



OECD Competition Assessment Reviews

TUNISIA



OECD Competition Assessment Reviews: TUNISIA



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Preface

by

HE Zied Ladhari

Minister of Development, Investment and International Co-operation

Tunisia is on the cusp of legislative and presidential elections, which will seal the first term and give way to the second, under the Constitution of 2014.

This is another crucial democratic exercise – the fourth since 2011 – a further sign of the political transition that has been consolidating since the revolution, and with it the continued strengthening of democratic institutions, that will ensure the sustainability of our young democracy.

The Tunisian revolution also carries with it the hope of an economic transition and the success of this transition is at the heart of our priorities and our actions. This is why Tunisia has embarked on a series of ambitious economic reforms, with a resolutely reformist spirit and a clear willingness to open and integrate Tunisia in the world economy.

This dynamic resulted in the adoption of the new law on competition and prices of 2015; the investment law of 2016; the governmental decree 2018-417 – which will serve to apply the principle of freedom of investment; the start-ups act of 2018, or more recently this year, the horizontal law for the improvement of the investment climate – which will help clear the bottlenecks that prevent Tunisia from realising its full potential. This reformist dynamic has delivered its first outcomes, improving Tunisia’s ranking in the “Doing Business 2019” report from 88th to 80th place, with the objective of achieving the global top 50 and the African top 3 by 2020.

Further, continued co-operation with international partners demonstrates the confidence in Tunisia’s ability to overcome the current situation and fully realise its ambitions. The exemplary co-operation with the Millennium Challenge Corporation (MCC) is a perfect example of this.

MCC’s significant grant will allow the implementation of important, large-scale, developmental projects with assured benefit, including in particular a project on the improvement of the business climate. The effort carried out in this project converges with the relentless work of the Ministry of Development, Investment and International Co-operation with all its public and private counterparts for the de-bureaucratisation and the simplification of the administrative procedures related to investment. The OECD’s report, prepared in co-operation with the different Tunisian stakeholders, will allow for the identification of other points of improvement and the detection of further opportunities for progress.

The OECD’s tool for the assessment of regulatory barriers to competition will help refine the implementation of MCC’s projects and will bolster the reform efforts already undertaken by the Tunisian government, including the digitalisation of the administration

and the encouragement of private investment. This report will also be valuable for the other parts of MCC's project – by no means any less relevant – which concern transport, logistics, and the distribution channels of agricultural products.

I sincerely thank MCC for the fruitful and ambitious co-operation, which once more demonstrates the importance of the partnership and friendship between Tunisia and the United States. I also thank the OECD for the high quality of its work, as well as the staff of the Ministry of Development, Investment and International Co-operation, the Ministry of Trade, the Competition Council, the Ministry of Transport, the Ministry of Finance, the Ministry of Agriculture and all those that have contributed in any way to this work, for their effort, their co-operation and their dedication.

Tunisia is committed to achieving an economic transition with determination and resolve. We are certain of the great potential this country has. Our international partners share our conviction. We work together for inclusive development, an open economy, rising employability and a conducive environment for investors. This is what we believe in and what we are working towards. We are delighted and reassured that in the realisation of this grand ambition we can count on the unwavering engagement of partners at the scale of MCC.

HE Zied Ladhari



Minister of Development, Investment and International Co-operation

Preface

by

Ridha Ben Mahmoud
President of the Tunisian Competition Council

Being one of the first countries in the Middle East and North Africa to establish a law on competition in 1991, Tunisia has demonstrated – through the adoption of policies that aim to progressively liberalise the economy and the implementation of reforms – its commitment to promoting healthy competition among market participants and encouraging the efficiency and competitiveness of its economy. The effective and transparent legal framework and the clear rules established in the 1990s to fight anti-competitive agreements and abuses of dominance, and to control mergers and acquisitions have been modernised over the years.

The institutions necessary for the implementation of this framework have been established. Tunisia has opted for a dual system, which includes a General Directorate within the Ministry of Trade, and the Competition Council, an independent authority with powers of jurisdiction and of consultation. The role of these two institutions, which work in a co-ordinated and synergistic manner, is essential for the enforcement of competition law. Their main mandate is to advocate for the promotion of the role of competition in the Tunisian economy, monitor the functioning of markets, detect any potential market failures, and ensure compliance with the competition law. Further, the adoption in 2015 of the new law on competition and prices has strengthened the mandate of the Council, by making its consultation mandatory for all draft laws and regulations.

Ensuring that regulation is not unnecessarily burdensome is essential for the dynamic and efficient functioning of markets. However, it is also important to respond effectively to the needs of consumers and to take into account the economic and social development imperatives of the country. In this regard, trade-offs between the different economic policy tools need to be considered.

In light of the extensive expertise of the OECD in assessing the impact of laws and regulations on competition, and in close co-operation with the Millennium Challenge Corporation (MCC), the Competition Council and the other relevant public authorities have come together to support a project that aims to provide a thorough assessment of the competitive impact of the legal framework on two major sectors of the Tunisian economy: wholesale and retail trade, and freight transport.

Implemented for the first time in Africa and the Middle East, the project is based on the methodology developed by the Competition Committee of the OECD to assess competition. This report identifies and analyses the impact of the regulatory barriers to competition that exist in these two sectors. Following a thorough analysis, the report provides a number of specific recommendations for change to Tunisian legislation.

In addition to the recommendations, capacity building was another major objective of the project, both for the Council and for the government experts involved in the project. Indeed, the capacity building provided within the Tunisian institutional framework could become one of the main benefits of this project over the long term.

I would like to express my sincere gratitude to the OECD and MCC teams and to all the parties involved in the project for carrying out this ambitious competition assessment.

I believe that this project, which has applied the assessment methodology in a pedagogic manner, reinforces ongoing efforts to assess the impact of laws and regulations on competition in Tunisia, and will certainly contribute to strengthening a change in regulatory culture, to create a more competitive, dynamic and innovative business environment.

Ridha Ben Mahmoud



President of the Tunisian Competition Council

Preface

by

Anthony Welcher

Vice President for the Department of Compact Operations
Millennium Challenge Corporation

Tunisia's 2011 revolution ushered in a period of democratic rule that led to the successful passage of the country's constitution as well as a peaceful transfer of leadership through elections in 2014. As Tunisia approaches the 2019 parliamentary and presidential elections, it looks to build on its recent progress in democratic rule and national stability while also pursuing reforms and liberalization efforts that promote economic growth and greater opportunity for its citizens. To succeed in that effort, the country will need an economic growth model that attracts additional investment, modernizes the business climate, creates opportunities for the private sector, generates jobs, and gradually reduces the state's heavy direction and participation in the economy.

As part of an active strategic relationship between the United States government and the government of Tunisia, the Millennium Challenge Corporation (MCC) is proud to support Tunisia as it develops a proposed five-year compact program that aims to promote poverty alleviation through economic growth. MCC's board of directors (Board) selected Tunisia as eligible for MCC grant funding in December 2016. In doing so, the Board recognised Tunisia's progress in establishing democratic institutions and its commitment to implementing economic reforms and modernizing the business climate, which are intended to promote stability and create opportunity for the Tunisian people.

A key element of this effort is making Tunisia's economy more inclusive and open to private sector participation, especially for the small and medium enterprises that employ more than 50 percent of the country's private sector workforce. To enter the market, operate and grow, these enterprises need a level playing field and a limitation on the number of bureaucratic hurdles to overcome. In its work to develop a compact program, the government of Tunisia has already identified "excessive government controls on markets for goods and services" as a binding constraint on the country's economic growth. Burdensome regulations restrict competition in the marketplace and limit the potential of both Tunisian and international firms to create jobs and contribute to the country's economic growth.

MCC and the OECD memorialized a new partnership through a memorandum of understanding in April 2017. In collaboration with the Tunisian government, MCC then invited the OECD to implement its Competition Assessment toolkit in Tunisia to identify barriers to competition within sectors that have the greatest potential to drive economic growth. The resulting Tunisia Competition Assessment is the first of its kind in the Middle East and North Africa region. It used an exhaustive and consultative process to catalogue all relevant regulations in the freight transport sector, as well as elements of the wholesale and retail trade sectors, and recommended removing unnecessary restraints on market

activities and/or promoting less restrictive measures that still achieve government policy objectives.

I would like to express my gratitude to the government of Tunisia and the OECD for their outstanding and productive collaboration during the development and implementation of this competition assessment. MCC looks forward to building on this auspicious beginning and to supporting the government of Tunisia as it works to implement the assessment's recommendations, promote growth in these two sectors, and develop a more competitive Tunisian economy.

Anthony Welcher

A handwritten signature in black ink, appearing to be 'AW' with a stylized flourish.

Vice President for the Department of Compact Operations
Millennium Challenge Corporation

Foreword

The process of democratic renewal in Tunisia has been accompanied by a widely shared goal of major reforms, including those to promote inclusive growth and employment, to bring public finances under control and to implement an effective social policy. Since its independence, Tunisia has attached great importance to inclusiveness, including policies for progressive reforms on women's rights. The country is also well positioned compared to many emerging countries in terms of its population's access to education, healthcare and basic infrastructure.

Despite this progress, economic convergence has slowed down in recent years and business investment has declined in relation to GDP. State intervention in the economy is still extensive. Tunisia's product markets are heavily regulated and this is one of the factors discouraging new business entry and stifling productivity and investment. Regulatory certainty is important for investors and Tunisian regulation is often fragmented and unclear, making it especially hard for new entrants and for SMEs to navigate its complexity.

The OECD and Tunisia have engaged in a close co-operation for more than a decade, initially through the MENA-OECD Initiative and, more recently, through the signing of a Memorandum of Understanding in 2012. Tunisia is increasingly making use of OECD instruments and actively contributing to the work of OECD Committees. The Tunisia Competition Assessment Project, the first ever undertaken by the OECD in the Middle-East and Africa, is proof of this enhanced co-operation. The OECD was invited to undertake a thorough impact assessment of laws and regulations on competition in two important sectors of the Tunisian economy, freight transport by road and by sea, and retail and wholesale trade, with particular focus on fruit and vegetables and on red meat. The transport and trade sectors account for about 16% of GDP and 18% of employment.

The Competition Assessment Project was conducted in close consultation with the Tunisian government and with local stakeholders, with the support of the Millennium Challenge Corporation. The Project assessed about 250 legal texts and made 220 recommendations for reform in the two sectors. The assessment targeted barriers created by regulation, rather than on how regulation is implemented in practice by the authorities. Reforms can only have an impact if laws and regulations are implemented in practice and the OECD encourages Tunisia to emphasise the importance of compliance and enforcement. If these recommendations are fully implemented, Tunisia can expect to improve the functioning of its markets and see benefits, such as lower prices for consumers and increased competitiveness for the economy.

I congratulate the Tunisian government and MCC for their efforts to improve the business environment in the selected sectors. This report provides the Tunisian government with detailed recommendations for addressing persistent structural malfunctions in these sectors and promoting a more level playing field to the benefit of Tunisian businesses and citizens. As such, it makes a valuable contribution to reform efforts to place Tunisia on a sustainable growth path by enhancing its competitiveness, stimulating productivity and promoting inclusive economic growth and job creation.

The OECD looks forward to fostering its partnership with Tunisia and to further supporting the transformation process initiated in 2011. We are proud to be able to play a part in helping the Tunisian authorities to shape the new democratic and prosperous Tunisia and fulfil the aspirations of their citizens through better policies for better lives.

Greg Medcraft

A handwritten signature in black ink, appearing to read 'G. Medcraft', with a long horizontal flourish extending to the right.

Director, OECD Directorate for Financial and Enterprise Affairs

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The opinions expressed in the report do not necessarily reflect the views of the above-mentioned organisations or individuals.

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The project team consisted of Panagiotis Barkas (Economist), Jordi Calvet Bademunt (Lawyer), Saïd Kechida (Economist), Francisco Pacheco Vieira (Lawyer) and Roula Sylla (Policy Analyst), all OECD Competition Division. The project team was led by Federica Maiorano, Senior Competition Expert, under the strategic supervision of Antonio Capobianco, Acting Head of the OECD Competition Division.

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Abbreviations and acronyms

APO	Association of producer organisations
ATTT	Agence Technique des Transports Terrestres (Tunisian Technical Agency for Terrestrial Transport)
CGC	Caisse générale de compensation (Tunisian General Compensation Fund)
CONECT	Confédération des entreprises citoyennes de Tunisie (Confederation of Tunisian Citizen Companies)
COOPMAG	Société Coopérative des Manutentionnaires du Marché du Gros (Tunisian Co-operative Company of Wholesale Warehouse Porters)
CPC	Certificate of professional capacity
CRES	Centre de Recherches et d'Études Sociales (Tunisian Research and Social Studies Centre)
CTN	Compagnie Tunisienne de Navigation (Tunisian Shipping Company)
ECJ	European Court of Justice
EUR	Euros
FDI	Foreign direct investment
FODECAP	Fonds de développement de la compétitivité dans le secteur de l'agriculture et de la pêche (Tunisian Development Fund for Competitiveness in the Agricultural and Fishing Sectors)
GDP	Gross domestic product
GIDattes	Groupement Interprofessionnel des Dattes (Tunisian Interprofessional Association for Dates)
GIFruit	Groupement Interprofessionnel des Fruits (Tunisian Interprofessional Association for Fruit)
GIL	Groupement Interprofessionnel des Légumes (Tunisian Interprofessional Association for Vegetables)
GIVLAIT	Groupement Interprofessionnel des Viande Rouges et du Lait (Tunisian Interprofessional Association for Red Meat and Milk)
GRT	Gross register tonnage
GVA	Gross value added
GVW	Gross vehicle weight

IBO	Interbranch organisation
IMF	International Monetary Fund
INS	Institut National des Statistiques (Tunisian National Institute of Statistics)
ITF	International Transport Forum
LME	Loi de la Modernisation Économique (French Economic Modernisation Law)
LPG	Liquid-petroleum gas
MCC	Millennium Challenge Corporation
MENA	Middle East and North Africa region
MFP	Multifactor productivity
NACE	Nomenclature générale des activités économiques de la Communauté européenne (Statistical Classification of Economic Activities of the European Community)
NAT	Nomenclature d'Activités Tunisiennes (Tunisian Nomenclature of Activities)
OCT	Office du Commerce de la Tunisie (Tunisian Trade Office)
ODC	Organisation Tunisienne de Défense du Consommateur (Tunisian Consumer Defence Organisation)
OECD	Organisation for Economic Co-operation and Development
OMMP	Office de la Marine Marchande et des Ports (Office of the Merchant Marine and Ports)
ONAGRI	Observatoire National de l'Agriculture (National Observatory of Agriculture)
PEC	Pilot exemption certificates
PMR	Product market regulation
PO	Producer organisation
PPP	Public-private partnership
Ro-ro	Roll-on-roll-off ferry
SEMMARIS	Société d'Economie Mixte du Marché de Rungis (Public-Private Company of the Market of Rungis)
SME	Small and medium-sized enterprises
SMSA	Société mutuelle de services agricoles (mutual agricultural service company in Tunisia)
SOE	State-owned enterprise

SOTUMAG	Société Tunisienne des Marchés de Gros (Tunisian Company of Wholesale Markets)
STAM	Société Tunisienne d'Acconage et de Manutention (Tunisian Stevedoring and Handling Company)
SYNAGRI	Syndicat des agriculteurs de Tunisie (Tunisian Farmers' Union)
TEU	Twenty-foot equivalent unit shipping container
TIR	Transports internationaux routiers (international road transport)
TND	Tunisian dinar
UTAP	Union Tunisienne de l'Agriculture et de la Pêche (Tunisian Agriculture and Fisheries Union)
UTICA	Union Tunisienne de l'Industrie, du Commerce et de l'Artisanat (Tunisian Industry, Trade and Crafts Union)
WPM	Wholesale and production markets
WTO	World Trade Organization

Units of Measure

g	gramme
kg	kilogramme
t	tonne
km	kilometre
m ²	square metre

Executive summary

The OECD was asked to carry out an independent policy assessment to identify rules and regulations that may hinder the competitive and efficient functioning of markets in Tunisia in the wholesale and retail trade sectors, with particular focus on fruit and vegetables, and red meat, and road and maritime freight transport.

The project consisted of identifying and analysing all relevant provisions in the selected sectors, using the OECD's Competition Assessment methodology. This involved collecting and mapping all relevant legislation, followed by a close scan of all the legal texts to identify provisions with potential restrictions, using the OECD Competition Assessment Toolkit. The policy objectives for each provision were then determined, followed by an in-depth analysis of each regulation. This included assessing whether the restrictions were proportional to the policy objective (for example, public safety). For those regulations found to be overly restrictive, the report proposes specific changes to remove or change regulations that would otherwise hamper market access and the good functioning of operations.

The strength of the Toolkit methodology is that it allows the identification of specific regulatory barriers, such as those that restrict entry to a market; constrain firms' ability to compete (for example, by imposing operational requirements); treat competitors differently (for example, by favouring specific types of companies); or facilitate co-ordination among competitors. Such barriers have been shown consistently to harm economic growth and productivity.

Overall, the review has identified 259 potential regulatory barriers in the 251 legal texts collected for the purpose of this assessment. The in-depth analysis involved a qualitative assessment of the harm to consumers and to the economy arising from the barriers, using economic theory and empirical literature, as well as comparative studies of regulation in jurisdictions in other countries. This report makes 220 specific recommendations to mitigate harm to competition.

The recommendations detailed in this report, if implemented, would benefit consumers in Tunisia and the Tunisian economy in both sectors. More specifically, the OECD estimates a positive effect for the Tunisian economy ranging between TND 574.6 million and TND 645.8 million.

Wholesale and retail trade

- Undertake reforms to liberalise prices progressively and at the same time, consider an alternative framework for ensuring that low-income households have access to staple goods by providing direct cash transfers. Ensure that the competition authority is well equipped to investigate anti-competitive conduct that could arise following price liberalisation.

- Modify the provisions on below-cost pricing to allow for more exceptions and lift restrictions on vertical integration for producers and retailers.
- Review and update the lists of products subject to import and export restrictions more frequently. In particular, prioritise products and services that may improve Tunisian exports and competitiveness, such as agricultural products.
- Abolish or ease the restriction on the location of hypermarkets outside cities, and set out clear criteria and deadlines for evaluating applications to establish hypermarkets.
- Lift the requirement for foreign-controlled companies to hold a “merchant card” to undertake commercial activities.
- Remove restrictions on alternative distribution channels for fruit and vegetables; allow wholesalers to sell outside wholesale markets; and eliminate protective perimeters around wholesale markets.
- Allow private companies to establish wholesale markets.
- Ensure more transparency and competition in the award process of concessions to manage wholesale markets, including the application of clear, objective and non-discriminatory criteria for the selection and the monitoring of a concessionaire’s performance.
- Examine the process for granting stalls in wholesale markets to ensure that stalls are awarded under clear, objective and non-discriminatory criteria and that incumbents are not unduly favoured.
- Ensure that wholesale-market managers collect all levies and fees applicable within the market, which are currently collected by other market players.
- Allowing agricultural and seafood and freshwater fish producers, and persons providing agricultural services to join any mutual agricultural service companies, regardless of geographical considerations.

Freight transport

- Lift the requirement on the minimum number of vehicles and minimum tonnage for road-haulage companies and truck-rental companies, in order to reduce barriers to entry.
- Increase the age limits of vehicles, upon entry, for road-haulage companies, sole proprietorships and for truck-rental businesses. Ensure roadworthiness through other criteria, such as maximum years in service or technical checks.
- Apply vehicle age limits in a uniform way to both sole proprietorships and haulage companies to promote a level playing field.
- Clarify that all companies will be obliged to comply with the new regulations on fleet requirements. In the case of companies established before 2009, a transition period should be set.
- Broadening private-sector access to port towage activities, by limiting port authorities’ provision of such services to situations in which there is no market interest.

- Allow increasing participation of private cargo-handling service providers in the market. This could be, for example, through competitive concession procedures at a port or areas within a given port, with terms that set out the required investments alongside maximum tariffs.
- Lift the requirement for shipping transport companies to acquire vessels and become ship owners after one year of operation.
- Amend the legislation to allow sole proprietorships to operate in certain activities (including shipping agents, maritime cargo agents and freight forwarders) and abolish minimum share-capital requirements.
- Lift requirements for freight forwarders and cargo agents to own or lease a warehouse, which must comply with minimum size and location requirements; and lift the minimum equipment requirements.
- Revise minimum qualification requirements for the legal representatives of companies in maritime and port activities to increase access to the market.

Chapter 1.

Background and summary of key findings

This assessment identifies distortions to competition in the Tunisian legislation. It proposes recommendations for the removal of regulatory barriers to competition in the wholesale and retail trade sectors, with particular focus on fruit and vegetables and red meat, and in maritime and road freight transport. The report makes 220 specific recommendations to remove potential barriers and increase competition. The benefits resulting from the removal of regulatory barriers will lead to increased entry and facilitate business conduct, thereby bringing about lower prices, more innovative and diverse services and greater choice for consumers, and the ability to better meet wide-ranging demand as new, more efficient firms enter the market or existing firms adopt innovative forms of production and delivery of services.

Laws and regulations are key instruments in achieving public policy objectives, such as consumer protection, public health and environmental protection. When they are overly restrictive or onerous, however, a comprehensive review can help identify problematic areas and develop alternative policies that still achieve government objectives without harming competition.

The Competition Assessment of Laws and Regulations project has identified and evaluated market regulations in the sectors of freight transport, by road and by sea, and retail and wholesale trade, with a particular focus on fruit and vegetables and on red meat. This report aims to identify regulatory barriers, including those that restrict entry into a market; constrain firms' ability to compete (for example, by regulating prices); treat competitors differently (for example, by favouring incumbents); facilitate co-ordination among competitors; or restrict consumers' ability to change suppliers. The methodology followed in this systematic exercise is summarised in Annex A, which also describes the stages of the project and provides full references to the OECD Competition Assessment methodology.

1.1. The benefits of competition

The Competition Assessment of Laws and Regulations project aims to identify regulations that may unduly restrict market forces and, by doing so, may harm the country's growth prospects. In particular, the project identifies restrictions that:

- are unclear, meaning they may be applied in an arbitrary fashion or lack transparency
- prevent new firms, including small- and medium-sized businesses from accessing markets
- allow a limited number of firms to earn greater profits than they otherwise would, for reasons unrelated to their underlying productivity or the quality of their products
- cause consumers to pay more than they otherwise would.

Each restriction is likely to have an impact well beyond individual consumers in the sectors assessed. When consumers can choose and shop around for products and services, firms are forced to compete with each other, innovate more and be more productive (Nickell, (1996^[1]), Blundell et al., (1999^[2]), Griffith et al (2004^[3])). Industries in which there is greater competition experience faster productivity growth. These conclusions have been confirmed by a wide variety of empirical studies and summarised in OECD (2014^[4]). Competition stimulates productivity primarily because it provides the opportunity for more efficient firms to enter and gain market share at the expense of less efficient firms.

In addition to the evidence that competition fosters productivity and economic growth, many studies have shown the positive effects of more flexible product market regulation (PMR), the area most closely relevant for this project.¹ These studies analyse the impact of regulation on productivity, employment, research and development, and investment, among other variables. Differences in regulation also matter and can reduce significantly both trade and foreign direct investment (FDI) (Fournier et al. (2015^[5]); Fournier (2015^[6])).² By fostering growth, more flexible product market regulation can help the sustainability of public debt, which is particularly important in countries such as Tunisia (OECD, 2018^[7]).

There is a particularly large body of evidence on the productivity gains from more flexible PMR. At the company and industry level, restrictive PMR is associated with lower multifactor productivity (MFP) levels (Nicoletti and Scarpetta (2003_[8]) and Arnold et al. (2011_[9])).³ The result also holds at aggregate level (Égert, 2017_[10]).⁴ Anti-competitive regulations have an impact on productivity that goes beyond the sector in which they are applied and this effect is more important for the sectors closer to the productivity frontier (Bourlès et al., 2013_[11]).⁵ Specifically, a large part of the impact on productivity goes through the channel of investment in research and development (Cette, Lopez and Mairesse, 2013_[12]). Moreover, lowering regulatory barriers in network industries can have a significant impact on exports (Daude and de la Maisonnette, 2018_[13]).

Innovation and investment in knowledge-based capital, such as computerised information and intellectual property rights (IPRs), are also negatively affected by stricter PMR (Andrews and Criscuolo (2013_[14]), Andrews and Westmore (2014_[15])). Andrews et al. (2018_[16]) show that competitive pressure, as measured by lower regulatory barriers (for example, lower barriers to entry), encourages firms in services sectors (such as retail and road transport) to adopt digital technologies, such as cloud computing. Pro-competition reforms to PMR are associated with an increase in the number of patents (Westmore, 2013_[17]). More stringent PMR are shown to be associated with less investment and to amplify the negative effects of a more stringent labour market (Égert, 2018_[18]).⁶

Greater flexibility can also lead to higher employment. Cahuc and Kamarz (2004_[19]) find that after deregulating the road transport sector in France, employment levels in the sector increased at a faster rate than before deregulation.⁷ A 10-year, 18-country OECD study (Criscuolo, Gal and Menon, 2014_[20]) concluded that small firms that are five years old or less on average contribute about 42% of job creation.⁸ As noted in (OECD, 2015_[21]), “*such a disproportionately large role by young firms in job creation suggests that reducing barriers to entrepreneurship can contribute significantly to income equality via employment effects*”.

There is also some evidence on the benefits of lifting anti-competitive regulations in terms of reducing income inequality. One study found that less restrictive PMR improved household incomes and reduced income inequality.⁹ There is also evidence that barriers to competition can contribute to the accumulation of resources by the wealthiest segments of society at the expense of others. Ennis, Gonzaga and Pike (2017_[22]) assessed the redistributive effects of market power in eight countries.¹⁰ They found that market power benefits the wealthiest households by providing them with rents and that the share of wealth of the top 10% of households deriving from market power is between 12% and 21%.

Finally, Eklund and Lappi (2018_[23]) studied the impact of PMR on the persistence of profits in the long term. Regulations that raise barriers to entry can protect incumbents' above-average profits. The authors found that more stringent product market regulation, as measured by the OECD PMR indicator, is associated with persistent profits.

The results described above hold in a variety of settings, but the specific estimates may differ depending on the country. For instance, Égert (2017_[24]) quantified the impact of structural reforms, including PMR and labour reform, in a large sample including both OECD and non-OECD countries, and found that “*stringent product market regulations will have a three-time larger negative impact on MFP in countries with per capita income lower than about 8 000 USD (in PPP terms)*”.

In summary, anti-competitive regulations that hinder entry into and expansion in markets may be particularly damaging for a country's economy because they reduce productivity

growth, limit investment and innovation, harm employment creation, and may favour a certain group of firms over other firms and consumers, with consequences for income inequality.

Removing regulatory barriers to competition was the overall aim of this project, carried out by the OECD with the support of the government of Tunisia and the Millennium Challenge Corporation (MCC). The rest of the chapter outlines the main findings from the project.

1.2. Main recommendations from the Competition Assessment Project

The sectors covered by this review accounted for about 16.5% of Tunisia's gross value added (GVA) and 18.5% of its employment in 2017.¹¹ Given this proportion, and the importance of trade and transport for the performance of many other sectors of the economy, lifting barriers to competition in these sectors could have a significant economic impact.

Overall, the OECD has identified 259 potential regulatory barriers in the 251 legal texts reviewed for the purpose of this assessment (see Table 1.1). This report makes 220 specific recommendations to mitigate harm to competition. The assessment does not cover the resources available to the public administration and does not evaluate whether these are sufficient to perform their tasks. The OECD recommendations are set out in Annex B to the report.

Table 1.1. Summary of the legal provisions analysed in both sectors

	Trade	Freight transport	Total
Pieces of legislation	118	133	251
Potential restrictions identified	117	142	259
Recommendations	104	116	220

1.2.1. Retail and wholesale trade

The legislation governing the retail and wholesale trade sectors provides for significant intervention by the state, both as a regulator and through the many state-owned enterprises (SOEs) operating in the market. The laws and regulations aim to create a well-organised market but, in so doing, they severely limit competition among suppliers and restrict entry. This section summarises the main recommendations in the two subsectors covered by the OECD review.

Horizontal regulations

There are a range of restrictions applied in Tunisian legislation regarding retail and wholesale trade. These restrictions, summarised below, include price controls and subsidies, restrictions on below cost pricing, vertical integration as well as import and export of consumer goods, limitations on the establishment of new retailers and limits on foreign investment. While these restrictions were generally aimed at either protecting domestic producers or promoting access to staple products by consumers, the OECD's analysis has found that there may be more effective means for doing so and that, in some cases, the restrictions may be counterproductive.

In order to ensure the affordability of staple products, the state imposes price controls on a number of products and services. In some cases, only the prices received by producers are set, while in others, prices are set at each stage of the distribution process (production, wholesale and retail). Other products are subject to markup regulation at the retail level. For the products regulated at each stage of the distribution process, restrictions are accompanied by subsidies to suppliers to attempt to balance the market. The OECD recommends considering an alternative framework for ensuring consumers have access to staple goods, specifically:

- providing direct cash transfers to low-income households to address the objective of poverty reduction, while allowing consumers the flexibility to choose what to purchase (OECD, 2018^[7])
- at the same time, undertaking reforms to progressively liberalise prices
- ensuring that the competition authority is well equipped to investigate anticompetitive conduct affecting the liberalised sector, including agreements to fix prices or share markets.

Beyond price controls, there are other barriers that limit the ability of or incentives for firms to compete, and may therefore reduce the quality or convenience of retail options for consumers. For example, Tunisian legislation adopts a broad-based restriction on below-cost pricing and requires producers and wholesalers to keep separate premises and separate accounts for their retail activities. The OECD recommends allowing for more exceptions in terms of below-cost pricing and making it easier for suppliers to integrate vertically.

Hypermarkets and shopping centres are subject to a complex and lengthy authorisation process, which involves a significant degree of discretion by the authorities. Moreover, these retail outlets must be located five kilometres outside an urban area, at least in larger cities. The OECD recommends: clarifying the rules so they apply to hypermarkets, but not to shopping centres; simplifying minimum technical requirements; setting out clear criteria for evaluating applications to establish hypermarkets; and lifting or easing the geographical restriction on the location of hypermarkets.

According to Tunisian legislation, importing and exporting certain products requires prior authorisation by the Ministry of Trade. There are 144 products subject to import authorisation and 102 products subject to export controls. In addition, some SOEs have the monopoly over the imports of certain products, such as coffee and tea. The OECD recommends more frequently reviewing and updating the lists of products subject to import and export restrictions. In particular, it recommends removing products, such as agricultural products, that may benefit from lower export barriers.

Foreign-controlled companies need a “merchant card” authorisation (*carte de commerçant*) from the Ministry of Trade in order to undertake commercial activities in Tunisia. This requirement discourages FDI and should be lifted. As an alternative option to removing the barrier, the OECD recommends reducing the uncertainty associated with the authorisation process, by clarifying the relevant procedures and ensuring that the administration replies in a timely manner, within the 60-day deadline established across the board for administrative acts in Tunisia.

Fruit and vegetables, and red meat

The current assessment has focused on the legislation for two groups of food products: fruit and vegetables, and red meat. In both cases, the regulatory framework is fragmented and a number of provisions are not implemented. The state retains control over the establishment and location of wholesale markets and slaughterhouses, which play an important role in the fruit and vegetable market, and the red-meat market. Procedures for awarding concessions for the management of wholesale markets and slaughterhouses are often non-competitive and non-transparent. The review identified a number of barriers, such as those for the award of stalls and fees paid to intermediaries and porters. The OECD recommendations summarised below make suggestions to improve market functioning.

The fragmentary regulatory framework for fruit and vegetables and the lack of harmonisation of certain pieces of legislation make it unclear which distribution channels are permitted. The legislation appears to favour the distribution of fruit and vegetables through wholesale markets over direct sales by producers. The central role of wholesale markets is confirmed by the ban on wholesalers selling outside of them.¹² Moreover, the main wholesale markets are sheltered from competition thanks to protective perimeters, within which no competing wholesale trade can take place. The OECD recommends increasing the clarity of the legal framework and removing restrictions on alternative distribution channels; allowing wholesalers to sell outside wholesale markets; and eliminating protective perimeters.

The state has the exclusive right to establish wholesale markets, which can be operated either by the local authorities or by concessionaires. The OECD recommends allowing private operators to set up wholesale markets.

Despite the existence of guidelines concerning the procedure to award a concession to operate a wholesale market, it appears that these procedures are usually not competitive and not transparent in practice. Moreover, since concessions generally have a short duration they may not provide sufficient incentives to invest. The OECD recommends ensuring that the award process is transparent and pro-competitive, including the publication of clear, objective and non-discriminatory criteria for the selection and the monitoring of the performance of the concessionaire, as well as the awarding of concessions for a sufficiently long period to incentivise investments (while avoiding excessive award lengths).

Further, there are no guidelines for the procedure used to award a permit to operate a stall in a wholesale market. It appears that these are usually not competitive and not transparent. Permits seem to be automatically renewed in practice. The OECD recommends more transparency in the award and renewal process, including the publication of clear, objective and non-discriminatory criteria for the selection, as well as monitoring that a permit holder is present at the market.

In certain wholesale markets, sellers and buyers are obliged to pay a fee for porters and do not have the choice of alternative providers or self-provision. The OECD recommends allowing sellers and buyers the choice of alternative methods to transport products.

In the majority of wholesale markets, with very few exceptions, sales are only possible through sales agents (*mandataires*). The fees received by these agents are fixed. These agents also collect all levies and fees applied to other actors in the market. The OECD recommends: examining the process for awarding stalls in wholesale markets to ensure that it does not disadvantage producers, wholesalers and other actors; ensuring that wholesale market managers collect all levies and fees applicable within the market; ensuring agents comply with their tax and other legal obligations (for example, attending personally at

stalls); and removing restrictions that set agent fees once measures have been taken to address the first three points.

Mutual agricultural service companies (*sociétés mutuelles de services agricoles*, SMSA) are production co-operatives providing services to their members to help upgrade agricultural businesses and to improve production management. The persons wishing to adhere to SMSA must be agricultural producers, fishermen or persons providing agricultural services active in the particular SMSA's area of influence that do not compete with those offered by the SMSA. The OECD recommends lifting this geographic limitation and allowing these persons to join any SMSA.

In the red-meat sector, the total number and the location of slaughterhouses in Tunisia is limited by legislation, which prevents private parties from setting up additional slaughterhouses beyond the number established or in other locations. The OECD recommends not establishing a maximum number of slaughterhouses and not restricting their geographic location for private parties.

Similarly to wholesale markets, award procedures for concessions to operate slaughterhouses appear to be neither competitive nor transparent in practice despite the existence of related guidelines. Moreover, since concessions are generally short-term, they do not provide sufficient incentives to invest. The OECD recommends more transparency in the award process, including the publication of clear, objective and non-discriminatory criteria for the selection and the monitoring of the performance of the concessionaire, as well as ensuring that concessions are awarded for a sufficiently long period.

In Tunisia, there is no published legislation concerning the classification and categorisation of red meat. Legislation regarding identification and traceability exists, but it is fragmented and unenforced. Similarly, sanitary legislation is unenforced. The OECD recommends putting in place a classification and categorisation system and ensuring that provisions regarding identification, traceability and sanitary legislation are strictly implemented.

The main recommendations for this sector are described in Chapter 3 (horizontal regulation) and Chapter 4 (fruit and vegetables, and red meat), and listed analytically in Annex B.

1.2.2. Freight transport

The assessment has identified, for a number of economic activities, detailed regulations aimed at promoting quality and safety in freight transport. In trying to achieve these objectives, current regulation in Tunisia tends to be complex and risks hindering economic activity. This section summarises the main recommendations in the two subsectors of freight transport covered by the OECD's review.

Road transport

Tunisian legislation sets strict requirements for road-haulage companies, such as the minimum number and maximum age of vehicles, and the minimum tonnage of fleets. Some of these regulations do not apply equally to all market participants. The OECD's review indicates that some of these regulations have not achieved their policy objectives and can be reformulated to be more effective.

The legislation requires haulage companies – operating heavy goods vehicles authorised for more than 12 t of laden weight – to have a minimum number of 18 vehicles, six of which must be motor vehicles. A minimum fleet tonnage is also required. While sole

proprietorships are allowed a maximum of one truck each. The OECD recommends lifting the requirement on the minimum number of vehicles and to remove the tonnage requirements for companies, in order to reduce barriers to entry and to allow those sole proprietorships wishing to develop their business to grow gradually. The OECD also recommends lifting these requirements on truck-rental companies.

Sole proprietorships, haulage companies and truck-rental companies are subject to specific requirements on the maximum age of their vehicles when they first enter the Tunisian market. For instance, the maximum vehicle age for haulage companies is set at two years. These limits aim at promoting the renewal of the fleet and ensuring better safety. The OECD recommends increasing the age limits of vehicles, upon entry, for road-haulage companies, sole proprietorships and for truck-rental businesses. In addition, the criteria should apply in a uniform way to both sole proprietorships and haulage companies to promote a level playing field. The OECD also recommends ensuring roadworthiness through other criteria, such as maximum years in service or technical checks.

In addition, the OECD recommends ending the favourable treatment of operators that entered the market prior to 2009 under the previous regulatory regime, and which have so far not been subject to fleet requirements. This would involve also applying any new roadworthiness criteria to more established companies.

Maritime transport

Limited competition and involvement of private operators in certain port services have been identified. The legislation sets requirements on legal form and minimum share capital, equipment and qualifications of the legal representative for a number of economic activities. The present assessment recommends that the objectives of the policy makers can be achieved by less burdensome means, as indicated in the summary below.

Port towage services in Tunisia are provided by the port authority, even though the legislation allows them to be awarded to third parties, for example, through concessions. The OECD recommends broadening private-sector access to port towing activities, by limiting port authorities' provision of such services to situations in which there is no market interest. In the long term, and depending on the evolution of the market, enabling port authorities to authorise multiple port towing service providers could also be considered, while ensuring the port authority retains control over safety and operational standards.

Concessions for cargo handling in ports were awarded under the previous legal framework, which did not regulate the award procedures of these services, and at a time when the state was trying to consolidate the sector. In order to stimulate greater efficiency and competitiveness of port services, the OECD recommends taking steps to allow increasing participation of private cargo-handling service providers in the market. This could be, for example, through competitive concession procedures of a port or areas within a given port, with terms that set out the required investments alongside maximum tariffs. Further, operators permitted to bid for concessions should not be limited to domestic joint ventures, since foreign (global) port operators may have greater resources to increase investment in Tunisian ports.

After one year of operation, shipping-transport companies must acquire at least one vessel and become ship owners. The OECD recommends lifting this requirement as it can limit the number of providers and does not appear justified considering that leasing is prevalent in maritime transport.

A number of economic activities can only be performed by legal entities. The legislation imposes on these companies minimum share-capital requirements, which can be different for each port in which a company operates. The combined effect of these provisions is to make it difficult for suppliers to enter the market and grow. The OECD recommends amending the legislation to allow sole proprietorships to operate in certain activities (shipping agents, maritime cargo agents and freight forwarders) and to remove minimum share-capital requirements.

Freight forwarders and cargo-agent companies are required to own or lease a warehouse, which must comply with requirements on minimum size and location. In addition, the regulation specifies certain machinery with which warehouses must be equipped. The OECD recommends eliminating these requirements for both activities.

The legislation sets minimum qualification requirements for the legal representatives of companies active in maritime transport and related professions (or sole proprietorships, for those activities where they can operate). With certain variation among the different economic activities, there are mainly two alternative channels to qualification: 1) directly, through a combination of specific university degrees, for example, in naval engineering, and professional experience in the sector; or 2) by passing a professional capacity examination. In order to sit the examination, the law requires a university degree, in a subject other than those granting direct access in the first case, and professional experience.

The OECD recommends reviewing this system to lower barriers to entry. When specific university degrees are required to access the profession (the first case), the professional experience requirement should be removed. For the second case, the OECD recommends allowing holders of high-school diplomas to sit the examination. In order to take account of candidates' further academic qualifications and prior experience, the authorities could introduce a points system: candidates would pass or fail the exam to enter the profession, depending on their performance at the exam and the points gained from their academic qualifications and prior experience. Importantly, the Ministry of Transport should regularly hold the examination, so that the profession is open to candidates who do not hold one of the specialised university degrees.

The main recommendations for this sector are described in Chapter 6. (road freight transport) and Chapter 7. (maritime transport), and listed analytically in Annex B.

1.3. Horizontal findings

1.3.1. Regulatory quality

The regulations reviewed in this project are often dispersed across many different pieces of legislation. In order for businesses and consumers to have a comprehensive understanding of the legislation applicable to an economic activity, they need to identify the relevant provisions in many separate texts and understand how these provisions interact with each other. In addition, subsequent modifications to core pieces of legislation result in further fragmentation and, on many occasions, a lack of clear rules. For instance, as seen in Chapter 4, the framework law for the wholesale and retail trade of agricultural products, dating from the 1990s,¹³ seems to establish that these products can be distributed at wholesale level only through wholesale and producers markets. While more recent pieces of legislation have introduced a number of exceptions, allowing for other distribution channels, these provisions have not been incorporated or referred to in the framework law. As a result, understanding the applicable legal framework is complicated and can cause regulatory uncertainty for businesses, especially new entrants.

The OECD has also identified a number of legal provisions that, although not explicitly abolished, have been implicitly repealed. According to the administration, in some cases, the implementing legislation of repealed legal texts is still in force.¹⁴ In other cases, however, the rule seems to be that the implementing legislation of repealed laws is considered repealed. Establishing with certainty whether a legal text is in force or not is complex, time consuming and requires repeated interaction with the public administration.

Outdated legislation can also act as a regulatory barrier by creating legal uncertainty, potentially raising compliance and legal costs for suppliers. In the course of its assessment, the OECD has found that some pieces of legislation are redundant, given that they have become outdated by everyday practice, but have not been explicitly repealed.¹⁵

In addition, the development and implementation of regulation in a transparent way is one of the key tenets of regulatory quality (see Box 1.1). The review has identified a number of examples of award procedures, such as concessions for wholesale markets and for slaughterhouses, which the OECD recommends be implemented according to the international standards. In turn, this will require greater transparency, including the application of clear, objective and non-discriminatory criteria for the selection of concessionaires and adherence to these criteria.

One necessary requirement for transparency is that legal texts and authorities' decisions are published. This does not always appear to be the case in Tunisia. For example, a requirement on the maximum age of vehicles for haulage companies was clarified in a circular meant as an internal document for the public administration, but not through the modification of the published regulation setting entry requirements for haulage firms. A recent ministerial order on maximum tariffs for road haulage was not published in the *Official Journal*.¹⁶ As such, businesses cannot easily access information about the order, even though they are required to comply with it. Another example is a legal text concerning the classification and categorisation of red meat, which was drafted but never published in the *Official Journal*, and so never entered into force.

The lack of clarity and predictability in the legal framework increases the complexity that companies and individuals face, and negatively affects the business environment. Based on a 2013-2014 survey, senior managers of Tunisian companies spent 46.5% of their weekly time dealing with regulation, compared with an average 9% in the MENA region.¹⁷ Tunisia ranked 103 out of 140 countries in the World Economic Forum's 2018 *Global Competitiveness Report* based on the burden of regulation indicator.¹⁸ The Tunisian government has taken important steps to simplify administrative procedures, such as removing the need for ex ante authorisation for some economic activities, such as retail trade (except for specific cases discussed in Chapter 3).¹⁹ It has also introduced the rule that responses from the public administration are due within a 60-day deadline and that, after that deadline has passed, "silence is consent".²⁰ These ongoing reforms are important and need further strengthening.

In light of these considerations, the OECD recommends undertaking a comprehensive legislative review to ensure that: 1) superseded legislation is explicitly abolished; 2) all adopted legal texts, including circulars, are published; and when possible legally consolidated (e.g. on the Tunisian Official Journal website); and 3) the authorities' websites provide updated lists of the applicable legislation, when they do not do so already, to improve transparency and help new entrants.

By removing obsolete legislation and streamlining the legislation in force, market participants and potential entrants face a more transparent, less complex and more certain business environment. This is likely to improve investment in Tunisian markets.

Box 1.1. What is regulatory quality?

Regulations are the rules that govern the everyday life of businesses and citizens. They are essential in many areas, but they can also be costly in both economic and social terms. In that context, “regulatory quality” is about enhancing the performance, cost effectiveness and legal quality of regulatory and administrative formalities. The notion of regulatory quality covers process – how regulations are developed and enforced – which should follow the key principles of consultation, transparency and accountability, and be evidence-based. The concept of regulatory quality also covers outcomes: regulations that are effective at achieving their objectives; efficient (do not impose unnecessary costs); coherent (when considered within the full regulatory regime); and simple (the regulations and their implementation rules are clear and easy to understand for users).

Building and expanding on the OECD Recommendation of the Council on Improving the Quality of Government Regulation, it is possible to define regulatory quality by regulations that:

- serve clearly identified policy goals, and are effective in achieving those goals
- are clear, simple, and practical for users
- have a sound legal and empirical basis
- are consistent with other regulations and policies
- produce benefits that justify costs, considering the distribution of effects across society and taking economic, environmental and social effects into account
- are implemented in a fair, transparent and proportionate way
- minimise costs and market distortions
- promote innovation through market incentives and goal-based approaches
- are compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels.

Source: Reproduced from Box 1.1, OECD (2015^[25]).

1.3.2. Enforcement

The Competition Assessment Project focuses on barriers created by regulation, rather than on how regulation is implemented in practice by the Tunisian authorities. However, it is useful to complement these recommendations with some considerations on the extent of actual enforcement in the country.

The discrepancy between legislation and its implementation matters because any policy or reform can only have an impact if it is implemented.²¹ In a 2019 World Justice Project ranking of regulatory enforcement, Tunisia ranked 53 out of 126 countries.²² The indicator takes into account factors such as whether government regulations are effectively enforced and whether “administrative proceedings are conducted without unreasonable delay”. Interviews with the representatives of the business community have confirmed that enforcement can be patchy. For instance, business associations have noted that a recent ministerial decision setting prices of freight transport by road has not been implemented in practice (see Chapter 6 below). Similarly, stakeholders have pointed out that most

legislation applicable to the red-meat sector (for example, that concerning hygienic and health requirements) is legally in force, but not enforced.

When certain pieces of legislation are enforced and others not, firms and consumers may develop the impression that a framework is arbitrary. As result, current and potential market participants may hold back investment to the detriment of the wider economy.

In addition, controls and inspections by the public authorities have an important role in ensuring that legislation is implemented according to the original intention of the legislator. Rational actors, considering whether to engage in illegal behaviour, will be discouraged by the higher probability of detection of any illegal behaviour and higher potential penalties (Becker, 1968^[26]).²³ Conversely, limited enforcement action by public authorities can have negative consequences on compliance by market players and even on public health, when hygiene and health requirements are not met.

1.4. Benefits of lifting barriers

The Competition Assessment project focuses on laws and regulations relevant for the sectors under analysis. Its focus is on legislation, not enforcement. However, changes in regulation can only have an impact if that regulation is enforced. This is not always the case in Tunisia, as described above, which limits the potential benefits of lifting regulatory restrictions. Moreover, complementary to this analysis focusing on competition in the analysed sector, the wider business environment is also important and contributes to the economic benefits of reform.²⁴

The OECD recommendations address specific restrictions identified in the legislation: their impact is directly linked to lifting those restrictions and the consequent positive effect on competition in the relevant sectors. It was not possible to quantify the effects of all the individual restrictions identified, either because of lack of data or the nature of the regulatory change. Typically, statistical data were available from the Tunisian statistical authority for the activities included in scope. In order to assess the impact of the recommendations, these aggregate data would typically need to be complemented by information from other sources that provide detail on specific activities. Based on OECD experience during this project, this further detail is often not available in Tunisia. Moreover, in some cases even aggregate figures do not appear reliable. For instance, the official figures for the turnover of road-haulage activities appear negligible, particularly when compared to the corresponding share in a number of other countries. In the absence of turnover data, it has not been possible to estimate the impact of the recommendations on road transport, even though the OECD believes that they would contribute to improve the sector's organisation and efficiency, mainly by reducing barriers to entry and to grow.

The OECD has considered whether recommendations would be expected to have an impact on either consumer benefits, through lower prices, or on economic activity, in terms of greater efficiency and additional revenue. For consumer benefits, the framework described in Annex A was applied; for economic activity, the OECD has made a conservative assumption based upon an overall improvement in the efficiency of operation.²⁵ Where the OECD had information at a more granular level, the report provides detailed estimates. This is the case for the producer and wholesale markets (Chapter 4.) and towing services (Chapter 7.).

The recommendations detailed in this report, if implemented, would benefit consumers in Tunisia and the Tunisian economy in both sectors. The importance of the informal sector may distort this assessment, possibly underestimating current revenues and potential

benefits. The OECD estimates a positive effect for the Tunisian economy between TND 574.6 million and TND 645.8 million. Most estimated benefits (TND 542.1 million to TND 611.1 million) arise from recommendations in the retail and wholesale trade sector. Partly due to the data issues mentioned above, estimated benefits in the freight transport sector amount to between TND 32.6 million and TND 34.7 million. This is likely to underestimate the real benefits.

Notes

¹ The methodology followed in this project is consistent with the product market regulations (PMR) developed by the OECD. See OECD (2014b), Box 2.1, p.67. To measure a country's regulatory stance and track progress of reforms over time, in 1998, the OECD developed an economy-wide indicator set of PMR (Nicoletti et al., 1999); this indicator was updated in 2003, 2008 and 2013.

² Fournier et al. (2015) find that national regulations, as measured by the economy-wide PMR index, have a negative impact on exports and reduce trade intensity (defined as trade divided by GDP). Differences in regulations between countries also reduce trade intensity. For example, convergence of PMR among EU member states would increase trade intensity within the European Union by more than 10%. Fournier (2015) studied the impact of heterogeneous PMR in OECD countries and concluded that lowering regulatory divergence by 20% would increase FDI by about 15% on average across OECD countries. He investigated specific components of the PMR index and found that command-and-control regulations and measures protecting incumbents (such as antitrust exemptions, entry barriers for networks and services) are especially harmful in reducing cross-border investments.

³ Arnold et al. (2011) analysed firm-level data in 10 countries from 1998 to 2004 using the OECD's PMR index at industry-level, and found that more stringent PMR reduces firms' MFP.

⁴ Égert (2017^[10]) investigates the drivers of aggregate MFP in a sample of 30 OECD countries over a 30-year period.

⁵ The study of 15 countries and 20 sectors from 1985 to 2007 estimated the effect of regulation of upstream service sectors on downstream productivity growth.

⁶ Égert investigated the link between product and labour market regulations with investment (capital stock) using a panel of 32 OECD countries from 1985 to 2013.

⁷ Employment growth in France increased from 1.2% a year between 1981 and 1985 to 5.2% a year between 1986 and 1990. Between 1976 and 2001, total employment in the road transport sector doubled, from 170 000 to 340 000.

⁸ The sample includes 18 countries over a 10-year period.

⁹ Using the OECD's summary index of PMR in seven non-manufacturing industries in the energy, telecom and transport sectors, Causa et al. (2015) found stringent PMR had a negative impact on household disposable income. This result held both on average and across the income distribution, and led to greater inequality. The authors noted that lower regulatory barriers to competition would "tend to boost household incomes and reduce income inequality, pointing to potential policy synergies between efficiency and equity objectives".

¹⁰ These were Australia, Canada, Germany, France, Great Britain, Japan, Korea, and the United States.

¹¹ Employment is measured as a share of the actively employed population. Employment figures are not available for freight transport. The figure cited in the text includes passenger transport and telecommunications.

¹² Other market participants (collectors, refrigerated storage units and processing units) can sell outside wholesale markets.

¹³ Loi n° 94-86 du 23 juillet 1994 relative aux circuits de distribution des produits agricoles et de la pêche (amendée par la loi n° 2000-18 du 7 février 2000, complétant la loi n° 94-86).

¹⁴ For instance, this is the case of many implementing texts of the 1991 Competition Act, not in force any longer and replaced by the 2015 Competition Act.

¹⁵ Arrêté du 4 février portant approbation du cahier des charges relative à l'organisation de l'activité de conditionnement des dates, fruits et légumes frais et à la création d'une commission de contrôle technique ; arrêté du 25 octobre 2000 portant approbation du cahier des charges pour l'exercice du commerce de distribution des dattes ; arrêté du 18 janvier 1988 relatif à l'organisation de la campagne des dattes.

¹⁶ Arrêté du ministre du commerce du 19 février 2019, relatif à la fixation d'un tarif minima et d'un tarif maxima pour les services de transport routier de marchandises pour le compte d'autrui.

¹⁷ The definition of the indicator is: "Proportion of senior management's time, in a typical week, that is spent dealing with the requirements imposed by government regulations (e.g. taxes, customs, labor regulations, licensing and registration, including dealings with officials, and completing forms)". Quoted in *World Bank Enterprise Surveys* 2013, www.enterprisesurveys.org/data/exploreeconomies/2013/tunisia#regulations-and-taxes.

¹⁸ <http://reports.weforum.org/global-competitiveness-report-2018/competitiveness-rankings/#series=EOSQ048>.

¹⁹ Décret gouvernemental n° 2018-417 du 11 mai 2018 relatif à la publication de la liste exclusive des activités économiques soumises à autorisation et de la liste des autorisations administratives requises pour la réalisation de projets, les dispositions y afférentes et leur simplification.

²⁰ Article 6 of Décret 2018-417.

²¹ For an analysis of this point for Italy, see (O'Brien, 2013_[164]).

²² <https://worldjusticeproject.org/our-work/publications/rule-law-index-reports/wjp-rule-law-index-2019>.

²³ The choice of whether to engage in illegal behaviour depends on the comparison between the expected benefits of the illegal behaviour and the expected cost of being caught. The latter depends on the probability of detection and the cost of being detected (e.g. financial penalty).

²⁴ Measures of administrative burden and ease of doing business that capture these broader issues include the OECD's Indicators of Product Market Regulation and the World Bank's Ease of Doing Business Index.

²⁵ Throughout the report, when a recommendation is expected to have a likely impact on prices or the overall market, for instance through efficiency gains, the following assumptions are used: 1) low impact – 0.5%; 2) medium impact – 1%; and 3) high impact – 1.5%.

Part I. Wholesale and retail trade sector

Chapter 2.

Overview of the wholesale and retail trade sector

This chapter provides an economic overview of the trade sector in Tunisia, identifies the key national institutions issuing sectoral regulation and the main applicable legal instruments. Trade is one of the most important sectors in the Tunisian economy. It accounted for 9% of Gross Domestic Product (GDP) and 13% of formal employment in 2017, with 240 757 companies active in retail trade and 53 855 companies in wholesale trade. The Ministry of Trade plays a central role in regulating the sector. Several legal instruments – laws, decrees and ministerial orders – are applicable, at different levels, to the trade sub-sectors, including legislation applicable to the trade of fresh fruits and vegetables and red meat. The chapter provides an overview on the legal texts in the scope of this project affecting wholesale and retail trade in Tunisia at horizontal level as well as the ones affecting trade of the selected foodstuff.

2.1. Definition and economic overview

Trade includes a range of activities that cut horizontally across the economy through a process of buying, selling, or exchanging commodities or services, at either wholesale or retail levels. According to the Statistical Classification of Economic Activities of the European Community (Nomenclature générale des activités économiques de la Communauté européenne, NACE) definition,¹ wholesale trade is a form of trade in which goods are purchased and stored in large quantities and sold, in batches of a designated quantity, to resellers, professional users or groups, but not to final consumers. Retail trade is a form of trade in which goods are mainly purchased and resold to the consumer or end user, generally in small quantities and in the state in which they were purchased, or following minor transformations (OECD, 2001_[27]).

In the present report, the trade sector is defined as the wholesale and retail trade, excluding motor vehicles and motorcycles, with a focus on selected food products, namely fruit and vegetables and red meat. The scope of the analysis consists of the following statistical classification codes from the 2009 Tunisian Nomenclature of Activities (Nomenclature d'Activités Tunisiennes, NAT) (INS, 2009_[28]):

- Wholesale trade (Code 46), including:
 - agents involved in the sale of food, beverages and tobacco (Code 46.17)
 - fruit and vegetables (Code 46.31)
 - meat and meat products (Code 46.32)
 - non-specialised trade (Code 46.90).
- Retail trade (Code 47), including retail sale:
 - in non-specialised stores (Code 47.11)
 - in grocery stores, supermarkets and hypermarkets (Code 47.12)
 - of fruits and vegetables in specialised stores (Code 47.21)
 - of meat and meat products in specialised stores (Code 47.22)
 - on stalls and in markets (Code 47.81)
 - through mail-order companies or online (Code 47.91)
 - not in stores, stalls or markets (Code 47.99).

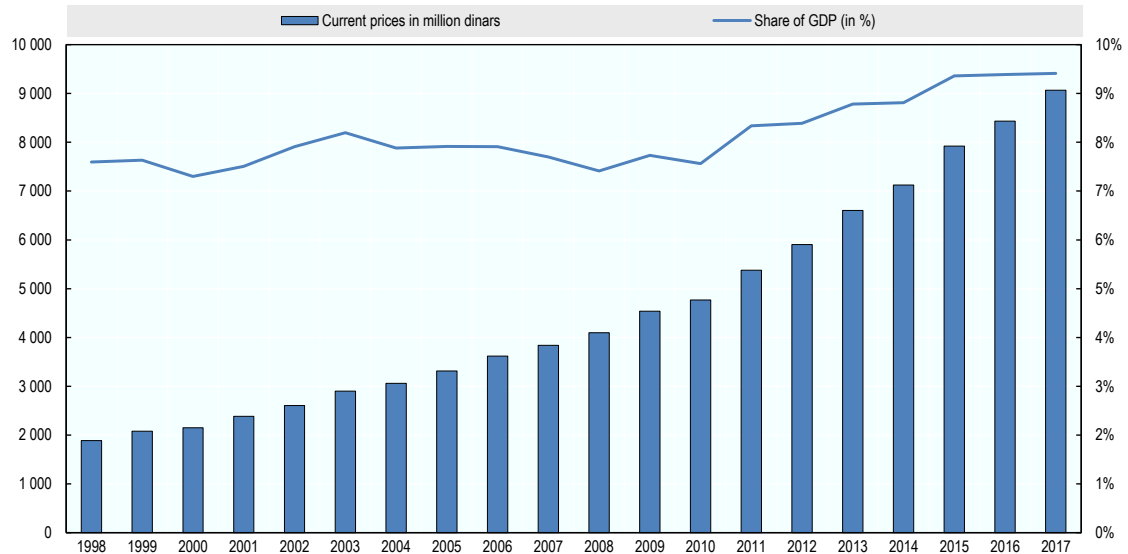
In Tunisia, trade is one of the most important sectors in the economy, accounting for 9.4% of GDP in 2017. The sector's performance has been on an upward trend since 2010, both in nominal terms and as a percentage of GDP and proved resilient to the economic shock suffered by the country in 2011² (see Figure 2.1). The sector's gross value added (GVA) amounted to TND 9 billion in 2017 accounting for more than 23% of the GVA of the services sector; this value quadrupled since 1998, and has been growing at a compound annual growth rate of 9.1% between 2010 and 2017. Tunisian National Institute of Statistics (Institut National des Statistiques, INS) time-series data show that most of this value added is concentrated in coastal areas, making the sector a reflection of persistent regional imbalances in Tunisia.

When measured in terms of employment, the sector accounts for 13% of the Tunisian economy, with about 6.3% of employment for the wholesale trade sector and 5.7% for the retail trade sector. Over 94% of the companies in the retail sector are sole proprietorships with no employees. In wholesale trade, this category represents 40% (INS, 2019_[29]).

Although employment has steadily increased between 2000 and 2017, reaching almost 140 000 employees (see Figure 2.2), this official number does not reflect the reality of a sector in which informal workers are particularly active. A 2016 study conducted by a local

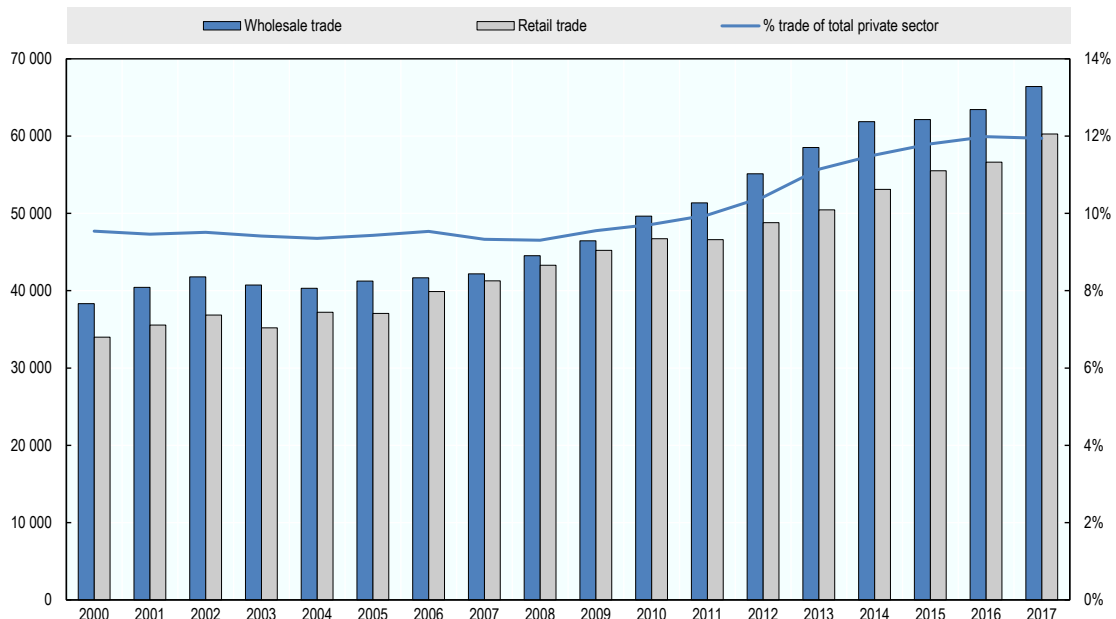
think tank found that 77% of employment and 41.3% of the value added in the sector were in the informal economy (Joussour, 2016_[30]).

Figure 2.1. The value added and contribution of trade to GDP (TND, millions)



Source: (INS, 2019_[29]).

Figure 2.2. The contribution of trade to formal employment



Note: Share of trade in total formal employment on right-hand axis.

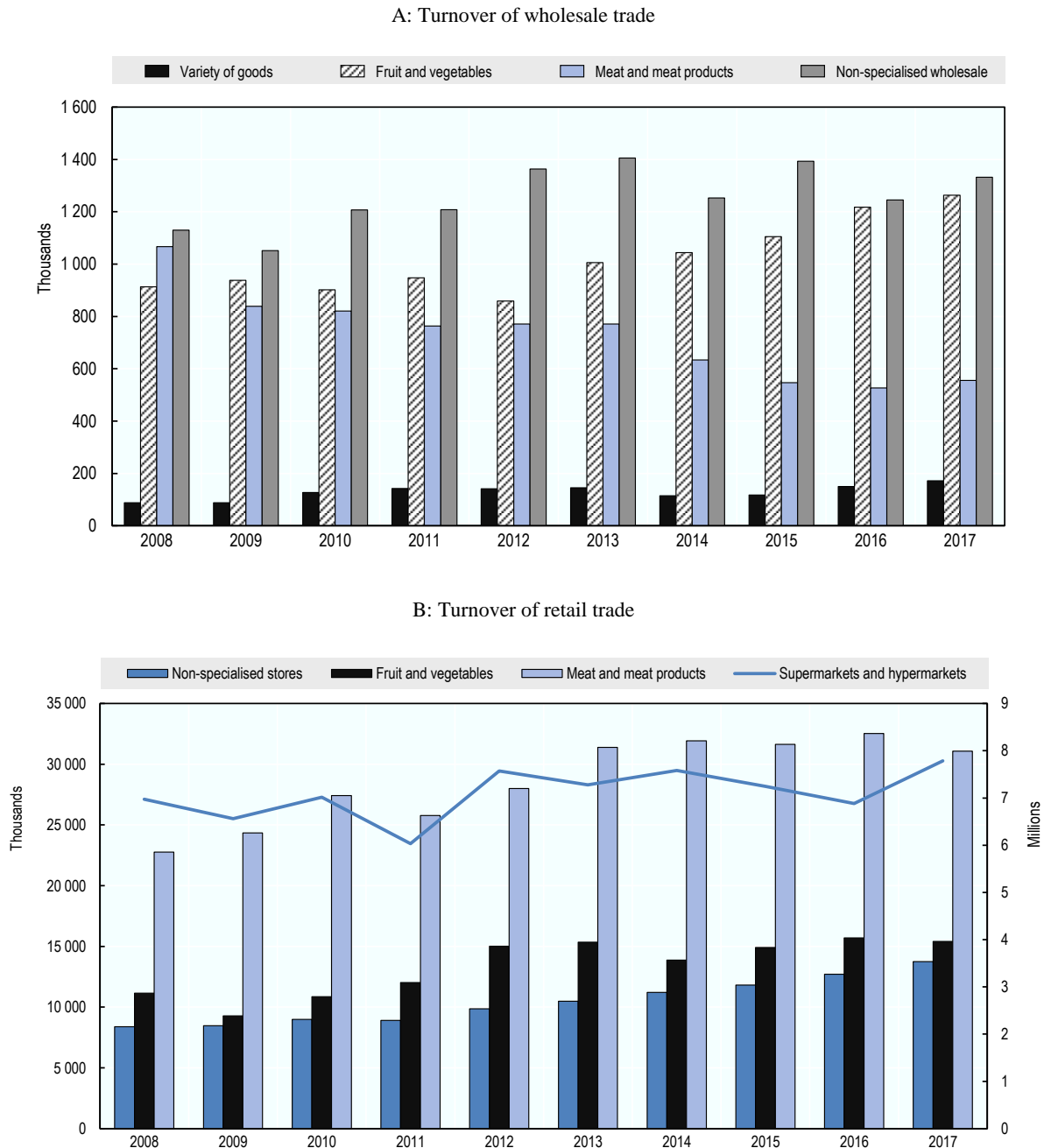
Source: (INS, 2019_[29]).

The number of companies operating in the trade sector has been growing at an annual rate of 3.2% for retail and 5.6% for wholesale trade since 2000. In 2017, over 38% of private

enterprises in Tunisia were operating in the trade sector with 31% active in retail trade (240 757 companies) and 7% (53 855 companies) in wholesale trade.

Figure 2.3 depicts the turnover of wholesale and retail trade in Tunisia, including trade in fruit and vegetables, and meat products. Over the 2010-2017 period, the turnover of wholesale trade registered a modest average annual growth rate of 1.3%, while retail trade turnover grew by 2.2%. The impact of the 2011 events was considerable on supermarkets and hypermarkets: turnover in this category suffered a decline of more than 16% in 2011 (see Figure 2.3-B).

At a wholesale level over the 2010-2017 period, turnover for fruit and vegetables grew at annual average rate of 5.2%, but meat products dropped 5.1% (Figure 2.3-A). The negative trend for the meat products is mainly due to a combination of stagnating activity and an increase in the number of companies. At retail level, however, turnover grew by an average annual rate of 5.6% for fruit and vegetables and 2% for meat products over the same period.³

Figure 2.3. Turnover of wholesale and retail trade per category (TND, millions)

Note: Turnover of grocery stores, supermarkets and hypermarkets on right-hand axis.

Source: (INS, 2019^[29]).

The Tunisian retail sector is still dominated by traditional distribution. The market share of modern retail stores, such as hypermarkets and supermarkets, is significantly lower than that of more traditional stores; these over 210 000 local grocery stores with an average surface of 18m² account for 75% of the sector's total turnover (Ministry of Trade, 2015^[31]). Nevertheless, modern distribution increased its share of total turnover from 5% in 1999 to about 25% currently. At the time, the government of Tunisia announced its objective of increasing this share to 50% in the near future (Ministry of Trade, 2015^[31]).

Modern retailers are concentrated in terms of regional presence and activity with most of the market divided between three main operators that run 11 distribution brands and about 250 stores (see Table 2.1). About 65% of these stores are located in the country's biggest cities: 50% in the greater Tunis area, 9% in Sousse and 6% in Sfax (Ministry of Trade, 2015^[31]).

Table 2.1. Modern retail trade in Tunisia by operator

Operator	Related brands	Market share
Group Magasin Général (MG) ¹	Magasin Général Promogro Magro	34%
Ulysse Trading & Industrial Companies (UTIC) ²	Carrefour Carrefour Market Carrefour Express Champion	28%
Group Mabrouk ³	Géant Monoprix Mercure Market Mini M	38%

Notes: Ministry of Trade market-share estimation based on sales surface area. This does not include the hard discount chain Aziza, owned by Group Slama, which runs about 110 stores across the country.

¹ MG is the longest standing retailer in the country, with a participation of 10% by French retailer Auchan.

² The UTIC Group operates in conjunction with French retail chain Carrefour.

³ The Mabrouk Group, through its MEDDIS branch, is partnering with French retailer Casino.

Source: (Ministry of Trade, 2015^[31]) and (Société Générale, 2019^[32]).

The distribution of fresh food products, mainly fruit and vegetables, as well as fish and seafood products, is also done through a countrywide network of 135 production and wholesale markets, including 35 markets specialised in fish products and 240 retail markets (*souks*) managed by local authorities (for more details, see Sections 4.1.1, 4.1.2 and 4.1.3).

2.2. Institutional framework

The institutional framework of the trade sector in Tunisia is formed by the public administration and a number of other public and semi-public entities over which the Tunisian state has a significant influence.

The most relevant institution is the Ministry of Trade, which is in charge of applying the legal framework for domestic and foreign trade, competition and pricing, health protection, and consumer safety. Its work involves the adoption of ministerial orders that develop the general rules established by laws and decrees; this sometimes involves other ministries (the Ministry of Agriculture, for example, for fruit and vegetables, and red meat). The General Directorate for Competition and Economic Investigations, the Directorate for Domestic Trade, the General Directorate for External Trade, and the Unit for the Upgrade of the Distribution Channels of Agricultural Products are particularly relevant to this report.

The Ministry of Trade, along with the Ministry of Agriculture and the Ministry of the Interior and Local Development (with local development currently managed by the Ministry of Local Affairs and Environment), adopted the ministerial orders that established 1) markets at wholesale level in Tunisia, classifying them as production markets (*marchés de production*), wholesale markets of national interest (*marchés de gros d'intérêt national*) and wholesale markets of regional interest (*marchés de gros d'intérêt régional*);⁴ 2) the

protective perimeters around wholesale markets of national interest; and 3) the periods of activity of production markets and which products can be sold there.

The Ministry of Trade is also in charge of the enforcement of the regulation and hosts several inter-ministerial committees, including:

- The **National Trade Council** (Conseil National du Commerce) is an institution set up in 2010 to advise the Minister of Trade on issues related to distribution channels and trade policy in general. It brings together representatives of several competent ministries and public institutions and representatives of trade associations such as the Tunisian Industry, Trade and Crafts Union (Union Tunisienne de l'Industrie, du Commerce et de l'Artisanat, UTICA), the Tunisian Agriculture and Fisheries Union (Union Tunisienne de l'Agriculture et de la Pêche, UTAP) and the Consumer Defence Organisation (Organisation Tunisienne de Défense du Consommateur, ODC). The Council meets at least twice a year under the leadership of the Minister of Trade.
- The **National Commission on the Monitoring of Price Developments, Regularity of Supply and Fight against Smuggling and Informal Trade** (Commission nationale de suivi de l'évolution des prix, de la régularité de l'approvisionnement et de lutte contre la contrebande et le commerce parallèle) is an institution which was established in 2016. Chaired by the Minister of Trade, the commission gathers the main public and private stakeholders at least every three months to set and monitor the implementation of an annual national programme dealing with the regularity of market supply and the fight against smuggling and informal trade. The national commission builds on a network of regional commissions, each chaired by a regional governor.
- The **National Foreign Trade Council** (Conseil National du Commerce Extérieur), which was set up in 1994 to advise the Minister of Trade on export promotion strategies. The council meets at least twice a year to monitor trade measures and to set up programmes for fairs, exhibitions and other events.
- The **National Consumer Protection Council** (Conseil National de la Protection du Consommateur), established in 1992, meets at least twice a year under the chairmanship of the Minister of Trade to issue opinions and proposals that aim to ensure product safety, improve product quality, and provide consumers with information and guidance.

The Ministry of Agriculture also plays an important role, particularly in the red-meat sector through the General Directorate of Veterinary Services. This Ministry has adopted ministerial orders on animal identification, meat handling, and transport of animals and meat. The Ministry of Agriculture is also in charge of enforcing part of the legislation. It also supervises the management of *groupements interprofessionnels* (legal persons of public economic interest working in the sector).

The Ministry of Infrastructure, Housing and Territorial Planning (Ministère de l'Équipement, de l'Habitat et de l'Aménagement du Territoire), together with the Ministry of Trade and the Ministry of Interior, plays an important role in terms of urban planning and setting rules for establishing hypermarkets and shopping centres.

The Ministry of Finance and the Central Bank of Tunisia are responsible for financial aspects related to foreign trade, budgetary and tax matters, including the management of the customs administration and special funds such as the Tunisian Development Fund for

Competitiveness in the Agricultural and Fishing Sector (Fonds de développement de la compétitivité dans le secteur de l'agriculture et de la pêche, FODECAP) and the compensation fund for agricultural damage caused by natural disasters (addressed in Section 4.1.6).

Local authorities also play a significant role in the fruit and vegetable, and red-meat sectors. Co-ordinated and controlled by the Ministry of Local Affairs and the Environment, local authorities are responsible for the establishment of wholesale markets and slaughterhouses. In addition, as explained in Section 4.1.3, local authorities are in charge of operating wholesale markets, either directly or by granting a concession to individuals or legal entities.

The Competition Council (Conseil de la Concurrence) is an independent administrative authority with an advisory and jurisdictional role in all sectors, including the trade sector. Together with the General Directorate for Competition and Economic Investigations (Direction Générale de la Concurrence et des Enquêtes Économiques) at the Ministry of Trade, the Council is responsible for the implementation of competition rules and regulations in the country.

Finally, Tunisia has several consumer-rights associations. The main organisation is the ODC, which was established in 1989 and has a seat on almost every commission dealing with domestic trade. The public National Consumer Institute (Institut National de la Consommation, INC), supervised by the Ministry of Trade, also conducts analysis and comparative tests on products with authorised laboratories, as well as carrying out surveys and research studies related to scientific, economic, legal and social aspects of the consumption of goods and services in Tunisia.

Producers and industry unions also play a central role in the sector. On the production side, UTAP and the Tunisian Farmers' Union (Syndicat des agriculteurs de Tunisie, SYNAGRI) are the most relevant actors representing farmers, fishermen and producer co-operatives. Trade, craft and industry federations are mainly represented by UTICA and CONECT (Confédération des entreprises citoyennes de Tunisie, Confederation of Tunisian Citizen Companies). UTAP and UTICA are members of most consultative bodies dealing with trade issues.

Other entities with a relevant role in the trade sector and upon which the Tunisian state has a significant influence include:

- The Tunisian Company of Wholesale Markets (Société Tunisienne des Marchés de Gros, SOTUMAG) is the entity that manages the country's main wholesale market in Bir-Kassâa, and is overseen by the Ministry of Trade. Stakeholders told the OECD that prices set at Bir-Kassâa are used as reference prices for wholesale sales taking place outside this market. The state holds a 50.04% stake in SOTUMAG – and the rest is held by private parties.
- The Tunisian Trade Office (Office du Commerce de la Tunisie, OCT) is a public entity responsible for supplying the local market with the following products: sugar, green coffee beans, tea, and rice. OCT has a monopoly over the import of these products and is also responsible for managing strategic stocks that aim to ensure their supply. OCT can also import other products in case of scarcity in the country (recently, for example, it has imported pasteurised milk). Products imported by the OCT are then sold to participants in the Tunisian market, which have to sell each product at a set price. (See Section 3.1. for more information.)

- The Caisse Générale de Compensation (General Compensation Fund) has an essential role in the price controls analysed in Section 3.1. Created by Law 26-70 of 29 May 1970, one of its main goals is subsidising price-controlled products to guarantee their regular supply to the local market and that consumer prices remain stable and affordable.
- Société ELLOUHOUM is a public limited company (*société anonyme*) whose share capital is owned by OCT (66%) and the municipality of Tunis (33%).⁵ Until 1991, ELLOUHOUM had a monopoly over the import of meat into the Tunisian market; the OECD has been informed that this is no longer the case. In practice, however, the OECD understands that ELLOUHOUM still tends to be the sole importer of refrigerated meat (frozen meat is typically imported by private parties). The meat ELLOUHOUM imports is sold either in its own retail outlets or to butchers, which must commit to resell products at prices set by ELLOUHOUM. As well as its role as a meat importer and reseller, ELLOUHOUM operates a livestock market, a slaughterhouse, and refrigerated warehouses.
- *Groupements interprofessionnels* (interprofessional associations) are important in the agricultural sector in Tunisia and are regulated by Law 93-84 of 26 July 1993. They have broad and significant missions and powers in the sector and from a competition perspective, significant implications. (See Box 2.1 below.) Overseen by the Ministry of Agriculture, *groupements interprofessionnels* are legal persons of public economic interest, their members producers, processors, and exporters of agricultural products.⁶ There are currently seven *groupements interprofessionnels* in the agricultural sector: Tunisian Interprofessional Association for Fruit (Groupement Interprofessionnel des Fruits, GIFruit), Tunisian Interprofessional Association for Dates (Groupement Interprofessionnel des Dattes, GIDattes),⁷ Tunisian Interprofessional Association for Vegetables (Groupement Interprofessionnel des Légumes, GIL), Tunisian Interprofessional Association for Red Meat and Milk (Groupement Interprofessionnel des Viandes Rouges et du Lait GIVLAIT), Tunisian Interprofessional Association for Poultry and Rabbit Products (Groupement Interprofessionnel des Produits Avicoles et Cunicoles, GIPAC), Tunisian Interprofessional Association for Seafood Products (Groupement Interprofessionnel des Produits de la Pêche, GIPP), and Tunisian Interprofessional Association for Tinned Food (Groupement Interprofessionnel des Conserves Alimentaires, GICA).

Box 2.1. *Groupements interprofessionnels*

Law 93-84 originally established the missions of *groupements interprofessionnels*. These were limited by Law 2005-16, but remain broad and significant and leaves *groupements* in charge of: 1) ensuring market balance using appropriate mechanisms; and 2) contributing, along with other interested bodies, to the promotion of exports. Law 2005-16 deleted the explicit reference to the powers held by *groupements*, which included: 1) creating strategic stocks to guarantee supplies; and 2) supplying, where necessary, products and services to the sector. As seen in Section 4.1.4, other legislation establishes further powers for the *groupements*, including export controls and the right to set minimum prices. These powers can restrict competition and harm the competitiveness of the country, as seen with date exports in Section 4.1.4.

Groupements interprofessionnels also provide services to their members. While they are funded by all producers and importers – through FODECAP – these services are only provided to members, which is problematic from a competition perspective due to the lack of reciprocity. The effects of this lack of reciprocity on competition are addressed in Section 4.1.6.

The missions and powers of Tunisian *groupements interprofessionnels* significantly differ from those of equivalent organisations in other jurisdictions. For instance, in the European Union, recognised producer organisations (PO), associations of PO (APO), and recognised interbranch organisations (IBO)¹ have significantly limited missions and powers compared to those of *groupements interprofessionnels*. Recognised PO – entities constituted and controlled by agricultural producers in a specific sector – work to strengthen the position of producers in terms of downstream participants in the food supply chain (such as big retailers or distributors) through specific activities, such as concentrating supply, improving marketing, and providing assistance to their members. APO – entities constituted of recognised PO – play the same role as PO, while also co-ordinating their member organisations' activities. Finally, IBO – entities constituted of representatives of economic activities linked to production and to at least one other stage of the supply chain, such as processing or trade – encourage dialogue between participants in the supply chain and promote best practices and market transparency. None of these entities, however, has the power to create strategic stocks or to control exports.

Moreover, while it is possible that, under certain circumstances, these entities provide services to non-members the latter need to pay a financial contribution, thereby ensuring the reciprocity of the service.

Note: ¹The main legal framework for these entities is provided by Regulation (EU) No. 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products.

2.3. Overview of the legislation

The OECD has identified 118 pieces of legislation related to the trade sector. Out of those, 39 concern fruit and vegetables, 15 relate to red meat, and the remainder affect the sector horizontally.

The main pieces of legislation affecting the trade sector horizontally are:

- Law 2015-36 on competition and prices and, in particular, Article 3, which establishes that some products and services can be exceptionally exempted from the general regime of price freedom. Decree 95-1142 of 28 June 1995 lays down which products and services are excluded from price freedoms and divides these products into three lists depending on the degree of freedom: whether there is a price control in all commercial stages, only at the production stage or at the retail stage.

- Law 2009-69 of 12 August 2009, which establishes the general legal framework for wholesale and retail trade and distribution, as well as the main rules applicable on, among other subjects, hypermarkets, shopping centres and franchise contracts.
- Law 2018-29 of 9 May 2018, which establishes the powers and obligations of local authorities, including their responsibility for establishing local markets, slaughterhouses and premises for exhibitions and fairs, as well as management methods for these premises, such as concessions or public-private partnerships.
- Law 94-122 of 28 November 1994, as modified by Law 2003-78 of 29 December 2003; Decree 2013-664, as modified by Decree 2017-1253; Decree 2010-1765; and Decree 99-2253 as modified by Decree 2002-2683, which all establish the requirements to set up a hypermarket or a shopping centre.
- Law 94-41 of 7 March 1994 establishes the legal framework for the foreign trade of products. Decree 94-1742 states which products cannot be imported or exported without authorisation from the Ministry of Trade.
- Decree 61-14 of 14 September 1961 establishes requirements to exercise trade activities in Tunisia, including the obligation of being a Tunisian legal entity. The Order of 14 June 1961 sets the terms of approval for the exercise of these commercial activities.
- Law 2005-94 of 18 October 2005 regulates SMSA), which are production co-operatives providing services to their members to upgrade agricultural businesses and improve production management.
- A number of pieces of legislation dealing with the creation of the main state-controlled institutions and entities active in the sector, including Law 85-125 for SOTUMAG; Special Statute No. 721 of July 1961 for Société ELLOUHOUM; Law 62-14 for OCT; Law 70-26 for Caisse générale de compensation; and Law 93-84 for the *groupements interprofessionnels*, as modified by Law 2005-16.
- Finally, the recently adopted laws 1) 2019-47 of 29 May 2019 on improving the business climate, which includes easing provisions for the merchant card and international trade companies; 2) 2019-25 of 26 February 2019 on food and animal-feed safety, which aims to ensure that human and animal foodstuffs meet certain standards and imposes a number of obligations on market participants (such as ensuring the traceability of products) to guarantee the safety of foodstuffs, and establishes the applicable sanctions in case of infringement; and food safety, with the creation of a public body, the National Office of Food Safety. The laws will need to be implemented through decrees and ministerial orders.

The main pieces of legislation dealing with the trade in fruit and vegetables are:

- Law 94-86 of 23 July 1994, as modified by Law 2000-18 of 7 February 2000, which is the framework law for the distribution of fruits and vegetables (and fish). It establishes the main rules applicable to the wholesale, production and retail markets and to the sectoral participants.
- Law 2004-60 of 27 July 2004, which deals with different matters concerning the production of agricultural products. Among other matters, it regulates sales by farmers and strategic stocks of agricultural products.

- Decree 98-1630 of 10 August 1998 and Decree 98-1629 of 10 August 1998, which are the main pieces of legislation regulating wholesale and production markets (WPM); the first lays down the rules concerning how these markets need to be organised and managed, while the second establishes the master plan for WPM in Tunisia, dividing markets, for example, by their area of influence (national or regional) and setting minimum requirements for markets in each category.
- Decree 2018-729 of 16 August 2018, which sets out the applicable levy used to finance a fund for agricultural damage caused by natural disasters, Law 1995-109 of 25 December 1995, which sets out the applicable levy used to finance the FODECAP.
- A number of ministerial orders – such as those of 25 October 2000 and 18 January 1988 that deal with date distribution – that have a significant impact on the sector.

Finally, the main pieces of legislation dealing with the trade of red meat are:

- Law 2005-95 of 18 October 2005, which deals with the breeding and transport of animals, their slaughter and the transport of meat, with the specificities concerning transport and identification of animals set out in ministerial orders.
- Decree 2010-360 of 1 March 2010, which establishes the master plan for slaughterhouses and their creation, closure and modernisation in Tunisia; it sets out the maximum number of slaughterhouses in Tunisia and their location.
- Law 96-113, which establishes a levy to fund FODECAP.

The OECD assessment has revealed that certain rules and regulations of the reviewed legislation are redundant, since they have been rendered obsolete either by everyday practice or by more recent legislation, but have not been explicitly repealed. These included ministerial order of 4 February 2008 approving the specifications applicable to processors of dates, fruit and vegetables; ministerial order of 25 October 2000 approving the specifications concerning date distribution; and ministerial order of 18 January 1988 on the organisation of the date season.⁸

Some rules set out in specific legislation have been altered by subsequent pieces of legislation, but the overall legislation has not been amended to reflect the changes, for example, Law 94-86 (see Section 4.1.2), which appears to state that distribution can only be carried out through WPM, despite Law 2004-60 and Law 2009-69 introducing clear exceptions. These types of unresolved issues cause regulatory uncertainty to businesses in, or wishing to enter, the market.

Outdated and obsolete legislation should be explicitly abolished or amended to reduce uncertainty and so create a more attractive investment environment.

A summary of the pieces of legislation reviewed by the OECD, the number of barriers identified, and the recommendations made in this report are summarised in Table 2.2, while all barriers and recommendations are set out in Annex B.

Table 2.2. Summary of the legal provisions analysed in the trade sector

	Fruit and vegetables	Red meat	Horizontal	Total
Pieces of legislation	39	15	64	118
Potential restrictions identified	61	9	47	117
Recommendations	53	6	45	104

Notes

¹ NACE Rev. 1 (Nomenclature statistique des activités économiques dans la Communauté européenne) is a classification system designed for data that refers to the unit of activity; it is used by Eurostat. The Tunisian classification system – NAT – uses the same terminology for industrial classification.

² Real GDP contracted by 2%, with a sharp decline in FDI, tourism and other sectors affected by the political and social upheaval.

³ It is important to note that these figures represent only the formal sector and are not representative of the sector as a whole.

⁴ For more information on these markets, see Section 4.1.1.

⁵ See, www.commerce.gov.tn/Fr/societe-ellouhoum_11_9 (accessed on 11 April 2019).

⁶ See, www.givlait.com.tn/presentation-du-givlait.html, www.gil.com.tn/fr/staticPage?label=presentation-du-gil_1, and http://gifruits.com/?page_id=1791&lang=fr (accessed on 11 April 2019).

⁷ According to the information provided by UTICA, GIDattes was founded in 2019 and is a spin-off of GIFruit, which had been in charge of the production and distribution of dates since 2002. See, www.africanmanager.com/les-dattes-ont-desormais-leur-propre-groupement-interprofessionnel (accessed on 29 May 2019).

⁸ According to the Ministry of Trade, some provisions of the ministerial order of 18 January 1988 have been implicitly repealed, while some others remain in force.

Chapter 3.

Wholesale and retail trade: horizontal issues

The wholesale and retail trade sector in Tunisia is subject to a significant intervention by the State, both as a regulator and through many State-Owned Enterprises (SOEs) that operate in the market. Several regulations pose challenges to competition, business efficiency and growth. Price controls and mark-up regulation on several goods and services combined with subsidies are causing market distortions and affecting market efficiency. Limitations on below-cost pricing and restrictions on vertical integration are preventing efficient pricing mechanisms to the benefit of consumers. Market entry limitations on the establishment of retail outlets combined with restrictions on foreign investment and on the import and export of several goods are affecting market growth and limiting consumer choices. Against this backdrop, the chapter proposes some reform avenues based on OECD analysis and international experience.

3.1. Price controls and subsidies

3.1.1. Description and objective of the provisions

In Tunisia, the prices of certain products, particularly for food and energy, are fixed by the state. This system was put in place in the 1970s, mainly through Law 70-26 of 19 May 1970 and its applicative decrees. It was revised in the late 1980s following the public-finance crisis, and after the implementation of the first IMF structural-adjustment programme, which saw the adoption of the first competition law in 1991 (Law 91-64 of 29 July 1991 on Competition and Prices), among other reforms. This law provided the basis for the exclusion from the general principle of price freedom of certain products and services (to be identified by a subsequent decree).¹

The current legal basis for price controls in Tunisia is provided by Law 2015-36 of 15 September 2015 on Competition and Prices,² which has retained the corresponding article of Law 91-64. Since the introduction of price controls, the system has only been revised twice, with the last revision dating from more than 20 years ago (Decree 95-1142). The decree defines three lists of products and services that are excluded from the general regime of freedom to set prices:

- List A consists of 16 product and service categories subject to price controls at retail, wholesale and production level: subsidised bread; subsidised flour and semolina; subsidised couscous and food-grade pasta; subsidised food-grade oils; subsidised sugar; subsidised school paper, textbooks and exercise books; tea; fuel including liquid-petroleum gas (LPG); electricity, water and gas; passenger-transport fares; medicines and medical treatment; subsidised “regenerated” milk; rates of postal and telephony services; tobacco, matches and alcohol; and hot drinks (coffee and tea) served in first, second and third category coffee houses.
- List B consists of eight products that are subject to price control at the production level: salt; baker’s yeast; roasted coffee; beer; metallic barrels and packaging; motor vehicles; lime, cement³ and reinforced concrete; and compressed gases.
- List C consists of 33 products that are subject to mark-up regulations at the retail level: rice; citrus fruit; table grapes; dates; other fruit; potatoes; tomatoes, spices; onions; other vegetables, plants and condiments; poultry; eggs; bran and milling by-products; butter; tomato concentrate; sugar cubes; roasted coffee; yeasts; beer; processed cement; white cement; reinforced concrete; metal packaging; individually owned cars; small trucks; coaches and buses; trucks and trailers for trucks; other road vehicles; ink for schools; compressed gases; paper for schools; school exercise books; and infant milk formula.

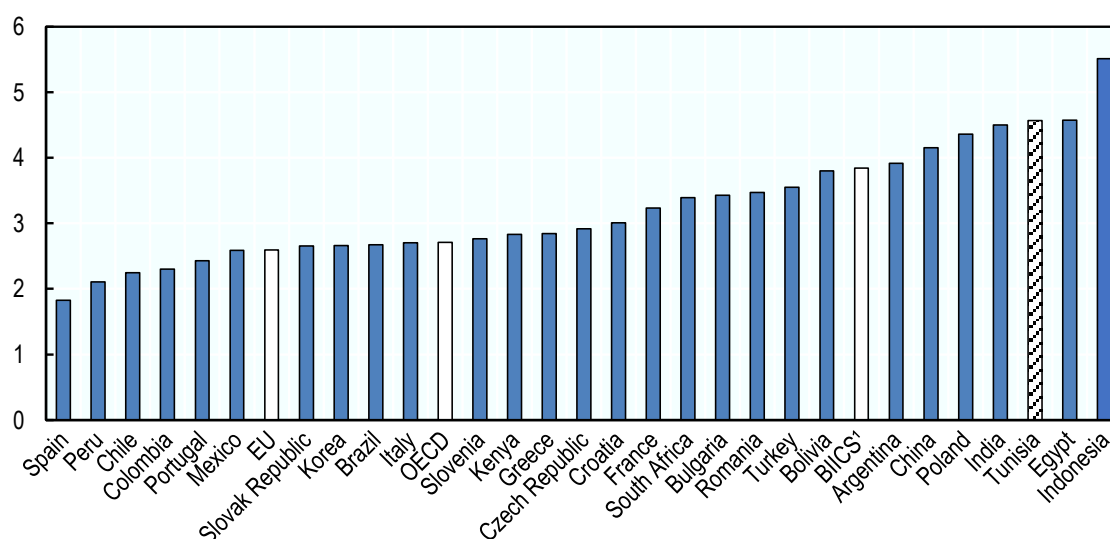
The price-control regime in Tunisia is complemented by a system of subsidies applicable to List A, including a subsidy programme for energy goods and a subsidy programme for food products known as the Tunisian General Compensation Fund (Caisse générale de compensation, CGC). Food subsidies date back to 1945 and the creation of the first subsidies fund.⁴ Just under 25 years later, the CGC was established by Law 70-26 of 29 May 1970.⁵

In addition, the state intervenes in the market through several state-owned enterprises (SOE), such as the OCT, which holds the import monopoly over four essential products: sugar, green coffee beans, tea, and rice, as well as the Office for Cereals (Office des Céréales), responsible for cereals, and the National Office for Oils (Office Nationale de

l'Huile, ONH) for vegetable oil and oil derivatives. Energy subsidies are handled directly by the Ministry of Industry and Small- and Medium-Sized Enterprises, mainly through four SOE: Tunisian National Oil Company (Entreprise Tunisienne d'Activités Pétrolières, ETAP) dealing with crude oil and gas production; Tunisian Company for the Refining Industry (Société Tunisienne des Industries de Raffinage, STIR), responsible for oil refining and import of refined oil derivatives, National Company of Oil Distribution (Société Nationale de Distribution des Pétroles, SNDP), and Tunisian Electricity and Gas Company (Société Tunisienne de l'Électricité et du Gaz, STEG), the state monopoly for electricity production and distribution. The OECD's indicator of state involvement in network sectors shows the importance of this intervention in the economy (Figure 3.1).

Figure 3.1. OECD PMR indicator: government involvement in network sectors component

Index scale 0 to 6 from lower to higher state involvement



Note: Data represents simple averages for the following countries: Brazil, India, Indonesia, China and South Africa (BIICS). Data for Tunisia refers to 2016; data for other countries refer to 2013.

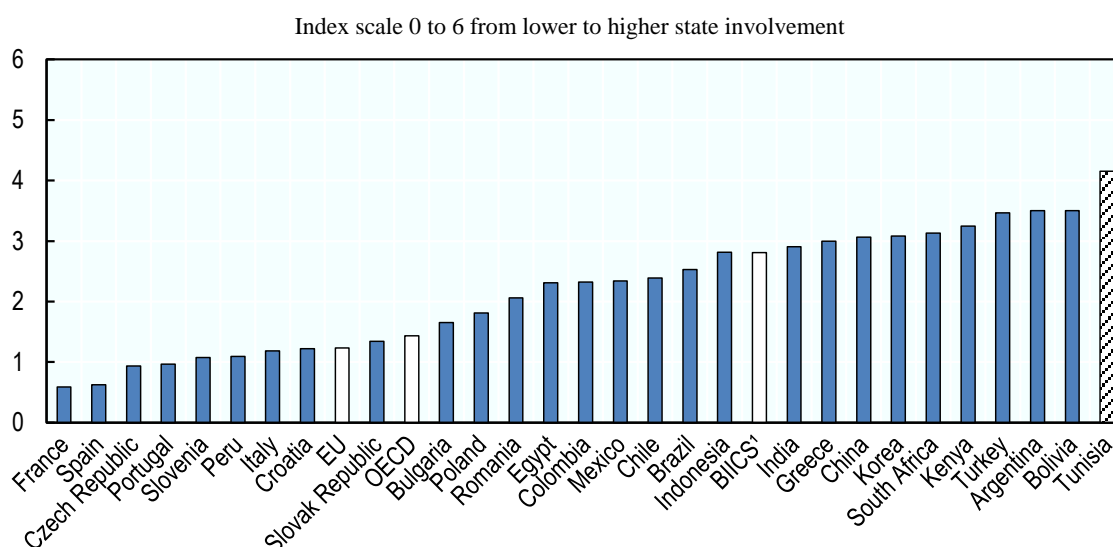
Source: OECD-World Bank PMR database.

Consumer prices of essential products are kept below market prices through price controls, while farmers, producers and distributors are compensated or paid higher prices (inclusive of subsidies) to guarantee them a minimum income. SOE receive subsidies directly from the state budget.

According to the authorities and the applicable law, the main objective of the price control and subsidy regime is to keep prices of essential goods low and stable and so protect the purchasing power of low-income Tunisian households, for which food expenditure accounts for more than 28% of household budgets (INS, 2015^[33]). The CGC, in particular, has a variety of other objectives, such as maintaining a fluid and continuous provision of food products, as set out in Law 70-26. The CGC seems also to have a number of broader objectives that include controlling inflation and reinforcing the competitiveness of Tunisian products (CRES, 2013^[34]). The subsidies required to maintain prices at an artificially low level can be substantial. Data from the Ministry of Finance show that in 2017, energy subsidies amounted to 1.6% of GDP and food subsidies 1.5%. Price controls and subsidies to consumption are common in other Southern and Eastern Mediterranean countries, but the degree of price restrictiveness and the value of subsidies provided in Tunisia appear to

go beyond the levels of many comparable economies. The OECD price-regulation indicator for Tunisia is, in particular, above the average for emerging countries and significantly higher than the OECD average (OECD, 2018^[7]), as seen in Figure 3.2. Likewise, the share of food and fuel subsidies as a percentage of GDP in Tunisia has been increasing since 2016 and exceeds the levels of some resource-poor, labour-abundant MENA countries such as Jordan, Morocco and Egypt, as seen in Figure 3.3.

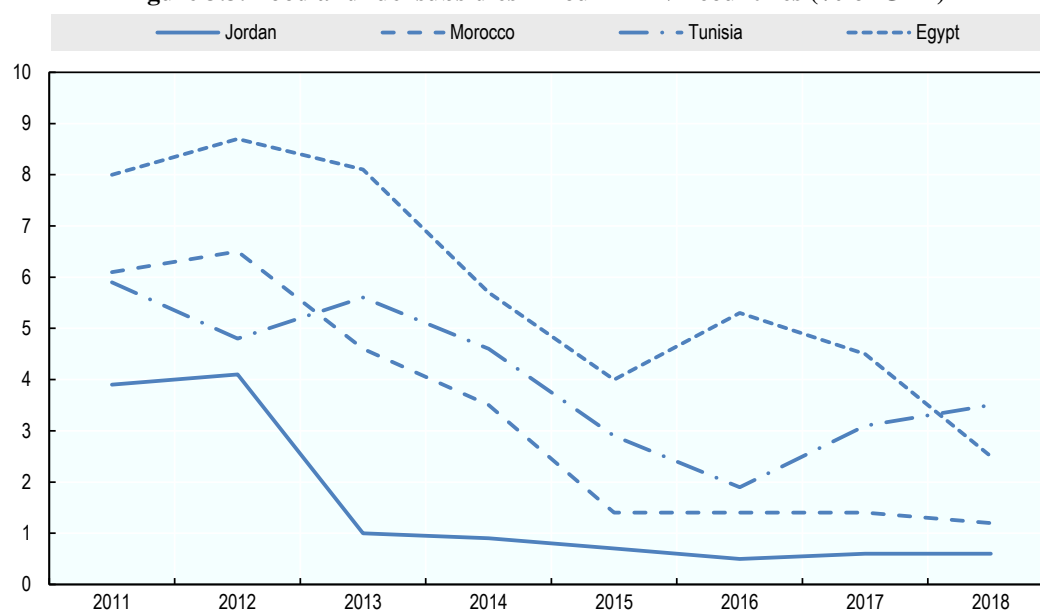
Figure 3.2. OECD PMR indicator: price-control component



Note: Data represent simple averages for the following countries: Brazil, India, Indonesia, China and South Africa (BIICS). Data for Tunisia refer to 2016; data for other countries refer to 2013.

Source: OECD-World Bank PMR database.

Figure 3.3. Food and fuel subsidies in four MENA countries (% of GDP)



Note: Data for 2018 are IMF projections.

Source: (IMF, 2018^[35]).

3.1.2. Harm to competition

The rationale of price controls and subsidies, as described above, is twofold: to ensure sufficient production and accessibility of staple goods, and to regulate markets that feature limited competition or monopolies. Given these policy objectives, price controls might be expected on products and services that policy makers consider essential for Tunisian citizens and, at the same time, that cannot be delivered by the market at affordable prices, especially to vulnerable citizens such as low-income households. The prices of products in lists A and B of Decree 95-1142 are set below the level that would prevail in the absence of price controls. In order to ensure that producers serve the market, despite the low prices paid by consumers, they too receive subsidies. The benefits of this policy for Tunisian households must be weighed against its distortionary impact in markets, particularly in those in which there are many potential suppliers and competition might be sufficient to keep prices under control.

