



**ISSUES PAPER ON THE ASSESSMENT OF  
IMPLEMENTATION OF REGIONAL TRADE  
AGREEMENTS IN THE ARAB COUNTRIES AND THE  
ECONOMIC AND REGULATORY POLICY  
IMPLICATIONS OF THEIR OVERLAPPING:  
  
THE CASE OF EGYPT, JORDAN, MOROCCO, TUNISIA**

**Research Report Series: No. 0424**

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*Faculty of Economics and Political Science  
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# I. Introduction

During the last fifteen years, Arab countries have signed a number of Regional Trade Agreements (RTAs) and have strived for joining the World Trade Organization (WTO), in an attempt to open up their economies and to integrate in the global market. Furthermore they engaged in the implementation of economic reforms and structural adjustment programs aimed at supporting the establishment of market economies, enhancing the participation of private sector initiatives and promoting export-led growth. This study aims at examining the effects of overlapping RTAs on the member states themselves in view of producing actionable policy suggestions for policymakers in these countries. The emphasis will be on: (1) studying the degree of implementation of the existing agreements and assessing and understanding the reasons behind the gap between implementation of the RTAs and what is stated in such agreements; (2) analyzing the specific deficiencies in implementation and identifying capacity building requirements to enhance capabilities of government officials responsible for implementation; (3) increasing the coherence of domestic economic and regulatory policies with their respective international trade regulations and policies and (4) extending coherence to include modifying existing (or potential) trade agreements so as to maximize economic benefits and to minimize economic costs of overlapping RTAs.

The study is limited to four Arab countries: Egypt, Jordan, Morocco and Tunisia. The choice of these countries is based on their similarities in terms of membership of the WTO, of their engagement in trade policy reforms for more than a decade, and their involvement in several RTAs involving south-south as well as north-south cooperation.

Based on individual country papers prepared by national experts, this issue paper will identify the gap between the announced RTAs in terms of their provisions and time schedule and the degree of actual implementation in terms of specific sectors, policies and regulations. It will further examine a range of systemic and regulatory issues, specifically rules of origin, dispute settlement, lack of common standards, technical barriers to trade, and other "behind-the border" issues.

The paper is divided as follows: after this introductory section, section 2 briefly describes various RTAs. Section 3 addresses the implications of their overlapping. Section 4 discusses gaps in implementation and the consistency of external commitments with "behind-the-border" policies. Section 5 examines the alignment of external commitments (WTO and RTAs) with legislative, regulatory and administrative measures established to handle such agreements. Section 6 highlights similarities and dissimilarities between various RTAs commitments and Section 7 concludes.

## 2. Overview of various trade commitments in the four countries

Egypt, Jordan, Morocco and Tunisia are all members of the World Trade Organization (WTO)<sup>1</sup>. Additionally, since the mid-nineteen nineties, these countries have signed a multiplicity of RTAs as well as numerous bilateral trade agreements with various countries. They are all members of the Greater Arab Free Trade Area (GAFTA) (1988), they all signed agreements with the EU under the Euro-Mediterranean Partnership initiated in the Barcelona Declaration in 1995 (Tunisia, 1995; Morocco, 1996; Jordan, 1997; Egypt, 2001)<sup>2</sup> and among themselves in the Aghadir agreement (2004). Each one of the four countries is a member of various other RTAs; the most important ones are a free trade area with the US (Jordan and Morocco); agreement on qualified industrial zones with the US (Jordan and Egypt); a free trade area with countries of the European Free Trade Area (EFTA) (Jordan, Morocco, Tunisia); the Common Market for Eastern and Southern Africa (COMESA) (Egypt) and other Maghreb countries (Morocco and Tunisia). Furthermore, each of the four countries is engaged in multiple bilateral trade agreements with each of the other three, with other Arab countries, with Turkey and with countries of other regions.

*Table (1)* depicts the regional distribution of trade of each of the four countries, which reflects the relative importance and the expected likely impact of each RTA in individual countries' trade relations.

The table emphasizes that the European Union is the major trading partner of three of the four countries: Egypt, Morocco and Tunisia. The US and Arab countries predominate Jordanian trade. In what follows, the analysis will focus on the WTO and the most important RTAs for the four countries, and their most important features in terms of object, coverage and rules of origin will be presented.

### WTO

All four countries have adhered to the three main multilateral agreements: the Multilateral Agreements on Trade in Goods, the GATS (General Agreement on Trade in Services) and the agreement on TRIPS (Trade-Related Aspects of Intellectual Property Rights). However, they did not all sign the four plurilateral agreements, particularly that on government procurement.

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<sup>1</sup> Egypt is a GATT member since 1970, Morocco since 1987 and Tunisia since 1990. They all joined the WTO since its inception in 1995. Jordan was not a member of GATT, but it joined the WTO on April 10<sup>th</sup>, 2000.

<sup>2</sup> These are the dates of the signature of the agreements which entered into force much later: Tunisia (1998), Morocco (2000), Jordan (2002), Egypt (2004).

**Table 1: Regional distribution of trade (1995-2004)**

	Egypt		Jordan		Tunisia		Morocco	
	1995	2004	1995	2004	1995	2004	1995	2004
Exports*	%%%	V	%	%	%	%	%	%
USA**	15	7	4	26	3	4	1	1
European Union 15	46	33	8	3	62	74	79	83
Aghadir Countries	5	6	3	2	2	2	2	2
COMESA	1	2						
Europe EFTA			0.03	1.3	1	1.4	1	0.5
GAFTA	13	18	39	40	7	3	6	6
Other	25	39	49	29	27	18	13	10
World***	100	100	100	100	100	100	100	100
Imports*	%	%	%	%	%	%	%	%
USA	19	10	9	7	7	4	5	3
European Union 15	39	27	33	22	56	55	71	69
Aghadir Countries	2	2	5	6	2	3	3	4
COMESA	1	1						
Europe EFTA			2	1.5	1	1.5	2	1.2
GAFTA	4	7	23	31	8	8	5	6
Other	37	54	33	39	28	32	17	21
World	100	100	100	100	100	100	100	100

\* Shaded parts indicate that the country does not hold an FTA with the respective partner.

\*\* USA is included as a major trade partner though it does not hold an FTA with all countries.

\*\*\* The total of 100 does not include Aghadir, which is a subset of GAFTA

As members of the WTO these countries are committed to two main obligations: "the most-favored-nation" (MFN) clause and the "national treatment" clause.

Under the Agreements on Trade in Goods, a distinction is drawn between agricultural and non-agricultural goods. Tariffs and quotas are allowed for the former, whereas for the latter, quotas are prohibited. Remaining quotas on textiles and clothing under the Agreement on Textiles and Clothing (ATC) were abolished within 10 years of implementation of the Uruguay Round (at the beginning of 2005). All countries have bound their tariffs according to WTO requirements.

In the field of services, in the context of GATS, the countries made commitments in several of 12 sectors and 160 sub-sectors in GATS.

TRIPs agreement came into force in January 1995, however, member countries were given a transition period to comply with their obligations. The length of this transition period ranged from one year for developed countries, to eleven years for the least-developed countries. For other developing countries and countries in transition, this period extended for four years and ended on January 1, 2000.

As to the rules of origin (ROOs), the WTO does not determine specific rules to be applied by its members, yet it provides for a process of harmonization of these rules. In the WTO legal framework, these rules serve three main purposes:

- As all countries of the world are not WTO members, ROOs allow to determine which imports are covered by MFN clause.
- Some countries, mainly developing ones, are granted preferential treatment under WTO. It is thus necessary to determine products originating in a developing country and eligibility for preferential treatment.
- RTAs are specifically allowed exception to the general MFN rule, and participating countries must be able to determine goods that originate from the RTA.

