

DIGITAL TRADE REGULATORY INTEGRATION

COUNTRY PROFILE

Egypt



United Nations
Economic Commission for Africa



INTRODUCTION

The African Trade Policy Centre of the United Nations Economic Commission for Africa (ECA) has embarked on a Digital Trade Regulatory Integration (DTRI) initiative with four primary objectives:

- Provide information on digital services trade regulations that could facilitate the negotiation and implementation of the African Continental Free Trade Area (AfCFTA) Protocol on Digital Trade.
- Inform the development of a digital trade integration index that could become a component of the Africa Regional Integration Index.¹
- Inform the addition of African countries to the Digital Services Trade Restrictiveness Index (Digital STRI), as developed by the Organisation for Economic Co-operation and Development.
- Offer a solid basis for further analytical work by ECA and others on digital trade.

The DTRI initiative researches the legal and regulatory environment associated with digital trade and will help African countries bet-

ter understand and address barriers to the growth and development of digital trade and e-commerce. Addressing the issues DTRI identifies will help promote digital trade and e-commerce and make it a more plausible choice for commercial transactions between businesses and consumers.

This country profile is based on observations from two datasets developed from the DTRI initiative. The first includes information on restrictions to digital services trade from 2014 to 2021 and is modelled after the Digital STRI. The second covers measures related to digital trade integration, beginning with the effective date of each measure, and reflects the latest available information. The legal and regulatory measures researched are categorized into policy areas in both digital services trade restrictions and digital trade integration, and the results are presented in the corresponding section of the profile. Where policy areas overlap, the profile presents results only once, to the extent possible.

This country profile presents the key findings for Egypt. In February 2016, the Eyp-

¹ See <https://arii.uneca.org/>.

tian government launched the Sustainable Development Strategy, widely known as “Egypt 2030.” A key initiative of the strategy is to “transform Egypt into a Global digital hub,” and one of its main pillars is to “promote e-commerce through the provision of an enabling and legislative environment.”² In 2017, the government launched the National e-Commerce Strategy for Egypt, in cooperation with the United Nations Con-

ference on Trade and Development.³ Since the adoption of these strategies, Egypt has been actively developing and adopting e-commerce-related legislation, including Law No. 75 of 2018 Regulating Anti-Cyber and Information Technology Crimes⁴ and Law No. 151 of 2020 on Personal Data Protection.⁵ The government has also submitted a draft e-commerce act to Parliament.

² Ministry of Planning, Monitoring and Administrative Reform, (2016). Sustainable Development Strategy: Egypt’s Vision 2030. Available at: https://planipolis.iiep.unesco.org/sites/default/files/ressources/egypt_vision_2030.pdf

³ United Nations Conference on Trade and Development, (2017). ICT Policy Review: National E-Commerce Strategy for Egypt. https://unctad.org/system/files/official-document/dt1stict2017d3_en.pdf

⁴ https://www.cc.gov.eg/legislation_single?id=386006

⁵ https://mcit.gov.eg/Upcont/Documents/Reports%20and%20Documents_1232021000_Law_No_151_2020_Personal_Data_Protection.pdf

RESTRICTIVENESS OF THE REGULATORY REGIME FOR DIGITAL SERVICES TRADE

To assess the degree of restrictiveness of digital services trade in Egypt, an in-depth review of policies, legislation and regulations on digital services trade restrictions was conducted under the five pillars of the Digital STRI:

- Infrastructure and connectivity.
- Electronic transactions.
- Payment systems.
- Intellectual property.
- Other barriers affecting trade in digitally enabled services.

Infrastructure and connectivity

This pillar focuses on the extent of deregulation of telecommunication and connectivity services and on whether competition rules apply in the market. It also looks at licensing restrictions that limit or prevent foreign ownership of telecommunication companies.

Egypt's schedules of specific commitments under the General Agreement on Tariffs and Trade (GATS/SC/30/Suppl.3) include

horizontal restrictions on the telecommunication sector, which covered “international and domestic services using any means of technology.” These restrictions require telecommunication service providers who wish to operate in the country to register and obtain the necessary license from the National Telecommunications Regulatory Authority (NTRA). In addition, ICT companies in Egypt are required to train local workers.