The introduction of price controls and subsidies in potentially competitive markets can impair market efficiency, ultimately reducing the total market surplus that can be distributed among producers (such as farmers) and consumers. Moreover, these policies may fail to achieve their main objective of protecting low-income households. They may also be ineffective as a tool to combat inflation or promote price stability. These risks and these limitations are described in the remainder of this section.

One of the main competitive risks of price controls, associated with subsidies to suppliers, is that they guarantee a higher price to suppliers than that which would prevail in a competitive market. As a result, inefficient suppliers are kept “artificially” in the market and more efficient suppliers cannot gain market share by offering cheaper products, since prices are fixed. Overall, the economy uses more resources to produce output than would strictly be necessary.

Price controls and subsidies lessen market efficiency by reducing the incentives of suppliers to develop product and process innovations that could reduce the costs of supply and increase quality. Suppliers have little incentives to develop cost-efficient production processes or to find cheaper methods of distribution, as that would not enable them to cut prices and earn market share. Further, even if firms do cut costs and improve efficiency, consumers will not enjoy any such benefits because, without price competition, firms will retain all of the associated savings. In the case of long-term price controls such as those present in Tunisia, the effect of these distortions may even be that consumers are paying more than they otherwise would for the products in question. Likewise, price controls may also reduce the incentives of suppliers to improve the quality of their products, as they would not be able to charge a higher price to cover the cost of supplying a high-quality product.

By preventing price mechanisms from operating, price controls and subsidies often result in either shortages or excess supply. This contrasts with competitive markets, where both suppliers and consumers respond to changes in market conditions through the mechanism of price. For instance, if demand is higher than expected, suppliers need higher prices (i.e. higher subsidies) to increase supply.

Since prices and subsidies are not adjusted in the presence of price controls, supply shortages may limit consumer access to essential goods, as while subsidy programmes attempt to partially reduce the risk of supply shortages, they create additional distortions to the competitive process. For example, it is unlikely that authorities have sufficient information to set subsidies at the exact level needed to prevent shortages or oversupply.

Further firms may opt to focus their production on products receiving subsidies, given the wide range of such products, causing a diversion of resources from other sectors of the economy (including other consumer staples) for reasons unrelated to consumer needs.

The recent case of pasteurised milk is a clear illustration of this harm. Price controls combined with a mismanagement of high production cycles over the past five years were at the origin of the severe shortage crisis that led the government to import 10 million litres of milk in 2018 (Box 3.1). In some circumstances, prices may also be set too high, in which case they can result in excess of supply and eventually lead to food or energy waste.

Box 3.1. The pasteurised milk case

In Tunisia, ultra-high-temperature pasteurised milk (*lait UHT*) is on list A of Decree 95-1142 and so subsidised at all stages. According to UTAP, Tunisia has the lowest price in North Africa for a litre of pasteurised milk, which is set at 1.12 dinar compared to 1.50 dinar in Libya, 1.90 dinar in Morocco and 1.80 dinar in Egypt as of 2018. The Tunisian dairy sector has largely benefitted from government interventions in the past, such as the subsidised importation of dairy cows, and subsidies for feed and production at all stages. In 2018, the sector was composed of approximately 112 000 farmers – 82.8% of whom were small farmers with 1 to 5 cows on average – and 45 processing units, including 11 specialised in milk with a capacity of 4.2 million litres a day. Total production in that year amounted to 1 413 million litres a year, of which 995 million litres was processed by industrial units.⁶

Since 2011, the market has been hit by a number of problems. For example, unprecedented increases in production costs, including dairy-cow prices, livestock feed, veterinary care, fuel, and wages have not been offset by any rise in retail prices, while the dinar's devaluation against foreign currencies has further aggravated the situation since much of the sector's inputs are imported. At the same time, the authorities have faced difficulties in dealing with overproduction.⁷ Milk stocks reached record levels of more than 60 million litres in 2015 and 2016 and Tunisian authorities had to buy more than 30 million litres to absorb overproduction.² The authorities also allowed exceptional export licences (given that pasteurised milk is on the list of products with export restrictions as set out in Decree 94-1742) to preserve the sector's current structure. However, in 2018, the authorities were forced to import more than 10 million litres in 2018 to offset a shortage of production.

In 2018, a joint committee made up of different producer and processor unions requested the liberalisation of prices or at least permission to increase prices by 0.2 dinar a litre for farmers, 0.55 dinar for collectors, and 0.1 dinar for milk processors to cope with increased production costs. The government responded by granting an increase of 0.124 dinar a litre for farmers, 0.20 dinar for collectors, and 0.36 dinar for processors, while keeping the price unchanged for consumers. According to several stakeholders, the crisis is far from being solved as this increase is putting more burden on the CGC, while not improving the imbalance between demand and supply. In fact, UTAP, SYNAGRI and UTICA are concerned about a growing supply shortage as herds of dairy cows that have been moved to neighbouring countries in ever greater numbers over the past two years.

Source: (UTAP, 2018^[36]) (Wageningen Research Foundation, 2018^[37]).

These effects are exacerbated by the fact that the lists of regulated products and services are not regularly updated in response to changes in market conditions. This risks price controls being imposed in markets where competition may be sufficient to keep prices under control and no state intervention (and no public funding) is actually needed. In some cases, such as salt and cement, prices have been liberalised in practice, but the legal texts have not been updated.

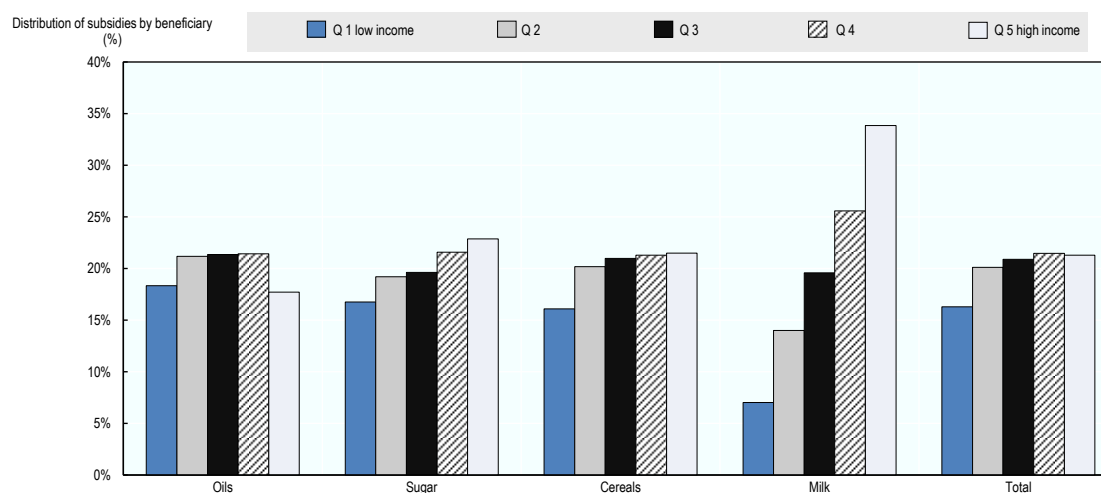
An additional risk is that such price regulations can be hard and costly to enforce, creating incentives for black-market operations and fuelling the parallel economy. For instance, in

2015 alone, Tunisian customs and border police stopped 1.1 billion dinars-worth of subsidised products (such as pasta, couscous, sugar and milk) being exported to Libya illegally (World Bank, 2017^[38]).

It is also unclear whether the subsidy programmes in Tunisia have actually been successful in achieving their main goal of protecting the purchasing power of low-income households. A 2013 joint study by the Tunisian Institute of Statistics, the Tunisian Research and Social Studies Centre (Centre de Recherches et d'Etudes Sociales, CRES) and the African Development Bank (CRES, 2013^[34]) appeared to show that in absolute terms the CGC's allocation of food subsidies has benefited the wealthiest households relatively more than the poorest. The World Bank (World Bank, 2016^[39]) reached a similar conclusion for energy products, showing that in Tunisia, energy subsidies have been disproportionately captured by the richest quintiles of the population even though both food and energy subsidies have helped poorer households (see Figure 3.4).⁸

The findings from these reports seem to suggest that the budget of subsidy programmes could be more effectively used to fight poverty through direct transfers to low-income households, as suggested by (OECD, 2018^[7]) and Albers and Peeters (2011^[40]). In particular, direct transfers:

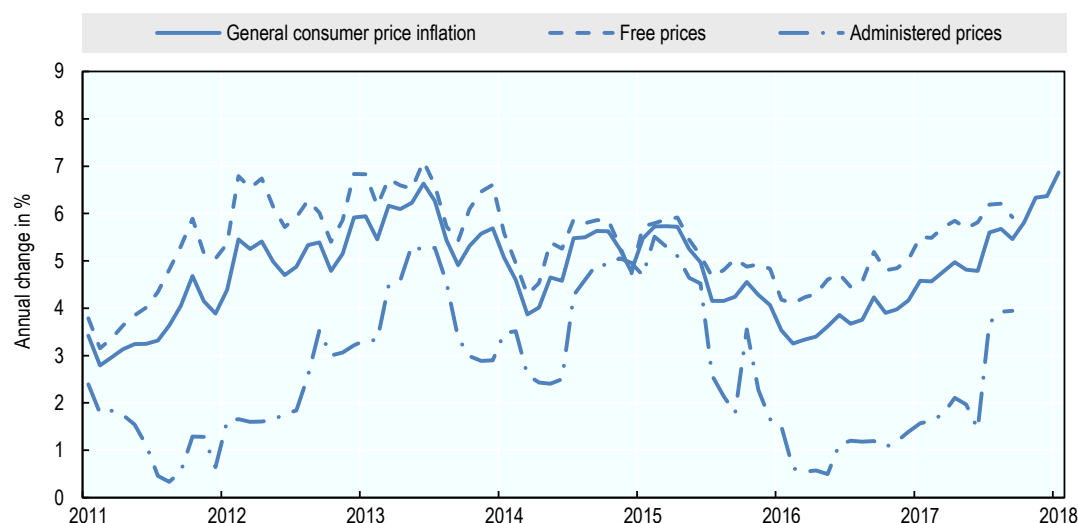
- Leave competitive forces intact, meaning firms are incentivised to innovate and cut costs to the benefit of all consumers.
- Allow households to make decisions about their own consumption, rather than being pushed towards a basket of goods considered staples by public authorities.
- Enable the targeting of benefits directly to households as opposed to subsidised businesses, and allow a focus on poor households depending on the objective of the programme.
- Represent an important tool for financial inclusion; field experiments have shown that cash-transfer programmes are effective instruments against poverty and in reducing the vulnerability of low-income households (Prina, 2015^[41]) (Jack and Suri, 2014^[42]) (Klein and Mayer, 2011^[43]).⁹
- Contribute to achieving several social objectives, such as improving education outcomes where evidence shows a strong link between cash transfers and school enrolment (FAO; UNICEF; Oxford, 2016^[44]).¹⁰
- Can have significant empowerment outcomes and lead to increased involvement of women in decision-making (ODI, 2016^[45]).¹¹

Figure 3.4. Distribution of food subsidies in Tunisia by quintile of the population

Note: “Q” means quintile.

Source: (INS, 2010_[46]); CRES and OECD staff calculations.

Lastly, price controls and subsidies may not be the most appropriate instruments to promote broader macroeconomic goals, such as controlling inflation. In fact, significant subsidies paired with measures that prevent competition from exerting downward pressure on prices, may in fact be increasing inflationary pressures. Tunisia’s rate of inflation was over 7% in 2018 and, over the past 10 years, it has been systematically above that observed in many other emerging economies. Food price inflation has been rising since 2010 (Figure 3.5) and of the five products whose prices have most increased over the 2010-2017 period, three have been food products: vegetables have risen 79%; food-grade oils 65%; and fruit 63% (OTE, 2017_[47]). Since the beginning of 2018, food price inflation increased substantially to reach 8.9% in April on an annual basis (fruit and vegetables prices increased by 23.4%; oils by 13%; fish by 10.4%; meat by 9.7%; and non-fresh food products by 7%) (INS, 2019_[48]).

Figure 3.5. Administered prices and inflation

Source: INS; OECD Economic Outlook 102 Database.

In this context, any future attempts to control inflation through price-control policies will require the Tunisian government systematically to raise subsidies, which might not only reinforce market distortions, but also be unsustainable in the long run from a budget perspective (Albers and Peeters, 2011^[40]).

The state monopoly, through OCT, of the importation of certain products at predetermined prices and the creation of strategic stocks are part of the overall strategy to stabilise prices of staple goods such as milk and sugar. It is not clear, however, which criteria were used to determine the products considered essential for Tunisian households. The current set of essentials may also be overly broad.

Granting the monopoly of imports to an SOE in this way can distort the market in various respects. First, it prevents distributors from buying these products directly from foreign suppliers, and so diversify their suppliers to reduce the risk of shortages and price fluctuations. Second, OCT selling imported food on the Tunisian market at price lower than the price that would have been created in a competitive market may have the unintended consequence of preventing local producers from effectively competing against imported food. In other words, OCT's prices may distort consumer choices by pushing consumers to buy relatively fewer locally produced products in favour of imported ones. By reducing local producers' prospects, this policy may increase Tunisia's reliance on imports in the future. Third, this type of intervention can create uncertainty in the market, unless the rules for intervention are clear and predictable (Byerlee, Jayne and Myers, 2006^[49]).

3.1.3. Recommendations

In light of the competition harm posed by price controls and subsidy programmes, as well as their limitations in achieving the desired policy goals, the OECD recommends that Tunisia:

- Moves towards the liberalisation of additional prices through greater price flexibility by ensuring that the market situation is more frequently monitored and the three lists of products and services set out in Decree 95-1142 are regularly updated. Products whose prices have already been liberalised in practice, such as salt and cement, should also be removed.
- Implements a long-term plan with the broader perspective of price liberalisation and economic efficiency to replace gradually the existing subsidy programmes with a system of direct transfers to low-income households (OECD, 2018^[71]). India provides a good example of the benefits of introducing such a system (see Box 3.3). In this context, the authorities may conduct market studies on those products for which price regulation has been lifted to evaluate the impact of the reforms.
- Conducts market studies on sugar, green coffee, tea and rice and reassess the suitability of maintaining OCT's import monopoly for these products.

Regulatory barriers are among the factors that can facilitate co-ordination among competitors, especially when there is extensive price regulation such as in food markets in developing countries. Once regulation is lifted, suppliers may replicate the co-ordination previously provided by regulation with private agreements, and, hence, establish higher (and non-competitive) prices (OECD, 2015^[50]).

It is therefore particularly important that the Tunisian competition authority is well equipped to investigate anti-competitive conduct that could arise following price liberalisation, as shown by the example of tomato concentrate (Box 3.2). A well-conceived

liberalisation policy consists not only of removing pricing regulation, but also of ensuring that competition functions properly in the market to ensure that consumers enjoy the benefits of liberalisation.

Box 3.2. Liberalisation of the prices of double tomato concentrate

Following the government of Tunisia's decision to liberalise the prices of double tomato concentrate in 2013, retail prices of concentrate increased by about 9% for 800g tins and 20% for 400g tins. The ODC brought a case of collusion and the fixing of end-consumer prices to the Competition Council, which, in 2014, launched an investigation of 24 tomato-concentrate producers.

The investigation conducted by the Competition Council proved the importance of this product for Tunisian consumers: the country is one of the highest consumers of double tomato concentrate, with an annual total consumption of 109 000 t or an annual average per household consumption of 57 kg, compared to 35 kg in the United States or 24 kg in Italy. It also confirmed the existence of a co-ordinated price increase after the entry into force of Decision 59 of 22 February 2014 of the Minister of Trade implementing the principle of unrestricted pricing of double tomato concentrate. Different samples of sales invoices considered by the Council proved that prices reached 1.23 dinar for the 400g tin and 2.05 dinar for the 800g tin for 22 different brands countrywide.

The Council's ruling (Decision 141356 of 10 May 2018) condemned the anticompetitive behaviour on the basis of article 5 of Law 2015-36 on Competition and Prices. It requested that the defendants immediately stop their practices, but did not impose fines.

Source: (Conseil de la Concurrence, 2018^[51]).

Box 3.3. India's experience in reforming subsidies

As part of a national Indian programme to issue a unique biometric identification number (Aadhar) to every resident, the government has introduced reform of subsidies. "Market" prices are being introduced, subsidies to businesses being eliminated, and participating households now receive the equivalent value of the average subsidy as a direct transfer into their bank accounts (which were opened for those without an account alongside Aadhar registration). The reform is being introduced gradually across the national territory, after tests at the state level.

Since 2014, for example, the subsidy on bottled LPG has been gradually replaced by an equal direct bank transfer for households across India. The reform has been accompanied by a sharp reduction in subsidy costs because of the drastic drop in fraud. It has also encouraged financial inclusion and lessened the bias against poor households, which, in the past, purchased less gas than did wealthy households, and consequently received fewer subsidies (Tripathi, Sagar and Smith, 2015^[52]). To improve distribution to poor households, in March 2015, India launched a campaign ("Give It Up") to encourage the wealthiest households to forgo their gas subsidy in the name of social equity. By 2017, 1 million Indian households had renounced the subsidy.

Following on from LPG, tests are now under way in some Indian states to replace food and fertiliser subsidies with direct transfers to households. Preliminary results appear generally favourable (Gangopadhyay, Lensink and Yadav, 2015^[53]).

Source: (OECD, 2018^[7]).

3.2. Below-cost pricing

3.2.1. Description and objective of the provision

Reselling a product for less than its purchase price is banned by article 34 (1) of Law 2015-36 of 15 September 2015. The purchase price is calculated by taking into account any commercial discounts shown on the purchase invoice and including transport costs and taxes.

The law allows for the following exceptions to the rule: 1) perishable products that can quickly deteriorate; 2) sales due to the change of status or closing down of a commercial activity; 3) when significant quantities of a product are purchased (or could be purchased) at a lower price than the same product in stock, the lower price can be applied to previously stocked, higher-value products; 4) seasonal sales; and 5) slow-selling items.

Provisions banning below-cost strategies are typically underpinned by the objective of preserving small retailers.

3.2.2. Harm to competition

Selling certain products below cost is a common strategy used to attract consumers, for example, to encourage them to try a new product or retailer. In these circumstances, pricing below cost may well be less expensive than running large advertising campaigns (OECD, 2006^[54]). In addition, it can be used to grant discounts to repeat customers, to compensate a consumer switching from one product to another when switching costs are high, or to clear out obsolete or dead stock that would be costly to store or dispose of. Further, when a firm has multiple products, it can price one product below cost (a “loss leader”) in order to attract consumers to other more profitable products. These strategies can therefore be both pro-competitive and beneficial for consumers.

By limiting these legitimate business practices, restrictions on below-cost pricing keep prices higher than would otherwise be the case and reduce consumer welfare. Moreover, they “reduce price dispersion among retail distributors, by restricting the number and frequency of unusually low prices” (OECD, 2006^[54]), in other words dampening price competition among firms. If prices tend to be similar, consumers have less incentive to search around for cheaper products, further limiting competitive pressure at the retail level.

Empirical studies have investigated the effects of the regulation in a number of countries (OECD, 2006^[54]). (Allain and Chambolle, 2011^[55]) found that restrictions on below-cost sales led to price increases in Ireland. Colla and Lapoule (2008^[56]), in examining the French experience, reached similar conclusions and find that “the transparency of the invoiced price fosters retailer price alignment and reduction in intra-brand/inter-store competition”. In addition, the authors found that French rules prohibiting below-cost pricing caused retailers to focus less on negotiating the lowest possible prices from their suppliers, which would benefit consumers. Instead, they would put more effort on obtaining promotional fees and other manufacturer incentives that improve retailer profitability without benefitting consumers (since promotional fees and other manufacturer incentives are not considered elements of the “purchase price” for the purposes of the below-cost pricing rule). This effect contributed to keeping prices higher for consumers.

Below-cost pricing restrictions are found in countries including Portugal, Spain, France and Italy. Other countries, such as Greece and Luxembourg, recently abolished restrictions. The majority of OECD countries have no below-cost pricing restrictions (including Australia, Canada, Denmark, Finland, Hungary, Iceland, Ireland, Korea, Mexico, the Netherlands, New Zealand, Norway, Poland, Sweden, and the United Kingdom).¹²

The limited extent of below-cost pricing restrictions reflects the challenges in their application, and the trade-off they imply between consumer welfare and that of some firms. In effect, these restrictions protect higher-cost firms by limiting price competition. While these measures are often framed as an effort to protect small local businesses from large multinational competitors, they may also limit the ability of new smaller entrants in a market to establish a foothold, or to introduce innovative portfolio pricing strategies. Furthermore, they prevent consumer preferences over price and quality from determining market outcomes: some consumers may in fact prefer to pay higher prices to small local businesses, while others may lack the extra income needed to do so.

Broad-based below-cost pricing restrictions may only be in place in a few jurisdictions, and legitimate pricing strategies can benefit consumers, yet there are cases in which below-cost pricing does impair market functioning and so requires action. These concerns can generally be addressed using competition law on a case-by-case basis, in which pro-competitive below-cost pricing can be distinguished from anticompetitive strategies. In particular, below-cost pricing becomes problematic from a competition perspective when it is put in place by a dominant firm – in such a position of economic strength that it can behave independently of its competitors, customers and consumers – with the intention of driving its rivals (such as small businesses) out of the market and then raising prices to above-market levels to recover any initial losses.¹³ This predatory-pricing strategy is an abuse of dominance in Tunisian competition law, in line with the competition-law frameworks of the majority of other jurisdictions.

Most jurisdictions make this distinction in their competition-law frameworks. European case law has underlined that below-cost pricing strategies by dominant firms are not intrinsically abusive, but there may be specific circumstances where those behaviours are illegitimate.¹⁴ In the United States, the regime is even more permissive, since below-cost pricing strategies are considered to be abusive solely if there is evidence that losses have been recouped.¹⁵

In sum, broad-based below-cost pricing prohibitions take in a wide range of pro-competitive business strategies that can benefit consumers and may enable new entrants to establish a foothold in a market. In most OECD jurisdictions, targeted measures to prevent dominant firms from abusing their position and excluding competitors are applied through competition law.

3.2.3. Recommendation

The OECD recommends removing this provision or, at least, modifying it to allow for a greater number of exceptions such as those mentioned in the previous paragraphs. In place of these measures, the Tunisian competition authority should be provided sufficient resources to enforce laws against abuses of dominance.

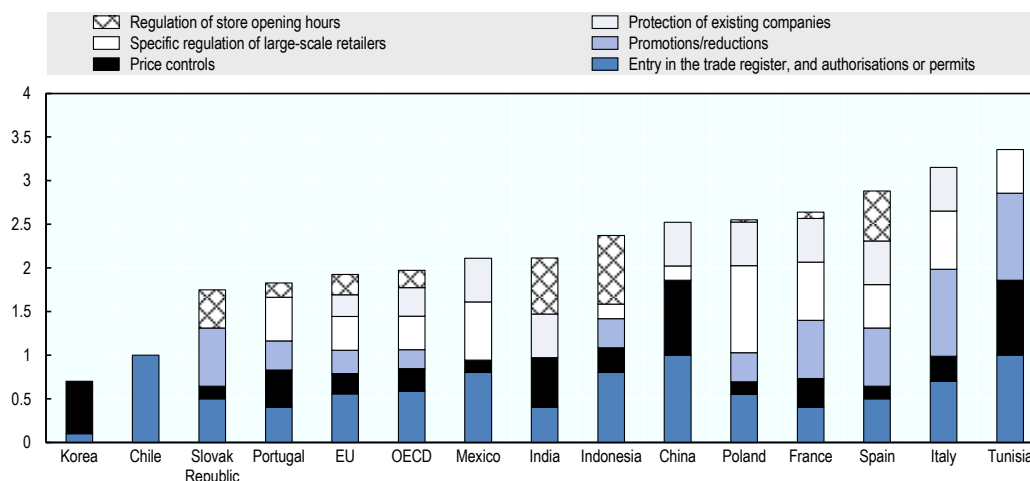
3.3. Vertical integration

3.3.1. Description and objectives of the provisions

The Tunisian distribution sector includes wholesalers, modern retail stores (such as hypermarkets, supermarkets and discount retailers), and traditional retailers, including grocery stores and kiosks. Several types of regulatory barriers have been identified in the sector. In addition to price controls and restrictions on hypermarkets, which are analysed in earlier sections, other barriers such as limitations on sales and discounts affect retailing activities (see Figure 3.6 and Annex B).

Figure 3.6. OECD PMR sector indicators on retail trade regulation

Index scale 0 to 6 from less to more competition friendly regulation



Note: Data for Tunisia refer to 2016; data for other countries refer to 2013.

Source: OECD-World Bank PMR database.

The regulatory framework for wholesale and retail trade is set out in Law 2009-69 of 12 August 2009. Among other provisions, the law stipulates that wholesale and retail activities must be kept separate in terms of sales premises and bookkeeping.¹⁶ This requirement holds for both companies and single ownership.

The same law also states that producers are not permitted to engage in wholesale or retail trade as part of the same business entity, meaning that they must set up entities for retail and wholesale activities separate from their production. A fine ranging from TND 1 000 to TND 10 000 can be imposed on producers that engage in the wholesale or retail trade, even if the producer sells only its own products.¹⁷ (Farmers and craftsmen are exempted from this provision.) Industrial producers are only allowed to sell their products directly to consumers in certain circumstances or with special authorisation from the Ministry of Trade. Decree 2010-828 of 20 April 2010 details the exceptional circumstances in which producers are permitted to retail or wholesale their products. These are:

- Sales in stores located within the premises of the production site provided that these stores: 1) are arranged and open to the public according to professional retail standards; and 2) keep separate accounts.
- Sales on behalf of the producer by traders and/or sales agents.
- Mail-order or home sales, provided that they constitute a permanent and continuous activity of the producer.
- Sales to other producers when the product is used by the latter as a raw material, semi-finished product, consumable material or accessory necessary for their own production.
- Sales made after a deal procured to satisfy a purchaser's own needs.
- Sales to company staff, provided the quantities sold to each staff member do not exceed the normal needs of an ordinary consumer.

The OECD understands that restrictions on producers' abilities to engage in wholesale or retail distribution are motivated by concerns about competitive distortions, which would

result from the disparate tax treatment of businesses at different stages of the distribution chain. For instance, Tunisian producers usually have access to financial and tax incentives that are more beneficial than those available to retailers and wholesalers. Producers might thus leverage these incentives to cross-subsidise retail and wholesale trade activities.

Further, authorities have also indicated that the combination of retail, wholesale and producer businesses in one entity may pose challenges for monitoring compliance with tax and other obligations. For instance, wholesalers are taxed on their actual income, whereas retailers may be subject to a flat-rate tax scheme (the so-called *régime forfaitaire*). Different collective labour agreements may also apply to each category.

3.3.2. Harm to competition

The restrictions – namely, the use of separate accounts and facilities – discourage vertical integration by imposing specific costs on integrated firms.

Vertical integration is an alternative retail business model that can deliver substantial benefits for consumers. In particular, integration cuts costs by reducing the involvement of intermediaries and may in fact, improve quality.

Current restrictions increase the number of intermediaries, which may result in the accumulation of mark-ups and higher prices for consumers. Mark-up accumulation arises when both producers and intermediaries charge a mark-up over cost that is above the level that would prevail in a perfectly competitive market. Vertical integration allows these multiple mark-ups to be avoided, because an integrated supplier co-ordinates its pricing across different stages of distribution, meaning final prices will be lower (OECD, 2007^[57]).

Non-price efficiencies can also arise from the co-ordination benefits of vertical integration. In particular, vertical integration may increase quality and choice for consumers in situations where the interests of the retailer and the manufacturer are not aligned. For example, consumers may be prevented from benefitting from pre-sales services, such as in-store trials, due a lack of co-ordination. These services would be in the interests of the manufacturers, since they generally improve overall sales, but certain retailers may find them costly and seek to free-ride off other retailers' services. This could see consumers choosing to try a product in one retail location, before purchasing from a competitor that does not offer trial services, and is therefore able to charge a lower price. As a result, retailers can lack the incentive to offer pre-sale services, even if these services are beneficial for consumers and increase overall sales.

Finally, transactions between an upstream and a downstream firm often require some investment (for instance, in equipment) that has little value outside the specific relationship. When this investment is significant, the party that has incurred it can find itself locked into the commercial relationship and, in consequence, find itself in a weak negotiating position. Vertical integration can help overcome the risk of opportunistic behaviour.

Vertical integration can be backwards or forwards. Backwards integration happens when a retailer produces intermediate goods for itself or takes over its previous suppliers. The objectives pursued are often to obtain cheaper inputs and to increase input price stability. Forward integration involves a manufacturing company engaging in sales or after-sales, either online or through their own stores, to bypass retailers. This strategy could be effective when distributors or retailers are expensive or unreliable. Manufacturers may also choose to distribute their product directly to consumers for other reasons, for instance when they consider that they are best placed to provide after-sales assistance, or when they would like to control more tightly the retail strategy, such as in the case of luxury goods.

A 2017 study on 20 leading retailers in northern Europe and the United States found that, with one exception, all the retailers were vertically backwards integrated in at least one product category. The study identified a number of drivers behind this strategy, including: improving standards and quality by controlling the upstream manufacturing process, achieving cost advantages by exploiting synergies, and reducing their dependence on suppliers. One particularly common model of integration is the introduction of retailer-branded low-cost products in stores (Kroth, 2017^[58]).

It should be noted that in Tunisia, the Competition Act bars vertically integrated firms from stopping their competitors from gaining access to input markets. In other words, vertical integration enables business models that can reduce prices and increase quality without harm to competition.

3.3.3. Recommendation

In light of the competition harm described above, the OECD recommends revising the provisions that restrict the combination of wholesale and retail trade activities. A first step would be to allow traders subject to the real tax scheme to combine the two stages without additional requirements. Producers should also be given the choice of using retailers or distributing their products on their own and without restrictions.

3.4. Access to market

3.4.1. Description and objective of the provision

Non-Tunisian nationals face restrictions in retail and wholesale trade activities under the Decree Law 61-14 of 30 August 1961. Specifically, individuals and legal persons who do not have Tunisian nationality must obtain a special merchant card (*carte de commerçant*) to sell products or services, directly or through a subsidiary established in Tunisia.¹⁸ Applications for merchant cards are reviewed by an advisory committee to the Ministry of Trade.¹⁹ Although the committee is not bound by any deadline, its technical opinion is mandatory and serves as a basis for the final decision of the Minister of Commerce.

Legal persons have Tunisian nationality if they meet the following conditions:

- They are constituted in accordance with Tunisian law and have their corporate headquarters in Tunisia.
- At least 50% of the share capital is held by Tunisian individuals or legal persons.
- A majority of their boards of directors or their governance or oversight bodies consists of individuals of Tunisian nationality.
- Their chief executive officer, board chair, president, and managers are Tunisian nationals. For public limited companies (*sociétés anonymes*) in which the functions of board chair and president are separate, the president must have resident status as defined in foreign-exchange regulations.

Companies with their corporate headquarters in Tunisia and in which the government or local government entities have a direct or indirect equity stake are also considered as Tunisian.

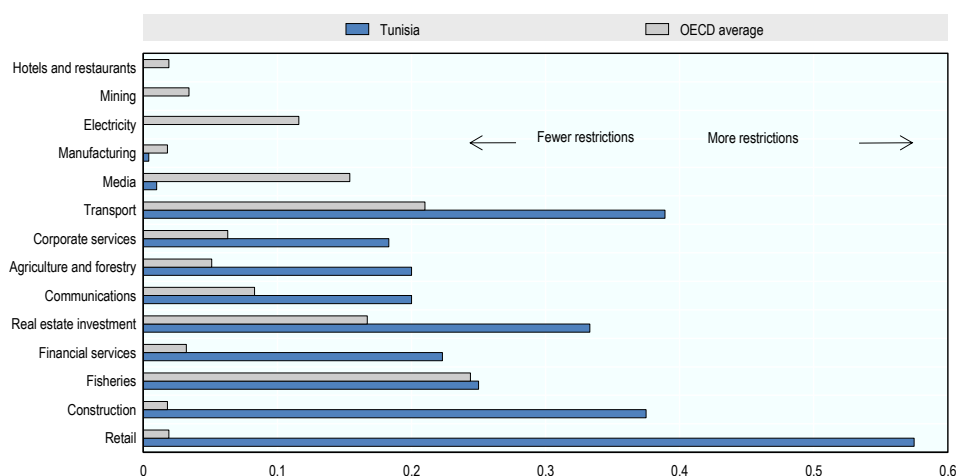
The restrictions on foreign individuals and legal persons undertaking commercial activities in Tunisia were adopted in the 1960s with the aim of “tunisifying” the economy in a post-independence context. The obligation of holding a merchant card has, however, been maintained over the years to protect domestic trade, while adopting a reciprocity approach with the country’s trading partners.²⁰

3.4.2. Harm to competition

The restrictions on foreign individuals and legal persons undertaking commercial activities in Tunisia constitute an exception to the National Treatment Instrument under the OECD Declaration on International Investment and Multinational Enterprises, to which Tunisia adhered in May 2012. The principle of national treatment means foreign businesses operating within a country's territory should be treated no less favourably than domestic enterprises. As an adherent country, Tunisia is committed to honouring the obligations under this instrument, including the notification of exceptions to the national-treatment regime, which Tunisia has done for Decree 61-014.²¹ The principle of national treatment is set out in Tunisia's new investment code, which became law in 2016 (article 7, Law 2016-71). Nevertheless, this provision is still in force.

The OECD's FDI Regulatory Restrictiveness Index²², which reflects notified exceptions to the national-treatment regime, demonstrates the restrictive nature of the Tunisian services sector (Box 3.4). Retail and wholesale trade is by far the most protected sector compared to both other sectors of the economy and the OECD average (Figure 3.7).

Figure 3.7. OECD FDI regulatory restrictiveness index for 2018



Source: OECD Foreign Direct Investment Regulatory Restrictiveness Index.

The advisory commission in charge of issuing merchant cards conducts the technical review of applications on a case-by-case basis, according to the business plan provided by the applicants. The absence of a clear deadline for the commission to issue its technical opinion has delayed several decisions in the past. Further, the absence of clear evaluation criteria increases discretionary risks of differential treatment between applicants, creates incentives for rent-seeking, and reinforces lobbying pressure by incumbents to block the entry of new competitors. These provisions may restrain new entry, thus reducing competition pressure, limiting consumer choices, and affecting product quality.

3.4.3. Recommendation

The OECD recommends abolishing the requirement for foreign firms seeking to undertake commercial activities in Tunisia to apply for a merchant card. Alternatively, the criteria used to assess applications for cards should be transparent and based on clear technical criteria. Further, the 60-day “silence is consent” rule stipulated in article 6 of Decree 2018-417 of 11 May 2018²³ should be applied to the advisory commission's

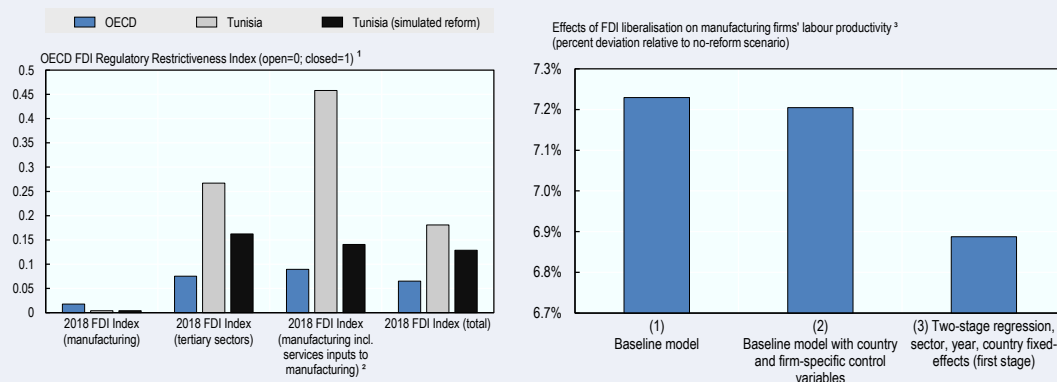
assessment of merchant cards, after which the Ministry of Trade should issue cards regardless of whether an advisory commission opinion has been received.

Box 3.4. Potential gains of removing FDI restrictions in wholesale and retail trade

Wholesale and retail distribution activities are among the restricted services sectors contributing to the significant difference between Tunisia and OECD economies, as seen in the OECD's FDI Regulatory Restrictiveness Index. The implications of services restrictions typically goes beyond sector borders, limiting potential economy-wide productivity gains. The latest set of OECD harmonised national input-output tables estimates the contribution of services inputs to manufacturing in Tunisia to be roughly 5% in 2015, about 55% of which were retail and wholesale services. Barriers to FDI in these activities remain more stringent than observed elsewhere. Apart from a few economies in Asia, these activities have been largely, if not fully liberalised worldwide.

The potential gains of removing such restrictions could be significant. As Figure 3.8 shows, such a reform would reduce the exposure of Tunisia's manufacturing sectors to more restricted services inputs from about 0.45 to about 0.15, bringing the level of FDI restrictions that affect them much closer to levels observed in other OECD economies. Estimates based on a multi-country, firm-level regression framework suggests that such reform could potentially improve downstream manufacturing productivity by about 7%. Although not shown here, estimations suggest that SMEs (defined as firms with fewer than 200 employees) are significantly more affected by restrictions in upstream services than larger firms (OECD, 2018^[59]). The same is true for manufacturers relying more extensively on services compared to firms that use services less extensively.

Figure 3.8. Potential effects of FDI liberalisation on distribution services



Note: ¹ See the OECD FDI Regulatory Restrictiveness Index definition above.

² Restrictions in manufacturing sectors, including services inputs to manufacturing, are based on OECD Input-Output Tables for Tunisia. They reflect the weighted level of restricted services sectors faced (used) by manufacturing sectors in addition to FDI restrictions observed in manufacturing sectors.

³ The analysis uses firm-level data from more than 22 000 manufacturing firms across 21 developed and emerging economies to estimate the relationship between manufacturing labour productivity and FDI restrictions in services. Firm-level data are taken from World Bank Enterprise Surveys and identified at the two-digit level of the ISIC Rev. 3 classification (i.e. ISIC 15-37). Outliers in terms of extremely high or low productivity levels (the top and bottom 1%) are deleted from the dataset. Labour productivity is defined as sales per person employed (in USD, thousands). The baseline ordinary least squares (OLS) model controls for the share of services in total inputs to manufacturing, sector and year effects. Country and firm-specific controls include GDP per capita, firm size, export intensity and level of foreign ownership. The two-stage OLS model is based on a first regression of labour productivity on country-fixed effects and a second regression of the obtained residuals as per the baseline model. Please refer to (OECD, 2018^[59]) for further information on the estimation framework.

Source: Authors' calculations based on OECD FDI Regulatory Restrictiveness Index, World Bank Enterprise Surveys and OECD Input-Output Tables.

3.5. Hypermarkets

3.5.1. Description and objective of the provisions

Hypermarkets are large retail stores that supply groceries, household products, clothes, electronics, appliances, and other merchandise. They are generally larger than supermarkets and offer a wider range of products. The hypermarket business model is based on leveraging economies of scale to keep prices low. Hypermarkets combine low overhead costs – a result of large stores located on the peripheries of cities, where property prices are relatively lower – with large sales volumes at low profit margins.

Hypermarkets or *grandes surfaces commerciales* are defined in the law as commercial establishments whose total area exceeds 3 000m² or whose sales-designated area exceeds 1 500m².²⁴ Within this definition, there are currently four hypermarkets in Tunisia, two located in the Tunis area and two in the south of the country, and there are ongoing plans to build another three.

In order to build and operate a new hypermarket or a shopping centre (*centre commercial*) in Tunisia, a business must obtain an authorisation from the Ministry of Trade, based upon criteria concerning the location and the specifications of the building and its surrounding area. In particular:

- Law 2003-78 states that hypermarkets and shopping centres should be located at least five kilometres (two kilometres in exceptional circumstances) away from the boundaries of cities with over 50 000 inhabitants.
- Decree 2017-1253 of 17 November 2017 imposes 13 conditions on the structure of hypermarkets and shopping centres, including the surface and the height of the buildings, access routes, the percentage of a plot's buildable area, car-park size, and required amount of green spaces, among other factors.

In addition to assessing all the requirements explicitly defined in the law, the Ministry of Trade has discretionary powers to either approve or deny hypermarket projects, taking into account a case-by-case evaluation of each one's expected economic, social and environmental impact. The authorisation process was revised in 2017 and currently follows a two-step approach: a first phase during which developers provide a number of documents for preliminary approval by a technical commission at the Ministry, and a second phase in which the final version of the documents revised according to the Ministry's comments is submitted, along with additional technical studies.

The authorisation request must include four main technical studies: 1) a study of road connectivity and vehicle and pedestrian traffic; 2) a hydrological study of the area; 3) an environmental-impact study assessing the effects of the project on the natural environment, conducted by an independent engineering firm and approved by the National Environment Agency (Agence Nationale de Protection de l'Environnement, ANPE); and 4) a study evaluating the social and economic effects of the project.

The National Commission on Commercial Urban Planning (Commission Nationale de l'Urbanisme Commercial) is responsible for studying the authorisation request; providing the preliminary comments to the project proponent after phase one; and issuing an opinion to the Minister of Commerce, who takes the final decision.

In practice, the authorisation process can be lengthy and costly, often lasting several years and offering few indications regarding whether a project is likely to be approved. This could be in part due to the fact that the law does not set a deadline for the National

Commission on Commercial Urban Planning to evaluate the project and issue an opinion, establishing only a 30-day period for the Commission's secretariat to inform the members of the board of a new authorisation request.²⁵ In addition, the criteria to evaluate the project do not appear clearly defined in the law, and the decision to issue an authorisation may largely depend on the long-term strategy of the Ministry.

According to the preamble of the legislation and several exchanges with the authorities, the main policy objective of the hypermarket authorisation process (including restrictions on the geographical location of hypermarkets and shopping centres) appears to be the protection of small businesses and the preservation of traditional forms of commerce in Tunisian cities. Several provisions also have specific objectives related to the promotion of safety, the protection of the environment and of agricultural land, as well as urban planning objectives. In some cases, the policy objective is not entirely clear, as is the case for certain architectural requirements imposed on hypermarkets.

An authorisation framework specific to large retail outlets exists in many European countries (see selected examples in Table 3.1). In several cases, however, these restrictions do not apply to the entire city area, and are rather focused on city centres. In other cases, retail restrictions give priority to the establishment of outlets within city centres (EC; HVG, 2016^[60]) in order to preserve commercial the vitality of city centres, which contrasts with the measures applied in Tunisia to keep hypermarkets outside of cities.

Table 3.1. Regulations on large outlets in selected European countries

	Relevant legislation	Main regulatory restrictions
Belgium	Law 2004011378	Outlets above 400m ² subject to authorisation issued by the college of mayors and aldermen of the municipality.
Finland	National Land Use Guidelines of 2009	Restrictions on out-of-town developments. Major retail trade units should be located so as to support the urban structures.
France	Law 2008-776	Outlets above 1 000m ² subject to authorisation of departmental commercial development commissions.
Germany	Bundesamt für Bauordnung und Raumordnung (2000)	For outlets above 700m ² , zoning planning should be conducted in co-operation with neighbouring municipalities.

Source: (OECD, 2006^[61]); (OECD, 2009^[62]); (OECD, 2012^[63]).

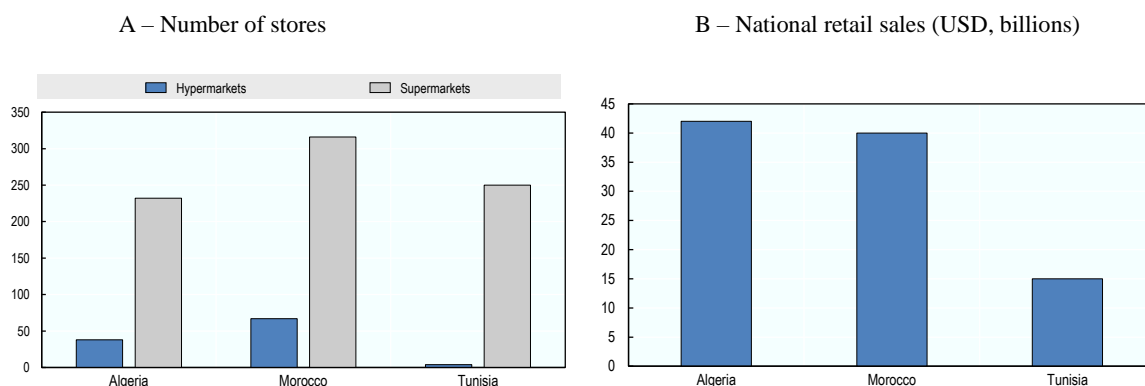
3.5.2. Harm to competition

The imposition of multiple authorisation requirements to open a hypermarket or a shopping centre, some of which are unclear and not explicitly defined in the legislation, has the cumulative effect of restricting entry and substantially limiting the number of retail outlet options available to consumers in Tunisia. In particular, the legislation discourages the establishment of larger outlets. Since these outlets typically offer lower prices to consumers due to economies of scale and low overhead costs, the regulatory framework restricting the entry of hypermarkets may be keeping the prices for consumer goods higher than they would be otherwise. Further, as seen below, the policy may not be an effective measure for protecting traditional local commerce in city centres.

Compared to other countries in North Africa, Tunisia has a small number of hypermarkets and the value of retail sales in 2017 was far below the level of its neighbouring countries (Figure 3.9). Tunisia ranked 24 of 30 emerging countries on the global retail development index, with relatively low levels of market attractiveness and saturation (Figure 3.10). The limited development of retail businesses can also limit the creation of new job and investment opportunities. For example, a 2002 study of restrictions on food-retail

expansion in France found that increasing the approval rate of food stores led to an increase in retail employment and a fall in food prices (Bertrand and Kramarz, 2002^[64]).

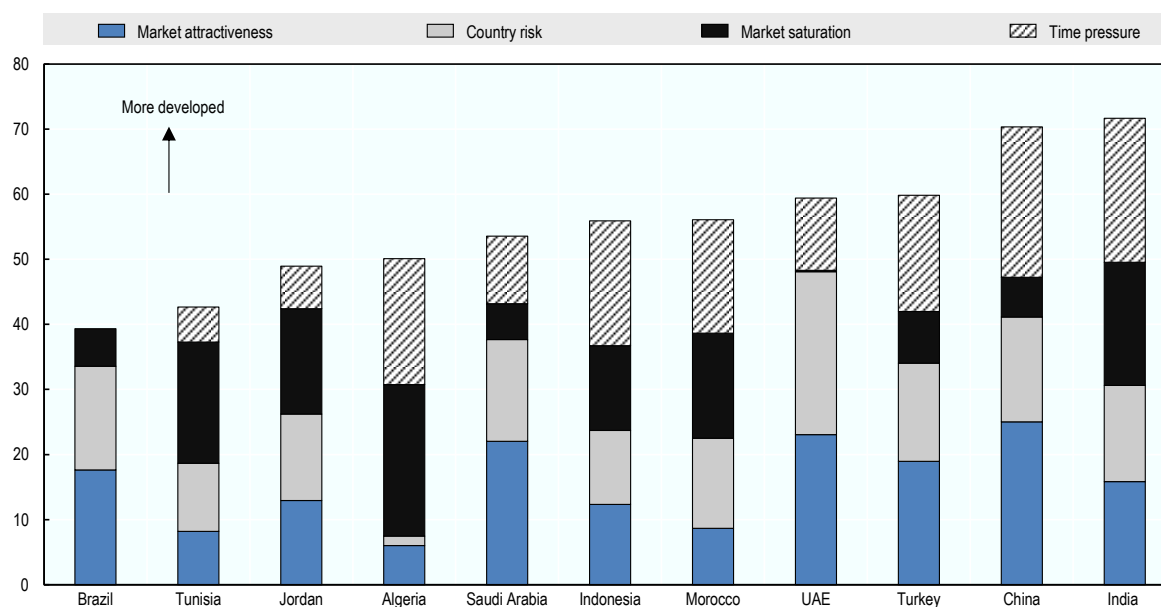
Figure 3.9. Retail stores and sales in North Africa



Note: Data for Tunisia on the number of retail stores are for 2018.

Source: (Santander Trade, 2019^[65]), (A.T. Kearney, 2017^[66]).

Figure 3.10. Global Retail Development Index of emerging markets, 2017



Note: Market saturation: 0 = saturated, 100 = unsaturated.

Source: (A.T. Kearney, 2017^[66]).

Beyond its impact on choices available to consumers and retail employment, the restriction on the location of hypermarkets may fail to achieve the policy objective of protecting small businesses. In particular, traditional retailers may be harmed by restrictions that compel large retail chains to mimic the scale and location of their establishments, while the economic vitality of city centres may be compromised if consumers choose to live and shop in suburbs containing hypermarkets.

For example, a report by the French Commission on Growth (Commission pour la libération de la croissance française) found that zoning regulations on hypermarkets

imposed in France since 1996 (the Royer-Raffarin laws) encouraged large chains to open smaller establishments (below 400m²), which competed with small local shops. As a result, the number of small independent retailers continued to decrease despite the zoning restriction, and their share of the total turnover fell from 42.2% in 1992 to 38.4% in 2004. The report also found that small retailers did not constitute a source of competitive pressure for large retail chains (Attali, 2008_[67]).²⁶ These findings led to the adoption of the Economic Modernisation Law (Loi de la Modernisation Économique, LME) in 2008, described in Box 3.5 below.

A similar effect can be seen in Tunisia, where retailers tend to focus on establishing supermarkets and mini-markets since these establishments do not require any kind of prior authorisation. There were 250 such establishments owned by large retail chains in 2018 compared to only four hypermarkets.

Box 3.5. Changes introduced by the LME law in France

The LME was adopted in the summer of 2008. It made various changes to the rules governing the relationship between suppliers and retailers (Galland law) and those concerning commercial zoning (Royer-Raffarin laws).

With respect to zoning regulations, the LME made two important changes: 1) the threshold beyond which approval was required for new retail establishments was raised from 300m² to 1 000m²; and 2) representatives of chambers of commerce and independent retailers were excluded from the regional boards granting authorisations to establish retail outlets, given that their presence was incompatible with the European Union's Services Directive. At the same time, the number of elected officials on the boards was increased and the boards were expanded to include members qualified to consider consumer interests, sustainable development, and land-use planning. Furthermore, economic criteria such as commercial density, supply and demand (designed to determine whether the market was sufficiently large to support an additional competitor) were abandoned in favour of criteria relating to land-use and sustainable development. Finally, the scope of application of the special approval procedure was narrowed. Hotels and restaurants, as well as service stations and automobile and motorcycle dealers, were exempted from the authorisation procedure.

Source: (OECD, 2009_[62]).

Requiring hypermarkets and shopping centres to be located outside cities can also contribute to the dispersion of the population from the centre towards the suburbs, reducing the economic viability of businesses located in the city centre, including the traditional retailers that this policy seeks to protect. This concern is described in a report by the UK Environment, Transport and Regional Affairs Committee on the impact of supermarket competition:

The large increase in out-of-town supermarkets has brought benefits, but it has also caused many problems. These stores have reduced the vitality of town centres; they have led to the closure of corner shops in towns and villages; they have produced urban sprawl and the loss of much valued countryside close to towns; and they have also encouraged the use of cars (UK Parliament, 2000_[68]).

A similar trend is also materialising in Tunisia. According to several exchanges with stakeholders, for example, it appears that smaller shopping malls in the centre of Tunis (such as Galaxy Lafayette and Palmarium) are finding it increasingly difficult to attract shoppers. This effect is exacerbated by the confusion in the legal framework that considers hypermarkets and shopping centres similarly and thus poses limitations on the development

potential of the latter. The restriction on foreign-capital participation in hypermarkets and shopping centres is an additional constraint that prevents the sector from benefiting from foreign direct investment despite a growing interest.²⁷

In addition, regulations that limit the size of retail stores may prevent retailers from increasing productivity and achieving economies of scale, thus resulting in higher costs than would otherwise be the case, with consequences for consumer prices.

Evidence from OECD countries suggests that large-scale retailers have boosted the industry's productivity performance through returns to scale (including with the use of information technology), in turn raising consumer welfare through lower prices (OECD, 2003_[69]). Examples of the benefits from large-scale retail for national productivity include the United States, Japan and the Netherlands (OECD, 2002_[70]). One study in Sweden found that a liberal retail entry policy (such as granting planning approvals for new retail entrants) was associated with higher productivity. Further, the study found that productivity improvements from new entry were relatively higher for small retailers and small markets (Maican and Orth, 2014_[71]). A study of large-store restrictions in Italy found that such restrictions were associated with higher retail profit margins and prices, as well as lower productivity, adoption of information technology and employment (Schivardi and Viviano, 2011_[72]). Deregulation of large-scale retailing outlets in recent years has also noticeably lowered average consumer prices in the Czech Republic (OECD, 2006_[61]). Economies of scale at store level are a particular driver of these effects: one study of Finnish stores estimates that doubling the average size of stores would increase average productivity by about 3% (OECD, 2012_[63]).

Finally, harm to the competitive process is further aggravated by the competent authorities having a significant amount of discretionary power. This can lead to arbitrary standards in decision making, meaning successful applicants may not be the most efficient, but may be successful in navigating the complex process. Risks of rent-seeking activities are also pronounced. Approaches to address these risks in OECD countries include: clear standards of social and environmental review; conflict-of-interest rules accompanied by enforcement mechanisms; and public participation in the decision-making process (Baar, 2002_[73]).

3.5.3. Recommendation

Policy makers should weigh very carefully the benefits of attempting to preserve traditional retailers against the costs of such policies for final consumers. If the protection of traditional retailers in city centres remains a policy priority in Tunisia, the effectiveness of the restrictions described above in achieving these objectives should be carefully assessed. Should these restrictions remain in place, the OECD recommends regulatory changes in order to minimise the harm to competition and productivity:

- Repeal article 2 of Law 2003-78 stating that hypermarkets and shopping centres must be established at least five kilometres outside of the city. Alternatively, this geographical restriction could be replaced with a requirement simply to build hypermarkets outside a historical city centre.
- Simplify the technical requirements for establishing hypermarkets and shopping centres, by focusing on building safety issues and traffic access conditions, including public-transport connectivity.
- Reduce the discretionary power of the competent authorities to approve a hypermarket or a shopping centre project by publishing application guidelines and an evaluation grid with clear and transparent evaluation criteria.

- Strictly apply the 60-day “silence is consent” rule stipulated by article 6 of Decree 2018-417 for the National Commission on Commercial Urban Planning to evaluate an authorisation request and issue an opinion.

3.6. International trade

3.6.1. *Description and objective of the provisions*

Importing and exporting certain products in Tunisia requires prior authorisation from the Ministry of Trade. These requirements apply to:²⁸

- 192 products for import authorisation, either permanently (144 products, including livestock, meat, fruit and vegetables, food-grade oils, alcohol, chemicals, jewellery, guns and weapons) or temporary (currently 48 products, mainly fresh fruits and vegetables, such as potatoes, as well as textiles and clothing).
- 102 products for export authorisation, including wheat and other grains, pasta, fertilisers, cement, leather and artworks.

The restrictions on imports and exports are, according to authorities, reflective of the nature of the products, which could have a direct impact on security, public order, hygiene, health, morality or the protection of animals, plants and cultural heritage. Limiting the trade deficit is also one of the objectives of import restrictions, especially for luxury products.

In addition, the legislation sets specific requirements for so-called international trade companies, those for which exports of Tunisian products account for at least 50% of their turnover.²⁹ Tunisian international trade companies cannot engage in any retail activities in Tunisia, and are thus required to sell their products through a local intermediary called an international commercial operator responsible for obtaining customs clearance among other services.³⁰ A minimum capital requirement of TND 150 000 must be paid in full when establishing an international trade company.³¹ The minimum amount of annual sales of goods and products of Tunisian origin made by international trading companies is set at TND 1 million.³²

The authorities’ objective of setting this relatively high minimum capital requirement is to ensure that these companies are financially resilient, given their exposure to international markets and foreign currency risk. The prohibition on international trade companies undertaking retail activities in the domestic market and the obligation to use intermediaries, are both meant to preserve a specific role for the various service providers, by distinguishing between intermediation in international trade and distribution on the domestic market. The policy objective behind setting a minimum amount of annual export sales for international trading companies is not entirely clear.

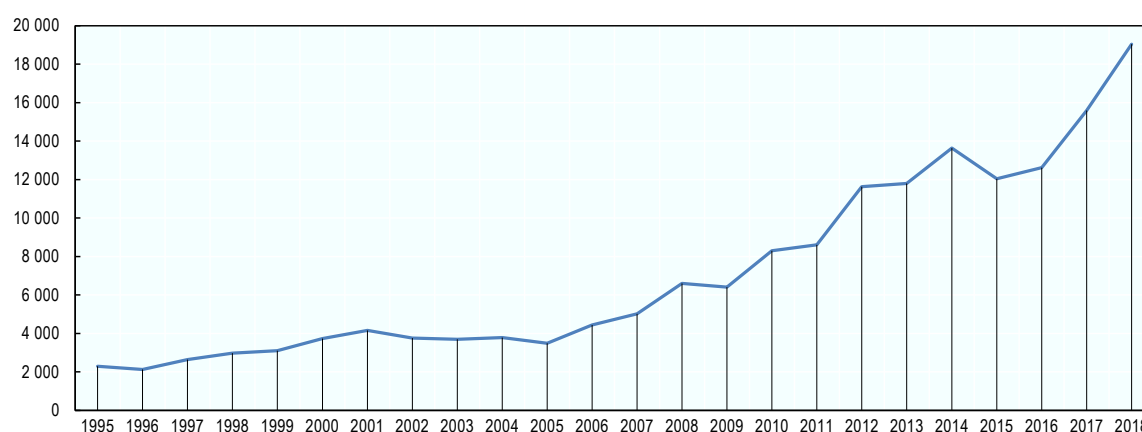
3.6.2. *Harm to competition*

It is relatively common for countries to apply screening procedures or, in more rare cases, restrict the importation and exportation of products affecting security or health. In the case of Tunisia, the lists of products subject to import and export restrictions is extensive and include products that might have a limited impact on security or safety, such as cosmetics, garments or carpets. It is worth noting that although Decree 94-1742 has not been updated since its adoption, several products have been added to the lists by decision of the successive Ministers of Trade. The public is usually notified by press release.

Import restrictions generate distortions in the market by creating artificial scarcity and limiting consumer choice, which may translate into more expensive and lower-quality products. The case of the private and commercial vehicle market in Tunisia provides a clear illustration of this effect. The quotas system on the import of new cars by authorised cars dealers combined with restrictions on the import of used cars by private individuals has resulted in a supply shortage.³³ Further, the measures requiring a domestic intermediary impose additional costs on consumers, exacerbating the price effects of these shortages. According to the federation of car dealers, Tunisian consumers find themselves obliged to limit their choice to what is available and still pay extremely high prices.³⁴

Furthermore, the authorities' objective of containing the trade deficit by imposing import restrictions does not seem to have been achieved. Since the adoption of the decree in 1994, the trade deficit has been on an upward trend (see Figure 3.11). The trade balance reached a record high deficit of about TND 19.04 billion in 2018.³⁵

Figure 3.11. Trade deficit in Tunisia (TND, millions), 1995-2018



Source: (INS, 2019^[74]).

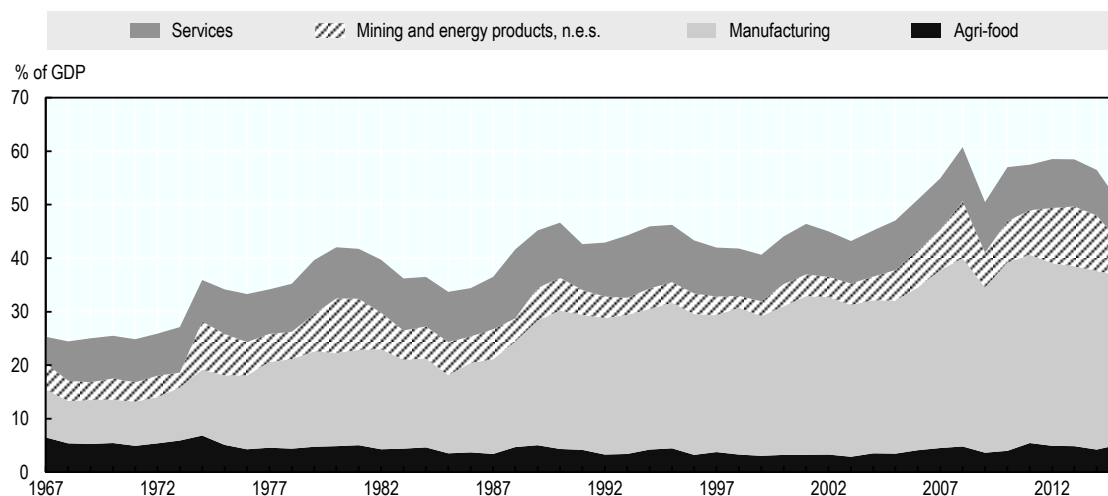
Export restrictions are meant to increase supply within the domestic market and, when applied to food products, to support food security and stabilise prices. However, they may not achieve the desired impact. This is because, in the long run, suppliers react to the lower prices associated with export bans by reducing supply (Aragie, Pauw and Pernechele, 2018^[75]). Moreover, export bans may have the unintended consequence of limiting the potential market for producers and distributors. Considering the limited size of the Tunisian market, these restrictions prevent producers and suppliers from growing and achieving economies of scale, and so becoming more competitive internationally. If local companies cannot reach an efficient scale and reduce costs, prices will remain high for Tunisian consumers.

It is worth noting that the export restrictions imposed on a number of products, mainly food products such as pasta, are part of the existing system of price controls and subsidies. Exporters are required to prove that they are not using subsidised inputs to obtain approval to export (OECD, 2018^[7]). As discussed in Section 3.1, there are more pro-competitive approaches to attaining the policy objectives of the subsidy and price control regime in Tunisia, approaches that would not require export controls.

According to UTICA, current export controls undermine the export potential of several food products with good market prospects, especially in sub-Saharan Africa. The relatively

small share of agri-food products in Tunisian exports over time (see Figure 3.12) suggests there are opportunities for growth in this area.

Figure 3.12. Tunisian exports by components (% of GDP), 1967-2015



Source: (INS, 2019^[74]); (World Bank, 2018^[76]).

Imposing a minimum share capital requirement and minimum annual sales on international trade companies increases entry costs for new companies and may discourage investment, reducing the number of competitors and overall capacity. In turn, this may affect the export capabilities of Tunisia and its international competitiveness.

3.6.3. Recommendations

In light of the competition harm posed by the different provisions on wholesale and retail trade activities, as well as their limitations in achieving the desired policy goals, the OECD recommends:

- Ensuring that the lists of products subject to import and export restrictions are reassessed in light of their original policy objective. Import restrictions on products consumed by low- and middle-income Tunisian households, or which are limiting the competitiveness of Tunisian firms that use them as inputs, should be prioritised in this assessment. In terms of export barriers, products and services that may improve Tunisian exports and competitiveness, such as agricultural products, should be prioritised. This review should take into account the considerations and recommendations in Section 3.1 of this report.
- Abolishing the minimum capital requirement for international trade companies and applying the general regime applicable to commercial companies.
- Revising the requirement for international trade companies to use international commercial operators for the sale of products in Tunisia.

Notes

¹ Article 3 of Law 91-64 on Competition and Prices.

² Article 3 of Law 2015-36.

³ Grey cement prices have been liberalised since 2014 following the lifting of energy subsidies for cement producers.

⁴ Decree of 28 June 1945.

⁵ The body in charge of managing the fund is the Unité de compensation des produits de base, established by Decree 2002-2145 and currently under the supervision of the Ministry of Trade.

⁶ See : Crise du lait en Tunisie: « La sonnette d'alarme est tirée », annoncent l'UTICA et l'UTAP : https://www.huffpostmaghreb.com/entry/crise-du-lait-en-tunisie-la-sonnette-dalarme-est-tiree-annoncent-lutica-et-lutap_mg_5ad880d1e4b03c426dabcab4

⁷ See : Confronté à une surproduction de lait, le gouvernement rachète des millions de litres : https://www.huffpostmaghreb.com/2016/05/03/tunisie-surproduction-lait_n_9821284.html

⁸ Although in absolute terms the subsidies benefit more high-income households, the two reports conclude that, in relative terms, both food and energy subsidies are progressive. In other words, the share of subsidies received out of the total expenses of low-income households exceeds the share for high-income households.

⁹ Prina's field experiment in Nepal showed that access to savings accounts with zero fees and in close proximity to households led to high take-up rates and use of savings among female household heads (Prina, 2015^[41]). In Kenya, Jack and Suri (2014^[42]), as well as Klein and Mayer (2011^[43]), found that the M-PESA mobile money system cut transaction and opportunity costs and increased exposure of low-income households to financial innovations.

¹⁰ Recent studies on cash-transfer programmes in sub-Saharan Africa found out that impacts on secondary-level school enrolment range from 5 to 15 percentage points in Ethiopia, Ghana, Kenya, Lesotho, Malawi, South Africa, and Zambia.

¹¹ Recent studies conducted by the Overseas Development Institute examined the impact of cash transfers on women's decision-making power. They looked at expenditure-related decisions and indicated a rise, ranging from 5% to almost 90%, in a woman's likelihood of being the sole or joint decision-maker.

¹² See OECD Indicators of Products Market Regulation, Sector Regulation (2013): www.oecd.org/eco/reform/Database_NMR.xlsx. An updated version of the OECD Indicators of Products Market Regulation will be released in 2019.

¹³ Case 27/76 *United Brands Company and United Brands Continental BV v Commission* (1978) ECR 207, paragraph 65; and Case 85/76 *Hoffmann-La Roche & Co. AG v Commission* (1979) ECR 461, paragraph 38.

¹⁴ The European Court of Justice (ECJ) in the *Akzo Chemie BV v Commission* case distinguished between: 1) average total costs (ATC), and 2) average variable costs (AVC). ATC reflects the total cost of production of one unit of output, while AVC indicates the variable cost of production of one unit of output, calculated by dividing the variable costs (excluding the fixed costs) by the number of units produced. The ECJ held that predation is presumed when firms price products below AVC since in this case the undertaking is losing money by producing the product. When prices are above AVC, but below ATC, the conduct may be considered abusive only if the undertaking is intended to eliminate a competitor.

¹⁵ See US Supreme Court decisions in *Brooke Group Ltd v Brown & Williamson Tobacco Corp*, 509, US 940 (1993) and *Weyerhaeuser Co v Ross-Simmons Hardwood Lumber Co Inc.*, 127 S Ct, 1069 (2007).

¹⁶ Article 5 of Law 2009-69.

¹⁷ Article 31 of Law 2009-69.

¹⁸ The newly adopted Law 2019-47 of 29 May 2019 on the improvement of the business climate removed the obligation for subsidiaries of foreign companies established in Tunisia to obtain a merchant card to distribute products of the parent company or group if they are manufactured in Tunisia.

¹⁹ Created by Arrêté du Secrétaire d'État au Plan et aux Finances du 14 septembre 1961 (4 rabia II 1381), relatif à la Carte de Commerçant et aux modalités d'agrément pour l'exercice de certaines activités commerciales.

²⁰ Tunisia does not require a merchant card for nationals of countries that do not require a similar card to Tunisians wishing to carry out business activities in their territories. This is the case for Algerian and Moroccan nationals who are exempted from the merchant card through the terms of the Tuniso-Algerian agreements concluded on 26 July 1963 and the Tuniso-Moroccan agreements concluded on 9 December 1964.

²¹ The declaration and the list of exceptions is available at www.oecd.org/daf/inv/investment-policy/nationaltreatmentinstrument.htm.

²² The OECD FDI Regulatory Restrictiveness Index gauges the restrictiveness of a country's FDI rules. It covers only statutory measures discriminating against foreign investors (e.g. foreign equity limits, screening and approval procedures, restrictions on key foreign personnel, and other operational measures). Other important aspects of an investment climate (e.g. the implementation of regulations and state monopolies, preferential treatment for export-oriented investors and SEZ regimes among other) are not considered. Please refer to (Kalinova, Palerm and Thomsen, 2010^[174]) for further information on the methodology.

²³ The OECD understands that after the deadline an expedited process through the Investment Authority is set off to grant the relevant authorisation.

²⁴ Article 10 of Law 2009-69 on the distribution trade.

²⁵ Article 8 of Decree Law 2017-1253.

²⁶ The report stresses that the regulatory regime adopted in 1996 was intended to provide economic security for the most vulnerable operators (independent suppliers and distributors). However, it did not prevent the concentration of most distribution activities between powerful operators: group subsidiary suppliers account for 60% of distribution turnover, which is in turn made to more than 80% by hypermarkets and supermarkets.

²⁷ A cap of 25% on foreign capital participation has been set by a decision of the council of ministers.

²⁸ Law 94-41 on international trade stipulates that these products may not be imported or exported without prior authorisation from the Ministry of Commerce; Decree 94-1742 establishes the detailed list of products.

²⁹ Article 2 of Law 94-42 states that international trade companies are companies that make at least 50% of their turnover from exporting goods and products of Tunisian origin. The recently adopted Law 2019-47 of 29 May 2019 on the improvement of the business climate enlarged the definition of international trade companies to include the ones trading with entirely exporting companies.

³⁰ According to article 7 of Law 94-42.

³¹ Article 1 of the Order by the Minister of the National Economy of 12 April 1994. The minimum capital requirement is reduced to TND 20 000 for young entrepreneurs.

³² Article 1 of the Order of the Minister of Trade of 10 September 1996.

³³ The quota system for importing new cars takes the form of an exemption from consumption duties, which are set at 135%. Quotas were determined until 2010 using several metrics, ranging from domestic demand for light vehicles to the volume of local content and production for the imported brand. The current quotas system in terms of number and allocation is unclear. The import of used cars – under the age of five years since the date of their initial registration – is reserved to Tunisian nationals who have spent at least 18 months abroad. More recently, the authorities imposed a sales ban on imported used cars during their first year of service in Tunisia.

³⁴ See, for example, “Marché automobile : Quand le parallèle s’en sort mieux que l’officiel”, Businessnews, March 30 2015, www.businessnews.com.tn/mare-automobile--quand-le-parallele-sen-sort-mieux-que-lofficiel,519,54763,3. (accessed 18 March 2019).

³⁵ According to the Ministry of Trade, the energy deficit represents one-third of the overall volume of Tunisia’s trade deficit. The depreciation of the national currency also explains the rise in the value of imports: the dinar lost 20% of its value against the US dollar and more than 16% against the euro in 2018.

Chapter 4.

Wholesale and retail trade: selected foodstuffs

This chapter provides an overview of the fruits and vegetables, and red meat trade in Tunisia, identifies the main restrictions to competition and provides recommendations. The regulatory framework for fruits and vegetables trade is fragmented and the various pieces of legislation are not well harmonised. At wholesale level, significant limitations affect the establishment, the management and the operation of central wholesale markets. Beyond the fragmentation of the regulatory framework for red meat sector, the lack of implementation of a significant part of the provisions is causing several distortions. Slaughterhouses, a key part of the red meat chain in Tunisia, suffer from several deficiencies in terms of infrastructure, sanitary standards as well as management, especially when they are operated through concessions. Further challenges are posed by the lack of classification and categorisation of red meat, and the non-application of an identification and traceability system.

4.1. Wholesale and retail trade of fruit and vegetables

4.1.1. Market overview

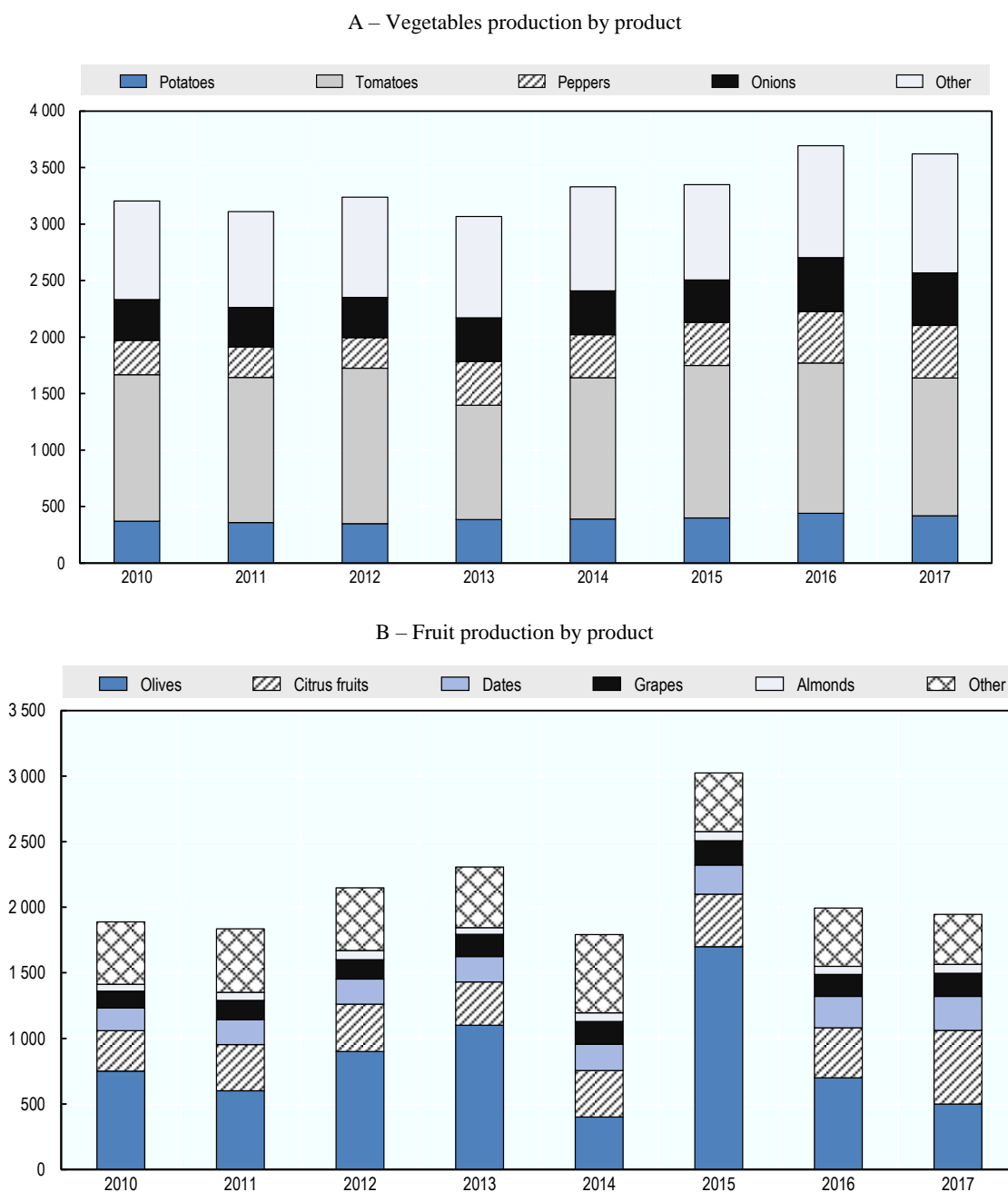
Key sectoral figures

The fruit and vegetable sector is of strategic importance in Tunisia. Beyond its economic importance in terms of employment and of its significant export capacities, the sector constitutes a major component of the country's development policies that aim at achieving food self-sufficiency. Production of fruit and vegetables has historically been mainly intended for domestic consumption, with the exception of olives, tomatoes, citrus fruits and dates. Export figures for these four products have been growing steadily (see Figure 4.5).

The production landscape in Tunisia is fragmented. The average size of cultivated areas is about 10 hectares by producer, with 75% of farmers exploiting land below even this threshold. Fruit and vegetable production accounted for almost 60% of the country's total cultivated areas in 2017 or approximately 2.6 million hectares. While the cultivated area of fruits has grown by an average annual rate of 1% over the 2015-2017 period to reach a total of 2.4 million hectares, the cultivated area for vegetables fell by 4% over the same period (ONAGRI, 2017^[77]).

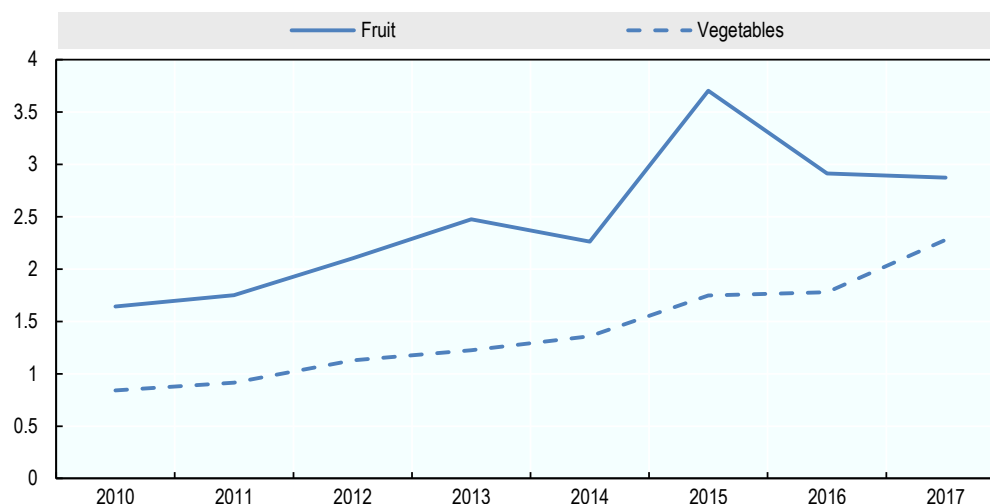
Average annual production of vegetables over the 2010-2017 period in Tunisia has been around 3.4 million t, representing 16% of the value of the country's agricultural production and 28% of the value of total crop production (GIL, 2016^[78]). Average annual production of fruit over the same period reached about 2.1 million t (see Figure 4.1).

Overall production of fruits and vegetables is on an upward trend despite some fluctuations, especially for the production of olives, linked mainly to changing rainfall patterns. Production growth is also due to increasing production yields for most products, such as tomatoes, whose yield per hectare almost doubled from 43.4 t a hectare in 2013 to 85.9 t a hectare in 2016 (ONAGRI, 2017^[77]).

Figure 4.1. Production of fruit and vegetables by product (tonnes, thousands), 2010-2017

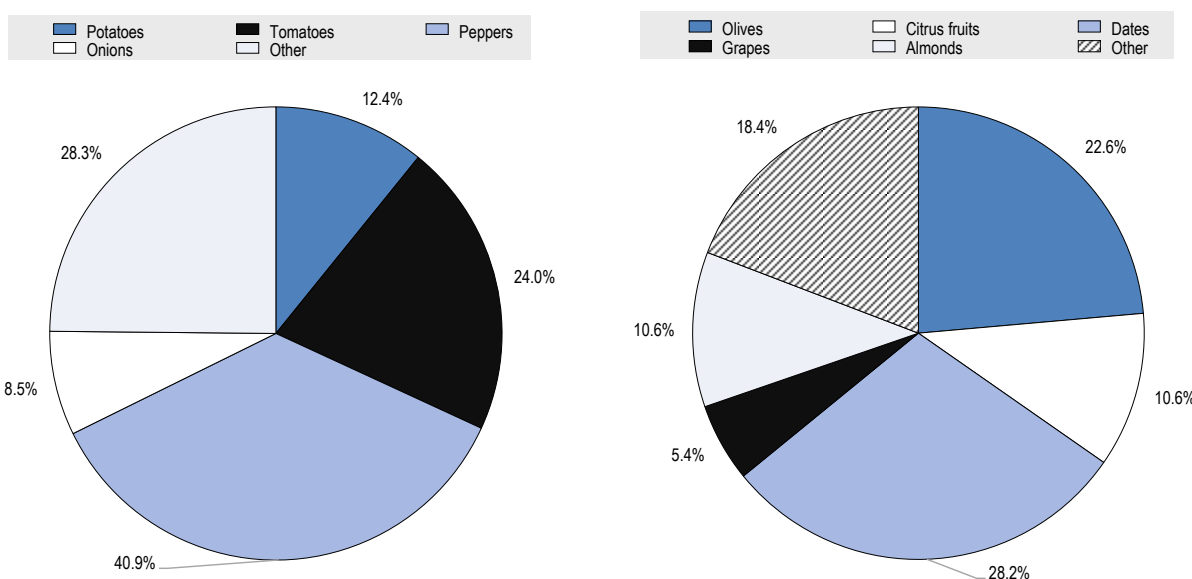
Source: (ONAGRI, 2017^[77]).

In terms of value added, the fruit sector achieved TND 2.9 billion in 2017, significantly higher value than the vegetable sector's TND 2.2 billion. Both sub-sectors continue to grow: fruit grew at an average of 8% a year between 2010 and 2017 (significant fluctuations were mainly due to olive production), while vegetables grew at an average 11% over the same period.

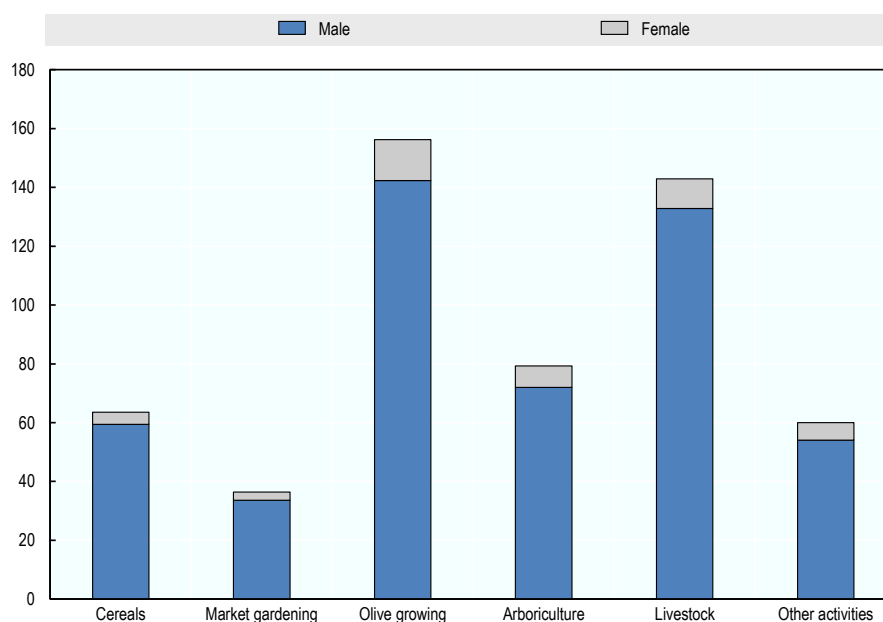
Figure 4.2. Value added of fruit and vegetables (TND, millions), 2010-2017

Source: (ONAGRI, 2017^[77]).

Olives and dates accounted for half of fruit-sector value added in 2017 and tomatoes and peppers accounted for more than two thirds of vegetable-sector value added (see Figure 4.3). The dominance of olive production in terms of cultivated area, production and value added is also confirmed in terms of employment. Data from the Ministry of Agriculture show that the vast majority of farmers are active in olive and livestock farming (see Figure 4.4). These data underestimate the share of female workers, given the importance of informality in the sector.

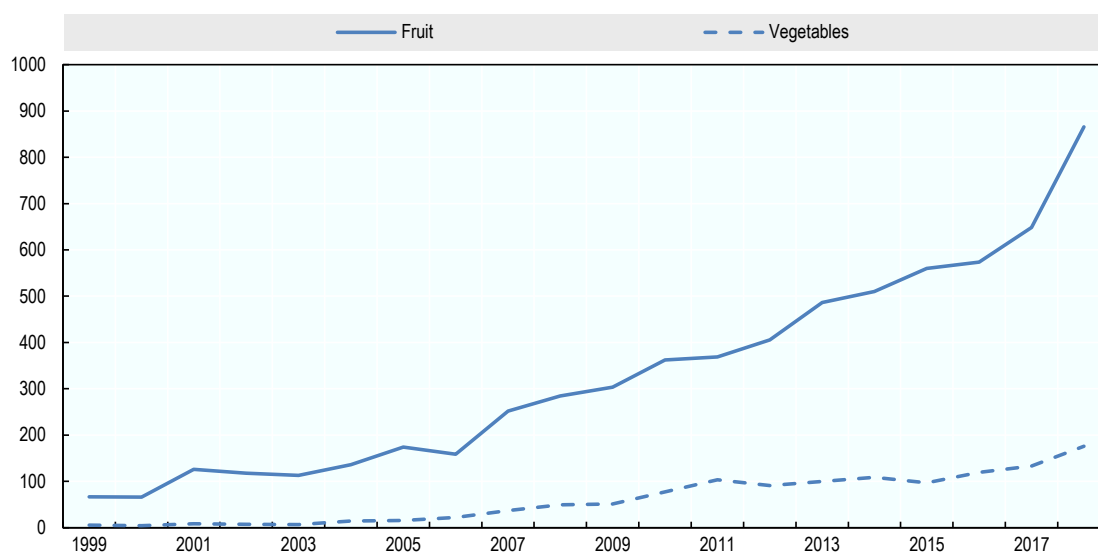
Figure 4.3. Share in value added of fruit and vegetables by product (in %), 2017

Source: (ONAGRI, 2017^[77]).

Figure 4.4. Number of farmers by type of activity and by gender (thousands), 2017

Source: (Agridata, 2018_[79])¹.

Export activity is increasingly important as certain products – olives and dates and to a lesser extent, citrus fruits and tomatoes – are making Tunisia a world leader. Figure 4.5 shows the rise in fruit and vegetable exports over the 1999-2018 period. Fruit accounts for a much greater share (TND 865 million in 2018) than vegetables (TND 175 million). In 2018, date exports accounted for almost 86% of total fruit exports and made Tunisia the world's largest date exporter.²

Figure 4.5. Export of fruit and vegetables (TND, millions), 1999-2018

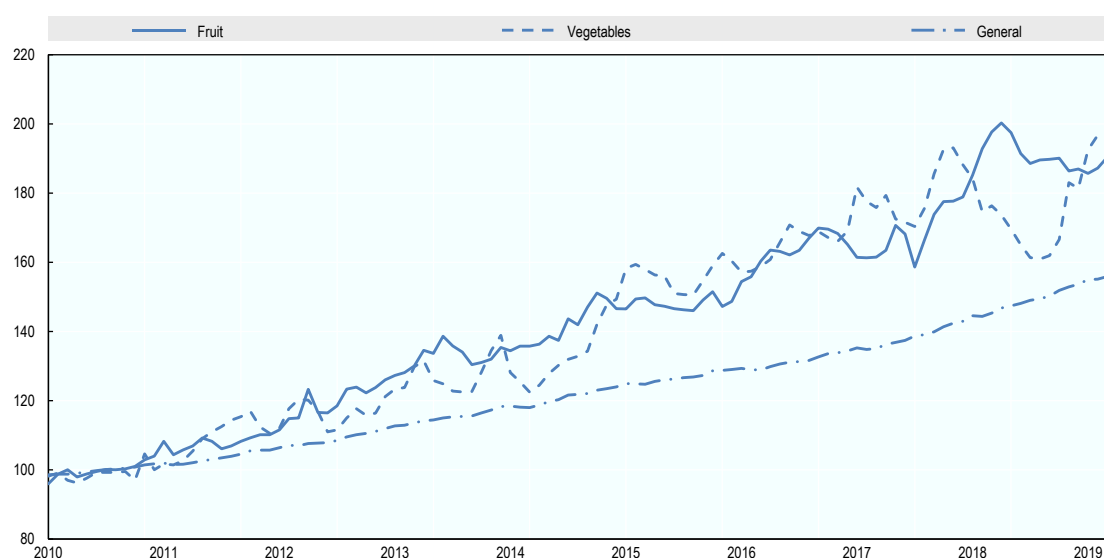
Source: (INS, 2019_[80]).

Imports are insignificant, except for potatoes, which are subject to extra imports during lean periods between production cycles, and bananas, which are the only exotic fruit imported in significant quantities throughout the year with an average annual import of 25 000 t.

In terms of consumption, the household budget and consumption survey of 2015 shows that the average per capita annual Tunisian consumption of fruit is about 80.8 kg and 85.3 kg of vegetables (INC, 2017^[81]). This remains far below the WHO recommendation of annual per capita intake of 146 kg of fruits and vegetables (WHO, 2018^[82]).

Figure 4.6 shows the evolution of the general consumer-price index in comparison to the consumer-price indexes of fruit and vegetables between January 2010 and March 2019. Price indexes are normalised to 100 for January 2010. While the general consumer-price index showed an annual inflation rate of 5% between January 2010 and March 2019, price indexes for vegetables and fruit have seen higher inflation rates of up to 7.5% and 8% respectively (INS, 2019^[48]). One study by a local think tank revealed that fruit and vegetables are in the top five products that have seen the highest price increases since 2010 (OTE, 2017^[47]).

Figure 4.6. Consumer-price indexes: general, fruit and vegetables

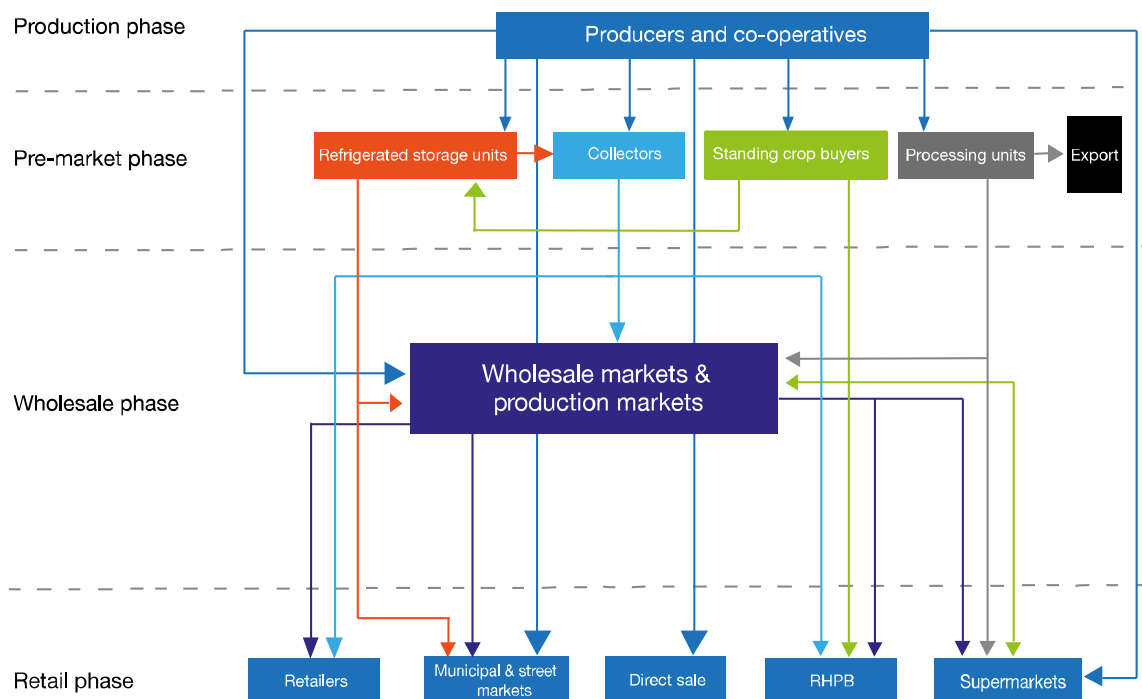


Source: (INS, 2019^[48]).

This important increase has taken place despite fruit and vegetables being part of Decree 95-1142, which sets out the products excluded from the price-freedom regime (see Section 3.1). A number of regulatory restrictions combined with market participants' behaviour have contributed to this situation. The following sections will provide an overview on the most important restrictions and the related harm to competition, as well as proposing recommendations to improve outcomes for consumers.

Structure of the distribution channels

The vertical value chain of the fruit and vegetables sector is structured around four main phases: 1) production; 2) an intermediary stage, prior to wholesale markets and production markets ("pre-market" phase); 3) wholesale trade; and 4) retail trade (see Figure 4.7).

Figure 4.7. The fruit and vegetable value chain in Tunisia

Note: RHPB refers to restaurants, hotels and public bodies such as hospitals and schools.

Source: Adapted from (ACC, BADIS Consulting and GEM, 2008^[83]).

Fruit and vegetables are distributed countrywide through different channels. A number of different intermediaries buy fruit and vegetables directly from farmers (Figure 4.7), including operators of refrigerated storage units, processing units, collectors and standing-crop buyers.

The main role of refrigerated storage units is to absorb overproduction during harvest periods and balance market supply. According to official Ministry of Trade figures, there are around 200 units, located mainly next to areas of fruit and potato production. Several stakeholders have confirmed, however, that this number underestimates the sector and that many “informal” storage units are currently active and being used for stock retention and speculation.

Processing units are more regulated. They are accredited and mainly serve exporters. According to figures from GIFruit, there are over 150 units, located mainly in the production areas of Cap Bon and in the south-west of the country and specialising in dates.

Collectors gather the fruit and vegetables of third-party farmers and sell them to public bodies such as hospitals and universities, as well as to hotels, restaurants and certain retailers.

Standing-crop buyers purchase fruit and vegetables in the field and ensure the harvest, on-site sorting and packing, as well as transport. Their number has considerably increased in recent years with the development of fruit production. According to several stakeholders, standing-crop buyers have gained significant market power since many own refrigerated storage units and can use their stocks to influence the main market variables, such as quantity and prices.

At the wholesale level, the legal framework and Tunisian administration treat wholesale and production markets (WPM) as the main distribution channels for fruit and vegetables. Wholesale markets are entities established in areas where consumers live. Depending on their relevance, wholesale markets are classified as being either of national or regional interest. Wholesale markets of national interest benefit from a protective perimeter (see Section 4.1.2). Production markets are established in areas of production and aim to simplify direct sales by farmers at wholesale level (for example, by reducing transport costs). Figure 4.7 provides a detailed overview of the different actors and their roles in the wholesale and production markets.

The Ministry of Agriculture estimates that less than 40% of total production is channelled through a network of 8 wholesale markets of national interest; 82 wholesale markets of regional interest,³ and 8 production markets.⁴ Statistics from the National Observatory of Agriculture (Observatoire National de l'Agriculture, ONAGRI) show that the total volume of fruit and vegetables channelled through the 21 main wholesale markets of the country has decreased from 40.3% in 2010 to 19.8% in 2017 (ONAGRI, 2017^[77]).

Sales of fruit and vegetables at retail level occur through a variety of market participants, in particular, through a network of 240 municipal markets, 377 weekly street markets and over 12 000 small retailers of fruit and vegetables (known as *khadhara*) in addition to a network of over 250 hyper- and supermarkets, as well as other smaller retail outlets. Producers are also allowed to make direct sales to consumers. There are no accurate data on the share of informal channels, but according to stakeholders estimates, it would be around 30% (ACC, BADIS Consulting and GEM, 2008^[83]).

4.1.2. Distribution channels for wholesale fruit and vegetables

The legal framework regulating distribution channels for fruit and vegetables in Tunisia is excessively complex, fragmented, and includes many rules that are not enforced in practice. Lack of enforcement is the result of either authorities considering rules to have been implicitly repealed or simply because the sector operates differently in practice. This non-enforcement often contrasts with the significantly interventionist nature of certain of these pieces of legislation.

The key participant at the level of wholesale distribution are wholesale markets. Indeed, these entities seem to be considered by the legislation and the Ministry of Trade as the main channel for the distribution of fruit and vegetables.

The OECD puts forward a number of recommendations aimed at making the wholesale distribution sector in Tunisia more efficient and favourable for consumers. In this context, wholesale markets in Tunisia can still have an important role to play in the future by, for example, allowing a variety of sellers and buyers to meet in a specific place and engage in transactions, and promoting good distribution practices and hygiene standards. The OECD recommendations aim to provide wholesale markets with more incentives to lower costs and improve the services they provide, instead of artificially pushing market participants to distribute fruit and vegetables through these channels.

Description and objective of the provisions

Several provisions establish the framework for the wholesale distribution of fruit and vegetables in Tunisia.

Law 94-86 of 23 July 1994 related to the distribution channels for agricultural products and Fish sets out that agricultural products are to be sold through WPM at wholesale level,

and retail outlets at retail level.⁵ The same is true for the Order of 25 October 2000 approving the specifications concerning commercial date distribution,⁶ which transposes Law 94-86 to the date sector. These pieces of legislation appear to leave no room for alternative channels for the distribution of fruit and vegetables.

Nevertheless, there are exceptions to these rules. Law 2009-69 of 12 August 2009 related to commercial distribution specifies that agricultural producers are also allowed to sell *their* products at the retail level, i.e. directly to consumers,⁷ while Framework Law 2004-60 of 27 July 2004 related to agricultural production activities allows producers of agricultural products and groups of producers to sell products to commercial, industrial and export companies.⁸ The OECD understands that Law 2004-60 is interpreted as having similar limitations to Law 2009-69 regarding producers selling only their own products, i.e. not products purchased from third parties.

Decree 98-1629 of 10 August 1998, which establishes the WPM master plan, allows for the designation of certain wholesale markets as of “national interest” rather than “regional interest”, and indicates that a protective perimeter should be created around these markets, within which competing wholesale operations are prohibited.⁹ Specifically, the following activities are prohibited within such perimeters: 1) creating, extending, transforming, or modernising any establishment engaging in a business other than the retail sale of the various products sold within these markets; and 2) commercial transactions involving products sold in the markets in any capacity other than retail. The exact scope of this perimeter is different for each market: for example, Bir-Kassâa’s is a 25-kilometre radius; Bizerte, 40 km; and Sousse, the *zone communale* or local area).¹⁰

Discussions with the Ministry of Trade and stakeholders have confirmed that the legal framework in Tunisia considers WPM as the default wholesale distribution channels. The OECD understands that the preeminent role attributed to WPM is intended to ensure that agricultural product buyers and sellers meet in an organised place, allowing for greater competition among market participants and ensuring that minimum criteria in terms of hygienic conditions and traceability of products are met. The channels for the distribution of agricultural products were broadened somewhat by Law 2009-69 and Law 2004-60, but some serious restrictions still apply. For example, wholesalers are still not allowed to sell outside wholesale markets.

Harm to competition

The current framework of rules for the distribution of agricultural products hampers the competitive and efficient functioning of distribution channels.

First, spreading the rules concerning the legal distribution channels across several pieces of legislation creates regulatory uncertainty.¹¹ This results in a lack of clarity as to which methods of distribution are allowed (such as producers selling directly to retailers). This uncertainty affects particularly, but not exclusively, less sophisticated market participants.

Second, the current framework heavily favours the use of WPM as distribution channels over all others. Participants are limited in their possible use of alternative channels, as wholesalers cannot sell outside wholesale markets. Further, since producers can only sell their own products directly to consumers or commercial, industrial or export companies, they may be unable to offer sufficient volumes to make the direct-sales channel attractive (especially for large commercial, industrial or export orders), despite the potential cost advantages. Customers requiring large quantities may therefore have to turn to wholesale markets – where wholesalers or other intermediaries that can collect products from several

producers operate – adding a layer of intermediation that contributes to increasing prices for final consumers, given that wholesalers cannot sell to them directly.

Finally, wholesale markets designated as being of “national interest” are effectively sheltered from local competition in the form of alternative distribution channels¹².

Box 4.1. Protective perimeters in other countries

Protective perimeters for wholesale markets were a common restriction in the past. Over the years, however, they have been widely eliminated or softened.

Greek legislation, for instance, established protective perimeters of two kilometres around the Athens and Thessaloniki central wholesale markets within which setting up a wholesale business dealing in fresh agricultural product and fresh meat was prohibited. The negative effects of this restriction were aggravated by the lack of available space inside the markets. In case number 2010/4090, the European Commission considered that the protective perimeters were an obstacle to the freedom of establishment and requested Greece remove them¹. In response to the European Commission’s case, Greece adopted Law 3982/2011, which removed the obligation of wholesalers to establish their activity within one of the central markets (OECD, 2017^[84]).

In France, although protective perimeters for wholesale markets of national interest continue to exist, rules have been softened over the years. First, according to Articles L761-4 and 5 of the French Commercial Code, the establishment of a perimeter of protection is not automatic, meaning that not every wholesale market of national interest will have a protective perimeter by default. Perimeters must rather be created by decree. Secondly, perimeters of protection do not prohibit wholesale activities around wholesale markets of national interest; carrying out such activities only requires an authorisation for the establishment of wholesale premises with a sales area of over 1 000m². Importantly, if the wholesale market of national interest does not have enough space to allow a company to operate within the market, the authorisation to sell outside the market must be granted.

Note: ¹European Commission (16 February 2011): “Internal market: Commission requests Greece to end restrictions on wholesalers’ right of establishment”, http://europa.eu/rapid/press-release_IP-11-180_en.htm (accessed on 11 April 2019). Further information on the case can be found in the European Commission’s search engine for infringement proceedings, available here: http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement-decisions/?lang_code=en.

