



Foreign &
Commonwealth
Office

Continuing the United Kingdom's Trade Relationship with Tunisia

Agreement establishing an association between the United Kingdom of Great Britain
and Northern Ireland and the Republic of Tunisia

October 2019



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Presented to Parliament

by the Secretary of State for Foreign and Commonwealth Affairs

by Command of Her Majesty

October 2019



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ISBN 978-1-5286-1648-5

CCS1019305830

10/19

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office

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Introduction

1. This report explains the Government's approach to delivering continuity in the trade relationship of the United Kingdom (the "UK") with the Republic of Tunisia ("Tunisia") as the UK leaves the European Union (the "EU").
2. As the UK leaves the EU, the Government has sought to deliver the maximum possible certainty to businesses and consumers through ensuring continuity in the UK's existing trade relationships. It is in no one's interests to disrupt existing trade flows.
3. To achieve this, the Government has developed new bilateral agreements that replicate, as far as possible, the effects of the trade agreements the UK has with existing partners. In the event of either a negotiated agreement or no agreement with the EU, the UK-Tunisia Association Agreement is intended to take effect whenever the EU-Tunisia Agreements cease to apply to the UK (or as soon as possible thereafter). In either event, the bilateral agreements will form the starting point for the UK's future trade arrangements with its partners.
4. Wherever possible, the Government has sought a technical replication of the existing EU agreements through these new bilateral 'continuity trade agreements', but in some cases, it has applied bespoke solutions for individual agreements as necessary to ensure continuity of effect in a bilateral context.
5. This report gives details of, and explains the reasons for, any significant differences between:
 - a. the Agreement establishing an association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Tunisia (the "UK-Tunisia Association Agreement" or "the Agreement"); and
 - b. the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part (the "EU-Tunisia Association Agreement") and the Protocol between the European Union and the Republic of Tunisia establishing a Dispute Settlement Mechanism applicable to disputes under the trade provisions of the EU-Tunisia Association Agreement (the "EU-Tunisia Dispute Settlement Mechanism Protocol"), together referred to herein as the "EU-Tunisia Agreements".
6. This report first sets out the general drafting changes necessary across all the UK's short form continuity trade agreements and which have no significant impact on the UK's current trade relationships. It then considers provisions of the UK-Tunisia Association Agreement, in turn explaining any significant differences of the UK-Tunisia Association Agreement and the corresponding provisions of the EU-Tunisia Agreements. To assist the reader, the report includes some discussion of the economic impacts as appropriate. This report focuses on the changes made to the trading arrangements between the UK and Tunisia in preparation for the UK ceasing to be bound by the EU-Tunisia Agreements and the entry into force of the UK-Tunisia Association Agreement. Any wider economic impacts resulting from the UK's exit from the EU or the nature of the Future Economic Partnership have been excluded from this report.
7. The UK has agreed with many third countries that the most appropriate and proportionate form of legal instrument to ensure continuity is a short form agreement, which incorporates by reference the relevant provisions of the underlying EU-third country agreement with relatively few but necessary modifications; the advantages of the short form approach are

set out below. However, the UK has simply chosen the form that the States involved agreed was the most pragmatic and sensible in the circumstances, taking into account the wishes of the partner country. Accordingly, some agreements have been drafted in long form to reflect these wishes.

Legal approach

8. The UK and Tunisia have agreed to use a short form agreement to continue the effects of the EU-Tunisia Agreements in the UK-Tunisia Association Agreement. The approach taken is similar to that used in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the “CPTPP”), where Article 1 of the CPTPP incorporates by reference the provisions of the Trans-Pacific Partnership Agreement into and makes them part of, *mutatis mutandis*, the CPTPP. The advantages of this approach include that:
 - a. the short-form agreement may more easily be adapted to accommodate different scenarios, such as the various possible outcomes of the UK’s ongoing negotiations with the EU regarding the end state of the UK-EU relationship;
 - b. the format itself will send a clear message to businesses, consumers and investors in both the UK and Tunisia that the aim of the Agreement is simply to secure continuity in existing trading arrangements, with the only changes being the ones clearly specified on the face of the Agreement; and
 - c. the approach provides a clear legal text, making rights and obligations unambiguous where they have by necessity changed.
9. The UK-Tunisia Association Agreement replicates the effects of the EU-Tunisia Agreements as closely as possible, including the establishment of institutional arrangements between the UK and Tunisia based on existing structures (such as the Association Council) that allow for the ongoing management and updating of the Agreement.
10. Many of the general changes to the EU-Tunisia Agreements (such as replacing “EU” with “UK”) are applied by reading the incorporated text of the EU-Tunisia Agreements *mutatis mutandis*, that is, with the technical changes necessary to apply the EU-Tunisia Agreements as if they had been concluded between the UK and Tunisia in the first instance. This has avoided the need to reproduce every page of the EU-Tunisia Agreements and has significantly reduced the volume of text required.
11. Where more substantive amendments were required to ensure operability in a bilateral context, or where the UK and Tunisia jointly agreed that *mutatis mutandis* would not deliver adequate certainty over rights and obligations, detailed amendments have been included in the Annexes to the UK-Tunisia Association Agreement.

Resources

12. This report is intended to aid businesses, consumers and parliamentarians in understanding any significant changes made to the UK's trade, political, economic or social cooperation relationship with Tunisia by the UK-Tunisia Association Agreement and the reasons for any changes, and their impact.
13. Should you wish to view the EU-Tunisia Association Agreement, or the EU-Tunisia Dispute Settlement Mechanism Protocol as originally published, they can be found online on the [EU Commission's Website](#).
14. More detail, including decisions of the Association Council and Association Committee established under the EU-Tunisia Association Agreement for the purpose of administering that agreement, can be found on the [EUR-Lex website](#). A consolidated version of the EU-Tunisia Association Agreement can also be found on the [EUR-Lex website](#). The consolidated text is not an authoritative version of the EU-Tunisia Association Agreement but will assist readers to understand how it has been amended since its entry into force.
15. Should you wish to view the full text of the UK-Tunisia Association Agreement, it will be laid in Parliament alongside an Explanatory Memorandum as part of the UK's treaty ratification process in accordance with the Constitutional Reform and Governance Act 2010 (the "CRaG Act"). The text will also be available on GOV.UK.

