

AGREEMENT FREE-TRADE BETWEEN EFTA AND MOROCCO

The following text reproduces the Free Trade Agreement between the EFTA States and the Kingdom of Morocco.¹

----- FREE-TRADE AGREEMENT BETWEEN THE EFTA STATES AND THE KINGDOM OF MOROCCO

PREAMBLE

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation (hereinafter called the EFTA States)

And the Kingdom of Morocco (hereinafter called Morocco),

Considering the importance of the links existing between the EFTA States and Morocco, in particular the Declaration on Co-operation signed in Zermatt in December 1995, and recognizing the common wish to strengthen these links, thus establishing close and lasting relations, Recalling their intention to participate actively in the process of economic integration in the Euro-Mediterranean region, and expressing their preparedness to co-operate in seeking ways and means to strengthen this process,

Reaffirming their commitment to pluralistic democracy based on the rule of law, human rights and fundamental freedoms, and recalling the principles of the United Nations Charter, Desiring to create favourable conditions for the development and diversification of trade between them and for the promotion of commercial and economic co-operation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law,

Recalling the membership of the EFTA States and Morocco in WTO and their commitment to comply with the rights and obligations arising from the Agreement Establishing the World Trade Organization, including the principles of most-favoured-nation and of national treatment, Resolved to contribute to the strengthening of the multilateral trading system and to develop their relations towards free trade in compliance with WTO rules,

Considering that no provision of this Agreement may be interpreted as exempting the States Parties to this Agreement from their obligations under other international agreements, especially WTO,

Determined to implement this Agreement with the objective to preserve and protect the environment and to ensure an optimal use of natural resources in accordance with the principle of sustainable development,

Firmly convinced that this Agreement will contribute to the creation of an enlarged and harmonious free trade area between European and Mediterranean countries, thus constituting an important contribution to Euro-Mediterranean integration,

Noting the intention of EFTA States to support efforts to liberalize the Moroccan economy and in that way to contribute to the improvement of economic and social conditions in Morocco, Declaring their readiness to examine, in the light of any relevant factor, the possibility of developing and deepening their economic relations in order to extend them to fields not covered by this Agreement,

Convinced that this Agreement provides an appropriate framework for exchange of information and views on economic developments and trade as well as related matters,

Also convinced that this Agreement will create conditions encouraging economic, trade and investment relations between them,

HAVE DECIDED, in pursuit of the above, to conclude the following Agreement (hereinafter called this Agreement):

Article 1

Objectives

1. The EFTA States and Morocco shall gradually establish a free trade area in accordance with the provisions of the present Agreement.
2. The objectives of this Agreement, which is based on trade relations between market economies and on the respect of democratic principles and human rights, are:
 - (a) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between the EFTA States and Morocco and thus to foster in the EFTA States and in Morocco the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability;
 - (b) to provide fair conditions of competition for trade between the States Parties to this Agreement;
 - (c) to contribute in this way, by the removal of barriers to trade, to Euro-Mediterranean economic integration and to the harmonious development and expansion of world trade.

Article 2

Scope

This Agreement shall apply:

- (a) to products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (HS), excluding the products listed in Annex I;
- (b) to products specified in Protocol A, with due regard to the arrangements provided for in that Protocol;
- (c) to fish and other marine products as provided for in Annex II; originating in an EFTA State or Morocco.

Article 3

Rules of origin and co-operation in customs administration

1. Protocol B lays down the rules of origin and methods of administrative co-operation.
2. The States Parties to this Agreement shall take appropriate measures, including reviews by the Joint Committee and arrangements for administrative co-operation, to ensure that the provisions of Articles 4 (Customs duties on imports and charges having equivalent effect), 5 (Basic duties), 6 (Customs duties of a fiscal nature), 7 (Customs duties on exports and charges having equivalent effect), 8 (Quantitative restrictions on imports or exports and measures having equivalent effect), 13 (Internal taxation and regulations) and 22 (Re-export and serious shortage) of this Agreement and Protocol B are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed in trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.
3. On the basis of the reviews referred to in paragraph 2, the States Parties to this Agreement shall decide on the appropriate measures to be taken.

Article 4

Customs duties on imports and charges having equivalent effect

1. No new customs duty on imports or charge having equivalent effect shall be introduced in trade between the EFTA States and Morocco.
2. The EFTA States shall abolish on the date of entry into force of this Agreement all customs duties on imports and any charges having equivalent effect on products originating in Morocco.
3. Morocco shall abolish on the date of entry into force of this Agreement all customs duties on imports and any charges having equivalent effect on products originating in an EFTA State, except as provided for in Tables A, B, C, D and E to Annex III.
4. Morocco shall abolish all reference prices on products listed in Table F to Annex III in accordance with its obligations within the WTO, in particular the Agreement on Customs Valuation, in any case at the latest three years after the entry into force of this Agreement.

Article 5

Basic duties

1. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied, shall be the most-favoured-nation rate of duty applied on 1 January 1996.
2. If, before, by or after entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis, in particular reductions in accordance with the commitments resulting from the Uruguay Round, such reduced duties shall replace the basic duties referred to in paragraph 1 as from the date when such reductions are applied, or from the entry into force of this Agreement if this is later.
3. The reduced duties calculated in accordance with Article 4 (Customs duties on imports and charges having equivalent effect) shall be applied rounded to the first decimal place or, in case of specific duties, to the second decimal place.