The reduced competition that WPM face can lessen their incentives to improve the quality of their services, such as providing better and cheaper logistics services, ensuring that products are packaged and sold correctly, and avoiding intermediaries that charge high commissions. This reduced competition and limits on the use of alternative distribution models that may have lower intermediary costs can also lead to the application of higher prices for WPMs’ services. These effects are likely to result in higher prices and lower quality for final consumers of fruit and vegetables.

As illustrated in Box 4.2, around the world traditional models of agricultural-product distribution are giving way to new methods that can offer lower costs and better quality to end consumers. This evolution has seen measures that require sales through wholesale markets, and limitations to the competition faced by those markets, being eliminated or loosened. This also demonstrates that the original objective of Tunisia’s restrictions on agricultural-product distribution – ensuring a functioning market and maintaining hygienic standards – could be achieved through alternative means. Indeed, the restrictions in question may impair the efficient functioning of the markets. The enforcement of hygienic standards set in the applicable legislation can be carried out through means other than restricting the locations at which agricultural products are purchased, for instance, by inspections. In fact, modern retailers seem to focus on hygienic standards more than

wholesale markets (Codron et al., 2004^[85]). The recent adoption of the Tunisian Law on food and animal feed safety can help guarantee that hygienic conditions are respected by market participants.

The restrictions above can be particularly harmful given that WPM, the main distribution channels, seem to have serious deficiencies, as explained in detail in the following sections.

Box 4.2. Traditional and modern food distribution

The distribution of food products has changed significantly across the world in recent years. Traditional distribution, in which the roles of producers, wholesalers and retailers are clear and distinct, has been giving way to modern distribution, which can include hybrid roles and vertical integration (Comisión Nacional de la Competencia, 2013^[86]).

Supermarkets and hypermarkets are possibly the most visible part of the modernisation of the distribution channels. The appearance of these types of outlets can have a positive impact on factors such as cleanliness, food safety, product diversity and size homogeneity (Codron et al., 2004^[85]). These types of outlets' increasing importance is also evident in developing economies. From a marginal market share in the early 1990s, supermarket and hypermarket sales accounted for 50% of national food sales in the early 2000s in Turkey and 40% in Central Europe, with growth of between 20% and 40% (Reardon and Swinnen, 2004^[87]). Although not as advanced in North Africa – due to limitations on foreign direct investment, according to some sources – modern distribution is also growing there; for instance, the Moroccan retail food sector has developed considerably over the past decades (Codron et al., 2004^[85]).

Modern distribution tends to shorten the length of the distribution channels and results in the emergence of new business models through vertical integration (Comisión Nacional de la Competencia, 2013^[86]). Retailers tend to change their procurement systems: centralising their procurement into regional distribution centres, shifting from traditional brokers to specialised or dedicated wholesalers, and using preferred-supplier programmes instead of sourcing in spot markets (Reardon and Swinnen, 2004^[87]). Modern distribution has also resulted in the introduction of new participants at wholesale level, one example being cash-and-carry businesses. These are usually located in large warehouses on the outskirts of cities and towns from which retailers, restaurants and hotels can buy stock at low prices (Comisión Nacional de la Competencia, 2013^[86]).

In this context, wholesale markets are increasingly facing competition from participants selling outside their premises. Wholesale markets have been described as “costly structures which fail to implement basic quality standards, are inefficient, and extract high taxes without creating any added value” (Codron et al., 2004^[85]). Studies have shown that modern distribution has not resulted in problems of supply, and hygienic standards have been maintained, if not improved (Codron et al., 2004^[85]) (Comisión Nacional de la Competencia, 2013^[86]).

Recommendations

In view of the restrictions above and their harm to competition, the OECD recommends:

- Harmonising Law 94-86 and the Order of 25 October 2000 with Law 2009-69 and Law 2004-60.
- Considering giving wholesalers the right to sell their products outside wholesale markets and producers the right to sell fruit and vegetables from other producers.
- Eliminating the protective perimeter around wholesale markets.

4.1.3. Wholesale and production markets

WPM are the default wholesale distribution channel for fruit and vegetables in Tunisia, according to the legal framework and the Ministry of Trade. Even if the OECD's recommendations are followed, they could continue to play a significant national role, as explained in Section 4.1.2.

The legal framework currently regulating WPM contains serious restrictions, which have the potential to increase costs faced by the market participants and to lower the quality of the services the markets provide. These restrictions may also make the grey market – which, according to some sources, accounts for 30% of the total sales of fruit and vegetables – more attractive (ACC, BADIS Consulting and GEM, 2008^[83]).

In the course of its analysis, the OECD has classified the restrictions concerning WPM into the following categories:

- restrictions on how WPM are established and tendered
- restrictions on how stalls in wholesale markets are tendered
- restrictions on the operation of WPMs
- obligations and restrictions on participants in WPM.

Establishing and tendering wholesale and production markets

Description and objective of the provisions

In Tunisia, WPM can be established only by public authorities, not by private entities.¹³ The current WPM were established by the Ministry of Trade and the Ministry of Interior in the Order of 17 November 1998.

The legal framework does allow private parties to operate WPM established by public authorities. According to Decree 98-1630 of 10 August 1998 on the operation and organisation of WPMs, a local authority can either operate a WPM itself or grant an operating concession to a sole proprietorship or a legal entity. Circular 31 of 21 October 2006 of the Ministry of Trade and Ministry of the Interior lays down the rules that local government bodies should follow when awarding concessions for the management of WPM.¹⁴ However, the OECD understands that this legal framework is not always respected by local government bodies and that procedures to award concessions are not always competitive and transparent. Although article 6 of Circular 31 establishes that the duration of concessions can be of up to five years, concessions typically last one year or, in some cases, three years.

The OECD understands that the objective of this legal framework is to ensure that the state can regulate the distribution of agricultural products. In particular, public authorities wish to have oversight on how these distribution channels function to safeguard continuity of supply and the fulfilment of minimum hygienic conditions.

It should be noted that the Bir-Kassâa wholesale market is regulated differently. The market was created by Decree 85-125, which established that it would be managed by SOTUMAG, which is owned by the state (50.04%) and the private sector (49.96%) (see Section 2.2). In consequence, this market is operated neither by a local authority nor by a private party.

Harm to competition

The legal restrictions on establishing and tendering WPM may have a significant impact on the quality of the services they can provide, while not achieving their policy objectives.

By preventing the private sector from setting up WPM, they reduce choice for buyers and sellers. Barriers to competing with incumbent markets can also reduce the incentives of those markets to reduce their costs and improve the quality of their services (such as more efficient logistics or market specialisation in certain types of products or qualities).

These restrictions do not appear to be necessary for the proper functioning of a wholesale market and their dampening of competition may in fact be causing buyers and sellers to avoid wholesale markets altogether. Some sources suggest that approximately 60% of total sales of agricultural products occur through alternative channels – possibly because the level of cost and quality provided by incumbent markets sheltered from competition is not attractive for buyers and sellers (ACC, BADIS Consulting and GEM, 2008^[83]).

Box 4.3. Establishment of wholesale markets

Until December 2013, private parties in Spain were not permitted to own, but could operate, central wholesale markets. In January 2013, the then Spanish Competition Authority (Comisión Nacional de la Competencia, CNC) published a report on competition in wholesale central markets that assessed this restriction. The CNC took into account the provision's objectives, particularly that of ensuring the regular supply of food products for the population through regulated central markets. It concluded that, although the markets might once have been justified, central-market ownership restrictions were no longer needed, especially taking into account the numerous alternative distribution channels available. Further, the CNC indicated that there were less restrictive means of regulating food distribution, such as licensing schemes (Comisión Nacional de la Competencia, 2013^[86]). This restriction was then suppressed and the ownership of central markets is now no longer reserved for public authorities.

The United Nations' Food and Agriculture Organization has noted that in the legislation establishing many markets in the 20th century, "governments included an exclusivity clause. These made it illegal for anyone either to operate as a wholesaler outside the market or to establish a further market without approval. This was done to safeguard the investment in the central market. In today's legal, economic and social environment of free competition, such a provision would be now difficult for governments to introduce".¹ This organisation thus concluded that as the conditions for central markets to be characterised as essential were no longer being met, the government should permit the formation of private, organised wholesale markets (OECD, 2017^[84]).

Note: ¹Food and Agriculture Organization, *Managing Wholesale Markets*, Chapter 3: Market Management, www.fao.org/3/x3680e/x3680e05.htm (accessed on 11 April 2019).

Beyond the restrictions on the establishment of new WPM, certain stakeholders have noted deficiencies in the methods used to award WPM concessions to private parties. In practice, local government bodies seem not to require awardees to invest sufficiently in facility maintenance. Some stakeholders point out that the lack of investment may also be due to the brief duration of the concessions, typically one year (although some may last three). The current framework for awarding concessions may result in poor market conditions given that: 1) investments are not required by the concession terms; and 2) the contract is too short to allow concessionaires to recoup their investment if there is a risk the contract will not be renewed. According to UTAP, in some markets, certain wholesalers have gone as far as renting other premises because the state of the official wholesale market was unacceptable.

In addition, the Ministry of Trade pointed out that, on many occasions, competition in tenders concerning the operation of WPM is extremely limited or non-existent, meaning that often only one private party submits an offer or has a real chance of being awarded the concession. According to the Tunisian General Authority of Public-Private Partnerships (Instance Générale de Partenariat Public-Privée, IGPPP), WPM concessions tend to be awarded to the incumbent operator.

Regardless of the number of tender participants, offers are generally public and so not submitted in a closed envelope. This can make co-ordination among stakeholders easier and reduce the amounts the administration might receive. There have been attempts by the Ministry of Trade to promote procedures that use a sealed-bid system (in which the offer is not visible *ex ante*), which local authorities have been reluctant as they consider them too burdensome.

All these deficiencies may, at least in part, be the result of the local authorities' absence of expertise in calling tenders. A lack of investment and competition for the award of the concession can therefore negatively affect the quality of the service provided by WPM, which could indirectly push sellers and buyers to increase their use of parallel or unofficial channels.

The restrictions and lack of organised tenders for concessions could be affecting WPMs' incentives to invest in quality and are particularly harmful given that private parties are not permitted to establish these markets. Further, the OECD understands that wholesale-market prices are then used as the reference for wholesale transactions in other distribution channels, meaning the effects of competition distortions in WPM can be particularly wide-reaching.

Recommendations

In light of the competitive harm posed by the restrictions on how WPM can be established and tendered, as well as the limited efficacy of the relevant provisions in achieving the desired policy objectives, the OECD recommends:

- Ensuring that the procedures to award a concession to manage WPM are in accordance with national and international standards (see Box 4.4).
- Ensuring that the terms of the concession (including its duration and investment requirements) provide sufficient incentives to the awardee, while encouraging competition for bidders, in order that concessionaires make the investment necessary to guarantee the markets' correct functioning.
- Allowing private parties to set up WPM without unnecessary hurdles, such as a request for an economic study.

Box 4.4. Best practices in public procurement

The OECD's comprehensive work on public procurement has led the organisation's council to make a number of recommendations, including: a public-procurement system should be transparent at all stages of the procurement cycle; the integrity of a public-procurement system should be preserved through general standards and procurement-specific safeguards, such as internal training, and compliance measures for relevant stakeholders; access to procurement opportunities for potential competitors of all sizes should be facilitated; transparent and effective stakeholder participation should be fostered in the design of public-procurement systems; to the extent possible, digital technologies should be employed to support appropriate e-procurement innovation throughout the procurement cycle; workforces should receive training to develop their public-procurement know-how; oversight and control mechanisms should be applied to support accountability throughout the public-procurement cycle, including appropriate complaint and sanctions processes.¹ The OECD has also prepared a toolbox that uses the principles included in the recommendation to bring evidence-based tools and advice to stakeholders, as well as specific examples showcasing practices that have been successfully tested in different countries.²

The OECD has also worked specifically on concessions and highlighted the importance of concession design. One crucial factor is the duration of the contract, as this can have a great effect on investment. For example, while a longer period encourages the concessionaire to make the necessary infrastructure investments at the beginning of the period, that incentive diminishes near the end of the concession. How a concession is awarded has also been deemed critical. Auctions are considered the most effective award method. Although negotiations are an option, experience has shown that public authorities are sometimes at a disadvantage with their private-sector counterparts. It is also important that a country's competition authority is involved in the concession process, including tender design (OECD, 2007^[88]).

Note: ¹All recommendations are available at www.oecd.org/gov/ethics/OECD-Recommendation-on-Public-Procurement.pdf.

²www.oecd.org/governance/procurement/toolbox/ (accessed on 11 April 2019).

Tendering stalls in wholesale markets

Description and objective of the provisions

The legal framework requires WPM to house stalls where agricultural products can be sold, which are subject to the award of an occupancy permit whose terms of use are issued by the local authority that owns the market. In the case of Bir-Kassâa, SOTUMAG awards the occupancy permits and sets the terms of use for stalls.

Decree 98-1630 establishes that no sale or intermediary transactions within WPM can be made without a stall-occupancy permit from the local government body that owns the market.¹⁵ Following our conversations with the Ministry of Trade and stakeholders, however, the OECD understands that in practice production markets have no physical facilities, with the exception of the production market in Gremda, Sfax Governorate.

Decree 98-1630 does not establish the criteria for candidates to obtain an occupancy permit; rather, it identifies only which documents need to be submitted (for example, sales agents need to submit criminal records; a list of workers authorised to work on the stall). The internal regulation of Bir-Kassâa similarly does not clearly establish the procedures applied for granting a stall.

The OECD understands that the objective of these provisions is to ensure that local authorities (or SOTUMAG at Bir-Kassâa) have control over which parties can sell products

in WPM in order to ensure that minimum health standards are met and that sellers meet certain criteria guaranteeing their ability to exercise their activity.

The term of a stall-occupancy permit for WPM cannot exceed one year, but is renewable. The specific duration is set by the granting party depending on the nature of each product and its seasonal nature. According to information provided by certain operators, permits are as a rule renewed, at least in certain wholesale markets. The OECD understands that the automatic renewal procedure's objective is to allow continuity for the most effective operators and to encourage these operators to invest in these markets.

According to the legal framework, participants that can be awarded a stall in order to sell in wholesale markets include producers, groups of producers, and producer co-operatives; sales agents; wholesalers; standing-crop buyers; collectors processors; and importers.¹⁶ In Bir-Kassâa, Tunisia's main wholesale market, only agents are granted stalls (with the exception of a few marginal stalls awarded to producer co-operatives and wholesalers selling dates and bananas). In production markets, stalls can be awarded only to producers, groups of producers, co-operatives, standing-crop buyers, and collectors.¹⁷

Harm to competition

The existence of an occupancy permit for the use of public spaces is common in many jurisdictions. Such permits do, however, hold risks from a competition perspective if they are not carefully designed and applied, and they may not be the optimal tool for achieving certain policy objectives. For instance, the criteria for issuing a permit to sell in WPM can engender discrimination between operators and lead to distorted competitive outcomes.

Particular risks emerge when there is a lack of space in a market, meaning that the permit process involves choosing among different potential operators rather than simply enforcing a minimum standard. In these circumstances, serious competition problems emerge when the permit process is not publicly advertised, based on objective standards, non-discriminatory, transparent, and competitive. If this happens, the quality of services provided (such as logistics or the diversity of the products sold) can be harmed. This is particularly important in a context such as Tunisia, in which private parties are not allowed to establish new WPM, and when this markets entities are considered, from a policy perspective, the main channel of distribution.

Procedures to grant and renew stall permits do not meet the necessary standards. In particular, it should be noted that incumbency is not an objective or pro-competitive basis upon which to award permits. The competition risks are particularly relevant where, as is the case in some markets, including Bir-Kassâa, space is lacking.

Box 4.5. Authorisations to sell in wholesale markets

Case 2010/4090 of the European Commission flagged some of the concerns that were being created by the requirement of authorisations to sell in the wholesale markets of Athens and Thessaloniki in Greece. One was a shortage of space inside the two markets, which, when then it became available was rented following a tender procedure that involved imprecise, unclear and non-objective criteria, which were not stipulated beforehand. In addition, the European Commission referred to the concern created by available spaces being granted on a preferential basis, for instance, to wholesalers already present in the market.¹

In Spain, Real Decreto 1882/1978 on the distribution channels for agricultural products and fish established that the award of stalls must be carried out using the procedure that, out of the existent ones, best guarantees supply, consumer protection and protection of public health, following the principles of publicity, objectivity, non-discrimination, transparency and competition. For instance, the central wholesale market in Madrid (Mercamadrid) now publishes on its website the stalls that it has available. The published notices include the criteria used to select successful candidates. According to reviewed notices² candidates are assessed on the basis of the price offered and other criteria that could contribute to the market, such as expected sales volume or jobs created. Offers must be submitted in a closed envelope before a set deadline and all offers are simultaneously opened in public in front of those candidates who wish to attend the opening.

Note: ¹See “Internal market: Commission requests...”, http://europa.eu/rapid/press-release_IP-11-180_en.htm.

²Notices of 3 October 2017 (www.mercamadrid.es/wp-content/uploads/2017/10/anuncio-oferta-puestos-mcf-puestos-30-04.10.2017.pdf) and 10 May 2017 (www.mercamadrid.es/wp-content/uploads/2017/05/anuncio-oferta-puestos-mcf-puestos-e13e15-10.05.2017.pdf) (accessed 11 April 2019).

Several stakeholders have warned about a possible lack of competition in some markets (in particular, at Bir-Kassâa) and indicated that the same individuals (and even their descendants) have held the same stalls for years.

Moreover, in Bir-Kassâa, certain operators are subcontracting their stalls, despite a legal obligation to be physically present at their concession.¹⁸ In other words, these permit holders are using their incumbency, granted to them by local authorities, to earn income while not actually operating a stall. It could be said, therefore, that restrictions on the amount of available market space are allowing some individuals who obtained permits through uncompetitive processes to earn rents at the expense of consumers and potential entrants.

Neither does the legal framework appear to be fulfilling the objectives for which the OECD understands it was designed. The system may in theory allow the public authorities to control tightly the participants permitted to sell in WPM, but it remains unclear which criteria are applied in order to attain the policy objective.

While permit procedures are used in many jurisdictions to verify compliance with safety and hygienic standards, the current stall allocation procedure in Tunisia does not seem to assess these specific standards. The automatic renewal process in most markets means that incumbency, rather than compliance with minimum safety standards, is the main determinant of stall allocation. Furthermore, permits for market stalls are not the most effective instrument for promoting hygienic standards, given that any such measures should be applied evenly across the food sector to avoid further competitive distortions in food-product distribution channels.

Recommendations

In light of the competitive harm posed by the tender process of stalls in WPM, as well the limitations shown by the provisions in achieving their desired policy objectives, the OECD recommends:

- Modifying the relevant provisions in order to ensure that the procedures to award and renew a permit to use a stall in a wholesale and production market are transparent (such as, publishing the selection criteria for candidates, followed by the results and points of the successful candidate) and competitive with the procedure open to all participants that fulfil objective and non-discriminatory criteria. This is particularly important given that, as indicated in Section 4.1.2 wholesalers are not allowed to sell outside wholesale markets.

Operating in wholesale and production markets

Description and objective of the provisions

The legal framework also contains certain restrictions on the operation of WPMs, including requirements on their premises and limitations on when and what they sell. The main restrictions are:

- A holistic review of the legal framework suggests that production markets can only sell specific, pre-established products, such as citrus fruit or olives, and may only sell products seasonally, corresponding to the periods of production of the products they offer, except for those selling tomatoes and potatoes.¹⁹

Although Law 94-86 does not restrict the types of products that can be sold in production markets, Decree 98-1629 specifies that these markets are to be set up for the sale of one product or a set of “homogeneous products”. Further, the ministerial order of 17 November 1988 identifies the types of products that can be sold in each of the production markets (for instance, citrus fruit in Nabeul, and dates in Kebili). According to the Ministry of Trade, the Competition Council issued an opinion indicating that fruit and vegetables should be considered as “homogenous products”. This resulted in the creation of a production market in Sidi Bouzid permitted to sell all types fruit and vegetables, as well as other agricultural products.

Following discussions with the authorities, the OECD understands that production markets were established so that products could be sold close to where they were grown and so shorten the distance producers have to travel to sell their products. This would lead to products not typically produced in a region or out of season being excluded from these markets, with the exception of the production market of Sidi Bouzid.

- A WPM can begin trading only when certain minimum quantities of agricultural products have been received into the market that day. There is an exception to this general rule in case of weather-related disruption.²⁰ The OECD understands that the goal of this provision is to ensure that a WPM’s reference price does not become too volatile if there are shortages in the supply of wholesale markets. As noted, the price paid in wholesale markets is used as a reference for the price in other channels, meaning wholesale-market prices have a broad influence in

Tunisia. The Ministry of Trade pointed out that this provision also aims to guarantee a minimum level of WPM-related profit for local authorities.

The Ministry of Trade also confirmed that this minimum-quantity rule is generally not strictly enforced. Quantities are not monitored every day, but rather every few months and then averaged, showing that WPM appear able to operate regardless of quantities of products received. If a wholesale market of national interest does not attain the minimum daily quantities on a consistent basis, however, the public authorities has the power to downgrade it to a wholesale market of regional interest.

- Working days and operating hours for the supply, sale, and disposal of agricultural products in WPM are established in the legislation.²¹ Following discussions with the Tunisian public authorities, the OECD understands that the objective of these provisions is to ensure the correct organisation and functioning of the markets by ensuring that all participants within a market sell at the same time.
- Order of the Ministry of Trade of 10 June 1999²² on access cards established a system in which access to a market is limited to those parties holding a card issued by the Ministry of Trade. The cards are differently coloured for buyers, sellers and other participants, and are specific to each production or wholesale market, preventing their holders from operating at other markets at either national or regional levels.²³ The Ministry of Trade says that geographical exclusivity only applies to sellers, buyers can engage in transactions in any wholesale market and so require identification to do so.

The OECD understands that this provision seeks to ensure the identification of the different participants and so permit better organisation and functioning of the market.

The Ministry of Trade has indicated that, in practice, access cards are not checked or verified, so this system is not applied. This is confirmed, at least for the Sidi Bouzid wholesale market, by a report commissioned by the Ministry of Trade (COMETE Engineering, 2014^[89]). SOTUMAG is working on a card-access system for the Bir-Kassâa wholesale market. These cards will not only allow access to the market, but will also be able to be used in transactions, facilitating their traceability.

Harm to competition

The following regulations restrict the operational flexibility of WPM and may impose greater costs.

- Restricting the products that production markets may sell limits market buyers and sellers' competitive choices, preventing these markets from meeting demand for any off-season or out-of-region food products, reducing product accessibility, and creating incentives for buyers and sellers to use alternative distribution channels. It also reduces producers' incentives to diversify production – by growing products that are not sold within the relevant production market – and to capitalise on market opportunities.

Limiting the channels through which certain products can be accessed may also have the effect of increasing prices for consumers, as, unlike in wholesale markets, the sellers in production markets are not sales agents, but producers, groups of

producers, co-operatives, standing-crop buyers, and collectors. This means that the commissions payable to sales agents in wholesale markets (referred to in the section below on the obligations on participants in WPM) are not applicable. In addition, allowing retailers to purchase freely in production markets can avoid the use of other intermediaries (not only sales agents, but also wholesalers), reducing margins and lowering prices.

These restrictions are not common. For example, in Spain, every market has the discretion to decide which products can be sold on the premises, in other words, the legal framework does not limit the products they can sell and when they can do it.

The public-policy objective of establishing production markets to improve producers' access to sellers can be efficiency enhancing and pro-competitive. Allowing the sale of other products in these markets would not impede that objective in any way, however, and would improve incentives for buyers to use these markets.

Although the sale of all types of fruit and vegetables has been allowed in the production market of Sidi Bouzid following the decision of the Competition Council, the OECD understands that Decree 98-1629 and the ministerial order of 17 November 1988 both limit the types of products that can be sold in all other production markets and the seasons in which they can be sold.

- Setting minimum daily quantities in order to open trading in a WPM has the potential to limit buyers' choices and so restrict competition between markets, specifically, the days in which a market does not reach these minimum quantities. This has the potential to amplify disruption in supply by causing prices in markets that operate that day to rise further than they otherwise would. Given the limitations on the establishment of private wholesale markets and the use of wholesale markets as a reference price for transactions in other channels, the effects could be particularly wide reaching.

The OECD understands that, in practice, minimum quantities never impede the operation of markets and are merely used for classification and statistical purposes; namely, to determine whether a wholesale market should continue to be considered of national interest or be downgraded to the status of a wholesale market of regional interest. There does not appear to be any need to retain the prohibition of operating if minimum quantities are not met.

- It is common for wholesale markets to establish set working days and hours for the supply, sale, and disposal of products. This provides predictability and maximises the number of buyers and sellers present, enhancing market efficiency. Setting those working days and hours in legislation, however, rather than letting markets themselves establish their own, is an unnecessary restriction. In particular, certain markets may benefit from different opening days and hours that better suit local needs and the nature of traded products. Internationally, wholesale markets generally establish their own opening days and hours (see, for example, the case of Rungis, near Paris, France, described in Box 4.6 below).
- Requiring a specific card to access a market is a common requirement to ensure that market participants can be correctly identified and the working of the market can be better managed. Specifically, access cards can be useful, for example, in ensuring that a participant fulfils the legal requirements to operate in a market.

Requiring buyers to use different cards to access each market means, however, that buyers face additional administrative barriers, which may, in some cases, limit the number of markets from which they purchase and so reduce their choices. In turn, this can limit their ability to take advantage of price differences between the various markets, known as arbitrage, which is necessary for the efficient functioning of markets. In this way, access restrictions may insulate some markets from competition.

Box 4.6. The experience of Rungis, the wholesale market of Paris

Rungis International Market is the world's biggest fresh-produce market¹ and trades in a wide array of products, including fruit and vegetables, meat, fish and freshwater products, and dairy products. The products that can be sold in the market are specified in its internal regulations.

Rungis was established by Decree 62-795 of 13 July 1962 and is managed by the Public-Private Company of the Market of Rungis (Société d'Économie Mixte du Marché de Rungis, SEMMARIS), in which the French state holds a 33.34% stake, the City of Paris holds 13.19%, and the Department of Val-de-Marne (where the market is located) 5.60%.²

According to the market's internal regulation, wholesalers, agents, and (for their own production) producers and groups of producers can sell in Rungis. Unlike Bir-Kassâa, however, the OECD understands that most sales at Rungis are done by wholesalers, not agents. Only card-carrying professional buyers are permitted to purchase products in the market. All those who want to access the market must hold an access card, which is also used to make transactions.

The opening hours of stalls in the market are set out in the internal regulations, which are relatively flexible for supply hours. They indicate that stalls cannot be supplied during sales hours and require sellers to open their stalls two hours before sales begin (and that between 3am and 7am, sellers of fruit and vegetables provide a specific place where products can be delivered). The removal of products by buyers can take place during selling hours and the two following hours.

Market operating fees for stallholders (to pay for the water, electricity and heating, for example) are set and collected by SEMMARIS.

Internationally, and particularly at Rungis, increased competition faced by wholesale markets has not resulted in their disappearance. Today, the services they provide go beyond simply offering a marketplace where fruit and vegetables and other fresh products can be sold. These new-generation markets offer added-value services, such as “washing, sorting, grading, cutting, packaging, ripening” or product storage (which can be particularly interesting to customers such as hotels, restaurants and supermarkets³), and logistics services, such as preparing products for delivery, and the management and delivery of warehouse stocks.⁴ These new wholesale markets are increasingly what are being called “food complexes” or “food-logistics platforms”.⁵

Note: ¹ www.rungisinternational.com/en/about-us/the-worlds-biggest-fresh-produce-market/ (accessed 11 April 2019).

² See Altarea Cogedim press release (27 July 2018): Change in Shareholders Structure at SEMMARIS, the Rungis Market Management Company, www.altareacogedim.com/Change-in-shareholders-structure.html (accessed on 11 April 2019).

³ See interview with Manuel Estrada-Nora, chairman World Union of Wholesale Markets: www.wuwm.org/8dc/news/the-evolution-of-wholesale-markets-into-food.html (accessed 11 April 2019).

⁴ See www.rungisinternational.com/en/about-us/the-worlds-biggest-fresh-produce-market/logistics-sector/.

⁵ Interview with Manuel Estrada-Nora. See interview with Manuel Estrada-Nora, chairman World Union of Wholesale Markets: www.wuwm.org/8dc/news/the-evolution-of-wholesale-markets-into-food.html.

Recommendations

In light of the competitive harm caused by restrictions on WPM, as well as the limitations of the provisions in achieving the desired policy objectives, the OECD recommends:

- Clarifying in the legislation that production markets can sell all types of agricultural products at any period of the year.
- Removing minimum daily-quantity requirements for WPM to start operating.
- Eliminating provisions in legislation that specify WPM working days and opening hours, as markets should be allowed to establish their own activity schedules.
- Strengthen monitoring to reduce the sector's current degree of informality, including reducing grey-market sales and other types of fraud and ensuring the payment of due taxes, while ensuring that WPM remain competitive. If access cards are required to improve monitoring, ensure that they allow buyers to use them at any market.

Obligations on participants in wholesale and production markets

Description and objective of the provisions

Certain provisions in the legal framework discourage participants from trading in WPM, which partly explains the low percentage of trade occurring in these markets (40% of total sales of agricultural products, according to some sources) (ACC, BADIS Consulting and GEM, 2008^[83]). The main restrictions are: 1) compulsory fees for intermediation and transportation, increasing trading costs; 2) limitations to the transactions that sales agents can perform; 3) restrictions on buyers' ability to purchase in different markets, and so compare prices and encourage more competition between markets.

- The first restriction, on compulsory fees, concerns the role of porters and sales agents²⁴ in wholesale markets such as Bir-Kassâa. These two categories of participants only operate in wholesale markets.

Payment for services provided by porters – who transport products within the market pre- and post-transaction – in the wholesale markets of national interest of Tunis, Sousse, Sfax and Kairouan is set as a fee proportionate to the value of total sales.²⁵ In Bir-Kassâa, this fee amounts to 6% of the value of the sales and is payable to Co-operative Company of Wholesale Warehouse Porters (Société Coopérative des Manutentionnaires du Marché du Gros, COOPMAG): 3% when a product enters the premises and 3% when it exits. In practice, fees are paid even if the relevant services are not provided. As explained below, as with the other fees and levies applicable in Bir-Kassâa, the fee payable to porters is collected by sales agents. Other than COOPMAG, there is no other entity or sole proprietorship providing a porter service in Bir-Kassâa.

Like porters, sales agents also receive *ad valorem* fees for their intermediation services between wholesale-market sellers and buyers. According to some stakeholders, the fee is set and is calculated on the basis of the transactions in which they participate. Stakeholders interviewed have said that in Bir-Kassâa, this fee is set at 5% of the sale. Although other categories than agents are in theory allowed to sell in wholesale markets,²⁶ in practice, agents are virtually the only category making sales in Bir-Kassâa, Tunisia's main wholesale market, as producer

co-operatives and, in the case of dates and bananas, wholesalers, have a minimal presence. According to some sources, agents at Sidi Bouzid are known to subcontract access to their stalls to third parties, despite this activity being illegal (COMETE Engineering, 2014^[89]).

Finally, SOTUMAG pointed out that, in practice, sales agents collect their own fees, those of porters, and those of the company, as well as the levies mentioned in Section 4.1.6. Sales agents collecting these levies is undertaken on the basis of Law 82-91 of 31 December 1982, as modified by Law 94-127 of 26 December 1994. On some occasions, the FODECAP levy to finance *groupement interprofessionnels* seems to be transferred by agents with an excessive delay or not to be collected at all, according to some interviewed stakeholders.

The authorities have indicated that the fees earned by porter co-operatives, such as COOPMAG, ensure the market's correct operation, and the OECD understands that setting porters and agents' fees through a decree is partly intended to prevent their becoming too high.

- Sales agents are not allowed to purchase, either directly or indirectly, their clients' products or any other agricultural products and fish sold in wholesale markets.²⁷ The OECD understands that the objective of this provision is to preserve the role of each participant and, in particular, ensure that agents act simply as intermediaries on behalf of third parties.
- Retailers can only procure from production markets when they operate within a market's area of influence and only in quantities that meet their own needs.²⁸

The OECD understands that the objective of this restriction is to preserve the local and limited nature of production markets, as wholesale markets are intended to be the general channels of distribution. This provision seeks to prevent retailers from acting as de facto wholesalers by buying products in production markets and then selling them on as wholesale. According to the Ministry of Trade, this is also aimed at preventing speculation.

Harm to competition

The restrictions mentioned above impose substantial costs and limitations on participants in WPM, making these markets less attractive and contributing to the use of alternative distribution channels. In particular:

- As the level of porters' fees is set by legislation and COOPMAG has an effective monopoly in providing the service, any incentives for porters to provide services of good quality and offer lower prices are substantially reduced. While pricing regulation can be used where competition is not feasible, it is not clear how porter services would fit into this schema. Further, it is not clear that the current fee level is reflective of usual price-regulation standards, namely, covering operating costs with a fair rate of return. The fact that the fee is based upon a percentage of the value of merchandise rather than objective criteria such as product weight or the number of trips suggests that it is not an accurate reflection of the value of porter services. More seriously, payment of the fee appears to be mandatory even if the service is not used, sales agents collecting such fees for the transactions that take place in wholesale markets. Beyond the implications for reduced competition in the porter-services market, the fee acts as a fixed charge on all transactions in the market, providing a guaranteed stream of anticompetitive rents and introducing

pricing distortions not present in other distribution channels. The OECD can find no policy justifications for this provision.

Box 4.7. Obligation to hire stevedores in Greece

The OECD's *Competition Assessment Review of Greece* of 2017 (OECD, 2017^[84]) identified provisions indicating that all loading and unloading carried out on land and in ports, as well as all transfers and stockage of goods had to be carried out by workers registered in the Greek National Stevedore Registry, even in cases when the work was non-specialised, did not concern dangerous loads and products, or did not include operating machinery. Producers loading their own agricultural products from a production site to storage spaces were, however, exempted from this obligation.

The OECD considered that the obligation to hire registered stevedores for non-specialised work harmed competition, as it imposed a financial burden that created an artificial demand for these services. Moreover, the fact that agricultural producers were exempted from the obligation for their own products, but wholesalers were not, distorted competition among market participants.

The OECD recommended that the mandatory hiring of registered stevedores for loading and stockage work carried out on land or in ports should be abolished, and that provisions providing exemptions from this obligation should also be abolished for consistency. Further, it indicated that business operators should be free to make use of their own workforce to carry out non-specialised loading, unloading, and stockage work, so that a level playing field for all competitors in the relevant market would be created.

The framework for the participation of sales agents in wholesale markets also limits competition between them. First, as agent fees are set in law, price competition is prevented, as is the emergence of alternative fee models, such as fixed fees. While the objective of the provision was to prevent elevated agency fees, its effect has likely been to have set fees above a competitive level. (If it was too low, no agents would participate in the market.) This restriction's impact may be particularly pronounced in Bir-Kassâa, given that the vast majority of its sales are made by agents, according to information provided by relevant stakeholders. The OECD understands that there are concerns about whether agents transfer in a timely manner or even collect the FODECAP levy, and whether they create fully accurate receipts of transactions. This suggests that the current restrictions do not prevent misconduct.

Permitting agents to subcontract their stalls, while contrary to the current legal framework, would not result in substantial competitive harm if stalls were allocated in a transparent and competitive process, and agency fees were the subject of price competition. These conditions are clearly not met, however, and so it is likely that the parties making transactions in wholesale markets are incurring extra costs caused by uncompetitive agency arrangements.

- The prohibition on agents buying products within markets restricts how they can operate, for instance, by preventing them from acting as agents for some sellers and as wholesalers for other participants. This prevents the emergence of modern distribution models and their potential benefits for final consumers.
- Retailers only being permitted to buy limited quantities at production markets, and only when they operate within their areas of influence, limits their ability to organise their operations in a way that they deem the most suitable, and so may limit their effectiveness. For example, retailers may be unable to buy at a

production market in another region, even if they deem that its prices are more favourable, even taking into account transport costs. This may have an effect on prices and the quality and diversity of products sold by these operators. It appears that the effects of this restriction hinder the policy objective of production markets: providing producers with efficient channels to sell their products close to the site of production. Allowing retailers from outside a region, and relaxing quantity purchasing limits, would likely benefit local producers in a region. More generally, allowing more options for retailers to source their products would also be expected to benefit consumers.

Recommendations

In light of the competitive harm posed by the restrictions above, as well as the limitations of the provisions in achieving the desired policy objectives, the OECD recommends:

- Ensuring that there is competition for porter services in all WPM. The exclusivity granted to porters in wholesale markets, such as COOPMAG's in SOTUMAG, should be lifted and buyers and sellers should be permitted to make their own arrangements for porter services without being subject to mandatory porter charges. Regulation specifying the amount porters may charge for their services should be removed.
- Reviewing the role and current oversight of agents with a view to promoting greater competition and efficiency in wholesale markets by: 1) examining the process for allocating stalls in markets (see Section 4.1.3), and, in particular, ensuring that wholesalers, producers (including groups of producers and co-operatives), standing-crop buyers, collectors, processors, and importers are allowed to sell in wholesale markets alongside agents by ensuring that they are not disadvantaged when attempting to obtain a stall; 2) ensuring that wholesale-market managers, such as SOTUMAG in Bir-Kassâa, directly collect their own fees and taxes in their premises and redistribute them, rather than relying on agents who are not involved in all transactions; 3) looking into current oversight mechanisms for compliance with tax and other legal obligations, like the prohibition to subcontract a stall; and 4) once measures have been taken to address the three issues above, removing restrictions on fee rates for agents.
- Allowing retailers to buy in any production market without any limitations on quantities.

4.1.4. *The dates sector*

The dates sector is key to the Tunisian economy. Dates account for almost 86% of the country's total fruit exports in 2018 and 28.2% of the value added of fruit in 2017 (see Section 4.1.1). Despite the importance of the sector, the regulatory framework contains a number of restrictions that hamper exports.

Description and objective of the provisions

The restrictions identified in the dates sector were established in the Order of 25 October 2000 that approved the specifications concerning date distribution and the Order of 18 January 1988 on the organisation of the dates season. It should be noted that, as explained in Section 2.3, the first piece of legislation does not actually seem to be applied and the second one only partially.

The OECD considers it is worth addressing the main restrictions in these two pieces of legislation in case they were to be updated and enforced in the future. This is due to the seriousness of the restrictions and the importance of the dates sector for the Tunisian economy.

The main restrictions are:

- Any sole proprietorship or legal entity that intends to practice the profession of date collector²⁹ must have experience in the date sector and in its absence, must be able to rely on a person who does. Experience can be proven with written certification issued by the relevant *groupement interprofessionnel*, currently GIDattes, which sets the terms and conditions for its award. The OECD understands that this provision seeks to guarantee that dates are harvested in accordance with minimum quality standards.³⁰
- The Order of 18 January 1988 deals with the pricing of the dates and establishes that the minimum production price for dates is set each season by the Ministers of National Economy and Agriculture.³¹ Further, it lays down that the minimum export price is set each season by the *groupements interprofessionnels*.³² The OECD understands that the objective of this provision is to ensure that purchasers are aware of the quality of Tunisian dates and that all sellers receive a fair price.
- The Order of 18 January 1988 also establishes the margins for the distribution of dates as those set in the applicable regulation, which is an order also dated 18 January 1988 on the margins applicable for the sale of fruit and vegetables at retail level.³³ The OECD understands that this provision's objective is to ensure that date prices are not too high for Tunisian consumers.

The Order of 18 January 1988 on the organisation of the dates season gives a role of significant market control to *groupements interprofessionnels* in the dates sector. The provision establishes that all date exports need to be validated in advance by the relevant *groupement interprofessionnel*, currently GIDattes, as do all invoices concerning exports. This in addition to the *groupements*' control of the establishment of minimum export prices. Finally, date exportation is permitted only for: companies operating recognised date processing facilities, holding a date-exporter card granted by the Minister of National Economy³⁴ following a favourable opinion by GIDattes; recognised exporting companies; licenced export traders; and producers for export of their own production.³⁵

Harm to competition

The fact that certain pieces of legislation are not applied in practice is referred to in Section 2.3.

For the provisions themselves, the following should be noted:

- Requiring a certain level of experience in the date sector in order to become a date collector may make it difficult to enter the date profession, and may keep out new entrants. This risk is more acute given that the certification body proving this experience is a *groupement interprofessionnel*, an entity partially composed by incumbents, such as farmers already active in the agriculture sector. In this regard, it cannot be ruled out that this entity has an incentive to foreclose new entrants.

Box 4.8. Foreclosure by entities controlled by incumbents

The risk of entities in which incumbent participants have a significant role was also flagged in the OECD's *Competition Assessment Review of Romania* (OECD, 2016^[90]).

Romanian operators of facilities for the storage of edible seeds needed a licence to obtain deposit certificates, which were particularly useful in obtaining bank loans.

Each licence was granted by the Ministry of Agriculture based upon the proposal of a 15-member commission. Eleven members of that commission were designated by industry associations representing producers, storage providers, traders, processors, and commodities exchanges, and only four by the ministry.

In its report, the OECD noted that this system distorted competition as incumbent participants, through the association, were able to decide which potential rivals would be able to obtain certificates that had an impact on potential financing. This, it was concluded, could especially affect smaller rivals without the necessary, independent financial resources.

The OECD recommended that either licences be granted directly by the ministry or the majority of commission members be appointed by the Ministry.

Limiting the number of collectors can increase prices, reduce the quality of products (for example, as new entrants may have access to newer technologies that preserve dates better), and restrict the choice for buyers such as wholesalers and exporters.

- Establishing set prices and margins can also be harmful for consumers, as explained in Section 3.1. In particular, setting minimum prices can lead to prices higher than they would be in competitive conditions. It can also cause market inefficiencies by reducing total sales, which could be higher if operators were allowed to sell at lower prices. Fixed maximum margins can be used by retailers as a reference price and facilitate co-ordination, which can also result in higher prices. In addition, maximum margins can make investment in the sector less attractive and reduce participants.
- The sector may be made less competitive internationally and total exports reduced due to *groupements interprofessionnels*' prerogatives that allow them to limit exports, such as by restricting the categories of participants that can export; granting central bodies such as other *groupements interprofessionnels* control over export transactions; imposing additional requirements on export transactions; and establishing minimum prices. In addition, the role attributed to *groupements interprofessionnels* may help create a self-regulating or co-regulating system that entails anticompetitive practices towards non-member companies. The *groupements*' role can also reduce their members' incentive to compete among themselves. This is addressed in the OECD's *Competition Assessment Toolkit*,³⁶ which highlights the importance of governments retaining enough power to prevent these negative effects by, for example, ensuring that they have the right to approve or refuse the actions of the private entity.

Recommendations

In view of the restrictions above and their harm to competition, the OECD recommends:

- Repealing the Order of 25 October 2000 and the Order of 18 January 1988 if they are not considered necessary, as the first one seems not to be applied and the second one only partially.
- If any of the provisions in these orders are considered necessary, ensure:
 - that minimum experience is no longer needed to harvest dates; maximum mark-up regulation is lifted in a broader perspective of price liberalisation and economic efficiency; and the regulation of the dates sector, both in general and particularly for export, falls under the sole control of public authorities, and not *groupements interprofessionnels*.
 - a more flexible approach towards exports by assessing the possibility of prices liberalisation; stopping the imposition of additional barriers, such as authorisations, to date exports; halting the unnecessary restrictions on the categories of permitted exporters.

4.1.5. Agriculture co-operatives

Description and objective of the provisions

SMSA are production co-operatives providing services to their members to help upgrade agricultural businesses and to improve production management. In particular, SMSA provide necessary inputs and services for farming and fishing, including seeds, fertilisers, fuel, and machines.; organise training for members about their activities; and sell their members' products. For the last, this can include the entire distribution chain, this is, fruit and vegetable picking, storage, packaging, processing, transport and export.

The main legal framework for SMSA is set out in Law 2005-94 of 18 October 2005; it divides them into two categories:

- Base SMSA whose activity concerns services limited to their area of influence, or whose members' activities are limited to one governorate or more if the governorates are contiguous and do not encompass the entire Tunisian territory.
- Central SMSA whose activity concerns one service encompassing the whole Tunisian territory; executes a service of general interest; whose members' activities encompass two or more non-contiguous governorates; or are formed of base SMSA.

According to the Tunisian farmers' union, SYNAGRI, there are approximately 500 SMSA in Tunisia, most of which are small-scale; fewer than 10 are central SMSA. The two main central SMSA deal with cereals and with wine.

Law 2005-94 establishes that persons wishing to adhere to SMSA must be agricultural producers, fishermen or persons providing agricultural services active in the particular SMSA's area of influence that do not compete with those offered by the SMSA. The OECD's understanding is that this provision aims to ensure that participants join SMSA for genuine reasons (this is to receive services provided by SMSA) and do not hamper SMSA's mission of selling their members' products.

Harm to competition

Law 2005-94 limits the pool of base SMSA available to producers, by not allowing them to join those SMSA that are outside their region. This may prevent producers from joining

bodies that might provide better quality services or have lower costs. This may result in producers not joining any SMSA at all.

In countries including France, co-operatives have tried to circumvent similar restrictions by establishing regional subsidiaries. This policy of “subsidiarisation” does not seem to solve fully the problem, as co-operatives’ geographical spread remains limited (Filippi et al., 2015^[91]).

This restriction reduces the incentives of base SMSA to compete against each other in terms of services and hampers the expansion of efficient SMSA, reducing potential economies of scale.

Law 2005-94 also prohibits SMSA members from competing with a co-operative of which they are members, reducing incentives for SMSA to offer lower prices for their products and potentially decreasing farmers’ incentives to become SMSA members. Some jurisdictions have exempted producer groups’ mutualised commercial agreements from competition rules. In the European Union, for example, Regulation 1308/2013 establishing a common organisation of the markets in agricultural products³⁷ exempted this type of practice under certain circumstances, mainly to increase producers’ bargaining power with buyers, which tend to be significantly bigger, such as hypermarkets chains. Although certain types of entities – such as recognised producer organisations in the fruit and vegetables sector in the European Union – require members not to sell independently, producers have other alternatives for co-operation that allow direct sales (such as co-operatives that are not recognised producers organisations). Indeed, in France, some estimates indicate that 19.5% of apple producers and 15 % of pear producers who are members of a co-operative, sell both through a co-operative and directly (Agbo, Rousselière and Salanié, 2014^[92]). In this regard, the Tunisian law seems to go beyond what is necessary, as it not only allows joint sales, but also strictly prohibits producers selling individually if they are an SMSA member.

Importantly, these restrictions, along with cultural factors,³⁸ may discourage producer consolidation. This contrasts with the global situation where agricultural co-operatives account for 50% of agricultural production worldwide, and in countries like France where 75% of farmers are part of at least one co-operative (Centre for Studies and Strategic Foresight, 2011^[93]).

The fragmentation of farming seems to be a significant issue in Tunisia: 87% of producers are exploiting land holdings of fewer than 10 hectares, and 75% exploiting land even below this threshold (ONAGRI, 2017^[77]). In the Middle East and North Africa where farms are relatively small in most countries, fragmentation is common: “These small farms tend not to specialise. They have a comparative advantage in labour-intensive horticultural crops, since they have plentiful household labour, but are limited in their ability to adopt new technology and access investment” (OECD/FAO, 2018^[94]).

This fragmentation means that when selling their products, producers have little bargaining power with intermediaries and other market agents. Costs faced by producers also increase, as SMSA constitute a means of mutualising production and sale, which, in turn, can increase product prices. In addition, the quality of products may be reduced, given that producers cannot benefit from the services and the experience of SMSA. Co-operatives are said to provide “[g]reater market power for producers, systems for sharing added value, economies of scale, capacities in terms of research and development [and] growth” (Centre for Studies and Strategic Foresight, 2011^[93]).

Recommendations

In view of the above restrictions and their harm to competition, the OECD recommends:

- Allowing agricultural and seafood and freshwater fish producers, and persons providing agricultural services to join any SMSA, regardless of geographical considerations.
- Eliminating provisions in legislation that prohibit SMSA members from selling their products independently when that puts them in competition with the co-operative. Consider allowing SMSA to establish individually restrictions of direct sales by members.

4.1.6. *Levies distorting competition*

Description and objective of the provisions

The OECD has identified two levies applied in the trade of agricultural products that may not achieve their purported objectives, might introduce price distortions, and result in other market distortions:

- Decree 2018-729 of 16 August 2018 establishes a solidarity levy for a compensation fund for agricultural damage caused by natural disasters. It is paid for sales of fruit and vegetables, grains, olives, and seafood, and amounts to 1% of a transaction's value, and for fruit and vegetables is paid when they are produced (except for products that are exported) or imported. In wholesale markets, it is collected by sales agents and in other circumstances, by any participant in the wholesale distribution of products, provided that the levy has not already been paid.³⁹ The fund financed by the levy is available to all farmers and fishermen, not only those who produce the goods taxed by the levy, and even for exporters. Moreover, certain stakeholders have pointed out that, in practice, the solidarity levy is paid only in Bir-Kassâa.
- Law 1995-109 of 25 December 1995 establishes a levy of 2% of a transaction's value and is paid through the same procedures as above. The levy finances the FODECAP, which finances the *groupements interprofessionnels* and five technical centres.

Harm to competition

The levies may create distortions and an imbalance of competition between the various participants. In the case of the disaster levy, some participants receive a service, namely, the provision of insurance, for which they have not paid. Indeed, this is the case for all market participants not selling in the Bir-Kassâa wholesale market, as the tax is currently only paid there. This means that costs for sellers at this market have increased, unlike those of the other participants, with no particular justification.

The existence of levies used for para-fiscal purposes was addressed in the OECD's 2014 *Competition Assessment Review of Greece*, as this was the case for, among others, for the flour and cement sectors, which financed pension and insurance funds for bakers and employees. The OECD considered that not only does the "presence of such levies distort the market price" – by increasing the costs faced by certain categories of operators – "it also skews the market in favour of some sub-groups relative to others". The assessment review concluded that the levy could reduce producer output because of higher costs, which translated in lower revenues and fewer jobs. The OECD recommended that any such levies be lifted (OECD, 2014^[95]).

In the case of the FODECAP levy, however, market participants that are not members of the *groupements interprofessionnels* and the five technical centres, face a cost that helps

their prospective or actual competitors, but provides them with no benefit. For instance, a participant selling dates at wholesale level will pay the levy, but will not, unless it is a member of a concerned *groupe ment interprofessionnel*, benefit from FODECAP-funded services, such as subsidised mosquito nets to protect dates from insects. This might distort competition.

The application of these levies increases the costs faced by firms that sell in wholesale markets, encouraging producers, collectors, and other intermediaries to use alternative distribution channels. In addition, higher costs – which also apply to imports – might increase prices for consumers.

Recommendations

In view of the restrictions and their harm to competition, the OECD recommends that:

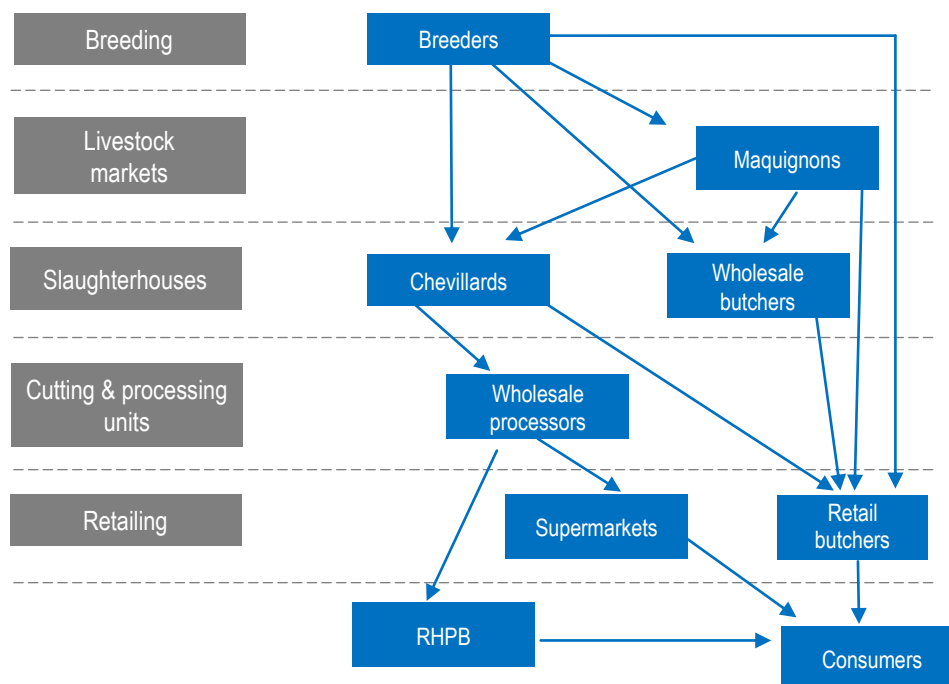
- The levy is paid on all products whose producers can benefit from the disaster fund, in all wholesale markets.
- There is alignment between those paying the FODECAP levy and those eligible to benefit from the fund (see also Section 4.2.2).

4.2. Wholesale and retail trade of red meat

4.2.1. Market overview

The vertical value chain of the red-meat industry, as seen in Figure 4.8, is structured around five main segments: 1) livestock breeding; 2) transport and sale of livestock; 3) slaughtering; 4) wholesale trade for meat; and 5) retail trade for meat.

Figure 4.8. The red-meat value chain in Tunisia

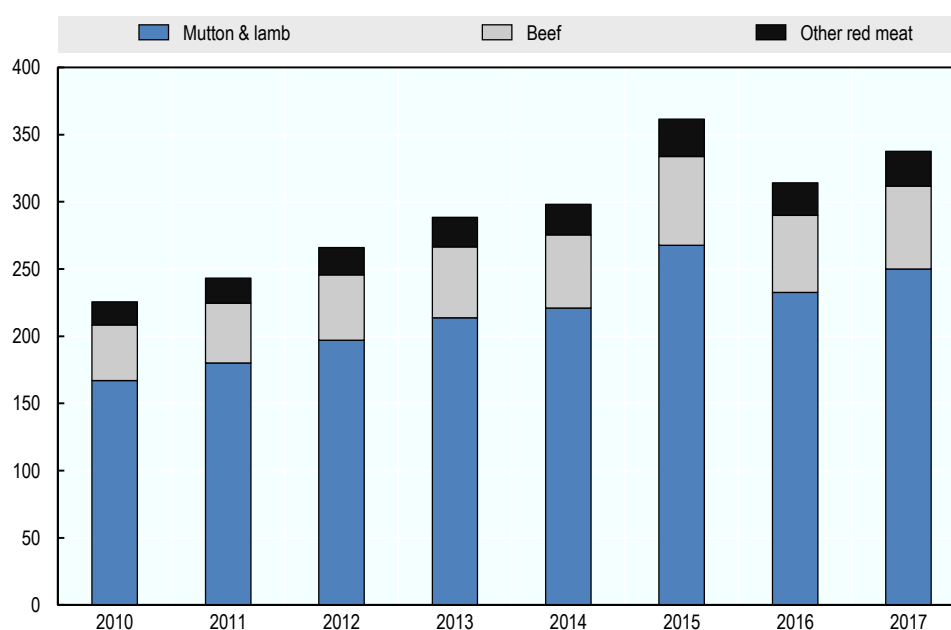


Note: Chevillards are wholesale meat traders. Maquignons are livestock dealers. RHPB refers to restaurants, hotels and public bodies such as hospitals and schools.

Source: Adapted from (Ministry of Agriculture, 2012^[96]).

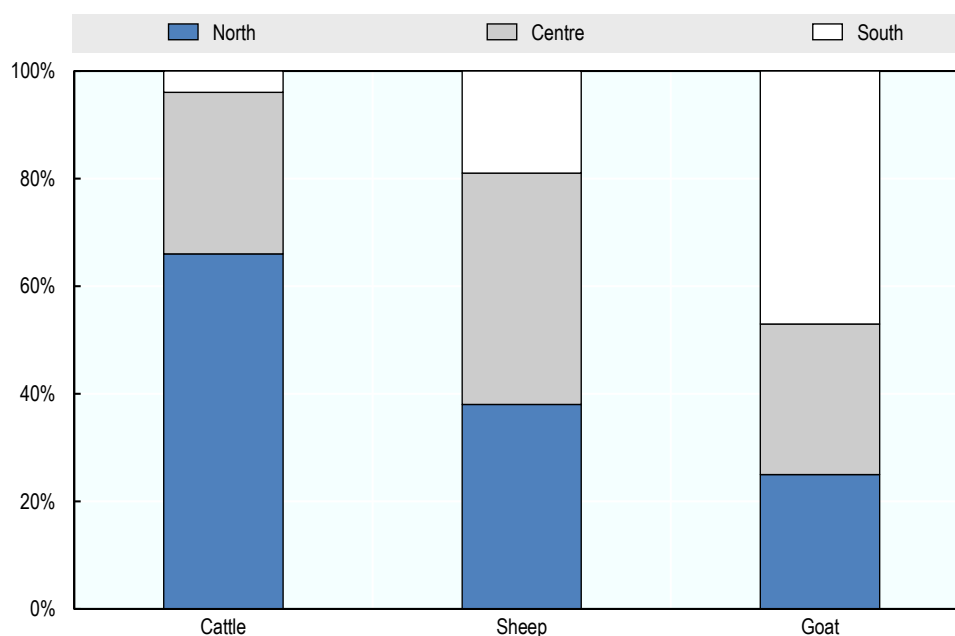
In 2017, the livestock sector in Tunisia represented 44% of agricultural GDP and about 4.2% of total GDP (ONAGRI, 2017^[77]). Red meat accounted for 38% of the total value of the livestock breeding sector and 14% of total agricultural production (GIVLAIT, 2018^[97]). The value added of red meat increased by an average annual growth rate of about 6.4% over the 2010-2017 period (Figure 4.9).

Figure 4.9. Value added of red meat (TND, millions), 2010-2017



Source: (INS, 2019^[29]).

Livestock in Tunisia consists of approximately 6.4 million sheep, 1.1 million goats, and 0.7 million beef cattle.⁴⁰ The majority of beef production is intensive whereas that of sheep and goats is extensive.⁴¹ The production apparatus consists mainly of small farmers (70% own fewer than 10 cows and work fewer than 10 hectares) who are geographically dispersed across the country (Figure 4.10) (ONAGRI, 2017^[77]). Due to their small scale, the OECD understands from stakeholders that Tunisian farmers tend to have: 1) limited or no investment capacity; 2) limited access to financing institutions; 3) inadequate market information for decision-making; and 4) poor infrastructure and equipment. These limitations restrict farmers' ability to optimise production costs.

Figure 4.10. Distribution of livestock by type and region, 2018

Source: (ONAGRI, 2017^[77]).

The sale of cattle, sheep, goats, camels and horses in Tunisia takes place mainly in livestock markets, of which there are currently 148 across the country. The markets are owned either by local municipalities or governorates' regional councils. They are usually directly managed by the municipalities and sometimes by private operators as fixed-duration concessions.

The vast majority of livestock markets are non-standardised, unregulated and accessible by any interested individual. Most markets are informally organised, and lack transaction records, sanitary rules, traceability requirements, and herd identification systems.

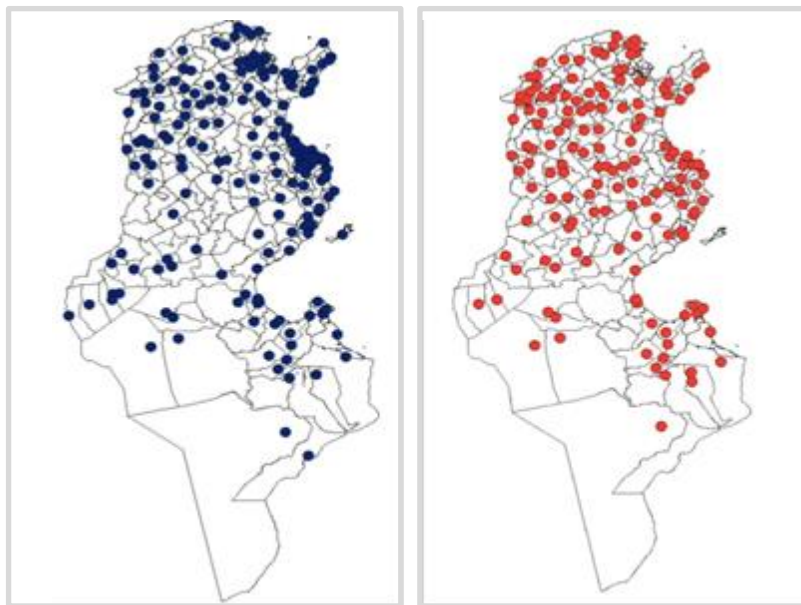
The main actors in these markets are *maquignons*: dealers who buy and collect animals directly from small farmers or secondary markets in rural areas of the country, and resell them. By virtue of their size relative to livestock sellers, their possession of extensive market information, and the quasi-monopsonistic nature of livestock markets (i.e. many sellers and few *maquignons*), stakeholders say that *maquignons* have substantial buying power, giving them significant influence over livestock prices. Further, numerous intermediaries buy and immediately resell livestock potentially raising prices through the accumulation of mark-ups⁴² (GIVLAIT, 2018^[97]).

Slaughterhouses play a central role in the Tunisian red-meat value chain. A field study conducted by the Ministry of Agriculture and the Ministry of Local Affairs in 2018 identified 158 abattoirs currently in use across the country. They are usually located next to livestock markets, with both mainly concentrated in the north and on the coast with a similar spatial distribution (Figure 4.11)

Like livestock markets, slaughterhouses are owned by local authorities, but most are managed by private operators – usually butchers – through fixed-term concessions. From discussions with stakeholders, the OECD understands that slaughterhouses are generally

poorly equipped, and do not meet national or international standards.⁴³ These limitations are addressed in Section 4.2.2.

Figure 4.11. Geographical distribution of livestock markets (left) and slaughterhouses, 2015



Note: The number of slaughterhouses and livestock markets fluctuates from year to year depending on the local authorities' ability to manage them and find interested private parties.

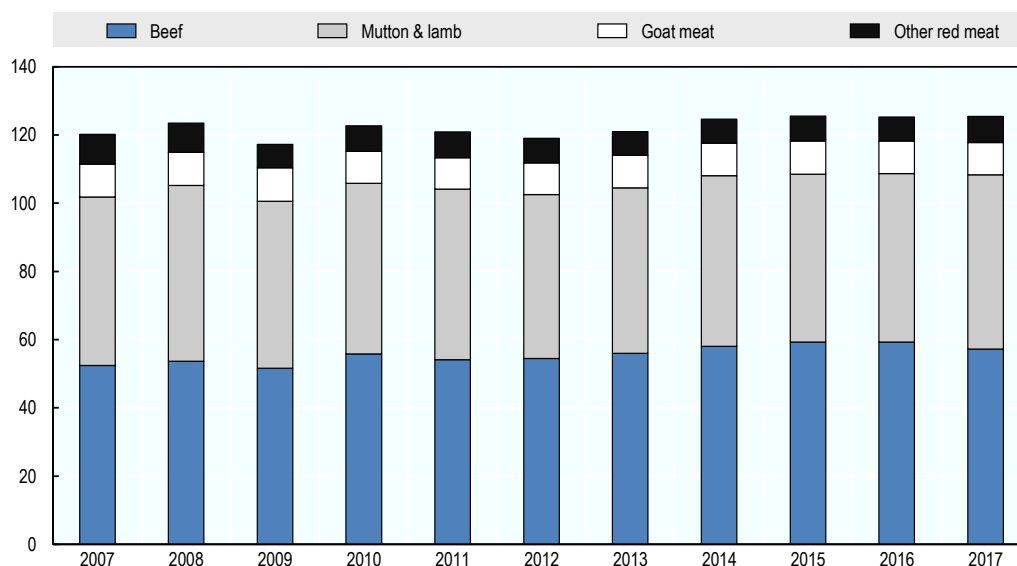
Source: (CNVZ, 2015^[98]).

Average annual Tunisian production of red meat during the 2007-2016 period was around 124 000 t, growing at a relatively low average annual growth rate of 2.3% over that period (Figure 4.12)

Annual meat imports during the same period did not exceed 5 000 t and fluctuated between 2% and 6% of total consumption, averaging around 4% (Figure 4.13). Meat is primarily imported during peak consumption periods in Tunisia, such as the month of Ramadan.

Historically, the state has had significant control over meat imports, through a state monopoly attributed to a state-owned enterprise (SOE), Société ELLOUHOUM, founded in 1961. Since 1991, private operators have entered the market,⁴⁴ but according to its management, ELLOUHOUM still tends to be the only importer of refrigerated meat. Frozen meat is typically imported by private parties.

Each year, the Ministries of Trade and Agriculture, in consultation with GIVLAIT, establish a quota of imported refrigerated and frozen meat that benefits from a reduced rate of customs and consumption duties. ELLOUHOUM generally benefits from the entire refrigerated-meat quota. This is mainly because refrigerated meat is sold at prices set by the Ministry of Trade that tend to be below purchasing prices.

Figure 4.12. Production of red meat by category in Tunisia (thousands, tonnes)

Source: (GIVLAIT, 2018^[97]).

Trade in red meat at the wholesale level typically takes place through a traditional channel consisting of wholesale butchers and *chevillards* (usually *maquignons* with sales outlets), rather than in dedicated wholesale markets. Wholesale butchers' main activities are the purchase of carcasses, cold storage of meat, quartering of carcasses, and wholesale selling of unpackaged meat. *Chevillards* buy live animals, slaughter them and market whole carcasses or quarters.

In Tunisia, newer wholesale business models, involving modern processing and packaging equipment, is limited to 10 cutting and processing units. Like the more traditional channel, however, stakeholders have indicated to the OECD that the meat-processing industry is hindered by a lack of equipment and know-how, and in some cases an absence of sanitary controls and an adequate system of traceability.

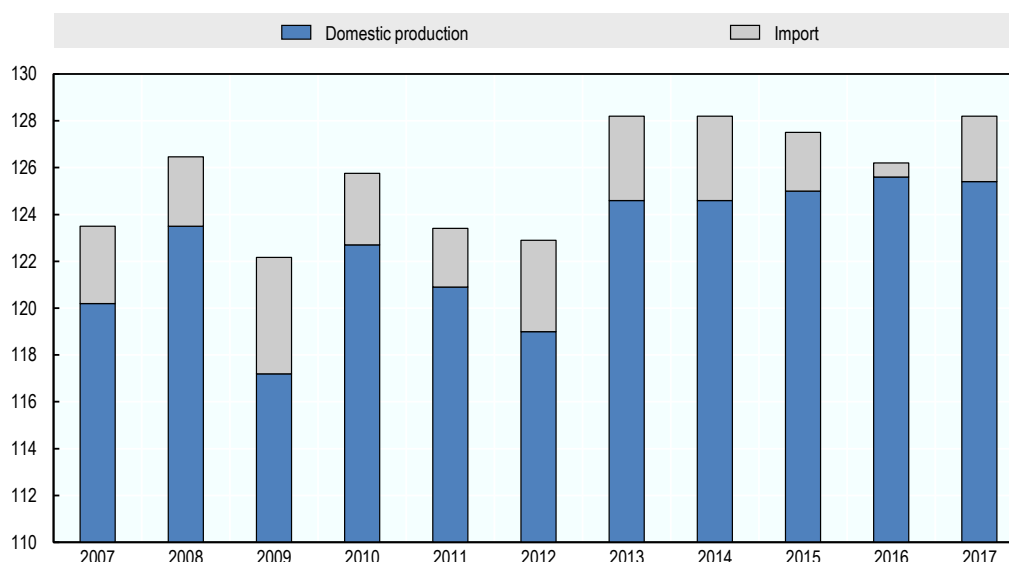
At the retail level, meat is sold either through retail butchers or in supermarkets and hypermarkets. Meat intended for sale by retail butchers is usually sold unrefrigerated and has a shorter shelf life. Meat intended for sale in supermarkets is refrigerated during storage, distribution and retail sale.

A high proportion of Tunisian consumers buy meat at traditional butcher shops. According to GIVLAIT, around 8 500 licenced butcher shops handling almost 95% of the overall volume of red-meat retailing are currently operating nationally. Most of these shops are located in the greater Tunis area and in other large cities, with the remainder being distributed between rural areas and along regional roads. Some stakeholders have indicated that a large proportion of traditional butcher shops lack the expertise and appropriate equipment to comply with sanitary standards.⁴⁵

Total consumption of red meat in Tunisia remained stagnant over the 2010-2017 period with a minimal average annual growth rate of 0.3% (Figure 4.13). Average annual Tunisian per capita meat consumption (including poultry) increased from 24.8 kg in 2000 to 32.5 kg in 2015 (INC, 2017^[81]). This is close to the world average of 34.3 kg, but far from the 69 kg in the European Union and 98.3 kg in the United States (OECD,

2018^[99]). Poultry and white meat experienced the most significant growth over the period, growing from 10.8 kg/inhabitant/year in 2000 to 19.4 kg/inhabitant/year in 2015. Red meat consumption, in contrast, dropped with about 2 kg/inhabitant/year for mutton and lamb over the same period reaching an average of 7.1 kg in 2015 against 3.9 kg for beef (INC, 2017^[81]).

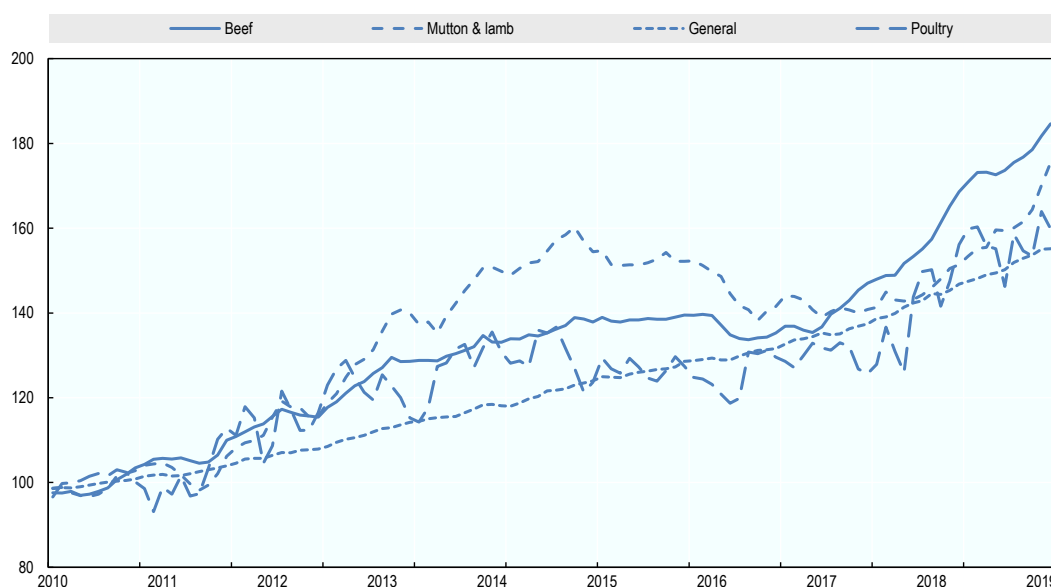
Figure 4.13. Consumption of red meat in Tunisia (thousands, tonnes)



Source: (GIVLAIT, 2018^[97]).

A key potential driver of this trend is that prices for beef, mutton and lamb, and goat meat have increased at a faster rate than poultry and the general food index, making red meat in Tunisia proportionately more expensive relative to other foods (see Figure 4.14).

Figure 4.14. Consumer price indexes: general, red meat and poultry



Note: Price indexes are normalised to 100 for January 2010.

Source: (INS, 2019^[48]).

While the general consumer price index showed an annual inflation rate of 5% between January 2010 and March 2019, price indexes for beef rose by 7.2% and mutton, lamb and goat meat rose by 6.7% against 5.7% for poultry. According to the most recent INS data, in January 2019, year-on-year inflation was 15.5% for beef and 17.7% for mutton and lamb (INS, 2019^[48]).

Poultry consumption's increase relative to beef can be partly explained by the introduction of a poultry categorisation system under which consumers can now choose between high-, mid-, and low-range meat grades, classified under a regulatory framework. As a result, consumers have greater clarity over the quality of their meat, and low-income households may have greater access to poultry than before (as cheaper, low-quality grades have become more accessible). A study conducted by GIVLAIT shows how these changes may have contributed to red meat losing ground to poultry in Tunisian household purchases (GIVLAIT, 2008^[100]).

4.2.2. Slaughterhouses

Description and objectives of the provisions

The legal framework for the establishment of slaughterhouses in Tunisia is set out in Law 2005-95 of 18 October 2005 and requires slaughterhouses be set up in accordance with a master plan (*plan directeur des abattoirs*), which must be approved by decree. The current master plan was adopted in 2010 by Decree 2010-360 of 1 March 2010, which, among other items, establishes the total number of officially sanctioned slaughterhouses in Tunisia (51 of which already exist, but need to be upgraded, and nine that must be created) and their location.⁴⁶ As explained below, however, there are far more slaughterhouses than the number established in the master plan. The master plan stipulates that the establishment and management of slaughterhouses can be carried out by local authorities or by any party that fulfils the requirements established by the plan.

Private parties are allowed to set up and manage slaughterhouses, but only in the number and the locations established in the master plan. In order to set up a new slaughterhouse, private parties, like public authorities, need to provide an economic study, as well as technical and environmental studies. The content of the economic study and the assessment methodology used by the relevant commission are not set out in the master plan.

There are currently three types of slaughterhouse in Tunisia, according to the legal framework: 1) those established by the private sector (currently only two: Ouled Chamekh (Mahdia),⁴⁷ which is operational, and one in the city of Tozeur, which is not);⁴⁸ 2) those established and directly managed by local authorities (30% of public slaughterhouses); and 3) those established by local authorities, but managed by private operators through a concession (70% of public slaughterhouses). In addition, there is a great number of slaughterhouses that do not comply with the applicable legal framework.

Law 2018-29 of 9 May 2018 on local governance reaffirms the responsibility of local authorities for the establishment and management of slaughterhouses, as well as their right to do so through concessions or public-private partnership (PPP) contracts. Most of Tunisian municipalities are exercising this right as it brings in financial resources, while leaving the management of the slaughtering business to private operators, usually butchers. These concessions typically last one year and the related contracts do not generally require minimum investments to maintain the infrastructure.

The OECD understands that the objective of this legal framework is to organise the sector to ensure that the country has sufficient slaughterhouses to fulfil the needs of domestic

customers, and that these slaughterhouses meet minimum standards and sanitary requirements as set out in Order 2813 of 1 November 2006 of the Minister of Agriculture.

Slaughterhouses are also subject to specific levies, a taxation regime established by Decree 90-1960 of 28 November 1990 and Law 96-113 of 30 December 1996. According to these two pieces of legislation, two levies are collected: the municipality levy goes directly to the municipalities that own the slaughterhouses, while the FODECAP levy funds the *groupements interprofessionnels* and five technical centres (see Sections 2.2 and 4.1.6). Both levies are calculated on total carcass weight. In practice, the municipality levy is not collected in the case of a concession to a private party since it is rolled into the financial bid. The FODECAP levy, as established in Law 96-113, amounts to 0.05 dinar a kilogram and is payable for beef and goat meat. Based on the information provided by the authorities, in practice, the FODECAP levy is not paid in most slaughterhouses, with rare exceptions such as the one owned by ELLOUHOUM. It is also collected as a tariff on imports

Harm to competition

The above provisions limit the entry of private slaughterhouses into the market, including those with modern business models that may be able to use technology or economies of scale to reduce prices or increase quality for consumers. Even though they are not enforced in practice – since 107 slaughterhouses continue to operate despite the adoption of the master plan – these provisions impose a limit on the number of slaughterhouses in Tunisia, which, given the relatively high number of publicly owned facilities (see Box 4.9), means few private slaughterhouses can enter the market. Restrictions on the location of new slaughterhouses, and the requirement for economic studies assessed without transparent criteria, further restrain the entry of private slaughterhouses, even if they were compliant with the sanitary and environmental standards set out in legislation.

These effects run contrary to the objectives of the regulation. Designed to ensure a basic level of service, the restrictions are in fact rendering access to the market more difficult for potential new slaughterhouses that could offer customers higher quality and lower prices.

The situation is compounded by the limited enforcement of regulatory standards. This appears to have allowed lower-quality public slaughterhouses to operate at a cost advantage relative to modern private slaughterhouses. Official data from the Ministry of Agriculture show that only two currently operating slaughterhouses have received veterinary approval for compliance with sanitary standards. For the vast majority of the remaining slaughterhouses, animals are slaughtered in premises that do not comply with minimum sanitary requirements (including the presence of a veterinarian). Further, stakeholders have indicated that numerous *tueries* (informal slaughterhouses organised without permission or compliance with sanitary standards) are also active in Tunisia. Consequently, slaughterhouses that have invested heavily to comply with sanitary rules, such as the privately owned facility in Ouled Chamekh, are facing difficulties in attracting customers and generating profitability.

Instead of promoting access to slaughterhouse facilities, the restrictions may be limiting the options available to customers, all without guaranteeing basic sanitary quality. Liberalising the entry of new slaughterhouses into the market could improve customer access, and would not prevent public authorities from ensuring a minimum level of slaughterhouse services is available in each region by establishing public facilities where and when necessary.

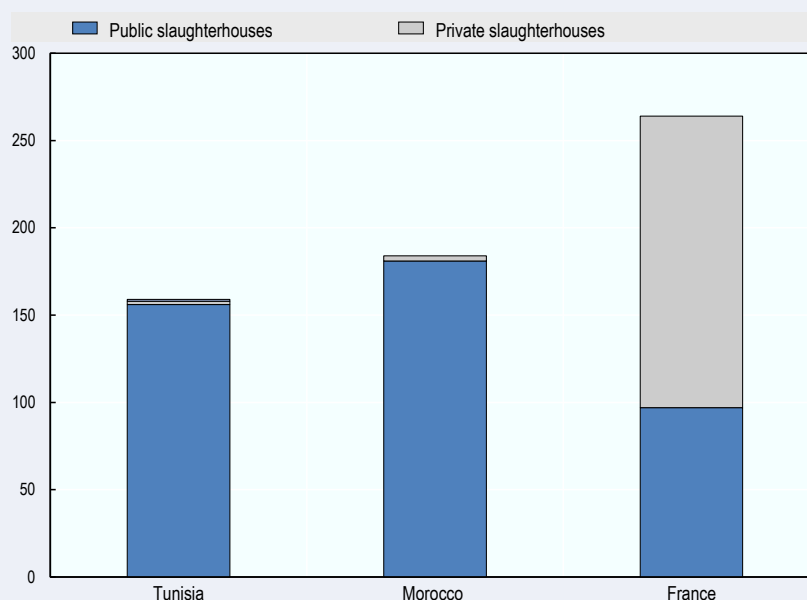
Liberalisation could also permit new business models, given that, according to some stakeholders, slaughtering seems not to be a profitable activity, actors might be interested in vertically integrating and providing other services, such as processing and packaging of meat, which could have a positive impact on red-meat consumers and overall sectoral efficiency. The OECD understands that the vast majority of slaughterhouses do not provide services other than slaughtering, despite the provision of additional services not being forbidden by the legal framework.

The public policy objective of ensuring minimum sanitary requirements could be pursued under a liberal entry regime, following a two-pronged approach: 1) *ex ante* by requiring a technical study of slaughterhouses (as is already the case); and 2) *ex post* by carrying out inspections to ensure that slaughterhouses fulfil the established requirements. It is also important to note that, in order to guarantee a level playing field for all actors, including wholly private slaughterhouses, the legal framework (in particular, the provisions concerning sanitary requirements and the payment of levies) needs to be applied equally to all actors under its subjective scope.

Box 4.9. Slaughterhouses in Tunisia and France

The slaughterhouse sector in Tunisia and that in France are different in a number of ways. Tunisia is characterised by a high number of low-capacity slaughterhouses: 86% of slaughterhouses in Tunisia have an annual capacity of less than 500 t, compared to France where the average annual slaughterhouse capacity is 13 200 t.

Figure 4.15. Number of slaughterhouses in Tunisia, Morocco and France



Source: (GIVLAIT, 2018^[97]); (Cour des Comptes, 2017^[101]); (Falorni and Cautlet, 2016^[102]).

The percentage of slaughterhouses under public control is much higher in Tunisia. In France, only 36% of slaughterhouses are publicly owned (and slaughter less than 15% of annual total tonnage), while in Tunisia all but two slaughterhouses are under public control, whether directly managed by public authorities or subcontracted to private parties following the award of a concession.

Discussions with stakeholders in Tunisia suggest that many slaughterhouses are poorly equipped and do not meet international food standards, such as the *Codex Alimentarius*.

Private or illegal slaughtering plays a significant role in Tunisia. Although no official data on the phenomenon is available, best estimates suggest that only 55% of total national red-meat production passes through official slaughterhouses.¹ In the European Union, private or illegal slaughtering is now almost non-existent.

Note: ¹According to Law 2005-95, slaughtering outside slaughterhouses for personal consumption is possible under certain circumstances, such as religious festivals, provided that the applicable health regulations are respected.

Source: (GIVLAIT, 2018^[97]); (Falorni and Caullet, 2016^[102]).

In addition, several deficiencies in public slaughterhouses managed by private parties have been identified. Discussions with stakeholders suggest that once local authorities award a concession to manage a slaughterhouse, many do not control whether the concessionaire operates in accordance with legal requirements, and do not ensure the collection of levies.

Although the legislation dealing with this type of contract is clear about the tendering process,⁴⁹ the procedures used to award concessions to private operators for the management of slaughterhouses (*adjudication*) seem to be neither transparent nor competitive. Selection criteria for candidates are not published before the process, although the financial offer appears the main and only criterion.

Concessions are generally short (one year) and do not require minimum levels of investment. In addition, contracts held by incumbents appear to be renewed by default. As a result, new operators may be dissuaded from bidding for the concession, given the significant incumbent advantages, opaque process, and the short contract length that limits investment incentives. Further, since operators are not required to invest in slaughterhouse facilities during their tenure, the current contracting process may be encouraging a deterioration in service quality.

It also appears that concession contracts do not impose on private operators a requirement to collect and refund levies. Practically, the fact that the levy is only collected by a handful of slaughterhouses creates a competitive imbalance between the minority of operators implementing the rules (and so imposing additional charges upon their costumers) and the broad majority failing to do so. The publicly owned ELLOUHOUM is a clear illustration of this harm. It faces fierce competition from 16 privately managed slaughterhouses in the greater Tunis area that can offer cheaper prices because they do not collect the applicable levies. As a result, its management has stated that the slaughterhouse is running only at 5% to 10% of its capacity.

More generally, the application of these levies increases costs for suppliers that use slaughterhouses or import meat. This might encourage market participants to use slaughterhouses that do not apply the levies and, in turn, increase the number of slaughterhouses not collecting them. In addition, higher costs – which also apply to imports – can increase prices for consumers.

Recommendations

In light of the restrictions explained above, as well as the limitations of the relevant provisions in achieving the desired policy objective, the OECD recommends:

- Abolishing restrictions on the number of slaughterhouses and their geographical location for reasons which are not purely technical or environmental, and removing the requirement for private-sector parties to submit an economic study to set up a slaughterhouse.
- Modifying the relevant provisions in order to ensure that the procedures to award a concession to manage a slaughterhouse are in accordance with national and international standards (see Box 4.4)
- Ensuring that the terms of the concession (including its duration and investment requirements) provide sufficient requirements and incentives so that the concessionaire makes the necessary investment to guarantee the correct functioning of the slaughterhouse.
- Ensuring that all controls and regulations, particularly hygiene standards, are implemented by all slaughterhouses, which might mean the public administration adopting a plan that solves current severe deficiencies in slaughterhouse infrastructure and equipment. This plan could be particularly necessary in regions where new privately owned slaughterhouses that could address these deficiencies are unlikely to be established.
- Adopting a long-term plan to encourage private investment in the slaughterhouse sector.
- Ensuring that there is alignment between slaughterhouses that collect and pay the levy for the FODECAP fund and those which benefit from it (see Section 4.1.6).

4.2.3. Distribution chain

Description and objectives of the provisions

As seen in Section 4.1.2, retail butchers play a central role in the downstream red-meat value chain. Opening a butcher's shop requires no authorisation or any specific qualifications. In terms of technical requirements, a manual adopted by ministerial order details the conditions for operating retail outlets.⁵⁰ Health regulations specific to butcher shops have been adopted by local authorities, such as those in Tunis.⁵¹ The requirements include the standard equipment needed for the storage, preparation and sale of meat, such as refrigerators and freezers, instruments, and the conditions for preparing certain products, such as minced meat, and other hygiene rules.

The distribution chain is also subject to Law 2019-25 of 26 February 2019 on food and animal feed safety. This new law aims to ensure the safety of foodstuffs and animal feed and guarantee high standards for the protection of human and animal health. It also details the obligations of food manufacturers. Several regulations are expected to be adopted over the coming months under this law, including a decree on general conditions of hygiene and principles of a risk-analysis system that is expected to have a particular focus on the meat sector.

In addition, three features of red-meat markets may require further attention: traceability, classification and categorisation.

A legal framework exists to establish a traceability system for red meat in Tunisia. The OECD has identified two ministerial orders that deal specifically with traceability and three regulating the identification of live animals.⁵² The current traceability system appears to have certain limitations, however. First, the legal framework is fragmented and usually consists of lower-ranking pieces of legislation, such as ministerial orders. Second, there appears to be no penalty system for actors that breach their obligations. This, however, might change with the adoption of the new law on food and animal-feed safety.

Certain stakeholders have pointed out that, in practice, traceability of red meat in Tunisia takes place only when animals are slaughtered and subsequently distributed. However, this only applies to certain slaughterhouses and distribution channels; the remainder implement no traceability system. In addition, it is usually not possible to trace an animal's past before slaughter – where it was raised, and whether it had any illnesses – making the resulting meat untraceable in case of problem.

According to information provided by GIVLAIT, in Tunisia there is no legislation concerning the classification and categorisation of red meat.⁵³ This implies that customers cannot know the exact type of product they are purchasing or its quality. According to information provided by SYNAGRI, meat is typically sold at relatively similar prices at retail level, regardless of its quality and the specific cut.

Harm to competition

The legislation dealing with hygiene conditions for retail butcher shops and with the traceability of meat is not consistently enforced. As a result, producers and distributors may have incentives to deviate from the requirements to reduce costs, for example, by slaughtering animals without a veterinary present or not meeting other minimum requirements. If some actors do not follow regulations, others have greater incentives to follow suit in order not to have a competitive disadvantage. This appears to be the situation in Tunisia, with its numerous informal slaughterhouses (see Section 4.2.1). This, in turn, lowers the quality of the meat and can put the health of consumers at risk.

A traceability system has many benefits, including its ability to ensure that commercialised meat is disease-free. The importance of this is seen in the fact that a bovine tuberculosis epidemic has recently spread across Tunisia, affecting a considerable quantity of cattle.⁵⁴ Without an adequate traceability system, it is not possible to identify which animals have contracted the disease or been in contact with other infected animals. Further, without traceability, any meat originating from these animals cannot be identified, meaning retailers and customers cannot be notified through post-sale surveillance (Yordanov and Angelova, 2006^[103]).

Traceability in Tunisia may improve with the expansion of hypermarkets and supermarkets, as these suppliers appear to focus on hygiene and safety issues more than retail butchers. Nevertheless, there remain two aspects unlikely to improve unless the legal framework is upgraded and implemented: 1) traceability before the animal reaches the slaughterhouse (according to business confederation UTICA, even for supermarkets, traceability can only be ensured once the animal has entered the slaughterhouse); and 2) traceability both before and after an animal enters the slaughterhouse in the case of retail butchers.⁵⁵

Box 4.10. Traceability regulations in the European Union and the United States

Following the bovine spongiform encephalopathy (BSE) in the late 1990s, the European Union established a “mandatory system of permanent identification” for animals to enable traceability. The traceability systems are similar but specific for the different types of livestock (World Perspectives, 2018^[104]), and this European approach can serve as good-practice guidance.

The traceability system for bovine animals is laid out in EU Regulation 1760/2000. Labels of beef products must contain at least, 1) a reference number linking the meat to a specific animal or animals; 2) a reference to the slaughterhouse at which the animal was slaughtered and the slaughterhouse’s geographical location; 3) a reference to the cutting hall in which the cutting operation on the carcass or group of carcasses was performed and the hall’s geographical location; and 4) a reference to the country in which the animal was born and fattened.

Living animals must be identified by an ear tag and hold a passport, necessary for any movement. In addition, competent authorities must set up computerised databases containing this information for the purposes of traceability and keepers of animals (with the exception of transporters) must keep individual registers on their holdings.

The United States has also adopted measures, in particular, concerning animal-disease traceability. These could be particularly relevant in Tunisia, given the current epidemic of bovine tuberculosis. As the US Department of Agriculture points out: “Although animal disease traceability does not prevent disease, an efficient and accurate traceability system reduces the number of animals and response time involved in a disease investigation; which, in turn, reduces the economic impact on owners and affected communities.”¹ In practice, this means that livestock moved between states, unless specifically exempted, must be “officially identified and accompanied by an interstate certificate of veterinary inspection” or “other documentation agreed upon by the shipping and receiving States”.² This rules applies to animals including cattle, poultry, sheep and goats.

Note:¹ www.aphis.usda.gov/aphis/ourfocus/animalhealth/SA_Traceability

² www.aphis.usda.gov/traceability/downloads/rule_movement_general.pdf

The absence of meat traceability also hinders the proper implementation of meat classification and categorisation mechanisms, while a lack of legislation on the classification and categorisation hinders competition based upon quality and price, and reduces the consumer choice.

Producers and distributors have little incentives to offer high-quality meat if they know that their products will be sold at the same price as significantly lower-quality meat. Higher production costs for higher quality meat are not compensated by a higher return leading to a lack of product differentiation and lower quality.

In addition, offering red meat of different qualities and from different parts of the animal together deprives consumers of the full range of purchase options, such as offering lower prices for those who wish to buy lower-quality meat. This is particularly the case in Tunisia, where according to GIVLAIT, about 40% of the beef consumed annually in Tunisia comes from cull cows, but is still sold at the same price levels of higher-quality beef.

A classification system sets criteria to assess the carcasses. For instance, EU Regulation 1182/2017 of 20 April 2017 identifies classes based upon the conformation of specific cuts of beef carcasses and their fat cover. In terms of conformation, the more a part is well rounded, muscled and developed, the better its carcass classification will be; the fatter a carcass is, the worse its quality. Tunisia’s lack of a similar classification and categorisation

system appears to be one of the reasons why white-meat consumption has increased compared to red-meat consumption.

Recommendations

In view of the restrictions above and their harm to competition, the OECD recommends:

- Reviewing the current legal framework to ensure that its rules on traceability are up to international standards.
- Ensuring that these applicable rules are implemented, in particular, by including them in a single piece of legislation and establishing a sanctions regime.
- Implementing a classification and categorisation system that meets international standards, and is accompanied by measures to educate all relevant actors, including butchers and consumers.
- Ensuring that the application decrees of the new law on foodstuff and animal-feed safety guarantees standards consistent with international norms in terms of hygiene conditions and risk analysis for the meat value chain, and ensuring its strict implementation.

Notes

¹ The data do not include informal employment, which is widespread in the sector.

² This figure does not include olives since they are not exported as fruit but as olive oil.

³ According to the Ministry of Trade's most recent data, 20 wholesale markets of regional interest are currently not active.

⁴ With the exception of the production market for olives in Gremda (Sfax Governorate), the other markets do not exist physically.

⁵ Article 4.

⁶ Article 30 of the Annex.

⁷ Article 7.

⁸ Article 6.

⁹ Article 13.

¹⁰ Order of 25 May 2005 establishing the protective perimeter of wholesale markets of national interest.

¹¹ In other countries, all available distribution channels are gathered in a single piece of legislation; for instance, in Spain, Real Decreto 1882/1978, sobre canales de comercialización de productos agropecuarios y pesqueros para la alimentación refers to the various distribution channels.

¹² This protective perimeter has a 25-km radius in the case of the market of national interest of Bir Kassâa.

¹³ Article 3 of Law 94-86.

¹⁴ Further, the Ministry of Trade has indicated that circular 4 of 22 February 2019 by the Ministry of Local Affairs indicates that local government bodies are competent to manage concession contracts, including their duration and their financial aspects, following a competitive and transparent procedure.

¹⁵ Articles 13 and 14 of the Annex.

¹⁶ Decree 98-1630, article 18 of the Annex.

¹⁷ Decree 98-1630, article 17 of the Annex.

¹⁸ Decree 98-1630, article 35 of the Annex.

¹⁹ Decree 98-1629, article 7 of the Annex.

²⁰ Decree 98-1630, article 9 of the Annex and Order of 20 May 2005 on minimum quantities.

²¹ Decree 98-1630, articles 8 and 10 of the Annex.

²² Arrêté du ministre de commerce du 10 juin 1999, relatif aux cartes d'accès aux marchés de production et aux marchés de gros des produits agricoles et de la pêche, www.cnudst.rnrt.tn/jortsrc/1999/1999f/jo05199.pdf (accessed 11 April 2019).

²³ Cards are valid for five years. Access cards for occasional users are valid for the time of their activities.

²⁴ Porters are in charge of transporting products within wholesale markets, from the moment they enter the premises to the moment they leave. Sales agents are intermediaries arranging transactions between buyers and sellers in exchange of a commission, without acquiring the product.

²⁵ Decree 70-573 setting the fees for the porters in the wholesale markets of Tunis and Sousse; Decree 76-1041 setting the fees for the porters in the wholesale market of Sfax; Decree 80-301 setting the fees for the porters in the wholesale market of Kairouan.

²⁶ Decree 98-1630, article 18 of the Annex.

²⁷ Law 94-86, article 25.

²⁸ Law 94-86, article 8; Decree 98-1630, article 4.

²⁹ As explained in Section 4.1.1, collectors gather the fruit and vegetables of third-party farmers and sell them to public bodies such as hospitals and universities, as well as to hotels, restaurants and certain retailers.

³⁰ Order of 25 October 2000, articles 22 and 23.

³¹ Article 1. The Ministry of National Economy no longer exists; its powers are now held by the Ministry of Finance.

³² Article 8.

³³ Article 4.

³⁴ See endnote 38 above.

³⁵ Articles 6 and 8.

³⁶ See www.oecd.org/competition/assessment-toolkit.htm.

³⁷ Regulation (EU) 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007.

³⁸ Certain sources have pointed out that Tunisian farmers have a negative perception of co-operatives.

³⁹ Law 82-91, as modified by Law 94-127.

⁴⁰ The dominant breed in Tunisia is the dairy Prim'Holstein, which represents 44% of the herd. The remaining 56% are of local or mixed breeds, notably from the French Brune and Tarentaise breeds.

⁴¹ A livestock-raising system can be intensive, extensive, or mixed. It is extensive when animals are raised in pastures, intensive if animals are raised indoors.

⁴² The report estimates that the price of a cow may rise by 200-300 dinars within the livestock market due to successive sales.

⁴³ According to GIVLAIT, only 6% of the slaughterhouses have minimum equipment consisting of a hoist, a felling rail, a compressor, and an electronic balance.

⁴⁴ Currently, import activities are carried out by four main private companies: Société Farah, STV, AKID, and LAABIDI. They import only frozen meat, which is sold mainly to hotels and restaurants.

⁴⁵ According to GIVLAIT, the Tunisian retail-butcher system is characterised by serious deficiencies, such as: 1) insufficient qualifications of butchers; 2) lack of professional equipment; 3) lack of enforcement of economic and sanitary controls in terms of quality and origin of the meat, and premises' hygienic conditions.

⁴⁶ According to information provided by the Ministry of Agriculture and GIVLAIT, a new master plan is currently under discussion.

⁴⁷ See www.flehetna.com/fr/mahdia-inauguration-du-1er-abattoir-de-viande-rouge-certifie-ouled-chamekh (accessed 11 April 2019).

⁴⁸ See www.proalimentarius.com/article/premiere-en-tunisie-deux-abattoirs-danimaux-de-boucherie-obtiennent-lagrement-sanitaire-veterinaire.

⁴⁹ Law 2008-23, Law 2015-49, and Decree 2014-1039.

⁵⁰ Order of the Minister of Interior and Local Development of 17 August 2004.

⁵¹ Decision of the Municipality of Tunis on health regulations and hygiene conditions related to meat shops of 24 December 1993.

⁵² On traceability: two Orders of 31 May 2012, one general, the other one dealing specifically with beef; on identification, three Orders: 31 December 2015, 3 November 2015, and 11 January 2007.

⁵³ Classification consists in determining the quality of the meat, through its colour, tenderness, acidity, amount of fat, and other relevant criteria. Categorisation is the identification of the type of cut (i.e. the part of the animal) being sold, such as loin or fillet, which alters how it is cooked.

⁵⁴ See the official press release (in Arabic) of the Tunisian Minister of Agriculture: www.agriculture.tn/?p=9034. For information in French, see www.realites.com.tn/2018/11/saisie-dune-importante-quantite-de-viande-rouge-contaminee-a-la-tuberculose/ (both accessed 11 April 2019).

⁵⁵ Although some rules concerning traceability on the production side exist, all stakeholders have indicated that no traceability exists in practice.

Annex 4.A. Quantification of the impact of lifting restrictions in the operation of wholesale markets on the wholesale trade of fruits and vegetables

The current framework regulating the establishment and operation of wholesale markets, and the wholesale trade of fruits and vegetables more generally, contains a number of provisions that have an adverse effect on competition in the relevant activities. The OECD has recommended changes that aim at making the sector more competitive, more efficient and less costly for market players and – ultimately – for final consumers.

In order to quantify the effect of implementing its recommendations, the OECD relied, in part, on estimates of the mark-ups, fees, and other costs at various stages of the distribution chain for fruits and vegetables in Tunisia. These are set out in the table below, which shows a cumulative mark-up over the production price of 204%, or 197% if the production market is bypassed.

Annex Table 4.A.1. Costs and mark-ups applied at various stages of the distribution of fruit and vegetables in Tunisia

Stage of distribution	Margins and costs	
Agricultural producer		
Production market	Transport cost	3%
	Market fees	15%
Wholesaler/intermediary	Margin	15%
	Transport cost	8%
Wholesale market	Market fees	15%
	Transport cost	3%
Retailer	Margin	17%
Consumer		

Source: Tunisian Union of Agriculture and Fishery (Union tunisienne de l'agriculture et de la pêche, UTAP).

Short-run effects

Implementing the OECD recommendations will affect the way wholesale markets are set up and operated. Recommendations include improving the way tenders for stalls in wholesale markets are organised and run, as well as allowing buyers and sellers to select the provider of transport services or permitting self-provision. Such changes will have the effect of lowering the price (fees) that sellers pay for their produce to be traded in wholesale markets.¹

The OECD estimated the impact of its recommendations by referring to a reduction in the wholesale market fees shown in Table 4.A.2² and the following formula:

$$Benefit = \left(\rho + \frac{1}{2} |\varepsilon| \rho^2 \right) * R$$

where ρ is the percentage change in the final price as a result of a decrease in wholesale market fees, $|\varepsilon|$ is the absolute value of the elasticity of demand and R is the turnover from the wholesale trade of fruit and vegetables. The value of ρ under various assumptions regarding the change in wholesale market fees is shown in the third column of Table 4.A.3.³ The table also shows the expected benefits, on the basis of sector turnover of

TND 1.26 billion in 2017;⁴ these amount to TND 1.7 million, in the case of a modest 1% decrease in wholesale market fees, up to TND 33.8 million, if fees were to drop by 20%.

Independent estimates put the size of the informal sector at around 30% (ACC, BADIS Consulting and GEM, 2008_[83]). Moreover, prices for produce sold through wholesale markets act as a reference for wholesale transactions in other distribution channels. In order to account for the impact of the recommendation on those volumes traded outside the formal channels, the last column of Table 4.A.3 considers that the relevant revenue is 30% higher than that reported. In this case, the expected positive impact then ranges between TND 2.1 million and TND 44.0 million.

Annex Table 4.A.2. Estimated benefit from lowering wholesale market fees

Change in market fees	Effective mark-up	Final price change	Benefit (thousands, TND)	Adjusted benefit (thousands, TND)
1%	172%	0.1%	1 650	2 145
2%	172%	0.3%	3 304	4 296
5%	171%	0.7%	8 293	10 781
10%	170%	1.3%	16 693	21 702
20%	168%	2.6%	33 817	43 962

Note: Estimates assume demand elasticity of -2 (elastic demand for fruit and vegetables). Adjusted benefit takes into account informal sales.

