



# Note

## **EU-Tunisia Deep and Complete Free Trade Agreement (DCFTA)**

### Analysing Standards Harmonisation Challenges, and Opportunities

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#### **Summary**

The European Union is engaged in negotiating Deep and Comprehensive Free Trade Areas (DCFTA) with several countries in the Mediterranean region with the aim to promote harmonisation of standards and laws, as well as liberalise different sectors such as agriculture and services. This paper analyses the experience of Tunisia in these talks, focusing on the standards harmonisation. It aims to draw useful lessons which could benefit other developing countries that may engage in similar talks in the future.

## Introduction: Presentation of the Deep and Complete Free Trade Agreement (DCFTA)

A Deep and Comprehensive Free Trade Area (DCFTA) is a "second generation" bilateral agreement between the European Union (EU) and a third-party country in the Mediterranean region. This Agreement aims at economic integration with the partner countries and at legislative and normative alignment with the "acquis Communautaire".<sup>1</sup>

Going further than the Euro-Mediterranean Association Agreements<sup>2</sup> promoting a gradual liberalization of trade, the DCFTA aims to deepen trade relations between the EU and the Mediterranean countries: by promoting the harmonisation of standards and laws and the full liberalization of different sectors such as agriculture and services. It covers the following sectors: agriculture, energy, and services; investment; regulatory harmonisation; and technical cooperation measures and sustainable development.

Following a proposal of the European Commission (EC) in 2011, the EU has started a negotiation process with some countries on the eastern shore that include: Moldova, Georgia, Ukraine; and some countries on the southern shore that include: Tunisia and Morocco.

In this paper, we analyse the ongoing negotiations with the southern Mediterranean countries and, more particularly, Tunisia, the country that has made the most progress in terms of negotiations with the EU, focusing on the standards harmonisation talks. The objective is to draw

lessons on this important aspect of international trade, which could benefit other developing countries that will engage in similar trade arrangements.

## EU-Tunisia DCFTA: Framework and Contents

### Economic and trade relations between the EU and Tunisia: from "association" to "privileged partnership."

Tunisia joined the World Trade Organization (WTO) in 1995 following the signing of the Marrakesh Agreement, which consolidated the integration of the Tunisian economy into the international trade system and its desire to be part of a multilateral cooperation framework. In the mid-1980s, Tunisia was already actively participating in globalization, with the adoption of the structural adjustment plans (SAPs) of the International Monetary Fund (IMF), which enshrined a model of an extroverted economy.

At the regional level, the history of trade relations and bilateral cooperation with European countries is older due mainly to the historical relations between Tunisia and Europe. In 1969, the EEC and Tunisia developed trade relations on a bilateral basis where Tunisia was granted advantages and exemptions with the recognition of the asymmetrical trade relations between the two partners<sup>3</sup>. Another agreement signed in 1976<sup>4</sup> sought to go beyond simple bilateral cooperation, with a focus on Tunisia's economic and social development, with the proposal of technical and financial assistance<sup>5</sup>

<sup>1</sup> "Acquis Communautaire" is "the accumulated legal regime of the European Union. Applicants for admission to the European Union must accept the achievements to date". Available at <https://legal-dictionary.thefreedictionary.com/acquis+communautaire>.

<sup>2</sup> An association agreement is a bilateral agreement between the EU and a third country. In the context of accession to the EU, it serves as the basis for implementation of the accession

process. [https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/association-agreement\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/association-agreement_en)

<sup>3</sup> Although cooperation between the Economic European Community (EEC) and Tunisia was established on the basis of an association agreement, it was restricted to the trade regime. It was followed by an Additional Protocol in 1986 as a result of the enlargement of the EEC.

<sup>5</sup> Conseil de coopération CEE/Tunisie, Fiche d'information du 22 mai 1987.

In 1995, Tunisia was the first Mediterranean country to sign an association agreement with the EU, which came into force on 1 March 1998. This agreement aims, first and foremost, at the progressive liberalization of trade in goods, services and capital.<sup>6</sup> While excluding the agricultural and services sectors, the former being governed by protection reduction protocols, the Association Agreement provides for the end of the preferential treatment enjoyed by Tunisia and places its relations with the EU in a new relationship of reciprocity<sup>7</sup>.

