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**CHAPTER THREE**  
**AGRICULTURE AND SANITARY AND PHYTOSANITARY MEASURES**

**Section A: Agriculture**

ARTICLE 3.1: SCOPE AND COVERAGE

This Section applies to measures adopted or maintained by a Party relating to agricultural trade.

ARTICLE 3.2: TARIFF-RATE QUOTA IMPLEMENTATION AND ADMINISTRATION

1. Each Party shall implement and administer the tariff-rate quotas (TRQs) set out in its Schedule to Annex V (Tariff Elimination Program), in accordance with Article XIII of GATT 1994, including its interpretive notes, and the WTO Agreement on Import Licensing Procedures.
2. Each Party shall ensure that:
  - (a) its policies and procedures for the administration of its TRQs are transparent, timely, nondiscriminatory, responsive to market conditions, minimally burdensome to trade, and made available to the public;
  - (b) any person that fulfils the Party's legal and administrative requirements shall be eligible to apply and to be considered for a quota license or allocation; and
  - (c) government authorities administer its TRQs.
3. Upon request of either Party, the importing Party shall consult with the requesting Party regarding the administration of its TRQs.
4. Each Party shall make every effort to administer its TRQs so as to achieve their full utilization.
5. Each Party shall distribute TRQ allocations in commercially viable shipping quantities and, to the maximum extent possible, in the amounts requested by importers.
6. Neither Party may condition application for, or utilization of, an import license or a TRQ allocation on re-export of the good.
7. Except as otherwise provided in Annex 3-C, neither Party may allocate any portion of a TRQ to producer groups or non-government organizations or delegate administration of a TRQ to such groups or organizations.

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8. Food aid and other non-commercial shipments of a good shall not count against a TRQ on that good.

ARTICLE 3.3: AGRICULTURAL EXPORT SUBSIDIES

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together toward an agreement in the WTO to eliminate those subsidies and prevent their reintroduction in any form.

2. Except as provided in paragraph 3, neither Party shall introduce or maintain any export subsidy on any agricultural good destined for the territory of the other Party.

3. Where an exporting Party considers that a non-Party is exporting an agricultural good to the territory of the other Party with the benefit of export subsidies, the importing Party shall, on written request of the exporting Party, consult with the exporting Party with a view to agreeing on specific measures that the importing Party may adopt to counter the effect of such subsidized imports. If the importing Party adopts the agreed-upon measures, the exporting Party shall refrain from applying any export subsidy to exports of such good to the territory of the importing Party.

ARTICLE 3.4: EXPORT STATE TRADING ENTERPRISES

The Parties shall work together toward an agreement in the WTO to:

- (a) eliminate restrictions on the right to export;
- (b) eliminate the special financing granted to state trading enterprises that export for sale, directly or indirectly, a significant share of their country's total exports of an agricultural product; and
- (c) ensure greater transparency regarding the operation and maintenance of export state trading enterprises.

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ARTICLE 3.5: AGRICULTURAL SAFEGUARD MEASURES

1. Notwithstanding Article 2.3 (Tariff Elimination Program), a Party may impose a measure in the form of an additional duty on an originating agricultural good as provided in that Party's section of Annex 3-A (Agricultural Safeguard Measures), provided that the conditions in paragraphs 2 through 5 are met. The sum of any such additional duty and any other customs duty or other charges applied pursuant to the Party's tariff elimination schedule on such good shall not exceed the lesser of:

- (a) the prevailing most-favored-nation (MFN) applied rate of duty; or
- (b) the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement.

2. The additional duty under paragraph 1 shall be set according to each Party's section of Annex 3-A.

3. Neither Party may, with respect to the same agricultural good, at the same time, impose or maintain an agricultural safeguard measure under this Article and:

- (a) a safeguard measure under Chapter Eight (Safeguards); or
- (b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.

4. Except as otherwise provided in Annex 3-A, neither Party may impose an agricultural safeguard measure on an originating agricultural good:

- (a) after the tariff elimination period; or
- (b) once the agricultural good achieves duty-free status under the Agreement.

5. Neither Party may impose an agricultural safeguard measure that increases an in-quota duty on an originating agricultural good subject to a tariff-rate quota.

6. A Party shall implement an agricultural safeguard measure in a transparent manner. Within 60 days after imposing such a measure, a Party shall notify the Party subject to the measure, in writing, and shall provide it relevant data concerning the measure. On request, the Party imposing the measure shall consult with the Party subject to the measure regarding the application of the measure.

