State's regional development/spatial planning policies, which extends incentives to investors while enabling them to choose the location that makes most economic sense in terms of access to markets, infrastructure and labor force.

14. The current system also constrains existing industrial establishments that are seeking to expand by acquiring adjacent lands (and if necessary obtaining permits for a change of use, demolition of any existing structures and building new/expanded structures). Boxes 2.2 and 2.3 provide two different perspectives on the constraints on expansion faced by small and large investors.

15. Another flaw of the existing system is the *a posteriori* adjustments to the administrative price of land that NUCA-affiliated new town authorities and Governorates impose on any investor seeking to undertake any modifications to the initial *Takhssiss* contract (whether it is land transfer, change of land use from the *Takhssiss* contract even if it is a minor switch between types of industry, and even change in the legal structure of the company such as associations, mergers, etc). Such adjustments often require payment of the difference between the administrative land price at the time of the initial *Takhssiss* and the prevailing price today (a hefty payment would be required if the authorities deem that the land use has changed from industrial to services for instance). While it is certainly sensible to apply such measure to recoup the subsidies extended to a specific investment project/sector if the beneficiary of the subsidized land is deemed to be a land speculator seeking windfall profits from sale of the subsidized land on the market in the short-term, such measures prove restrictive and arbitrary to other more serious investors. One investor group faces such problems given that all the group's land assets are owned by a holding company that then leases to other companies in the conglomerate.

Box 2.2 Incremental Expansion of a Small Enterprise

A small scale paper conversion and stationary company purchased an 800m² parcel of land in 6th of October New Town in 1990 after failing to obtain a 1,000m² parcel in 10th of Ramadan (its initial location choice). Due to regulations stipulating 50% coverage of land, the company could only build a small factory of 350m². With its turnover figure doubling every year, the company started expanding vertically, which was clearly inefficient. It built a 6-story factory, with the last story requiring lengthy approvals for exceeding the 15m limit. Having not anticipated and prepared for such growth in advance by acquiring a larger land parcel, the company was forced to seek the acquisition of adjacent land parcels. Luckily, an adjacent 4,000m² parcel was still unallocated and then the company acquired another 1,500m² parcel that was also unallocated. Still seeking to expand, the New Urban Communities Authority allocated to the Company 3,000m² in the form of two in-between small streets and a small green area, which permitted to the company to assemble a contiguous rectangular parcel. Seeking again to expand, the Company sought to buy out an adjacent investor who had not built on his land. The parcel was subject to a limited bidding exercise (*Momarasa*), in which the company secured the highest bid. Unfortunately, the loser of the *Momarasa* used his political clout to freeze the *Takhssiss* of the land in question. This prompted the Company (which by then was exporting over 50% of its products and had acquired a private FZ status) to lease a 13,000m² parcel in the Nasr City FZ, which is currently being developed to be the new main factory. The Company also acquired a third parcel in Badr New Town for expansion purposes. According to the Company owner, "I could easily have created 5,000-10,000 jobs from my current 1,200 if it were not for the problem of access to land and the ongoing hassle from customs."

² QIZ are the subject of a Law enacted by the US Congress in the aim of promoting Middle East peace and which exempts QIZ products from tariffs and duties when entering the US market provided that they have a mix of US, Israeli and local (Jordanian, Egyptian or Palestinian) inputs such that the direct costs of processing operations performed in the QIZ, the West Bank, the Gaza Strip, or Israel, is not less than 35% of the appraised value of such articles of which the Israeli input set at 11.7%

Box 2.3 Planning Ahead for the Expansion of a Large Enterprise

An international food processing company seeking to establish its regional headquarters in Egypt purchased two adjacent parcels of land in a New Town. It built its initial factory on the first parcel and kept the second parcel for future expansion, which was envisaged within about 5 years. After a 3 year period, the New Urban Communities Authority initiated proceedings against the company to withdraw the second unbuilt land parcel on grounds of exceeding the 3-year allowable period for construction. The case is currently being heard in court. This is despite the fact that the company has been investing some LE50 million per year in its factory in the New Town since its establishment in Egypt.

Procedures of Access, Terms and Conditions

16. There are three main contractual forms for the allocation of public land to investors: sale, lease, or *Takhssiss*, which is the most frequently used method (i.e. a transfer of ownership conditional upon satisfying certain criteria such as abiding by the land use and project type, and/or conditional upon paying the land price installments).

Industrial Zones in New Towns

17. Land in industrial zones is obtained through a *Takhssiss* decision from the NUCA-affiliated new town authority in which it is located or in the near future from GAID once it consolidates control over all industrial zones. Investors make a 25 % down-payment and pay the rest in annual installments over a 3-year period (without interest), at the end of which they have freehold ownership. The decision of a 3-year repayment period is aligned with the 3-year maximum permissible timeframe for completion of project construction and the start of production. NUCA's idea of transferring ownership of the land *after* a project has started production is in reality a measure designed to prevent/minimize speculation. However, the fact that the transfer of ownership has not taken place in the early stage means that the investors are unable to register the land and use it as collateral for accessing construction finance.

18. Between 1999 and September 2004, administrative prices ranged between LE 50-150 per square meter (sqm) for serviced land depending on the location (in 10th of Ramadan the price was LE 140 per sqm), even if the more established new towns of 6th of October and 10th of Ramadan could command market prices of LE 450-600 per sqm. Starting September 2004, industrial prices were even reduced to LE 95 per sqm to attract investments. The rationale behind such a decision is unclear especially that retaining a constant *Takhssiss* price for the land for a 5-year period is subsidy in light of the increase in the cost of infrastructure delivery over time (in the case of 10th of Ramadan New Town, the new price is estimated to cover only 50% of the cost of serviced industrial land). And even if a subsidy may have been deemed necessary to address the problem of stagnant investment flows, applying a universal subsidy is unwarranted. It would make sense to target subsidies only to the less developed areas to achieve the State's developmental objectives. By contrast, in established New Towns with strong development momentum such as 10th of Ramadan or 6th of October, a subsidy is neither necessary nor will it result in attracting significant investment due to the limited vacancy rate of industrial land. In 10th of Ramadan, out of the 1,800 ha of serviced industrial land today, only 50-75 ha are immediately available for *Takhssiss*. The 10th of Ramadan Authority has therefore embarked on servicing an additional 200 ha but these are not expected to be completed before 18-24 months.

19. The process of accessing industrial land through *Takhssiss* in a New Urban Community consists of two steps: (i) request for the allocation of a land parcel, and (ii) upon approval of the request, receipt of the parcel. The *Takhssiss* process typically starts with an investor submitting a request for land allocation to the head of the New Urban Communities Authority, which is transferred

to the Real Estate Department to make available to the investor maps of areas with available land parcels for the investor to identify a suitable location. The application form submitted by investors to the New Urban Communities Authority in question includes the following documents:

- Bank check payable to the New Urban Communities Authority with LE1,000 as proof of the applicant's seriousness (or 10% of the value of the land parcel if pre-identified).
- Company-related information (3 documents): The contract establishing the company including its legal form (joint stock, LLC, etc), registration in the commercial registry and tax document.
- Project-related information (4 documents): Feasibility study; implementation timetable; schematic plan showing the planned use of the required land area, production lines and future project expansions if needed; project utility needs (water supply, electricity, sanitary drainage, telecommunications).
- Approval from the Ministry of Industry and/or GAFI for projects falling under Investment Law No.8 of 1997.
- Approval from EEAA of projects that may have a negative environmental impact.
- Photocopy of the owner ID.

20. The *Takhssiss* decision for smaller parcels is taken by a six-person committee chaired by the head of the New Urban Communities Authority after study of all documents within a maximum delay set by Law at 30 days from the date of submission of the completed application package. For larger parcels (threshold unknown), the *Takhssiss* request is sent to NUCA in Cairo for decision. Successful investors are notified that a land parcel is earmarked for the project, including the parcel number, area, location and the price per square meter, including any supplemental fees. Upon the preliminary approval, investors are asked to complete the down payment to 25% of the total price.

21. The next step is the handover of the parcel of land. The investor submits a request to the head of the NUCA requesting to be handed the land parcel. A committee from the Surveying Department of the NUCA goes to the site to hand the parcel over to the investor, who signs the official report of receipt of the land. Investors are given three years from the date of receipt of the parcel to finish construction and begin production. Landownership is not transferred and thus land remains non-registered until after construction is finished and production started, which is a problem that was flagged by several investors seeking to obtain land-collateralized finance for construction and/or business development.

22. If a project has not been finished within the 3 year period, the NUCA is entitled to withdraw the *Takhssiss* (paid installments to the land are reimbursed to the investor minus a 2-3% administrative charge). However, in reality, withdrawals are rarely practiced, particularly if the investor has started some form of construction. According to 10th of Ramadan NUCA officials, not more than 3-4 parcels have been withdrawn in the years 2003 and 2004. The NUCA usually contacts the owner to discuss the impediments that prevented him/her from finishing the project, and usually grants extensions. Nonetheless, the deputy head of the 10th of Ramadan NUCA reports that as much as 25% of the lands allocated through *Takhssiss* are returned voluntarily by the investors, which is an alarmingly high figure that warrants further examination of its causes.

23. One of the factors that encourage investors to locate in established industrial zones, especially in New Urban Communities, is that it saves them significant effort and resources that would be wasted trying to obtain individual clearances from numerous departments or entities (e.g. MODMP, quarries, etc), which investors would have to go through if they were seeking to obtain a parcel of land independently or in a different location including in inland industrial zones. This because the

New Urban Communities Authority (or for that matter any public or private company that undertakes a land subdivision project for residential or non-residential use) in theory should have obtained *a priori* clearance for the zone or subdivision to the benefit of individual parcel holders. Nonetheless, it seems that some clearances may be required in some cases, but these depend on the specifics of the location and project and can only be determined by the New Urban Communities Authority officials. In 10th of Ramadan and 6th of October New Towns, clearances would need to be obtained from MODMP in areas near military installations and for buildings heights above the permissible height (15m in 6th of October).

24. One of the main problems flagged by investors during the course of the mission is that NUCA and the New Town Authorities request an adjustment in administrative land prices to be paid *a posteriori* in any situation that involves a change in the initial *Takhssiss* contract (e.g. change of legal form of incorporation of the company, transfer of the land even if through inheritance, change in the name of the holding company, etc). This adjustment is reported to be somewhere around 50% of the difference between the administrative price then and now or of the difference in price between two uses. In one case, an investor who had obtained a Ministerial exception to locate a factory in an area designated in the 6th of October master plan for services (e.g. banks) was asked to pay the administrative price for services (which is higher than for industry) to buy the necessary adjacent lands for expanding the factory.

Inland industrial zones

25. Inland industrial zones are technically and administratively subordinated to the Governorate in which they are located, but they are expected to be transferred to GAID in the near future as it consolidates control over all industrial estates. GAFI has a supervision role over inland industrial estates in issues of investment guarantees and incentives, investment promotion and related matters, which it has exercised particularly since 2004 (see Table 2.5 for detailed statistics). To obtain a parcel of land in an inland industrial zone, the *Takhssiss* steps are in essence similar to those in New Towns, except that the request is submitted to the Governorate in which the industrial zone is located. The main difference is that the significant hurdle facing the investor in having to obtain all the clearances from the different government entities (MODMP, quarries, etc) applies to these industrial zones, depending on its location and the instructions given by the Governorate. This represents a major comparative disadvantage against New Towns, where fewer, if any, such approvals would be needed depending on the case.

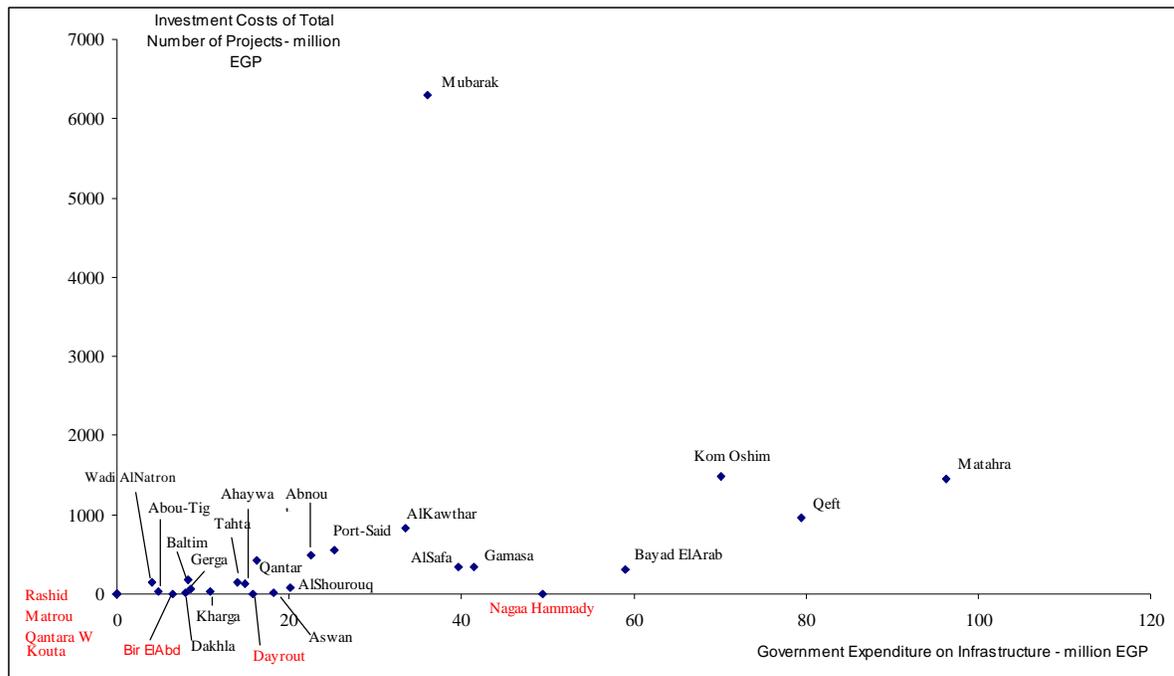
26. The terms and conditions for access to land (price per square meter, required down-payment, repayment period, interest rate if any, and exceptions) are found in Table 2.5. Overall, land prices in inland industrial zones differ widely between Northern and Southern Governorates for several reasons including the source of funding and the State's developmental goals. In Northern governorates, the Governorate seeking to establish an industrial zone would typically obtain a loan from the National Investment Bank (NIB) to prepare and service the site, and then repay the loan from the revenues of *Takhssiss* of land. Several governorates that were subsequently faced with limited demand for their land in their industrial zones had difficulty in repaying the loan to NIB. This prompted them to request transfers from the Ministry of Finance (MOF). Some governorates reduced land prices as a marketing tool or simply offered to sell the land with limited or no utilities, as became common.

27. The situation differs in the Southern Governorates (Bani-Suef to Aswan, as well as Wadi Gadid). Presidential decree No. 158 of 2001 offered industrial land there for free. The decree, however, remained non-operationalized in 2003 until the accompanying administrative decree (*Amr Idary*) was issued (which was initiated by GAFI after investors lobbied it). Being unable/unwilling to obtain loans from NIB given that there are no revenues for repayment, Southern Governorates

therefore rely on transfers from the MOF, which often may not match their needs. This means that these industrial zones are mostly unserved and not maintained.

28. In summary, what is common between most inland industrial zones in the North or South is that they have limited or poor infrastructure services (sometimes none) and limited, if any, budgets for maintenance. In total, GAFI numbers 14 inland industrial zones with some level of infrastructure and services. Not surprisingly, most such zones have low occupancy rates and limited investments (See Table 2.5). Figure 2.1 plots government investment in infrastructure and services in the inland industrial estates against private investments, which shows the overall limited private investments in the industrial estates. The one exception (not included in the figure) is Al Nahda area in Alexandria with 13 operational investment projects of approximately LE8-10 billion and without any government expenditures on infrastructure and service delivery. Al Nahda zone, established in 1977, received *ex post* the industrial zone title via Prime Ministerial decrees No. 2244 of 2000 and No. 440 of 2001 so that existing establishments could get tax investment incentives, namely the 10 year tax holiday. Leaving Al Nahda aside, as can be seen, only Mubarak industrial estate witnesses significant private investment, whereas a large number of industrial estates have no or very limited private investments. In addition, the Governorates' strict imposition of the adjustment pricing on any change from the initial investors' *Takhssiss* contract and collection of the full amount of the assessed difference has created numerous problems.

Figure 2.1 Government expenditure on infrastructure versus private investment in inland industrial estates



Source: GAFI 2005

Public Free Zones (FZ)

29. The Egypt Free Zone (FZ) program started in the late 1970s. Currently, there are seven established public Free Zones (see Table XX)³ with a reported aggregate occupancy rate of 74%. In addition, three new public FZ are under establishment. These public FZ are:

³ This excludes the city of Port Said, whose FZ status is being phased out in view of termination in 2007

1. Ameriya, Alexandria (1353 feddans, unoccupied area 18%)
2. Nasr City, Cairo (170 feddans, unoccupied area 0%)
3. Port Said (172 feddans, unoccupied area 0%)
4. Ismailia (first phase of 100 feddans, out of a total of 800 feddans, unoccupied area 38%).
5. Suez (two areas totaling 77 feddans, unoccupied area 53%).
6. Damietta (190 feddans, unoccupied area 95%)
7. Media Production City, 6th October City (714 feddans, for services, unoccupied area 0%)
8. Shebin El-Kom, Menofiya (first phase 20 feddans located within Misr Shebin El-Kom Spinning and Weaving Co property), *under establishment*
9. Qeft, Qena (216 feddans) , *under establishment*
10. East Port Said Port (8,429 feddans) , *under establishment*

30. The most occupied FZs are Nasr city, Port Said, and Media Production City. The other FZ, in spite of some locational advantages for some, have much lower occupancy rates: Ismailia (first phase of 100 feddans, out of a total of 800 feddans) with 58% occupancy; Suez (two areas totaling 77 feddans) with 48% occupancy, Damietta (190 feddans) with a 4% occupancy, and the newly established Media City in 6th of October New Town with an equally low occupancy rate. This prompted GAFI to discount lease rates by 50% in the Damietta and Ismailia zones to attract investors. Overall, the land occupancy rate (Takhssiss of land) and the number of projects that were established (749 in all seven public FZ by the end of 2003) cannot be taken as a precise indicator of investment, since what matters is the number of projects that have actually started production. The latter figure in the most successful FZ in Egypt—Nasr City—is 79.6% (103 projects out of 137 approved projects that lease land).⁴

31. Serviced land in FZs is leased from GAFI for a 25-year renewable period for an annual rate of US\$3.5 per square meter for industrial projects and US\$7 per square meter for storage and service projects⁵. This rate is, according to GAFI officials, quite highly subsidized relative to what serviced land normally costs. In addition to using subsidized land pricing as an instrument to attract investments, GAFI also relies, for its main source of income, on a 1% surcharge on the value added in industrial projects, 1% of value of goods entering the FZ in storage projects, and 1% of annual revenues in services projects.

32. One investor flagged the issue of lease versus sale of land in the public FZs. “It is a difficult decision to spend LE 100 million on building a factory on a land that I do not own and which may be repossessed in 25 years for whatever reason”. This suggests the need to ensure that the lease contract contains: (i) clear and predictable criteria for automatic renewal of the lease contract; and (ii) a clause on compensation to investors for the improvement to their land if it is repossessed, with the compensation based on either market or book value (i.e. capital investment minus depreciation).

33. The 25 years lease period is renewable and extended when investors abide by the rules and regulations in place in free zones. As a general rule, no expropriation of land or property takes place except when necessary for the public interest, and compensation is supposedly based on market value. Still, a longer lease period may also be contemplated to reduce the uncertainty (e.g. 50 years). In

⁴ In total, 109 projects have started production out of 137 projects that were allocated land, as follows: 103 industrial projects out of 125 approved industrial projects; 2 out of 2 approved storage projects; and 4 out of 10 approved services projects. Producing projects create 7,000 permanent jobs and 5,000 temporary jobs.

⁵ GAFI recently reduced by 50% the rent in Ismailia, Damietta, and Shebeen El Kom free zones.

addition, in light of the fact that land in the three public FZs in high demand (Nasr City, Alexandria and Port Said) is scarce and that the lease rate is subsidized, according to GAFI, then there needs to be measures to ensure that land is allocated to the investment projects that will yield the desired results (job creation and exports). As such and for the sake of uniformity with other sectors, GAFI may want to start with a preliminary *Takhssiss* contract for the planned duration of construction that would be converted in the long-term lease contract upon start of production, according to pre-agreed lease rates. This would ensure that the land can be legally repossessed from a project that did not live up to its promises. Of course, the same objective could be achieved with a clause in the lease contract with the conditions of annulment.

34. When deciding to set up a new public FZ, the land is transferred by Presidential decree to GAFI, which is empowered by Law to plan, service, promote, and manage the FZ in question, and to be the only interfacing entity with the investor seeking to locate there. GAFI would obtain a single clearance for all the public FZs from MODMP, civil aviation authority (for building heights), EEAA (on the types of industries, specifications of wastewater treatment, etc), civil defense department (for fire code specifications), etc. It also interfaces with the different utility companies (water, electricity, sanitation, telecommunications, gas) from which it requests the delivery of primary and secondary infrastructure to satisfy the planned needs and loads. Throughout the process, GAFI clears with all these entities the building regulations to be applied (heights, setbacks, etc) and the technical specifications for utility services in the zone. GAFI would then embark on servicing and promoting the public free zone.

35. Thus, in seeking to lease land in a Public FZ, the investor need only deal with GAFI. The investor submits a request to GAFI with the required land area, utility specifications (electric load, water supply intake, wastewater volume, etc), the type of project (capital investment, purpose, labor force composition, financing, etc.), in addition to signing a commitment of exporting at least 50% of its products. Once the request has been approved, the GAFI technical team works with the investor on selecting the appropriate parcel. The GAFI legal department then assists the investor in establishing the company in question. The investor then submits a letter of guarantee and the necessary annual payment (US\$3.5 or 7 per square meter depending on the type of the project) and is assigned the land. The GAFI authority in charge of the public FZ in question then issues the building permit and oversees the construction progress. Some projects, especially in the petrochemical sector, have additional procedures.

36. The only instance in which the investor is forced to deal with an external government authority throughout the development process is if the project requires, say, more electrical power supply than has been assigned to the project in GAFI's master plan. One investor stated that he had to buy a LE70,000 generator for his project in Nasr City FZ (where electricity seems to be the one exception to the zone's excellent services) and requested the Electricity Company to install the necessary cables. He had to pay LE220,000 for the Electricity Company services and endured quite some delay. This suggests that there may need to be better infrastructure planning in the design stages.

Special Economic Zones (SEZ):

37. One of the main comparative advantages for locating in SEZ is to operate in a bureaucracy-free zone, with the SEZ Authority in charge of land allocation, issuing of building permits and other approvals and permissions that may be needed. By law, industrial land in SEZ is to be leased from the SEZ Authority for a 50-year renewable period in return for an annual payment to be determined by the SEZ Authority. The process for obtaining land in a SEZ is in theory much simpler than in

industrial zones because of dealing only with one entity, namely the SEZ Authority whose Board of Directors approves the lease requests.

38. Unfortunately, the existing SEZ in North-West Suez Gulf cannot shed light on the process of access to land or functioning of a SEZ, simply because the SEZ land had already been transferred by Suez Governorate to developers prior to the enactment of the SEZ Law and the establishment of an SEZ Authority. Suez Governorate gave four development companies freehold ownership for 21.85 km² each in return for a token payment of LE 5 per square meter. The idea was that the development companies would service the area and sell land parcels for the establishment of manufacturing, storage and other port-related investment projects. As such, when the North-West Suez Gulf SEZ Authority was established after the enactment of the new Law, it found itself with very little land that it controls. In addition, the development companies' overall progress in servicing the land was very slow, and it seemed that there was little demand for industrial space.

39. Indeed, third quarter 2004 figures from the reportedly most active development company—Suez Industrial Development Company, which is responsible for Sector one—indicate that only six investment projects have been created on a total land area equal to 57.7 ha or 5.8% of the land in the sector (three other projects were expected to operate in 2005, one is under establishment and one project stopped). Operating projects in Sector one have altogether created 1,090 job opportunities, although one fertilizer project that enjoys Free Zone status alone employs 800 workers (the other projects have between 20 and 120 workers). As for the rest of the SEZ, it is estimated that 1-2 factories have been established in each sector, primarily by the main investors who controlled the development company itself.

40. Developers complain that the trunk infrastructure is in poor condition, while the government finds that the development companies have not lived up to their promises. In addition, the ability of the SEZ Authority to undertake the important mandate assigned to it by Law is in doubt, given that it has almost no control over land. The fact that the land disposition took place through sale rather than lease as stipulated by Law adds another complication. All these factors have led to an ongoing debate about the future of the Suez SEZ. New developments have taken place under the supervision of the Minister of Investment, namely the development of a new master plan incorporating the entire region including Sokhna port and allowing companies to register their lands and establishing companies that have been waiting for the approval of the concerned authorities. A second SEZ is currently under establishment in the East Port Said area.

Ownership/Access Restrictions:

41. Previously, there were limits as to the amount of land and real estate that foreign investors can acquire in Egypt, which was regulated under Law no. 230 of 1996. The maximum amount of land and real estate that foreigners could buy was set at 4,000 sqm. To acquire more than 4,000 sqm, foreigners needed to submit a request to the Department of Foreign Ownership under the Ministry of Justice and obtain a special authorization from the Prime Minister. Alternatively, foreign companies used to establish joint companies with Egyptian investors (whose shares need to be at least 50%) or would incorporate in Egypt. Investment Law no. 8 of 1997 (article 12) abolished such restrictions for investment projects established under the Law.⁶

42. In summary, and controlling for location, public free zones generally seem to represent the best locating option available to investors (in terms of quality of infrastructure services, predictability

⁶ Foreigners seeking to buy land or property outside of the scope of the Investment Law (typically individuals seeking to buy a residential unit) still face the 4,000 sqm restriction.

of pricing, freedom from bureaucracy through dealing only with GAFI, etc), on the condition of exporting 50% or more of production. Investors targeting the local market and those unable or unwilling to locate in one of the public FZs find their best locating option in an industrial zone in one of the New Urban Communities, especially the more established ones such as 10th of Ramadan and 6th of October. However, in light of the decline of government transfers to NUCA in recent years and the fact that the price of industrial land still remains regulated by decrees (including the recent reduction of the rate from LE 140 to LE 95 per square meter, which is 50% of the cost of serviced land), the maintenance of infrastructure services is becoming a serious challenge to the New Town Authorities. As for inland industrial zones, the combination of poor quality infrastructure services and bureaucracy that investors face (especially in obtaining all the necessary clearances from the different government ministries and departments) act as clear disincentives to location in such areas, hence the limited occupancy rate in general.

Table 2.3. State of Inland Industrial Zones in Egypt

Summary: The total land area for inland industrial estates designated by Prime Minister decrees is 22,847 ha, of which only 10,381 ha have been planned for industrial land distribution (the rest being a mix of open spaces/services and yet unplanned expansions for some industrial zones). Of the 10,381ha, only 3,132 ha (30%) have been distributed. A total of 2,304 industrial projects were licensed and obtained lands, but only 983 (43%) projects are already operating (658 projects or 30% are under construction, 358 or 16% received land but did not start building, and 246 or 11% have not yet received the land). The total reported number of jobs is 60,161, but GAFI estimates 172,000 jobs.