Long-run effects

The current legal framework treats wholesale markets as the main distribution channel for agricultural produce. The OECD recommendations aim to allow wholesalers to sell their products outside wholesale markets and to eliminate the protective perimeter around wholesale markets. By allowing an increased use of alternative distribution channels, there is scope for further benefits to be realised.

As a share of wholesale trade is diverted to other (direct) channels in the longer term, the potential benefits are outlined in Table 4.A.4. The cumulative margin when the products arrive at the final consumer outside the wholesale markets is lower, since the costs for accessing those markets are not borne.⁵ The weighted mark-up in the table is calculated for various splits of sales between wholesale markets and other channels.

Using the same assumptions and methodology set out above, the potential benefit to consumers is found to be between TND 10.0 million and TND 83.6 million; or TND 12.9 million and TND 108.7 million, if informal sales are considered.⁶

Annex Table 4.A.3. Estimated long-term benefit from the diversion of sales to channels other than wholesale markets

Wholesale markets		Other channels		Weighted mark-up	Final price change	Benefit (thousands, TND)	Adjusted benefit (thousands, TND)
Share of sales	Effective mark-up	Share of sales	Effective mark-up				
95%	172%	5%	145%	171%	0.8%	9 916	12 890
90%	172%	10%	145%	169%	1.6%	19 985	25 980
80%	172%	20%	145%	167%	3.1%	40 583	52 757
70%	172%	30%	145%	164%	4.7%	61 793	80 331
60%	172%	40%	145%	161%	6.2%	83 617	108 702

Note: Estimates assume demand elasticity of -2. Adjusted benefit takes into account informal sales.

Combined impact

In practice, in the longer term, both the effects discussed above are expected: implementing the OECD recommendations will introduce more competition in the operation of wholesale markets, resulting in lower fees charged to sellers and consequently to consumers;⁷ and a share of the sales will be diverted away from wholesale markets.⁸

The combined impact of these changes to the current framework is presented in Table 4.A.4, which follows the assumptions and methodology used in arriving at the estimates shown in Table 4.A.3 and 4.A.2.⁹ The expected (combined) long-term benefit ranges between TND 15.0 million and TND 61.9 million, when revenues from informal sales are considered.

Annex Table 4.A.4. Estimated combined benefit from lowering wholesale market fees and the diversion of sales to channels other than wholesale markets

Change in market fees	Wholesale markets		Other channels		Weighted mark-up	Final price change	Benefit (thousands, TND)	Adjusted benefit (thousands, TND)
	Share of sales	Effective mark-up	Share of sales	Effective mark-up				
1%	95%	172%	5%	145%	171%	0.9%	11 508	14 960
1%	90%	172%	10%	145%	169%	1.7%	21 516	27 970
1%	80%	172%	20%	145%	167%	3.2%	41 984	54 580
2%	95%	172%	5%	145%	170%	1.0%	13 103	17 034
2%	90%	172%	10%	145%	169%	1.8%	23 050	29 965
2%	80%	172%	20%	145%	166%	3.3%	43 389	56 406
5%	95%	171%	5%	145%	170%	1.4%	17 913	23 288
5%	90%	171%	10%	145%	168%	2.1%	27 675	35 977
5%	80%	171%	20%	145%	166%	3.6%	47 619	61 905

Note: Estimates assume demand elasticity of -2. Adjusted benefit takes into account informal sales.

Notes

¹ Implementing the OECD recommendations will also create an incentive for wholesale markets, and those operating in them, to improve the quality of the services they provide. While these effects are not directly measurable, they can be approximated by a decrease in the cost of using a wholesale market and thus a decrease in the (effective) fee.

² These are made up of the following components: market fees, commission for wholesale agents (*mandataires*), porter fees, and taxes.

³ These calculations are premised on the assumption that there is sufficient competitive pressure in downstream markets (wholesale and retail) for the cost savings to be passed on to the final consumer.

⁴ Turnover from the National Institute of Statistics (Institut national de la statistique, INS)

⁵ Transport cost (3%) and market fees (15%) for accessing wholesale markets, in Table 4.A.1.

⁶ Allowing for wholesale trade to take place outside wholesale markets is expected to have the effect of diverting informal sales to formal sale channels.

⁷ See endnote 3 above.

⁸ The decrease in market fees or the increase in the use of alternative distribution channels also captures the effect from a potential increase in the number of wholesalers selling in wholesale markets directly (without using agents). For example, this may be driven by implementing the OECD recommendation to improve the tender processes for awarding permits for the use of market stalls.

⁹ Other than a change in market fees, it is assumed that there is no change in the margins earned by market participants in the wholesale market channel. However, it is likely that the competitive pressure stemming from the growing importance of alternative distribution channels may also lead to a decrease in margins. It is also noted that the non-price effects identified in endnote 1 above will be more profound if wholesale markets are faced with competition from other distribution channels.

Part II. Freight transport sector

Chapter 5.

Overview of the freight transport sector

This chapter provides an economic overview of the freight transport sector in Tunisia, identifies the key national institutions issuing sectoral regulation and the main applicable legal instruments. The transport sector constitutes a cornerstone for the development of the Tunisian economy and for the opening and integration of the country's economy into the regional economy and world trade. It accounted for about 7% of Gross Domestic Product (GDP) in 2017. Several legal instruments – codes, laws, decrees and “cahier de charges” – are applicable, at different levels, to the freight transport sub-sectors, including legislation applicable to several sectors. Finally, the chapter describes the legal texts in the scope of this project analysis and presents a summary of potential barriers and recommendations made.

5.1. Definition and economic overview

Transport constitutes a cornerstone for the development of an integrated internal market in Tunisia and its opening and integration into the world economy. To this aim, freight transport constitutes a sector of vital importance for the Tunisian economy. It can also aid development by connecting remote regions to centres of economic activity, allowing consumers to benefit from a wider variety of products and services, while spreading technological advancements across the country and internationally (Boylaud, 2000_[105]).

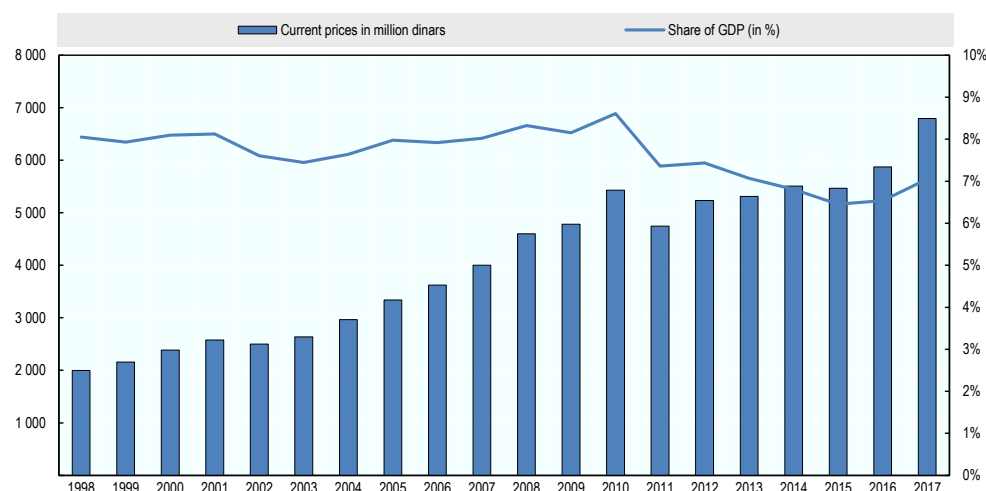
The European Union's NACE classification system¹ for transportation covers freight and passenger transport by land, water and air. Warehousing and support services, such as cargo handling, are also included in the broad definition.

For the purposes of this report, the transport sector includes road and maritime freight transport, as well as logistical, storage and other linked auxiliary activities. In NAT, the Tunisian statistical classification that broadly follows NACE, the following activities fall within the scope of this report's transport-related chapters:

Table 5.1. NAT statistical codes of freight transport

NAT code	Category name
49.41	Freight transport by road
50.2	Sea and coastal water freight transport
52.1	Warehousing and storage
52.21	Supporting and auxiliary land transport activities
52.24	Cargo handling
52.29	Other supporting transport activities

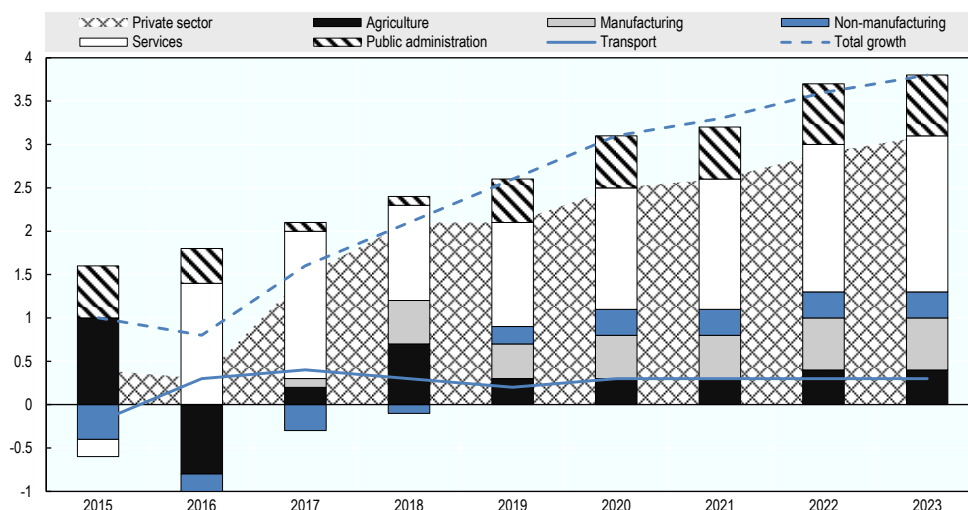
The transport sector accounted for around 6.5% of Tunisian GDP in 2016.² Transport's contribution to GDP peaked in 2010, accounting for more than 8.6% of GDP. After a 12.6% drop between 2010 and 2011, the sector's gross value added (GVA) has been growing at a compound annual rate of 4.3%, resuming its pre-crisis trend and reaching TND 5.9 billion in 2016. Despite the nominal growth of the sector's GVA, its share of GDP steadily declined between 2010 and 2016, as the rate of growth of the economy, as a whole, has been stronger than that of the transport sector.

Figure 5.1 The transport sector's contribution to GDP

Source: (INS, 2019_[29]).

According to the INS, transport and storage services accounted in 2017 for about TND 6.8 billion of GVA, more than 17% of the commercial service sector. This performance makes it the second most important service sector, after that of retail and wholesale trade. Given that transport services constitute a necessary input or intermediary service for many economic activities, the contribution of the transport sector to GDP and employment is likely to be higher than reflected in official figures (ITF, 2017_[106]). Furthermore, the figures may underestimate the sector's contribution due to the high rate of informality.

International Monetary Fund (IMF) estimates show that transport's contribution to Tunisian economic growth is small and stagnating (IMF, 2018_[107]). While overall growth is expected to increase from 2.1% in 2018 to 3.8% by 2023, transport's contribution in the overall growth is forecast to remain flat at 0.3% (Figure 5.2).

Figure 5.2 Private-sector growth decomposition, 2015-2023

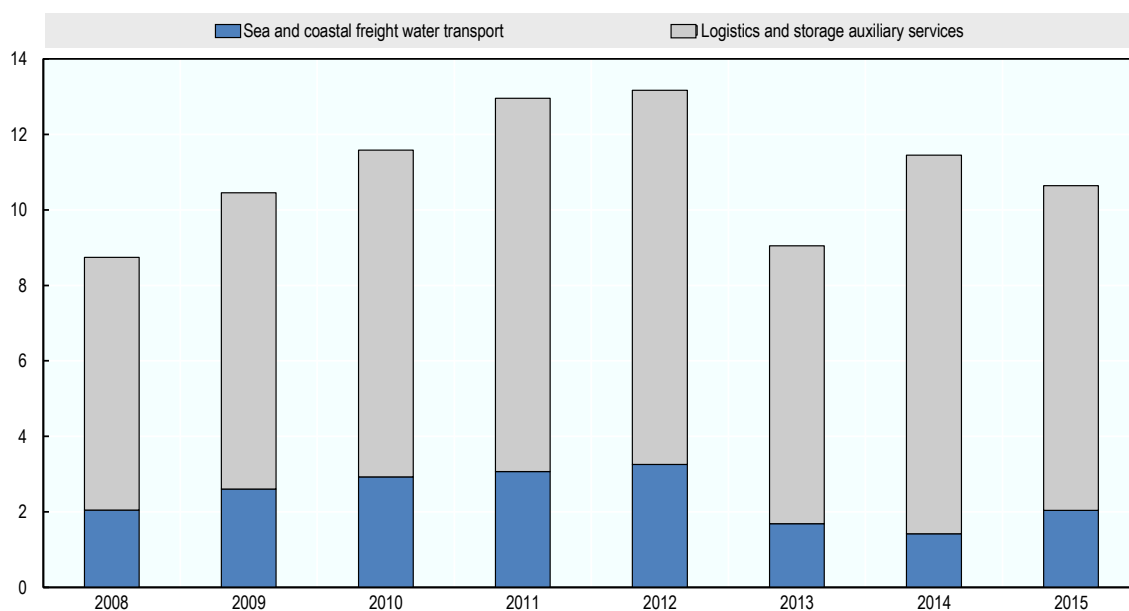
Note: Constant 2010 prices.

Source: IMF (2018_[107]).

The sector's turnover is largely generated by supporting services to road and maritime transport (about 80% in 2015), while INS data show that freight transport by road accounts for 0.4% and sea and coastal freight water transport for 19.1%. Logistics and storage auxiliary services increased their contribution to the sector's aggregate turnover from about 76% in 2008 to 80% in 2015, their turnover increasing in absolute terms from TND 6.7 to 8.6 billion. Conversely, sea and coastal freight water transport enterprises saw their turnover increasing from TND 2 billion in 2008 to TND 3.2 billion in 2012, before subsequently contracting to TND 2 billion in 2015 (Figure 5.3).

On the other hand, road freight transport enterprises contribute less than 0.5% of total freight transport turnover (too negligible to feature in Figure 5.3). Their turnover did increase from TND 25.5 million in 2008 to TND 38.7 million in 2012 and TND 47.4 million by 2015.

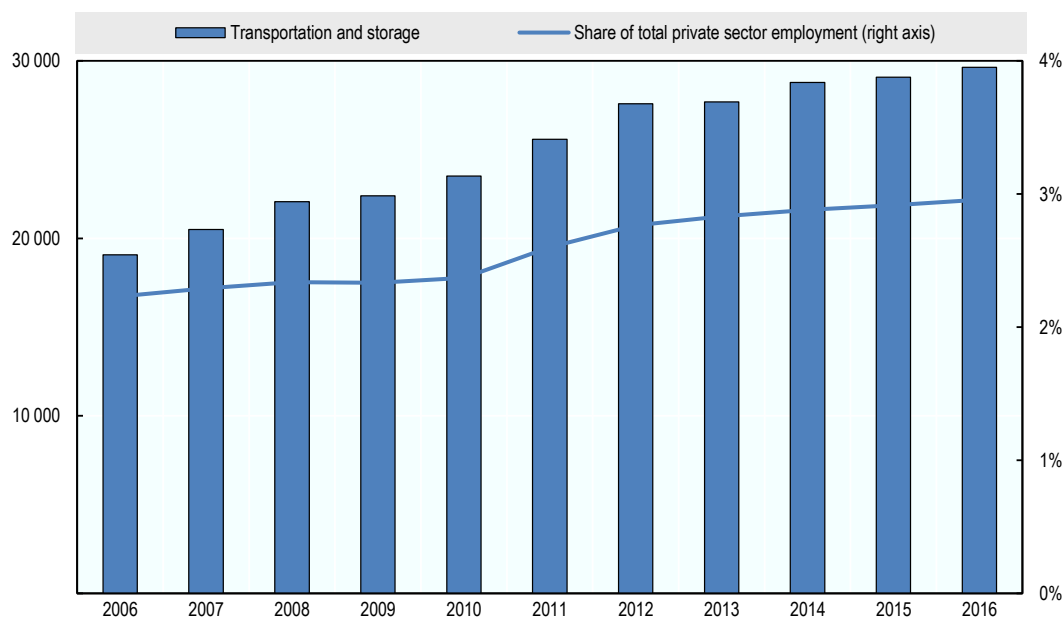
Figure 5.3. Turnover of freight transport (billions)



Source: (INS, 2019_[29]).

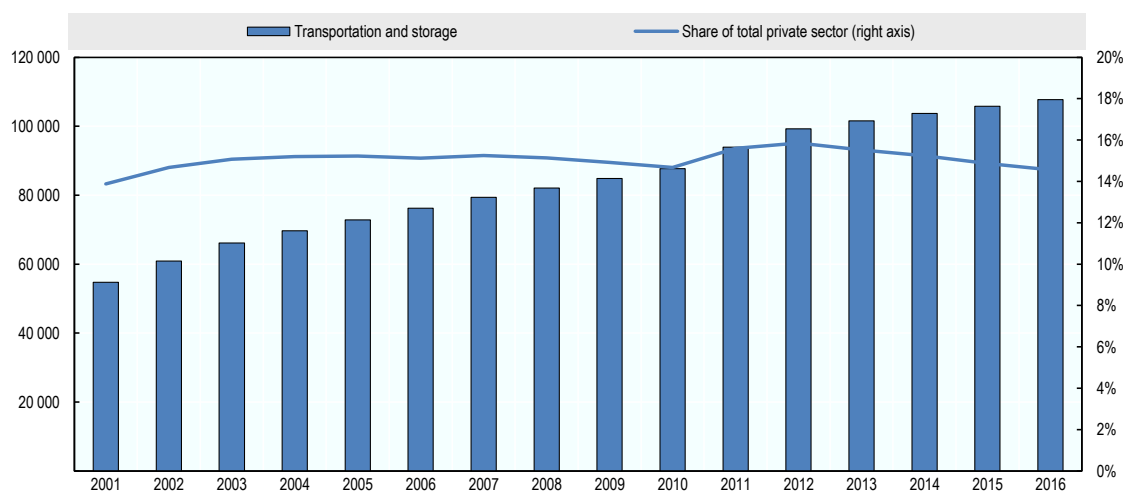
Data show that the contribution of transport to private-sector employment has increased over the past decade in both absolute and relative terms. Growing at an annual average growth rate of 4.5% since 2006, private-sector employment in the formal transport and storage market accounted for about 30 000 employees by end 2016 (Figure 5.4).

The increase in employment in the transport and storage sectors outperformed that of the overall private sector. Consequently, its relative contribution to total employment grew from 2.2% of total private-sector employment in 2006 to about 3% in 2016. Given that employment growth in the transport sector has outpaced growth in turnover and contribution to GDP, labour productivity appears to have fallen.

Figure 5.4. The contribution of transport and storage in formal private-sector employment

Source: (INS, 2019^[29]).

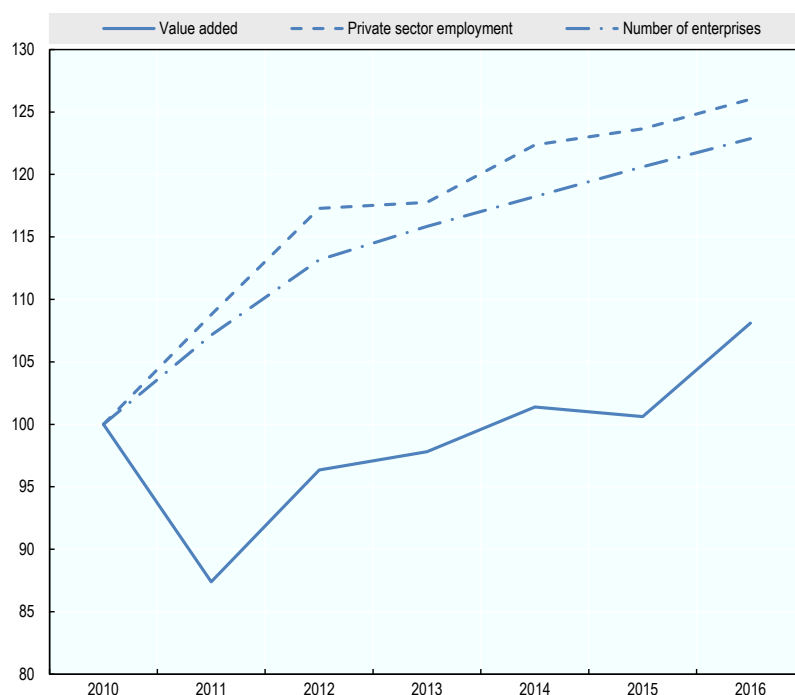
The number of private enterprises in transport and storage activities has been increasing at an average annual rate of 4.6%, from about 55 000 in 2001 to around 108 000 in 2016. This increase was in line with the overall increase in the number of private enterprises in Tunisia during the same period, which grew from about 395 000 to 740 000. As a result, the share of transport and storage enterprises in total private-sector enterprises has been relatively stable, at 14-16%. About half of transport and storage companies are engaged in freight transport by road.

Figure 5.5. The number of transport and storage enterprises

Source: (INS, 2019^[29]).

The sector's productivity remains a challenge, as the increase in its employment and number of enterprises has not been accompanied by an equivalent increase in value added, a trend particularly marked since 2010. At the same time, as shown in Figure 5.6, the rate of enterprise creation mirrored that of employment after 2010, meaning that the average size of enterprises is relatively stable, if extremely small. Indeed, the average size of enterprises only varied from 0.26 employees per enterprise in 2010 to 0.27 in 2016. The low number of employees shows that most enterprises operate with no employees.

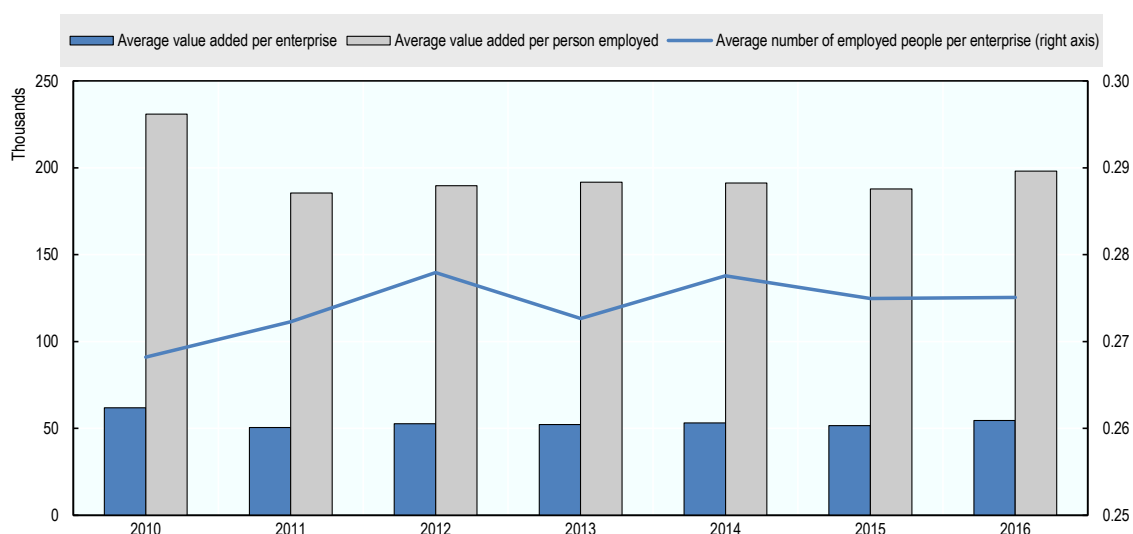
Figure 5.6. Economic activity in the freight transport sector



Note: Normalised values (2010 = 100).

Source: OECD calculations based on (INS, 2019_[29]) data.

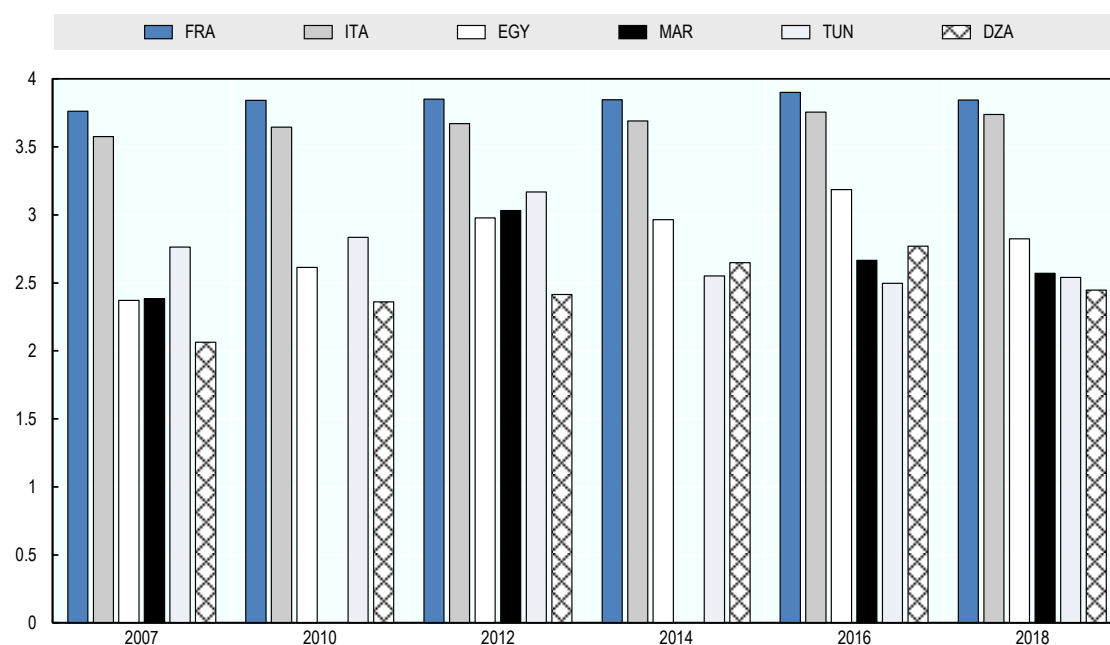
The data show that over the same period labour productivity, calculated as the average value added per person employed, dropped by 20% between 2010 and 2011, was followed by relative stagnation between 2012 and 2015 and 5% growth in 2016 (Figure 5.7).

Figure 5.7. Labour productivity, employment and VA per enterprise in transport sector

Source: OECD calculations based on (INS, 2019^[29]) data.

As seen in Figure 5.8, overall logistics performance in Tunisia lags behind the majority of other countries bordering the Mediterranean. Tunisia was outperforming countries of southern Mediterranean until 2012. Afterwards, its position worsened, leading to a logistics performance index falling from 3.17 in 2012 to 2.54 by 2018. This may be linked to the continued deterioration of the quality of transport-related infrastructure since 2012. At the same time, others countries' competing freight transport and logistics sectors on both sides of the Mediterranean have been improving their logistics performance. With the exception of Algeria, whose score deteriorated between 2016 and 2018, all other countries scored between 2.57 (Morocco) and 3.84 (France).

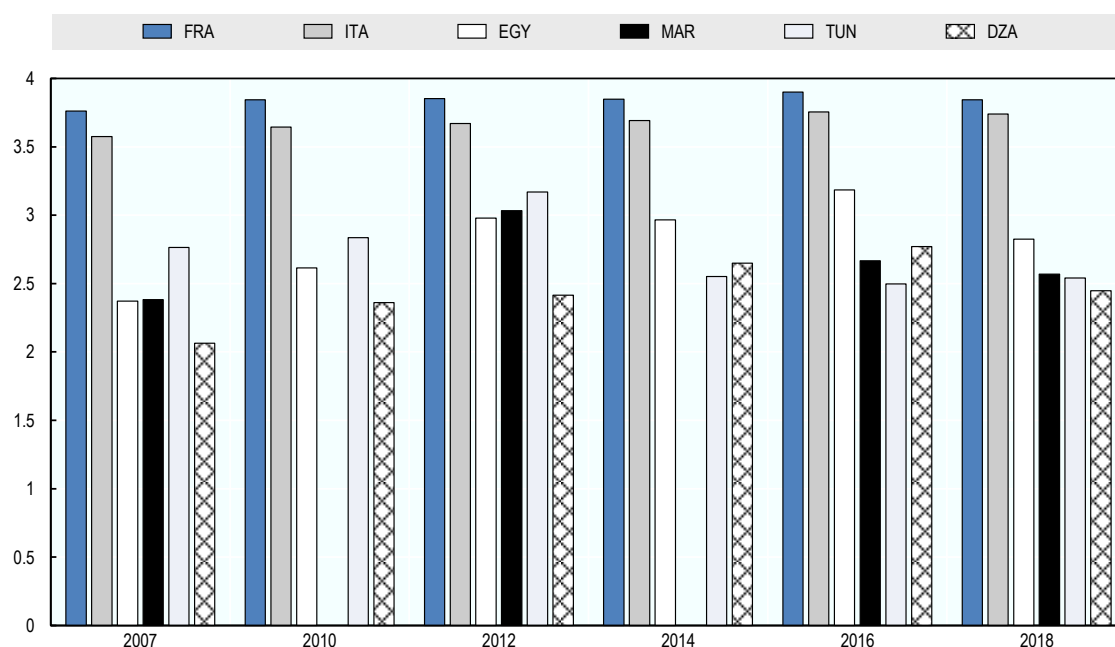
Figure 5.8. Logistics performance, 2007-2018



Note: Logistics performance index measures the quality of trade and transport-related infrastructure (1 = low, 5 = high).

Source: World Bank, World Development Indicators.

Within the logistics performance index, customs operations³ and infrastructure⁴ appear to be the two most challenging areas, while timeliness⁵ is higher than other indicators. Yet, compared to the other Mediterranean countries, in 2018, Tunisia still ranked second to bottom in timeliness, showing the challenges in the timely and efficient delivery of shipments (Figure 5.9).

Figure 5.9. Components of the logistics performance index, 2018

Note: Logistics performance index (1 = low, 5 = high).

Source: World Bank, World Development Indicators

In this context, there is a clear imperative for transport to expand its economic activity and value added. Tunisia is a small economy open to international trade, largely relying on internal consumption and commerce, which depends on a functioning system of road and maritime transport. By linking Tunisian businesses to global value chains, transport facilitates export activities, enhances trade, fosters international competitiveness, and creates the preconditions for technological transfer and diffusion (Hayaloğlu, 2015^[108]).

5.2. Institutional framework

The Ministry of Transport is the main state institution regulating freight transport in Tunisia. Under the ministry's guidance, it has the mission to "establish, maintain and develop a global transport system that contributes to the promotion of a sustainable economic and social development, and ensures the satisfaction of people's need in transport in the best possible conditions, in terms of security, cost, quality and environment's protection".⁶

The Ministry of Transport comprises a number of directorates-general, specialised units and offices, including:

- The Directorate-General of Land Transport develops, co-ordinates and monitors the implementation of government policies and programmes related to land transport, and proposes legislation and regulations in co-ordination with concerned governmental structures at central and local level; it is entitled to negotiate international conventions and bilateral agreements concerning land and road transport.

- The Directorate-General of Maritime Transport and Maritime Ports of Commerce develops, co-ordinates, and monitors the implementation of government policies and programmes related to maritime transport, ports and maritime trade, maritime professions and related auxiliary activities (such as freight forwarders); it is entitled to develop, monitor and execute the related legislative and regulatory texts, and supervise their application.
- The Directorate-General of Logistics and Multimodal Transport develops economic, technical and organisational studies related to the promotion of logistics services, supports the competitiveness of private enterprises, and encourages the use of new technologies in the field of logistics; it is entitled to develop co-operation and partnership programmes with states, organisations and international financial institutions in the field of logistics and multimodal transport, monitor projects carried out in this context, and develop economic feasibility studies for logistics zones.

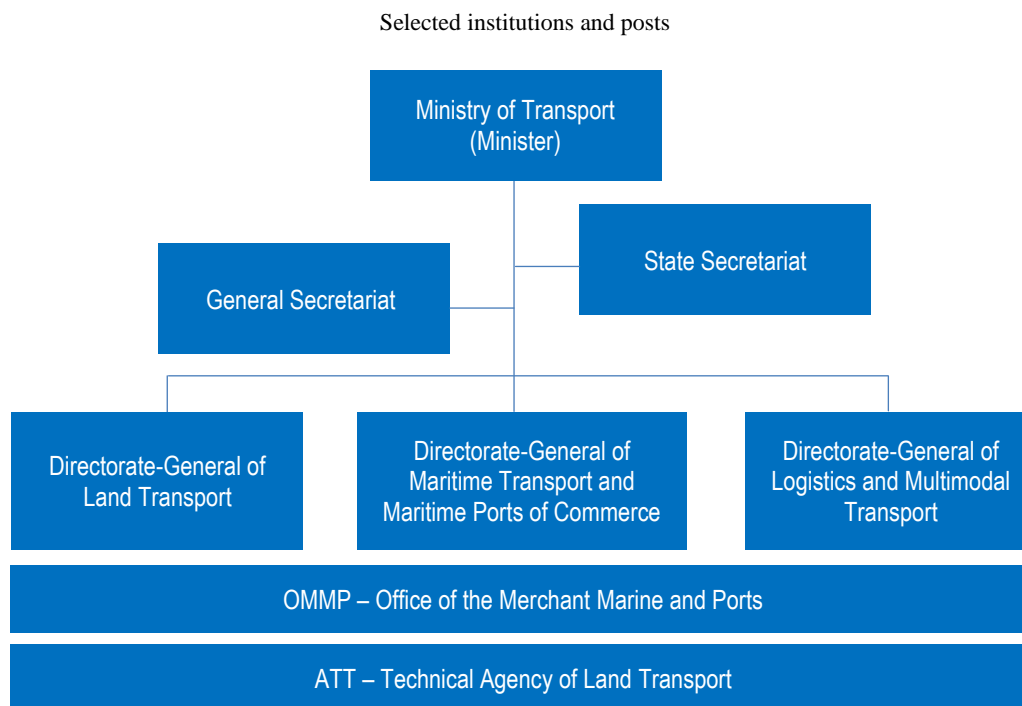
The Ministry of Transport secretary-general plays a co-ordinating role between all the directorates-general and liaises between those units and the ministry's political leadership.

In exceptional cases in which the Ministry of Transport sets tariffs or prices applicable to specific transport services, such as for road freight transport (see Section 6.5) this is done in consultation with other competent ministries, such as the Ministry of Trade or the Ministry of Finance.

A range of public entities supports the Ministry of Transport's mission and operates under its tutelage. These include public entities, such as the Office of the Merchant Marine and Ports (Office de la Marine Marchande et des Ports, OMMP); non-administrative public institutions considered public companies, such as the ATTT; a training institution specialising in maritime, ports, transport and logistics (Mediterranean Maritime Training Institute, IMFMM); and state-owned enterprises, including the Tunisian Stevedoring and Handling Company (Société Tunisienne d'Acconage et de Manutention, STAM) and the Tunisian Shipping Company (Compagnie Tunisienne de Navigation, CTN). These organisations may have a prominent role as market players (see Section 7.1), but they have no regulatory functions.

The OMMP manages all maritime and commercial ports and exercises the power of port authority (including maritime police), as well as the tasks of the maritime authority and administration.⁷ As a port authority, its main task is to optimise the time, cost and safety conditions of ships and goods passing through the nation's ports. As a maritime authority, the OMMP provides services to the merchant marine, and more specifically the administration of ships, seafarers and maritime navigation security.⁸ Article 7 of the Code of Commercial Ports gives OMMP the right to participate in the drafting of specific laws or regulations, although its main role is to implement and enforce sectorial regulations, including port-specific regulations.

The ATTT is a specialised technical body that executes formalities and technical operations relating to road vehicles, driving licences, and bus stations, in accordance with legislation and regulations in force.

Figure 5.10. Institutional framework of the transport sector

The Competition Council is an independent administrative authority, with an advisory and jurisdictional role in all sectors, including in the transport sector. Together with the Ministry of Trade's Directorate-General for Competition and Economic Investigations (DGCEE), it is responsible for the implementation of competition rules and regulations. The Council, in certain cases, issues opinions or decisions on competition in regulated markets.

5.3. Overview of the legislation

An intricate web of international, national and sometimes local provisions regulates transport activities. Before describing, in the following chapters, the barriers to competition found in the Tunisian freight transport sector, this section sets out the main points of the Tunisian transport legal system.

In order to facilitate international transport, countries agree on common rules and standards applicable to each signing party's territory, commonly through international conventions (such as the Convention on the Contract for the International Carriage of Goods by Road, CMR/TIR) or international organisations (such as International Maritime Organization, IMO). Those rules or guidelines depend on bilateral or multilateral international agreements and are transposed and implemented at domestic level by national institutions.

The legal basis of the Tunisian transport sector is made up of compiled legislation – in the form of codes – applicable, often with detailed provisions, to an entire economic sub-sector (for example, Code of Maritime Ports). Where legal instruments need to be regularly updated and tackle technical factors that evolve, this approach is complemented by the adoption of laws – commonly regarded as framework laws – that set out the main policy objectives and legal instruments for each sub-sector (e.g. Framework Law on Road

Transport). More detailed secondary regulation then implements the principles set out in those laws.

There are a number of legal instruments – codes, laws, decrees and *cahier des charges* (see Box 5.1) adopted as annexes in a Ministerial Order – that are applicable, at different levels, to the sub-sectors of freight transport .

Box 5.1. Legal specifications (*cahiers des charges*)

In an effort to reduce administrative burden and increase access to those activities, in 2008 the legislator generalised the use of *cahier des charges* procedures. Based on this regime, an operator need only to provide operational information – including tax number, identification, office address, and insurance-policy number – in a written form and declare its compliance with all the legal specifications (*cahier des charges*) in a signed document delivered to the Ministry of Transport. Upon submission, it can start its activity without needing to obtain an authorisation. The ministry then checks the operator’s compliance with the *cahier des charges*. In some cases, the operator will need to send a form to the ministry reporting on its annual activities.

The registration procedure is now used for only four maritime services: shipping companies; shipping owners; ship-classification societies; and cargo-handling companies. In these cases, an operator must be accepted in an appropriate register by the competent department of the Ministry of Transport, after providing proof of its compliance with legal requirements, such as minimum material requirements or professional qualifications, in order to obtain the requisite professional identification card.

Source: Law 95-32 (as completed and modified by Law 2008-43) and Law 2008-44 of 21 July 2008 on the organisation of maritime professions.

5.3.1. Road freight transport

The main laws and regulations applicable to road freight transport services – namely, road haulage for own account; road haulage for hire or reward; truck rental; and freight-dispatching activities – are the following:

- The Code de la Route (Highway Code), adopted by Law 99-71 of 26 July 1999, is a horizontal text that regulates road traffic, road signals, the use of road vehicles including automobiles, trailers and semi-trailers, and driving licences.⁹
- Law 2004-33 of 19 April 2004,¹⁰ which organises land transportation for goods and people, and establishes the rules and conditions for exercising transport and related activities (such as truck rentals and freight-dispatching centres).
- Decree 2006-2118 of 31 July 2006, which establishes the nationality-related requirements and the professional qualifications of the person intending to carry out one of the activities set out in articles 22, 25, 28, 30 and 33 of Law 2004-33 of 19 April 2004.
- Ministry of Communication Technologies and the Ministry of Transport Order of 12 August 2004 on the use of own-account transport vehicles or a category of such vehicles for the hire and reward haulage of certain products during their production or transformation season.
- *Cahier des charges* concerning the hire or reward road haulage by physical persons, approved by the Ministry of Transport Order of 10 December 2008.

- *Cahier des charges* concerning the hire or reward of road-haulage operations by companies, approved by the Ministry of Transport Order of 10 December 2008.
- *Cahier des charges* approved by the Order of the Ministry of Transport of 5 October 2009, for the operation of freight-dispatching centres.
- *Cahier des charges* concerning truck rental for road-haulage operations exceeding 12 t, and the vehicles that must be rented with a driver, approved by the Ministry of Transport Order of 18 October 2011.

5.3.2. Maritime freight transport and port services

The main law and regulations applicable to maritime freight transport and port services, including requirements to start businesses in those sectors, are the following:

- Code of Maritime Commerce, adopted by Law 62-13 of 24 April 1962, which regulates legal regime of ships, ship documentation, seafarers, maritime transport contracts, and limitations on legal responsibilities.¹¹
- Administrative Police and Maritime Navigation Code, which regulates the administrative and security compliance of ships.¹²
- Framework Law 2008-44 of 21 July 2008 on the organisation of maritime professions.
- Law 2009-48 of 8 July 2009 on the promulgation of the Maritime Ports Code and the conditions of the creation of maritime ports and the management of the public domain of ports, their operation, protection, conservation and the general rules for the safety, security, health, cleanliness and the preservation of the environment.
- Decree 2017-705 of 26 May 2017, which establishes the professional requirements for enrolling in shipping registers, maritime shipping companies, ship-classification societies, and ship cargo-handling companies.
- Ministry of Transport Order of 17 November 1998, which establishes the rules and programme for the written exam for the fulfilment of the professional requirements to be able to enrol in one of the maritime-profession registers.
- Ministry of Transport Decree of 28 January 2002 that sets out the services falling under the missions of the Office of the Merchant Marine and Ports that can be granted through concessions.
- Ministry of Transport Order of 24 October 2014 establishing the minimum material requirements for the practice of the activity of ship-classification societies.
- Four *Cahier des charges* for the practice of the port related profession – ship mooring; ship security; refuse collection from ships; used-oils collection - approved by Ministry of Transport Order of 5 February 2002.¹³
- Nine *cahiers des charges* approved by Ministry of Transport Order of 15 September 2009 for each of the following professions: maritime expert;¹⁴ pilot; shipping agent; cargo-forwarding agent; chartering agent; merchant-marine ship management; ship-supply company;¹⁵ representation of foreign ship-classification societies,¹⁶ and sea assistance, rescue, and towing.¹⁷

5.3.3. *Horizontal transport services*

The main pieces of legislation that regulate the freight transport sector horizontally, including freight forwarding and auxiliary services, are:

- Law 95-32 of 14 April 1995 on freight forwarders, conditions to access this profession, and the rights, obligations and responsibilities of freight forwarders.¹⁸
- Law 98-21 of 11 March 1998 on international multimodal transport of goods, regulating any international multimodal transport contract if the location of goods loading or the delivery address is in Tunisia.
- *Cahier des charges* for the practice of the profession of freight forwarders, approved by the Order of the Ministry of Transport of 15 September 2009, establishing the criteria and requirements related to the profession's legal form, minimum capital and equipment requirements, and professional qualifications.
- *Cahier des charges* for customs warehouses approved by the Order of the Ministry of Finance of 2 September 2002, establishing the conditions of the creation, use, and operation of customs warehouses, and customs-clearance and export areas.

5.3.4. *The legal texts in scope*

The OECD competition assessment's analysis of the Tunisian transport sector focused on the legal instruments – typically framework laws and *cahiers de charges* – that set specific requirements for operators to access the market and to operate. Other provisions, applicable to several sectors, were also taken into account when they had potential effects on the transport sectors, for instance, the Competition Act, which enables the setting of minimum and maximum prices applicable to road transport (see section 6.5).

Other legal texts that regulate the freight-transport sub-sectors were not included in the analysis, due to the assessment's overall objective of proposing concrete recommendations that can lead to regulatory reforms in the country. The most common examples of such cases are: 1) national provisions that transpose or implement international legal provisions;¹⁹ or 2) provisions specifying technological requirements.²⁰ In another example, port-specific regulations were initially included in the project scope, but, according to the Ministry of Transport, most date from the 1960s and as such are both obsolete and partially superseded by more recent legislation, such as the Commercial Ports Code (that was included as an horizontal piece of legislation – see details in Annex A). For that reason, they were not considered a priority or transmitted by the Ministry of Transport.

The project scope included 133 pieces of legislation (see Table 5.2) related with the freight transport sector, divided into three sub-sectors: maritime and port services; road-transport activities; and horizontal transport activities (comprising provisions related to more than one mode of transportation, such as freight forwarding).

Table 5.2. Legal provisions analysed in the freight transport sector

	Road	Port and maritime	General transport legislation	Total
Pieces of legislation	47	63	23	133
Potential restrictions identified	30	95	17	142
Recommendations	19	81	16	116

Not all the pieces of legislation analysed contained potential obstacles to competition. Among the 142 legal provisions identified as potentially harmful to the competitive process in the transport sector, the project analysis resulted in 116 recommendations that aim to reduce the negative impact on competition. All recommendations are included in Annex B.

The following chapters discuss in detail the most relevant barriers to competition identified in the freight transport sector in Tunisia.

Notes

¹ NACE (Nomenclature générale des activités économiques de la Communauté européenne) refers to the industrial classification as defined in Revision 1 and is used by Eurostat. The Tunisian classification system, Nomenclature d'Activités Tunisiennes or NAT, uses similar terminology for industrial classification.

² In comparison, the contribution of the transport sector to EU GDP stands at around 5%. (European Commission, 2018^[168]). The EU figure also includes postal services. The Tunisian figures for freight transport exclusively are not available. The reported figures refer thus, unless otherwise specified, to the total of freight and passenger transport.

³ This indicator considers and assesses the efficiency of customs and border management clearance.

⁴ This indicator considers and assesses the quality of trade and transport infrastructure.

⁵ This indicator considers and assesses the frequency with which shipments reach consignees within scheduled or expected delivery times.

⁶ Decree 2014-409 of 16 January 2014, determining the attributions of the Ministry of Transport.

⁷ Law 98/109 of 28 December 1998.

⁸ For more information, www.ommp.nat.tn/ommp/.

⁹ As lastly modified by Law 2009-66 of 12 August 2009.

¹⁰ Modified by Law 2006-55 of 28 July 2006.

¹¹ Modified by Law 2004-3 of 20 January 2004.

¹² Adopted by Law 76-59 of 11 June 1976, most recently modified by Law 2005-8 of 19 January 2005.

¹³ Modified by the Order of 14 June 2016.

¹⁴ Modified by the Order of 14 June 2016.

¹⁵ Modified by the Order of 18 May 2015.

¹⁶ Modified by the Order of 18 May 2015.

¹⁷ Approved by the Ministry of Transport Order of 15 September 2009.

¹⁸ Modified and completed by Law 2008-43 of 21 July 2008.

¹⁹ Provisions resulting from international legal sources – such as conventions or bilateral agreements – do not depend exclusively on the will of the Tunisian legislator, even when transposed into national legislation. Likewise, legal provisions of a contractual nature – such as signed concessions – can only be amended by mutual agreement between the parties.

²⁰ Several provisions contain internationally used technological requirements – e.g. transport of dangerous goods – that are commonly applied to all operators.

Chapter 6.

Road freight transport

Land freight transport in Tunisia is performed in its majority by road. Road freight transport constitutes the second most used transport modality for international trade. Government regulations on the size and age of vehicles fleet of different legal entities pose challenges to competition and business growth. Discrepancies between regulations create circumstances for grandfathering clauses, favouring older firms and hampering the creation of new ones. Regulations also pose challenges to truck rental and freight centre activities, the development of which could lead to efficiency gains. This chapter further addresses restrictions on fixed prices, professional qualifications, legal form, geographical and technical equipment restrictions in the core and auxiliary services related to road freight transport.

6.1. Market overview

This section covers the analysis of barriers to competition in the following economic activities of road freight transport in Tunisia: hire-or-reward road haulage;¹ road haulage for own account;² truck rental;³ and freight centres.⁴ Road freight transport accounts for 86% of total land freight transport and represents the second most-used transport modality for import and export activities, following maritime transport. Freight transport by rail is far less significant (World Bank, 2016_[109]).

The road freight industry is an activity that horizontally affects many other sectors of economic activity and so plays a key role in market integration. According to the *Development Plan of Tunisia 2016-2020*, the upgrade and extension of transport infrastructure is a key route to reaching the target of reducing regional disparities. The goal is to facilitate connections to remote areas, support regional mobility, and improve access to ports and logistics areas. This is expected to boost external commerce and employment, particularly in remote regions⁵ (EBRD, 2018_[110]).

The government is taking steps to stimulate the creation of more sophisticated transport and logistics enterprises through the development of logistic zones (EBRD, 2018_[110]). As analysed in the following sections, scaling up smaller enterprises appears to be a challenge, and the regulatory framework is a key source of restrictions contributing towards this. The most important barriers to competition in the sector of road freight transport identified in this report concern regulation related to the fleet of vehicles (Section 6.2); the legal requirements for person to start a business (Section 6.3); the specific requirements on freight centres (Section 6.4); and the authorities' power to set road transport prices (Section 6.5).

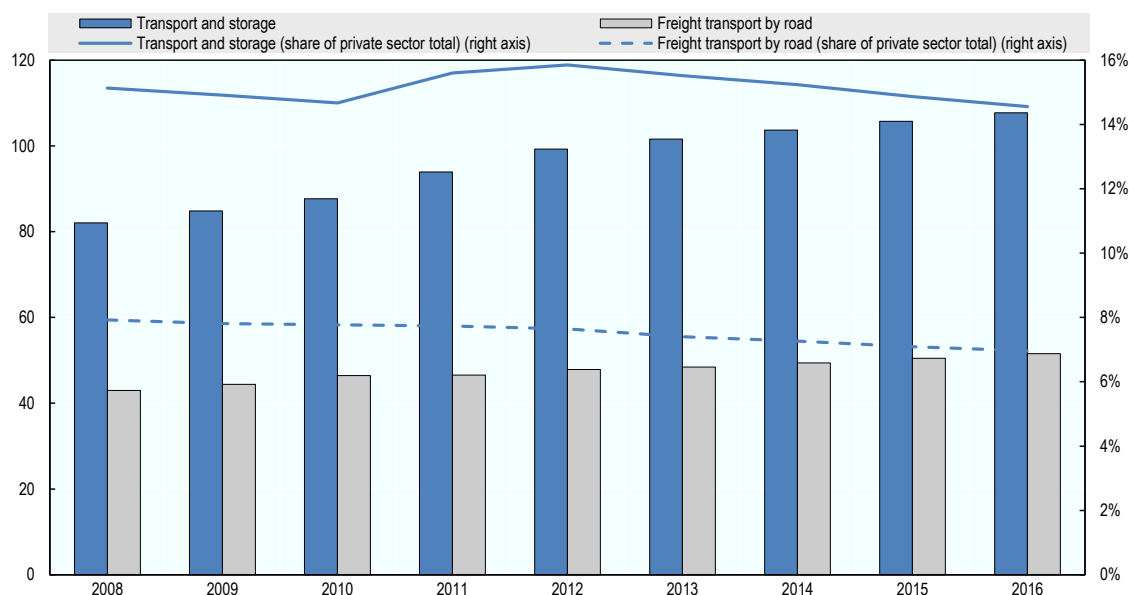
The sector of road freight transport in Tunisia exhibits a high degree of fragmentation and informality, mostly relating to a large number of individuals and sole proprietorships operating in the market, rather than companies. This market structure also limits the potential benefits from economies of scale (Togan, 2016_[111]).

Fragmentation is also a feature of the EU road transport sector. Based on Transport Intelligence's 2016 *European Road Freight Transport* report, relevant studies assert that the 10 largest companies only account for 10% of the EU market and point to high segmentation and a wide range of business models (Raczkowski, Schneider and Laroche, 2017_[112]). In the European Union, the sector is divided into two broad categories: a large number of small companies generally offering basic freight transport services for own- and third-party use, and a limited number of major hauliers providing more sophisticated logistics services, at large scale, with support services, and sometimes specialisation in specific types of goods. Smaller firms mainly compete on price, while larger companies compete on both price and the range and quality of services they can offer. Basic freight transport services are subject to less stringent regulation than those for logistics.

In 2016, road freight transport accounted for almost half the total number of enterprises in the Tunisian transport and storage sectors.⁶ According to INS, the total number of enterprises in road freight transport grew from 42 979 in 2008 to 51 546 in 2016 (see Figure 6.1). Their annual growth rate of 2.3% lagged behind the 3.5% average annual growth of the transport and storage sector and the 4% of the total private-sector enterprises. As a result, the share of both the transport and storage sector and the road freight transport in the total number of enterprises has dropped. By 2016, the transport and storage sector accounted for about 14.6% of total private-sector enterprises, compared to 15.1% in 2008.

Within those, road freight transport accounted for 7% of enterprises, compared to 7.9% in 2008.

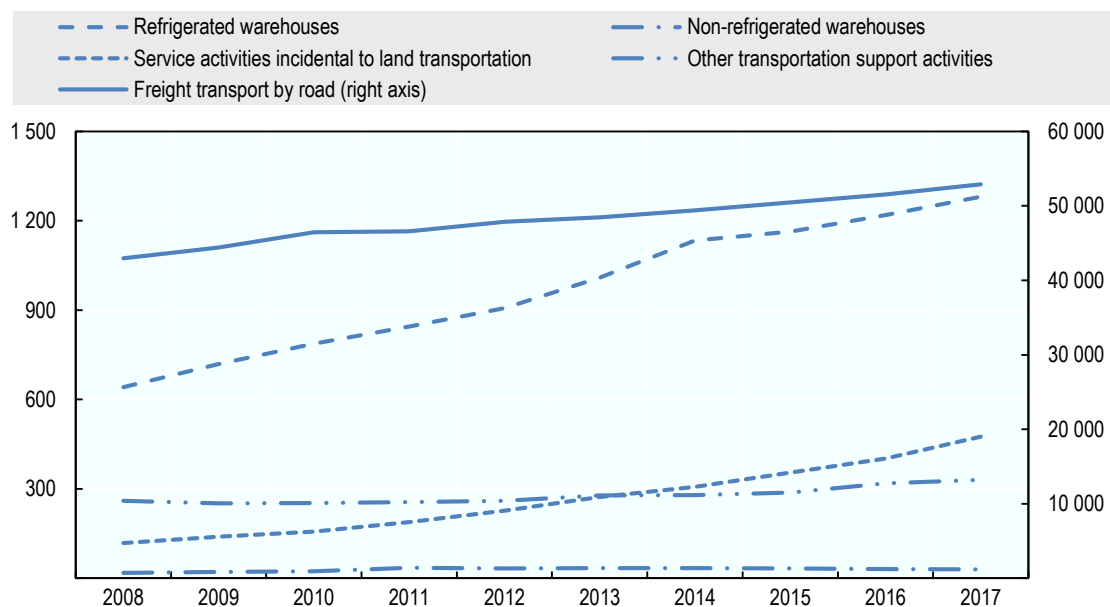
Figure 6.1. Number of enterprises in road freight transport (thousands)



Note: Private enterprises by principal activity.

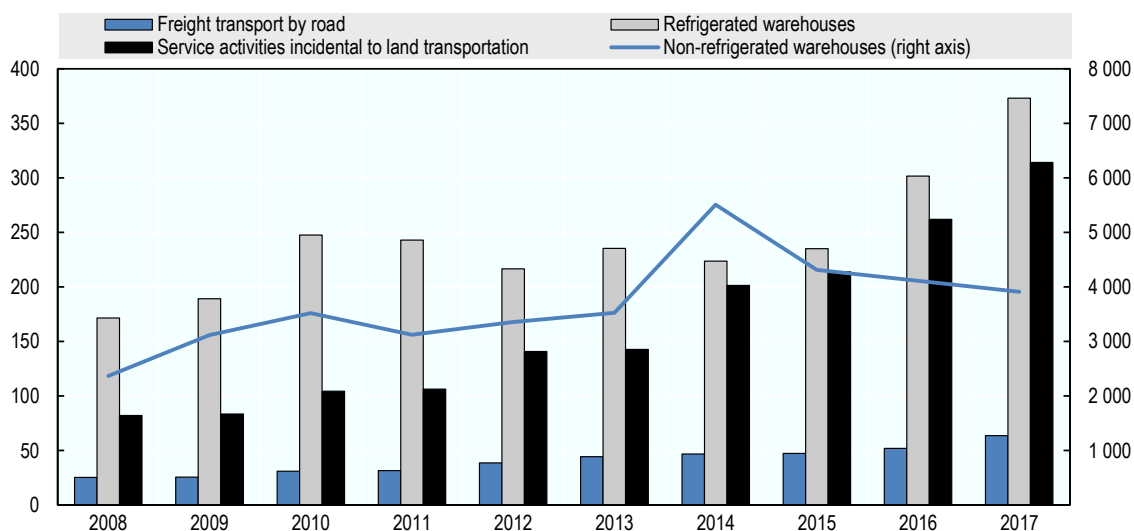
Source: OECD calculations based on (INS, 2019^[29]) data.

Besides core activities of road freight transport, sectoral growth has been accompanied by increases in turnover and the number of enterprises in related activities. For example, the number of refrigerated warehouses doubled between 2008 and 2017, while the number of enterprises offering auxiliary services to land transportation quadrupled. By 2017, besides road haulage entities for own- or third-party use, the sector comprised 30 non-refrigerated and 1 281 refrigerated warehouses, 475 enterprises offering services incidental to land transportation and 330 enterprises engaged in other transportation support activities.

Figure 6.2. Auxiliary-services enterprises in road freight transport sector

Source: (INS, 2019^[29]).

The turnover of auxiliary services exceeds that of road freight transport entities. INS data show that in 2017, for every dinar generated by road freight transport enterprises, 5 were generated by enterprises offering auxiliary services to land transportation, 6 by refrigerated warehouses, 17 by other transportation support activities, and 61 more by non-refrigerated warehouses.

Figure 6.3. Turnover of road freight transport activities in Tunisia (2017, thousands, TND)

Source: (INS, 2019^[29]).

Overall, the economic activity of road freight transport in Tunisia is concentrated around road transport of freight for own account and the road haulage for hire-or-reward, two of the four areas of economic activity examined in this sector. Registered truck-rental

activities for road freight transport and freight centres are non-existent in the formal sector. The current analysis benefitted from communication with authorities and the understanding that rental activities in road freight transport are only done informally by individuals who temporarily rent their trucks or offer haulage services to third parties, in most cases transport companies.

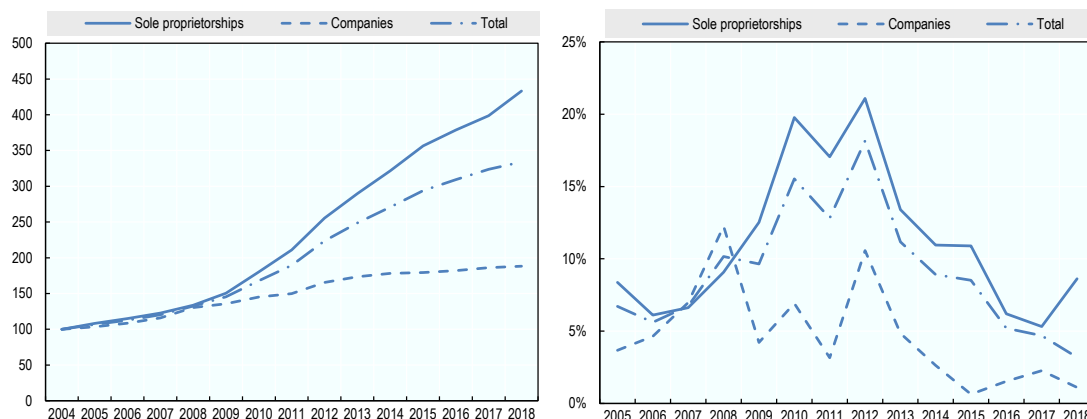
Generally, goods vehicles are split between light (LGV) and heavy (HGV) ones, based on their gross vehicle weight (GVW).⁷ LGV weight less than 3.5 t; HGV more than 3.5 t. In Tunisia, the use of HGV over 12 t of GVW is subject to a *cahier des charges*; that of HGV with GVW of between 3.5 and 12 t is not (see Section 6.2.1). The use of vehicles for freight transport for own account is not subject to authorisation or notification. Hereafter, HGV specifically refers to vehicles with GVW over 12 t.

Most goods vehicles do not require an operating card issued by the Ministry of Transport, as their weight is below the 12-tonne threshold. Authorities confirm that short distances and the small quantities carried by road freight transport has led road hauliers to prefer the use of goods vehicles with GVW below 12 t. This confirms the findings of the European Conference of Ministers of Transport of the International Transport Forum (ITF) concerning the relationship between the usage of haulage vehicles and physical distances. Overall, own-account transport in the European Union is found to be more widely used than hire-or-reward road haulage for distances up to 150 km, partly showing the interest of haulage companies have in engaging in long-distance freight transport (ECMT, 2001^[113]).

The number of sole proprietorships in road haulage has growth at a faster pace than that of companies. According to the Ministry of Transport, in 2004, there were 800 sole proprietorships and 436 companies. By 2018, the number of companies had increased by 90%, while that of sole proprietorship by 300%. As a result, while companies accounted for 35% of the total number of entities in 2004, their share had fallen to 20% by 2018. The absolute and relative increase in the share of sole proprietorships shows the market's further fragmentation. Figure 6.4 below shows that the highest increase in the relative share of sole proprietorships took place between 2009 and 2012. Annual growth rates of the number of sole proprietorships reached levels of about 20% in 2010 and 2012, while the evolution of companies was more moderate. The growth rate in the number of sole proprietorships has constantly exceeded that of companies since 2009, the year of the adoption of the Ministry of Transport's new regulation.

**Figure 6.4. Evolution of the number of authorised transport entities:
sole proprietorships and companies**

Normalised values (2004 = 100) and annual growth rates



Source: Ministry of Transport.

According to Ministry of Transport data on authorised heavy goods vehicles with GVW above 12 t, the sector is dominated by sole proprietorships. They account for more than 80% of road-haulage operators and 76% of entities with vehicles (Table 6.1). It should be noted that only about 55.2% of sole proprietorships and 72.6% of companies of road freight transport registered in Tunisia by end 2018 had authorised HGV. According to Tunisian authorities and stakeholders, many market operators offer haulage services illegally using vehicles intended for own account. This has spurred further informality and fragmentation of the road-haulage market. At the same time, many firms choose to stay in the market, even without operations or after having sold their vehicles.

Table 6.1. Composition of the Tunisian HGV fleet with GVW exceeding 12 t (2018)

	Companies	Sole proprietorships
Number of entities	821	3 465
Entities with vehicles	596	1 912
(As a share of all entities)	72.6%	55.2%
Total number of vehicles	15 680	3 268
Total laden weight (tonnes)	249 516	36 796
Average age of vehicles (years)	12.4	7.7

Note: Ministry of Transport estimates, December 2018.

Source: Ministry of Transport

The vehicle fleet used for own account and third-party haulage in Tunisia is relatively new, on average 11.6 years; ranging from 7.7 for sole proprietorships to 12.4 years for companies. In the European Union, heavy commercial vehicles have an average age of 12 years, ranging from 6.6 years in Luxembourg to 18.8 in Greece. Light commercial vehicles are newer, with an average age of 10.9 years and ranging from 6.3 years in Luxembourg to 17.1 in Greece (see Section 6.2)⁸. Eurostat data also show older vehicles performing a significant share of road haulage; in 2017, 32.5% of total journeys were performed by trucks aged over 10 years, while the use of older vehicles has been increasing in recent years.⁹

Physical distances and road-transport infrastructure are favourable to low-cost internal transport in Tunisia. A 2013 World Bank survey showed that only 7.6% of Tunisian enterprises identify transportation as a major constraint on their business activity, compared to 20.1% across the rest of the MENA region.¹⁰ Tunisia's road-network density¹¹ is the highest in North Africa with approximately 22 000 km of road, of which 366 km are motorways and 75% are asphalt roads. This is a relatively high level, comparing well with the OECD average of 79%. With the exception of the north-south axis (700 km between Bizerte and Zarzis) and the ECOSO (east-central/west-south-west) road, the average distance of east-west transport routes is limited to between 100 and 150 km.

The price of road freight transport in Tunisia is relatively high, despite the relatively good road infrastructure. According to a World Bank survey (2016_[109]), the cost of road freight transport per tonne-kilometre in Tunisia was USD 0.22. This is above the averages found in central, eastern or western Africa. Fragmentation of the sector, excessive informality, the dominance of small and informal transporters, and the lack of optimisation along the freight transport chain, with a high proportion of empty returns, could explain in part these high costs.

Tunisian nationals dominate Road freight transport. Foreigners wishing to engage in road freight transport can be granted temporary authorisations governed by international conventions and bilateral agreements. These are signed by Tunisia and allow carriers of the one party to obtain access, under certain conditions, to the territory of the other. Authorisations are issued for each vehicle and for a limited time period. Cabotage and triangular transport are not permitted, unless authorised by the other country. According to the WTO (2016_[114]), most of the international road transport (TIR) carriers hauling foreign semi-trailers on Tunisian territory are driven by Tunisian nationals, yet they account for only a small fraction of the international road transport between Tunisia and its commercial partners.

6.2. Requirements on the fleet of vehicles

6.2.1. Description of the barriers

Road-transport services in Tunisia are primarily regulated through Law 2004-33 of 19 April 2004, a number of decrees, and activity-specific *cahiers des charges*.¹² This framework law applies to both companies and sole proprietorships providing road-haulage and truck-rental services. These legislative texts only refer to the use of HGV with a gross vehicle weight (GVW) exceeding 12 t which require an operating card (*carte d'exploitation*), which is issued by the ATTT.¹³

The use of vehicles with less than 12 t is not subject to a *cahier des charges*. However, they are still required to meet safety and technical criteria, have the appropriate driving licence and insurance, obtain number plates, and register with the tax authorities.

Fleet size. The current regulatory framework concerning freight transport by road imposes a number of restrictions on the size of vehicle fleets. They vary by the type of entity and market segment.

A sole proprietorship may use only one HGV vehicle to provide road freight services. This vehicle can be either a truck, an articulated vehicle, or a double-articulated vehicle.¹⁴

Companies are subject to requirements of a minimum number of vehicles and a minimum total fleet tonnage. Specifically, road freight companies must own or lease a minimum of 18 HGV, at least six of which must be motor vehicles (the remainder can be trailers without engines).¹⁵ The minimum total tonnage of the fleet is 300 t.¹⁶ The vehicles must be

registered in Tunisia and possess Tunisian number plates. Companies are obliged to comply with fleet-size requirements at all times, including when they extend or renew their vehicle fleet.¹⁷

The same fleet size and tonnage requirements apply to HGV truck-rental companies.¹⁸ In addition, truck-rental companies are required to own or rent a physical space as their head office, and a separate storage space for vehicle parking and maintenance.

According to the Ministry of Transport, companies that entered the market before December 2008 are excluded from these minimum fleet-size and tonnage requirements. They are still subject to the thresholds legally set before the 2008 legislative change.¹⁹

Vehicle age. The three types of haulage operators examined in this section are also subject to requirements concerning the age of HGV vehicles in their fleets. These requirements are enforced during the application process for operating cards from the ATTT, which are required for each HGV in a fleet. To obtain an operating card, the maximum permitted ages for HGV at the time of application are:

- five years for sole proprietorships engaging in hire-or-reward haulage²⁰.
- two years for companies engaging in hire-or-reward haulage²¹.
- one year for truck-rental companies²².

Operating cards are unique for vehicles, meaning each HGV added to a fleet must undergo the application process to obtain a card. When a vehicle is replaced in a sole proprietorship, the age of the new vehicle must be less than five years at the time of the application for the new operating card.²³ The renewal or extension of the fleets of truck-rental companies is also bound by the same age rule, and each vehicle added should be less than one year old. Hire-or-reward haulage companies, however, need only meet age restrictions on the date of the first application for incorporation,²⁴ but do have to comply with fleet-size criteria at all times.

According to the Ministry of Transport, the use of HGV by companies established before the publication of the applicative texts of the Law 2004-33 do not need to comply with fleet size, minimum tonnage and age criteria.²⁵ Issued in December 2008, these implementing decisions grant them favourable treatment compared to new entrants.

Table 6.2 summarises the main requirements on vehicles for each type of activity in the road freight transport sector. Freight centres are subject to other requirements such as operational requirements (see section 6.4).

Table 6.2. Requirements on vehicles for each type of activity in road freight transport

	Tonnage	Fleet size	Age of vehicles in initial fleet	Age limits of new vehicles added to fleet
Road haulage for own account	Not restricted	Not restricted	Not restricted	Not restricted
Hire-or-reward road haulage – sole proprietorship	Not restricted	1 vehicle only	Up to 5 years	Up to 5 years
Hire-or-reward road haulage – companies	Minimum of 300 t	Minimum 18 vehicles (6 of which motor vehicles)	Up to 2 years	Not restricted
Commercial truck rental for road-haulage operations	Minimum of 300 t	Minimum 18 vehicles	Up to 1 year	Up to 1 year

Note: Fleet size refers to the number of vehicles over 12 t GVW. Age of vehicle refers to its age on the date of application to the Ministry of Transport for an operating card.

Source: Tunisian legislation.²⁶

6.2.2. Objectives of the policy maker

The OECD understands that HGV-fleet requirements are motivated by a two-fold desire to: 1) reduce the risk of accidents and road-traffic disruptions through technical and safety requirements; and 2) promote the development of large-scale companies in the sector. According to the authorities, Tunisia has many sole-proprietorship operators, many with old vehicles that might cause accidents and environmental problems. The authorities see these small operators as being more likely to engage in informal work, offer lower quality and less-safe services, and commit tax evasion. Specific additional objectives have been identified with respect to both fleet size and age restrictions for the different activities examined.

Fleet size. The limit of one HGV for sole proprietorships was imposed in order to reflect the tax benefits afforded to these entities. Specifically, sole proprietorships benefit from a simplified tax system (*forfaitaire*), under which they are subject to a flat tax that aims to support small entrepreneurs. The simplified system is applicable to other sectors of the economy as well. The Ministry of Transport has indicated that without a vehicle limit, sole proprietorships could match the scale of freight-transport companies while enjoying beneficial tax treatment and lower administrative expenses.

The Ministry of Transport argues that the restrictions on minimum fleet size for road haulage and truck-rental companies aim to avoid a proliferation of small companies. Larger companies are considered by the authorities better able to offer the scale required by consumers, and to provide financial guarantees to potential lenders.

Age of vehicles. These provisions aim at promoting fleet renewal with newer vehicles, which are more likely to meet environmental and safety criteria. Those, in turn, should increase the competitiveness of Tunisian services, which were hampered by their use of old vehicles that dominated the market when these provisions were introduced.

The authorities' interpretation of article 60 of Law 2004-33, exempting companies in the market prior to December 2008 from the new requirements, still protects them from associated cost increases. This provision seems to have been initially intended to protect their investment made in the sector and allow existing companies to gradually adjust to the new regulatory environment.

6.2.3. *Harm to competition*

Fleet size. The legislation has created a gap in the road-haulage services sector: maximum-fleet sizes for sole proprietorships and minimum-fleet sizes for companies mean that a road-haulage operator with between 2 and 17 HGV in its fleet cannot be legally established.

As a result, sole proprietorships face substantial barriers to expanding their businesses into road-haulage companies, as it would require buying or leasing 17 additional HGV in one go rather than through gradual, organic growth. Consumers that could have been served by a mid-sized company, but not a sole proprietorship, have limited options. Road-haulage companies therefore face limited competition from smaller and more flexible businesses. In addition, the regulation makes it difficult for smaller companies to start up, as they would need to comply with the requirements on minimum vehicle numbers.

The restrictions also limit the flexibility of companies to respond to changing business conditions by scaling down their activities. The obligation for companies to either fully exit the market or maintain the minimum fleet size, regardless of consumer demand, creates substantial costs for participants and could deter investment. Increased flexibility would also allow for the gradual scaling up of existing firms, and facilitate the expansion of sole proprietorships to incorporated entities, increasing market competition. More competition could translate into more investment, lower prices, higher quality and greater variety of services for final consumers.

The two criteria for minimum fleet size – one for the number of trucks and the other in for total tonnage – might not necessarily lead to the same number of HGV. As a result, the provision may give rise to legal uncertainty, arbitrary application, and discrimination in the treatment of different companies.

Discussions with the authorities confirm that the new fleet-size regulation has not led to the emergence of large-scale road-haulage or truck-rental companies in Tunisia, which is contrary to the policy maker's objective. Rather, there has been limited company creation and further market fragmentation. Authorities have confirmed, for example, that there are currently no truck-rental companies in Tunisia, which further limits the option for hauliers of using rented vehicles. Road-haulage service providers (both companies and sole proprietorships) must purchase or lease their vehicles, creating substantial entry and expansion costs.

Rental or leased trucks play an important role in the European market of freight transport, as they provide an opportunity for haulage operators to lower their costs and improve their operational flexibility. As analysed in Box 6.1, their importance is even more prominent for heavier vehicles, the cost of which is substantial for new firms (European Commission, 2017^[115]).

Box 6.1 Truck rental and leasing of commercial vehicles in the European Union

Data on the EU commercial-vehicle market demonstrate the importance of renting and leasing for small- and medium-sized enterprises (SMEs) and new market entrants. Around 43% of all European SMEs used leasing in 2014 (Leaseurope, 2016^[116]). Furthermore, there is evidence to suggest that the share of rented or leased vehicles is higher for heavier vehicles, the purchase cost of which is substantial for small companies and new market entrants that cannot commit to substantial initial investment.

In 2014, about 6 500 truck-rental and leasing enterprises were active in the European Union, the majority of which were SMEs.²⁷ The leased-vehicle fleet comprised about 3.5 million LCV and HCV, and 16.7% of European HCVs and 8% of LCVs were either leased or rented.

Table 6.3. Number and shares of rented or leased goods commercial vehicles in the European Union

	Total number of goods vehicles	Rented or leased vehicles	Share of rented or leased vehicles
Light-commercial vehicles (<3.5 t)	30 million	2.5 million	8%
Heavy commercial- vehicles (> 3.5 t)	6 million	1 million	16.7%
Total	36 million	3.5 million	9.7%

Note: Data refer to 2014 or latest available from the evaluation.

Source: European Commission (2017^[115]), impact assessment contained in *Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road*; Leaseurope (2016^[116]).

Renting goods vehicles can improve the cash-flow management of road-haulage operators, as they can adjust their vehicle costs based on fluctuations in demand (European Commission, 2017^[115]). In the European Union, most countries impose no restrictions on the licensing of truck-rental companies. Box 6.2 summarises the regulatory framework concerning the use of vehicles hired without drivers for the carriage of goods by road and the application of the relevant EC Directive in EU member states.

Box 6.2 Restrictions on truck rental in the European Union

Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road does not establish a minimum number of vehicles to operate. A 2017 ex-post evaluation of this directive highlighted the existence of certain restrictions across a number of EU countries and categorised the jurisdictions as follows (European Commission, 2017^[115]).

Open market, with no restrictions on accessing the truck-rental market: 22 EU member states

Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Sweden, United Kingdom.

Restrictions to access the market for truck rental in various categories: 6 EU member states

Denmark requires all vehicles to be used for rental be registered as such in a national register.

Portugal, Spain, Italy, and Cyprus impose conditions that are more burdensome. In these countries, access to the market is limited to firms that meet specific licensing requirements for vehicle-rental companies. These include a minimum number of vehicles (10 in Spain and Cyprus, 12 in Portugal) and an established office. Spanish legislation allows transport companies to obtain temporary permits to hire vehicles without the need to meet the requirement for the minimum number of rental vehicles.¹ Other restrictions include minimum capital to start the business amounting to at least EUR 50 000 (Portugal and Italy).

Table 6.4. Truck-rental restrictions in EU member states

Restrictions	Number of countries	Countries	Nature of restrictions
No restrictions	22	AT, BE, BG,CZ, DE, EE, FI, FR, HR, HU, IE,LT, LU, LV, MT, NL, PL, RO, SE, SK, SL, UK	N/A
Market-access restrictions	6	CY, DK, EL, ES, IT, PT	DK: Registration of rented vehicles in national register CY, ES, PT: Licence of operation as vehicle-rental company required
Segment of rental vehicles closed, related to Article 3(2)	4	EL, ES, IT, PT	ES, IT, PT: Renting vehicles with GVW of over 6 t for own-account operations not allowed. EL: Hiring for own account operations from leasing companies (only) not allowed for over 3.5 t

Note: Reproduced from European Commission (2016^[117]).

¹ Article 27 of Orden de 20/07/1995.

Source: European Commission (2016^[117]) “Ex-post evaluation of Directive 2006/1/EC”; European Commission (2017^[115]), *Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road*; (OECD, 2018^[118]) *Competition Assessment Reviews: Portugal*.

Age of vehicles. Provisions setting a maximum age for vehicles to obtain an operating card may be overly restrictive and introduce substantial entry costs for market participants, without effectively controlling the maximum age of HGV in Tunisia. These restrictions are imposed on top of existing mandatory technical inspections on vehicles.

According to the Ministry of Transport, the average age of goods vehicles in Tunisia at the end of 2018 was 7.7 years for sole proprietorships and 12.4 years for companies; 43.7% of company vehicles were older than 10 years. Data on the EU fleet of goods vehicles (see Box 3.3) show even higher average ages in some countries (ACEA, 2018^[119]). Current legislation therefore sets limits that are much lower than the actual age of vehicles in the market and in the European Union, without a maximum number of years in service for existing vehicles. Hence, current age restrictive regulations seem to be ineffective in controlling the objective of the vehicles' age.

The effects of these restrictions may be disproportionate for the activities of some service providers. For example, vehicles used only for short distances may not need to be as new as vehicles used by long-distance operators.

By obliging sole proprietorships and companies to commit significant investment to relatively new vehicles, the state imposes a high entry cost to potential operators, limiting the number of participants and competition. Moreover, combined with the restrictions on fleet sizes, the costs to scale up a small business from a sole proprietorship and move towards incorporation rise exponentially. The fragmentation of the sector, as documented above, could be a direct result of these regulatory barriers.

Benchmarking with EU member states shows that the policy objectives of guaranteeing road safety and quality of the technical inspections may be achieved by less restrictive means. The principal factors determining the condition of goods vehicles are: proper operation; kilometres covered; years in service; and regularity of technical inspections. Maintaining vehicles correctly becomes particularly important as they get older and in the case of long international routes (European Commission, 2014^[120]). The Tunisian authorities and business representatives believe that regulations based on alternative measures of vehicle condition are not feasible; for instance, imposing limits based on kilometres travelled is seen as prone to manipulation, while relying purely on technical inspections to ensure roadworthiness is considered unreliable. However, ITF experience has shown that supplementing regular inspections with random on-road checks could be a helpful step to ensure roadworthiness, as well as the use of years in service criterion.

Even if vehicle-age criteria did constitute a practical approach to ensuring the good condition of HGV in Tunisia, current standards may be overly restrictive. As noted above, they would mean an "average HGV" in the European Union would not be granted a licence in Tunisia. Further, annual truck mileage in Tunisia is low compared to other countries, suggesting lower wear and tear of the vehicles. According to the World Bank (2014^[121]), the average annual mileage of a truck in Tunisia is about 44 000 km. Given the size of the country and that 92% of industrial firms are based within an hour's drive of the main cities of Tunis, Sfax, and Sousse, internal transport seems to be undertaken over relatively short distances. The average annual mileage for trucks is considerably lower than that of other countries, such as South Africa (120 000 km) or EU member states (130 000 km) (T&E, 2016^[122]).

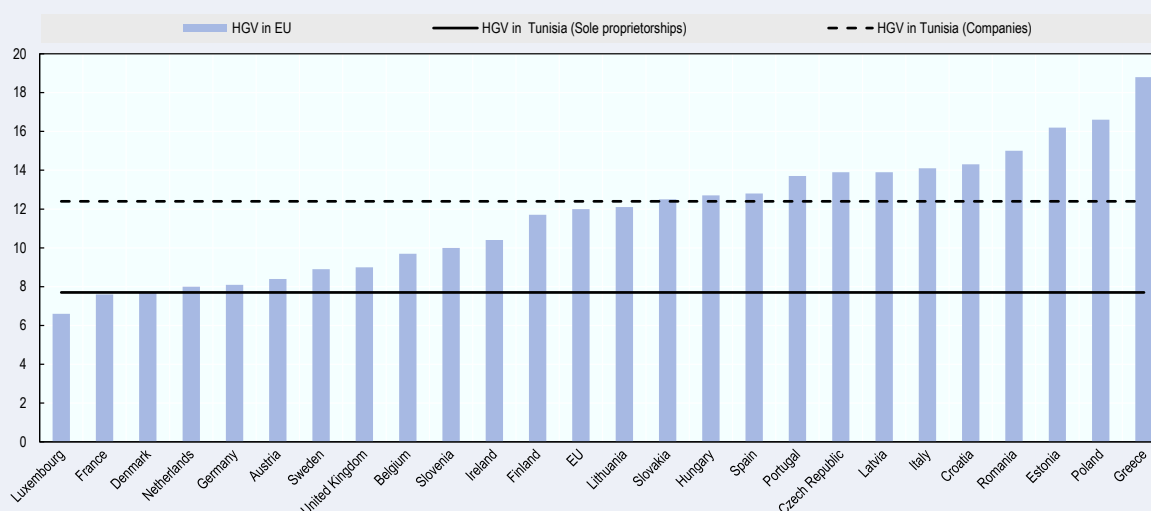
A lower age limit for rented HGV than the one applicable to road-haulage HGV can be justified by the perceived rise in safety and risks when third parties operate the vehicles.

Box 6.3. Age of freight-transport vehicles in EU member states

According to the European Commission (2014_[120]), the age of goods vehicles varies by type of activity. Newer vehicles are generally used for long distances and international road haulage. Local market and national transport needs are typically met by older vehicles, which cost less. Other rationales for using newer vehicles in international transport include their lower fuel consumption, the lower tolls they might pay due to their more environmentally friendly features, and their need for regular replacement as they quickly reach high levels of kilometres covered.

The average age of HGV exceeding 3.5 t in the European Union is about 12 years. Luxembourg, France and Denmark have the youngest fleets, while Estonia, Poland and Greece have the oldest. Country variations on the age of average HGV range from 6.6 years in Luxembourg to 18.8 in Greece.

Figure 6.5. Average age of the EU HGV fleet (years)



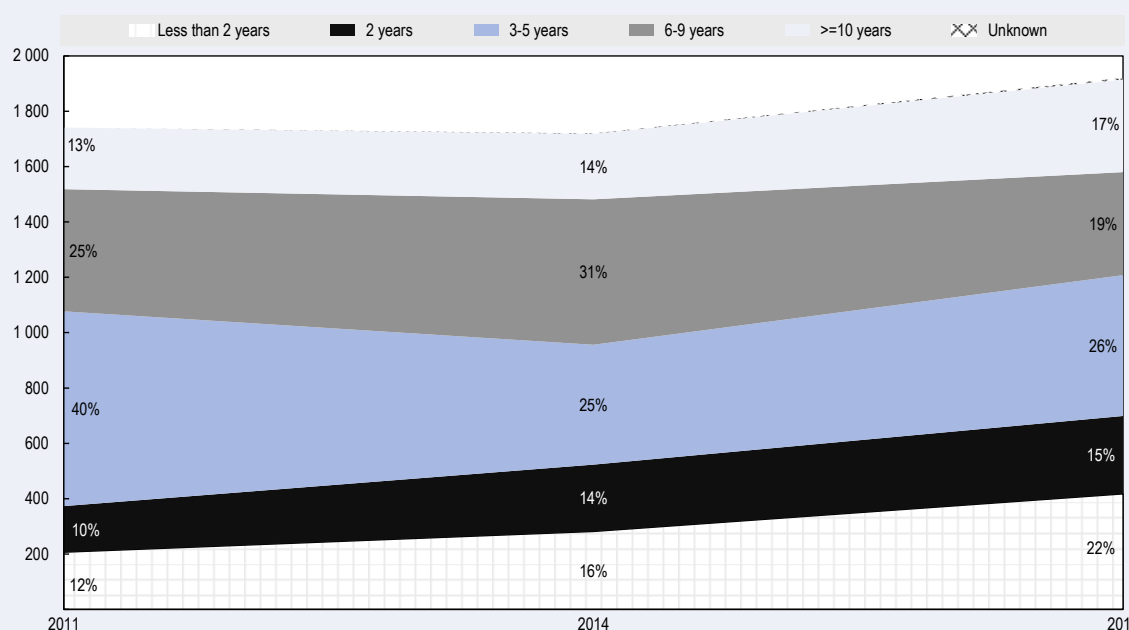
Note: Data refers to 2016.

Source: International Organization of Motor Vehicle Manufacturers (OICA, 2019_[123]) and Ministry of Transport.

As seen in Figure 6.6, 17.5% of road haulage among EU28 freight transporters is done with vehicles over 10 years of age, which reflects an increase compared to 2011 and 2014. Vehicles aged between five and nine years perform another 19.4% of road haulage.

In 2014, the fleet of truck-rental companies in the European Union was 3.8 to 6 years younger than that of the overall fleet of HGV (European Commission, 2014_[120]). This age difference is larger for larger trucks, meaning that smaller trucks are replaced at a faster pace.

**Figure 6.6. Annual road freight transport in the EU28, by age of vehicle
(in billion tonnes-kilometre)**



Source: Eurostat.

6.2.4. Recommendations

The OECD's recommendation for revising requirements on vehicle fleets are:

- Abolish the minimum number of vehicles for road-haulage and truck-rental companies.
- Ensure uniform application of any vehicle age criteria for both sole proprietorships and companies in order to ensure fair competition and quality of service.
- Increase the age limits for road-haulage vehicles of sole proprietorships and companies, and complement this requirement with other measures that would ensure roadworthiness. Those could consist of establishing a uniformly applied maximum number of years in service and the need to pass regular technical inspections, among other measures. The establishment of additional criteria should ensure that both new and existing companies operate under the same regulatory framework.
- Increase maximum age requirements, complemented with other measures of roadworthiness for truck-rental companies (see above).
- Amend article 60 of Law 2004-33 to specify that all companies will be obliged to comply with the new regulations. In the case of companies established before 2009, a transition period should be set.

6.3. Requirements to start a business

6.3.1. Description of the barriers

Under transport framework Law 2004-33, Tunisia put in place several restrictions concerning the criteria entities must satisfy in order to start a business in road freight transport. These limit market entry by including requirements such as minimum standards on qualifications, operator's specific legal form and nationality.

Qualifications. In order to start a road haulage business and provide hire-or-reward road haulage, vehicle rental for road haulage, or operate a road freight centres, the companies' legal representative must be appointed as transport manager for operations in Tunisia. No similar criterion exists for individuals exercising the activity of road haulage of their own cargo, or for operators in the form of sole proprietorships.

The legal representative of a company operating in these sectors must either possess:²⁸

- a minimum of **three years of managerial experience** in the sector of road freight transport, which can be acquired abroad when there is a reciprocity clause with Tunisia; or,
- a **specialised university degree** in road haulage or road-transport management, or another certificate proving an equivalent level of education related to the activity of road haulage.

In the absence of one of these two conditions, the Tunisian legislation obliges the company to hire someone who meets these requirements, and who then acts as transport manager besides the firm's legal representative.²⁹

Law 2004-33 and Decree 2006-2118 of 31 July 2006 concerning the position of transport manager envisaged a third method for accessing the activity, a certificate of professional competence (CPC) for road-haulage managers.³⁰ Until the CPC method of accessing the profession was abolished in 2016, the Ministry of Transport regularly organised professional CPC examinations, which were open to all candidates who held at least a high-school diploma, and for which no previous experience was required.³¹ The authorities have provided no explanation on the rationale for abolishing this exam.

Legal form. While hire-or-reward road haulage can be done by both individuals in sole proprietorships and companies, truck rental for road freight transport and the operation of road freight centres are reserved for companies.³²

Nationality. Providing road haulage in Tunisia, either as a sole proprietorship or a company, is subject to nationality criteria. This principle is established in Decree-Law 61-14 of 30 August 1961 on the conditions for the exercise of certain commercial activities,³³ Law 2004-33,³⁴ later decrees, and *cahiers des charges*.³⁵ As summarised in Table 6.5, the requirement on nationality applies to all activities of road freight transport.³⁶

Table 6.5. Operational requirements per type of activity in road freight transport

	Legal form	Qualification	Nationality
Hire-or-reward road haulage	Sole proprietorship	Driving licence	Tunisian
Hire-or-reward road haulage	Company	Legal Representative or transport Manager with:	Tunisian
Commercial truck rental for road-haulage operations	Company	Minimum of 3 years' experience in transport management or relevant university degree/certificate	Tunisian
Freight centres	Company		Tunisian

Note: The requirements refer to the category of activities with HGV.

Sources: Decree-Law 61-14 and the legislative texts mentioned in endnotes 34, 35 and 36.

6.3.2. Objectives of the policy maker

Qualifications. The restrictions on professional qualifications seek to ensure service quality, to promote the financial viability of road-haulage companies and to prevent the entry of unskilled persons into the market. The provisions also promote employment for graduates holding specific qualifications in the road-haulage market. Following consultations with the authorities, the OECD also understands that policy makers consider qualified and experienced persons less susceptible to irresponsible or illegal practices, which are seen as particularly harmful to the sector's international reputation and suppliers' long-term viability.

Legal form. Restrictions on the legal form that is required for exercising certain operations, such as truck rentals, are used by the administration to ensure the financial standing of economic agents. In the OECD's understanding, the Tunisian authorities consider companies as more capable of offering sound financing guarantees than individuals. They are also deemed less likely to offer low-quality services that would harm both local consumers and the sector's international competitiveness.

Nationality. Following consultations and exchanges with the authorities, the OECD understands that the nationality requirements were adopted in order to boost company and job creation for Tunisians, particularly in a post-independence context. This restriction currently aims to protect the transport sector from competition from neighbouring countries and stimulate local employment. The reciprocity clause does, however, grant exceptions to those countries that recognise the right of Tunisians nationals to engage in similar activities.

According to the Ministry of Transport, Decree-Law 61-14, defining the Tunisian nationality conditions for companies, remains in force as it concerns all the economic activities including the transport of goods. This despite the adoption of the new investment law (Law 2016-71 of 30 September 2016) which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.

6.3.3. Harm to competition

All three of these restrictions create barriers to entry that could limit the potential pool of service providers in the sector of road freight transport. Each type of provision does so through different channels.

Qualifications. The current minimum professional or academic qualifications for legal representatives may be more than is necessary for the provision of road freight transport services at an acceptable quality level. Further, if prospective legal representatives have the

requisite knowledge acquired through alternative means, such as experience in a related profession, they are currently unable to enter the market as there is no exam that could certify their professional competence.

The restrictions discourage market entry and therefore reduce competitive pressure on incumbents, enabling them to charge higher prices. In parallel, they remove incentives to innovate and increase efficiency, to the detriment of consumers and the wider economy. It also creates an extra barrier for those that have started a business as a sole proprietorship and wish to create a company. Moreover, the law does not provide examples or guidance of what is to be considered “*experience of transport management*” giving place to legal uncertainty and potential arbitrary use of the criteria.

Introducing professional qualifications is generally found to improve service quality in haulage companies (Borgström, Gammelgaard and Wieland, 2017^[124]). Maslac et al. (2018^[125]) find that certifying haulage service providers can encourage safer driving and more positive driver behaviour. EU Regulation 1071/2009 established a certificate of professional competence (CPC) as a prerequisite for exercising the profession of transport manager in road haulage, as well as for other related professions. Certain countries choose to provide exemptions to individuals with specialised academic qualifications or previous work experience in the field, typically 10 years. Box 6.4 reviews and compares the various countries’ regulations for market-entry qualifications for road haulage services.

The OECD, however, makes no recommendation given the administrative challenges of organising regular CPC examinations rigorously and transparently, the need for trained personnel to administer them, and its partial and unclear understanding of the reasons for abolishing the examinations in 2016.

Box 6.4 Professional competence for market entry in road haulage services in the European Union

Regulation 1071/2009 of the European Parliament and of the Council of 21 October 2009 sets market-entry criteria for operators in road-haulage services. All EU countries require a road haulage operator licence for carrying goods for hire or reward in a vehicle or combination of vehicles with an authorised weight exceeding 3.5 t. Operator licences have a maximum duration of five years. National licences are issued by member states and are valid within the country that issued them; international licences are valid for road haulage in all EU member states. According to Regulation 1071/2009, operators are required to prove their professional competence in order to be granted entry to the market. They should have an effective and stable establishment in a member state, be of good repute, and have appropriate financial standing.¹ Member states have the discretion to impose additional requirements, which shall be proportionate and non-discriminatory, for entry as a road-transport operator.²

In practice, all EU countries require road-transport managers to provide proof of high-quality professional competence.³ Authorities certify this after 140 hours of training and an examination covering the topics laid down in Annex I of EC Regulation 1071/2009.⁴ A successful examination leads to the award of an open-ended certificate of professional competence (CPC). A member state may exempt certain individuals from sitting the exam, such as the holders of certain higher-education or technical-education qualifications issued in that member state.⁵ Member states may also exempt from the CPC exam individuals with proven managerial experience of road-haulage businesses.⁶ More information is provided in the Annex to this Chapter.

Examples of the way that different EU countries have chosen to regulate access to the profession are summarised in Table 6.6. which shows the different requirements and permissible exemptions. The recognised degrees and the length of previous managerial experience can vary by country.⁷

There are significant differences in the requirements and exemptions that member states provide to road-transport managers. In 2017, the European Commission issued a proposal to amend Regulation 1071/2009 (European Commission, 2017^[126]), so that member states would no longer be allowed to impose additional access requirements to the profession. As of March 2019, the proposed amendments to the regulation have yet to be adopted. Details on country-specific regulations concerning the market-entry qualifications for road-haulage services may be found in 0.

Table 6.6. Competence requirements for road transport managers in the European Union

Country	CPC	CPC supplemented by oral examination	Exemptions for holders of specific degrees	Exemptions for individuals with more than 10 years' managerial experience in road haulage	No exemptions
Austria	✓	✓	✓		
Belgium	✓	✓	✓		
Bulgaria	✓		✓		
Croatia	✓		✓		
Cyprus	✓				✓
Czech Republic	✓				✓
Denmark	✓				✓
Estonia	✓		✓	✓	
Finland	✓		✓		
France	✓		✓	✓	
Germany	✓	✓	✓	✓	
Hungary	✓	✓			
Ireland	✓				✓
Latvia	✓				✓
Lithuania	✓				✓
Malta	✓		✓	✓	
Luxembourg	✓		✓	✓	
Slovakia	✓	✓		✓	
Sweden	✓		✓	✓	
United Kingdom	✓		✓		

Note: Insufficient information was found concerning exemptions from the CPC requirement for Greece, Italy, the Netherlands, Poland, Portugal, Romania, Slovenia and Spain, but all apply the CPC requirement.

¹ In article 7 of EC Regulation 1071/2009, it is set at EUR 9 000 for the first vehicle and EUR 5 000 for each additional vehicle.

² As specified in paragraph 2, article 3 of EC Regulation 1071/2009.

³ Article 8 of EC Regulation 1071/2009.

⁴ These areas include: civil, commercial, social, and fiscal law; business and financial management; market access; technical standards; and road safety, when road haulage is relevant to each area.

⁵ Paragraph 7, article 8 of EC Regulation 1071/2009.

⁶ Article 9 of EC Regulation 1071/2009. In practice, the usual minimum experience required is 10 years; see European Commission (European Commission, 2017^[126]).

⁷ For a complete description of exemptions in each country, see European Commission (European Commission, 2017^[126]).

Source: European Commission (European Commission, 2017^[126]) and national legislation of member states.

Legal form. Official statistics from the Ministry of Transport show that at the end of 2018 the Tunisian road-haulage sector comprised a total of 4 286 operators with HGV. Just under 20% of those (821) were established as companies, while 3 465 were sole proprietorships. Requirements such as minimum fleet sizes seem to be hampering the development of the

sector, at a time when the European road-haulage sector is moving towards smaller and more flexible fleet sizes and a relative increase in the number of companies compared to sole proprietorships (EEA, 2018^[127]). According to the European Environment Agency (EEA), higher incorporation in Europe has improved efficiency and time in road haulage, and reduced the number of trucks travelling empty. Efficiency gains through optimisation of routes and loading have enabled companies to perform more operations with lower costs than sole proprietorships. Measures helping incorporation would therefore be a welcome step for Tunisia, particularly the lowering of the criteria on the fleet of vehicles for establishment of companies.

Restrictions on the legal form prevent sole proprietorships from offering truck-rental and freight-centre services. Both activities are formally missing from the Tunisian transport market. Restricting a number of important activities to companies entails increased costs for entering the market. In parallel, the cost of operation also increases.

In the digital era, an operator with Internet access could access transport intermediation services. For instance, by using software optimising the itineraries of different fleets. The software manager would act similarly to freight or dispatching centres.

According to the stakeholders, sole proprietorships offer in practice truck-renting services to transport companies on an informal basis.

Nationality. The provisions on nationality requirements generally prevent non-Tunisian citizens from being majority owners or managing businesses providing any of the services described in this section. This directly limits the number of suppliers, as well as that of potential investors in the sector. It also hampers productivity growth in the case that competition with foreign firms renders both local and foreign suppliers more efficient.

The legislation contains exemptions allowing foreigners to run Tunisian companies based on reciprocal agreements. This ensures that the market is open to foreign competitors, provided Tunisian companies are treated similarly in a foreign entity's home jurisdiction. Tunisia adheres to the OECD National Treatment instrument, which is a voluntary commitment to treat foreign-controlled companies in a similar way to domestic companies. The legislation on road transport is an exception to this general principle, as was duly notified to the OECD, in line with the instrument (OECD, 2017^[128]). Tunisia's regulation in the road-transport sector, as measured by the OECD FDI restrictiveness index, is more restrictive than the OECD average. The sector could benefit from further opening to non-Tunisian nationals.

6.3.4. Recommendations

Qualifications. Considering the administrative challenges in organising CPC examinations and the limited information on its prior implementation in Tunisia, the OECD does not consider that there are sufficient grounds for a recommendation.

Legal form. Adapt existing regulations to allow sole proprietorships to provide truck-rental and freight-centre services.

Nationality. Clarify the legislation applicable to foreign participation in national companies in the road freight transport sector, in view of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.

6.4. Operational requirements on freight centres

6.4.1. Description of the barriers

Freight centres are subject to specific restrictions regarding their location, equipment and business practices.

Freight centres must be located in major economic zones, and be integrated into the system of logistics zones.³⁷ The *cahier des charges* requires freight-centre warehouses for the collection and dispatch of goods to:

- have a covered area of at least 750m²
- be equipped with a forklift with a minimum capacity of three tonnes and with a crane arm.³⁸

Tunisian legislation obliges freight centres to collect and report information covering a broad spectrum of activities to Ministry authorities. Specifically, they are required to record in an IT system information on the quality and amount of goods transported, carriers and their areas of activity, prices, distribution itineraries, and the technical characteristics and quality of the vehicles used for road haulage.³⁹ Every six months, these data must be reported to the General Directorate of Land Transport in the Ministry of Transport.⁴⁰

6.4.2. Objectives of the policy maker

According to the authorities, the rationale of limiting the provision of freight-centre services to companies is their perceived ability to offer more solid financial guarantees to their clients.

The proper and effective operation of freight centres is also the main objective underlying the introduction of geographical and technical requirements. According to the *cahier des charges* on the operation of freight centres,⁴¹ the obligation to be close to major economic zones is seen as a way to increase the effectiveness of transport operations and lower their costs.

The OECD was unable to identify the public-policy objective of the provisions requiring freight centres to report prices and specific details of their operations to the Ministry of Transport.

6.4.3. Harm to competition

Restrictions on the location of freight centres substantially limit businesses' ability to find the most efficient way of meeting their customers' needs. For example, they cannot establish freight centres outside major economic centres or elsewhere where rental costs could be lower. Further, the minimum requirements on storage spaces (size and equipment specifications) artificially inflate costs for service providers and limit their operational flexibility.

Moreover, innovative and cost-cutting alternative models, such as providing remote road-haulage co-ordination and IT-based real-time matching services, are not permitted under the current legal framework.

Finally, the requirements for freight centres to collect and report operational details involve two potential risks. First, if these data are available to freight transporters, they could contribute to price and volume transparency and in so doing increase the risk of collusion.

The wide range of data collected also creates administrative burdens and substantial IT costs for freight-centre businesses without an underlying policy justification.

6.4.4. Recommendations

The OECD recommends abolishing all these restrictions on freight centres.

6.5. Power to set prices – application to road transport

6.5.1. Description and objective of the provision

In case of a crisis, emergency, exceptional circumstances or clearly abnormal market situation, Article 4 of Law 2015-36 of 15 September 2015 reorganising competition and prices, empowers the trade minister to introduce temporary measures – for a maximum of six months – to address excessive price increases or price collapses in any sector of the Tunisian economy. In practice, however, these measures can be renewed indefinitely without restrictions, while data on the actual implementation and effects of the imposition of these restrictions could not be identified.

The OECD understands that the policy maker's objective is to mitigate and protect consumers from extreme price fluctuations, which may occur, for instance, due to a natural disaster severely limiting production. In some cases, prices or minimum prices have also been used in an attempt to support the revenues of the suppliers of a given product or service.