7. The general operation of this Article may be the subject of discussion and review in the Joint Committee or any subcommittee on agriculture established pursuant to Article 19.2 (Joint Committee).

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8. For purposes of this Article, **agricultural safeguard measure** means an agricultural safeguard measure described in paragraph 1.

ARTICLE 3.6: INSTITUTIONAL PROVISION

The Parties affirm their desire to provide a forum for addressing agricultural trade under this Section, through the Joint Committee established pursuant to Article 19.2 (Joint Committee) or a subcommittee established thereunder.

ARTICLE 3.7: DEFINITION

For purposes of this Section, **agricultural goods** means those goods referred to in Article 2 of the WTO Agreement on Agriculture.

**Section B: Sanitary and Phytosanitary Measures**

ARTICLE 3.8: SCOPE AND COVERAGE

This Section applies to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between the Parties.

ARTICLE 3.9: GENERAL PROVISIONS

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.
2. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Section.
3. The Parties affirm their desire to provide a forum for addressing sanitary and phytosanitary matters affecting trade between the Parties, through the Joint Committee established pursuant to Article 19.2 (Joint Committee) or a subcommittee on sanitary and phytosanitary matters established thereunder.

ARTICLE 3.10: DEFINITION

For purposes of this Section, **sanitary or phytosanitary measure** means any measure referred to in Annex A, paragraph 1, of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

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**ANNEX 3-A**  
**AGRICULTURAL SAFEGUARD MEASURES**

**SECTION A: UNITED STATES - PRICE-BASED AGRICULTURAL SAFEGUARD**

1. Subject to the provisions of Article 3.5 (Agricultural Safeguard Measures), the United States may impose a price-based agricultural safeguard measure on an originating agricultural good listed in Table A: U.S. Agricultural Safeguard Items and Trigger Prices (“Table A”) only if the good enters the United States’ customs territory at a unit import price below the trigger price for that good as set out in Table A.

- (a) The unit import price shall be determined on the basis of the F.O.B. import price of the good in U.S. dollars.
- (b) The trigger prices for the goods eligible for a safeguard measure, which reflect historic unit import values for the products concerned, are listed in Table A. The Parties may mutually agree to periodically evaluate and update the trigger prices.

2. For the agricultural goods listed in Table A, an agricultural safeguard measure in the form of an additional duty under Article 3.5 (Agricultural Safeguard Measures) shall be set according to the following formula:

- (a) if the difference between the unit import price of the item expressed in terms of domestic currency (“import price”) and the trigger price as defined under paragraph 1(b) (“trigger price”) is less than or equal to 10 percent of the trigger price, no additional duty shall be imposed;
- (b) if the difference between the import price and the trigger price is greater than 10 percent but less than or equal to 40 percent of the trigger price, the additional duty shall equal 30 percent of the difference between the appropriate MFN rate as determined under Article 3.5.1 and the applicable tariff rate in the U.S. Schedule to Annex V (Tariff Elimination Program) on the agricultural good;
- (c) if the difference between the import price and the trigger price is greater than 40 percent but less than or equal to 60 percent of the trigger price, the additional duty shall equal 50 percent of the difference between the appropriate MFN rate as determined under Article 3.5.1 and the applicable tariff rate in the U.S. Schedule to Annex V (Tariff Elimination Program) on the agricultural good;
- (d) if the difference between the import price and the trigger price is greater than 60 percent but less than or equal to 75 percent of the trigger price, the additional duty shall equal 70 percent of the difference between the appropriate MFN rate as determined under Article 3.5.1 and the applicable tariff rate in the U.S. Schedule to Annex V (Tariff Elimination Program) on the agricultural good; and

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- (e) if the difference between the import price and the trigger price is greater than 75 percent of the trigger price, the additional duty shall equal 100 percent of the difference between the appropriate MFN rate as determined under Article 3.5.1 and the applicable tariff rate in the U.S. Schedule to Annex V (Tariff Elimination Program) on the agricultural good.