## **GAFTA**

The Greater Arab Free Trade Area, implemented starting at the beginning of 1998, is a shallow free trade agreement aimed at reducing tariffs between Arab countries by 10% yearly to reach a free trade in 10 years, and ending by the end of 2007. However, acceleration of the implementation period to reach zero tariffs at the beginning of 2005 was enacted. The Economic and Social Council (ESC) of the Arab League is the regional institution responsible for implementing and monitoring the GAFTA.

GAFTA covers *all industrial goods*. Members were allowed to draw up a list of exceptions (negative lists) for a specified period of a maximum of three years. In 1998, the total number of goods on these negative lists reached 832 out of 6000 commodities. In 2000, a decision was taken to eliminate these exceptions by September 2002, after an extension from 2001. In 2003, notifications of the elimination of those negative lists were submitted, however Egypt tied its elimination of the negative list to finalizing the *Protocol on Detailed ROOs* of the GAFTA. Several countries, including Jordan, threatened to reciprocate against the treatment of selected Egyptian exports due to this unilateral action.

As for *agricultural goods*, GAFTA members were allowed to draw a list of exceptions that had to be eliminated by the beginning of 2007 and then accelerated to 2005. Hence, GAFTA covers all agricultural goods.

GAFTA does not cover trade in services, however, a separate framework agreement for regional liberalization of trade in services was concluded in 2003. This agreement involved offers by the member countries more deep than their commitments under the GATS.

The executive program of GAFTA calls for the application of international rules regarding subsidies, countervailing measures, safeguards and anti-dumping measures. However, it does not explicitly refer to the WTO agreements.

The general ROOs indicate that the value added within the boundaries of one or more member states should be no less than 40% of the final ex-factory price of the goods, and this percentage is lowered to 20% in the case of joint Arab production. The *40% value added rule is a general but temporary rule to be applied until detailed ROOs are agreed upon.*

*Drawback is prohibited.* Non-originating materials used in manufacturing products originating in Arab member states are not subject to drawback or exemption from customs duties in any of the other Arab member states.

### ***The Euro-Mediterranean partnership agreements***

These agreements, signed bilaterally with each of the four Arab countries are steps towards the eventual goal of establishing a Euro-Mediterranean Free Trade Area (EMFTA) between the EU and all its 10 Southern Mediterranean partners.

These are also shallow RTAs, which involve financial cooperation and follow-up mechanisms. The Association Agreements confirm the establishment of *free trade in manufactured goods.* It seeks to reinforce this free trade area by *initiating a dialogue* on related issues: freedom of establishment, free movement of capital, trade facilitation, and approximation of legislation.

Under the previous trade and cooperation agreements applied since the late 1970s, nearly all industrial exports of the four Arab partners had free access to EU markets with the exception of textiles. Under the new agreements, this free access is preserved and extended to textiles, while the Arab partners will dismantle over 12 years (with few exceptions) all tariff and non-tariff barriers to industrial imports from the EU, subject to a number of safeguard provisions. Quantitative restrictions and tariffs on a large number of items - mainly capital goods - will be abolished immediately after the agreements come into effect. Regarding other product categories, tariffs will be phased out over a period of 12 years. The agreements fix *four lists of industrial products*, for each country, where tariff reduction will be achieved during specified periods. Tariff dismantling will start with capital goods, and later raw materials and intermediate goods not locally produced. It will end with industrial products highly vulnerable to foreign competition, extending exceptionally the dismantling period beyond 12 years for particularly sensitive products. This pattern of tariff dismantling is likely to raise effective protection on locally produced industrial goods during the first phases of implementation, making complete trade liberalization difficult towards the end of the implementation period.

Concerning *agricultural trade and processed agricultural products*, they are subject to either enlarged tariff quotas or other terms of restricted or delayed liberalization.

*The agreements do not cover liberalization of trade in services besides what has been concluded under the GATS.* However, the parties will consider extending the scope of the agreement

to include the right of establishment and the liberalization of supply of services by companies of one party to service consumers in another party.

Measures providing suitable and effective protection of intellectual, industrial and commercial property rights are mentioned, yet no measures beyond TRIPs are proposed.

The agreements further call for *harmonization of the regulatory framework* in view of phasing out practices that distort trade between partners such as monopolies, government subsidies, and privileges granted to public enterprises, without identifying specific measures. The agreement also calls for harmonization of norms and standards, for regulation and rules concerning accounting, financial services, statistics and customs. Financial support for these adjustments efforts is also partially covered by the agreements.

*Economic and financial cooperation* is to be strengthened through the MEDA program, particularly to support industries that will face difficulties in adjusting to the envisaged trade liberalization (industrial modernization programs or *mise-à-niveau*), to promote intra-regional trade integration among Southern partners, to enhance environmental protection and to support human development. Under the MEDA scheme, the amount of funds allocated to South Mediterranean countries was set for the whole group of countries without specifying individual allocations for each country. The criteria for disbursing aid are flexible. They are determined by the EU as intended to help partner countries in the South in their transition process to a market economy. For this purpose, the European Commission draws up a Country Strategy Paper in which the situation in the partner country and its development policies are assessed and discussed with the respective governments. Priority areas for EU action are identified and agreed upon with governments of the partner countries. The most notable examples of such programs are the establishment of Industry Modernization Programs and Trade Enhancement Programs to support capacity building of different organizations affiliated to ministries of foreign trade in trade related aspects. Although useful, the mechanism of aid provision entails many inefficiencies. It has been estimated that around 60 to 70% of aid allocations return back to the EU in the form of overhead costs to cover European subcontractors and experts fees.

ROOs under the Agreements are relatively complicated and follow a mix of value added, change of tariff heading and specific production processes. *Bilateral cumulation* is allowed as well as *diagonal cumulation* with South Mediterranean countries provided they follow the same system of ROOs and conclude with an FTA between them.

*Drawback and exemption from customs duties* for non-originating materials are also prohibited.

The Agreements are overseen at ministerial (Association Council) and senior official (Association Committee) level meetings. These committees may also explore additional ways of enhancing cooperation.

## ***The Aghadir Declaration***

This agreement is a crucial step towards the envisaged creation of a Euro-Mediterranean free trade area. It has been signed by the four Arab countries considered (2004) and aims at allowing its members to benefit from the cumulation of regional ROOs, stipulated in their respective agreements with the EU. It is further expected to cover other Arab countries, mainly Algeria, Lebanon and Syria.

***Aghadir covers all industrial products***, which are envisaged to provide to member countries industrial products tariff free market access to other partners countries by the beginning of 2006. However, this condition has already been met, as all the signatories of the Aghadir agreements are also members of GAFTA and are supposed to have achieved complete tariff dismantling by the beginning of 2005.

***Aghadir follows GAFTA in terms of agricultural trade liberalization***. It does not liberalize trade in services beyond GATS commitments.

***ROOs in the Aghadir agreement follow the Pan European rules of origin***. The main intention is to allow for bilateral and diagonal cumulation among its members to enjoy EU market duty free access in view of strengthening south-south integration and promoting intra-regional trade among them.

***Duty drawback*** is not allowed under this agreement.

## **3. Implications of overlapping RTAs**

Participation in a complex network of several RTAs of various kinds and a multiplicity of bilateral agreements is likely to correspond to what J. Bhagwati has called "spaghetti regionalism". His concern was to investigate whether such regional activity is likely to lead to multilateral trade liberalization or to hinder free trade. From the perspective of a single country, the issue of compatibility of its various RTAs also arises.

In what follows, the desirability of regional integration for a country is considered followed by a discussion of the issue of compatibility of multiple RTAs.

### ***3.1 Desirability of RTAs***

Economic analysis of RTAs challenges the perception that, from a welfare point of view, regional integration stands halfway between full trade protection and full trade liberalization.