In line with Egypt's GATS schedules, Articles 3 and 4 of Law No. 10 of 2003⁶ on Telecommunication Regulations give the NTRA power to regulate telecommunication services. Before the law and until 2005, Telecom Egypt, the majority state-owned company, had the exclusive right to establish, operate and exploit international transmission networks between Egypt and other countries through international gateways via submarine and terrestrial cables, microwave links and satellites for fixed services (Article 60).

While the law and the NTRA's establishment aimed to liberalize the telecommunications sector and establish free competition rules,

⁶ <https://www.tra.gov.eg/wp-content/uploads/2020/11/Law-No-10-of-2003.pdf>

Telecom Egypt holds a de facto monopoly of fixed internet services and infrastructure. Article 8 defines dominance in a relevant market as the ability of an entity holding a market share exceeding 25 per cent per cent to have an effective impact on prices or on the volume of supply without competitors having the ability to limit it.

WE Data, established by Telecom Egypt in 2001, is Egypt's leading internet service provider, with more than an 80 per cent market share.⁷ Vodafone Egypt is the lead and dominant mobile operator in Egypt, with a 40 per cent market share, and Telecom Egypt owns approximately 45 per cent of Vodafone Egypt.

While the NTRA mandates accounting separation, a requirement for structural separation in the case of a licensee exercising significant market power depends on NTRA's consideration of its application. The NTRA introduced structural or functional separation for Telecom Egypt to ensure its non-discriminatory behaviour when it obtained the license for providing mobile call services and became the 4th largest provider in Egypt. Also, the few clauses that relate to the non-discriminatory provision of services by the licensee do not amount to an actual network neutrality requirement.

Any person may report alleged breaches of Law No. 3 of 2005 on the Protection of Competition and the Prohibition of Monopolistic Practices to the Authority for the Protection of Competition and the Prohibition of Monopolistic Practices (Article 19).⁸ If the

authority finds that a breach has occurred, it can order the violator to rectify the situation and redress the violation immediately or within a given period. The authority may also stop the prohibited practice without rectification or redress (Article 20). Criminal lawsuits may not be initiated for alleged violations of the provisions of the law unless a request is presented by the competent minister or designee (Article 21).

Law No. 10 of 2003 on Telecommunication Regulation⁹ and Ministerial Decree No.165/2003¹⁰ mandate that operators and providers of telecommunication services conclude bilateral agreements to provide interconnection between them and submit the agreements to the NTRA for approval. The NTRA also determines which services are considered basic for operating and providing licensed telecommunication services and sets their prices, taking proposals by applicants into account.

Strict requirements apply to internet service providers (ISP, Class a) and voice over internet protocol (VOIP) providers for obtaining licenses in Egypt. Only Egyptian joint stock companies incorporated in accordance with Egyptian law can apply, effectively shutting out foreign providers of ISP and VOIP services that have no commercial presence or are majority foreign-owned in Egypt.

⁷ <https://ir.te.eg/en/FinancialInformation/AnnualReports>

⁸ <https://elpai.idsc.gov.eg/Legislations/Item/242197>

⁹ <https://www.tra.gov.eg/wp-content/uploads/2020/11/Law-No-10-of-2003.pdf>

¹⁰ <https://elpai.idsc.gov.eg/Legislations/Item/236653>

Electronic transactions, payment systems and consumer protection

These pillars cover restrictions related to on-line sales and transaction frameworks, use of domain names, restrictions on payments systems and online consumer protection. Enabling electronic transactions and enhancing customers' trust are crucial for digital trade. Covid-19 has demonstrated that online sales and transactions are needed to sustain economic activity in times of crisis. Adopting or converting to electronic modes of business can be expected to increase in coming years.

Egypt is not a signatory to international conventions that establish model laws related to online transactions, such as the UN Convention on the Use of Electronic Communications in International Contracts and the model laws on electronic signatures and electronic commerce of the United Nations Commission on International Trade Law. However, a national framework for e-signatures and e-transactions has been in place since 2004 under Law No. 15/2004 on E-Signatures and Information Technology Industry Development Authority.¹¹ The law provides equivalent legal validity for electronic signatures that meet certain technical standards as for hand-written signatures.

Discriminatory conditions apply to foreign businesses wishing to obtain licenses to engage in e-commerce activities in Egypt.

Article 2 of Law No. 34 of 1976 on Commercial Registry¹² and its amendments of 1996¹³ and 2020¹⁴ stipulate that a legal person wishing to engage in trade activities in Egypt must be entered into the commercial register. Egyptian nationality is a condition for registration (Article 3). However, a foreign business can also be registered and engage in commercial activities in the country if it is a partner in a company in which at least one of the general partners is Egyptian and the share of the Egyptian partners is at least 51 per cent of the company's capital. Foreign exporting companies can engage in export activities as individuals or as partners, whatever their share in the capital.

Furthermore, foreign businesses that do not have headquarters in Egypt are allowed to register a top-level ".eg" domain name provided they have a local representative. The value-added tax (VAT) law (Law No.67 of 2016) establishes the same requirement to have a local representative for any non-resident and unregistered person selling taxable goods or services inside the country and who does not carry out an activity through a permanent establishment in Egypt.¹⁵ The appointed representative is responsible for carrying out all the taxpayer's obligations stipulated by the law, including registration and payment of VAT and other taxes. On the other hand, Egypt is on the way to making online tax registration and declaration available.

11 <https://itida.gov.eg/English/Documents/2.pdf>

12 <https://www.gafi.gov.eg/Arabic/StartaBusiness/Laws-and-Regulations/SiteAssets/Pages/TradeLaws/%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%A7%D9%84%D8%B3%D8%AC%D9%84%20%D8%A7%D9%84%D8%AA%D8%AC%D8%A7%D8%B1%D9%8A.pdf>

13 <https://elpai.idsc.gov.eg/Legislations/Item/210991>

14 <https://elpai.idsc.gov.eg/Legislations/Item/288686>

15 <https://elpai.idsc.gov.eg/Legislations/Item/274469>

Egypt has also been actively regulating e-payments. A recently issued regulation by the Central Bank of Egypt (CBE) stipulates that financial technology service agreements concluded by banks to facilitate electronic payments are subject to subcontracting restrictions and are required to have premises in Egypt in order to conduct electronic payments. The CBE also imposes restrictions on foreigners' access to payment services through Egyptian mobile phone accounts in the country; for example, only Egyptian nationals can open mobile phone accounts, and mobile money transfers must be conducted in Egypt and in local currency.

Mechanisms are in place for resolving disputes arising from cross-border digital trade. Law No. 181 of 2018 on Consumer Protection has a section regulating the relationship between consumers and suppliers in cases of "remote contracting."¹⁶ Dispute arising between suppliers and consumers regarding the application of the provisions of this law are to be referred to the Consumer Protection Agency, which issues a binding decision. Additionally, Law No. 15 of 2004 Regulating Electronic Signatures and Establishing the Information Technology Industry Development Authority mandates that the authority is to receive complaints about electronic signatures, electronic dealings and information technology activities. The authority conducts evaluations and provides technical consultations on the disputes.

There is no formal de minimis threshold, but it is reported that there is an informal threshold of \$400, which implies that trade

in small amounts remains subject to duties and taxes, raising the cost.

Intellectual property rights

Intellectual property rights regulations are important to instill business trust in the digital sector and promote innovation. Patents, copyrights and trade secrets are of particular importance to the digital economy.

Egypt is signatory to several World Intellectual Property Organization conventions, including the Performances and Phonograms Convention (1996) and the Berne Convention for the Protection of Literary and Artistic Works (1997). As a World Trade Organization (WTO) member, Egypt is also subject to the Trade Related Intellectual Property Rights Agreement.

Article 66 of Egypt's Law No. 82 of 2002 on the Protection of Intellectual Property Rights gives foreign natural or legal persons the right to apply for registration of a trademark.¹⁷ The right applies on the condition that the foreign business is being run in a WTO member country or countries that accord reciprocal treatment to Egypt. Persons who meet those conditions also have the right to priority in registering a trademark (Article 74).

