French multinational companies in the Maghreb and the Mashreq:

a haven for trade liberalisation and investment...

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Association Internationale de Techniciens, Experts et Chercheurs

Research question and objectives of the report

More than three and a half years after the death of Mohamed Bouazizi and the beginning of the uprisings that rocked the Arab world, four heads of state in the region (Tunisia, Egypt, Yemen and Libya), who had been the incumbents for decades, were forced out of power. Several countries in the region remain weakened by the aftershock of these revolutions, and Syria and its surrounding areas are torn apart by a war which has global ramifications.
In Tunisia, Egypt and Libya in particular, new governments have been or are in the process of being voted into power. Only Tunis, however, seems to have succeeded in orchestrating a democratic transition that is peaceful and lasting, by and large. The methods and choices of the regime seem to exceed the Mubarak era in terms of violence and authority. Despite repeated elections in Libya, the formal government hasn't succeeded in regaining its legitimacy and control, and militias control some of the country.

At the same time, active social movements endure and are highlighting the urgency and intensity of the economic and social demands being made by very diverse sectors of the population. In a report published in 2013, the Egyptian NGO, Centre for Economic and Social Rights[1], counted 5212 public demonstrations and protests in Egypt during that year – taking into account all categories of the population (communities, inhabitants, workers. . .).
The demand for social justice is indeed at the heart of the slogans of the Arab rebellions, so it is not surprising that it continues to encourage multiple mobilisations, occupations and strikes. However, in nearly four years, the different governments resulting from the electoral processes in Tunisia, Egypt and Libya have not only failed to answer this call, but they have even chosen not to deal with the short-term issue of reducing inequalities (including, in particular, youth unemployment, the increase in minimum social benefits, improved access to essential services), and to the more crucial, long-term issue of finding alternative methods of development that factor in social justice whilst simultaneously respecting excessively fragile ecosystems.

There are many reasons for this relinquishment but first and foremost there is the fact that successive policy makers brought into power through elections in Tunisia and Egypt have never cast doubt on the economic trajectories that have been in place for 30 years. Far from transforming the rentier model that was in place under the reign of Ben Ali, Mubarak and Gaddafi and supported by a state considered as being instrumental in the accumulation of resources by a minority, they have worked harder at establishing their supporters and followers in key positions with access to wealth. For Tunisian and Egyptian police and/or military regimes, state hand-outs remained the primary way of managing poverty and the tensions that it can cause, with the difference being that state hand-outs from Egyptian and Tunisian dictators relied on the appearance of public policies whilst state hand-outs from the Muslim Brotherhood, which was temporarily in power in 2012-2013, mainly came from forms of private charity.

Three and a half years later, the countries of the Arab 'revolutions' have experienced more or less positive and peaceful political changes.
But there has been no social transformation. The social situation has even deteriorated; the economy - both formal and informal -, the continuity of public services and the provision of a certain number of basic products are strongly suffering from political instability - real or perceived. Macro-economic indicators (public deficit, indebtedness, balance of payments, trade balance. . .) have deteriorated and the inevitable international donors have stepped in to propose their historic products: "advantageous" loans with a plan to reform national economic structures and improve the access of international economic operators and top multinationals to local markets. Eventually, Tunisia signed an agreement with the IMF despite much public criticism. Egypt remains under observation since Washington's technicians do not deem local conditions as being serious enough to trigger the machine.

Surprisingly, the same adverse effects generated from methods applied since the 1980s and which led to the uprisings in 2011 are expected. Among these methods are trade liberalisation, increased foreign investments and environmental deregulation to support the presence of multinational companies all of which remain intangible premises when it comes to thinking of ways out of the crisis.

Political forces such as civil society organisations that wish for their countries to embark on a path of economic, social and environmental transition are confronted with a well-known paradox: whilst the 'revolutions' that led to the opening up of institutional and political structures intrinsically derived from a demand for radical social transformation, the scope of economic and social policies remains relatively closed to public debate, and insensitive to the winds of change.
In reality, the topic of alternative economic and social policies remains a blind spot in the work done by most social and citizen movements in the region and, as a result, of their partners and allies in Europe, and in France.

However, French multinationals are among those that are both actors and beneficiaries of the economies of North Africa. They have a very strong presence there, from Morocco to Egypt — some prior to decolonisation —, and across all sectors: energy, financial services, telemarketing, telecommunications, agri-foodstuffs, textile, building

and construction, automotive and aeronautical systems, water distribution and decontamination, transport and urban services. This is largely explained by the colonial history of the Maghreb, its geographical proximity and the more or less illusory belief in a shared Mediterranean destiny, and above all, the numerous 'facilities' granted by the regimes in power until 2011-12 in the 4 countries concerned.
However, even the most superficial look into the press can enable one to see that the French flagship companies of industry and services abroad are far from contributing to social progress and developing wealth or promoting a savoir-faire that is mindful of restraint and nature preservation.
Quite the contrary, they are contributing to all of the stages of productivist and predatory growth - natural resources, human capital - more often by being spared of taxation and repatriating all of their profits to the North of the Mediterranean. Based mainly on the outward-looking method, for international markets, they were able to benefit from all of the fiscal and legal advantages meticulously crafted by the local governments from the 1980s. French multinationals are also involved in a certain number of cases of corruption, tax fraud; trade union rights violations and workplace bullying. The active participation of some of them in the controlling and repressive activities of some of the fallen dictators has even continued after their respective downfalls.

Unquestionably, French companies, or more widely European or indeed western companies, function like parasites. With the support of their 'home' governments, they draw off local resources, sometimes even breaking the law, and actively contribute to the devastation of the region's ecosystem and more generally to the global environmental catastrophe, without ever generating the slightest long-term economic or technological added value, and by only redistributing what is absolutely necessary to make it possible for them to ensure their predatory activities continue.
And in this equation, the international free trade agreements (at the WTO or in the bi-regional frameworks) and the international investment regime have a lot to do with it since they provide multinationals with the legal frameworks and instruments that allow them to impose their rules of maximum profit as being superior to domestic laws as and international human rights.

And despite this, since the spring of 2011, the European Union has been demonstrating its intention to engage with the new democracies resulting from the 'Arab spring'[2], and announced the rewriting of the agreements concluded[3] with countries of the region, particularly in terms of trade: the EU called for negotiations to begin with the 4 countries united
by the Agadir Agreement with a view to obtaining 'comprehensive' and 'extensive' free trade agreements, which in its view were the only ones capable of generating the economic growth and employment that young people in the region had impatiently called for through their uprisings.
More exports, less constraints on foreign companies for increased investments, further liberalisation of public services, further opening of public markets, but also more extraction, and more mass tourism as a result, even though the existing association agreement experiment hadn't shown its effectiveness, far from it. 25 years of neoliberalism — corrupt neoliberalism at that — should have been identified among the primary causes of the popular uprisings of 2011 and 2012.

In this context, this document seeks to simultaneously provide an initial introductory and fragmented contribution to the critical analysis of:

- the European Union's trade agenda in the Magreb-Mashreq region, in order to discredit the prospects of new extensive agreements
- the economic, social and environmental actions of French multinationals in the region, by presaging the implementation of more systematic methods and instruments in the future

This document is intentionally exploratory and does not reveal any 'scoops'. However, it does intend to put into perspective the facts presented in the specific working framework developed by AITEC, which covers three areas of reflection.

- The first relates to the political economy of the European Union's trade liberalisation, involving a critique of the confiscation of political power by large European multinationals and their political protectors,
- The second relates to the political alternatives required to guarantee the economic, social and environmental rights of people, in Europe and beyond,
- and finally, a reflection, closely linked to social movements and citizens, on the conditions required for the emergence of these alternative political proposals, and on the strategies needed to defend them.

Since the 2000s AITEC has developed expertise - unique in France - on the trade and investment policies of the European Union and its member states, and more specifically on their impact on the economic, social and environmental rights of their people both in the EU and in the countries where the EU has liberalisation agreements. More recently (since 2008), it began a long-term work programme that seeks to analyse and combat the disproportionate influence of multinationals in the negotiation and decision-making process pertaining to these agreements.
More specifically, for AITEC, it is a question of highlighting the way in which multilateral, regional and bilateral trade and investment agreements are used as tools to strip governments and the economic and social forces of third countries of their ability to create development policies that truly bring about social equality and that strive to break with extractivist and predatory models.
In the framework of the IPAM and Alternatives International networks, AITEC has been analysing the economies of the Arab world for a number of years. AITEC has also been involved in joint work with organisations and activists in the region as well as alliances involved in the struggle for the economic and social rights of people across the Mediterranean.

We have decided to prioritise the analysis of two country case studies in particular: Tunisia and Egypt. This decision is based on practical, methodological (namely greater access) but also theoretical grounds.
Both are republics (unlike Morocco for example, a monarchy in which the decision making process in the economic and social domain is based on customs, rules and practices that are difficult to compare) that leaders reaching the top of the newly independent states in the 50s immediately put under the double banner of 'developmentalism' and 'statism'. Both countries also managed to implement relatively diversified economies (unlike Algeria and Libya, which survive almost exclusively from oil and gas exports) and in both cases, income from tourism and financial transfers of migrants (in Europe for Tunisians and in the Gulf region for Egyptians) represent substantial sources of income for the economy.

But beyond the obvious similarities of their historical trajectories, both countries nevertheless present some differences, useful for our analysis. These include a difference in size, both in terms of surface area and population. They are subject to dissimilar geopolitical and regional influences and they both have different economic and commercial structures. Egypt remains a very agricultural country, excessively fragile from an environmental point of view, whose trade partners (USA, China, countries of the Gulf. . .) are more diverse than those of Tunisia, which trades almost exclusively with EU countries, first and foremost with France.
In addition to this, Tunisia and Egypt are trade partners under the Agadir Agreement in the same way as Morocco and Jordan, and with these four countries the European Union hopes to review the trade dimension of its association agreements.

Above all, since February 2011, the two young democracies have been confronted with the same challenge — that of reinventing their wealth production and distribution model, whilst Morocco and Algeria contained the protests by increasing a certain amount of minimum social benefits (Algeria), and through constitutional reform accompanied with a certain amount of promises of public investment into promising sectors and into fighting against poverty (Morocco). As for Libya, it remains in a 'post-conflict' situation and neither civil society nor independent experts are organised enough or can be accessed in a way that provides us with access to the necessary elements of observation and analysis.

This document is based on several scientific, historical, sociological, economic, statistical, and journalistic sources — the French-speaking Tunisian and the English-speaking Egyptian (due to a lack of knowledge of the Arabic language) press. As well as the institutional press, in particular that of the European Union. It is also based on field observations (carried out during multiple visits to both countries beginning in April 2011), meetings with several Tunisian and Egyptian civil society actors and activists, and interviews conducted in France, Tunis and Cairo between July 2012 and September 2013.

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Table of acronyms

AA: Association Agreement
ADP: Aéroports de Paris
AFD: Agence Française de Développement (French Development Agency)
AITEC: International Association of Technicians, Experts and Researchers
APII: Agence de promotion de l'industrie et de l'innovation (Investment and Innovation Promotion Agency, in Tunisia)
BP: British Petroleum
CII: Code d'Incitation aux Investissement (Incentive Investment Code, in Tunisia)
COMESA: Common Market for Eastern and Southern Africa
DCFTA: Deep and Comprehensive Free Trade Agreement,
DG: Directorate General
EEC: European Economic Community
EFTA: European Free Trade Association
EGAS: Egyptian Natural Gas Holding Company,
ENI: Ente Nazionale Idrocarburi, (National Hydrocarbons Authority) (Italy)
EU: European Union
FDI: Foreign Direct Investments
FIDH: Fédération Internationale des Droits de l'Homme (International Federation of Human Rights)
GAFI: General Authority for Investment and Free Zones, in Egypt
GAFTA: Great Arab Free Trade Area
GATS: General Agreement on Trade in Services
GATT: General Agreement on Trade and Tariffs, precursor agreement to the Marrakesh Agreement created by the WTO
GDF-Suez: Gaz de France-Suez
GDP: Gross domestic product
HSBC: Hong-Kong and Shanghai Banking Corporation (GB)
ICSID: International Centre for Settlement of Investment Disputes
IMF: International Monetary Fund
INSEE: Institut national de la statistique et des études économiques (French National Institute for Statistics and Economic Studies)
IPAM: Initiatives pour un autre monde (Initiatives for another world)
ISDS: Investor-State Dispute Settlement and Impact on Investment Rulemaking
LDH: Ligue des Droits de l'Homme (Human Rights League)
MENA: Middle East and North Africa
MERCOSUR: Mercado comun del Sur (Southern Common Market)
MFN: Most-favoured Nation
NGO: Non-governmental organisation
OECD: Organisation for Economic Cooperation and Development
QIZ: Qualified industrial zones
RCD: Democratic Constitutional Rally, Tunisia
SEZ: Special economic zones
SME: Small and medium enterprises
SMIC: the minimum wage in France
STEG: Tunisian Electricity and Gas Company
UBCI: Union bancaire pour le commerce et l'investissement (Banking Union for Trade and Investment)
UGTT: Union Générale Tunisienne du Travail (Tunisian General Labour Union)
UIB: Union Internationale de banques (a Tunisian commercial bank)
UNCTAD: United Nations Conference on Trade and Development
USA: United States of America
WTO: World Trade Organisation

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The political economy of the Arab uprisings and the failure of outward-looking economics as a driving force of development in the Magreb-Mashreq region

North Africa is a fascinating testing ground to anyone interested in trade negotiations and those involved in trade liberalisation outside of the European Union.

a. The genealogy of the North African economic systems

North African countries provide us with prime examples of 'dual' economies.
The regimes immediately put in place following independence in Egypt and Tunisia, in the 1950s and 1960s, chose to adhere to development models centred on the state and the public sector, inspired by social trajectories then supported by local elites that simultaneously paid close attention to distancing themselves from the models of former colonial powers but also to bringing about a quick economic take-off centred on industry, the creation of state companies or the nationalisation of existing large companies, and planning.

Upon gaining independence (in 1956), Tunisia, the least industrialised country in the region, choose to assure public control of key sectors; the new President Habib Bourguiba created the Tunisian Railways (SNCFT) in 1956, took charge of the management of the banking sector, left the franc area in 1958 and between 1959 and 1960, nationalised electricity, natural gas and water companies. He also nationalised transportation companies by acquiring 50% of the airline Tunisair.
From the 1960s onwards, the influence of the Tunisian General Labour Union (UGTT) grew owing to the economic importance of the phosphate mines exploited in the centre of the country (around Gafsa). The union encouraged the government to launch socialist-inspired reforms, namely the creation of a large ministry of planning and the adoption of an extensive 10-year development plan to significantly reduce poverty dependence on external capital, and to create a veritable Tunisian domestic market.
The agricultural lands held by foreign owners were expropriated in order to create rural cooperatives aimed at giving a boost to agricultural production and to provide stable income for the rural populations.
Until the middle of the 1970s, Tunisia therefore adhered to an authentic planned and collectivized economy, in which the state and its components, including trade unions and cooperatives, played a visible and key role.

