

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: ADMINISTRATION AND IMPLEMENTATION OF TARIFF-RATE QUOTAS

1. Each Party shall implement and administer the tariff-rate quotas for agricultural goods set out in Annex 1 to the General Notes to its Schedule to Annex IV (Tariff Elimination) (“TRQs”), 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 procedures for administering its TRQs are transparent, made available to the public, timely, nondiscriminatory, responsive to market conditions, and minimally burdensome to trade;
 - (b) any person of a Party that fulfills the Party’s legal and administrative requirements shall be eligible to apply and to be considered for an allocation under the Party’s TRQs;
 - (c) it does not allocate any portion of an in-quota quantity to producer groups or other non-governmental organizations, except as otherwise provided in Annex 3-C (Wheat Auction System);
 - (d) solely government authorities administer its TRQs and, to that end, that the government authorities do not delegate administration of its TRQs to producer groups or other non-governmental organizations; and

- (e) it allocates in-quota quantities under its TRQs in commercially viable shipping quantities and, to the maximum extent possible, in the amounts that importers request.
3. Each Party shall make every effort to administer its TRQs in a manner that allows importers to fully utilize them.
 4. Neither Party may condition application for, or use of, an import license or an allocation under a TRQ on the re-export of an agricultural good.
 5. Neither Party may count food aid or other non-commercial shipments in determining whether an in-quota quantity under a TRQ has been filled.
 6. On request of either Party, the importing Party shall consult with the other Party regarding administration of the importing Party's TRQs.

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 may 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-on 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 on export state trading enterprises in the WTO that:

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

ARTICLE 3.5: AGRICULTURAL SAFEGUARD MEASURES

1. Notwithstanding Article 2.3 (Tariff Elimination), a Party may apply a measure in the form of an additional duty on an originating agricultural good listed in that Party's Schedule to 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 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 Schedule to Annex 3-A.

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

- (a) a safeguard measure under Chapter Eight (Safeguards); or
 - (b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.
4. Neither Party may apply or maintain an agricultural safeguard measure on a good:
- (a) on or after the date that the good is subject to duty-free treatment under the Party's Schedule to Annex IV (Tariff Elimination), except as otherwise provided in Annex 3-A; or
 - (b) that increases the in-quota duty on a good that is subject to a TRQ.
5. A Party shall implement an agricultural safeguard measure in a transparent manner. Within 60 days after applying a measure, the Party applying the measure shall notify the Party whose good is subject to the measure, in writing, and shall provide it relevant data concerning the measure. On request, the Party applying the measure shall consult with the Party whose good is subject to the measure regarding the application of the measure.
6. The 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).

ARTICLE 3.6: AGRICULTURAL TRADE FORUM

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

ARTICLE 3.7: DEFINITIONS

For purposes of this Section:

agricultural goods means those goods referred to in Article 2 of the WTO Agreement on Agriculture; and

agricultural safeguard measure means a measure described in Article 3.5.1.

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 SPS Agreement.
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, through the Joint Committee established pursuant to Article 19.2 or a subcommittee on sanitary and phytosanitary matters established thereunder, for addressing sanitary and phytosanitary matters affecting trade between the Parties.
the Parties.

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 SPS Agreement.

ANNEX 3-A
AGRICULTURAL SAFEGUARD MEASURES

Schedule of the United States

1. The United States may apply a price-based agricultural safeguard measure, pursuant to Article 3.5 (Agricultural Safeguard Measures), on an originating agricultural good listed in Table A if the good enters the customs territory of the United States at a unit import price below the trigger price set out in Table A for that good.

- (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 (“import price”).
- (b) The trigger prices reflect historic unit import values for the products concerned. The Parties may mutually agree to periodically evaluate and update the trigger prices.

