

CHAPTER ONE
INITIAL PROVISIONS AND DEFINITIONS

Section A: Initial Provisions

ARTICLE 1.1: ESTABLISHMENT OF A FREE TRADE AREA

Consistent with Article XXIV of GATT 1994 and Article V of GATS, the Parties 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 affirms 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 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 date of entry into force of this Agreement.
4. Notwithstanding paragraph 3, for a period of ten years beginning on the date of 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 date of entry into force of this Agreement; or
 - (b) in the case of disputes that arose prior to the date of 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 22.6 (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.

Section B: General Definitions

ARTICLE 1.3: DEFINITIONS

For purposes of this Agreement, unless otherwise specified:

Agreement on Textiles and Clothing means the *Agreement on Textiles and Clothing*, contained in Annex 1A to the WTO Agreement;

central level of government means:

- (a) for the United States, the federal level of government; and
- (b) for Morocco, the national level of government;

covered investment means, with respect to a Party, an investment (as defined in Article 10.27 (Investment – Definitions)) in its territory of an investor of the other Party in existence on the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

customs duty includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994 in respect of like, directly competitive, or substitutable goods of the Party or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) antidumping or countervailing duty; and
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered;

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 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;

government procurement or **procurement** means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale, or use in the production or supply of goods or services for commercial sale or resale;

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) 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;

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;

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

regional level of government means:

- (a) for the United States, a state of the United States, the District of Columbia, or Puerto Rico; and
- (b) for Morocco, “regional level of government” is not applicable;

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

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

state enterprise means an enterprise owned, or controlled through ownership interests, by a Party;

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

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;

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.