Economic Background

16. This section provides a country-specific background analysis of trade between the UK and Tunisia.

Trade between the UK and Tunisia

17. Tunisia is the UK's 102nd largest trading partner¹, accounting for less than 0.1% of total trade. Total trade in goods and services between the UK and Tunisia was £378 million in 2018.²

18. In 2018, UK exports to Tunisia were £199 million, making it the UK's 99th largest export market (accounting for less than 0.1% of all UK exports). UK imports from Tunisia were £179 million, making it the UK's 98th largest import source (accounting for less than 0.1% of all UK imports).

Table 1: Trade between the UK and Tunisia, 2018 (£ million)

	Trade in goods	Trade in services	Total trade
UK exports to Tunisia	127	72	199
UK imports from Tunisia	123	56	179
Total trade	250	128	378

Source: [ONS \(2019\), UK total trade: all countries, non-seasonally adjusted](#) (release date: 24th April 2019)

19. Using data from HMRC for trade in goods only, Table 2 shows in 2018 the top goods exported to Tunisia were machinery and mechanical appliances (HS84, £27 million), and mineral fuels or oils, products of their distillation (HS27, £25 million). The UK's top goods imported from Tunisia were articles of apparel and clothing, not knitted (HS62, £31 million), electrical machinery and equipment and parts (HS85, £23 million) and articles of apparel and clothing, knitted (HS61, £22 million).

¹ EU member states are treated as individual trading partners with the UK.

² [ONS \(2019\), UK total trade: all countries, non-seasonally adjusted](#).

Table 2: Top 5 UK goods exports to and imports from Tunisia, 2018 (HS2₃, £ million)

Top 5 UK goods exports to Tunisia	Value	Top 5 UK goods imports from Tunisia	Value
Machinery and mechanical appliances	27	Apparel and clothing accessories, not knitted	31
Mineral fuels or oils, products of their distillation	25	Electrical machinery and equipment	23
Electrical machinery and equipment	17	Articles of apparel and clothing, knitted	22
Pharmaceutical products	11	Vehicles other than railway or tramway stock	16
Vehicles other than railway or tramway stock	11	Iron and steel	10

Source: [HMRC trade statistics by commodity code](#) (accessed April 2019). Sectors classified according to Harmonised System chapters. Data presented is recorded on a physical movement basis where a good is recorded as an export (import) if it physically leaves (enters) the economic territory of a country.

20. The UK exported £72 million in services to Tunisia in 2018 and imported £56 million in services. A detailed breakdown of the type of services traded is not available between the UK and Tunisia.

ONS data is recorded on a 'balance of payments' or 'change of ownership' basis where a good or service leaving (entering) the economic territory of a country is recorded as an export (import) only if it has changed ownership between a resident of the reporting country and non-residents. Goods exports (imports) are recorded by HMRC if a good physically leaves (enters) the economic territory of a country.

UK businesses exporting to and importing from Tunisia

21. The number of businesses registered as trading with Tunisia is not available.

Economic impact of the EU-Tunisia Agreements

22. The EU-Tunisia Association Agreement, which established a free trade area, liberalising two-way trade in industrial products and progressively liberalising two-way trade in agricultural, agri-food and fisheries products, was signed in 1995 and entered into force in 1998. The EU-Tunisia Association Agreement also contains provisions on quotas, the provision of services, movement of capital, competition and intellectual property. The EU and Tunisia have also adopted the EU-Tunisia Dispute Settlement Mechanism Protocol, which entered into force in 2011. Tunisia is also part of the Euro-Mediterranean Partnership between the EU and a number of other Mediterranean countries which aims to create a Euro-Mediterranean free trade area (EUMFTA).⁴

³ The Harmonized System (HS) is an international nomenclature for the classification of products. It allows participating countries to classify traded goods on a common basis for customs purposes.

⁴ For more on the [EU-Tunisia Association Agreement and Euro-Mediterranean Partnership](#).

23. A study in 2011, prepared for the European Commission, found that EU exports to Tunisia increased by 81% because of the EU-Tunisia Association Agreement.⁵ However, a later study from 2017 found that the Agreement had an impact of increasing trade flows by 37%.⁶ This later study used data covering a longer time period up to 2013, whilst the earlier study only covered the time period up to 2008.
24. A 2018 European Commission report looking at implementation of EU free trade agreements included information on the EU-Tunisia Association Agreement.⁷ It highlighted that between 2002 and 2017 EU exports to Tunisia had increased by 45% and EU imports from Tunisia by 52%.

Potential loss to the UK if the UK-Tunisia Association Agreement is not brought into effect

25. The UK-Tunisia Association Agreement not being applied would result in UK businesses losing the preferences negotiated in the EU-Tunisia Association Agreement. This would include the re-imposition of many tariffs, returning to World Trade Organisation Most-Favoured-Nation (“MFN”) treatment with Tunisia. The benefits derived from trading under preferences within the EU-Tunisia Association Agreement, such as increases in trade flows, may then be reversed.
26. It is unlikely that the entire effect of the EU-Tunisia Agreements would disappear. Tariffs would revert to MFN rates, discussed in further detail below, but it could take longer for some of the other benefits to be lost. Some gains might endure even in the long run. For example, the UK might still benefit from any regulatory arrangements agreed because of the EU-Tunisia Association Agreement. Business connections formed because of the EU-Tunisia Association Agreement might endure.
27. The size of the impact of not bringing into force or applying the UK-Tunisia Association Agreement would depend on the responsiveness of trade flows to increased costs brought about by the loss of access to the preferences provided under the Agreement.⁸

Immediate impact if not brought into effect

Impact of tariffs under current MFN rates⁹

28. Much international goods trade takes place in products for which MFN rates are already zero. However, an Association Agreement provides additional opportunities by reducing tariffs in products where this is not the case. If the UK-Tunisia Association Agreement is not brought into effect, tariffs between the two countries would revert to MFN rates, other than where Tunisia benefitted from preferential access to the UK market under a unilateral

⁵ Bergstrand J, et al. (2011), [‘Ex-post Assessment of Six EU Free Trade Agreements’](#), Copenhagen Economics, pp. 1-72.

⁶ Soete S and Van Hove J (2017), [‘Dissecting the Trade Effects of Europe’s Economic Integration Agreements’](#), *Journal of Economic Integration*, 32(1), pp. 193-243.