#### ***Trade creation and trade diversion effects***

The basic reason for such effects is that reducing protection on partners' products would lower their relative prices; thus shifting demand from third countries products towards substitutes originating in partner countries, even though imports from the former would

have been cheaper if they were not taxed. This is the phenomenon of *trade diversion*, which may result from the creation of a regional trade agreement, leading to an overall welfare loss. This argument however, must be qualified. Trade diversion is likely to be lower, the higher the volume of regional trade before tariff dismantling and the lower the initial tariff barriers. Furthermore, *if the country signs multiple RTAs with partners whose comparative advantages are close, the trade diversion effect is also likely to be reduced.*

It can also be argued that multiple RTAs, whenever multilateral trade liberalization is not feasible, may be welfare enhancing through *trade creation*. In particular, multiple RTAs would raise welfare if the benefits of raising trade in some sectors exceed the distortions imposed on participating countries leading to trade diversion in other sectors.

### ***Intra-industry and export similarity***

Calculations of intra-industry trade (IIT) index among GAFTA countries compared with the EU in general indicated that Arab countries have a low IIT, implying a modest industrial base. Furthermore, Arab countries have lower IIT levels in their trade relations with the EU than with IIT levels among themselves. However, Arab countries are experiencing higher growth rates of IIT. This implies that Arab countries, whether within GAFTA or under Aghadir agreement, can increase their IIT index by specializing in the existing industries.

Investigating the deviation between each of the four Southern Mediterranean countries' exports and that of members of the three RTAs, it appears that the highest deviation is with the EU. The deviation is less in the case of GAFTA and Aghadir. These results are further confirmed by considering the export similarity index for each of the four countries with the RTAs under study.

These results confirm the IIT results. The IIT index refers to trade within the same industry or group of products, which is likely to be low in the case of trade with the EU which is mainly engaged with Southern Mediterranean countries in inter-industry trade.

### ***Economies of scale***

Moreover, the benefits of cutting down production costs by producing for a wider market, through *economies of scale*, may outweigh welfare losses due to trade diversion, and create an additional incentive to integrate markets through multiple RTAs. In addition to these economic effects, other benefits of RTAs are to be found in the political sphere, through improving the country's security and enhancing its bargaining power in trade negotiations and more generally in international relations.

## ***Attractiveness to FDI***

A further political motive of liberalizing trade, in the context of multiple RTAs, is to signal the credibility of a reform package. A country thereby signals its commitment to reform and openness to trade to foreign investors and *fosters its attractiveness to foreign direct investment (FDI)*.

## ***Impact on public finance***

Impact of trade liberalization under WTO and various RTAs on public finance is mixed.

In Egypt, tariff revenue never represented a very large share of GDP. In 1998, the figure represented 0.62% of GDP, it declined to 0.52% of GDP in 2001/2002. The collected revenue has always been close to the potential aggregate revenue calculated from tariffs (plus surcharges) and import data. This suggests that imports did not significantly benefit from tariff preferences when entering Egypt's market until 2004. This situation is likely to change in the near future with the entry into force of several RTAs, especially the one with the EU.

Previous tariff reductions, as a result of the RTAs and not because of unilateral liberalization, were not accompanied by a decrease in tariff revenue. Although distinct trade liberalization efforts have been implemented since 1986, the share of customs duties in total government revenue has steadily increased from 13% to 15% over the period 1991-1998 and reached 32.4% in 2001/2002. This may be partially explained by the fact that reduced tariffs were accompanied by an increased import base. This situation is likely to continue until the last phase of entry into force of the Egyptian-EU Partnership agreement, as tariff phasing out on most goods with high tariff peaks are postponed to the end of the transitional period. Other RTAs are not likely to affect much tariff revenue, as imports from GAFTA, COMESA and Aghadir did not exceed 8% total Egyptian imports in 2004. This is in contrast with the case of the EU where imports from EU represent 33 % of total imports in 2004 (see Table (1)). The EU enlargement is not likely to have much impact on tariff revenue, as the share of newly acceding countries to the EU does not exceed 2% of total Egyptian imports.

In Jordan, the impact of reducing tariffs on imports was more than compensated for by the sales tax. Taxes on foreign trade share declined from 16.6% in 2000 to 12.5% in 2004, while the sales tax revenue increased its share in domestic revenue from 29.2% in 2000, to 38.7 in 2004.

In Morocco, a partial tax reform was adopted in the budget law 2006, in particular for the value added tax (VAT). It is expected that the reform be extended to other taxes (enlarging the tax base and improving tax collection) in order to stabilize revenue, as import taxes have tended to decline with trade liberalization.

In Tunisia, tariff dismantling since 1996, in the context of establishing a FTA with the EU, led to a decline of the share of tariff revenues in GDP from 4.5% in 1995 to 1.7% in 2003. However, the growth of tax revenues generated from direct taxes and the value added tax increased government revenues stemming from these taxes by 10.2% on average per year from 1995 to 2003. Hence, the share of tax revenues to GDP remained almost constant, fluctuating between 19.9% in 1995 to 19.1% in 2003. Fiscal compensation of losses in tariff revenues was generally made through extension of the tax base and improved tax collection rather than by increasing tax rates or introducing new taxes. It is further not expected that tariff dismantling over the coming few years under various RTAs will negatively affect the budget deficit, to the contrary, it is expected to decline according to the planned projections.

### ***Winners and losers***

It is difficult to predict which industries are likely to gain and which ones are likely to lose under regional or multilateral trade liberalization. Regarding market access, the four countries under study have mostly suffered from supply constraints rather than demand constraints. Market access was generally not a major constraint except for exceptional cases of agricultural and processed food exports to the EU.

Due to trade liberalization, industries enjoying high rates of protection (above 25%) and producing for the domestic market are likely to lose,. The more under-protected activities (with tariff below 10%) should not be affected by tariff reductions that dismantle the highest tariff rates. Moreover, exporting industries are likely to gain, as they will enjoy improved market access in various regional groupings. *Sensitive products* have also been identified. The most important are:

- *fresh fruit and vegetables* which are constrained in EU markets by standards (particularly sanitary and phytosanitary (SPS) rules and regulations) and other quantitative restrictions in the EU, compared to other RTAs.

Many regulations of SPS within the four Arab countries under consideration are still old and obsolete. Control entities are multiple and ineffective; they suffer from limited funding and material equipment, overlapping responsibilities and misallocation of resources among different inspection bodies. Finally, lack of transparency of these authorities in informing public opinion is prevalent, although this is gradually changing.

- *Processed food* is constrained by ROOs. It is difficult to determine which ROOs are more restrictive. EU Partnerships and the Aghadir agreement use a hybrid combination of specific manufacturing processes, change of tariff heading or value added criteria to determine origin. Whereas GAFTA uses an across the board value added criterion (yet, detailed ROOs are still under negotiations). In some cases, it may be easier for an exporter

of a specific product to acquire origin for his product by undertaking a simple manufacturing process leading to a change of tariff heading, as required from the EU Partnership or Aghadir agreements, while reaching the required threshold for value added to acquire origin under GAFTA may be very difficult to determine. Furthermore, standards are a crucial factor that may affect access of such products to different markets.

- *Iron and steel.* The restrictiveness of ROOs in this respect depends on the degree of vertical integration in the exporting mills and on whether they undertake the manufacturing process of the required originating inputs or not. It is difficult to determine which type of ROOs is more restrictive than the other one. It may be easier for an integrated mill to export to the EU or to an Aghadir partner while it is easier for a non-integrated mill to export to GAFTA, since it is easier in an integrated mill to compare a specific manufacturing process to a 40% value added criterion, which might also differ from one mill to the other.

- *Textiles and ready-made garments* are the most sensitive set of products for all countries considered. They also have the most restrictive ROOs in RTAs worldwide. GAFTA general rules are less restrictive than in EU Partnerships and Aghadir agreements. However, the interviews revealed that the EU is not always very strict in monitoring the origin of textiles and ready-made garments imported into the EU from its South Mediterranean partners, although the situation has started to change recently.