The law protects the secrecy of confidential or undisclosed information with commercial value for which the legal holder takes effective measures to preserve that secrecy (Article 55). However, the competent authorities may find it necessary to require the disclosure of trade secrets (called "undis-

¹⁶ <https://elpai.idsc.gov.eg/Articles/Index/154804>

¹⁷ <https://elpai.idsc.gov.eg/Legislations/Item/233295>

closed information” in Article 56 of Law No. 82 on the Protection of Intellectual Property Rights) “to protect the public.” In that case, the competent authorities must protect the information from unfair commercial use (Article 57) from the date the information is provided to the authorities until it no longer has confidential status or for a period up to five years.

The law prescribes criminal proceedings and penalties for violation of intellectual property rights (Article 181). Upon petition by the person alleging harm, the court may order provisional procedures (Article 179). The concerned party has the right to appeal within a defined period from the issuance of the order (Article 180).

The law also allows the rights holder to request the court to prevent putting the work in circulation, withdrawing it or modifying it, notwithstanding any disposal of the economic exploitation rights (Article 181). Furthermore, the law considers fair use and fair dealing as equivalent (Article 171). The law (Article 170) also adopts the three-step test regime of the Berne Convention.

The country has reduced the patent application backlog from 10 years to 5 years. However, improvements are still needed to address a lack of transparency on patent applications and registration systems and procedures.¹⁸

Finally, despite progress made in enforcing Law No. 82 of 2002 on Protection of Intel-

lectual Property Rights, piracy and counterfeiting remain widespread. Many unlicensed satellite channels offer pirated broadcasts, unlawful decryption of encrypted signals and unauthorized video recording. It is reported that the rate of unlicensed software installation in Egypt was 59 per cent in 2017.¹⁹

Other barriers affecting trade in digitally enabled services

This section traces requirements that could restrict the establishment and operation of ICT and digital trade businesses, especially by foreign entities. As already discussed, various digital trade and business-related laws impose certain licensing conditions and local presence or commercial presence requirements. Egypt’s Law No. 180 of 2018 Regulating the Press, Media and the Supreme Council for Media Regulation also imposes restrictions on the establishment and running of online websites, newspapers and platforms, as well as on their online content.²⁰

For instance, foreign websites need a license from the Supreme Council for Media Regulation to establish a management office or branch in Egypt (Articles 6 and 59). Also, any natural or legal person wishing to establish a website is required to notify the Supreme Council and provide information on the type of content, editorial policy, sources of funding and other details (Articles 40 and 41).

18 Office of the United States Trade Representative. (2020). 2020 Special 301 Report. https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf

19 The Software Alliance. (2018). 2018 BSA Global Software Survey: Software Management: Security Imperative, Business Opportunity. https://gss.bsa.org/wp-content/uploads/2018/05/2018_BSA_GSS_Report_en.pdf

20 <https://elpai.idsc.gov.eg/Legislations/Item/281324>

Article 52 of the 2018 media law prevents natural or legal persons who are non-Egyptian shareholders from owning a majority of shares or a percentage that entitles them to management rights over the broadcast or re-broadcast of audio, video, electronic or digital content on the internet. Only state-owned companies have the right to establish and license encrypted satellites and digital platforms in Egypt, subject to licensure by the Supreme Council for Media Regulation and approval of the NTRA (Article 72).

The media law allows the banning of on-line content and advertisements on local or foreign websites and platforms that are deemed to violate public order and morals or incite discrimination, violence or hatred (Article 4). The Supreme Council for Media Regulation may also prevent publications, newspapers, other media or advertising materials issued or broadcasted from abroad from entering Egypt if required for “national security” reasons (Article 5).

INDICATORS OF DIGITAL TRADE INTEGRATION

This section discusses measures related to the level of digital trade integration in Egypt. The regulatory regime of digital trade integration was assessed under 11 pillars:

- Tariff and trade defence on measures applied to intraregional imports of information and communication technology (ICT) goods.
- Public procurement of digital goods and services.
- Foreign direct investment (FDI) for digital trade.
- Intellectual property rights.
- Telecommunications infrastructure and competition.
- Cross-border data policies.
- Domestic data policies.
- Intermediary liability and content access.
- Quantitative trade restrictions.
- Standards.
- Online sales and transactions.