⁷ European Commission (2018), [‘Individual reports and info sheets on Implementation of EU Free Trade Agreements’](#).

⁸ Head K and Mayer T (2014), [‘Gravity Equations - Workhorse, toolkit and cookbook’](#), *Handbook of International Economics*, 4, pp. 131-195.

Dhingra S, et al. (2018), [‘Beyond Tariff Reductions: What Extra Boost From Trade Agreement Provisions?’](#) *CEP Discussion Paper No 1532*, LSE, pp. 1-38.

⁹ Tariff schedules used in this impact assessment are the applied tariff rates, not bound tariff rates.

preference scheme that the UK is implementing after EU exit (the “UK GSP”, see paragraph 34). This would lead to an increase in duties on some UK exports to and imports from Tunisia.

29. To estimate the potential impact of losing tariff preferences, assumptions have to be made. If all current trade between the UK and Tunisia occurred at the negotiated preferential tariff rate, if current patterns of trade remained unchanged in future, and without taking into account the effect of unilateral preferences other than the UK’s GSP tariff rates, reverting to Tunisia’s current MFN tariff rates and the UK’s GSP tariff rates would result in an annual increase in total duties of £22 million. This would predominately be duties on UK exports increasing by £15 million, with duties on imports increasing by around £7 million.¹⁰
30. However, these estimates assume that all tariff preferences offered under the current EU-Tunisia Association Agreement are fully utilised by exporters. This is unlikely to be true. For example, DIT estimates suggest that 94% of the UK’s eligible goods imports from Tunisia in 2016 (defined as those which occurred under tariff lines where a preferential rate was offered under the Agreement) were imported utilising the preferences under the Agreement.¹¹
31. Similar data on UK eligible goods exports to Tunisia is not publicly available. The European Commission has recently published available data on preference utilisation of exports to selected FTA partner countries. For these countries, 68% of UK eligible goods exports were traded under preferences.¹² This means that the actual increase in duties could be lower than the estimates above.
32. The total duty which would in fact be charged on exports and imports would also depend on how quantities and prices of traded products adjusted to the imposition of tariffs. If UK producers were not previously utilising the preferential rates or producers and consumers changed their behaviour in response to higher tariffs, this cost would be lower than estimated above. These are strong assumptions, so this figure should be treated as an indicative estimate of the magnitude of the trade barrier under this scenario.
33. The indicative estimates show that the largest implied increases in UK export duties would be for electrical machinery and equipment and parts (HS85) of around £3.1 million, and

¹⁰ DIT calculations using tariff data from [ITC Market Access Map \(MacMap\)](#) and [HMRC trade statistics](#) (accessed March 2019). Implied additional duties are calculated using the difference in MFN and preferential tariff rates (simple average tariffs at HS6 level) and the 2018 value of trade for each product at HS6 level. Different approaches and data sources for this analysis are likely to yield different results. The estimate of implied additional duties may be different to which would be generated if trade and tariff data at a more disaggregated level (CN8 level) were used. Calculations also assume trade is not eligible for duty relief under inward/outward processing rules, nor eligible for relief under specific plurilateral agreements such as those covering civil aviation and pharmaceuticals. The estimate of implied additional duties may be different to which would be generated if trade and tariff data at a more disaggregated level (CN8 level) were used.

¹¹ DIT calculations using data from [Eurostat](#) (accessed 19th November 2018). Note that using a single year does not account for fluctuating trends in bilateral trade flows, which can be significant. In general, data on the preference utilisation of trade deals is not readily accessible and should be treated with caution. They indicate whether businesses trading in goods are benefitting from negotiated preferences, but do not tell us which or how many businesses are using these preferences. Nor do they cover services trade.

¹² Nilsson L and Preillon N (2018), [‘EU Exports, Preferences Utilisation and Duty Savings by Member State, Sector and Partner Country’](#), *European Commission*, pp. 1-17. This report uses data collected by EU Delegations from relevant authorities in countries with which the EU has bilateral reciprocal Association Agreement in place.

machinery and mechanical appliances (HS84) of around £1.4 million. These correspond to two of the top categories of goods which the UK exports to Tunisia.

34. The UK is implementing a unilateral preferences scheme as it leaves the EU, it is the Government's intention that countries that currently benefit from preferential access to the EU through the Generalised Scheme of Preferences (GSP) would continue to receive the same access through a new UK trade preferences scheme.¹³ At the point of the UK's exit, from the EU, the UK will follow the EU's GSP eligibility criteria. Tunisia is classified as a Lower-Middle Income Country by the World Bank, as such Tunisia would be eligible for unilateral preferences under the UK's GSP. This would provide tariff reductions, but not the same level of access as that offered by an Association Agreement. Higher income partner countries would not benefit from these unilateral preferences.
35. Under 2017 trading patterns and UK MFN and GSP tariff schedules, trading under GSP would mean around 16% of UK goods imports from Tunisia would not face tariffs as the MFN rate is currently zero, 67% would not face tariffs as GSP provides a reduced tariff of zero, 17% would face reduced but non-zero tariffs compared to MFN, and less than 1% would face non-zero MFN tariffs.
36. Accounting for unilateral preferences, the largest implied increases in import duties would be in apparel and clothing accessories, not knitted (HS62) of £2.8 million and apparel and clothing accessories, knitted (HS61) of around £2.1 million. As shown above, these are two of Tunisia's most significant categories of imports to the UK.
37. Indicative estimates of implied additional tariff duties are provided above to give a sense of scale of possible additional costs of trade. Tariff duties are transfers, where the cost to business is equal to the extra tariff revenue collected by the UK Exchequer and Tunisian Government. However, there could be wider effects of increased costs of trade, including negative impacts on consumer choice, prices, and ultimately economic growth and welfare.

Businesses

38. Additional duties could be absorbed by either UK or Tunisian businesses (depending on whether it is the importer or exporter paying the duty), passed on to consumers, or existing trade patterns could be interrupted. This could impact UK competitiveness, leading to disruptions in supply chains and job losses in the short-term.
39. Businesses that rely on imports as part of their supply chains may be affected if import prices rise, including UK exporters that rely on Tunisian inputs to export goods to the rest of the world. In 2015 (latest data), around 15.1% of the value added in UK's gross exports reflected imports from abroad, including 0.01% from Tunisia.¹⁴ UK companies which rely on Tunisian imports would become less competitive. Given the small share of UK trade under the EU-Tunisia Association Agreement, in this case we would expect these impacts to be relatively small but could be noticeable for some specific companies.