### *3.2 Compatibility of multiple RTAs*

From a legal point of view, each RTA includes a different set of rights and obligations. Due to the complexity of these agreements, those rights and obligations may well be contradicting each other.

A chief example is found in the rules of origin (ROOs). These rules are applied to determine products' originating from partner countries in the RTA and whether they benefit from preferential treatment under the trade agreement or whether they remain subject to trade restrictions. It is often the case that these ROOs differ under various RTAs and may be incompatible. As will be shown later, the ROOs provided for in GAFTA may prevent the partner countries to reap the full benefit of their participation in the Euromed process, as the latter provides for cumulation of ROOs among southern countries. Yet, southern countries are obstructed from benefiting from cumulation of origins due to incompatibility of ROOs under the two RTAs.

Moreover, it has been asserted that existing RTAs may increase the economic costs of adhering to subsequent regional trade agreements. The argument rests on the fact that groups who need protection tend to lose from RTAs, while competitive groups benefit from them. It further rests on the assumption that marginal costs of signing new RTAs are increasing while marginal benefits are constant. This may reduce the attractiveness and political sustainability of signing new regional trade agreements.

## 4. Gaps in implementation of RTAs and WTO commitments

The gap analysis is conducted at two levels. The first pertains to the extent the four countries have met their obligations and commitments and the second refers to the consistency of domestic trade policies with these commitments. Meeting obligations and issuing decrees are not the same as enforcing and applying policies consistent with these obligations.

### 4.1 Gaps in implementing commitments

In terms of **commitments under the WTO**, the countries have fulfilled the majority of their commitments, particularly in terms of binding their tariff rates and *reducing the applied rates below the bound levels*. However, some exceptions are noted.

Although Egypt, since the inception of WTO, has bound its tariffs at levels exceeding the actually applied rates, a number of tariff lines, due to the levying of non-tariff barriers (NTBs), suffered from being subjected to applied rates exceeding the committed bound rate. The most important of these lines are textiles and ready-made garments. Under pressure from the US and the EU, the Minister of Finance issued in 2003 a decree stating that if the applied rates exceed the bound rates, then, the latter will be applied to WTO members. In the *area of agriculture*, Egypt has kept up with its commitments where 98% of tariff lines are bound. Egypt has further announced, in the Uruguay Round, that it provides no subsidies in this sector. In the area of export subsidies, the situation is different. During the Uruguay Round negotiations, Egypt had a GDP per capita less than US\$ 1000 and hence was allowed to apply export subsidies<sup>3</sup>. After the conclusion of the Uruguay Round, Egypt's GDP per capita exceeded this level and it was not clear whether Egypt could continue providing export subsidies. In 2001, the head of the Working Group on Non-Agricultural Market Access (NAMA) cleared the matter and Egypt was allowed to provide export subsidies.

In Jordan, the level of tariffs has not changed substantially since Jordan acceded to the WTO after signing several other trade agreements. All quantitative restrictions (QRs) were abandoned officially and were replaced with tariffs. However, the level of imports covered by the QRs was very low before the signing of the WTO agreement representing less than 5% of total imports. Hence, removing the QRs did not translate into higher tariffs. By the year 2000, tariffs were bound at 35% with the exception of cars and alcohol and some cosmetic products. The lowest rate was 5 percent with essential items subjected to zero rate. The average tariff in 2000 was 19.9% and according to the government commitments, this average is to be reduced gradually to reach 16.3% by 2010. The

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<sup>3</sup> According to Annex 7 of the Agreement on Subsidies and Countervailing Duties.

prevailing rate of average tariff (calculated as taxes on imports over total imports for 2004) is nearly 4 percent compared to original commitment of 17.3 percent. Jordan accelerated the process of foreign trade liberalization while imposing domestic taxes on both imported and locally produced commodities.

In Morocco, the level of applied tariffs rose substantially since the Uruguay Round. This is largely the consequence of several reforms to abide by WTO commitments rather than contradicting them. These reforms include tariffs applied to NTBs, dis aggregation of tariff lines, which contributed to an apparent rise in average tariff and the introduction and inclusion of a fiscal levy on customs duties in 2000. As a consequence, more than one third of Morocco's tariff lines exceeded the bound rates in 2003 and forty- five tariff lines are subject to variable tariffs, forbidden by WTO.

Moreover, Morocco does not apply the tariff quotas on certain agricultural products to which it is committed under the WTO.

As regards to the *TRIPs agreement*, the four Arab countries, like other developing countries, did not have to implement the agreement until January 1, 2000. This transition period was to allow these countries' governments to update and review their legislations to be consistent with TRIPs agreement. Nevertheless, the US and the EU continue to claim that enforcement of IPR, especially in pharmaceuticals, is not in line with this agreement.

For **GAFTA**, *the achievement of tariff reductions has been the most successful element in the implementation process*. It was further announced that all negative lists, exempting specified products from tariff phasing out, have been eliminated. Yet, the unilateral decision of Egypt to tie the elimination of its negative list to the finalization of the Protocol on Detailed Rules of Origin of the GAFTA led several other members of this agreement (among others Jordan) to threaten to reciprocate against the treatment of selected Egyptian exports.

In addition to being GAFTA members, the four Arab countries under consideration have each concluded a number of preferential trade agreements<sup>4</sup> with each of the three other countries as well as with other GAFTA members. Each bilateral agreement has its own product coverage and list of exemptions. The relationship between the GAFTA and such bilateral agreements is not clear causing numerous disputes, an issue the Economic and Social Council (ESC) is working to handle.

Each of the four countries applies the rules of GAFTA or the bilateral trade agreements according to its own discretion. This hides protectionist attitudes and involves non-transparency. In many cases, each country's authorities undertake such actions to retaliate against problems faced by national exporters. Furthermore, exporters from Arab countries have the right to choose between treatment according GAFTA rules or to bilateral

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<sup>4</sup> These agreements involved tariff reductions rather than complete tariff elimination.

agreements rules. Interviews with government officials indicated that bilateral rules were preferred to GAFTA treatment, as they involve some dispute settlement mechanism, which is not established under GAFTA.

In addition to tariff phasing out, a reduction of NTBs is called for under GAFTA. These barriers have not yet been properly addressed; several complaints are voiced against misuse of NTBs within both GAFTA and separate bilateral agreements. It should be noted that the *lack of information and data* represents a major obstacle towards assessment of actual implementations. To give an example, removal of products from the negative lists is impossible to trace, since the notifications submitted by individual states to the Arab League secretariat may not necessarily be implemented by their customs. Among problems identified based on interviews with exporters are issues related to customs valuation and customs procedures, manipulation of origin of products and rules of origin authentication, inspection procedures, standards applied and quality control, import licensing, abuse of sanitary and phytosanitary (SPS) measures affecting some agricultural products and imposing extra surcharges.

The executive program of GAFTA calls for the application of international rules regarding subsidies, countervailing measures, safeguards and anti-dumping measures. However, the program does not refer explicitly to the WTO agreements.

GAFTA does not cover *trade in services*; however, a separate framework agreement for regional liberalization of trade in services concluded in 2003. It is too early to assess the degree of implementation of such agreement, but the active participation of most Arab states indicates it could be promising,

Under the ***Euro-Mediterranean partnership agreements***, it may be premature to identify or assess any problems of implementation in Egypt (starting 2004) and Jordan (starting 2002). However, it is worth emphasizing that for both countries, this RTA is the first to be signed in the context of liberalizing trade at that scale. The assistance package associated with these agreements was given an important priority and implementation began during the negotiation process even before signing the agreements. In the two countries, complaints about EU standards and specification are being voiced in addition to complaints that ROOs to access EU markets are complicated and in several cases unclear to many officials.

The schedule of implementation differs between manufactured and agricultural goods.