Since the findings for some of these pillars are discussed in the previous section on Digital STRI, to the extent possible, a duplicative discussion is avoided in this section.

Tariffs and trade defence measures

Reducing barriers to ICT trade can promote access to technology and enable the growth of digital trade. This pillar covers tariffs and trade measures on ICT basic materials for batteries and hardware and for finished products such as computers, electronics and telecommunication equipment. Egypt applies a low average effective tariff of 1.3 per cent and has a zero-tariff coverage rate of 64.19 per cent on ICT goods imported from other African countries. Furthermore, Egypt does not enforce trade defence measures such as anti-dumping duties, countervailing duties and safeguard measures against ICT-related goods imported from other African countries.

Thus, Egypt is among the least restrictive countries for intra-regional ICT goods imports. Egypt is the only African country that is a signatory of the WTO's Information Technology Agreement (ITA) of 1996. The ITA commits signatory members to eliminate all duties and charges and extend zero-tariff treatment on a most-favoured-nation basis to a range of ICT products representing an annual trade value of approximately \$1.7

trillion in 2015. However, Egypt is not a signatory to the 2015 Ministerial Declaration on the Expansion of Trade in Information Technology Products (WTO ITA II), which covers an additional 201 products.

Public procurement

Egypt is not a signatory to the Agreement on Government Procurement, a plurilateral agreement within the framework of the WTO that ensures “open, fair and transparent conditions of competition” in government procurement activities of sectors scheduled by the signatories.²¹

In 2018, Egypt adopted Law No. 182 on Regulating Contracts Concluded by Public Entities,²² which is intended to limit corruption and ensure that government tenders bring positive returns. The 2018 law builds on the 1998 law in ensuring that small and medium-size enterprises obtain at least 20 per cent of available government contracts annually (Article 75) and allows for exclusive local tenders in specific governorates (Article 59). The law accords price preference to products that satisfy a percentage threshold for Egyptian industrial components and considers a bid submitted for services or technical work to be the lowest price if its value is 15 per cent (or less) higher than the value of the lowest foreign bid (Article 35).

Furthermore, Law No. 5 of 2015 on the Preference for Egyptian Industrial Products in Government Contracts requires that the Egyptian industrial content be at least 40 per cent of the overall value of the offer or contract (Article 3).

The above restrictions on foreign participation in public procurement tenders apply to all government entities. On the other hand, the legislation does not require foreign firms to surrender source code, encryption or other trade secrets to access bids or become the successful bidder.

Foreign direct investment

Article 1 of Ministerial Decree No. 2310 of 2017²³ promulgating the executive regulations for Investment Law No. 72 of 2017²⁴ requires a joint venture for companies operating in trade sectors, with possible exceptions for projects in remote areas.

Law No. 34 of 1976 on the Commercial Register²⁵ and its 1996²⁶ and 2020²⁷ amendments stipulate that a legal person (natural persons and various forms of companies) wishing to engage in trade activities in Egypt must be entered in the commercial register (Article 2). To be registered, the petitioner must have Egyptian nationality and have obtained approval to practice trade from the competent Chamber of Commerce (Article 3). However, foreigners can be reg-

21 World Trade Organization, “Agreement on Government Procurement”, https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm

22 http://bcrc-egypt.com/docs/low182_201.pdf

23 https://www.investinegypt.gov.eg/flip/library/LawsAndRegulations/PDFs/Law72_and_Exec_reg_en.pdf

24 <https://www.womenconnect.org/documents/87362/451958/New+Investment+Law+in+English.pdf/ee4b16b0-7017-3ad7-69ef-8b423bf61f11>

25 <https://elpai.idsc.gov.eg/Legislations/Item/93465>

26 <https://elpai.idsc.gov.eg/Legislations/Item/210991>

27 <https://elpai.idsc.gov.eg/Legislations/Item/288686>

istered in the Commercial Register in exceptional cases, such as when they are a partner in a joint venture company in which at least one of the general partners is Egyptian and the Egyptian partner owns at least a 51 per cent share of the company's capital and has the right to manage and sign (Article 4.2).