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**TABLE A – U.S. Agricultural Safeguard Items and Trigger Prices**

<b>HS 2002</b>	<b>Product Description</b>	<b>Trigger Price (US\$/Kilogram or US\$/Liter)</b>
0712.20.2000	DRIED ONION POWDER OR FLOUR	0.77/kilogram
0712.20.4000	DRIED ONIONS WHOLE, CUT, SLICED OR BROKEN, BUT NOT FURTHER PREPARED	1.26/kilogram
0712.90.4020	GARLIC POWDER OR FLOUR	0.53/kilogram
0712.90.4040	GARLIC, DRIED	0.48/kilogram
2002.10.0020	TOMATOES WHOLE OR IN PIECES, PREPARED OR PRESERVED NESOI, IN CONTAINERS HOLDING LESS THAN 1.4 KG	0.52/kilogram
2002.10.0080	TOMATOES WHOLE OR IN PIECES, PREPARED OR PRESERVED NESOI, IN CONTAINERS HOLDING 1.4 KG OR MORE	0.43/kilogram
2002.90.8010	TOMATO PASTE IN CONTAINERS HOLDING LESS THAN 1.4 KG.	0.64/kilogram
2002.90.8020	TOMATO PASTE IN CONTAINERS HOLDING 1.4 KG. OR MORE	0.56/kilogram
2002.90.8030	TOMATO PUREE IN CONTAINERS HOLDING LESS THAN 1.4 KG.	0.46/kilogram
2002.90.8040	TOMATO PUREE IN CONTAINERS HOLDING 1.4 KG. OR MORE	0.31/kilogram
2002.90.8050	TOMATOES NESOI PREPARED OR PRESERVED	0.69/kilogram
2005.60.0000	ASPARAGUS, PREPARED OR PRESERVED NESOI, NOT FROZEN	1.59/kilogram
2005.70.6020	OLIVES (NOT GREEN), WHOLE, PITTED, CANNED, OVER .3KG, IN SALINE	1.61/kilogram
2005.70.6030	OLIVES (NOT GREEN), WHOLE, PITTED, CANNED, LESS THAN .3 KG, IN SALINE	1.56/kilogram

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**TABLE A – U.S. Agricultural Safeguard Items and Trigger Prices (cont'd)**

<b>HS 2002</b>	<b>Product Description</b>	<b>Trigger Price (US\$/Kilogram or US\$/Liter)</b>
2005.70.6050	OLIVES (NOT GREEN), SLICED, CANNED, IN SALINE SOLUTION	1.79/kilogram
2005.70.6060	OLIVES (NOT GREEN), CHOPPED/MINCED, CANNED, IN	0.97/kilogram
2005.70.6070	OLIVES (NOT GREEN), WEDGED OR BROKEN, CANNED, IN SALINE	1.50/kilogram
2008.40.0020	PEARS, PREPARED OR PRESERVED, NESOI, IN CONTAINERS HOLDING LESS THAN 1.4 KG	0.65/kilogram
2008.40.0040	PEARS, PREPARED OR PRESERVED, NESOI, IN CONTAINERS 1.4 KG OR MORE	0.63/kilogram
2008.50.4000	APRICOTS, OTHER THAN PULP, OTHERWISE PREPARED OR PRESERVED, NESI	0.98/kilogram
2008.70.1020	NECTARINES, PREPARED OR PRESERVED, NESOI IN CONTAINERS HOLDING LESS THAN 1.4 KG	0.58/kilogram
2008.70.1040	NECTARINES, PREPARED OR PRESERVED, NESOI IN CONTAINERS 1.4 KG OR MORE	0.55/kilogram
2008.70.2020	PEACHES, PREPARED OR PRESERVED, NESOI IN CONTAINERS HOLDING LESS THAN 1.4 KG	0.58/kilogram
2008.70.2040	PEACHES, PREPARED OR PRESERVED, NESOI IN CONTAINERS 1.4 KG OR MORE	0.55/kilogram
2008.92.9030	FRUIT MXTRS WITH PEACH/PEAR PACKD IN LIQ LT 1.4K	0.83/kilogram
2008.92.9035	FRUIT MIXTURES WITH PEACHES OR PEARS PACKED IN LIQUID, IN CONTAINERS HOLDING MORE THAN 1.4 KG	0.75/kilogram

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**TABLE A – U.S. Agricultural Safeguard Items and Trigger Prices (cont'd)**

<b>HS 2002</b>	<b>Product Description</b>	<b>Trigger Price (US\$/Kilogram or US\$/Liter)</b>
2008.92.9040	FRUIT MIXTURES CONTAINING ORANGES OR GRAPEFRUIT	1.21/kilogram
2008.92.9050	FRUIT MIXTURES NESOI	0.80/kilogram
2009.11.0020	ORANGE JUICE UNFERMENTED FROZEN CONTAINERS UNDER .946 LITER	0.23/liter
2009.11.0040	ORANGE JUICE UNFERMENTED FROZEN CONTAINERS .946-3.785L IN LITERS	0.22/liter
2009.11.0060	ORANGE JUICE UNFERMENTED FROZEN CONTAINERS OVER 3.785L IN LITERS	0.20/liter
2009.12.4500	ORANGE JUICE, UNFERMENTED, N/FROZEN, NESOI, <20 BRIX IN LITERS	0.49/liter
2009.19.0000	ORANGE JUICE, UNFERMENTED, NESOI IN LITERS	0.49/liter
2103.20.4020	TOMATO SAUCES NESOI IN CONTAINERS HOLDING LESS THAN 1.4 KG	0.84/kilogram
2103.20.4040	TOMATO SAUCES NESOI IN CONTAINERS HOLDING 1.4 KG OR MORE	0.94/kilogram