A. Basic statistics: Land area, price and terms, occupancy rate, authorized projects, and jobs created

No.	Industrial Zone	Governorate	Year est. decree	Total area (ha)	Planned industrial area (ha)	Area allocated (ha)	Occupancy rate	Num projects authorized	Num projects operating	Num jobs *	Land price (LE/m2)	Terms and conditions
1.	Beir El-Abd	North Sinai	1993	100	60	0	0%	0	0	0	25	25% DP; 5 yr inst., interest 6%/yr
2.	El-Nahda	Alexandria	2001	1,937	1,509	924	61%	10	10	9,488	Market	Private land
3.	Sepco	Alexandria	2002	67	67	67	100%	1	1	NA	Market	Private land
4.	Agamy SME	Alexandria	2002	1	2	1.9	94%	73	53	3,510	NA	Private land
5.	South Port Said (Raswa)	Port Said	2004	335	87	86	100%	103	24	1,941	90	33% DP; 3 yr inst., interest 7%/yr; 1 yr grace
6.	El-Qantra-Sharq	Ismailia	1997	382	34	28	82%	87	50	1,458	50	15% DP; 5 yr inst., interest 7%/yr; 2yr grace; 50% off if production in 1.5yr
7.	El Qantra Gharb	Ismailia	2005	9	NA	0	0	0	0	0		
8.	Belbeis El-Asher	Sharkia	2001	113	43	23	53%	175	45	2,601	45-58 without utilities	20%DP, 10yr inst., interest 4%/yr (utilities LE 77/m2 over 2yr)
9.	Balteem	Kafr El sheikh	1997	48	29	21	73%	60	16	1,132	64	30% DP; 3yr inst.; 2-yr grace
10.	Motobuss	Kafr El sheikh	1997	487	487	422	87%	6	0	0	82	Same as above
11.	El-Asafra	Dakahlia	1993	21	5.3	2.6	48%	56	31	NA	Built units	Prices set by Ministry of industry
12.	South/West Gamasa	Dakahlia	1997	305	39	28	71%	163	14	610	160	25% DP; 5yr inst., interest 7%/yr
13.	Wadi El-Natron	Beheira	1994	150	100	19	19%	40	3	450	65	25% DP; 4yr inst., interest 7%/yr

No.	Industrial Zone	Governorate	Year est. decree	Total area (ha)	Planned industrial area (ha)	Area allocated (ha)	Occupancy rate	Num projects authorized	Num projects operating	Num jobs *	Land price (LE/m2)	Terms and conditions
14.	Rosetta	Beheira	1997	84	0	0	0%	0	0	0	NA	NA
15.	26 km Matrouh/Alex rd	Matrouh	1993	337	0	0	0%	0	0	0	NA	NA
16.	Mubarak 1, 2, 3	Menofiya	1994/1999	129	78	51	65%	146	69	7,775	200-500	25% DP; 3yr inst., interest 7%/yr
17.	Abu-za'abal/khanka	Qualyubia	1999	58	40	7.5	19%	40	3	30	220-280	25% DP; interest 7%/yr, 3-5yr inst. by area
18.	Kom-Aushiem 1, 2	Fayum	1996/1997	463	184	122	66%	201	53	4,783	80	15% DP; 5yr inst., interest 7%/yr
19.	Kouta	Fayum	1998	840	0	0	0%	0	0	0	ND	Not determined
20.	Biad el-Arab	Bani Suef	1997	315	174	59	34%	91	12	1,284	Free	Free
21.	KomAbuRadi	Bani Suef	1997	275	0	0	0%	0	0	0	Free	Free
22.	1 / 31	Bani Suef	2000	2,700	6,149	833	14%	11	1	1,000	Free	Free
23.	2 / 31	Bani Suef	2000	1,500							Free	Free
24.	3 / 31	Bani Suef	2000	1,250							Free	Free
25.	4 / 31	Bani Suef	2000	7,850							Free	Free
26.	El-Metahra	Minya	1994	637	317	150	47%	170	57	3,937	Free	Free
27.	Abnub	Assuit	1994	258	137	66	48%	151	125	4,531	Free	Free
28.	El-Safa	Assuit	1994	294	112	86	77%	342	271	7,974	Free	Free
29.	Abu Tig	Assuit	1994/5	15	8	7	85%	38	27	1,029	Free	Free
30.	Sahel Seliem	Assuit	1997	20	12	7	60%	0	0	0	Free	Free
31.	Dayrut Dashlout	Assuit	1997	46	0	0	0	0	0	0	Free	Free
32.	El-badary	Assuit	1998	17	0	0	0	0	0	0	Free	Free
33.	El-Kawther	Suhag	1993	210	141	46	33%	169	95	4,928	Free	Free
34.	Ahaywa-Shark	Suhag	2000	105	67	13	19%	28	3	195	Free	Free
35.	West Girga	Suhag	2001	456	40	4	10%	16	0	0	Free	Free
36.	West Tahta	Suhag	2002	383	53	12	23%	41	6	280	Free	Free
37.	Qift	Qena	1994/8	239	168	34	20%	31	22	671	Free	Free
38.	New Nga Hamadi	Qena	1994/8	210	147	0	0	0	0	0	Free	Free
39.	Alaqi/Shallal	Aswan	1994	93	45	4	8%	19	0	0	Free	Free
40.	Kharga	New Valley	1996	76	32	7	20%	18	4	36	Free	Free
41.	MotEl Dakhala	New Valley	1996	30	17	2	14%	23	2	18	Free	Free
	Total			22,847	10,381	3,132	30%	2,304	983	60,161		

* Total reported number of jobs is 60,161 but GAFI estimates 172,000 jobs. Source: GAFI reports (2005)

B. State of infrastructure in inland industrial estates in Egypt

No.	Industrial Zone	Governorate	Area (ha)			Occupancy rate	% completion of infrastructure of planned industrial areas								
			Total	Planned industrial	Allocated		Roads	Electricity		Water		Sewerage		Communications	
								Power station	Internal dist. network	Water station	Internal dist. network	Treatment plant	Internal collection network	Central	Internal network
1.	Beir El-Abd	North Sinai	100	60	0	0%	38%	0%	0%	0%	54%	0%	54%	0%	0%
2.	El-Nahda	Alexandria	1,937	1,509	924	61%	P	P	P	P	P	P	P	P	P
3.	Sepco	Alexandria	67	67	67	100%	P	P	P	P	P	P	P	P	P
4.	Agamy SME complex	Alexandria	1	2	1.9	94%	P	P	P	P	P	P	P	P	P
5.	South Port Said (Raswa)	Port Said	335 *	87	86	100%	100%	100%	100%	16%	100%	0%	100%	16%	16%
6.	El-Qantra-Sharq	Ismailia	382 *	34	28	82%	100%	100%	100%	0%	100%	100%	100%	0%	100%
7.	El Qantra Gharb	Ismailia	9	NA	0	0	0%	0%	0%	0%	0%	0%	0%	0%	0%
8.	Belbeis El-Asher	Sharkia	113	43	23	53%	OIC	OIC	OIC	OIC	OIC	OIC	OIC	OIC	OIC
9.	Balteem	Kafr El sheikh	48	29	21	73%	60%	53%	75%	100%	100%	0%	90%	100%	100%
10.	Motobuss	Kafr El sheikh	487 *	487	422	87%	0%	0%	0%	0%	0%	0%	0%	0%	0%
11.	El-Asafra	Dakahlia	21 *	5.3	2.6	48%	100%	100%	100%	0%	100%	100%	100%	100%	100%
12.	South/West Gamasa	Dakahlia	305 *	39	28	71%	95%	23%	40%	0%	100%	0%	100%	0%	0%
13.	Wadi El-Natron	Beheira	150	100	19	19%	30%	0%	0%	0%	100%	0%	0%	100%	0%
14.	Rosetta	Beheira	84	0	0	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
15.	26 km Matrouh/Alex rd	Matrouh	337	0	0	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
16.	Mubarak 1-3	Menofiya	129	78	51	65%	76%	33%	93%	33%	100%	0%	100%	33%	0%
17.	Abu-zaabal/khanka	Qualyubia	58	40	7.5	19%	61%	100%	71%	100%	75%	0%	0%	0%	0%
18.	Kom-Aushim	Fayum	463 *	184	122	66%	32%	84%	84%	84%	41%	84%	73%	84%	84%
19.	Kouta	Fayum	840 *	0	0	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
20.	Biad el-Arab	Bani Suef	315	174	59	34%	70%	0%	75%	73%	98%	54%	91%	0%	30%
21.	KomAbuRadi	Bani Suef	275 *	0	0	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
22.	1 /31	Bani Suef	2,700	6,149	833	14%	0%	0%	0%	0%	0%	0%	0%	0%	0%

23.	2 / 31	Bani Suef	1,500				0%	0%	0%	0%	0%	0%	0%	0%	0%
24.	3 / 31	Bani Suef	1,250				0%	0%	0%	0%	0%	0%	0%	0%	0%
25.	4 / 31	Bani Suef	1,200				0%	0%	0%	0%	0%	0%	0%	0%	0%
26.	El-Metahra	Minya	637	317	150	47%	67%	100%	48%	100%	67%	20%	55%	100%	100%
27.	Abnub	Assuit	258	137	66	48%	41%	89%	56%	59%	32%	2%	0%	0%	0%
28.	El-Safa	Assuit	294	112	86	77%	85%	83%	64%	50%	50%	7.5%	50%	0%	0%
29.	Abu Tig	Assuit	15	8	7	85%	100%	68%	30%	0%	100%	2%	0%	0%	0%
30.	Sahel Seliem	Assuit	20	12	7	60%	100%	100%	100%	100%	100%	100%	100%	100%	100%
31.	Dayrut Dashlout	Assuit	46 *	0	0	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
32.	El-badary	Assuit	17 *	0	0	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
33.	El-Kawther	Suhag	210	141	46	33%	65%	84%	26%	51%	84%	100%	90%	CD	CD
34.	Ahaywa-Shark	Suhag	105	67	13	19%	39%	68%	32%	47%	59%	0%	0%	0%	0%
35.	West Girga	Suhag	456	40	4	10%	36%	14%	28%	13%	16%	0%	0%	0%	0%
36.	West Tahta	Suhag	383	53	12	23%	37%	23%	39%	19%	7%	0%	0%	0%	0%
37.	Qift	Qena	239	168	34	20%	100%	20%	36%	100%	100%	100%	100%	100%	100%
38.	New Nga Hamadi	Qena	210	147	0	0%	79%	0%	24%	95%	95%	90%	100%	97%	0%
39.	Alaqi/Shallal	Aswan	93	45	4	8%	73%	0%	28%	0%	43%	0%	52%	0%	0%
40.	Kharga	New Valley	76 *	32	7	20%	24%	0%	46%	00%	67%	100%	72%	0%	0%
41.	Mout El Dakhla	New Valley	30	17	2	14%	100%	0%	0%	0%	100%	0%	100%	0%	0%
	Total		16,197	10,381	3,132	30%									
	Service level in planned areas			8,814			16%	13%	12%	15%	18%	10%	15%	11%	9%

Notes: P=Alexandria industrial estates comprise of privately owned land used for industrial projects without planning and with privately provided infrastructure, these only became industrial estates ex post to benefit from investment incentives; OIC=Ongoing implementation at investors' cost

* A total land area of **1,044ha** is earmarked for new extension of industrial estates but has not yet been planned and serviced, as follows: 207 ha (hectares) in South Port Said/Raswa; 327 ha in Ismailia—Al Qantra Shark; 50ha in Belbeis El-Asher; 221 ha in South/West Gamasa; 8.5ha in Al-Asafra; 105ha in Kom Aushim; 116ha in Al Safa; and 9ha in Kharga. In addition, whole industrial estates—amounting to **2,086ha**—are still unplanned and hence unserviced including: Motobuss (Kafr El Sheikh), Rosetta (Beheira), 26km Matrouh/Alex rd (Matrouh), Kouta (Fayoum), Kom Aboul Rady (Bani Suef), Dayrut Dashlout (Assuit), El-badary (Assuit). Finally, **6,650ha** in Beni Suef (31/1-4 areas) have been planned but remain unserviced todate.

Source: GAFI reports (2005)

Table 2.4. State of Industrial Zones in New Urban Communities in Egypt

Summary: The total planned land area for industrial estates in existing new urban communities is 16,648 ha. Of these, 11,806 ha (71%) have been distributed, and 2,962 ha (17.8%) is available for distribution. A total of 6,840 industrial projects were licensed and obtained lands, but only 1,848 (27%) projects are operating. The total reported number of jobs is 323,479.

Basic statistics: Land area, price and terms, occupancy rate, authorized projects, and jobs created

No.	New Urban Community	Establishment decree & year	Available Industrial area for disposition (ha)	Planned industrial land area (ha)	Area allocated (ha)	Occupancy rate	Num projects authorized	Num projects operating (% of total)	Num jobs **	Land price (LE/m2)*	Terms and conditions
1.	10 th -of Ramadan	Pres. Decree (249-1977)	911	4,223	2,517	60%	1,470	265 (18%)	140,880	95	50% maximum buildable area
2.	15 th of May	Pres. Decree (119-1978)	30	81	59	74%	167	44 (26%)	3,796	125	
3.	Sadat	Pres. Decree (123-1978)	879	3,393	2,301	68%	439	179 (41%)	18,785	60	
4.	6 th of October	Pres. Decree. (504-1979)	228	4,695	3,593	77%	2,037	379 (19%)	77,622	95	
5.	New Borg Al-Arab	Pres. Decree (506-1979)	426	769	457	59%	653	157 (24%)	31,970	70	
6.	New Damietta	PM. Decree (546-1980)	26	160	139	87%	330	132 (40%)	5,219	125	
7.	New Salehaya	PM. Decree (1237-1982)	21	600	433	72%	211	52 (25%)	11,876	95	
8.	New Noubaria	PM. Decree (375-1986)	6	62	54	87%	93	31 (33%)	740	90	Max height 15m
9.	New Bani-Suef	PM. Decree (643-1986)	202	249	108	43%	129	50 (39%)	1,554	50	
10.	Badr	PM. Decree. (542-1983)	174	259	46	18%	350	163 (47%)	7,049	95	
11.	Obour	PM. Decree. (1290-1982)	15	1,904	1,874	98%	873	375 (43%)	23,245	125	
12.	New Menia	PM. Decree (278-1986)	3	15	14	94%	67	20 (30%)	211	50	
13.	New Cairo		15	212	192	91%	21	1 (5%)	532	95	Max height

No.	New Urban Community	Establishment decree & year	Available Industrial area for disposition (ha)	Planned industrial land area (ha)	Area allocated (ha)	Occupancy rate	Num projects authorized	Num projects operating (% of total)	Num jobs **	Land price (LE/m2)*	Terms and conditions
14.	New Asuit	Pres. Decree (73-1993)	20	21	2	9%	0	0 (NA)	0	50	15m
15.	Shourok	Pres. Decree (326-1995)	No Industrial areas within these cities								
16.	Sheikh Zaid	Pres. Decree (325-1995)									
17.	New Teyba	NA									
18.	New Sohag	Year 2000	6	23	17	76%	0	0 (NA)	0	50	Max height 15m
19.	New Aswan	NA	No Industrial areas within these cities								
20.	New fayoum	NA									
	Total		2,962	16,648	11,802	71%	6,840	1,848 (27%)	323,479	--	

* Land prices in industrial zones in New Urban Communities have reportedly been reduced in September 2004 for several cities

Note: It is unclear if land available for distribution is serviced or not due to the absence of detailed consolidated statistics at NUCA on the level of services (it appears that these would only be available at the New Town Authorities in question, but discrepancies can be noted. In the case of 10th of Ramadan new city, NUCA's 2005 report indicates that 911ha of industrial land are available for disposition, while data obtained from 10th of Ramadan Authority in 12/2004 indicates that only 50-75ha are immediately available and that 200ha are in the process of being serviced over an 18-24 months period.

Source: NUCA reports (2005)

The Establishment of General Authority for Industrial Development (GAID)

43. It is against such a background—namely the fragmented control over industrial estates/land and the differentiated procedures adopted by each controlling entity, the overall unsuccessful inland industrial estate regime and the lack of investment in the operation and maintenance of infrastructure and services in industrial estates, where these are found—that the General Authority for Industrial Development (GAID) was established. GAID was created by Presidential Decree No. 350 of 2005 as an economic authority with juridical personality affiliated with the Ministry of Industry and Trade. GAID is mandated with the following responsibilities:

- (i) Review and propose improvements to legislation related to industrial development;
- (ii) Prepare sectoral and geographical studies and plans for industrial development and monitor their implementation;
- (iii) Set general policies and plans to develop industrial zones in coordination with the Governorates and concerned government agencies, and authorize the establishment of new industrial zones or expansion of existing ones, including those established and managed by Governorates, other authorities or the private sector;
- (iv) Identify public lands to be allocated for industrial uses in coordination with NCP SLU;
- (v) Develop the regulatory framework, and enabling terms and conditions for private sector participation in the establishment, service delivery, operation of industrial zones, and making land available to investors;
- (vi) Identify industrial activities to be implemented in industrial zones in coordination with EEAA, governorates, other concerned public authorities and the private sector;
- (vii) Set the regulations and conditions governing the use and pricing of industrial land, and cooperate with the entities (governorates, public authorities, and the private sector) responsible for service delivery for and management of industrial zones on enabling investors to access land relying on the GAID's Industrial Land Fund;
- (viii) Define rules, requirements and necessary approvals for industrial projects, register the projects in the industrial registry, and delegate relevant entities in issuing approvals and licenses.
- (ix) Issue licenses for projects established outside the industrial zones only where necessary and according to the standards and conditions determined by GAID executive board;
- (x) Monitor and enforce regulations in industrial zones and licensed projects in coordination with the governorates;
- (xi) Promote the industrial zones and projects in cooperation with GAFI;
- (xii) Set general rules and requirements for investor support in industrial activities relative to such characteristics as production, operation, and export.

44. The decree also creates a Fund under GAID, named the Industrial Land Fund, to provide incentives for the establishment and development of industrial zones in Egypt, by subsidizing the price of land for industrial activities to increase the competitiveness of the zones and their ability to attract investment. The specific modus operandi of this Fund is, however, not defined in the decree.

45. Directly after the creation of GAID, negotiations started between the Ministry of Industry and Trade and the MHUUD over the management of industrial zones in new urban communities. It is not yet clear what agreements will come out of these negotiations (whether on a management framework or transfer of the industrial zones to GAID).

46. Overall, the decree's underlying policy objective of creating GAID as an umbrella institution to regulate and facilitate industrial zone development and management is an excellent first step,

especially in light of Egypt's past industrial zone experience. Only a handful of the 80+ Governorate and NUCA-established industrial zones are considered successful (See Tables 2.5 and 2.6). This limited success is attributed to: inappropriate site location (often reflecting political rather than technical and economic considerations); poor design and development practices; inadequate coordination and lack of effective partnerships between zone developers and relevant authorities for delivery of off-site infrastructure; and reliance on administrative pricing of industrial land at below market prices, which acts as a disincentive for Governorates to finance service delivery and appropriate maintenance of infrastructure.

47. The main deficiency with the decree, however, is that it lacks sufficient detail (it is only four pages long), which could result in a confusion of mandates, authorities, or functions among tenants, site developer/operators, and the array of state agencies that may or may not be required to fulfill a particular function. The decree could and should be improved with more precise drafting, more detailed provisions and the removal of existing uncertainties. The following are the key issues which should be addressed in a revision process:

48. *Breadth of the authority's mandate and relationship, clarity of jurisdiction and coordination with other entities in the institutional landscape:* The decree creates a powerful agency with a broad mandate and vests it with a great degree of independence. This promises to create an effective institution provided that its mandate is clarified and properly coordinated with that of other authorities, especially GAFI, GOPP, and governorates. The broad policy, planning, site designation/allocation, and development control functions assigned to GAID will give it significant latitude if they indeed consolidate and supersede the normal industrial planning framework(s) at different levels of government in Egypt. If this is the case, the main issue will be how to coordinate land use planning for industrial and other competing uses with the different authorities. If this is not the case, then the decree will have added yet another layer to the overall policy, planning and institutional framework. The decree also empowers GAID to put in place systems for developing industrial land and making it available for investors, which are two very distinct functions. A more appropriate role for GAID is to set the overall policy and regulatory framework for access to and development/operation of industrial zones as well as flexible zoning guidelines for industrial land development, while the specifics (such as land prices/lease rates to investors or what specific industries should locate where) should be left to the private sector industrial zone developer/operator. Finally, project licensing and investment marketing functions further add to GAID's already broad mandate and require coordination with other government agencies, lest it introduce yet another redundant layer of bureaucracy. Overall, the GAID should only retain those roles that it can truly and effectively implement and where it would have an added value, namely regulating and facilitating the private sector's development and operation of industrial zones. Involvement in direct service delivery to end-user investors is in most cases unwarranted.

49. *Undefined industrial policy objectives:* Another concern is that the decree is presented in a policy vacuum. The decree's preamble should spell out the government (Ministry of Industry and Trade)'s policy objectives and principles, and the different authorities' roles, and specifically GAID's role as enabler of private sector investment (and whether this refers to industrial zone developers/operators or tenant manufacturing operations). The decree is confusing in that it states on the one hand that GAID will be mandated with implementing the industrial policies set by the Ministry of Industry and Trade, but on the other hand grants GAID such powers as to prepare industrial development plans, set general policies for industrial zone development, and determine the industrial activities and products and related services in industrial zones, which in effect amount to industrial policies. The preferable scenario is for the Ministry (or GAID if it is clearly delegated the power) to set the Government's industrial development policy and, once this has been approved by the Cabinet, GAID would have full responsibility for its implementation, with clear instructions to

concerned ministries and governorates to cooperate and provide assistance needed to carry out its objectives.

50. *Unclearly defined/coordinated land use planning framework:* The GAID decree is unclear as to how the overall land use planning process will function. When GAID recommends, on its own or acting on a request by another party (e.g. governorate), the designation of an area as an industrial zone, the planning process as stated in the decree would take place in collaboration with the NCPSLU. The problem is that the newly-established NCPSLU is not (at least yet) well equipped to undertake such role. Indeed, NCPSLU does not have the necessary capacity or tools to determine whether a given site is better used for industry or, say, tourism, nor to coordinate with existing legally-approved master plans. As mentioned earlier, until today, it is GOPP that is the national agency that undertakes spatial/land use planning activities, whether directly or in coordination with local authorities as is increasingly the case. To resolve the overlap created by the 2001 decree that created NCPSLU requires either merging GOPP and NCPSLU or clarifying the division of responsibilities, such that GOPP would continue its land use planning mandate and NCPSLU would become the national clearinghouse for public land allocation. Finally, the decree creating NCPSLU gave it broad powers that may cause conflicts with other entities' mandate (with GAFI over which entity provides investor services, with GOPP over planning powers, and with Governorates over land use planning and allocation for land in the urban fringe).

51. *Ambiguously defined powers and “enabling” mandate, with undefined instruments and guidelines and with potential for unduly burdensome regulation and conflict of interest:* The decree is vague regarding the definition of investors that GAID is meant to enable. Whether these investors are industrial zone developers/operators or end-users of industrial land (industrial/ manufacturing tenants) would entail different requirements and have different implications. If the decree refers to the zone developers/operators, setting the terms of the use of public land for such purposes would be appropriate, but intervening to set the rate charged to tenants might imply undue interference and could act as a deterrent to potential developers/operators from taking on such concessions. The decree, in article 2(4), also creates a potential conflict of interest where GAID could be both a regulator of private sector industrial zone developers/operators and at the same time a potential zone developer/operator or participant in such an investment. This dual function, along with the numerous responsibilities assigned to GAID including “one-stop-shop” type of services (licenses, approvals, marketing, etc), could potentially deter prospective developers by creating market distortions and unfair competition (i.e. better services in the zones where GAID is an operator/investor than those with private sector investors), and ultimately lead to poor service to end-users.

52. Several powers given to GAID are provided without much detail to guide it in exercising its authority. For instance, the decree does not provide criteria to guide the designation of certain sites as industrial zones. The decree also makes no suggestions as to how to determine the price of land for industrial zone developers, what forms of public land disposition (sale, lease, etc) and the terms and conditions (duration of leases, etc). The decree also stipulates that the Board can delegate some of its (important) competences to the Chairperson, but does not precise which functions could be delegated. All these issues make it difficult to assess whether the authority's exercise of its powers has been appropriate or not, in addition to potentially creating rent-seeking opportunities by implementing officials. It is understood from officials met that these issues will be dealt with in the Law itself and/or Executive Regulations.

53. Similarly, the decree grants GAID the power to determine the “activities and industrial products and related services in the industrial zones,” without specifying criteria circumscribing such sweeping mandate. It could be implied that this is for environmental considerations (hence the reference to the Egyptian Environmental Affairs Agency) and possibly to account for local priorities

and needs (hence the reference to the Governorates). Yet, not specifying the limitations under which such power would be exercised might act as a deterrent to foreign investors, since it would seem to grant GAID too much discretionary power to intervene without specifying clear criteria for its exercise or the rationale for excluding a particular tenant from a given industrial zone. While this may be entirely justified in certain cases (e.g. heavy industrial pollutants), the decree does not make any attempt to restrict or limit such powers.

54. Finally, it is unclear how the proposed “Industrial Land Fund”—clearly a very important instrument at the disposal of GAID to support the construction, modernization and provision of infrastructure for industrial zones—will function, as the decree provides short and ambiguous references. One option is for it to act as a Land Bank that would make land available (through long-term leases) to developers/operators without risk capital involved, which would facilitate the establishment of privately-developed/operated industrial zones. Another option is that GAID and the Land Fund would be responsible for laying down the policies and harmonize the rules and modalities through which “governorates and other entities that provide infrastructure and manage industrial estates” would “provide [land] to investors.” Finally, the decree states that the Fund will support the delivery and maintenance of infrastructure for industrial zones, but does not propose what revenues/proceeds would replenish the Fund.

2.2 Land Development Process

Obtaining a Building Permit

55. The application process for a building permit in an existing city starts with an application to the Planning/Engineering Department in the place of jurisdiction—the District (*Hayy*) office—to obtain planning authorization (the planned use is cross-checked against the zoning/land use plan) and receive a list of building regulations. The required permit is called *Shehadat Salaheyat al-Mawqe’emen al-Nahiya al-Takhtitiya*. In theory, this step is not needed in New Towns since the *Takhssiss* decision is based on an approved use and subsequent allocation of an appropriately sited parcel (the applicant will need nonetheless to obtain the building regulations from the New Urban Communities Authority). This step requires the owner to submit the following documents:

- Photocopy of the owner ID
- Delegation of authority from the owner for the person/entity dealing with the Authority
- Proof of ownership. This includes: (i) registered sale contract with REPD; (ii) court-sanctioned preliminary sale contract (through a procedure called *Saha wa Nafaz* that approves the transfer deed); (iii) a preliminary or *Orfy* contract with court-validated signatures (through a procedure called *Saha Tawq’ie* that is usually used for informal developments); (iv) *Takhssiss* letter from the New Urban Communities Authority in question or the competent authority; (v) other documents that are treated as proof of ownership such as: a) *kashf al mokalafat* in the applicant’s name; b) registered subdivision contract; and c) *kashf al mokalafat* with proof of inheritance. In the case of Sinai where some customary rights are recognized, a *Hujja Orfiyah* (informal contract) endorsed by administration-sanctioned Sheikhs is accepted as a proof of customary ownership/tenure towards the building permit application, provided that the site in question is not located in areas designated for the State’s public projects and does not contradict existing master plans for the area. The fact that all these documents are accepted to process building permits acts as a clear disincentive to title/deed registration with REPD.
- Three copies of a map with a layout of the land subdivision or construction site (scale 1:2,500)
- A statement of the purpose of the project.

56. By Law, the processing time for the planning authorization is 30 days from the date of receipt of the completed file, or if the information is readily available then the period is shortened to 3 weeks (it is unclear why such a long time would be needed). The fees to be paid are: (i) LE20 application fee; and (ii) LE0.4 in taxes.

57. Once the planning authorization and building regulations received, the applicant prepares the building permit application file and submits it to the Engineering Department in the place of jurisdiction—the New Urban Communities Authority or the District office in an existing city. The file to be submitted requires all of the following documents (this list is compiled from the Sheikh Zayed New Town, adjacent to 6th of October New Town—additional requirements may be needed in different areas):

- Stamped application form according to the form prepared by the New Urban Communities Authority or municipality
- Proof of ownership (as described above)
- Official report of receipt of the site
- Photocopy of the proof of payment of required administrative fees for file processing
- Photocopy of the Ministerial decree approving the planning, land subdivision and building regulations
- Timetable for project implementation endorsed by the Consulting Engineer (the title of Consulting Engineer requires 15 years experience including 8 years in the area of specialization and 5 years in a management position) and the owner
- Supervision certificate from a syndicated engineer approved by the Engineers Syndicate
- Original tax document of the Architect/designer for inspection and retaining a copy
- Original engineering register of the Architect/designer for inspection and retaining a copy including of the relevant page for the concerned project
- Photocopy of the owner ID
- Delegation of authority from the owner for the person/entity dealing with the Authority
- Photocopy of the certificate of the Consulting Engineer endorsed by the Syndicate
- Pledge by the owner to put a visible road sign in the site at the start of project construction including the owner, site and permit information
- Pledge by the owner to cover social security payments for workers in the project
 - Original documents of insurance or endorsement of the Consulting Engineer according to the Ministerial decree (where applicable)
- Three sets of the following drawings endorsed by the designing architect including his/her syndication and registry number:
 - Site or project layout approved by the New Urban Communities Authority (scale 1:1,000 or 1:2,000)
 - Architectural construction drawings (scale 1:50)
 - Structural engineering drawings (scale 1:50)
 - Sanitary engineering/plumbing drawings (scale 1:50)
 - Electrical engineering/plumbing drawings (scale 1:50)
 - Detailed planning for infrastructure networks (roads, water and sanitary drainage) at an appropriate scale
- Three files of the following endorsed on all pages:
 - Consultancy report for soil tests endorsed by the Syndicate
 - Calculation note for the building structure
 - Report by the Consulting Engineer/designer that the building's structure and foundations are suitable for the design loads and that the safety factor for natural

disaster mitigation reflects design considerations and the Egyptian building code regulations, endorsed by the Syndicate.

- Insurance policy of 0.5% of the value of the construction work to be permitted if in excess of LE150,000 (in the case of new construction) or LE75,000 (in the case of vertical expansion or modification).

58. By Law, the permit application should be processed within 30 days from the date of submission of the completed application file. The problem, however, is that to put together such a complex file takes investors/individuals a long time, many visits to the competent authority, and a lengthy cycle of submission/revision/rejection/resubmission.

59. Once submitted, the file is inspected by the Engineering Department (especially the construction drawings) against the building regulations. Once cleared, the application file is forwarded to the different entities whose approval of the development would be needed (only the Authority in question seems to determine what entities' approval is needed according to the specifics of the place and the project in question). The list of approvals needed usually includes:

- MODMP (for security clearance, especially of use and height)
- Quarries department (to ensure the area is without mineral significance)
- Agriculture department (to ensure that the site is not on agricultural land that is protected against development)
- Antiquities department (to ensure the area is without archeological significance)
- Water Authority (to ensure that the area is serviced and that the network capacity can accommodate the new development)
- Electricity Authority (same reason as water)
- Sanitation Authority (same reason as water)
- Civil defense (to ensure compliance with fire regulations),

60. Once all approvals have been obtained (a process that may take more than a year), the application file is forwarded in the last step to the *Mujama'ah Al Ashriya* (a consortium of the large insurance companies) to be inspected by a private Consulting Engineer/Engineering Firm (with at least 25 years experience) designated by the *Mujama'ah* (from a list of experts pre-approved by the Minister of Housing) to ensure the structural integrity of the building. Once approved by the Consulting Engineer, the *Mujama'ah* issues to the applicant an insurance policy equal to 0.5% of the value of the construction work if in excess of LE150,000 (in the case of new construction) or LE75,000 (in the case of vertical expansion or modification). This last step of the process, introduced after the collapse of several structures in the 1992 earthquake, proved to be the major bottleneck of the whole process, as all applications converge to one location.

61. The fees involved in the issue of the building permit include: (i) LE5.5 for file processing; (ii) LE50 per floor up to a maximum of LE400 for permit issue; (iii) 1% of the value of construction to be permitted for the removal of debris, repair of damages, temporary unauthorized occupancy of streets and engineering stamp duties; (iv) LE 30 or LE60 if building in cities as stamp duty on the building permit according to Law 111 of 1980; (v) LE0.1 for revenue generation according to Law No.147 of 1984; and (vi) LE0.4 in other stamp duties and revenue generation fees. This is in addition to the insurance policy equivalent to 1% of the construction cost.

62. The construction cost figure used for assessing the building permit fees and the insurance policy is determined by a decree from the Minister of Housing, which is updated every few years. To date, these values are as follows: (i) in Cairo and Alexandria governorates and Giza City, LE 200 per

sqm for the permit and LE 100 per sqm for the insurance policy; and (ii) for the rest of Giza governorate and other governorates, LE 100 per sqm for the permit and LE 50 for the insurance policy.⁷ These values are well below average construction cost (around LE500-600 for reinforced concrete structures, brick infilling and average finish), which is intended as a subsidy to the general public. Even if the objective from selecting standard cost figures and applicable zones is to simplify administration and/or eliminate opportunities for discretion, the approach is prone to arbitrariness and its rationale is typically unclear. Another problem with this “one-size-fits-all” pricing approach is that it misallocates resources and is counter to the government’s stated policy objectives. In effect, the reliance on a universal subsidy favors better off groups who receive a significant subsidy and penalizes poorer people who are more likely to use low-cost building materials. A better idea is targeting the groups that the State may wish to subsidize/encourage such as investors, the poor, etc. It is also unclear why an arbitrarily determined below-market price should be used (and thus requiring periodic amending decrees) rather than simply using a discount rate to market values that would automatically adjust to inflation and price fluctuations.

63. Construction must start within one year from the date of issue of the building permit. If not, a fee is paid to renew the building permit. Prior to initiating digging and construction of foundations, the owner must notify the Engineering Department in the New Urban Communities Authority or City or District in question to inspect compliance with the *Tanzim* (building) line. Inspections take place during and at the end of construction to ensure compliance with the approved drawings. In case of non-compliance, the owner is liable for a fine equal to the cost of non-compliant works and the infractions are removed at his/her cost.

64. The advantage in the case of Free Zones, industrial zones, and SEZ is that these approvals need only to be obtained once for the entire area, which significantly reduces the processing time for individual applicants. This is yet another incentive that (implicitly or *ex post*) favors locating in “organized” areas such as FZs and industrial zones⁸. Some investors stated that they had to individually seek all the additional approvals even though the overall area/site should in theory have been cleared by the Authority or development company in charge of the site for all parcels. In reality, removal of building infractions rarely occurs as municipal building inspections typically entail the payment of “gifts” for inspectors to disregard minor and sometimes major building infractions.

65. The process is clearly complicated and cumbersome, and in reality it takes a lot of time from both individuals and investors to ensure that the building permit file is completed.

Obtaining Utility Connections

66. According to the ICA survey, the firms that applied to obtain utility hook-ups (water supply, electricity, and telephone) during the period 2003-2004 spent on average quite a long time to obtain the service, ranging from 3 to about 4 months (the same applies to the building permit)—See Table 2.7. The data also suggests that small and medium firms have a harder time to obtain such services than large enterprises, which again suggests that the system works better for larger investors (as with access to land).

⁷ These figures were provided by the Deputy Minister of MHUUC who remarked that the law’s official publication by the Amiriyah Press has mistaken construction cost figures that are used to assess the building permit fees (LE 400 and LE 200). In 2005, these figures were instated by Minister decree.

⁸ However, according to law no.13 of 2004 , the investor can now submit to GAFI’s one stop shop an application and GAFI should be in charge of issuing the final license within a period not to exceed (15) days from date of issuance of all licenses.

Table 2.5 Delay in Obtaining the Building Permit and Utility Connections by Firm Size

Firm Size	All sample	Small	Medium	Large
Delay in obtaining (in months):				
Telephone connection	3.8	4.7	1.4	3.8
Electrical connection	3.3	4.1	2.6	2.0
Water connection	3.3	5.1	0.2	0.3
Construction permit	3.1	3.4	3	2.4

Notes: Only covers firms that applied for these services in 2003-2004.

Small size firms have less than 50 employees; Medium size firms have between 50 and 150 employees; and Large size firms have over 150 employees

Source: World Bank, Investment Climate Survey of Egypt, 2004.

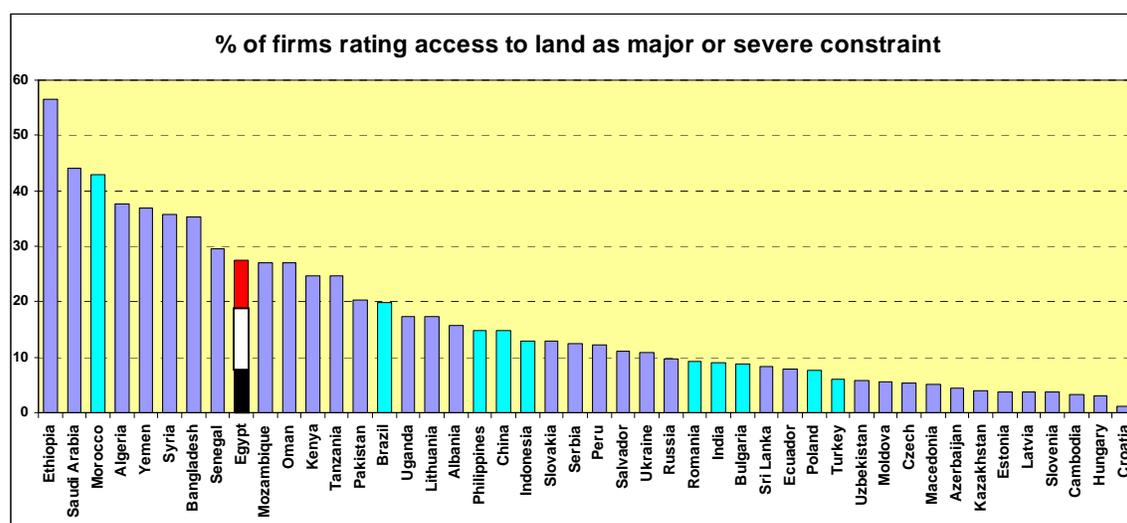
2.3 Conclusions and Recommendations

Conclusions

67. Overall, access to public land for industrial development is a major problem to investors. The institutional framework controlling the public land allocation process for industrial use (as well as for other sectors) is very complex with many special purpose authorities operating alongside ministries and local authorities in a complex matrix organized along geographic and sectoral lines. In the past, the favored policy approach to overcome the problems created by such complex institutional and legal frameworks has been to start afresh by establishing new problem-free enclaves (SEZ, public FZ, industrial zones in new urban communities), rather than attempting to address the existing problems of cities and their planning and administration challenges. No information is available to investors as to which authority is in charge of what public land. Even worse, each of the public land-controlling entities has its own procedures, regulations, and terms and conditions relating to land pricing and allocation, as well as different land and services availability and development regulations. What they share is their reliance on administrative allocation at pre-determined below-market prices coupled with very rigid regulations including a requirement to pay a price differential in case of transfer of property or even a minor change in the initial terms of contract. The regulation and control regimes are criticized by many as unrealistic, incoherent and very restrictive. The land use planning process is also criticized for being supply driven rather than demand driven. Pricing and incentives policies by location are often driven by the State's socio-spatial development objectives than by consideration of economic feasibility or market analysis. The land development process (i.e. obtaining the building permit and utility hook-ups) is cumbersome and time consuming, and in need of streamlining.

68. Among industrial firms surveyed in the ICA, 27.4% classified access to or the price of land as a major or severe constraint to doing business in Egypt. This places Egypt among the countries where ICA surveys were conducted where this constraint is the most severe (see Figure 2.2). While this percentage is lower than the extent to which firms complain of other constraints, it is highly significant because surveyed firms are already established and thus the problem must be even more acute for new investors. In effect, the share of the more recently established firms reporting land as a severe problem is higher, reaching close to 33% for "younger" firms (established since 2000). The results in Table 2.8 may also be interpreted as an increasingly worsening situation.

Figure 2.2 Access to land as a constraint to business development: international comparisons



Source: World Bank, *Investment Climate Surveys*, various years (Egypt 2005, data from 2004)

Table 2.6 Percent of firms rating access to land as a major or severe problem by year of establishment

Year of establishment	All sample	Since 1995	Since 1998	Since 1999	Since 2000
% of firms rating land as a major or severe obstacle	21.5%	24.6%	26.5%	31.9%	32.8%
Sample size (percent of sample)	977 (100%)	228 (23.3%)	117 (12.0%)	91 (9.3%)	58 (5.9%)

Source: ICA Survey

69. The land management system affects small and medium enterprises disproportionately more than large firms (See Table 2.9). The share of small and medium firms surveyed finding land to be a major or severe is almost 30%, compared to less than 16.7% for large firms, which either suggests that smaller firms lack the financial resources and political clout of larger firms to access land, and/or that SMEs are currently more likely than large firms to invest in new lines of production requiring new plots of land. In either case, special policies need to be devised to facilitate access to industrial land for small and medium enterprises.

Table 2.7 Percent of firms rating access to land as a major or severe problem by firm size

Firm size	All sample	Small	Medium	Large
% of firms rating land as a major or severe obstacle	21.5%	22%	24%	14%
Sample size (percent of sample)	977 (100%)	677 (69.3%)	168 (16.6%)	132 (14.1%)

Note: Small size firms are defined as having less than 50 employees; Medium size firms having between 50 and 150 employees; and Large size firms having over 150 employees

Source: ICA Survey

70. The recently created GAID is mandated with consolidating the fragmented industrial estates regulatory regime and control over industrial land, overseeing the development and management of industrial estates (including ensuring that the land use planning and land supply respond to investors' demand) and designing adequate incentive mechanisms to attract industrial investment through their

Industrial Land Fund. Given its very recent creation and the need to further develop the regulatory framework for industrial development (the decree establishing GAID is very brief and the executive regulations have not yet been developed at the time of writing), it remains to be seen whether GAID will successfully address the existing issues facing investors seeking to access industrial land.

Recommendations

71. One of the priority measures that the Government, acting through GAID, needs to implement in order to improve investors' access to public land for industrial purposes is to unbundle spatial or locating incentives for investment from the State's social and regional development objectives and put in place a demand-driven approach for enabling access to land, in which location selection and investment incentives are the result of market analysis and investor demand. Allowing the market to dictate which land is most suitable for what use rather than through an administrative decision (especially when the objectives of economic and social development appear to be mutually exclusive) is a critical measure that applies to all investment sectors.

72. An even more important issue is for the Government to formulate an integrated land policy framework, which would comprise public land management policies aimed at promoting investment while at the same time ensuring a sustainable development process, clear transparent mechanisms for disposing of and pricing public land, institutionalized channels of coordination between the different public agencies with control over or a stake in land allocation and development, and effective land administration institutions and procedures (especially in terms of land registration and dispute resolution). In addition to the importance of improving the overall (public) land management system in Egypt, the following recommendations pertain specifically to industrial land:

73. Improving access to public land for industrial development requires the following measures:

- Switch from a supply-driven to a demand-driven policy including: (i) selecting locations based on demand and market analysis, which requires revisiting the current incentive system whose bias towards remote underdeveloped areas comes at the expense of competitiveness; and (ii) ensuring flexibility in planning industrial zones as opposed to the current system of pre-existing land surfaces and infrastructure services so as to better accommodate investors' needs for location and more importantly for future expansion.
- Improve land pricing policies to ensure at minimum the recovery of infrastructure delivery cost, and rationalize subsidies by eliminating the universal application of below-market prices for serviced land, restricting subsidies to well-defined and effectively targeted groups, and relating subsidies to desired and measurable objectives (e.g. number of jobs created) rather than to bricks and mortars.
- Devise policies targeting SMEs' locational preferences (current locations in New Towns and remote areas discriminate against smaller firms that need more immediate access to markets and which cannot afford the high transportation cost)
- Eliminate the need for clearances from the different government entities (MODMP, quarries, Antiquities, etc) of the applications for *Takhssiss* by preparing in advance a set of maps delineating areas that have been cleared from encumbrances and a set of building regulations that grants automatic eligibility for clearance
- Prepare a public land information system and investor publications with the different locating options by investment sector, including the authorities in charge of land allocation, the forms of allocation (sale, lease, *takhssiss*), the additional approvals that may be requested, the list of prices, terms and conditions, available infrastructure services in each location, etc

74. Improving the development of public land for industrial use requires the following measures:

- Simplify and remove duplicate and unnecessary steps in the issuance of a building permit, including the temporary permit, reduced/harmonized inspections, etc
- Eliminate the need for clearances on the building permit application from the different government entities (MODMP, quarries, Antiquities, water, sanitation, electricity, etc) by preparing in advance a set of building regulations that grants automatic eligibility for clearance and a set of maps with available infrastructure networks and capacities to determine whether the parcel in question will have adequate services or not
- Publish detailed procedures for obtaining the building permit and the applicant (investor or individual)'s rights and responsibilities
- Revise the current 2% limit on development of agricultural lands, which seems to limit the ability of developing viable and cost-effective agro-industries in the instances where industrial and agricultural operations are integrated (i.e. 50 Feddans of agricultural land would be needed if an investor wishes to build a 4,200m² factory in compliance with the law). A survey of existing agro-industrial investors would provide insights as to what constitutes a reasonable ceiling on agricultural land development (a 5% limit was quoted)

Chapter 3. Access to and Development of Public Land for Tourism Investment

75. Tourism in Egypt is today one of the most important pillars for economic growth. According to recent statistics, the tourism industry has become the top foreign currency generating sector in the Egyptian economy and is considered by Government as the most promising industry in terms of job creation potential in the near future. The Ministry of Planning and Local Development notes that the hotels and restaurants sector contributed LE 10.4 billion in FY2003-2004 or 2.3% of the Gross Domestic Product (GDP) and has achieved the highest rate of growth of all sectors of the economy that for the second consecutive year. This is despite that the tourism sector has only received 2.5% of total investments in FY 2003-2004. The tourism sector also has a relatively well developed infrastructure in terms of hotel rooms and facilities.

3.1 Access to public land for tourism development

76. Given the sector's strong growth potential, the issue of access to (public) land for tourism development becomes a critical component for enabling growth, attracting investment and ensuring sustainability. This note focuses only on tourism development projects in coastal zones (resorts, hotels, etc). It does not cover other types of tourism such as archeological or cultural heritage-related, which has a very different context since most archeological sites are clustered along the Nile Valley and fall under the administration of the Ministry of Culture's Supreme Council of Antiquities.

77. As with other sectors, tourism development is characterized by multiple government authorities involved in the public land allocation and development process in what amounts to a complex institutional landscape characterized by overlapping authority and lack of coordination. In general, the institutional and legal framework governing access to and development of public land for tourism development in coastal areas is subdivided in two categories according to the location vis-à-vis the *zimam*:

- *Outside the zimam or cordon of coastal cities*, the process is mainly managed by the Ministry of Tourism's Tourism Development Authority (TDA). However, other central governmental entities such as NUCA and some holding companies affiliated to the Ministry of Investment play a role, especially in the northwestern coastal area of the Mediterranean Sea; and
- *Inside the zimam or cordon of coastal cities*, the process is mainly managed by the coastal governorates (Red Sea, North Sinai, South Sinai, Matrouh, and Alexandria) in coordination with other central government entities, especially the Ministry of Defense and Military Production (MODMP).

Institutional and Regulatory Framework Responsible for Tourism Development on Public Land outside Zimam

78. Today, tourism development in areas outside of the *zimam* is mainly managed by the TDA. However, prior to the creation of TDA in 1991, NUCA was responsible for tourism development. NUCA's efforts were primarily concentrated along the northeastern of the Mediterranean Sea coast, where most tourism development activities took place during the 1980s and in the early 1990s. The process was criticized by many observers as lacking an integrated long-term development vision and has resulted in an over-development of a coastal stretch of about 50-60km west of Alexandria city.

The prevailing development pattern comprised of allocations of public land along the coast to cooperatives organized primarily along professional affiliations, which built for their members villas and housing units that were only used in the summer season. Very few tourism facilities or hotels were built, and the entire coastal development area was largely deserted for the remaining months of the year as a result of a lack of a comprehensive vision for coastal zone development.

79. Prime Ministerial Decree no. 540 of 1980 transferred to NUCA control over the entire stretch along the northwestern Mediterranean Sea coast from km34 west of Alexandria to the western borders of Egypt with Libya, spanning from the sea line to the north up to Contour Line no.200 to the south for the purpose of developing a new urban community. The public land area covered amounts to millions of Feddans. The choice of a contour line (indicating 200m elevation above sea level) as a boundary to delimit NUCA's jurisdiction was rather absurd and caused numerous conflicts. Contour Line no.200 proved to be discontinuous (reflected peaks rather than a continuous sloping terrain) and thus Alexandria and Matrouh Governorates accused NUCA of extending its control over a significant amount of public land beyond the coastal stretch. The Prime Ministerial Decree was not overruled but eventually control over the undeveloped land along the northwestern coast up to a depth of 5km was subsequently reassigned by Presidential Decree from NUCA to TDA, which was empowered to develop and implement an integrated strategy for sustainable tourism development. This has created a confusing and overlapping situation in terms of control over public land outside of the zimam along the northwestern coast, which depending on location falls under the jurisdiction of TDA, NUCA and in some instances the Governorates of Alexandria and Matrouh (indeed, according to the head of the Alexandria Amlak, Alexandria Governorate controls some public land outside of the zimam as per the survey maps of the Egyptian Survey Authority, although it is unclear what was the legal basis for it).

80. Access to public land for tourism development suffers from the same issues and challenges as with the industrial manufacturing and real estate development sectors. No market-based mechanisms such as auctions are used to allocate public land. Instead, TDA and its predecessor NUCA rely on administrative pricing using the same criteria and conditions applied for new urban communities. During the 1980s, public land was allocated at a nominal price of LE0.5 per square meter (sqm). Today, the price, at LE 45 per sqm, is still significantly below market, which represents a missed opportunity for the State to generate revenues and ensure optimal allocation of public land to those who value it the most (as opposed to the widespread speculation).

81. Public land along the northwestern coast as well as in parts of Sinai is not free of problems since it is subject to customary ownership by the area's traditional occupants—the Bedouins. And while the Law does not recognize customary tenure nor does the Civil Code recognize prescription rights over State-owned land, yet the State has not in the past challenged the Bedouins who “sell” their right to land that they occupy or control provided that the purchasers subsequently legalize their tenure with the State. This means that the investors pay for the land twice to both the customary and “official” owner. As such, not only did most cooperatives and developers along the northwestern coast have to pay for the land twice, but they also had to deal with two different entities, each with a different set of rules and procedures. Future development along the northwestern coast, especially in Matrouh Governorate where foreign investment in coastal resorts is starting to take place, will require resolving this issue through a negotiated arrangement between TDA and the Bedouin community that eliminates the need for investors to first acquire land from the customary owners and then deal with the State as squatters seeking regularization. Equally important is the legalization of inland land and property north of the Cairo-Alexandria highway, which is held by investors who acquired land from the Bedouins since the 1970s but have not been able to legalize their status with the Alexandria State Asset Protection Agency. Such long-unresolved situations reflect negatively on the property rights regime and the investment climate as a whole, and could easily deter foreign investors.

82. In developing parts of the northwestern coast for tourism purposes, NUCA adopted the same operational procedures and development conditions and restrictions as in new urban communities and often as a result found itself in conflict with investors who violate such regulations after being given control over public land. Many such instances could be attributed to NUCA's restrictive regulations. However, in other cases, developers/investors sought to deviate significantly from the pre-determined development regulations and there are instance in which NUCA has exercised much discretion in this regard, although it is unclear under what prerogatives (See Box 3.1). Overall, it is important for NUCA and TDA to institute systematic and transparent guidelines and development regulations, but these need some flexibility to allow for a greater role for the market to determine land use and development.

Box 3.1: Porto Marina Tourism Development Project on the North Western Coast

Marina is Egypt's most successful resort development project along the Mediterranean Coast, providing distinctive residences for Egyptian families seeking to spend their summer by the beach. It was planned and implemented by NUCA since the 1980s, based on a master plan and detailed plans. NUCA also set planning and building regulations for the entire development, including a maximum land coverage ratio of 20%, maximum height (2 floors for villas and 4 floors for residential units), and an average residential density along the lines of planning standards for new urban communities.

To diversify the pattern of development and incorporate new land uses in the resort such as hotels and other recreational facilities that could attract new and different tourism activities (i.e., yachts' marina), NUCA designated a 70,000 sqm site to be disposed of for hotels and related facilities and services and prepared a public tender for the land.

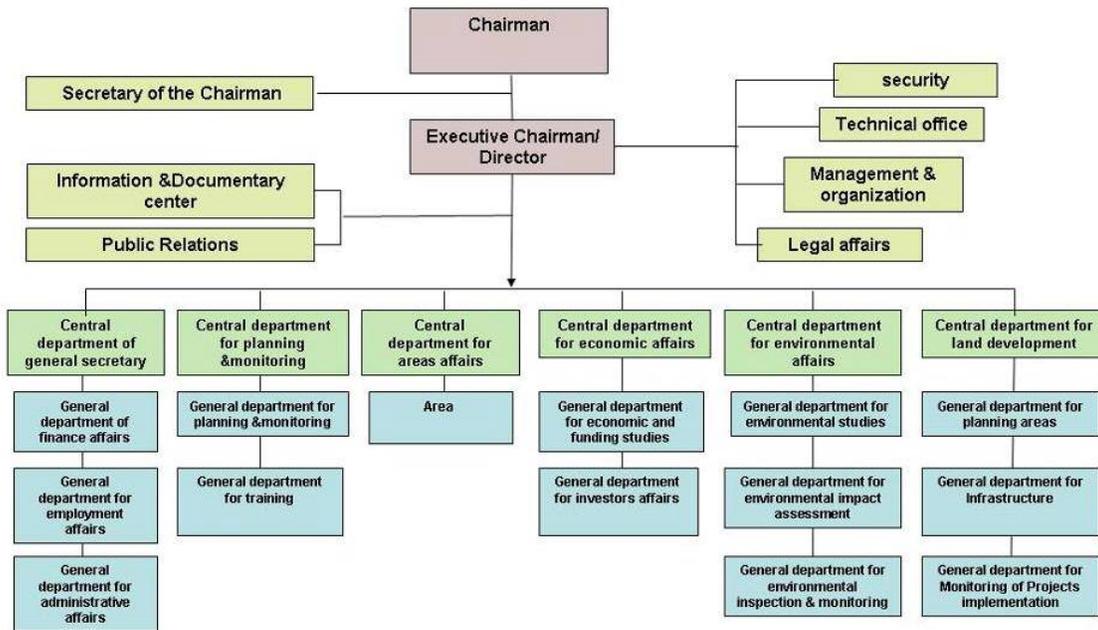
The investment company that won the bid proposed a two-staged development including several hotels, restaurants, shopping arcades and recreational services. The investor requested an exemption from the height restriction to enable the hotel complex to rise to 12 floors, which it argued was needed to make the most of the land and promote a new type of development that aims to contribute to vibrant year-round tourism activities. NUCA approved the scheme. Upon receiving approval, the investment company developed successfully the first phase of the project, which was completed in the summer of 2005.

However, due to high demand for luxury real estate in the area, the investment company decided to change the land use planned for the second phase from a hotel into high-end residential/real estate development and tried to make use of its exceptional 12-floor height privilege to sell the maximum number of units. NUCA warned the investment company of possible cancellation of the contract due to the change in land use, which would have resulted in a built up area of 39% instead of the 20% norm. After much negotiation with NUCA, the investment company offered to pay an additional LE 100 million over 4 years for the land to keep the height permission. NUCA refused the offer and at the same time has not (yet) cancelled the contract. The situation remains unresolved.

83. In 1991, Presidential Decree No. 374 established the Tourism Development Authority (TDA) as an economic authority with juridical personality, affiliated to the Ministry of Tourism. TDA's broad mandate is to develop tourism areas within the framework of national policies and plans and to that end, it has been empowered to make all necessary decisions and procedures. TDA's mandate involves the following responsibilities (See Figure 3.1 for TDA organizational chart):

- Setting tourism area development plans and supervising implementation;
- Preparing or reviewing and evaluating the required programs, studies and projects for tourism area development and defining implementation priorities;
- Implementing infrastructure projects within tourism areas;
- Recovering the cost of infrastructure and service delivery to beneficiaries;
- Borrowing from and debt repayment to foreign and local sources; and
- Managing and disposing of public (desert) land allocated for tourism development.

Figure 3.1 Tourism Development Authority Organization Structure

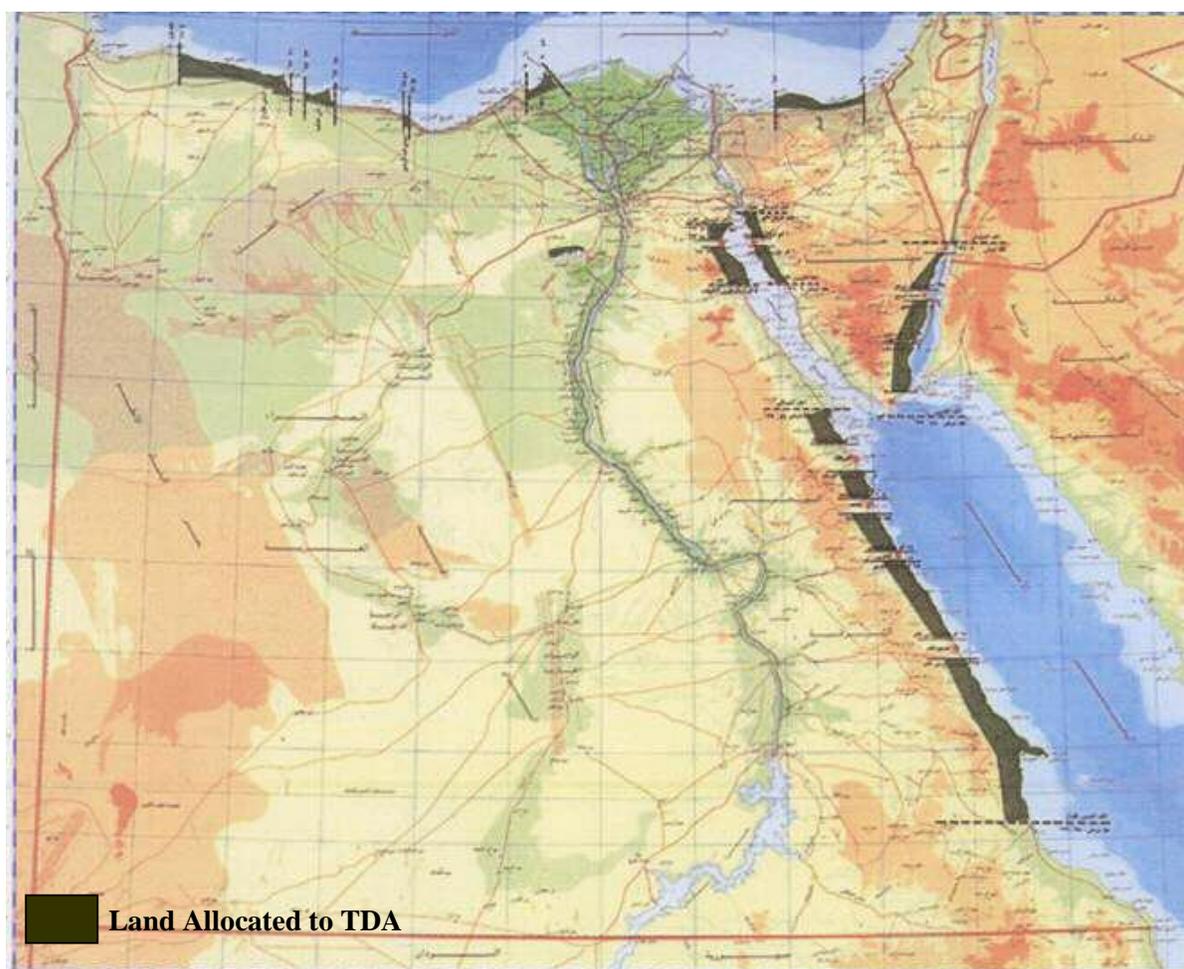


84. The presidential decree empowers TDA's Board of Directors to set and implement general policies, procedures and rules organizing the management and disposition of land and real estate owned by TDA, and take all necessary decisions. Specifically, the Board is responsible for:

- Approving TDA plans and programs in line with the overall national development plan;
- Proposing relevant legislation and regulations to promote tourism development;
- Proposing regulations on recovering the cost of infrastructure and services delivered by TDA in tourism areas. A Ministerial decree is required to enact the proposed regulations and rules after cabinet approval;
- Proposing regulations governing the management and disposition of land and real estate allocated to TDA. A Ministerial decree is required to enact the proposed regulations and rules after cabinet approval;
- Setting building regulations and issuing construction permits within tourism areas;
- Setting the internal technical, administrative and operational procedures to efficiently run the TDA; and
- Approving any internal or external borrowing and agreements with other agencies.

85. Presidential decree No. 445 in 1992 allocated to TDA most undeveloped public desert land along the Mediterranean Sea, Red Sea and Aqaba Gulf, extending to a depth of 5 km from the coast (See Figure 3.2). These lands were formerly controlled by the Governorates, NUCA and other government agencies. Due to the tourism industry's growing importance in Egypt's economy, TDA was mandated to formulate an integrated tourism development strategy and was given to that end a broad influence over Egypt's coastal areas.

Figure 3.2. Coastal Areas (with 5 km. Depth) allocated to TDA for Tourism Development



86. Since its establishment in 1991, TDA has managed to facilitate the development process of tourism in Egypt, creating a number of important tourist centers (Taba, Noweiba, Dahab, Sharm El-Sheikh, Sahl Hashish, Makadi Gulf, Abu Soma, and Al Gouna among other places on the Aqaba Gulf and the Red Sea) and enabling the development of about two-thirds of the total hotel room capacity in Egypt (from 52,000 rooms in 1992 to 144,000 rooms in 2005) with at least 55,000 additional rooms under construction. Over the past three years alone, TDA has facilitated the development of 46,000 new rooms. For this purpose, 13 deconcentrated branches⁹ were set up with a mandate of facilitating the land allocation process, assisting investors in site selection, and monitoring implementation against agreed timetables. Over the coming 15 years, TDA has plans for 200,000 new hotel rooms, reflecting the emphasis placed on tourism as the fastest growing economic sector. Most of this capacity expansion is planned to take place in the Sinai Peninsula and the Red Sea Coast in the form of large tourism development centers on coastal land.

87. Since its establishment, TDA's responsibility for overseeing the overall tourism development process was diminished in two instances in which parts other bodies assumed parts of its mandate. In 1996, a newly established Higher Committee of Tourism Development headed by the Prime Minister

⁹ The 13 branch offices are as follows: two offices in both Hurghada and Sharm El-Sheikh and one office in Ain EL-Sokhna, Quseir, Marsa Alam, Shalatién, Aqaba Gulf, Noweibaa, Taba, Matrouh and Ras Sedr. The branches sent regular monitoring reports to the Cairo headquarters.

took charge of the process. There was also a period in which public land allocation was overseen by the Higher Committee of Production headed by the Deputy Prime Minister (Minister of Agriculture and Land Reclamation at the time). In addition, despite TDA's significant mandate over tourism area development and broad control over public land allocation and development, which was intended to facilitate the development process, there still is a complex institutional landscape complicating access to land for tourism development purposes. Such institutional overlaps and lack of coordination are largely responsible for delays in TDA's allocation of 195 million sqm of land, equivalent to 33% of the land area under its control (a total of 578 million sqm in the Red Sea, Suez Gulf, and Aqaba Gulf areas).

88. Despite that it does not challenge TDA's control over public land, the Ministry of Defense and Military Production (MOMDP) plays an indirect control role in the process, as investors must obtain its clearance to proceed with the development. What is interesting is that the 578 million sqm of land controlled by TDA has been cleared in advance by MOMDP. Yet, it is TDA's own Board of Directors, in the first board meeting, that self-imposed on the authority the additional procedure of requiring investors to acquire the MOMDP's prior approval for all development projects, even though there was no legal basis for such a procedure (the presidential decree establishing TDA vetted it with all powers over land allocation and development clearances, without the need to coordinate with any other government entities). The reason quoted by the TDA Board was security concerns. This extra bureaucratic step has had a negative impact on tourism land development in several instances and has resulted in significant delays. Subsequently, TDA attempted to address this issue through signing a protocol with the MOMDP's Operations Unit (*Haiet El-Amaliat*), but things have not improved.

89. Institutional overlaps do not end with the MOMDP. These also include the Governorates (especially Hurgada, South Sinai and Matrouh), which rightly find themselves deprived of control over their prime coastal lands in favor of TDA, and thus of a potential and major source of local revenues. It is therefore not surprising if local authorities do not play a proactive role in facilitating a development process from which they derive no financial benefits and yet whose service delivery cost they participate in covering, due to a lack of incentives. A few investors reported that Governorates were in reality slowing the development process. One quoted case was the Red Sea Governorate to whom the MOMDP delegated its authority of issuing the security clearance for tourism development projects. This power over the development process reportedly gives the Governorate a window of opportunity to negotiate with investors a pay back deal for local development.

90. Other entities that exercise a direct or indirect influence over the tourism development process include the Egyptian Environmental Affairs Authority (EEAA), the Ministry of Irrigation and Water Resources' General Authority of Coastal Protection (GACP), and GAFI. First of all, tensions exist between TDA's development role and EEAA's mandate of environmental and natural resources conservation. Several conflicts pitted both entities in coastal areas characterized by rich natural flora and fauna. From the viewpoint of TDA and some investors, EEAA's stringent environmental and development regulations at times prohibit what is deemed as technically and financially viable development. The Environmental Impact Assessment (EIA) study that EEAA requires from each investor—a requirement that TDA upholds and which the Red Sea Governorate also imposes as part of its required clearance for tourism project development—is perceived as overly stringent by TDA, which in effect quotes several investors (See Box 3.2). TDA views that EEAA's rigid environmental standards need to be relaxed in the aim of promoting tourism development. To alleviate such tension (natural between the pro and anti development camps), the Government needs to formulate policies for sustainable development that strike a balance between tourism development and environmental preservation (to protect the same resources that draw tourists).

Box 3.2 Regulations and Conditions set by EEAA for Environmental Protection

Since the majority of tourism development projects have taken place in the Red Sea, Suez Gulf and Aqaba Gulf, which have unique natural resources, EEAA has established strict environmental criteria for investments. As such, and in coordination with EEAA, TDA requires as a prerequisite for approval of tourism development projects that investors prepare and submit environmental studies including:

- Project description incorporating the relevant legal and administrative framework;
- Description of affected marine and land-based environmental resources within the project area, including a detailed count and description of affected coral reef sites and detailed cross-sections' analysis (at least one cross-section for each 250m of the shoreline);
- Socio-economic analysis of the project area;
- Environmental assessment of the project's impact during its construction and implementation;
- Evaluation of mitigation measures to be implemented to avoid projects' negative environmental impact and a monitoring and evaluation program.

Environmental mitigation measures are legally binding for investors throughout implementation and a rigid enforcement regime is in place.

91. The Ministry of Irrigation and Water Resources' General Authority for Coastal Protection (GACP) complains that TDA has side-stepped it throughout its 15-year existence and requires to be notified prior to any tourism development project. Finally, TDA officials are unclear about GAFI's function as a one-stop-shop for investors and whether this recently expanded mandate would amount to an additional bureaucratic step (given that investors dealt solely with TDA in the past) rather than the intended facilitation and simplification in the land allocation process. TDA officials argue that the process is already streamlined and that the in-house technical expertise and 15 years experience in tourism development enables them to produce fast-track informed decisions. With GAFI assuming the role of entry and reference point for investors, and given GAFI's lack of sectoral knowledge, TDA officials fear that this would create an additional bottleneck and cause delays as investor queries are fielded back and forth with TDA. Other view GAFI's role across investment sectors as critical to ensure coordination among agencies and a standard of quality service to investors, while reducing opportunities of rent-seeking.

Box 3.3 Losses to investors as a result of lack of coordination between TDA and EEAA

Three years after securing TDA's preliminary approval for land allocation in the *Shouni* and *Morein* center in *Marsa Alam* and while proceeding with the required legal and financial conditions, some 12 investment companies suffered substantial losses due to their inability to develop the planned tourism projects as a result of lack of coordination between TDA and EEAA. The area of contention was a newly created natural protected beach area set at 200 meters from the coastline. This meant that these investors were prohibited from building on a substantial part of the lands allocated to them by TDA as these became protected. When this occurred, TDA negotiated with the Red Sea Governorate to shift back a planned regional road in its master plan to compensate the investment companies with an equivalent land area for development without violating the EEAA regulations. However, the cost of realigning the road proved to be prohibitive, and no solution could be found to the problem. TDA and the Governorate had to update their master plans *ex post* to comply with the EEAA regulations. The lack of coordination and communication between TDA and EEAA has in effect caused substantial losses to these investors. Such situations cause a reputational risk to the institutions involved and negatively affect the investment climate, as potential investors would be wary of investing in such conditions.

Box 3.4 Tourism Development in Nabq- South Sinai

In 2003-2004, TDA allocated land in the inland area of Nabq center following the disposal of the seafront zone. The area, however, lacked an integrated development vision and master plan. In addition, TDA allocated the land at a much increased cost of US\$15 per sqm relative to the administratively set land price of US\$1 per sqm. Several investors filed official complaints and reported to the media on the incoherent application of the TDA rules and procedures in this area and the resulting losses that they incurred in Nabq and other locations. These companies reported that they submitted requests to acquire land in different locations from TDA to develop hotels, resorts, recreational and services facilities. Upon TDA's preliminary approval for land allocation, they continued processing the TDA requirements and were paying their price installments. Some investors were in fact allocated land. However, as a result of contradictory decisions between TDA and the Governorates, several projects were put on hold, in particular those in Nabq center. Investors reported that TDA cited that its Board of Directors decided to revisit all approvals for land allocation and land uses prior to July 2004 in Nabq center given that this represented the natural extension of the popular Sharm El-Sheikh city with the aim of preventing unplanned overdevelopment of the area. TDA is currently working with South Sinai Governorate on preparing the Nabq center master plan and has announced that it will take into account such complaints and, rather contradictorily, that once the plan is officially endorsed, previous cases of preliminary allocations will be reconsidered and only those in compliance with the plan would be implemented. The problem with such decisions, even if noteworthy, is that they tend to be applied retrospectively without offer of compensation to or appropriate communication with existing investors who have already incurred costs.

Box 3.5 Examples of Tourism Development Projects suffering from Interference between several governmental organizations

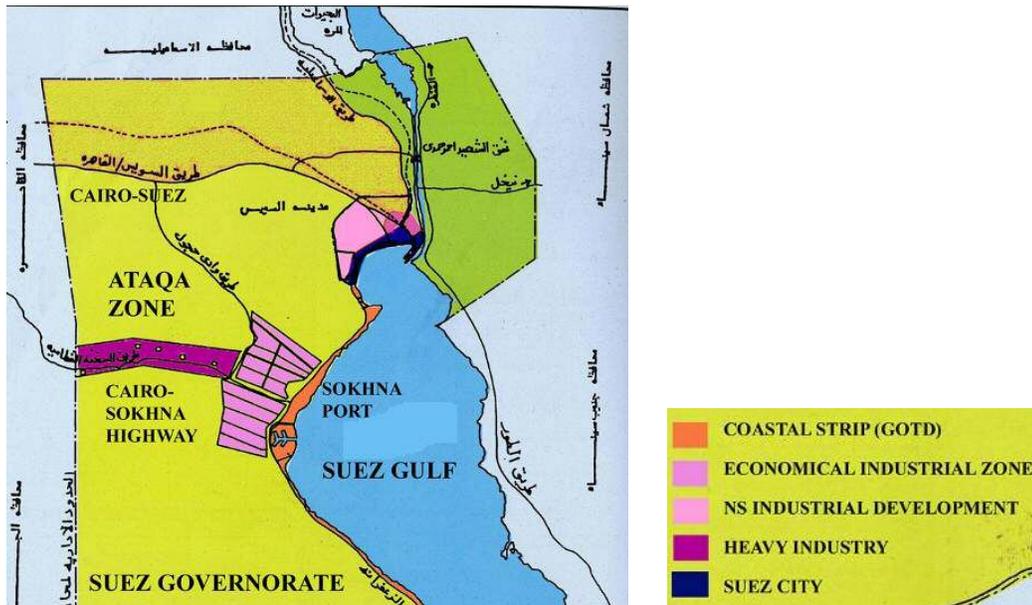
Tropi Group, a reputed tourism development company in Egypt, acquired two land parcels in Ain El-Sokhna in 2003, one located on the coast and the other in the back/inland area. Since the inland site was located on a hilly terrain, the Group needed to acquire the approval of the MODMP's Operations Department (called *Haeit El-Aamaliatt*) especially to get the building height restrictions imposed due to security reasons. The project is still being studied by *Haeit El-Aamaliatt*.

Another group, Oasis tourism development group which has developed a project south of Hurghada, acquired a land parcel south of Marsa Alam area in 2003. However, the company has still not been able to develop the project as the site was subsequently included in the Natural Preserve known as "*Wadi El-Gemal*" or Camels' Valley. This forced the company to put the project on hold until TDA agrees with EEAA on the development regulations governing project development.

92. An exceptionally complex institutional situation is found in the northwestern coast of the Suez Gulf. In addition to TDA and the overlap with such entities as MOMDP, EEAA and GACP, a number of other authorities control the land allocation and tourism development process (See Figure 3.3). These include:

- *Suez Governorate*: The General Master Plan for Suez City, prepared in 1996 and approved by Minister of Housing Decree No.15, led to assigning the responsibility for the development of Suez Bay and the Ras Al Adabiya areas to the Governorate;
- *Suez Canal Authority*, which controls land around the Canal and has special responsibilities;
- *Ministerial Committee for National Mega-Projects* and *North-West Suez Special Economic Zone Authority*, which oversee the development of the area's SEZ and industrial zone;
- *Ministry of Investment*, which oversees industrial investments and Al Sokhna Port; and
- *Ministry of Housing, Utilities and Urban Development*.

Figure 3.3 The Current Complex Institutional Landscape controlling land development within Northwestern Suez Gulf Area



Box 3.6 Tourism Development in North West of Suez Gulf- A battle of Shifting Priorities

Located 134 km from Cairo, the Suez Gulf West is an important location with potential for many economic activities including heavy industry, port development and tourism. Government’s policies for developing the area have been largely unclear and wavered between these competing and mutually exclusive development alternatives failing to achieve coherence. This was reflected in various decrees and land use plans prepared by different agencies without any coordination including: (i) tourism development strategy and plan prepared with the assistance of UNDP in 1978; (ii) environmental guidelines and long-term industrial development strategy for Suez City prepared with UNDP’s assistance in 1979; (iii) Presidential Decree No 445 of 1992 placing the Suez Gulf West Coast under TDA authority; (iv) Presidential Decree No 458 of 1993 on industrial development in the southern part of Suez city between Suez-Zaafarana coastal road and the Cairo-Suez road and placing it under the authority of the MHUUD’s North Gulf Coast Development Agency, in a move that contradicted the Decree No.445-1992; (v) Prime Ministerial decree No. 2 of 1996 and its 1998 amendment calling for the area along the Cairo-Ain Sokhna Road to be assigned for heavy industrial development under Suez Governorate authority. These decrees reflect Government’s oscillating priorities for the area’s development between heavy industry and tourism, a problem which was exacerbated by the failure to coordinate between relevant entities to formulate a coherent and sustainable long-term development strategy.

Heavy industry and the port consume a large part of the limited waterfront of the Suez area, leaving little land on the waterfront for tourism development, which was mainly assigned to the Ain Sokhna area. Located at 120 km from Cairo, the latter had the advantage of convenient location for daytrip coastal recreation and as such was to develop as a major center for domestic tourism (international tourism was mainly taking place in southern locations along the Red Sea). Much investment had taken place in the area by the mid-1990s. However, the competing land uses limited the area’s development and was responsible, along with the financial problems that affected the real estate sector in the late 1990s, for 45 projects at different stages of construction that remain unfinished to date. Relative to plan, only 22% of expected tourism development was achieved.

93. TDA’s inability to assert its authority over the land development process in this area and the resulting complex institutional landscape has had a detrimental impact on tourism development. In particular, the North-West Coast of Suez Gulf suffers from the absence of an integrated development plan, which would harmonize the existing tourism and industrial development and other competing land uses. The area not surprisingly suffers from significant water and air pollution, even though the

Environmental Impact Assessments (EIA) are a pre-condition to establish industrial and tourism development projects and despite the fact that EEAA periodically monitors water and air quality in different parts of the Red Sea Coast and publishes such indicators. Yet, lack of coordination between EEAA and the other authorities has led to severe environmental problems.

94. This complex institutional landscape, characterized by overlapping responsibilities, results in substantial delays in acquiring the necessary clearances and approvals for development projects and adds to investors' cost. Although TDA is by law vetted as the responsible body in charge of granting governmental approvals, in several cases investors have relied on personal connections to speed up the approvals, which can otherwise take more than a year (in which case, approvals were reportedly obtained in one week). Yet, this has opened the door for rent-seeking opportunities. One approach to resolving this problem is relying on GAFI's One-Stop-Shop (OSS) to obtain the necessary clearances on investors' behalf. Another way is to obtain a priori clearances with the required regulations along with the necessary regulations (activity type, etc).

Procedures, terms and conditions for Access to Public Land for Tourism Development outside of the Zimam

95. Beyond the institutional complexity which investors must confront, there are a series of rigid regulations which must be complied with in order to be eligible to invest in tourism development that were outlined in Prime Ministerial Decree No. 2908 of 1995. These regulations govern various aspects of land disposition by TDA including: the length of usufruct or lease contracts (which cannot exceed 25 years); demand that investors pay the full cost of infrastructure delivery for the project; and a requirement that the investor be an Egyptian shareholding company with capital no less than 50% of the total investment cost of the project. For companies incorporated under Investment Law No.8 of 1997 (tourism development is one of the eligible sectors for investment guarantees and incentives), no restrictions apply on nationality as in the Decree, which is incompatible with the aim of attracting investment in the sector.

96. The decree also classified tourism development projects in two typologies: (i) Integrated Tourism Development Projects (ITDP) that involve multiple projects/developments on a site area not less than 500,000 sqm not including the protected beach area; and (ii) Limited Tourism Development Projects (LTDP) that involve a single development on a site area that is less than 50,000 sqm not including the protected beach area. Aside from specifying such typologies, the decree did not provide for differentiated costing structure or regulations.

97. Land pricing as noted above is set through an administrative decision rather than on the basis of market-mechanisms or accounting for the opportunity cost of land. The Decree stipulates that a Higher Technical Committee be created within TDA with the responsibility for setting the sale/lease prices for land designated for tourism development, taking into account the following factors: (i) the nature of the land and suitability for tourism; (ii) site preparation costs; (iii) infrastructure costs, availability of required services and proximity to inhabited areas; (iv) expected tourism revenues and net profits; and (v) the price of comparable land within the same area. However, as with many other valuation committees in Egypt, such methodology remains ignored. In reality, given that investors are mandated to develop all needed infrastructure and services in both limited and integrated tourism projects, TDA's decision was to dispose of all land irrespective of location at the fixed price of US\$1 per sqm. This nominal price, the Board argues, is to promote tourism development and encourage new projects/investment.

98. Over the past decade, tourism development along Egypt's Red Sea Coast evolved from what critics viewed as a generally unplanned approach, which manifested itself in Hurghada, to growing

concerns about sustainability of development in the 1,000 km of coastline that TDA controls along the Red Sea, Gulf of Aqaba and Gulf of Suez. For instance, many of the offshore islands were duly proclaimed as natural reserves. Equally importantly, TDA has recently released national guidelines, Best Practices for Tourism Center Development along the Red Sea Coast, which provide best practice models of environmental planning and design to developers for adaption. TDA has also published comprehensive guides on solid waste management, landscaping, water and sanitation, energy efficiency and environmental management systems with practical examples for developers and design consultants.

99. Today, the tourism development strategy in the Red Sea region relies primarily on the private sector including in infrastructure delivery. The TDA provides guidance to private developers on design, construction and operation quality and standards. The TDA preferred development model is the so-called Tourism Center. With a land area ranging from 500,000 to several million sqm, such centers comprise clusters of tourism facilities within defined areas according to an approved master plan. Developers are responsible for all facilities and infrastructure and operate under contract with TDA. These centers comprise tourist accommodation and recreational and commercial facilities, as well as workers' housing and related services (such as schools and medical services). One or more investors are required to coordinate construction and operations according to a specified timetable.

100. In its early stages, TDA directly allocated public land to investors based on their preferences without an overall tourism development land use strategy. The result was an unplanned development in such places as Hurghada where tourism development was concentrated in isolated spots along the coastal line with little relationship to the city and without a coherent spatial strategy.

101. The allocation of land for tourism development was through sale or lease. In case of sale, the applicable terms were as follows: (i) investor pay 2% of the total land price at the time of the initial allocation decision; (ii) a site visit is conducted by the investor and the TDA technical team to finalize site selection; (iii) investor pay 20% of the total land price upon signature of the legal documents and transfer of land by TDA in addition to 5% of total cost in administrative expenses; and (iv) the remaining amount is paid in annual installments over a 7-year period following a 3-year grace period.

102. TDA witnessed a series of investors defaulting on their payments or unable to develop their projects which were allocated millions of sqm of prime land as well as a tendency for speculation by individuals seeking to resell their allocated land without undertaking any development. In response, TDA's Board has recently reformed tourism land development procedures and regulations. The objective was to address the problem of unserious investors/land speculators and add more flexibility for serious investors. The Board set a new set of stringent conditions to strengthen and better enforce the financial viability test by which investors prove that their finances are sound and that they are able to develop the proposed project. Since July 2004, the Board has also played a substantial role in the workflow management of the authority and has taken key decisions concerning land allocation and development. Some of the key reforms introduced by TDA's Board (which in reality needed to have been applied from the onset) include:

- New approvals require proof of investors' sound finances and track record;
- Investors are required to complete all financial, technical and legal requirements before the issue of the decree with the final allocation of land;
- Enforcement of cancellation of contract for all previous approvals granted to investors who either fail to prove their seriousness in land development or pay their financial commitments;
- Investors undertaking "reasonable" progress in project implementation (it is unclear how to objectively measure what is reasonable) and those faced with unforeseen circumstances

causing delays in development (applied mainly in the aftermath of terrorist attacks on tourism sites that have caused a significant drop in tourism business) would be allowed multiple grace periods; and

- Cancelled contracts would be revisited upon the investor's request if accompanied with revised financial statements and implementation timetable and the concerned Governor's approval.

103. In addition, TDA substituted the direct sale or lease of land with administrative allocation through Takhssiss, with ownership transferred only after full payment has been received. The idea behind this approach, adopted widely by NUCA, is to enhance TDA's flexibility to cancel allocation decrees in the cases where investors fail to develop their project as per plan. The rationale that many public land controlling authorities subscribe to that, in case of breach of contract terms, the Takhssiss allocation method would better facilitate contract cancellation than a lease is unclear today, but may have had its historical origin when the old tenant protection law was still in effect. Since its reliance on the Takhssiss approach, TDA has cancelled 71 projects and repossessed a total land area of 22.5 million sqm.

104. To its credit, TDA has showed flexibility and ability to deal with crises affecting the tourism sector. The Board postponed all payments related to projects in Taba and Noweibaa in the aftermath of the 2005 terrorist attacks in these places and authorized investment companies to issue/sell shares in Egyptian and/or other stock exchanges to generate needed financial resources.

105. The procedures for access to public land are largely similar for limited and integrated tourism development projects, with some minor differences noted accordingly. These are as follows:

Steps for preliminary site allocation

- ① The investor submits an application to TDA seeking approval for establishing a tourism development project and acquiring a suitable site;
- ② TDA examines the application and in case of approval, the investor is notified in writing within 15 days from the application date if a LTDP and 30 days if IDTP;
- ③ 15 days from the date of approval notification, the investor is required to pay a non-refundable administrative fee equivalent to 2% of the land value via a Bank-certified check payable to TDA. In return, the investor is provided with maps, specific site data, and basic information about the region and the project's location. In case either the time restriction or form of payment are not correctly met, the allocation is subject to cancellation; and
- ④ After receipt of preliminary approval and within a five-month period for LDTP or nine months for IDTP from the date of application, the following documents must be submitted, including: (i) a report of the project outlining all related components; (ii) a copy of the application submitted to GAFI establishing the company's authority to set-up an Egyptian shareholding company with total issued capital equivalent to at least 50% of the project's projected investment expenses—including ownership, management and implementation; (iii) preliminary project studies (including on planning, engineering, architectural, environmental, and infrastructure utilities), time-schedule for project implementation, and estimations of the project's investment expenses along with a statement of financing resources. In case of an integrated tourism development project, a payment (through a Bank-certified check) equivalent to 1/1000 of the total value of project expenses must also be included to cover the expenses of the preliminary review. Failure to present the aforementioned documents during the specified period is subject to a cancellation of the preliminary approval, unless a case is presented outlining the reasons calling for exception subject to review by TDA, upon which an extension may be granted.

Steps for final site allocation

- ① TDA must review and assess the preliminary studies and documents of the proposed project within 15 days of submission for LDTP and 30 days for IDTP, and in case of approval, the investor is given a letter confirming the final site allocation and/or a list of technical observations (if any) to be followed by letter confirming final allocation within a 15-day period for LDTP and 30 days for IDTP;
- ① Within 30 days of receipt of the letter confirming final allocation, the investor is required to submit the following documentation: (i) a copy of the governmental resolution authorizing the company's establishment as well as its main mandate and organizational structure; (ii) a copy of the company's commercial registry; and (iii) a certified Bank check amounting to 20% of the site's total cost in advance payment for securing the land;
- ① The remaining land cost is to be paid in 7 equal annual installments. The first installment is due after 3 years from the date of contract, with an annual simple 5% interest rate applied to the deferred part of the cost, estimated from the date of contract; and
- ① In case the investor does not submit the documents during the set period, the allocation is subject to cancellation unless there are pressing reasons that the Authority deems justifiable for an extension.

Steps for finalizing the contract

- ① After fulfilling the aforementioned items within the specified period, TDA transfers the land to the investor and prepares a contract for signature. A payment equivalent to 5% of the site's total value is required and includes contract related expenses such as the cadastral survey, cadastral map and document requirements related to acquiring security approval);
- ① The investor must present the maps and final construction documents including the proposed infrastructure services within 3 months for LDTP and 6 months for IDTP from date of the signed contract. In case of an integrated development project, the document requirements are more strict and include: (i) a layout plan with a scale (1:25000) showing the project site and its relation to the main road as well as the land uses of the surrounding area; (ii) various maps of the project in an appropriate scale in accordance to its size and very strict specifications, including—an analysis of the project plan and its relation to the natural characteristics of the site, such as principal and secondary roads, bus routes and pedestrian areas; as well as land uses and distribution of project items (structures, green areas and open areas); and (iii) an area report of the overall built environment and their ratio to the total land area; (iv) infrastructure network documents (technical report +drawings) showing the directions, capacities and the various preparations for: (a) roads/ sidewalks/parking areas; (b) water supply/irrigation/ fire; (c) sewerage and waste disposal; and (d) electricity and communication supply; (v) project implementation phases; and (vi) preliminary architectural drawings that show the horizontal and vertical sectors as well as the facades of all the buildings included in the project in an appropriate scale not less than 1:100.
- ① The investor must pay the expenses for reviewing the construction documents in a ratio equivalent to 2.5:1000 of total investment expenses, through a Bank-certified check payable in two installments: (i) an initial payment equivalent to 30% of the specified ratio upon document submission; and (ii) a second installment equivalent to 70% of the specified ratio one year from receipt of authorization. For IDTP, two payments of 50% each are required.
- ① TDA revises the documents submitted by the investor within a month from the date of submission. The investor is given the letter of approval and/or technical notes and modifications for improving the studies to be met within two months from their receipt. Upon completing the modifications and after acquiring the authorization for the final construction drawings, construction can begin with safety being the responsibility of the investor.

Ownership/Access Restrictions

106. Additional restrictions have been imposed by TDA on the terms of access to and disposition of public land by tourism investors, several of whom flagged these as issues of concern. These restrictions include:

- ① Transfer of the land title does not take place until 20% of the land price has been paid within an eight-month period (in reality this is only a 5-month timeframe given that there three months are needed to complete the preliminary and final allocation process including the investors' set up of a shareholding company for the project; and
- ② Prime Ministerial Decree No.2908 of 1995 (as amended by Prime Ministerial Decree no. 1026 of 2005) limits investors undertaking ITDP from subdividing and selling land until they have finished servicing at least 25% of the land and implemented a pilot project of at least 250 rooms with related facilities and services. In addition, TDA is to be paid US\$ 1.75 per sqm of land sold for hotel development, and US\$5 per sqm for land sold for other purposes such as housing, services, administrative or commercial. The investors acquiring land must commit to the same rules and regulations governing the original ITDP including TDA's prior approval of projects to be developed on the land. Investors must also negotiate additional clauses on the contract to avoid cancellation in case they fail to adhere to the original ITDP's timeline, and often have to pay penalties for delays.

Institutional and Regulatory Framework Responsible for Tourism Development on Public Land inside Zimam

107. Large amounts of public land have also been disposed of for tourism development purposes by local governments in coastal areas, specifically the Red Sea, North and South Sinai, Matrouh and Alexandria Governorates. And since the majority of tourism development has taken place along the Red Sea and in the Suez and Aqaba Gulfs, which are located within the territory of the Red Sea, South Sinai and Suez Governorates, public land within the zimam or Haiez of cities located within these Governorates has also been allocated for tourism development by the concerned Governorates. Cities within these Governorates comprised large amounts of undeveloped desert lands that were controlled by the Bedouins under customary tenure (the degree of "implicit" recognition and State tolerance of customary tenure differs from one place to the other). Many such areas continued to be undeveloped during the 1980's given the fact that any investor would have had first to pay the customary land owners (the Bedouins) for the right to use/develop the land prior to approaching the State to (re)acquire the land or regularize the tenure after the land development process has taken place.

108. Nonetheless, several tourism projects developed on such land without official documentation of land ownership, after investors had settled with the Bedouins. Faced with such development with a potential for revenue generation, local governments were encouraged starting in the late 1980's and the 1990's to claim their control over the public land and require that investors, who had acquired the land from the Bedouins, regularize their tenure. This resulted in a very large number of land disputes with investors/developers over the pricing of public land, which was subject to numerous Governor decrees and which ranged between the prevalent price at the time of squatting to administrative prices that ranged by Governorate. Other Governorates also imposed a usufruct payment as a percentage of the value of the land applicable during all or part of the period in which the investor has retained the land as a squatter. Not surprisingly, the requirement to pay for legalizing land ownership was not well received by many investors who had developed and operated their projects for years and had mostly provided their own infrastructure, except when the price was set at a nominal amount—the prevailing price of unserviced public land at the time of squatting.

109. Often the situation is even more complicated when local governments have enacted master plans that do not align with the existing informally-held investments. Several cases were noted of local government's refusal to officially recognize established investments. In some cases, investors had to give up large portions of the land that they had acquired through settlement with the Bedouins and which they have often developed because of a planned road or other land use specified in the master plan that is totally unrelated to development on the ground. Courts also tend to rule against the investors due to the lack of legal proof of land ownership (purchase from the customary holders usually lack any paperwork).

110. Dahab, a city located in Sinai 600km south east of Cairo and reputed as an alternative to Sharm El-Sheikh and Hurghada for those tourists seeking natural settings and low budget destination, has witnessed many such cases. Since 1982, Dahab has been attracting young Egyptian entrepreneurs who started small scale eco-friendly low budget tourist developments, after acquiring the land from the Bedouins. At the time, land acquisition was a contained process since Dahab merely had 1,025 residents in 1982. In over 20 years, Dahab's population has grown fivefold to 5,839 residents. The lack of coherent tourism strategy and city development/land use plans had its effect on tourism and land development in general. In the 1990's, land in Dahab cost between LE10-30 per sqm. Today, land by the waterfront reached LE600 for sqm and LE300 further inland. And today, as City Council is overseeing the preparation of a local development plan, the problems of urban planning and the many claims and disputes over rights to land have surfaced (See Box 3.7).

Box 3.7 Land disputes between investors, customary owners and city council in Dahab

Over the past decade, tourism has attracted many investors to Dahab, but the land conflicts have had a negative effect on city growth. Members of the Muzayna Bedouin tribe, which lived in Sinai for generations, has been in conflict with the Local Council over rights to land. Local authorities have torn down some of their houses and uprooted their trees.

Hamd is a member of the Muzayna Tribe and a former Local Councilor who also owns/manages a small tourist camp. Local Council acquired part of his and the neighbours' land in the increasingly attractive Mashraba area in 2005 which the result that he has "lost LE75,000 in damages; they've uprooted the palm trees, filled up the well; and have even taken the water pump." After it was surveyed in 1983, Hamd's land became eligible for land ownership regularization through adverse possession based on an undisputed and unconcealed *Hiyaza* for 15 years. This entitled Hamd and similar claimants to buy the land from the Government at a nominal price (that at the time of squatting). Hamd paid LE18 per sqm in 1983 and obtained official receipts. "We've lived there with our initial ownership documents since 1983 and have tried many times to register ownership, but we were always told us to wait for the urban planners." According to Hamd, investors traditionally compensated both Bedouin communities and the Government for land acquisition, but are now increasingly making deals with local authorities to clear the land they are interested in acquiring and sidestep the Bedouins. Hamd claims his land was sold in April 2004 to a real estate investment and development company.

The investor in question recognizes buying the land to build a tourism project, but argues that "the land was empty when we registered our ownership and obtained the building permit in August 2004. It wasn't until construction began that a Bedouin showed up claiming the land belonged to his grandfathers." To avoid legal or other complications, the investor paid LE50,000 to the Muzayna Sheikh in the presence of local officials. Upon resuming construction, Hamd came to squat on the land and started legal proceedings. The investor claims that Hamd's official payment receipt does not specify the location of his land, which makes the claim unsubstantiated. He adds "Had the Bedouins cooperated with us, they would have been working with us on everything from construction to security. I paid twice for the land twice and will pay no more." The investor added that if he failed to secure ownership rights, he would move his investments elsewhere, adding: "If we Egyptians are unable to invest in our country, what might foreigners face?" Finally, local authorities argue that all traditional occupants with valid claims over land have already been issued titles. They view the remaining group as squatters after rent-seeking opportunities.

Source: Al-Ahram Weekly- December 2005

111. The basic problem faced by many investors today in Dahab is that their land ownership is disputed. They bought the land from Bedouins under customary law and then faced bureaucratic obstacles preventing them from legalizing and registering their ownership, a problem compounded with sky-rocketing property value and ambitious tourism development plans. To manage city growth and control the informal development process, local government decided to no longer accept the preliminary customary contracts signed with the Bedouins as legal titles. According to the Governor, South Sinai Governorate has managed public lands since 1986 and as such, any land acquired after 1986 in Dahab should have been through the official Governorate channels, which means that claims of customary land acquisition from Bedouins after this date are considered null and void. When the Governorate announces the sale of public land, as it did in 1995-1997, existing investors/developers in the area in question pay to officially acquire their land and finally legalize their ownership.

112. Dealing with customary tenure has other complications. Several investors interviewed by *Al-Ahram Weekly* complained that the Bedouins have in some instances sold the same parcel of land to more than one person. Other issues include poorly defined plot measurements and metes and bounds, as well as lack of street addressing and parcel numbering. Another controversial issue is the palm trees that have been historically planted by local Bedouins and which if not mentioned explicitly in the contract as part of the transfer are often used in ex post property rights claims by the Bedouins. On the other hand, the Bedouins have also at many occasions seen their land and property taken by Local Councils' urban planning and development initiatives. In Al-'Asla, an area heavily populated by Bedouins and also the main touristic zone within Dahab, several cases of demolished property by Local Council and a refusal to issue Bedouins with buildings permits for construction or renovation have been reported. Finally, Dahab is by no means unique. Such problems surrounding customary tenure are found in the west coast of Alexandria, in Matrouh and other parts of Sinai.

3.2 Land Development Process

113. The land development process for tourism investment involves the following features:

- The investor commits to start land development according to a timetable specified in the contract with the TDA upon approval of construction drawings. The investor must also submit quarterly reports updating the TDA on overall progress;
- TDA follows-up and monitors implementation against the timetable stipulated in the contract; and
- In case of non compliance with the specified implementation plan, TDA has the right to cancel the contract without refunding any money paid before.

114. Land and building regulations for tourism projects have been criticized as overly prescriptive and at time unnecessarily restrictive and rigid. These include:

- A beach buffer of at least 50m from the shoreline that is restricted from any development or use (including parking), with the exception of certain areas outlined by the Ministry of Tourism;
- Access road right-of-way involves a non-edificandi zone of at least 50m and the need for a service lane if the site is accessed from a public road (standards set by the Roads and Bridges Authority);
- Population density restrictions as follows: a maximum of 30 persons per feddan in ITDP and 50 persons per feddan in LTDP;
- Maximum Floor-Area-Ratio (the ratio of total building area to land area) of 40% of the total project area;

- Height restriction of 7m (two stories) on the waterfront and 10m (three stories) for inland buildings, except for minarets and water tanks with prior approval by the TDA;
- Plot ratio (frontage/width to depth) ranges from 1:1 to 1:3; and
- Additional planning and land development criteria outlined in Table 3.1

Table 3.1 Applicable planning and land development criteria for tourism projects

Planning criteria by resort or hotel category	5 stars	4 stars	3 stars
Minimum site area for investment (m ²)	60,000	45,000	36,000
Minimum sea frontage for a given site (m)	200	150	120
Minimum depth of the site	300	300	300
Maximum number of guests (person / linear meter).	3	4	5
Maximum buildable area or land coverage ratio (% of land area)	12%	15%	20%
Minimum land area per guest (m ²)	150	120	100
Minimum share of the visitor of the sea (m ²).	30	20	15
Minimum built area per guest (m ²).	20	15	13
Minimum service area per guest (m ²).	12	10	8
Minimum open/green space area per guest (m ²).	45	35	30
Minimum circulation area—roads and footpaths—to site ratio (%)	25%	20%	20%
Minimum parking spaces per room	1	0.67	0.5
Minimum playground area per person (m ²)	10	8	6

115. All the abovementioned regulations have restricted project implementation. In addition, there are other issues affecting land development that have been noted by several investors in their dealing with the *Central Department for Projects Implementation Monitoring*. The latter is the department responsible for periodic supervision of project implementation. The inspection and enforcement regime is the subject of many investors' complaints. The Department prepares periodic reports with the progress status in comparison with the agreed timetable. These reports are used to measure investors' seriousness in implementation. To measure progress, a standard implementation indicator of 100 rooms per year with related services and facilities is used across the board (it is unclear where this figure comes from) and as such, it expects that LTDP be built in 3-5 years and ITDP be built in 7-10 years. Such timeframes are unrelated to the nature of the project or the site and have thus resulted in disputes with investors.

116. In case an investor fails to develop the land according to the agreed timetable, the department sends an official letter 15 days prior to the initial completion date requesting a meeting to explain the delay and possibly negotiate a new timetable. In case of non-compliance, the department prepares a formal report describing the current status of construction and the lag, which is then submitted to the Central Department for Tourism Areas Development. The latter, in TDA's headquarters, evaluates the status and raises it to the attention of the TDA Board for a final decision on whether to cancel the contract completely/partially and/or to recapture the land through administrative procedures based on a decree from the Minister of Tourism. In case the TDA Board decides to recapture the land, a committee including a police officer would be created through a TDA Chairman Decree and the investor is notified of the date.

117. Similarly, if an investor fails to abide by the applicable building regulations or the approved construction drawings, the Monitoring Department ensures the removal or correction of the violation in question within a month from notification and if the problem continues, a formal decree is issued by the Minister of Tourism calling for corrective measures.

