

**AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF MOROCCO
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING
CUSTOMS ADMINISTRATION AND TRADE FACILITATION**

The Government of the Kingdom of Morocco and the Government of the United States of America (individually a “Party” and collectively the “Parties”):

Seeking to expedite the movement, release, and clearance of goods in order to facilitate trade;
and

Desiring to improve cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues,

HAVE AGREED as follows:

Article 1: Publication

1. Each Party shall make available on the Internet its customs laws, regulations, and general administrative procedures. For greater certainty, measures subject to this requirement shall include applied rates of customs duties, taxes, and fees and charges imposed by customs at the border for import, export, or transit of goods.
2. Each Party shall make available on the Internet the forms and documents required for importation into, exportation from, or transit through the territory of that Party.
3. Each Party shall designate or maintain one or more inquiry points to address inquiries by interested persons concerning customs matters and shall make available on the Internet information concerning the procedures for making such inquiries.
4. To the extent possible, each Party shall make available on the Internet in advance any regulations of general application governing customs matters that it proposes to adopt and shall provide interested persons the opportunity to comment before adopting them.
5. Each Party shall make available on the Internet and update, as appropriate, a description of its importation, exportation and transit procedures that informs governments, traders, and other interested parties of the practical steps needed to import, export, and transit goods.

Article 2: Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade.
2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that:
 - (a) provide for the release of goods within a period no greater than that required to ensure compliance with its customs laws, and to the extent possible, within 48 hours of the goods' arrival;
 - (b) provide for customs information to be electronically submitted and processed before goods arrive in order for them to be released on their arrival;
 - (c) allow goods to be released at the point of arrival, without temporary transfer to warehouses or other facilities;
 - (d) allow an importer to obtain the release of goods prior to, and without prejudice to, the final determination of customs duties, taxes and fees when these are not determined prior to or promptly upon arrival, provided the goods are otherwise eligible for release and any security or other guarantee which may be required by the importing Party has been provided; and
 - (e) allow importers to provide security or other guarantee, where applicable, using non-cash financial instruments, such as bank guarantees or bonds, and including, in appropriate cases where an importer frequently enters goods, instruments covering multiple entries.
3. If a Party does not make the final determination of customs duties, taxes and fees for goods prior to or promptly upon arrival and requires a guarantee or other security for release of goods, it shall adopt or maintain procedures for such guarantee or other security. Such procedures shall:
 - (a) ensure that the amount of the security or other guarantee is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled; and
 - (b) ensure that the security or other guarantee shall be discharged as soon as possible after its customs authorities are satisfied that the obligations arising from the importation of the goods have been fulfilled.

Article 3: Automation

1. Each Party shall use information technology that expedites procedures for release of goods and shall:
 - (a) endeavour to use international standards with respect to procedures for release of goods;

- (b) make electronic systems accessible to customs users;
- (c) provide for electronic submission and processing of information and data before arrival of the shipment to allow for the release of goods on arrival;
- (d) provide for electronic payment of duties, taxes and fees;
- (e) employ electronic or automated systems for risk analysis and targeting;
- (f) work towards developing electronic systems that are compatible with the other Party's systems, in order to facilitate government to government exchange of international trade data;
- (g) endeavour to implement common standards and elements for import and export data in accordance with the World Customs Organization (WCO) Data Model;
- (h) take into account, as appropriate, standards, recommendations, models, and methods developed through the WCO; and
- (i) work towards developing a set of common data elements and processes in accordance with WCO Data Model and related WCO recommendations and guidelines.

Article 4: Risk Management

1. Each Party shall adopt or maintain risk management systems for assessment and targeting that enable its customs authority to focus its inspection activities on high-risk goods and that simplify the clearance and movement of low-risk goods.
2. In order to facilitate trade, each Party shall periodically review and update, as appropriate, the risk management systems specified in paragraph 1.

Article 5: Express Shipments

1. Each Party shall adopt or maintain expedited customs procedures for express shipments while maintaining appropriate customs control and selection. These procedures shall:
 - a) provide a separate and expedited customs procedure for express shipments;
 - b) provide for information necessary to release an express shipment to be submitted and processed before the shipment arrives;
 - c) allow submission of a single manifest covering all goods contained in an express shipment, through, if possible, electronic means;
 - d) to the extent possible, provide for the release of certain goods with a minimum of documentation;

- e) under normal circumstances, provide for express shipments to be cleared within six hours after submission of the necessary customs documents, provided the shipment has arrived;
- f) apply without regard to an express shipment's weight or customs value; and
- g) under normal circumstances, provide that no customs duties or taxes will be assessed on, nor will formal entry documents be required for, express shipments valued at US\$150 or less.¹

Article 6: Review and Appeal

1. Each Party shall ensure that any person to whom it issues a determination on a customs matter has access to:
 - (a) administrative review, independent² of the employee or office that issued the determination; and
 - (b) judicial review of the determination.
2. Each Party shall ensure that an authority conducting a review under paragraph 1 notifies the parties to the matter in writing of its decision, and the reasons for the decision.
3. The decisions of administrative and judicial tribunals under paragraph 1 shall govern the practice of customs and other relevant agencies throughout the territory of the Party.

Article 7: Penalties

1. Each Party shall adopt or maintain measures that allow for the imposition of civil or administrative penalties and, where appropriate, criminal sanctions for violations of its customs laws and regulations, including those governing tariff classification, customs valuation, and establishment of country of origin.
2. Each Party shall ensure that penalties for a breach of a customs law, regulation, or procedural requirement are imposed only on the person(s) legally responsible for the breach.

¹ Notwithstanding Article 5(g), a Party may require that express shipments be accompanied by an airway bill or other bill of lading. For greater certainty, a Party may assess customs duties or taxes, and may require formal entry documents, for restricted goods.

² The level of administrative review may include any authority supervising the customs administration.

3. Each Party shall ensure that a penalty imposed shall depend on the facts and circumstances of the case, such as the record of the person in its dealings with customs, and shall be commensurate with the degree and severity of the breach.
4. Each Party shall adopt or maintain procedures to avoid conflicts of interest³ in the assessment and collection of penalties and duties. No portion of the remuneration of a government official shall be calculated as a fixed portion or percentage of any penalties or duties assessed or collected.
5. Each Party shall ensure that when a penalty is imposed for a breach of customs laws, regulations, or procedural requirements, it provides an explanation in writing to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the basis for determining the penalty amount.
6. When a person voluntarily discloses to a Party's customs administration the circumstances of a breach of a customs law, regulation, or procedural requirement prior to the discovery of the breach by the customs administration, the Party shall consider this fact as a potential mitigating factor when determining liability for a penalty. Where the disclosing person can correct the breach, a Party may require that the person correct it within a reasonable period of time, including paying any duties, taxes, and fees owed.
7. Each Party shall specify a fixed, finite period within which it may initiate penalty proceedings in connection with a breach of a customs law, regulation, or procedural requirement. A Party may suspend the period for initiating such penalty proceedings, and, if the period is suspended, may then recommence that period in accordance with its domestic law.

Article 8: Advance Rulings

1. Each Party shall issue, prior to the importation of a good into its territory, a written advance ruling at the written request of an importer, exporter, or producer⁴ with regard to⁵:
 - (a) tariff classification;
 - (b) the application of customs valuation criteria for a particular case, in accordance with the Customs Valuation Agreement;
 - (c) the application of duty drawback, deferral, or other types of relief that reduce, refund, or waive customs duties;

³ A conflict of interest involves a conflict between the public duty and private interests of a public official, in which the public official's private-capacity interests could improperly influence the performance of its official duties and responsibilities.

⁴ For greater certainty, an importer, exporter, or producer may submit a request for an advance ruling through a duly authorized representative.

⁵For greater certainty, a Party is not required to provide an advance ruling when it does not maintain measures of the type subject to the ruling request.

- (d) the preferential treatment for which a good qualifies;
- (e) country of origin;
- (f) whether a good is subject to a quota or tariff-rate quota; and
- (g) such other matters as the Parties may agree.