¹³ The Taxation (Cross-Border Trade) Act enables the UK to put in place a UK trade preferences scheme for developing countries. The necessary secondary legislation is now well advanced and regulations will be laid in Parliament ahead of leaving the EU. The Government intends to put in place a trade preference scheme which maintains the preferential market access we currently offer to around 70 developing countries under the EU's Generalised Scheme of Preferences (GSP). This will grant duty-free, quota-free access to Least Developed Countries which is a target in the UN's Sustainable Development Goals and is in line with our commitments in the WTO. It will also maintain the generous tariff reductions for other developing countries.

¹⁴ OECD, 2018. [Trade in Value Added \(TIVA\): Origin of value added in gross exports, December 2018](#). Experimental statistics.

Consumers

40. Imported products could be more expensive for consumers if retailers pass on additional duties to consumers through increases in domestic prices. This could disproportionately affect certain groups of consumers, for example those at the lower end of the income distribution, depending on the specific sectors affected. Consumers might also see a reduction in the choice of products available. Given the small share of UK trade under the EU-Tunisia Association Agreement, it is expected that any impacts would be relatively small overall but could be noticeable on specific product lines.

Longer term impact if not brought into effect

41. In the long run, the UK would forgo the longer-term benefits that the UK-Tunisia Association Agreement would have brought to the UK. This could result in the long-term UK Gross Domestic Product ("GDP") marginally decreasing if the UK-Tunisia Association Agreement is not brought into effect. Given the small share of UK trade under the EU-Tunisia Association Agreement, it is expected that any impact on UK GDP would be very small.

Explanation of the Agreement, including significant differences between the UK-Tunisia Association Agreement and the EU-Tunisia Association Agreement

42. The UK-Tunisia Association Agreement follows the short form approach, explained above in paragraphs 8 to 11 of this report. Beyond the general *mutatis mutandis* changes explained above, this section describes global changes made to continuity trade agreements following the short form approach and goes on to provide a detailed discussion of the UK-Tunisia Association Agreement.

Nature of the EU-Tunisia Agreements and the UK-Tunisia Association Agreement

43. Technical transition of the EU-Tunisia Agreements with few changes means that the substance of the new UK-Tunisia Association Agreement is broadly the same. This includes on those issues of particular importance such as human rights and democratic principles.

General Provisions

Removal and replacement of references to the EU

44. Where necessary, any references to the “European Union”, “the European Community”, the “EU”, “EU Party” and “Member States” are either not incorporated into the UK-Tunisia Association Agreement or replaced by “the United Kingdom”. Similarly, any references to EU institutions have been either not incorporated where no equivalent UK institution exists or replaced with appropriate references to the equivalent institutions in the UK. All other references to the “European Union”, the “European Community”, the “EU”, “EU Party” and “Member States” that are not explicitly deleted are read, *mutatis mutandis*, as references to the UK.

Territorial Application

45. Territorial application provisions set out the territories to which the agreement in question applies, and how it applies to them. The territorial application of the EU-Tunisia Association Agreement to the EU is defined by reference to the Treaties establishing the European Community and the European Coal and Steel Community.¹⁵ The UK-Tunisia Association Agreement retains this provision and includes an additional article, Article 6, which clarifies that the UK-Tunisia Association Agreement applies to the UK and the territories listed in Article 6 to the extent that and under the conditions which the EU-Tunisia Agreements applied immediately before they ceased to apply to the UK. The territories, other than the UK itself, to which the UK-Tunisia Association Agreement applies are separated into the following categories based upon the application of EU law to date:

- a. the Crown Dependencies (Isle of Man, Bailiwick of Jersey, Bailiwick of Guernsey), to which, broadly, provisions relating to trade in goods and customs apply; and
- b. Gibraltar, to which, broadly, provisions not relating to trade in goods or customs apply.

Continuation of Time Periods

46. Provisions of the EU-Tunisia Agreements that require an action within a certain time period which has not yet ended under those Agreements become part of the UK-Tunisia Association Agreement reflecting only the remaining time in which the action must occur. Where time periods in such provisions of the EU-Tunisia Agreements have ended, any ongoing right or obligation continues to apply between the UK and Tunisia (the “Parties”) and the time period is not incorporated into the UK-Tunisia Association Agreement.

47. This is all provided for by Article 7 of the UK-Tunisia Association Agreement, which also sets out an exception for time periods that relate to a procedure or other administrative matter, such as a review, committee procedure or notification. These periods are not affected and therefore ‘start again’ when the UK-Tunisia Association Agreement enters into force. Under Article 7, time-periods can also be dealt with differently if elsewhere the short form text provides otherwise.

¹⁵ The Treaty establishing the European Coal and Steel Community is no longer in force.

Institutions and Committees

48. Most of the institutional provisions and bodies provided for in the EU-Tunisia Agreements are incorporated and retained *mutatis mutandis*. The primary bodies responsible for overseeing the operation and implementation of the UK-Tunisia Association Agreement are the Association Council (the “Council”) and the Association Committee (the “Committee”). The Council and Committee will be comprised of representatives of the UK and Tunisia. Article 8 confirms that the Committee established under incorporated Article 81 is responsible for ensuring the Agreement operates properly. Article 8 further provides that, unless the Parties agree otherwise, the Council and Committee are deemed to have adopted the decisions of the Association Council and Association Committee established under the EU-Tunisia Association Agreement before the EU-Tunisia Agreements ceased to apply to the UK, to the extent those decisions relate to the UK and Tunisia, *mutatis mutandis*. This approach provides for continuity of effect as it ensures that the decisions in force when the EU-Tunisia Agreements cease to apply to the UK continue to apply under the UK-Tunisia Association Agreement.

Amendment Provisions

49. Amendment provisions set out the process to be followed if the parties agree to amend the provisions of an agreement after it enters into force. Though parties to an agreement are generally free to amend it as they deem necessary, amendment provisions serve to make the process clearer and more transparent.

50. Amendment provisions vary from agreement to agreement. In respecting the principle of continuity, the UK has aimed to keep those in continuity trade agreements as similar as possible to those in the existing EU agreements they replace. However, in some cases, it has been necessary to make changes.