At the same time, Gamal Abdel Nasser overthrew the Egyptian monarchy (1952) and ascended to the presidency of the republic, where he remained until his death in 1970. He completely reorganised the Egyptian economy around the state through significant nationalisations, and launched the first major industrialisation plan in 1960, which sought to replace local production (steel and metals, chemical industries) with industrial imports coming mainly from Great Britain, the former colonial power. At that time, foreign investment was widely prohibited, and the urban middle classes were encouraged to fund domestic industry. Several measures were taken to that end, such as customs duty exemption on imported natural resources intended for local industry, tax rebates for industrial companies, customs duties to protect these sectors, and very favourable loans, to name a few[4]. Not to mention, of course, the nationalisation of the Suez Canal in 1956. An historical agricultural reform was also carried out and enabled the massive redistribution of land to millions of farmers.
The success of Nasser's policy was less economic than social, and the inequalities were significantly reduced via fiscal, land, and urban reforms, and by setting a maximum wage in the public service and even rolling out public services and social services.
However, Nasser's system encouraged the progressive constitution of an state economic sector with politically autonomous intervention capabilities. The management of nationalised companies was often entrusted to members of the military or close friends and family with a view to consolidating the alliances of power, to the detriment of truly competent executives closely monitored by a ministry of planning that no longer had any planning powers.
The War of 1967 and the political crisis that ensued went on to weaken the economy, and the assassination of independent Egypt's first president — succeeded by Anouar el Sadat who chose the historical overthrowing of the alliances developed by Cairo until that point, — would open up a new era.

As soon as the beginning of the 1970s, the flaws of the socialist economic system could be seen in both countries. Whilst the standard of living increased, and although the social indicators showed spectacular progress in terms

of education and health, for example, quite quickly we began to see that many public companies were in deficit, due to questionable management by co-opted elites but also due to the relative failure of the strategy of self-sufficiency in capital and prospects. Public administrations were overstaffed and often ineffectual, although they were the primary non-agricultural employment sector, and guaranteed real hope of social ascension for the working class towards the middle class.
Encouraged by western capitals, with which relations resumed, Tunis and Cairo began a wave of economic liberalisation beginning in the mid 1970s, based on the renewed access to foreign investors, trade liberalisation and the relaxation of capital movements.
Known in Egypt under the name of Infitah (the policy of 'opening the door' put in place by President Sadat), liberalisation sought not only to bring back private foreign investors, and offer them eased fiscal, banking and customs conditions, but also reopened the door to international donors, in particular the Bretton Woods institutions. Indeed, the choice of turning towards private financing of the economy requires an influx of capital in the short-term, which is mainly achieved through loans, which the donors that grant them systematically combine with political conditionalities furthering liberalisation. Several agencies and investment promotion agencies were created to facilitate the involvement of private actors in the economy.
In Tunisia, economic openness began to go well from 1974 and the new government initiated the state's withdrawal from industry and opened it to the private sector. Foreign companies and the country's middle class were encouraged to invest in new sectors such as mass tourism.

The macro-economic failure of trade liberalisation was manifest as of the beginning of the 1980s.

The review of the reforms would be lastingly disastrous.
The Tunisian and Egyptian economies were momentarily boosted with external capital, and there was tangible business and job creation, particularly in manufacturing. However, public debt exploded in both countries, and above all, economic liberalisation fuelled two interdependent phenomena:

- the development of new economic sectors — underdeveloped in that region until that point: mass tourism of course, but also trade (import-export), property, finance (particularly in Egypt), industry aimed at consumption (e.g. textile, electronics) — even more so in Tunisia —, in a context where short-term profits were pursued. Foreign businesses invested massively in the development of tourism and textile for example, banking on cheap labour and geographical proximity.
- The speculative commitment of the local elites in these sectors (the traditional bourgeoisie, and those in government but also the economic elite from the 1970s), who amassed fortunes by managing public companies, in collaboration with foreign companies.

We therefore witnessed the formation of original economic structures compared to the structures in place in other so-called 'developing' countries, where colonial powers, in association with the 'indigenous' oligarchy, kept almost total control over the economy: a form of capitalism under the control of local elites where several monitoring and distribution tools remain and in which public political intervention served to consolidate the alliance between domestic economic elites and foreign capital.
The macro-economic failure of trade liberalisation was manifest as of the beginning of the 1980s but the political and social structures that framed the economy would remain. It was not only the working classes, but also children of the middle class, and young graduates, who would pay for the accumulation of the massive structural adjustment that would begin in Tunisia in the mid 80s and at the beginning of the 90s in Egypt.

b. The formation of the Mubarak and Ben Ali systems

Presidents Muhammad Hosni Mubarak in Egypt and Zine-el-Abidine Ben Ali in Tunisia ascended to power in their countries in 1981 and 1987 respectively.

Mubarak pursued the policy of his predecessor but was very quickly faced with a major crisis, which was the cumulative result of the structural fragility of the Egyptian economy, which relied on a rentier system (income from the Suez Canal, transfers from migrants from the Golf Region, oil resources, American aid and, overwhelmingly, income from tourism) and which the Infitah policy couldn't resolve. There was also an enormous accumulated public debt to international donors. Following the debt's multiple restructuring plans and measures, in 1991 he then launched a programme of wide-ranging reforms that marked a turning point compared to the pace of the previous period. Whilst relations between Egypt and the IMF began in the mid 60s, H. Mubarak was forced to renegotiate in 1988, and finally signed, without hesitation, a new macro-economic stabilisation plan, the structural adjustment component of which was entrusted to the World Bank.
Unsurprisingly, the reforms consisted in applying the doxa of the Washington Consensus that was being tried out in almost all African nations at the time: liberalisation and privatisation. Egypt abandoned several measures taken to control prices, taxes, subsidies and partially liberalised trade and investment.
The law orchestrated the privatisation of several public companies by making it possible to make the distinction between ownership and management. Public companies remained public but were now under the control of independent holdings, even though they were still owned by the state.
According to K. Badr El Din, '382 state companies have already been subject to partial or total privatisation. In 2009, the transfer of public assets had yielded the state a profit of 57.4 billion Egyptian pounds (almost 9.4 billion dollars). The pace of the privatisation programme matched that of the general reform process: slow between 1991 and 2004/5, with around 15 companies privatised each year. The pace increased between 2004 and 2006, in parallel with large economic reforms, and led to the privatisation of 77 companies during this period, roughly 25 per year' [5].
Companies could now generate profits, and had to raise funding on financial markets which required them to reach a demanding level of productivity. In 1997, another law awarded tax exemption to private companies investing in certain priority areas, and enabled total private ownership of a company on national territory.
The public banking sector was comprehensively reformed, and private banks could now invest in the Egyptian financial sector.
These were major changes, which would be less crucial in terms of their real impact on economic structures than through the introduction of foreign companies in many sectors of the national economy that said changes now authorised — under particularly advantageous conditions.
Macro-economic indicators experienced a notable bright spell beginning in 1992: growth rates began to increase, inflation was cut, external trade began to increase at the end of the 90s, and foreign direct investments recovered at the beginning of the 2000s. Egypt was promoted to the ranks of favourites among the international institutions.

In Tunisia, with the exception of a few years, the trajectory was similar.
As soon as 1986, President Bourguiba reached an agreement with the IMF on the roll out of an 18-month economic stimulus programme, followed by a three-year financed plan, which would be extended in 1992. One of this plan's first objectives was to transfer public assets to companies and private banks. In reality, the Tunisian state began its privatisation programme as soon as the 80s but things did not really get underway until 1987, under the aegis of international institutions and under the reign of the new President Z. Ben Ali. According to F. Chamkhi, 'the annual average rate of privatisation rose from 5.3 companies between 1986 and 1994 to 18 in 1995. At the same time, the average sale of assets per company went from 4 to 11.9 million dinars' [6].
Since the launch of the privatisation programme in 1987 up until December 2008, the government totally or partially privatised 217 public or semi-public companies, for overall revenue of 6 billion dinars, with particular emphasis being on the services sector (53.9% of companies) and industry (37,%). However, all sectors were affected: tourism, building materials, textiles, the agri-foodstuffs and fishing industry, mechanics. . .
The government also tried out the free zone and the free trade area policy: two free trade areas were created in Zarzis and Bizerte, the first specialised in the oil sector and the second in industry and construction and several services linked to the nautical industry. At the same time, the government encouraged the manufacturing and exporting industry by giving it the possibility of setting up in any part of the country whilst benefiting from benefits granted to free trade areas.
The international community and donors who were attached to growth rates welcomed the official results and the level of FDI but little concern was shown of nepotism and the heritagization practices developed by the Ben Ali clan. Indeed it seemed that Tunisia had succeeded in opening up its economy, despite a few blips, even if unemployment rates remained very high, due in particular to the fact that young graduates continued to enter the market without the public sector being able to absorb them. For all that, several researchers,

beginning with B. Hibou and her research teams, perfectly demonstrated how the Ben Ali regime managed to give the illusion of carrying out reforms — a notion that has been historically anchored in the Tunisian political ethos since the end of the 19th century—, whilst keeping control over several parts of the economy [7]. The government made stability and the emergence of a middle class through the consolidation of a private sector built on economic liberalisation a part of the justification for its preserved influence, whilst clearly giving criticisms as regards the obligations imposed by donors and boasting about bringing them to a 'personalised' level [8].

The opening up of trade was working almost completely independently from the local economy.

Indeed, in reality, in the two countries, the opening up of trade was carried out in very distinct ways according to the sectors, and it made it possible to structure an export sector working almost completely independently from the local economy, without preventing the state and its allies' rigorous control of the rentier segments of the economy or bringing the numerous procedures, regulations, limitations into question
which contributed to ensuring the interference of the state and the administration in the decisions of the (particularly foreign) private sector. Thus, the region consistently features at the bottom of the World Bank's Doing business ranking, which examines the legal, administrative and material conditions provided to private economic operators by public authorities in more than 150 countries [9]. Tunisia, the least poorly ranked, is in 51st place, but Egypt is 128th globally. Many of these provisions, in the countries, are derived from particularly bureaucratic and meticulous administrative traditions, associated with arbitrariness and petty corruption, but a significant number of them refer to regulations that seek to limit the influence of non-national operators on the economy, and to preserve the necessary instruments of public policy in order to guarantee the continuity of certain social equilibriums (the system of publicly subsidising a certain amount of basic products, for example, or capping the number of staff expatriated to the subsidiaries of multinational companies. . .).
Today, after almost three decades of applying a neoliberal doctrine, most countries in the region (from the Maghreb to the Middle East) still show a level of protection (tariff or non-tariff) of their markets that is significantly higher than the average in other regions.

c. Since the uprisings until the present day: crises and the socio-economic status quo

The popular uprisings that have shocked the region since the 2000s resulted in the demise of this model.
The rate of unemployment among 18 to 29 year old was close to 30% in 2009, and it was as high as 45% for higher-education graduates, whereas official figures report 25% for all unemployed graduates [10].
The story is now well known: the state and its companies are no longer guaranteeing the future of a qualified youth. Workers of the public and parapublic industry which has been hit by a wave of privatisations and adjustments —, intellectual professions — highly organised in Tunisia and in Egypt —, and unemployed graduates, are joining forces and coming together with young people who are literally stifled by surveillance and the pressure of the government's various policies, and are aspiring to freedom of speech, creation and collective organisation.

Tunisia seems to be committed to the path of political stabilisation, despite a few hesitations and false starts. General elections are scheduled for the end of October 2014 after an interim 'technical' government that came about during the difficult weeks of negotiation between the country's main political and social forces, managed a phase of transition and uncertainty that lasted more than a year [11].
However, the social situation had difficulty improving due to a massive political and long-term action in favour of sustainable economic development and employment. Official unemployment figures remains at more than 15% [12], whereas the figure not only concealed huge inter-regional disparities, but also difficult, underpaid employment (whether it be farmworkers, textile workers or young call centre employees) with no added value, as well as a strong prevalence of economic survival for a sizeable proportion of the youth in rural and peri-urban areas. The country suffers from extreme dependency on investments and foreign markets, which was demonstrated after January 2011. Several projects were suspended or cancelled; several companies brutally froze their activities in the country in anticipation of the return of a more 'favourable' climate. Foreign investments fell by close to 20% compared to the 2010 base year, and the economy that was largely dependent on European demand suffered from the crisis in the Eurozone. Political instability also negatively affected the tourist industry, which employed 400,000 people in 2010 and contributed to 7% of GDP [13].
The manufacturing industry (textile, electronic) found its footing again but produced no real added value for the economy. For the African Development Bank [14], '[…] companies that are totally dedicated to export are disconnected from the rest of the economy and have no knock-on effect on companies operating on the national market.
In fact, the Tunisian economic model seems to be running out of steam'.

In Egypt, the political situation calmed down somewhat, but at the cost of the return of an authoritarian military regime that leaves little to envy of the Mubarak system. Marshall Al Sisi , the instigator of the coup d'état carried out on 3rd July 2013, which had dismissed the president in office Mohamed Morsi, was triumphantly elected in May 2014 (96.9& of votes), and named President of the Republic on 3rd June following an election that was widely considered as fraudulent.
The Freedom and Justice Party, the Egyptian Muslim Brotherhood's political wing that came into power during the legislative and presidential elections in 2012, had engaged in doublespeak: neoliberal revenue, a call for private investors, but the preservation of all of the systems subsidising basic products, that are nevertheless sources of embezzlement and obvious fraud. The massive popular support from which the current Marshall-President benefits, which hardly masks the grip of the army over all of the country's political apparatus, cannot only be credited to structural reforms in favour of development, quite the contrary.
Almost four years after the January 25 revolution, the aspirations of Egyptian youth remains unheeded. Above all, the expansionist policies proposed by the new regime seek massive programmes of public investment in targeted areas of economic development, in particular that of the Suez Canal, which is very appealing for foreign investors. However, the contribution of migrants, the benefits of tourism and private external investments have collapsed since 2011. Yet, these are three of the key funding lines for the country's economy, whilst public spending remains extremely high: civil servant salaries and expenditure in social protection represent more than 50% and energy subsidies make up almost 20%[15]. However, the situation of the most vulnerable populations hasn't improved. On the contrary, inflation has hit the working classes hard and the President has already announced the reduction of subsidies on staple products, which should no only longer only affect the poorest[16].
For the moment, the economy is surviving thanks to the contribution of the monarchies of the Golf region which sanctioned the Al Sisi's coup in July 2013 by giving colossal donations: 12 billion pledged by Saudi Arabia, the United Arab Emirates and Kuwait (of which 1/4 was in crude oil) to replace the withdrawal of aid from the American military. And the IMF is looking to take over. Furthermore, the army has regained its control over the economy, between 5 to 40%, or more, of the entire national economy[17] [18], and the development of projects in the Suez Canal should be largely beneficial, as should the vast urbanisation projects planned by the Marshall-President[19]. Again, it is the military that will be in charge of granting joint venture implementation contracts[20]. Transnational companies should largely find their niche in this system, given that even without the announcement of major new reforms, the new government intends to create colossal public contracts open to foreign investors.

Fossil fuel excess in Egypt

According the World Bank, in 2011, Egypt drew almost 13% of its resources from natural resources rents.
The Egyptian subsoil contains a significant quantity of oil, even if there are lower amounts than in Libya or in the countries of the Golf Region. Egypt is the 27th biggest producer of crude oil in the world (0.7% of production) but was the 5th biggest African producer in 2013. That same year, 15% of the country's oil production was exported. For all that, Egypt is a net oil importer, since consumption has continued to increase in the country. Production is falling on oil fields considered as mature: the share of public resources from oil rents has fallen by 30% since 1990[21].
Oil is exploited by foreign companies to whom concessions are granted through a tendering system. However, all oil fields remain the property of the state in accordance with the Constitution. The state's policy of subsidising oil products, which is still relevant today, has widened the Egyptian national oil company, which retroactively pays foreign companies that operate the country's oil fields.