Obtaining Building Permits

118. As previously noted, TDA is responsible for issuing building permits related for construction projects. The applicable service standard is one month from TDA's receipt of the completed project documents and drawings. The TDA *Central Land Development Department* is the entity that carries out the review and permit issuance. However, in the instances where the land is located in an area deemed sensitive in terms of security, it is the MODMP's *Haiet El-Aamaliat* that sets restrictions and carries out the review process prior to permit issuance by the TDA. One of the main bottlenecks in obtaining building permits in other sectors—*Mujama'ah Ashriya* (the consortium of large insurance companies that issues the building insurance policy)—is not present in the building permit issuance process for tourism development projects. However, to avoid blame for any problem, TDA stresses that it is the investor is solely responsible for structural safety. Upon completion of the construction and equipment process and prior to starting operation, the project requires an operating license, which is handled at the Central Department of Licensing in the Ministry of Tourism.

Obtaining Adequate Infrastructure Services

119. Based on the regulations set in the Prime Ministerial and TDA Decrees, investors are required to secure the delivery of infrastructure needed to operate their tourism projects. As such, investors either build their integrated infrastructure networks or connect to the nearest trunk infrastructure by coordinating with the Governorate within which the project is located. Despite TDA's mediation, the investors end up negotiating directly with the Governorate to deliver the required infrastructure for the project, and the outcomes differs from one case to the other (as there are no clear rules governing the process and the situation of infrastructure services and available financing differs from one Governorate to the other).

3.3 Conclusions

120. Of all four sectors assessed, access to public land for tourism investment purposes is arguably the most efficient and least fraught with problems. The TDA, established in 1991, was granted a broad mandate to promote tourism development. It was delegated control over 578 square kilometers of publicly-owned prime land stretching along the Red Sea and Mediterranean Sea coasts and Aqaba Gulf, and was given sole power over the land allocation and development process. Despite such measures to streamline the tourism development process, the TDA Board of Directors has itself created a bottleneck to the process by requiring all investors to obtain security clearance from the MOMDP (sometimes from Governorates where the MOMDP has delegated to them such authority). This step that has proven to be the main bureaucratic hurdle in the entire process.

121. In addition, significant tensions exist between TDA and the Governorates which find themselves deprived of control over their prime coastal lands, and consequently of a major potential source of revenues for local service delivery, in TDA's favor. This has acted as a disincentive for governorates to cooperate with TDA or the investors whether to issue security clearances (Red Sea Governorate) or in service delivery. This is a key challenge that needs to be resolved in the direction of promoting decentralized public land management at a pace that is commensurate with the level of local capacity and the overall government decentralization policy. The lack of official recognition of customary land tenure and the unclear jurisdiction vis-à-vis publicly-owned land is the most problematic issue hindering access to public land for tourism project development within the ziman or city cordons.

122. There are also areas in which control over public land is disputed between TDA and several other government entities, including most notably Northwest of Suez Gulf. Similarly, some tensions are found between TDA's tourism development role and EEAA's environmental conservation

mandate, which are attributed to a lack of an overall tourism development strategy balancing the objectives of environmental sustainability and economic growth. Such tensions have prevented the development of over one-third of the public land stock under TDA control. TDA has also imposed strict land development and building regulations and its monitoring of project compliance is sometimes perceived as rigid. Yet, notwithstanding such issues, interviewed investors rate their experience with TDA as overall positive and view the authority as efficient with experienced staff. To its credit, in the 14 years since its establishment, TDA has facilitated the development of about two-thirds of Egypt's total capacity (from 52,000 rooms in 1992 to 144,000 rooms in 2005). TDA's Board is also credited for taking rapid mitigation measures during periods of crises to the tourism industry, as it did by postponing payments due from investors in Sinai who were affected by the 2004 terrorist attacks.

123. One problem was the lack of an integrated vision for overall tourism development, one that balances between development and environmental conservation needs. This was certainly the case in the early 1990s with the unplanned development of Hurghada and what some view as the over-development of Sharm El-Sheikh. The balance between developmental and conservation concerns has improved over time with the formulation of environmental guidelines for tourism development and the preservation of key environmentally sensitive sites. Interestingly, this has not happened at the expense of a development slowdown; rather, according to the Minister of Tourism, there are 100,000 rooms currently under construction relative to a current total capacity of 142,000 rooms in Egypt.

Chapter 4. Access to and Development of Public Land for Real Estate Investment

124. For the purposes of this study, real estate development refers to large scale developments that require land subdivision plans (and permits) and which are mostly mixed-use developments (mainly including residential and commercial uses, services, amenities, etc). This is considered one of the main channels for investment in Egyptian cities and new urban communities, which represent a market with strong demand due to the large population and growth rate. The practice goes back to the pioneer Heliopolis District project, built by the Belgian investor *Baron Empain* in 1905 at the eastern outskirts of Cairo. The success of this project led to many other private-sector led development projects, including Maadi District, and subsequently to Egypt's first public sector-financed and implemented real estate development projects during the 1950's in Mohandessin and Nasr City.

125. The rationale behind the previously mentioned projects was to create massive developments instituting self-contained districts that accommodate different social classes. However, a second generation of real estate has emerged in the 1990s with a radical change in the developmental concept driving the new communities away from heavily-subsidized housing schemes for the urban poor and into private sector-led real estate projects aimed at the middle and upper middle income demand markets. A large number of real estate projects have been constructed within the new communities, especially those around Greater Cairo in addition to a smaller number of projects constructed within the cordon of existing cities especially Cairo, Giza and Alexandria. Accordingly, the analysis of access to land for real estate is analyzed within both the new urban communities and in the cordon or *Zimam*.

4.1 Access to Public Land for Real Estate Development in Egypt

126. Access to land for real estate development is organized by: (i) the New Urban Communities Authority "NUCA" which is mainly responsible for state owned desert land allocated for new cities and other potential development state areas outside *Zimam*; and (ii) the Governorates responsible for this type of development within the *Zimam*.

Institutional and Regulatory Framework governing Access to Public Land for Real Estate Development outside Zimam/in New Urban Communities

127. A new cities or urban communities program was launched in 1974 with the objectives of creating independent communities that can attract the increasing population outside the Nile Valley and contribute to the protection of limited agricultural land from informal encroachment. Although, the program has been adapted several times during its implementation from overly relying on cities as self-contained entities to a model emphasizing semi-autonomous or twin cities, the pattern of management, allocation of land, and development conditions has not changed significantly.

128. In order to manage this ambitious program, the New Urban Communities Authority (NUCA) was established in 1979. It is the main body responsible for formulating state policy regarding the establishment of new urban communities, choosing the concerned sites, and supervising and implementing all construction plans within new cities (see Box 4.1).

Box 4.1 LAW No. 59, 1979—NUCAs authority over real estate development

The main governing Law concerning the disposition and development of land for real estate purpose is Law no.59 of 1979 concerning the establishment of new urban communities. The Law has mandated NUCA to plan, establish and manage new urban communities in Egypt, in coordination with GOPP in planning and with other concerned government agencies. Its main provisions are:

1. Up to 5 km of land may surround the new urban community in all directions as defined by NUCA. This land may not be disposed, used, subdivided or developed without NUCA's prior approval. The same applies for the land within a distance of 100m from both sides of public roads leading to NUCA.
2. A Prime Ministerial decree is issued to transfer to NUCA free of charge the public land needed for the new urban communities and their access roads and 5 km protection perimeter. These lands are to be considered as part of the new urban community and may not be encroached upon or built upon without NUCAs permission.
3. NUCA is authorized to enact rules and regulations for implementation of real estate development programs and related activities. NUCA can also enter into direct contract with persons, firms, banks, international and national organizations and can give concessions for infrastructure and real-estate development projects in new urban communities provided that: (i) Selection of developers is carried out in a transparent and competitive manner; (ii) - Concession period does not exceed 40 years; (iii) Share of beneficiary net profit is not to exceed 20% from the total allocated and permissible capital; (iv) Excess in net profit can be used as a contingency fund for years where it is less than 20%. The excess amount can also be used to improve and extend infrastructure or reduce prices depending on NUCAs decision; (v) A decree concerning the concession is to be issued by the cabinet and based on NUCAs board decision if the allocated amount and capital does not exceed a set ceiling of LE 10 million. Any amount exceeding this ceiling requires a law to be issued providing the concession or commitment; and (vi) NUCAs board can exempt projects related to national economic development from concession rights based on a decree from the cabinet.
4. All concerned agencies with development projects and/or industries whether governmental or non-governmental should inform NUCA and incorporate the applicable set procedures and terms for project development of new urban communities accordingly. NUCA should respond to these entities in a period not to exceed one month. In case of discrepancies between NUCA and concerned entities in terms of the location of these projects, the prime minister has the authority to make the final decision.
5. Until the new urban community is transferred to the local government unit (according to clause 50 of this law), NUCA and its related agencies have the full mandate and authority over local units and their financial resources. NUCA is responsible for approving, issuing licenses required for establishing and operating all activities, projects, buildings, infrastructure and services according to ongoing laws, bylaws and decrees.
6. The NUCA board is the only entity responsible for setting regulations and procedures for concession of land and structures located within new urban communities. In case of violation of these procedures, the board may cancel the concession. In case that the developers fail to comply with ameliorating procedures within a specified time-period as determined by NUCA, the cancellation will be implemented through administrative order.
7. It is prohibited for any one who owns land or buildings within a new urban community to sell, dispose or transfer the ownership before paying the total price of land and all other costs in relation to the contract.
8. Supply-side incentives for real estate development, as set by this Law, include: (i) all equipment required for projects within new urban communities are exempted from customs' fees and/or other related duties; (ii) loans or credits used for projects within new urban communities are exempted from taxes, fees and interests; and (iii) the profits of all development projects within new urban communities are exempted from all taxes on commercial or industrial profits for ten years starting from the date of production.
9. Demand-side incentives for real-estate purchase include: (i) residents of new urban communities are exempted from any real estate or property taxes or duties for ten years starting from the completion date of the real estate; (ii) lands used for agricultural purpose within new urban communities are exempted from taxes starting from land suitability for agriculture
10. It is prohibited for any governmental organizations, local government units, public sector companies and/or any entities holding state lands to dispose any desert, bourn or agricultural land outside the boundaries of existing cities for the purpose of subdivision or development without the permission of NUCA. Also, it is prohibited for any private entity or person who owns desert, bourn or agricultural land outside the boundaries of existing cities to build on it without the permission of NUCA. The NUCA board is to set the rules organizing the development of such lands.

129. As the box above confirms NUCA is the main institution governing real-estate development in Egypt. However, for the purposes of this study, it is noteworthy to point to the last paragraph on the table which reflects a conflict with central governmental agencies and/or local government units, as they do not hold the authority to assume any development rights outside their boundaries prior to acquiring NUCAs approval on the proposed development. As such there is a mismatch between responsibilities assigned to Governorates and local economic development tools at their disposal. Considering that Governorates are required to deliver services within their entire administrative boundaries, but are only given control over public land within settled/urbanized areas. This situation has two implications for Governorates: (i) a lack of control over the land allocation process limiting their local economic development strategies and plans; and (ii) inability to generate revenue from land sale/lease with which to finance service-delivery.

130. Although NUCA has extensive jurisdiction over real-estate development, it is not the only institution involved in setting policy and regulations. The MHUUD has authority in terms of: (i) Specifying *building codes and regulations* for the new areas in order to ensure the construction of more distinctive buildings than those in the old urban centers; (ii) Setting-up plans on the *extension of infrastructure networks* to these new cities and setting-up land subdivision schemes to be utilized according to development phases; and (iii) Specifying clear *environmental regulation* for these new cities to contain their environmental footprint.

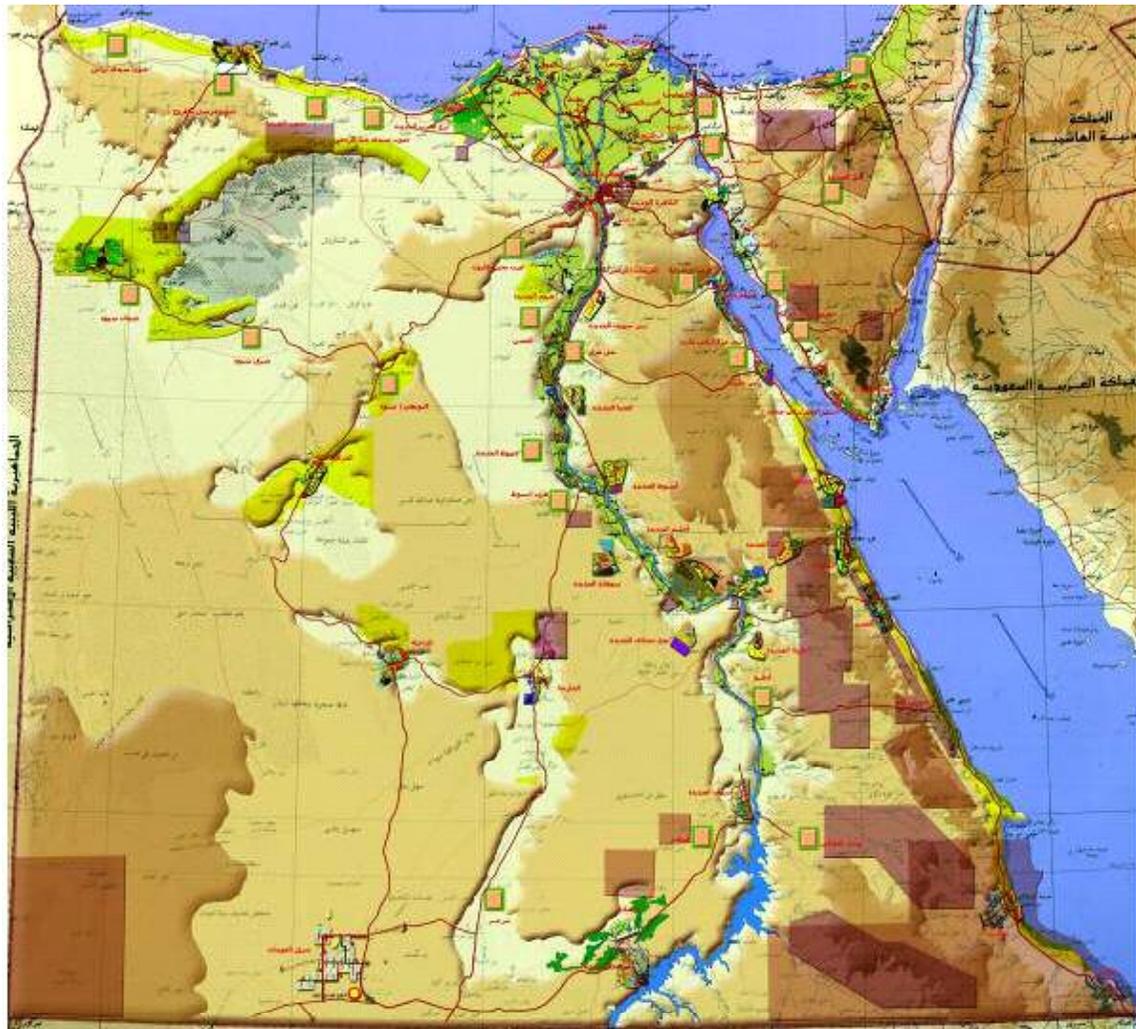
Procedures for Access to Public Land for Real Estate Development outside of the Zimam in New Urban Communities

The challenge of obtaining a location

131. Currently, there are 20 new cities and urban communities which have been developed over the past 25 years providing housing to more than 1.5 million inhabitants. In addition, according to the National Plan for Development and Reconstruction set by the GOPP, the planned locations for an additional 44 new urban communities have been set, as such providing a rich source of potential future investments in the coming decades. Locations of these cities have been proposed based on the overall development policy in addition to several technical criteria concerning site selection, soil suitability, topography and other factors.

132. The sequential process for accessing a location for a new urban community is cumbersome, costly and time-consuming entailing: (i) carrying out the proper analysis; (ii) after which the GOPP provides the geographic coordinates for the new urban community to NUCA; (iii) to be followed by the approval of the Minister of Defense and the Egyptian Antiquities Authority; and (iv) a *Presidential or Prime Ministerial Decree* allocating the selected land and defined coordinates, finally allowing the establishment of the new urban community. (For details, please see Annex 2: list of Presidential and Prime Minister Decrees for disposing public state land for new urban communities). The clearances from the Ministry of Defense and the Antiquities Authority, as well as the Presidential or Prime Ministerial Decree offer potential possibilities for streamlining, as they add considerable time constraints and costs which can be downstreamed through NUCA.

Figure 4.1 National Plan for Development and Construction till 2017



Source: GOPP (1998)

133. Under the current legal framework for real estate development governing the existing 20 new urban communities, only five cities managed to attract private sector investment. Ranked in terms of their success in attracting private sector investment, they are: 6th of October, New Cairo, Sheikh Zaid, El-Ubour and El-Shrouk. All of these cities are located around Greater Cairo. Although this might be explained as a result of high demand for housing within the area, recent statistics have shown that more than 40% of the housing units built within these new settlements are vacant and a huge number of land acquired for residential development has not been developed for several years. This situation reflects the issues facing real estate development and questions whether the current policy practices are adequately meeting market demand, or in effect creating unwanted results such as the exacerbation of land speculation.

134. The remaining 15 new cities and communities are still struggling to attract interested clients for real estate development and/or as residents. The main reason for the failure to attract target groups to settle and invest in these new cities, is the absence of market-based mechanisms such as housing market studies that can help to avoid supply-driven situations where huge investments are allocated for housing that is later left vacant. In addition the situation at hand also points to the lack of a national policy framework governing the management of public land assets, specifically in terms of policies and procedures for disposing of, valuing and leveraging public lands for the achievement of specific objectives. Clear examples illustrating the issues at stake are the new cities in southern Egypt, the majority of which have come about as a direct response to political pressures from the Popular Elected Councils in these governorates—aiming to gain political ground in their jurisdictions. Without a market analysis carried out to determine the real need for these new settlements and in the absence of a strategy they are growing slowly as a result of affordability issues by end beneficiaries. The main land development activity within these cities is limited to individual acquisition of small parcels for individual residences.

135. After a quarter of a century in new city development, 435 km² of land with infrastructure services have been provided, out of which, approximately 218 km² have been designated for housing, 113 km² for industry and 104 km² for trade, social and tourism projects. Table 1, shows the current status of available land for investment projects, especially real estate development in new urban communities based on recent figures gathered by NUCA.

136. The table illustrates that, 6th of October has been the leading one out of the new cities in terms of attracting private sector investment, whether in real estate or through other development activities. However, during the past few years New Cairo has gained ground from 6th of October, a trend that can be easily explained as a result of NUCAs biased incentives encouraging 6th of October's development by concentrating its investment budget especially for roads, infrastructure and social services on it. As such reflecting the lack of an integrated urban development strategic vision strategy guiding NUCA in its overall vision for the development of new cities. This has in many cases resulted in unwanted competition among these new cities in terms of attracting investment. The results of this process has had detrimental effects on cities that have undergone the withdrawal of interested investors switching their capital to more promising returns offered by a competitor city. An example illustrating this competitor effect is *El-Shorouk*, a new city which was booming from the start, being the natural extension of high class districts within eastern Cairo (Heliopolis and Nasr City) and then started to face substantial stagnation in its development as soon as NUCA started to shift its incentives towards new Cairo City, which is located in the middle way between existing residential districts in eastern Cairo and El-Shorouk. A rational economic study would have suggested that New Cairo is not to be developed until El-Shorouk is consolidated.

Table 4.1 Total land area available for development within New Urban Communities and the state of infrastructure

New urban community	Serviced land area (in 1,000m ²)		Land area under servicing (in 1,000m ²)		Allocated land area (in 1,000m ²)		Value of allocated land (in LE1,000)		Revenues collected from allocated land (in LE1,000)		Total land area available for sale and the state of service delivery: complete, ongoing, not done (in 1,000 m ²)						Value of available land (in LE1,000)		
	Total	Net	Total	Net	Investm. project	Land parcels	Investm. project	Land parcels	Investm. project	Land parcels	Investm. Project			Land parcels			Investm. project	Land parcels	
											Complete	Ongoing	Not done	Complete	Ongoing	Not done			
6 th October	fl	žfl	ř	řž		24,231	fl fl	-fl fl žž	fl - fl	-fl fl					žž	ř	fl ř	fl ž fl	
15 th May	13,195	6,319	1,138	535	149,669	1,150	29,713	106,742	7,894	90,932			342		42	4		22,744	17,800
Sadat	22,577	14,066	3,318	2,940	238	fl	7,316	369,633	7,316	236,024				7,378			13,481		517,179
10 th Ramadan	74,749	fl ž	5,457	fl	322	fl	1,253,718	žfl -ž	902,005	- fl žž	2,788	fl		2,878	678			775,730	940,125
New Borg Al Arab	23,031	- fl	3,820	fl -ž	32,125	- ř		-fl -žfl		ž fl -ž	970	- ž	8,156	fl	2,246	fl		2,111,000	fl -fl
New Damietta	8,106	fl	3,429	fl -ž	1,079	fl	151,419	žfl	116,472	ř	8			-				60,777	220,004
New Salehia	6,795	fl				-fl		- fl -ž		- fl				1,453					193,386
New Noubaria	5,954	fl ž				fl -		fl		-ř-	121						401		13,108
New Bani-Suef	9,839	fl -	5,839	fl	2,514	-fl	226,309	- žfl	29,953	fl	1,626	ř -			840			367,650	308,041
Badr	26,473	- fl	7,091	fl	2,341	ž	272,133	ř	172,023	fl	2,719	fl		fl ž	2,629			1,296,983	235,881
Obour	38,421	fl	14,016	fl ž	14,777	fl	1,232,451	-fl fl -	753,561	fl	129			fl ž	1,984			28,113	1,667,815
New Menia	2,237		4,068	fl žž	129	fl	8,168	fl	1,144	- žfl ž	35			-	447			32,400	- ř
New Cairo	90,057	fl	63,213	žfl	38,657	- fl	4,590,552	fl -fl	1,643,189	fl fl ž	1,254			fl	1,405			115,196	575,250
New Assiut	4,026	-fl	352	ž		-fl-ž		- fl -		-fl ž					211				104,604
New Tiba	2,065	-fl		ž	10		2,401	fl	845	-fl	207			-				41,300	38,630
Shourok	29,766	- fl	6,282	fl ž	6,104	fl-ž	327,138	-fl ř	255,467	-ř žfl -	1,404	-řžž		-fl	1,600	-		-ř fl	
Sheik Zaid	22,026	- fl -	11,691	fl	23,132	-fl -	1,914,872	fl	636,012	- ř	927			-fl	2,370	913		353,654	3,429,031
New Souhag			1,751	618				fl ž		fl					246	149			37,941
New Aswan	1,369	-fl	320	320		žž		fl		- fl ž				-fl-ž	453				
TOTAL	458,374	ž fl	230,852	165,719	271,098	- fl	1,549,343	- fl fl	7,942,560	fl fl	12,188	- fl -	34,689	fl	15,713	- žfl	9,977,621	- fl -fl ž	

* Data gathered by NUCA, as of June 30, 2005

Problems of Access to Land for New Investments or Expansion

137. As shown in the examples above, the main problem with the existing system of access to land for real estate investment is that it is largely the state or supply-driven rather than based on demand whereby the investor chooses where to locate subject to existing zoning regulations. The locating decision is also influenced by a system of active control through planning regulations accompanied by a set of incentives and subsidies that favors certain locations over others. There are no market-based mechanisms for the disposition of public land and there is a vacuum in terms of a clear national policy framework governing the management of public land assets, specifically, policies and procedures for disposing of, valuing and leveraging public land assets. The allocation of real estate investment is done administratively and solely by NUCA. Accordingly, the investor does not have the freedom to choose the precise parcel of land in X new city, instead real estate investors must apply for acquiring the land through *NUCA's Technical Affaires Sector*. This situation in itself disallows pricing based on the opportunity cost of land.

138. Some investors do not determine any preferred location within their applications, in these cases NUCA directs them towards a specific new city or offers them various options. While other investors do specify their requirements in terms of preferred new city and particular area of interest within the city. For this latter type of investors, NUCAs land allocation criteria is based on the following: (i) availability of land for real estate development within the investor's preferred new city; (ii) investor's records in real estate development; (iii) investor's financial resources; and (iv) type of real estate development project (i.e. villas, residential blocks, for high or middle class). In effect, disallowing real estate investors from choosing the location that makes most economic sense in terms of demand and market valuation.

139. Due to the rigidity of this supply-driven land allocation process, which disregards demand-gauging mechanisms in planning, there have been several instances where investors have declined their allocation due to their dissatisfaction with the awarded location. In addition, the practice also points to concerns with transparency and a disconnect between the set criteria and allocations awarded to investors' whose political post or position of power as public figures may concede unwarranted advantages over others applying for similar projects.

140. In an effort to encourage decentralization in decision making and management of new cities, NUCA has fostered the establishment of a Real Estate Sub-Committee within each new city led by the head of the New City Agency with the power to allocate land for real estate, residential and/or other development-related purposes. However, in practice the authoritative decision-making on large-scale parcel allocation continues with *NUCA's Technical Affaires Sector*, leaving only the minor allocation decisions over smaller parcels intended for residential purposes to this sub-committee. The sub-committee within each new city has several responsibilities, mostly of a logistical and coordinating-character, including: (i) specifying needs of the new urban community from different land uses in liaison with *NUCA's Technical Affaires Sector* and in accordance with the master and detailed plans of the new city; (ii) distributing responsibility over activities in coordination with *NUCA's Technical Affaires Sector* according to the master plan; (iii) carrying out studies and proposing the percentage split between land parcels vs. residential units; (iv) providing recommendations for disposition of the suitable land according to different land uses and their specified areas within the master plan; (v) following-up the implementation of industrial, tourism, services, and residential projects; and (vi) reviewing and approving recommendation of defined land and real estate prices. As such there has been no real transfer of decision-making authority to these sub-committees, only a decentralization of minor tasks.

141. Another barrier faced by real estate investors is the lack of transparency in accessing the information base for land availability within each new city. Although an information center exists within each new city and it is connected to the main information center in NUCA storing all of the data on available land for real estate development, their locations, areas and prices—such information is not readily accessible to investors. This is seen as a power-hold by NUCA to avoid any legal claims by investors concerning its ad-hoc, and oft-times politically-driven decisions on land disposition and allocation.

142. A further issue that affects the allocation of land is the focus on land price by NUCA, which does not allow for other factors to influence price variation, including a broader vision of urban planning—with slightly higher prices at city-center rather than at periphery, or in effect establishing variations in terms of investment purpose—residential, commercial—or on the basis of the demand market (middle, low or high income buyers). The price is in effect determined according to the prevailing prices in the city or by updating old prices based on the most recent public auction. Accordingly, the price of land differs only from one new city to another. For example, for real estate development projects in New Cairo, the current price is LE. 225/m², while in 6th October is LE 200/m² and in Sheikh Zaied is LE.180/m². In the beginning phase of developing New Cairo City, NUCA has set another process to encourage the purchase of large parcels of land by investors through which the price/m² is reduced when the total purchased area increases—which in effect only encourages speculation rather than city-building. Again, a fixated ‘price-mindset’ on real estate which undermines a broader city-planning agenda. However, this process has stopped recently since the demand on land within the city has peaked.

143. An additional challenge remains in the lack of incentives provided for developers targeting low and/or middle income markets. The same blanket procedures, prices and conditions are applied across all types of real estate development, ultimately serving as a subsidy for the rich. However, a new innovative step towards encouraging the real estate developers to invest in low and middle income housing schemes has been through the free housing program adopted recently by the Ministry of Housing. The free housing scheme adopted by the Ministry of Housing recently aims to promote public-private partnerships in housing provision targeting low and middle groups. The process is based on offering the land already serviced with infrastructure within new urban communities free of charge to the private real estate developers, who then develop the land through a mixed housing model. At the end of the development, a certain percentage of housing units mainly from residential blocks built with an average area for the units between 70-100m² is recaptured by NUCA against the cost of land and infrastructure. These units are then offered to low income beneficiaries through pro-poor terms including a small down-payment and a soft loan with a 40-year repayment period at an annual interest rate between 5% – 6%.

144. To conclude, the pressing issues in accessing land for real-estate development can be summed up as follows: (i) NUCA has a centralized supply-driven approach making access fully dependent on ad-hoc land distribution practices, led more at times by opportunistic political interests rather than a clear vision of integrated urban development; (ii) a lack of reliance on market-based mechanisms in terms of location selection, land use planning and service planning and delivery process which superficially skews demand towards the state’s socio-spatial objectives rather than towards long-term economic feasibility; (iii) a lack of a readily available and transparent information system for potential investors providing up-to-date land availability for real estate development, its locations and prices.

Procedures of Access, Terms and Conditions

145. NUCA allocates land to real estate investors: direct sale (*Takhsis*), lease (*Haq Intifaa*), or public-private partnership agreements, and to public entities through transfer of assets (Naql Ossoul).

146. *Takhsis* literally means the transfer of ownership conditional upon satisfying certain criteria such as abiding by land use and project type, and/or receipt of payment in agreed installments. The price of land, as mentioned earlier, is to be determined through the main land valuation committee which sets the price against the past quarter's prevailing market prices or from the last public auction in a nearby area. Public auctions are usually used to sell high-demand land parcels when several bids are submitted for a single parcel. In 2004, a public auction was conducted to sell a parcel of 90 feddans (378,000m²) located at the main entrance of New Cairo City for which 4 investment companies had submitted bids. Although the official land market price for real estate investments was LE.225 per m², the winning investment company offered a bid, almost tripling the market price at LE.625 per m².

147. Usufruct (*Haq Intifaa*) generally applies to land within the green belt around new urban communities and along the north western coastal zone under NUCAs disposition authority. Usually the term lease is used for land to be reclaimed at a later time. NUCA subdivides this land into parcels with an average area of 5 feddans within which only 2% of the total area can be built into buildings, later to be reclaimed. The initial lease period lasts three years from effectiveness, in order to be able to evaluate whether the agreed development indeed took place. In the case that the real estate development was carried out as agreed, the lease could be extended for a 20 or 30 year period. The yearly cost of the land to be paid would be around 5% of the total land price. After 20 years, or as accorded in the second lease agreement, the land may be officially transferred to the beneficiary.

148. Recently as a way to promote real estate investment, NUCA started to adopt a new approach fostering *public-private partnerships*, entering into partnership agreements with investors interested in developing mega real estate projects in new urban communities. As such, NUCA agrees with investors on the value of land with infrastructure services in relation to overall project cost. Accordingly, after the investor acquires the land and develops it, NUCA recaptures its share (the value of land and infrastructure) by acquiring a certain percentage from the units built within the project. Several projects are currently being developed using this model. Generally the units recaptured by NUCA do not exceed 110 m² in its built-up area. These units are used as part of the Ministry's low income housing program offered at pro-poor terms.

Box 4.2 *Madinaty*, a new real estate development through partnership

Within new Cairo city, a new mega real estate project is currently under implementation, representing the largest real estate development project ever built in Egypt, extending over an area of 3,360 hectares. The project is being implemented by the Alexandria Company for urban development, one of the pioneer real estate development companies which carried out several projects in various new urban communities. One of these projects includes El-Rehab city in New Cairo. After negotiations with NUCA, both parties agreed to enter in a partnership to establish a new real estate project known as "*Madinaty*". Through this partnership, NUCA has granted the land free of charge, with the condition that the private company installs some of the infrastructure, valued at LE 127 per m² for external infrastructure from source points to the site boundaries and LE. 110 per m² for internal infrastructure. The investment company has agreed to install the internal infrastructure services and some of the external infrastructure (including electrical and telecommunication networks), leaving only water supply, sewerage and roads to NUCA. In return, the investment company has agreed to provide 7% of the total cost to NUCA in the form of housing units for low-income beneficiaries after the project is completed.

149. Transfer of assets (*Naql Asoul*), usually applies to land transferred without payment to another governmental organization. Through this mechanism, the land is valued and its equivalent value withdrawn from NUCAs assets and as such from its debts to the National Investment Bank. Usually this process warrants a primeministerial decree authorizing this type of asset transfer. Although, the land does not belong any more to NUCA, still the new owner organization can not

develop the land without the approval of NUCA and according to its planning and building conditions.