51. Article 10 of the UK-Tunisia Association Agreement is an amendment provision which outlines the process to be followed if the Parties agree to amend the Agreement after it enters into force. Article 10 provides that the Parties may agree, in writing, to amend the text of the Agreement. Such amendments will enter into force on the date of receipt of the later of the Parties’ notifications confirming that they have completed their internal procedures, or on such other date as the Parties agree. In the UK, amendments to the UK-Tunisia Association Agreement that are expressly subject to a formal exchange of notes to confirm completion of internal procedures would engage the Parliamentary scrutiny process set out in the CRaG Act.

52. Except where otherwise provided in the Agreement, the Council (or Committee insofar as such powers are delegated to it) may also decide that the annexes, appendices, protocols, joint decisions or declarations and notes to the Agreement should be amended. The Parties may adopt the Council or the Committee’s decision subject to their own internal procedures. It is in the UK’s interests for the Council and the Committee to have this function to ensure continuity of effect of the EU-Tunisia Agreements, as far as possible, and to streamline the process of making changes to the UK-Tunisia Association Agreement where required.

53. The inclusion of an amendment provision in the UK-Tunisia Association Agreement does not commit the UK to making any changes to the Agreement once it enters into force. It simply sets out a process which may be used if needed. Therefore, the inclusion of an amendment provision is not expected to have an impact on the operability of the Agreement in a bilateral context.

Entry into Force

54. Entry into force provisions specify the date from which the provisions an agreement will bind the parties. Existing entry into force provisions in the EU-Tunisia Agreements have been replaced with new provisions to ensure that, whatever the scenario in which the EU-Tunisia Agreements cease to apply to the UK, the UK-Tunisia Association Agreement is able to enter into force as swiftly as possible thereafter. Article 11 of the UK-Tunisia Association Agreement provides that the Agreement shall enter into force on the later of:
- a. the date on which the EU-Tunisia Agreements cease to apply to the UK; and
 - b. the date of the later of the notifications by which the UK and Tunisia notify each other that they have completed their respective legal procedures.
55. For the UK-Tunisia Association Agreement to enter into force, both Parties must first complete their domestic legal procedures required for entry into force. In UK domestic law, before an agreement subject to ratification (as the term is defined in domestic law) may be brought into force, it must be laid before Parliament for scrutiny in accordance with the CRaG Act.
56. Notwithstanding, the UK-Tunisia Association Agreement will only apply to Gibraltar, the Channel Islands and the Isle of Man from the date of written notification by the UK to Tunisia of the application of the Agreement to those territories.
57. Notifications of the UK pursuant to Article 11 are to be submitted to the Ministry of Foreign Affairs of Tunisia or its successor. Notifications of Tunisia pursuant to Article 11 are to be submitted to the UK's Foreign and Commonwealth Office or its successor.

Trade Remedies and Dispute Settlement

58. Trade remedies provide a safety net for domestic industry against injury caused by dumped, subsidised or unexpected surges of imports of goods. Most WTO Members have a trade remedies system. The UK will operate its own system once outside the EU.
59. The economic benefits of trade and association agreements can only be realised if they are faithfully implemented and complied with. A dispute settlement mechanism in an agreement signals the parties' intention to abide by the agreement, thereby increasing business and stakeholder confidence that the commitments set out in the agreement can, and will, be upheld. The dispute settlement mechanism, therefore, provides an important deterrent function. It also provides an effective mechanism for enforcing those commitments, and for resolving any disputes arising under the agreement in question.
60. The UK-Tunisia Association Agreement replicates the effects of the trade remedies and dispute settlement provisions in the EU-Tunisia Agreements *mutatis mutandis*.
61. One of the impacts of transitioning the dispute settlement provisions in the existing EU trade and association agreements is that, in the event that a dispute arises, the UK will be directly responsible for any relevant costs associated with the dispute settlement process.

Approximation

62. Provisions regarding legal approximation are used by the EU in trade and association agreements to bring, or to aim to bring, third country legislation closer to that of the EU in areas covered by the agreement in question.
63. Unless their removal affects market access, provisions mandating or promoting the gradual approximation of legislation between the EU and Tunisia have been removed. Maintaining these commitments would, when read *mutatis mutandis*, require our partners to approximate to both the UK and the EU's legislation, which would create an inappropriate commitment in a bilateral context. This change is not expected to have a direct impact on trade.

Annexes and Protocols

Goods

64. Goods chapters in trade and association agreements set out the treatment and the level of access to the domestic market granted to goods of the respective parties. Such provisions include setting tariff levels and quotas on various products, establishing agricultural safeguards and determining the rules of origin for goods to qualify for preferential treatment. Commitments on tariffs for both the UK and Tunisia have, other than in those cases detailed below, been transitioned without changes. This means that tariff preferences applied by the UK for products from Tunisia will remain the same as those applied by the EU on the date the UK ceases to be bound by the EU-Tunisia Association Agreement, and, likewise, Tunisia will continue to apply the same preferences to products from the UK that it is applying to products from the EU covered by the EU-Tunisia Association Agreement.
65. The only exception to tariff commitments being transitioned without modifications relates to the size of tariff-rate quotas (see below), which can be found in Sections 9, 10 and 11 of Annex I to the UK-Tunisia Association Agreement (concerning Protocols 1, 2 and 3 of the EU-Tunisia Association Agreement, as incorporated) where these have to be re-sized to deal with the fact that the UK will no longer be a member of the EU. These changes are detailed further below.

Tariff Rate Quotas

Justification for policy change

66. Tariff-rate quotas (“TRQs”) allow a certain quantity of a product to enter the market at a zero or reduced tariff rate. Imports above the quota are subject to a higher tariff – usually the MFN rate. The EU has agreed TRQs, both for imports to the EU and exports to partner countries, in some of its trade and association agreements. In order for products to continue to benefit from the use of these TRQs bilaterally in trade between the UK and third countries, these quotas need to be present in the new UK agreements with those partners.
67. TRQs administered by the UK and by partner countries have been re-sized to reflect the fact that the UK is a smaller import and export market than the EU. Solutions were agreed with partner countries to set quotas at a sufficient level that would allow for continuity of historic trade flows, in most circumstances, for importers and exporters from both sides.
68. Where possible, TRQs have been re-sized based on three years’ worth of customs data, which detail actual usage of the TRQs by importers. It includes information on the quantity and date of individual shipments of goods. Where three years’ worth of customs data is not available, historical trade flow data has been used instead. In order to address future market access opportunities for UK and Tunisian businesses, it was also agreed that a minimum level of access should be provided for all quotas, based on a proxy measure relevant to UK trade. Doing so allows future market access opportunities for UK and Tunisian businesses using a fair and evidence-based methodology.
69. The quotas provided in the Agreement were calculated based on historical data from 2014-2016.