Natural gas is the country's future when it comes to energy extraction. Egypt was the 12th biggest producer globally in 2012 (61 billion m3 produced per year). However, it is also a growing gas consumer (+9% per year). So much so that production is only sufficient enough to cover convenience goods and the commitments of exporting companies. Qatar also supports Egypt by supplying liquefied natural gas, which enables it to meet exportation promises, to a certain extent.
And yet, many foreign companies (approximately fifty) are involved in gas exploration and extraction in Egypt, among which are the big French companies Total and GDF-Suez. The Egyptian Natural Gas Holding Company (known as EGAS, a public company) organises the tenders that govern the distribution of concessions.

Whilst it was a massive source of currency inflow and has directly funded the social policy of successive governments since the advent of the republic, through massive subsidies for oil and gas product purchasing, this extractive activism nevertheless poses major environmental problems: a part of the oil and gas deposits are in the Delta region or are literally off-shore, in the Mediterranean Sea (mainly gas) or in the Gulf of Suez (mainly oil), which is home to extremely fragile maritime and/or coastal ecosystems, and sources of economic activities for local communities (fishing, tourism, agriculture. . .). The exponential consumption of fossil fuels for transport and electricity production causes colossal atmospheric pollution, not only in large cities but increasingly in industrial areas further away from them.

The entire region's political economy is marked by a rentier-based and privatised system of management, which appear to be everlasting to political leaders. The histories of the regimes in power, and that of their downfall in Tunisia, Libya and Egypt, monarchies or 'republics', are intrinsically linked to this. Across the entire region, the period of prosperity of the 'post-independence' years was fuelled by the income from the exploitation of oil, gas, and phosphates, before being extended to rent from tourism and the services sector. This income also made it possible to pay various supporters of the regimes in power and consolidated the constitution of a rentier class uniting those who are closest to the government, the regime's bureaucrats, allied families and 'associate' entrepreneurs. Organising circuits of minimal distribution of this rent, through public services, accommodation, or various subsidies has ensured social peace for several decades.

Phosphate extractivism in Tunisia

Tunisian soil contains oil (in relatively modest quantities however, since the country is forced to import oil) and significant natural gas sources. However, Tunisia is the world's 5th producer of phosphates, extracted from the Gafsa mining area by the Gafsa Phosphate Company — taken over by the Tunisian Chemical Group in 1994. The sector contributed to 4% of national GDP in 2010 [22]. For decades, the company was in charge of all the needs of the local populations based on the model of business paternalism.
The country also had proven reserves of two trillion (1012) cubic feet of natural gas in 2011, two thirds of which was offshore. The sector is largely in the hands of foreign companies, whilst Tunisian companies make up 19% of the exploration and production market. The Tunisian oil exploitation company, a public establishment, holds 51% of all concessions. However, American companies (mostly Exxon Mobile) have a prominent position (38% of the sector's private assets), European companies (British Gas, Crosco IDW, Shelle, Total. . . 19%) are in third place.
In 2008, exports of energy and mining products made up close to a third of all Tunisian exports in million of dinars, of which phosphates alone made up 9%, and 25% of Europe's requirements are covered by Tunisia.
The phosphate economy has, to a certain extent, 'carried' entire regions of Tunisia that otherwise would have been disadvantaged. However, the dependence of these regions on precious minerals showed its limitations in the 90s. Whilst it provided approximately 15,000 jobs before the mid 90s, the fall in the global stock prices of phosphate would see this number fall by roughly 30% in 1994 [23], a crisis that would have lasting consequences on employment and the socio-economic situation in the centre of the country.

In short, the economic system established in both the countries observed, throughout the 1970-2000 period — once the 'national-developmentalist' phase had passed, combines in reality all of the elements favourable to the interference of several foreign companies:

- the consolidation of economic models that are simultaneously dual and rentier, even if this rent progressively extended over the years from a strictly extractive approach to the tourist, property or financial rent, in an ever more speculative perspective;
- the progressive constitution of a local economic elite with capital that is closely connected to the circles of power;
- the creation of financial conditions favourable to economic actors and foreign capital, via reforms of liberalisation, privatisation, deregulation. . . amongst which trade and investment liberalisation tools have played a major role;
- the preservation of strong state control over systems granting permits, licences, concessions, and authorisations. . . awarded to private economic actors, whether national or external.

In this context, the debate over how to respond to calls for social justice in the Arab world can be resumed into a single question: how does one achieve a more just distribution of the rent from raw materials and the various resources that it produces? It due to this question that practices of corruption and the privatisation of these resources came to be challenged by the protest movements that began in 2011.

2

The policies and practices of trade and investment liberalisation in Tunisia and Egypt

a. The pace of trade liberalisation in the 1980s and 1990s

The trade and investment policies of South-Mediterranean countries have been devised throughout colonial, and then post-colonial, history including the ‘sedimentation’ of customs and choices inherited from ancient or far more recent periods. Today they may seem like a stacking up of contradictory and incoherent measures alternately favouring an outward-looking and laissez-faire perspective or, on the contrary, they can appear to show the dominance of public power and its representatives.
For all that, the overview given in the first part regarding the history of the political economy in both countries enables us to grasp the originality of their respective political, legal, and regulatory constructs in the field of trade: the history of companies for which the outward-looking perspective seemed to be a forced choice that the elites pragmatically used to best meet their interests.

It has been said that economic openness in Tunisia and in Egypt dates back to the end of the 1980s when Cairo and Tunis began to renew dialogue with the Bretton Woods institutions with a view to obtaining loans able to bail out their public finances.
These loans were naturally part of more general macro-economic reforms.
In Egypt, these changes began in 1986 with the first reform of the customs tariff system [24][25]. At the beginning of the 1990s, a second generation of reforms began, this time seeking to simplify the system, reduce the level of minimum tariffs, and to limit the exceptions authorised under the new customs regime. From 1991 to 1998, the rate of minimum tariffs was reduced from 100 to 40%, with a few exceptions. The so-called average ‘MFN’ tariff [26] went from 42% in 1991 to 26.8% in 1998.
The change in the Egyptian customs barriers also evolved more generally via an approach based on the non-tariff measures (bans, quotas, negative lists. . .) towards a more systematic use of customs tariffs. Egypt gave up import bans with the exception of the textile sector [27] and some livestock products, and no longer applies quotas or minimum prices on imports. Externally orchestrated and prescribed, these measures initiated Egypt's introduction into the global trading system. Egypt joined the WTO as a developing country in 1995, after having been a member of GATT since 1970. This membership forced Egypt to put its trade policies into order, both in terms of tariffs, but also at the institutional and regulatory level. It is also a member of 5 of the 12 agreements included in the GATS — for construction and engineering services, financial services, tourism and services relating to the transportation of people, maritime transport and telecommunications — and endorsed the agreement relating to information technology in 2004.
Still, Cairo kept a certain number of constraints and measures considered as protectionist by the Geneva organisation, to the extent that despite a generally liberal trade policy, Egypt has the latitude to ‘assist’ foreign industrial and commercial business, and benefit from it.
The 1990s also saw a clear change in Cairo's investment liberalisation policy. From 1974, law n°43, the cornerstone of the Infitah policy, opened the doors of investment to private payers, both local and foreign. It created the GAFI (General Authority for Investment and Free Zones), which has the multidimensional task of identifying sectors conducive to private investment, organising contracts and overseeing the entire implementation of the financial aspect of projects. It must also think about how to overhaul the laws pertaining to investment in the country.
The incentives and guarantees offered to foreign investors ranged from a promise not to nationalise or confiscate their assets without following legal procedures in compliance with international conventions; the exemption of a certain number of regulations pertaining to employment law, namely with regard to salaries; significant rebates (up to 8 years) on profits tax, and facilitating the importation of the necessary raw materials. . .
Egyptian investment law would then be revised in 1997 in order to meet the numerous limitations that remained for foreign investors that wished to enter the Egyptian market. Above all, it introduced equal treatment between external investors and their local counterparts, thus condemning any form of discrimination against the former. This new law also opened up 18 new sectors to private investment. Today, this law still plays an important role in regulating private investment, both foreign and local [28].
At the beginning of the 1970s, successive laws also created areas ‘free’ from a certain number of customs and fiscal constraints for the storage, packaging, processing of good manufactured for export. Then came the 2003 law on ‘special economic zones’, that guaranteed significant tax exemptions and numerous advantages in terms of legal and administrative obligations — in particular concerning employment law — to economic operators in the field of exporting under the control of independent authorities. The first special economic zone would be established in the Golf of Suez, and would welcome companies working in the fertiliser, metals, pharmacy and even petrochemicals industry [29].

Egypt also multiplied its bilateral investment agreement signings; whereas it had only signed 8 of these agreements before 1990 (with France, Great Britain, Japan, Sweden, USA, Tunisia, Iran and Somalia), it significantly sped up the negotiation and signing of these agreements and had signed exactly 100 by 1st January 2013[30].
Then, in 2004, A. Nazif's new government further escalated trade liberalisation, alleviated corporate income tax, accelerated the process of privatisation and facilitated procedures for investors by creating a local Financial Action Task Force office. Egyptian privatisation reforms initiated in 2005 caused a boom in foreign investment: European direct investment represents between a fifth and a quarter of total foreign investment at the end of the 2000s.
It was finally time for Egypt to sign a protocol creating 'qualified industrial zones' with Israel and the United States, which enabled products manufactured with a minimum rate of Israeli inputs and local processing to be exported to the United States exempt from custom duty; these QIZ would boost the textile branch of the industry (75% of almost 400 companies present in these zones in 2005).

In Tunis, the first trade and investment liberalisation measures date back to 1972, with the first investment code and a law that introduced special offshore measures for exporting companies. The state also created the Investment and Innovation Promotion Agency (APII). It set up the Tunisian Petroleum Enterprise (ETAP), which was tasked with granting exploration permits that were likely to enable new exploitation of Tunisian oil and gas and to encourage new European companies to become involved in the sector[31]. However, the impact of these measures caused foreign investment in tourism and the export oriented textile and clothing industry.
As of 1986, the structural adjustment plan signed with the IMF led the Tunisian government, and subsequently the new President Z. Ben Ali, to engage in a vast privatisation programme which culminated in the sale of several public assets to private companies[32].
The trade liberalisation policy was further consolidated by the devaluation of the dinar in 1986, the abolition of licences and export taxes, and the gradual reduction of quotas replaced by tariff barriers like in Egypt, whose overall regime was further reformed in order to reduce the custom duty rates overall. The law of 1989 increased the average protection rate (import tax) to 25% [33] and sought to 'apply the international nomenclature for the harmonized commodity description and coding system' [34].

In Tunis, the first trade and investment liberalisation measures date back to 1972

In 1993, the Tunisian government began significant reform of its legal framework for investment in the country, and enacted a code to encourage investment (CII)[35], which 'lays out the system for the creation of projects and incentives to invest in Tunisia by Tunisian or foreign investors, residents or otherwise' [36] (the energy, mining, finance and internal trade sectors being governed by different texts). The CII offered several guarantees and advantages to foreign investors: free repatriation of profits and capital gain: (no limitations for export activities subject to authorisation from the Central Bank for others), free distribution and remuneration with these profits and capital, liberalisation of property to foreign investors in industrial and tourist zones in particular.
Various fiscal and financial benefits were also promised: preferential loans for certain activities (fight against pollution, vocational training, research, for example) or certain sectors (agricultural development and tourism in particular), grants and subsidies for projects located in priority development areas where investors enjoy massive tax exemptions (total exemption for companies and on personal income for 10 years, 50% thereafter), tax deductions. The CII also sought to facilitate administrative procedures by simplifying procedures and limiting the number of representatives. Finally, the Foreign Investment Promotion Agency was established in 1995.
At the same time, Tunisia was preparing its entry into the field of global trading. As a member of the GATT since the 1970s, it signed the Marrakesh Agreement and became the 29th member of the WTO in 1995.
All the reforms described above were part of the long process of preparing Tunis for membership, and — we will come back to this point — the European Union, in the framework of the association agreement negotiated since 1992-93 and after the signing in 1995, would play a supervisory role to the Tunisian legislator.
In any case, in addition to the required tariff dismantling[37], Tunisia's membership to the WTO required several legal compliances in the field of "unfair practices", i.e. dumping and / or subsidies, particularly for export, which make up a sizeable share of the investment incentives program, and in the field of intellectual property (patent compliance, protection of industrial drawings and models, technical drawings, trademarks. . .).
From the 1990s, Tunisia also accelerated the pace at which it was signing bilateral investment treaties.
Out of the 54 treaties that it is not party to, 43 were signed after 1990[38].
Both tariff and non-tariff reforms continued throughout the 2000s, particularly administrative, accounting procedures, compliance reforms, so as to equip Tunisia with a way to integrate multidimensional world trade, and to meet, at least in appearance, the expectations of international donors and foreign companies.
Of course, there are reservations and exceptions to foreign investment in a number of sectors. Certain sectors considered as state monopolies remain closed to foreign capital and companies (electricity, water supply, postal

service for example), although offshore activities are not affected by these limitations.
Foreign contribution in a Tunisian company's capital cannot exceed 50% in the in-shore sector, unless the Higher Council for Investment gave specific authorisation. Agricultural land is never foreign owned and the acquisition of property requires approval from the governor of the province. And overall, the undertaking of commercial activities by a non-Tunisian national is regulated and subject to approval, except in cases where there is an agreement of mutual recognition of status and investment.

Beyond speeches on partnership and cooperation, the UE is mainly supporting the implementation of liberalisation reforms in Tunisia and Egypt

Successive waves of tax, legal and administrative relief undertaken in Egypt and in Tunisia in the 1990s and 2000s enabled in short:

- the arrival of private investors on the Tunisian market, including in historically state-controlled sectors (oil and gas, services. . .) but also the end of the difference in treatment between domestic and foreign investors (dear to supporters of trade liberalisation). Better yet, and this is quite significant, foreign investors are at an advantage insofar as they are more active in export sectors, which are notoriously speculative for some of them.
- putting bureaucracies and elites close to the regime in a decisive position as regard decisions relating to the award of licenses, markets, contracts. . .

Whilst they have created a favourable environment for the private sector, they have created contradictions, burdens, inconsistencies that strengthened the decisive role of administrative and political authorities.
Therefore, these reforms did not entirely deprive the authorities and their allies in the business community from a certain number of levers allowing them to continue to control economic activity, and above all to benefit from it, particularly through the allocation and remuneration of major contracts with international operators.
Yet in all of this, the European Union and its businesses have a significant role.

b. Association agreements with the European Union: ‘trojan horses’ of a strong phase of liberalisation

Economic and trade ‘cooperation’ between the European Union and North African countries began in the 1960-70s.

It aimed to be an extension of existing historic relations between some countries of the European Union, especially France, with the Southern Mediterranean, particularly with the three countries of the Maghreb. This was to simultaneously keep the zone within the scope of European political influence, create a legal framework to pursue economic and trade relations that existed prior to decolonisation, which were based on a dynamic fabric of businesses and traders flowing freely between the two shores of the Mediterranean, and to introduce tools to control migration flows towards the European Community.