Concerning trade, three important aspects are addressed in this agreement. The first refers to the progressive tariff dismantling on EU exports of industrial products in return for customs liberalization of Tunisian manufactured products. The second relates to agricultural and fishery products. It provides a timetable for reducing tariffs and quotas applicable to these products.

The third aspect deals with efforts to align Tunisian standards and legislation with the *acquis communautaire*, with the obligation to adapt the Tunisian tax and customs system<sup>8</sup>. The progressive liberalization of trade and the harmonization of standards are ultimately aimed at the creation of a free trade area.

The EU remains the first recipient of Tunisian exported products: primary and processed products combined. Tunisia maintains close relations with the EU not only economically but also in terms of Foreign Direct Investment (FDI) and financial assistance through the establishment of support programs in various areas<sup>9</sup>.

Following the revision of the European

Neighborhood Policy (ENP), Tunisia was granted on November 12, 2012, by the Association Council, the status of "privileged partnership". From 2013, action plans are designed for this purpose in order to set the objectives to be achieved through the cooperation of both partners. More recently, the action plan in line with the ambitious EU-Tunisia strategic priorities 2018-2020 was presented by the EC<sup>10</sup>. These priorities include human rights, good governance, inclusive and sustainable socio-economic development, migration, the fight against terrorism, and mobility in higher education.<sup>11</sup> In 2018, the EU signed financing agreements for up to 300 million euros as part of its financial support to the various areas mentioned above.<sup>12</sup>

## EU-Tunisia DCFTA: Content and implications

According to the EU, the DCFTA aims to support Tunisia in its efforts to consolidate its democratic institutions in a particularly difficult security and socio-economic context.<sup>13</sup> In terms of content, it aims to open up sectors not covered by the 1996 Association Agreement, such as agriculture, public procurement and services.<sup>14</sup> As a matter of fact, the bulk of the liberalization of industrial products took place within the framework of the Association Agreement. The overall objective of this Agreement is as follows:

[...] is to create new trade and investment opportunities and ensure a better integration of Tunisia's economy into the EU single market. The DCFTA also aims at supporting ongoing economic reforms in Tunisia and at bringing the Tunisian legislation closer to that of the EU in trade-related

<sup>6</sup> Journal officiel de l'Union européenne. 2018. Accord Euro-Méditerranéen établissant une association entre la Communauté européenne et ses États membres, d'une part, et la République tunisienne, d'autre part.

<sup>7</sup> Zouari, A. (2018). Pour une refonte des relations tuniso-européennes ou comment permettre à la Tunisie de réussir sa transition économique. *Maghreb - Machrek*, 237-238(3), 61-78.

<sup>8</sup> *Ibid.*, p.65.

<sup>9</sup> *Ibid.*, p.66.

<sup>10</sup> These priorities were established on the basis of the five-year development plan 2016-2020 drawn up by the Tunisian Assembly of People's Representatives.

<sup>11</sup> Commission européenne 2019. Rapport sur l'état des relations UE-Tunisie dans le cadre de la PEV révisée.

<sup>12</sup> *Ibid.*, p.20.

<sup>13</sup> Jaidane, R. 2019. L'Union européenne et les transitions démocratiques en Afrique, p.139.

<sup>14</sup> *Supra* note 7, p. 86.

areas.<sup>15</sup>

Both EU and Tunisia underline that the main objective of DCFTA is the better integration of Tunisia into the European and global economic space, providing a vector for growth for both parties and accelerating reforms. DCFTA intends to be a facilitator of transformations and reforms for the Tunisian economy by integrating:

- asymmetry, to take into account the difference in level of development between the two parties ;
- progressive opening with the necessary support to strengthen the competitiveness of the Tunisian economy;
- regulatory alignment in the priority areas to be identified by Tunisia;
- EU technical and financial assistance to Tunisia in the various sectors covered by

the future DCFTA. This assistance will be part of the cooperation programs defined jointly with the Tunisian authorities. The choice of sectors to benefit from such support will take into account national priorities as defined by the Tunisian government and in line with the five-year development plan 2016-2020.<sup>16</sup>