6.5.2. Harm to competition

This provision can distort market outcomes for several reasons. Setting prices, including minimum or maximum prices, instead of allowing supply and demand to adjust, leads to inefficient outcomes and alters the competitive structure of a given product or market. As such, price regulation is used only in exceptional circumstances where market functioning is already severely impaired, for example, when a firm controls an asset that is a natural monopoly. In most other circumstances, minimum or maximum prices may harm consumers, firms, and productivity.

In particular, when minimum prices are set above what the market would have set, consumers pay higher prices while consuming less, and can finish worse off than without government intervention. Moreover, higher prices keep inefficient, high-cost suppliers in the market, which may result in excess supply (more output than real demand), preventing a more efficient reallocation of resources. Finally, minimum prices dampen competition between firms and prevent more efficient firms from innovating or cutting costs to offer lower prices to consumers in order to capture market share.

Beyond their distortionary impacts, minimum prices can be challenging for governments to put in place. They are often set with the objective of ensuring that suppliers cover their costs and achieve a reasonable rate of return. This process is not straightforward, however, and assumptions regarding costs can be crucial; for example, if the government assumes that the relevant costs are those of an inefficient supplier, minimum prices are set too high. In practice, price control involves complex exercises that model variables such as future revenues and costs over time. In the absence of a thorough analysis, prices are unlikely to be set at a level encouraging efficiency, and may result in excessive consumer harm.

Maximum prices can similarly lead to significant problems in market functioning. In practice, when a maximum price is set below the prevailing market price, it can act as a

focal point for firms, limiting price competition since firms will seek to charge a price as close as possible to the market price. Further, firms that would have been able to compete in an efficient market may be forced to exit if they are unable to earn a sufficient return to cover their costs. This may lead to consumer demand outstripping supply, making shortages more likely.

These negative consequences of price floors and ceilings may be considered acceptable in the presence of widespread market failure or when imposed in emergency periods. The provision in Law 2015-36 makes explicit reference to crisis scenarios and exceptional circumstances, yet in practice, it appears to have been applied in non-crisis and non-exceptional situations (see Box 6.5).

Box 6.5. Minimum and maximum tariffs for road freight transport

In February 2019, the Ministry of Trade issued an order (*arrêté*) that set minimum and maximum tariffs for road freight transport services on the basis of the distance travelled. The order gave no justification of a crisis, anomaly or exceptional circumstances to justify the intervention.

In addition, while the legislation limits these price interventions to a period of no more than six months, it does not prevent the Ministry of Trade from indefinitely renewing these measures. In this way, temporary measures for crises can become permanent, given the lack of legislative limits. For road-transport services, a similar ministerial order was first issued in 2016 for six months and renewed in October 2017 for another six months, before the new February 2019 order.

To the best of the OECD's understanding, this order was motivated by the low prices charged by certain sole proprietorships, rather than by exceptional circumstances. As seen in Section 6.1, both sole proprietorships and companies can offer road-haulage services under Tunisian legislation. From discussions with the Tunisian authorities and sectoral representatives, the OECD understands that certain sole proprietorships may not be fulfilling their legal obligations, such as for tax and safety requirements, allowing them to incur lower costs than companies fully compliant with legal requirements. In addition, compared to sole proprietorships, companies are subject to strict requirements that significantly increase their costs. Against this backdrop, there is a concern that the low rates offered by certain sole proprietorships are simply insufficient to deliver safe and legally compliant services in Tunisia. The authorities have tried to address these concerns by imposing price floors, instead of directly intervening through increased enforcement and a review of regulation and taxation.

Finally, it is not clear how imposing price floors, in the absence of enforcement, would achieve these stated objectives. Specifically, a price floor does not create an incentive to comply with safety or taxation obligations, and may simply increase the margins of firms suspected of failing to comply with these obligations.

Source: Order of the Minister of Trade of 19 February 2019, fixing minimum and maximum rates for road freight haulage services; Order of the Minister of Trade of 24 October 2017, fixing the minimum and maximum rates for road freight haulage services.

The use of emergency pricing powers to set long-term ceilings or floors on prices is uncommon. While pricing regulation occurs in several sectors in OECD countries, best practice suggests that it should be limited to natural monopolies or other extraordinary situations.

In a similar case, the European Court of Justice declared provisions on minimum pricing in road transport incompatible with European competition law⁴² (see Box 6.6): minimum fees were set on the grounds that they would ensure safety, but the court concluded that this was not the appropriate regulation for achieving this objective.

Box 6.6 Restrictions in the road freight transport sector in Italy

In 2012, the Italian Competition Authority (AGCM) issued an opinion on decisions taken by the Observatory on Road Transport and of the Ministry of Infrastructure and Transport. Specifically, the Observatory adopted certain provisions establishing the minimum operating costs of road freight transport that ensure compliance with the safety parameters provided for by legislation. The latter then issued a decree implementing the observatory's recommendations.

According to the AGCM, the ministerial decree and related decisions by the observatory broke competition law, both at a national and European level, as they artificially fixed minimum prices for road-transport activities. Those decisions were not based on any well-founded safety requirements specific to road transport and effectively introduced compulsory tariffs across Italian territory, with significant effects on trade between EU member states.

Since the Ministry of Infrastructure and Transport and the Observatory did not accept the AGCM's judgement, the competition authority appealed, and the appeal court issued a non-definitive decision and requested a ruling from the European Court of Justice (ECJ).

The ECJ concluded that: "although it cannot be ruled out that the protection of road safety may constitute a legitimate objective, the fixing of minimum operating costs does not appear appropriate, either directly or indirectly, for ensuring that that objective is attained" (paragraph 51). This, the court ruled, was for two reasons: 1) such an approach did not allow "carriers to prove that, although they offer prices lower than the minimum tariffs fixed, they comply fully with the safety provisions in force" (paragraph 55); and 2) "there are a number of rules, including the rules of EU law [...] relating specifically to road safety, which constitute more effective and less restrictive measures, such as the EU rules on the maximum weekly working time, breaks, rest, night work and roadworthiness tests for vehicles" (paragraph 56).

Source: Italian Competition Authority (2012), Opinion AS913 of 5 March 2012; European Court of Justice, C-208/13 of 4 September 2014.

6.5.3. Recommendation

The OECD recommends amending the provision to remove the power to set minimum prices and to request a preliminary opinion of the Competition Council before setting maximum prices.

Notes

¹ Transport of goods for a fee or offered to the public (article 26 of Law 2004-33) refers to operators offering freight transport services for third-party use.

² According to article 26 of Law 2004-33, this comprises any freight transport not included in the definition of hire-or-reward road haulage. This refers to transport of goods with own vehicles, usually by manufacturers, wholesalers or retailers.

³ According to Article 32 of Law 2004-33, any operation under which the lessee receives a vehicle for a specified period, and for a fee, both agreed in advance.

⁴ According to Article 29 of Law 2004-33, freight centres are companies whose mission is to bring supply closer to demand in the field of land freight transport.

⁵ To reduce the budgetary impact of these infrastructure projects, Tunisia has signed a series of co-financing agreements with, among other partners, the European Investment Bank (EIB), the African Development Bank (ADB), the European Bank for Reconstruction and Development (EBRD), and German development bank, KfW. In parallel, many of these transport-infrastructure projects are expected to be financed in the form of public-private partnerships (PPP).

⁶ These include all enterprises using both LCV and HCV.

⁷ See paragraph 4, article 1 of EU Regulation 1071 of 2009 from the European Parliament and the Council.

⁸ A difference in the methodology calculating average ages of vehicles between the European Union and Tunisia. should be noted. While the EU countries consider commercial vehicles above 3.5 tonnes, as “heavy”, and those below 3.5 tonnes “light” (ACEA, 2018_[119]), data on Tunisia from the Ministry of Transport concern only vehicles that exceed authorised gross vehicle laden weights of 12 tonnes.

⁹ In contrast, in 2011, vehicles more than 10 years old made up 27.5% of the fleet and those less than two 7.9%.

¹⁰ World Bank Group Enterprise Survey: Tunisia, www.enterprisesurveys.org/data/exploreeconomies/2013/tunisia#infrastructure (accessed 11 April 2019).

¹¹ Calculated as kilometres of surfaced roadway per 1 000 inhabitants.

¹² The two *cahiers des charges* regulating the operational requirements of road haulage by sole proprietorships and companies were approved by Ministerial Decision of the Ministry of Transport of 10 December 2008. A third *cahier des charges* on the operation of truck-rental businesses was approved by Ministerial Decision of the Ministry of Transport of 18 October 2011. See Section 5.3 for an overview of the relevant legislation.

¹³ The GVW threshold for vehicles subject to a *cahier des charges* was increased from 3.5 tonnes to 12 tonnes by Law 1997-56.

¹⁴ Article 6 of the *cahier des charges* concerning hire-or-reward road haulage by sole proprietorships, approved by Ministry of Transport Order of 10 December 2008.

¹⁵ Article 8 of the *cahier des charges* on the activity of hire-or-reward road haulage by companies, approved by Ministry of Transport Order of 10 December 2008.

¹⁶ Article 9 of the *cahier des charges* on the activity of hire-or-reward road haulage by companies, approved by Ministry of Transport Order of 10 December 2008.

¹⁷ Circular 7 of the Ministry of Transport of 31 December 2008.

¹⁸ Article 7 of the *cahier des charges* on the operation of truck-rental businesses, approved by Ministry of Transport Order of 18 October 2011.

¹⁹ Article 60 of the Law 2004-33 of 19 April 2004 (modified by Law 2006-55 of 28 July 2006), on the organisation of land transport. The several vehicles threshold were previously set by the text regulating article 24 and article 25 of Law 1997-56.

²⁰ Articles 7 and 8 of the *cahier des charges* concerning the hire-or-reward road haulage by sole proprietorships, approved by Ministry of Transport Order of 10 December 2008.

²¹ Article 9 of the *cahier des charges* concerning the hire-or-reward road haulage by companies, approved by the Ministry of Transport Order of 10 December 2008.

²² Article 8 of the *cahier des charges* on the operation of truck-rental businesses, approved by the Ministry of Transport Order of 18 October 2011

²³ Articles 7 and 8 of the *cahier des charges* concerning the hire-or-reward road haulage by sole proprietorships, approved by Ministry of Transport Order of 10 December 2008.

²⁴ Circular 7 of the Ministry of Transport of 31 December 2008.

²⁵ Article 60 of Law 2004-33 of 19 April 2004.

²⁶ In particular, Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016, the *cahier des charges* concerning the hire-or-reward road haulage by sole proprietorships, approved by Ministry of Transport Order of 10 December 2008; the *cahier des charges* concerning the hire-or-reward road haulage by companies, approved by Ministry of Transport Order of 10 December 2008; Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of persons intending to carry out any of the operations set forth in articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016; the *cahier des charges* on the operation of truck-rental businesses, approved by Ministry of Transport Order of 18 October 2011. See Annex B for full legal references.

²⁷ By contrast, about 33 000 active enterprises rent and lease cars and LCV (European Commission, 2017^[115]).

²⁸ Article 34 of the Law 2004-33 of 19 April 2004.

²⁹ These criteria are repeatedly mentioned in the *cahiers des charges* regulating each of the professions and aforementioned activities; for example, in article 6 of the *cahier des charges* concerning hire-or-reward road haulage by companies, approved by Ministry of Transport Order of 10 December 2008; in article 6 of the *cahier des charges* on the operation of truck-rental businesses, approved by Ministry of Transport Order of 18 October 2011; and in article 7 of the *cahier des charges* concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009.

³⁰ Articles 7 and 8 of Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of persons intending to carry out any of the operations set forth in articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport.

³¹ Article 3 of Decree 2016-1101 of 15 August 2016.

³² This requirement is mentioned in the relevant *cahier des charges* and based on the sectoral framework legislation, explicitly specified in article 4 of Decree 2118/2006, based upon Law 33/2004.

³³ A modified by Law 85-84 of 11 August 1985.

³⁴ Article 34 of the Law 2004-33 of 19 April 2004.

³⁵ Articles 2 and 3 of Decree 2006-2118 stipulate that sole proprietorships and companies need to meet this criterion and that the requirement is based on Decree-law 61-14 of 30 August 1961.

³⁶ Article 5 of the *cahier des charges* concerning hire-or-reward road haulage by sole proprietorships, approved by the Ministry of Transport Order of 10 December 2008.

For companies in hire-or-reward road-haulage operations: paragraph 1, article 5 of the *cahier des charges* concerning the hire-or-reward road haulage by companies, approved by Ministry of Transport Order of 10 December 2008 and articles 2 and 3 of Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of persons intending to carry out any of the operations set forth in articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016.

For the legal representatives of truck-rental activities: paragraph 1, article 6 of the *cahier des charges* on the operation of truck-rental businesses, approved by Ministry of Transport Order of 18 October 2011 and articles 2 and 3 of Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of persons intending to carry out any of the operations set forth in articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016.

For companies in road freight-centre activities: article 7 of the *cahier des charges* concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009 and articles 2 and 3 of the Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of persons intending to carry out any of the operations set forth in articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016.

³⁷ Article 16 of the *cahier des charges* concerning the operation of freight centres, approved by the Ministry of Transport Order of 5 October 2009.

³⁸ Article 9 of the *cahier des charges* concerning the operation of freight centres, approved by the Ministry of Transport Order of 5 October 2009.

³⁹ Article 20 of the *cahier des charges* concerning the operation of freight centres, approved by the Ministry of Transport Order of 5 October 2009.

⁴⁰ Article 18 of the *cahier des charges* concerning the operation of freight centres, approved by the Ministry of Transport Order of 5 October 2009.

⁴¹ Article 16 of the *cahier des charges* concerning the operation of freight centres, approved by the Ministry of Transport Order of 5 October 2009.

⁴² Joined Cases C-184/13, C-185/13, C-186/13, C-187/13, C-194/13, C-195/13, C-208/13. <http://curia.europa.eu/juris/document/document.jsf?text=&docid=157343&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=8888676> (accessed 11 April 2019).

Annex 6.A. Market entry qualifications for road-haulage services in selected EU countries

Belgium

The road-transport manager or the legal representative of a road-haulage company in Belgium must obtain a certificate of professional competence (CPC).¹ The certificate is issued by the Mobility and Transport Federal Public Service,² or a delegated party, to individuals who have successfully passed an exam, which is organised based on the needs of the sector, at least once a year.³

France

A CPC is a prerequisite to operate as a road-transport manager. It is awarded to individuals following successful examinations held by the École Supérieure des Transports, which is part of the École Nouvelle d'Organisation Économique et Sociale (New School of Economic and Social Organisation).⁴ The national registry of professional qualifications states that transport and logistics manager is the required CPC for access to the road-haulage profession.⁵ France allows individuals to access the market without a CPC if they have specialised higher-education degrees in the field or have proven professional experience of at least 10 years in the field.⁶

Between 2012 and 2014 in France, 7 166 individuals or 84% of all road-transport managers were granted exemptions from the CPC, as they were holders of specific degrees or had previous work experience in the field (European Commission, 2017_[126]). In 2013, the pass rate was one of the lowest in the European Union: only 39% of the 1 846 applicants succeeded.

Greece

Exams for a CPC are held four times a year in each *periferia* or regional administrative unit of the Hellenic Republic. Transport operator vocational training schools (SEKAM) run by the Hellenic Federation of Road Transporters (OFAE) are the certified providers of education and training for road passenger and freight-transport operators,⁷ following a curriculum based upon the requirements set out in EC Regulation 1071/2009. Examinations must be passed in order to obtain a CPC for managers. Forty-five hours of classes are required for the road-haulage CPC, supplemented by 15 more for the international freight-transport version. A high-school diploma is required for candidates to sit the exam (OFAE, 2019_[129]).

Ireland

Ireland requires all road-transport managers to possess a CPC certifying their knowledge and skills, as set out in EC Regulation 1071/2009. CPC are issued by the Irish Chartered Institute of Logistics and Transport (CILT IE) and aimed at those wishing to become transport managers or set up their own transport business.

No previous knowledge or experience is required and the minimum age to exercise the profession is 18 (Department of Transport, Tourism and Sport, 2019_[130]). Candidates must pass two, two-and-a-half-hour examinations to be awarded a CPC in road-transport operations management. The first examination focuses on business management, the road-haulage market, operations and financial management; the second focuses on technical standards, civil, commercial and social law, conventions, and road planning and safety.

Candidates choose an approved CPC programme and the institution then registers the candidate for the examination with CILT before the course begins. A minimum of 100 hours of tuition must be provided by the course provider. Examinations are offered twice a year in three locations. After consultation with the Department of Transport, Tourism and Sport, CILT changed the CPC examination to an open-book format in June 2019 (CILT IE, 2019^[131]).

Italy

Italian legislation requires road-haulage managers to have a CPC, which is awarded by the Ministry of Infrastructure and Transport following a preliminary training course and successful examinations. The examination for the CPC in road-haulage management comprises 60 multiple questions and a practical case study, both parts lasting two hours.⁸ Examinations are organised and certified by regional administrative units. If the training has not been offered for more than nine months in an administrative unit, candidates wishing may request to sit the examination without having completed the required training.⁹

The CPC is required for both sole proprietorships and the legal representatives of companies exercising this activity.¹⁰ Candidates should be over 18, and hold a high-school diploma before sitting the CPC exam.¹¹ Holders of an exclusively national road-haulage CPC can operate internationally only after supplementary examinations.¹² The Ministry of Infrastructure and Transport of Italy maintains an electronic national repository of licenced road-haulage enterprises.¹³

Malta

The transport-manager CPC is issued by Transport Malta, a government body, under the authority of the Maltese Ministry of Transport and Infrastructure, and follows the requirements set out in EC Regulation 1071/2009. It is also responsible for approving training providers, the provision of training programmes, and the setting and correction of examination papers.

The national-operations CPC programme consists of a minimum of 40 hours of training; the EU-wide version 75 hours (national CPC, plus 35 additional hours of training specific to EU operations). The authority may exempt from the written examination, or part of it, applicants who can provide proof of at least five years' practical road-haulage experience in a managerial position; holders of certain technical diplomas or equivalents that prove a sound knowledge of the subjects covered in relevant national and international training; and holders of a CPC issued by other member states. The authority may also exempt from examination undertakings that were authorised under previous regimes, before the CPC was established.¹⁴

While the general rule requires road-haulage vehicles of more than 3.5 t to hold an operating licence, road hauliers engaged in removal services, carriage of building supplies, luggage transfer, and courier services using vehicles between 3.5 and 6 t exclusively on national territory, are exempt from authorisation.¹⁵

United Kingdom

The CPC for transport managers in road haulage is offered on behalf of the UK Department for Transport, based upon EC Regulation 1071/2009, and aimed at those wishing to enter

the road-haulage profession as a manager or operator. The examination is offered in the open-book format (CILT UK, 2019^[132]).

The content of CPC examinations on a range of subjects related to the business of road transport is set by the Oxford, Cambridge and RSA Examinations (OCR) on behalf of the Department for Transport and offered four times a year by CILT UK. Studies can be part-time and allow for distance learning. This qualification is open access and requires no prior knowledge, skills, understanding or qualifications (OCR, 2019^[133]). There are a number of exemptions for professionals with previous experience of at least 10 years in the field, for holders of specific specialised degrees, and members of various UK-based institutes and societies.¹⁶

Notes

¹ Article 12 of Law of 15 July 2013 on the road transport of merchandise.

² As part of a major reform package – known as Copernic – to Belgium’s federal administrative structure, which took place in 2000, ministries were renamed Federal Public Services (FPS). The Ministry of Defence alone retained its former name. The tasks entrusted to the Federal Public Services are the same as those given to the former ministries and each FPS still has a minister, but their emphasis is now on providing services to citizens; www.belgium.be/en/about_belgium/government/federal_authorities/federal_and_planning_public_services (accessed 11 April 2019).

³ Article 5 of the Ministerial Decision 2014-05-23/05.

⁴ www.ecole-est.com (accessed 11 April 2019).

⁵ Manager transports et logistique, Code de la Nomenclature des spécialités de formation (NSF): 311, based on Ministerial Order of 21 April 2017.

⁶ According to (European Commission, 2017^[126]), France is expected eventually to repeal the exemption of professionals with at least 10 years of experience from the need to possess a CPC.

⁷ Ministerial Decision 2483/2007 of the Ministry of Infrastructure, Transport and Networks (Official Gazette B/31367/2483/25.05.2007).

⁸ Paragraph 1, article 4 of Decree 79 of 8 July 2013 of the Ministry of Infrastructure and Transport. www.patente.it/normativa/decreto-08-07-2013-esame-per-esercizio-di-attivita-di-autotrasporto?idc=2464 (accessed 11 April 2019).

⁹ Paragraph 5, article 8 of Decree 291 of 25 November 2011, www.patente.it/ecom.dll/noAjax?idc=1734 (accessed 11 April 2019).

¹⁰ Paragraph 5, article 4 of Decree 79 of 8 July 2013.

¹¹ Paragraph 3, article 8 of Decree 291 of 25 November 2011 of the Ministry of Infrastructure and Transport, www.patente.it/ecom.dll/noAjax?idc=1734 (accessed 11 April 2019).

¹² Paragraph 10, article 8 of Decree 291 of 25 November 2011.

¹³ Article 11 of Decree 291 of 25 November 2011.

¹⁴ Article 14 of Subsidiary Legislation 65.19, on Motor Vehicles (Carriage by Road) Regulations, 1 May 2004, Legal Notice as modified by Legal Notices 134 of 2006, and 225 and 408 of 2007; Acts V of 2007 and XV of 2009; and Legal Notices 74 of 2010, 395 of 2011 and 423 of 2016, www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=9204&l=1 (accessed 11 April 2019).

¹⁵ Paragraph 2, article 6, of Subsidiary Legislation 65.19.

¹⁶ For a full list of exemptions and institutions whose certified members can access the profession without being required to sit an exam for CPC, see OPLAS (2019^[162]).

Chapter 7.

Maritime freight transport

This chapter analyses maritime freight transport and port activities, including ancillary services, in Tunisia, proposing policy changes and regulatory reforms to enhance competitiveness and competition in the sector. The Tunisian ports follow a land-lord port management model, but national regulations often translate into public concessions and direct provisions of services by the maritime and port authority, limiting private sector participation in the cargo-handling, towing and pilotage sectors. Despite the introduction of a notification procedure and specifications lists (“cahier de charges”) the regulations still include several barriers to entry applicable to many port and maritime activities, such as specific equipment requirements, professional qualifications, corporate legal form and minimum share capital or maximum prices.

Maritime and port activities, including auxiliary services, are an important part of the transport sector, and therefore have a significant impact on the overall efficiency and competitiveness of commerce in Tunisia (see Chapter 5.).

Over the past 15 years, Tunisia has attempted to develop maritime- and port-services markets through regulation that fosters the consolidation of market players and increases potential market entries. Despite those efforts, these national markets have not yet developed their full potential (see Section 7.1), and the current regulatory framework still restricts access to the market with barriers unjustified by public policy objectives.

Tunisia regulates these services when they are delivered nationally, including in Tunisian territorial waters. The legislator divides these services – referred in legislation as “professions” – into three groups:¹

- **maritime services**, including: ship-owners and shipping-transport companies, pilots, shipping agents, cargo agents, cargo handlers, chartering agents, ship suppliers, ship managers, ship-classification societies, rescue and sea-towage service providers, and maritime experts²
- **port services**, including: mooring, ship-refuse collection, ship waste-oil disposal, and ship security³
- **freight forwarding**; this was considered a maritime profession until 2008, but was later regulated under a separate piece of legislation.⁴

Section 7.2 of this report analyses how competition in some port services, namely towage, piloting and cargo handling, is constrained by the existing port-services concessions regime. The following sections analyse in detail the minimum requirements set out in the *cahier des charges* (see definition in Box 5.1),⁵ focusing on those with the greatest potential to impede access to each market:⁶ equipment requirements (Section 7.3); professional qualifications (Section 7.4); corporate form and minimum share capital requirements (Section 7.5); and the potential impact of using maximum tariffs for shipping agents and freight forwarders (Section 7.6).

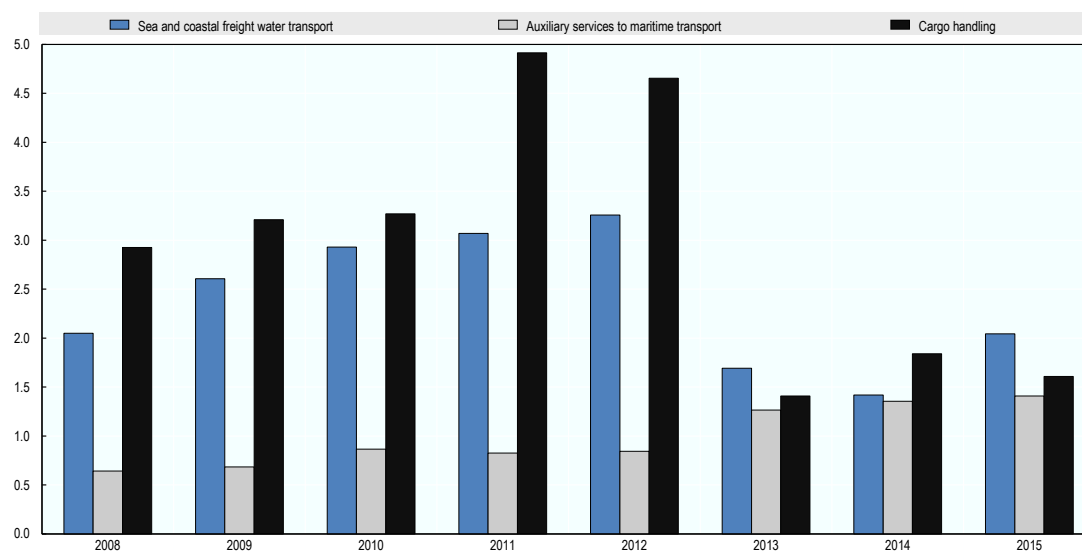
The complete list of analysed provisions in the maritime sector is available in Annex B.

7.1. Market overview of maritime freight transport

The maritime freight transport sector is of vital importance to the Tunisian economy, ensuring about 98% of the country’s imports and exports (Ministry of Transport, 2019^[134]). Including a broad range of activities that contribute to the safe and organised trade of goods between Tunisia and its commercial partners, it comprises sea transport activities; auxiliary services to maritime transport; and services incidental to water transport (see Chapter 5 for NAT definition of the economic sectors and activities). Such activities are closely related with the country’s port infrastructure.

Annual turnover in 2015 of sea and coastal freight transport enterprises was just over TND 2 billion; for auxiliary services to maritime transport by water, it was approximately TND 1.4 billion; and about TND 1.6 billion for cargo handling. Auxiliary services to maritime transport have shown gradual growth, at an average annual rate of 12% between 2008 and 2015 (see Figure 7.1).

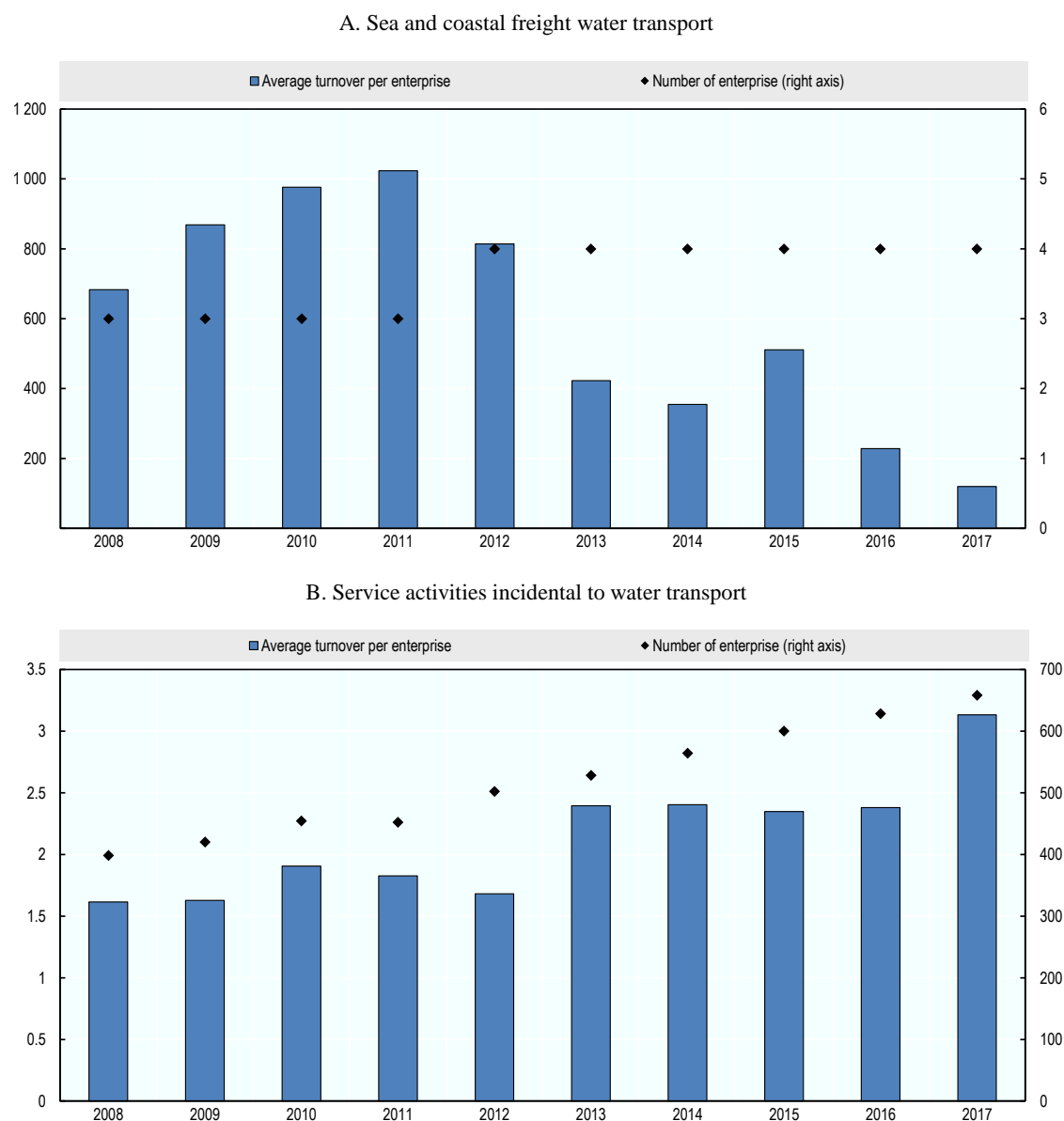
Figure 7.1. Turnover of enterprises in maritime freight transport and related activities (TND, billions)



Source: (INS, 2019^[29]).

Since 2012, the four national enterprises operating in sea and coastal freight transport in Tunisia have seen their combined turnover drop and in 2015, it was 37% lower than in 2012. In 2015, auxiliary services to water transport and cargo-handling activities⁷ generated higher turnover than the four maritime-transport enterprises. (INS, 2019^[29]) data show that the activity of cargo-handling companies⁸ grew at an average annual rate of 12% between 2008 and 2012, before shrinking after 2013. Their turnover in 2015 was about 65% below its 2012 level.

The market entry of a fifth enterprise in maritime freight transport in 2012 has led to a decline in average turnover by company, but the number of enterprises and their average turnover increased in auxiliary water transport services. Figure 7.2 shows the evolution of the number and average turnover of maritime and sector-related enterprises between 2008 and 2015.

Figure 7.2. Number and average turnover of maritime-sector enterprises (TND, millions)

Source: OECD calculations based on (INS, 2019^[29]) data.

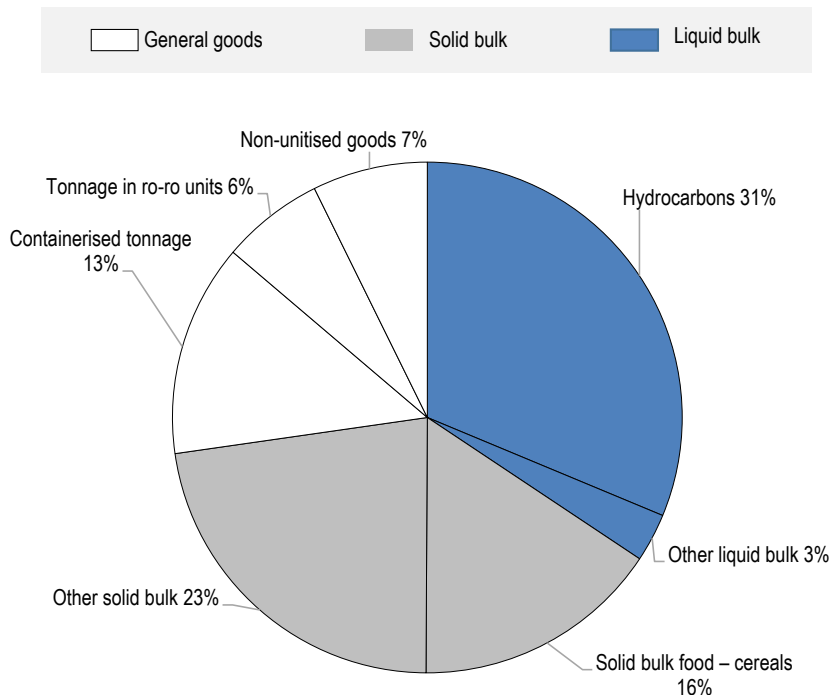
Tunisian ports are generally specialised in a specific economic activity (Table 7.1). Radès is the most important of the country's eight currently operational ports, dealing with containers, hydrocarbons and miscellaneous goods. Gabès specialises in chemical and mining products, while other ports, such as those of Sfax and Bizerte focus on maritime transport of containers, bulk traffic, hydrocarbons and miscellaneous goods. Only the port of La Goulette specialises in cruise and passenger transport.

Table 7.1. Tunisian ports by specialisation

Port	Specialisation	Number of regular connections	Number of berths platforms
Bizerte	Containers, hydrocarbons, and miscellaneous goods	6	12
La Goulette	Cruise and passenger traffic	7	4
Radès	Containers, ro-ro, and bulk traffic (mainly hydrocarbons and cereals)	11	11
Sousse	Container and miscellaneous goods	3	7
Sfax	Containers and bulk traffic (mainly cereals and mining products)	6	15
Skhira	Hydrocarbons and chemical products	N/A	3
Gabès	Chemical and mining products	N/A	11
Zarzis	Hydrocarbons and bulk products (mainly salt)	N/A	5

Source: (OMMP, 2019^[135]); Ministry of Transport.

In 2018, 30.7 million t of general freight traffic passed through Tunisian ports. Hydrocarbons⁹ accounted for 31% of this total port freight traffic; cereals for 16% and other solid bulk for 23%; while container and ro-ro (trailer) traffic accounted for 13% and 6% respectively (see Figure 7.3). In the period 2016 to 2018, both containers (0.3%) and ro-ro (1.3%) have been growing at modest average annual rates (OMMP, 2019^[135]).

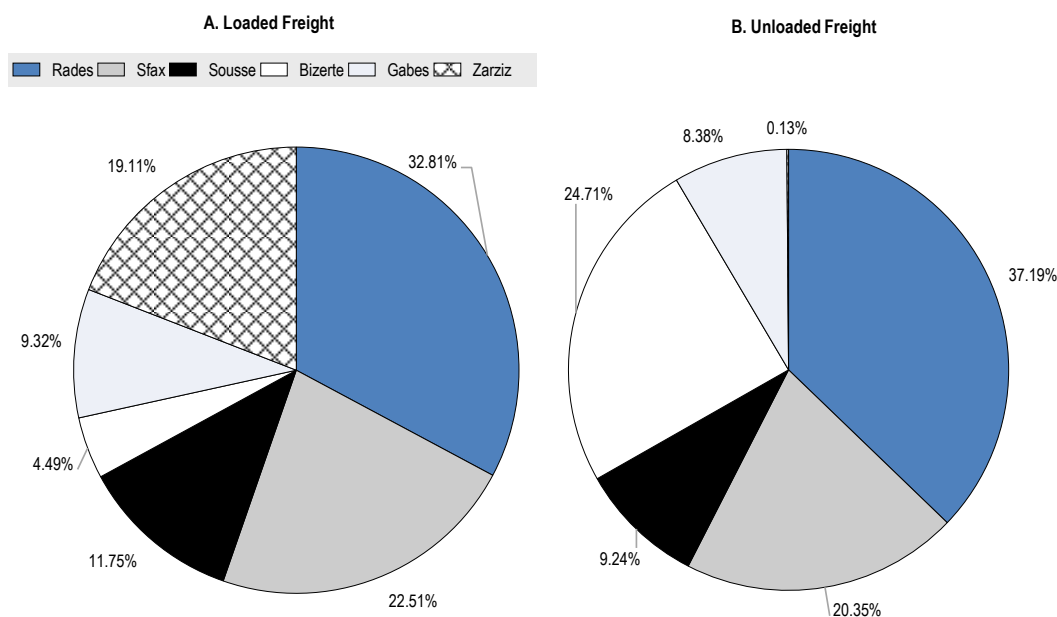
Figure 7.3. Freight traffic per cargo type in Tunisian ports, 2018

Note: Annual freight traffic measured in tonnes.

Source: OMMP statistics (www.ommp.nat.tn).

As Tunisia is a net importer of goods, its ports are used primarily for unloading. Out of 29 million t of cargo moved in Tunisian ports in 2017, loading of merchandise comprised about 28%, while the remaining 72% was unloading. Figure 7.4 shows the freight loading and unloading activity across Tunisian ports.

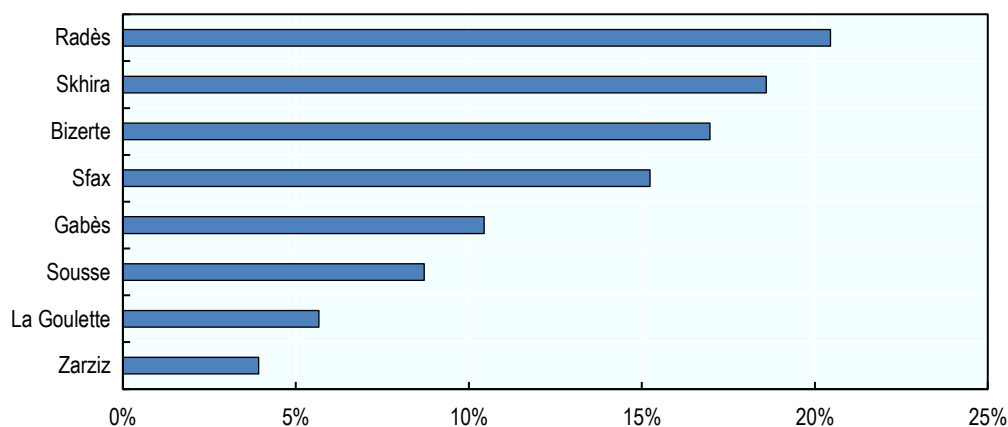
Figure 7.4. Annual traffic of loaded and unloaded merchandise by port



Source: OMMP.

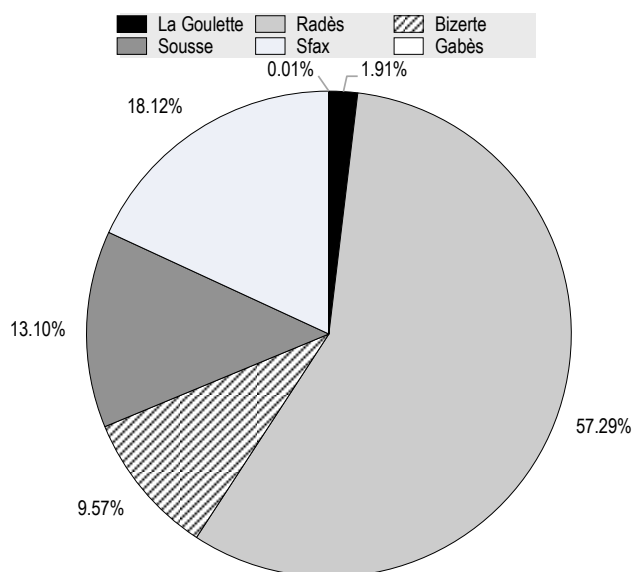
As shown, the most important port for both loading and unloading is Radès. When considering the total freight traffic, about 6.28 million t or about 20% of national traffic of freight was handled in Radès (see Figure 7.5). In terms of container traffic, Radès accounts for about 57% of traffic in all ports (see Figure 7.6).

Figure 7.5. Maritime traffic activity by port, 2018



Note: Import, export and national traffic of freight volume.

Source: OMMP (2018_[136]).

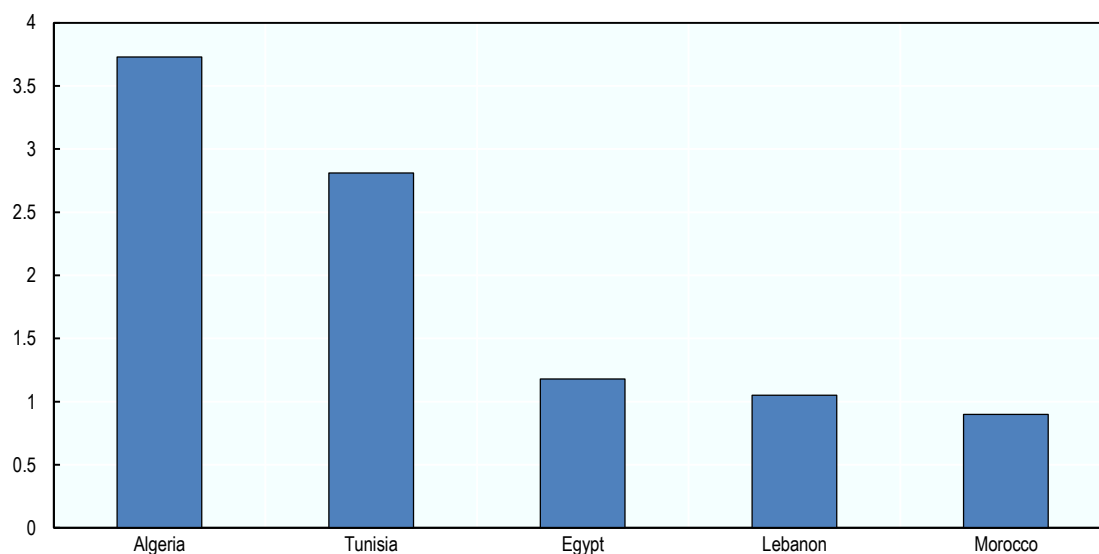
Figure 7.6. Number of containers TEU per port, 2018

Note: The ports of Skhira and Zarzis handled no containers TEU in 2018.

Source: OMMMP (2018^[136]).

The heavy use of ports and their specialisation in certain sectors has not been adequately reflected in significant improvements to their operational efficiency. Cargo-handling services in Tunisian ports are relatively inefficient by regional and international standards (Ducruet, Itoh and Merk, 2014^[137]). Terminal productivity is also found to be very low compared to other countries (Hamdi and Zouari, 2016^[138]). ITF data show that the average cargo handling time for ship-containers in Tunisian ports in 2015 was 2.8 days; the global average is around a single day (Figure 7.7). Average dwell time¹⁰ for merchandise was estimated at 12 days in 2015, much higher than that recorded in European ports (OECD, 2017^[139]). Outdated equipment combined with congestion in terminals due to their use as container storage areas has contributed to this situation (World Bank, 2015^[140]).

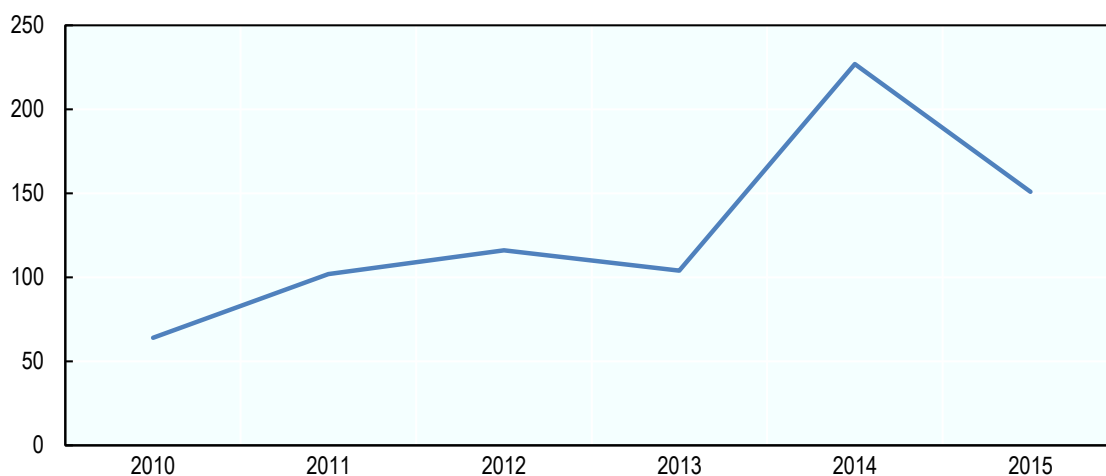
**Figure 7.7. Average container ship handling time in selected countries
(number of days, 2015)**



Source: ITF elaboration of data from Lloyds Marine Intelligence Unit.

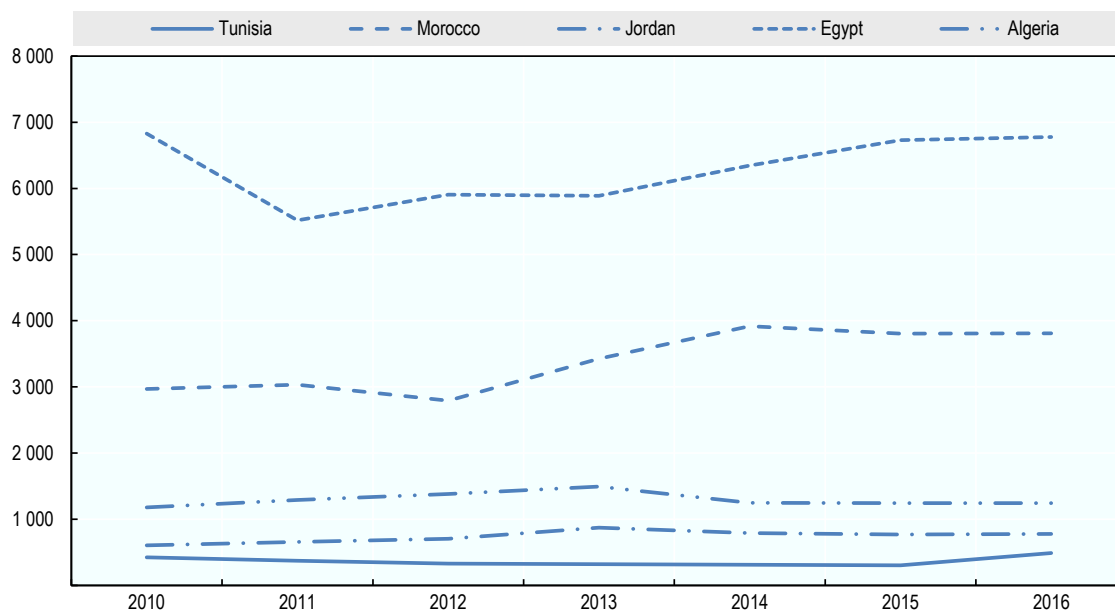
Continuing inefficiencies and outdated infrastructure are reflected in the speed of port operations. In 2015, according to World Bank data,¹¹ the average waiting time at anchor of ships before they can enter a Tunisian port was 151 hours or over six days, an increase from 64 hours in 2010, but a drop from 227 hours in 2014 (see Figure 7.8). Prolonged waiting period for freight before entering port increases delays and may increase costs for those economic activities based on international trade, while reducing the attractiveness of Tunisian ports.

As noted in EBRD (2018_[110]), the combination of a lack of storage areas and little adaptation of port infrastructure to containerised goods traffic leads to cost and time inefficiencies, particularly in the port of Radès. At that port, each crane operates at a speed of about 10 containers an hour, below the minimum standard of 13 set out in STAM and OMMP's concession contracts (World Bank, 2016_[109]). In 2016, these inefficiencies were estimated to cost EUR 271.9 million annually to the Tunisian economy (Oxford Business Group, 2016_[141]).

Figure 7.8. Average waiting time of container ships in Tunisian ports (hours, 2010-2015)

Source: World Bank, World Development Indicators.

This has considerably affected the country's performance in terms of container handling (see Figure 7.9), which had been growing at an annual average rate of 7% over the 2010-2016 period. Today, it remains among the weakest in the Mediterranean area.¹²

Figure 7.9. Container port traffic in selected Mediterranean countries (thousands, TEU), 2010-2016

Source: World Bank, World Development Indicators.

The needs of the maritime transport sector's value chain and its wide variety of activities have led to the specialisation of various types of agents operating in Tunisia. The largest number of market participants (46% in 2018) operate as shipping agents, while about 19% operate as freight forwarders, and 12% operate as ship suppliers. Taken together, these

three categories of companies account for 349 out of the 459 enterprises active in the maritime transport sector. Table 7.2 provides details on the number of companies engaged in each of the economic activities that comprise the maritime transport sector, while Figure 7.10 provides definitions of the activities and the relations between them.

Table 7.2. Number of (national) operators in the Tunisian maritime sector, 2018

Type of operator	Number of operators
Shipping-agent company (<i>consignataire de navires</i>)	209
Freight-forwarding company (<i>transitaire</i>)	86
Ship-supply company (<i>ravitailleur de navires</i>)	54
Shipping brokers (<i>courtier d'affrètement</i>)	28
Ship security (<i>guardiannage de navires</i>)	26
Mooring companies (<i>lamanage</i>)	20
Shipping-management company (<i>gestion de navires de commerce</i>)	7
Cargo agents (<i>consignataire de la cargaison</i>)	7
Cargo-handling company (<i>manutention</i>)	6
Shipping company (<i>transporteur maritime – armateurs</i>)	5
Rescue, assistance and sea-towing company (<i>assistance, sauvetage et remorquage en mer</i>)	5
Maritime experts (<i>expert maritime</i>)	5
National ship-classification society (<i>entreprise de classification de navires</i>) ¹	1

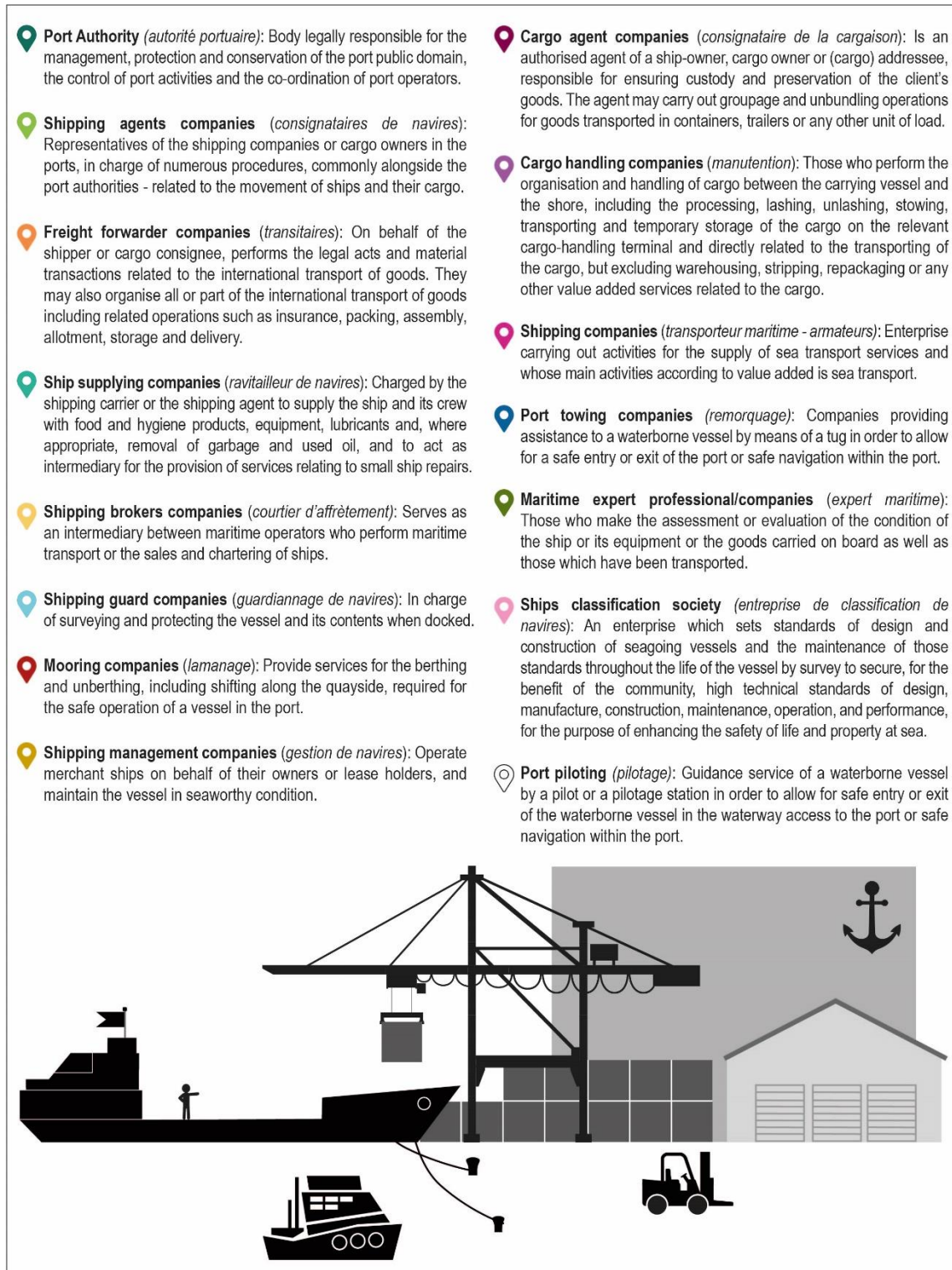
Note: Original terminology in parentheses. ¹ According to Tunisian law, only national classification companies may class the merchant vessels sailing under the Tunisian flag. As the flag market is relatively small, no international classification societies are present in Tunisia; the only national society was established in partnership with an international society.

Source: Ministry of Transport presentation made on 1 February 2019 at OECD Competition Assessment workshop.

The OMMP is the public entity that manages all maritime and commercial ports in Tunisia, on behalf of the Tunisian State. It exercises the power of port and maritime authority, the latter until 1998 under the direct responsibility of the Ministry of Transport. OMMP also has several commercial activities – providing sea towage, as well as port towage and piloting services to port users – and participates in the capital of several port operators, including shipping line CTN and the STAM.

CTN is the largest national maritime carrier, operating 6 of the 10 vessels registered under the Tunisian flag. It also controls 70% of STAM, which handles around two thirds of the cargo that passes through Tunisian ports, has a monopoly in Tunisia's prime container port of Radès, and operates in all other Tunisian ports. Overall, there is limited competition for cargo handling in Tunisian ports and no global terminal operators are active in the country.

Figure 7.10. Maritime and port activities



Source: Tunisian Code of Maritime Ports; Law 2008-44; Law 2008-43; ITF, EUROSTAT AND ECE illustrated glossary for transports (2017); EU REGULATION (EU) 2017/352.

7.2. Private-sector participation in port services: towing, piloting and cargo handling

OMMP is a public establishment with financial autonomy, which acts as the maritime and port authority for all commercial ports in Tunisia.¹³ It manages maritime operations, supervises the processing of all ships and goods transiting through the ports and in specific cases, provides services to port users (see Section 5.2).¹⁴

It allows third parties, through either concessions or authorisation,¹⁵ to provide port services, with the exception of port-oversight activities and port-policing services.¹⁶ These third parties may be public or private entities, of Tunisian nationality (see Box 7.1).¹⁷

Box 7.1. Restrictions on foreign investment in maritime and port services in Tunisia

On 23 May 2012, Tunisia adhered to the OECD Declaration on International Investment and Multinational Enterprises, agreeing that companies owned by nationals of other adhering countries (foreign-controlled enterprises) would be treated under their laws no less favourably than domestic enterprises. When national treatment is not granted, the state must notify the exceptions to the other parties. This is a voluntary undertaking, rather than a legally binding obligation.

In 2016, a new investment law – Law 2016-71 of 30 September 2016 – set the general principle of freedom of foreign participation in national companies. According to the Ministry of Transport, however, the previous sectoral restrictions, regarding the exercise of economic activities in maritime and port sectors, were kept in force.

In particular, Decree Law 61-14 of 30 August 1961 states that legal persons (companies) can only have Tunisian nationality when, among other criteria, at least 50% of their share capital is held by Tunisian individuals or Tunisian legal entities.

Article 119 of the Tunisian Code of Maritime Ports (Law 2009-48 from 8 July 2009) states that port operations carried out within Tunisian ports or territorial waters are reserved for Tunisian companies and nationals. In addition, specific *cahier des charges* adopted by ministerial orders, such as those for ship suppliers or mooring companies, limit port services to enterprises of Tunisian nationality, unless a special derogation is foreseen under an international convention's reciprocity clause.

Likewise, article 6 of Law 2008-44 and article 4 of Law 2008-43 also regulate nationality for some maritime and port-related professions, such as cargo-handling companies, cargo agents or freight forwarders. These activities are also regulated by *cahier des charges* that foresee nationality requirements in the same terms as above.

To operate as a national maritime carrier, according to the specific *cahier des charges*, an entity must own or lease a vessel registered under the Tunisian flag. The maritime commercial code (*code de commerce maritime*) sets that only Tunisian individuals, or companies that are at least 51% owned by Tunisian nationals, can register a vessel registered under the Tunisian Flag.

While it could be considered that the new investment law - which establishes the principle of freedom of investment (and participation) of foreigners in Tunisian companies - has replaced the previous requirements regarding nationality for maritime and port activities, the administration – or the legislator – should clarify the legislation applicable to foreign participation in national companies in this sector. This will at least increase the transparent regulation of foreign-owned companies' access to the national market.

State regulation of the maritime transport sector, as measured by the 2018 OECD Foreign Direct Investment restrictiveness index, is 0.50, compared to the OECD average of 0.24, and non-OECD country average of 0.22, where the level of restrictiveness varies from 0 to 1 (the most restrictive case).

Sources: www.oecd.org/daf/inv/investment-policy/nationaltreatmentinstrument.htm; Investment Law: 2016-71 of 30 September 2016; Decree-Law 61-14 of 30 August 1961 on the conditions for the exercise of certain commercial activities, approved by Decree-Law 61-14 modified by Law 85-84 of 11 August 1985; article 119 of Tunisian Code of Ports (Law 2009-48 of 8 July 2009); article 6 of Law 2008-44 and article 4 of Law 2008-43.

The extent to which port authorities permit third parties to deliver port services through concessions or licensing rather than delivering them directly to port users, varies from country to country, depending on the national port-management model and the specific characteristics of the port in question. Some countries have decentralised their port-authority functions from the national to the local level, resulting in a diversity of port governance models within the same country (ITF, 2017^[142]).

Port-management models range from fully privatised ports to public-service ports, with several mixed models (World Bank, 2007^[143]). The landlord port model, which is the most common model in OECD countries (OECD, 2018^[118]), allows third-party service operators to provide technical port services (such as towing, ship cargo handling or mooring), while the port authorities retain the role of organising and conducting inspections of those services and providing specific port services more closely associated with the protection of the public interest, such as rescue operations, prevention of pollution, and the operation of vessel-tracking services. In the early 2000s, Tunisia introduced structural reforms on the organisation of port services, including the abolition of the Dockers' corps who became permanent employees of the stevedoring companies and the potential opening of the sector to the private enterprises. Despite that broad effort, the legislator maintained a monopoly for cargo-handling services in Radès.

The following sections analyse private-sector participation in port services – towing (Section 7.2.1), pilotage (Section 7.2.2) and cargo-handling services (Section 7.2.3) – illustrates how such services are regulated in other countries, and recommends ways to improve the efficiency, diversity and volume of port services offered in Tunisia through greater competition.

7.2.1. Port towage

Description and objective of the provision

Port-towing services are mandatory for cargo ships entering Tunisian ports in certain situations specified in legislation, and in situations in which the OMMP exercises its discretionary power to require these services.¹⁸ Specific rules on the compulsory use of towing services are normally included in internal port regulations.¹⁹ The Ministry of Transport together with the Minister of Finance sets the fees charged for these services, after consultation with OMMP.²⁰ Concessions to third parties to provide port towing services²¹ can be granted by OMMP, but none has so far been allotted.

Harm to competition

The OMMP reserves the provision of port-towage operations for itself, excluding any potential competition, whether in terms of tendering an exclusive concession or awarding multiple concessions. Further, while competition among ports may provide an incentive for port authorities – or port operators – to keep prices low (OECD, 2018^[118]), the fact that the OMMP is both port authority and towing operator for all Tunisian ports means that such competition is limited.

The OMMP's monopoly of port-towing services may also have the effect of distorting competition in other related markets. For instance, the OMMP may derive economies of scale and scope from its monopoly in port towing to improve its position in the market for sea-towing services; for example, when it uses the same tugboats for sea-towing services, or when it tows ships from the sea to the interior port waters.

Competition in the provision of port-towing services could be an effective mechanism for reducing prices and increasing service quality. The current market situation – characterised by the lack of private-sector participation – could be improved if there were a competitive process for awarding concessions. This would improve market efficiency and benefit the users of these services.

Competition in the port-towage market has been introduced in Egypt and Morocco, where foreign towage operators are both allowed and active.²² In Morocco, this has taken the form of long-term concessions, for single providers in a port and sometimes in a terminal. Applying the law on port reform, the Moroccan National Ports Agency (*Agence Nationale des Ports*) launched tenders in 2009 for harbour towage in the ports of Casablanca, Mohammedia and Jorf Lasfar.²³

In 2011, from 116 ports in 26 European countries, only a residual percentage of towage services (around 15%) are now provided directly by port authorities.²⁴

In 2017, the OECD recommended introducing competition in towage services, and possibly other port services, in Mexican ports (OECD, 2017^[144]). In 2018, OECD recommended that the Portuguese authorities should broaden private-sector access to the activities of pilotage and towing (OECD, 2018^[118]).

Recommendations and benefits

The OECD recommends broadening private-sector access to port-towing activities, by limiting port authorities' provision of such services to situations in which there is no market interest. In the long term, and depending on the evolution of the market, enabling port authorities to authorise multiple port-towing service providers could also be considered, while ensuring the port authority retains control over safety and operational standards.

The fact that in 2019 OMMP has initiated the procurement of six new tugboats and programmed the recruitment of new staff should be taken into consideration in future towage award procedures.

The annual benefit to those port users from a decrease in towing fees, following increased competition between providers – potential or active – is estimated between TND 2.4 million and TND 4.7 million (see Annex 7.A).

7.2.2. Port pilotage

Description and objective of the provision

Port-pilotage services are mandatory for all vessels with tonnage greater than 300 gross register tonnes (GRT) that wish to enter Tunisian ports, and for other vessels when required by specific port regulation. The Ministry of Finance and the Ministry of Transport set the fees charged for those services, after consultation with OMMP.²⁵

Tunisian Law foresees that OMMP may award a concession for the provision of pilotage services.²⁶ Moreover, article 3 of Law 2008-44 of 21 July 2008 on the organisation of maritime professions states that both companies and physical persons may provide pilotage services under specific conditions laid out in the *cahier des charges*. No tender for the award of such services has ever been launched.

Harm to competition

OMMP has the monopoly for the provision of port-pilotage services, meaning other (public or private) operators are shut out. According to OMMP, this reflects a primary concern for the safety of port operations, including the protection of port infrastructure, prevention of environmental hazards, and controlling maritime traffic in the port area. Pilots are also normally entrusted with the obligation of reporting any vessel anomalies that may endanger the maritime or port environment.

In comparison, data from the European Sea Ports Organisation (ESPO) for 116 ports from 26 European countries show that in 2011 around 25% of pilotage services were directly provided by the port authorities (OECD, 2018^[118]). This is due to the fact that, at the European Union level, member states are exempt from rules on facilitating access to the pilotage services market “in order to avoid potential conflicts of interests between [...] public interest functions and commercial considerations”.²⁷ Despite that exemption, around 75% of these ports have awarded the services to third parties through licensing regimes, concessions to public or private operators, or the existence of separate public entities providing such services.

In the cases where public-sector operators are required in the market – for instance, where there is no private-sector interest – a clear separation in the functions of the port authority and the providers of pilotage services (including pilotage analytical accounting by port), can improve oversight and regulation of such services, including the setting of transparent cost-based fees. At the same time, the separation between regulatory and operational functions will reduce the risks of conflict of interest. In Tunisia, OMMP participates in both the regulation for setting pilotage fees and the establishment of rules regarding the use of port-pilotage services.

According to the information shared by OMMP, Tunisian port regulations do not foresee any pilot exemption certificates (PEC), instruments that allow experienced captains, with sufficient knowledge of a given port, not to use pilotage services within an area of otherwise compulsory pilotage. PECs are normally awarded based on a captain’s experience, assessed by the number of previous manoeuvres in a given period in a given port (for instance, a minimum of six entering and exiting manoeuvres, in a given year, in the same type of vessel). (PwC and Panteia, 2012^[145]) analysed the frequency of maritime accidents when PEC holders’ manoeuvres were compared to those assisted by a pilot, and concluded that the frequency is similar under the two alternative regimes and that such instruments do not jeopardise maritime safety. Even when pilots do provide their services, a ship’s captain remains in charge and legally responsible for the ship’s correct manoeuvring.

The use of PEC may reduce pilotage costs for regular shipping companies and can improve waiting times for pilotage services for other ships. It may also enable the port authority to reduce fixed costs with pilotage services.

Recommendations and benefits

The OECD recommends a clear separation of OMMP’s market-regulator functions, and the provision of port services, such as pilotage. In addition, the OMMP should consider the introduction of PEC in Tunisian ports.

7.2.3. Cargo handling

Description and objective of the provision

Cargo-handling services in Tunisia are characterised by the limited number of operators holding a concession,²⁸ and regulation setting a maximum tariff.²⁹

According to the authorities, the concession for cargo handling in Radès, Tunisia's largest port, was awarded, in exclusive, in 2005 to STAM, a state-owned company, for a period of 30 years, renewable for an additional 20 years. STAM has also been awarded concessions for cargo handling in other ports – Bizerte, Sousse, Sfax, Gabès and Zarzis – under a duopoly structure in which the other concessions have been awarded to private cargo-handling companies grouped into a single entity in each port.³⁰

Harm to competition

Cargo-handling concessions commonly use several port-management models (see Section 7.2). Under the landlord port model, the use of concessions seeks to obtain the benefits of private investment, encourage efficiency through a competitive bidding process and limit exclusivity periods (OECD, 2018^[118]). This sees concessions providing exclusivity or partial exclusivity to a cargo handler for a set period of time in return for a specified level of investment in the cargo-handling facilities (such as cranes and other equipment). The length of the concession is generally set according to the period needed to recover investment costs, although it may be difficult to determine this period in practice.

The OECD understands that the current Tunisian market structure is the result of reform in the early 2000s, with which the government of Tunisia sought to consolidate cargo-handling operators in the market. The objective was to encourage greater efficiency and sufficient capacity to invest in port cargo-handling facilities. The concessions for cargo handling in the Tunisian ports were awarded on an ad hoc basis, in the absence of a specific law regulating the award of concessions.³¹ The OECD project team has had no access to any details regarding the award process or the terms of the concession agreements.

As such, the process used to grant concessions to cargo handlers, and the criteria for setting the maximum tariffs for cargo handling – which have been in place since 1999,³² with updates in 2002³³ and 2014³⁴ – may be limiting investment and competitive pressures in the sector, with consequences for the quality and cost of services obtained by port users.

The model adopted in Tunisia, which is common to many countries (World Bank, 2007^[143]), is designed to encourage private investment in cargo-handling infrastructure. In practice, however, it is far from optimal in terms of promoting investment, efficiency, quality and competition in Tunisian ports. This is especially the case in Radès, Tunisia's largest port, where an exclusive concession was given to STAM and where the effects on the broader economy may be significant.

First, the awarding of concessions to a state-owned company means that any benefits offered by the landlord model in terms of mobilising private investment remain unattained. The OECD understands from discussions with stakeholders that most cargo-handling infrastructure improvements have been funded by the Tunisian state, contrary to the underlying principle of the landlord model.

Second, while the OECD has not obtained details of the concessions agreements, it understands from stakeholders that their terms are proving challenging. Combined with the maximum tariffs regime, they appear not to allow operators to invest and recover their

costs. A competitive concession process among private entities would ensure that both prices and required investments would be set out in a concession agreement, and could be reviewed by common agreement when needed.

More importantly, both port users and international benchmarking report that the quality of cargo handling, particularly in Radès, is low and productivity has been decreasing in recent years (see Section 7.1). Equipment is outdated, out of order and badly maintained, and container terminals are ill-equipped for the current size of container ships. This creates terminal congestion, together with the use of terminals as storage areas for containers (World Bank, 2015^[140]).

Greater investment and efficiency in Tunisia's ports is needed to allow this economically important sector to reach its economic potential. Tunisia's neighbours in the southern Mediterranean have achieved a similar objective by attracting multinational operators and increasing competition (see Box 7.2).

Box 7.2. Global terminal operators active in North Africa

Almost all North African countries, except Tunisia and Libya, have opened terminal operations to global terminal operators. The largest and most successful terminal operations carried out by global terminal operators are Tanger Med in Morocco and Port Said in Egypt. Tanger Med in particular has shown high growth rates and has become a competitor to other transshipment ports in the region, in particular, Algeciras in Spain. Global terminal operators are also active in Algeria and Lebanon, but with less impact.

Upsizing ports has generally followed the upsizing of container ships (ITF, 2015^[146]), but the situation in North Africa shows that global terminal operators can also operate the fairly small container ports used by ships more active in regional trade. Larger container ports, such as Tanger Med and Port Said, function as nodes for intercontinental routes.

As seen in the table below, most southern Mediterranean countries, except Algeria, have granted majority stakes to global container terminal operators. The duration of these concessions is generally around 30 years, more or less independently of a terminal's potential capacity (and so the expected investments). These concessions of 30-year, with the possibility of renewal up to a total of 50 years, are in line with the durations envisaged in Tunisia.

Table 7.3. Global terminal operators active in the southern Mediterranean

Country	Port	Terminal	Operator	Capacity (annual, millions TEU)	Share (%)	Concession duration (years)
Algeria	Béjaïa	Mediterranean Terminal	Mitsui	0.3	49	20
	Algiers	DP World Djazair	DP World	0.4	50	30
	Djen Djen	DP World Djen Djen	DP World	0.1	50	30
	Cherchell		SIPG	n.a.	n.a.	n.a.
Egypt	Port Said	Suez Canal Container Terminal	APM Terminals	3.5	55	35
			Cosco Shipping Ports	n.a.	20	n.a.
	El Sokhna	Container Terminal	DP World	2.7	100	25
	Alexandria	International Container Terminals	Hutchison Ports	1.0	50	30
	Damietta	Container Terminal	Cosco Shipping Ports	n.a.	20	n.a.
Lebanon	Tripoli		Gulfair	0.8	n.a.	n.a.
Morocco	Tanger Med	Eurogate Tanger	Eurogate	1.5	40	30
			CMA CGM		40	
			MSC		20	
		Tanger Med II	APM Terminals	5.0	n.a.	30
	Casablanca	Somaport	CMA CGM	0.5	100	30

Source: Drewry Shipping Consultants (2017^[147]).

In comparison, in 2018, the OECD recommended the redesign of Portuguese concessions for cargo-handling operations to promote investment and lower tariffs for port users, by ensuring that the length of concessions is linked to the level of investment incurred by the concessionaire, and the awarding criteria are such that contracts are awarded to the bidder offering the lowest tariffs for port users (OECD, 2018^[118]).

Recommendations and benefits

The OECD recommends taking steps to allow increasing participation of private cargo-handling service providers in the market. This could be, for example, through competitive concession procedures of a port or areas within a given port, with terms that set out the required investments alongside maximum tariffs. Typically, such opportunities present themselves in case of port expansions or restructuring of existing ports, as well as renewal of port concessions. This could be the case for the announced new terminals at Radès and the new deep-water port of Enfidha.

Further, operators permitted to bid for concessions should not be limited to domestic joint ventures, since foreign (global) port operators may have greater resources to increase investment in Tunisian ports.

7.3. Equipment requirements

This section focuses on the equipment requirements with the highest potential impact on specific maritime services, including freight forwarding.³⁵ The regulations identify equipment that must be at the disposal of the service provider, and cannot be reassigned for other purposes. Other equipment requirements, such as minimum office sizes or communication equipment, will not be analysed here (see Annex B for details on these barriers).

7.3.1. Ownership of vessels for shipping companies

Description and objective of the provision

Shipping companies and shipowners wishing to conduct maritime transport activities under the Tunisian flag must enrol in the national registry.³⁶ In order to do so, maritime shipping companies that are not ship owners must charter a merchant vessel that transports cargo or passengers internationally. They must also commit, within one year of enrolling in the maritime shipping company register, to purchase the chartered vessel or a similar vessel, register it under the Tunisian flag, and increase the company's share capital to TND 1 million.³⁷

Following discussions with the authorities, the OECD understands that the legal provision seeks to guarantee the existence of a fleet sailing under the Tunisian flag.

Harm to competition

This provision increases the cost of entering the market for shipping companies, since all companies intending to enter the market for more than one year or intending to continue in the market after the first year have to purchase a merchant vessel. The purchase of vessels constitutes a significant financial liability, particularly when compared to chartering or leasing a vessel, and limits the potential number of operators able to compete in the market. This will result in a decrease in competitive pressure for established operators and favour larger potential entrants with the ability to purchase a vessel over smaller firms.

In practice, the article also inhibits Tunisian shipowners from concluding charter or leasing agreements with national shipping companies of longer than 12 months. The provision limits the ability of these shipowners to generate value from their assets through leasing arrangements and may significantly impair their flexibility to respond to market and business conditions, as well as affecting their capacity to exit the maritime transport market.

The policy objective of fostering or protecting the existence of a national fleet with capacity to sail and trade internationally is common in many countries. In this case, however, this provision appears not to be achieving its goal, and is detrimental to the correct functioning of the market: according to the Ministry of Transport, the number of Tunisian shipping companies has fallen from 12 in 1992 to 5 in 2018 and the number of freight vessels sailing the Tunisian flag internationally has fallen from 28 to 8 over the same period.³⁸ The authorities themselves concede that permitting national maritime transporters to charter vessels for a period of more than one year might be beneficial for the market.

In those countries where most of the world's merchant fleet is based, shipping companies are not required to own a ship to operate.³⁹ In fact, the proportion of the global fleet capacity provided by lessees increased significantly in recent decades: from 16% in 1995 to 54% by the end of 2018, according to some estimates (Global Ship Lease, 2019^[148]). In other Mediterranean countries, such as France and Greece, there is no such requirement for vessel ownership.⁴⁰

In addition to the vessel ownership competitive barrier, this provision also imposes a double minimum capital requirement: first to establish a shipping company and one year later, to increase its share capital at the same time as it must purchase a vessel. This will further reduce the number of potential competitors and decrease competition in the market.⁴¹

Recommendations and benefits

The OECD recommends eliminating the obligation for shipping companies to purchase a vessel after one year's operation.

7.3.2. Storage facilities and lifting equipment for freight forwarders and cargo agents

Description and objective of the provision

To provide professional services, both freight forwarders⁴² and cargo agents⁴³ must own or rent a warehouse that: 1) is located close to a port or airport, or situated in a business and logistics park; 2) has a covered area of at least 1 000m² equipped with loading and unloading areas; and 3) is equipped with at least two forklifts, each with a minimum lifting capacity of 1.2 t.⁴⁴

According to the authorities, these requirements are needed to ensure service quality, and the proper receipt and handling of goods transiting through a warehouse. The mandatory zone for the warehouse's location is pre-established in port-zoning legislation and has the objective of limiting congestion in the ports.

Harm to competition

By obliging a company to purchase or rent equipment that can have a significant cost, the provision increases entry and operational costs, and so reduces the number of companies able to enter the market. These higher costs may result in less competitive pressure on established companies, leading to increased prices.

Stakeholders say that, in practice, cargo agents can access warehouse space through business arrangements with other firms that require neither purchasing nor renting a warehouse. For their part, freight forwarders may work as logistics co-ordinators, organising the transportation without ever storing the goods and so may never need warehouse space.

The imposition of minimum surface areas introduces restrictions on agents' operations unrelated to their business needs, which increase business costs especially for smaller firms.

Specifying warehouse locations for reasons unrelated to the usual policy objectives, such as zoning requirements, appears to place unnecessary limitations on agents' business decisions. Moreover, the provision uses the wording "in the proximity of the port" without defining the allowed distance from the port, resulting in significant uncertainty. Since there are no logistics zones in Tunisia, agents are required to obtain warehousing space exclusively within port or airport areas where space is necessarily limited, artificially inflating warehouse costs.

Lastly, imposing specific equipment requirements such as having two forklifts with 1.2 t of lifting capacity each, will hamper the ability of agents to freely structure their operations in the most efficient and effective way. Moreover, such prescriptive equipment standards are likely to be quickly obsolete, as they disregard the evolution of both technology and material, and so limit operators' competitiveness and innovation.

According to both the authorities and the private sector, many operators wishing to operate as freight forwarders can only comply with the less demanding *cahier des charges* for shipping agents. Once in the market, the existence of capped prices for shipping agents may encourage them to risk bypassing the legislation to operate informally as freight forwarders.

Box 7.3. International benchmarking on equipment requirements for freight forwarders

In Portugal and France, freight forwarders (who commonly also operate as cargo agents) are not obliged to comply with any specific equipment requirements. The same is true in Greece, where the activity of freight forwarding is provided by charterers and logistics centres.

In 2018, the OECD identified several unnecessary equipment requirements imposed on Portuguese maritime professions, such as towing companies, cargo-handling companies and shipping agents. Subsequently, the OECD recommended that Portuguese legislators and port authorities abolish all equipment standards, except those based on transparent and objective criteria directly related with the minimum levels of service necessary to ensure public services (OECD, 2018^[118]).

The European Union framework for the provision of port services only allows member states to set minimum equipment requirements for towing, bunkering, mooring and the collection of ship-generated waste and cargo residues. This can be related to the specificity of such activities and their public-service nature. In that case, the equipment required "must be needed to provide the relevant port service in normal and safe conditions".

Source: (OECD, 2018^[118]); EU Regulation 2017/352 of the European Parliament and of the Council of 15 February 2017.

Recommendations

The OECD recommends eliminating the requirements of having a warehouse and forklifts for both freight forwarders and cargo agents.

7.4. Professional qualifications requirements

Tunisian regulations impose requirements on the professional qualifications of individuals acting as legal representatives of maritime or port companies⁴⁵. If companies do not comply, they are not permitted to operate in the market.

The persons affected by these regulations are normally company managers or the CEO appointed by shareholders. If the individuals holding these positions do not meet the professional requirements, the company must hire another individual in a technical decision-making position, who will comply with the same requirements. Some companies, such as cargo-handling companies, may also be required to hire additional staff with the same qualifications if they operate in several ports.⁴⁶

A summary of the professional qualification requirements is presented in 0. The regulations normally provide three alternative ways of attaining the minimum professional qualification level: A) *directly* through a combination of academic qualification and professional experience in the sector (sub-columns 2 and 3); B) *indirectly* by passing a professional-capacity exam, for which the law may require candidates to have minimum academic qualifications and experience (sub-columns 4 and 5); or C) through an ad hoc criterion (sub-column 6).

These requirements are set out in several legal provisions, including in the common framework legislation,⁴⁷ and in the *cahier des charges* applicable to each profession. In the absence of a sector-wide policy and a comprehensive review of professional qualifications, there are inconsistencies and ambiguities among the requirements applicable to the maritime activities when considered collectively.

For instance, in some cases the regulations require specific academic qualifications and several years' experience to access the profession *directly*, but accept non-experienced professionals if they pass an examination (cargo-handling companies, for example). In other cases, the regulation requires more experience from the individuals sitting the examination (chartering agents; merchant-marine ship management; freight forwarders) than for those with *direct* access to the profession (who do not need to sit the examination). The regulations foresee exceptional regimes for former civil servants, giving them an unfair advantage and fostering the interconnection between public administration and private-sector companies.

Following is an analysis of the three barriers to competition common to most activities. Additional specific considerations may apply to some activities, for instance, Tunisian law already requires that ship-classification societies be members of the International Association of Classification Societies (IACS), which renders the obligation for the legal representative to hold certain professional qualifications redundant, as to join IACS the company is required to comply with more strict and generally recognised international standards that guarantee its technical expertise.

Strict professional requirements may be less justified with respect to activities with lower technical content, or those that present lower external risks to the public, such as environmental and maritime safety.

7.4.1. Description and objective of the provision

Individuals wishing to act as legal representatives or, alternatively, as officers responsible for a company's operations face the following barriers.

- Maritime experts, ship-classification society representatives, shipowners and shipping companies, ship cargo handlers, chartering agents, merchant-marine ship managers, and freight forwarders are required to have previous professional experience in the sector, in addition to having specific academic qualifications, to gain *direct* access to the profession.⁴⁸
- Ship-classification society representatives, shipowners and shipping companies, ship cargo handlers, chartering agents, merchant-marine ship managers, freight forwarders, shipping agents and cargo forwarders are required to hold a university degree or equivalent to sit a professional-capacity exam.⁴⁹
- Others do not have access to a regular and clear procedure to pass a professional-capacity exam, such as maritime experts and representatives of foreign ship-classification societies who have no professional-capacity exam that would allow them to act as a legal representative or responsible officer. The same seems to apply to the four professions under the registration regime (see above note to Table in 0). Their only method of accessing the market is through the specific academic qualification.

Following discussions with the authorities, the OECD understands that professional qualifications were put in place to ensure the quality of service and to support the creation of jobs for university graduates. The same applies to the requirement of having a qualified professional in each port.

The OMMP says it has submitted to the competent authorities draft terms of reference for the revision of minimum qualification requirements for personnel, as well as the representatives of companies active in maritime port and related professions, in order to guarantee a better quality of service. These terms were not shared with the OECD team.

7.4.2. *Harm to competition*

These provisions limit the ability of individuals to act as the legal representative (and in some cases, operations manager) for port and maritime service companies. Those without the requisite qualifications will either be prevented from managing these companies (and offering services as sole proprietorship in some cases), or will be required to hire a person who meets the requirements. This will increase operating costs, which will be particularly significant for companies with operations in multiple ports that are required to have a qualified professional in each port.

In several cases, the restrictions appear to go beyond what is necessary to ensure the fundamental knowledge and skills required to operate in the sector. In particular:

- It is unclear whether individuals with specialised academic qualifications would require professional experience to provide the services covered in the legislation. This restriction could limit employment opportunities for new graduates with the requisite academic qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentives to start a competing firm.
- It is unclear whether individuals who pass a specialised professional-capacity examination would require a university degree, and in most cases, previous experience in the sector to provide the services covered in the legislation. Lowering these requirements would improve flexibility in the market, and open up the market to a broader set of individuals who may have previously been denied

access despite having sufficient knowledge. Only 8% of the companies working in the transport sector consider that employees with a non-university professional qualification are a constraint on their activity, the lowest percentage among the different sectors of the economy (ITCEQ - Institut Tunisien de la Compétitivité et des Etudes Quantitative, 2017^[149]).

- The public authorities have organised no professional-capacity examinations since 2008.⁵⁰ While the legislative framework provides two general methods for meeting the required qualifications, in practice, the capacity exam is no longer being made available to candidates. In addition, the OECD understands that the existing regulation for the professional-capacity examination was designed under previous framework legislation and may not reflect the current legislation and the professions' necessities. Moreover, in practice, the existing regulation does not guarantee a candidate's right to request or sit an examination.⁵¹

As a result, potential competitors' ability to enter the market and exert competitive pressure on incumbents is likely to be impaired. Since competition often results in lower prices and higher quality services, the restrictive measures described above may be having an effect contrary to their original purpose and suppressing quality competition that would benefit the users of port and maritime services.

By way of comparison, for instance, in the case of freight forwarders, neither the Greek nor the Portuguese legislation requires any specific academic qualifications to operate in the market.⁵² A recent survey by the Portuguese Freight Forwarders Association showed that around 53% of the professionals possessed a high-school diploma or lower academic qualifications (Transporte em revista, 14 March 2019^[150]). This means that just under half of the professionals could not operate if Portugal had legislation similar to Tunisia's.

In France, the legal representatives of ship-classification societies, shipowners, cargo handlers, shipping agents and cargo agents are not required to have specific professional qualifications. In Greece, the legislation is more restrictive in certain specific cases – cargo handler, shipping agent and maritime expert – although in most cases, it does not require any specific professional qualification from companies' legal representatives. In Morocco, there are no minimum professional qualification requirements set for ship-classification societies or shipping companies.⁵³

In the European Union, Regulation (EU) 2017/352⁵⁴ sets out that academic qualification can be required for providers of certain port services. These port services seem to be only those with a strong public interest, such as bunkering, mooring or collection of ship-generated waste and cargo residues. Nevertheless, the regulation stipulates that the requirements must be transparent, objective, non-discriminatory, proportionate, and relevant to the category and nature of the port service concerned.

7.4.3. Recommendations

The OECD recommends:

- Abolishing any previous experience requirements for individuals who comply with the specific academic qualifications foreseen in the regulations.
- Allowing holders of high-school diplomas to sit the professional-capacity examination. To take account of other academic qualifications and prior experience, the authorities could introduce a “points system”: candidates would

be evaluated on the result of the examination, as well as points gained from their academic qualifications and prior experience.

- Updating the legal regime regarding the regular organisation of the professional-capacity exams, guaranteeing the candidates' right to sit the exam.
- Abolishing ad hoc exceptions to the academic requirement or examination regime given to former public servants.

7.5. Corporate form and minimum share capital

7.5.1. Description and objective of the provision

In Tunisia, the maritime services of shipping carrier, shipowner, cargo handler, shipping agent, cargo agent, chartering agent, ship supplier, merchant-marine ship management company, assistance, rescue and towage services, and freight forwarder can only be provided by legally constituted companies.⁵⁵ Moreover, these companies must comply with minimum capital requirements:

- **Fixed minimum capital**
 Shipowner: TND 1 million⁵⁶
 Shipping company: TND 500 000⁵⁷
 Cargo agent: TND 100 000⁵⁸
 Chartering agent: TND 30 000⁵⁹
 Merchant-marine ship management company: TND 30 000⁶⁰
 Freight forwarder: TND 100 000⁶¹,
- **Fixed minimum capital applicable when operators are active in one or more ports**
 Shipping agents operating in more than one port: TND 50 000 and TND 100 000⁶²
 Ship suppliers operating in more than one port: TND 20 000 and TND 50 000⁶³
- **Variable minimum capital according to the specific port**
 Ship cargo handlers: varies between TND 100 000 and TND 1 million.⁶⁴

The Tunisian authorities insist on the company structure as they say it offers users of maritime services higher quality and a greater level of certainty in terms of service delivery than other forms of business, such as sole proprietorships. Further, the authorities believe that companies are better equipped to compete with foreign operators.

7.5.2. Harm to competition

The obligation to establish a company prevents individuals (under sole proprietorships regime) capital from exercising the professions in question, reducing the number of potential operators in the market.

Furthermore, by requiring the establishment of a company, the article imposes a specific legal structure, a minimum of accounting requirements (such as financial reserves), and other requirements that involve fixed costs. This could lead to increased prices for users of these services.

Restrictions on the legal form of transport operators exist in several countries. In many developing economies, however, allowing a sole proprietorship to enter the market has proven to be positive in that it can encourage employment, family enterprises and small-business creation (World Bank and IRU, n.d._[151]). In fact, in Tunisia, other maritime

and port-related services, such as maritime pilotage,⁶⁵ mooring,⁶⁶ collection of waste ship oils,⁶⁷ ship-security services,⁶⁸ or customs brokerage (*commissaires en douane*) can be performed by sole proprietorships.

In several Mediterranean countries, sole proprietorships can also exercise the activities as professionals. In Greece and France, this includes shipping agents, cargo agents and charter agents.⁶⁹ In Portugal, natural persons can operate as shipping agents (OECD, 2018^[118]).⁷⁰ In Morocco, this applies to cargo agents and charter agents.

In terms of minimum share capital (see Table 7.4), the legislation increases the cost of accessing the maritime-services market. These amounts prevent operators from choosing a lower amount of share capital, even if this might be more suitable for the scale of their business. This particularly affects small-scale operators, those wishing to provide services of lower value or range, and new companies. These provisions may lead to a reduction in the number of operators, a greater concentration in the market, and prevent small-scale operators from offering more innovative, lower-priced services.

Table 7.4. Minimum share capital per activity

Summary of selected activities	
Profession	Minimum capital (TND)
Ship-classification society	50 000
Shipowner	1 million
Shipping company	500 000
Cargo-handling company	100 000 to 1 million
Shipping agent	50 000 or 100 000
Charter agent	30 000
Shipping-management company	30 000
Shipping-supply companies	20 000 or 50 000
Representative of foreign ship-classification society	10 000
Freight forwarder	100 000

Note: For more details, including other maritime professions, see Annex B.

Source: Law 2008-44 of 21 July 2008.

Differentiating minimum capital requirements by port splits the market and reduces possible economies of scale for operators wanting to be present in several ports. It may also have a discriminatory effect in favour of big operators. For instance, a cargo-handling company with a minimum capital of TND 1 million operating in Radès could operate in any other port without needing to increase its capital, but not a company that operates in smaller ports and wished to expand *into* Radès.

In general, share capital is not an effective measure of a firm's ability to fulfil its debt and client obligations. In particular, share capital is a measure of the investment of a company's owners, and not the assets available to cover debts and operating costs. In a 2014 report, the World Bank concluded that minimum capital requirements protect neither consumers nor investors and that they are associated with less access to financing for small- and medium-sized enterprises and a lower number of new companies in the formal sector (World Bank, 2014^[152]).

Commercial bank guarantees and insurance contracts are a better instrument for managing counterparts' risks, and therefore should be the focus of any regulation seeking to promote a minimum level of business certainty for users of maritime services. Changing or updating

the Tunisian legislative framework for these instruments may, therefore, better address the policy objective initially intended for the minimum capital requirements.

As a comparison, in Greece and France there are no minimum capital requirement for ship-classification societies, cargo-handling companies, charter-agent companies and freight-forwarder companies. Instead, the legislator commonly imposes minimum professional insurance coverage. In Morocco, there is no minimum capital requirement for ship-classification societies, shipping companies, cargo-agent companies or charter-agent companies.⁷¹

Box 7.4. Minimum capital requirements often fail to achieve their objectives

The original rationale for countries to adopt minimum capital requirements was to protect consumers and creditors from risky and potentially insolvent businesses (World Bank, 2014^[152]). In particular, the requirement for a minimum amount of invested capital ensures that investors have a stake in the continued operation of the company, including the fulfilment of any obligations incurred. Evidence points to a number of shortcomings of minimum capital requirements, notably how they can prevent the entry and expansion of smaller firms, with some notable exceptions such as for financial services (banking and insurance).

Minimum paid-in capital requirements, as often stipulated by the commercial code or company law, do not take into account variations in firms' economic activities, size or risks, making them of limited use for addressing default risks. Creditors prefer to rely on objective assessments of a company's commercial risks based on the analysis of financial statements, business plans and references, as many other factors can affect its possibility of facing insolvency. Moreover, such requirements are particularly inefficient if firms are allowed to withdraw deposited funds soon after incorporation.

Contrary to initial expectations, evidence has shown that minimum capital requirements do not help the recovery of investments, as they are negatively associated with creditor recovery rates. Credit recovery rates tend to be higher in economies without minimum capital requirements, which suggest that other alternative measures, such as efficient credit and collateral registries and enhanced corporate governance standards, are potentially more efficient in addressing such concerns. Moreover, minimum capital requirements have been found to be associated with higher levels of informality, and with firms operating without formal registrations for a longer period. They also tend to diminish firms' growth potential.

Source: Adapted from *OECD Investment Policy Reviews: Lao PDR* (2017), www.oecd.org/investment/countryreviews.htm; (World Bank, 2014^[152]).

The OECD recently made similar recommendations to the Portuguese authorities to abolish minimum capital requirements imposed on cargo-handling operators, towing operators, freight forwarders, and shipping agents in order to promote market entry and operational efficiency. By lifting these financial criteria, market players can better adapt and reinvest their capital, increasing their competitiveness and promoting lower prices for consumers (OECD, 2018^[118]).

7.5.3. Recommendations

On the imposition of a corporate legal form, the OECD recommends modifying the law and corresponding *cahier des charges* for shipping agents, maritime-cargo agents and freight forwarders, to allow sole proprietorships to operate.

The OECD recommends eliminating the requirement for specific minimum share capital for maritime and port activities and applying the general legal regime regarding commercial companies' minimum share capital.

7.6. Maximum prices for shipping agents and freight forwarders

According to Tunisian Law, port services can be exempted from the legal principle set in article 2 of Law 2015-36 of 15 September 2015 that prices are freely set by economic agents.⁷² The use of this exceptional price-control regime has been decreasing over the past two decades. However, some price regulation does remain in force in the port and maritime sector, as foreseen in article 131 of the Code on Maritime Ports.

The specific case of maximum prices for cargo-handling operations⁷³ is briefly discussed in Section 7.2. This sub-section analyses two other cases where price regulations can affect the maritime sector: maximum prices for shipping agents and for freight forwarders. A similar analysis also applies to fixed tariffs for mooring activities (see Annex B).⁷⁴

7.6.1. Description and objective of the provision

Any foreign company calling at a Tunisian commercial port must be represented by a shipping agent. The fees for these services cannot exceed those set out in a ministerial price table.⁷⁵

Freight-forwarding services may also be subject to maximum fees, to be applied only in the event that the freight forwarder and its client are unable to agree on fees. According to the legislation, maximum fees will be set in a joint order issued by the Ministers of Transport and Minister of Trade; this order has never been issued, however.⁷⁶

Following the OECD's discussions with the authorities, it is our understanding that both articles seek to protect port users and transport customers from the risk of excessive prices.

7.6.2. Harm to competition

Faced with capped prices, shipping agents may lower the quality of their services or refrain from proposing innovative, high-quality services that could justify higher prices. The variety of supply may diminish in the presence of a maximum price since well-established operators have few incentives to offer a wider range of services. At the same time, a maximum price can provide a focal point for providers to co-ordinate prices in the market. According to consultations held with stakeholders, Tunisian shipping agents generally charge lower prices than the maximum tariffs and compensate with higher prices in services where prices are not capped.

The OECD understands that this restriction was adopted in 1999 in order to address the information asymmetry present in the then little-developed market for shipping-agent services. Since then, the market for shipping agents in Tunisia has grown significantly: the number of shipping agents – estimated at 209 – is significantly higher relative than in 1999 and compared to other countries (in Portugal, for example, 124 shipping agents were registered in 2018). According to both the authorities and the private sector, the high number of shipping agents also results from the fact that many operators wishing to enter the market as freight forwarders decided to comply with the less restrictive *cahier des charges* for shipping agents. Once in the market, they informally operate as freight forwarders where the margins for potential profits are higher.

In addition, the increasing use of web-based operational systems in most ports and generalised access to the Internet, means that the customers of shipping agents have access

to substantially greater information than was available at the time of the regulation's adoption. Additional measures to improve this information, such as listing available shipping agents and contacts on the Internet and publishing the code of conduct or guidelines to be adopted by the port community,⁷⁷ could be easily undertaken by port authorities. Significantly less restrictive solutions to information asymmetries exist in the shipping-agent market than setting maximum prices.

The same negative consequences of maximum prices would apply to freight forwarders if the regime envisaged in article 20 of Law 95-32 had been applied. The implementing order was never issued, however, due, according to the administration, to the diversity of services rendered by freight forwarders. The lack of implementation also demonstrates that the market can run smoothly without this type of provision.

7.6.3. Recommendations

The OECD recommends eliminating the price cap for shipping agents, and eliminating the provision for establishing one for freight forwarders. Authorities may adopt measures to improve the information available to users of shipping-agent services.

Notes

¹ See article 119 of Tunisian Code of Ports (Law 2009-48 of 8 July 2009).

² Law 2008-44 of 21 July 2008 on the organisation of maritime professions.

³ Regulated by individual decrees, adopted by the Ministry of Transport after informal consultation with OMMP.

⁴ Law 95-32 of 14 April 1995 on freight forwarders, modified and supplemented by Law 2008-43 of 21 July 2008.

⁵ In the early 2000s, in an effort to simplify administrative procedures for operators wishing to access certain activities and professions within the transport sector, the Ministry of Transport began replacing a number of administrative authorisations with *cahiers des charges*. These are inventories of regulatory requirements that the operator needs to fulfil in order to start and operate a specific business. Based on this new regime, operators only need to provide operational information, such as tax number, civil identification and office address, in paper form and declare their compliance with all the legal requirements in signed documents delivered to the Ministry of Transport. Upon submission, they can start their activity without having to wait to obtain an authorisation.

⁶ Article 11 and article 13 of Law 2008-44.

⁷ Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports describes cargo handling as the: “means the organisation and handling of cargo between the carrying waterborne vessel and the shore, whether it be for import, export or transit of the cargo, including the processing, lashing, unlash, stowing, transporting and temporary storage of the cargo on the relevant cargo-handling terminal and directly related to the transporting of the cargo, but excluding [...] warehousing, stripping, repackaging or any other value added services related to the cargo.”

⁸ INS data for cargo handling cover 70 companies (NAT code 52.24), not only the six companies providing cargo handling in ports.

⁹ Hydrocarbons include crude petroleum oil and refined products.

¹⁰ Dwell time means the number of days it takes for a container to change status, e.g. from inbound, to empty, to outbound. The shorter the dwell time, the more efficient is a container’s use.

¹¹ World Bank, World Development Indicators.

¹² In 2016, the number of TEU containers handled in 2016 in Tunisia reached 489 000 compared to 8.8 million in Turkey and 6.7 million in Egypt.

¹³ Law 98/109 of 28 December 1998.

¹⁴ Article 6 and article 11 of Commercial Port Code.

¹⁵ Article 11 of Commercial Port Code.

¹⁶ Article 2 of Law 98/109.

¹⁷ See paragraph 4, article 4 of Law 2008-44.

¹⁸ As granted in article 68 of the Commercial Port Code.

¹⁹ Such texts were not provided by the authorities and so not included in this report (see Annex A).

²⁰ Decision of the Ministry of Finance and the Ministry of Transport of 18 July 2017, on the fees received by OMMP applicable in commercial ports.

²¹ Decree 2002-135 of 28 January 2002.

²² For instance, in Egypt, Kotug at the Ain Sokhna terminal and Svitzer at the Idku LNG terminal.

²³ Moroccan company Société Chérifienne de Remorquage et d'Assistance (SCRA) was awarded these three tenders. In 2018, Italian operator Scafi was granted a 20-year concession to operate towage service in Safi. In 2017, multinational towage company Svitzer – part of the Maersk Group – won a 20-year concession to provide terminal towage services at Tanger Med 2, run by APM Terminals, which is also part of the Maersk Group. The towage operator at Tanger Med is Boluda, a Spanish company.

²⁴ This can be seen in Figure 5.2 in (OECD, 2018_[118]). The report is based on 2011 data collected from European Sea Ports Organisation.

²⁵ Decision of the Ministry of Finance and the Ministry of Transport of 18 July 2017.

²⁶ Decree 2002-135 of 28 January 2002.

²⁷ See preamble (39) and Chapter II of EU Regulation 2017/352.

²⁸ Article 4 of Law 2008-44.

²⁹ Order of the Ministry of Transport and Ministry of Trade of 16 January 2014, approving the maximum tariffs for loading, unloading, handling and the security of goods in commercial seaports.

³⁰ The entity is called the Groupement des Manutentionnaires (GMC, 2018_[175]).

³¹ Until 2008, port concessions were ruled by Law 98/109, which did not provide specific rules for their award procedures.

³² Order of the Ministry of Transport and Ministry of Trade of 9 March 1999 approving the maximum tariffs for port cargo handling.

³³ Order of the Ministry of Transport and Ministry of Trade of 19 March 2002 amending and supplementing the maximum tariffs of port cargo handling of 9 March 1999.

³⁴ Order of the Ministry of Transport and Ministry of Trade of 16 January 2014.

³⁵ According to the legal definition, freight forwarding is not a maritime profession and is regulated by a separate law whose contents are, however, similar to the maritime profession law.

³⁶ Article 8 of Law 2008-44.

³⁷ Article 2 of Order of 1 February 2017, establishing the minimum material requirements for practicing the profession of shipowner or maritime shipping company. Upon request from the operator, this period can be extended to a maximum of two years. A similar requirement on owning a tugboat is applicable to rescue, assistance and sea-towing operators.