After an initial phase of assistance — it was quickly identified —, beyond the speeches promoting partnership and cooperation, that Europe was willing to focus its action in the broader movement to support the implementation of liberalisation reforms undertaken in Tunisia and Egypt in the 1970s and 1980s.
However, the initial stages of economic and trade cooperation had limited results, and progressively, the EU became bigger and the frameworks and instruments of its intervention became more complex. And under the guise of support of the economic and social development of these countries, it became a direct promoter of the privatisation

The EU, under the guise of support of the economic and social development of these countries, it became a direct promoter of the privatisation and liberalisation of trade and investment in both countries.

and liberalisation of trade and investment in both countries.

The first trade agreement signed between the EEC and Tunisia in 1969, which sought to establish customs regulations that would facilitate the entry of Tunisian products on European markets without customs duty, and to protect sensitive sectors in the European Community, particularly agriculture (whilst establishing special tariffs

for agricultural production that did not compete community sectors).
New agreements were concluded in 1976, which overflowed from the existing trade cooperation, in order to support economic and financial reforms in the form of specific loans allocated for the reorganisation of some economic sectors. However, this was coupled with new restrictions on market access for Tunisia, particularly in the textile sector, which stopped benefiting from access to a zero rate. In the agricultural domain, the EEC defined a tariff schedule to frame preferential access for agricultural products on the European market during seasons in which European consumption could not be satisfied by local production.

From 1991, European cooperation, including for trade, changed directions supported by structural adjustment programs that were being implemented simultaneously in both countries. Financial support focused on economic and structural reforms.

In 1995, 12 Mediterranean countries (non EU members) signed the Barcelona Declaration with the EU, which would promote Euro-Mediterranean relations in a renewed pursuit of prosperity and sustainable social development. Nevertheless, the trade aspect, through the signing of the free trade agreements, was an essential pillar of this strategy.
The association agreement (AA) concluded in 1995[39], a few months after the completion of the Marrakesh Act between the EU and Tunisia, established a framework for dialogue focused around the implementation of the reforms accompanying Tunisia's membership to the WTO: in other words, the association agreement is the running board for the country's entry into globalised trade.
All Association Agreements include the same components of economic and trade reforms, some of which are made obligatory upon signing[40]:

- the gradual liberalisation of industrial products imported from Tunisia to the EU, with some exceptions (particularly in favour of new and fragile industries and for agricultural products) and subject to compliance with the cumulative rule of origin in the EU, Morocco and Algeria;
- specific rules on the liberalisation of agricultural and fishery products, which provide a timetable for custom duty and tariff quota reductions per product, pending further liberalisation as part of further negotiations;
- Solid efforts to protect intellectual and industrial property rights, and trade, in accordance with the standards set out in the framework of the WTO.

Other aspects are not legally binding, but strongly suggested:

- the widening of the freedom of establishment for European firms in thesSouthern Mediterranean countries and the strengthening of investment protection provisions;
- further implementation of the commitments made through WTO membership in order to truly offer MFN treatment in the sector of a number of services (which means trade and investment liberalisation in this sector);
- the facilitation of transactions through the simplification or standardisation of customs procedures;
- or the rapprochement of compliance assessment systems, and the harmonisation of a number of administrative and technical protocols that would enable companies on both sides of the Mediterranean to sell or operate on the other party's territory.

The EU-Tunisia AA provides for a gradual reduction (over a period of 12 years from the effective date, in 1998 in theory) of customs duties across the European market, and an erosion of preferential benefits enjoyed by Tunisia pursuant to the 1976 agreement. Yet Tunisia began its tariff dismantling process in 1996. It also included a financial assistance component aimed at upgrading Tunisian businesses to make them competitive on European markets[41]. In the words of the Tunisian Ministry of Development and International Cooperation, 'since 1st January 2008, the free trade area is for all industrial products with the exception of the negative list that is not affected by this agreement and which represents 0.5% of our EU imports. This list consists mainly of second-hand products, yoghurt, pasta, mineral water and crafts'[42]. As regards trade in agricultural products, the association agreement and the 2000 Additional Protocol provides for greater trade liberalisation through the establishment of zero or reduced customs dutiy quotas and export schedules for both parties. Nevertheless, the negotiation of agricultural products continued here and there over the following years, without leading to any significant outcome. A significant effort was made in 2008 and, as part of subsequent negotiations; the European Union aspired for full and 'comprehensive' free trade agreement (see below). The objective would be to achieve broader market access for European agricultural exports in Tunisia, and to create conditions for easier access for a number of Tunisian products to the EU market, similar to what the agreement with Morocco, entered into force in 2012, provides for olive oil, for example[43].

There are many historic similarities between the links between the EU and Egypt.
The first cooperation agreement between the European Community and Egypt dates back to 1977 and was followed by four subsequent protocols, which included financial contributions and various aspects of economic and technical cooperation, but also included a trade aspect. In reality, these programs help to finance the vast

liberalisation reforms programme initiated by A. Sadat in the 1970s, including the privatisation programme, the development and investment programme in the private sector and the reorganisation of the financial sector. The AA between the EU and Egypt was signed in 2001[44] after several years of negotiation but didn't enter into force until 2004. Just as it does in Tunisia, it provides for the progressive abolition of tariffs on industrial goods over a twelve-year period, extended to sixteen years for cars. From this point of view, it would put an end to the existing asymmetry in trade relations between the two countries since the Egyptian industrial products already enter on European markets (excluding textiles and clothing) without paying customs duties.

It does not include agricultural, agri-food and fishery products, which are subject to a separate agreement, entered into force in 2010. This agreement outlines that Egypt will give immediate free access to all European farm and fishery products, with a few exceptions (alcohol and pork in particular). Some sectors (e.g. textile fibres and chocolates) would benefit from a 50% reduction of customs duties without quotas. The European Union welcomed the agreement, which "should strengthen the position of European exporters on the Egyptian market, the largest in the Middle East,"[45].
In return, the European Union agrees to fully open up its markets to Egyptian agricultural products, accept for a number of sensitive products also produced in the EU (vegetables, sugar, certain fishery products) that are still controlled by schedules and/or quotas.
This is a clear erosion of the trade preferences that Egypt used to enjoy, even if they were strictly supervised: yet 27% of Egypt's working population works in agriculture, mainly peasant agriculture (80% of farms are less than a hectare in surface area), and depends on local agricultural markets to survive[46].
In the services field, negotiations continued without any significant outcome until the January 25 revolution. Regional dynamics of political change have led the EU to revise its entire political strategy towards 'Arab spring' countries, and to offer to reopen negotiations with them with a view to concluding 'deep and comprehensive free-trade agreements', according to the Directorate-General for Trade).
This was a new page in the history of trade relations that could be written, without changing the European free-trade approach, quite the contrary.

c. The new generation of EU trade agreements with North African countries

In 2012, the EU was Tunisia's largest trading partner, and represented 62.9% of total trade for the country. The EU mainly imports machinery and transport equipment, textiles and clothing, and oil and mining products. However, in reality it exports the same products, excluding chemicals. EU investment flows to Tunisia are also relatively concentrated in the textile, infrastructure and tourism sector.
The EU is also Egypt's biggest trading partner, representing 22.9% of Egyptian trade volumes in 2013. 45% of EU imports from Egypt are energy and mining products (oil and gas, cement) followed by chemical products, textiles and clothing, as well as tourist and haulage services. As for the EU, it exports transport equipment, infrastructure, and business services.

However whilst trade volumes have increased, and the EU remains a major trading partner for both countries, the results of this long, complex and costly process do not seem to have been as spectacular as was hoped.

Proportion of exports towards the EU (% of total exports)

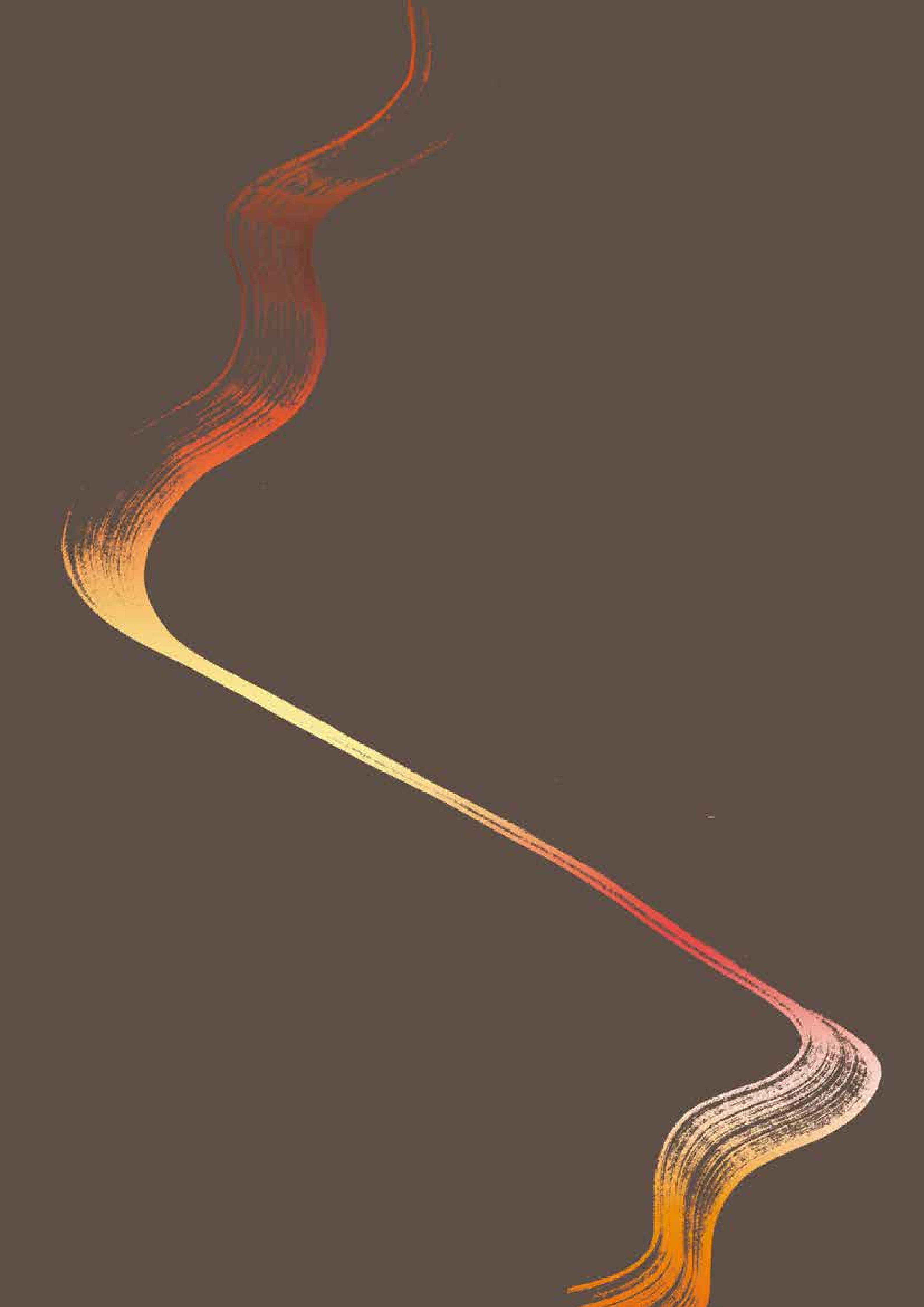
Egypt	47	36
Tunisia	80	73

Proportion of imports from the EU (% of total imports)

Egypt	40	32
Tunisia	71	67

Sources: Mahmoud A.T. Elkhafif, Sahar Taghdisi-Rad, Mutasim Elagraa, Economic and Trade Policies in the Arab World: Employment, Poverty Reduction and Integration, Routledge, 2012

Indeed, whilst one can observe an increase in the volume of trade between the EU and each of the countries involved, there has also been a fall in Tunis and Cairo' market shares in EU, and vice versa.



There are many reasons for this; first and foremost the association agreements have not brought much greater trade benefits to the Southern Mediterranean countries than they had prior to signing.
Secondly, because they seem to have transformed the production structures, by simultaneously encouraging investment in competitive sectors compared to European markets (electronics, tourism), they have not had spectacular macroeconomic effects and have not significantly improved the number and quality of jobs, or the standard of living of local people.
Immediately after the implementation of the EU-Tunisia AA, one can observe an overall increase in foreign direct investment, from 17.8% to 21.2% of GDP over the 1995-96 to 2000- 2002 period[47]; but the inclusion of privatisation largely inflates this figure, and these investments are largely concentrated in highly labour intensive work. The dismantling of the international quota system in the textile sector (the WTO's Multi-Fibre Arrangement) is rapidly slowing foreign investment in this sector, and exposes the entire industry to Asian competition, which will result in tens of thousands of job losses.

For their part, liberal economists judged the relative failure of the AAs based on the weakness of their non-tariff and regulatory aspect, and rightly so if we take the perspective of strict causality ‘Trade = > Growth = > Development ’, because customs duties across the industry were already very low or non-existent and the EU remained relatively protectionist in the agricultural sector. In order to really increase the opportunities for Tunisian and Egyptian economic operators, the AAs should have focused on new sectors (e.g. services, public contracts) and even more on issues such as the compliance of southern Mediterranean countries with European sanitary and phytosanitary in the agricultural, agri-foodstuffs and industrial sectors.

For A. F. Ghoneim, the positive impact of the EU-South Mediterranean integration is mainly implicit: it allowed North African countries to not lose market share in the face of competition from new Asian exporting countries[48].
The AAs between the EU and Southern Mediterranean countries also propelled them into corporate globalisation, and led to the proliferation of free trade agreements in Tunisia and Egypt.
AAs thus prefigured the conclusion of many other free trade agreements between the two countries and contributed to further integration of their economies on international markets.
Tunisia and Egypt thus formed part of the Agadir Agreement[49], a prelude to the construction of a free trade area involving all the countries of the Maghreb-Mashreq region (Morocco, Tunisia, Egypt, Jordan and Palestine)[50]. Tunisia is also part of an agreement with the European Free Trade Association (Switzerland, Norway, Lichtenstein and Iceland), as well as several bilateral agreements (Morocco, Egypt, Jordan, Syria, Libya, Turkey). Like Egypt, it is also a signatory of the GAFTA Agreement (Great Arab Free Trade Area) signed in 1997 with 17 countries of the Maghreb, Mashreq and the Middle-East regions[51], which led to the official abolition of a sizeable part of customs duties between these countries in 2001.
In addition to the Agadir Agreement and GAFTA agreement, Egypt also signed a preferential trade agreement with the EFTA, MERCOSUR (2010), COMESA (1998), and with Turkey (2005) as well as a considerable number (see above) of bilateral investment agreements.

The reaction of the European Union to these historic changes in policy can be summarised in three words: more free trade.

The political economy of the Arab uprisings has been widely analysed[52].
The entire commercial framework, the creationg of which began with the AAs, should contribute to trade and economic (according to the liberal doxa) of the region’s economies.
However, in the face of an economic and social situation that is not progressing as such, and as the global trade integration did not improve living conditions, especially for young people, tensions grew in North African societies, especially since the average standard of living rose, which meant that certain categories of the population were indeed made richer from the economic changes at work, in an increasingly concentrated manner and in a context of corruption and of clear ‘heritagization’.
From 1996 to 2006, although the North Africa/Middle East region's working population grew three times faster than the rest of the developing world, and its level of education improved, it is also the region with one of the highest real unemployment rates. Not only has massive liberalisation not created enough jobs to absorb regional population growth, but it has also required the public service to be contracted.
The South Mediterranean region is also one of the most dependent in terms of food due to natural constraints, but also due to failed policies to support food sectors of the economy. The rapid increase of international cereal prices that had caused riots in West Africa did not spare North Africa where the price of basic commodities have significantly increased over the last decade and forced governments to spend increasingly bigger parts of their budgets like in Egypt, without further structural intervention.