In 2013, the EC commissioned a study to assess the effects on the Tunisian and European economies as a result of the signing of the DCFTA. The study reported positive impacts on macroeconomic aggregates (see *Table 1*). National income should increase significantly over the long term for both partners and gross domestic product (GDP) should increase by about 7% for Tunisia. The reduction of non-tariff measures would be the first cause of this growth, while the reduction of tariff barriers in the agricultural sector would be the second factor.

**Table 1: The macro-economic effects of the DCFTA on the EU and Tunisia**

Variables	EU	Tunisia	EU	Tunisia
	Short Term		Long Term	
National Income (Million euros)	640	1.834	1.344	2.498
GDP (%)	0.0	4.1	0.0	7.4
Total imports (%)	0.3	13.9	0.5	17.7
Total exports (%)	0.3	17.7	0.5	20.4

Source: Ecorys.2013. "Trade Sustainability Impact Assessment in Support of Negotiations of a DCFTA between the EU and Tunisia", Rotterdam, Novembre 25th.. Available at: <http://www.onagri.nat.tn/uploads/Etudes/Final-Report-TSIA-EU-Tunisia.pdf>.

<sup>15</sup> European Union Web Site. Countries and Regions. Available at : <https://ec.europa.eu/trade/policy/countries-and-regions/countries/tunisia/>

<sup>16</sup> Rapport conjoint du premier round de négociation sur un accord de libre-échange complet et approfondi (ALECA) entre la Tunisie et l'Union européenne. 2016.

The DCFTA covers the following areas:

- Trade in services
- Establishing and protecting investments
- Trade in agricultural and fisheries products
- Sanitary and phytosanitary measures
- Improving the safety of industrial products to facilitate trade with the EU
- Public procurement
- Transparency of regulations
- Customs procedures and trade facilitation
- Competition policy
- Intellectual Property
- Trade defence measures
- Sustainable development

## The Alignment with European Sanitary and Phytosanitary Measures: A Key Objective to be Reached

### Tunisian Government Involvement in Capacity Building

Several steps have been taken by the Tunisian government and its institutions to harmonize with European standards. In the following we will outline a few of these actions.

<sup>17</sup> This regulation lays the foundations of the European SPS system,

<sup>18</sup> Twinning projects are an institutional instrument of the EU aimed at achieving the objectives of the European Neighbourhood Policy. The ENP aims essentially at aligning the countries of the South with European standards.

<sup>19</sup> Chandoul, J. 2019. Les normes sanitaires et phytosanitaires dans le cadre de l'ALECA , p.48.

<sup>20</sup> Idem.

<sup>21</sup> With regard to traceability and regulations, Tunisian SMEs exporting dates and olive oil are required to comply with the

### ● Regulatory Framework

On February 13, 2019, the National Assembly of Peoples' Representatives adopted a framework law on sanitary and phytosanitary standards based largely on EU Regulation No. 178-2002<sup>17</sup>. This law implements a twinning project<sup>18</sup> entitled "institutional support in terms of health and environmental risk management" in connection with the ENP. Indeed, to take full advantage of the liberalization of customs duties and quotas on agricultural trade, Tunisia has been working since 2003 to harmonize its sanitary and phytosanitary standards as part of the European ENP.

This project was carried out under the supervision of the Ministry of Health from June 2015 to May 2017 with the assistance of the National Agency for Health and Environmental Product Control (ANCSEP).<sup>19</sup> This law is paving the way for the signature of the future DCFTA, as we can see several similarities between the Tunisian framework law and the European Union Regulation both in terms of structure and content.<sup>20</sup>

### ● Fostering the emergence of agritech and the traceability issue<sup>21</sup>

On June 14, 2019, the World Bank (WB) announced the amount of 75 \$ US millions as an investment project in support of Tunisia Innovative Start Ups and SMEs, "to support the Government "Start up Tunisia" program<sup>22</sup> which aims to catalyze the creation and growth of digital, innovative startups and SMEs".<sup>23</sup> . This program provides tax incentives for startups specializing in agritech among other things. These startups provide integrated management solutions in

ISO 22000 standard, EUREPGAP and European Directive 178/2002.

