



Negotiations for a Deep and Comprehensive Free Trade Area between the European Union and Tunisia

## The EU proposal on resolution of investment disputes and the Investment Court System

### FACTSHEET

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The present document aims at providing a general overview of the European Union's (EU) proposal on the resolution of investment disputes. The EU's text proposal was presented to the Tunisian experts in February 2017 and is now available on the [website of the European Commission](#).

Under the proposed system, investment disputes are heard by a Tribunal of First Instance (Article X.9) with the possibility of appeal, in certain cases (Article X.29), before an Appeal Tribunal. (Article X.10).

Members of the Investment Court System will be appointed in advance by the EU and Tunisia (Article X.9 and X.10). According to the EU's proposal, in order to ensure full impartiality and an appropriate level of expertise to hear disputes, judges must meet strict ethical and qualification requirements (Article X.11).

In addition to this innovative institutional structure, the EU is proposing clear procedural rules. These include the absolute transparency of procedures (Article X.18), the prohibition of parallel proceedings (Article X.14), early dismissal of unfounded claims (Article X.16 and Article X.17) and the "loser pays principle" (Article X.28).

The text proposed by the EU specifies that in ruling on a dispute, the tribunals must limit

themselves to the sole application of the agreement between the parties, in accordance with the principles of international law (Article X.13).

The proposal also provides for the possibility for Contracting Parties to the Agreement to adopt binding interpretations of how the provisions of the Agreement should be interpreted by the Tribunal (Article X.13).