³⁸ Other conditions that must be met in order to sail the Tunisian flag are that the ship must use Tunisian ports; have a home port in Tunisia; be at least 51% Tunisian-owned; and be owned by a company with a majority of Tunisians on its board of directors (WTO, 2016_[177]).

³⁹ This includes China, United States and European Union countries.

⁴⁰ In France: Code des transports (consolidated version of 25 March 2019), article L5411-1 and article L5411-2. In Greece: Law 959/1979 on Shipping Companies (Official Governmental Gazette, Issue A', No. 192).

⁴¹ For a more specific analysis on minimum capital requirements, see Section 7.5.

⁴² Article 1 of Law 95-32, modified and supplemented by Law 2008-43.

⁴³ Article 168 of the Maritime Code of Commerce, modified by Law 98-22 of 16 March 1998.

⁴⁴ Article 10 of the *cahier des charges* for the practice of the profession of cargo agent approved by Ministry of Transport Order of 15 September 2009. Paragraphs 2 and 4, article 12 of *cahier des charges* for the practice of the profession of freight forwarder, approved by Ministry of Transport Order of 15 September 2009.

⁴⁵ For the services of legal experts and pilots that sole proprietorships, as opposed to companies, are permitted to provide, the minimum qualification regulation is applied.

⁴⁶ Article 13 of Law 2008-44.

⁴⁷ Law 2008-44.

⁴⁸ Please refer to Annex B for the reference of each *cahier des charges* applicable to each profession.

⁴⁹ Please refer to Annex B for the reference of each *cahier des charges* applicable to each profession.

⁵⁰ According to information provided by the authorities.

⁵¹ Among the reasons for not holding the examinations, the authorities mentioned the scarcity of human resources. If confirmed, this is an issue that must be managed to maintain the current system.

⁵² Greek Law 4302/2014 on logistics issues and other provisions (Official Governmental Gazette, Issue A', No. 225).

⁵³ Moroccan Code of Maritime Commerce of 31 March 1919, rectified on 15 August 1930; Law 98/05 of 25 June 1998, amending and supplementing Ordinance 76/80 of 23 October 1976 on the Maritime Code (article 384 and article 572).

⁵⁴ Regulation (EU) 2017/352 of 15 February 2017, establishing a framework for the provision of port services.

⁵⁵ Paragraphs 1, article 3 of Law 2008-44; paragraph 1, article 2 of Law 95-32, modified by Law 2008-43.

⁵⁶ Paragraphs 2 and (1), article 3 of Law 2008-44, and article 1(3) of Order of 1 February 2017, establishing the minimum material requirements for practicing the profession of shipowner or maritime shipping company.

⁵⁷ Paragraphs 2 and (1), article 3 of Law 2008-44, and article 2(3) of Order of 1 February 2017.

⁵⁸ Paragraphs 2 and (1), article 3 of Law 2008-44, and article 3 of the *cahier des charges* for the practice of the profession of cargo agent, approved by Ministry of Transport Order of 15 September 2009.

⁵⁹ Paragraphs 2 and (2), article 3 of Law 2008-44, and article 3 of the *cahier des charges* for the practice of the profession of chartering agent, approved by Ministry of Transport Order of 15 September 2009.

⁶⁰ Paragraphs 2 and (2), article 3 of Law 2008-44, and article 3 of the *cahier des charges* for the practice of the profession of merchant-marine ship management approved by the Ministry of Transport Order of 15 September 2009.

⁶¹ Article 2 (1) of Law 95-32, modified and supplemented by Law 2008-43, and article 10 of *cahier des charges* for the practice of the profession of freight forwarder approved with Ministry of Transport Order of 15 September 2009.

⁶² Paragraphs 2 and (2), article 3 of Law 2008-44, and article 3 of the *cahier des charges* for the practice of the profession of shipping agent approved with the Ministry of Transport Order of 15 September 2009.

⁶³ Paragraphs 2 and (2), article 3 of Law 2008-44, and article 3 of the *cahier des charges* for the practice of the profession of ship-supply company approved with the Ministry of Transport Order of 15 September 2009.

⁶⁴ Paragraphs 2 and (1), article 3 of Law 2008-44 of 21 July 2008, and article 1 (3) of Ministry of Transport Order of 1 February 2017.

⁶⁵ Article 3 of Law 2008-44.

⁶⁶ Article 6 of Ministerial Order of 5 February 2002 adopting the *cahier des charges* for mooring activities.

⁶⁷ Article 15 of Ministerial Order of 5 February 2002 adopting the *cahier des charges* for collection of ship waste oils.

⁶⁸ Article 6 of Ministerial Order of 5 February 2002 adopting the *cahier des charges* for ship-security activities.

⁶⁹ For Greece: Presidential Decree 229/1995 for Naval Agents (Official Governmental Gazette, Issue A', No. 130); Presidential Decree 66/2004 for Procedures for the Safe Loading and Unloading of Bulk Carriers, in compliance with Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001, as modified by Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 (Official Governmental Gazette, Issue A', No. 56); Ministerial Decision 798/2012 for the Establishment and Operation of Freight-Forwarding Agencies – Integration of the procedure of granting a special operational signal to agency offices (Official Governmental Gazette, Issue B', No. 19, Section 4). For France: Code des transports, Article L5413-3; Law 91-593 of 25 June 1991, pertaining to the relation between commercial agents and their mandators; Commercial Code, Article L131-1-11.

⁷⁰ Article 2(b) of Decree-Law 264/2012 for legal regime of access to the activity of shipping agent.

⁷¹ Moroccan Code of Maritime Commerce of 31 March 1919, rectified on 15 August 1930; Law 98/05 of 25 June 1998, amending and supplementing Ordinance 76/80 of 23 October 1976 on the Maritime Code (article 384 and article 572).

⁷² Item 14 of Annex B, Decree 91-1996 of 23 December 1991, products and services excluded from the price freedom and the methods of their supervision, as modified by Decree 93-59 of 11 January 1993 and Decree 95-142 of 28 June 1995. Those where adopted under Law 91-64, but remain in force (see article 78 of Law 2015-36).

⁷³ Order of the Ministry of Transport and Ministry of Trade of 16 January 2014.

⁷⁴ A similar restriction is set in Order of Ministry of Transport and Ministry of Trade of 7 October 2010, relating to the fixed tariffs for mooring and unmooring vessels in commercial seaports.

⁷⁵ Article 1 and Annex 3 of the Ministry of Transport and Ministry of Trade Order of 1 June 2015 approving maximum fees for shipping agents.

⁷⁶ Article 20 of Law 95-32, modified and completed by Law 2008-43.

⁷⁷ Port associations or communities group together representatives of all operators and major stakeholders in a specific port. In certain countries, they play a consultative role with maritime and port authorities.

Annex 7.A. Quantification of the impact on towage fees of opening up to the private sector

The framework for the provision of towing services in Tunisian ports allows the port authority to grant concessions to third parties to provide such services. However, in practice, towage is currently only provided by the OMMP and the corresponding fees are set by the Ministry of Transport.

A comparison between the towing tariffs in Tunisian ports with those in neighbouring countries is shown in Table 7.A.1 and 7.A.2 below, which demonstrates that towage fees rise faster with vessel tonnage in Tunisia than Egypt or Morocco.

Annex Table 7.A.1. Towage fees in Tunisia and Egypt (EUR an hour)

Vessel tonnage (GRT)		Tunisia (2017)		Egypt (2015)
		Min	Max	
<	300	114	114	450
300	1 000	114	200	585
1 000	4 000	200	688	630
4 000	10 000	688	1 466	1 350
10 000	20 000	1 466	2 483	1 440
20 000	30 000	2 483	2 550	1 530
30 000	40 000	2 550	2 742	1 620
40 000	50 000	2 742	2 935	1 710
50 000	60 000	2 935	3 246	1 800
60 000	80 000	3 246	3 592	2 160
80 000	100 000	3 592	3 937	2 520
100 000	120 000	3 937	4 283	2 880
120 000	130 000	4 283	4 456	3 240
130 000	160 000	4 456	4 974	3 600
160 000	180 000	4 974	5 319	3 960
180 000	200 000	5 319	5 665	4 320
>	200 000	5 665		4 680

Note: Tariffs for Tunisia are given as a function of vessel volume (m³); they are converted to tariffs based on gross registered tonnage (1 GRT = 2.83168 m³). Tariffs for Egypt are converted to EUR from USD rates (using an exchange rate of 1 USD = 0.9 EUR); and they assume 2 tugboats for vessels over 4 000 GRT. The vessel tonnage brackets are based on the Egyptian port tariffs.

Source: Tunisia – Decision of the Ministry of Transport from 18 July 2017. Egypt – Ministry of Transport Decree 488/2015, see <http://kadmar.com/ftp/Decree%20no%20488-2015%20bw.pdf> and analysed in kadmar.com/ftp/Port%20Tariff%20Comparison.xlsx.

Annex Table 7.A.2. Towage fees in Tunisia and Tanger Med, Morocco (EUR an hour)

Tonnage (GT)		Tunisia (2017)		Morocco (2019)
		Min	Max	
	1 000	114	226	312
1 000	2 000	226	333	378
2 000	3 000	333	671	656
3 000	5 000	671	854	711
5 000	7 000	854	1 034	901
7 000	9 000	1 034	1 531	1 911
9 000	12 000	1 213	2 115	1 100
12 000	15 000	2 115	2 349	1 145
15 000	18 000	2 349	2 583	1 377
18 000	22 000	2 583	2 892	1 669
22 000	26 000	2 892	2 564	1 711
26 000	30 000	2 564	2 652	1 956
30 000	35 000	2 652	2 762	2 066
35 000	40 000	2 762	2 871	2 244
40 000	45 000	2 871	2 980	2 311
45 000	50 000	2 980	3 212	2 543
>	50 000	3 212		2 543

Note: Tariffs for Tunisia are given as a function of vessel volume (m³); they are converted to tariffs based on approximate Gross Tonnage (1 GT = m³ x (0.2 + 0.02 x log (m³))). The vessel tonnage brackets are based on the Moroccan port tariffs.

Source: Tunisia – Decision of the Ministry of Transport from 18 July 2017. Morocco – Tanger Med Port Authority, Tarifs d’usage 2019, see www.tmpa.ma/wp-content/uploads/2018/07/Cahier-Tarifaire-2019.pdf.

The OECD recommends that the provision of towing services in Tunisian ports be opened up to private operators, following a competitive process to award concessions. In doing so, competition between (potential) providers will be introduced – either at the tender stage, if an exclusive concession is awarded, or later, in the case of multiple concessions. Making towage contestable will have the effect of securing lower fees to users, potentially also increasing the attractiveness of the ports to cargo shipping companies. It also has the potential to improve the quality of the service offered, for example, by reducing waiting times.

While the latter effect is difficult to measure, information on the financial results of the sector and the anticipated impact on towing fees can be used to estimate the likely benefit to users. More specifically, the benefit for cargo shippers from lower fees can be calculated as follows:

$$Benefit = \left(\rho + \frac{1}{2} |\varepsilon| \rho^2 \right) * R$$

where ρ is the percentage change in average towing fees as a result of opening up the market to entry by other operators, $|\varepsilon|$ is the absolute value of the elasticity of demand, and R is the revenues from towage. Alternative estimates for each of the constituent parts are set out below.

The total revenue from the provision of towage services in Tunisian ports is shown in the Table 7.A.3 below. In 2017, the value of fees collected in Tunisia’s six ports for towage was to TND 12 million; in 2018, it was TND 19 million.

Annex Table 7.A.3. OMMP revenue from the provision of towing services (TND, thousands)

	Total revenues	
	2017	2018
Port 1	3 980	6 360
Port 2	3 931	5 926
Port 3	1 448	3 400
Port 4	1 520	2 244
Port 5	667	1 053
Port 6	416	498
Total	11 962	19 481

Source: Office de la Marine Marchande et des Ports (OMMP).

To consider the likely impact of increased competition for the market on towage fees, the OECD relies on a paper by the European Conference of Ministers of Transport (ECMT, 2007) on competitive tendering of rail service, which found that the special regional authorities responsible for planning, managing and procuring regional rail transport in Germany realised savings of 20% after following tendering procedures.¹ Similarly, a review of pilotage services in Portuguese ports, which were also only provided by the relevant port authorities, also revealed a price differential of between 20% and 50% as compared to the cost of pilotage in other European countries.² Consequently, a 20% decrease in towing service fees is used as a central scenario for our estimates.

Two assumptions are adopted in terms of the elasticity of demand for towing services. First, a perfectly inelastic demand for towage is assumed. This is premised on the fact that towage is compulsory in Tunisian ports and there is no substitute to hiring the services from the provider. An alternative assumption considers that an outside substitute does exist in the choice of a different port – meaning that the demand for towing services is elastic (an elasticity of -2 is considered).

Annex Table 7.A.4. Benefit to freight shippers from towage fee reduction (TND, millions)

Base year	Elasticity	
	0%	2%
2017	2.4	2.9
2018	3.9	4.7

The annual benefit to port towage users from a decrease in towing fees, following increased competition between providers – potential or active – is estimated between TND 2.4 million and TND 4.7 million.

Notes

¹ This estimation mirrors the analysis done in OECD (2016_[90]) – see Annex 3.A4 – and OECD (2018_[118]) – see Annex 5.A.

² Annex 5.A in OECD (2018_[118]).

Annex 7.B. Professional qualification requirements per activity

Annex Table 7.B.1. Summary of selected maritime activities or professions

[For more details, including other maritime professions, please consult Annex B]

Minimum professional requirements			Professional capacity exam		
1) Activity	2) Academic qualifications (alternatives)	3) Working Experience	4) Academic qualifications	5) Working Experience	6) Ad hoc criterion
Maritime expert	1) second-class merchant-marine captain's qualification; licence as a second-class merchant-marine mechanical officer; 2) licence as a national engineer in the field of maritime transport or transport and logistics or its equivalent; 3) a master's degree (former regime or present) in the field of maritime transport or in the field of transport and logistics or equivalent.	5 years	No exam available		To be registered as an insurance or court expert in one of the maritime fields, and to have earned one of the academic degrees mentioned in column 2.
Ship-classification society	1) Certificate of competency as a captain, or second-class merchant-marine captain's qualification or equivalent; 2) a certificate of competency as chief engineer or a second-class merchant-marine chief engineer's qualification or its equivalent; 3) engineering degree in shipbuilding or equivalent.	3 years	No exam available (see note)		Not available
Representation of a foreign ship-classification society	1) Second-class merchant-marine captain's qualification or its equivalent; 2) a second-class merchant-marine mechanical officer qualification or its equivalent.	Not required	No exam available (see note)		Not available
Shipowner/ Shipping company	1) certificate of competency as a captain, or second-class merchant-marine captain's qualification or equivalent; 2) a master's degree (former regime) in the field of maritime transport or in the field of transport and logistics or equivalent; 3) a master's degree in the field of maritime transport or in the field of transport and logistics or equivalent.	3 years	No exam available (see note)		Not available
Ship cargo handling*	1) certificate of competency as a captain, or second-class merchant-marine captain's qualification or equivalent; 2) a certificate of competency as chief engineer or a second-class merchant-marine chief engineer's qualification or its equivalent; 3) a master's degree (former regime) in the field of maritime transport or in the field of transport and logistics or its equivalent; 4) a master's degree in the field of maritime transport or in the field of transport and logistics or its equivalent.	3 years	An undergraduate university degree in a technical, economic, legal, or management field.	Not required	Not available
Chartering agent	1) second-class merchant-marine captain's qualification or its equivalent; 2) a master's degree in the field of maritime transportation or its equivalent; 3) a master's degree in the field of transportation and logistics or its equivalent.	One year	A master's degree in a technical field, economics, management or law.	Two years' experience	Have held the position of deputy director in a central-government office or at an equivalent level in a public agency in the maritime transportation and port sector for a period of at least 3 years.

Minimum professional requirements			Professional capacity exam		
1) Activity	2) Academic qualifications (alternatives)	3) Working Experience	4) Academic qualifications	5) Working Experience	6) Ad hoc criterion
Merchant marine ship management	1) second-class merchant-marine captain's qualification or its equivalent; 2) a licence as a second-class merchant-marine mechanical officer or the equivalent; 3) a master's degree in the field of maritime transportation or its equivalent; 4) a master's degree in the field of transport and logistics or its equivalent.	One year	A master's degree in a technical field, economics, management or law.	Two years' experience	Have held the position of deputy director in a central-government office or at an equivalent level in a public agency in the maritime transportation and port sector for a period of at least 3 years.
Freight forwarder	1) second-class merchant-marine captain's qualification or its equivalent; 2) a master's degree in the field of maritime transportation or its equivalent; 3) a master's degree in the field of transport and logistics or its equivalent	One year	A master's degree in a technical field, economics, management or law.	Two years' experience	
Shipping agent*	1) a licence in the field of transportation and logistics or its equivalent ; 2) a coast captain qualification for merchant marine sailing or its equivalent; 3) a qualified high-level technical diploma in the field of transportation and logistics	One year (only applicable to 2)	A licence or equivalent in a technical field, economics, management or law.	Two years' experience	Have held the position of head of a unit in a central-government office or at an equivalent level in a public agency in the maritime transportation and port sector for a period of at least 3 years.
Cargo agent*	1) a licence in the field of transportation and logistics or its equivalent; 2) second-class merchant-marine captain's qualification or its equivalent; 3) a qualified high-level technical diploma in the field of transportation and logistics.	One year (only applicable to 2)	1) a licence or equivalent in a technical field, economics, management or law; 2) an advanced technician diploma in a technical field, economics, management or law.	Two years' experience	Have held the position of head of unit in a central-government office or at an equivalent level in a public agency in the maritime transportation and port sector for a period of at least 3 years.
Ship suppliers*	1) Patent professional technician in transport or logistics; 2) technical diploma in transport or logistics.	Not required	1) professional diploma in a technical field, economy or management; 2) a baccalaureate certificate	Two years' experience	

Notes: *Applicable in each port where the company operates.

Article 9 of Law 2008-44 of 21 July 2008 sets out the existence of a professional capacity examination applicable to the four activities under the registry regime; however, Decree 2017-705 of 26 May 2017 does not foresee such professional examinations, and revokes the earlier (secondary) legislation that regulated the examination. In the absence of a clear legal understanding from the national administration, and based upon the OECD's discussions with stakeholders, the possibility of sitting such a professional examination appears to be impossible in practice for these four professions. The question of the legal validity of such a decree opposing the Law 2008-44 remains unclear.

References

- A.T. Kearney (2017), *Global Retail Development Index*, A.T. Kearney, [66]
<https://www.atkearney.com/global-retail-development-index/article?/a/the-age-of-focus-2017-full-study>.
- ACC, BADIS Consulting and GEM (2008), *Etude de faisabilité de création d'une plateforme agroalimentaire et d'un complexe des viandes rouges dans le Grand Tunis*, [83]
<http://www.acc.com.tn>.
- ACEA (2018), *ACEA Pocket Guide 2018 - 2019*, European Automobile Manufacturers' Association (ACEA), Brussels, [119]
https://www.acea.be/uploads/publications/ACEA_Pocket_Guide_2018-2019.pdf.
- Agbo, M., D. Rousselière and J. Salanié (2014), "Agricultural marketing cooperatives with direct selling: A cooperative–non-cooperative game", Vol. WP 1438. [92]
- AgriData (2018), *Base de données du ministère de l'agriculture*, <http://www.agridata.tn/> (accessed on 5 February 2019). [79]
- Albers, R. and M. Peeters (2011), *Food and Energy Prices, Government subsidies and fiscal balance in South Mediterranean Countries*, European Commission, [40]
http://ec.europa.eu/economy_finance/publications/economic_paper/2011/pdf/ecp437_en.pdf.
- Allain, M. and C. Chambolle (2011), "Anti-competitive effects of resale-below-cost laws", [55]
International Journal of Industrial Organization, Vol. 29/4, pp. 373-385,
<http://dx.doi.org/10.1016/j.ijindorg.2010.07.006>.
- Andrews, D. and C. Criscuolo (2013), "Knowledge-Based Capital, Innovation and Resource Allocation", *OECD Economics Department Working Papers*, No. 1046, OECD Publishing, Paris, <https://dx.doi.org/10.1787/5k46bj546kzs-en>. [14]
- Andrews, D., G. Nicoletti and C. Timiliotis (2018), "Digital technology diffusion: A matter of capabilities, incentives or both?", *OECD Economics Department Working Papers*, No. 1476, OECD Publishing, Paris, <https://dx.doi.org/10.1787/7c542c16-en>. [16]
- Andrews, D. and B. Westmore (2014), "Managerial Capital and Business R&D as Enablers of Productivity Convergence", *OECD Economics Department Working Papers*, No. 1137, OECD Publishing, Paris, <https://dx.doi.org/10.1787/5jxx3d441knr-en>. [15]

- Aragie, E., K. Pauw and V. Pernechele (2018), “Achieving food security and industrial development in Malawi: Are export restrictions the solution?”, *World Development*, Vol. 108, pp. 1-15, <http://dx.doi.org/10.1016/j.worlddev.2018.03.020>. [75]
- Arnold, J., G. Nicoletti and S. Scarpetta (2011), “Does Anti-Competitive Regulation Matter for Productivity? Evidence from European Firms”, *IZA Discussion Paper*, Vol. 5511, <https://www.iza.org/de/publications/dp/5511/does-anti-competitive-regulation-matter-for-productivity-evidence-from-european-firms>. [9]
- Attali, J. (2008), *Rapport de la Commission pour la libération de la croissance française : 300 décisions pour changer la France*, <https://www.ladocumentationfrancaise.fr/rapports-publics/084000041/index.shtml>. [67]
- Baar, K. (2002), *Legislative Tools for Preserving Town Centres and Halting the Spread of Hypermarkets and Malls Outside of Cities*, <https://3gozaa3xxbpb499ejp30lxc8-wpengine.netdna-ssl.com/wp-content/uploads/2014/07/Tools-for-Halting-the-Spread-of-Hypermarkets-Outside-Western-European-Cities.pdf>. [73]
- Becker, G. (1968), “Crime and Punishment: An Economic Approach”, *Journal of Political Economy*, Vol. 76/2, pp. 169-217, <http://dx.doi.org/10.1086/259394>. [26]
- Bertrand, M. and F. Kramarz (2002), *Does Entry Regulation Hinder Job Creation? Evidence from the French Retail Industry*, Institute for the Study of Labor, <http://ftp.iza.org/dp415.pdf>. [64]
- Blundell, R., R. Griffiths and J. Van Reenen (1999), “Market Share, Market Value and Innovation in a Panel of British Manufacturing Firms”, *Review of Economic Studies*, Vol. 66/3, pp. 529-554, <http://dx.doi.org/10.1111/1467-937X.00097>. [2]
- Bourlès, R. et al. (2013), “Do productmarket regulations in upstreamsectors curb productivity growth? Panel data evidence for oecd Countries”, *Review of Economics and Statistics*, http://dx.doi.org/10.1162/REST_a_00338. [11]
- Boylaud, O. (2000), “Regulatory Reform in Road Freight and Retail Distribution”, *OECD Economics Department Working Papers*, No. 255, OECD, Paris, <https://doi.org/10.1787/254485547873>. [105]
- Byerlee, D., T. Jayne and R. Myers (2006), “Managing food price risks and instability in a liberalizing market environment: Overview and policy options”, *Food Policy*, Vol. 31/4, pp. 275-287, <http://dx.doi.org/10.1016/j.foodpol.2006.02.002>. [49]
- C. Okar, F. (ed.) (2016), *Analyse et mesure de l'efficience technique des ports commerciaux Tunisiens : Application de la méthode DEA orienté outputs*. [138]
- Cahuc, P. and F. Kramarz (2004), *De la Précarité à la Mobilité : Vers une Sécurité Sociale Professionnelle*, Rapport au Ministre de l'Économie, des Finances et de l'Industrie et au ministre de l'Emploi, du Travail et de la Cohésion sociale. [19]
- Centre for Studies and Strategic Foresight (2011), *Agricultural cooperatives: the reference in term of farmer economic organisation*, République française: Ministère de l'agriculture, de [93]

- l'alimentation, de la pêche, de la ruralité et de l'aménagement du territoire,
<http://agreste.agriculture.gouv.fr/IMG/pdf/analyse361111anglais.pdf>.
- Cette, G., J. Lopez and J. Mairesse (2013), "Upstream product market regulations, ICT, R&D and productivity", *NBER Working Papers*, No. 19488, NBER, [12]
<http://www.nber.org/papers/w19488>.
- CILT IE (2019), *CPC in Road Transport Operations Management*, Chartered Institute of [131]
 Logistics and Transport, <https://www.cilt.ie/Education-Exams/Exams/CPC/CPC-in-Road-Transport-Operations-Management> (accessed on 5 April 2019).
- CILT UK (2019), *Certificate of Professional Competence (CPC) for Transport Managers in Road [132]
 Haulage*, Chartered Institute of Logistics and Transport,
<https://www.ciltinternational.org/education-development/global-training-directory/certificate-professional-competence-cpc-transport-managers-road-haulage/> (accessed on 5 April 2019).
- CNVZ (2015), *Rapport annuel*, Centre National de Veille Zoologique, [98]
<http://www.cnvz.agrinet.tn/media/k2/attachments/rapport%20cnvz%202015.pdf>.
- Codron, J. et al. (2004), "Supermarkets in low-income Mediterranean countries: Impacts on [85]
 horticulture systems", *Development Policy Review*, Vol. 22/5, pp. 587-602,
<http://dx.doi.org/10.1111/j.1467-7679.2004.00266.x>.
- Colla, E. and P. Lapoule (2008), "Banning below-cost resale in France: the impact on pricing [56]
 decisions", *International Journal of Retail & Distribution Management*, Vol. 36/10, pp. 746-758, <http://dx.doi.org/10.1108/09590550810900973>.
- COMETE Engineering (2014), *Etude de faisabilité technique et financière de création d'un [89]
 marché de production à Sidi Bouzid*.
- Comisión Nacional de la Competencia (2013), *Report on competition in the service provided by [86]
 wholesale central markets supplying perishable food products at destination*,
https://www.cnmc.es/sites/default/files/1187856_6.pdf.
- Conseil de la Concurrence (2018), *Décision n° 141356 relative aux industriels de tomate*. [51]
- Cour des Comptes (2017), *Référé du premier Président de la Cour des comptes relatif à la [101]
 gestion des abattoirs*, http://www.courdescomptes.ma/upload/MoDUle_20/File_20_446.pdf.
- CRES (2013), *Analyse de l'Impact des Subventions Alimentaires et des Programmes d'Assistance [34]
 Sociale sur la Population Pauvre et Vulnérable*, Centre des Recherches et des études Sociales,
http://www.cres.tn/uploads/tx_wdbiblio/rapport_impact_des_subvention_01.pdf.
- Criscuolo, C., P. Gal and C. Menon (2014), "The Dynamics of Employment Growth: New [20]
 Evidence from 18 Countries", *OECD Science, Technology and Industry Policy Papers*,
 No. 14, OECD Publishing, Paris, <https://dx.doi.org/10.1787/5jz417hj6hg6-en>.
- Crotti, R. and T. Misrahi (eds.) (2017), *The Travel and Tourism Competitiveness Report 2017*, [156]
 World Economic Forum, Geneva,
http://www3.weforum.org/docs/WEF_TTCR_2017_web_0401.pdf.

- Daude, C. and C. de la Maisonneuve (2018), “Network service deregulation and manufacturing exports in Greece”, *OECD Economics Department Working Papers*, No. 1474, OECD Publishing, Paris, <https://dx.doi.org/10.1787/d35026d6-en>. [13]
- Department of Transport, Tourism and Sport (2019), *A guide to road haulage operator licensing*, https://www.rtol.ie/rtol-online/static/downloads/en/EN_APPL_RHOL_FORM.pdf. [130]
- Domenech, B. (2014), *Informe de situación económico-social realizado por Cooperativistas del Transporte*, AMD, Valencia, <http://www.logisticaytransporte.es/documentos/informecooperativistas.pdf>. [170]
- Drewry Shipping Consultants (2017), “*Global Container Terminal Operators, Annual Report 2017*”, London. [147]
- Ducruet, C., H. Itoh and O. Merk (2014), “Time Efficiency at World Container Ports”, *Discussion Paper*, No. 2014-08, International Transport Forum, Paris, <https://www.itf-oecd.org/sites/default/files/docs/dp201408.pdf>. [137]
- EBRD (2018), *Tunisia Country Strategy 2018-2023, as approved by the Board of Directors on 12 December 2018*, European Bank for Reconstruction and Development, London, <http://www.ebrd.com/documents/strategy-and-policy-coordination/tunisia-country-strategy.pdf>. [110]
- EC; HVG (2016), *Legal study on retail establishment through the 28 Member States*, <https://publications.europa.eu/en/publication-detail/-/publication/9ba91553-faf1-11e5-b713-01aa75ed71a1/language-en#>. [60]
- ECMT (2001), *Road Freight Transport for Own Account in Europe*, ECMT Round Tables, No. 115, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789282112830-en>. [113]
- EEA (2018), *Indicators: Size of the vehicle fleet*, European Environment Agency. [127]
- Égert, B. (2018), “Regulation, Institutions and Aggregate Investment: New Evidence from OECD Countries”, *Open Economies Review*, Vol. 29/2, pp. 415-449, <http://dx.doi.org/10.1007/s11079-017-9449-9>. [18]
- Égert, B. (2017), “Regulation, institutions and productivity: New macroeconomic evidence from OECD countries”, *OECD Economics Department Working Papers*, No. 1393, OECD Publishing, Paris, <https://dx.doi.org/10.1787/579ceba4-en>. [10]
- Égert, B. (2017), “The quantification of structural reforms: Extending the framework to emerging market economies”, *OECD Economics Department Working Papers*, No. 1442, OECD Publishing, Paris, <https://dx.doi.org/10.1787/f0a6fdcb-en>. [24]
- Eklund, J. and E. Lappi (2018), “Product regulations and persistence of profits: OECD evidence”, *Journal of Regulatory Economics*, Vol. 54/2, pp. 147-164, <http://dx.doi.org/10.1007/s11149-018-9365-y>. [23]
- Ennis, S., P. Gonzaga and C. Pike (2017), *Inequality: A hidden cost of market power*, OECD, Paris, <http://www.oecd.org/daf/competition/inequality-a-hidden-cost-of-market-power.htm>. [22]

- European Commission (2018), *Report on Competition Policy 2017: Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*, European Commission, Brussels, http://ec.europa.eu/competition/publications/annual_report/2017/part2_en.pdf. [168]
- European Commission (2017), “Impact Assessment Accompanying the document Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road”, *Commission Staff Working Document*, No. SWD (2017) 196 final, European Commission, Brussels, <https://ec.europa.eu/transport/sites/transport/files/swd20170196-ia-hired-vehicles.pdf>. [115]
- European Commission (2017), *Proposal for a regulation of the European Parliament and the Council amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view to adapting them to the developments in the sector*, European Commission, Brussels, <https://ec.europa.eu/transport/sites/transport/files/com20170281-regulation-haulage.pdf>. [126]
- European Commission (2016), *Ex-post evaluation of Directive 2006/1/EC*, Final report - MOVE/D3/2015- 423, Brussels, <https://ec.europa.eu/transport/sites/transport/files/facts-fundings/evaluations/doc/2016-ex-post-evaluation-of-directive-2006-1-ec-final-report.pdf>. [117]
- European Commission (2014), *Report from the Commission to the European Parliament and the Council on the State of the Union Road Transport Market*, European Commission, Brussels, https://ec.europa.eu/transport/sites/transport/files/modes/road/news/com%282014%29-222_en.pdf. [120]
- Falorni, O. and J. Caullet (2016), *Rapport d’enquête sur les conditions d’abattage des animaux de boucherie dans les abattoirs français*, <http://www.assemblee-nationale.fr/14/pdf/rap-enq/r4038-ti.pdf>. [102]
- FAO; UNICEF; Oxford (2016), *From Evidence to Action*, Oxford University Press, <http://www.fao.org/3/a-i5157e.pdf>. [44]
- Filippi, M. et al. (2015), “The Spatial Distribution of French Agricultural Cooperatives: An Exploratory Spatial Data Analysis”, *European Planning Studies*, Vol. 23/4, pp. 710-732, <http://dx.doi.org/10.1080/09654313.2014.945816>. [91]
- Fournier, J. (2015), “The negative effect of regulatory divergence on foreign direct investment”, *OECD Economics Department Working Papers*, No. 1268, OECD Publishing, Paris, <https://dx.doi.org/10.1787/5jrvgvg0dw27-en>. [6]
- Fournier, J. et al. (2015), “Implicit Regulatory Barriers in the EU Single Market: New Empirical Evidence from Gravity Models”, *OECD Economics Department Working Papers*, No. 1181, OECD Publishing, Paris, <https://dx.doi.org/10.1787/5js7xj0xckf6-en>. [5]
- Gangopadhyay, S., R. Lensink and B. Yadav (2015), *Cash or In-kind Transfers? Evidence from a Randomised Controlled Trial in Delhi, India*, pp. 660-673. [53]
- GIL (2016), *Filières légumes*, http://www.gil.com.tn/fr/staticPage?label=filiere-legumes_4 (accessed on 20 March 2019). [78]

- GIVLAIT (2018), *Nouvelle forme de distribution de la viande*, [97]
[http://www.givlait.com.tn/medias/files/nouvelle%20forme%20de%20distribution%20de%20la%20viande\(1\)_compressed.pdf](http://www.givlait.com.tn/medias/files/nouvelle%20forme%20de%20distribution%20de%20la%20viande(1)_compressed.pdf).
- GIVLAIT (2008), *Etude de faisabilite d'une categorisation des bouchers en tunisie*, [100]
<http://www.givlait.com>.
- Global Ship Lease (2019), *Industry Overview*, <http://www.globalshiplease.com/industry-overview>. [148]
- GMC (2018), *La revue de l'entreprise*, <https://larevuedelentreprise.com/2018/11/le-groupement-des-manutentionnaires-du-centre/>. [175]
- Griffith, R. et al. (2004), "Entry and Productivity Growth: Evidence from Microlevel Panel Data", [3]
Journal of the European Economic Association,
<http://dx.doi.org/10.1162/154247604323067970>.
- Hamdi, A. (2016), *Analyse et mesure de l'efficience technique des ports commerciaux Tunisiens : Application de la méthode DEA orienté outputs.* [167]
- Hanan Morsy, B. (2018), *Tunisia Diagnostic Paper: Assessing Progress and Challenges in Unlocking the Private Sector's Potential and Developing a Sustainable Market Economy*, EBRD. [176]
- Hayaloğlu, P. (2015), "The Impact of Developments in the Logistics Sector on Economic Growth: The Case of OECD Countries", *International Journal of Economics and Financial Issues*, Vol. 5/2, pp. 523-530, <http://www.econjournals.com/index.php/ijefi/article/view/1129/pdf>. [108]
- Helström, D., J. Kembro and H. Bodnar (eds.) (2017), *Strategic Themes in the Haulier Business: A Systematic Literature Review of Road Freight Transport*, [124]
http://muep.mau.se/bitstream/handle/2043/24234/Borgstroem_Gammelgaard_Wieland_nofoma2017.pdf.
- IMF (2018), *Third Review under the Extended Fund Facility Arrangement for Tunisia*, [107]
 International Monetary Fund, Washington DC,
<https://www.imf.org/en/Publications/CR/Issues/2018/07/10/Tunisia-Third-Review-under-the-Extended-Fund-Facility-and-Request-for-Waiver-of-46070>.
- INC (2017), *Enquete sur la consommation de viandes en Tunisie*, Institut National de la [81]
 Consommation, <http://inc.nat.tn/sites/default/files/document-files/%D8%A8%D8%AD%D8%AB%20%D8%AD%D9%88%D9%84%20%D8%A5%D8%B3%D8%AA%D9%87%D9%84%D8%A7%D9%83%20%D8%A7%D9%84%D9%84%D8%AD%D9%88%D9%85%20%D9%81%D9%8A%20%D8%AA%D9%88%D9%86%D8%B3.pdf>.
- INS (2019), *Commerce extérieur, Balance commerciale*, <http://www.ins.tn/fr/themes/commerce-ext%C3%A9rieur>. [74]
- INS (2019), *Commerce extérieur, Principaux produits exportés, Produits agro-alimentaires*, [80]
<http://www.ins.tn/fr/themes/commerce-ext%C3%A9rieur> (accessed on 12 March 2019).

- INS (2019), *Indice des prix à la consommation familiale - IPC*, <http://www.ins.tn/fr/themes/prix> (accessed on 12 March 2019). [48]
- INS (2019), *Valeurs ajoutées du secteur, Contribution des secteurs du transport et du commerce au PIB*, Institut National de la Statistique, <http://www.ins.nat.tn/> (accessed on 20 March 2019). [29]
- INS (2018), *Bulletin Mensuel de Statistique, Octobre 2018*, National Institute of Statistics (INS), Tunis, http://www.ins.tn/sites/default/files/publication/pdf/bms%20oct%20pour%20site%20%281%29_0.pdf. [166]
- INS (2015), *Enquête Nationale sur le Budget, la Consommation et le Niveau de vie des ménages*, Institut National de la Statistique, <http://www.ins.tn/fr/publication/enqu%C3%AAtre-nationale-sur-le-budget-la-consommation-et-le-niveau-de-vie-des-m%C3%A9nages-2015-0>. [33]
- INS (2010), *Enquête Nationale sur le Budget, la Consommation et le Niveau de vie des ménages*, Institut National de la Statistique, <http://www.ins.tn/fr/publication/enqu%C3%AAtre-sur-la-consommation-des-m%C3%A9nages-2010-volume-c>. [46]
- INS (2009), *Nomenclature d'Activités Tunisienne*, http://www.ins.tn/sites/default/files/pdf_actualites/nat2009.pdf (accessed on 20 July 2018). [28]
- International Monetary Fund, W. (ed.) (2018), *Staff Country Reports - Article IV Consultation*, <https://www.imf.org/en/publications/search?when=After&series=IMF+Working+Papers> (accessed on 27 March 2019). [35]
- ITCEQ - Institut Tunisien de la Compétitivité et des Etudes Quantitative (2017), *Enquête annuelle sur la compétitivité*, <http://www.itceq.tn/wp-content/uploads/files/competitivite/cahier-des-graphiques-environnement-des-affaires.pdf>. [149]
- ITF (2017), *ITF Transport Outlook 2017*, OECD Publishing, Paris, <https://doi.org/10.1787/9789282108000-en>. [106]
- ITF (2017), "Local Governments and Ports", *International Transport Forum Policy Papers*, No. 31, OECD Publishing, Paris, <https://dx.doi.org/10.1787/820a7ecb-en>. [142]
- ITF (2015), *The Impact of Mega-Ships*, OECD. [146]
- Jack, W. and T. Suri (2014), *Risk sharing and transaction costs: evidence from Kenya's mobile money revolution*, pp. 231-268, https://pdfs.semanticscholar.org/931c/14aa39222a426dce1b6e6d8e058e2b2b6fcc.pdf?_ga=2.167695099.471668039.1562750533-1321609987.1562750533. [42]
- Joussour (2016), *Commencer par cerner l'informel pour préparer son cantonnement : Un enjeu de politique publique*, <http://joussour-thinktank.org/wp-content/uploads/2016/11/2016-01-25-Le-secteur-informel-en-Tunisie-Draft.pdf>. [30]
- Kalinova, B., A. Palerm and S. Thomsen (2010), *OECD's FDI Restrictiveness Index: 2010 Update*, OECD Publishing, Paris. [174]

- Klein, M. and C. Mayer (2011), *Mobile banking and financial inclusion - the regulatory lesson*, [43]
<http://documents.worldbank.org/curated/en/516511468161352996/Mobile-banking-and-financial-inclusion-the-regulatory-lessons>.
- Kroth, M. (2017), *Should retailers venture more vertical integration? A.T. Kearney examines trends and drivers of backwards integration*, [58]
<http://www.linkedin.com/pulse/should-retailers-venture-more-vertical-integration-kearney-kroth>.
- Labaronne, D. (ed.) (2014), *La compétitivité du port de Casablanca en question*, ParisTech. [169]
- Leaseurope (2016), *Leaseurope and Eurofinas Joint Response to the European Commission Call for Evidence on the EU Regulatory Framework for Financial Services*, Leaseurope & Eurofinas, <http://www.leaseurope.org/uploads/documents/PSC/pp160129-LEA-EUR-Call%20for%20evidence%20on%20the%20UE%20regulatory%20framework%20for%20Financial%20services-Final.pdf>. [116]
- Maican, F. and M. Orth (2014), *A Dynamic Analysis of Entry Regulations and Productivity in Retail Trade*, Research Institute of Industrial Economics (IFN) Stockholm, [71]
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2179868.
- Maslac, M. et al. (2018), “Behaviours of drivers in Serbia: Non-professional versus professional drivers”, *Transportation Research Part F: Traffic Psychology and Behaviour*, Vol. 52, pp. 101-111, [125]
<https://www.sciencedirect.com/science/article/pii/S1369847816306374?via%3Dihub>.
- Ministry of Agriculture (2012), *La filiere viande rouge en Tunisie*. [96]
- Ministry of Trade (2015), *État des lieux et perspectives des grandes surfaces commerciales en Tunisie*. [31]
- Ministry of Transport (2019), *Evolution du cadre réglementaire des professions maritimes et portuaires en Tunisie*. [134]
- Nickell, S. (1996), “Competition and Corporate Performance”, *Journal of Political Economy*, [1]
<http://dx.doi.org/10.1086/262040>.
- Nicoletti, G. and S. Scarpetta (2003), “Regulation, productivity and growth: OECD evidence”, *Economic Policy*, Vol. 18/36, pp. 9-72, <http://dx.doi.org/10.1111/1468-0327.00102>. [8]
- Nordea Trade (2019), *International convention and customs procedures of Tunisia*, Country Profile Tunisia, <https://www.nordeatrade.com/en/explore-new-market/tunisia/customs> [165]
 (accessed on 8 February 2019).
- O’Brien, P. (2013), “Policy Implementation in Italy: Legislation, Public Administration and the Rule of Law”, *OECD Economics Department Working Papers*, No. 1064, OECD Publishing, Paris, <https://dx.doi.org/10.1787/5k44ssdmgzs-en>. [164]

- OCR (2019), *Vocational Qualifications: CPC (Certificate of Professional Competence) for Transport Managers (Road Haulage) Level 3 - 2012 - 05669*, <https://www.ocr.org.uk/qualifications/vocational-qualifications/vocationally-related-qualifications-nqf-cpc-certificate-of-professional-competence-for-transport-managers-road-haulage-level-3-2012-05669/> (accessed on 5 April 2019). [133]
- ODI (2016), *Cash transfers: what does the evidence say?*, Overseas Development Institute, <https://www.odi.org/sites/odi.org.uk/files/resource-documents/10749.pdf>. [45]
- OECD (2018), *Agriculture Statistics*, <https://data.oecd.org/agroutput/meat-consumption.htm> (accessed on 27 March 2019). [99]
- OECD (2018), *OECD Competition Assessment Reviews: Portugal: Volume I - Inland and Maritime Transports and Ports*, OECD Competition Assessment Reviews, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264300026-en>. [118]
- OECD (2018), *OECD Economic Surveys: Tunisia 2018: Economic Assessment*, OECD Publishing, Paris, https://dx.doi.org/10.1787/eco_surveys-tun-2018-en. [7]
- OECD (2018), *OECD Investment Policy Reviews: Southeast Asia*, OECD Publishing, <https://www.oecd.org/daf/inv/investment-policy/Southeast-Asia-Investment-Policy-Review-2018.pdf>. [59]
- OECD (2017), *Competition Assessment Toolkit: Volume 1. Principles*, OECD, Paris, <http://www.oecd.org/daf/competition/assessment-toolkit.htm>. [153]
- OECD (2017), *Competition Assessment Toolkit: Volume 3. Operational Manual*, OECD, <http://www.oecd.org/competition/toolkit>. [154]
- OECD (2017), *National treatment for foreign-controlled enterprises: Including adhering country exceptions to national treatment*, OECD, Paris, <http://www.oecd.org/daf/inv/investment-policy/national-treatment-instrument-english.pdf>. [128]
- OECD (2017), *OECD Competition Assessment Reviews: Greece 2017*, OECD Competition Assessment Reviews, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264088276-en>. [84]
- OECD (2017), *Promouvoir l'investissement dans la chaîne logistique en Tunisie: Le rôle des politiques publiques*. [139]
- OECD (2017), *Review of the Regulation of Freight Transport in Mexico*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264268364-en>. [144]
- OECD (2016), *OECD Competition Assessment Reviews: Romania*, OECD Competition Assessment Reviews, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264257450-en>. [90]
- OECD (2016), *Opérationnaliser les partenariats public-privé en Tunisie*. [172]
- OECD (2015), *Economic Policy Reforms 2015: Going for Growth*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/growth-2015-en>. [21]

- OECD (2015), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, [25]
<https://dx.doi.org/10.1787/9789264238770-en>.
- OECD (2015), *Serial offenders: Why some industries seem prone to endemic collusion*, [50]
[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/GF\(2015\)4&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/GF(2015)4&docLanguage=En).
- OECD (2014), *Factsheet on how competition policy affects macro-economic outcomes*, [4]
<http://oe.cd/J3>.
- OECD (2014), *OECD Competition Assessment Reviews: Greece*, OECD Competition Assessment [95]
 Reviews, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264206090-en>.
- OECD (2014), *The Governance of Regulators*, OECD Best Practice Principles for Regulatory [171]
 Policy, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264209015-en>.
- OECD (2012), *OECD Economic Surveys: Finland 2012*, OECD Publishing, [63]
https://dx.doi.org/10.1787/eco_surveys-fin-2012-en.
- OECD (2009), *OECD Economic Surveys: France 2009*, OECD Publishing, [62]
https://dx.doi.org/10.1787/eco_surveys-fra-2009-en.
- OECD (2007), *Concessions*, <https://www.oecd.org/daf/competition/39531515.pdf>. [88]
- OECD (2007), “Vertical mergers”, *Competition Policy Roundtables*, No. DAF/COMP(2007)21, [57]
<http://www.oecd.org/daf/competition/mergers/39891031.pdf> (accessed on 3 April 2019).
- OECD (2006), *OECD Economic Surveys: Germany 2006*, OECD Publishing, Paris, [61]
https://dx.doi.org/10.1787/eco_surveys-deu-2006-en.
- OECD (2006), *Policy Roundtables: Resale Below Cost*, OECD. [54]
- OECD (2003), *Competition Framework*, OECD Publishing. [69]
- OECD (2002), *Product Market Competition and Economic Performance: A Framework for [70]
 EDRC Review*, OECD Publishing.
- OECD (2001), *Glossary of statistical terms*, <https://stats.oecd.org/glossary/detail.asp?ID=2927> [27]
 (accessed on 20 March 2019).
- OECD/FAO (2018), *OECD-FAO Agricultural Outlook 2008-2017*, [94]
https://doi.org/10.1787/agr_outlook-2018-en.
- OECD/ITF (2017), *Local Governements and Ports*. [173]
- OFAE (2019), *Certificate of Professional Competence for Managers*, Hellenic Federation of [129]
 Road Transports, <http://ofae.gr/en/sxoles/sxoles-epaggelmatikhs-katartisis-metaforeon-sekam-pei/> (accessed on 5 April 2019).

- OICA (2019), *Vehicles in Use: Statistics by Country and Type*, International Organization of Motor Vehicle Manufacturers (OICA), <http://www.oica.net/category/vehicles-in-use/>. [123]
- OMMP (2019), *Office de la Marine Marchande et des Ports*, <http://www.ommp.nat.tn/ommp/> (accessed on 10 April 2019). [135]
- OMMP (2018), *Bulletin Mensuel de Statistique, Octobre 2018*, Office de la Marine Marchande et des Ports (OMMP), Tunis, http://www.ins.tn/sites/default/files/publication/pdf/bms%20oct%20pour%20site%20%281%29_0.pdf. [163]
- OMMP (2018), *OMMP - Rapport annuel 2017*, Office de la Marine Marchande et des Ports (OMMP), Tunis, <http://www.ommp.nat.tn/rapport-annuels/>. [136]
- ONAGRI (2017), *Annuaire Statistique*, Observatoire National de l'Agriculture (ONAGRI), <http://www.onagri.nat.tn/uploads/statistiques/annuaire%20statistique2016.pdf> (accessed on 21 March 2019). [77]
- OPLAS (2019), *Certificate of Professional Competence*, <http://www.certificateofprofessionalcompetence.co.uk/certificate-of-professional-competence/> (accessed on 5 April 2019). [162]
- OTE (2017), *Data Analysis*, <http://www.economie-tunisie.org/sites/default/files/20170531-da4-inflation-fr.pdf>. [47]
- Oxford Business Group (2016), *Tunisia exploring new development for maritime infrastructure*, <https://oxfordbusinessgroup.com/analysis/exploring-options-already-well-developed-maritime-infrastructure-looks-set-evolve-further> (accessed on 24 May 2019). [141]
- Prina, S. (2015), "Banking the poor via savings accounts: Evidence from a field experiment.", *Journal of Development Economics*, Vol. 115, pp. 16-31, <https://www.poverty-action.org/sites/default/files/publications/Banking%20the%20Poor%20via%20Savings%20Accounts.pdf>. [41]
- PwC and Panteia (2012), *Study on Pilotage Certificates, Report submitted to the EC DG for mobility and transport*, <https://ec.europa.eu/transport/sites/transport/files/modes/maritime/studies/>. [145]
- Raczkowski, K., F. Schneider and F. Laroche (2017), *The Impact of Regulation of the Road Transport Sector on Entrepreneurship and Economic Growth in the European Union*, Motor Transport Institute, Warsaw-Linz-Lyon, <https://www.mobilelabour.eu/wp-content/uploads/2018/02/The-Impact-of-Regulation-of-the-Road-Transport-Sector-on-Entrepreneurship-and-Economic-Growth.pdf>. [112]
- Reardon, T. and J. Swinnen (2004), *Agrifood Sector Liberalisation and the Rise of Supermarkets in Former State-controlled Economies: A Comparative Overview*, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1467-7679.2004.00263.x>. [87]
- Rodrigue, J. (2017), *The Geography of Transport Systems*, Routledge, New York, <https://transportgeography.org/>. [161]

- Santander Trade (2019), *Santander Trade Portal*, <https://en.portal.santandertrade.com/analyse-markets/morocco/distributing-a-product> (accessed on 14 January 2019). [65]
- Schivardi, F. and E. Viviano (2011), *Entry Barriers in Retail Trade*, The Economic Journal, <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1468-0297.2009.02348.x>. [72]
- Société Générale (2019), *Fiche pays, Tunisie*, <https://import-export.societegenerale.fr/fr/fiche-pays/tunisie/marche-distribution> (accessed on 20 March 2019). [32]
- T&E (2016), *Truck of Tomorrow*, Transport & Environment, <http://inconvenienttruck.eu/trucks-options-fuel-consumption/> (accessed on 18 March 2019). [122]
- Togan, S. (2016), *The Liberalization of Transportation Services in the EU and Turkey*, Oxford University Press, <http://dx.doi.org/10.1093/acprof:oso/9780198753407.001.0001>. [111]
- Transporte em revista (14 March 2019), *Barometro APAT*, <http://www.transportesemrevista.com/Portals/6/artigos/barometro/barometroAPAT.jpg>. [150]
- Tripathi, A., A. Sagar and K. Smith (2015), *Promoting Clean and Affordable Cooking – Smarter Subsidies for LPG*. [52]
- UK Parliament (2000), *Environmental Impact of Supermarket Competition*, <https://publications.parliament.uk/pa/cm199900/cmselect/cmenvtra/120/12006.htm>. [68]
- UN (2019), *UN Comtrade Database*, <https://comtrade.un.org/data> (accessed on 8 February 2019). [160]
- UNCTAD (2018), *World Investment Report 2018: Investment and New Industrial Policies*, United Nations, Geneva, http://unctad.org/en/PublicationsLibrary/wir2018_en.pdf. [159]
- UNECE (2011), *Consolidated Resolution on the Construction of Vehicles (Revision 2)*, UN Economic Commission for Europe, Inland Transport Committee, World Forum for Harmonization of Vehicle Regulations, <http://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29resolutions/ECE-TRANS-WP29-78-r2e.pdf>. [158]
- UTAP (2018), *Étude sur le cout de production de lait en Tunisie*, <https://utap.org.tn/%d8%af%d8%b1%d8%a7%d8%b3%d8%a9-%d9%83%d9%84%d9%81%d8%a9-%d8%a5%d9%86%d8%aa%d8%a7%d8%ac-%d8%a7%d9%84%d8%ad%d9%84%d9%8a%d8%a8-%d8%a8%d8%aa%d9%88%d9%86%d8%b3/>. [36]
- Wageningen Research Foundation (2018), *Dairy value chain analysis in Tunisia*, Wageningen University & Research, <https://doi.org/10.18174/452934>. [37]
- WEF (2018), *The Global Competitiveness Report 2018*, World Economic Forum, Geneva, <http://www3.weforum.org/docs/GCR2018/05FullReport/TheGlobalCompetitivenessReport2018.pdf>. [157]

- Westmore, B. (2013), “R&D, Patenting and Growth: The Role of Public Policy”, *OECD Economics Department Working Papers*, No. 1047, OECD Publishing, Paris, <https://dx.doi.org/10.1787/5k46h2r4b4f3-en>. [17]
- WHO (2018), *Healthy diet*, <https://www.who.int/news-room/fact-sheets/detail/healthy-diet> (accessed on 26 March 2019). [82]
- World Bank (2019), *Doing Business Report: Training for Reform*, International Bank for Reconstruction and Development / The World Bank, Washington DC, http://www.worldbank.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf. [155]
- World Bank (2018), *World Development Indicators*, <http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators>. [76]
- World Bank (2017), *Impact of Libya crisis on the Tunisian economy*. [38]
- World Bank (2016), *A Comparative Analysis of Subsidy Reforms*, <http://documents.worldbank.org/curated/en/965461469022650590/pdf/WPS7755.pdf>. [39]
- World Bank (2016), *République tunisienne: Livre Blanc relatif au secteur des transports et de la logistique*, World Bank, Washington DC, <http://documents.worldbank.org/curated/en/339961488471609720/pdf/ACS18045-REVISED-PUBLIC.pdf>. [109]
- World Bank (2015), *Tunisia: Systematic Country Diagnostic*, World Bank, Washington DC, <https://elibrary.worldbank.org/doi/pdf/10.1596/23112>. [140]
- World Bank (2014), *Tunisia Urbanization Review: Reclaiming the Glory of Carthage*, World Bank, Washington, DC, https://collaboration.worldbank.org/content/sites/collaboration-for-development/en/groups/research-partnership-for-sustainable-urban-development/groups/urbanization-reviews/documents.entry.html/2016/04/28/tunisia_urbanization-8M8Q.html. [121]
- World Bank (2014), *Why are minimum capital requirements a concern for entrepreneurs?*, World Bank, <https://doi.org/10.1596/978-0-8213-9984-2>. [152]
- World Bank (2007), *Alternative Port Management Structures and Ownership Models*, World bank, <https://ppiaf.org/sites/ppiaf.org/files/documents/toolkits/Portoolkit/Toolkit/index.html>. [143]
- World Bank and IRU (n.d.), *Road Freight Transport Services Reform*, <https://www.iru.org/sites/default/files/2017-01/iru-world-bank-road-freight-transport-services-reform-en.pdf>. [151]
- World Perspectives (2018), *Comprehensive Feasibility Study: U.S. Beef Cattle Identification and Traceability Systems*, http://www.beefusa.org/CMDocs/BeefUSA/NCBA%20feasibility%20study%20on%20traceability_WPI%20report%2001302018.pdf. [104]

- WTO (2016), *Trade Policy Review of Tunisia: Report by the Secretariat*, World Trade Organisation, Geneva, https://www.wto.org/english/tratop_e/tpr_e/s341_e.pdf. [114]
- WTO (2016), *Trade Policy Review: Tunisia*, World Trade Organization, <http://dx.doi.org/10.30875/6dcf952a-en>. [177]
- Yordanov, D. and G. Angelova (2006), “Identification and traceability of meat and meat products”, *Biotechnology and Biotechnological Equipment*, Vol. 20/1, pp. 3-8, <http://dx.doi.org/10.1080/13102818.2006.10817295>. [103]

Annex A. Methodology

In the framework of the Millennium Challenge Corporation (MCC) programme in Tunisia, including the Business Climate Modernization and Alleviation of Water Scarcity to Promote Increased Productivity components, the OECD was asked to conduct a competition assessment of the freight transport and trade sectors.

The assessment of laws and regulations in the scope of the present project was carried out in six phases, as agreed between MCC, the government of Tunisia, and the OECD. For its review, the OECD prioritised the legislation and regulation understood as the most important, in the light of feedback received from Tunisian stakeholders and MCC. This annex describes the methodology followed in each of the project phases.

Phase 1 – Mobilisation

The main objectives of the first phase of the project were the identification of initial sector boundaries and the preparation of an inception report.

Following consultations with Tunisian stakeholders and MCC, the OECD reached an initial conclusion of the sector boundaries, in the freight transport and logistics sector, and the wholesale and retail trade sectors. Based on this definition, the OECD submitted an inception report that included:

- overview and definition of freight transport and logistics sector
- overview and definition of (wholesale and retail) trade of selected food products
- barriers identified in previous OECD competition assessment projects, relevant for the sectors under review
- indicative economic studies relevant for the two proposed sectors
- overview of the OECD *Competition Assessment Toolkit*
- project work plan, deliverables and timelines.

Phase 2 – Identify sector boundaries

The objectives of Phase 2 were to reach a final decision on sectoral boundaries, following consultation with sectoral experts in government and in the private sector, and to identify the legislation to be prioritised (i.e. included in the first batch of legislation to be analysed).

Based upon initial research, sectoral boundaries were defined to focus analysis on areas in which *prima facie* barriers to competition existed and therefore impacts on competition could be expected. The OECD adopted definitions consistent with the Tunisian statistical classification – used by the INS – to facilitate data collection.

The OECD team assembled lists of the relevant legislation and regulations in the two sectors, combining input from the Ministry of Trade and the Ministry of Transport; lists of legislation produced by a local law firm engaged by the OECD; and publicly available legal sources (Tunisian Official Journal). For each sector, the lists included framework legislation applicable to the entire sector (for example, the law on distribution channels and law on commercial exhibitions) and legislation specific to the product or activity. The team also compiled a list of general legislation to be considered as legal context.

Within these lists, some legal texts were prioritised and included in the first batch of legislation to be analysed (before January 2019). These consisted of legislation specific to the activities included in the sector boundaries, complemented by some sector-level framework legislation closely related to the activities under review. In particular, the prioritised legislation covered:

- Wholesale and retail trade
 - Fruit and vegetables, such as legislation on wholesale markets (including the exclusivity in the establishment of central markets and, geographical restrictions)
 - Red meat, for instance, legislation for the establishment of slaughterhouses
 - Horizontal legislation, including the law on distribution, regulations on hypermarkets and price controls.
- Freight transport
 - Road transport, for instance, the legislation and *cahier des charges* imposing minimum requirements on road-haulage companies and setting differential requirements for incumbents and new entrants
 - Port services and related maritime activities, such as the regulation and *cahier de charges* of cargo handling, shipowners, and ship management
 - Freight forwarders, including regulation of the profession

The draft lists of legislation for each sector were shared with the Ministry of Trade, the Ministry of Agriculture, the Ministry of Transport, the Competition Council, and industry associations for comments. Feedback on both the completeness of the lists and the legislation (or activities) to be prioritised in the next phase of the project was solicited at meetings and in writing.

Over the course of the project, the lists of legislation were refined, as additional pieces were discovered by the team or issued by the authorities, while other pieces initially identified were found not to be relevant to the sectors or no longer in force. In total, 251 pieces of legislation were identified, including laws (*lois*), decrees (*décrets*), orders (*arrêtés*) and circulars (*circulaires*).

Phase 3 – Screening of the legislation

In the third phase of the project, the main tasks were screening the prioritised legislation and regulation to identify potentially restrictive provisions; understanding the policy maker's objective for those provisions identified as potentially restrictive; qualitative analysis of the harm to competition arising from the restrictions; and developing preliminary recommendations. In parallel, the OECD team prepared high-level overviews of the relevant economic sectors.

The OECD team reviewed selected pieces of transversal legislation applicable to both sectors such as the public-private-partnership (PPP) law, concessions, and special regime for exporting companies. No specific barriers related to the two analysed sectors were identified.

The legislation was analysed using the framework provided by the OECD *Competition Assessment Toolkit*.¹ The *Toolkit*, developed by Working Party 2 of the OECD Competition Committee, provides a general methodology for identifying potential obstacles in laws and regulations. One of the main elements of the *Toolkit* is a competition checklist that asks a series of simple questions to screen laws and regulations with the potential to unnecessarily restrain competition.

Box A.1. OECD Competition Checklist

Further competition assessment should be conducted if a piece of legislation answers “yes” to any of the following questions:

(A) Limits the number or range of suppliers

This is likely to be the case if the piece of legislation:

1. Grants exclusive rights for a supplier to provide goods or services
2. Establishes a licence, permit or authorisation process as a requirement of operation
3. Limits the ability of some types of suppliers to provide a good or service
4. Significantly raises the cost of entry or exit by a supplier
5. Creates a geographical barrier to the ability of companies to supply goods services or labour, or invest capital.

(B) Limits the ability of suppliers to compete

This is likely to be the case if the piece of legislation:

1. Limits sellers’ ability to set the prices for goods or services
2. Limits freedom of suppliers to advertise or market their goods or services
3. Sets standards for product quality that provide an advantage to some suppliers over others or that are above the level that some well-informed customers would choose
4. Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants).

(C) Reduces the incentive of suppliers to compete

This may be the case if the piece of legislation:

1. Creates a self-regulatory or co-regulatory regime
2. Requires or encourages information on supplier outputs, prices, sales or costs to be published
3. Exempts the activity of a particular industry or group of suppliers from the operation of general competition law.

(D) Limits the choices and information available to customers

This may be the case if the piece of legislation:

1. Limits the ability of consumers to decide from whom they purchase
2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers
3. Fundamentally changes information required by buyers to shop effectively.

Source: (OECD, 2017^[153])

Following the methodology of the *Toolkit*, the OECD team compiled a list of all the provisions that answered positively to any of the checklist questions. The team researched the policy objectives in order to examine the proportionality of the selected provisions with the intended objective. An additional purpose in identifying objectives was to prepare for the formulation of alternatives to existing regulations, when required, taking account of the objective of the specific provisions. The objective of the policy maker was researched in the recitals of the legislation, when applicable, or through discussions with the relevant public authorities.

The analysis of the harm to competition was carried out qualitatively and involved a variety of tools, including economic analysis, collection of background information on the sector and its regulation, and research into the regulation applied in other countries.

The OECD prepared tables indicating, for each potential barrier, the objective of the policy maker and the potential harm to competition. Government experts and industry associations were given an opportunity to comment on the tables. Interviews with market participants and with government experts and high-level officials complemented the analysis, by providing crucial information on the actual implementation and effects of the provisions. In addition, the OECD team developed preliminary high-level recommendations for the restrictions identified. In some cases, the potential restrictions were considered proportional to the policy maker's objective and no recommendation was made.

For each of the sectors, the OECD collected data and information, covering industry trends and main indicators such as output, employment and prices. Input was solicited from industry associations, to improve the project team's understanding of the sectors and the challenges of the Tunisian market.

Phase 4 – Finalisation of *Report 1*

A draft version of the output delivered during this phase (*Report 1*) was shared for comments and presented to the government of Tunisia and MCC at a meeting of the High-Level Local Group in Tunis.

Following input and feedback on the draft report, the team finalised *Report 1*, which was then made available in English and in French.

Phase 5 – Recommendations for reform and benefits of lifting identified restrictions

Building on the recommendations developed in Phase 3 of the project, the OECD team provided detailed draft recommendations for each provision identified as potentially restrictive. The OECD also analysed the potential harm to competition and developed the proposed recommendations on related non-prioritised legislation, identified in Phase 2.

In this process, the OECD relied on international experience – from the MENA region, and European and OECD countries – whenever available. For instance, this could be policy changes likely to lower barriers to entry to certain economic activities (for instance, requirements for certain capital equipment or minimum share capital in the freight transport sector); or reforms to improve the ability of suppliers to compete, such as lifting detailed provisions regulating the activities of wholesalers of fruit and vegetables.

Draft recommendations were submitted to the relevant ministries, the Competition Council and MCC for comments. The OECD also discussed the draft recommendations with

business representatives to test whether they would be feasible in practice and to gather additional information from interested parties.

In parallel, the project team prepared a draft report, in English and French, providing a deeper analysis of the main recommendations and more extensive sectoral overviews compared to *Report 1*. In addition to the sectoral overviews, the OECD drafted overviews of the main sub-sectors covered by the analysis, namely the retail and wholesale trade of fruit and vegetables, and of red meat, freight transport by road and freight maritime transport.

Phase 6 – Finalisation

The OECD submitted the draft report (in English and in French) to MCC, the relevant ministries and the Competition Council. Within the OECD, the report was shared with the International Transport Forum (which also contributed with international experience in the transport sector), the Investment Division, the Economics Department (Tunisia desk and the team dealing with the product market regulation indicator), and the Development Centre.

Following comments and feedback, the report was finalised. In total, 220 recommendations were submitted.

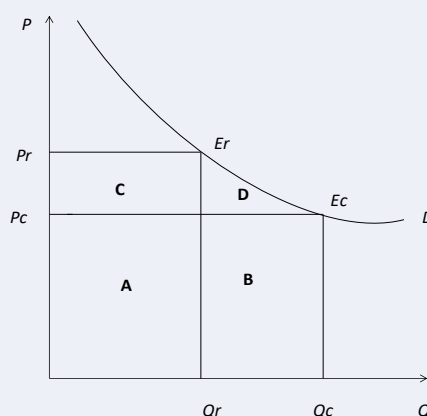
Benefits from lifting barriers to competition

The benefits from removing barriers to competition were analysed qualitatively and, whenever feasible and meaningful, quantitatively. In most cases it was not possible to model the expected impact of lifting a regulatory restriction directly, for instance, because of a lack of sufficient or granular data. Therefore, the OECD team relied on the standard methodology of measuring the effect of policy changes on consumer surplus. In particular, as a result of data limitations, it followed the approach developed in OECD (2017^[154]) that derives a formula for changes in consumer benefits when only sector revenue and the average price effect of the restriction found are available. This is explained in Box A.2 below

Box A.2. Measuring changes in consumer surplus

The effects of changing regulations can often be examined as movements from one point on the demand curve to another. For many regulations that have the effect of limiting supply or raising price, an estimate of consumer benefit or harm from the change from one equilibrium to another can be calculated. Graphically, the change is illustrated for a constant elasticity demand curve: E_r shows the equilibrium with the restrictive regulation; E_c shows the equilibrium point with the competitive regulation. The competitive equilibrium is different from the restrictive regulation equilibrium in two important ways: lower price and higher quantity. These properties are a well-known result from many models of competition.

Figure A.1. Changes in consumer surplus



Source: OECD (2017).

Under the assumption of constant elasticity of demand the equation for consumer benefit is:

$$CB = C + D \approx (P_r - P_c)Q_r + \frac{1}{2} (P_r - P_c)(Q_c - Q_r)$$

Where price changes are expected, a basic formula for such a standard measure of consumer benefit from eliminating the restriction is:

$$CB = \left(\rho + \frac{1}{2} \epsilon \rho^2 \right) R_r$$

Where CB: standard measure of consumer harm; ρ : percentage change in price related to restriction; R : sector revenue; and ϵ : demand elasticity. When elasticity is not known, a relatively standard assumption is that $|\epsilon|=2$. This value corresponds to more elastic demand than in a monopoly market, but also far from perfectly elastic as in a competitive market. Under this assumption, the expression above simplifies as:

$$CB = (\rho + \rho^2) R_r$$

Source: OECD (2017_[154])

Co-operation with the Tunisian administration

An important component of the project was the regular and extensive consultation with the relevant ministries, authorities and other stakeholders. The OECD also organised a workshop in Tunisia in which a large number of Tunisian officials participated. Its objective was to disseminate the project components, plan and objectives, and to present the competition-assessment methodology. It was also an opportunity for Tunisian stakeholders to present the current situation and to interact with OECD competition experts. Representatives from MCC also actively participated in the workshop. Government experts provided valuable contributions to the mapping exercise of the legislation by commenting on the extent to which the collected regulations were comprehensive, and by providing additional legal texts. Subsequently, co-operation with these experts continued with the identification of the legislative objectives in their sectors of expertise and discussion on the provisions identified by the OECD as restrictive on the basis of the *Competition Assessment Checklist*. The OECD also discussed the provisions in detail, to understand to what extent they were implemented in practice and to solicit feedback from the administration on possible recommendations.

Another important task throughout the project was establishing contact with market players through the main sectoral associations. Interviews with these market participants contributed to a better understanding of how the analysed sectors work in practice and helped in the discussion of potential barriers deriving from the legislation or misinterpretation of specific provisions.

In addition, the OECD organised a workshop in which the project team presented the benefits of competition and the *Toolkit* methodology, along with numerous concrete examples. The Tunisian administration gave presentations on the sectors within its remit and important developments, both at regulatory level and in the market. The workshop was central to building capacity on the competition-assessment methodology, and increase national ownership of future regulatory reforms.

Overall, the OECD organised 11 missions to Tunisia to gather information about the country, exchange and solicit feedback from the Tunisian administration, business representatives and MCC. The OECD team had, in total, over 100 meetings with the national ministries and authorities and with stakeholders, including sectoral experts.

Notes

¹ OECD (2017), *Competition Assessment Toolkit: Volume 1. Principles*, www.oecd.org/competition/toolkit; OECD (2017), *Competition Assessment Toolkit: Volume 2. Guidance*, www.oecd.org/competition/toolkit; OECD (2017), *Competition Assessment Toolkit: Volume 3. Operational Manual*, www.oecd.org/competition/toolkit.

Annex B. Legislation screening by sector

Wholesale and retail trade: horizontal

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
H-1	Law 2015-36 of 15 September 2015 on competition and prices	Art. 3	Wholesale and retail trade	Goods, products and services of primary need or relating to sectors or areas where price competition is limited either because of a monopoly situation or because of persistent difficulties in supplying the market or because of legislative or regulatory measures are excluded from the price-freedom regime.	The OECD understands that the purpose of this article is to ensure sufficient production and accessibility of staple goods, and to regulate markets that feature limited competition or monopolies.	Price controls lessen market efficiency by reducing the incentives of suppliers to develop products and innovate to reduce supply costs and increase quality.	Ensure greater flexibility of prices and their supervision and revise this provision in a broader perspective of price liberalisation and economic efficiency.
H-2	Law 2015-36 of 15 September 2015 on competition and prices	Art. 34 (1)	Wholesale and retail trade	The provision prevents distributors from implementing any below-cost pricing initiative (i.e. selling below the price paid to purchase the product). The provision allows for the following exceptions to the rule: 1) perishable products that can quickly deteriorate; 2) sales due to the change or closing down of a commercial activity; and 3) when, after significant purchases of products are made	The provision banning below-cost pricing is underpinned by the objective of preserving smaller retailers.	Restrictions on below-cost pricing keep prices higher than would otherwise be the case and reduce possible consumer benefits. Moreover, by restricting the number and frequency of unusually low prices, they reduce price dispersion among retail distributors.	Abolish the provision or, alternatively, amend it to allow for more exceptions. The Tunisian competition authority should be provided with sufficient resources to enforce laws against abuse of dominance.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				at a lower price, the latter price can replace the value of the initial (and higher) purchase price; 4) seasonal sales; and 5) slow-selling items			
H-3	Decree 91-1996 of 23 December 1991 on the products and services exempt from the price-freedom scheme and the means of their establishment as modified by Decree 95-1142 of 28 June 1995	Art. 1	Wholesale and retail trade	The decree establishes three lists of products and services excluded from the general principle of price freedom: 1) List A, for products and services subject to price control at all stages (16 products, including bread, flour, fuel, and sugar); 2) List B, for products subject to price control at the production level (8 products, including salt, coffee, and beer); 3) List C, for products subject to mark-up regulations at the retail stage (33 products, including fruits and vegetables, white meat, and cement).	The purpose of this decree is to draw up the exhaustive list of the products and services subject to price controls, as well as the arrangements for their framing.	First introduced in 1970 (Decree 70-545), the current version of the list of products and services excluded from the general principle of price freedom was adopted in 1991. Since then, it has been revised only twice: in 1993 and 1995. If these lists are not revised frequently, there is a risk of limiting price flexibility (and potentially setting prices too high) for products whose competitive situation has evolved.	Update the three lists and review the pricing modalities, especially for List A, in line with recommendation H-1. Ensure more frequent monitoring of the situation of products and services excluded from the principle of price freedom and remove products such as salt and grey cement whose prices have been liberalised.
H-4	Law 62-14 of 24 May 1962, ratifying the Decree-Law that created the Tunisian Trade Board	Art. 1	Institutional framework	The mandate of the OCT) provides for exclusivity for the importation of four, variably priced products: green coffee, tea (green and black), sugar in bulk, and rice.	OCT ensures the supply of the local market with essential commodities at fluctuating prices (green coffee, tea, sugar, rice). It also finances and manages reserve stocks covering 3 to 4 months of consumption in these (and certain other) cyclical products.	OCT is directly involved in the regulation of the market through the importation and marketing of four foodstuffs, as well as the management of strategic stocks of sensitive products and the importation of short-term products. These interventions are carried out at prices set by the authorities and can cement the price-control regime (see H-3) and affect the financial viability of the company.	Conduct market analysis on sugar, coffee, tea and rice and assess the appropriateness of maintaining OCT's import monopoly for these products. Review OCT's status to enable it to act more effectively as a central-purchasing body for fluctuating-price products and to provide it with the necessary flexibility in terms of price and quantities to be imported.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
H-5	Law 70-26 of 19 May 1970 on the methods for setting prices and fighting economic crimes	Art. 3	Institutional framework	The CGC was established with the objective of acting on prices of commodities, products and services of primary necessity, in particular by means of subsidies and equalisation.	The objectives assigned to the CGC include supporting producer and consumer prices, and more generally ensuring price stabilisation, and the fluidity and continuity of market supply. The scope of the compensation policy goes beyond the protection of the purchasing power of lower-income groups to guarantee a minimum income for farmers.	The restriction on the ability to freely set prices of goods and services may cause distortions in the market and strengthen the informal economy and fuel smuggling. Price rigidity limits adjustments in supply and demand. If prices are kept artificially low, producers and suppliers will have less incentive to supply the local market if they can sell their goods at higher prices in the markets of neighbouring countries. Moreover, artificially low prices do not encourage new entries, and limit investment and innovation. Subsidies also help keep ineffective suppliers in business.	Amend the mandate of the CGC and refocus its interventions in line with the H-3 recommendation as part of a broader perspective of price liberalisation and economic efficiency. Alternatively, simplify the number of the fund's objectives as they complicate its mission.
H-6	Decree 2002-2145 of 30 September 2002 establishing a Commodity Compensation Unit	Art. 2	Institutional framework	The Commodity Compensation Unit (<i>Unité compensation des produits de base</i>) was established to: 1) assist in the design, preparation and monitoring of the government's strategies for commodity compensation; 2) set annual requirements for commodity compensation and funding terms and conditions; 3) participate in the evaluation of the effectiveness of compensation programmes, mechanisms and procedures; and 4) develop studies and research and propose adjustment measures.	The purpose of the compensation system is to manage the prices of staple products, particularly cereal products, in order to mitigate price increases. The compensation system ensures the regular supply of the local market by subsidised products at relatively stable prices, taking into account citizens' purchasing power.	The restriction on the ability to freely set prices of goods and services may cause distortions in the market and strengthen the informal economy and fuel smuggling. Price rigidity limits adjustments in supply and demand. If prices are kept artificially low, producers and suppliers will have less incentive to supply the local market if they can sell their goods at higher prices in the markets of neighbouring countries. Moreover, artificially low prices do not encourage new entries, and limit investment and innovation. Subsidies also help keep ineffective suppliers in business.	Revise the mandate of the Commodity Compensation Unit in line with the H-5 recommendation.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
H-7	Law 2009-69 of 12 August 2009 on the distribution business	Art. 5	Wholesale and retail trade	An operator can only integrate trade activities at the wholesale and retail stages only it keeps a strict separation of the two sets of sales premises and separate accounting.	The OECD understands that the objective of this article is to ensure transparency in case the two types of business are combined. Different salary agreements may apply to each phase, and the tax treatment may be different. Wholesalers are subject to a real-tax system, whereas retailers can be subject to a flat-fee tax system.	The conditions imposed on combined wholesale and retail distribution businesses increases entry and operating costs. This limits the capacity to supply goods and may prevent economies of scale and scope that can happen following vertical integration. This restriction entails a lengthening of the distribution circuit, an obligation to resort to intermediaries, and an accumulation of mark-ups that may increase consumer prices.	Amend the provision to facilitate the combination of wholesale and retail trade activities. A first step would be to allow operators subject to the real-tax scheme to combine the two activities without additional requirements.
H-8	Law 2009-69 of 12 August 2009 on the distribution business	Art. 7	Wholesale and retail trade	Producers are not permitted to engage in wholesale or retail trade as part of the same business entity. A fine ranging from TND 1 000 to TND 10 000 can be imposed on producers engaging in the wholesale or retail trade, even if the producer entity sells only its own products. Farmers and craftsmen are exempted from this provision.	The OECD understands that the objective of the provision is to protect competition between the various economic actors. Producers usually have access to financial and tax incentives that are more beneficial than those available to retailers and wholesalers. Producers might thus leverage these incentives to cross-subsidise retail and wholesale trade activities.	The prohibition on producers engaging in wholesale or retail distribution through their production businesses restricts the possibilities of supplying goods by excluding producers from the commercial sphere. Even though obtaining a commercial licence allows producers to engage in commerce, this is subject to the obligation to keep separate accounts. This prohibition prevents vertical integration, entails a lengthening of distribution channels, and increases the number of intermediaries, which may result in the accumulation of mark-ups and higher prices for consumers.	Allow producers to choose between using retailers or distributing their own products without restrictions.
H-9	Law 2009-69 of 12 August 2009 on the distribution business	Art. 9	Wholesale and retail trade	The possession of an identification card for the practice of the itinerant retail trade by any sole proprietorship is mandatory.	The OECD understands that this article has both administrative and safety objectives. It seeks to identify all market actors, verify their businesses, and facilitate oversight, while ensuring oversight of the nature of the products that they distribute to consumers.	Open-air markets and weekly street markets are important for remote areas in the country, and often represent the main source of provisions for local consumers. Conditions and procedures that restrict the practice of itinerant retail commerce, as well as the taxes and procedures demanded by local authorities, may limit the number of suppliers, reduce the level of competition, and possibly increase prices.	Abolish this provision as stipulated in Annex II of Decree 2018-417.

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H-10	Decree 2010-828 of 20 April 2010, relating to producers' direct sales to consumers	Art. 2	Wholesale and retail trade	Producers are permitted to engage in retail trade under article 7 of Law 2009-69 only in the exceptional circumstances listed in this article.	The OECD understands that the objective of the provision is to protect competition between the various economic actors. Producers usually have access to financial and tax incentives that are more beneficial than those available to retailers and wholesalers. Producers might thus leverage these incentives to cross-subsidise retail and wholesale trade activities.	This provision discourages vertical integration, entails a lengthening of distribution channels, and increases the number of intermediaries, which may result in the accumulation of mark-ups and higher prices for consumers.	Allow producers to choose between using retailers or distributing their own products without restrictions.
H-11	Order of the Ministry of Interior and Local Development and the Ministry of Commerce and Handicrafts of 9 December 2010 setting out the conditions and procedures for the exercise of the itinerant retail trade	Art. 4	Wholesale and retail trade	All persons seeking to work in the itinerant retail business must obtain an itinerant retailer's card issued by the regional trade directorate after consulting the territorially competent governor.	The OECD understands that this article has both administrative and safety objectives. It seeks to identify all market actors, verify their businesses, and facilitate oversight, while ensuring oversight of the nature of the products that they distribute to consumers.	Open-air markets and weekly street markets are important for remote areas in the country, and often represent the main source of provisions for local consumers. Conditions and procedures that restrict the practice of itinerant retail commerce, as well as the taxes and procedures demanded by local authorities, may limit the number of suppliers, reduce the level of competition, and possibly increase prices.	Abolish this Order as stipulated in Annex II of Decree 2018-417.
H-12	Decree-Law 61-14 of 30 August 1961 on the terms and conditions for engaging in certain kinds of commercial activities	Art. 2	Wholesale and retail trade	A foreign legal entity is only authorised to engage in business activities under the following terms and conditions: 1) it must be duly established in accordance with the current laws in effect and to have its registered office in Tunisia; 2) at least 50% of its share capital must be held in the form of registered shares by Tunisian individuals or legal entities; 3) its board of directors, management board, or supervisory board must	The restrictions on foreign individuals and legal persons undertaking commercial activities in Tunisia were adopted in the 1960s with the aim of "Tunisifying" the economy in a post-independence context. The obligation to hold a "merchant card" has been maintained over the years to protect domestic trade, but a reciprocity approach with the country's trading partners has been adopted.	The restrictions on foreign natural and legal persons undertaking commercial activities in Tunisia constitute an exception to the National Treatment Instrument under the OECD Declaration on International Investment and Multinational Enterprises, to which Tunisia adhered in May 2012. The principle of national treatment is set out in Tunisia's new investment code (Law 2016-71, Article 7) and restricts the supply of services by placing limits on the number of suppliers. This may reduce	Abolish the requirement to apply for a "merchant card" for foreign firms seeking to undertake commercial activities in Tunisia. Alternatively, the criteria used to assess card applications should be transparent and based on clear technical criteria.

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				consist of a majority of individuals holding Tunisian nationality; 4) the chairman, CEO, or general manager be an individual holding Tunisian nationality.		the level of competition, limit consumer choice, and affect product quality.	
H-13	Order of 14 June 1961 on commercial identification cards and the authorisation procedures for the practice of certain commercial activities as modified by Order of 22 December 1998, Order of 17 June 2015, and Order of 14 June 2016	Art. 3	Wholesale and retail trade	Legal entities that do not have Tunisian nationality may obtain a "merchant card" upon filing an application at the offices of the Ministry of Trade and receiving the opinion of the advisory committee created by Order of 14 September 1961 and the agreement of the Ministry of Trade.	The OECD understands that the commission meets every month and conducts the technical review of applications on a case-by-case basis, according to the business plan provided by a card applicant. The commission is responsible for issuing its technical opinion to the Ministry of Trade.	The obligation to obtain a "merchant card", unclear timeframes, and the terms and conditions constitute an administrative burden and contribute to restricting the number and ability of suppliers to engage in trade in Tunisia. This may lead to lowering pressure on prices and limit consumer choices.	As set out in Article 6 of Decree 2018-417, ensure strict application of the 60-day "silence is consent" rule to the advisory commission's assessment of merchant cards, after which time the Ministry of Trade should issue cards regardless of whether an advisory commission opinion has been received.
H-14	Law 94-41 of 7 March 1994 on international trade	Art. 5	International Trade	Products excluded from the freedom import-export scheme of international trade may not be imported or exported without authorisation from the Ministry of Trade.	Products may be imported and exported freely, except for those subject to the restrictions provided for by law. These apply to all products involving security, public order, hygiene, health, morality, the protection of animals, plants, and cultural heritage.	This provision places restrictions on the import-export of various products. These restrictions may generate distortions in the market by creating artificial scarcity, limiting consumer choice, which may translate into costlier and lower-quality products. This may also entail a significant administrative charge for exports, especially industries such as agro-food.	Ensure that the lists of products subject to import and export restrictions are reassessed in light of their original policy objective. Products and services that may improve Tunisian exports and competitiveness, such as agricultural products, could be prioritised.
H-15	Decree 94-1742 of 29 August 1994, establishing the lists of products excluded from the regime of freedom of international trade	Art. 1 and Table A	Wholesale and retail trade	The detailed list of products excluded from the regime of freedom of international trade is set out in Table A annexed to the Decree.	Products may be imported and exported freely, except for those subject to the restrictions provided for by law. These apply to all products involving security, public order, hygiene, health, morality, the protection of animals, plants, and cultural heritage.	The requirement for import authorisation applies to 192 products. These requirements can be either permanent (144 products) or temporary (currently 48 products). The requirement for export authorisation applies to 102 products. The presence of a number of products on the different lists such as carpets or pasta does not seem justified or proportionate to the policy objective. It is	Ensure that the lists of products subject to import and export restrictions are reassessed in light of their original policy objective. Products and services that may improve Tunisian exports and competitiveness, such as agricultural products, could be prioritised.

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						worth noting that additional products might be added to the different lists by decision of the Ministry of Trade, which increases uncertainty for importers and exporters alike.	
H-16	Law 94-42 of 7 March 1994, modified and completed by the Law 96-59 of 6 July 1996 and Law 98-102 of 30 November 1998, fixing the regime applicable to international trade companies	Art. 5	International trade	International trade companies (<i>sociétés de commerce international</i>) are established with a minimum capital set by Order of the Ministry of Trade. The capital must be paid in full upon the company's establishment.	The OECD understands that the establishment of a minimum share capital seeks to ensure a solid financial position for these companies to enable them to operate effectively on international markets.	This provision increases the entry costs of new companies and may discourage investment and reduce the number of operators in the market and subsequently affect Tunisian export capacity. This may also have a direct impact on choice and product quality for consumers.	Abolish the specific minimum capital requirement and apply the general regime applicable to commercial companies.
H-17	Law 94-42 of 7 March 1994, modified and completed by the Law 96-59 of 6 July 1996 and Law 98-102 of 30 November 1998, fixing the regime applicable to international trade companies	Art. 7	International trade	International trade companies may not engage in direct sales in the local market without going through international commercial operators, and are prohibited from engaging in any retail sales.	The OECD understands that this article seeks to preserve competition between the various operators by making a distinction between intermediation of international trade and distribution within the domestic market.	This provision may limit the number of operators on the market, lengthen the distribution channel, and generate more mark-ups and potentially, higher consumer prices. It may also limit consumer choice.	Amend the requirement for international trade companies to use international commercial operators for the sale of products on the local market.
H-18	Order of 12 April 1994 of the Ministry of National Economy, establishing minimum capital requirements for international trade companies, completed by Order of 28 April 1999	Art. 1	International trade	The minimum capital requirement for international trade companies is set at TND 150 000. It is reduced to TND 20 000 for young entrepreneurs.	The OECD understands that the establishment of a minimum share capital seeks to ensure a solid financial position for these companies to enable them to operate effectively on international markets.	This provision increases the entry costs of new companies and may discourage investment and reduce the number of operators in the market and subsequently affect Tunisian export capacity. This may also have a direct impact on choice and product quality for consumers.	Abolish the specific minimum capital requirement and apply the general regime applicable to commercial companies.

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H-19	Law 94-42 of 7 March 1994 modified and completed by the Law 96-59 of 6 July 1996 and Law 98-102 of 30 November 1998, fixing the regime applicable to international trade companies	Art. 5 bis	International trade	Holding a post-graduate degree is one of the main conditions set for young entrepreneurs wishing to establish an international trade company and benefit from a reduced minimum capital requirement of TND 20 000.	The OECD understands that the academic qualification requirement seeks to ensure solid management skills to ensure companies operate effectively on international markets and to promote employment among young graduates.	Academic qualification requirements may increase the costs of for an operator to establish itself and operate in the market. This may discourage investment and reduce the number of companies on the market.	Amend the provision and remove the academic qualification requirement.
H-20	Order of 10 September 1996 of the Ministry of Trade, setting the minimum amount and method of calculating export sales of goods and products of Tunisian origin and the value of the balance of international trading and brokerage transactions	Art. 1	International trade	The minimum amount of annual sales of goods and products of Tunisian origin made by international trade companies is set at TND 1 million.	It was not possible to identify the objective of the specific provision. However, in the OECD's understanding, this provision aims to ensure that international trade companies are operational and not used as shell corporations.	This provision may limit the number of actors on the market and may affect the export capabilities of Tunisia and its international competitiveness.	No recommendation.
H-21	Law 2009-69 of 12 August 2009 on the distribution business	Art. 10	Hypermarkets	The establishment of a shopping centre whose building foundations exceed 3 000m ² during its construction or after its extension or whose base area reserved for sale exceeds 1 500m ² requires prior authorisation.	This article seeks to protect small businesses and to preserve space and property within cities.	This provision may constitute a barrier to entry for new actors. This authorisation process may turn out to be stricter than necessary for the sake of protecting consumers, the environment, property, and consumers; however, it may reduce the level of competition and pressure on prices, limit consumer choice, and create artificial scarcity that will cause prices to rise.	Issue a guidebook formalising the procedures for granting authorisations for the establishment of hypermarkets and shopping centres.
H-22	Law 2003-78 of 29 December 2003 amending and completing the Urban Planning and Development Code	Art. 5 bis	Hypermarkets	The article dictates that hypermarkets and shopping centres should be located at least 5 km (2 km in exceptional circumstances) away from the boundaries of cities urban master plans.	The OECD understands that this article seeks to preserve agricultural land, as well as space and property within cities.	This provision sets a geographic limit on the placement of hypermarkets and shopping centres. This may reduce the number of suppliers, which will prevent suppliers from providing goods, services, and from investing and creating jobs. This type of restriction artificially limits the	Abolish the provision imposing a geographical restriction. Alternatively, revise it to differentiate between hypermarkets and shopping centres and reconsider the geographical restriction, which

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						geographic area of competition for the provision of a good or a service. This restriction may enable existing operators to exert power over the market and to increase their prices. Requiring hypermarkets and shopping centres to be located outside cities can also contribute to population dispersion from the centre towards the suburbs, reducing the economic viability of businesses located in the city centre, including the traditional retailers that this policy seeks to protect.	could be replaced with a requirement to build hypermarkets outside the historical city centre.
H-23	Law 2003-78 of 29 December 2003 amending and completing the Urban Planning and Development Code	Art. 11 bis	Hypermarkets	Authorisation for hypermarkets and shopping centres is issued by decree by the Ministry of Trade, the Ministry of Local Development, and the Ministry of Social Affairs, in consultation with the Ministry of the Interior after an applicant has submitted four technical studies, including an environmental impact assessment (as stipulated by Article 11 of the Urban Planning and Development Code).	The authorisation conditions aim to ensure that the environmental, economic and social impact of the project is well assessed and in line with local development objectives. The traffic study aims to ensure that roadways leading to commercial areas meet the traffic requirements generated by the project.	This provision may constitute a barrier to entry for new actors. This authorisation process may turn out to be stricter than necessary for the sake of protecting consumers, the environment, property, and consumers; however, it may reduce the level of competition and pressure on prices, limit consumer choice, and create artificial scarcity that will cause prices to rise.	Issue a guidebook formalising the procedures for granting authorisations for the establishment of hypermarkets and shopping centres.
H-24	Decree 2013-664 of 28 January 2013 as modified by Decree 2017-1253 of 17 November 2017, establishing the terms, conditions, and procedures for granting authorisation for hypermarkets and shopping centres	Art. 3	Hypermarkets	There are 13 conditions related to the structure of hypermarkets and shopping centres, including the surface area and height of buildings, access ways, percentage of the plot that can be built, size of car parks, and surface area and number of green spaces.	The OECD understands that this article seeks to ensure hypermarkets and shopping centres' compliance with building safety regulations and standards, as well as with urban landscape harmonisation regulations.	The multiple conditions required for establishing hypermarkets and shopping centres, as well as their cumulative and mandatory nature, create restrictive conditions that may considerably increase entry costs for potential suppliers. Limiting the number of actors in the market may consequently affect consumer choice, as well as quality and price of products.	Simplify the technical requirements for establishing hypermarkets and shopping centres by focusing on building safety issues and traffic-access conditions, including public-transport connectivity.

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H-25	Decree 2013-664 of 28 January 2013 as modified by Decree 2017-1253 of 17 November 2017, establishing the terms, conditions, and procedures for granting authorisation for hypermarkets and shopping centres	Art. 3 bis	Hypermarkets	There are 8 conditions related to the structure of hypermarkets and shopping centres to grant an authorisation for their establishment within city centres or zones covered by an urban master plan.	The OECD understands that this article seeks to ensure hypermarkets and shopping centres' compliance with building safety regulations and standards, as well as with urban landscape harmonisation regulations.	The multiple conditions required for establishing hypermarkets and shopping centres, as well as their cumulative and mandatory nature, create restrictive conditions that may considerably increase entry costs for potential suppliers. Limiting the number of actors in the market may consequently affect consumer choice, as well as quality and price of products.	Simplify the technical requirements for establishing hypermarkets and shopping centres by focusing on building safety issues and traffic-access conditions, including public-transport connectivity.
H-26	Law 2009-69 of 12 August 2009 on the distribution business	Art. 11	Hypermarkets	The National Commission of Commercial Urban Planning (Commission Nationale d'Urbanisme Commercial) was created to issue technical opinions on applications for shopping-centre and hypermarket authorisations.	The commission is responsible for providing the technical opinions necessary for the Ministry of Trade's decisions on granting authorisations.	The commission has no mandatory time limits for responding, which may lead to a lack of predictability. The provision therefore represents a potential barrier to entry, may create uncertainty, discourage investment, and limit the number of suppliers.	A stipulated by Article 6 of Decree 2018-417, strictly apply the 60-day "silence is consent" rule to the Commission for the evaluation period for authorisation requests and the issuance of an opinion.
H-27	Decree 2013-664 of 28 January 2013 as modified by Decree 2017-1253 of 17 November 2017, establishing the terms, conditions, and procedures for granting authorisation for hypermarkets and shopping centres	Art. 8	Hypermarkets	The National Commission of Commercial Urban Planning is responsible for assessing authorisation requests in detail. The commission's secretariat has 30 days during which it must summon members to meetings to study and rule on applications.	The commission is responsible for providing the technical opinions necessary for the Ministry of Trade's decisions on granting authorisations.	The commission has no mandatory time limits for responding, which may lead to a lack of predictability. The provision therefore represents a potential barrier to entry, may create uncertainty, discourage investment, and limit the number of suppliers.	A stipulated by Article 6 of Decree 2018-417, strictly apply the 60-day "silence is consent" rule to the Commission for the evaluation period for authorisation requests and the issuance of an opinion.
H-28	Decree 2010-1765 of 19 July 2010, establishing the composition and operating procedures of the National Commission of Commercial Urban Planning	Art. 4	Hypermarkets	The National Commission of Commercial Urban Planning issues an opinion on authorisations requests for establishing or extending hypermarkets and shopping centres based on the economic,	The OECD understands that evaluation of authorisation requests are made on a case-by-case basis taking into consideration the national master plan for medium- to large-sized	The absence of a clear and precise evaluation schema and the lack of clarity regarding the criteria for evaluating applications may generate discretionary practices towards candidates that may limit their number. This can also lead to arbitrary standards for decision-making, meaning successful applicants may not	Clarify evaluation criteria for assessing applications and develop a clear and transparent evaluation schema.

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				social and environmental impact of the project.	commercial centres, which is currently being updated for 2030.	be the most efficient, but may simply be the most successful in navigating the complex process. Risks of rent-seeking activities are also pronounced.	
H-29	Decree 2002-2683 of 14 October 2002, approving provisions to amend and complete the General Urban Planning regulation approved by Decree 99-2253 of 11 October 1999	Art. 1	Hypermarkets	The article dictates that hypermarkets and shopping centres should be located at least 5 km (2 km in exceptional circumstances) away from the boundaries of urban master plans of cities with over 50 000 inhabitants.	The OECD understands that this article seeks to preserve agricultural land, as well as space and property within cities.	This provision sets a geographic limit on the placement of hypermarkets and shopping centres. This may reduce the number of suppliers, which will prevent suppliers from providing goods, services, and from investing and creating jobs. This type of restriction artificially limits the geographic area of competition for the provision of a good or a service. This restriction may enable existing operators to exert power over the market and to increase their prices.	Abolish the provision imposing a geographical restriction. Alternatively, revise it to differentiate between hypermarkets and shopping centres and reconsider the geographical restriction, which could be replaced with a requirement to build hypermarkets outside the historical city centre.
H-30	Law 2009-69 of 12 August 2009 on the distribution business	Art. 4	E-commerce	Electronic distribution and sales businesses must notify the authorities by filing a copy of the commercial website hosting contract within one month of its execution date. Any modification to the website must be notified within the same timeframe. Such notifications cannot be made online.	The OECD understands that the goal of this article is to ensure authorisations for electronic distribution and sales businesses to the same procedures as traditional businesses. It should be noted that the contract can be filed with the regional trade offices.	The obligation to submit a hard copy to the Ministry of Trade of a commercial website hosting contract (as well as any further amendment of this contract) restricts certain potential electronic service providers from undertaking this procedure online. This may slow down competition and business development.	Allow providers of e-commerce services to submit their web hosting contracts online.
H-31	Law 2000-83 of 9 August 2000, on electronic transactions and commerce	Art.11 para. A	E-commerce	Any natural or legal person wishing to undertake the activity of supplier of electronic-certification services must obtain prior authorisation from the Tunisian Electronic Certification Agency (Agence Nationale de Certification Électronique, ANCE).	The OECD understands that the purpose of this provision is to ensure the security of trade transactions and the protection of consumers.	The requirement to obtain prior authorisation for the activity of electronic-certification service provider may limit the number and range of providers.	No recommendation.