The reaction of the European Union to these historic changes in policy can be summarised in three words: more free trade. As of the spring of 2011, the rich countries met at the G8 summit in Deauville to engage in discussions about the type of support to be given to countries affected by the Arab spring, and to this end would identify support for further development of trade integration among the 4 pillars of their policies (along with stabilisation, job creation and good governance [53]).

According to the US State Department, the measures deployed will include:

- initiating bilateral and regional trade initiatives in order to widen access to markets, lower trade barriers and further promote trade between countries 'in transition' and the G8 countries, including the proposed free trade area between the US and the Middle East/North Africa region, and the launch of negotiations for 'comprehensive' and 'systematic' free trade agreements with the EU,
- to finance trade facilitation through specific financial initiatives,
- [. . .] to encourage the strengthening of investment frameworks and agree on a set of principles for it,
- to encourage the efforts of countries 'in transition' to join the OECD declaration on International investment and Multinational Enterprises,
- to facilitate trade reconciliations in key areas, particularly investment those focused on information and communication, renewable energy, agriculture, infrastructure, transport and tourism,
- to provide technical assistance to boost the competitiveness of countries 'in transition' and consolidate their investment regimes.

This is the first step.
At the same time, the EU, which is aware of the relative failure of the AAs and anxious to obtain increased benefits for its businesses, has questioned the future of trade relations with the Southern Mediterranean countries for many years, especially since a number of sectorial negotiations planned as part of the AAs encroach on services or on public contracts.
Since 2006, the EU has also had a comprehensive strategy that seeks to position its economy among the most competitive in the world, and to secure markets and the interests of its companies, especially through extensive trade agreements in the services, public procurement and investment domains [54].
Therefore, without a thorough assessment of the last 15 years of trade liberalisation, that the EU clearly outlined its strategy as of February 2011, using C. Ashton as a spokesperson: to respond to the economic challenges that caused the Arab spring, 'we must work on market access and trade measures' [55]. Upon recommendation of the Commission, the Foreign Affairs Council approved the opening of trade negotiations with the four countries of the Agadir Agreement on 14th December [56].
According to the Council's statement, 'the future comprehensive free trade areas will fit into the framework of the existing Euro-Mediterranean association agreements, and will cover a range of regulatory areas of mutual interest, such as trade facilitation, technical barriers to trade, sanitary and phytosanitary measures, investment protection, public procurement and competition policy. [. . .] The initiation of trade negotiations seeks to improve the opportunities for access to the markets of Egypt, Jordan, Morocco and Tunisia, and to create a climate conducive to investment in those countries. The negotiations also aimed to promote the process of economic reforms undertaken in these countries.'
The council's decision was followed by an effort from the European Parliament's Trade Committee in February 2012 that led to the vote on the 'Strategy for trade and investment for the Southern Mediterranean following the uprisings of the Arab Spring' in May [57].
The World Bank provides details on the potential objective of these DCFTAs [58]: to dismantle the regulatory technical barriers to the liberalisation of services and investment; to engage reforms of the rules and procedures pertaining to competition (state aid, subsidy policies, various restrictions. . .) and to open up Tunisian public procurement to international competition.
Progress will mainly benefit economic operators in the European Union, but it is difficult to see that how they will manage to boost employment and wealth redistribution in Tunisia and Egypt.
Nevertheless negotiations have begun with Morocco, with four rounds of negotiations having taken place since March 2013. The preparatory process is moving forwards with Tunisia: the impact study commissioned by DG Trade was officially released in November 2013 [59], and the EU Delegation in Tunis has increased its consultations with various local economic and social actors [60]. As for Egypt, it was delayed by political instability in 2012 and 2013, but in early 2014 DG Trade expressed its willingness to reopen discussions: the impact studies are in the progress of being conducted [61] and the European Ambassador in Cairo reiterated the EU's commitment to resume the dialogue [62].

3

A haven for multinationals and their allies

a. Social, tax and regulatory havens. . .

The legal and institutional climate, as we have demonstrated, is extremely conducive to the establishment of foreign companies in North African countries, especially in Tunisia and Egypt. They benefit from conditions almost tailored for them to operate as they please, at a low cost, and with the best support.

In Tunisia[63 64 65], direct investment in companies that export their entire output offers many advantages in terms of foreign exchange, tax and social legislation:

- Full tax exemption on profits for the first 10 years of income generated from export, agricultural projects, projects in regional development zones, and a 10% tax rate as of the 11th year but which can easily be avoided by creating a new company;
- Rebates are granted on profits and reinvested income between 35% to 100%;
- Suspension of VAT and consumer tax on imports or the acquisitions of goods, products and services required for the execution of export operations;
- Sale for export or to other companies operating in Tunisia exempt from VAT;
- The exemption of all para-fiscal taxes such as registration fees for exporting companies;
- Exemption from withholding tax on fees and charges paid to individuals and foreign corporations for companies that export their entire output.

Private companies also benefit from investment premiums; when all of their output is exported and they are established in areas of regional development, they benefit from investment premiums equal to between 8% and 25% of the cost of the overall investment.
In most sectors, any foreign investor can hold up to 100% of the project's capital without authorisation. In the agricultural sector, foreign investors may hold up to 66% of the company's capital. The acquisition of shares in Tunisian companies does not require authorisation for up to 49.99% of the capital. The same applies for foreign residents. Any acquisition exceeding this cap requires approval from the Higher Investment Commission. Interest, dividends and capital gains earned by foreign investors in Tunis are not liable for taxation and their repatriation is not subject to any restrictions.

Workforce conditions are also very favourable because Tunisia has a highly educated workforce and a large number of educational institutions that train technical and scientific experts. Furthermore, with the same levels of skills and training, the salary of a Tunisian engineer is a fifth of that of an engineer of the countries of southern Europe: the annual salary of a entry-level computer engineer is 1000 euros, and wages are on average three to five times lower than the European wages, since the hourly cost is. . . 1.45 euros on average, compared to 9.5 euros gross in France (hourly minimum wage). Similarly, whilst trade union rights and the right to strike are theoretically guaranteed by Tunisian law, the existence of great pressure from employers on unionised employees as well as on those who engage in collective action is such that they are regularly violated. There is indeed no penal system punishing employers' abuses in this area, which further supports them in their arbitrary practices.

Egypt offers incentives in the form of tax rebates, subsidies or regulatory exemptions[66].
Tax rebates include exemptions during a given period of time or customs duty exemptions (5 years renewable tax exemption or even more in cases where the investment takes place in areas of priority development, new cities or industrial areas). Favourable regimes are also granted to foreign companies investing in specific sectors: new industries (for structures with more than 50 employees), some tourism (hotel management, extension of tourist projects), development activities on raw land or even livestock-related activities, poultry farming and fisheries, and accounting firms, enjoy substantial tax exemptions, including corporate and profit tax.

Businesses are also able to operate in 'free' areas, whose tax regimes are even more advantageous since they are considered as being outside the country's customs borders. Companies with more than 80% exports can operate in these areas in their own currency. All companies, both local and foreign, that operate in these zones are exempt from customs duties, sales tax, capital assets and intermediate goods, without any time limit. There are currently 10 'free' public zones operating in different regions, but mainly on the Cairo-Alexandria route and in the Suez Canal area[67].
Private 'free' areas can also be created around a specific project with the government's permission. Export-oriented activities are then prioritised and there are no restrictions on capital ownership for foreigners.
Special Economic Zones can also accommodate industrial and agricultural activities, or services designed specifically for export. Leading companies can import all equipment and materials without any customs duty, while being exempt from sales taxes and indirect taxes, in addition to benefiting from greater flexibility of labour laws.

Financial support may also be provided by the government in the form of direct loans, guarantees, export credits, asset conversion. . . As for regulatory concessions, there are common law exemptions.

Labour costs are particularly low. Junior executive salaries are at the same level of those of Indonesia, the Philippines, Pakistan or India, but there is a much more advantageous geographic proximity to European businesses. The average salary for all categories is roughly 100 euros, and the salary of a junior IT operative is equivalent to 12.43% of its US counterpart, i.e. roughly 7,400 USD per year. Senior salaries are even lower than those of their Indian or Malaysian counterparts[68]. Labour market flexibility is also an incentive[69] since there is almost no time limit in open-ended employment contracts and the obligatory minimum salary only exists for public sector employees[70].

European companies also enjoy an extremely beneficial investment protection regime, as defined in the many bilateral investment treaties signed by Tunisia and Egypt respectively from the 80s (see above).
As such, AAs between the EU and the two countries do not have binding clauses in this respect. They encourage cooperation in order to improve the local environment and the transparency of information and procedures, but above all they call upon Tunis and Cairo to sign bilateral agreements with the EU Member States, which also already existed in 1995 for a number of them.
The agreement signed by France and Tunisia in 1997 seeking 'the encouragement and reciprocal protection of investments'[71] requires both parties:

- not to discriminate between national and foreign investors;
- to treat all investors equally and fairly;
- not to take direct or indirect expropriation measures except in the case of eminent domain and without discrimination;
- to guarantee the free transfer of capital.

It also lays out the procedure in the event of a dispute between an investor and one of the parties of the treaty, and gives the responsibility to rule to a panel of arbitrators under the auspices of the ICSID.
Investment protection between France and Egypt is governed by a Convention published by decree dating from 1974[72], and then modified in 1986, which contains exactly the same clauses, word for word. And we will see that arbitration clauses related to investment are the delight of European companies operating in North Africa.

b. The factors and local circuits of power in the economic field

However liberalisation does not necessarily mean complete freedom for foreign investors, and it is important to understand the systems of political economy forged in North African countries since the great reforms of the 1980s. In 2006, a cable from the State Department's US Ambassador to Tunisia, later revealed by Wikileaks, established personal links of over half of the Tunisian economic elite with Ben Ali. In Egypt, a similar network existed and was based on Gamal Mubarak's (the Rais'son) personal connections in the business world. He also rubbed shoulders with another powerful network, that of the economic interests of the army.

In this case, the detailed analysis of incentive schemes and investment control in both countries shows that interventions and political interference remained high, even if liberalisation did formalise many advantages for private operators. Whilst the specific forms of power in the Tunisian and Egyptian authorities vis-à-vis the economic field differ, they nevertheless have much in common, first and foremost the close links between the clan in power with the economic elite, both local and national.

Liberalisation does not necessarily mean complete freedom for foreign investors.

B. Hibou analyses in detail the tight control exercised by the Ben Ali clan over entrepreneurs, in the larger sense[73]. She explains in particular, in light of the numerous interviews conducted with business leaders and Tunisian businessmen between 1996 and 2005, the terms of the government's constant intervention in the economy, including in the offshore sector held overwhelmingly by foreign companies.
While liberalisation and privatisation have made the involvement of foreign investors on the Tunisian market possible, they have followed a seemingly contradictory logic: increased accommodations and incentives for businesses, increased protection of their assets and their circulation capacity, whilst, at the same time, maintaining forms of interference, obstacles, preferential treatment or even sanctions, from political authorities and their offshoots (administrations, regulatory agencies. . .): 'in off-shore companies, for example, it is not uncommon for the governor or representative's departments, or the labour inspection department, to provide one or two employees, this practice is widely accepted'[74].

Tunisia does not grant exactly the same rights to foreign and domestic investors in many sectors, such as agriculture and food processing. It also limits foreign ownership in companies in sectors considered as strategic, including some services of general interest. Tunis allows private investment in almost all sectors but only with special authorisation and through concessions granted by the state in sensitive sectors (energy, retail, services. . .) and the right to inspect commercial activity methods.

Other researchers are analysing the functioning of the Egyptian political economy during the Mubarak era.
And the Central Bank and the Egyptian political elite have long controlled the financial system. The granting of loans and financial facilities remained contingent upon political considerations, favouring public companies despite the uncertain outcome of projects[75]. The real economy has a lack of banking services and a large proportion of the savings is not channelled through it. At the end of the 2000s there were no private companies likely to fund emerging sectors.
In the 1980-90s, the client based formed under Nasser gradually became autonomous due to privatization and economic liberalisation, and turned primarily towards speculative activities (real estate, international trade), but needed to be closer to power, which still played a decisive role in the allocation of licenses, permits, facilities. . .
Barriers to competition exist due to the protection of specific interests by the bureaucracy and local political elites: Egypt is a country of tycoons and economic empires, big businessmen at the head of asset holdings in a multitude of different sectors. Regulations overlap and contradict one another, and only the political power and those close to competent authorities can influence their allies.
H. Yousfi cites a French entrepreneur who explains: ‘In this regard, a French investor comments that "The fact is that in Egypt and many other countries in the Middle East, (interpersonal) relationships are very important in the functioning of the economy. If you do not go through a contact, there is no way to get to the right person, who will be there on day that you want to make a decision (since you won't find the information in the newspapers or in the law. . .). We are in a country of middlemen, and more so, people who want to have exclusive business representation. . . Being a representative of foreign companies is an occupation in its own right in Egypt’[76].
Egypt is actually a paradox, both more open and more protective than Tunisia. It upholds significant constraints to investment, such as the obligation of joint ventures in sectors such as energy exploration and exploitation. After the revolution, it even introduced capital transfers control instruments that limit transfers to US $100,000 unless a proven business purpose can be demonstrated and authorisation is obtained from the Central Bank of Egypt. There are also restrictions on the nationality of the staff hired by foreign companies, which cannot be composed of more than 10% foreign nationals, and expatriate management staff have local executive training requirements. As part of some privatisations, companies have been contractually obliged to keep all employees. As we have said, ownership remains the responsibility of the state.

In either case, the massive liberalisation of investment and capital flows and trade openness have therefore not formed an economic system that is out of control, but rather a form of privatised state capitalism, organised in various ways to increase the wealth of its elite.
Furthermore, this combination of massive economic openness and the existence of these networks and clans and interventionist bureaucracies who are eager to exercise their control in order to please the previous ones has, against any initial instincts, boosted large foreign companies.

Following on from H. Lado[77], we imagine that, in such contexts, only multinational companies are able to ‘mobilise the best expertise, various sources of international funding, the support of the host country, and various lobbies to defend their interests.’

For him, a predatory multinational exercises its domination through (knowing that a state may at the same time act as a predator with regard to the company in question):

- corruption,
- tax circumvention or tax avoidance,
- a disproportionate distribution of added value in favour of the company,
- the destruction of the local economy through activities that do not consider the environment,
- the intimidation or violence towards actors opposed to the methods of the company,
- the use of production processes, techniques or materials prohibited in their original environment due in particular to the impact on health or the environment,
- untreated water discharge or the appropriation of nature without reparation and the degradation of human kind and ecosystems,
- the violation of human rights within their sphere of influence,
- complicity in acts of violence or in the destabilisation of host states.