150. One of the overall major advantages that accessing land for real estate investment enjoys over other land uses is that there is no need to acquire further approval from any other entity. According to law 59, 1979 concerning the establishment of new urban communities, as well as Prime Ministerial Decree 2904, 1995 concerning procedures regulating the management and disposition of land allocated to NUCA, the approvals of concerned entities such as MOD and Egyptian Authority for Antiquities are only required and obtained prior to the establishment of the new city itself. As soon as these approvals are obtained and the Presidential Decree for establishing the new city is issued, NUCA becomes the sole entity responsible for decisions concerning land disposition and allocation.

151. The process for accessing land for the purpose of real estate development through *Takhssiss* involves several procedures. The first step for any investor attempting to access land for real-estate development is to submit an application to the *Technical Affaires Section* in NUCA stating requirements concerning land area and specifying the type of development to be pursued. Initial information requested from the investor includes statement of project components and details of previous experiences in real estate development. In case of land availability NUCA allocates the land based on the specified requirements, otherwise several land options are provided to the investor from which to choose.

152. The Real Estate Bylaw for NUCA and its affiliated agencies, updated in 2000, organizes the procedures for land allocation and disposition for real estate. Each investor has the right to look at conditions of land disposition and maps reflecting the available land to select the preferred one (as mentioned earlier this has been replaced by introducing a formal application request that needs to be submitted to the *Technical Affaires Section* in NUCA). The following procedures are to be followed:

- The investor submits a non-refundable processing fee equivalent to LE 1000 along with a detailed request specifying the type of project intended to be developed and whether it is to be developed by an individual or a company;
- Company-related information: contract establishing the company, including its legal status (joint, stock, LLC, etc.);
- Project-related information: feasibility study, implementation timetable, project utility/infrastructure needs;
- Approval from GAFI, the General Organization for Industry or any concerned authority based upon the type of land use proposed¹⁰;
- Payment processing: (i) 25% of total land cost is to be paid within a period not to exceed one month from the day of approval; and (ii) remaining 75% is to be paid through annual installments in agreed interest-free time-period, varying between the norm of 3-5 years and extending to as long as 9 years for new cities in Southern Egypt where investment is encouraged;
- Additional administrative fees are levied by NUCA in order to issue the Takhsis decree necessary for land allocation. These fees are not to exceed LE 2000 for smaller parcels (less than 5 feddans), while larger parcels including land allocated for industrial, services or commercial uses must pay a fee equivalent to 1% of the total land price or LE. 1000 (whichever amount is greater).

153. Other procedures are in place for large real estate development projects on larger parcels greater than 5 feddans (21,000 m²). For projects on such a large area, a Ministerial Decree is to be

¹⁰ For example to establish an educational compound, the approval of the General Organization for Educational Buildings has to be obtained. The same applies to health building where the approval of the Ministry of health has to be obtained.

issued to accredit the project. Prior to issuance of the decree, the following documents must be completed:

Technical documents:

1. Master plan for the project on a map with scale 1/1000 showing Project land use budget (housing, services, roads, green areas, etc.) and housing model types to be used in the project, services provided and appropriate building conditions for housing & services (according to sketch drawing of the project);
2. Coordinates for site boundaries according to specification card;
3. Hierarchy of the project's road network and its connection to the surrounding road network;
4. Project location from the city with north direction shown on the map;
5. Commitment to building conditions and codes for each activity according to TOR delivered from the agency which is shown in table 2

Financial and Legal Documentation:

1. Registration of the company in the journal of companies, as per the law establishing Syndicates, and in the case that a Cooperative is involved in the land development process a decree establishing this cooperative must be published in the official newspaper;
2. Copy of the commercial registry showing the evolution of paid capital;
3. Copies of last three budgets authenticated from the accounting auditory or opening balance statement;
4. Project's economic and financial feasibility study;
5. Time schedule for project implementation;
6. Company's tax certificate;
7. Bank account must reflect the project name in accordance to the accredited form from NUCA, attached to the contract signed by NUCA (to be printed on Bank's letterhead for certification purposes);
8. Paid administrative fees to NUCA equivalent to 1% of the total price of the land or LE 5000 (the larger would be applied); and
9. Paid additional administrative fee required prior to issuance of the Ministerial Decree accrediting the project's master plan, according to applicable rules. These administrative fees are 1% of the total price of land or LE.5000 per feddan (the larger amount would be applied). In addition after paying the total amount of the land another 1% from the total price of the land would be levied for issuing the final contract and registration of the land ownership.

154. After receiving NUCAs approval and when the paperwork for land allocation has been finalized, the land is handed over to the investors together with a *Takhsis* decree issued by NUCA stating the following:

- The area and number of land parcel(s);
- Remaining installments to be paid for land and payment schedule;
- The final date established for handing over the land;
- Commitment by the investor to implement the project according to time schedule;
- Commitment by the investor not to change established land usage. In case, the investor needs to change the land usage as established in the accredited master plan, a formal request must be submitted to the concerned New City Agency and the required administrative fees for that; and
- Commitment of not disposing the land for other party without written approval from the concerned agency according to procedures set for that purpose.

Table 4.2 Land development and building regulations imposed by NUCA by land use

Use	Max. land coverage ratio (%)	Max. allowable height	Min. Front Setback	Min. Side Setback	Min. Back Setback	Additional requirements
commercial or administrative	40%	Ground + 2 floors	6m	4m	4m	
commercial-administrative	30%	Ground + 3 floors	6m	4m	4m	
Nursery	30%	Ground + 2 floors	6m	4m	4m	
Schools	30%	Ground + 2 floors	6m	5m	5m	General Authority for Education Buildings special conditions. Approval of design needed for document submission
Hospitals	40%	Ground + 2 floors	6m	4m	4m	
Mosques	30%	Ground + mezzanine; Minaret 2 floors	6m	4m	4m	Awqaf ministry special conditions. Approval of design needed for document submission
Banks	40%	Ground + 2 floors	6m	4m	4m	
Hotels	20%	Ground + 2 floors	6m	6m	6m	Tourism Development Authority special conditions
Clubs	5%	Ground + 1 floor	6m	6m	6m	Sport and Youth Council special conditions
Recreation centers	5%	Ground + 1 floor	10m	10m	10m	Ministry of Tourism regulations

155. In response to complaints of the cumbersome process and in an attempt to reform NUCA so as to enable more active partnerships with the private sector, Prime Minister Decree no. 1056 of 2003 established the *Holding Company for Urban Communities* and placed under its control the different new city authorities. The company is subject to Law no. 203 of 1991 as well as to shareholding and limited liabilities laws, including Law no. 159 of 1981, and the Capital Markets Law no. 95 of 1992. By Law, the Holding Company replaces all current agencies of new urban communities in terms of assets and liabilities, primarily to the National Investment Bank. The holding company is in charge of all NUCA implementation, supervision and management responsibilities related to the new urban communities' development. The holding company is authorized to set up subsidiaries for specific assignments, which are transferred part of its rights and commitments. The Decree enables the holding company to invest its resources by setting up shareholding companies in partnership with individuals, public, or private companies. Up to 49% of the shares can be publicly offered. The company can acquire shares in or make capital contributions to other holding companies. In addition, the company can securitize its stocks, shares and other assets.

156. A three-year period was specified in the decree for NUCA to carry out these changes. Afterwards, any investments within new urban communities would not make part of the State budget and the holding company would thus be responsible for generating the resources it needs to make capital investments and for managing its own assets. Unfortunately, the new role of NUCA in this reorganization has not been clearly defined. It is assumed that NUCA will assume the regulatory role and monitor the holding company's performance. More importantly, it is unclear how much of such reforms—in effect a privatization of new urban community development to remove the fiscal burden on the State—is in effect a crowding out of the private sector in the real estate investment sector.

Ownership/Access Restrictions

157. There are no limits in terms of total areas to be allocated for real estate development, as long as there is evidence that investing companies have the capacity to develop the land. Examples of mega projects for real estate development include EL-Rehab in New Cairo, Dreamland in 6th of October and Beverly Hills in Sheikh Zaied. However, as a matter of ensuring the ability of investors to develop the total project, NUCA has set several conditions in order to meet *Takhsis* of the land. According to NUCA Real Estate Bylaw, the sale (*Takhsis*) or lease is subject to cancellation upon any of the following breaches of contract:

1. If the investor fails to provide the required documents within the period stated in the *Takhsis* Decree (*Ikhtar*);
2. If the investor fails to pay two successive installments as scheduled;
3. If the investor fails to implement the project within three years from receiving the land in case of industrial, commercial or services projects or within five years for residential projects, applicable only if NUCA has already provided the infrastructure to the land;
4. If investor declares bankruptcy;
5. If the investor disposes the land to others without prior written approval according to the regulation set by NUCA in this respect; and
6. If the investor shifts land use without acquiring prior approval from NUCA.

158. If one or more of the above mentioned breaches have taken place, a warning letter is to be issued to the investor with a 30-day grace period allowing for amendment of the situation. In case of a negative response, a letter canceling the *Takhsis* is to be issued. The investor has a 60-day period to re-buttle this decision. During this period, NUCA cannot allocate the land to other investors. If the original investor aims to regain the land and continue the project, then a new request is to be submitted subject to a price reassessment to reflect the new market land prices. In case of the presence of some construction on the land, NUCA reserves the right to retain these assets after assessing them and may compensate the investors according to civil law.

159. NUCA has experienced several cases of non-compliance, where investors failed to pay scheduled installments and/or to develop the project within the stated time period. In the latter case, the money paid by the investor is returned after deducting the administrative fees in addition to the annual occupational cost (1% from the price of m² for land). However, a more complicated situation occurs when the investor has already built the project and it has been occupied, while remaining non-compliant in terms of payment. In this case, a series of negotiation rounds are conducted between NUCA and investors in an attempt to reach an agreement on a new payment schedule. Another option is to recapture part of the land (as the case of the Beverly Hills Project in Sheikh Zaied City, where more than 50% of the total land area has been returned to NUCA due to failure to meet payments). While a third option includes transferring part of the project assets to NUCA (e.g., residential units or services facilities) as was the case in the Nassaiem Project in 6th of October.

Institutional Framework and Procedures for Access to Public Land for Real Estate Development inside Zimam (within Governorates)

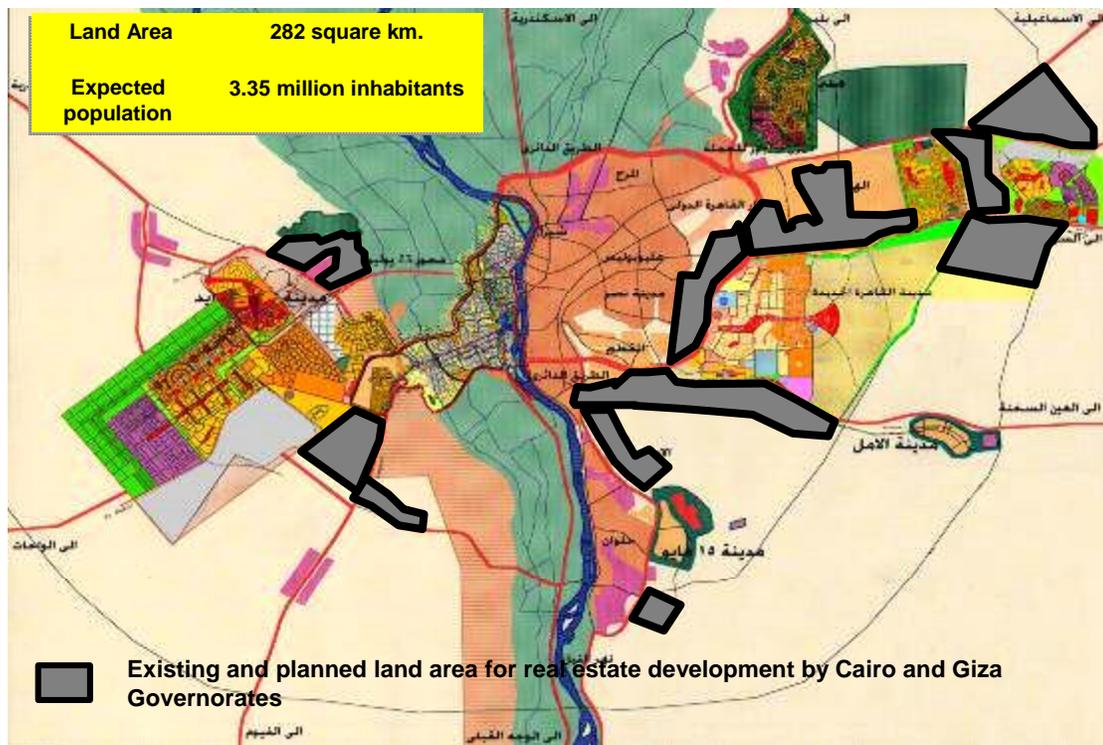
160. The business of real estate development is not limited to new communities and NUCA. A few governorates have engaged heavily in real estate development since the 1990s, especially Cairo and Alexandria where high demand exists for middle and upper-income housing and where urban expansion land exists within their zimam or urban boundaries, outside of central government control. Other governorates generally lack such demand and potential market niche, and the populations' limited affordability dampens investors' interest to develop such projects within their jurisdiction.

161. Land disposition and development within the Zimam is regulated through Prime Ministerial Decree no. 2903, 1995 setting the terms for disposing state and local government land for building and reclamation purposes inside the Zimam. The Decree authorizes the Governorate, with approval from the local popular council, to set the rules for disposition of public land for development and for reclamation purposes within its jurisdiction inside the Zimam, taking into account the following:

- a. Priority for land allocation is to the governorate’s residents;
- b. Land as a matter of general principle should be disposed of at market prices. Special rules must be developed to organize instances in which land is disposed of free of charge for housing, land reclamation or industrial purposes;
- c. Rules do not apply on land or real estate vacated by the Ministries of Defense and Interior;
- d. Beneficiaries must commit to use the land for the stated purpose; and
- e. These rules should include the down payment, installment period and installments values.

162. Since the enactment of the decree, the Greater Cairo Region (GCR) has seen a boom of real estate development on public land disposed of by Cairo and Giza Governorates in line with ensuing rules. Some 232 square kilometers (23,200 hectares) have or are currently being developed in the GCR, mostly around the ring road. A large number of real estate projects have been implemented on public land from the Governorate’s investment department. Figure 4.2 shows the locations and size of the public lands allocated by Cairo and Giza Governorates for real estate development.

Figure 4.2 Existing and planned land area for real estate development by Cairo and Giza Governorates



163. According to law 3, 1982 regarding urban planning, the concerned local development units are to prepare detailed plans for undeveloped areas within their jurisdictions based on a master plan set for the city or even without the master plan in case it was not prepared already. Accordingly,

within Cairo Governorate, the investment department in cooperation with the Department of Physical Planning has prepared land subdivision plans for real estate development.

164. Such lands have been offered through regular rules and procedures for land disposition whether through public auction or direct sale. Land price has been estimated based on offering the land with nominal fees and charges for the cost of internal infrastructure. Based on that, land was offered at LE 50 per square meter during the late 1990s when the land was offered in new urban communities at an average price of LE 150-180 per square meter. The price was then modified in 2001 to LE 100 per square meter. The justification by the Governorate for these lower prices was that they cover the land with external infrastructure hook-up up to the boundaries of the land without the cost of mega infrastructure (sewerage treatment plantation, water supply treatment plant, electricity plants, etc.) The development of mega infrastructure is the responsibility of the General Organization for water supply, sewerage and other similar entities such as the Holding Company for electricity, accordingly, the Governorate does not incorporate the cost of these mega infrastructure projects within the overall sale price. Meanwhile, NUCA as an independent entity responsible for developing all infrastructure in new cities, has to incorporate the cost of mega infrastructure in the overall price of square meter to be sold for real estate development.

165. The result of this situation is that selling land for real estate in the Governorate is cheaper than the same land in new cities. This has created a situation where unhealthy competition between the two entities started to emerge leading to a slower pace of development in new cities at the expense of developing other areas inside the Zimam of Cairo Governorate. The medium and long term impact of such a result is the continuation of the uncontrolled growth of the existing built up areas around Cairo with all their related problems. This issue raises the need to have a more integrated strategic vision for managing real estate development, in terms of pricing land and offering it for investment between different governmental entities whether inside and outside the zimam. This should be done through an overall vision or policy adopted by the Egyptian government on where to direct investments to control the urban growth of a city and to encourage the shift of development towards other new directions.

4.2 Land Development Process

Land Development outside of the Zimam

Obtaining Building Permits

166. After acquiring a *Takhsis* Decree from NUCA, the investor needs to prepare the required documents to acquire the building permit for the real estate development project, including the planning and building conditions, (i.e. percentage of total built up area, total occupancy rate, maximum building height, and percentages of different land uses). The application for the building permit is then to be submitted to the appropriate new city agency and should comply with the master plan of the real estate project, which has been approved by NUCA, as well as a Ministerial Decree, if applicable (only necessary in case of larger projects, greater than 5 feddans in size).

167. The documents required for issuing the building permit include:

1. Application (whether new construction, modification of existing one, vertical extension or addition) in compliance with the building regulations Law 106 of 1976;
2. Photocopy of owner's ID;
3. Delegation of authority from the owner to the person/entity dealing with the Authority;
4. A certificate from the new city agency stating the financial status related to land payment (whether investor has paid all installments due upon application submission);

5. A receipt certifying payment of required administrative fees;
6. 2 copies from the master plan of the project with scale 1/1000 showing the land boundaries and coordinates, the total land area and parts intended to be built in addition to the road network;
7. Three files, each containing the following: (i) Copy of construction drawings including all architectural and structural details with scale 1/50 and corresponding structural calculation sheets. All drawings should be signed off by a specialized engineer registered through the Engineering Syndicate; (ii) A report submitted to the structural consultant engineer stating the suitability of the building's structure and the foundation's capacity to bear the building's stated full load, security safeguards and resistance capabilities against natural disasters according to design principles and criteria set in the Egyptian technical code. This should be attached with a report on soil mechanics within the site, its foundation, all foundation levels and capacity bearing factor; and (iii) In case of vertical extension or modification, an additional report is to be included by a structural consultant engineer with minimum 25-years of experience reflecting the analysis and investigation of existing buildings and proof of their ability to bear these extensions or modification of works.
8. Insurance policy on building work of 0.5% of the value of the construction to be carried out, if in excess of LE150,000 (in the case of new construction) or LE75,000 (in the case of vertical expansion or modification).

168. It should be noted that for real estate development projects containing residential and service buildings, the above mentioned required documents for building permits should be submitted for each residential structure, however only a single building permit is to be issued per building. This is one of the steps that further complicate the process and result in more complex submissions required from investors. Moreover, for each service building or public facility (e.g. school, health center, mosque), clearance is needed from the relevant agency under the line ministry (respectively Education, Health, Awqaf) on the compliance of building design to the norms and technical specifications specified by these agencies (e.g. General Organization for Education Buildings).

169. Once all above mentioned documents and requirements are fulfilled, the application file is forwarded to the *Mujama'ah Al Ashriya* (a consortium of large insurance companies) to be inspected by a private Consulting Engineer/Engineering Firm (with at least 25 years experience) designated by the *Mujama'ah* (from a list of experts pre-approved by the Minister of Housing) to ensure the structural integrity of the building. Once approved by the consulting engineer, the *Mujama'ah* issues to the applicant an insurance policy equal to 0.5% of the value of the construction work if in excess of LE150,000 (in the case of new construction) or LE75,000 (in the case of vertical expansion or modification). In parallel, another copy of the drawings is forwarded to Civil Defense Department (*El-Defaa El-Madani*) within the Ministry of Interior to examine the building plans and designs and their compliance with the Egyptian Code for firefighting. What makes new urban communities more advantageous and appealing for investors is that there is no need to acquire approvals from such entities as MODMP or Antiquities, since all land within these new cities is considered automatically cleared upon issuance of the Presidential or Prime Ministerial Decree establishing the new city.

170. Although according to law 106, 1976, all previous procedures should not exceed 30 days to issue the required building permit, according to NUCA records, the average duration to acquire building permits for real estate development is between 2-4 months depending upon the approval of *Mujama'ah Al Ashriya* and the civil defense department (*El-Defaa El-Madani*).

171. The fees involved in the issuance of the building permit include: (i) LE 5.5 for file processing; (ii) LE 50 per floor up to a maximum of LE 400; (iii) 1% of the value of construction to be permitted for the removal of debris, repair of damages, temporary unauthorized occupancy of

streets and engineering stamp duties; (iv) LE 0.1 for revenue generation according to Law No.147 of 1984; and (v) LE 0.4 in other stamp duties and revenue generation fees. This is in addition to the insurance policy equivalent to 1% of the construction cost.

172. The construction cost figure used for assessing the building permit fees and the insurance policy is determined by the Decree from the Minister of Housing, which is updated every few years. Previously, these values were as follows: LE 100 per square meter for the permit and LE 100 per square meter for the insurance policy. Since these values were well below the average construction cost, a new decree has been issued stating that the value has been adapted to be LE 400 per square meter for the permit.

173. The construction must start within one year from the date the building permit is issued. If not, a fee is to be paid to renew the building permit. Prior to initiating digging and construction of the foundations, the owner must notify the Engineering Department in the New Urban Communities Authority to inspect compliance with the *Tanzim* (building) line. Inspections take place during and at the end of construction to ensure compliance with the approved drawings. In case of non-compliance, the owner is liable for a fine equal to the cost of non-compliant works and the infractions are removed at his/her cost.

Obtaining Utilities

174. As soon as investors obtain their building permit, they can apply within the concerned new city agency for temporary connections for electricity and water supply in order to use such utilities for developing the project. Investors are responsible for installing all on-site infrastructure networks. As soon as construction is completed, each unit/building within the project receives a separate water and electricity meter upon individual consumption. Typically, the end user who has acquired a plot or building is liable for obtaining the utility permit through the new city agency.

Land Development within the Zimam

175. Concerning land development, the investor prepares a detailed plan for his project and submits it to the planning and/or engineering department within the Governorate for review, acquiring the approval of the Governorate to be issued in a form of decree stating the project boundaries, different buildings within the project, planning and building conditions and criteria concerning building densities and height.¹¹

Obtaining a building permit

176. Obtaining a building permit usually follows the same procedures as applicable to industrial development, including:

- Photocopy of owner's ID
- Delegation of authority from the owner to the person/entity dealing with the Authority
- Proof of ownership of land and payment progress of its overall price.
- Three copies of a map with a layout of the land subdivision or construction site (scale 1:2,500)
- A statement of project's purpose
- Official report of site's receipt

¹¹ Another distinction here between projects being carried out inside the zimam through governorate and those within new cities is that the first one usually built without specific planning criteria which means that buildings just follow the building law in terms of height, while in new cities there is strict planning criteria that regulate densities and height through an overall vision for the whole city development. The result for real estate projects inside Zimam was the establishment of high rise blocks that contributed to increase the pressure on infrastructure capacity and traffic problems where such projects are built.

- Photocopy of proof of payment and required administrative fees for file processing
- Photocopy of the Governor's decree approving the planning, land subdivision and building regulations
- Timetable for project implementation endorsed by the Consulting Engineer (must have 15 years experience including 8 years in the area of specialization and 5 years in a management position) and owner
- Three sets of the following drawings endorsed by the designing architect including his/her syndication and registry number: (i) Site or project layout approved by the New Urban Communities Authority (scale 1:1,000 or 1:2,000); (ii) Architectural construction drawings (scale 1:50); (iii) Structural engineering drawings (scale 1:50); (iv) Sanitary engineering/plumbing drawings (scale 1:50); (v) Electrical engineering and plumbing drawings (scale 1:50); and (vi) Detailed planning for infrastructure networks (roads, water and sanitary drainage) at an appropriate scale.
- Three files of the following endorsed on all pages: (i) Consultancy report for soil tests endorsed by the Syndicate; (ii) Calculation note for the building structure; and (iii) Report by the Consulting Engineer/designer that the building's structure and foundations are suitable for the design loads and that the safety factor for natural disaster mitigation reflects design considerations and the Egyptian building code regulations, endorsed by the Syndicate.
- Insurance policy of 0.5% of the value of the construction work to be permitted if in excess of LE150,000 (in the case of new construction) or LE75,000 (in the case of vertical expansion or modification).

177. The submitted file is inspected by the Engineering Department. Once cleared, the application file is forwarded for approval by each of the following entities:

- MODMP (for security clearance, especially of use and height)
- Quarries department (to ensure the area is without mineral significance)
- Agriculture department (to ensure that the site is not on agricultural land that is protected against development)
- Antiquities department (to ensure the area is without archeological significance)
- Water Authority (to ensure that the area is serviced and that the network capacity can accommodate the new development)
- Electricity Authority (same reason as water)
- Sanitation Authority (same reason as water)
- Civil defense (to ensure compliance with fire regulations),

178. Although the concerned building law stated that the permit should be issued no later than one month after applying for it, in practice, it may take a period between 3-6 months up to a year to obtain the permit in addition to the direct and indirect cost through the process. The fees for obtaining a building permit in Cairo are almost the same as in new urban communities.

Obtaining utility connections

179. Another obstacle, that faces any real estate investor within Zimam, is to obtain the required utilities connections (water supply, sewage and electricity). For those real estate projects developed in Cairo, since the land was located on the periphery of the city, investors had difficulties in acquiring the required connections. Some investors went on to build their infrastructure at their own cost as waiting for the Governorate to undertake its obligations would have jeopardized the delivery date of the residential units to the end beneficiaries. Those who wait for the governorate to deliver services usually face delays in the delivery of residential units and other services.

Box 4.3 Ebad El-Rahman City in Cairo

Located on the eastern side of the ring road to the north of Maadi district, a real estate development project owned by Ebad El Rahman real estate development company has been established. Starting in 1999 with a nominal land price of LE 50 per square meter, the project consisted of a large number of residential blocks with some affiliated services (commercial spaces and other facilities). Each block reaching a height of 12 floors. The project has targeted mainly middle income households by constructing residential units of 100 m² average size. The selling price for such units was LE 500 per square meter including complete finishings. Each client has been offered an affordable financial mechanism through which only 25% of the total price is paid as a down payment and the rest is to be paid on a 5-year period after receiving the unit without interest. Facing a problem in acquiring the required utilities hook ups, the owner had to take the initiative to acquire these services by his own from the nearest main lines which was almost 5 km length. In its second phase in 2002, the project has acquired the land with an average price of LE. 100 per square meter, double of the price in its first phase, accordingly the selling price has been modified to be LE.700 per square meter.

4.3 Conclusions

180. Public land for real estate development projects is controlled by NUCA and the Governorates, respectively for outside and inside of the *Zimam*. In new urban communities, investors deal with independent authorities without the need to seek clearances for the allocation decision from such government entities as MODMP and antiquities. Such clearances in the case of Governorate-controlled public land prove to be a major investment constraint. NUCA disposes of public land administratively (usually with an advertisement) through *Takhssiss* or conditional transfer of ownership at below-market prices, but which often cover the cost of service delivery. Investors complain that NUCA has a fixated price mindset and charges high prices for land. In reality, in the few instances where strategic parcels were auctioned, they fetched prices that were more than 300% the administrative prices. Investors also complain from a requirement for indefinite payment of administrative price differentials in case of any modification to the initial terms and conditions of the contract.

181. NUCA has cumulatively and over time developed complex, unclear and un-transparent land allocation procedures and development regulations. Recently however, NUCA has adopted new approaches to promote public-private-partnerships, including a land-for-equity-swap. In this approach, NUCA enters into partnership with developers using the value of serviced public land as its contribution and in return receives housing units that it allocates on affordable terms. Such approaches are viewed as innovative but are at the same time criticized for lacking transparency and lacking rules and regulations to govern the land valuation and deal structuring process.

182. The selection of new urban communities' location has in the past tended to be a political decision rather than based on market or technical considerations. Land use planning has typically been supply-driven with little gauge for demand. These factors explain why only 5 out of 20 new urban communities are deemed successful, those around Greater Cairo Region and Alexandria. In these areas, an unhealthy competition has been observed between NUCA and Governorates in terms of public land allocation for real estate development. One example is the excessive supply of public land for real estate development in the Greater Cairo Region through the competition between NUCA and Cairo and Giza Governorates, each of which has its different procedures and prices even if the sites are very closely located. The same unhealthy competition has emerged between NUCA and Alexandria Governorate's *Amlak*.

183. Additional overarching problems related to access to public land for real estate development and which also apply to other investment sectors include:

- The supply of public land is through a supply driven rather than demand driven process. Pricing and incentive policies often relate to the government's socio-spatial and political objectives rather than reflecting the market or responding to investment needs or trends;
- The land development process especially the land subdivision and building permit process is very complicated, cumbersome and time-consuming and in dire need of simplification;
- There are many government entities involved in decisions relating to land development with hardly any coordination among them and often times with conflicting/competing interests. In addition to the need for coordination, there is an imperative to simplify the involvement of and number of approvals needed by these bodies;
- There is a clear need to set transparent mechanisms for land allocation and pricing for real estate development throughout Egypt;
- There is a lack of information systems through which investors can get access to the required data concerning land and procedures for development; and
- Within the zimam, investors struggle to obtain the approval from several concerned entities at a great cost to them in terms of time and resources.

Chapter 5. Access to and Development of Public Land for Agriculture and Land Reclamation Investment

184. The agricultural sector in Egypt continues to be the dominating economic activity, absorbing the largest percentage of the country's labor force. The latest Egypt country profile reports that although the share of agriculture in nominal GDP fell from 25.6% to 13.9% of GDP between FY1985-86 and FY2004-05, the sector continues to be the country's largest employer accounting for about 28% of the labor force today despite a drop in recent years.¹²

185. The combination of very rapid population growth during the second half of the 20th century and a geographically limited arable area around the Nile Valley and in the Delta Region (the total settled and arable land area within the Zimam constitutes only 4.5% of Egypt's total land area) led the GOE to embark since the 1960s on a policy of reclaiming desert land for agriculture. This policy aimed to compensate for the loss of agricultural land resulting from informal urban encroachment in the Nile valley and Delta, and to increase food production to meet the demands of a rapidly-growing population amidst concerns over food security.

186. Since the agrarian reform in the 1950's and 1960's, the GOE agricultural policy has promoted a cooperative model supported by large price subsidies for food and agricultural inputs. The result was a heavily regulated agricultural sector, in which the Government put in place a rent control for land and set the lease prices, which were revised only every decade based on land fertility and location. The failure of this policy to improve agricultural productivity forced the GOE to adopt a market liberalization agenda since the mid 1980s, which reduced State intervention. This included the end of some government subsidies and the promotion of high-value crops for export to European markets.

187. The new reform policies culminated with the issuance of Law 96 in 1992, replacing the Agrarian Reform Law No. 178 of 1952 that had previously established rent control and granted tenants security of tenure including the right to transfer the tenancy contract to heirs. The new Law came into effect in October 1997 after a five-year transition period in which existing contracts were unchanged to allow for inheritance rights claims. Since 1997, landowners could recoup back their land and charge tenants market-based rent, which in most cases increased three to fourfold. Leases were made on an annual basis, renewable at the landowners' discretion. Since 1992, average agricultural land prices increased at least threefold.

188. Today, Egypt's agricultural sector includes some 3.5 million farmers cultivating small landholdings averaging 2 *Feddans* (0.84 ha). Only 3% of Egypt's total land area is arable, of which about one-third is served by main and secondary surface irrigation drains that are for the most part in dire need of repair. Irrigation systems are faced with problems due to high soil salinity as a result of the rise in the water table following the construction of the High Dam. In addition, only 2% of the 8m *Feddans* of cultivated land are irrigated using modern agricultural technologies. The cultivated area in Egypt increased by 22%, from 6.2 to 8 million feddans in the 1982-2000 period. Agriculture continues to be a highly subsidized sector, especially with irrigation water provided free of charge by the GOE. Yet, despite all such efforts, rapid population growth makes Egypt a large food importer. In FY2004-05, food imports accounted for 11.6% of total imports, having accounted for an increase of 10.1% of government spending from the previous year.

¹² Economist Intelligent Unit, February 2006.

189. In response to the encroachments on and limitation of the arable land, some 1m *feddans* of desert land had been reclaimed for agriculture use by 1995, making the cultivable desert land area about 3 million *feddans*. The government’s plan is to reclaim another 3.4m *feddans* by 2017. However, given a loss of agricultural land to urban expansion at an estimated rate of 30,000 *feddans* per year, the total land area under cultivation has more or less remained constant.