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H-32	Law 2000-83 of 9 August 2000, on electronic transaction and commerce	Art. 11, para. B	E-commerce	A sole proprietorship or the legal representative of the sole proprietorship wishing to obtain an authorisation must fulfil the following conditions: 1) be Tunisian nationality for at least 5 years; 2) be domiciled on Tunisian territory; 3) have no criminal record and enjoy all civil and political rights; 4) hold at least a master's degree or equivalent; 5) not exercise any other professional activity.	The OECD understands that the cumulative requirements are set to ensure the protection of consumers.	This provision includes an exception to national treatment and limits the number of providers who can perform certification services (which can also be provided by third parties or remotely). The condition not to perform another activity does not seem justified and is not proportionate. These conditions act as a restriction, may limit the number of suppliers, and at the same time, discourage investment.	Reconsider the condition of nationality if the person concerned is domiciled on the Tunisian territory and abolish the restriction on other professional activities.
H-33	Decree 2001-1667 of 17 July 2001, approving the specifications for the exercise of electronic-certification services activity	Art. 2	E-commerce	Any natural or legal person wishing to undertake the activity of electronic-certification services must provide a share capital of no less than TND 100 000 provided at the incorporation of the company, and for a sole proprietorship, submit a bank certificate proving the existence of a TND 100 000 provision blocked for the realisation of the project.	The OECD understands that the purpose of this provision is to ensure the financial viability of suppliers.	This provision significantly increases entry costs for electronic-certification service providers and limits their number.	Abolish the specific minimum capital requirement and apply the general regime applicable to commercial companies.
H-34	Decree 2001-1667 of 17 July 2001, approving the specifications for the exercise of electronic-certification services activity	Art. 5	E-commerce	Any person who has been the subject of a final bankruptcy conviction or who was a director or manager of a company that was declared bankrupt or who has been convicted of a declaration of bankruptcy under Articles 288 and 289 of the Criminal Code relating to the causes of bankruptcy is barred from managing an electronic-certification service provider	The OECD understands that the purpose of this provision is to ensure the security of the activity and the safety of consumers' personal data.	This provision limits the possibilities of providing electronic-certification services by imposing too-strict conditions on senior managers and technical executives of electronic-certification service companies. The condition related to bankruptcy declaration in its broad sense seems too strict. In several countries, the prohibition of managing, administering or controlling a company (either definitively or for a certain period) is pronounced by a court only when the	Abolish the condition related to the bankruptcy declaration if not related to a criminal activity.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				company or performing the technical functions of computer-system management or security-systems management.		persons concerned are guilty of criminal offenses (e.g. embezzlement) or breaches of corporate law (e.g. false accounting).	
H-35	Decree 2001-1667 of 17 July 2001, approving the specifications for the exercise of electronic-certification services activity	Art. 2	E-commerce	Any applicant for the authorisation to provide electronic certification services must show, in addition to supporting documents, the material, financial and human resources provided for in Articles 2 and 3 of the specifications relating to the exercise of the activity, and a financial study of the project.	The OECD understands that the purpose of this provision is to ensure the economic viability of electronic-certification service providers.	The obligation to provide a financial study, in addition to application documents stating the material, financial and human resources planned for the project, acts as a barrier to entry as it adds a burden and increases the entry costs for potential suppliers and may limit their number.	Abolish the obligation of providing a financial study.
H-36	Law 98-40 of 2 June 1998 on sales practices and commercial advertising	Art. 4	Sales practices	Selling products in the form of periodic or seasonal sales, regardless of the denomination used and the price charged, cannot take place without prior declaration to the ministry in charge of trade. This declaration must be filed with the services of the Ministry of Trade at least 15 days before the date scheduled for the start of the sale.	The OECD understands that the purpose of this provision is to ensure transparency and protect consumers against fraud and deceptive advertising.	This provision represents an unnecessary administrative burden and may limit the possibilities of supply of goods and discourage price reduction. The obligation to file a prior declaration is an unusual practice and its beneficial effect is not proven. Several countries do not request prior authorisations or declarations for retailers to participate in seasonal sales, especially if dates and durations are strictly regulated.	Abolish this provision.
H-37	Law 98-40 of 2 June 1998 on sales practices and commercial advertising	Art. 5	Sales practices	The dates and duration of the periodic or seasonal sales are set by decision of the Ministry of Trade, following the opinion of the National Trade Council.	The OECD understands that the purpose of this provision is to ensure transparency and protect merchants from anti-competitive practices.	This provision limits the ability of merchants to provide services and to lower prices outside a given period to the benefit of consumers. Several countries (e.g. Germany since 2004) have removed the regulation of seasonal sales periods allowing merchants to offer consumers products at reduced prices at any time.	Amend this provision to allow more flexibility in choosing the dates and duration of periodic or seasonal sales.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
H-38	Law 98-40 of 2 June 1998 on sales practices and commercial advertising	Art. 17	Sales practices	The sale of promotional products during periodic or seasonal sales and for the 40 days preceding these periods is prohibited.	The OECD understands that this provision aims at protecting consumers by 1) distinguishing promotions from periodic or seasonal sales, and 2) establishing a mechanism to avoid misleading pricing before sales periods.	Prohibiting sales of promotional products during sales periods and in the 40 days preceding sales periods reduces the incentive to discount prices and reduces consumer choice. If the objective is to avoid misleading prices, the potential restriction chosen must be proportionate, using other more transparent mechanisms (e.g. by establishing a reference-price mechanism). Several countries (e.g. France) allow merchants to offer promotions throughout the year with price reduction (referred to as destocking promotions or private sales, for example).	Abolish this provision.
H-39	Law 98-40 of 2 June 1998 on sales practices and commercial advertising	Art. 22	Sales practices	The minimum rate of discount relative to the reference price for periodic and seasonal sales is set by an Order of the Ministry of Trade.	The provision aims to establish the rules governing sales and discounts, sales outside stores, and commercial advertising, with the objective of ensuring transparency in commercial transactions and protecting consumers from misleading pricing and false advertising.	The setting of the minimum rate of discount by Order of the Ministry of Trade during sales seasons limits the ability of sellers to determine the prices of their products and does not address the issue of misleading pricing or false advertising. This restriction – unjustifiably – limits competition between suppliers and establishes an environment of price rigidity. The measure may have a negative effect on competition and possibly on consumer protection, as it does not prevent misleading advertising.	Remove the restriction on the minimum rate of discount.
H-40	Law 71-22 of 25 May 1971, on the organisation of the profession of commercial advertising agent, as modified by Law 2010-13 of 22 February 2010	Art. 6	Sales practices	Exercising the profession of commercial advertising agent is subject to approval by the Ministry of Trade.	The OECD understands that the purpose of this provision is to better organise the sector, ensure transparency, and protect consumers	This provision represents an unnecessary administrative burden and may limit the possibilities of providing commercial advertising services.	Abolish this provision as stipulated in Annex II of Decree 2018-417.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
H-41	Law 98-39 of 2 June 1998 on instalment payment facilities	Art. 8	Sales practices	The amounts and the maximum periods of instalment payments phased by category of products and services are set by Order of the Minister of Trade.	The OECD understands that the purpose of this provision is to clarify the obligations of the contractual parties, to ensure the transparency of the payment terms offered, and to protect consumers.	This provision limits the ability of suppliers to provide their services (advertise their products and market them), set appropriate prices and offer consumers several choices. It limits consumer choice and prevents them from benefitting from longer instalment payment periods. The restriction may also limit competition at the sales level.	Amend the provision to allow more flexibility to set amounts and periods of instalment payments.
H-42	Order of the Ministry of Trade of 3 February 1999 setting maximum amounts and instalment payments	Art. 2	Sales practices	The maximum amounts and deadlines for instalment payments for domestic appliances; furniture; building materials; equipment, materials, and other services are set according to a specific table.	The OECD understands that the purpose of this provision is to clarify the obligations of the contractual parties, to ensure the transparency of the payment terms offered, and to protect consumers.	This provision limits the ability of suppliers to provide their services (advertise their products and market them), set appropriate prices and offer consumers several choices. It limits consumer choice and prevents them from benefitting from longer instalment payment periods. The restriction may also limit competition at the sales level.	Amend the provision to allow more flexibility to set amounts and periods of instalment payments.
H-43	Order of the Ministry of Trade of 3 December 1998, setting the minimum discount rate for periodic and seasonal sales	Art. 1	Sales practices	The minimum discount rate for periodic or seasonal sales applied to each product in relation to the reference price is set at 20%.	The provision aims to establish the rules governing sales and discounts, sales outside stores, and commercial advertising, with the objective of ensuring transparency in commercial transactions and protecting consumers from misleading pricing and false advertising.	The setting of the minimum rate of discount by Order of the Ministry of Trade during sales seasons limits the ability of sellers to determine the prices of their products and does not address the issue of misleading pricing or false advertising. This restriction – unjustifiably – limits competition between suppliers and establishes an environment of price rigidity. The measure may have a negative effect on competition and possibly on consumer protection, as it does not prevent misleading advertising.	Remove the restriction on the minimum rate of discount.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
H-44	Law 2009-69 of 12 August 2009 on the distribution business	Art. 15	Franchise	The franchisor shall be required to provide the franchisee with a draft contract and a document setting out all information about the franchisor and the sector of activity at least 20 days before the signature of the contract. The minimal mandatory clauses and minimal information in the franchise contract shall be set by decree.	The OECD understands that the objective of this provision is to ensure transparency and to clarify the obligations of the contractual parties (franchisor and franchisee).	The provision is prescriptive and limits the ability of contractual parties to negotiate freely the terms of their agreement. This may discourage franchise operations and the related investment and ultimately limit consumer choices.	Abolish the mandatory nature of the clauses and focus on anticompetitive issues such as imposing resale prices or minimum turnover.
H-45	Decree 2010-1501 of 21 June 2010, setting the minimum mandatory clauses of franchise agreements and the minimum data of the related information document	Art. 2	Franchise	The franchise agreement must include, among other information, the following: exclusivity clauses; non-competition clauses; delimitation of the exclusive geographical area of exploitation of the trademark or brand; and the possibility for the beneficiary of an exclusive representation contract covering the entire territory of Tunisia to conclude operational contracts with franchisees covering limited geographical areas.	The OECD understands that the objective of this provision is to ensure transparency and to clarify the obligations of the contractual parties (franchisor and franchisee).	The provision is of prescriptive nature and limits the ability of contractual parties to negotiate freely the terms of their agreement. This may discourage franchise operations and the related investment and ultimately limit consumer choices.	Abolish the mandatory nature of the clauses and focus on anticompetitive issues such as imposing resale prices or minimum turnover.
H-46	Decree 2010-1501 of 21 June 2010, setting the minimum mandatory clauses of franchise agreements and the minimum data of the related information document	Art. 5	Franchise	The activities subject to franchise agreements will be set by Order of the Ministry of Trade. These agreements shall systematically benefit from an exemption from the general competition law.	The objective of granting certain franchise contracts an exemption from general competition law is unclear.	Exemptions from general competition law entail serious risks of raising prices, limiting competition and creating a culture conducive to anti-competitive practices.	Abolish the exemption from general competition law.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
H-47	Order of the Ministry of Trade and Handicraft of 28 July 2010, on systematically granting to certain franchise agreements the authorisation provided for in Article 6 of Law 91-64 of 29 July 1991 on competition and prices	Art. 2	Franchise	Franchise contracts in the sectors set out in the Annex to the Order benefit from systematic exemption from the common competition law. According to the Annex, for “national brands”, all sectors are exempt; for “foreign brands”, only the sectors listed are exempt. These include distribution of ready-to-wear clothing or footwear, watchmaking, car rental, hotel management, vocational training.	The objective of granting certain franchise contracts an exemption from general competition law is unclear.	Exemptions from general competition law entail serious risks of raising prices, limiting competition and creating a culture conducive to anti-competitive practices.	Abolish the exemption from general competition law.

Wholesale and retail trade: fruit and vegetables

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-1	Law 94-86 of 23 July 1994 on the distribution channels for agricultural products and fish (modified by Law 2000-18 of 7 February 2000)	Art. 4	Organisation of the market	The distribution of agricultural products and fish is made at the wholesale level through production or wholesale markets, and at the retail level through retail distribution markets.	The OECD understands that the goal of this provision is to ensure that the distribution of products works properly, especially that hygienic conditions are guaranteed and that a sufficient degree of competition is ensured.	This rule seems to allow for the sale of agricultural products at the wholesale level only through production or wholesale markets. However, according to Law 2009-69, agricultural producers can sell their own production at wholesale and at a retail level (Art. 7). In addition, Law 2004-60 allows actors exercising an agricultural activity or groups of actors exercising an agricultural activity to sign agricultural production agreements with industrial, commercial and export companies (Art. 6). In consequence, Article 4 of Law 94-86 can result in a lack of clarity as to which methods of distribution are allowed.	Harmonise Law 94-86 with Law 2009-69 and Law 2004-60. In addition, consider allowing wholesalers to sell their products outside wholesale markets and producers to sell fruits and vegetables from other producers.
FL-2	Law 94-86 of 23 July 1994 on the distribution channels for agricultural products and fish (modified by Law 2000-18 of 7 February 2000)	Art. 8	Organisation of the market	Retail distributors may only procure from production markets when they operate within the region of the market, and only to the extent of their needs.	The OECD understands that the objective of this restriction is to preserve the local and limited focus of production markets, since wholesale markets are intended to be the general channel of distribution. This provision seeks to prevent retailers from acting as wholesalers in practice by buying products in production markets and selling such products wholesale. According to the Ministry of Trade, this aims to prevent speculation.	This provision limits the ability of retailers to organise their operations in a way that they deem to be the most suitable, which, in turn, may limit their effectiveness. For example, retailers may be unable to buy at another region's production market, even if they deem prices there are more favourable, even taking into account transport costs. This may have an effect on prices and the quality and diversity of products sold by these operators. It appears that the effects of this restriction are contrary to the policy objective of production markets: providing producers with a venue to sell their products close to the site of production. Allowing in retailers from outside a region, and relaxing quantity purchasing limits, would likely benefit local producers in a region. More generally, allowing more options for retailers to source their products would also be expected to benefit consumers.	Allow retailers to buy in all production markets without any limitations on quantities.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-3	Law 94-86 of 23 July 1994 on the distribution channels for agricultural products and fish (modified by Law 2000-18 of 7 February 2000)	Art. 17	Organisation of the market	Operators of refrigerated warehouses and owners of agricultural products are prohibited from withholding stored supply in a way that would upset the regular supply of the market. Speculation is also prohibited. The concept of withholding supply is not defined in the provision, unlike speculation.	The OECD understands that the concepts of speculation and withholding of supply both seek to prevent operators from not selling products at their disposal during periods of scarcity. According to the authorities, these concepts are applied for sensitive products.	The concept of withholding supply is not defined in the law; it could overlap with that of speculation. Moreover, the lack of a clear definition may be used arbitrarily to subvert the law and apply it even if there is no scarcity or the withholding has not been carried out with the objective of creating scarcity.	Define the concept of withholding supply and clarify that it only applies if it is carried out with the objective of creating scarcity or if it creates scarcity in practice
FL-4	Law 94-86 of 23 July 1994 on the distribution channels for agricultural products and fish (modified by Law 2000-18 of 7 February 2000)	Art. 24	Organisation of the market	Producers operating as such in production and wholesale markets must limit their transactions to products that they themselves cultivate. Producers, groups of producers, and service co-operatives are prohibited from acting directly or indirectly as buyers of agricultural products and fish sold in these markets. The same prohibition applies to standing crop buyers.	The OECD understands that the goal of these provisions is to preserve each operator's defined role, i.e. a seller may not act as a buyer. This seeks to organise the market and prevent speculation by avoiding the accumulation of margins.	This restriction prevents producers, groups of producers, service co-operatives, standing crop buyers, and wholesalers from buying third-party products that they then, for example, resell directly to customers who demand minimum quantities. This may result in fewer operators being able to sell their products to these clients, which would lead to less choice and higher prices.	Modify the provision in order to ensure that producers can sell the products of other operators.
FL-5	Law 94-86 of 23 July 1994 on the distribution channels for agricultural products and fish (modified by Law 2000-18 of 7 February 2000)	Art. 25, para. 1	Organisation of the market	Sales agents are not allowed to purchase, directly or indirectly, the products of their clients or any other agricultural products and fish sold in wholesale markets. According to the Ministry of Trade, sales agents are only prevented from buying in the wholesale markets where they operate.	The OECD understands that the goal of these provisions is to preserve the role defined for each operator, i.e. agents can only operate as intermediaries acting on behalf of third parties. This seeks to organise the market and prevent speculation by avoiding the accumulation of margins.	The prohibition on agents buying products within markets restricts the way how they operate, for instance, by preventing them from acting as agents for some sellers and as wholesalers for other participants. This prevents the emergence of alternative distribution models and any potential benefits for final consumers.	Modify the provision to clarify that that sales agents are forbidden to purchase products only in the wholesale markets in which they operate.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-6	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 3 para. 1	Production and wholesale markets	The operation of production and wholesale markets must be ensured by local or municipal levels of government, as well as through concessions granted by these collective bodies to individuals or legal entities. As a result, a private party may operate a production or wholesale market only if it has been granted a concession. Although the legal framework lays down some indications on minimum and maximum terms and the criteria to grant a concession, the OECD understands that concessions procedures are generally neither competitive nor transparent.	The OECD understands that the objective of this legal framework is ensuring that the state regulates the distribution of agricultural products. In particular, public authorities seek to oversee the functioning of this distribution channel, ensuring continuity of supply and certain minimum hygienic conditions.	According to information provided by certain operators, the concession procedure may not work properly. First of all, it is said not to guarantee that sufficient investment is made by the party to which the concession has been awarded (according to some operators, this may be due to the brief duration of the concessions, which in many cases is only 1 year). There also may not be genuine competition for obtaining a concession (i.e., only one operator may compete or have the possibility of winning the competition). This may have an effect on the quality of the service provided. Furthermore, this potential obstacle forms part of a larger one, namely the ban on private-sector operators setting up production and wholesale markets. This may have an impact on consumer choice.	Ensure that the procedures to award a concession to manage wholesale and producer markets are in accordance with national and international standards (see Box 4.4 in the report).
FL-7	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 4	Production and wholesale markets	Purchasing in production markets is reserved to the individuals and legal entities mentioned in Article 8 of Law 94-86 of 23 July 1994 on the distribution channels for agricultural products and fish; namely, those who can prove that they are wholesale distributors/sellers, transformers, packagers, or exporters. Retail distributors/sellers may only purchase from production markets when they operate within the area of these markets and within the limit of their needs.	The OECD understands that the objective of this restriction is to preserve the local and limited focus of production markets, since wholesale markets are intended to be the general channel of distribution. This provision seeks to prevent retailers from acting as wholesalers in practice by buying products in production markets and selling such products wholesale. According to the Ministry of Trade, this aims to prevent speculation.	This provision limits the ability of retailers to organise their operations in a way that they deem to be the most suitable, which, in turn, may limit their effectiveness. For example, retailers may be unable to buy at another region's production market, even if they deem prices there are more favourable, even taking into account transport costs. This may have an effect on prices and the quality and diversity of products sold by these operators. It appears that the effects of this restriction are contrary to the policy objective of production markets: providing producers with a venue to sell their products close to the site of production. Allowing in retailers from outside a region, and relaxing quantity purchasing limits, would likely benefit local producers in a region. More generally, allowing more options for retailers to source their products would also be expected to benefit consumers.	Allow retailers to buy in all production markets without any limitations on quantities.

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FL-8	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 6 para. 1	Production and wholesale markets	The article establishes a minimum number of sales operators for production markets (3 operators), wholesale markets of national interest (10), and wholesale markets of regional interest (2) – as well as for wholesale fish markets (2), which are not part of the current study.	Following discussions with the authorities, the OECD understands that the establishment of a minimum number of sales operators aims to guarantee minimum profitability in these markets and ensure that a certain degree of competition exists.	Establishing a minimum number of sales actors that is too high for production and wholesale markets (which appears not to be the case) may prevent certain markets from operating, which would reduce choice for buyers and competition between markets.	No recommendation.
FL-9	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 6 para. 2	Production and wholesale markets	For production and wholesale markets, when there are two or more categories of operators in the same market, the local government body that owns this market must reserve independent pavilions for each category.	The OECD understands that this provision seeks to protect buyers. Specifically, it ensures that they know the type of seller from whom they are buying, and consequently whether they have to pay any fees. It is also the OECD's understanding that this provision seeks to exercise better control over intermediaries' fulfilment of their obligations in collecting fees and charges payable by other operators.	Requiring local government bodies to reserve independent pavilions for each operator category may: 1) increase costs and force the local government body to decide that the market will not operate or that certain categories of operators will not be admitted (which would reduce the available choices); and 2) increase the local government body's costs and indirectly increase the operating fees set in the internal regulations for markets (see Annex, Art. 13 para. 4 of this decree). Currently (at least in Bir-Kassâa), there are no wholesalers except for the sale of bananas and dates, but this provision could have an impact when other wholesalers start to sell in markets. This provision can also pose problems when producers (or co-operatives of producers) sell in markets.	Suppress the requirement to have independent pavilions for each category of operator. Obligations concerning the identification of each category (e.g., wholesaler, producer) could be imposed instead of the current requirement (e.g., showing a card to access the market).

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-10	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 8, paras. 1-4	Production and wholesale markets	The provision establishes working days and times for the supply, sale, and removal of agricultural products in production and wholesale markets. Article 10 of this decree establishes that the removal of products sold within the production and wholesale markets, as well as packaging belonging to users, may be made on an exceptional basis outside the market's normal working hours upon authorisation by the market operator and in accordance with the terms and conditions that guarantee the rights of the owners of these products.	Following discussions with the authorities, the OECD understands that the establishment of working days and hours for the supply, sale, and removal of products seeks to: 1) ensure the organisation of the markets; 2) guarantee that there is effective competition in the markets (ensuring that all operators sell at the same time).	It is common for wholesale markets to establish set working days and hours for the supply, sale, and disposal of products. This provides predictability and maximises the number of buyers and sellers present, enhancing the efficiency of the market. However, the establishment of working days and hours in legislation, as opposed to those specified on the initiative of markets themselves, is an unnecessary restriction. In particular, different markets may benefit from choosing different opening days and hours according to the local needs and the nature of the products being bought and sold. Wholesale markets generally establish their own opening days and hours.	Eliminate provisions in legislation that specify working days and opening hours of wholesale and production markets. Markets should be allowed to establish their own working days and hours.
FL-11	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 9	Production and wholesale markets	Operations of wholesale and production markets can only start each day when a market has received minimum quantities of agricultural products. There is an exception to this general rule in case of climate disruptions. According to the information provided by the administration, this rule is generally not strictly enforced. Minimum quantities are not monitored every day, but every few months and on average. In this regard, wholesale and production markets seem to be able to operate regardless of quantities of products received. However, if a wholesale market of national interest does not attain the minimum daily quantities on a consistent basis, the public	The OECD understands that the goal of this provision is to ensure that the reference price of the production market is to reduce volatility that could be caused by shortages in supply to wholesale markets. The price paid in wholesale markets seems to be used as a reference for the wholesale price in other channels, meaning that wholesale market prices have a broad influence in Tunisia. Moreover, the administration pointed out that this provision also aims at guaranteeing a minimum profitability for local authorities for both wholesale and production markets.	Setting minimum daily quantities in order to start operating may limit the choices available to buyers and, hence, restrict competition between markets on the days where some markets do not operate. Further, instead of controlling potential price spikes, closing a market could amplify a supply disruption by causing prices in open markets to rise further than they otherwise would. Given the limitations to the establishment of private wholesale markets and the use of wholesale markets as a reference price for transactions in other channels, the effects could be particularly wide reaching. The OECD understands that, in practice, minimum quantities never impede the operation of markets and are merely used for classification purposes (i.e. in order to determine whether a wholesale market should continue to be of national interest or be downgraded to a wholesale market of regional interest). Hence,	Suppress minimum daily quantities requirements for wholesale and production markets to start operating.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				authorities might downgrade it to a wholesale market of regional interest.		there appears to be no need to retain the prohibition on operating if minimum quantities are not met.	
FL-12	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 11 para. 1	Production and wholesale markets	Local government bodies are free to demand any means of identification of products introduced within the perimeters of their wholesale and production markets, in addition to the ones expressly established in the decree.	Following discussions with the authorities, the OECD understands that the goal of this provision is to allow for the traceability of products leaving room for local government bodies to adapt to the specific conditions of individual cases.	The ability for local government bodies to require means of identification not provided for in the decree may lead to the imposition of means that are too onerous or discriminatory. This may also create barriers between regions, which would render the transport of goods between regions more difficult.	Abolish the possibility of local government bodies imposing additional means of identification. A template establishing the means of identification required by local government bodies could be adopted.
FL-13	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 12 para. 2	Production and wholesale markets	The article prohibits certain sales practices, especially those known as <i>régrat</i> (small-scale resale) and resale, except for replenishment transactions.	Following discussions with the authorities, the OECD understands that this provision seeks to prevent speculation within markets.	The limitation of the types of allowable sales practices prevents operators from organising their business in a way they deem to be the most effective (e.g. collecting certain amounts of products to be able to sell to buyers who demand minimum amounts).	No recommendation.
FL-14	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 13 paras. 2-4 and Art. 14	Production and wholesale markets	The use of market stalls in production and wholesale markets to sell agricultural products or fish, to provide necessary services, or to sell products other than agricultural products and fish requires a stall-occupancy permit issued by the local-government body that owns the market. This permit sets the terms of operation. No one may engage in sale or intermediary transactions within the production or wholesale markets without first obtaining one of these stall-occupancy permits.	The OECD understands that the objective of these provisions is to ensure local authorities (or SOTUMAG, in this specific case) have control over which parties can sell products in wholesale and production markets in order to ensure minimum health standards and sellers meet certain criteria that guarantee they can exercise the activity in question.	The existence of an occupancy permit, especially when space is lacking (as may be the case at Bir-Kassâa), and procedures that are not transparent and publicly advertised risks may create discrimination between operators. The quality of services provided could drop if the potential obstacle hinders the best operators. Procedures to grant and renew stall-occupancy permits seem not to meet the required standards, as explained in Section 4.1.3 of this report.	Modify the relevant provisions in order to ensure that award procedures for a stall-occupancy permit in wholesale and production markets are transparent (e.g. publishing ex ante the criteria that will be used to select the successful candidate and ex post the successful candidate's results) and competitive (i.e. the procedure must be open to all participants that fulfil objective and non-discriminatory criteria).

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-15	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 16	Production and wholesale markets	The term of a stall-occupancy permit for production and wholesale markets may not exceed one year, but is renewable. According to information provided by stakeholders, authorisations are as a rule renewed, at least at certain markets.	The OECD understands that the goal of this rule is to permit continuity for the most effective operators and to encourage these operators to invest in these markets.	In practice, automatic renewal may block access to new operators. This risk exists in particular if there is not enough space, as may be the case in certain markets (e.g. Bir-Kasâa). This may affect the quality of service provided and the price of products if the potential obstacle hinders the best operators. Procedures to renew the permits seem not to meet required standards, as explained in Section 4.1.3 of this report. In particular, incumbency is not an objective or pro-competitive basis for awarding and renewing permits.	Modify the relevant provisions in order to ensure that the procedures to renew a stall-occupancy permit in wholesale and production markets are transparent (e.g. publishing ex ante the criteria that will be used to select the successful candidate and ex post the successful candidate's results) and competitive (i.e. the procedure must be open to all participants that fulfil objective and non-discriminatory criteria).
FL-16	Decree 98-1630 of 10 August 1998, approving the specifications for the organisation and operation of wholesale markets for agricultural products and fish	Annex, Art. 29, para. 1	Production and wholesale markets	All stall occupants must insure their goods, merchandise, and other items at their stalls, against theft and destruction.	The OECD understands that the goal of this provision is to protect operators by preventing them from experiencing excessive economic difficulties in case of the loss of their goods, merchandise, or other items.	Demanding an insurance policy to cover individual risks (i.e. that do not involve third parties directly) would increase operators' costs and may harm those with fewer resources. This may have an effect on prices and consumer choice.	No recommendation.
FL-17	Decree 98-1629 of 10 August 1998, approving the master plan for wholesale markets for agricultural products and fish	Annex, Art. 4	Production and wholesale markets	The establishment of new production and wholesale markets for agricultural products and fish is subject to preliminary technical and economic studies to determine a project's effectiveness and compliance with the essential provisions of local development and the planning code, as well as a project's impact on its immediate environment and the procedures for waste removal.	The OECD understands that this provision seeks to: 1) ensure respect of the environment; 2) guarantee the proper functioning of the market without any risks; and 3) ensure that local government bodies do not sustain excessive economic costs due to the establishment of a market.	Setting too onerous conditions may limit the establishment of production and wholesale markets, especially if these conditions are not considered in a transparent manner. This potential obstacle forms part of a larger one, namely the ban on private-sector operators setting up production and wholesale markets. This may have an impact on consumer choice.	Allow private parties to set up wholesale and production markets without unnecessary hurdles (e.g. by requesting an economic study).

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-18	Decree 98-1629 of 10 August 1998, approving the master plan for wholesale markets for agricultural products and fish	Annex, Art. 7	Production and wholesale markets	Production markets, except those for tomatoes and potatoes, may only operate seasonally (corresponding to the production periods of the products they sell). Decree 98-1629 specifies that production markets are to be set up for the sale of one product or a set of "homogeneous products." Further, the ministerial order of 17 November 1988 identifies the types of products that can be sold in each of the production markets (for instance, citrus fruit in Nabeul, and dates in Kébili). According to the Ministry of Trade, the Competition Council issued an opinion indicating that fruit and vegetables should be considered as "homogenous products." This resulted in the creation of a production market in Sidi Bouzid which can sell all types fruit and vegetables, as well as other agricultural products.	Following discussions with the authorities, the OECD understands that these restrictions derive from the function of this type of market, i.e. the sale of products close to their place of cultivation to shorten the distance that producers must travel to sell their products. Hence, products that are not typically produced in a region or which are produced in another season are excluded from these markets.	Restricting the products production markets may sell limits the competitive choices of market sellers and buyers. This prevents a market from meeting demand for any off-season or non-local food products, reducing product accessibility and creating incentives for buyers and sellers to use alternative distribution channels. Limiting the channels through which certain products can be accessed may also have the effect of increasing prices for consumers, given that, as opposed to wholesale markets, the sellers in production markets are not sales agents. This means that commissions payable to these participants are not applicable. Moreover, retailers that purchase directly in these markets can avoid using intermediaries (not only agents, but also wholesalers) lowering margins and so prices.	Clarify in the legislation that production markets can sell all types of agricultural products at any period of the year.
FL-19	Decree 98-1629 of 10 August 1998, approving the master plan for wholesale markets for agricultural products and fish	Annex, Art. 12	Production and wholesale markets	The covered sales area within wholesale markets of national interest must be at least 10,000m ² in size. The authorities have indicated that this requirement is only used to classify wholesale markets, and, in particular, to determine whether they are of national interest or of regional interest.	The OECD understands that the goals of this provision are to guarantee: 1) that wholesale markets of national interest can house a minimum number of operators; and 2) that their size is sufficient to ensure their proper functioning.	Setting too large a minimum size for markets may make it difficult to create new markets and thus limit competition between them. This may limit consumer choice. Given that, according to the Ministry of Trade, the threshold would only be used to determine whether a wholesale market can be classified as being of national interest (i.e. the provision would not prevent that a market is set up), competition seems not to be affected.	No recommendation.

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FL-20	Decree 98-1629 of 10 August 1998, approving the master plan for wholesale markets for agricultural products and fish	Annex, Art. 13	Production and wholesale markets	A protective perimeter is created around wholesale markets of national interest that prohibits: 1) the creation, extension, transformation, or modernisation of any establishment engaging in a business other than the retail sale of the various products sold within these markets; 2) commercial transactions other than retail involving the products sold in markets.	Following discussions with the authorities, the OECD understands that this provision seeks to protect wholesale markets that have been established, as a general rule, the primary channel of distribution of fruit and vegetables.	The establishment of a protective perimeter around the markets limits the number of operators that may sell wholesale. This may provoke an increase in prices and reduce buyer choice.	Eliminate the protective perimeter around wholesale markets.
FL-21	Decree 98-1629 of 10 August 1998, approving the master plan for wholesale markets for agricultural products and fish	Annex, Art. 15	Production and wholesale markets	The covered area for sales within wholesale markets of regional interest must be at least 500m ² in size.	The OECD understands that the goals of this provision are to guarantee: 1) that wholesale markets of regional interest can house a minimum number of operators; and 2) that their size is sufficient to ensure their proper functioning.	Setting a minimum size for markets that is too high may make it difficult to create new markets and so limit competition between markets. This may limit consumer choice. As opposed to FL-19, this restriction might prevent that a wholesale market being established at all, which risks having an impact on competition.	Do not require a minimum surface for wholesale markets of regional interest.
FL-22	Decree 98-1629 of 10 August 1998, approving the master plan for wholesale markets for agricultural products and fish	Annex, Art. 20	Production and wholesale markets	Entities owning wholesale and production markets for agricultural products and fish may not establish, create, or make extensions, transfer their sites, or eliminate any market category cited in the master plan, except in exceptional situations.	The OECD understands that the goal of this provision is to ensure central government control of markets in the context of a public control of production and wholesale markets.	This provision may limit the ability of entities that own production and wholesale markets from adapting easily and quickly to demand (for example, building extensions if demand increases or moving the site if they find one better suited to buyers or sellers).	Ensure that the procedure used to apply this provision is transparent and that the deadline to adopt a decision is reasonable.
FL-23	Order by the Ministry of Trade, the Ministry of the Interior and Local Development, and the Ministry of Agriculture and Water Resources of 20 May 2005, setting minimum quantities of	Art. 1	Production and wholesale markets	Operations of wholesale and production markets can only start each day when a market has received minimum quantities of agricultural products. There is an exception to this general rule in case of climate disruptions. According to information provided by the administration, this rule is	The OECD understands that the goal of this provision is to ensure that restrain any possible reference price volatility in the production market caused by shortages in the supply of wholesale markets. The price paid in wholesale markets appears to be used as a	Setting minimum daily quantities to start operating may limit buyers' choices and so restrict competition between markets when certain markets are not operating. Instead of controlling potential price spikes, closing a market could actually amplify supply disruption by causing prices in open markets to rise further than they otherwise would. Given the limitations on the establishment of private	Suppress minimum daily quantities requirements for wholesale and production markets to start operating.

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	agricultural products and fish required daily at production and wholesale markets for agricultural products and fish			generally not strictly enforced. Minimum quantities are not monitored every day, but every few months and on average. In this regard, wholesale and production markets seem to be able to operate regardless of the quantities received. If, however, a wholesale market of national interest does not attain minimum daily quantities on a consistent basis, the public authorities might downgrade it to a wholesale market of regional interest.	reference for the wholesale price in other channels, meaning that wholesale market prices have a broad influence in Tunisia. Moreover, the administration pointed out that this provision also aims to guarantee minimum profitability for local authorities for both wholesale and production markets.	wholesale markets and the use of wholesale markets as a reference price for transactions in other channels, the effects could be particularly wide reaching. The OECD understands that, in practice, minimum quantities never impede markets from operating and are merely used for classification purposes (i.e. in order to determine whether a wholesale market should continue to be of national interest or should be downgraded to wholesale market regional interest). There does not appear to be a need to retain the prohibition to start operating if minimum quantities are not met.	
FL-24	Order by the Ministry of Trade, the Ministry of the Interior and Local Development, and the Ministry of Agriculture and Water Resources of 9 May 2005, setting a protective perimeter for wholesale markets of national interest for agricultural products and fish	Arts. 1 and 2	Production and wholesale markets	A protective perimeter is created around wholesale markets of national interest that prohibits: 1) the creation, extension, transformation, or modernisation of any establishment engaging in a business other than the retail sale of the various products sold within these markets; 2) commercial transactions other than retail involving the products sold in these markets.	Following discussions with the authorities, the OECD understands that this provision seeks to protect wholesale markets that have been established, in general, as the primary distribution channel for fruit and vegetables.	The establishment of a protective perimeter around markets limits the number of wholesale operators. This may increase prices and reduce buyer choice.	Eliminate the protective perimeter around wholesale markets.

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FL-25	Order by the Ministry of Trade, the Ministry of the Interior and Local Development, and the Ministry of Agriculture and Water Resources of 26 April 2005, setting work periods for production markets and wholesale markets for agricultural products and fish	Art. 1	Production and wholesale markets	Production markets, except those for tomatoes and potatoes, may only operate seasonally (corresponding to the production periods of the products they sell). Decree 98-1629 specifies that production markets are to be set up for the sale of one product or a set of "homogeneous products." Further, the ministerial order of 17 November 1988 identifies the types of products that can be sold in each of the production markets (for instance, citrus fruit in Nabeul, and dates in Kébili). According to the Ministry of Trade, the Competition Council issued an opinion indicating that fruit and vegetables should be considered as "homogenous products." This resulted in the creation of a production market in Sidi Bouzid which can sell all types fruit and vegetables, as well as other agricultural products.	Following discussions with the authorities, the OECD understands that these restrictions derive from the function of this type of market, i.e. the sale of products close to where they are grown to shorten the distance producers must travel to sell their products. Products that are not typically produced in a region or which are produced in another season are therefore excluded from these markets.	Restricting products that production markets may sell limits the competitive choices of market sellers and buyers. This prevents the market from meeting demand for any off-season or non-local food products, reducing product accessibility and creating incentives for buyers and sellers to use alternative distribution channels. Limiting the channels through which certain products can be accessed may also have the effect of increasing prices for consumers, given that, as opposed to wholesale markets, the sellers in production markets are not sales agents. This means that the commissions payable to these participants are not applicable. Moreover, retailers that purchase directly in these markets can avoid the use of intermediaries (not only agents, but also wholesalers), lowering margins and so prices.	Clarify in the legislation that production markets can sell all types of agricultural products at any period of the year.

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FL-26	Order by the Ministry of Trade of 17 August 1998, determining the nature of weighing instruments and invoicing materials to be used in production and wholesale markets for agricultural products and fish	Art. 6	Production and wholesale markets	Sellers of agricultural products may only draft manual sales invoices upon authorisation from the Ministry of Trade and that only for a limited period established in the order. In this case, sellers must use counterfoil invoice pads provided by the local government bodies that own these markets.	The OECD understands that the goal of this provision is to fight fraud and tax evasion.	Preventing the use of manual invoices may increase costs and consequently, prices. This provision especially risks harming small-scale sellers.	No recommendation.
FL-27	Order by the Minister of Industry, Energy, and Small-and Medium-Sized Enterprises of 4 February 2008, approving the specifications for the activities of processing dates, fresh fruit and vegetables, and on the creation of a technical control commission	Art. 2, para. 2, and Annex, Art. 3, para. 2	Processing	Market participants wishing to set up a processing station must submit an environmental-impact study that must be approved by the Tunisian Environmental Protection Agency.	The OECD understands that the goal of this provision is to protect the environment.	Requiring an authorisation subject to terms and conditions that are not proportional, or that are discriminatory, or issued through a procedure that is not transparent or that takes too long would make market access more difficult. This may increase prices and result in lower-quality products. According to the information provided by certain operators and the government, this order has not been applied.	No recommendation.
FL-28	Order by the Minister of Industry, Energy, and Small- and Medium-Sized Enterprises of 4 February 2008 approving specifications for the activities of processing dates, fresh fruit and vegetables, and on the creation of a technical control commission	Arts. 3, 4 and 6	Processing	A technical control commission is responsible for verifying the compliance of the premises, facilities, and human resources at sites for the processing of fresh dates, fruit, and vegetables with the prescriptions set forth in the applicable specifications. The technical-control commission has 10 members, 6 of whom come from the ministries, 1 from the Tunisian industrial union, 1 from the Tunisian trade office, 1 from the inter-professional fruit group, and 1	The OECD understands that the goal of having the private sector participating in the technical control commission is to guarantee greater comprehension of the specifics of how processing stations work by the entity that issues the technical authorisation.	Decisions made by a technical control commission that would de facto be controlled by private parties already present in the markets would entail the risk of discriminating against new entrants. This may result in the exclusion of efficient companies, which, in turn, may increase prices and reduce quality. According to the information provided by certain operators and the government, this order has not been applied.	No recommendation.

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				from the inter-professional vegetable group. The technical control commission makes its decisions by consensus. If consensus is not reached, the commission makes its decisions through a majority vote by those present, and in case of a tie vote, the chairperson's vote is decisive. Its resolutions are only valid when at least four members are present.			
FL-29	Order by the Minister of Industry, Energy, and Small-and Medium-Sized Enterprises of 4 February 2008 approving the specifications for the activities of processing dates, fresh fruit and vegetables, and on the creation of a technical control commission	Annex, Art. 8	Processing	The sites for processing fresh dates, fruit and vegetables require equipment and facilities that enable the performance of <i>all</i> stages of the process in accordance with the technical rules that apply to this sector. As a result, it appears that it is not possible to set up a site which specialises only in certain stages.	Following discussions with the authorities, the OECD understands that, despite the wording of this provision, subcontracting is in fact allowed.	This provision appears to require operators to possess equipment and facilities that enable them to perform all processing stages, which would render access to the market more difficult for operators that would like to specialise in certain stages. This may result in higher prices and products of lower quality. According to information provided by certain operators and the authorities, this order is not applied, and, according to information received from stakeholders, subcontracting appears to be allowed in practice.	Modify the provision in order to clarify that sites for processing dates do not need to be able to perform all processing stages.
FL-30	Order by the Ministry of Trade of 25 October 2000, approving the specifications concerning the activity of date distribution	Annex, Art. 11	Organisation of the market	Dates must be stored in warehouses on behalf of producers, transformers, conditioners, wholesale distributors, or collectors. Given that retail distributors are not included on this list, the OECD understands that dates cannot be stored on behalf of this category of operator.	The purpose of excluding retail distributors from this list remains unclear.	Dates may not be stored on behalf of retail distributors. However, it may occur that retail distributors (especially large-scale distributors) would like to be in charge of storage. According to the information provided by stakeholders and the administration, this order is not applied.	Modify the provision to allow dates to also be stored on behalf of retailers.

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FL-31	Order by the Ministry of Trade of 25 October 2000, approving the specifications concerning the activity of date distribution	Annex, Art. 12	Organisation of the market	If certain operations cited in this order (i.e., the processing, packing, collection, and storage of dates) are carried out on behalf of producers, transformers, or conditioners, the relationship between the parties must be formalised in a written contract that complies with a template contract drafted by the inter-professional group for dates.	The OECD understands that the goal of this provision is to protect the weaker parties in contracts.	The template contract prepared by the inter-professional group may prevent the parties to the contract from establishing those terms and conditions that they deem to be the most suitable. According to the information provided by stakeholders and the administration, this order is not applied.	No specific recommendation. Generally, ensure that the template contract does not establish the price for the service of stocking.
FL-32	Order by the Ministry of Trade of 25 October 2000, approving the specifications concerning the activity of date distribution	Annex, Art. 13 para. 2	Organisation of the market	Date collectors must provide producers, transformers, and processors, among others, with the status of the products at their disposal, or the result of their completed sales and the place and date of delivery.	Following discussions with the authorities, the OECD understands that the objective of this provision is increasing the transparency of transactions. In particular, this provision aims to protect producers, transformers and processors by avoiding collectors distorting profits obtained by transactions.	Providing commercially sensitive information about collectors to producers (and to any other operator with whom collectors compete) may facilitate co-ordination between competitors, which may result in higher prices. This entails a risk only when collectors sell on their own behalf. According to the information provided by stakeholders and the administration, this order is not applied.	Modify the provision not to oblige collectors to provide sensitive information (e.g. price, client identity) when they sell at their own risk.
FL-33	Order by the Ministry of Trade of 25 October 2000, approving the specifications concerning the activity of date distribution	Annex, Art. 18 para. 1	Organisation of the market	A collector must keep a register marked and initialled by the inter-professional group for dates in which it must record all date-collection operations.	The OECD understands that this provision serves to standardise the data collected by collectors.	Requiring a register marked and initialled by the inter-professional group may be a too onerous condition that renders the practice of the profession of date collection too difficult. It may prevent small-scale operators to enter the market, which may increase prices, reduce product quality, and limit choices for clients. According to information provided by stakeholders and the administration, this order is not applied.	Do not require that the register be marked and initialled by an inter-professional group.

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FL-34	Order by the Ministry of Trade of 25 October 2000, approving the specifications concerning the activity of date distribution	Annex, Art. 22 et Art. 23	Organisation of the market	Any individual or legal entity who intends to practice the profession of date collector must have experience in the date sector and in absence thereof, must be able to rely on a person who does have the required experience. Experience is proven with a written certification issued by the inter-professional group for dates. The terms and conditions for awarding this certification are set by the inter-professional group.	The OECD understands that this provision seeks to guarantee that dates are collected in a suitable manner.	Requiring a certain level of experience in the sector may render the profession of date collection too difficult to enter, and may specifically prevent new entrants from practicing it. This may be the case, since the inter-professional group sets the terms and conditions for awarding the certificate proving this experience, and then also issues this certificate. Fewer operators may mean higher prices, lower-quality products, and less choice for buyers. According to information provided by stakeholders and the administration, this order is not applied.	Do not require any experience in the sector.
FL-35	Order by the Ministry of Trade of 25 October 2000, approving the specifications concerning the activity of date distribution	Annex, Art. 24 para 2	Organisation of the market	Date collectors must have premises with a covered storage area at least 100m ² in size.	The OECD understands that lawmakers consider 100m ² to be the minimum area for guaranteeing the necessary hygienic conditions and to ensure product quality.	The setting of a minimal area may render access to the date collection profession more difficult, and it may in particular prevent businesses with limited budgets from operating. Fewer operators may mean higher prices, lower quality products, and less consumer choice. According to information provided by stakeholders and the administration, this order is not applied.	Do not require a minimum surface.

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FL-36	Order by the Ministry of Trade of 25 October 2000, approving the specifications concerning the activity of date distribution	Annex, Art. 30	Organisation of the market	Wholesale and retail distributors and collectors of dates must operate through the distribution circuits established in Law 94-86 on the distribution circuits for agricultural products and fish.	The OECD understands that the goal of this provision is to ensure that the correct distribution of products, especially that hygienic conditions are guaranteed and that a sufficient degree of competition is ensured.	This rule seems to allow for the sale of dates at the wholesale level only through production or wholesale markets. However, according to Article 7 of Law 2009-69, agricultural producers can sell their own production at wholesale and retail level. In addition, Article 6 of Law 2004-60 allows operators exercising an agricultural activity or groups of operators exercising an agricultural activity to sign agricultural production agreements with industrial, commercial and export companies. In consequence, Article 30 of the Annex of the Order of 25 October 2000 can result in a lack of clarity as to which methods of distribution are allowed. According to information provided by stakeholders and the administration, this order is not applied.	Harmonise the order of 25 October 2000 with Law 2009-69 and Law 2004-60. In addition, consider allowing wholesalers to sell their products outside wholesale markets and producers to sell fruit and vegetables from other producers.
FL-37	Order by the Ministry of Trade of 25 October 2000, approving the specifications concerning the activity of date distribution	Annex, Art. 31	Organisation of the market	Date collectors must sell inside production or wholesale markets, and are prohibited from setting up outlets outside these spaces and from selling directly to consumers.	The OECD understands that the goal of this provision is to ensure that the correct distribution of products, especially that hygienic conditions are guaranteed and the supply to buyers is ensured.	This regulation may lengthen the distribution circuit, which could lead to increased mark-ups and consequently, higher prices. It could also limit choice for buyers. According to information provided by stakeholders and the administration, this order is not applied.	Modify the provision to clarify that only sales in the vicinity of wholesale and production markets are forbidden, with the objective of preventing unfair competition. Allow collectors to sell outside markets in all other cases.
FL-38	Order by the Ministry of National Economy of 18 January 1988, establishing the retail mark-ups that apply to the sale of fruit and vegetables	Arts. 1 to 3	Organisation of the market	This order sets the maximum mark-ups that can be applied at a retail level to the sale of fruit and vegetables. Retailers are also required to display the maximum applicable sale price of fruits and vegetables on the label and on a board visibly posted at the store entrance that lists all the fruits and vegetables for sale. The retailer must charge the purchase price 72 hours after making a wholesale	Following discussions with the authorities, the OECD understands that this provision seeks to prevent the price of fruit and vegetables from being too high.	Retailers can use the setting of maximum retail mark-ups as a reference price to facilitate co-ordination. This may result in prices higher than those that might exist if there were no maximum mark-ups. The setting of maximum retail mark-ups may also render investments in this sector less attractive and reduce the number of operators.	Progressively liberalise retail mark-ups for fruit and vegetables.

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				purchase of products. Finally, producers who sell their products directly on a retail basis may not set a price higher than the one charged by retail resellers for the same merchandise of the same quality.			
FL-39	Order by the Ministry of National Economy of 18 January 1988, on the organisation of the date season	Art. 1	Organisation of the market	Minimum prices for dates at the production stage are established each season by a joint decision of the Minister of National Economy and the Ministry of Agriculture.	The OECD understands that the objective of this provision is: 1) ensuring that the value of the product is perceived by customers; and 2) guaranteeing that market participants receive an appropriate price for the dates.	Establishing a minimum price may raise prices above those that would exist under competitive conditions. It may also cause inefficiencies in the market (e.g. decreasing the total quantity sold, if there are participants that would be willing to sell at lower prices). Following discussions with stakeholders and the authorities, the OECD understands that this provision is not applied.	Explicitly repeal this provision.
FL-40	Order by the Ministry of National Economy of 18 January 1988, on the organisation of the date season	Art. 4	Organisation of the market	The maximum mark-ups applicable to retail distribution of dates are those established by the general legislation on fruit and vegetables; this is currently Order by the Ministry of National Economy of 18 January 1988, establishing the retail mark-ups that apply to the sale of fruit and vegetables.	Following discussions with the authorities, the OECD understands that this provision seeks to prevent the price of fruit and vegetable prices from excessive price rises.	Retailers can use maximum retail mark-ups as a reference price to facilitate co-ordination. This may result in prices higher than those that might exist if there were no maximum mark-ups. Maximum retail mark-ups may also render investments in the sector less attractive and reduce the number of operators.	Progressively liberalise retail mark-ups for fruit and vegetables.
FL-41	Order by the Ministry of National Economy of 18 January 1988, on the organisation of the date season	Art. 6, paras. 1-5	Organisation of the market	The provision establishes those market participants that can export dates, which are companies with processing units for dates that have been authorised to operate and hold a professional exporter card for dates issued by the Ministry of National Economy following the opinion of the inter-professional group of dates; authorised export companies; licenced export distributors; and producers exporting their own production.	The OECD understands that the objective of this provision is to ensure the consistency of the national exports policy, by guaranteeing that market participants fulfil certain requirements and quantities of exports are controlled.	Limiting the number of market participants that can export could render the dates sector less competitive by making it less flexible and agile, and reduce the total exports. Following discussions with stakeholders and the authorities, the OECD understands that this provision is not applied.	Explicitly repeal this provision.

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FL-42	Order by the Ministry of National Economy of 18 January 1988, on the organisation of the date season	Art. 6, para. 6	Organisation of the market	All date exports need to be validated in advance by the relevant inter-professional group.	The OECD understands that the objective of this provision is to ensure the consistency of the national exports policy by guaranteeing that market participants fulfil certain requirements and quantities of exports are controlled.	Limiting the number of market participants that can export could render the dates sector less competitive by making it less flexible and agile and reduce total exports. Following discussions with stakeholders and the authorities, the OECD understands that this provision is not applied.	Explicitly repeal this provision.
FL-43	Order by the Ministry of National Economy of 18 January 1988, on the organisation of the date season	Art. 7, para. 2	Organisation of the market	All participants holding a professional exporter card for dates must, each season, engage to export dates of a minimum quality, in accordance with the exports programme established by the relevant inter-professional group and approved by the relevant ministry.	The OECD understands that the objective of this provision is to ensure the consistency of the national exports policy by guaranteeing the quality of exported dates.	Limiting the number of market participants that can export could render the dates sector less competitive by making it less flexible and agile and reduce the total exports. Following discussions with stakeholders and the authorities, the OECD understands that this provision is not applied.	No recommendation.
FL-44	Order by the Ministry of National Economy of 18 January 1988, on the organisation of the date season	Art. 8, para. 1	Organisation of the market	Exports of dates must be done in "unconditional sales."	The OECD understands that this provision aims to guarantee the foreseeability of sales and, in consequence, of national export policy.	Hindering exports could render the dates sector less competitive by making it less flexible and decrease total exports. Following discussions with stakeholders and the authorities, the OECD understands that this provision is not applied.	Explicitly repeal this provision.
FL-45	Order by the Ministry of National Economy of 18 January 1988, on the organisation of the date season	Art. 8, para. 2	Organisation of the market	Minimum prices for the export of dates are established each season by a decision of the relevant Minister following a proposal from the relevant inter-professional group.	The OECD understands that the objective of this provisions is ensuring that the value of the products is perceived and that market participants receive an appropriate price.	The establishment of a minimum price can cause inefficiencies in the market (e.g. reducing the total quantity of products sold). Following our discussions with stakeholders and the authorities, The OECD understands that this provision is not applied.	Explicitly repeal this provision.
FL-46	Order by the Ministry of National Economy of 18 January 1988, on the organisation of the date season	Art. 8, para. 3	Organisation of the market	The invoices concerning exports of dates must be approved by the relevant inter-professional group.	The OECD understands that the objective of this provision is to ensure the consistency of the national exports policy, i.e. guaranteeing that market participants fulfil certain requirements and controlling the quantities exported.	Limiting the number of market participants that can export could render the dates sector less competitive by making it less flexible and agile and reduce total exports. Following discussions with stakeholders and the authorities, the OECD understands that this provision is not applied.	Explicitly repeal this provision.

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FL-47	Order by the Ministry of Trade of 10 June 1999 on access cards for production markets and wholesale markets for agricultural products and fish	Art. 1	Organisation of the market	Access cards, valid for 5 years and assigned by the Ministry of Trade, are specific to each production or wholesale market, and do not allow holders to operate in other markets at the national or even regional levels. The list of qualified permanent users (buyers and sellers) is exclusive to each production and wholesale market. There are, however, access cards for occasional users valid for the term of their activities.	This provision seeks to ensure identification of operators to permit better organisation and operation of the market. According to the Ministry of Trade, geographic exclusivity only applies to sellers.	Requiring a card to access the markets is a common requirement to ensure identification of participants and to permit a better organisation and operation of the market. However, requiring buyers to use different cards to access each market means they face an administrative barrier to access markets, which may in some cases limit the number of markets from which they purchase, so reducing their choice. In turn, this can limit the ability to take advantage of price differences between different markets, referred to as arbitrage, which is necessary for the efficient functioning of markets. Access restrictions may therefore insulate some markets from competition.	Strengthen monitoring to reduce the current level of informality in the sector (e.g. by reducing sales in the grey market and other types of fraud, and ensuring that levies are paid), while ensuring that these types of market are competitive. If access cards are required for monitoring, make sure that buyers can use them to purchase from any market.
FL-48	Order by the Ministries of Trade and the Interior of 2 September 2002 on the determination of weekly rest days for production and wholesale markets for agricultural and fish	Art. 2	Organisation of the market	Owners and operators of production and wholesale markets must observe one day of rest a week according to the calendar established in the order of 2 September 2002. Only the responsible governor may exceptionally authorise an opening on a rest day and that only in case supply is needed. The governor must inform the Minister of Trade.	The OECD understands that this provision was prompted by social considerations in conjunction with employment agreements. The Labour Code's (updated) Article 95 for non-agricultural work and (updated) Article 106 for agricultural work both specify that all workers have the right to 24 consecutive hours of weekly rest.	The placing of restrictions on the time and place for buying/procuring constitutes a limit on consumer choice. Restricting opening may lead to congested peak periods (e.g. Tuesdays at the Bir-Kassâa wholesale market) and prevent the proper procurement and flow of inventories of goods (especially those with a short shelf life). This provision may also prompt buyers to use other circuits to satisfy their demand, including non-official ones.	Eliminate provisions in legislation that specify working days of the wholesale and production markets. Markets can be allowed to establish their own working days.
FL-49	Law 85-125 of 25 January 1985, on the creation of a market of national interest at Bir-Kassâa and establishing its protective perimeter	Art. 5	Institutional framework	SOTUMAG, the Tunisian wholesale markets company, manages Bir-Kassâa market of national interest. It operates under the aegis of the Ministry of Trade. Bir-Kassâa is the main wholesale market in Tunisia. This market sets reference prices for most of its off-market transactions because of the large tonnage transited through the market by SOTUMAG.	SOTUMAG is responsible for the adequate performance of transactions by providing the premises and facilities necessary for the operation of the Bir-Kassâa market of national interest. This work is performed within a regulatory framework that enables the transactions to take place normally.	Articles 9 and 10 of the internal regulations for the Bir-Kassâa market of national interest do not clearly lay down the applicable procedures for granting stalls to sales agents and wholesalers. A lack of transparency and equity in these procedures, together with the relatively limited space in the market, may distort competition between actors and prevent better suppliers from obtaining space, thereby affecting the market's effectiveness, consumer choice, product quality, and prices.	Revise SOTUMAG's internal regulation in order to ensure that stalls are granted in a competitive manner. Revise the rules applied to sales agents to reorganise how transactions take place in wholesale markets in order to make them more efficient and transparent.

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						Restrictions on the operations of sales agents as defined in Article 20 of the internal regulations may render the evolution of this status to wholesale operations more difficult. Restrictions on the recovery of leftovers (i.e. unsold agricultural products) by their owners as set forth in Article 23 of the internal regulations may result in an imbalance of market power in favour of sales agents.	Ensure that the use of the services provided by porter co-operatives are not mandatory and allow other actors to provide this service.
FL-50	Law 85-125 of 25 January 1985, on the creation of a market of national interest at Bir-Kassâa and establishing its protective perimeter	Arts. 3 and 4	Institutional framework	The Bir-Kassâa market of national interest is protected by a perimeter that prohibits that any other wholesale market being set up within the governorship of Greater Tunis. The creation, extension or shifting of establishments where wholesale activities are carried out is prohibited as of the date on which the decree enters into effect.	Following discussions with the authorities, the OECD understands that this provision seeks to protect entities (wholesale markets) that have been established, as a general rule, as the primary channel of distribution for fruit and vegetables.	The establishment of a protective perimeter around the markets limits the number of operators that may sell wholesale. This may increase prices and reduce buyer choice.	Eliminate the protective perimeter around wholesale markets.
FL-51	Law 2005-94 of 18 October 2005 on mutual agricultural service companies	Art. 7 para. 3	Institutional framework	Persons wishing to adhere to an SMSA must be agricultural producers, fishermen or persons providing agricultural services who are active in the area of influence of the SMSA.	The OECD understands that this provision aims to ensure that participants join SMSA for a genuine reason (i.e. in order to receive the services SMSA provide).	Law 2005-94 limits the pool of SMSA available to producers by not allowing them to join an SMSA not based in their region. This may prevent producers from joining entities that provide the best-quality services or that have lower costs. This may result in producers not joining an SMSA at all. In addition, this restriction reduces the incentives of base SMSA to compete against each other in terms of the services they provide and hampers the expansion of efficient SMSA and so greater economies of scale. Furthermore, this restriction, along with cultural factors, may discourage the consolidation of producers.	Allow agricultural producers, fishermen and persons providing agricultural services to join any SMSA they wish, regardless of geographic considerations.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-52	Law 2005-94 of 18 October 2005 on mutual agricultural service companies	Art. 7 para. 4	Institutional framework	Persons wishing to adhere to SMSA must be agricultural producers, fishermen or persons providing agricultural services who do not compete with those of the SMSA (i.e. they do not independently sell the same products as the SMSA).	The OECD understands that this provision aims to ensure that SMSA participants do not hamper SMSA's mission of selling their members products.	This can reduce SMSA's incentives to offer lower prices for the products they sell and might decrease the incentives for farmers to become members of SMSA. Furthermore, this restriction, alongside cultural factors, may discourage the consolidation of producers.	Eliminate provisions in legislation that prohibit that SMSA members sell their products independently when that puts them in competition with the co-operative. Consider allowing SMSA to establish individually restrictions of direct sales by members.
FL-53	Law 93-84 of 26 July 1993 on inter-professional groups in the agricultural sector and agro-food industry (as modified by law 2005-16 of 16 February 2005)	Art. 7 (3) and (4)	Institutional framework	The missions of inter-professional groups –which were limited by Law 2005-16 – are broad and significant. They include being charged with ensuring market equilibrium using appropriate mechanisms; and contributing, along with the relevant bodies, to the promotion of exports. These missions should be read in a context in which inter-professional groups have (at least in the past) controlled exports and have had a significant influence over the domestic market (e.g. through the creation of strategic stocks to guarantee supply).	According to information received from stakeholders, the mandate is to facilitate co-operation between the government and professionals in relevant sectors to ensure market supply and the distribution of agricultural products.	The role attributed by this provision to inter-professional groups in terms of market regulation may create a self-regulating or co-regulating system that harms companies that do not belong to the groups. This may also create a situation in which suppliers of goods or services have less incentive or even ability to compete effectively; this could affect product prices and quality and reduce consumer choice.	Clarify the role and the mandate of inter-professional groups, particularly in terms of their regulatory interventions in the market, which should be the exclusive power of the authorities.
FL-54	Decree 94-1165 of 23 May 1994, approving the template bylaws of inter-professional groups of the agricultural and agri-food sector	Art. 4	Institutional framework	The interventions of inter-professional groups as regards the regulation of the market is done in co-ordination with the Ministry of National Economy in order to guarantee the success of this intervention and to ensure an appropriate supply of the market.	According to information received from stakeholders, the mandate is to facilitate co-operation between the government and professionals in relevant sectors to ensure market supply and the distribution of agricultural products (including exports).	The role attributed by this provision to inter-professional groups in terms of market regulation may create a self-regulating or co-regulating system that harms companies that do not belong to the groups. This may also create a situation in which suppliers of goods or services have less incentive or even ability to compete effectively; this could affect product prices and quality and reduce consumer choice.	Clarify the role and the mandate of inter-professional groups, particularly in terms of their regulatory interventions in the market, which should be the exclusive power of the authorities.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-55	Decree 94-1165 of 23 May 1994, approving the template bylaws of inter-professional groups of the agricultural and agri-food sector	Art. 14, para 6	Institutional framework	The board of directors of the inter-professional group must submit for approval to the Ministry of Agriculture any programme of intervention that may promote and co-ordinate the production of the sector, improve the quality of products and the way they are commercialised, regulate the market and develop sales abroad.	According to information received from stakeholders, the mandate is to facilitate co-operation between the government and professionals in relevant sectors to ensure market supply and the distribution of agricultural products. (including exports).	The role attributed by this provision to inter-professional groups in terms of market regulation may create a self-regulating or co-regulating system that harms companies that do not belong to the groups. This may also create a situation in which suppliers of goods or services have less incentive or even ability to compete effectively; this could affect product prices and quality and reduce consumer choice.	Clarify the bylaws of inter-professional groups in order to clarify their role, in particular in terms of the organisation of export seasons. This role should focus only on the promotion of Tunisian products, without imposing restrictions on the price, quantities and number of exporters. Alternatively, reclassify inter-professional groups as an association of undertakings to allow better application of competition law in case of any possible anticompetitive practices.
FL-56	Decree 2018-729 of 16 August 2018, establishing the list of products subject to the solidarity levy that funds the compensation fund for agricultural damages caused by natural disasters	Art. 1	Levies and fees	The solidarity levy finances a compensation fund for agricultural damage caused by natural disasters that is available to all farmers and fishermen, not only those that produce goods subject to the levy, even those that export. Moreover, certain stakeholders have noted that, in practice, this levy is only paid in Bir-Kassâa.	The OECD understands that the solidarity levy finances a fund that indemnifies all farmers and fisherman against agricultural damage caused by natural disasters.	Some participants receive a service (i.e. the provision of insurance) for which they have not paid, as opposed to other participants. This is the case, in practice, for all market participants that do not sell in the wholesale market of Bir-Kassâa, given that the levy is only paid there at present. This means that the costs of sellers at this market are increased as opposed to those of the other participants, with no particular justification. In addition, the application of this levy increases the costs faced by firms that sell in wholesale markets, encouraging producers, collectors, and other intermediaries to use alternative distribution channels. Furthermore, higher costs –which also apply to imports – might increase prices for consumers.	Ensure that the levy is paid on all products that can benefit from the fund and in all wholesale markets.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-57	Law 995-109 of 25 December 1995 on the 1996 finance law	Art. 64	Levies and fees	A 2% professional levy is levied on the importation and production of fruit and vegetables. This levy finances FODECAP, a fund for the development of competitiveness in the agriculture and fishing sector. FODECAP mainly finances the inter-professional groups and five technical centres.	This levy funds the FODECAP, which mainly finances inter-professional groups and five technical centres.	Market participants that are not members of the inter-professional groups and the five technical centres, face a cost from which they do not benefit, but certain of their competitors do. For instance, a wholesale date seller must pay the levy but, if it is not a member of the relevant inter-professional group, it will not benefit from the services provided by this entity (e.g. subsidising mosquito nets). This might distort competition. In addition, the application of this levy increases the costs faced by firms that sell in wholesale markets, encouraging producers, collectors, and other intermediaries to use alternative distribution channels. Furthermore, higher costs –which also apply to imports– might increase prices for consumers.	Ensure consistency between who pays the FODECAP levy and who benefits from the fund.
FL-58	Decree 2011-2876 of 5 October 2011, setting the fees due at the Bir-Kassâa market of national interest	Art. 1	Levies and fees	The flat-fee portion of the usage and placement fees at the market paid by sales agents for fruit and vegetables is less than that paid by wholesalers and importers.	The OECD understands that fees charged by SOTUMAG are allocated to ensure the market's proper operation.	The fees at Bir-Kassâa wholesale market may have an impact on the market operators' margins and so the market's attractiveness. The difference in the flat-fee portion of the usage and placement fees appears to favour agents over wholesalers.	Abolish discrimination between different market participants for the flat-fee portion of the fee payable to use the stalls.
FL-59	Decree 70-753 of 20 November 1970, establishing the remuneration for porters at wholesale markets in Tunis and Sousse	Art. 1	Levies and fees	The remuneration for porters at wholesale markets in Tunis and Sousse is an ad valorem fee corresponding to the daily amounts levied based on the value of the market's sales.	Following discussions with the authorities, the OECD understands that the fees earned by the porter co-operatives ensure the proper operation of the market.	The fees earned by the porter co-operatives at Bir-Kassâa, which have been extended (Decree 76-1041) to Sousse, Sfax, and Kairouan markets of national interest are paid even if the relevant services are not always provided (for example, the COOPMAG levy is 6% at Bir-Kassâa). The mandatory nature of this fee and the lack of choice among the various actors or porter co-operatives may affect the attractiveness and effectiveness of wholesale markets.	Remove the regulation specifying the amount porters may charge for their services.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
FL-60	Decree 76-1041 of 6 December 1976, extending to the wholesale market of Sfax the provisions of the regulation establishing compensation for the porters of the wholesale markets of Tunis and Sousse, as established by Decree 70-573	Art. 1	Levies and fees	The remuneration for porters at wholesale markets in Sfax are set using an ad valorem fee corresponding to the daily amounts levied based on the value of the market's sales.	Following discussions with the authorities, the OECD understands that the fees earned by the porter co-operatives ensure the proper operation of the market.	The fees earned by porter co-operatives at Sfax wholesale market are paid even if the relevant services are not always provided. The mandatory nature of this fee and the lack of choice among the various actors or porter co-operatives may affect the attractiveness and effectiveness of wholesale markets.	Remove the regulation specifying the amount porters may charge for their services.
FL-61	Decree 80-301 of 26 March 1980 extending to the wholesale market of Kairouan the provisions of the regulation establishing the compensation for the porters of the wholesale markets of Tunis and Sousse, as established by Decree 70-573	Arts. 1 and 2	Levies and fees	The remuneration for porters at wholesale markets in Kairouan are set using an ad valorem fee corresponding to the daily amounts levied based on the value of the market's sales.	Following discussions with the authorities, the OECD understands that the fees earned by the porter co-operatives ensure the proper operation of the market.	The fees earned by porter co-operatives at Kairouan wholesale market are paid even if the relevant services are not always provided. The mandatory nature of this fee and the lack of choice among the various actors or porter co-operatives may affect the attractiveness and effectiveness of wholesale markets.	Remove the regulation specifying the amount porters may charge for their services.

Wholesale and retail trade: red meat

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
VR-1	Decree 2010-360 of 1 March 2010, approving the master plan for slaughterhouses	Art. 1 and Annex, Art. 4	Slaughterhouses	No slaughterhouse can be established unless it is included in the master plan, which limits the number of slaughterhouses (also for the private sector) and their location.	The OECD understands that the objective of this provision is structuring the sector, ensuring that slaughterhouses respect the sanitary rules and trying to guarantee that there is enough demand so that all slaughterhouses have a minimum profitability.	This provision can prevent the private sector from setting up slaughterhouses where they consider there is a business opportunity. The reduction of the number of slaughterhouses could increase the price of the service, and reduce the quality and the choice available.	Abolish the restrictions on the number of slaughterhouses and on their geographic location for reasons that are not purely technical or environmental.
VR-2	Decree 2010-360 of 1 March 2010 approving the master plan for slaughterhouses	Annex, Arts. 3 and 7	Slaughterhouses	A project to establish a slaughterhouse requires an economic study to determine its appropriateness, an environmental-impact report approved by the offices of the Tunisian Environmental Protection Agency, and a technical study. The criteria used to analyse the economic study are not transparent.	The OECD understands that this provision seeks to: 1) ensure respect of the environment; 2) guarantee the correct functioning of the market, without risks; and 3) ensure that there is sufficient demand to justify the establishment of a new slaughterhouse, considering the number of existing slaughterhouses in the surrounding area.	Requiring an economic study from private operators may prevent slaughterhouses from being established where the private sector considers there is a market opportunity. A reduction in the number of operators may entail an increase in prices, a reduction in quality, and less choice for clients. The environmental-impact report and the technical study could also lead to discrimination between companies and, more generally, limit access to the market if the procedure is not transparent and the terms, conditions, and timeframes are unreasonable.	Remove the requirement to submit an economic study in order to set up a slaughterhouse for the private sector.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
VR-3	Decree 2010-360 of 1 March 2010 approving the master plan for slaughterhouses	Annex, Arts. 5 and 6	Slaughterhouses	Sole proprietorships and legal entities can establish and/or manage a slaughterhouse, in accordance with the procedures established in the master plan.	The OECD understands that the goal of this provision is: 1) to ensure minimum hygiene conditions for meat; and 2) to respect urban- planning regulations.	If decisions on allowing the establishment of a slaughterhouse or awarding the management of a slaughterhouse are not made using purely technical conditions, this provision may render access to the market uncertain and lead to discrimination between operators. Limiting the number of operators or not choosing the most effective may increase the cost of the service, and reduce quality and choice for customers. For the management of slaughterhouses, the procedures used to award concessions to private operators (adjudication) seem to be neither transparent nor competitive. The criteria to select the candidates are not published ex ante, although it seems that the sole criterion is the financial offer. Concessions are generally short (i.e. one year) and do not require minimum levels of investment. It also seems that concession contracts do not impose on private operators a requirement to collect and refund levies.	Modify the relevant provisions in order to ensure that the procedures to award a concession to manage a slaughterhouse are in accordance with national and international standards. Ensure that the terms of the concession (including its duration and investment requirements) provide sufficient incentives to the concessionaire to make the necessary investment that will guarantee the correct functioning of markets. Ensure that the applicable rules (particularly regarding hygiene standards) are implemented by all slaughterhouses. This could mean the public administration adopting a plan to solve current severe deficiencies in terms of slaughterhouse infrastructure and equipment. This could be particularly relevant in regions where the establishment of new privately owned slaughterhouses that could address these deficiencies is unlikely. More generally, a long-term plan to encourage private investment in the activity should be adopted.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
VR-4	Decree 2010-360 of 1 March 2010 approving the master plan for slaughterhouses	Annex, Arts. 8, 9 and 10	Slaughterhouses	The establishment or modification of a slaughterhouse requires the approval of a regional commission created within each governorate, which is charged with studying applications for establishing or upgrading livestock slaughterhouses within its jurisdiction. The regional commission has 12 members: 8 government appointees (from ministries, governorates, or local political bodies), 1 from the inter-professional group for red meat and milk, 1 from the Tunisian union of industry, commerce and trades, and 1 from the Tunisian agricultural union. If an application is refused, the commission must justify its opinion. However, a maximum time frame for the issuance of an opinion is not provided.	The OECD understands that the private sector's role in the technical control commission is to guarantee greater comprehension of the specifics of how slaughterhouses work. It is the OECD's understanding that the lack of a provision for a time frame in this regulation is due to the application of a general, administrative time frame.	The making of decisions by a regional commission that is de facto controlled by private parties already present in the market could increase the risk of discrimination against operators, especially as this commission rules on the establishment of slaughterhouses by taking into account, among other things, the economic study referred to in VR-2. The lack of a time frame for issuing an opinion may also represent a barrier to entry. Limiting the number of operators or not choosing the most effective may increase the cost of the service, reduce quality and choice for customers.	No recommendation.
VR-5	Order by the Ministry of Agriculture of 4 January 2013, establishing hygiene conditions for the creation of facilities for the processing, transformation, and storage of meat and offal	Art. 45	Hygiene regulations	Operators of facilities for the processing, transformation, and storage of meat and offal, as well as those engaging in their transport, must comply with national guidelines for best practices developed by the relevant inter-professional organisations. These national guidelines are evaluated and validated by the veterinary departments of the Ministry of Agriculture.	The OECD understands that the national guidelines are developed by the inter-professional bodies because these entities have greater knowledge of how these facilities work.	If the oversight by the veterinary departments of the Ministry of Agriculture is not comprehensive, the inter-professional bodies may discriminate against certain companies (e.g. new entrants, by requiring a certain amount of experience in the sector). Limiting the number of operators or not choosing the most effective may increase the cost of the service, reduce quality and choice for customers. Following discussions with the authorities, the OECD understands that these national guidelines have not been drawn up.	No recommendation.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
VR-6	Order by the Ministry of Agriculture and Water Resources of 26 May 2006, establishing procedures for veterinary inspections, and the terms, conditions and procedures for the issuance of health and hygiene authorisations to facilities that produce, process, and pack animal products	Art. 14	Hygiene regulations	The documents required for obtaining veterinary health and hygiene authorisations from the Ministry of Agriculture and Water Resources are specified in the order. However, the order provides that additional documents may be required. The order also fails to specify the time frame for the issuance of the authorisation.	Following discussions with the authorities, the OECD understands that allowing the requirement of additional documents is to adjust to the specific circumstances of each case. The OECD understands that the lack of a provision of a time frame in this regulation is due to the application of a general, administrative time frame.	Allowing the possibility of requiring additional documents and the absence of a time frame for issuing a decision may slow down the procedure and lead to discrimination between companies. Limiting the number of operators or not choosing the most effective may increase the cost of the service, reduce quality and choice for customers. Following discussions with the authorities, the OECD understands that most slaughterhouses operate without a health and hygiene authorisation.	No recommendation.
VR-7	Internal by-laws as established in the financial register of Tunis in July 1961 under number 721-3 for the company ELLOUHOUM (as modified in August 2001)	Art. 3	Institutional framework	Until 1996, ELLOUHOUM had the exclusive rights to import refrigerated red meat into the local market. According to the information received, ELLOUHOUM no longer holds this import monopoly for red meat. Each year, the Ministries of Trade and Agriculture, in consultation with the inter-professional group GIVLAIT, establish a quota of refrigerated and frozen meat exempted from customs and consumption duties. ELLOUHOUM generally benefits from the entire quota for refrigerated meat. Imported refrigerated meat is sold at prices set by the Ministry of Trade and these tend to be below purchase prices.	The OECD understands that the prominent role given to ELLOUHOUM for the import of meat aims at ensuring the supply of red meat in Tunisia at reasonable prices.	ELLOUHOUM's mandate has changed since 1996. The company's intervention is apparently limited to ensuring that supply is sufficient, importing refrigerated meat (as frozen meat is imported by private companies), and managing inventory. These operations are carried out at the request of the Ministry of Trade, and imported meat is sold at prices set by the Ministry of Trade through four company-run points of sale and other third-party outlets. The fee for using the company's slaughterhouse unit is set at TND 0.20 a kilogramme. This is disadvantageous compared to the fees charged by the 16 privately run slaughterhouses in Greater Tunis. The rigidity of sale prices and fees appears to affect the company's financial viability.	Revise ELLOUHOUM's bylaws to allow the company to act more efficiently in the red-meat sector in terms of imports and prices of these imports. Grant the company the necessary flexibility for fees to improve the profitability of the livestock market and the slaughterhouse.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
VR-8	Decree 90-1960 on the reorganisation of the rights, levies, and fees that local government bodies can collect	Art. 6	Levies and fees	<p>Levies are collected for a slaughterhouse concession by the local government body in the municipality where the slaughterhouse is established. The levy is collected in the slaughterhouse and amounts to TND 0.05 a kilogramme of meat. This levy can be increased by TND 0.02 a kilogramme if the slaughterhouse provides certain service, although these services must be optional.</p> <p>According to stakeholders, in practice, local government bodies do not collect the levy on the basis of the kilogramme produced (as required by the decree), but rather receive a lump sum payment for the entire duration of the concession. ELLOUHOUM seems to be an exception to this general rule; according to company management, it collects the levy as required by the decree.</p>	The OECD understands that the levy is required due to the private use of a public space, in this case, a slaughterhouse.	This restriction incentivises concessionaires to slaughter as many animals as possible (in order to minimise the impact of the lump sum payment to local government bodies). According to stakeholders, this is done without the appropriate hygienic standards (e.g. a veterinary is not present when animals are slaughtered). This endangers public health and puts slaughterhouses that do comply with the decree (seemingly, only ELLOUHOUM) at a disadvantage. More generally, the application of this levy increases the costs for suppliers using slaughterhouses. This might encourage market participants to use slaughterhouses that do not apply the levy and, in turn, slaughterhouses not to apply it. In addition, higher costs might increase prices for consumers.	Ensure that the applicable rule is enforced.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
VR-9	Law 96-113 of 30 December 1996 on the 1997 finance law	Arts. 41 and 42	Levies and fees	<p>A levy of TND 0.05 a kilogramme is in place to finance FODECAP, the fund for development and competitiveness in the agriculture and fishing sectors. This levy is collected on beef and goat meat (both frozen and refrigerated). The levy is payable as a tariff on imports and in slaughterhouses for domestic meat.</p> <p>The FODECAP levy is not paid in most slaughterhouses with rare exceptions such as ELLOUHOUM's slaughterhouse, according to the company's management.</p>	This levy funds the FODECAP, which mainly finances inter-professional groups and five technical centres.	<p>From a practical perspective, the fact that the levy is only applied by a tiny minority of slaughterhouses creates a competitive imbalance between the operators implementing the rules (and so imposing additional charges upon their costumers) and the majority that fail to do so. The case of ELLOUHOUM is a clear illustration of this harm. Since the FODECAP levy is mainly collected in publicly managed slaughterhouses, ELLOUHOUM is facing fierce competition from 16 privately managed slaughterhouses in the greater Tunis area offering cheaper prices. More generally, the application of this levy increases the costs for the suppliers that use slaughterhouses (or import meat). This might encourage market participants to use slaughterhouses that do not apply the levy and, in turn, slaughterhouses not to apply it. In addition, higher costs – which also apply to imports – might increase prices for consumers.</p>	Ensure consistency between slaughterhouses paying the FODECAP levy and those that benefit from the fund.

Freight transport: Road

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
R-1	Law 2004-33 of 19 April 2004 on the organisation of land transport (modified by Law 2006-55 of 28 July 2006)	Art. 60	Horizontal road transport	The authorities' interpretation of article 60 of the Law 2004-33, exempting companies in the market prior to December 2008 from the new requirements, protects them, until today, from associated potential cost increases. This applies for hire-or-reward haulage companies and commercial truck-rental operators.	Following discussions with the authorities, it is the OECD's understanding that this provision was initially intended to protect the companies' prior investment in the sector and allow existing companies to gradually adjust to the new regulatory environment.	By not limiting the validity period of this provision, the legislation treats existing market players differently from new entities entering the market; this is a typical grandfathering clause. Competition is restricted in the sense that new companies entering the market face higher costs than older ones.	Specify that all companies will be obliged to comply with the new regulations. In the case of companies established before 2009, a transition period should be set. Ensure a level playing field and fair competition for all operators in the market.
R-2	<i>Cahier des charges</i> concerning hire-or-reward road haulage by sole proprietorships, approved by Ministry of Transport Order of 10 December 2008	Art. 6	Hire-or-reward road haulage by sole proprietorships	A sole proprietorship may only use one vehicle with a gross vehicle weight (GVW) exceeding 12 t. This could be a heavy truck, an articulated vehicle, or a double articulated vehicle.	Following discussions with the authorities, it is the OECD's understanding that this provision's goal is to encourage the creation of hire-or-reward haulage businesses and to limit the number of independent workers in the transport sector. The limit of one HGV for sole proprietorships was imposed in order to reflect the tax benefits afforded to these entities. The Ministry of Transport has indicated that without a vehicle limit, sole proprietorships could match the scale of freight-transport companies while enjoying beneficial tax treatment and lower administrative expenses. To prevent these competitive distortions, the one-vehicle maximum was imposed.	This restriction limits the possibility of sole proprietorships diversifying their work with more than one vehicle. Furthermore, they will not be able to benefit from the potential flexibility of a second truck of a different size and the economies of scale of providing more than one type of service. This, in turn, may lead to higher prices charged. Currently, sole proprietorships wishing to overcome this barrier and extend their fleet must establish a company. However, the existing criteria for becoming a company are onerous in terms of the minimum number of vehicles and combined gross vehicle weight (GVW) and entail high costs. These higher costs may exclude sole proprietorships from the market and prevent them from competing with other service providers. Sole proprietorships are considered as	No recommendation.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
R-3	<i>Cahier des charges</i> concerning hire-or-reward road haulage by companies, approved by Ministry of Transport Order of 10 December 2008	Art. 8	Hire-or-reward road haulage by companies	A company must own or lease a fleet of at least 18 transport vehicles, each with a GVW exceeding 12 t and registered in Tunisia. At least, six of these vehicles need to be motor vehicles.	Following discussions with the authorities, it is the OECD's understanding that this provision seeks to avoid a proliferation of small, unstructured companies. The provision also seeks to stimulate company growth and job creation.	more likely than companies are to engage in informal practices. By establishing a minimum number of vehicles or fleet size, this restriction excludes a certain number of small-medium service providers from the road-haulage market. It also entails high fixed costs for companies, which may result in higher prices for consumers.	Abolish the restriction.
R-4	<i>Cahier des charges</i> concerning commercial truck rental for road-haulage operations of trucks exceeding 12 t GVW, and the creation of vehicle categories that must be rented with a driver, approved by Ministry of Transport Order of 18 October 2011	Art. 7	Truck rental	Anyone intending to engage in this type of business must own or lease, a fleet of at least 18 commercial vehicles for the transport of goods, each registered in Tunisia and with a GVW of over 12 t.	Following discussions with the authorities, it is the OECD's understanding that this provision seeks to avoid the proliferation of small, unstructured operators. The Ministry of Transport confirmed the non-existence of any rent-a-truck company in Tunisia.	By establishing a minimum number of vehicles or fleet size, this restriction excludes a certain number of small-medium service rental providers from the commercial truck rental for road road-haulage companies. It restricts the full and optimal exploitation of market opportunities, and does not allow enterprises to operate at different scales in a way that would optimise their costs and revenues. It also entails high fixed costs for haulage companies that will not be able to use rented trucks at affordable prices, and optimise the number of own vehicles. This may result in higher prices for consumers.	Abolish the restriction.
R-5	<i>Cahier des charges</i> concerning the hire-or-reward road haulage by sole proprietorships, approved by Ministry of Transport Order of 10 December 2008	Art. 7 and 8	Hire-or-reward road haulage by sole proprietorships	The sole proprietorship must own or lease a vehicle for transporting goods registered in Tunisia, with a GVW greater than 12 t and not older than 5 years at the date of the initial application for an operating licence. If this vehicle is replaced with another, the age of the replacement vehicle must not	Following discussions with the authorities, it is the OECD's understanding that the goal of this provision is to encourage the renewal of Tunisia's vehicle fleet, which was aging at the time of this reform's adoption, and to ensure safety by strengthening vehicle standards.	The requirement for sole-proprietorship road hauliers to use vehicles less than five years old increases operating costs and so prices charged. This five-year limit cannot be passed even if the vehicle is still in good condition, and despite the existence of technical inspections. Despite the fact that they all operate in the same market, the	Abolish the restriction. Set uniform age limits for both sole proprietorships and companies, including cases of renewal and expansion of the fleet. Enhance flexibility by introducing alternative criteria (e.g. maximum years in service or specific technical inspections)

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
				be more than 5 years at the application date for the operating licence.		age limit for road-haulage companies is two years, but it is not applicable to renewal or replacement of vehicles.	guaranteeing the good condition of vehicles.
R-6	<i>Cahier des charges</i> concerning the hire-or-reward road-haulage operations, approved by Ministry of Transport Order of 10 December 2008	Art. 9	Hire-or-reward road haulage by companies	The operator's fleet must consist of vehicles that are no older than two years of age at the date of the initial operating-licence application, and whose total GVW must be at least 300 t. The fleet must always meet the size and weight conditions, but not necessarily the conditions concerning the vehicles' age (see Ministry of Transport Circular 7 of 31 December 2008).	Following discussions with the authorities, it is the OECD's understanding that the goal of this provision is to encourage the renewal of Tunisia's vehicle fleet, which was aging at the time of the reform's adoption, and to improve safety by strengthening vehicle standards.	The setting of a two-year maximum age criterion increases a company's start-up costs and may increase prices for end consumers. As this provision does not prevent new companies from reselling the initial vehicles, and extending their fleet or replacing vehicles by older ones, this results in a temporary increase in entry costs. By reselling their vehicles, companies may avoid the age restriction for the vehicles. This provision does not necessarily fulfil the public policy objective.	Abolish the restriction. Set uniform age limit for both sole proprietorships and companies, including cases of renewal and expansion of the fleet. Enhance flexibility by introducing alternative criteria (e.g. maximum years in service or specific technical inspections) guaranteeing the good condition of vehicles.
R-7	<i>Cahier des charges</i> concerning commercial truck rental for road-haulage operations of trucks exceeding 12 t GVW, and the creation of vehicle categories that must be rented with a driver, approved by Ministry of Transport Order of 18 October 2011	Art. 8	Truck rental	Truck-rental fleets must consist of vehicles that are no older than 1 year at the time of the initial operating-licence application. The age of any vehicle added later must be no more than 1 year at the time of the operating-licence application.	Following discussions with the authorities, it is the OECD's understanding that the goal of this provision is to encourage the renewal of Tunisia's vehicle fleet, which was aging at the time of this reform's adoption, and to ensure safety by strengthening vehicle standards.	Setting the maximum age of vehicles at 1 year increases vehicle-renting companies' start-up costs and may increase prices for end consumers. Similarly, according to Ministry of Transport Circular 7 of 31 December 2008, companies engaged in hire-or-reward road haulage are not restricted by a vehicle's age when adding to a fleet. This creates discrimination between in hire-or-reward road-haulage companies and truck-rental companies, which must purchase and rent vehicles no older than 1 year when expanding their fleet.	Increase maximum age requirements, complemented with other measures of roadworthiness for truck-rental companies. Enhance flexibility on the age limit can be achieved by introducing alternative criteria (e.g. maximum years in service or specific technical inspections) guaranteeing the good condition of vehicles.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
R-8	<i>Cahier des charges</i> concerning commercial truck rental for road-haulage operations of trucks exceeding 12 t GVW, and the creation of vehicle categories that must be rented with a driver, approved by Ministry of Transport Order of 18 October 2011	Art. 6 para. 2	Truck rental	A company engaged in rental for road-haulage operations of truck exceeding 12 t must own or rent premises that comprise its registered office and a workshop for the parking and maintenance of the vehicles.	Following discussions with the authorities, it is the OECD's understanding that while no operation of this type currently exists in Tunisia, this provision seeks to avoid the proliferation of small, unstructured operators. The provision also seeks to stimulate company growth and job creation.	Requiring a company to own or lease its own space in which to maintain its vehicles may prevent companies from operating jointly and sharing parking to reduce costs. This creates artificial competition and may result in higher prices for end users. The OECD understands that the authorities' interpretation of this article does not forbid co-parking.	No recommendation.
R-9	<i>Cahier des charges</i> concerning commercial truck rental for road-haulage operations of trucks exceeding 12 t GVW, and the creation of vehicle categories that must be rented with a driver, approved by Ministry of Transport Order of 18 October 2011	Art. 2	Truck rental	Trucks or tractor-trailers with a total GVW equal to or greater than 19 t must be rented with a driver.	Following discussions with the authorities, it is the OECD's understanding that the objective of this provision is to guarantee the proper and safe operation of these vehicles by their drivers, who are familiar and responsible for their correct operation.	Obliging heavy vehicles to be rented with a driver increases renting companies' costs, which may result in fewer companies providing the service, and discourage smaller ones from entering the market. At the same time, it will increase the price of renting to haulage-companies - that normally already have drivers - which may limit the demand for renting services.	No recommendation.
R-10	Law 2004-33 of 19 April 2004, on the organisation of land transport, modified by Law 2006-55 of 28 July 2006	Art. 34	Horizontal road transport	Some transport-related operations – hire-or-reward road haulage, the operation of freight centres, and truck-rental activities – may only be carried out by Tunisian nationals in possession of specific professional qualifications.	Following discussions with the authorities, it is the OECD's understanding that this provision was adopted with the aim of creating and protecting the national transport sector; it includes reciprocity with the country's commercial partners.	This article serves as the basis for other restrictions (analysed hereafter). It limits the number of service providers and it may result in increased prices to end consumers. The greater the number of service providers in the market, the greater the choice for consumers.	No recommendation.
R-11	Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of the person intending to carry out any of the operations set forth in	Art. 7	Horizontal road transport	The legal representative of a company engaged in hire-or-reward road-haulage operations, in the rental of transport vehicles whose GVW is greater than 12 t, or the operation of freight centres must satisfy at least one of the	It is the OECD's understanding that the objective of this provision is to ensure the sustainability of a company's operations and to prevent entry into the market by unqualified persons. The existence of a certificate of professional	Requiring prior experience or specialised academic qualifications related to road haulage goods operations may increase a company's costs for entry into the market and operations, particularly when there is a lack of suitably	No recommendation.

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	Articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016			following criteria: 1) have at least three years' experience at management level in road haulage of goods sector; the professional experience may be acquired abroad by Tunisian nationals and citizens of countries that recognise the experience acquired in Tunisia on the basis of reciprocity; or 2) hold a bachelor's or master's degree related to the required operations. If the legal representative does not comply with one of these professional-capacity requirements, the company must hire, at the management level, an individual meeting either of those requirements.	competence (CPC) for road-haulage managers was abolished in 2016.	qualified workers. This may limit the initial number of service providers, instead of monitoring the quality of services after market entry. Furthermore, the experience requirements are not clearly defined. This may increase prices and reduce the diversity of services offered in the market. Considering the administrative challenges in organising CPC examinations and the limited information on its prior implementation in Tunisia, the OECD does not consider that there are sufficient grounds for a recommendation on this specific issue.	
R-12	<i>Cahier des charges</i> concerning hire-or-reward road-haulage operations, approved by Ministry of Transport Order of 10 December 2008	Art. 6	Hire-or-reward road haulage by companies	The legal representative of a company engaged in hire-or-reward road-haulage operations, whose GVW is greater than 12 t must satisfy at least one of the following criteria: 1) have at least three years' experience at management level in Tunisia in road haulage of goods sector; professional experience may be acquired abroad by Tunisian nationals and citizens of countries that recognise the experience acquired in Tunisia on the basis of reciprocity; or 2) hold a bachelor's or master's degree related to the required operations. If the legal representative does not comply	It is the OECD's understanding that the objective of this provision is to ensure the sustainability of a company's operations and to prevent entry into the market by unqualified persons. The existence of a certificate of professional competence (CPC) for road-haulage managers was abolished in 2016.	Requiring prior experience or specialised academic qualifications related to road haulage goods operations may increase a company's costs for entry into the market and operations, particularly when there is a lack of suitably qualified workers. This may limit the initial number of service providers, instead of monitoring the quality of services after market entry. Furthermore, the experience requirements are not clearly defined. This may increase prices and reduce the diversity of services offered in the market. Considering the administrative challenges in organising CPC	No recommendation.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
				with one of these professional-capacity requirements, the company must hire, at the management level, an individual meeting either of those requirements.		examinations and the limited information on its prior implementation in Tunisia, the OECD does not consider that there are sufficient grounds for a recommendation on this specific issue.	
R-13	<i>Cahier des charges</i> concerning the rental for road-haulage operations of trucks exceeding 12 t GVW, and the creation of vehicle categories that must be rented with a driver, approved by Ministry of Transport Order of 18 October 2011	Art. 6 para. 3	Truck rental	The legal representative of a company engaged in the rental for road-haulage operations of vehicles whose GVW is greater than 12 t must satisfy at least one of the following criteria: 1) have at least three years' experience at management level in Tunisia in road haulage of goods sector; professional experience may be acquired abroad by Tunisian nationals and citizens of countries that recognise the experience acquired in Tunisia on the basis of reciprocity; or 2) hold a bachelor's or master's degree related to the required operations. If the legal representative does not comply with one of these professional-capacity requirements, the company must hire, at the management level, an individual meeting either of those requirements.	It is the OECD's understanding that the objective of this provision is to ensure the sustainability of a company's operations and to prevent entry into the market by unqualified persons. The existence of a certificate of professional competence (CPC) for rent-a-truck companies' managers was abolished in 2016.	Requiring prior experience or specialised academic qualifications related to road haulage goods operations may increase a company's costs for entry into the market and operations, particularly when there is a lack of suitably qualified workers. This may limit the initial number of service providers, instead of monitoring the quality of services after market entry. Furthermore, the experience requirements are not clearly defined. This may increase prices and reduce the diversity of services offered in the market. Considering the administrative challenges in organising CPC examinations and the limited information on its prior implementation in Tunisia, the OECD does not consider that there are sufficient grounds for a recommendation on this specific issue.	No recommendation.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
R-14	<i>Cahier des charges</i> concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009	Art. 7	Freight centres	The legal representative of a company engaged in the operation of a freight centre must satisfy at least one of the following criteria: 1) have at least three years' experience at management level in Tunisia in road haulage of goods sector; professional experience may be acquired abroad by Tunisian nationals and citizens of countries that recognise the experience acquired in Tunisia on the basis of reciprocity; or 2) hold a bachelor's or master's degree related to the required operations. If the legal representative does not comply with one of these professional-capacity requirements, the company must hire, at the management level, an individual meeting either of those requirements.	It is the OECD's understanding that the objective of this provision is to ensure the sustainability of a company's operations and to prevent entry into the market by unqualified persons. The existence of a certificate of professional competence (CPC) for freight centre managers was abolished in 2016.	Requiring prior experience or specialised academic qualifications related to road haulage goods operations may increase a company's costs for entry into the market and operations, particularly when there is a lack of suitably qualified workers. This may limit the initial number of service providers, instead of monitoring the quality of services after market entry. Furthermore, the experience requirements are not clearly defined. This may increase prices and reduce the diversity of services offered in the market. Considering the administrative challenges in organising CPC examinations and the limited information on its prior implementation in Tunisia, the OECD does not consider that there are sufficient grounds for a recommendation on this specific issue.	No recommendation.
R-15	Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of the person intending to carry out any of the operations set forth in Articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016	Art. 4	Horizontal road transport	Freight centres and truck-rental businesses may only take the legal form of companies.	According to the Ministry of Transport, companies provide more solid financial guarantees.	This article prevents sole proprietorships from exercising the professions in question. By requiring the establishment of a company, the article already imposes a legal structure and a minimum of accounting, with those accompanying costs. This may increase the prices operators charge and may reduce the range of services provided to the detriment of their users. Allowing sole proprietorships to create these businesses could maintain lower	Allow sole proprietorships to exercise the activity of truck rental and operate freight centres by adapting existing specifications (<i>cahiers des charges</i>) to apply to both companies and sole proprietorships.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
						cost structures; the quality of their services could be assured, if necessary, by requiring certain results or prerequisites similar to other types of operators. The OECD understands that currently there are formally no truck-rental or freight-centre companies in Tunisia. However, some individuals (sole proprietorship) provide informally services similar to rent-a-truck to haulage companies.	
R-16	<i>Cahier des charges</i> concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009	Art. 2	Freight centres	Freight centres may only operate in the legal form of companies.	According to the Ministry of Transport, companies provide more solid financial guarantees.	This article prevents sole proprietorships from exercising the professions in question. By requiring the establishment of a company, the article already imposes a legal structure and a minimum of accounting, with those accompanying costs. This may increase the prices operators charge and may reduce the range of services provided to the detriment of their users. Allowing sole proprietorships to create these structures more easily could maintain lower cost structures; the quality of their services could be assured, if necessary, by requiring certain results or prerequisites similar to other types of operators. To the OECD's best knowledge, there are currently no freight-centre companies in Tunisia.	Allow sole proprietorships to operate freight centres by adapting existing specifications (<i>cahiers des charges</i>) to apply to companies and sole proprietorships.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
R-17	Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of a person intending to carry out any of the operations set forth in Articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016	Art. 2	Hire-or-reward road haulage by sole proprietorship	Any individual intending to engage in the renting of freight transport vehicles and hire-or-reward road-haulage operations, or the operation of freight centres must be of Tunisian nationality.	Following consultations and exchanges with the authorities, the OECD understands that the nationality requirements were adopted in order to boost company and job creation for Tunisians, particularly in a post-independence context. This restriction currently aims to protect the transport sector from competition from neighbouring countries and stimulate local employment. The reciprocity clause does, however, grant exceptions to those countries that recognise the right of Tunisians nationals to engage in similar activities.	The provisions on nationality requirements generally prevent non-Tunisian citizens from being majority owners or managing businesses providing any of the services described in this provision. This directly limits the number of suppliers, as well as that of potential investors in the sector. It also hampers productivity growth in the case that competition with foreign firms renders both local and foreign suppliers more efficient. According to the Ministry of Transport, Decree-Law 61-14, defining the Tunisian nationality conditions for companies, remains in force as it concerns all the economic activities including that of the transport of goods. This despite the adoption of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.	Clarify the legislation applicable to foreign participation in national companies in the road freight transport sector, in view of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.
R-18	<i>Cahier des charges</i> concerning hire-or-reward road haulage by sole proprietorships, approved by Ministry of Transport Order of 10 December 2008	Art. 5	Hire-or-reward road haulage by sole proprietorships	Any individual who intends to engage in hire-or-reward road-haulage operations must meet the following conditions: 1) be of Tunisian nationality; and 2) be the holder of the category of driver's licence required to drive the vehicle to be operated.	Following consultations and exchanges with the authorities, the OECD understands that the nationality requirements were adopted in order to boost job creation for Tunisians, particularly in a post-independence context. This restriction currently aims to protect the transport sector from competition from neighbouring countries and stimulate local employment. The reciprocity clause does, however, grant exceptions to those countries	The provisions on nationality requirements generally prevent non-Tunisian citizens from providing any of the services described in this provision. This directly limits the number of suppliers, as well as that of potential investors in the sector. It also hampers productivity growth in the case that competition with foreign operators renders both local and foreign suppliers more efficient. According to the Ministry of Transport, Decree-Law 61-14, defining the	Clarify the legislation applicable to foreign participation in national companies in the road freight transport sector, in view of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
					that recognise the right of Tunisians nationals to engage in similar activities.	Tunisian nationality conditions for companies remains in force as it concerns all the economic activities including that of the transport of goods. This despite the adoption of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.	
R-19	Decree 2006-2118 of 31 July 2006 establishing the nationality and professional qualification requirements of a person intending to carry out any of the operations set forth in Articles 22, 25, 28, 30, and 33 of Law 2004-33 of 19 April 2004, on the organisation of land transport, as modified by Decree 2016-1101 of 15 August 2016	Art. 3	Hire-or-reward road haulage by companies	The legal representative of a company intending to operate as a hire-or-reward road haulier must have Tunisian nationality. Alternatively, it must obtain approval from the High Investment Committee as provided in Chapter 3 of the Law on Investment that was adopted in the form of Law 120-1993 of 27 December 1993, if foreigners hold more than 50% of the company's equity.	Following consultations and exchanges with the authorities, the OECD understands that the nationality requirements were adopted in order to boost company and job creation for Tunisians, particularly in a post-independence context. This restriction currently aims to protect the transport sector from competition from neighbouring countries and stimulate local employment. The reciprocity clause does, however, grant exceptions to those countries that recognise the right of Tunisians nationals to engage in similar activities.	The provisions on nationality requirements generally prevent non-Tunisian citizens from being majority owners or managing businesses providing any of the services described in this provision. This directly limits the number of suppliers, as well as that of potential investors in the sector. It also hampers productivity growth in the case that competition with foreign firms renders both local and foreign suppliers more efficient. According to the Ministry of Transport, Decree-Law 61-14, defining the Tunisian nationality conditions for companies remains in force as it concerns all the economic activities including that of the transport of goods. This despite the adoption of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.	Clarify the legislation applicable to foreign participation in national companies in the road freight transport sector, in view of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
R-20	<i>Cahier des charges</i> concerning the hire-or-reward road-haulage operations, approved by the Ministry of Transport Order of 10 December 2008	Art. 5 para. 1	Hire-or-reward road haulage by companies	The legal representative of a company that intends to engage in hire-or-reward road-haulage operations must have Tunisian nationality in accordance with Decree-Law 14-1961 of 30 August 1961 which specified the conditions for the initiation of certain types of commercial operations, and which was approved by Law 46-1961 of 6 November 1961. Alternatively, it must obtain approval from the High Investment Committee as provided in Chapter 3 of the Law on Investment that was adopted in the form of Law 120-1993 of 27 December 1993, if foreigners hold more than 50% of company equity.	Following consultations and exchanges with the authorities, the OECD understands that the nationality requirements were adopted in order to boost company and job creation for Tunisians, particularly in a post-independence context. This restriction currently aims to protect the transport sector from competition from neighbouring countries and stimulate local employment. The reciprocity clause does, however, grant exceptions to those countries that recognise the right of Tunisians nationals to engage in similar activities.	The provisions on nationality requirements generally prevent non-Tunisian citizens from being majority owners or managing businesses providing any of the services described in this provision. This directly limits the number of suppliers, as well as that of potential investors in the sector. It also hampers productivity growth in the case that competition with foreign firms renders both local and foreign suppliers more efficient. According to the Ministry of Transport, Decree-Law 61-14, defining the Tunisian nationality conditions for companies remains in force as it concerns all the economic activities including that of the transport of goods. This despite the adoption of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.	Clarify the legislation applicable to foreign participation in national companies in the road freight transport sector, in view of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.
R-21	<i>Cahier des charges</i> concerning rental of trucks exceeding 12 t for road-haulage operations and the creation of vehicle categories that must be rented with a driver, approved by Ministry of Transport Order of 18 October 2011	Art. 6 para. 1	Truck rental	The legal representative of a company that intends to rent of trucks exceeding 12 t must have Tunisian nationality in accordance with Decree 14-1961 of 30 August 1961 which specified the conditions for the initiation of certain types of commercial operations, and which was approved by Law 46-1961 of 6 November 1961. Alternatively, it must obtain approval from the High Investment Committee as	Following consultations and exchanges with the authorities, the OECD understands that the nationality requirements were adopted in order to boost company and job creation for Tunisians, particularly in a post-independence context. This restriction currently aims to protect the transport sector from competition from neighbouring countries and stimulate local employment. The reciprocity clause does, however, grant exceptions to	The provisions on nationality requirements generally prevent non-Tunisian citizens from being majority owners or managing businesses providing any of the services described in this provision. This directly limits the number of suppliers, as well as that of potential investors in the sector. It also hampers productivity growth in the case that competition with foreign firms renders both local and foreign suppliers more efficient.	Clarify the legislation applicable to foreign participation in national companies in the road freight transport sector, in view of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
				provided in Chapter 3 of the Law on Investment that was adopted in the form of Law 120-1993 of 27 December 1993, if foreigners hold more than 50% of company equity.	those countries that recognise the right of Tunisians nationals to engage in similar activities.	According to the Ministry of Transport, Decree-Law 61-14, defining the Tunisian nationality conditions for companies remains in force as it concerns all the economic activities including that of the transport of goods. This despite the adoption of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.	
R-22	<i>Cahier des charges</i> concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009	Art. 7	Freight centres	The legal representative of the company that intends to operate freight centres must have Tunisian nationality in accordance with Decree 14-1961 of 30 August 1961 which specified the conditions for the initiation of certain types of commercial operations, and which was approved by Law 46-1961 of 6 November 1961. Alternatively, it must obtain approval from the High Investment Committee as provided in Chapter 3 of the Law on Investment that was adopted in the form of Law 120-1993 of 27 December 1993, if foreigners hold more than 50% of company equity.	Following consultations and exchanges with the authorities, the OECD understands that the nationality requirements were adopted in order to boost company and job creation for Tunisians, particularly in a post-independence context. This restriction currently aims to protect the transport sector from competition from neighbouring countries and stimulate local employment. The reciprocity clause does, however, grant exceptions to those countries that recognise the right of Tunisians nationals to engage in similar activities.	The provisions on nationality requirements generally prevent non-Tunisian citizens from being majority owners or managing businesses providing any of the services described in this provision. This directly limits the number of suppliers, as well as that of potential investors in the sector. It also hampers productivity growth in the case that competition with foreign firms renders both local and foreign suppliers more efficient. According to the Ministry of Transport, Decree-Law 61-14, defining the Tunisian nationality conditions for companies remains in force as it concerns all the economic activities including that of the transport of goods. This despite the adoption of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.	Clarify the legislation applicable to foreign participation in national companies in the road freight transport sector, in view of the recent update of Investment Law 2016-71, which established the principle of freedom of investment (and participation) of foreigners in Tunisian companies.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
R-23	Law 2004-33 of 19 April 2004, modified by Law 2006-55 of 28 July 2006, on the organisation of land transport	Art. 35	Horizontal road transport	Some transport related operations (hire-or-reward road haulage, freight-centre operation, and truck rental for road haulage) may only be carried out using vehicles registered in Tunisia. Vehicles not registered in Tunisia may perform these operations only exceptionally on a temporary basis and based on a ministerial decision.	Following discussions with the authorities, it is the OECD's understanding that the goal of this provision is to improve control over the quality of vehicles operating commercially in Tunisia and to limit the loss of public revenues due to foreign-registered vehicles and companies.	Prohibiting certain vehicles from providing transport services in Tunisia may limit the number of service providers, segment the market, and increase prices for end consumers. Furthermore, the arbitrary nature of the exceptional, time-limited authorisations granted to non-Tunisian registered vehicles may create legal uncertainties.	No recommendation.
R-24	Ministry of Transport Decree of 10 December 2008, establishing the total authorised cargo weight limits for vehicles used in hire-or-reward haulage operations	Art. 1	Horizontal road transport	Vehicles with a GVW of over 12 t are subject to the submission of a <i>cahier des charges</i> at the Ministry of Transport.	Following discussions with the authorities, it is the OECD's understanding that, following the elimination of a pre-authorisation system in 2001, the government sought to establish a method to verify the regulatory criteria after the fact and to monitor vehicles weighing more than 12 t.	This provision discriminates between vehicles weighing over 12 t and those weighing less, even though they may both compete in the same sectors of the road-transport market.	No recommendation.
R-25	Ministry of Communication, Technologies and Transport Decree of 12 August 2004 on the use of own-account transport vehicles or a category of such vehicles for hire-or-reward haulage of certain products during their production or transformation seasons	Art. 1	Hire-or-reward road haulage by sole proprietorships	Establishes a limited, pre-determined period of the year during which the hire-or-reward road haulage of certain fruits and vegetables can be performed by road-haulage transporters authorised for own account.	Following discussions with the authorities, it is the OECD's understanding that the goal is to ensure the efficient transportation of certain products during their production or transformation seasons, and to better use the capacities of the companies involved.	Even though this provision primarily concerns carriers working for own account, limiting the number of transport vehicles used during the rest of the year may increase transport costs of these products and raise prices to end consumers.	No recommendation.
R-26	<i>Cahier des charges</i> concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009	Art. 9	Freight centres	Freight centres may use warehouses to stock goods to be transported, which must be: 1) a covered surface area of at least 750m ² ; 2) equipped with a forklift with a capacity of at least 3 t and a crane arm.	Following discussions with the authorities, it is the OECD's understanding that while no operation of this type currently exists in Tunisia, this provision seeks to avoid the proliferation of small, unstructured operators likely to	Setting minimum requirements for storage spaces inflates costs for operators and stops smaller companies from operating with the desired degree of flexibility. This provision also limits their ability to choose how they intend to provide	Abolish the restrictions.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
					engage in tax evasion. The provision also seeks to stimulate quality service, company growth and job creation.	service to their clients, and so sets standards that limit competition.	
R-27	<i>Cahier des charges</i> concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009	Art. 16	Freight centres	Freight centres must be situated and establish their warehouses in major economic centres, and be integrated into the system of logistics zones.	Following discussions with the authorities, it is the OECD's understanding that this provision seeks to complement and to place freight centres as close as possible to the main zones of transport operations. Such centres do not exist in Tunisia.	Imposing restrictions on the geographical location of a freight centre limits a company's ability to choose or operate freely in adequate pre-existing spaces, leading to increased costs and consumer prices. The freight-centre model should be redesigned as part of a more flexible, private initiative that takes greater advantage of global positioning systems (GPS), software and other technologies.	Abolish the restrictions.
R-28	<i>Cahier des charges</i> concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009	Art. 17	Freight centres	The freight centre must adopt transparent procedures when receiving transport requests and inform the carriers of the transport contents, in a way that guarantees the legislation in force in the field of competition and prices.	The OECD was unable to identify the public policy objective.	This provision is unclear. If it encourages the sharing of sensitive information, it may facilitate a process of price alignment, leading to reduced competition between firms.	Abolish the restriction.
R-29	<i>Cahier des charges</i> concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009	Art. 18	Freight centres	The freight centre must provide the Directorate General of Land Transport of the Ministry of Transport with statements of received shipping requests at least once every six months. These statements must include the quality and quantity of goods, loading and unloading points, distances covered, prices charged, and a list of the carriers.	The OECD team was unable to identify the public policy objective.	This requirement may increase the number of mandatory procedures for companies, resulting in higher costs and end prices. In addition, information provided could be shared with other market players, which may lead to co-ordination. For example, companies could tacitly agree on equal prices or market sharing.	Abolish the restriction.