Observing the practices of French companies in both countries examined in our analysis highlights the fact that many of them fall under one or several of these categories.

c. An overview of the French companies established in both countries covered by this report

Data pertaining to foreign economic presence in Tunisia is very detailed and available through the Foreign Investment Promotion Agency (FIPA)[78].
In December 2013, there were 3116 foreign companies operating on Tunisian soil, under very unequal conditions depending on the region, nationality, business industry. . . 90% are concentrated in three regions: Greater Tunis, the North-East and East Central.
France is by far Tunisia's largest investor. At the end of 2012, the FIPA identified 1269 companies with French capital in the country: 628 with capital wholly owned by French investors, 566 Franco-Tunisian partnerships and 75 companies that hold a combination of French capital and capital from another country[79]. These businesses generated nearly 123,000 jobs, i.e. 35.1% of the total number of jobs created by FDI, and an average of 96 jobs per company.
Italy has the second highest number of foreign business established in Tunisia: 671 businesses with more than 42% of them in the textile & clothing sector, 82 in the mechanical sector, 76 in electronics and electrical sector, 67 in leather and shoes sector, and 46 in the food-processing sector.
Germany is next in the ranking, followed by Belgium, Britain and the Netherlands[80].
In any case, the European Union was by far the largest foreign investor in Tunisia: 2952 companies, and 308,685 jobs.

We do not know the breakdown of these businesses by size, although we do know that many of them are SMEs. The FIPA does, however, provide details of their activities by sector:
'There is a significant number of French businesses the industrial sector with 1,006 businesses having established their place in Tunisia's industrial fabric (867 of which export their entire output). In terms of the number of businesses, almost half (412) operate in the textile & clothing industry, leather and shoes being the biggest in terms of the number of jobs (44,862). It is important to remember that Tunisia is the 5th biggest supplier of textile products to the European Union. On the other hand, 27% of French operations involve high value-added businesses such as the mechanical, electrical and electronic industries that have experienced sustained expansion and a strong modernisation in recent years. French presence was also strengthened in the service sector with 193 companies (including 150 that export their entire output), representing over 16,200 jobs in particular with the development of call centres, engineering and consulting firms, IT services companies. . .'

The FIPA also provides a list of the biggest companies:

Electromechanics and electronics
AEROLIA / LACROIX ELECTRONICS / MGI COUTIER / OXYMETAL / SAFRAN / SOMFY / VALEO / ZODIAC

Agri-foodstuffs
DANONE

Textile
CHANTELLE / CHOMARAT / DAMARTEX / FAURECIA / ROULEAU GUICHARD / ZANNIER

Plastics manufacturing
LEMAN INDUSTRIE / GROUPE PLASTIVALOIRE

Call centres
3 SUISSES INTERNATIONAL / TELEPERFORMANCE / STREAM FRANCE

Research & Development
ACTIA GROUP / SAGEMCOM / STMicroelectronics / ARCHIMED / SUNGARD FINANCIAL SYSTEMS

Chemistry
AIR LIQUIDE INTERNATIONAL

Haulage
ALSTOM TRANSPORT SA

It fails, however, to include other flagship companies in the industry and French services, present through majority stakes in Tunisian establishments or through contracts for exploration and / or exploitation in the energy sector, or accustomed to large contracts with the Tunisian government, without actually having a legal presence in the country:

- BNP Paribas (which holds 50% of its local subsidiary UCBI), Crédit Mutuel, biggest shareholder of the Bank of Tunisia, and Société Générale (which holds 52% of the UIB shareholding), the same applies for Groupama in the insurance field (which holds a 35% stake in the Tunisian insurance company STAR),
- Renault, Peugeot and Citroen have production, assembly or marketing subsidiaries in the country;
- Casino and Carrefour in the retail sector;
- the Accor group in tourism management (which spectacularly announced its departure from the country in 2009. . . only to return in 2010);
- The Orange group, through Orange Tunisia;
- Total, GDF-Suez or Areva in the energy sector;
- The Bolloré group in various sectors (logistics, infrastructure, transport. . .).

These big names do not hesitate to enjoy the generosity of a system that incentivises Tunisian investments, in defiance of both labour rights, environmental protection and public interest.
In this instance, many of them did not hesitate to jump into bed with the Ben Ali clan via financial transactions, and, what is more, extremely questionable financial transactions.

The data is not as abundant, and less accurate for Egypt.
In 2012, UNCTAD counted 271 foreign companies in Egypt, or in its nomenclature, companies that have at least 10% of foreign capital. But this is probably an underestimated figure, and no other is provided by the various agencies responsible for investment in the country.
The EU seems, however, to be Cairo's biggest partner for investment. In this context, France is ahead of all foreign investors. According to the INSEE (National Institute for Statistics and Economic Studies) survey quoted by the Embassy of France in Egypt , French presence would amount to a hundred subsidiaries, employing nearly 30,000 people. Still according to the Embassy of France in Cairo, the Egyptian investment authority counted more than 500 French companies in the country.
According to the Central Bank of Egypt, French FDI inflows reached 266M USD in he 2012/2013 tax year (-16%) and ‘each year France is between 3rd and 6th place in terms of foreign investors in Egypt, after the United Kingdom, the United States and more recently the UAE, and even Belgium and Qatar, but ahead of Germany and Italy.’
This did not prevent the Egyptian Minister of Trade and Industry from calling for, during an official visit to Paris organised in early 2014 with the objective of meeting with French groups, the increased presence of French automotive and oil multinationals in his country[82].

Which French companies are active in the country?

- In the food-processing sector: Danone has two subsidiaries, and is leader for a number of dairy products. Lactalis is also active (as a joint venture), Bel through a local subsidiary and Bongrain in partnership with an Egyptian group[83];
- Credit Agricole, which holds a 60% stake in Crédit Agricole Egypt; BNP Paribas and Société Générale left the country in 2012 selling their respective subsidiaries to the banks Emirati and Qatari;
- Orange is the majority shareholder (94% stake) of the mobile phone operator Mobinil;
- Téléperformance, of course, has been present in the country since 2007, with roughly 1,000 employees;
- Carrefour, present since 2002, via supermarkets under the Market brand;
- Major industrial groups such as Lafarge (which employs 2,500 employees through its cement and aggregates subsidiaries), Vicat, Schneider and Nexans and Legrand;
- Large infrastructure groups: Vinci and Bouygues, Alstom (holder of large contracts for the Cairo underground);
- Valeo and Renault — through its partner Nissan — in the automotive field;
- GDF-Suez (which carries out exploration and exploitation operations through a subsidiary of ENI), Total and Technip;
- Finally the Accord group (18 hotels) and Club Méditerranée (3 centres) in the tourism sector.

Other foreign multinationals are very active in the country:

- BP, which produces nearly 40% of Egypt's natural gas and accounts for 40% of oil production, Apache Petroleum, and ENI in oil and gas exploration;
- British Gas;
- Barclays, Citigroup and HSBC in finance and banking;
- Nestlé in the food-processing industry (factories and distribution centres).

But Egypt remains a weak-exporting country across its market of 82 million inhabitants, focussing on a few basic products (agricultural, energy, industrial) with low technological content.

In both countries the preferred sectors for French economic operators is clear:

- agri-foodstuffs,
- retail,
- energy extraction and materials from mining,
- infrastructure and transport,
- banking and financial services, telecommunications and business services,
- tourism.

Both countries also welcome many textile and clothing production units for export. Mechanical, electrical or equipment industries (including automotive) are also widely implemented in offshore zones also devoted to export-oriented activities.

4

Multinationals against development? Observations based on the actions and wrongdoings of French companies in Tunisia and Egypt

The list of wrongdoings committed by French companies in North Africa is long. However, we must immediately highlight that they by no means have the monopoly of the 'cases' of compromises of principles and even crimes compared to their counterparts in other countries.
The level of their economic involvement, particularly in Tunisia, and the nature of their activities (infrastructure, oil and gas exploitation, telecommunications, banking. . .) lead to frequent negotiations with the ruling regimes in countries where they wish to clinch contracts. A certain French business 'ethos' certainly reinforces this trend. The diplomacy of 'big contracts', the tendency to constantly mix political and economic fields, have found favour with many Ben Ali and Mubarak clans and families but also with other heads of state from the region.

Far from claiming to be exhaustive, the following explanations are intended to show the multiplicity of reprehensible practices carried out by French multinationals in the region, particularly in Tunisia and Egypt, thanks to the dual context of liberalisation/intervention developed by the regimes in place.
Our aim is not to condemn all economic actors in the Maghreb-Mashreq region, of which most merely exploit social and tax advantages granted by the local system of incentives for investment.
In line with the hypotheses of H. Lade[84], the aim is rather to show the specificity of the methods of interaction of multinational companies with the local political, economic or social climate.

How to regulate foreign investment and its causes so that they contribute fairly and sustainably to the countries in which they are deployed?

These examples of course raise questions about the instruments that exist or need to be created in order to strengthen the state and citizen control over their activities. However, they also bring into question the responsibility of these economic operators — even when they do not violate any laws — in terms of the development, and contribution to the enforcement of the economic, social or environmental rights of local populations. The initiative and commitment of local governments is paramount in the creation of endogenous development, which values domestic resources, and contributes to the development of local capacities, both human and environmental. However, without exonerating the predatory and authoritarian regimes of Mubarak and Ben Ali of their crimes, or their renunciation, the examples presented clearly demonstrate the failure of the models of "development" based on FDI and the exogenous growth that has been imposed over the last thirty years. They also raise a cardinal question: how to regulate foreign investment and its causes so that they contribute fairly and sustainably to the countries in which they are deployed?

a. The contribution of French companies to local development

Economic theory establishes a number of channels through which the presence of foreign multinationals in a market can translate into positive impacts[85]: the promotion of competition for subcontractors, the training of human capital, knowledge transfer and technology in particular.
Other analysts seek to assess these impacts through indicators and various other factors[86]: do multinationals contribution to local taxation? Do they create local jobs and which ones? What types of goods and services

do they provide for the local population? Finally do they support the local economic and social development by reinvesting part of their profits in other economic sectors?
The accurate assessment of these impacts in the case of French companies in Tunisia and Egypt would require in-depth investigations, which still need to be conducted. Nevertheless, a number of empirical observations can be made:

- a relative disjunction of these firms vis-à-vis local development and long-term objectives, and the pursuit of high and short-term yields,
- the importance of the diplomacy 'of major contracts' for many of the companies involved in mining, infrastructure, haulage, telecommunications, and even banking in countries where government authorities must inevitably validate the acquisition of foreign groups in their countries' banking and financial institutions,
- employment in industry (automotive or textile subcontracting) or poor quality, underpaid services (call centres, tourism) often in difficult conditions, and recruiting often overqualified for very low-level jobs,
- significant environmental costs, due to a major commitment in the fossil energy, chemical industry and transport sector.

The activity of French multinationals in both countries reflects the dual structures of the economies of the MENA region, and the existing disconnect between local economic sectors characterised by a strong predominance of informality and small structures, which fuels short, local commercial circuits, and creates an area dedicated to export and rentier accumulation, even when it involves local entrepreneurs.
These companies also help to perpetuate the rentier economy, largely backed by oil and gas exploitation, but diversified in the financial, telecommunications or tourism sector.
Although they are particularly lucrative, these sectors generate profits that are not reinvested locally. On the contrary they are mostly transferred to the parent companies thanks to provisions that fully liberalise the repatriation of capital to France.

Notably, French companies are involved in 'major projects' of all kinds — infrastructure (Cairo metro, Enfidah Airport in Tunisia), tourism projects (holiday centres, hotel chains), and extractive projects in particular. But to what extent do these projects really contribute to the development and improvement of local living conditions? This is an all the more crucial question when French public funds are involved in the funding of these projects.

In 2009, the French Development Agency (AFD) contributed 30 million euros to fund a new airport project in Enfidha, a city in the north east of Tunisia, with approximately 10,000 inhabitants, and located roughly halfway between the cities of Tunis and Monastir. On paper, the idea is develop the country's tourism capacity and alleviate congestion at Monastir Airport, a transit point for millions of tourists each year. Public cooperation agencies actually put forward the expected private funds that Tunisia cannot raise on financial markets[87].
Critics support the launch of the project: not only did the modernisation of Monastir airport meet the objectives as regards growth in traffic, but the Turkish company TAV's acquisition of the construction and operating contract is sparking accusations of embezzlement: President Ben Ali's son-in-law, Belhassen Trabelsi, allegedly granted this contract for a fee of 5% and in surprisingly favourable conditions compared to industry standards (40 years instead of a maximum of 15 or 20 years usually). Aéroports de Paris (French multinational company of which the state is the main shareholder) submitted a bid to the international tender but was not successful. Even so, in March 2012, Aéroports de Paris became a shareholder of 38% stake in TAV: in other words ADP became a creditor of the French Development Agency.
Business at the brand new airport, completed in 2009, had trouble 'taking off'. It remained largely deserted during the first year of operation, due to the defection of the air operators that considered the fees charged by TAV to be too high for reorganising their traffic. Political turmoil and the slowdown in tourist activities that ensued worsened the project's economic difficulties. TAV Tunisia is struggling to pay operational charges to the Tunisian state, and is attempting to negotiate deadlines on the grounds of a lack of passengers[88]. Finally, in June, the subsidiary TAV Tunisia, created to operate Enfidha confirmed it had financial difficulties, and donors involved in the project, along with the Tunisian government, announced an audit of the project[89].
The project also poses problems for its impact: remotely located at 75km from Monastir and Sousse, it will require millions of passengers to be transported each year, whereas Monastir airport was closer to the northeast coast. The land occupied by the airport site (4300 hectares) seems to be excessive in a country where arable land should be sparingly distributed according to local sustainable development goals.
Finally, according to sources from the National Heritage Institute of Monastir, the site was built, to the knowledge of the Turkish company, on a priceless Roman archaeological site of, that is now completely destroyed[90].
Would support from the AFD not have benefited better-designed projects dedicated to local development, supported by Tunisian entrepreneurs?