2. Each Party shall issue an advance ruling within 150 days after it receives a request, provided that the requester has submitted all information that the receiving Party requires, including, if the Party requests, a sample of the good for which the requester is seeking an advance ruling. In issuing an advance ruling, the Party shall take into account facts and circumstances the requester has provided. For greater certainty, a Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review. A Party that declines, pursuant to this paragraph, to issue an advance ruling shall promptly notify the requester in writing, setting forth the relevant facts and the basis for its decision to decline to issue the advance ruling.

3. Each Party shall provide that advance rulings shall take effect on the date they are issued, or on another date specified in the ruling, and shall remain in effect for at least three years, provided that the law, facts, and circumstances on which the ruling is based remain unchanged.

4. The issuing Party may modify or revoke an advance ruling if there is a change in the law, facts, or circumstances on which the ruling was based, if the ruling was based on inaccurate or false information, or the ruling was in error.

5. A Party shall not apply a modification or revocation under paragraph 4 until it makes information available by any means accessible to the public regarding the modification or revocation and the reasons therefore.

6. A Party may apply a revocation or modification retroactively to the detriment of the requester only if the ruling was based on inaccurate or false information provided by the requester.

7. Each Party shall ensure that requesters have access to administrative review of advance rulings.

8. Subject to any confidentiality requirements in its laws, each Party shall make its advance rulings available to the public on the Internet.

Article 9: Consularization

A Party shall not require a consular transaction⁶, including any related fee or charge, in connection with the importation of any good.

Article 10: Customs Brokers

A Party shall not require the owner of goods to use a customs broker or other agent to file a customs declaration.

Article 11: Pre-Shipment Inspection

A Party shall not require the use of pre-shipment inspections in relation to tariff classification or customs valuation.

Article 12: Transit

1. Each Party's formalities, documentation requirements, and customs controls in connection with traffic in transit shall not be more burdensome than necessary to:
 - a) identify the goods in transit; and
 - b) verify the satisfaction of transit requirements.
2. After goods have been put under a transit procedure and authorized to proceed from the point of entry into a Party's territory, the Party shall not apply customs charges, formalities, or inspections other than those necessary for specific law enforcement purposes with respect to that transit operation, until the goods arrive at the point of exit from its territory.
3. Each Party shall provide for filing and processing of transit documentation and data prior to the arrival of goods.
4. Once traffic in transit has reached the customs office where it exits the territory of a Party and transit requirements have been met, the Party shall promptly terminate the transit operation.

⁶ A consular transaction is the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration, or any other customs documentation in connection with the importation of the good.

5. A Party may require a guarantee or other security for traffic in transit, provided the use of the guarantee is limited to ensuring that obligations arising from such traffic in transit are fulfilled.
6. Each Party shall make available to the public the methodology it uses to set the amount of a guarantee for traffic in transit, including single transaction and multiple transaction guarantees.
7. Where a Party requires a guarantee for traffic in transit, it shall discharge the guarantee without delay once it determines that its transit requirements have been satisfied.
8. Where a Party limits the time for transiting its territory, the time allowed shall be sufficient to accomplish the transit operation.
9. Each Party shall allow goods in transit to enter its commerce where:
 - a) the goods and appropriate information are presented to its customs authorities for examination; and
 - b) all duties, taxes, and fees are paid or sufficient security is provided.
10. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a Party when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the Party across whose territory the traffic passes. Traffic of this nature is termed in this Article “traffic in transit.”
11. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

Article 13: Customs Cooperation

1. With a view to facilitating the effective operation of this Agreement, each Party shall endeavor to provide the other Party with advance notice of any significant modification of administrative policy or other similar development related to its laws or regulations governing importations that is likely to substantially affect trade.
2. The Parties shall cooperate in achieving compliance with their respective laws and regulations pertaining to:
 - (a) the implementation and operation of law and regulations governing importations, exportations, or transit;
 - (b) the implementation and operation of the Customs Valuation Agreement;

- (c) restrictions or prohibitions on imports or exports;
- (d) controlling and combatting customs fraud, including failure to pay duties owed; and
- (e) other customs matters as the Parties may agree.

3. Where a Party has a reasonable suspicion of unlawful activity related to its laws or regulations governing importations, the Party may request that the other Party provide specific confidential information normally collected in connection with the importation of goods.

