Egypt’s Economic Renaissance: Mega Projects and their Framework

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For the last four years, Egypt has made significant and multifaceted efforts to grow its economy by both attracting foreign investments for a wide range of economic activities as well as developing its export capabilities. This has made Egypt a prime emerging market location for regional as well as global investors, especially given recent developments in the Suez Canal that has expanded Egypt’s ability to become a transit hub for transportation. An area making significant strides, due to the rush of foreign investments, is real estate and hospitality and this article considers the plans for expansion and legal framework in further detail. In recent years, Egypt has made continuous efforts to expand its economy and population beyond the established cities and hubs. This effort has included trying to dilute the effect of overpopulation by building independent urban centres and establishing industrial and economic zones that spur growth and increase productivity.

Not only is the creation of new cities allowing for more investments, it also creates new destinations for tourists. Given the fact that tourism is a major source of revenue for Egypt and, indeed, a great source of pride for Egyptians, the development of the tourism industry beyond the traditional destinations is an extremely effective way to attract tourists with different preferences. In addition, the creation of new cities including the new administrative capital, aims to relieve Cairo’s congestion and bureaucracy. In our view, the most important real estate projects currently in construction are the new administrative capital, New Alamein City and El Galala City, both of which we consider below.

The New Administrative Capital

In early 2016, the first phase of construction on the ambitious new capital began on over 700 square kilometres of land. The new capital is located between Cairo and Suez, where it will house parliament, ministries, governmental bodies, the presidential offices and embassies. Moreover, it will enjoy a plethora of facilities including schools, universities, parks, hospitals, clinics, an international airport, a theme park larger than Disneyland, an electric railway that connects to Cairo, solar farms and over 40,000 hotel rooms. Once completed, the new capital is expected to attract over five million residents.

The new capital will also house a 0.5 square kilometre central business district, which will be financed and built by the China State Construction Engineering Corporation (CSCEC) creating investments expected to be valued at over US$ 3 billion. The central business district will include a 345-meter high skyscraper, the would-be highest building in Africa, twelve business complexes, five residential buildings and two hotels.

The CSCEC construction of the new business district is run by a private special purpose vehicle with shareholders including the Egyptian New Urban Communities Authority and the Armed Forces.

New Alamein City

Land for constructing the New Alamein City was allocated earlier this year. This new city is located on the coast of the Mediterranean Sea where many tourist resorts and gated communities already exist. It is a popular destination for local tourism but this new project aims at internationalising its appeal and making it accessible for all sectors of Egyptian society.

The New Alamein City is not only going to be a tourist hub but a complete urban centre that stretches over 200 square kilometres and can house over 400,000 inhabitants. From a tourism perspective, once complete there is expected to be 25,000 hotel rooms which includes three new hotels being operated by Marriott International.

El Galala City in El Ain El Sokhna

El Galala City is part of the government's plans to expand its tourist attractions as well as its urban living spaces to presently unpopulated areas. El Galala Mountain is located on the Red Sea between El Ain El Sokhna and El Zaafarana and construction has already begun on the project, which is planned to extend to approximately 70 square kilometres. It is expected to be a prime tourist destination with many resorts and tourist villages and a city, which links the New Administrative Capital to the Red Sea governorates.

We now consider the legal framework that regularises these important real estate developments.

Legal Framework

The primary legislation is the Investment Law No.72 of 2017 (the "Investment Law") (and specifically Article 37 and 58 and as further stipulated in Article 47 of the accompanying Executive Regulations),which provides that the properties required for investment projects shall be disposed through one of the following means:

- Sale;
- Rent;
- Rent to own; or
- License to use, where the license to use or lease is only valid for a period that does not exceed 50 years.

The Investment Law requires that the transfer of ownership, in case of sale or rent of properties, be conditional upon the full price payment. Moreover, the competent administrative authority, may participate in the investment projects conducted, with the property being an in-kind share or through a partnership in the cases determined by a decree issued by the Cabinet of Ministers (under Article 58).