In 2011, AFD also supported, through a €23 million loan to Orascom Hotels and Development, the development project of Club Méditerranée in Taba, on the banks of the Egyptian Red Sea[91]. Orascom will be the operator of the project and the 'Club Med' will manage the resort.
In its official memo, AFD heavily insisted on the quality of the partnership with the Egyptian company Orascom, a publicly traded holding owned by the multimillionaire Sawiris family: Orascom is a long-standing partner of Club Med, having already built the Club Med in El Gouna on the Red Sea, and has invested in a Club Med in Mauritius[92].
Yet it is assumed that the overt presence of the international tour operators in developing and emerging countries

limits the development capacity of local tourism[93]: European holiday resorts depend on imported products to satisfy their customers, partially recruit expatriate employees, have aggressive business practices with respect to local subcontractors, and push the wages of local staff down in areas where opportunities of stable employment are limited. What proportion recorded by the French company is reinjected back into the local economy in these conditions? The volume of foreign tour operator business fluctuates greatly depending on the season, the state of the international offering, the local political context. . . and operators do not hesitate to suspend their activities and close their centres if there is the slightest uncertainty.
In light of these factors, the financing of such a project, operated by a major player in the Egyptian economy for a French brand that offers highly standardised tourist services, in almost total extra-territoriality against local companies, was it a priority for the public agency operating French development aid?

b. Corruption and misappropriation

The involvement of French companies in enrichment circuits set up by the Ben Ali clan hit the headlines after the downfall of the Tunisian president. They took part in large-scale predation without any hesitation since it was a condition for a place in the Tunisian sun.
L. Bredoux and M. Magnaudeix expose many details of deals and tribulations that associated the vast Ben Ali clan and several French multinationals[94].
The biggest names in the French services industry are featured in their work: ‘Orange, Sodexo, Société Générale, Groupama, Suez, Renault, Monoprix, Bricorama, Havas: the list of groups that associated with the clan is impressive. With a clear preference for Ben Ali's ambitious sons-in-law.’
The CEO of the Tunisian subsidiary of Groupama, a close affiliate of the presidential clan and a member of the Democratic Constitutional Rally (RCD), was thus forced to step down by his employees just a few days after the revolution on 14th January; Groupama justified itself by invoking the state's liability. Up until then the state was opposed to his replacement and the share ownership plan that would have allowed him to be involved in the running of the company's human resources. Still, the French insurer had never questioned his involvement, and completely tolerated the presidential interference[95].
Both authors also state that in 2006 Société Générale allegedly agreed Tunisian bosses to make up the accounts of the International Banking Union for because they wanted to make it privatisation appealing.
As for French supermarket brands, they have forged an alliance with the clan's businessmen, and enjoyed many facilities and advantages, and have also admitted extortion by those close to the regime in order to be able to set up in Tunis.
Orange's presence in Tunisia is in keeping with this. Whilst the CEO of the French telephony company has always said that the company had negotiated its Tunisian license ‘according to the rules’, it now appears likely that it compromised itself with the Tunisian president's son in order to acquire the 3G license at a very low price[96] by intimidating potential competitors, and thus becoming a minority shareholder of the company managed by said son, who operates the brand in the country, which has since become Orange Tunisie. The Tunisian government, which has initiated several proceedings against him since 14th January, confiscated the son's assets but he still heads up the company's board of directors[97].
Alstom, a flagship company in the French rail industry is accused by the British Serious Fraud Office of having paid bribes, disguised as consultancy fees channelled through a Quebec company, to business men who are members of Ben Ali's clan, to the tune of €8.5 million, as part of contracts signed with the Tunisian Electricity and Gas Company (STEG)[98].
Finally, Lafarge was involved in a tax planning case related to the purchase of Orascom Building Materials Holding in 2007. The leading French company in the cement industry would allegedly agreed to purchase OBMH in the form of a 15 billion dollar stock market transaction not directly to allow its Egyptian partner to avoid taxation on the proceeds of the sale[99].

c. Acts of collusion concerning human rights violations

United Fruit is often seen as a kind of paradigm for the multinational company directly complicit in human rights violations, in this instance in Central America and the Caribbean[100]. The American fruit giant was literally an agent of US interests in the region, as part of a much broader agenda than merely the development of its profits.
A number of French companies have also been compromised by supporting serious acts of violence, even systematic support of regimes known for their repressive practices[101]: Total has been implicated in both civil and criminal cases for supporting several regimes known for their use of systematic repression of opposition in Burma[102] or in Congo-Brazzaville[103] for example.

A number of French companies have also been compromised by supporting regimes known for their repressive practices.

In North Africa and the Middle East, the French state has always looked for deals like those with companies set up in North Africa and the Middle East, without showing too much concern for their practices. President Chirac made 7 trips to Egypt during his two mandates and was almost always accompanied by French business leaders. Mubarak and Ben Ali were 'personal' friends of France and their multinationals.
As such French companies have supplied the Egyptian army with military equipment [105]: there have been mirage V in the Egyptian air force since the 1980s [106], and at that time, Dassault, Thomson and SNECMA briefly funded a military technology transfer project in Egypt, that would allow it to manufacture Alphajet planes, and Gazelle helicopters and anti-aircraft Crotale missiles among others. France has continued its profitable business in the sector in the 2000s: between 2006 and 2010, Egypt ordered 176.5 million various weapons from French companies, with the blessing of the Ministry of Defence [107], ammunition, armoured vehicles and air equipment.
The same reports for the following years show that the same French companies continued their trade with Egypt: the Ministry of Defence gave export permits for 108 and 148 million in 2011 and 2012, respectively [108].
Amnesty International provides the specific example of Renault Trucks Défense, which belongs to the Renault-Nissan group. "In November 2012, Mr Gérard Amiel, CEO of Renault Trucks Défense, said that his company would become the first French partner of the Egyptian army within a few years. He also explained that four tenders to equip the Egyptian army had been won beating out Italian and American competitors. In early 2013, Renault Trucks Défense announced that it had delivered armoured vehicles that can be armed (20 Sherpa 'Light scout' and 46 Sherpa 'Station wagon') as well as trucks (MID) designed for peacekeeping missions.
On 14th August and the days that followed, more than 1,000 people were victims of military repression.
We saw the Sherpa vehicles parade used during the events in August to transport police and military. One of them was even filmed falling from a bridge while it reserved in from of demonstrators' [109].
Thalès is currently trying to obtain new contracts to modernise the Egyptian Mirage fleet, which dates back to the 1980s [110]. The DCNS group (French State/Thalès) also won a contract to sell 4 'Corvettes' military ships in early 2014 [111].
So many beautiful operations that strengthen the position of a mighty army again in Cairo inclined to resort to the same methods as their predecessors with respect to human rights activists, NGOs and opponents: 1000 Muslim brothers killed by the army in August 2013, their leaders sentenced to death, activists harassed, NGOs prevented from working at the offices regularly invaded by the military. . .

In the IT field, Wall Street Journal journalists who had managed to penetrate the system's technical terminal in late August 2011 [112] revealed that a subsidiary of the French company Bull SA, Amesys, had most likely delivered software for telecommunications monitoring of the Libyan population and especially its critics. Shortly after, Amesys had acknowledged having provided surveillance and analysis equipment to the Gaddafi regime, in this case the Eagle software, which enables the interception of communication via Hotmail, Gmail and Yahoo electronic mail and certain types of associated instant messaging services [113]. The French government had immediately denied its involvement when company managers had nevertheless stated that their contract has been signed 'in a context of 'diplomatic rapprochement' with Libya', shortly after the release of the Bulgarian nurses and Gaddafi's official visit to France in December 2007' [114].
Two complaints were filed by human rights defence associations, one by Sherpa [115] for 'invasion of privacy' and the other by FIDH [116] and LDH for 'complicity of torture' while 5 Libyan victims claimed to have been arrested and tortured by the regime after having been subject surveillance permitted by Amesys and Eagle.

In this case the arms trade and military and security activities are not governed by free trade and investment agreements; in the cases presented, they therefore did not directly facilitate trade relations between major French arms companies and authoritarian regimes in North Africa.
For all that, the Euro-Mediterranean association agreements, in addition to trade component, include clauses on human rights and entitle the Member States of the European Union to suspend economic and commercial aspects of the cooperation provided for by the AA in the event of serious breaches of the fundamental principles of democracy and human rights, although this has never happened.
Shouldn't every country develop regulatory instruments that govern its trade in total compliance with international instruments for the protection and implementation of human rights of which it is a signatory? Under these conditions, can the arms/military equipment trade operate completely independently from commercial cooperation agreements at community level and the sanctions 'enforcement' mechanisms they provide for? And how does one monitor multinationals, and hold them accountable when their activities clearly contribution to the funding and/or consolidation of this type regime?

d. Violation of labour rights

Social dumping and the erosion of social rights in the signatory countries contribute to creating the essence of trade liberalisation

But not happy with opening up their markets to trade and investment from international firms, particularly European firms, North African countries have compounded this:

- by lowering labour costs, direct and indirect, to extremely low levels, in the context of concessions made to foreign investors seeking to export;
- by supporting, through their enforcement agencies and/or via a clear denial of justice, violations of social rights and workers union rights.

The establishment of many French SMEs in Tunisia, for example, especially in the textile sector, is explained by a combination of the gradual disappearance of trade barriers and the alleviation of tax and social obligations for these companies, especially in the offshore areas.

The Tunisian forum's survey on the economic and social rights [117], the working conditions of women working in the textile sector in the region of Monastir reveals the hardship of the work in the workshops in the North East- including from the point of view of the workers' health, the strictness of management, low wages and barriers to social legislation (several irregularities in employment contracts, wage slips, bonuses, overtime and social security), and the recurrent violation of the rights of these women to organize collectively.

The struggle of the workers at the LATélec factory, a subsidiary of the company Latécoère — subcontractor of Airbus — proves the volatility of social relations in Tunisia, and the way in which French companies comply as long as their profits thrive.

Paid 135 euros a month, forced to work unpaid overtime and harassed by supervisory staff, many women orchestrated the creation of a union branch in the company in order to defend their rights; 8 of them would be laid off in the process. A lengthy battle ensued, in which the laid off workers would initiate hunger strikes to be reinstated [118] and more generally obtain the right to collective bargaining. This caused the aeronautical manufacturer, bothered by repeated social movements since the Jasmine revolution, to relocated a part of its production to Mexico and eventually repatriate a part to France [119].

The company Téléperformance is accustomed to violating trade union rights itself too.

The telemarketing industry has flourished in North Africa (especially in Morocco, Tunisia and Egypt) in the 2000s in the dual context of liberalisation and fiscal and social incentives. Moreover, the North African workforce meets the requirements of the sector particularly well, especially due to the large number of young graduates in the job market, many of them multilingual.

Founded in 2000 under the 'Tunisian Telemarketing Company', Téléperformance has had regular social conflicts since the late 2000s. The cause: extremely low wages, poor working or humiliating conditions due to harassment from managers, cut bonuses and promotions, transfers or unfair dismissal. . .

In a country where trade union rights are recognised by law, the authorities have never enforced it to ensure rights, but they have arbitrarily enforced the law to preserve their influence on union officials.

Many multinational companies are also accused by Egyptian unions of working against trade union freedoms in the country, among which are Cadbury, Schlumberger, Pirelli, Henkel Persil or Suzuki, among others [120].

Compliance with social law and employment law should take precedence over freedom of investment.

The French company Schlumberger, the largest international firm providing services in the oil sector, employs approximately 1,000 employees in the country across a dozen sites. When employees had attempted to form a union in May 2011, affiliated with the new Egyptian Independent Trade Union Confederation [121], the Board responded by dismissing four workers of the company between June and July of the same year. The company was clearly looking to benefit from the political confusion that reigned after 25 January, the creation of a new trade union confederation in conflict with the historical centre, the existence of current plans to reform the labour code, and government instability. . .

Although the company has offered them compensation, the terminated employees continued to fight for their reinstatement.

Yet compliance with social law and employment law, particular as laid out in the Conventions of the International Labour Organisation, and guaranteed in the legislation of the country of the parent company (as in that of its subsidiary in this instance) should take precedence over freedom of investment and activity in cases where a bilateral investment agreement exists between the two countries. However, investment law is unique in having a complaints mechanism and binding mechanisms.

e. Investment arbitration

The proliferation of bilateral investment agreements — or the inclusion of investment protection clauses in free trade agreements — resulted in an arbitration boom in favour of multinationals within fifteen years [122].

These bilateral investment agreements, and this is the case for those that exist between France on one hand and Tunisia and Egypt respectively on the other hand, provide companies and investors, individuals or investment funds, with substantial guarantees of non-expropriation (including 'indirect'), non -discrimination, 'fair and equal' treatment or insurance to obtain reparations for injury, through the inclusion of dispute resolution clauses.
These so-called 'SDS' (Investor-State Dispute Settlement) clauses allow an investor to bring a state or a public institution before arbitration panels composed of arbitrators outside of any public jurisdiction, appointed at discretion, which then investigate the invoked dispute and determine, where applicable, the appropriate compensation to be paid by the public institution in question. The submission of a case to the court is exclusive to companies.
However, they allowed them to extend their complaints to a multitude of situations that did not fall under classic expropriation (a state or local authority that appropriates private property) but rather simple limitation of their profits. The companies have brought claims against a state which devalued its currency before the arbitration court [123] or against changes in the environmental legislation[124]. . . More recently, vulture funds and opportunistic firms have increased their attacks against South European countries hit by the crisis of the late 2000s, by challenging, for example, the devaluation of their assets after Greece's restructuring of its sovereign debt or by attacking the Cypriot government following the dismantling of a bank , although this was decided by the Troika [125].

The interminable length of the proceedings, their cost (procedures, arbitrators, legal advice. . .) often leads to negotiations between the parties and concludes in cash arrangements, of course.
But this information is not available when the company does not disclose it (a confidentiality clause is often included in the terms of the arrangement), and a part of the litigation simply isn't published by the ICSID.

UNCTAD shows, however, through its annual statistics on investment arbitration, the explosive growth in the number of cases brought before arbitration tribunals since the 90s.

Now Egypt is one of the most challenged countries in the name of these BITs.
In 2013, it was the country that has been subject to the second greatest number of complaints (behind the Czech Republic) [126]. It has been the subject to 23 complaints as of 31 December 2013, of which at least 10 were filed after the January 2011 revolution [127] [128].

Cases filed against Egypt in 2013

- ASA International S.p.A. v. Arab Republic of Egypt (ICSID Case No. ARB/13/23)

Italy Egypt-Italy BIT

- Cementos La Union S.A. and Aridos Jativa S.L.U. v. Arab Republic of Egypt (ICSID Case No. ARB/13/29)

Spain Egypt-Spain BIT

- Ossama Al Sharif v. The Republic of Egypt (ICSID Case No. ARB/13/3)

Jordan Egypt-Jordan BIT

- Ossama Al Sharif v. the Republic of Egypt (ICSID Case No. ARB/13/4)

Jordan Egypt-Jordan BIT

- Ossama Al Sharif v. the Republic of Egypt (ICSID Case No. ARB/13/5)

Jordan Egypt-Jordan BIT

- Utsch M.O.V.E.R.S. International GmbH, Erich Utsch Aktiengesellschaft, and Mr Helmut Jungbluth v. Arab Republic of Egypt (ICSID Case No. ARB/13/37)

Germany Egypt-Germany BIT

Sources: CNUCED 2014

But the Arab uprisings and the instability that resulted for economic operators established in the region give companies new opportunities to challenge the Tunisian, Libyan and Egyptian governments. Some have literally given up their investments, others have temporarily interrupted their business, closed their units or repatriated their staff: Club Med has closed centres in Djerba and Sinai for several weeks or months [129] Lafarge has closed one of its cement plants, and a dozen French companies had decided to repatriate their expatriated staff and sustainably slow down their activities [130].
In this context, the options for suing multiply. And arbitration lobbies don't hesitate to encourage investors to this. The international law firm Norton Rose, one of the world's most prestigious legal consultancy establishments in terms of corporate law, even has is an entire page dedicated to the Arab Spring on its website, suggesting to investors to look into the prospects for compensations that the North African revolutions offer them [131].

In this context, the options for suing multiply. And arbitration lobbies don't hesitate to encourage investors to this.

As it turns out, in 2012, it was a French company that brought forward a particularly questionable case incriminating Egypt before the ICSID: on 25th June, the company Veolia Propreté challenged the Egyptian Republic for failure to meet its obligations to protect foreign investors established on its territory [132].
A signatory of a waste management contract for the city of Alexandria since 2000 [133], the company had announced its desire to withdraw from the country at the end of his contract, signed in theory for fifteen years. But in reality, it was the Governor of Alexandria that would terminate the French company's contract, arguing that it was no longer fulfilling its obligation: according to a member of the city's municipal council 'we are now seeing that the refuse is accumulating everywhere in Alexandria, especially in the streets. There is a delay in refuse collection schedules and collection vehicles no longer meet the schedules. Furthermore, the number of skips provided by the company is not sufficient. The result is an accumulation of refuse everywhere' [134].
It is in this context, and based on the bilateral investment protection agreement between France and Egypt (see above) that Veolia decided to challenge Egypt (the legal party under the treaty), not without highlighting the responsibility of the City of Alexandria — since the breach of contract by the latter would be legally acceptable if it could show that the company did not fulfil its commitments: Alexandria should have contractually 'helped' the company to adapt to the local political and economic developments and to the costs they entailed, in particular that of the new employment laws made by the transitional government in the spring of 2011, providing for, amongst other things, an increase by a few dollars in the minimum wage in line with inflation. Veolia also argues that the city of Alexandria did not protect facilities (public bins specifically) from defacing and vandalism [135].
Veolia Egypt case raises a number of issues: guaranteeing a private investor with minimum protection of its assets may in some cases seem legitimate, but to what extent? Should the inherent risk in any investment fall to the public authority rather than the investor? And can investors legitimately claim to be protected against the normal development of public laws — especially when it is to strengthen the rights of workers — or the economic and political climate of a country?
In this instance did Veolia only fulfil its obligation under the contract before requesting damages? Here the city of Alexandria does not seem to have broken any of the fundamental obligations of non-discrimination and denial of justice, which initially founded the philosophy of bilateral investment treaties.