In Tunisia, which is the first of the four countries to implement this agreement (since 1998), the implementation of tariff dismantling on industrial products with the EU is on track. Yet, imports for some products, such as textiles and other consumer goods that compete against locally produced manufactured equivalents, still remain subject to import licenses or quotas or also to monopoly.

Regarding agricultural and fishing products, Tunisia negotiated with the EU new concessions to be granted reciprocally.

In Morocco, liberalization of manufactured products trade seems to be smoothly implemented (starting 2000). However, negotiations on agriculture, which were postponed and did not open until the beginning of 2002 are meeting difficulties. The EU insists that Morocco must open its market to European products under preferential conditions and in substantial proportions. The Moroccan negotiators, on the other hand, insist on first assessing the experience gained with the current agreement in addition to clearing two main issues. The first relates to the difference in interpretation of the agreement provision on the mutually agreed entry price quota for tomatoes. The second concerns some Moroccan agricultural products which were not mentioned in the previous negotiations and were put at a disadvantage in terms of access to the European market. Morocco considers that negotiations cannot be opened unless these two issues are settled.

In Jordan, the liberalization of manufactured products seems to be on track and Jordan is determined to dismantle all barriers to open up that sector. The government abolished the 20 % tariff imposed on intermediate inputs to manufacturing in response to the request of manufacturers. However, industrialists continued to complain about their inability to penetrate the EU market and asked the government to revisit some of the provisions of the Euro-Med agreement regarding the rules of origin.

In the agricultural sector, the sector's contribution to the GDP was estimated at about 3.9 % of the GDP by 2004. However the sector is important in generating employment but suffers from low level of productivity. It has been difficult to penetrate the EU market as a result of the restrictions imposed by EU. The implementation of GAFTA agreement opened the Jordanian market to products from Syria and Lebanon which threatened Jordanian farmers. This has led many farmers and investors in the agricultural sector to request reviewing the agricultural *Roznama* and the commitments made under GAFTA. The government ignored these demands and continued its liberalization policy.

Related to the Euro-Med partnership agreements is the **Aghadir Agreement**, which was supervised by the EU. It aims at establishing a free trade area among Egypt, Jordan, Morocco and Tunisia. Although trade among these countries is already liberalized from tariffs under the GAFTA, other stipulations of this agreements have not yet come into force. The expected benefits of this quadripartite agreement in terms of bilateral and particularly diagonal cumulation of ROOs have not yet been realized.

## 4.2 Consistency of regional and multilateral commitments with "behind-the-border" policies

Liberalization measures and reforms were introduced in the four countries under investigation to promote economic efficiency and lay the foundation for long-term growth. Furthermore, the nexus of multilateral, regional and bilateral agreements signals the countries' commitment to liberalizing trade.

Improving the environment in which enterprises operate has been an important focus of economic reforms implemented since the beginning of the nineteen nineties. Trade liberalization and many other economic reforms (fiscal, exchange rate, taxation,...) have improved the economic situation in the four countries in varying degrees. However, it is still premature to affirm that their economies are more open now than in the early nineteen nineties (see Table (2)). Additionally, the ranking in terms of ease of doing business of the four countries vary between averages to low, as indicated by a recent World Bank Report. Tunisia ranks 58, Jordan 74, Morocco 102 and Egypt 141 out of 155 countries<sup>5</sup>. These ranks are based on consideration of the number of reforms in 10 areas namely: starting a business, dealing with licenses, hiring and firing labor, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and closing a business. These rankings on the ease of doing business show that many reformers still have a long way to go. For example, Egypt, a top reformer in 2004 ranks only 141.

**Table (2) Evolution of the degree of openness \* (1993-2002)**

Country	1993-1995	Latest three years	
Egypt	52.9	2000-2002	32.7
Jordan	125.2	1998-2000	107.8
Morocco	54.7	1999-2001	57.0
Tunisia	71.2	2002-2004	77.6

(\*) The degree of openness is measured as the sum of exports and imports of goods and services/GDP, in percentage.

Source: Chemingui, M.A. and M.A. Marouani (2005).

The indicator presented is limited in scope. It does not tell the whole story on the ease of doing business. It does not account for a country's proximity to large markets, quality of infrastructure services other than those related to trading across borders, the security of property from theft, macroeconomic conditions and the underlying strength of institutions. A high ranking on the ease of doing business means that the government has created a *regulatory environment conducive to the operation of business* and to *reducing the time and cost to comply with business regulations*.

<sup>5</sup> World Bank and the International Finance Corporation, *Doing Business in 2006: Creating Jobs*, 2006. Note that the country with the easiest terms of doing business ranks 1 whereas that where doing business is the most restrictive ranks 155.

In spite of multiple reforms, it is premature to assert that the four Arab economies are more open today than in the early nineteen nineties. This situation may be explained by the lagging performance of exports, which although improved in some countries is still modest as a percentage of GDP (Egypt, 4.2%; Jordan, 26%; Morocco, 20.8%; Tunisia, 33.0% as of 2001)<sup>6</sup>, and the weak existence of imported products in some of these markets (e.g. Morocco and Tunisia ). There are still several policies, regulations and practices, which regulate internal and foreign trade policies in the four countries and which might conflict with their external trade commitments or might negatively affect their trade performance. In what follows, some of these areas, where trade and other internal policies and regulations conflict with these commitments or prevent the country from making the most of its trading potential, are highlighted.

### **Tariff barriers**

Arab countries have bound their tariffs and have reduced their rates in the context of their WTO commitments. However, some tariff lines remain high and others exceed the bound rates due to application of tariffs of NTBs, which they had to dismantle. Examples of such high rates are tariffs on textiles and clothing in Egypt, which have been reduced to the bound rate for other members of the WTO. The WTO Secretariat further notes that one third of Morocco's tariff lines still exceed the bound rates. A fiscal levy on imports included into Moroccan customs tariffs in 2000 also caused declared tariffs to rise. Morocco further applies variable tariff lines, which are incompatible with its WTO commitments. Tariff rates in Tunisia are still considered to be among the highest in the world. In Jordan, however, average tariff is below the average bound rate reflecting a high level of commitment. In addition, tariffication of the QRs did not result in an increase of the average tariff rates. Table (3) illustrates average tariffs and standard deviation for the 4 MENA countries under study.

**Table (3) Average tariffs and standard deviations for selected countries**

	<b>Average Tariff</b>	<b>Standard Deviation</b>		<b>Average Tariff</b>	<b>Standard Deviation</b>
Egypt (2002)	19.88	16.19	Tunisia (2004)	25.96	26.81
Jordan (2003)	13.70	16.10	European Union	4.40	5.50
Morocco (2003)	28.87	20.25	United States (2004)	3.70	11.27

Source: UNCTAD, TRAINS (2005)

Keeping high tariff rates on products originating from outside the RTAs induces two negative effects: the risk of trade diversion from less expensive sources situated outside the RTAs towards more expensive regional partners sources; and the reduction of competition intensity in the local market.

<sup>6</sup> ERF/Femise: Egypt Country Profile: the Role Ahead for Egypt, December 2004.

## ***Non-Tariff Barriers (NTBs), Technical Barriers to Trade (TBT)***

Although most NTBs have been formally removed and the trade regime has been substantially liberalized, technical control still prevails and there is evidence that it is being used to restrict imports. The purpose of technical control is to verify the conformity of imported products with sanitary and security norms. Three types of control have been identified. The first is the systematic control required before any sale on the local market - particularly for food products. The second control is the certification by customs of the accordance of imported products with the technical regulation and standards. The third control ensures product accordance with the "Bid Specifications".

There is evidence that the second type of control is being used as a means to restrict imports, Imports continue to suffer from delays in customs clearance. It has been reported, as of January 2005, that time to import to Egypt requires 29 days, to Jordan 28 days, to Morocco and Tunisia 33 days, while it is only a few days in better performing countries (Korea 12 days, UAE 18 days)<sup>7</sup>. These excessive delays translate into additional costs and added to the existing tariffs.