190. The GOE’s desert land reclamation policy started in the 1960s with State-funded projects managed by public companies, which were given control over State-owned desert land in places such as Mudiriyet El Tahrir and El Salihya to undertake the land reclamation effort. The program underwent its first major transformation in the 1980s with the launch of Mubarak’s Graduates Project, which aimed to create new jobs by offering small parcels of reclaimed desert land to young graduates. The project has greatly expanded and accounts for some 25% of the land reclaimed since the 1980’s. Under this project, 5-10 *feddans* are given to each beneficiary at a price set to cover the cost of infrastructure provision (supply of irrigation water), and in some cases coupled with housing units and community services to encourage settlement in these areas. The land is given in the form of a long-term-lease until the beneficiary has paid all due annual installments, in which case they are granted an ownership title. This program has been credited for somewhat softening the effect of rent control removal in the late 1990’s, by offering land to those who lost their tenancy of land in the old Valley and Delta.

191. Parallel to the Mubarak’s Graduates Project, the GOE encouraged the private sector to invest in land reclamation projects by allocating large areas of desert land for reclamation, with the aim of having 3.4 million *feddans* reclaimed by 2017, especially in areas outside of the so-called “old” valley such as Toshka, Sinai and the Western Desert. Table 5.1 summarizes the evolution of the land reclamation program between 1952 until 2004.

Table 5.1 Evolution of Land Reclamation Areas until FY2003-04

Years	Reclaimed Area (in 1,000 Feddans)	Percent of total
Between 1952 to FY1967-68	1,278	39.4
Between FY1968-69 to FY1983-84	292	9
Between FY1984-85 to FY1999-2000	1,587	49
FY2000-01	13	0.4
FY2001-02	29	0.9
FY2002-03	18	0.6
FY2003-04	24	0.7
Total	3,241	100

5.1 Access to Public Land for Agriculture and Land Reclamation in Egypt

In line with all other investment sectors, access to public land for agricultural development in Egypt is divided along the lines of the *Zimam*. Control over public land for agriculture and agro-business development outside the *zimam* is mainly managed and implemented by the Ministry of Agriculture and Land Reclamation (MALR)’s General Authority for Reconstruction Projects and Agricultural Development (GARPAD), in addition to other central government ministries/authorities such as the

Ministries of Defense and Interior, NUCA, and holding companies affiliated with the Ministries of Irrigation and Water Resources, and of Investment. Within 2km outside of the Zimam, control over public land for agriculture and agro-business development is under the relevant Governorate, except if the lands in question have been included in the land reclamation strategy, then these are controlled by GARPAD. GARPAD also manages the development of Governorate-owned land. Agricultural land within the Zimam is not considered in this assessment as it is largely privately-owned or falls under the MALR's Agrarian Reform Authority (ARA), which has allocated it to small landless farmers as part of the agrarian reform program.

Institutional and Regulatory Framework Responsible for Access to Public Land for Agriculture and Land Reclamation Outside of the Zimam

192. There is a complex maze of institutions and legislations and fragmented authority over public land management and development for reclamation purposes. The predominant law governing public land management, No.143 of 1981, introduced a one-size-fits-all hierarchy of control over public land and decision-making over land development as follows: defense, agriculture and land reclamation, and then new urban communities. The following section contextualizes in more detail the complex institutional landscape in land management, as it pertains to agriculture and agro-business.

193. In addition to GARPAD, several other government entities allocate land for agriculture development, including NUCA which allocates public land in the green area surrounding new urban communities for agriculture and land reclamation purposes. NUCA allocates public land for reclamation purposes through usufruct (called in Arabic *Haq Intifaa*). The contract is structured in two phases: the first phase grants a 3-year lease after which the investor's seriousness in implementing reclamation and infrastructure delivery is assessed. Based on the outcome, the length of the usufruct contract is determined through mutual agreement between both parties. All procedures and conditions for land allocation applied by NUCA are similar to those in the real estate development sector, discussed earlier.

194. The Ministry of Defense and Military Production and the Ministry of Interior implement their own agricultural and agro-business development projects on reclaimed desert land which they control. In addition, several holding companies affiliated to the MIWR and the MOI control public land on which they pursue land reclamation schemes. The largest such entity is the West Delta and South Valley Development Holding Company (WDSVDHC), which was established by Presidential Decree No. 25 in 2002. The decree transferred the ownership of public land that was not yet allocated in the Toshka mega-project to the WDSVDHC as well as 100,000 feddans in the area west of the Delta and 265,000 feddans around the new international coastal highway that runs parallel to the Mediterranean Sea. The decree empowered the company to dispose of the public land it controls using similar procedures as other government entities. The WDSVDHC is also authorized to establish local shareholding companies to develop the land, subject to the Public Companies Law No. 203 of 1991, Limited Liability Law 159 of 1981, and the Capital Market Law No. 95 of 1992.

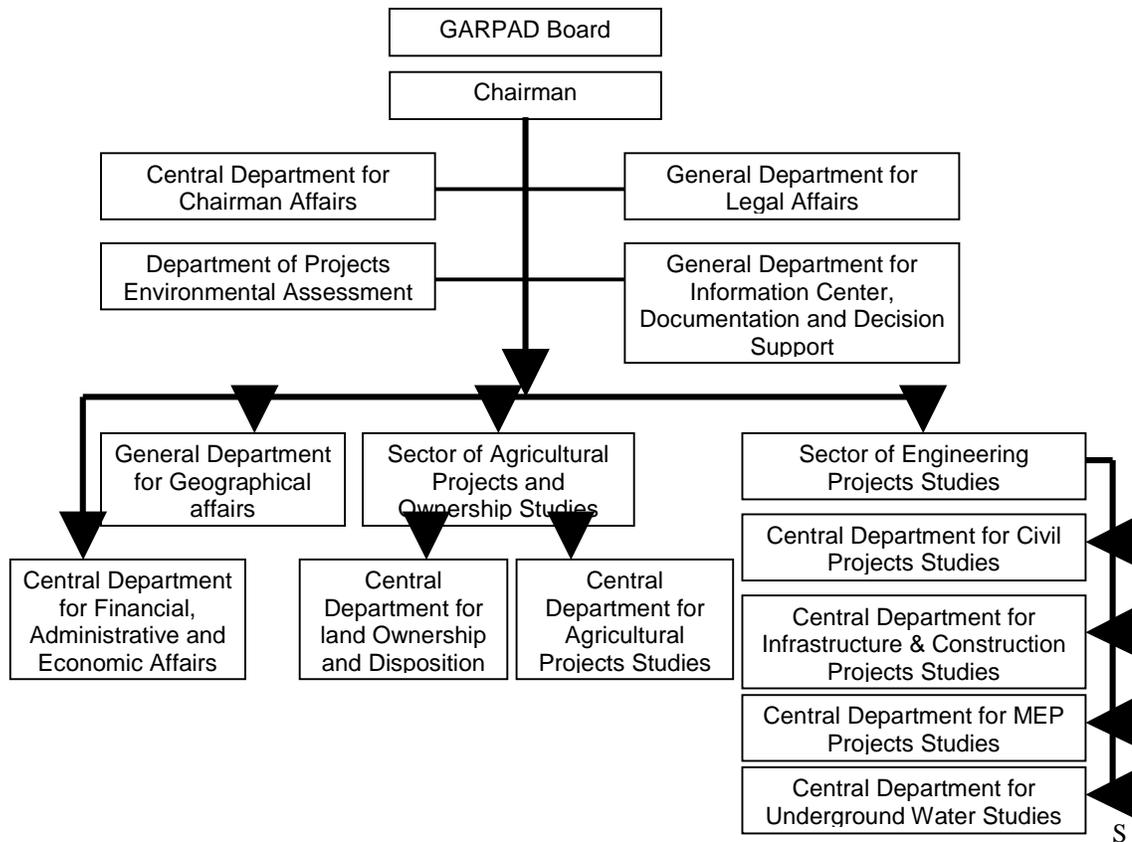
195. The main line ministry responsible for allocating public land for agriculture and agro-business is the MALR, acting through the GARPAD. GARPAD was established by Presidential Decree No. 269 in 1975 as the main government authority responsible for public land allocation for agriculture and land reclamation purposes. The decree provided GARPAD with authority over the following:

- Setting policies, strategies and plans to reclaim uncultivated and desert land for agricultural activities;
- Implementing the basic infrastructure required for reclamation purposes and coordinating with the relevant government agencies in planning and delivery of basic services (irrigation and drainage, electricity and potable water supply) in the reclaimed areas;

- Surveying uncultivated desert areas to determine suitability for reclamation and water resources availability;
- Launching socio-economic studies for land reclamation, agriculture and livestock projects, and agro-industry; and
- Implementing a strategic land settlement policy to reduce high population densities in cities.

196. GARPAD's role was consolidated by Law No. 143 of 1981, which empowered it to manage all land reclamation activities, subject to coordinating with and obtaining clearance from the MODMP. The Law applied to land reclamation projects the same incentives, rules and procedures as in Law No. 59 of 1979 governing new urban communities. The same incentives, rules and procedures also apply to land reclamation projects located 2 km outside the *Zimam*. GARPAD is responsible for financing the delivery of needed infrastructure and services from the budget allocated to it by the State. Such an extensive mandate is reflected in GARPAD's organizational structure. The authority is divided in two main technical units, one in charge of reclamation projects and the other of engineering design of needed infrastructure (See Figure 5.1).

Figure 5.1 GARPAD's Organizational Structure



Source: www.garpad.gov.eg

197. The disposition of land controlled by GARPAD is only for land reclamation purposes and follows the conditions and regulations set by GARPAD's Board of Directors. The initial usufruct contract is for a 3-year period, with the option, upon proof of investor's seriousness, of transferring the land ownership at the pre-improvement value minus the rent amount that has already been paid.

198. Law No.143 of 1981 states that the main public land disposition procedure for reclamation purposes is public auction. Yet, the Law also gives GARPAD's Chairman the authority to dispose of land directly without the need for auction, in accordance with the rules and procedures set by the

Board. The latter include preferential access for residents of the Governorate in question and to other target groups including the disadvantaged. Another exception for disposition of land without auction is granted for projects deemed of “national significance” as approved by Cabinet. In this regard, the Law empowers GARPAD's Board to set land prices through a valuation process carried out by a specialized technical committee. The exception for public land valuation for administrative allocation is for land not included in the national reclamation plan. Decree No. 290 of 1990 prices these lands at LE50 per feddan for unserviced land and LE100 per feddan for serviced land, with these prices applying upon completion of the three-year period for proof of seriousness of reclamation.

199. Many other laws and decrees add to the complex regulatory landscape governing public land reclamation. The following section summarizes key applicable laws. Law No. 7 of 1991 empowers local governments to manage and dispose of publicly-owned lands within the *Zimam* for reclamation purposes, whereas GARPAD is responsible for land within 2 km outside of the *Zimam* that is included within the national reclamation plan (By Law, its control supersedes that of the Governorates). The apportionment of the income generated from the allocation of such lands between the Governorate and GARPAD is decided by Cabinet. Law No. 5 of 1996 regulates the free allocation of public land and real estate or at nominal fees for development or investment promotion, through a Presidential Decree which identifies the location and defines the regulations and process for such disposition. In an effort to curb speculation, Law No. 5 of 1996 authorizes the transfer of land ownership only after the completion of construction and beginning of operation. As for leases, these are limited to a 40 year period, with a renewal option if the project is still in operation. The laws also provide for the repossession of public land in case beneficiary investors fail to implement the project in question or do not abide by the agreed timetable, but open up the door for the re-sale/lease of the same land to the same investor (which provides for new price adjustment but it is unclear how the authority will ensure that the project would be developed the second time around).

Procedures for Access to Public Land for Agriculture and Agro-business Development outside of the Zimam

200. One of the problems of the existing fragmented institutional framework governing public land management is that each entity has its own differentiated procedures and policies. In particular, GARPAD has many complicated, unclear and seemingly arbitrary procedures for the allocation of public land for agricultural uses. This complex maze of procedures is difficult to understand and lacks the coherence and transparency needed for an investment climate that is conducive to the scale of investment called for under the 2017 National Development Plan.

Location and characteristics

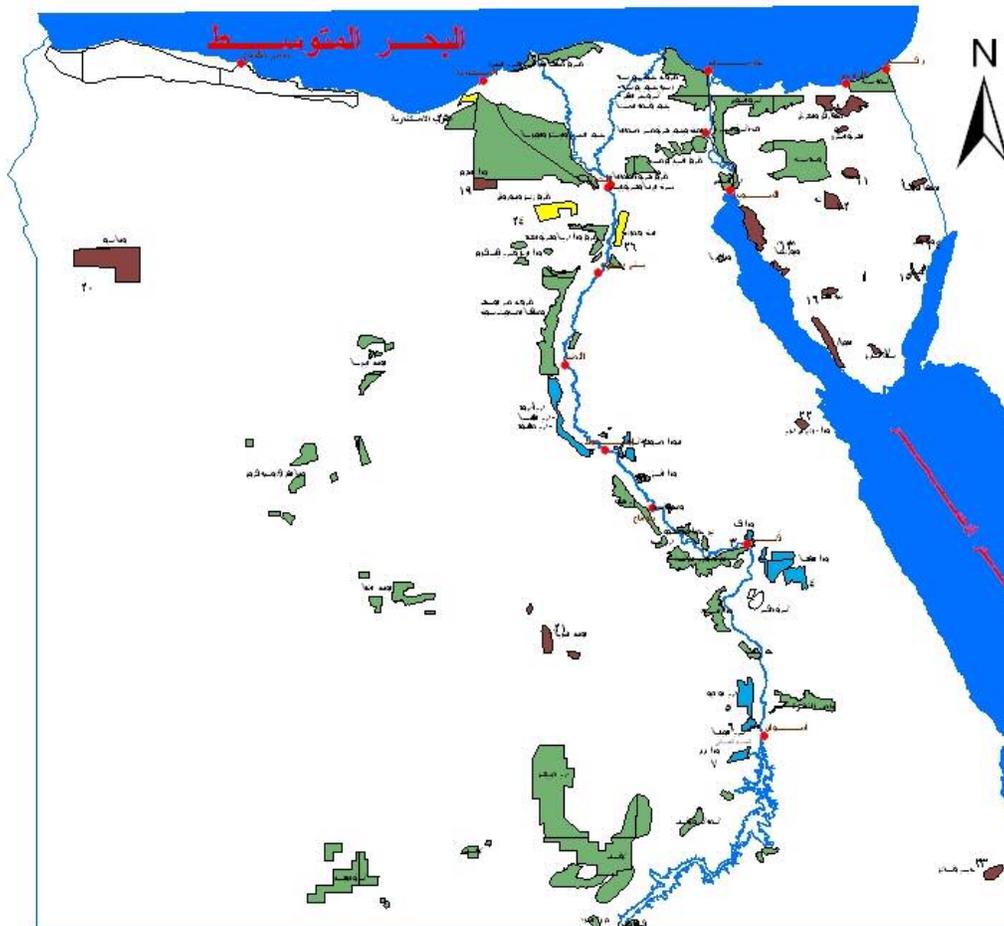
201. Egypt's National Development Plan/Investment Opportunities Map for 2017 identified 3.4 million feddans for potential investment in reclamation. These lands are controlled by GARPAD, which is also responsible for the development process. GARPAD also administers the large public land areas controlled by WDSVDHC, including responsibility for infrastructure development and land allocation through sale/lease, with only the revenues from land sales flowing to WDSVDHC. GARPAD prepares annual and five-year-target plans based on the national plan in coordination with the Ministry of Irrigation and Water Resources (which is responsible for irrigation infrastructure) and requests the necessary budget from the State.

202. The 3.4 million Feddans slated for agriculture and land reclamation are distributed as follows (See Figure 5.2): (i) Around the Nile Valley: total area of 1.2 million feddans from Southern Cairo to the south of Egypt (Toshka project); (ii) Around the Delta Region and in Sinai: total area of 1.4 million feddans; and (iii) Scattered Eastern and Western Desert locations in East Owienat, Halaieb, Shalateen, and the oases (Siwa, Khargah, Dakhla and Bahariya): total of 0.8 million feddans.

203. Since the 2017 plan was launched in 1997, GARPAD has completed or is in the process of allocating or is in the process of allocating about 2 million feddans, while the remaining 1.4 million feddans are planned for future allocation until 2017. The first 2 million feddans have been allocated using market-based mechanisms through public auction sales. The remaining 1.4 million feddans are to be allocated in usufruct contract (*Haq intifaa*) for 49 years by Cabinet Decree. Tables 5.2 to 5.4 present statistics on land reclamation activities including progress, financing and allocation status.

204. In December 2005, the MIWR reported on the progress of reclamation and development of the 3.4 million feddans earmarked under the 2017 National Plan (See Table 5.2). The implementation of the entire plan's infrastructure and reclamation works is anticipated to cost over LE 30 billion (\$5.2 billion), out of which some LE 17 billion (\$3 billion) have already been disbursed. About LE 7.6 billion (\$1.3 billion) of private financing is expected in other areas.

Figure 5.2 Total Land Allocated for Reclamation in the 2017 National Development Map



Total land to be allocated through Lease (*Intifa'a*)

- 533,000 fed. to be reclaimed by Nile water
 - 705,000 fed. to be reclaimed by underground water
 - 150,000 fed. to be reclaimed by treated waste water
- Total of 1,338,000 fed.**

Ongoing Projects within the National Plan 1997-2005

- 697,300 fed. already reclaimed
- 1,351,900 fed. not yet reclaimed

Table 5.2 Status of Land Reclamation in the 2017 National Development Plan

Projects by location and progress	Zimam (Feddans)	Expected completion time (years)	Anticipated cost (LE million)			New Village construction for workers	
			Total cost	Already Spent	Needed to Complete	Planned	Already Built
1. In/around the Nile Valley †							
Completed or in final stages	190,000	1.5	3,009	2,832	177	81	38
Under implementation	70,000	2	560	517	43	27	2
Planned for 2006-11	101,000	5	1,294	12	1,282	39	0
Planned for 2011-17	339,000	7	5,650	0	5,650	124	0
Toshka, South Valley*	600,000	2	6,050	4,900	1,150	20	0
Sub-Total	1,300,000		16,563	8,261	8,302	291	40
2. In/around Delta and Sinai †							
Completed	167,500	1	1,349	1,328	21	57	20
Under implementation stage	951,500	2	5,188	4,200	988	204	47
Planned for 2006-11	148,000	5	1,000	50	950	50	0
Planned for 2011-17	130,000	7	2,000	0	2,000	18	0
North Sinai Dev Project **	400,000	2	4,218	3,160	1,058	50	7
Sub Total	1,397,000		13,755	8,738	5,017	379	74
3. In other locations ‡							
Sinai, Oases, Natron Valley, East Owienat, Halaieb, Shalateen ***	759,000		7,600	NA	NA	161	22
Total	3,456,000		30,318	16,999	13,319	831	136

* Infrastructure for 165,000 feddans completed and for 235,000 feddans expected in coming 2 years

** Infrastructure for 113,000 feddans completed and for 167,000 feddans expected in coming 2 years (remainder postponed until offered to investors)

*** 183,000 Feddans already reclaimed

† Financed from the budget of MALR and MIWR

‡ To be financed by the private sector

Table 5.3 Land reclamation areas in Governorates according to status, FY 2003-04 (in 1,000's Feddans)

Governorate	Currently under reclamation	Reclaimed land allocated	Excluded from allocation	Un-reclaimed land allocated	total land area allocated	%
Alexandria	2.2	77	10.2	0.4	89.8	4.1
Port Said	-	16	0	18.1	34.1	1.5
Suez	-	31.2	1.8	4.6	37.6	1.7
Domiat	(=)	11.7	0.2	2.8	14.7	0.7
El-Dakahlia	(=)	10.9	0	31.3	42.2	1.9
El-Sharkia	17.4	186.4	9.6	37.8	251.2	11.4
El-Qualiohia	0.3	0.8	0	0.1	1.2	0.1
Kafr El-shikh	(=)	183.6	1.9	6.3	191.8	8.7
El-Gharbia	0.2	3.2	0	(=)	3.4	0.2
El-monofia	(=)	0.8	0.2	(=)	1	(=)
El-Behira	6.9	710.4	26.8	109.6	853.7	38.7
Ismailia	0.1	87.9	1	0.1	89.1	4
Giza	(=)	5.7	0	3.1	8.8	0.4
Bani Swef	(=)	8.5	0	0.2	8.7	0.4
Fayuom	0.3	39.6	5	1.7	46.6	2.1
Menia	0.1	67.7	0.1	(=)	67.9	3.1
Assuit	0.1	8.1	0.1	1.8	10.1	0.4
Sohag	(=)	15	0.1	2.6	17.7	0.8
Qena	(=)	26.5	0	-	26.5	1.2
Aswan	0.5	84.1	26.4	8.2	119.2	5.4
Elwadi Elgedid	2	40.7	22.5	20.2	85.4	3.9
Matrouh	-	19.6	11.2	18.5	49.3	2.2
Sinai	-	156.8	0	0.4	157.2	7.1
Total	30.1	1792.2	117.1	267.8	2207.2	100

**Table 5.4 Land Reclamation areas under GARPAD and ARA by Governorates, FY 2003/2004
(in 1,000's Feddans)**

	Total area earmarked for land reclamation	Under GARPAD's control	Under ARA's control	Total land reclamation area allocated	Percent of reclamation land allocated
Alexandria	473.1	89.8	-	89.8	19
Port Said	96.6	34.1	-	34.1	35.3
Suez	57	37.6	-	37.6	66
Domiat	16.5	9.7	5	14.7	89.1
El-Dakahlia	49.2	38.4	3.8	42.2	85.8
El-Sharkia	270.1	237	14.2	251.2	93
El-Qaliobia	10	1.1	0.1	1.2	12
Kafr El-shikh	209	185.4	6.4	191.8	91.8
El-Gharbia	3.4	3.2	0.2	3.4	100
El-monofia	7.2	0.4	0.6	1	13.9
El-Behira	867	821.8	31.9	853.7	98.5
Ismailia	102.4	89.1	-	89.1	87
Giza	81.3	8.4	0.4	8.8	10.8
Bani Swef	76.6	8.3	0.4	8.7	11.4
Fayuom	48.6	42	4.6	46.6	95.9
Menia	68.4	66.5	1.4	67.9	99.3
Assuit	36.1	10.1	-	10.1	28
Sohag	17.9	17.7	-	17.7	98.9
Qena	35.3	26.5	-	26.5	75.1
Aswan	220.5	114.9	4.3	119.2	54.1
Elwadi Elgedid	143.1	85.4	-	85.4	59.7
Matrouh	183.8	49.3	-	49.3	26.8
Sinai	167.4	157.2	-	157.2	93.9
Total	3240.5	2133.9	73.3	2207.2	68.1

Procedures of Access, Methods of Disposition, and Terms and Conditions

205. Law No. 143 of 1981 and Prime Ministerial Decree No. 2906 of 1995 govern the procedures for management and disposition of land controlled by GARPAD. There are two established sets of different procedures for the allocation of land, depending on whether: (i) the land is included in the 2017 National Reclamation Plan, which are classified into land provided with basic infrastructure but not yet reclaimed, and land provided with basic infrastructure services and already reclaimed by GARPAD (leaving only agricultural activities to investors); and (ii) land outside the 2017 National Reclamation Plan, in which case the investors are responsible for the necessary infrastructure delivery and reclamation. The amount of land allocated by GARPAD in a given year depends on its annual plan and the budget it has received. Advertisements of land disposition plans are posted on GARPAD's website and in local newspapers. GARPAD also reports that it provides GAFI with annual reports with relevant information for investment promotion purposes.

206. Serviced and un-reclaimed Desert land included in the 2017 National Plan: By Law, any land slated for reclamation in the 2017 national plan and which has already been provided with infrastructure by the State is to be disposed of through a public auction. The disposition process for

this un-reclaimed land starts with a initial three-year lease period to test investors' seriousness, after which land ownership is transferred upon the successful completion of the reclamation works. In this case, the land is valued based on the price prior to any reclamation activity minus the amount paid for the three year lease. If an investor fails to prove seriousness in the reclamation work, the contract is automatically canceled.

207. The GARPAD Board issues a decree defining desert land subject for reclamation after: (i) receiving the approval of all concerned authorities (mainly MODMP); (ii) preparing a budget and a timetable for infrastructure delivery; and (iii) obtaining an estimated value for the land including infrastructure costs and a rental rate from the Higher Committee for State Land Valuation (HCSLV).

208. After completing these procedures, GARPAD advertises its intent to dispose of the land in at least one national daily newspaper on two occasions with one week interval (only one advertisement is needed if the cost exceeds 0.5% of the land value). The advertisement includes the land area, location, features, basic price, annual rental values, terms and conditions, and the public auction date (with its at least one month interval from the date of publication). GARPAD also prepares bidding documents with maps which investors can purchase.

209. Investors are required to submit expressions of interest (EOI) including a declaration of compliance with all conditions in the bidding documents. EOI are submitted to a special committee established for the purpose of managing the bidding process and ensuring compliance with all terms and conditions. EOI must include the following:

- *Investor's information:* (i) For companies and cooperatives: name, nationality, address, date and status of establishment, activities and total capital. Additional information for companies include an official copy of the establishment documents and bylaws, names, nationalities and responsibilities of boardmembers and executive managers, and names of shareholders and their shares of the total capital. Additional information for cooperatives include a copy of the official gazette with the establishment decree, numbers of members, list of all land controlled by the cooperative, and designated representative; and (ii) For individuals: name, nationality and proof, date of birth, marital status, address, copy of ID card, and a declaration that s/he does not own more than the maximum land area stated in Law No.143 of 1981.
- *Land requirements:* the land area requested and description of location and features;
- *Declaration:* from the investors that they have inspected the site in question and accept to rent it as is and concedes the right to any future objection;
- *Technical studies:* (i) Reclamation, irrigation and wastewater disposal work, projected water demand, and necessary infrastructure services and works; (ii) Implementation plan and timetable for all reclamation, agricultural and infrastructure works; and (iii) estimate of investment costs for reclamation, agricultural works, equipment and infrastructure;
- *Payment to GARPAD* of security deposit equivalent to 5% of the land value (in cash or check) at a rate of Le 1,500 per Feddan to be acquired.

210. In plots with high demand, the committee chooses the highest bidder and requests an increase in the initial security deposit of up to 5% of the bid in addition to a payment of Le 4 per feddan for administrative costs. The three-year initial lease contract is initiated, with the annual rental rate set at 3% of the value of the land. Once the investor has proven seriousness in reclamation and agricultural works in line with the implementation timetable, the land is transferred to the investor at the predetermined sale price minus the 5% security deposit and the annual rental payments.

211. A special committee is set up by GARPAD Chairman Decree to assess investors' seriousness against the agreed plan. The committee undertakes annual site visits to review progress on the ground

(announced with a two-week notice) and prepares a formal report including: (i) a review of infrastructure and agricultural works against design specifications and implementation timetable; (ii) a description of areas that have been reclaimed, cultivated and serviced with infrastructure against the implementation timetable; (iii) a description of crops, construction and equipment; and (iv) a list of areas that have not yet been reclaimed. The committee members and the investors' representatives should both sign the report, and instances of disagreement or investors' absence are noted. The reports are reviewed by the concerned department at GARPAD. At the end of the 3-year period, a final report assessing the investor's seriousness is prepared, and presented to GARPAD's Board to decide on whether to sell the parcel or cancel the contract or part of it with repossession of the land. In case of cancellation, a formal notification is sent to the investor with the reasons for such action and another committee including a police officer is formed for the purposes of repossessing the land.

212. In all cases, investors are prohibited to dispose of the land until after the completion of land reclamation and agricultural works and payment of the full price including the share of infrastructure cost to GARPAD. Once these conditions are fulfilled, the investors must obtain GARPAD's approval for sale and/or lease of the land to another entity. Any change in the land use from reclamation and agriculture must obtain approval from GARPAD and other concerned government agencies (as usual, the Law is unclear on what are the other concerned government agencies) and entails payment of penalties.

213. Serviced and reclaimed desert lands in the National Plan: GARPAD is responsible for off and on-site infrastructure delivery and reclamation work, leaving investors to undertake agricultural activities. GARPAD issues a decree defining the reclaimed desert land to be disposed of, allocation procedures, and target beneficiaries. For these lands where significant investment has been put by the State, disposition is through public auction except for the cases defined in Law 143 of 1981 for use of direct administrative disposition for specific target groups or projects of national significance.

214. *Public auctions:* The same procedures concerning the disposition of un-reclaimed desert land through lease or sale in public auction apply, with the main difference being in terms of payment and price. The base price for each land parcel is set by GARPAD, taking into account infrastructure and reclamation costs and administrative overheads. Bidders must pay in advance a security deposit equivalent to 10% of the base price in cash or check payable to GARPAD. The auction decides the base price and winning bidders must pay an additional security deposit equivalent to 10% of the final bidding value (non-refundable), as well as 2% in commission sales and administrative costs.

215. Winning bidders are committed to complete 25% of the total land price within 30 days from receipt of allocation notification. The land price is then paid in 5-10 annual installments and charged an interest rate of 7%, with a grace period ranging from 1-3 years. Those who pay the land price in full upfront are granted a discount of 10% of the total price. In case of delays, a penalty fee of 14% of the due balance is added. Two consecutive late payments are grounds for contract cancellation.

216. Investors are prohibited from disposing of the land to others until they have paid the land in full and obtained GARPAD's prior approval. If GARPAD provides an exceptional approval for land transfer prior to completing the payment, investors are responsible for meeting all installments up to the transfer date in addition to 50% of the value of remaining installments and 2% in administrative costs. It is also prohibited to change the stated irrigation method without GARPAD's prior approval, which is only granted if the proposed method is technologically more advanced. Investors are also not allowed to change the original land use without acquiring GARPAD's and the other concerned agencies' prior approval and only after paying the necessary penalties associated with such changes.

217. *Direct administrative disposition to target groups or for projects of national significance:* The GARPAD Board defines the price and rental value for land earmarked for target groups specified in Law 143 of 1981. These are in a descending hierarchical order:

- Martyrs' families, wounded war veterans, and former army members, all of which are identified and notified of availability of land for allocation by the MODMP Organization and Administration Authority (*Haie't El-Tanzim wa El-Idarah*);
- Young farmers mainly living from agriculture, less than 50 years of age and owning no more than 2 *feddans*. These are informed of available land through police stations and GARPAD branch offices;
- Young university or agriculture school graduates, less than 30 years of age, who are not civil servants, have successfully passed the prerequisite training, and pledge not to seek employment within the public sector after obtaining the land. These are notified through newspaper advertisements; and
- Retired civil servants. This group is informed through newspaper advertisements.

218. All of the above must be Egyptian nationals and without criminal record to qualify and their files are reviewed against the selection criteria and pass individual interviews. Preference is given to those with larger families, poorer groups, younger head of household age, and to descendants from families that have traditionally worked in agriculture.

219. Sale is finalized upon investor's satisfactory proof of seriousness at the end of the three-year period in which land servicing, reclamation and development (including irrigation) are completed. For successful cases, payments for the land are made in 30 equal annual installments, with interest charged on late payments. Retired civil servants are expected to pay a down payment of 20% of the land price and related infrastructure costs, if any. The sale contract contains binding provisions and restrictions to beneficiaries: the requirement to settle on the land and undertake agriculture; retaining the same irrigation method unless with GARPAD's approval for more modern techniques; joining the agricultural cooperative in the area; a pledge to not dispose of the land prior to 15 years of the sale contract; and compliance with full payment unless otherwise ratified by GARPAD's. Any violation of these requirements can result in automatic contract cancellation.

220. *Projects in the national economic interest:* Selection of such projects is on a case-by-case basis based on size and nature. Such projects include agro-industry, food security, poultry and/or animal farming. The following documents are to be submitted to GARPAD by interested investors: (i) Companies submit an official copy of establishment documents and bylaws; names, nationalities and responsibilities of board members and/or executive managers; and names of the company's different shareholders with a disclosure of their capital shares; (ii) Cooperatives submit a copy of the official gazette issue publishing its establishment decree; total membership; disclosure of all land already controlled by the cooperative; and the name of its authorized representative; (iii) Individuals submit statement declaring that s/he does not own more than the maximum limit established by Law 143 of 1981 and proof of Egyptian nationality. All interested parties need to specify the area, location and main boundaries of land required; the purpose of buying or leasing and details of project to be developed; and approval of proposed project by the concerned administrative agency.