The Executive Regulations (Article 48) details that this participation could take the form of either:

- a Public-Private Partnership (PPP);
- a Long-Term Partnership;

- a Build, Operate, Transfer (“BOT”);
- a Build, Own, Operate, Transfer (“BOOT”); or
- a Revenue Sharing Partnership

Pursuant to the Investment Law and its Executive Regulations, a database shall be created (and updated every 6 months) in order to comprise a list of these properties, their sizes, established heights as well as estimated price, and the method of disposal. The process of land allocation is conditional upon the approval of the Egyptian Cabinet of Ministers and the President of the Republic issuing a decree. This decree shall transfer the title and jurisdiction of the property from the administrative body which has jurisdiction, to the General Authority of Free Zones and Investment (GAFI) for the purpose of executing the investment plan and disposing of the property according to the provisions of the Investment Law.

It is noteworthy that the provisions of the Investment Law currently allow for a dual route to obtaining property from the government. One way is to obtain property directly from the competent administrative authorities and the other is to deal with GAFI, whereby the property would initially be transferred to GAFI and then onto the investor. This serves to allow more flexibility to the investor in terms of deciding which path would be more convenient. This flexibility was not available prior to the introduction of the Investment Law. Previously, the only path for the investor was to seek land allocation through the competent authorities, which often led to additional bureaucracy dealing with several authorities and their respective requirements. The new arrangements also ensure that GAFI, a national body for investments, allocate disposition of land and property according to a wider vision for the economy.

Requirements and Conditions

In cases where the investor requires a privately state-owned property (purchased by the state but not deemed to be public land) the Investment Law requires the investor to indicate such requirements in its application, by specifying the purpose, size and location of the desired property. Moreover, for purposes of development, in certain circumstances, the Investment Law allows for the free disposal of private state-owned properties to investors in areas specified by Presidential Decree. In order to qualify , the investment projects must meet technical and financial criteria,which are set by virtue of a decree issued by the Cabinet of Ministers (as distinct from the above mentioned Presidential Decree). This free disposal of properties is conditional upon the investor providing a cash guarantee not exceeding 5% of the overall cost of the investment project.

In particular, according to the Executive Regulations, where it concerns an activity involving production, the investor shall provide a cash guarantee representing 1% of the overall cost of the investment project. Where the activity concerned involves services, the investor shall provide a cash guarantee representing 3% of the overall cost of the investment project. Finally, where the activity concerned involves storage, the investor shall provide a cash guarantee representing 5% of the overall cost of the investment project. This guarantee shall be refunded after three years from the actual commencement date of activities, provided that the investor complies with the conditions of disposal.

Pricing and Selection Criteria

The Investment Law stipulates that investors or investment projects are chosen according to a points-based system, ranking projects based on preference principles according to technical or financial specifications, or based on the value of the bid. In particular, the Executive Regulations (Article 51) stipulates that these points be calculated according to:

1. The investor’s previous experience;
2. The investor’s international standing;

3. The project's ability to generate foreign currency, either by exporting products or by providing a local substitute for imported products;
4. Projected investment costs;
5. The value of the bid and payment method

In the event that the bid process is close (with little to chose between tenderers), the value of the bid takes precedence during the decision-making process. Furthermore, the Investment Law (Article 64) requires that any price estimation for the value of the properties, be it for sale, rent, or for other uses, shall be conducted by one of the following:

1. The General Authority for Governmental Services;
2. The Higher Committee of State Land Pricing in the Ministry of Agriculture;
3. The New Urban Communities Authority;
4. The General Authority for Tourism Development; or
5. The General Authority for Industrial Development

The enumeration of high standards in pricing and decision-making raises confidence in the transparency of the process and prevents potential legal battles concerning misallocation, bribery or profiteering. When the process is fair and transparent, investors are more confident and willing to enter a bid knowing that there will not be any foul play.

The involvement of the abovementioned authorities shall vary according to the nature of the project. Following the decision of the relevant authority's Executive Officer, in addition to the approval of the competent Minister, the Investment Law and the Executive Regulations prescribe for the creation of one or more committees. The committee(s) include technical, financial, and legal teams. The seniority and expertise of the committee(s) correspond with the significance and nature of the projects under consideration.

Conclusion

The number of projects currently in the pipeline should spur Egyptian economic growth in a sustainable way and put the government's resources to efficient use. These projects are accompanied by a set of laws that make it significantly easier for investors to do business and participate in the national projects. One of the more important reasons the government has established these mega projects is not simply to expand foreign investment but also allow for the creation of living space outside the confines of Greater Cairo, which is becoming increasingly dense.