Regarding NTBs, the public sector is still monopolizing imports for several products through state trading boards or public enterprises as has been reported for Tunisia. Import bans are still enforced for reasons unrelated to security, religion, or safety (Jordan and Tunisia). Prior import approvals are still required for some products (reported for Jordan and Tunisia). Application of an internal tax on some imported products (cement and iron imported to Jordan) that is not imposed on domestically produced equivalents contradicts WTO requirements.

### ***Pricing policies and subsidies***

Intervention in pricing of several products has been reported for the four countries. Commodities subject to price control include "strategic commodities" such as wheat, and other derivatives: flour and bread; and pharmaceuticals. Consumption of these products is subsidized and the government sets their prices in consideration of social and political reasons. The other group of products, called "basic products" includes cement, iron, rice, sugar, some petroleum products. These products constitute an important share of household income. They are set at prices lower than costs. The price subsidy is either directly borne by the government budget or is implicitly charged to the producers or to the distributors.

Although these subsidies tend to be eliminated, they appear to be self-defeating as they are poorly targeted. Some of them may be in conflict with multilateral, regional and / or bilateral commitments such as subsidies provided to exporters.

### ***Tax and tariff incentives provided to specific firms***

Some tariff and tax reductions or exemptions are provided to specific firms either by law (in the case of firms established under Egypt's Investment Law)<sup>8</sup> or through direct

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<sup>7</sup> Doing Business in 2006, *ibid*, Doing Business Indicators.

<sup>8</sup> Tax and tariff exemptions were abolished in Egypt, under the new Tax Code (2005) and Tariff Code (2004), but only for newly established firms after the law issuance. As to established firms prior to the law, they continue to benefit from these incentives, till the end of the agreed term.

negotiations between specific firms and the government (Morocco and Tunisia) or by granting monopoly or concessions (Jordan). This raises questions about the consistency of such incentives with external trade commitments.

### ***Consistency of ROOs***

Comparison of ROOs that the four countries apply according to their various RTAs reveals the inconsistency of these rules. A clear example of such conflict in ROOs is between GAFTA on one hand, and the Euro-Med FTA (EMFTA) and the related Aghadir on the other.

EMFTA allows cumulation of origins between each contracting country from the South and EU members and also with products originating from the other Aghadir countries, provided they apply the same rules of origin as the EU. This is however not the case, because the four Aghadir countries are also members of GAFTA which considers a product as originating from the exporting country if it includes a 40% value added in this country whereas it is defined with reference to other criteria by EMFTA (e.g. process criterion or change in tariff line). This results in a conflict between GAFTA and both EMFTA and Aghadir, and costs the four countries by limiting better access to EU markets.

## **5. Coherence of external commitments and conformity of institutional framework**

The focus in this section is on the difference between WTO commitments and the RTAs under study. A sectoral approach is used where various issues are discussed under each of the three RTAs, with reference to the WTO as a benchmark. The analysis is further complemented by referring to domestic laws, regulations and organizations that have been established to handle such agreements.

### ***Treatment of industrial products***

WTO commitments regarding industrial products are less liberal than all RTAs as they refer to "binding tariff rates" at an agreed upon level, and gradually reducing these bound rates over the transition period of 10 years, which ended at the beginning of 2005. All RTAs under consideration, start from the "applied" rates at a specific date as the base for phasing out tariffs within an agreed upon period which differs from one RTA to the other. The liberalization of trade of industrial products under various RTAs exceeds the requirements of WTO.

### ***Treatment of agricultural products***

Agriculture is highly complicated, as it involves details that render the analysis of RTAs against WTO rules as a benchmark somewhat difficult. The Agreement on Agriculture under the WTO extends the tariff quota system over time, allowing increased duty free

access to external markets by widening the duty free quota. The EU Partnership agreements, however, do not allow for duty-free quota extension, but rather require reopening negotiations every 3 years to address new issues or to revise old ones in light of implementation results. In this respect, these agreements appear to be more stringent on agricultural matters than WTO. The GAFTA entailed in the transitional period negative lists ("Roznama") were abolished by 2005. Hence, in this sense, GAFTA is more liberal than WTO concerning agricultural products trade. The Aghadir agreement is also more liberal than WTO in this respect since it does not allow any negative list.

### ***Trade in services***

The four South Mediterranean countries have undertaken commitments in several services under the GATS. The EU Partnership agreements confined their obligations to GATS, but extended them in flexible terms indicating that negotiations on further liberalization of trade in services would start after five years from entry into force of these agreements. The GAFTA did not include services however, and following the Framework Agreement on Liberalization of Trade in Services concluded in 2003, the signatories committed to go beyond GATS in terms of expanding liberalization to additional sectors and a deepening liberalization of the sectors where commitments have been made. The Aghadir agreement emphasized least the issue of liberalization of trade in services; nevertheless its members are effectively liberalizing trade among themselves under the Framework Agreement between Arab countries.

### ***Intellectual property rights (IPRs)***

None of the RTAs under consideration went beyond the TRIPs agreement. Aghadir is the only agreement that referred explicitly to TRIPs, while GAFTA indicated that consultation over IPRs would take place in the future without identifying any date. As to the EU Partnership agreements, they stated the necessity of adopting the "highest prevailing international standards" regarding IPRs without explicitly specifying what they are.

Southern Mediterranean countries under investigation all have comprehensive IPRs laws, in line with TRIPs requirements. *The problem however, with IPRs, is the high cost of enforcement and the lack of human capacity capable of efficiently implementing the law.* Egypt and Jordan have both received aid, particularly from the US to upgrade their IPRs system. Yet, the US is still complaining that Egypt is not sufficiently protecting IPRs, particularly in the fields of computer software and pharmaceuticals. This remains a main issue and obstacle to completing a free trade area (FTA) agreement between Egypt and the US. According to Jordanian sources, the only significant area where Jordan is not living up to its commitments, is regarding IPRs protection with the US in the context of the Jordanian-US free trade area.

The EU does not seem to be as concerned with this issue as is the US.

## **Standards**

None of the agreements went beyond the WTO requirements concerning standards. In fact, all agreements call for cooperation in the field of harmonization of standards in the future and the EU Partnerships as well as the Aghadir agreement call for mutual recognition. However, none of them identified concrete procedures to be implemented or specific dates to be followed.

The Egyptian Organization of Standardization (EOS) in Egypt, the Moroccan Industrial Standardization Service (SNIMA) from the Ministry of trade and industry in Morocco and the Institut National de Normalization et de la Propriété Intellectuelle (INNORPI) in Tunisia are the institutions in charge of standards, conformity, marks and certification. EOS is working on harmonizing Egyptian standards with European ones. SNIMA has accepted in July 1997 the WTO code of good practice for the elaboration, adoption and application of standards. INNORPI has recently become a partner member of the European Committee of Standardization.

Products imported in Southern Mediterranean countries are subject to *technical control of conformity to national standards*. If these products fall under the compulsory certification rule, they should obtain a national certificate of conformity that is only granted by the responsible national institution (EOS or INNORPI). This procedure *has been identified as an important impediment to free trade*. It has further been noted that these procedures have sometimes been used as a non-tariff barrier to trade, whenever customs tariffs were reduced. The countries under consideration also *lack an accredited internationally recognized body for standards accreditation*.

As members of the WTO, the four countries have committed to implement the agreements on Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT). Thus, these countries have to use international standards as the basis for their national standards to remove any technical barrier to trade. Organizations such as EOS, INNORPI have to collaborate closely with the International Organization of Standardization (ISO) when elaborating a new standard and to take into consideration observations of partner countries on the new standard.

## **Rules of origin**

There is no agreement under the WTO that deals with preferential ROOs. Hence, the country commitments towards RTAs cannot be assessed against WTO commitments as a benchmark.