221. The GARPAD Board studies the requests and in case of approval, follows-up with the Minister of Agriculture and Land Reclamation, upon receipt of approval it goes to the Cabinet for final review. All beneficiaries who receive Cabinet approval are notified and committed to pay the required financial obligations within 30 days. The financial obligations whether rental value or land price together with any additional administrative costs are defined by GARPAD's Board on a case-by-case basis and with special procedures and conditions developed.

222. In administrative allocation, the basic sale and lease price is set by the Committee for Land Valuation created by this Law and which sets the land's value based on specific criteria, including:

1. Quality of land—soil type, fertility and suitability for agricultural uses;
2. Cost of land reclamation and development;
3. Land's agricultural cycle, expected crops and their marketability;
4. Cost of land use, expected revenues and projected net profits;
5. Water availability for irrigation, proximity and sustainability;
6. Location and proximity to inhabited areas and transport system; and
7. Price of comparable land.

223. *Desert lands outside the national reclamation plan:* Several investors see potential investment opportunities in agriculture and agro-business development on un-reclaimed desert lands located outside the 2017 National Reclamation Plan. In fact, there are many cases where investors have occupied the land first through squatting and then have opted to regularize their tenure through adverse possession and seek to obtain the approval of the concerned entities, including GARPAD. In such cases, investors are responsible for full infrastructure and land development cost and for applying to GARPAD to obtain the necessary approvals from other concerned government entities. A number of such cases are found along the main national highways, especially Cairo-Alexandria Desert Road and Cairo-Ismailia Road.

224. The following procedures apply to investors interested in acquiring this type of land parcel. The investor submits a formal request to GARPAD including name, nationality, address, legal status and all legal documents related to the investment company along with a statement describing the land area, its location, features and boundaries. The application should include a map certified by an engineer from the Engineering Syndicate and drawn to scale, featuring the land and its boundaries. In addition, applicants submit a statement certifying that their total ownership of desert reclamation land including the requested parcel does not exceed the maximum limit of land ownership set by Law (200 feddans/person, 300/household). For companies and cooperatives, all documents certifying their establishment along with the names of all board members and directors should also be attached.

225. Upon receipt of request, GARPAD is to review it within one week and notify the investor within 10 days of its final decision. In the case that GARPAD agrees to the request, a field survey must be conducted after the investor submits payment of the required fees. Based on this field survey, a detailed survey map drawn to scale and a report are prepared to be reviewed and approved by a special committee set-up for in GARPAD for this specific purpose. The committee also reviews the land's custody to ensure proper handling.

226. Upon meeting the above conditions, a one-year lease contract is prepared, automatically renewable for another year. Contract renewal is guaranteed as long as the investor has managed to secure the irrigation source and the approval of the MIWR to include the land in its irrigation plan along with the investor's pledge to pay the overall cost. In addition, the investor is obliged to acquire the approval of all concerned authorities or risk cancellation of the contract without any refunds for rental payments made.

227. Once all required approvals have been acquired, the regular contract reverts to a 3-year lease for reclamation purposes, the first step towards actually selling the land to the investor. The investor is committed to pay the rental value in advance according and in case a payment is delayed for one full year the contract is subject to cancellation without prior notification or litigation. In case the investor is ready to purchase s/he must pay the land price in full upon signature of the initial contract.

It is prohibited to dispose any part of the land and/or to facilitate another entity to hold rights over the land without GARPAD's approval.

Box 5.1 The story of a leading Holding Company on Cairo Alex Road: a struggle for success!

This foreign-owned business has operated in Egypt for over a decade and has five lines of business: Poultry; Agro-business along the Cairo Alexandria Desert Road producing olives, grapes, vegetables; Food processing; Poultry feed manufacturing; and Glass manufacturing facility including to meet their own needs. Despite its successful experience in Egypt, the company has faced several problems including access to land for agriculture and agro-industrial uses, and land registration. The owners explain that they "have been looking for over 2 years for 30 acres to plant olives for export, but nothing is available. Many plots are available close to the Cairo Alexandria Road, but all have been bought by speculators." Furthermore, there is not enough land available for industrial expansion. The owners wanted to establish a new glass factory in 6th of October New City. Only one adequate plot was available, but 6 investors were willing to pay full price in cash. The city instituted a lottery to pick one of the 6 investors and the company managed to win the bid. However, due to a strict land management regulatory framework, a change in the designated land-use has made this Holding Company subject to expensive penalty fees. The investment climate is defined through a rigid land-management regulatory framework filled with cumbersome and costly procedures that have failed to provide the incentives for increased investment. The owners of this Holding Company provide a chronology of their experience from acquisition to registration of the new piece of land, including:

- ③ To acquire agricultural land, the company had to pay the price twice—once to the squatters/claimants and then to regularize ownership with the government (the squatting then adverse possession route);
- ③ To register the land, the company had to wait 5 years to get all permits from the various ministries before even starting the registration process with the real estate publicity department. This meant that they could not use the land as collateral to access finance, so delays affected its ability to finance its growth;
- ③ The company complained of its inability to resell its plot prior to a 7-year compliance period;
- ③ The heavy regulatory process has encouraged many investors and others to violate the laws, considering that those going through the squatting then adverse possession channel don't have to go through all these cumbersome and costly procedures with a 7-year-freeze on the capital invested to purchase the land;
- ③ In addition, the company suffered by the lack of coordination among the various ministries concerned, for example, the land survey carried out by the Ministry of Housing provided a different result than the one done by the Ministry of Agriculture—while the difference was a mere few meters on a large land plot, the company was forced to re-process all permits before it could proceed to register the land; and
- ③ Finally the company faced many difficulties in accessing clearances from the different entities (MODMP, antiquities, irrigation, and agriculture). They suggested that public land should be centrally cleared by all concerned agencies prior to disposing it to investors.

Box 5.2 The Experience of A Leading Holding Company in Agro-business in Egypt

A leading Kuwaiti-owned Holding Company, specializing mainly in agro-business and food processing has been facing key challenges, since its establishment, including limited availability of land for agricultural and industrial purposes near labor and consumer markets. Other problems identified as barriers for investment and development of this key sector is a lack of access to finance that makes investors have to cover the entire cost of reclamation work. The company has encountered several problems related to land ownership, including:

- ③ In seeking to access public land and given the lack of land registration, investors are forced to acquire land first via settlement with squatters or claimants and subsequently acquire the same (public) land from the government;
- ③ Difficulty to acquire agricultural land with viable irrigation sources;
- ③ The land regularization process is especially complicated with over 60 applicable pieces of legislation;
- ③ The cap on land ownership stated in the Law has greatly hindered large-scale agricultural production;
- ③ Lack of transparency in the land ownership/registration process, especially in new reclamation land;
- ③ Inefficient access to new reclamation land and the limited flexibility on land use; and
- ③ Many new reclamation projects (e.g., Toshka, Owainat) are very far from labor and consumer markets.

The investor recommends making available large land parcels for agriculture and agro-business close to labor and consumer markets with lowering the cost of infrastructure investments to investors; and increasing public land management transparency; and introduction of long-term land leases.

Ownership/Access Restrictions

228. Law no. 143 of 1981 required that all beneficiaries of agricultural land be Egyptian nationals (citizens of Arab nations may acquire agricultural land but need a Presidential Decree). In the case of investment companies, at least 51% of the capital must be owned by Egyptians with no individual shareholder owning more than 20%. The Law also prohibited companies or cooperatives from selling the land to non-Egyptians. The Investment Law no. 8 of 1997, which includes agriculture and land reclamation as eligible activities for the investment incentives and guarantees, was subsequently enacted. The Law authorizes investors to acquire all land and property needed for their investment projects without imposing any restriction by nationality. This has superseded applicable nationality restrictions under Law no.143 of 1981.

Box 5.3 The struggle for growth!

One of the leading Egyptian Holding Companies in Agro-business and food processing, has recently been specializing in organic products. The company was founded 25 years ago and has recently experienced growth in multiple sectors including organic agriculture, food processing, and pharmaceutical production of food supplements. It produces for both domestic and export markets, with a predominant presence in Europe.

The company faces several constraints to its present and future growth, among them is the highly-regulated land market along with the complex institutional and legal framework governing industrial and agricultural land management. The company is simply unable to grow without access to land. According to the company, land laws and regulations are unclear and non-transparent. From its experience, each Ministry (ex: Defense, Agriculture) manages land sales at a different price-scale even in the same location. Therefore there is no single source of systematic information on land and land prices, but rather several (inefficient) sources. Agricultural lands fall under the Ministry of Agriculture and although there is a national strategy to deal with agricultural land reforms, it remains a main constraint for growth. The company bought a piece of agricultural land 25 years ago and they have now exceeded the legal maximum 2% of built area for agricultural land on that particular plot. As a result, the government is asking the company either to tear down some buildings or re-purchase the land at a higher price. This reflects the rigidity of a legal framework unable to adapt land zoning laws to the changing economic reality.

229. Law no. 143 of 1981 also has several restrictions on the maximum landholding size. Such restrictions are a clear example of past policies that have not been updated as the country strives to attract investment. The limits on ownership of desert land allocated for reclamation purposes have been set by Law no.143 of 1981 according to the irrigation system, as follows:

- a. If irrigation is from underground water or based on a mechanical system, the maximum land ownership limit is:
 - i. 200 *feddans* per individual, and 300 per household;
 - ii. 10,000 *feddans* per cooperative (with a maximum of 30 *feddans* per member);
 - iii. 10,000 *feddans* per company (with a maximum of 150 *feddans* per person)
 - iv. 50,000 *feddans* for large shareholding companies.
- b. If irrigation is from surface channels, the maximum ownership is 50% of the abovementioned for each category.

230. Additional restrictions exist. Land ownership cannot be officially transferred to the investor prior to completing the three-year-trial leasing contract through which the investor evidences his commitment to the reclamation, agricultural development and infrastructure-servicing outlined in the contract. After the three years, the investor is subject to full payment, prior to being able to claim ownership of the land unless obtaining GARPAD's approval to sell or dispose it.

231. The process suffers from many flaws and creates many bottlenecks/problems for investors. One issue is the legal ambiguities surrounding the use of public auction versus administrative allocation. Although the Law states that land reclamation within the national reclamation plan is to be sold or leased through public auction, the Law has also provided GARPAD's Board with authority to allocate land through direct disposition to investors based on prices set by the Land Valuation Committee. GARPAD has used this loophole to allocate more than 700,000 feddans. However, with the issuance of the Public Tender and Bidding Law no. 89 of 1998, the Higher Legislative Committee has required all government authorities to only apply public auctions when disposing of land that has already been serviced with infrastructure paid for from the fiscal budget. Consequently, GARPAD has been forced to allocate lands already serviced with infrastructure through public auction. In spite of the improved efficiency and transparency of allocation and the increased revenue generation, most investors have complained from the increased cost of acquiring land, which they claim is a serious problem in a sector such as agriculture that requires significant infrastructure investment with returns only expected in the long term.

232. Some public officials report that the use of auctions has, surprisingly, not resolved the issue of land speculation. They mention that speculators are willing to acquire public land at its market rate for agriculture and land reclamation activities in the better located areas, which they retain without development in the aim of selling it subsequently to benefit from increase in prices or which they convert to other uses. GARPAD is caught in several such legal wrangles with investors who are not developing their allocated lands.

233. The land disposition process, including sales, has forced investors to pay a relatively large down-payment, equivalent to a significant percentage of the land price, within a short period of time. The lack of adapted financing terms has been reported as a problem by several investors, especially since local investors largely opt for land ownership rather than long-term leases which they believe will provide better security for their large-scale investment in reclamation and cultivation. In recent years, there has been an increasing tendency by the GOE to rely on usufruct (*Haq Intifa'a*) for periods ranging from 49-99 years to promote investment in the sector. However, cultural factors make local investors reticent to adopt this system, preferring ownership to it. *Haq Intifa'a* may have even lesser chances to become mainstreamed with Law no. 89 of 1998 calling up for public auctions.

Box 5.4 The experience of three major companies in southern Egypt

Three major companies in the field of land reclamation have submitted a formal request to GARPAD and NCP SLU seeking large land allocations (greater than 40,000 fd.) in various locations—including Siwa Oasis, Qena, and Aswan governorates—for reclamation and agro-industry. The two authorities have agreed to dispose the lands to the three companies through a three-year-trial leasing arrangement, where they must prove their commitment to develop and provide the necessary infrastructure servicing. Only, after the completion of this three-year period and upon Cabinet approval can the land be transferred into *Haq Intifa'a*. However, the companies viewed this process as highly risky and as one that fails to provide them with security of tenure, a considerable risk due to the huge up-front infrastructure investments required to reclaim the land—one company alone needed to invest 35 million LE to build a pumping station for irrigation, channeling water from the Nile. In fact, all three companies were faced with huge infrastructure investments due to the lands' remote location. Another challenge, is the fact that leasing or *Haq Intifa'a* does not allow for the lands to be used as collateral on commercial loans. After conducting the required technical and financial studies more than 8 months ago, the three companies continue to negotiate with the concerned agencies, seeking approval for a sale rather than the lease option.

234. The lands included in the 2017 National Reclamation Plan have been defined based on the 2017 National Investment Map, managed and updated by NCP SLU. However, the map's accuracy is poor, given: (i) the different land uses were only indicative proven by follow-up field research and studies; (ii) the map's scale of 1/1,000,000; and (iii) continued border disputes and custody overlaps by the various sectoral and geographical entities involved. There is a serious need for updating this

map to a more detailed scale and with greater accuracy in terms of border definition and creating a database accessible to all concerned government entities with up-to-date, real-time information.

235. The majority of reclamation land maps are manually prepared on old surveying maps by ESA. This has been a constant problem faced by investors who have to consume their time and efforts working closely with GARPAD to accurately define their property and tenure. In addition, this has resulted in several cases of financial losses to GARPAD due to the sheer nonexistence of accurate data. GARPAD lacks the existence of a digital, accurate and real-time land information system. This issue is a critical challenge for GARPAD and a key area identified in need of capacity-building.

236. Furthermore, considering that the 2017 National Investment Map was developed for a very specific purpose—to define land jurisdiction by the various sectoral government entities on land proposed to be under their custody for development. The Map was developed without the proper technical and field studies, failing to reflect the land's suitability for such uses. In fact, several pieces of land allocated to GARPAD for agriculture and agro-business development have been found totally unsuitable for reclamation due either to the soil's unsuitability or because of its natural geographical features. Several designated areas are located at an altitude significantly higher than the Nile Valley, making it extremely expensive to raise the water level. After acquiring the land, several investors discover this fact and seek other development alternatives by proposing change in the land use. However this has been hindered by the fact that laws concerning land development prohibit the change of land uses except under very strict conditions and terms—requiring in most cases either the Prime Minister's or a Presidential Decree. Consequently, several investors choose either to illegally change the land use in order to put the state in a *de-facto* position or enter into a legal battle with the sectoral authority regarding its approval to change the use and pay the difference to enable this change.

237. Despite the abundance of legislation concerning land management and disposition, several investors have been able to seek out its loop holes to avoid paying fines and/or fees associated with payment delays as scheduled in their contracts or from changing land use.

Box 5.5 The loss of 1.1 billion LE and the 2017 National Investment Map

Makaz EL-Ayatt, Giza Governorate was designated for land reclamation and agricultural development by the 2017 National Investment Map. Accordingly, all lands outside the Zimam within this prime location are under GARPAD's custody. As such, GARPAD has been disposing the land at an average price of 200 LE/fd. One of the investment companies acquired 26,000 fd. at a total value of 5.2 million LE. and begun its technical studies—after which it found that the land was at an altitude 150 meters higher than the Nile, making it virtually impossible to acquire the required water for irrigation unless a considerably expensive process was used. Accordingly, the company changed the land use from agriculture to real estate and started to develop large parcels for that purpose. In addition the company illegally acquired another 11,000 fd. (wad3 yadd). After discovering the violations, both GARPAD and NCPSLU calculated that the land subject to the original contract along with the additional acquisition, would have generated more than 1.1 billion LE if properly disposed for real estate use rather than through reclamation at a minimum value of 7 LE/square meter. Both governmental entities are in the process of taking legal measures.

This case presents the justification to instate a more accurate information system on land allocation and disposition based on opportunity cost of the land rather than sectoral distribution.

238. The three-year-trial period directed at proving investors' seriousness has been debatable, considering that several investors took advantage of the on-going conflict among the different governmental agencies and their lack of coordination to justify their delay in land development, obscuring their land speculation practices. It must be noted that while in several cases the lack of institutional coordination has in fact been a real problem, in others this has been simply a false justification for land speculation.

Box 5.6 Ownership vs. Haq Intifa'a for agricultural and agro-business development

In 2003, a large investment export company with 200 million LE in capital, specializing in export crop production and animal farming, submitted a request to the Ministry of Agriculture and Land Reclamation for 15,000 fd. in the Natron Valley. In January 2005, the Military Surveying Authority informed them that the requested land, as indicated in the 2017 National Investment Map, was under GARPAD's jurisdiction. In February 2005, GARPAD informed the company that due to Law 89, 1998 (effective in early 2003) it can no longer dispose of the land. In May 2005, the company submitted a complaint arguing that its request was dated prior to the Law's effectiveness and requesting for its approval on an exceptional basis. In August 2005, the case was forwarded to NCP SLU which reviewed the company's financial status and previous experience and decided to reject the company's request. Finally, in February 2006, the company submitted another request that in case of rejection, it was willing to acquire the land through *Haq Intifa'a*. NCP SLU has proposed its approval and encouraged the company to invest in this key economic sector.

239. In case that the land fell outside the 2017 National Reclamation Plan's jurisdiction, many investors were required to acquire the Ministry of Public Works and Water Resources' approval as a conditional step towards legalization of tenure. This has proven to be a lengthy process which in many instances forced the investors to end their projects.

240. In addition, in several cases, young investors were unable to sustain the agreed agricultural development schedule due to a lack of proper irrigation facilities, resulting in their loss of capital and legal battles with GARPAD to prove that in fact they were not responsible for this problem, but that it was due to the government's inefficient, uncoordinated information system.

241. Finally, the demanded procedures and approvals by the different agencies involved in disposing desert land for agriculture and agro-business development is the longest and most cumbersome when compared to all other sectoral activities, in terms of time, resources, and the sheer number of approvals required.

Box 5.7 The 8-year land acquisition process in Aswan

On October 1997, an agricultural development company submitted a formal request and feasibility study to the Ministry of Agriculture for 10,000 fd. in Wadi Kobania, Aswan. GARPAD responded by advising it to seek the Ministry of Public Works and Waters Resources' approval for its specified irrigation source which fell within the five-year development plan (1997-2002). Meanwhile, GARPAD conducted the required technical studies and feasibility assessments for its infrastructure-servicing and requested the approvals of the concerned governmental agencies. In April 1998, the company informed GARPAD of its willingness to purchase the land without infrastructure and of its intention to carry out and finance the necessary works. The response was attached by 17 maps to be forwarded to the concerned authorities for their approval. In June 1999, *Haie't Aamaliat*, Ministry of Defense approved the land location. In May 2000, the higher committee for coordination between reclamation projects and irrigation projects approved to allocate the land and defined a dual irrigation source from the Nile and underground water. In August 2004, the Higher Council for Egyptian Antiquities also approved the allocation of the land. After obtaining these approvals, GARPAD reviewed the feasibility study submitted earlier by the company and approved it. In July 2005, GARPAD's Board discussed the case and decided to submit the project for Cabinet approval.

Institutional and Regulatory Framework Responsible for Agriculture and Agro-business Development on Public Land within 2 Km outside the Zimam

242. Law 143, 1981 states the procedures for allocating and developing lands for agriculture and agro-business. GARPAD in cooperation with the Egyptian Surveying Authority (ESA) are both in charge of defining the lands to be allocated for reclamation and agriculture purposes within 2 kilometers outside the Zimam. These lands are to be allocated on maps drawn to proper scale and sub-divided into parcels that comply with the nature of the site and types of projects to be developed. The GARPAD board must authenticate this sub-division. The Higher Committee for State Land

Valuation (HCSLV) is to assess and set the prices for each land parcel and/or define its rental value to be approved and signed by the concerned minister.

243. The sale or lease of lands, regardless of infrastructure status, is to be advertised in one or more national daily newspapers. The advertisement must include the land area, location, features, price, main leasing or disposition conditions, targeted beneficiaries, and criteria for selection. The advertisement should also make reference to detailed booklets, providing further information, available for purchase from GARPAD.

244. The investor requests should include detailed information about the investor (as relevant and depending on whether it is an investment company, cooperative or individual), including: (i) the requested land area and location as defined in the booklet; (ii) a statement from the investor that s/he has visited the site and accepts the land as is; (iii) commitment that the maximum land ownership as set by Law 143 would not be exceeded by acquiring this additional piece of land; and (iv) commitment to finish the required infrastructure, reclaiming and cultivation it within the stated duration as set by the Law.

245. Preference is given to the following entities in a descending order:

1. Public firms and public-works sector firms. In case of competition between two or more public firms or public works sector firms, the preference would be for public-works sector firms specialized in land reclamation and then to other public-works sector firms. In case of equal preference, the concerned minister would make the final decision;
2. Shareholding companies. In case of competition, the one with previous or broader experiences in the field of land reclamation would be preferred;
3. Cooperatives for agriculture and reclamation works. In case of competition, the one that has not previously acquired any land for reclamation purposes would be preferred;
4. Other companies. The same procedures applied for share holding companies prevail; and
5. Individuals.

246. In case the disposed land has not been serviced with infrastructure, the investor would be committed to deliver a technical study that includes: (i) The technical specification for the required infrastructure, reclamation and irrigation works; (ii) The water requirements for the total land area; and (iii) Time schedules for implementing all required works. In case the disposed land has already been serviced with infrastructure, the investor is committed to deliver a technical study that includes: (i) Technical specifications for reclamation and cultivation works; (ii) Definition of main infrastructure works to be carried out and their types, and; (iii) Implementation schedules.

247. In either case, technical reports should be submitted within a 6 month-period after a formal request has been sent to GARPAD and upon receipt of its approval for disposing the land. If investor fails to acquire these documents, the request is canceled and s/he would not have the right to claim refunds.

248. After evaluating and approving the technical report, the investor receives within a one-month period a formal notification that the land will be granted upon contract signature. In case offer is declined, the contract is automatically cancelled without prior notification, litigation and refunds.

249. After one year from contract signature, the investor is to start paying annual rental installments and in the case of sales, must submit a payment equivalent to 10% of the total land price (if land is serviced with infrastructure) or 25% of the price (if land is not serviced with infrastructure). Whether sale or lease, the remaining price is to be paid in 10 equal annual installments at an interest rate of 7% starting from the first month of January after contract signature. In case of delay in paying

the annual installment, 14% of the installment value would be added as a fine, and in case of failure to pay two consecutive installments, the contract would be automatically canceled and GARPAD would have the right to retrieve the land with any infrastructure works completed, without refunds.

250. The investor is not allowed to dispose even part of the land subject prior to submitting full payment, unless GARPAD provides prior approval for the subject disposal, possible under the following conditions: (i) the investor fulfills all obligations stated in the contract; (ii) the new beneficiary is committed to the same obligations mentioned in the original contract; (iii) the original land use remains unchanged; and (iv) the new beneficiary pays 2% of the total land price to cover administrative costs.

5.2 Land Development Process

251. Since GARPAD's inception in 1975, it has been in charge of developing un-reclaimed desert lands destined for agriculture and agro-business from its own budget. Its main investment line comes from National Investment Bank (NIB) loans. Today, GARPAD is heavily indebted, owing 18 billion LE to the NIB.

252. Accordingly GARPAD's main concern centers around finding more cost-effective approaches and market-based mechanisms to land management, specifically in terms of its responsibilities over infrastructure-servicing. Some lands are completely or partially serviced (including irrigation and infrastructure networks) while others require substantial investment by interested investors. Land prices are based on the level of infrastructure services provided. In the case where servicing is needed, investors are expected to commit to their self-financed implementation. Following this approach, GARPAD has managed to gain almost one billion Egyptian pounds through sale and/or lease of unserviced lands from August 2005 to early 2006.

253. When land development is undertaken by the investor, s/he is committed to start the related activities according to an approved time-table specified in the contract with GARPAD. As mentioned before the first three years prior to signing the lease and/or sale contract are considered to be a probationary period through which the investor's seriousness to develop and service the land is evaluated. GARPAD is in charge of monitoring the implementation schedule on an annual basis through site visits by a technical committee set up for that respect. The investor is notified and summoned 15 days prior to each visit in order to answer questions concerning project progress and to explain any problems.

254. In case the investor does not comply with the specified time schedule over the three year period and is unable to provide a justification acceptable to GARPAD, the committee must flag its concerns to the GARPAD Board, which reserves the right to cancel the contract without any refunds. At the end of the three-year period, the GARPAD Board would receive a final report on the status of land development, assessing progress on the ground with the initial time-table and in case of delays, justification for not abiding with the schedule. Based on this report, the board makes its final decision to either cancel the whole contract, proceed with the sale, or issue a long-term lease.

Obtaining a building permit

255. Given the nature of targeted development (for agriculture and agro-business) involved in land reclamation, investors have been given the flexibility to build infrastructure for other unrelated purposes on 2% of the land area.

256. Any required increase in the built-up area must be approved by GARPAD and related fees covered by the investor—as defined by HCSLV, assessed per square meter according to the nature of the building's use.

257. The procedures for acquiring a building permit depend mainly on its type and/or uses. If the building is used for residential, commercial, industrial, administrative or storage purposes, then the investor must direct her/his permit request to the concerned governorate. In this case investors are to follow the same procedures as with any other building permit request without the right to claim any privileges or incentives related to developing or extending an investment project.

258. In case the construction is destined for industrial uses, the investor must acquire an additional permit from the Ministry of Industry, provided upon passing an inspection checking the building's safety and security standards.

259. If the building is destined for food or animal processing, an additional permit or clearance would be required from the Ministry of Health and Population.

260. In all cases, the investor is responsible for acquiring the necessary approvals and clearances without seeking GARPAD's support. Usually several problems are encountered in this respect, resulting in substantial delays for the investor.

Obtaining Utilities

261. As mentioned earlier, utilities and infrastructure-servicing are determined based on location and whether they sit within or outside the 2017 National Reclamation Plan.

262. In case the land is located within the national plan, GARPAD is responsible for providing the required infrastructure in cooperation with the Ministry of Public Works and Water Resources. The required infrastructure includes: pumping or lifting stations to raise the irrigation source to higher-level lands and any other irrigation-related infrastructure work including the necessary piping systems or digging wells to retrieve underground water. In addition, internal irrigation and sanitation systems may be provided by GARPAD in certain cases.

263. However, given the limitation of GARPAD's fiscal budget in addition to delays in providing the main source of irrigation by the concerned Ministry, GARPAD's recent trend has been to sale or lease the lands as they are, transferring the responsibility of completing the infrastructure-servicing to interested investors. The land price is based on the level of infrastructure provided.

264. In case of land falling outside the jurisdiction of the National Reclamation Plan, the investor assumes full responsibility for the required infrastructure planning, implementation and servicing based on the approved technical study and implementation schedule. In that respect, the sale or lease contract is not issued by GARPAD until the investor acquires the Ministry of Public Works and Water Resources formal approval on the irrigation and/or extension plans, all paid out of the investor's pocket.

265. One of the main challenges to the development of the agricultural sector is water resources management. Egypt has an extensive and complex irrigation system that manages approximately 55.5 billion cubic meters of water per year for all uses. Yet, the GOE generally provides irrigation water for free for agriculture and land reclamation, except in a few instances in new reclamation lands where landowners pay electricity charges that cover the operating cost of water pumping stations. The treatment of water for agricultural use as a free public good is contributing to a growing water problem in Egypt if current water use patterns were to continue unabated. On the one hand, the Nile

River's water resources are fully utilized and groundwater sources are increasingly exploited, and on the other hand, there is an ever-increasing water demand due to expanding population, consumption patterns, and agricultural development. The annual per capita share of water resources is expected to drop to about 337 cubic meters in 2025, a two-third drop from their 1990 levels. With present water management and agricultural practices, such water would not irrigate more than 60% of the current agricultural land area. As such, better water resources management is key for Egypt's sustainable development.

266. In a context of scarcity and given that agriculture consumes some 85% of the total volume of water resources, the GOE pursued a policy of rationalization through a rotational system for water use in agriculture. This system rotates the distribution of irrigation water according to a defined timetable among cultivated land parcels within a given locality, set on the basis of the location of the parcel and its proximity to a main source of water. However, since its implementation in 1990, the system has caused many cases of fights for access to water and social unrest among farmers.

267. In water reclamation sites, water scarcity is even more problematic. These new reclamation sites can obtain irrigation through either channels from the Nile (a very expensive option for remote locations such as Toshka), underground water or treated wastewater. However, several reclamation projects have stopped and substantial losses incurred by investors due to insufficient irrigation water resulting from delays in the government's delivery of infrastructure or water limitations experienced after the project's launch.

5.3 Conclusions

268. Access to public land for agriculture and land reclamation investment projects is administered by the GARPAD, which was established in 1975. By Law, this applies outside of the *Zimam* and within 2km from the *Zimam* (where public land is under GARPAD control) as well as inside the *Zimam* (where Governorates control land). Egypt's 2017 investment opportunities map vested GARPAD with control over 3.4 million *Feddan*, some 70% of all the public land area controlled by the five main sectoral authorities. The problem with the 2017 Map is that it is indicative in terms of control over public land and needs a major effort for accuracy. Unfortunately, GARPAD lacks the land information system and management tools and capacity needed to efficiently manage such huge stock of public land. One important prerequisite is for GARPAD to build a comprehensive land information system with site boundaries and condition, available infrastructure services and irrigation source, and disposition status including those in progress. GARPAD, however, currently has an outstanding debt of LE18 billion (USD 3.1 billion) to the National Investment Bank, which puts it in a difficult financial situation that curtails its ability not only to build a land information system but also to deliver off-site infrastructure or strengthen its management capacity.

269. Investors often have to acquire a number of approvals and clearances from many government entities (e.g. defense, irrigation, etc), which often delays project implementation. This causes delays against the timeframe that investors contractually agreed to with GARPAD and negatively affects the assessment of their seriousness after the expiration of the initial three-year lease (after which the land ownership is transferred to them in case of proof of seriousness).

270. Several cases of public land allocated by GARPAD in accordance with the National Land Reclamation Strategy were later found by investors to be unsuitable for agriculture and, in some cases, investors converted the projects to urban uses and derived major windfall profits due to the significant price differential between agricultural and urban land. Many investors also complain that available desert land for agricultural reclamation projects tends to be poorly located relative to labor force concentration and markets, and often comes with problems in terms of sufficient availability of

irrigation water. Finally, many investors acquired public land for agriculture through a convoluted approach in which they first settled with squatters/claimants and then, acting as squatters, went on to legalize their ownership/investment by acquiring the land from the State through adverse possession.

271. The many laws and decrees governing GARPAD activities introduce many differentiated, complex and sometimes unclear and contradictory procedures for land allocation and pricing. On the one hand, public auction is the primary disposition procedure, yet on the other hand, the Law allows the Board of Directors to dispose of public land administratively without advertisement based on prices set by the Higher Committee for State Land Valuation. This includes allocation to eligible entities specified in the Law, including Governorate residents, former armed forces staff and civil servants, small farmers, young graduates, and projects of national significance. The administrative method was used to allocate more than 700,000 *Feddans*, but this loophole has reportedly been closed since 2003 after mainstreaming the application of Law no.89 of 1998 on Public Tenders. However, investors have found the increased cost of acquiring public land for agriculture and land reclamation since the auction system was more systematically applied to have increased their financial burden, in a sector which requires large upfront investment in reclamation and infrastructure and which is characterized by a return on investment only in the long-term.