<sup>22</sup> This program was implemented after the adoption of the Startup Act in 2018, which included different legal texts (Law N°2018-20 of 17 April 2018, Decree N°2018-840 of 11 October 2018, Circulars of the Central Bank of Tunisia N°2019-01 and 2019-02).

<sup>23</sup> The World Bank. 2019. "Tunisia Takes a Step Closer to a New Economy and Digital Transformation".



order to improve farm management.<sup>24</sup> (Le Monde Afrique, 2020). The potential offered by these new technologies is multiple. Firstly, they aim to strengthen farmers' knowledge and improve their ability to deal with the climate data and animal and plant diseases. Secondly, it is also about ensuring the rise in production value chains and product traceability and, therefore strengthening the positioning of national production on international markets and significantly reduce costs. Thirdly, these technologies contribute to reduced use of pesticides keeping in mind that there is not a local Tunisian standard to regulate the use of pesticides in agriculture.<sup>25</sup> Making the use of agritech more widespread in Tunisia could help reduce the number of rejected agricultural and fishing products by European health authorities, particularly in connection with the lack of traceability. In a meeting held on August 10, 2018 at the Tunisian National Observatory of Agriculture (ONAGRI) about the citrus sector, several difficulties facing citrus exports were discussed. Among these difficulties the traceability of food products is included.<sup>26</sup>

Currently the Tunisian Government is working with all stakeholders, including its European partners and donors to ensure the availability of the necessary infrastructure, adjust the regulatory framework to the requirements of digitization in addition to the necessary incentives put in place for the benefit of young developers and startups interested in investing in agriculture.<sup>27</sup>

### 🔹 *Enhancing SMEs exportations*

The Tunisian government created an Export Promotion Fund (FOPRODEX) through the Export Promotion Center (CEPEX). This fund aims to provide grants and loans to companies to help them develop promotional and advertising materials, and create labels and brands. In

addition, this body can support freight costs for exported products up to 33 to 50%. Also, noteworthy is the creation in 2005 of the Fund for the Promotion of Packaged Olive Oil (FOPRHOC) to finance operations to encourage the promotion and marketing of packaged olive oil.<sup>28</sup> (Chebbi and al. 2019: 63).

Another program funded by the to support competitiveness and exports (2017-2020) was designed to support the Tunisian economy's sustainable development and create quality jobs through the revival of the industrial and agricultural sectors.<sup>29</sup> This program also aims to upgrade the system of quality, product safety, and market surveillance and enhance the value of agricultural and sea products, improving the business environment and the export capacity of Tunisian companies.<sup>30</sup>

## **How is SPS harmonisation being tackled in the DCFTA?**

The alignment of Tunisian standards and regulations with the "acquis Communautaire" is one of the most important dimensions in the DCFTA negotiations. The harmonisation process initiated under the ENP takes the form of full convergence towards European standards in the Agreement. This harmonisation concerns all areas of the Tunisian economy that would be governed by European standards. Under the DCFTA, the EU proposal on SPS measures aims to ensure transparency of sanitary and phytosanitary measures applicable to trade, recognize the animal and plant health status of both Parties by applying the principle of regionalization, establish a mechanism to recognize the equivalence of sanitary and phytosanitary measures applied by a Party; further implement the principles of the World Trade Organization's SPS Agreement; establish

<sup>24</sup> Le Monde Afrique. 2020. « En Tunisie, l'agriculture fait sa révolution numérique » by Lilia Blaise.

<sup>25</sup> World Economic Forum. 2019. La Tunisie compte rattraper son retard en matière de digitalisation agricole.

<sup>26</sup> Lettre de l'Observatoire national sur l'agriculture (ONAGRI). 2018.