Impacts

70. Without transitioning the TRQs from the EU-Tunisia Association Agreement into the UK-Tunisia Association Agreement, and without any other mitigating actions, goods imported from Tunisia that are currently covered by TRQs in the EU-Tunisia Association Agreement could face MFN tariffs. This could make these imports more expensive. For example, UK imports of 'tomatoes, prepared or preserved otherwise than by vinegar or acetic acid, with dry matter content of >12% but <30% in immediate packings of a net content of <+1kg' (HS code 20029030) could face an MFN rate of 14.4% rather than the in-quota rate of 0%. This example is not representative of all quotas. The nature of the impact of this change will depend on a number of factors, including existing trading patterns and the behaviour and responsiveness of domestic consumers and businesses to the change in tariff rates. UK imports from Tunisia based on trade data (at HS6 level) of products that are currently covered by TRQs¹⁶ were worth £274,000 in total in 2018,¹⁷ equivalent to less than 0.2% of total UK goods imports from Tunisia.
71. UK goods exports to Tunisia could also be adversely affected if the relevant TRQs are not transitioned. In the absence of any explicit action by the Tunisian Government, that trade would face MFN tariffs. As explored above for UK imports, the nature of the impact of this change would depend on a number of factors.
72. Based on historical usage of the quotas, it is expected that the overall, immediate impact on UK producers and consumers resulting from this approach to re-sizing TRQs would be limited.

Inward TRQs

Table 4: List of TRQs from Tunisia to the EU and new quota volumes in the UK-Tunisia Association Agreement

Quota No. ¹⁸	Product description	New UK quota volume (tonnes, unless otherwise specified)
091211	Cut flowers and flower buds, fresh	30
091213	New potatoes, from 1 January to 31 March	512
091207	Fresh oranges	1070
091215	Tomato concentrate	109
091203	Apricot pulp	140
091217	Mixtures of fruit	27

¹⁶ Trade data at HS6 level. Products covered by quotas taken from the EU's [TARIC database](#).

¹⁷ HM Revenue and Customs, UK trade statistics data. <https://www.uktradeinfo.com/trade-data/>, 2017 average. It should be noted that not all commodity codes within the HS product codes will be covered in every TRQ. Further, it is not necessarily the case that all trade in products under the quota will enter under this access commitment. As such, estimates based on HS6 data are likely to give an upper bound to the volume of imports and exports covered by the TRQ.

¹⁸ Inward quotas, which are administered by the EU, each have a unique order number. Further information about existing EU quotas can be found on the EU Customs and Taxation website.

http://ec.europa.eu/taxation_customs/dds2/taric/quota_consultation.jsp?Lang=en

091209	Wine of fresh grapes	4874hl
091205	Wine of fresh grapes with a designation of origin	1523hl
091201	Sardines, of the species <i>Sardina pilchardus</i> in olive oil (l); Sardines, of the species <i>Sardina pilchardus</i> other than in olive oil (l), of sardines of the species <i>Sardina pilchardus</i> (l)	3
091218	Natural honey	1
091219	Olives	0.3
091220	Truffles	0.1
094032	Olive oil and its fractions, virgin 1 Jan - 31 Dec	7723

Outward TRQs

Table 5: List of TRQs from the EU to Tunisia and new quota volumes in the UK-Tunisia Association Agreement

Product description	New Tunisia quota volume (tonnes)
Live bovine animals, pure-bred breeding animals	54
Other than pure-bred breeding animals	1
Fowls of the species <i>Gallus domesticus</i> (day-old chicks) Turkey (day-old chicks)	1
Meat of bovine animals, fresh or chilled, other cuts with bone in	218
Meat of bovine animals, fresh or chilled, boneless	
Meat of bovine animals, frozen, other cuts with bones in	
Meat of bovine animals, frozen, boneless	
Poultry not cut in pieces, frozen	11
Milk and cream, concentrated or containing added sugar or other sweetening matter, in powder, granules or other solid forms, of a fat content, by weight, not exceeding 1,5%, Milk and cream, not containing added sugar or other sweetening matter, in powder, granules or other solid forms, of a fat content, by weight, exceeding 1,5 %, Milk and cream, concentrated, other than in powder or other solid forms including with added sugar or other sweetening matter	264
Butter and other fats and oils derived from milk	7
Processed cheese, not grated or powdered	12
Birds' eggs, in shell, fresh, preserved or cooked	30
Other live plants (including their roots) other than those falling within subheadings 0602 10, 0602 20, 0602 30 00, 0602 40 and 0602 90 10	5
Seed Potatoes, fresh or chilled	449
Potatoes, fresh or chilled, other than seed potatoes	499

Peas (<i>Pisum sativum</i>), dried, shelled, whether or not skinned or split, for sowing	5
Hazelnuts or filberts, shelled	5
Durum wheat	462
Other than durum wheat	6256
Barley	326
Maize (corn), other than seed	408
Semi-milled or wholly-milled rice, whether or not polished or glazed	109
Groats and meal of wheat	8
Groats and meal of maize (corn)	22
Malt, not roasted	95
Maize (corn) starch	27
Hop cones, ground	1
Lucerne (alfalfa) meal and pellets	408
Fats of bovine animals, sheep or goats, other than those falling within heading 1503	16
Soya bean oil, crude, whether or not degummed	2720
Ground-nut oil, crude	
Palm oil and its fractions, crude	
Sunflower oil, crude	
Cotton-seed oil, crude	
Rape, colza or mustard oil, crude	
Linseed oil, crude	
Maize (corn) oil, crude	
Palm oil and its fractions, whether or not refined, but not chemically modified, other than crude	8
Rape, colza or mustard oil, other than crude	24
Animal fats and oils and their fractions	8
Cane or beet sugar and chemically pure sucrose, other than raw sugar, not containing added flavouring or colouring matter	1958
Glucose and glucose syrup - glucose containing added flavouring or colouring matter - other	18
Sugars, including invert sugar, other than lactose, maple sugar, glucose and fructose, and their syrups: - other sugars containing added flavouring or colouring matter - other	27
Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil	163
Dog or cat food, put up for retail sale	1
Other animal foods	76
Tobacco, not stemmed/stripped	76