Yet it's this type of litigation that will increase if the EU manages to convince the Tunisian and Egyptian governments of the urgency to include strengthened provisions protecting investments in the future 'comprehensive and systematic" agreements that it decided to negotiate in 2012.
This is also because it shares this concern that UNCTAD recently alerted the Egyptian authorities to the risks involved in the multitude of bilateral free trade and investment agreements signed by Cairo, and that it called for them to revise these instruments in order to better address the needs of populations and restore their 'political space' [136].

The draft reform of the Tunisian investment code also concerned Tunisian civil society and some members of parliament at a different level. When bilateral investment agreements only protect companies registered in the signatory countries, the mining code could make it possible for give ALL businesses the challenge Tunisia before an arbitration court when they feel they have been wronged or deprived of their expected profits. Whilst the investment incentive code that entered into force in 1993 gave explicit priority to public national jurisdictions in case of a dispute, the project currently being discussed refers future disputes to the ICSID, therefore favouring international arbitration [137].

But international arbitration guarantees the superiority of ownership rights in relation to the right of governments to legislate and regulate in the public interest, and in relation to human rights. It results in huge privileges for investors:

- the ability to use protection standards that have no equivalent in the justiciable system of human rights, through clauses so broad and 'catch-all' that they potentially allow a company to challenge a public authority for almost any legislation or regulation;
- a much wider and powerful sanction monitoring system than that relating to human rights, through financial compensation decided by the arbitrators;
- the possibility of public financial compensation much higher than in the system pertaining to the protection of human rights;
- the possibility for investors to play a direct role in the composition of the court, which does not exist for individuals or complainant entities in cases involving the conventions and laws governing human rights; usually three mediators are respectively designated by each of the parties of the dispute for two of them, the chairman of the arbitration panel being appointed in concert between them;
- a judging system in which it is in the interests of the denouncing entity to favour the complainant, because arbitrators are chosen and paid by the parties to the dispute.

The urgency of highlighting the risks of these provisions and to defend alternative proposals opposite legislators is therefore genuine. All the more urgent since the draft comprehensive agreements of the European Union seek to integrate this type of extensive provisions

f. The environmental footprint of French multinationals in North Africa

Particularly vulnerable environmentally speaking, the Maghreb-Mashreq region must respond to environmental stress in a structural manner.

But increasing industrial activity and the increase in population without strong regulations have been growing risks since the 50s. Water stress, tensions on farmable land, air and maritime pollution, lack of waste management policies or control of industrial activities. . . in turn generate social and political tensions [138], public health problems, and delay local development. In the words of the European Investment Bank, the Mediterranean is a 'hot spot'
of global climate change [139]: 94% of the energy supply of the Southern Mediterranean countries came from fossil fuels (oil, gas and coal) in 2006, and the growth of CO2 emissions in the South Mediterranean shore between 1990 and 2004 increased to almost 60% (compared to 20% in the North).

Industrial activities contribute significantly to environmental problems in the region: building materials industries and the production of oil and gas are the cause of more than 80% of air pollution, chemical industries are main emitters of toxic substances in water and in the air, along with the textile industry.

There are many direct manifestations of this pollution. In Tunisia, the Gulf of Gabs' populations regularly protest against the damage of phosphates transformation on the local ecosystems and their health [140]. In the mining area of the centre of the country, there are many environmental problems, and local associations regularly denounce the impacts on people's health [141]. Sewage treatment plants and marine discharge from the textile industries in the Bay of Monastir / Ksibet were also involved in popular mobilisations in September 2013 [142].

In Egypt, the environmental difficulties are perhaps even more serious and a part [143] can be attributed to industrial activities. 'In Egypt, the main source of drinking water is the Nile. And yet 34 industrial complexes located between Cairo and Aswan, which evacuate chemicals and heavy metals, pollute it. Furthermore, the river receives 1.7 billion m3 of untreated sewage and its banks are being taken over by buildings, which negatively affects ecosystems, biodiversity and water circulation' [144] [145].

In addition to its local repercussions, French companies also have global impacts

It is difficult to accurately measure the contribution of foreign companies to this pollution compared to that generated by the local industry. Most large companies such as Lafarge, Total or GDF-Suez pride themselves on environmental efforts, environmental charters, and the Tunisian and Egyptian governments carry out very little monitoring and testing of the environmental impacts of their activities.

But their strong presence in the extractive sector and in intensive industrial zones means that they like contribution in the phenomenon despite their sustainable development claims.

Oil leaks from oil platforms were observed in the Red Sea in 2006 and 2010, for example [146] [147]. Local residents and communities in Egypt have also opposed the rollout of new chemical or extractive projects.

As a result a new gas terminal carried proposed by company BP in the Alexandria area had to be put on hold due to social mobilisations [148]. Plans for a fertiliser plant by the Canadian company Agrium near Damietta (in the Delta) also acted as a catalyst for local opposition which has delayed the construction of the industrial complex by several years [149] and continues to mobilise local communities [150].
Egypt recently lifted restrictions on the importation of coal to boost the cement industry and limit the deficiencies and interruptions in the supply of gas, despite the general outcry of Egyptian civil society organisations behind *the Egyptians Against coal* campaign [151] since 2013 However, significant local and systemic pollution is generated by the cement industry. The cement industry, for example, is a pollutant single-handedly generates 7% of global CO_2 emissions (raw materials extraction included) [152]. NGOs also highlight respiratory diseases in populations living close to cement factories, and the expected increase in costs to the health system, as well as the negative impacts on tourism [153].
And we know that multinational companies are responsible for 80% of Egyptian cement production, primarily Lafarge. In addition to its local repercussions, the contribution of French companies to the extractive industry (gas in Tunisia, oil and gas in Egypt) also has global impacts because even although exports of manufactured goods and raw materials declined after the 2011 revolution, oil and gas exports — 50% of Egyptian exports — have continued to increase (+ 7% in 2011-2012).
The exploration and future exploitation of non-conventional energy sources such as shale gas found in Tunisia are at the heart of the Tunisian government's current economic project, despite the fears of the population and some civil society organisations.
And nearly three years after the peak of the social mobilisations in early 2011, the redistribution of extractive rents remains the paradigm of economic and social policies for most ‘progressive’ political forces, and the economic aspect is largely edged out in debates about the future of their countries among the civil society and the political left [154].

Outlook

As explained above, this document seeks to simultaneously provide an initial introductory and fragmented contribution to the critical analysis of:

- the European Union’s trade agenda in the Magreb-Mashreq region, in order to discredit the prospects of new extensive agreements;
- the economic, social and environmental actions of French multinationals in the region, by presaging the implementation of methods and more systematic instruments for the future.

Deliberately exploratory in nature, it allows the facts presented to be put into perspective according to the specific working framework developed by AITEC, which covers three areas of reflection.

This report will form the basis for and assist in the debate led by social movements on the development of a strategy for alternative policy proposals, and a favourable legal alternative as regards the rights of multinationals.

Notes

1. See a summary of the report in English here, *http://ecesr.org/en/?p=421984*, the full report is available in Arabic.

2. The European Parliament's resolution, 'EU Trade and Investment Strategy for the Southern Mediterranean following the Arab Spring revolutions', P7_TA (2012) 0201, adopted on 10th May 2012, see *http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0201+0+DOC+XML+V0//EN*

3. The EU is united by association agreements with seven countries from the South Mediterranean region: Tunisia (1998), Morocco and Israel (2000), Jordan (2002), Egypt (2004), Algeria (2005) and Libya (2006). For the EU, 'these agreements provide an appropriate framework for the North-South political dialogue. They also serve as a basis for the gradual liberalisation of trade in the Mediterranean region. They set out the conditions of cooperation in economic, social and cultural domains between the EU and every partner country'. We will come back to this throughout the report.

4. See N. Elshami, 'Economic Planning in Egypt, or Is It Really Economic un-Planning?', *Chronicles*, AUC, Nov. 2012, *http://www.aucegypt.edu/research/ebhrc/publications/Documents/Chronicles2012/12Article4NS.pdf*

5. K. Badr El Din, *La privatisation, remède des maux économiques de l'Égypte*, 11th March 2014, *http://blogs.worldbank.org/arabvoices/fr/privatization-key-solving-egypt-s-economic-woe*

6. F. Chamkhi, « Tunisie: la politique de privatisation », *Confluences Méditerranée*, n° 35, Autumn 2000, Paris, *http://www.confluences-mediterranee.com/IMG/pdf/3510.chamkhi.pdf*

7. See B. Hibou, 'Le réformisme, grand récit politique de la Tunisie contemporaine', *Revue d'histoire moderne et contemporaine*, 2009/5, n°56-4 bis, Paris, *http://www.cairn.info/revue-d-histoire-moderne-et-contemporaine-2009-5-page-14.htm*, B. Hibou, H. Meddeb, M. Hamdi, *La Tunisie d'après le 14 janvier et son économie politique et sociale: les enjeux d'une reconfiguration de la politique européenne*, REMDH, June 2011, Copenhagen, *http://international.blogs.ouest-france.fr/media/00/01/1133020722.pdf* , or H. Meddeb, 'La Tunisie, pays émergent ?', *Sociétés politiques comparées*, n°29, nov. 2010, FASOPO, Paris.

8. H. Meddeb, op. Cit.

9. See the 2014 Doing Business ranking produced by the World Bank here *http://francais.doingbusiness.org/rankings*

10. B. Hibou, H. Meddeb, M. Hamdi, op.cit.

11. The winning party of the October 2012 elections, Ennahdha (or Renaissance Party), born out of the Muslim Brotherhood movement, gave in to the Prime Minister in December 2013 following the assassination of the opposition's Mohammed Brahmi and the organisation of a dialogue of national mediation by the UGTT, in particular. In January 2014, he formally transferred the power to a technocratic government led by Medhi Jomaa, responsible for organising the elections in 2014 and ensuring the effective administrative and financial management in the interim.

12. See African Development Bank, *Tunisie* – 2014, BafD, OECD, UNDP, 2014, *http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_FR/Tunisie_FR.pdf* and UNECA, *Situation et perspectives économiques en Tunisie dans le contexte de transition actuel*, July 2014, CEA, Addis-Ababa, *http://www.uneca.org/sites/default/files/publications/note_tunisie_fre.pdf*

13. African Development Bank, *Tunisia* – 2014, op. Cit.

14. African Development Bank, *Tunisia* – 2014, op. Cit.

15. See African Development Bank, *Egypte* – 2014, BafD, OECD, UNDP, 2014, *http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_FR/Egypte_FRE.pdf*

16. See A. Shahib, 'Le président égyptien navigue à vue pour redresser une économie exsangue', *Mediapart*, 4 October 2014, *http://www.mediapart.fr/journal/international/041014/le-president-egyptien-navigue-vue-pour-redresser-une-economie-exsangue?page_article=1*

17. See for example C. Talon, 'L'armée d'Égypte, géant économique de l'ombre', *Le Monde*, 24 January 2012, *http://abonnes.lemonde.fr/afrique/article/2012/01/24/l-armee-d-egypte-geant-economique-de-l-ombre_1632524_3212.html*

18. S. Marshall, J. Stacher, 'Egypt's Generals and transnational capital', *Middle East Report* 262, Vol. 42, Spring 2012, MERIP, Washington, *http://www.merip.org/mer/mer262/egypts-generals-transnational-capital*

19. A. Hauslohner, 'Egypt's military expands its control of the country's economy', *Washington Post*, 16 March 2014, *http://www.washingtonpost.com/world/middle_east/egyptian-military-expands-its-economic-control/2014/03/16/39508b52-a554-11e3-b865-38b254d92063_story.html*

20. S. Marshall, J. Stacher, op. Cit.

21. *http://www.tradingeconomics.com/egypt/total-natural-resources-rents-percent-of-gdp-wb-data.html*

22. General Directorate of the Treasury / Tunis regional department of economy, *Tunisie, le secteur clé des phosphates*, November 2013, Tunis *https://www.tresor.economie.gouv.fr/File/392813*

23. General Directorate of the Treasury / Tunis regional department of economy, op. Cit.

24. See for example the article by A. Farouk Ghoneim, 'Political Economy of Egypt's Regional Trade Integration Policy: The Case of Joining the Tripartite Free Trade Agreement', Occasional Paper n°169, Dec. 2013, SAIIA, accessible via this link *http://www.saiia.org.za/occasional-papers/political-economy-of-egypts-regional-trade-integration-policy-the-case-of-joining-the-tripartite-free-trade-agreement*

25. H.S. Esfahani, *The Experience of Foreign Investment in Egypt under Infitah*, CERAF, Aug. 2013, Montclair Univ., New Jersey, *http://msuweb.montclair.edu/~lebelp/CERAFRM046Esfahani1993.pdf*

26. The average 'MFN' tariff corresponds to the average tariff set by a country in the framework of the most favoured nation clause laid out by the rules of the WTO, that is to say the tariff that the country commits to applying to all members of the WTO, with the exception of those bound by preferential agreements.

27. Import bans on textile and clothing would be lifted in 2004, see H. Djoufelkit-Cottenet, *L'industrie égyptienne depuis le début des années 70: histoire d'un développement contrarié*, Working documents n° 61, AFD, March 2008, *http://www.afd.fr/webdav/site/afd/shared/PUBLICATIONS/RECHERCHE/Scientifiques/Documents-de-travail/061-document-travail.pdf*

28. See A. F. Ghoneim, *Law-making for trade liberalization and investment promotion in Egypt*, ZEF Projekt, January 2005, Bonn, *http://www.zef.de/fileadmin/webfiles/downloads/projects/politicalreform/LawMaking_for_TradeLib_and_InvestPromotion_Egypt_.pdf*

29. *http://www.sezone.gov.eg/en/ or http://www.gafi.gov.eg/en/doingbusiness/SPEconoZone.aspx*

30. See UNCTAD, *http://unctad.org/Sections/dite_pcbb/docs/bits_egypt.pdf*

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145. See also the work of the ECESR on water pollution in Egypt http://ecesr.org/en/wp-content/uploads/2014/01/ECESR-Water-Pollution-In-Egypt-Causes-and-Concerns.pdf

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154. Civil society organisations rarely try to raise the issue of development models, not to mention the issues of trade and investment; among the most active are the Arab NGO Network for Development, based in Beirut, the Egyptian Centre for Economic and Social rights, based in Egypt, or more recently , the Tunisian Forum for Economic and Social Rights established after 14th January 2011.

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Photo prise dans la région de Kebili, Tunisie (par Kuba Gogolewski). Septembre 2014

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