Reforming Law 48: Another Step Toward State Enterprise Reforn

By Khaled Fouad Sherif

EGYPT'S recently announced plans to repeal both the public sector operations law and the state labor law is a significant and decisive move toward state enterprise reform.

Public sector labor law 48 of 1978, an offspring of Public Company Law 97, currently sets the guidelines by which firms can establish wages and grant incentives. This law has had a number of distorting effects on public firms. Under the law, wage determination is highly constrained by government interference in the form of minimum-wage legislation. Furthermore, the instrument of performance appraisal, while endorsed by the law, is not effectively applied in government enterprises.

The accepted practice has been to set a certain price tag for each educational certificate, holders of which receive the same salary irrespective of their job or the enterprise they work in. This is known as certificate pricing. The result is an almost complete absence of wage and salary differentials for individuals holding the same certificates and with the same level of seniority.

In this complex system, performance appraisal has failed primarily because labor law 48 is biased toward promoting individuals based on seniority and certificates rather than on individual or company performance. In addition, individual companies attempt to reward workers with nonsalary financial incentives which supplement employee income, rather than increasing salaries as a reward for improved corporate financial performance or productivity.

Certificate pricing has also done away with the link in Egyptian state-owned enterprises between pay, productivity and marginal revenue. Since the law requires that individuals in public firms holding the same degree at similar levels of seniority be paid in an identical manner, companies have lost the ability to link wages to productivity and productivity to marginal revenue. Instead, they must abide by certificate pricing rules that are by no means linked to a respective firm's financial position.

Additionally, state enterprises in Egypt virtually cannot fire employees (unless in serious cases of proven absenteeism, or when bodily harm is inflicted upon a colleague or a superior).

Moreover, laws 48 and 97 constrain a firm's ability to give residual profits to employees in the form of incentives, with state firms permitted to allocate only a maximum of 10 percent of their profits to this use.

The board of directors of a state firm has the right, in theory, to decide how to distribute the residual among employees, yet it is actually the holding company supervised by the Industry Ministry which sets the guidelines. Fairness has been the overriding factor when it comes to formulating policy for residual disbursement. Thus, incentives in the form of residuals are virtually uniform among public employees in all state firms, regardless of the enterprise's financial position. In fact, incentive pay in the form of disbursement of residuals, even when profit is nonexistent, is virtually guaranteed to employees all over the state-owned enterprise network.

A classroom at Cairo University. Now at last, companies may be able to reward employees based on their work output and proficiency instead of continuing to stifle their enthusiasm by applying a wage sys tem based on the number of educational certificates the worker garnered in his school days.

The government's willingness to reform law 48 is a decisive step toward state-enterprise reform. W the additional changes proposed public sector law 97, state enterpri should soon be granted autono never experienced before.