Rules of Origin

73. In trade and association agreements, rules of origin (“RoOs”) are used to determine the economic nationality of a good. In order to qualify for preferential tariff rates, a good has to “originate” in one of the parties to the agreement. Trade and association agreements may also allow materials originating and/or processing in a country other than the exporting party to count towards meeting the specific origin requirements for preferential treatment, a process known as “cumulation”.
74. There are two categories relevant to determining whether goods “originate” in the exporting country for the purposes of a trade or association agreement:
- a. **Wholly obtained** – These goods are wholly obtained or produced entirely in a single country. Examples include: (1) mineral products extracted from the soil; and (2) live animals born and raised there.
 - b. **Substantial transformation** – These are goods that are made from materials which come from more than one country, and the origin is therefore defined as that of the country where the goods were last substantially transformed. This can be determined in three ways:
 1. **Value added** – This type of rule requires that a particular proportion of the final value of the product be added in the exporting country.
 2. **Change in Tariff Classification (“CTC”)** – This type of rule requires that the final product be sufficiently different from the imported materials so that it moves to a different tariff classification altogether.
 3. **Specific processing or manufacturing** – These rules typically apply where value added or CTC rules may not adequately determine originating status, and where specific processes are required to meet originating criteria.
75. As a member of the EU, all UK content is currently considered as “originating” in the EU and UK exports are designated as “EU origin”. This means that originating materials from, and processing in, the UK and the rest of the EU-27 Member States can be used interchangeably in the UK’s bilateral trade with existing EU trade partners. This will no longer be the case when existing EU trade and association agreements cease to apply to the UK. At this point, the designation of UK exports will shift from “EU” originating to “UK” originating, and EU content will (unless specific provision is made in the new UK continuity trade agreements) no longer count towards meeting the origin requirements for preferential treatment for either party. This change would have implications for goods traded between the UK, EU and Tunisia.
76. To address these implications and to provide maximum continuity for business, it has been agreed in the UK-Tunisia Association Agreement that EU materials and processing can be recognised (i.e. cumulated) in the UK’s exports to Tunisia (and vice versa for Tunisia’s exports to the UK). The possibilities to cumulate with other countries, as per the EU-Tunisia Association Agreement, are replicated in the UK-Tunisia Association Agreement on the same terms.
77. Tunisia and the UK (as part of the EU) are currently contracting parties to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the “PEM Convention”). The PEM Convention is a multilateral agreement that harmonises preferential RoOs across

the Euro-Mediterranean Free Trade Area and provides for cumulation between contracting parties to the PEM Convention.¹⁹ The EU and Tunisia have not updated the RoOs Protocol to the EU-Tunisia Association Agreement to apply the PEM Convention between themselves. As a result, the UK-Tunisia Association Agreement transitions the provisions of Protocol 4 of the EU-Tunisia Association Agreement in a bilateral context with modifications.

78. The RoOs Protocol can be found in Annex II of the UK-Tunisia Association Agreement and the cumulation provisions, including the specific conditions that apply to them, are set out in detail in Articles 3 and 4 of the RoOs Protocol.

Impact

79. If cumulation of EU content for the UK and Tunisia was not permitted under the UK-Tunisia Association Agreement, some UK and Tunisian based exporters might find themselves unable to qualify for the preferential treatment currently provided by the EU-Tunisia Association Agreement. UK exporters to Tunisia who rely on EU inputs might have to revert to paying MFN tariffs if they continued using EU inputs, or they might have to review and reassess their existing supply and value chains as a result of this change to existing terms. The impact would, of course, vary across sectors.

80. The UK-Tunisia Association Agreement provides only for trade between the UK and Tunisia and does not provide for either the UK or Tunisia's direct trade with the EU, including, for example, where UK and Tunisian based exporters use content from each other in exports to the EU.

Customs

81. The UK-Tunisia Association Agreement incorporates the customs provisions of the EU-Tunisia Agreements, *mutatis mutandis*. However, minor changes have been made to:

- a. Article 10 of Protocol 5, by removing the reference to the provisions on confidentiality applying to EU authorities;
- b. Article 14 of Protocol 5, by removing reference to the customs services of the European Commission; and
- c. Article 15(1) of Protocol 5, by substituting text to note the precedence of the incorporated Protocol 5 over any incompatible provisions of any bilateral agreement on mutual assistance concluded between the UK and Tunisia.

82. In addition, Article 15(2) of Protocol 5, which relates to the impact of any bilateral agreements between Tunisia and an EU Member State on communication between the EU Commission and the customs authorities of that state, was not incorporated into the Agreement as this provision is not relevant in a bilateral context. These changes are not expected to have an impact on trade flows.

¹⁹ The Contracting Parties as defined in the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin as at the date the Agreement is signed.

Intellectual Property

83. The UK-Tunisia Association Agreement continues the UK's obligations to provide suitable and effective IP protection in line with international standards and to cooperate with Tunisia on aspects of IP. It achieves this by incorporating the relevant provisions of the EU-Tunisia Association Agreements, *mutatis mutandis*. The UK will remain a member of the World Intellectual Property Organization ("WIPO") and remain fully compliant with those WIPO treaties to which it is already a party. The UK will also continue to comply with its obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The UK-Tunisia Association Agreement also retains the obligation from the EU-Tunisia Association Agreement which requires Tunisia to ratify or accede to various international IP agreements. As the UK-Tunisia Association Agreement replicates the effects of the current obligations under the EU-Tunisia Agreements, there is not expected to be an impact on trade flows.

Government Procurement

84. In line with the EU-Tunisia Association Agreement, the UK-Tunisia Association Agreement does not include substantive public procurement obligations. However, the Parties have retained the general objective to gradually liberalise their respective public procurement markets. As the UK-Tunisia Association Agreement replicates the effects of the current obligations under the EU-Tunisia Agreements, there is not expected to be an impact on trade flows.

Technical Barriers to Trade

85. Technical barriers to trade ("TBT") provisions in trade and association agreements cover aspects relating to technical regulations, standards and conformity assessment for goods. TBT provisions play an important role in reducing non-tariff barriers for businesses, for example, through increasing the transparency of a trading partner's regulatory requirements.