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**SECTION B: MOROCCO - QUANTITY-BASED AGRICULTURAL SAFEGUARD**

*[TO BE PROVIDED]*

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**ANNEX 3-B**  
**IMPORT LICENSING FOR HIGH-QUALITY BEEF**

1. The Government of the Kingdom of Morocco shall administer an import licensing program for imports of high-quality beef from the United States, as defined in paragraph 5(c) of Annex 1 to the General Notes to Morocco's Schedule to Annex V (Tariff Elimination Program), into Morocco. Under this program, Morocco shall permit the import of high-quality beef from the United States provided that the beef is sold to or imported by hotels or restaurants designated on lists agreed to by the Parties.
2. Morocco shall ensure that:
  - (a) the import licensing program and procedures shall be implemented and administered in accordance with the WTO Agreement on Import Licensing Procedures;
  - (b) the import licensing program and procedures do not serve as an impediment to the orderly fill of the quota for high-quality beef; and
  - (c) any fees associated with an import license for high-quality beef do not exceed the cost of services rendered in issuing each license application, in accordance with Article VIII of the GATT 1994.
3. The Parties shall review and update the lists of eligible hotels and restaurants at least once a year, or on request of either Party. The Parties shall jointly develop a set of non-discriminatory criteria and procedures for modifying the lists.
4. The Parties shall review the operation of the import licensing program at least once a year, or on request of either Party.
5. On request of either Party, the Parties shall consult on any issues related to the operation of the import licensing program. Consultations shall commence within 30 days of receipt of a request for consultations with a view to resolving the issue.
6. For purposes of this Annex, **hotels and restaurants** shall mean four- and five-star hotels and homologated restaurants.

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**ANNEX 3-C**  
**WHEAT AUCTION SYSTEM**

1. Subject to paragraphs 9(b) and 10(b) of Annex 1 to the General Notes of the Tariff Schedule of Morocco, the Parties agree to implement and administer an auction system for the in-quota quantities of the tariff-rate quotas on U.S. durum and non-durum wheat, as defined in paragraphs 9(d) and 10(d), respectively, of that Annex.
2. Auction policies and procedures shall be:
  - (a) transparent, nondiscriminatory, and made available to the public; and
  - (b) developed and implemented in a manner that minimizes the cost of participation in the auction.
3. Auctions shall be administered by government authorities and shall not be delegated to producer groups or non-governmental organizations.
4. Auctions shall be held on a regular basis and conducted in a timely fashion to facilitate trade.
5. Licenses under the auction system shall be awarded in commercially viable shipping quantities and made available to persons who have a history in trading and have posted a performance bond in an amount agreed by the Parties.
6. The bill of lading date for a license amount shall determine the date on which that amount is deemed to be filled.
7. Any license holder that fails to fill its full license amount by no later than the date on which two-thirds of the period covered by the auction has expired shall immediately transfer the unfilled portion of the license to another licensee. The original license holder shall remain subject to the provisions of paragraph 8 for the full auction amount awarded.
8. Any license holder that is unable to fill at least 90 percent of its license amount for an auction shall remit all or part of its performance bond as agreed by the Parties, and shall not be permitted to participate in auctions for the following two years. After this period, the former license holder may re-apply to participate in the auction system, unless the Parties agree otherwise.
9. Conditioning the application for, or utilization of, the license on the re-exportation of the auctioned good is prohibited.

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10. Licenses shall be awarded in a manner that encourages competition and that precludes manipulation or control of the auction system by producer groups or non-government organizations.
  
11. Auction policies and procedures and any changes or amendments to them shall be agreed on by the Parties through consultation and published in widely available publications, including on the websites of their relevant authorities, no later than 45 days prior to the auction.
  
12. Within 15 days of receipt of a request by either Party, the Parties shall consult on any issues related to application and operation of this Annex with a view to resolving such issues.