2. For purposes of Article 3.5.2, the United States shall set the additional duty according to the following schedule:

- (a) if the difference between the import price of the good and the trigger price listed in Table A (“trigger price”) is less than or equal to 10 percent of the trigger price, no additional duty shall be applied;
- (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 MFN rate for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in the U.S. Schedule to Annex IV (Tariff Elimination);
- (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 MFN rate for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in the U.S. Schedule to Annex IV;

- (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 MFN rate for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in the U.S. Schedule to Annex IV; and
- (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 MFN rate for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in the U.S. Schedule to Annex IV.

TABLE A – U.S. Agricultural Safeguard List

| HS | Product Description | Trigger Price (US\$/Kilogram or US\$/Liter) |
|--------------|--|--|
| 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 |

TABLE A – U.S. Agricultural Safeguard List

| HS | Product Description | Trigger Price (US\$/Kilogram or US\$/Liter) |
|--------------|---|--|
| 2005.70.6050 | OLIVES (NOT GREEN), SLICED, CANNED, IN SALINE SOLUTION | 1.79/kilogram |
| 2005.70.6060 | OLIVES (NOT GREEN), CHOPPED/MINCED, CANNED, IN SALINE | 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 |

TABLE A – U.S. Agricultural Safeguard List

| HS | Product Description | Trigger Price (US\$/Kilogram or US\$/Liter) |
|--------------|--|--|
| 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 |

Schedule of Morocco

1. Morocco may apply a quantity-based agricultural safeguard measure, pursuant to Article 3.5 (Agricultural Safeguard Measures), on an originating agricultural good listed in paragraphs 2 through 6 if, in any calendar year, the volume of imports of the good exceeds the volume of the good as set out in Tables B-1 through B-6.

2. For purposes of Article 3.5.2, Morocco shall set the additional duty for whole birds designated by Moroccan HS subheadings 0207.11.0000, 0207.12.0000, 0207.24.0000, and 0207.25.0000 according to the following schedule:

- (a) for years one through seven, Morocco may apply an additional duty of less than or equal to 100 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV (Tariff Elimination);
- (b) for years eight through 13, Morocco may apply an additional duty of less than or equal to 75 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV; and
- (c) for years 14 through 18, Morocco may apply an additional duty of less than or equal to 50 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV.

3. For purposes of Article 3.5.2, Morocco shall set the additional duty for leg quarters and wings designated by Moroccan HS subheadings 0207.13.0029 and 0207.14.0029 according to the following schedule:

- (a) for years one through ten, Morocco may apply an additional duty of less than or equal to 100 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV;

- (b) for years 11 through 15, Morocco may apply an additional duty of less than or equal to 75 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV;
- (c) for years 16 through 20, Morocco may apply an additional duty of less than or equal to 50 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV; and
- (d) for years 21 through 24, Morocco may apply an additional duty of less than or equal to 30 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV.
- (e) No later than year 24, the Parties will review the operation of this paragraph and the need for a quantity-based safeguard after year 24. Unless both Parties agree not to extend the safeguard, starting in year 25, Morocco may apply an additional duty of less than or equal to 25 percent of the MFN rate of duty for the good as determined under Article 3.5.1.

4. For purposes of Article 3.5.2, Morocco shall set the additional duty for chickpeas designated by Moroccan HS subheadings 0713.20.9010 and 0713.20.9090 and for lentils designated by Moroccan HS subheadings 0713.40.9010 and 0713.40.9090 according to the following schedule:

- (a) for years one through six, Morocco may apply an additional duty of less than or equal to 100 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV;
- (b) for years seven through 12, Morocco may apply an additional duty of less than or equal to 75 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV; and

- (c) for years 13 through 17, Morocco may apply an additional duty of less than or equal to 50 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV.

5. For purposes of Article 3.5.2, Morocco shall set the additional duty for bitter almonds designated by Moroccan HS subheadings 0802.11.0011, 0802.11.0019, 0802.12.0011, and 0802.12.0019 according to the following schedule:

- (a) for years one through five, Morocco may apply an additional duty of less than or equal to 100 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV;
- (b) for years six through ten, Morocco may apply an additional duty of less than or equal to 75 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV; and
- (c) for years 11 through 14, Morocco may apply an additional duty of less than or equal to 50 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV.

6. For purposes of Article 3.5.2, Morocco shall set the additional duty for dried prunes designated by Moroccan HS subheading 0813.20.0000 according to the following schedule:

- (a) for years one through five, Morocco may apply an additional duty of less than or equal to 75 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV; and

- (b) for years six through nine, Morocco may apply an additional duty of less than or equal to 50 percent of the difference between the MFN rate of duty for the good as determined under Article 3.5.1 and the applicable tariff rate specified for the good in Morocco's Schedule to Annex IV.

7. Morocco may maintain an agricultural safeguard measure only until the end of the calendar year in which it applies the measure.

TABLE B-1:
Safeguard Volume Triggers for Whole Birds
(Moroccan HS Subheadings 0207.11.0000, 0207.12.0000,
0207.24.0000, and 0207.25.0000)

| Year | Safeguard Volume Trigger (MT) |
|-------------|--|
| 1 | 1625 |
| 2 | 1755 |
| 3 | 1885 |
| 4 | 2015 |
| 5 | 2145 |
| 6 | 2275 |
| 7 | 2405 |
| 8 | 2535 |
| 9 | 2665 |
| 10 | 2795 |
| 11 | 2925 |
| 12 | 3055 |
| 13 | 3185 |
| 14 | 3315 |
| 15 | 3445 |
| 16 | 3575 |
| 17 | 3705 |
| 18 | 3835 |

TABLE B-2:
Safeguard Volume Triggers for Leg Quarters and Wings
(Moroccan HS Subheading 0207.13.0029 and 0207.14.0029)

| Year | Safeguard Volume Trigger (MT) |
|----------------------|--|
| 1 | 5200 |
| 2 | 5460 |
| 3 | 5720 |
| 4 | 5980 |
| 5 | 6240 |
| 6 | 6500 |
| 7 | 6760 |
| 8 | 7020 |
| 9 | 7280 |
| 10 | 7540 |
| 11 | 7800 |
| 12 | 8060 |
| 13 | 8320 |
| 14 | 8580 |
| 15 | 8840 |
| 16 | 9100 |
| 17 | 9360 |
| 18 | 9620 |
| 19 | 9880 |
| 20 | 10140 |
| 21 | 10400 |
| 22 | 10660 |
| 23 | 10920 |
| 24 | 11180 |
| 25 and thereafter | five percent more than total U.S. exports of leg quarters to Morocco during previous year |

TABLE B-3:
Safeguard Volume Triggers for Chickpeas
(Moroccan HS Subheadings 0713.20.9010 and 0713.20.9090)

| Year | Safeguard Volume Trigger (MT) |
|-------------|--------------------------------------|
| 1 | 300 |
| 2 | 312 |
| 3 | 324 |
| 4 | 337 |
| 5 | 351 |
| 6 | 365 |
| 7 | 380 |
| 8 | 395 |
| 9 | 411 |
| 10 | 427 |
| 11 | 444 |
| 12 | 462 |
| 13 | 480 |
| 14 | 500 |
| 15 | 520 |
| 16 | 540 |
| 17 | 562 |

TABLE B-4:
Safeguard Volume Triggers for Lentils
(Moroccan HS Subheadings 0713.40.9010 and 0713.40.9090)

| Year | Safeguard Volume Trigger (MT) |
|-------------|--------------------------------------|
| 1 | 500 |
| 2 | 520 |
| 3 | 541 |
| 4 | 562 |
| 5 | 585 |
| 6 | 608 |
| 7 | 633 |
| 8 | 658 |
| 9 | 684 |
| 10 | 712 |
| 11 | 740 |
| 12 | 770 |
| 13 | 801 |
| 14 | 833 |
| 15 | 866 |
| 16 | 900 |
| 17 | 936 |

TABLE B-5:
Safeguard Volume Triggers for Bitter Almonds
(Moroccan HS Subheadings 0802.11.0011, 0802.11.0019, 0802.12.0011,
and 0802.12.0019)

| Year | Safeguard Volume Trigger (MT) |
|-------------|--|
| 1 | 65 |
| 2 | 68 |
| 3 | 70 |
| 4 | 73 |
| 5 | 76 |
| 6 | 79 |
| 7 | 82 |
| 8 | 86 |
| 9 | 89 |
| 10 | 93 |
| 11 | 96 |
| 12 | 100 |
| 13 | 104 |
| 14 | 108 |

**TABLE B-6:
Safeguard Volume Triggers for Dried Prunes
(Moroccan HS Subheading 0813.20.0000)**

| Year | Safeguard Volume Trigger (MT) |
|-------------|--|
| 1 | 121 |
| 2 | 126 |
| 3 | 131 |
| 4 | 136 |
| 5 | 142 |
| 6 | 147 |
| 7 | 153 |
| 8 | 159 |
| 9 | 166 |

ANNEX 3-B
IMPORT LICENSING FOR HIGH-QUALITY BEEF

1. Morocco may establish an import licensing program for imports of high-quality beef from the United States to provide that the beef is sold to or imported by hotels or restaurants designated on lists agreed to by the Parties.
2. Morocco shall:
 - (a) implement and administer any such import licensing program and procedures in accordance with Article VIII of GATT 1994 and the WTO Agreement on Import Licensing Procedures;
 - (b) ensure that the import licensing program and procedures do not impede the orderly fill of the in-quota quantity for high-quality beef; and
 - (c) limit the amount of any fees charged in connection with an import license to the cost of services rendered in processing the license application under the import licensing program and procedures.
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 develop an agreed 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:

high-quality beef means those goods defined in paragraph 5(c) of Annex 1 to the General Notes to Morocco's Schedule to Annex IV (Tariff Elimination); and

hotels and restaurants means four- and five-star hotels and officially graded restaurants.

ANNEX 3-C
WHEAT AUCTION SYSTEM

1. Morocco may implement and administer an auction system for the in-quota quantities of the TRQs on U.S. durum and non-durum wheat provided for in paragraphs 9 and 10, subject to the conditions set out in paragraphs 9(c) and 10(d), of Annex 1 to the General Notes to Morocco's Schedule to Annex IV (Tariff Elimination).
2. Morocco's 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. Morocco shall ensure that solely government authorities administer its auctions and, to that end, may not delegate administration of its auctions to producer groups or other non-governmental organizations.
4. Morocco's auctions shall be held on a regular basis and conducted in a timely fashion to facilitate trade.
5. Morocco shall award licenses under the auction system:
 - (a) in commercially viable shipping quantities;
 - (b) to persons who have a history in trading and have posted a performance bond in an amount agreed by the Parties; and
 - (c) in a manner that encourages competition and that precludes manipulation or control of the auction system by producer groups or other non-governmental organizations.
6. Morocco shall not condition application for, or use of, an auction license on the re-exportation of the auctioned good.

7. Morocco shall require:
- (a) any license holder that fails to fill its full license amount by the date on which two-thirds of the period covered by the auction has expired to immediately transfer the unfilled portion of the license to another licensee; and
 - (b) that the original license holder shall be responsible for ensuring that at least 90 percent of the license amount originally awarded is filled.
8. Morocco shall provide that any license holder that is unable to fill at least 90 percent of its license amount during the period covered by 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 license holder may re-apply to participate in the auction system, unless the Parties agree otherwise.
9. For purposes of paragraphs 7 and 8, Morocco shall deem the date on which a license holder has filled a license as the date of the bill of lading for the relevant shipment.
10. The Parties shall agree on auction policies and procedures, and any changes or amendments thereto. Morocco shall disseminate the policies and procedures applicable to each auction through widely available publications, including on the websites of their relevant authorities, no later than 45 days before the auction.
11. 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 them.