



Trade Facts

Office of the United States Trade Representative
March 2, 2004

www.ustr.gov

Free Trade With Morocco ***A Vital Step Toward Middle East Free Trade***

New Market Access for U.S. Consumer and Industrial Products

- More than 95% of bilateral trade in consumer and industrial products will become duty-free immediately upon entry into force of the Agreement, with all remaining tariffs to be eliminated within nine years – the best market access package of any U.S. free trade agreement with a developing country.
- Key U.S. export sectors gain immediate duty-free access to Morocco, such as information technologies, machinery, construction equipment and chemicals.
- Textiles and apparel trade will be duty-free if imports meet the Agreement's rule of origin, promoting new opportunities for U.S. and Moroccan fiber, yarn, fabric and apparel manufacturing. The Agreement requires qualifying apparel to contain either U.S. or Moroccan yarn and fabric and contains a temporary 30 million square meter allowance for apparel containing 3rd country content (equals 0.2% of imports into the U.S.).

“Our agreement with Morocco is not just a single announcement, but a vital step in creating a mosaic of U.S. free trade agreements across the Middle East and North Africa.”

*Robert B. Zoellick,
U.S. Trade Representative*

New Opportunities for U.S. Farmers and Ranchers

- The agreement, which covers all agricultural products, opens Morocco's market for many U.S. farm products.
- U.S. farmers and ranchers of poultry and beef benefit from new tariff-rate quotas that grow over time. U.S. wheat producers will benefit from new tariff rate quotas on durum and common wheat that could lead to five-fold increases in exports over recent levels. These results will give U.S. farmers and ranchers a new tool to compete with Canada and the EU, among others, in Morocco's market.
- Tariffs on products such as corn and corn products, sorghum, soybeans and soybean meal will be cut significantly or eliminated immediately, thereby allowing U.S. exporters to respond to Morocco's growing need for feed ingredients as its agricultural sector continues to modernize.
- Morocco will provide duty-free access immediately on products such as, pistachios, pecans, frozen potatoes, wheat products, processed poultry products, pizza cheese and breakfast cereals. Tariffs on other products will be phased out in five years, including on walnuts, grapes, pears, cherries, and ground turkey. Almond exports could double under a tariff-rate quota. Tariffs on virtually all U.S. farm exports to Morocco will be phased-out within fifteen years.
- The United States will phase-out all agricultural tariffs under the agreement, most in fifteen years. An agricultural safeguard will be available in the event of significant price decreases for certain horticultural products.

Summary of the U.S.- Morocco Free Trade Agreement

Broad Commitments to Open Services Markets

- Morocco will accord substantial market access across its entire services regime, subject to very few exceptions. The Agreement uses the so-called “negative list” approach, meaning that all sectors are covered unless specifically excluded.
 - Key services sectors covered by the Agreement include audiovisual, express delivery, telecommunications, computer and related services, distribution, and construction and engineering.
- The Agreement provides benefits for businesses wishing to supply services cross-border (for instance, by electronic means) as well as businesses wishing to establish a presence locally in the other country.
- Strong and detailed disciplines on regulatory transparency supplement the Agreement’s cross-cutting transparency provisions.

New Opportunities for U.S. Banks, Insurance, Securities and Related Services

- U.S. financial service suppliers will have the right to establish subsidiaries and joint ventures in Morocco (in the case of insurance agency and brokerage, Moroccan can limit foreign equity to 51 percent). In addition, banks and insurance companies will have the right to establish branches, subject to a four-year phase-in for most insurance services.
- Morocco will allow U.S.-based firms to supply insurance on a cross-border basis (through electronic means) for key markets including reinsurance, reinsurance brokerage, and, subject to a two-year phase-in, marine, aviation and transport (MAT) insurance and brokerage. Morocco also will allow U.S.-based firms to offer services cross-border to Moroccans in areas such as financial information and data processing, and financial advisory services.
- Of further benefit to U.S. insurance suppliers, Morocco will phase-out certain mandatory reinsurance cessions and expedite the introduction of insurance products.

An Open and Competitive Telecommunications Market

- Each government commits that users of the telecom network will have reasonable and non-discriminatory access to the network, thereby preventing local firms from having preferential or “first right” of access to telecom networks.
- U.S. phone companies will have the right to interconnect with former monopoly networks in Morocco at non-discriminatory, cost-based rates.
- U.S. firms seeking to build a physical network in Morocco will have non-discriminatory access to key facilities, such as telephone switches and submarine cable landing stations.
- U.S. firms will be able to lease elements of Moroccan telecom networks on non-discriminatory terms and to re-sell telecom services of Moroccan suppliers to build a customer base.

