



Negotiations of a deep and comprehensive Free Trade Area between the European Union and Tunisia

The EU text proposal on trade in services and investment liberalisation

FACTSHEET

January 2019

The present document aims at providing a general overview of the European Union's (EU) proposal for a title on trade in services and investment liberalisation in the Deep and Comprehensive Free Trade Area (DCFTA) envisaged between the EU and Tunisia. The text of the EU proposal was presented to Tunisian experts in December 2018 and is now available on the website [link] of the European Commission.

highlights the ambition to create a better climate for business to develop and to achieve a progressive liberalisation of trade in services, investment and e-commerce between the Parties. At the same time, the text

Trade

Why this title?

Investment and trade in services are cornerstones of the EU economy. The EU is the largest source and destination of Foreign Direct Investment (FDI) worldwide, as well as the world's largest exporter of services. These exchanges, which support several million jobs in the services sector throughout the EU, have increased significantly over the past ten years. Tunisia also has a large and diversified services sector, which accounts for more than 60% of its GDP and more than 50% of total employment.

Considering the important role of services, notably for the development of exports, and investment, and for job creation, the DCFTA negotiations aim to make it easier for all companies, and in particular those providing services, to develop their businesses in both the EU and Tunisia, **while protecting public services and sectors that play a particular role for citizens.**

Main elements of the EU proposal

The draft text proposed by the EU sets out the main definitions, principles and obligations that both sides agree to implement as regards the measures affecting investment and trade in services.

General provisions: Chapter I includes general provisions that apply to the entire title, notably definitions. It

explicitly reaffirms **the right of each Party to regulate in order** to pursue legitimate policy objectives (a few examples of such objectives, such as the protection of public health and consumer protection, are provided in Article 1.2; the list is not exhaustive).

General provisions: Chapter I contains general provisions that apply to the entire title, including definitions. It highlights the ambition to create a better climate for business development and to achieving progressive liberalization of trade in services and investment between the Parties. At the same time, it explicitly reaffirms **the right of each party to regulate** for legitimate public policy objectives (examples of these objectives, such as protection of public health and consumer protection included in Article 1.1.2; the list is not exhaustive).

Investment liberalisation: The European proposal on investment sets out principles that are essentially common to all free trade agreements. These rules cover market access – for instance restrictions on the number of investors – , **the principle of “national treatment”**, as well as the **principle of the “most favoured nation treatment”**, which allows extending to the other Party the benefit of a more favourable treatment granted to a third party. Importantly, these commitments will be subject to a number of exceptions in specific sectors or activities (so-called “reservations”). The EU and Tunisia will draw up the **list of their respective “reservations”** in different annexes, which will be tabled during future negotiation rounds.

According to the EU proposal, **these various provisions do not apply to audio-visual services**, to several **air transport services and to subsidies**, and do not affect the obligations undertaken in the context of the separate Title on **government procurement** (see Article 3).

The proposal of the Commission **does not yet include provisions on investment protection**, but only a

placeholder for a text that will be presented at a later stage of the negotiations.

Cross-border services: In Chapter III, the European proposal sets out the principles and obligations that both Parties undertake as regards measures affecting the cross-border supply of services. The proposal also states that this chapter **does not apply to audio-visual services**, to several **air transport services and to subsidies**, and does not affect the obligations undertaken in the context of the separate Title on **government procurement** (see Article 3.1). The text includes the basic principles common to all free trade agreements (namely market access, **national treatment**), which will be accompanied by “**reservations**” (exceptions to be tabled during future rounds) set out in Annexes.

“Mode 4”: The European proposal for Chapter IV presents the principles governing the right of individuals to enter and stay temporarily in the territory of the other Party with a view to supplying a service (“**Temporary presence of services suppliers**” or “mode 4” in services jargon). The draft provisions presented by the EU for this chapter leave each Party free to regulate the entry of natural persons to their territory (e.g. **visas, work permits**, etc.) as long as measures are not applied in such a manner as to impair concessions, i.e. compromise the market opening flowing from the provisions on services. Negotiations on this aspect of trade will be conducted in appropriate synergy with the negotiations that are also on-going on a Visa Facilitation Agreement (VFA) between Tunisia and the EU.

Chapter V covers principles applying to the regulatory framework affecting services and investment: licensing and qualification requirements, transparency, mutual recognition of qualifications, as well as disciplines governing specific sectors:

- **Computer services,**
- **Delivery** and courier services,
- **Financial** services,
- Electronic **communications,**
- International **maritime transport,**
- **Tourism** services.

It is important to note that nothing in this draft Chapter prevents the Parties from regulating services in a non-discriminatory way, e.g. by imposing quality standards in the area of health or education, or by applying universal services obligations.

Nevertheless, in line with the spirit of a true DCFTA, the EU draft proposal for this chapter also envisages **regulatory approximation** in the areas of delivery and courier services, telecommunication services, and international maritime transport services.

To sum up, the overall purpose of the title on trade in services and investment liberalisation is to set conditions conducive to encourage investment and trade in services.

Nevertheless, in certain situations, the Parties need to take appropriate measures, for instance in order to protect consumers, human health, personal data, the environment, etc.). Chapter VII ("exceptions") deals with these situations.

