

Draft
Subject to Legal Review for Accuracy, Clarity, and Consistency
March 31, 2004

CHAPTER ONE
INITIAL PROVISIONS AND DEFINITIONS

Section A: Initial Provisions

ARTICLE 1.1: ESTABLISHMENT OF A FREE TRADE AREA

The Parties to this Agreement, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area in accordance with the provisions of this Agreement.

ARTICLE 1.2: RELATION TO OTHER AGREEMENTS

1. Except as provided in paragraphs three through five, each Party reaffirms its existing rights and obligations with respect to each other under existing bilateral and multilateral agreements to which the Parties are party, including the WTO Agreement.
2. This Agreement shall not be construed to derogate from any international legal obligation between the Parties that entitles goods or services, or suppliers of goods or services, to treatment more favorable than that accorded by this Agreement.
3. Articles VI and VII of the Treaty Between the United States of America and the Kingdom of Morocco Concerning the Encouragement and Reciprocal Protection of Investments, with Protocol, signed at Washington on July 22, 1985 (the "Treaty") shall be suspended on the entry into force of this Agreement.
4. Notwithstanding paragraph 3, for a period of ten years beginning on the entry into force of this Agreement, Articles VI and VII of the Treaty shall not be suspended:
 - (a) in the case of investments covered by the Treaty as of the entry into force of this Agreement; or
 - (b) in the case of disputes that arose prior to the entry into force of this Agreement and that are otherwise eligible to be submitted for settlement under Article VI or VII.
5. In the event either Party terminates this Agreement in accordance with Article 22.5 (Entry into Force and Termination), Articles VI and VII of the Treaty, to the extent suspended, shall automatically resume operation and shall continue in full force and effect as provided therein.

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Section B: General Definitions

ARTICLE 1.3: DEFINITIONS

For purposes of this Agreement, unless otherwise specified:

Customs Valuation Agreement means the *WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;

days means calendar days;

enterprise means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including, *inter alia*, any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

enterprise of a Party means an enterprise constituted or organized under the law of a Party;

existing means in effect on the date of entry into force of this Agreement;

GATS means the *General Agreement on Trade in Services*, contained in Annex 1B to the WTO Agreement;

GATT 1994 means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;

goods of a Party means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party;

Harmonized System (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

measure includes any law, regulation, procedure, requirement, or practice;

national means a natural person referred to in Annex 1-A;

originating good means a good qualifying under the rules of origin set out in Chapter Five (Rules of Origin) or Chapter Four (Textiles and Apparel);

person means a natural person or enterprise;

person of a Party means a national or an enterprise of a Party;

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preferential tariff treatment means the duty rate applicable under this Agreement to an originating good;

Safeguards Agreement means the *Agreement on Safeguards*, contained in Annex 1A of the WTO Agreement;

SPS Agreement means the *Agreement on the Application of Sanitary and Phytosanitary Measures*, contained in Annex 1A of the WTO Agreement;

TBT Agreement means the *Agreement on Technical Barriers to Trade*, contained in Annex 1A of the WTO Agreement;

territory means for a Party the territory of that Party as set out in Annex 1-A;

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C to the WTO Agreement;

WTO means the World Trade Organization; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade Organization*, done on April 15, 1994.

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ANNEX 1-A
COUNTRY-SPECIFIC DEFINITIONS

For purposes of this Agreement, unless otherwise specified:

national means:

- (a) with respect to Morocco, “national of the Kingdom of Morocco” in accordance with *Dahir* No. 1-58-250 of 21 *Safar* 1378 (September 6, 1958) enacting the Code of Moroccan Nationality; and
- (b) with respect to the United States, “national of the United States” as defined in Title III of the Immigration and Nationality Act.

territory means, with respect to the United States:

- (a) the customs territory of the United States which includes the 50 states, the District of Columbia, and Puerto Rico;
- (b) the foreign trade zones located in the United States and Puerto Rico; and
- (c) any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources.