



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

## The EU proposal on trade defence instruments for the DCFTA EU-Tunisia

### FACTSHEET

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The present document aims at providing a general overview of the European Union's (EU) proposal for a chapter on trade defence instruments 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 October 2015 and is now available on the [website of the European Commission](#).

#### Reasons for negotiating this chapter

Trade defence instruments (anti-dumping, anti-subsidy and safeguard measures) are an integral part of the legislative framework of the World Trade Organization (WTO) and are available to all WTO members.

These instruments allow industry to defend itself against unfair trading practices, such as dumping or subsidies. The safeguard instrument can, in exceptional circumstances, be used as protection against a massive increase of imports.

With the development and opening of the Tunisian economy, trade flows between the EU and Tunisia will intensify and the two partners may need to use the trade defence instruments.

The EU proposes to establish rules and share practices, and to ensure that they are mutually respected.

#### Main goals

The EU proposal provides to:

- clarify and simplify certain provisions of the current Association Agreement by clearly distinguishing between the anti-dumping and anti-subsidy instrument, and the safeguard instrument;
- **increase transparency** of trade defence procedures: improve the exchange of information and the quality of the documents relating to each stage of an investigation (opening/complaint, preliminary/final report) in order to allow exporters to exercise their rights of defence in an investigation and to facilitate cooperation;
- ensure mutual market access on fair terms, by choosing the **least disruptive measures** (safeguard instrument).

- share certain practices that go beyond minimal WTO requirements, in particular applying the **lesser duty rule** and the **public interest test**, in order to avoid that trade defence measures are over-restrictive or against the public interest.

Under WTO law, applying the lesser-duty rule (imposing a duty at the level of the injury margin, if it is lower than the dumping margin) is a recommendation, but not a requirement. However, in certain cases a lower duty would help remedy the injury suffered by the industry, while avoiding that the downstream industry has to pay too high a price for imported products of which it is the user.

The analysis of the public interest goes in the same direction. It compares the benefit of a trade defence measure for industry, against disadvantages arising for the downstream industry. In the case of a disproportionate negative impact for users, the imposition of the measure should be avoided.

A measure, which causes the least disturbance, could, for example, take the form of a quota instead of a fixed duty. A quota would avoid a shortage on the market, and allow exporters to continue to export certain volumes without paying a duty (safeguard instrument).