Summary of the U.S.- Morocco Free Trade Agreement

E-Commerce: Free Trade in the Digital Age

- Each government commits to non-discriminatory treatment of digital products and agrees not to impose customs duties on digital products.
- For digital products delivered on hard media (such as a DVD or CD), customs duties will be based on the value of the media (for instance, the disc), not on the value of the movie, music or software contained on the disc.
- The e-commerce commitments will help establish Morocco as a leader in Middle East and North Africa for the further development of electronic commerce.

Transparent Rule-Making and Procedural Protections for Traders and Investors

- Each government must publish its laws and regulations governing trade and investment, and, beginning within one year, publish proposed regulations in advance and provide an opportunity for public comment on them.
- Each government commits to apply fair procedures in administrative proceedings covering trade and investment matters directly affecting companies from the other country.
- Both governments must ensure that traders and investors from the other country can obtain prompt and fair review of final administrative decisions affecting their interests.

Morocco is an emerging market at the crossroads of Europe, Africa, and the Middle East. It imports \$11 billion in products each year. Currently, U.S. products entering Morocco face an average tariff of more than 20 percent, while Moroccan products are only subject to an average 4 percent duty in the United States.

Commitments to Combat Corruption

- Each government will prohibit bribery, including bribery of foreign officials, and establish appropriate criminal penalties to punish violators.
- The Agreement also recognizes the importance of protecting whistle-blowers.

Important New Protections for U.S. Investors

- The Agreement establishes a secure, predictable legal framework for U.S. investors operating in Morocco.
- All forms of investment will be protected under the Agreement, such as enterprises, debt, concessions, contracts and intellectual property.
- U.S. investors will enjoy in almost all circumstances the right to establish, acquire and operate investments in Morocco on an equal footing with Moroccan investors, and with investors of other countries.
- Pursuant to the Trade Promotion Authority Act of 2002 (TPA), the Agreement draws from U.S. legal principles and practices to provide U.S. investors in Morocco a basic set of substantive protections that Moroccan investors in the United States currently enjoy under the U.S. legal system.

Summary of the U.S.- Morocco Free Trade Agreement

- Among the rights afforded to U.S. investors (consistent with those found in U.S. law) are due process protections and the right to receive a fair market value for property in the event of an expropriation.
- The Agreement removes certain restrictions and prohibits the imposition of other restrictions on U.S. investors, such as requirements to buy Moroccan rather than U.S. inputs for goods manufactured in Morocco.
- These investor rights are backed by an effective, impartial procedure for dispute settlement that is fully transparent. Submissions to dispute panels and panel hearings will be open to the public, and interested parties will have the opportunity to submit their views.

Trademarks: State-of-the-Art Protection in the Digital Age

- The Agreement requires each government to maintain a system to resolve disputes involving trademarks used in Internet domain names, which is important to prevent “cyber-squatting” with respect to high-value domain names.
- The Agreement applies the principle of “first-in-time, first-in-right” to trademarks and geographical indications, so that the first person who acquires a right to a trademark or geographical indication is the person who has the right to use it.
- Each government will be required to establish transparent procedures for the registration of trademarks, including geographical indications, and to develop an on-line system for the registration and maintenance of trademarks, as well as a searchable database.

Copyrights: Protection for Copyrighted Works in A Digital Economy

- The Agreement ensures that authors, composers and other copyright owners have the exclusive right to make their works available online. The Agreement also ensures that copyright owners have rights to temporary copies of their works on computers, which is important in protecting music, videos, software and text from widespread unauthorized sharing via the Internet.
- Each government commits to protect copyrighted works, including phonograms, for extended terms (e.g., life of the author plus seventy years), consistent with U.S. standards and international trends.
- The Agreement includes strong anti-circumvention provisions, requiring each government to prohibit tampering with technologies (like embedded codes on discs) that are designed to prevent piracy and unauthorized distribution over the Internet.
- Each government commits to using only legitimate computer software, thus setting a positive example for private users.
- The Agreement requires protection for encrypted program-carrying satellite signals (including the signal itself and the programming), thus preventing piracy of satellite television programming.
- Internet Service Providers (ISPs) will have limited liability, reflecting the balance struck in the U.S. Digital Millennium Copyright Act between legitimate ISP activity and the infringement of copyrights.

Patents & Trade Secrets: Protection Expanded

- Patent terms can be adjusted to compensate for unreasonable delays in granting the original patent, consistent with U.S. practice.

Summary of the U.S.- Morocco Free Trade Agreement

- Grounds for revoking a patent are limited to the same grounds required to originally refuse a patent, thus protecting against arbitrary revocation.
- The Agreement provides protection for newly developed plant varieties and animals.
- Test data and trade secrets submitted to a government for the purpose of product approval will be protected against unfair commercial use for a period of 5 years for pharmaceuticals and 10 years for agricultural chemicals.
- The Agreement ensures that government marketing-approval agencies will not grant approval to patent-infringing pharmaceuticals.

