Highlights from the competition assessment of laws and regulations in two sectors of the Tunisian economy

Laws and regulations are key instruments to achieve public-policy objectives, such as consumer protection and public health. When they restrict market forces more than necessary or impose unnecessary costs, a comprehensive competition review can help identify restraints and develop alternative, less restrictive policies that still achieve government objectives.

Greater competition is linked to faster productivity growth and other benefits, including lower consumer prices, greater consumer choice, better quality of products and services, and faster adoption of innovation.

The OECD teamed up with the Government of Tunisia and the Millennium Challenge Corporation in 2018 to carry out a thorough and independent competition assessment to identify rules and regulations that may hinder the efficient functioning of markets in two sectors:

- Wholesale and retail trade, with particular focus on fruit, vegetables and red meat.
- Road and maritime freight transport.

The results of this analysis are presented in an OECD review available here: oe.cd/ca-tunisia.

The project took place in six stages. **Stage 1** defined the exact scope of the sectors. A list of 251 pieces of sector-relevant legislation was collected, 118 for wholesale and retail trade and 133 for freight transport. In **Stage 2**, the OECD screened this legislation using the OECD’s Competition Assessment Toolkit and identified 259 potential barriers. **Stage 3** conducted an in-depth analysis of the potential barriers, including identifying the policy maker’s objective and assessing the possible competitive harm resulting from them, taking into account Tunisia’s context, international experience and relevant economic literature. The OECD consulted with the relevant authorities and representatives of private associations to reach a better understanding of lawmakers’ motivations and objectives. In **Stage 4** the OECD developed draft recommendations for provisions found to restrict competition unnecessarily and discussed these recommendations extensively with the relevant authorities. **Stage 5** finalised the recommendations: 104 for wholesale and retail trade and 116 for freight transport. In **Stage 6**, the OECD published the final report including all findings and recommendations. In the course of the project, the OECD team held two capacity-building workshops on the Competition Assessment Toolkit for the relevant Ministries and the Tunisian Competition Council.

### Summary of the legal provisions analysed in both sectors

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<th>Trade</th>
<th>Freight transport</th>
<th>Total</th>
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<tr>
<td>Pieces of legislation</td>
<td>118</td>
<td>133</td>
<td>251</td>
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<td>Potential restrictions identified</td>
<td>117</td>
<td>142</td>
<td>259</td>
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<tr>
<td>Recommendations</td>
<td>104</td>
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KEY FINDINGS AND MAIN RECOMMENDATIONS

WHOLESALE AND RETAIL TRADE SECTOR

Trade is one of the most important sectors in the Tunisian economy and accounted for 9% of Gross Domestic Product and 13% of formal employment in 2017.

After examining 118 pieces of legislation in the wholesale and retail trade sector and identifying 117 potential barriers to competition, the study makes 104 detailed recommendations for change. If the recommendations are applied, the OECD estimates a positive effect for the Tunisian economy of between TND 542.1 million and TND 611.1 million in this sector. The importance of the informal sector may distort this assessment, possibly underestimating current revenues and potential benefits.

Horizontal barriers

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. 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 that would benefit 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.

Key recommendations

1. 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.

2. 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.

3. Lift the requirement for foreign-controlled companies to hold a “merchant card” to undertake commercial activities.

4. 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.

5. Modify the provisions on below-cost pricing to allow for more exceptions and lift restrictions on vertical integration for producers and retailers.

Fruit, vegetables and red meat

The regulatory framework for fruit and vegetables trade is fragmented and the various pieces of legislation are not well harmonised. At the wholesale level, significant limitations affect the establishment, the management and the operation of central wholesale markets. There are also limitations on which mutual agricultural service companies (co-operatives) market participants can join.

In the 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. The lack of classification and categorisation of red meat, and the non-application of an identification and traceability system pose further challenges.
Key recommendations

1. 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.

2. Ensure more transparency and competition in the award process of concessions to manage wholesale markets and slaughterhouses, including the application of clear, objective and non-discriminatory criteria for the selection and the monitoring of a concessionaire’s performance.

3. Allow wholesalers to sell outside wholesale markets; and eliminate protective perimeters around wholesale markets.

4. Ensure that wholesale-market managers collect all levies and fees applicable within the market, which are currently collected by other market players.

5. Allow agricultural and seafood and freshwater fish producers, and persons providing agricultural services to join any mutual agricultural service companies, regardless of geographical considerations.

6. Ensure that all controls and regulations, particularly hygiene standards, are implemented by all slaughterhouses.

FREIGHT TRANSPORT SECTOR

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 the Gross Domestic Product in 2017.

After examining 133 pieces of legislation in the freight transport sector and identifying 142 potential barriers to competition, the study makes 116 detailed recommendations for change. OECD’s conservative analysis – limited by the lack of data – estimates that, if the recommendations detailed in this report are implemented, benefits in the freight transport sector would amount to between TND 32.6 million and TND 34.7 million. These calculations are likely to underestimate the real benefits also due to the importance of the informal activities in the sector.

Road transport

Government regulations on the minimum number and age of vehicles with more than 12 tonnes of authorised laden weight (heavy good vehicles) used by the different type of hauliers pose challenges to competition and sustainable 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 in the sector. Other restrictions include fixed road transport prices, professional qualifications, legal forms, and geographical and technical equipment restrictions imposed in the core and auxiliary services related to road freight transport.

Key recommendations

1. 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.

2. 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.

3. Set the same vehicle age limits to both sole proprietorships and haulage companies to promote a level playing field.

4. Oblige all road hauliers to comply with the new regulations on fleet requirements. In the case of companies established before 2009, a transition period should be set.

5. Eliminate the restrictions regarding freight centres location, equipment and business practices, allowing both companies and individuals to operate and innovate in that field.
Maritime freight transport

The Tunisian ports follow a landlord 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 list ("cahier de charges") for most port and maritime activities, the regulations still include several barriers to entry such as specific equipment requirements, professional qualifications, corporate legal form, minimum share capital or maximum prices.

Key recommendations

1. Broaden private-sector access to port towage activities, by limiting port authorities’ provision of such services to situations in which there is no market interest.

2. Foster 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. 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.

3. Lift the obligation for shipping transport companies to acquire vessels and become ship owners after one year of operation.

4. 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.

5. Revise minimum qualification requirements for the legal representatives of companies in maritime and port activities to increase access to the market of individuals with diverse experience or academic qualifications.

6. Allow sole proprietorships to operate in certain domains (such as shipping agents, maritime cargo agents and freight forwarders activities) and abolish minimum share-capital requirements for companies.

Competition Assessment Reviews and the OECD Competition Assessment Toolkit

OECD Competition Assessment Reviews present an analysis of regulatory restrictions on competition in the countries reviewed and make specific policy recommendations for reform.

These reviews help governments eliminate barriers to competition while identifying less restrictive measures that still achieve government policy objectives.

Using the OECD Competition Assessment Toolkit to structure the analysis, the regulations in sectors identified as targets for reform – such as construction, gas, media, liberal professions, pharmaceuticals, retailing, tourism and transport – are systematically reviewed one by one for any restriction to competition.

The resulting recommendations allow governments to introduce more competition into the economy and foster long-lasting growth.

Mexico (2019, 2018), Portugal (2018), Greece (2017, 2014, 2013) and Romania (2016) have already undergone similar reviews, and a review is currently ongoing in Iceland and in the ten ASEAN Member States.

Access all reviews and the toolkit at oe.cd/cat