The institution in charge of monitoring ROOs in Egypt is the General Organization of Exports and Imports Control (GOEIC), which is affiliated to the Ministry of Foreign Trade and Industry. The problem with this institution is that its *officials are only used to check on*

*identification of origin by applying the value added criterion.* The new provisions, under the EU Partnership, related to specific manufacturing processes or change of tariff heading are new to GOEIC staff who lack the capacity to apply and monitor such new rules. Moreover, interviews with exporters revealed little awareness of such rules and issues involved.

Manipulation of origin of goods imported from GAFTA members has been reported as a problem facing customs officials. With the absence of effective and capable mechanisms ensuring the adherence to the ROOs (even the general value added rule), manipulations have been increasing, resulting in several trade frictions.

In Jordan the Ministry of Industry and Trade (MOIT) and the Customs Department are dealing with the issue of the rules of the origin. The Chamber of Industry issues the rules of origin certificate and the MOIT has to endorse it before it becomes effective. There are general rules that are followed in order to check these rules. Several rules apply, for example the way the ROOs calculated under the EU association agreement differs from that of GAFTA or the free trade agreement with the US. Jordanian exporters faced a lot of problems regarding the EU agreement and it is not clear how to handle such issue. On the other hand, there is a special committee in the MOIT to assess the ROOs under the Qualified Industrial Zones (QIZs) agreement. The rules are completely different from the conventional way of estimating the ROOs. The committee regarding QIZs comprises members from Israel and the USA and the Chamber of Industry has no role to play in this respect.

### ***Dispute settlement systems***

The WTO has a clear dispute settlement mechanism. The EU Partnerships and the Aghadir agreements also have clear dispute settlement mechanisms handled respectively by the Association Council with each South Mediterranean partner and by the Ministerial Committee. As to GAFTA, it did not specify a dispute settlement system. However, in 2004, the Economic and Social Council (ESC) has approved an executive decree for a dispute settlement mechanism involving attempts at resolving disputes through consultation with contact points identified by each member, bilateral consultations between the two countries in dispute, arbitration and finally going to the Investment Court. These steps and their timing are identified by the executive decree.

### ***Competition policies***

Since the July 2004 meeting of the WTO, competition is no more on the agenda of the international institution. There is no mention of competition issues in the Aghadir agreement. EU Partnerships, however, have a special provision on competition. Any agreements between firms that prevent, restrict or distort competition are denounced as being

incompatible with good functioning of the Partnership agreement. The relevant Association Committee addresses abuses. The GAFTA has no specific provision on competition; yet, it calls for the harmonization of common competition policy. The ESC has recently adopted a set of guidelines to be followed while the country is designing and introducing its competition law. However, these guidelines are not binding.

It is to be noted that the four Arab countries under consideration: Egypt, Jordan, Morocco and Tunisia, have all issued competition laws, they further have a Competition Authority to monitor anti-competitive practices and to secure competition. In the case of Egypt, which is a latecomer compared to its other three neighbors, the law was issued after several drafts and lengthy controversies since 1995. Part of the pressure to issue the law (early 2005) came from the EU, as one of the EU Partnership agreement stipulations requires Egypt to have a competition law and to harmonize its law and policies with the EU.

### ***Customs coordination***

There is no customs coordination under the WTO. GAFTA calls for harmonization of external tariffs in the context of a customs union. However, the committee responsible for the customs union never met.

Exporters further identified several problems among GAFTA members, namely: problems of customs valuation, extra, unjustified surcharges in some ports, the tendency to stop importation of some agricultural products out of the allowed season and the reluctance of some customs authorities to import products from partner countries under the pretext that they do not meet the required standards.

Aghadir has no provisions regarding customs coordination. EU Partnerships call for cooperation in the field of customs procedures, without identifying clear steps in this respect. Morocco greatly benefited from EU support to reform and improve customs procedures and may present a useful example to emulate.

### ***Trade remedies (including anti-dumping, safeguards and countervailing measures)***

Anti-dumping provisions as well as safeguards and countervailing measures in all agreements refer to related articles of the Agreements on Trade in Goods of the WTO. Regarding bilateral agreements with Arab countries, we observe that anti-dumping measures between the four South Mediterranean countries under study follow WTO rules and regulations, unlike with Lebanon, Libya and Syria.

## ***Government procurement***

The agreement regarding transparency in government procurement was dropped in July 2004 from the agenda of the WTO. At any rate, not all four countries had signed this plurilateral agreement.

The GAFTA has an article that calls for preferential treatment of Arab countries in the government procurement projects of GAFTA members. However, no consultation has taken place regarding this issue. The EU Partnership agreements did not include government procurement, but they refer in vague terms, to progressive future liberalization. Aghadir has no provisions on preferential liberalization of government procurement.

Jordan completed a first draft of the “General Regulations of Procurement”, which was submitted to the WTO secretariat. According to many Jordanian observers, this is a very sensitive issue and it is under negotiation. Once endorsed the rules shall be applied to all other agreements.

## **6. Potential impacts of various RTAs**

This section focuses on areas of similarity and dissimilarity between the various RTAs considered.

### ***Coverage of merchandise trade***

GAFTA has currently the broadest product coverage. It had negative lists, which have been eliminated, particularly in the case of agricultural products. It is followed by Aghadir. The EU Partnership agreement signed with each of the four countries allows free access to industrial products, but constrains, by quotas and tariffs, access of agricultural, processed agricultural and fisheries products. These products are subjected to rules and procedures that are in some cases clearly specified and in others left for future negotiations. Problems and areas of conflict arise in the case of these products as highlighted for Morocco.

### ***Services liberalization***

Both the EU Partnership agreements and Aghadir agreement refer to the GATS for liberalization of services. However, GAFTA members, although not referring explicitly to liberalization of trade in services, have concluded in 2003 a separate framework agreement for regional liberalization of trade in services that exceeds the WTO/GATS requirements. The question arises here concerning the four countries that are members of both Aghadir and GAFTA agreements. Will they liberalize their services under GATS or will they exceed these requirements and liberalize further according to the regional framework agreement signed by GAFTA members?

### ***Transitional periods and tariff phasing out***

The three RTAs considered in Section 2, differ significantly in terms of their transitional periods and in terms of the approach to or pattern of tariff phasing out. The longest transitional period is that of the EU Partnership Agreement where the transitional period is 12 years with some exceptions (accorded to Egypt for cars, which extends to 16 years). Furthermore, the approach to phasing out tariffs, under the EU Partnership, differentiates between 3 main categories of products, with each having a different length of transition and a different rate of tariff reduction. *This pattern of tariff reduction increases the effective rate of protection to final products and hence entails a distorted pattern of protection towards EU markets and away from other trade partners.* It would distort the domestic pattern of resource allocation towards products enjoying an increased level of effective protection. The GAFTA has a shorter transitional period of 10 years, which was accelerated to 8 years. Aghadir, once implementation has begun, has a short transition period of 2 years. In the latter two agreements, the approach to tariff reduction is simpler than that with the EU, as an across-the-board equal tariff reduction is adopted, without differentiating between various types of products. Finally, it is worth pointing out that although implementation of the Aghadir agreement has not officially started, the free trade area between its four members has been established de facto, as the four member countries have already liberalized their trade under GAFTA.

### ***Duty drawback***

Large differences in duty drawback allowance exist between various agreements. Duty drawback was granted to GAFTA members during the transition period. The EU Partnership agreements allow for a 6 year period and certain products are eligible for it within limits. Allowances in Aghadir are until 2009. This means that by the end of the set periods, tariff duties levied on intermediate inputs imported by members of these RTAs and included in their exports to other members cannot be reimbursed.