<sup>27</sup> Ibid.

<sup>28</sup> H.E. Chebbi, J.-P. Pellissier, W. Khechimi, J.-P. Rolland. (2019).

<sup>29</sup> Supra note 11.

<sup>30</sup> Idem.

trade facilitation mechanisms and procedures; and improve communication and cooperation between the two Parties on sanitary and phytosanitary measures.<sup>31</sup>

More specifically, in its proposal for negotiation, the EU provides in Article 6 of the Chapter on "Technical Barriers to Trade" for Tunisia to align itself with the "acquis communautaire" and to commit itself to removing its regulations that are contrary to those of the EU.<sup>32</sup> Harmonisation is also linked to SPS measures since non-compliance may constitute an unnecessary obstacle to trade between the two partners. While providing for the alignment of Tunisian legislation with that of the EU, the Agreement provides for cooperation in various areas of food safety, animal and plant health, and the creation of an SPS Sub-Committee in Tunisia.<sup>33</sup> As provided for in Article 16 of the Agreement, the latter should monitor the implementation of the harmonization agenda (as provided in the chapter of the DCFTA on the harmonisation of SPS measures) and issue the necessary recommendations.<sup>34</sup>

## The Implementation of the DCFTA: Opportunities and Challenges faced by Tunisian SMEs and Producers

### Opportunities

The EU remains the main destination of Tunisia's exports, amounting to 19 billion euros in 2018, or 61.4% of the country's total trade.<sup>35</sup> These exports are highly concentrated to France,

followed by Italy, Germany and Spain.<sup>36</sup> Since the signing of the Association Agreement, Tunisian exports to the EU have grown steadily. For example, in 2019, they increased by 24.3%.<sup>37</sup> In 2019, Tunisian agricultural products are at the top of the list of the most exported food products in the world. Among these products are olive oil with 48% of total food exports, followed by dates (14.5%) and fishery products (8.3%).<sup>38</sup> The EU remains the main destination by far for Tunisian agricultural products with \$681 million in 2017, representing 45% of the country's agricultural exports (followed by Libya, the United States and Morocco).<sup>39</sup>

Consequently, the agricultural sector holds a predominant place in the Tunisian economy and has a socio-economic role of great importance. Indeed, it contributes to ensuring food security, job creation, natural resource management and regional balances.<sup>40</sup> In spite of the decline in its contribution to GDP, Tunisia's agricultural sector remains resilient in the face of economic crises and continues to absorb a significant share of the total labor force (about 17% on average of the total labor force between 2007 and 2013).<sup>41</sup>

For these reasons, compliance with European SPS measures is a priority and remains a key objective to be achieved by the Tunisian government. Particularly considering the increase in European health authorities' number of operations to repress agricultural and fishing products. Indeed, a study carried out by the International Trade Center (ITC) found that 89% of companies involved in the agricultural and food industry are affected by non-tariff measures (NTMs), including mainly companies exporting

<sup>31</sup> Union Européenne (2016). Document de proposition de l'UE pour un chapitre sur les mesures sanitaires et phytosanitaires, du 26 avril 2016.

<sup>32</sup> Jonville M. 2018. Perceptions de l'Accord de Libre Echange Complet et Approfondi (ALECA).

<sup>33</sup> Supra note 31.

<sup>34</sup> Ben Rouine. C. 2019. Les subventions agricoles européennes : angle mort de la négociation sur la libéralisation des échanges agricoles. Observatoire Tunisien de l'Économie.

<sup>35</sup> Ambassade de France en Tunisie. 2019. Le commerce extérieur de la Tunisie, p. 4.

<sup>36</sup> Idem.

<sup>37</sup> Le Point Afrique. 2019. Tunisie : progression de 24,3 % des exportations vers l'Union européenne.

<sup>38</sup> ONAGRI. 2020. La balance commerciale alimentaire. [En ligne] : <http://www.onagri.nat.tn/uploads/balance/BCA-Novembre-2020-.pdf>

<sup>39</sup> Supra note 28, p.12.