No	Number and title of regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendation
R-30	<i>Cahier des charges</i> concerning the operation of freight centres, approved by Ministry of Transport Order of 5 October 2009	Art. 20	Freight centres	A freight centre must be equipped with an IT or software system to record supply and demand data on the vehicles used to transport goods, technical characteristics on the quality and quantity of goods transported, the carriers, its areas of activity, distribution itineraries, and the technical situation of the vehicles necessary for the haulage of the goods.	Following discussions with the authorities, it is the OECD's understanding that while no operation of this type currently exists in Tunisia, this provision seeks to guarantee proper operations and to avoid a proliferation of small, unstructured operators likely to engage in tax evasion. The provision also seeks to stimulate company growth and ensure quality services.	This requirement may increase the number of mandatory procedures for companies, which could result in higher costs and end prices.	Abolish the restriction.

Freight transport: Maritime

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-1	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 1	Maritime professions/ activities	To exercise the following maritime activities – maritime shipping carriers, shipowners, cargo handling, shipping agents, maritime-cargo agents, chartering agents, ship supplier, merchant-marine ship management, and shipping assistance, rescue and towing – the operator must establish a corporate legal entity.	Following discussions with the authorities, it is the OECD's understanding that companies may offer more solid financial guarantees and are able to better compete with any foreign operators. The corporate form may also constitute a guarantee of the quality of service towards third parties (clients).	Sole proprietorships are prevented from participating in the market. Furthermore, by requiring the establishment of a corporate legal entity, the Law imposes necessarily fixed costs, such as accounting systems, corporate legal expenses, etc. This will increase the prices charged by these operators and it may reduce the range of services provided, to the detriment of the users of these services.	Modify the Law and corresponding <i>cahier des charges</i> for shipping agents, maritime-cargo agents and freight forwarders, to allow natural persons (under the sole-proprietorship regime) to operate.
M-2	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 5 para. 2	Maritime professions/ activities	The practice of one of the maritime activities – with the exception of those foreseen in Article 4, paragraph 1, which applies to the registered professions – is subject to the preliminary filing of <i>cahiers des charges</i> with the relevant offices at the Ministry of Transport. These <i>cahiers des charges</i> specifically set the applicant's professional capacity requirements and the minimum means required to operate.	Following discussions with the authorities, it is the OECD's understanding that the <i>cahier des charges</i> are required to guarantee a minimum level of professional qualifications, technical knowledge and operational conditions.	The existence of <i>cahiers des charges</i> that set minimum professional capacity and material requirements to operate, leads to an increase in companies' fixed costs, which will multiply if operators are active in multiple ports. This will increase the prices charged in the market. These barriers may also reduce the number of companies in the market, which will result in less competitive pressure for already established companies. The content and need for such requirements are analysed in the specific <i>cahier des charges</i> regulation.	No recommendation.
M-3	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 6	Maritime professions/ activities	Foreign nationals may practice one of the maritime activities/professions when authorised by current international agreements, on condition of reciprocity. In the absence of such conventions, the practice of a maritime profession by a foreign national is subject to the current laws and regulations in force on foreign investment and shareholdings.	Following discussions with the authorities, it is the OECD's understanding that companies operating in this sector must be of Tunisian nationality as per article 119 of the Commercial Ports Code and Decree-Law 61-14 from 30 August 1961. The OECD understands that this	This article limits the possibilities for maritime or port services to be provided in Tunisia by a foreigner or a foreign company. This may lead to fewer service providers to meet the demand for transport or maritime services, which will increase the price of these services. This exception to the national-treatment clause was not notified by the Tunisian authorities to the OECD Investment Committee under the declaration of the ratification instrument.	Clarify the legislation applicable to foreign participation in national companies in this sector, in view of the recent update of Investment Law 2016-71.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
					condition aims to protect the market for Tunisian nationals.		
M-4	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 8	Maritime professions/ activities	A legal entity may only be enrolled in the professional register for the maritime professions (listed in paragraph 1, Article 4: shipping company, shipowner, cargo handling or ship classification) if its legal representative fulfils the professional-capacity requirements established by decree or if it provides proof of recruitment of at least one person who meets the terms and conditions established in the mentioned decree and appoints this person to a technical decision-making position within the company's main area of operations.	Following discussions with the authorities, it is the OECD's understanding that professional capacity is required as a guarantee of a minimum level of knowledge of the technical and operational working environment.	The professional capacity requirements may increase the costs of a company's entry into the market and operation. This may in turn increase the prices charged and diminish the diversity of services offered on the market. At the same time, this prerequisite may reduce the number of companies in the market, especially in the absence of individuals qualified and available in this sector. The content and need for such professional-capacity requirements are analysed in the specific <i>cahiers des charges</i> regulation.	No recommendation.
M-5	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 9	Maritime professions/ activities	If the legal representative does not meet the professional capacity (cited in paragraph 2, Article 5 and Article 8 of this Law), it may be obtained by taking an open examination to this end. The conditions for passing such an examination, the regime and the programme are established in an order issued by the Ministry of Transport.	Following discussions with the authorities, it is the OECD's understanding that this article seeks to give individuals who do not hold the specific required academic qualifications (but possess, for instance, other academic qualifications) the possibility of taking a professional qualification examination. According to the Ministry of Transport, the administration has not organised any examinations since 2008.	The existence of open professional-capacity exams would be beneficial as an alternative to individuals who wish to become legal representatives of maritime or port sector companies but, for example, do not hold the specific academic requirements foreseen in the Law. However, the Law has not been implemented since 2008, and the legal regime is unclear giving place to legal uncertainty and opacity regarding access to these functions. This may further reduce the number of individuals and or companies authorised to operate in the market, increase the companies costs, reduce the diversity of services offered, and finally increase prices for established companies. Regarding specifically the four activities under the registry regime, Decree 2017-705 does not foresee such professional-capacity exams, and revokes previous (secondary) legislation that regulated the professional exam. In the absence of legal clarity	Modify the current article to reflect the content of Decree 2017-705. If needed adopt or update the legal regime regarding the organisation of the professional-capacity examinations, and guarantee the candidates' right to sit the exam on a regular basis.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
						from the national administration, the OECD assumes that sitting a professional examination is impossible for these four professions. The legal validity of this Decree opposing Law 2008-44 remains unclear. According to the Ministry of Transport, the conditions for passing this examination for other maritime activities are still set forth in the Order of 17 November 1998, which establishes the rules and programme for the written professional-capacity examination, in the application of Decree 95-1471 of 14 August 1995. This, despite the fact that Decree 95-1471 was repealed by Decree 2017-705 of 26 May 2017. The Order of 17 November 1998 remains applicable until the publication of a new decree applicable to all other professions.	
M-6	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 11	Maritime professions/ activities	Anyone practising the profession of maritime shipping company, shipowner, ship-cargo handling, or ship-classification society must possess the minimum material requirements to fulfil his or her commitments. The minimum material requirements for practising each profession are set out in an order issued by the Ministry of Transport. These minimum material requirements may not be reassigned for other purposes.	Following discussions with the authorities, it is the OECD's understanding that the minimum material requirements concern the service obligations towards third parties, and that they represent an essential guarantee regarding the quality of service for clients.	By increasing set-up costs (for instance, through the obligation to acquire or lease certain types of work equipment, regardless of their viability, effectiveness or need), the provision may reduce the number of potential operators in the market. Furthermore, established companies already operating in the market may charge higher prices due to higher costs. The content and need for such material requirements are analysed in the specific <i>cahier des charges</i> regulation.	No recommendation.
M-7	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 13 para. 2	Maritime professions/ activities	This article provides that to operate in more than one Tunisian port, pilots, shipping agents, cargo agents, ship supplying companies and ship cargo-handling companies must fulfil, in each port, the conditions regarding minimum material requirements and professional capacity demanded by the current regulations in effect.	Following discussions with the authorities, it is the OECD's understanding that the minimum material requirements concern service obligations towards third parties that are needed in each port. (The legal conditions for minimum	By increasing set-up costs (for instance, through the obligation to acquire or lease an office, ship or storage space) regardless of their viability or effectiveness in each port where it operates, the provision may reduce the number of potential operators. Furthermore, for companies already operating in the market, this requirement may increase their costs, reduce economies of scale and consequently push them to charge higher	No recommendation.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
					material requirements and professional capacity do not vary from one port to the other, but the amount of minimum share capital required does.)	prices. The need for such requirements, established for each port, must be analysed on a case-by-case basis in the specific <i>cahier des charges</i> .	
M-8	Ministry of Transport Order of 17 November 1998, establishing the rules and programme for the written examination for the fulfilment of the professional capacity requirements enabling enrolment in one of the registers of the merchant-marine professions	Art. 2 para. 3	Maritime professions/ activities	To sit the professional capacity examination, potential candidates must have – depending on the profession or activity – an advanced or post graduated university degree in a technical, economic, legal, or management subject, as foreseen in Decree 95-1471.	Following discussions with the authorities, it is the OECD's understanding that maritime activities are technical and specific, and the required specialised degrees, or passing a professional-capacity examination, guarantees good professional and performance levels. These examinations are an alternative to the qualifications specified in Law 2008-44.	This prevents anyone without the specified university degrees, or with lower academic degrees, from taking the examinations that would prove their professional capacity. This may reduce the number of operators in the market and increase companies' operating costs, especially given the absence of a large number of trained Tunisian managers in this sector. Lowering the requirements to sit such an examination would improve flexibility in the market, and open up the market to a broader set of individuals who may have previously been denied access despite having sufficient knowledge. The fact that candidates have to take an examination should suffice to attest to their capacity to practice the relevant profession, regardless of their academic qualifications. In order to take account of further academic qualifications and prior experience candidates may have, the authorities could introduce a "points system". Candidates would pass or fail the examination to enter the profession, depending on their performance at the examination and the points gained from their academic qualifications and prior experience.	Allow holders of high-school diplomas to sit the examination.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-9	Ministry of Transport Order of 17 November 1998, establishing the rules and programme for the written examination for the fulfilment of the professional capacity requirements enabling enrolment in one of the registers of the merchant-marine professions	Art. 3 para. 1	Maritime professions/ activities	<p>The professional-capacity exam is offered by the Ministry of Transport, which establishes:</p> <ul style="list-style-type: none"> • the registration deadline; and • the time and place of the examination. <p>The examination is announced at least three months in advance in a press notification published in at least two daily newspapers.</p>	Following discussions with the authorities, it is the OECD's understanding that maritime activities are technical and specific, and the required specialised degrees, or passing a professional-capacity examination, guarantees good professional and performance levels. These examinations are an alternative to the qualifications specified in Law 2008-44.	In the absence of a decision to offer the examinations by the Ministry of Transport, a potential operator is unable to take the examination and thus practice the activity or profession. According to the information received by the OECD, no examination has been offered since 2008. This prevents anyone from accessing examinations that would attest to their professional capacity. This may reduce the number of operators in the market and increase companies' operating costs, especially given the absence of a large number of trained Tunisian managers in these sectors.	Update the legal regime regarding the organisation of the professional-capacity examinations, and guarantee candidates' right to sit the examination on a regular basis.
M-10	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3, para. 2 and 1	Ship-classification society	A legal entity wishing to become a ship-classification society is required to have a minimum share capital of TND 50 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a ship-classification society, this article increases the market access costs. It prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and greater market concentration, and may prevent small-scale operators from offering more innovative, lower-priced services. In its report, <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-11	Decree 2017-705 of 26 May 2017, establishing the professional capacity requirements for enrolling in the registers for shipowners, maritime-shipping companies, ship-classification societies, and ship cargo-handling companies	Art. 2	Ship-classification society	To register and practice as a ship-classification society, a company's legal representative (or another company's decision-making agent) must have more than three years' experience in the sector, and hold one of the three following types of academic qualifications: 1) a certificate of competency as a captain or second-class captain's qualification of the merchant marine or equivalent; 2) a certificate of competency as chief engineer or a second-class chief engineer's qualification in the merchant marine or its equivalent; 3) an engineering degree in shipbuilding or equivalent.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in some cases prior experience, guarantee a minimum level of knowledge for the activity or profession.	The academic qualification requirements may increase costs for an operator to establish itself and operate in the market. The existence of entry costs and fixed costs may be reflected in higher costs and less diversity of services. The prerequisite of a minimum of 3 years' professional experience in the sector before being able to work as a legal representative or responsible officer of the legal entity further reduces the number of potential professionals and limits employment opportunities for new graduates who nevertheless hold the requisite academic qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentive to start a competing firm. Tunisian law already sets out that such companies need to be a member of the International Association of Classification Societies (IASC), which guarantees a company's technical capacity to perform its tasks.	Eliminate the requirement of having 3 years' previous experience to become the legal representative of a ship-classification society.
M-12	Ministry of Transport Order of 24 October 2014, establishing the minimum material requirements to practice the profession of ship-classification society	Art. 1 (1)	Ship-classification society	A ship-classification society must own or lease an office at least 60m ² in size.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various maritime professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies.	Abolish the restriction.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-13	Ministry of Transport Order of 24 October 2014, establishing the minimum material requirements for the practice of the profession of ship-classification society	Art. 1 (2)	Ship-classification society	A legal entity wishing to practice the activity of ship classification is required to have a minimum share capital of TND 50 000.	Following discussions with the authorities, it is the OECD's understanding that minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a ship-classification society, this article increases the costs of accessing the market. It prevents operators from choosing a lower amount of share capital, even if this would be more adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower-priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.
M-14	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (1)	Shipowner	A legal entity wishing to become a shipowner is required to have a minimum share capital of TND 1 million.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a shipowner, this article increases the costs of accessing the market. It prevents operators from choosing a lower amount of share capital, even if this would be more adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower-priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-15	Order from the Ministry of Transports of 1 February 2017, establishing minimum material requirements to practice the profession of shipowner or maritime shipping company	Art. 1 (1)	Shipowner	The shipowner must own or lease premises at least 90m ² in size.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	access to financing for SMEs and a lower number of new companies in the formal sector. This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies.	Abolish the restriction.
M-16	Ministry of Transport Order of 1 February 2017, establishing the minimum material requirements for practising the profession of shipowner or maritime shipping company	Art. 1 (3)	Shipowner	A legal entity wishing to practice the activity of shipowner is required to have a minimum share capital of TND 1 million.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a shipowner, this article increases the costs of market access. It prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement for these companies, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-17	Decree 2017-705 of 26 May 2017, which establishes the professional capacity requirements for enrolling in the registers for shipowners, maritime shipping companies, ship-classification societies, and ship cargo-handling companies	Art. 1	Shipowner	To enrol in the register and practice the activity of ship-owner or maritime shipping carrier company, the company's legal representative (or the company's technical responsible officer) must have more than three years of experience in the sector, and hold one of the three following types of academic qualifications: 1) a certificate of competency as a captain or a certificate of second-class captain of the merchant marine or equivalent; 2) a master's degree (former regime) in the field of maritime transport or in the field of transport and logistics or equivalent; 3) a master's degree in the field of maritime transport or in the field of transport and logistics or equivalent.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in some cases prior experience, guarantee a minimum level of knowledge for the activity or profession.	The academic qualification requirements may increase costs for an operator to establish itself and operate in the market. These costs multiply if the operators work in different ports. The existence of entry costs and fixed costs may be reflected in higher costs and less diversity of services. The prerequisite of a minimum of 3 years' professional experience in the sector before being able to work as a legal representative or responsible officer of the legal entity further reduces the number of potential professionals and limits employment opportunities for new graduates who nevertheless hold the requisite academic qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentive to start a competing firm.	Eliminate the requirement of having three years of previous experience to become the legal representative of the shipowner or maritime shipping carrier.
M-18	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (1)	Maritime shipping carrier	A legal entity wishing to become a maritime-shipping carrier is required to have a minimum share capital of TND 500 000.	Following discussions with the authorities, it is the OECD's understanding that minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a maritime shipping carrier, this article increases the costs of market access. It prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-19	Ministry of Transport Order of 1 February 2017, establishing the minimum material requirements for practising the profession of shipowner or maritime-shipping company	Art. 2 (1)	Maritime shipping carrier	A maritime shipping company must own or lease premises at least 90m ² in size with a sign displaying the company's name and business purpose.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies.	Abolish the restriction.
M-20	Ministry of Transport Order of 1 February 2017, establishing the minimum material requirements for practising the profession of shipowner or maritime-shipping company	Art. 2 (3)	Maritime shipping carrier	A legal entity wishing to become a maritime-shipping carrier is required to have a minimum share capital of TND 500 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a maritime shipping carrier, this article increases the costs of market access. It prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-21	Ministry of Transport Order of 1 February 2017, establishing the minimum material requirements for practising the profession of shipowner or maritime-shipping company	Art. 2 (5) para. 2	Maritime shipping carrier	Maritime shipping carriers – who do not own the ship - must charter a merchant vessel to transport cargo or passengers internationally, which must be in good operating condition, and which comply with national and international safety and security regulations, as confirmed through valid documents and certificates. Maritime shipping companies must also commit to purchase the chartered vessel or a similar vessel and increase the company's share capital to TND 1 million within one year of registry as a maritime shipping company.	Following discussions with the authorities, it is the OECD's understanding that the article seeks to guarantee the existence of a fleet under the Tunisian flag, as maritime shipping companies are obligated to acquire a vessel after one year of operation and so become shipowners.	This prevents maritime shipping companies from entering into long-term agreements (more than 12 months) for chartering, leasing, or other legal forms of using vessels, which are more profitable for maritime shipping companies. This favours operators with large financial capacities and the short-term means to invest in purchasing a vessel. All operators, including those who want to enter the market for only a limited amount of time, will experience difficulties, because the initial investment and the existing costs (mandatory after one year) are necessarily high. This restriction has not contributed to the formation of a national fleet. In fact, the number of ships flying the Tunisian flag has fallen in the last decade, and currently stands at 5 ships. Similarly, of the 12 maritime shipping companies that existed in 1992, only 3 such companies (shipowners) remain in Tunisia.	Eliminate the obligation on shipping companies to purchase a chartered vessel, or a similar one, and to have (or increase) the share capital after one year of operation.
M-22	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (1)	Ship cargo handling	A legal entity wishing to operate as a ship cargo-handler is required to have a minimum share capital of between TND 100 000 and 1 million, depending on the port where it operates.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to become a ship cargo-handler, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-23	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 4 para. 4	Ship cargo handling	The only companies that may be registered as ship cargo-handling companies are those that have entered into a concession agreement or who have received approval to enter into a concession agreement involving the occupancy of the public domain within the port area, in the application of the current laws in effect.	Following discussions with the authorities, it is the OECD's understanding that lawmakers intended to strengthen the structure of companies providing port services by granting them concessions rights for longer periods of time.	<p>number of new companies in the formal sector. Moreover, minimum share capital in each port may fragment the market by reducing economies of scale when companies expand to other ports, and have discriminating effect against smaller companies (which will need to increase share capital to move for other – perhaps, more important – ports).</p> <p>By reducing the number of potential cargo-handling operators in the market, this regulation allows existing companies to charge higher prices to port users. A ship cargo-handling company cannot be established on the legal basis of an authorisation given by the port authority for the temporary occupancy of the public domain or another kind of legal instrument (such as licensing) to allow the provision of port services. A concession is a contract that depends on the agreement between the two parties, and it necessarily entails a long process of negotiation and implementation before it enters into effect. Furthermore, concessions may entail high fixed costs that favour medium-to large-sized companies with access to larger amounts of capital. Before the adoption of Law 2008-44, the majority of cargo-handling companies operated based on authorisation. Port authorities in Tunisia may wish to ensure that concessions are granted to private entities, with terms that set out the requisite investments alongside maximum tariffs.</p>	The competent authorities should modify the model of management and structuring of Tunisian ports (including port services), with a view to increasing participation of private cargo-handling service providers in the market, for example, through competitive concession procedures of a port or areas within a given port, with terms that set out the requisite investments alongside maximum tariffs.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-24	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 4 para. 5	Ship cargo handling	The provisions of this law on the registration of ship cargo-handling companies do not apply to ship cargo-handling companies operating in a port whose entire operations are covered by a single concession agreement.	The OECD was unable to identify the public policy objective.	The article establishes an exception for companies holding a concession for a port's entire operations. Such companies operate under a monopoly scheme and may be favoured over other companies who only partially operate a given port (i.e., who hold a concession). In such a case, this creates competitive advantages over other companies established in other ports.	The competent authorities should modify the model of management and structuring of Tunisian ports (including port services), with a view to increasing participation of private cargo-handling service providers in the market, for example, through competitive concession procedures of a port or areas within a given port, with terms that set out the requisite investments alongside maximum tariffs. The existence of any exceptions – regarding market entry – should be justified and limited by Law.
M-25	Ministry of Transport Order of 1 February 2017, which establishes the minimum material requirements for practising the profession of ship cargo-handling company	Art. 1 (1)	Ship cargo handling	Ship cargo-handling companies are required to own or lease premises that are 1) at least 60m ² in size, and 2) in the port where they operate.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. Furthermore, as companies must contract with port authorities to obtain this space, and port space is necessarily limited, any negotiations with the port authority are likely to be in its favour. Finally, companies operating in multiple ports are obligated to open offices in each port, which will multiply their fixed costs.	Abolish the restriction.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-26	Ministry of Transport Order of 1 February 2017, which establishes the minimum material requirements for practising the profession of ship cargo-handling company	Art. 1 (3)	Ship cargo handling	A legal entity wishing to practice the maritime cargo-handling activity is required to have a minimum share capital, which varies between TND 100 000 and 1 million depending on the port where it operates.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to become a ship cargo-handler, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector. Moreover, minimum share capital in each port may fragment the market by reducing economies of scale when companies expand to other ports, or have discriminating effect against smaller companies (which will need to increase share capital to move for other – perhaps, more important – ports).	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.
M-27	Ministry of Transport Order of 1 February 2017, which establishes the minimum material requirements for practising the profession of ship cargo-handling company	Art. 1 (4)	Ship cargo handling	Ship cargo-handling companies must enter into a concession or receive approval to enter into a concession agreement that involves the occupancy of the public domain within the port area, in the application of the current laws in force.	Following discussions with the authorities, it is the OECD's understanding that lawmakers intended to strengthen the structure of companies providing port services by granting them rights for longer periods of time (concessions).	By reducing the number of cargo-handling operators in the market, this regulation allows existing companies to charge higher prices to port users. A ship cargo-handling company cannot be established on the legal basis of an authorisation given by the port authority for the temporary occupancy of the public domain or another kind of legal instrument (such as licensing) to allow the provision of port services. A concession is a contract that depends on the agreement between the two parties, and it	The competent authorities should modify the model of management and structuring of Tunisian ports (including port services), with a view to increasing participation of private cargo-handling service providers in the market, for example, through competitive concession

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
						necessarily entails a long process of negotiation and implementation before it enters into effect. Furthermore, concessions may entail high fixed costs that favour medium- to large-sized companies with access to larger amounts of capital. Before the adoption of Law 2008-44, the majority of cargo-handling companies operated based on authorisation. Port authorities in Tunisia may wish to ensure that concessions are granted to private entities, with terms that set out the requisite investments alongside maximum tariffs.	procedures of a port or areas within a given port, with terms that set out the requisite investments alongside maximum tariffs.
M-28	Decree 2017-705 of 26 May 2017, establishing the professional capacity requirements for registering as a shipowner, maritime shipping company, ship-classification society, and ship cargo-handling company	Art. 3	Ship cargo handling	To enrol in the register and practice the activity of a port cargo handling company, the company's legal representative (or the company's technical responsible officer) must have more than three years of experience in the sector, and hold one of the three following types of academic qualifications: 1) a certificate of competency as a captain or a certificate of second-class captain of the merchant marine or equivalent; 2) a certificate of competency as chief engineer or a second-class merchant-marine chief engineer's qualification or its equivalent; 3) a master's degree (former regime) in the field of maritime transport or in the field of transport and logistics or equivalent; 4) a master's degree in the field of maritime transport or in the field of transport and logistics or equivalent.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in some cases prior experience, guarantee a minimum level of knowledge for the activity or profession.	The academic qualification requirements may increase costs for an operator to establish itself and operate in the market. These costs multiply if the operators work in different ports. The existence of entry costs and fixed costs may be reflected in higher costs and less diversity of services. The prerequisite of a minimum of 3 years' professional experience in the sector before being able to work as a legal representative or responsible officer of the legal entity further reduces the number of potential professionals and limits employment opportunities for new graduates who nevertheless hold the requisite academic qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentive to start a competing firm.	Eliminate the requirement of having 3 years' experience before being able to become a maritime cargo-handling company's legal representative.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-29	Decree 2017-705 of 26 May 2017, establishing the professional capacity requirements for registering as a shipowner, maritime shipping company, ship-classification society, and ship cargo-handling company	Art. 3 para. 5	Ship cargo handling	In addition to professional-capacity requirements for ship cargo-handling companies' representatives, they must also have technical managers with these qualifications in each port where they operate.	Following discussions with the authorities, it is the OECD's understanding that professional qualifications are required to ensure service quality and that this applies to each port where the company operates.	The specific academic qualification requirements for the company representative or technical responsible officer that apply in each port where the company operates prevent economies of scale. They also increase set-up costs to the detriment of smaller companies, as well as their fixed costs and it may increase the prices charged and reduce the services offered on the market. The company should be free to organise its own operations – including human-resources management and recruitment – in the ports where it operates.	Eliminate the obligation of having an officer – technical managers – with specific qualifications in each port where the company operates.
M-30	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (2)	Maritime expert	A legal entity wishing to become a maritime expert is required to have a minimum share capital of TND 10 000.	Following discussions with the authorities, it is the OECD's understanding that the authorities the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to become a maritime expert company, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement for these companies, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-31	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 12 para. 3	Maritime expert	It is forbidden to practice the profession of maritime expert alongside other maritime professions or the profession of forwarding agent described in the current legislation in force.	Following discussions with the authorities, it is the OECD's understanding that this article seeks to avoid professional conflicts of interest.	Maritime experts may not engage in other professions that exist in close relation with their own areas of expertise. This prevents maritime experts from mutualising their costs and know-how, and leads to experts charging higher prices to the detriment of users of the services. Furthermore, to become a maritime expert, an individual must have at least 5 years' working experience in the relevant sectors. Similarly, other maritime professions, such as forwarding agents, may not provide maritime-expert services, reducing the number of services for consumers, and perhaps leading to a reduction in the number of available maritime experts.	No recommendation
M-32	<i>Cahier des charges</i> for the activity of maritime expert, approved by Ministry of Transport Order of 15 September 2009, and modified by Ministry of Transport Order of 14 June 2016	Art. 8 para. 1	Maritime expert	The maritime-expert professional qualification, requires the individual or the legal representative of the legal entity to have satisfied at least one of the following conditions: 1) to have obtained at least a second-class captain's certificate in merchant marine; a <i>licence</i> as a second-class mechanical officer in the merchant marine; a <i>licence</i> as national engineer in maritime transport or transport and logistics or its equivalent; a master's degree (former regime or present) in the field of maritime transport or in the field of transport and logistics or equivalent; and have at least 5 years' professional experience in the field of maritime transportation. 2) To be registered with the professional association of the insurance organisations in one of the maritime fields as insurance expert and to have earned one of the academic	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in some cases prior experience, guarantee a minimum level of knowledge for the activity or profession.	The academic qualification requirements may increase set-up and operating costs for an entity. These costs may be reflected in higher prices and fewer services. The requirement for a minimum of 5 years' professional experience in the sector before being able to act as the legal representative or maritime expert further reduces the number of potential professionals. Finally, the rule establishes an exception to this experience requirement for anyone already enrolled as a legal expert or an expert for insurance companies. The legal regime should also recognise and take into account accreditations in a relevant international organisation.	No recommendation.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				degrees mentioned in the first point of this article. 3) To be registered as a court expert in one of the maritime fields and to have earned one of the academic degrees mentioned in the first point of this article.			
M-33	<i>Cahier des charges</i> for the activity of maritime expert, approved by Ministry of Transport Order of 15 September 2009, and modified by Ministry of Transport Order of 14 June 2016	Art. 9	Maritime Expert	Anyone wishing to become a maritime expert must own or lease premises or office space of at least 40m ² in size.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies.	Abolish the restriction.
M-34	<i>Cahier des charges</i> for the activity of maritime expert, approved by Ministry of Transport Order of 15 September 2009, and modified by Ministry of Transport Order of 14 June 2016	Art. 10	Maritime expert	A legal entity wishing to become a maritime expert company must have a minimum share capital of TND 10 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to become a maritime expert, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-35	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (2)	Pilot	A legal entity wishing to practice the maritime pilot activity is required to have a minimum share capital of TND 50,000.	Following discussions with the authorities, it is the OECD's understanding that the authorities the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	<p>requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.</p> <p>By requiring a minimum share capital to become a pilot, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i>, the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.</p>	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies minimum share capital.
M-36	<i>Cahier des charges</i> for the activity of maritime pilot, approved by the Ministry of Transport Order of 15 September 2009	Art. 9 para. 1	Pilot	Persons wishing to practice the profession of pilot must own or lease premises or an office space of at least 40 m ² in size in the port where they operate.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal	<p>This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. Furthermore, as companies must contract with port authorities to obtain this space, and port</p>	Abolish the restriction.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
					address or commercial office on legal entities.	space is necessarily limited, any negotiations with the port authority are likely to be in its favour. Finally, companies operating in multiple ports are obligated to open offices in each port, which will multiply their fixed costs.	
M-37	<i>Cahier des charges</i> for the activity of maritime pilot, approved by the Ministry of Transport Order of 15 September 2009	Art. 9 para. 2	Pilot	Anyone – be they an individual or a legal entity – who intends to practice the profession of pilot must own or lease, in each port where they operate, a covered instruction boat registered in Tunisia, in accordance with the current legislation in force. The boat must be equipped in accordance with national and international professional specifications and with an engine producing at least 150kW.	Following discussions with the authorities, it is the OECD's understanding that this boat is considered essential for practising the profession.	The article requires that any company or natural person intending to practice the profession of pilot own, or lease a boat with the specific, internationally determined characteristics. According to the law, the operator must also own a similar boat in each port where it intends to operate. This prevents other forms of operational organisation, such as co-operatives or shared boats. By increasing set-up costs, this article increases fixed costs and so market prices. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies or port authority. No private entity (natural person or company) practice this profession in Tunisia.	Eliminate the obligation to own or lease a boat with these specifications in each port where the pilot operates.
M-38	<i>Cahier des charges</i> for the activity of maritime pilot, approved by the Ministry of Transport Order of 15 September 2009	Art. 10	Pilot	A legal entity wishing to practice the profession of maritime pilot is required to have a minimum share capital of TND 50 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to become a piloting company, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-39	Ministry of Transport and Ministry of Trade Order of 1 June 2015 approving the maximum fees for shipping agents	Art. 1 and Annex 3 of price table	Shipping agent	The maximum fees to be charged by shipping agents for their services are approved as set forth in the price schedule attached to this order, and apply to any merchant ship that calls at a Tunisian commercial port (Art. 1 of the price schedule).	Following discussions with the authorities, it is the OECD's understanding that the article seeks to protect port users from potentially excessive prices, and that the maximum fee applies only to the fees charged to cargo owners.	investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector. Faced with capped prices, shipping agents risk lowering the quality of their services, or not proposing innovative, high-quality services. The diversity of supply may also be diminished if, in the presence of a maximum fee, well-established operators have few incentives to offer a wider range of services. The increasing use of web-based operational systems in most ports and generalised access to the Internet means that the customers of shipping agents have access to substantially more information than was available at the time of the regulation's adoption. Moreover, additional measures to improve transparency between customers and shipping agents can be easily undertaken by port authorities (e.g. listing available shipping agents and contacts on the internet; publishing the code of conduct or guidelines adopted by the port community). There are significantly less-restrictive solutions to information asymmetries in the shipping agent markets than setting maximum prices.	Eliminate the price cap for shipping-agent services.
M-40	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (2)	Shipping agent	A legal entity wishing to practice the activity of shipping agent must have a minimum share capital of TND 50 000 or of TND 100,000 if they operate in more than one port.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to become a shipping agent, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing</i>	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
						<i>Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	
M-41	<i>Cahier des charges</i> for the activity of shipping agent approved by Ministry of Transport Order of 15 September 2009	Art. 3	Shipping agent	A legal entity wishing to practice the activity of shipping agent must have a minimum share capital of TND 50 000 or of TND 100,000 if they operate in more than one port.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to become a shipping agent, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.
M-42	<i>Cahier des charges</i> for the activity of shipping agent approved by the Ministry of Transport Order of 15 September 2009	Art.8 (1)	Shipping agent	Professional competency is ensured if the legal representative of the entity practising the profession of shipping agent proves that he/she holds at least one of the following: 1) a <i>licence</i> in the field of transportation and logistics or its equivalent; 2) a coast captain qualification for merchant marine sailing or its equivalent, with one year of experience; 3) a qualified high-level technical degree in the field of	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in some cases prior experience, guarantee a minimum level of knowledge for the activity or profession.	The academic qualification requirements may increase set-up and operating costs for an entity, which will multiply if it works in different ports. These costs may then be reflected in higher prices in the market, lessen the diversity of services offered, and reduce the number of companies in the market. The prerequisite of a minimum of one year of professional experience in this sector, only applicable in one case, limits the employment opportunities of new graduates with the requisite academic qualifications,	Eliminate the previous experience requirement for shipping agents' legal representatives who comply with the specific academic qualifications foreseen in the article. Eliminate the exceptional regime for former civil servants.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				transportation and logistics; 4) held the position of unit head in a central-government office or at an equivalent level in a public agency in the maritime-transportation and port sector for a period of at least 3 years.		particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentives to start a competing firm. Finally, the rule establishes an exception for anyone who held the position of unit head in a central-government office, for a minimum period of 3 years. This exception does not require any specific academic qualifications, and appears discriminatory considering the other requirements.	
M-43	<i>Cahier des charges</i> for the activity of shipping agent approved by the Ministry of Transport Order of 15 September 2009	Art. 8 (2)	Shipping agent	To qualify for the professional-capacity examination, candidates must have a licence or equivalent in a technical field, economics, management or law and two years' experience in a related field.	Following discussions with the authorities, it is the OECD's understanding that this article aims to give individuals who do not have specific academic qualifications a priori, but with other degrees to access a professional qualification examination.	This prevents anyone without the specified undergraduate- or graduate-level university degrees, or with lower academic degrees, from taking the professional-capacity examinations. This may reduce the number of operators in the market and increase a company's operating costs. Lowering the requirements to sit such an examination would improve flexibility in the market, and open up the market to a broader range of individuals who were previously denied access despite having sufficient knowledge. That candidates have to take an examination should suffice to attest to their capacity to practice the profession, regardless of their academic qualifications. To take account of candidates' other academic qualifications and prior experience, the authorities could introduce a "points system". Candidates would pass or fail the exam to enter the profession, depending on their performance at the examination, as well as the points gained from their academic qualifications and prior experience.	Allow holders of high-school diplomas to sit the examination.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-44	<i>Cahier des charges</i> for the activity of shipping agent approved by Ministry of Transport Order of 15 September 2009	Art. 8 (3)	Shipping agent	In addition to the professional-capacity requirements for shipping-agent companies, this article requires companies to have suitably qualified technical managers in each port where they operate.	Following discussions with the authorities, it is the OECD's understanding that academic qualifications are required to ensure the quality of service and that this applies to each port.	The specific academic requirements for the company representative or responsible technical officer that apply in each port where the company operates prevent economies of scale. They also increase set-up costs, to the detriment of smaller-sized companies. This increases the fixed costs of these companies and may increase prices charged and reduce the services offered on the market. The company should be free to organise its operations – including its human resources management and recruitment – in the several ports where it operates.	Eliminate the obligation of having a technical manager with those specific qualifications in each port where the company operates.
M-45	<i>Cahier des charges</i> for the activity of shipping agent approved by Ministry of Transport Order of 15 September 2009	Art. 9	Shipping agent	Shipping agents must own or lease premises/offices at least 60m ² in size in each port where they operate.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. Furthermore, as companies must contract with port authorities to obtain this space, and port space is necessarily limited, any negotiations with the port authority are likely to be in its favour. Finally, companies operating in multiple ports are obligated to open offices in each port, which will multiply their fixed costs.	Abolish the restriction.
M-46	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (2)	Cargo agent	A legal entity wishing to practice the activity of cargo agent must have a minimum share capital of TND 100 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also	By requiring a minimum share capital for the practising of the cargo agent activity, this article increases the costs of accessing the market. These amounts prevent professionals from choosing a lower amount of share capital, even if this were more adequate for its business. This will	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
					enables a solid financial position to compete with foreign businesses.	have more of an impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and they may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report "Doing Business 2014 - Why are minimum capital requirements a concern for entrepreneurs?", the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	companies minimum share capital.
M-47	<i>Cahier des charges</i> for the activity of cargo agent approved by the Ministry of Transport Order of 15 September 2009	Art. 3	Cargo agent	A legal entity wishing to practice the activity of cargo agent must have a minimum share capital of TND 100,000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to practice cargo-agent activity, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-48	<i>Cahier des charges</i> for the activity of cargo agent approved by Ministry of Transport Order of 15 September 2009	Art.8 (1)	Cargo agent	Professional competency is ensured if the legal representative of the entity practising the profession of cargo agent proves that he/she holds at least one of the following: 1) a <i>licence</i> in the field of transportation and logistics or its equivalent; 2) a qualified coast captain for merchant marine sailing or its equivalent, with one year of experience; 3) a qualified high-level technical degree in the field of transportation and logistics; 4) held the position of unit head in a central-government office or at an equivalent level in a public agency in the maritime-transportation and port sector for a period of at least 3 years.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in some cases prior experience, guarantee a minimum level of knowledge for the activity or profession.	The academic qualification requirements may increase set-up and operating costs for an entity, which will multiply if it works in different ports. These costs may then be reflected in higher prices in the market, lessen the diversity of services offered, and reduce the number of companies in the market. The prerequisite of a minimum of one year of professional experience in this sector, only applicable in one case, limits the employment opportunities of new graduates with the requisite academic qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentives to start a competing firm. Finally, the rule establishes an exception for anyone who held the position of unit head in a central-government office, for a minimum period of 3 years. This exception does not require any specific academic qualifications, and appears discriminatory considering the other requirements.	Eliminate the previous experience requirement for cargo agents' legal representatives who comply with the specific academic qualifications foreseen in the article. Eliminate the exceptional regime for former civil servants.
M-49	<i>Cahier des charges</i> for the activity of cargo agent approved by Ministry of Transport Order of 15 September 2009	Art. 8 (2)	Cargo agent	To qualify for the professional-capacity exam, candidates must hold: 1) a licence or equivalent in a technical field, economics, management or law; 2) an advanced technician diploma in a technical field, economics, management or law.	Following discussions with the authorities, it is the OECD's understanding that this article aims to give individuals who do not have specific academic qualifications a priori, but with other degrees to access a professional qualification examination.	This prevents anyone without the specified undergraduate- or graduate-level university degrees, or with lower academic degrees, from taking the professional-capacity examinations. This may reduce the number of operators in the market and increase a company's operating costs. Lowering the requirements to sit such an examination would improve flexibility in the market, and open up the market to a broader range of individuals who were previously denied access despite having sufficient knowledge. That candidates have to take an examination should suffice to attest to their capacity to practice the profession, regardless of their academic qualifications. To take account of candidates'	Allow holders of high-school diplomas to sit the examination.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
						other academic qualifications and prior experience, the authorities could introduce a "points system". Candidates would pass or fail the exam to enter the profession, depending on their performance at the examination, as well as the points gained from their academic qualifications and prior experience.	
M-50	<i>Cahier des charges</i> for the activity of cargo agent approved by Ministry of Transport Order of 15 September 2009	Art. 8 (3)	Cargo agent	In addition to professional-capacity requirements for cargo agents' legal representatives, this article requires companies to have suitably qualified technical managers in each port where they operate.	Following discussions with the authorities, it is the OECD's understanding that academic qualifications are required to ensure the quality of service and that this applies to each port.	The specific academic requirements for the company representative or responsible technical officer that apply in each port where the company operates prevent economies of scale. They also increase set-up costs, to the detriment of smaller-sized companies. This increases the fixed costs of these companies and may increase prices charged and reduce the services offered on the market. The company should be free to organise its operations – including its human resources management and recruitment – in the several ports where it operates.	Eliminate the obligation of having a technical manager with those specific qualifications in each port where the company operates.
M-51	<i>Cahier des charges</i> for the activity of cargo agent approved by the Ministry of Transport Order of 15 September 2009	Art. 9	Cargo agent	This requires cargo agents to own or lease premises of at least 60m ² in size, in the port where they work.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. Furthermore, as companies must contract with port authorities to obtain this space, and port space is necessarily limited, any negotiations with the port authority are likely to be in its favour. Finally, companies operating in multiple ports are obligated to open offices in each port, which will multiply their fixed costs.	Abolish the restriction.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-52	<i>Cahier des charges</i> for the activity of cargo agent approved by the Ministry of Transport Order of 15 September 2009	Art. 10	Cargo agent	This requires cargo agents to equip their warehouses with loading and unloading areas, and at least two forklifts, each with a minimum lifting capacity of 1.2 t. Agents will have to purchase or lease these.	Following discussions with the authorities, it is the OECD's understanding that this article seeks to ensure the quality of the services provided by companies.	By increasing an operator's set-up costs (through the obligation to equip the warehouses with that specific equipment), this article increases fixed costs and so prices charged on the market. Equipment with such specific requirements might not be efficient or required. These extras costs reduce the number of companies in the market, and may allow companies to charge higher prices due to reduced competitive pressure among established companies. This kind of prescriptive standard is likely to be out of order or unsuitable for the market because it sets standards that ignore changing material conditions.	Eliminate equipment requirements.
M-53	<i>Cahier des charges</i> for the activity of cargo agent approved by the Ministry of Transport Order of 15 September 2009	Art. 10	Cargo agent	Those intending to practice the profession of cargo agent must own or lease a warehouse located close to a port or airport or situated in a business and logistics park, which must have a covered area of at least 1,000m ² .	Following discussions with the authorities, it is the OECD's understanding that this article seeks to ensure the quality of the services provided by companies. According to the Office of the Merchant Marine and Ports (OMMP), the mandatory zone for the warehouse's location is pre-established in port licences and zoning regulations.	By increasing set-up costs (by requiring companies to purchase or lease a warehouse within the port area of at least 1,000m ²), the article increases companies' fixed operating costs and so reduces the number of companies in the market, which may result in less competitive pressure on established companies. Also, as Tunisia currently has no logistics zones, companies are therefore required to contract with port authorities to obtain space, but as port space is necessarily limited, any negotiations with the port authority are likely to favour them.	Eliminate the obligation of having a warehouse in a specific location with a minimum surface area.
M-54	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (2)	Chartering agent	A legal entity wishing to practice the activity of chartering agent must have a minimum share capital of TND 30 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to practice chartering-agent activity, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-55	<i>Cahier des charges</i> for the activity of chartering agent approved by the Ministry of Transport Order of 15 September 2009	Art. 3	Chartering agent	A legal entity wishing to practice the activity of chartering agent must have a minimum share capital of TND 30 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	<p>priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i>, the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.</p> <p>By requiring a minimum share capital for the practice of chartering-agent activity, this article increases the costs of market access. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i>, the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.</p>	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies minimum share capital.
M-56	<i>Cahier des charges</i> for the activity of chartering agent approved by the Ministry of Transport Order of 15 September 2009	Art. 8	Chartering agent	Chartering agents' professional competency is assured if the legal representative of the legal entity proves that he/she has at least one year's experience and one of the following: 1) certification as a second-class captain of the merchant marine or equivalent; 2) a degree in maritime transportation or equivalent; 3) a	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in this case the prior experience, guarantee a minimum level of knowledge for the activity or profession.	The academic qualification requirements may increase set-up and fixed operating costs for a chartering agent, which may be reflected in higher prices in the market, while reducing the diversity of services offered and the number of companies in the market. The prerequisite of one year's professional experience in the sector, limits employment opportunities for new graduates with the requisite academic	Eliminate the requirement for one year's experience requirement for the legal representative of chartering agents who have the necessary academic qualifications. Eliminate the exceptional regime for former civil servants.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				degree in the field of transportation and logistics or its equivalent; or 4) has held the position of deputy director in a central-government office or at an equivalent level in a public agency in the maritime transportation and port sector for a period of at least 3 years.		qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentives to start a competing firm. Finally, the rule establishes an exception to this experience requirement for anyone who held the position of unit head in a central-government office, for a minimum period of 3 years. This exception does not require any specific academic qualifications, and appears discriminatory considering the other requirements.	
M-57	<i>Cahier des charges</i> for the activity of chartering agent approved by the Ministry of Transport Order of 15 September 2009	Art. 8(2)	Chartering agent	To qualify for the professional-capacity examination, candidates must have a Master degree in a technical field, economics, management or law, and two years' experience in a related field.	Following discussions with the authorities, it is the OECD's understanding that this article aims to give individuals who do not have specific academic qualifications a priori, but with other degrees to access a professional qualification examination.	This prevents anyone without the specified undergraduate- or graduate-level university degrees, or with lower academic degrees, from taking the professional-capacity examinations. This may reduce the number of operators in the market and increase a company's operating costs. Lowering the requirements to sit such an examination would improve flexibility in the market, and open up the market to a broader range of individuals who were previously denied access despite having sufficient knowledge. That candidates have to take an examination should suffice to attest to their capacity to practice the profession, regardless of their academic qualifications. To take account of candidates' other academic qualifications and prior experience, the authorities could introduce a "points system". Candidates would pass or fail the exam to enter the profession, depending on their performance at the examination, as well as the points gained from their academic qualifications and prior experience.	Allow holders of high-school diplomas to sit the examination.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-58	<i>Cahier des charges</i> for the activity of chartering agent approved by the Ministry of Transport Order of 15 September 2009	Art. 9	Chartering agent	Anyone intending to exercise the profession of chartering agent must own or rent premises or offices at least 60 m ² in size.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies.	Abolish the restriction.
M-59	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (2)	Merchant-marine ship management	A legal entity wishing to practice the activity of merchant-marine ship management must have a minimum share capital of TND 30 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to engage in merchant-marine ship management, this article increases market-access costs. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business, which will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement specific, and apply the general legal regime regarding commercial companies minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-60	<i>Cahier des charges</i> for the activity of merchant-marine ship management approved by the Ministry of Transport Order of 15 September 2009	Art. 3	Merchant marine ship management	A legal entity wishing to practice the activity of merchant-marine ship management must have a minimum share capital of TND 30 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum share capital to engage in merchant-marine ship management, this article increases market-access costs. This prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business, which will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the minimum share capital requirement specific for these companies, and apply the general legal regime regarding commercial companies' minimum share capital.
M-61	<i>Cahier des charges</i> for the activity of merchant-marine ship management approved by the Ministry of Transport Order of 15 September 2009	Art. 8	Merchant-marine ship management	Professional capacity is ensured if the legal representative of the legal entity practising the profession of merchant-marine ship management proves that he/she has one year experience and: (a) a certificate of a second-class captain of the merchant marine or its equivalent. (b) a licence as a second-class mechanical officer of merchant marine or the equivalent (c) a degree in the field of maritime transportation or its equivalent, (d) a degree in the field of transport and logistics or its equivalent. (e) or Held the position of deputy director in a central government office	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in this case the prior experience, guarantee a minimum level of knowledge for the activity or profession.	The academic qualification requirements may increase set-up and fixed operating costs for a chartering agent, which may be reflected in higher prices in the market, while reducing the diversity of services offered and the number of companies in the market. The prerequisite of one year's professional experience in the sector, limits employment opportunities for new graduates with the requisite academic qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentives to start a competing firm. Finally, the rule establishes an exception to this experience requirement for anyone who held the position of unit head in a central-government office, for a	Eliminate the requirement for one year's experience requirement for the legal representative of merchant marine ship management who have the necessary academic qualifications. Eliminate the exceptional regime for former civil servants.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				or at an equivalent level in a public agency in the maritime transportation and ports sector for a period of at least 3 years.		minimum period of 3 years. This exception does not require any specific academic qualifications, and appears discriminatory considering the other requirements.	
M-62	<i>Cahier des charges</i> for the activity of merchant-marine ship management approved by Ministry of Transport Order of 15 September 2009	Art. 8(2)	Merchant-marine ship management	To qualify for the professional-capacity examination, candidates must have a master's degree in a technical field, economics, management or law and two years' experience in a related field.	Following discussions with the authorities, it is the OECD's understanding that this article aims to give individuals who do not have specific academic qualifications a priori, but with other degrees to access a professional qualification examination.	This prevents anyone without the specified undergraduate- or graduate-level university degrees, or with lower academic degrees, from taking the professional-capacity examinations. This may reduce the number of operators in the market and increase a company's operating costs. Lowering the requirements to sit such an examination would improve flexibility in the market, and open up the market to a broader range of individuals who were previously denied access despite having sufficient knowledge. That candidates have to take an examination should suffice to attest to their capacity to practice the profession, regardless of their academic qualifications. To take account of candidates' other academic qualifications and prior experience, the authorities could introduce a "points system". Candidates would pass or fail the exam to enter the profession, depending on their performance at the examination, as well as the points gained from their academic qualifications and prior experience.	Allow holders of high-school diplomas to sit the examination.
M-63	<i>Cahier des charges</i> for the activity of merchant-marine ship management approved by the Ministry of Transport Order of 15 September 2009	Art. 9	Merchant-marine ship management	To exercise the profession of merchant-marine ship management, an entity must own or lease premises at least 60 m ² in size.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may	Abolish the restriction.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
					authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	result in less competitive pressure among already established companies.	
M-64	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (2)	Ship-supply company	A legal entity wishing to practice the activity of ship supplier must have a minimum share capital of TND 20 000 if they operate in a single port or of TND 50 000 if they operate in more than one port.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a ship supplier, this article increases the costs of accessing the market. It prevents operators from choosing a lower amount of share capital, even if this would be more adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower-priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector. Furthermore, the minimum amount of TND 50 000 penalises operators working in two ports compared to those who operate in a single port (minimum: TND 20 000).	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.
M-65	<i>Cahier des charges</i> for the activity of ship supplier approved by Ministry of Transport Order of 15 September 2009, modified by the Ministry of Transport Order of 18 May 2015	Art. 3	Ship-supply company	A legal entity wishing to practice the activity of ship supplier must have a minimum share capital of TND 20 000 if they operate in a single port or of TND 50 000 if they operate in more than one port.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a ship supplier, this article increases the costs of accessing the market. It prevents operators from choosing a lower amount of share capital, even if this would be more adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
						greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower-priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector. Furthermore, the minimum amount of TND 50 000 penalises operators working in two ports compared to those who operate in a single port (minimum: TND 20 000).	
M-66	<i>Cahier des charges</i> for the activity of ship supplier approved by Ministry of Transport Order of 15 September 2009, modified by the Ministry of Transport Order of 18 May 2015	Art. 8(1)	Ship-supply company	Professional competency is ensured if the legal representative of a ship-supply company holds a patent of professional technician in transport or logistics; or a technical diploma in transport or logistics.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications, and in this case the prior experience, guarantee a minimum level of knowledge for the activity or profession.	The requirement of specific academic qualifications may increase set-up and operating costs for a company in the market. These costs multiply if an operator works in different ports. Entry and fixed costs may increase prices, while reducing the number of companies in the market, especially due to a lack of available trained Tunisian managers in this sector.	No recommendation.
M-67	<i>Cahier des charges</i> for the activity of ship supplier approved by Ministry of Transport Order of 15 September 2009, modified by the Ministry of Transport Order of 18 May 2015	Art. 8(2)	Ship-supply company	To qualify for the professional-capacity examination, candidates must have two years' experience in a related field and : 1) professional diploma in a technical field, economy or management; 2) a <i>baccalaureate</i> certificate.	Following discussions with the authorities, it is the OECD's understanding that this article aims to give individuals who do not have specific academic qualifications a priori, but with other degrees to access a professional qualification examination.	This prevents anyone without the specified high-school diploma or with it but without professional experience from taking the professional-capacity examinations. This may reduce the number of operators in the market and increase a company's operating costs. Lowering the requirements to sit such an examination would improve flexibility in the market, and open up the market to a broader range of individuals who were previously denied access despite having sufficient knowledge. That candidates have to take an examination should suffice to attest to their capacity to practice the profession, regardless of their academic qualifications. To take account of candidates'	No recommendation.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
						other academic qualifications and prior experience, the authorities could introduce a "points system". Candidates would pass or fail the exam to enter the profession, depending on their performance at the examination, as well as the points gained from their academic qualifications and prior experience.	
M-68	<i>Cahier des charges</i> for the activity of ship supplier approved by Ministry of Transport Order of 15 September 2009, modified by the Ministry of Transport Order of 18 May 2015	Art. 8(3)	Ship-supply company	In addition to the professional qualification requirements for ship suppliers, a company is required to have a responsible technical manager with these same qualifications in each port where it operates.	Following discussions with the authorities, it is the OECD's understanding that academic qualifications are required to ensure the quality of service and that this applies to each port.	The specific academic requirements for the company representative or technical responsible officer that apply in each port where a company operates prevent economies of scale. They also increase set-up costs, to the detriment of smaller-sized companies. This increases the fixed costs of these companies and may increase prices charged and reduce the services offered on the market. The company should be free to organise its operations – including its human resources management and recruitment – in the several ports where it operates.	Eliminate the obligation of having an officer – technical managers – with those specific qualifications in each port where the company operates.
M-69	<i>Cahier des charges</i> for the activity of ship supplier approved by Ministry of Transport Order of 15 September 2009, modified by the Ministry of Transport Order of 18 May 2015	Art. 9 para. 1	Ship-supply company	A company intending to exercise the profession of ship supplier must own or rent premises at least 25 m ² in size in each port where they operate.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. Furthermore, as companies must contract with port authorities to obtain this space, and port space is necessarily limited, any negotiations with the port authority are likely to be in its favour. Finally, companies operating in multiple ports are obligated to open offices in each port, which will multiply their fixed costs.	Abolish the restriction.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-70	Law 2008-44 of 21 July 2008 on the organisation of maritime professions	Art. 3 para. 2 and (2)	Representation of foreign ship-classification society	A legal entity wishing to practice the profession of representation of foreign ship-classification societies must have a minimum share capital of TND 10 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a representation of a foreign ship classification society this article increases the costs of accessing the market. It prevents operators from choosing a lower amount of share capital, even if this would be more adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower-priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.
M-71	<i>Cahier des charges</i> for the activity of representation of foreign ship-classification society approved by Ministry of Transport Order of 15 September 2009, modified by Ministry of Transport Order from 18 May 2015	Art. 3	Representation of foreign ship-classification society	A legal entity wishing to practice the activity of representation of foreign ship classification societies must have a minimum share capital of TND 10 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital to become a representation of a foreign ship classification society, this article increases the costs of accessing the market. It prevents operators from choosing a lower amount of share capital, even if this would be more adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower-priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
						minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	
M-72	<i>Cahier des charges</i> for the activity of Representation of foreign ship-classification society approved by Ministry of Transport Order of 15 September 2009, modified by Ministry of Transport Order of 18 Mai 2015	Art. 8	Representation of foreign ship-classification society	To act as the legal representative of a company representing foreign ship-classification societies, individuals must hold: 1) a second-class merchant-marine captain's qualification or its equivalent; or 2) a second-class merchant-marine mechanical officer qualification or its equivalent. If a legal entity's legal representative lacks these professional competencies, at least one individual who fulfils these criteria must be recruited to hold this technical decision-making position.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications guarantee a minimum level of knowledge for the activity or profession.	Requiring specific academic qualifications may increase market-access and operating costs for an entity, which may be reflected in higher market prices. It may also reduce the number of companies in the market, especially with a lack of trained Tunisian managers in the sector. In order to simplify regulations, and avoid distortions, the legislator should establish a more uniform regime for foreign and national classification companies operating in the country. Moreover, the use of international standards – such as being a member of the International Association of Classification Societies (IACS) – can already guarantee a company's technical capacity.	No recommendation.
M-73	<i>Cahier des charges</i> for the activity of Representation of foreign ship-classification society approved by Ministry of Transport Order of 15 September 2009, modified by Ministry of Transport Order from 18 May 2015	Art. 9	Representation of foreign ship-classification society	Anyone who intends to operate as the representative of a foreign ship-classification society must own or lease premises of at least 60m ² in size.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific office area guarantees the observance of applicable workplace safety and hygiene conditions. No reason was offered for the variation in the size of the area for the various professions. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	This may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies.	Abolish the restriction.

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M-74	Law 2009-48 of 8 July 2009, promulgating the Maritime Ports Code	Art. 25	Port services	A concession (of the public domain) is granted for a maximum term of 30 years, which can be extended by an additional term not to exceed 20 years.	Following discussions with the authorities, it is the OECD's understanding that the article seeks to facilitate the necessary investment by ship cargo-handling companies.	Having a term of a concession is necessary to ensure that operators can compete for the market at the end of the agreed period. In the absence of other legal forms for the practice of ship cargo handling – see Art.4, para. 4 of Law 2008-44 – it is important that objective criteria be set in the contract to decide the initial term of concessions. According to this logic, any automatic renewal or one without a renegotiation of the contract may have negative consequences to competition for the market. The process for the renewal of concessions therefore gives port authorities an opportunity to ensure that concessions are granted with terms that set out the requisite investments alongside maximum tariffs, to protect both the quality of services and port users' interests.	No recommendation.
M-75	Decree 2002-135 of 28 January 2002, establishing the services that may be made a concession by the OMMP	Art. 1	Port services	The port towage services may be awarded through a concession by the OMMP.	Following discussions with the authorities, it is the OECD's understanding that the article sought to open up the market for these services to the private sector.	To provide these port services in merchant-marine ports, a private entity must hold a concession from the OMMP. The law does not foresee any authorisation system to ease access to this business and the OMMP has granted no concessions in this sector, reserving operations to itself and so excluding private entities from the market. According to international experience, the existence of private operators and of competition for or within a market is beneficial to port users. According to the law, it is also the OMMP that decides - art. 68 of the Law 2009-48 of July 8th, 2009, promulgating the code of the maritime ports - when towing is obligatory, in absence of which towing is optional. The double role of being the Port Authority and the only port towage operator may be detrimental to port users.	To broaden the private sector's access to port towing activities, by limiting the provision of such services from port authorities only to situations in which there is no market interest. In the long term, and depending on the evolution of the market, enabling port authorities to authorise multiple port towing service providers could also be considered, while ensuring the port authority retains control over safety and operational standards.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-76	<i>Cahier des charges</i> for the practice of the mooring activity in commercial seaports, approved by the Ministry of Transport Order of 5 Feb. 2002, modified by the Order of 3 February 2003	Art. 6	Mooring in commercial seaports	Only legal entities – companies and individuals – holding Tunisian nationality may practice mooring activity in commercial Tunisian seaports.	Following discussions with the authorities, it is the OECD's understanding that the limitation to Tunisians of the profession of mooring in commercial seaports is a condition to protect nationals.	The article restricts the possibilities of foreigners supplying goods or services, restricting service providers, which may increase the price of services.	Clarify the legislation applicable to foreign participation in national companies in this sector, in view of the recent update of Investment Law 2016-71.
M-77	<i>Cahier des charges</i> for the practice of the mooring activity in commercial seaports, approved by the Ministry of Transport Order of 5 February 2002, modified by the Order of 3 Feb. 2003	Art. 8	Mooring in commercial seaports	Any individual wishing to practice the profession of mooring must hold: 1) a high-school diploma and have successfully completed a specific professional-capacity examination; or 2) a level of education equivalent to at least the final year of secondary education and have held responsibilities directly related to the mooring profession for at least 2 years. The same conditions apply to the legal representative of the legal entity.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications guarantee a minimum level of knowledge for the activity or profession.	Specific professional-capacity requirements may reduce the number of companies able to enter the market, particularly as costs multiply if operators work in different ports. Entry costs and fixed costs may increase prices and reduce the diversity of the companies in the market, especially due to a lack of trained Tunisian managers in this sector. The prerequisite of a minimum of 2 years of professional experience in the sector, applicable in one case, further reduces the number of potential professionals, with all the aforementioned consequences.	Eliminate the need to assume responsibilities directly related to the mooring profession for at least two years for those with a level of education equivalent to at least the final year of secondary education, and establish a professional-capacity examination for this category of potential candidates.
M-78	<i>Cahier des charges</i> for the practice of the mooring activity in commercial seaports, approved by the Ministry of Transport Order of 5 February 2002, modified by the Order of 3 February 2003	Art. 9	Mooring in commercial seaports	Any entity wishing to practice the profession of mooring must, in each port where the profession is exercised: 1) own or rent office premises; 2) own a ship with a minimum length of 7 metres, equipped with a 30-horsepower motor. These equipment requirements apply to each port in which the entity operates.	Following discussions with the authorities, it is the OECD's understanding that the minimum means required relate to providing services to third parties and must necessarily be present in each port.	By increasing set-up costs this article contributes to the increase of fixed costs and thereby higher prices charged in the market. This may prevent other forms of physical organisation for the company, and reduce economies of scale for those operating in several ports. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities. This type of regulation likely becomes quickly out of date as the standards of material evolve in time.	Abolish the restriction.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-79	<i>Cahier des charges</i> for the practice of the mooring activity in commercial seaports, approved by the Ministry of Transport Order of 5 February 2002, modified by the Order of 3 February 2003	Art. 10	Mooring in commercial seaports	Any entity wishing to practice the profession of mooring is required to permanently hire a staff consisting of at least: 1) a fast-boat pilot authorised to perform this activity; 2) three merchant seafarers who have worked as seamen for a period of effective navigation of at least 2 years or on board fishing vessels for a period of navigation of at least 5 years.	Following discussions with the authorities, it is the OECD's understanding that the recruitment of 4 permanent professionals ensures quality, on-time service. An entity without the necessary staff will be less effective and could lead to problems in port operation.	Operators should be able to choose their own means and how they provide the services. The article requires professionals, individual or legal persons to recruit – permanently – a pilot and 3 seafarers. These fixed costs could increase prices, and may result in reduced competitive pressure on already established companies. New entrants and established players should be left the choice of how they organise themselves according to specific needs and capabilities, without imposing permanent additional charges.	Abolish the restriction.
M-80	Ministry of Transport and the Ministry of Trade Order of 7 October 2010, fixing the tariffs for mooring and undocking operations in commercial seaports	Art. 1	Mooring in commercial seaports	The tariff of mooring operations is a fixed rate established on the basis of the volume of the ship in m ³ , according to a formula described in article 1 of the Order.	Following discussions with the authorities, it is the OECD's understanding that the prices are fixed due to the importance of the service provided to both port users and port operators.	Faced with fixed prices, operators risk lowering the quality of their services, not proposing innovative and high-quality services that might have higher prices or services for customers willing to accept cheaper, reduced services. Diversity of supply may also be reduced since well-established operators have few incentives to offer a wider range of services. As several mooring companies operate in each port, employing maximum instead of fixed rates bring about more competition and better performance in the markets.	Abolish the fixed rate, and replace it with a maximum rate, to encourage competition.
M-81	<i>Cahier des charges</i> for the activity of used-oils collection in commercial seaports, approved by Ministry of Transport Order of 5 February 2002	Art. 6	Collection of used oils in commercial seaports	Only legal entities – companies and sole proprietorships – holding Tunisian nationality may collect used oils in Tunisian commercial seaports.	Following discussions with the authorities, it is the OECD's understanding that the limitation to Tunisians on the practice of collecting used oil in commercial seaports is a condition to protect nationals.	The article restricts the possibilities of foreigners performing the service, which could mean fewer service providers and increased prices.	Clarify the legislation applicable to foreign participation in national companies in this sector, in view of the recent update of Investment Law 2016-71.

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M-82	<i>Cahier des charges</i> for the activity of used-oils collection in commercial seaports, approved by Ministry of Transport Order of 5 February 2002	Art. 8	Collection of used oils in commercial seaports	Any person wishing to collect used oil must have an education level equivalent to at least the final year of secondary education. This requirement also applies to the legal representative of the company.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications guarantee a minimum level of knowledge for the activity or profession.	Academic qualification requirements can reduce the number of companies or individuals that can enter the market, increasing fixed costs of established companies, multiplied if they are active in several ports. Set-up and fixed costs may increase prices in the market and reduce the diversity of services.	No recommendation.
M-83	<i>Cahier des charges</i> for the activity of used-oils collection in commercial seaports, approved by Ministry of Transport Order of 5 February 2002	Art. 9	Collection of used oils in commercial seaports	Any entity who wishes to practice the activity of used-oil collection from ships in commercial seaports must, in each port where it is active: 1) own or rent business premises, equipped with a telephone and a fax machine; 2) own a truck reserved for this purpose, with a minimum capacity of 1 000kg.	Following discussions with the authorities, it is the OECD's understanding that the minimum means required relate to providing services to third parties and must necessarily be present in each port.	By increasing set-up costs this article contributes to the increase of fixed costs and thereby higher prices charged in the market. This may prevent other forms of physical organisation for the company, and reduce economies of scale for those operating in several ports. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities. Operators should be able to choose their own means and how they provide the services.	Abolish the restriction.
M-84	<i>Cahier des charges</i> for the practice of ship security in commercial seaports, approved by Ministry of Transport Order of 5 February 2002	Art. 8	Ship security in commercial seaports	Every individual wishing to practice this profession must have a level of academic qualification of at least the equivalent of the final year of secondary education. This requirement also applies to the legal representative of the legal person.	Following discussions with the authorities, it is the OECD's understanding that these academic qualifications will guarantee the professional capacity and knowledge of the technical and operational work environment.	Academic qualification requirements can reduce the number of companies or individuals entering the market. The existence of operating and fixed costs for established entities—multiplied for those active in several ports—may lead to increased market prices and reduced diversity of services.	No recommendation.
M-85	<i>Cahier des charges</i> for the practice of ship security in commercial seaports, approved by Ministry of Transport Order of 5 February 2002	Art. 9	Ship security in commercial seaports	Any entity wishing to exercise the profession of ship security must, in each port where it is active: 1) own or rent business premises; 2) own or rent a vehicle used to transport security guards to their workplaces.	Following discussions with the authorities, it is the OECD's understanding that the minimum means required relate to providing services to third parties and must	The requirement to have an office and a vehicle in each of the ports where the company is active prevents alternative forms of organisation and may reduce economies of scale for those operating in several ports. By increasing set-up costs this article contributes to the increase of fixed costs and thereby higher prices charged in	Abolish the restriction.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
					necessarily be present in each port.	the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities. Operators should be able to choose their own means and how they provide the services.	
M-86	<i>Cahier des charges</i> for the practice of ship security in commercial seaports, approved by Ministry of Transport Order of 5 February 2002	Art. 10	Ship security in commercial seaports	Any entity wishing to exercise the profession of ship security must permanently hire at least 6 ship keepers who are required to have held the position of seafarer on merchant ship as seamen for an effective navigation period of at least 2 years, or on board a fishing vessel for an effective navigation period of at least 5 years.	Following discussions with the authorities, it is the OECD's understanding that the recruitment of 6 permanent professionals ensures quality, timely service. If the operator does not have the necessary staff, this will affect the quality of work and may lead to problems in port operation.	The article requires professionals, individual or legal persons to recruit permanently 6 ship keepers. This could lead to fixed costs and increase prices, leading to fewer new entrants and so less competitive pressure on established companies. Prospective market entrants and established operators should be allowed to organise themselves according to their needs and capabilities. This regulation may reduce the potential use of efficient and innovative surveillance equipment.	Abolish the restriction.
M-87	<i>Cahier des charges</i> for the activity of refuse collection from ships approved by the Ministry of Transport Order of 5 February 2002	Art. 7	Refuse collection from ships	Only legal entities – companies and sole proprietorships – holding Tunisian nationality may practice refuse collection from ships in commercial seaports.	Following discussions with the authorities, it is the OECD's understanding that the limitation is a condition to protect Tunisian nationals.	The article restricts the possibilities of foreign entities providing refuse-collection services. Having fewer providers risks increasing the cost of services.	Clarify the legislation applicable to foreign participation in national companies in this sector, in view of the recent update of Investment Law 2016-71.
M-88	<i>Cahier des charges</i> for the activity of refuse collection from ships approved by the Ministry of Transport Order of 5 February 2002	Art. 9	Refuse collection from ships	An operator wishing to collect refuse must have a level of academic qualification of at least the final year of secondary education or equivalent. This requirement also applies to the legal representative of the legal person.	Following discussions with the authorities, it is the OECD's understanding that these academic qualifications will guarantee the professional capacity and knowledge of the technical and operational work environment.	Academic qualification requirements can reduce the number of companies or individuals that can enter the market due to higher set-up costs, as well as increasing fixed costs for established companies. This may then be reflected in increased prices in the market and reduced diversity of services.	No recommendation.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-89	<i>Cahier des charges</i> for the activity of refuse collection from ships approved by the Ministry of Transport Order of 5 February 2002	Art. 10	Refuse collection from ships	An entity wishing to practice the activity of refuse collection from ships must own or rent, in each port in which it is active: 1) business premises; 2) a refuse truck with a minimum capacity of 1 000kg.	Following discussions with the authorities, it is the OECD's understanding that the minimum means required relate to providing services to third parties and must necessarily be present in each port.	To practice the activity of collecting refuse from ships in commercial seaports, the article requires having an office and a specific truck in each of the ports where the profession is practised. This may prevent other forms of company organisation, and reduce economies of scale for those operating in several ports. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities. Operators should be able to choose their own means and how they provide the services.	Abolish the restriction.
M-90	<i>Cahier des charges</i> for the activity of the sea assistance, rescue, and towing, approved by Ministry of Transport Order of 15 September 2009	Art. 3 para 1	Sea assistance, rescue, and towing	The activity of assistance, rescue and towing at sea may only be performed by a company.	Following discussions with the authorities, it is the OECD's understanding that companies offer more solid financial guarantees and are able to better compete with any foreign operators. The corporate form may also constitute a guarantee of service quality for third parties (clients).	Sole proprietorships are prevented from participating in the market. Furthermore, by requiring the establishment of a corporate legal entity, the Law imposes necessarily fixed costs, such as accounting systems, corporate legal expenses, etc. This will increase the prices charged by these operators and it may reduce the range of services provided, to the detriment of the users of these services.	No recommendation.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-91	<i>Cahier des charges</i> for the activity of the sea assistance, rescue, and towing, approved by Ministry of Transport Order of 15 September 2009	Art. 3 para 2	Sea assistance, rescue and towing	A company must have a minimum share capital of TND 500 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	By requiring a minimum corporate share capital for these activities, this article increases the costs of accessing the market. It prevents operators from choosing a lower amount of share capital, even if this would be more adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and a greater concentration in the market, and may prevent small-scale operators from offering more innovative, lower-priced services on the market. In its report <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.
M-92	<i>Cahier des charges</i> for the activity of the sea assistance, rescue, and towing, approved by Ministry of Transport Order of 15 September 2009	Art. 8 para 1	Sea assistance, rescue, and towing	A legal representative of an assistance, rescue and towing company must prove that he or she holds at least one of the following degrees or meets one of the following conditions: 1) a professional-competency certificate as a merchant-marine captain or second-class or an equivalent, with 1 year of experience; 2) a professional-competency certificate as a merchant-marine second-class mechanical officer or an equivalent with 1 year's experience; 3) a master's degree in maritime transport, transport and logistics, or an equivalent with 1 year's experience; 4) has held the position of deputy director in a central-government	Following discussions with the authorities, it is the OECD's understanding that these academic qualifications guarantee an operator's professional capacity and knowledge about the activity in question.	The academic qualification requirements may increase set-up and operating costs for an entity, which will multiply if it works in different ports. These costs may then be reflected in higher prices in the market, lessen the diversity of services offered, and reduce the number of companies in the market. The prerequisite of a minimum of one year of professional experience in this sector limits the employment opportunities of new graduates with the requisite academic qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentives to start a competing firm. Finally, the rule establishes an exception to this experience requirement for anyone who held the position of	Eliminate the previous experience requirement that a company's legal representative need to comply when holding the specific academic qualifications foreseen in the article. Eliminate the exceptional regime for former public servants.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				office or at an equivalent level in a public agency in the maritime transportation and port sector for a period of at least 3 years, and is no longer employed by the government or public institutions. If the legal representative of the legal entity lacks these professional competencies, at least one individual who fulfils these criteria must be recruited to hold this technical decision-making position for the company's main area of operations.		unit head in a central-government office, for a minimum period of 3 years. This exception does not require any specific academic qualifications, and appears discriminatory considering the other requirements.	
M-93	<i>Cahier des charges</i> for the activities of sea assistance, rescue, and towing, approved by the Order of 15 September 2009 from the Ministry of Transport	Art. 8 para 2	Sea assistance, rescue, and towing	In the absence of the academic qualifications provided for in the first part of article 8, a legal representative must have a degree in a technical field, economics, management, or law and two years' experience in a related field and pass a professional-capacity examination to work in the activity of assistance, rescue and towing.	Following discussions with the authorities, it is the OECD's understanding that this article aims to give individuals who do not have specific academic qualifications a priori, but with other degrees to access a professional qualification examination.	This prevents anyone without the specified university degrees, or without professional experience from taking the professional-capacity examinations. This may reduce the number of operators in the market and increase a company's operating costs. Lowering the requirements to sit such an examination would improve flexibility in the market, and open up the market to a broader range of individuals who were previously denied access despite having sufficient knowledge. That candidates have to take an examination should suffice to attest to their capacity to practice the profession, regardless of their academic qualifications. To take account of candidates' other academic qualifications and prior experience, the authorities could introduce a "points system". Candidates would pass or fail the exam to enter the profession, depending on their performance at the examination, as well as the points gained from their academic qualifications and prior experience.	Allow holders of high-school diplomas to sit the examination.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
M-94	<i>Cahier des charges</i> for the activity of sea assistance, rescue, and towing, approved by the Ministry of Transport Order of 15 September 2009	Art. 9 para 1	Sea assistance, rescue, and towing	The legal person wishing to practice the activity of sea assistance, rescue and towing must: 1) own or rent premises of at least 60m ² ; 2) own at least one tugboat registered in Tunisia in accordance with the legislation in force, in a good state of navigation, and in conformity with the national and international safety and security standards, with valid documents and certificates and certificated from an IACS ship-classification society.	Following discussions with the authorities, it is the OECD's understanding that the minimum means required relate to the guarantee of services quality vis-à-vis customers and must necessarily be present in each port.	Each person wishing to practice the activity of sea assistance, rescue and towing must have premises and own a tugboat with specific characteristics, which may prevent other forms of company organisation such as long term leasing of tugboats. By increasing set-up and fixed costs, this article may lead to an increase in market prices. It may also reduce the number of companies in the market, resulting in less competitive pressure among already established companies.	Eliminate the requirement to own or rent premises, and allow the operator to have the use – including leasing, renting and other legal forms – of a tugboat.
M-95	<i>Cahier des charges</i> for the activity of sea assistance, rescue, and towing, approved by the Ministry of Transport Order of 15 September 2009	Art. 9 para 2	Sea assistance, rescue, and towing	A company may begin by leasing a tugboat that complies with national and international safety and security requirements and has valid documents and certificates, provided that the company accepts to purchase a tugboat with the same characteristics and within a period not exceeding 12 months. If this condition is not fulfilled, the company must request an extension of the Ministry of transports for a second 12-month period.	Following the discussions with the authorities, it is the OECD understanding that the minimum means required are intended to guarantee the service quality vis-à-vis customers and must necessarily be present in each port.	This article prevents assistance, rescue and sea towing companies from entering into long-term agreements (over 12 months) for chartering, leasing, or other legal forms of possessing a tugboat, which might be more profitable. All operators, including those who want to enter the market for only a limited amount of time, will experience difficulties, because the initial investment and costs (mandatory after one year) are necessarily high. This favours operators with large financial capacities and the means to invest in a vessel. Moreover, as a legal monopoly for port towing operations exists – controlled by the port and maritime authority – this puts potential private operators in a competitively disadvantageous situation when competing with the single port-towing operator, which can have both economies of scale and scope when operating in both markets.	Eliminate the obligation to purchase a tugboat.

Freight transport: Horizontal

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
TH-1	Law 95-32 of 14 April 1995 on freight forwarders, modified and completed by Law 2008-43 of 21 July 2008	Art. 2 para. 1	Other auxiliary transport services – freight forwarders	A freight forwarder can only operate as a company.	Following our discussions with the authorities, it is the OECD's understanding that companies can offer more solid financial guarantees and are better able to compete with foreign operators. The corporate form may also constitute a guarantee of quality of service towards third parties (clients).	This article prevents individuals (sole-proprietorship) from exercising this profession and entering the market. By requiring the establishment of a company, the article imposes a minimum legal and accounting structure, with necessarily fixed costs, which may increase prices charged by operators, reduce the range of services provided, and increase prices. In various other countries, sole proprietorships are permitted to be freight forwarders, and maintain lower cost structures. Quality of service provided by these operators can be assured, if necessary, by requiring specific results or prerequisites common to all types of operators (both sole proprietorships and companies).	Adapt the <i>cahier des charges</i> to open up the market to sole proprietorships and ensure fair quality conditions applicable to both companies and sole proprietorships.
TH-2	Law 95-32 of 14 April 1995 on freight forwarders, modified and completed by Law 2008-43 of 21 July 2008	Art. 2 para. 1	Other auxiliary transport services – freight forwarders	Freight-forwarding companies need to have a minimum share capital of at least TND 100 000.	Following our discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	This article increases the market access costs. It prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business. This will have a greater impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and greater market concentration, and may prevent small-scale operators from offering more innovative, lower-priced services. In its report, <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	Eliminate the minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
TH-3	Law 95-32 of 14 April 1995 on freight forwarders, modified and completed by Law 2008-43 of 21 July 2008	Art. 2 para. 2	Other auxiliary transport services – freight forwarders	The activity of freight forwarder is subject to professional-capacity and minimum-material requirements.	Following discussions with the authorities, it is the OECD's understanding that such conditions guarantee a minimum level of professional qualifications, technical knowledge and operational conditions.	The existence of a <i>cahier des charges</i> setting minimum professional capacity and material requirements to operate may lead to an increase in a company's fixed costs, and increase prices charged in the market. These barriers may also reduce the number of companies in the market, resulting in less competitive pressure for already established companies. Furthermore, established companies already operating in the market may charge higher prices due to higher costs. The content and need for such material requirements are analysed in the specific <i>cahier des charges</i> regulation.	No recommendation.
TH-4	Ministry of Transport Order of 15 September 2009, approving the <i>cahier des charges</i> for the activity of freight forwarder	Art. 8 (Chap. II)	Other auxiliary transport services – freight forwarders	Professional capacity is ensured if the legal representative of the freight-forwarding entity has one year of professional experience in the field and holds: 1) second-class merchant-marine captain's qualification or its equivalent; 2) a degree in the field of maritime transportation or its equivalent; 3) a degree in the field of transport and logistics or its equivalent.	Following discussions with the authorities, it is the OECD's understanding that specific academic qualifications guarantee a minimum level of qualification and knowledge for the activity or profession. The requirement of academic qualification is necessary to access the profession but is unhelpful against high unemployment among young graduates.	The academic qualification requirements may increase set-up costs for a potential operator. The existence of entry costs and fixed costs may be reflected in higher prices and fewer services. The requirement of a minimum of 1 year's professional experience in the sector before being able to work as a legal representative or responsible officer of the legal entity limits the employment opportunities of new graduates with the requisite academic qualifications, particularly in small markets with a limited number of operators. Being required to obtain work experience in an incumbent firm could also affect an individual's incentives to start a competing firm.	Eliminate the requirement of having 1 year's experience to become the legal representative of the freight forwarder.
TH-5	Law 95-32 of 14 April 1995 on freight forwarders, modified and completed by Law 2008-43 of 21 July 2008	Art. 2 para. 5	Other auxiliary transport services – freight forwarders	If the professional-capacity requirement is not met, it may be obtained by passing a written professional-capacity examination that fulfils the conditions for enrolment in the register of freight	Following discussions with the authorities, it is the OECD's understanding that this article seeks to give individuals not holding the specific required academic qualifications (but possessing, for instance, other university degrees) the possibility	Professional-capacity exams would be beneficial as an alternative for individuals who wish to become legal representatives of freight-forwarding companies, but do not hold the specific academic requirements foreseen in the Law. The Ministry of Transport who has not organised examinations since 2008 decides the offer of examinations and their	Update the legal regime for the organisation of professional-capacity examinations, and guarantee candidates' right to sit the examination on a regular basis.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				forwarders. In that case, the candidates must hold other types of degrees as specified in the <i>cahier des charges</i> for the activity of freight forwarder.	of taking a professional-capacity examination. According to the Ministry of Transport, the administration has not organised any examinations since 2008.	rules. The legal regime is unclear creating legal uncertainty and opacity regarding access to these exams. This may be further reducing the number of individuals authorised to operate in the market, increasing established companies' costs, reducing the diversity of services offered, and increasing prices.	
TH-6	Ministry of Transport Order of 15 September 2009, approving the <i>cahier des charges</i> for the activity of freight forwarder	Art. 8 para. 2	Other auxiliary transport services – freight forwarders	To pass a professional-capacity exam that allows acting as a freight-forwarding company's legal representative, an individual must hold a <i>licence</i> or equivalent in technology, economics, law, or management and two years' working experience.	Following our discussions with the authorities, it is the OECD's understanding that freight forwarding is considered technical and specific, and that the required degrees and professional exam guarantee a good professional level and minimum performance to enable successful career.	The article prevents anyone without the specified undergraduate or graduate university degrees, or with lower academic degrees, from taking the examinations that would attest to their professional capacity. This may reduce the number of operators in the market and increase a company's operating costs, especially given the lack of trained Tunisian managers in this sector. Lowering the requirements to sit such an examination would improve market flexibility, and open up the market to a broader set of individuals who may have previously been denied access despite having sufficient knowledge. Passing the exam should suffice to attest to a candidate's capacity to practice the relevant profession, regardless of their academic qualifications. To take account of candidates' other academic qualifications and prior experience, the authorities could introduce a "points system". Candidates would pass or fail the exam to enter the profession, depending on their performance at the examination, as well as the points gained from their academic qualifications and prior experience.	Replace the requirement that demands individuals wishing to sit the professional-capacity exam hold a university degree with one that demands a high-school diploma. Update the legal regime for the organisation of professional qualifying examinations, and guarantee candidates' right to sit the examination on a regular basis.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
TH-7	Ministry of Transport Order of 17 November 1998, regulating and planning the written exam for meeting the professional-capacity requirements for enrolling in the register of freight forwarders	Art. 3	Other auxiliary transport services – freight forwarders	The professional-capacity examination is offered at the minister's discretion.	Following discussions with the authorities, it is the OECD's understanding that the profession of freight forwarder is considered as technical and specific. The requirement to hold an academic degree and pass the examination guarantees that people entering the profession have high professional standards and so ensures minimum performance.	The decision to offer examinations and their rules depends on the Ministry of Transport. When the ministry does not organise the examinations, as it has not since 2008, a potential operator is unable to sit one and is prevented from potentially becoming a freight forwarder's legal representative. This has prevented individuals from taking exams that would have certified their professional capacities, and continues to do so, reducing the number of operators in the market and increasing companies' operating costs, by reducing the number of trained Tunisian managers in the sector.	Update the legal regime for the organisation of professional qualifying exams, and guarantee candidates' right to sit the exam by organising sessions on a regular basis.
TH-8	Law 95-32 of 14 April 1995 on freight forwarders, modified and completed by Law 2008-43 of 21 July 2008	Art. 3	Other auxiliary transport services – freight forwarders	Foreign nationals may practice the profession of freight forwarder when authorised under international agreements currently in effect and on the condition of reciprocity. In the absence of such agreements, practising the profession of freight forwarder by foreign nationals is subject to the current laws and regulations on foreign investment and shareholdings.	Following discussions with the authorities, it is the OECD's understanding that companies operating in this sector must be Tunisian, and foreign stakes in their share capital may only reach 50%. This is a market-protection condition.	By limiting the possibility of a good or service being supplied by a foreigner, the article limits the number and range of potential service providers in the market. This has consequences on the level of competition between existing players. This exception to the national-treatment clause was not notified by the Tunisian authorities to the OECD Investment Committee under the declaration of the ratification instrument.	Clarify the legislation applicable to foreign participation in national companies in this sector, in view of the recent update of Investment Law 2016-71.
TH-9	Law 95-32 of 14 April 1995 on freight forwarders, modified and completed by Law 2008-43 of 21 July 2008	Art. 20	Other auxiliary transport services – freight forwarders	When the freight forwarder is a salaried agent, and in the absence of an agreement between the two parties in accordance with the first paragraph of this article, the freight	Following discussions with the authorities, it is the OECD's understanding that the idea behind this article was to protect consumers from potential abuse. According to the authorities, however, the decree that would	Faced with capped prices, freight forwarders risk lowering the quality of the services they provide, or not providing innovative, high-quality services. The diversity of services offered may also be reduced if, in the presence of a maximum fee, well-established operators have few incentives to offer a wider	Abolish the possibility of establishing maximum rates.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
				forwarder's fees will be capped at an amount set in a joint decree issued by the two ministries in charge of transportation and commerce.	have implemented the law was never published, due to the difficulty of calculating freight forwarders' fees due to the diversity of their work.	range of services. Given that the regulation was not implemented, it is in fact not necessary for the market's proper working.	
TH-10	Ministry of Transport Order of 15 September 2009, approving the <i>cahier des charges</i> for the activity of freight forwarder	Art. 9 (Chap. IV)	Other auxiliary transport services – freight forwarders	One needs to establish a company to operate as a freight forwarder.	Following our discussions with the authorities, it is the OECD's understanding that companies can offer more solid financial guarantees and are better able to compete with foreign operators. The corporate form may also constitute a guarantee of quality of service towards third parties (clients).	This article prevents individuals (sole-proprietorship) from exercising this profession and entering the market. By requiring the establishment of a company, the article imposes a minimum legal and accounting structure, with necessarily fixed costs, which may increase prices charged by operators, reduce the range of services provided, and increase prices. In various other countries, sole proprietorships are permitted to be freight forwarders, and maintain lower cost structures. Quality of service provided by these operators can be assured, if necessary, by requiring specific results or prerequisites common to all types of operators (both sole proprietorships and companies).	Adapt the <i>cahier des charges</i> to open up the market to sole proprietorship and ensure fair quality conditions applicable to both sole proprietorships and companies.
TH-11	Ministry of Transport Order of 15 September 2009, approving the <i>cahier des charges</i> for the activity of freight forwarder	Art.10	Other auxiliary transport services – freight forwarders	Freight-forwarding companies need to have a minimum share capital of at least TND 100 000.	Following discussions with the authorities, it is the OECD's understanding that the minimum share capital is an essential guarantee for third parties (clients). It also enables a solid financial position to compete with foreign businesses.	This article increases the market access costs, and prevents operators from choosing a lower amount of share capital, even if this would be adequate for their business; this will have a greater impact on small-scale operators and new companies. The provisions may lead to a reduction in the number of operators and greater market concentration, and may prevent small-scale operators from offering more innovative, lower-priced services. In its report, <i>Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs?</i> , the World Bank concluded that minimum capital requirements protect neither consumers nor investors, and that they	Eliminate the specific minimum share capital requirement, and apply the general legal regime regarding commercial companies' minimum share capital.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
						are associated with less access to financing for SMEs and a lower number of new companies in the formal sector.	
TH-12	Ministry of Transport Order of 15 September 2009, approving the <i>cahier des charges</i> for the activity of freight forwarder	Art. 11	Other auxiliary transport services – freight forwarders	The freight forwarder must own or lease business premises of at least 60m ² in size.	Following discussions with the authorities, it is the OECD's understanding that the requirement of a specific area serves to guarantee the observance of applicable workplace safety and hygiene conditions for staff engaged in such operations. No reason was offered for the variation in the size of the area for the various professions. The requirement of a registered office is already foreseen in general commercial company law.	This article may prevent other forms of physical organisation for the company such as co-location, office sharing, or home working. By increasing set-up costs (through the obligation to observe certain minimum equipment terms and conditions for conducting business operations), this article contributes to the increase of fixed costs and thereby higher prices charged in the market. These barriers may also reduce the number of companies in the market, which may result in less competitive pressure among already established companies. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	Eliminate the office requirement.
TH-13	Ministry of Transport Order of 15 September 2009, approving the <i>cahier des charges</i> for the activity of freight forwarder	Art. 12 para. 1	Other auxiliary transport services – freight forwarders	Anyone intending to practice the profession of freight forwarder must own or rent a warehouse: 1) located close to a port or an airport, or one situated in a business park or logistics zone; 2) with a covered area of at least 1 000m ² .	Following discussions with the authorities, the OECD understands that this requirement enables the receipt and handling of goods transiting through the warehouse and so ensures better quality of service. It also limits congestion in ports. According to the Office of the Merchant Marine and Ports, the mandatory location for a warehouse is pre-established in port licences and zones. There are no logistics zones set in the country.	By requiring companies to purchase or lease a warehouse within the port area of at least 1 000m ² in size, the article increases market-entry and fixed operation costs, and so may reduce the number of companies in the market. This may result in less competitive pressure on established companies. As companies must contract with port authorities to obtain this space, and port space is necessarily limited, any negotiations with the port authority are likely to be in its favour. According to the authorities, the general legislation already foresees other rules imposing a legal address or commercial office on legal entities.	Eliminate the obligation of owning or renting a warehouse.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
TH-14	Ministry of Transport Order of 15 September 2009, approving the <i>cahier des charges</i> for the activity of freight forwarder	Art. 12 para. 2 and para 4	Other auxiliary transport services – freight forwarders	A freight forwarder's warehouse must be equipped with loading and unloading areas and two purchased or leased forklifts with a minimum lifting capacity of 1.2 t.	Following discussions with the authorities, these tools enable freight forwarders to handle goods transiting the warehouse under the best conditions possible, and specifically ensure that trucks are loaded and unloaded under good conditions.	By obliging operators to equip their warehouses with specific equipment that might not even be efficient or needed, this article increases their set-up costs and contributes to increased fixed costs, increasing prices charged on the market. This may also reduce the number of companies in the market, and so reduce competitive pressure among established companies.	Eliminate the requirement to equip a warehouse with loading and unloading bays and at least two forklifts each having a minimum lifting capacity of 1.2 t.
TH-15	Ministry of Finance Order of 2 September 2002, approving the general <i>cahier des charges</i> for the creation, use, and operation of customs warehouses, customs clearance areas, and export areas	Art. 6 para. 1	Other auxiliary transport services – customs warehouses, clearance and export areas	To manage one of those areas, the operator must possess a warehouse in the port or airport, or in an industrial area not more than 30 km from the port, airport, or logistics zone.	Following discussions with the authorities, the OECD understands that the need for the operator to have a warehouse in the port, airport, or an industrial zone not more than 30 km away from the port, airport or logistics zone aims to organise the profession and minimise congestion in ports and airports. The OECD understands that the maximum radius facilitates the work of customs officials, as well as industry professionals.	As port space is necessarily limited, any negotiations with the port authority are likely to be in its favour. The article allows an operator to possess a warehouse 30 km of the port, airport or logistics zone (of which there are currently none in Tunisia), but in practice, this prevents warehouses from being located in more distant and probably cheaper areas. By obliging the possession of a warehouse and so increasing the costs of market entry, this article may reduce the number of companies in the market, while increasing the costs of already established companies, leading them to increase prices. Operators must be free to choose the organisation best suited to the market.	Abolish the requirement to have the warehouse in a port, airport or an industrial area with distance of no more than 30 km from the port, airport or any of the areas operating in logistics.
TH-16	Ministry of Finance Order of 2 September 2002, approving the general <i>cahier des charges</i> for the creation, use, and operation of customs warehouses, customs clearance areas, and export areas	Art. 6 para. 2	Other auxiliary transport services – customs warehouses, clearance and export areas	To manage a customs warehouse, customs clearance area, or export area, the operator must have a warehouse with a covered area of at least 750m ² . If the activity is related solely to goods transported by air, the warehouse must have a covered area of at least 500m ² .	These requirements have been discussed with the authorities, who generally consider them necessary to carry out commercial activities. They also considered changing this article, as it seems too demanding for some of the companies in the market.	This requirement increases the costs of entering the market for potential operators, reduces the number of companies in the market, while increasing costs for established companies. This may result in less competitive pressure for these established companies already in the market, as well as to an increase in prices.	Abolish the obligation to have a warehouse within a specific location and with a minimum surface.

No	No and title of Regulation	Article	Thematic category	Brief description of the potential obstacle	Policy maker's objective	Harm to competition	Recommendations
TH-17	Ministry of Finance Order of 2 September 2002, approving the general <i>cahier des charges</i> for the creation, use, and operation of customs warehouses, customs clearance areas, and export areas	Art. 6 para 2	Other auxiliary transport services – customs warehouses, clearance and export areas	To manage a customs warehouse, customs clearance area, or export area, the operator must own or lease a hand pallet truck and a forklift with at least a 3-tonne lifting capacity. If a warehouse's covered surface area is more than 2 000m ² , it must be equipped with 2 forklifts with at least a 3-tonne lifting capacity and 2 hand pallet trucks.	These requirements were discussed with stakeholders, who in general consider them necessary to perform the commercial activities.	By obliging operators to equip their warehouses with specific equipment that might not even be efficient or needed, this article increases their set-up costs and contributes to increased fixed costs, increasing prices charged on the market. This may also reduce the number of companies in the market, and so reduce competitive pressure among established companies.	Abolish the equipment requirements.

OECD Competition Assessment Reviews

TUNISIA

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