The stipulation of no drawback is likely to be a hindrance for the competitiveness of South Mediterranean firms in EU markets, since they will bear higher costs than their European competitors who pay lower tariff duties (see Table (3)). This obstacle will have no effect if South Mediterranean firms import their intermediate inputs from other partners in any of the other established RTAs or if imports of these inputs from other supply sources are liberalized from tariffs. The stipulation of no drawback, particularly with the EU *may thus be considered as a motivation for seeking supply of inputs in other RTAs member countries and hence is likely to enhance trade between these members. It further provides a motivation for further liberalization of trade through reduction of tariffs with non- RTAs members.*

### ***Intellectual property rights (IPRs)***

Large differences between provisions governing IPRs prevail between various agreements. The EU Partnership Agreement follows "prevailing international standards" without specifying what they are; Aghadir agreement refers explicitly to the WTO, while GAFTA is not concerned with the issue.

### ***Standardization and conformity assessment***

All the agreements call for harmonization and mutual recognition. However, the terms of implementation and schedule for harmonization and mutual recognition schemes are not explicit. The EU Partnership and the Aghadir Agreements call for signing mutual recognition agreements without identifying steps or dates for implementation. This is likely to create difficulties in coordination and in implementation.

### ***Rules of origin***

There are large differences between various agreements in terms of ROOs applied and their cumulation. In the case of the EU, there are various criteria applied in addition to value added. These rules allow bilateral cumulation between each of the four South Mediterranean countries and the EU. Diagonal cumulation is further allowed between the EU and the four countries members of the Aghadir as well as total accumulation between the five partners, provided that the ROOs are harmonized between the four Aghadir partners with the European ones. However, due to the absence of harmonization of ROOs between the Aghadir members, they only take advantage of bilateral cumulation.

GAFTA is based mainly on a 40% value added. However, it is not clear in terms of cumulation and its conditions, with the general exception that value added requirements are lowered to 20% in the case of joint Arab production.

### ***Dispute settlement***

The dispute settlement mechanisms are different in various RTAs, but they are not likely to pose a problem in the functioning of the agreements, save for the burden of having to deal with various legal issues where governments or the private sector are involved.

### ***Competition Law and Policies***

Divergences among different agreements are significant and may create problems in implementation although no issue concerning non-competitive practices has been practically raised.

### ***Anti-dumping rules and safeguards***

These rules and measures differ among various agreements. The EU Partnership and Aghadir Agreements are the most transparent. In case of GAFTA, reference is made to international standards without defining what they are<sup>9</sup>. Anti-dumping disputes in GAFTA are solved through the dispute settlement mechanism initiated by the Economic and Social Council of the Arab League (ESC).

In the area of safeguards, the EU Partnership and the Aghadir agreements follow the WTO norms, however GAFTA follows the decisions of the ESC, which are not clearly specified, hence adding an element of non-transparency. Nevertheless, application of different safeguard mechanisms is not likely to create serious problems with implementation of agreements.

### ***Government procurement***

This is not uniformly considered across various agreements and is not likely to create problems.

## **7. Conclusion and policy recommendations**

The four countries under study are committed to liberalize their foreign trade and to enhance their competitiveness both domestically and internationally. In addition to being WTO members, they are all committed to various RTAs. The focus of this paper has been on three RTAs to which these countries have all adhered: GAFTA, EU Partnership agreements and Agahir agreement. The paper has identified similarities and dissimilarities between the three RTAs while benchmarking them against WTO rules and regulations. The study has revealed some gaps between what the agreements provisions entail and what is actually implemented. It has further identified some inconsistencies between the requirements of external commitments, particularly with the WTO, and "behind-the-border" policies and practices. However, the overlapping of several RTAs does not involve serious problems of implementation and does not burden these economies with heavy costs. The reason is mainly that these regional agreements are shallow and lack the deep aspects of harmonization of rules and regulations, which could have created frictions and conflicts arising from their overlap and sometimes incoherence.

Multiple RTAs cannot be assimilated to a sum of separate agreements. Instead, they may produce specific effects, both economic and political, that exceed or are less than the simple addition of separate agreements. These effects may be positive or negative. The most important of these negative effects relate to: distortions associated with different

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<sup>9</sup> Specification of what international standards are was necessary, particularly that GAFTA members are not all WTO members.

patterns of tariff dismantling during the transition period of implementation, trade diversion, inconsistencies of rules of origin and standards.

The pattern of tariff dismantling with the EU has been identified as increasing effective rates of protection to final products within the four countries during the transition period. This would encourage domestic producers to shift their demand for intermediate inputs towards EU markets, and away from other trade partners. It would further divert resources towards domestic areas of production enjoying an increased level of effective protection with the EU. However, the issue of handling the dismantling of tariffs, following different schedules of various RTAs has not been problematic for customs officials.

Trade diversion towards RTA partners is also likely to occur. The most important effects may be felt by non-member trade partners having a structure of comparative advantage comparable to that of other members of the RTA, particularly trade with the US and other industrial countries would be negatively impacted by the entry into force of the EU Partnership agreements. This is likely to be minimal for Jordan and Morocco which already have free trade area agreements with the US and EFTA countries. As to Egypt, this negative effect may be significant as the US and other countries of the world (see Table (1)) are important sources for its imports. However, the large tariff reduction implemented by Egypt in 2004 has generally reduced the potential for trade diversion expected to occur as a result of the EU Partnership agreement.

Interviews with officials as well as exporters asserted that there are no major problems arising from overlapping RTAs. Even the coexistence of GAFTA and bilateral agreements with other Arab countries is not causing problems, as the majority of exporters deal with one major market and have the choice of being treated according to one or the other agreement. Failure to meet the stipulated commitments within GAFTA was often blamed on other partners and necessitated a reciprocal response. A clear example is the delay of Egypt to remove its negative lists, unless detailed ROOs are agreed upon. This induced Jordan to reciprocate to this unilateral decision. This reflects on the part of both partners an overprotective attitude.

The main problem associated with overlapping RTAs, or just more generally to RTAs, identified by customs officials, is the *proof of origin*. According to the interviews, customs officials, particularly in Egypt and Jordan, are used to the value added criterion, however they are not trained on change of tariff heading or specific industrial process, which are extensively used in the EU Partnership agreements. Furthermore, the inconsistency of rules of origin (ROOs) prevents the four countries under consideration from reaping the gains of overlapping RTAs in terms of diagonal and total cumulation of ROOs, which may be one of the main positive effects of entering into several RTAs.

Most of the problems related to standards and their harmonization are not directly related to overlapping RTAs but rather to the protective attitudes of customs authorities, which view standards as a means to restrict imports from trading partners enjoying preferential treatment. It is also likely that standards become the most restrictive factor hindering access to external markets when such agreements are fully implemented. Harmonization of standards is mentioned in various agreements in vague terms. It is essential to harmonize these standards before these RTAs are fully implemented to secure market access of domestically produced goods to various markets.

In terms of institutional capacity building, upgrading the human capacity of officials in government organizations responsible for identification of origin of imports in respective countries is essential. Another institutional issue that urgently needs to be addressed is the training of negotiators on how to reconcile the negative effects of ROOs in different RTAs and how to set and harmonize these rules across various RTAs to take full advantage of cumulative rules allowed. Exporters have not yet been able to benefit from any accumulation procedure stipulated under any agreement. Enhancing institutional capacity of those who follow up and monitor implementation of various RTAs is also required. A technical unit affiliated with the ministry responsible for foreign trade should be established to monitor implementation of various RTAs. It should also be responsible for answering the queries of stakeholders from the private sector and civil society and resolve their problems in order to promote and gain political support for trade liberalization measures.

Such responsibilities are currently scattered between ministries of external trade and ministries of foreign affairs and even ministry of planning (as with the Jordan-EU Partnership in Jordan).

Finally, most RTAs are negotiated and signed by government officials after some consultation with the private sector. It is highly recommended that the private sector and federations of industries be more involved and better represented in negotiations of RTAs to reflect the various sectors requirements.

## References

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