IPR Enforcement: Tough Penalties for Piracy and Counterfeiting

- The Agreement requires each government to criminalize end-user piracy, providing strong deterrence against piracy and counterfeiting.
- Each government commits to having and maintaining authority to seize, forfeit and destroy counterfeit and pirated goods and the equipment used to produce them. IPR laws will be enforced against goods-in-transit, to deter violators from using U.S. or Moroccan ports or free-trade zones to traffic in pirated products. Ex officio action may be taken in border and criminal IPR cases, thus providing more effective enforcement.
- The Agreement mandates both statutory and actual damages under Moroccan law for IPR violations, which will deter piracy. Under these provisions, monetary damages can be awarded even if actual economic harm (retail value, profits made by violators) cannot be determined.

Morocco, the first country in the world to recognize the newly sovereign United States in 1777, is a strong ally of the U.S. in the war against terror. The Treaty of Peace and Friendship between the U.S. and Morocco, negotiated in 1787, is the longest unbroken treaty relationship in U.S. history.

Strong Government Procurement Disciplines Set Precedent for Region

- The Agreement includes disciplines on the purchases of most Moroccan central government agencies, as well as the vast majority of Moroccan regional and municipal governments.
- The Agreement requires that covered Moroccan government purchasers not discriminate against U.S. firms, or in favor of Moroccan firms, when making covered government purchases in excess of agreed monetary thresholds.
- U.S. and Moroccan suppliers will have increased certainty due to strong and transparent disciplines on procurement procedures, such as requiring advance public notice of purchases, as well as timely and effective bid review procedures.
- Each government must maintain criminal and other penalties for bribery in government procurement.

Ground-Breaking Customs Procedures

- The Agreement requires transparency and efficiency in customs administration, including publication of laws and regulations on the Internet and procedural certainty and fairness.

Summary of the U.S.- Morocco Free Trade Agreement

- Both governments agree to share information to combat illegal trans-shipment of goods. In addition, the Agreement requires customs procedures designed to facilitate the rapid clearance through customs of express delivery shipments.
- Strong but simple rules of origin will ensure that only U.S. and Moroccan goods benefit from the Agreement. Rules are designed to be easy to administer and are consistent with other U.S. free trade agreements in the region.

Commitments and Cooperation to Protect the Environment

- The Agreement fully meets the environmental objectives set out by the Congress in TPA. Environmental obligations are part of the core text of the Agreement.
- Each government will be required to effectively enforce its own domestic environmental laws, and this obligation is enforceable through the Agreement's dispute settlement procedures.
- Each government commits to establish high levels of environmental protection, and to not weaken or reduce environmental laws to attract trade or investment.
- The Agreement also promotes a comprehensive approach to environmental protection. Procedural guarantees that ensure fair, equitable and transparent proceedings for the administration and enforcement of environmental laws are married with provisions that promote voluntary, market-based mechanisms to protect the environment.
- As a complement to the Agreement, the governments will sign a Joint Statement on Environmental Cooperation that will establish a Working Group on Environmental Cooperation, develop a plan of action and set priorities for future environment-related projects.
 - EPA and USAID have developed a new environmental project in Morocco, which focuses on building Morocco's capacity to develop its environmental laws, institutions and enforcement mechanisms in line with Morocco's commitments under the Agreement.

Cooperative Activities to Promote Worker Rights

- The Agreement fully meets the labor objectives set out by the Congress in TPA. Labor obligations are part of the core text of the Agreement.
- Each government reaffirms its obligations as members of the International Labor Organization (ILO), and commits to strive to ensure that its domestic laws provide for labor standards consistent with internationally recognized labor principles. The Agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment.
- Each government will be required to effectively enforce its own domestic labor laws, and this obligation is enforceable through the Agreement's dispute settlement procedures.
- Procedural guarantees in the Agreement require each government to provide access for workers and employers to fair, equitable and transparent labor tribunals or courts.
- The Agreement includes a cooperative mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. Cooperative activities may include:

Summary of the U.S.- Morocco Free Trade Agreement

- Discussions of legislation, practice and implementation related to the core elements of the ILO Declaration on Fundamental Principles and Rights at Work.
- Discussion of legislation, practice and implementation related to compliance with ILO Convention 182 on the Worst Forms of Child Labor.
- Improving systems for the administration and enforcement of labor laws.

Tools to Enforce the Trade Agreement

- All core obligations of the Agreement, including labor and environmental provisions, are subject to the dispute settlement provisions of the Agreement.
- Dispute panel procedures set high standards of openness and transparency:
 - Open public hearings;
 - Public release of legal submissions by governments;
 - Opportunities for interested third parties to submit views.
- Emphasis is on promoting compliance through consultation, joint action plans and trade-enhancing remedies.
- The Agreement includes strong enforcement mechanisms, including the ability to suspend trade concessions or establish monetary assessments.