<sup>40</sup> Ibid., p.13.

<sup>41</sup> Mahjoubi. M. et Saadaoui, Z. (2015). Impact de l'accord de libre-échange complet et approfondi sur les droits économiques et sociaux en Tunisie. Réseau Euro-Méditerranéen des Droits de l'Homme, p. 17.

olive oil, SMEs being more affected than large companies.<sup>42</sup> Furthermore, the implementation of the DCFTA could contribute to the increase of olive oil and dates exports, two leading products for which Tunisia has a comparative advantage. Tunisian SMEs could also benefit from this Agreement through job creation due to higher exports, increasing exports to other countries while adjusting SPS standards to the EU requirements, and increasing Tunisian agricultural products' competitiveness.

On the one hand, implementing SPS standards would improve Tunisian international trade governance, facilitating market access for exporting Tunisian SMEs. On the other, it would improve exports competitiveness by reducing the international transaction costs facing Tunisian SMEs. This in turn could enhance trade revenue generating sustainable growth and shared prosperity within the Mediterranean region.

## Main Challenges

There are several challenges that could be faced by Tunisian SMEs during alignment with SPS measures. Firstly, the costs of compliance with the European SPS standards could lead to an increase in production costs for example, the procedures to obtain conformity certificates such as SPS, ISO 9000 or ISO 22000, GlobalGAP, are considered very expensive for SMEs. Simultaneously, presently, there is no policy to ensure compensation for compliance costs that are significant but required to ensure the transition to SPS-compliant production without affecting operators' revenues, which affects the revenues of farmers and SMEs. Secondly, delays are considered too excessive in terms of the application of regulations by the Tunisian authorities. Finally, SME's awareness of the SPS

measures remains limited, which constitutes a deficiency in their international deployment.

## Recommendations

Here are some recommendations to support Tunisian SMEs following the implementation of the DCFTA and more particularly the chapter on SPS measures:

- Increase the efforts of the Tunisian government and the EU in building the capacity of Tunisian SMEs and producers to face the increased costs of complying with European SPS standards, with particular attention to maintaining the income of farmers and SMEs. .
- Generalise the digitisation of the traceability system in the agricultural sector. Cross-cutting cooperation must be set up between the Ministries of Agriculture, Trade and Handicrafts and the Ministry of Communication Technologies and Digital Transformation.

The Tunisian government has set up a series of pilot projects to improve the traceability of agricultural products (The NetConcept project in 2007 via the Tunisian Quality Tracking to ensure the traceability of products and information throughout the date sector<sup>43</sup>). This programme has shown its limits for two reasons. Firstly, the absence of a national strategy to ensure the certification and traceability of agri-food products. Secondly, the technological dimension is essential for the success of any traceability approach. Although a dozen agritech startups<sup>44</sup> have been created since 2018 in the South of Tunisia as well as in the Cap-Bon region<sup>45</sup>, these initiatives are insufficient because they rely exclusively on the good will of farmers.<sup>46</sup> We

<sup>42</sup> Centre International du Commerce. 2014. Tunisie : Perspectives des entreprises serie de l'ITC sur les mesures non tarifaires.

<sup>43</sup> Karaa, M. et Morana. J. 2008. Le poids et l'enjeu de la traçabilité en Tunisie, p.8.

<sup>44</sup> One example is the "Ezzayra" software developed to manage the traceability of agricultural products as well as stock

management and the registration of farm activities. See <https://www.ezzayra.com/>

<sup>45</sup> A peninsula in the North-East of Tunisia specialised in citrus fruit production.

<sup>46</sup> Supra note 24.



recommend the adoption of a more global approach that would include systematic coordination between producers and SMEs exporting agricultural products:

- Using the DCFTA as a lever for improving human capital along the agricultural value chain: training farmers and farm workers on Good Agricultural Practices (GAPs) and training of qualified personnel, particularly within Conformity Assessment Bodies (CABs) and SMEs.
- Introducing training and learning in agricultural digitization in agronomic institutes and agricultural vocational training centers (Centres de Formation Professionnelle Agricole).

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