Companies operating in Egypt are required to pass a security screening process. It is reported that the process is often lengthy, although companies are able to operate while they wait for approval. However, if the firm is rejected, it must cease operations and undergo a protracted appeals process if it wishes to continue operating. Businesses have also expressed concern about the lack of transparency and seemingly arbitrary refusals.²⁸

Cross-border data policies

Both traditional and digital businesses rely increasingly on data and on the free flow of data across borders. While certain restrictions on data flows and use may be necessary, such restrictions can increase trade costs and impede digital trade.

Egypt's Law No. 151 of 2020 Promulgating the Personal Data Protection Law established the country's data protection framework.²⁹ The law sets condition on the transfer of data abroad. Article 14 prohibits the transfer of personal data to a foreign country unless the laws of the foreign country guarantee a level of protection that is equal

to the level stipulated by Egyptian law. In addition, the law requires authorization or a license from the Data Protection Centre. Article 15 enumerates specific exceptions to the obligation of Article 14, subject to the consent of the concerned person or the person's representative.

Article 8 requires any controller or processor to appoint a data protection officer and register the officer in the Data Protection Centre registry. Article 5.12 requires data processors outside of the country to appoint a representative in Egypt.

The retention of digital data is also required by law. Article 2.1 of Law No. 175 of 2018 Regulating Anti-Cyber and Information Technology Crimes requires all telecommunications service providers to maintain records for 180 consecutive days.³⁰ These records should include information on the identity of users and the content of the operating system involved. Local storage is also mandated by Law No. 180 of 2018 Regulating the Press, Media, and the Supreme Council for Media Regulation.³¹ The law requires all companies that have a license from the Supreme Council for Media Regulation to operate and distribute recorded or live content in Egypt to store all content for at least one year on a server that is located at a secure location in Egypt. The location may not be changed without prior approval from the Supreme Council. The law also requires newspapers to be printed in Egypt and a backup of the electronic servers host-

28 U.S. Department of States. 2020 Investment Climate Statements: Egypt, <https://www.state.gov/reports/2020-investment-climate-statements/egypt/>

29 https://mcit.gov.eg/Upcont/Documents/Reports%20and%20Documents_1232021000_Law_No_151_2020_Personal_Data_Protection.pdf

30 https://www.cc.gov.eg/legislation_single?id=386006

31 <https://elpai.idsc.gov.eg/Legislations/Item/281324>

ing their electronic copies to be sited in a local place specified by the newspaper and known to the Supreme Council (Article 35).

Despite the country's efforts to protect users' privacy, Law 10 of 2003 on Telecommunication Regulation allows the interception of telecommunications in Egypt.³² Article 64 of the law "mandates telecommunications operators to provide all technical equipment, systems, software and communications, which enable the armed forces and national security agencies to exercise their powers within the Law." Article 2.3 of Law No. 75 of 2018 Regulating Anti-Cyber and Information Technology Crimes³³ adopts similar language, which makes it difficult to determine the limits of telecommunication interception and to monitor its legality with respect to the privacy of users.

In terms of regional integration, Egypt is not a signatory to the African Union Convention on Cyber Security and Personal data protection.

Intermediary liability and content access

Internet intermediaries make it possible for content producers to reach internet users. Intermediaries include ISPs, search engines and social media platforms. This pillar looks at restrictions affecting them, such as their liability in case of infringement and restrictions on access to online content.

It has been reported that "the introduction of the Anti-Cybercrime Law triggered a controversial public debate" on whether the law excludes a general liability for content-related violations on the web.³⁴ Opinions are also mixed on Law No. 82 of 2002 on Protection of Intellectual Property. Some experts believe that Article 147 covers intermediary liability due to its breadth in giving authors the right to prevent exploitation of their work "in any form" and "in any manner, through computers, the internet, information networks, communication networks and other means." An alternative view is that the law does not contain any provisions that explicitly impose liability on internet intermediaries for acts of infringement.

Article 6 of Law No. 180 of 2018 Regulating the Press, Media and the Supreme Council for Media Regulation states that a license is required from the Supreme Council to establish and manage a website in Egypt and operate offices or branches for websites.³⁵ This license requires operating within a specific media area. If a license is not obtained, the Supreme Council can block the website.

On access to online content, Article 4 gives the Supreme Council the right to block publications, newspapers, media or advertising broadcast from abroad "for considerations required by national security." The precise considerations are not detailed.