4. A Party's request under paragraph 3 shall be in writing, shall specify the purpose for which the information is sought, and shall identify the requested information with sufficient specificity for the other Party to locate and provide the information.

5. The Party from whom the information is requested shall, in accordance with its law and any relevant international agreements to which it is a party⁷, provide a written response containing the information.

6. For purposes of paragraph 3, "a reasonable suspicion of unlawful activity" means a suspicion based on relevant factual information obtained from public or private sources comprising one or more of the following:

- (a) historical evidence of non-compliance with laws or regulations governing importations by an importer or exporter;
- (b) historical evidence of non-compliance with laws or regulations governing importations by a manufacturer, producer, or other person involved in the movement of goods from the territory of one Party to the territory of the other Party;
- (c) historical evidence that some or all of the persons involved in the movement from the territory of one Party to the territory of the other Party of goods within a specific product sector have not complied with a Party's laws or regulations governing

⁷ For greater certainty, nothing in this agreement affects the obligations of the Parties when requesting or providing mutual legal assistance in connection with the prevention, investigation and prosecution of criminal offenses and proceedings related to criminal matters, pursuant to any bilateral or multilateral agreement between the Parties.

Moreover, for greater certainty, this agreement does not prevent or restrict the exchange of information in criminal investigations, prosecutions and proceedings related to criminal matters pursuant to any other agreement, arrangement or practice which may be applicable between the law enforcement agencies of the Parties.

importations; or

- (d) other information that the requesting Party and the Party from whom the information is requested agree is sufficient in the context of a particular request.

7. Each Party shall endeavor to provide the other Party with any other information that would assist that Party in determining whether imports from or exports to that Party are in compliance with that Party's laws or regulations governing importations, in particular those related to unlawful activities, including of smuggling and similar infractions.

8. In order to facilitate trade between the Parties, each Party shall endeavor to provide, upon request, the other Party with technical advice and assistance for the purpose of:

- a) developing and implementing improved best practices and risk management techniques;
- b) facilitation of the implementation of international supply chain standards;
- c) simplifying and enhancing procedures for clearing goods through customs in a timely and efficient manner;
- d) developing the technical skill of customs personnel; and
- e) enhancing use of technologies that can lead to improved compliance with the Party's laws or regulations governing importations.

9. The Parties shall endeavor to cooperate in the enforcement of each Party's laws and regulations governing importations. The Parties shall further endeavor to establish and maintain channels of communication, including by establishing contact points that will facilitate the rapid and secure exchange of information and to improve coordination on importation issues.

Article 14: Confidentiality

1. Where a Party providing information to the other Party in accordance with this Agreement designates the information as confidential, the other Party shall keep the information confidential. The Party providing the information may require the other Party to furnish written assurance that the information will be held in confidence, will be used only for the purposes specified in the other Party's request for information, and will not be disclosed without the specific permission of the Party that provided the information or the person that provided the information to that Party.

2. If a Party receives information designated as confidential in accordance with paragraph 1, the Party receiving the information may nevertheless use or disclose the information for law enforcement purposes or in the course of judicial proceedings.

3. A Party may decline to provide information requested by the other Party where that Party has failed to act in conformity with paragraph 1.

4. Each Party shall adopt or maintain procedures for protecting from unauthorized disclosure confidential information submitted in accordance with the administration of the Party's customs laws, including information the disclosure of which could prejudice the competitive position of the person providing the information.

Article 15: Application of Certain Provisions

The Government of the Kingdom of Morocco may delay giving effect to

a) Article 8, for a period of two years; and

b) Article 5(g), for a period of three years,

beginning on the date of entry into force of this Agreement.

Article 16: Entry into Force and Termination

1. This Agreement shall enter into force on signature.

2. This Agreement may be amended by written agreement of the Parties.

3. Either Party may terminate this Agreement by providing written notice of termination to the other Party. The termination shall take effect on a date agreed by the Parties or, if the Parties cannot agree on a date, 180 days after the date of delivery of the notice of termination.

Article 17: Definitions

For purposes of this Agreement:

customs authority means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

Customs Valuation Agreement means the *WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*;

days means calendar days;

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

person means a natural person or an enterprise;

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;

WTO means the World Trade Organization; and

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