86. The EU-Tunisia Association Agreement contains provisions requiring Tunisia to cooperate to bring its legislation closer (i.e. 'approximate') to that of the EU in areas covered by that Agreement. The UK has adopted the approach explained above (see paragraphs 62-63) and has not incorporated any TBT provisions into the UK-Tunisia Association Agreement which require approximation to, or alignment with, EU legislation as it would not be appropriate to replicate them in a bilateral context. As such, there are no expected impacts on trade flows.

Competition, State Aid and State-Owned Enterprises

87. Provisions in trade and association agreements relating to competition, state aid and state-owned enterprises help to ensure that a level playing field exists for the parties.

88. References in the EU-Tunisia Association Agreement to EU state aid rules have not been incorporated into the UK-Tunisia Association Agreement. In particular Article 36(2) and Article 36(5) (second indent) of the EU-Tunisia Association Agreement have not been incorporated into the Agreement. Articles 36(2) and 36(5) (second indent) provide that certain practices in conflict with the Agreement shall be assessed on the basis of criteria

arising from the application of EU rules and it would not be appropriate to replicate such provisions in a bilateral context. The removal of these provisions is not anticipated to impact on British businesses as they will continue to be subject to UK domestic law which will not conflict with the provisions of the UK-Tunisia Association Agreement. The Agreement will not affect the financial support the Government provides to UK agricultural and fishing industries and is not expected to have an impact on trade flows.

Services

89. Services provisions in trade and association agreements set out the treatment and the level of access to the domestic market granted to that trade partner's service suppliers and services. Commitments build upon the level of access and the treatment granted to all WTO Members, whilst protecting governments' rights to regulate their domestic markets.
90. In the EU's trade and association agreements with third countries, the content of the services provisions and depth of the commitments undertaken vary considerably. The variety of these services provisions have in some cases necessitated a bespoke approach to deliver continuity in services commitments between the UK and the relevant partner country. Some agreements have not required amendment whilst others have required technical alteration to the text to deliver continuity of effect. Where such technical changes have been necessary the effects of the original commitments have been replicated, as far as possible.
91. The services provisions of the EU-Tunisia Association Agreement are contained in Title III (Right of Establishment and Services), Title V (Economic Cooperation) and Title VI (Cooperation in Social and Cultural Matters). Of these, the incorporated services provisions in Title V of the UK-Tunisia Association Agreement have been amended as follows:
 - a. references to Tunisia adhering to or adopting Community standards are either not incorporated or, in one case, are replaced with a reference to 'international standards'. This is because would be inappropriate to require Tunisia to adhere to both EU and UK standards;
 - b. reference to Tunisia participating in Community research and technological development programmes in accordance with Community rules has been removed because these programmes are specific to the EU;
 - c. reference to Tunisian participation in networks of decentralised cooperation has not been incorporated because these networks are specific to the EU;
 - d. reference to "trans-European communication routes" has not been incorporated, as such references are EU specific ; and
 - e. reference to interconnecting the Parties' energy networks has not been incorporated into the UK-Tunisia Association Agreement as such a s commitment would be inappropriate in a bilateral context.

Wider Provisions

92. As part of our approach to seek technical replication of the EU agreements as the UK leaves the EU, we have also incorporated elements which go beyond trade. As with the

trade focused provisions, we have amended these where necessary to ensure operability in a bilateral context

93. Title VI of the EU-Tunisia Association Agreement contains certain provisions relating to social security. In particular, Articles 65 and 67 provide that periods of insurance, employment or residence completed by Tunisian workers legally employed in EU Member States, including the UK, may be combined (aggregated) for the purposes of pensions, benefits including sickness; maternity benefits; invalidity; old-age; survivors' benefits; industrial accident and occupational disease benefits; and death, unemployment and family benefits, and medical care for such workers and members of their families resident in the EU. Under the UK-Tunisia Association Agreement, Tunisian citizens, who are legally working in the UK, are allowed to access family allowances in the UK for their family members resident in the UK. Pensions and some of the relevant benefits (in particular those concerning work related accidents/disease) can be accessed both in the UK and if they return to Tunisia. In 2017, there were an estimated 5,500 migrants of Tunisian origin living in the UK who could be affected by these changes. There is no data available for the number of estimated migrants of British origin living in Tunisia.
94. The UK-Tunisia Association Agreement makes technical amendments to Article 65 to allow for the continued aggregation of periods of insurance, employment or residence in the UK with periods of insurance, employment or residence in the EU-27 Member States.
95. To ensure that such aggregation is possible, the UK and EU will need to reach an appropriate arrangement which will allow both parties to share data relating to periods of insurance, employment or residence in the UK and the EU-27 Member States for the purpose of determining entitlements to pensions or other relevant benefits. In a 'no-deal' scenario, the UK may not have the necessary data sharing arrangement with the EU. Accordingly, Articles 65 and 67, as incorporated into the UK-Tunisia Association Agreement, have been amended to disapply the UK's obligation to aggregate periods of insurance, employment or residence in the UK and EU-27 Member States until such time as the UK and EU reach an appropriate data sharing arrangement, which would enable such an obligation to be implemented.

Sanitary and Phytosanitary (SPS)

96. The right for the UK and Tunisia to apply prohibitions or restrictions on trade in goods under the UK-Tunisia Association Agreement on the basis of various public policy reasons including the protection of health and life of humans, animals or plants, is preserved through the incorporation of Article 28 of the EU-Tunisia Association Agreement.

Human Rights

97. The provisions of the EU-Tunisia Agreements concerning human rights are incorporated into the UK-Tunisia Association Agreement, *mutatis mutandis*. Accordingly, the UK-Tunisia Association Agreement provides that respect for human rights and democratic principles constitute an essential element of the Agreement. In the case of a material breach of the UK-Tunisia Association Agreement by one of the Parties appropriate measures may be taken in accordance with international law, including the suspension of the Agreement.
98. The UK-Tunisia Association Agreement also provides for the continuation of a regular bilateral political dialogue (previously covered in a Tunisia-UK Bilateral Forum) which will cover all issues of common interest to the UK and Tunisia, in particular the conditions

required to ensure prosperity, stability and security. This approach is not expected to have a direct impact on trade flows.

CCS1019305830

978-1-5286-1648-5