³² <https://www.tra.gov.eg/wp-content/uploads/2020/11/Law-No-10-of-2003.pdf>

³³ https://www.cc.gov.eg/legislation_single?id=386006

³⁴ Amereller. (2018). The New Egyptian Anti-Cybercrime Law Regulates Legal Responsibility for Web Pages and Their Content, Lexology, <https://www.lexology.com/library/detail.aspx?g=90440972-f53e-46dd-b225-7f7cb-dea7d73>

³⁵ <https://elpai.idsc.gov.eg/Legislations/Item/281324>

Quantitative trade restrictions, bans and standards

Article 46 of Law No. 10 of 2003 on Telecommunication Regulation bans imports of used telecommunications materials.³⁶ Article 44 prohibits the import, manufacture or assembly of any telecommunication equipment without a licence from the NTRA and according to the standards and specifications it has approved. The testing and qualification requirements differ depending on the applicant's/manufacture's country of origin. There are four categories of approval: light, tight, guided and intermediate schemes. The intermediate scheme applies to other African countries.

Article 22 of Cabinet's Resolution No. 418 stipulates that the provision of content transfer services (whether recorded or live

broadcast) is not permissible from within Egypt to a media outlet or website operating from outside the country, except after obtaining a license from the Supreme Council for Media Regulation and in accordance with the rules and conditions the NTRA sets.³⁷

Article 72 of Law No. 180 of 2018 Regulating the Press, Media, and the Supreme Council for Media Regulation reserves the right to establish and license encrypted satellites and digital platforms in Egypt exclusively to the Supreme Council after approval by NTRA.³⁸ It further stipulates that only state-owned companies are eligible for a license. Additionally, Article 64 of Law No. 10 of 2003 on Telecommunication Regulation prohibits the use of telecommunication service encryption equipment without written authorization from the NTRA, the armed forces and national security entities.³⁹

36 <https://www.tra.gov.eg/wp-content/uploads/2020/11/Law-No-10-of-2003.pdf>

37 <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/111991/139734/F1811343950/EGY111991%20Ara.pdf>

38 <https://elpai.idsc.gov.eg/Legislations/Item/281324>

39 <https://www.tra.gov.eg/wp-content/uploads/2020/11/Law-No-10-of-2003.pdf>

CONCLUSION AND RECOMMENDATIONS

Egypt has a fairly restrictive policy environment for digital trade, which suggests that, to promote digital integration with the region, Egypt may wish to consider the following actions to reduce restrictions and encourage openness to digital trade:

- Reduce digital piracy by strengthening the enforcement of intellectual property violations through penalties and sanctions and by raising awareness among consumers of the risks of using unlicensed software (vulnerability to cyberattacks, hacking and so on).
- Further reduce the patent application backlog and provide transparent guidance to applicants about requirements of the application process, duration, status and rights.
- Reform Law No. 10 of 2003 on Telecommunication Regulation to reduce discretionary licensing by NTRA, promote competition in the sector and promote access to telecommunication equipment and encryption.
- Adopt international model laws on electronic transactions, e-contracts and e-signatures and update and enhance the clarity of the e-signature law, thereby reducing uncertainties and enhancing business trust.
- Reform Law No. 180 of 2018 Regulating the Press, Media, and the Supreme Council for Media Regulation, which gives the Supreme Council considerable discretionary powers in granting permissions and licenses to websites and platforms, blocking websites' content and penalizing them for infractions, which could deter market entry and platform business development.
- Study and estimate the implications for digital trade costs of Law No. 151 of 2020 on Personal Data Protection. While the law takes an important step towards protecting users' privacy and mandating their consent for data use, the law introduces new business obligations, such as paying licensing and permit fees, appointing a data protection officer and maintaining appropriate systems and controls for privacy protection.
- Investigate the implications of foreign equity limitations in ICT and trade sectors. Examine the impact of subjecting foreign investors to the requirement to be part of a joint stock

company with majority Egyptian ownership in order to benefit from the enhanced incentives offered by the new investment law.

- Allow exceptions to the preference for Egyptian industrial products in government contracts in the case of priority digital infrastructure upgrading projects.