Article 6

Customs duties of a fiscal nature

The provisions of Article 4 (Customs duties on imports and charges having equivalent effect) shall also apply to customs duties of a fiscal nature.

Article 7

Customs duties on exports and charges having equivalent effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between the EFTA States and Morocco.
2. The EFTA States and Morocco shall abolish on the date of entry into force of this Agreement all customs duties on exports and any charges having equivalent effect.

Article 8

Quantitative restrictions on imports or exports and measures having equivalent effect

1. No new quantitative restriction on imports or exports and measures having equivalent effect shall be introduced in trade between the EFTA States and Morocco.
2. The EFTA States shall abolish on the date of entry into force of this Agreement quantitative restrictions on imports or exports and measures having equivalent effect.
3. Morocco shall abolish on the date of entry into force of this Agreement quantitative restrictions on imports or exports and measures having equivalent effect, except as provided for in Annex IV.

Article 9

General exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants and the environment; the protection of national treasures possessing artistic, historic or archaeological value; the protection of intellectual property; rules relating to gold or silver; or the conservation of exhaustible natural resources, if such measures are made effective in conjunction with restrictions on domestic production or consumption. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the States Parties to this Agreement.

Article 10

State monopolies

1. The EFTA States shall ensure that any state monopoly of a commercial character be adjusted, with the exceptions laid down in Protocol C, so that with the entry into force of this Agreement no discrimination regarding the conditions under which goods are procured and

marketed will exist between nationals of the EFTA States and of Morocco. These goods shall be procured and marketed in accordance with commercial considerations.

2. Morocco will progressively adjust, without affecting commitments made under the WTO, any state monopoly of a commercial character so that at the latest by the end of the fifth year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of Morocco and the EFTA States. The Joint Committee will be informed of the measures adopted to implement these objectives.

3. The provisions of this Article shall apply to any body through which the competent authorities of the States Parties to this Agreement, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the States Parties to this Agreement. These provisions shall likewise apply to monopolies delegated by the State to other bodies.

Article 11

Technical regulations

1. The States Parties to this Agreement shall co-operate in the field of technical regulations, standards and conformity assessment; and through appropriate measures promote in particular European-wide solutions. The Joint Committee shall establish guidelines for the implementation of this paragraph.

2. The States Parties to this Agreement agree to hold immediate consultations in the framework of the Joint Committee in case a State Party considers that another State Party has taken measures which are likely to create, or have created, a technical obstacle to trade, in order to find an appropriate solution.

3. The States Parties to this Agreement confirm the obligation to notify draft technical regulations in accordance with the provisions on the WTO Agreement on Technical Barriers to Trade.

Article 12

Trade in agricultural products

1. The States Parties to this Agreement declare their readiness to foster, in so far as their agricultural policies allow, harmonious development of trade in agricultural products.

2. In pursuance of this objective each individual EFTA State and Morocco concluded a bilateral arrangement providing for measures to facilitate trade in agricultural products.

3. The States Parties to this Agreement shall apply their regulations in sanitary and phytosanitary matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

Article 13

Internal taxation and regulations

1. The States Parties to this Agreement commit themselves to apply any internal taxes and other charges and regulations in accordance with Article III of the General Agreement on Tariffs and Trade 1994 and other relevant WTO Agreements.

2. Exporters may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on products exported to the territory of one of the States Parties to this Agreement.

Article 14

Payments and Transfers

1. Payments relating to trade between an EFTA State and Morocco and the transfer of such payments to the territory of the State Party to this Agreement where the creditor resides, shall be free from any restrictions.

2. The States Parties to this Agreement shall refrain from any currency exchange or administrative restrictions on the grant, repayment or acceptance of short and medium-term credits covering commercial transactions in which a resident participates.

3. No restrictive measures shall apply to transfers related to investments and in particular to the repatriation of amounts invested or reinvested and of any kind of revenues stemming therefrom.

Article 15

Public procurement

1. The States Parties to this Agreement consider the effective liberalization of their respective public procurement markets on the basis of non-discrimination and reciprocity, as an integral objective of this Agreement.

2. To this effect, the Parties shall elaborate rules within the framework of the Joint Committee with a view to ensuring such liberalization. Due account shall be given to developments under the auspices of the WTO.

Article 16

Protection of intellectual property

1. The States Parties to this Agreement shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, including measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article, Annex V to this Agreement and the international agreements referred to therein.

2. The States Parties to this Agreement shall accord to each other's nationals treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Article 3 of the TRIPS Agreement.

3. The States Parties to this Agreement shall grant to each others' nationals treatment no less favourable than that accorded to nationals of any other State. Exemptions from this obligation must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5 thereof.

4. The States Parties to this Agreement agree, upon request of any State Party, to review the provisions on the protection of intellectual property rights contained in the present Article and in Annex V, with a view to further improve levels of protection and to avoid or remedy trade distortions caused by actual levels of protection of intellectual property rights.

Article 17

Rules of competition concerning undertakings

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between an EFTA State and Morocco:

(a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;

(b) abuse by one or more undertakings of a dominant position in the territories of the States Parties to this Agreement as a whole or in a substantial part thereof.

2. The provisions of paragraph 1 shall also apply to the activities of public undertakings, and undertakings for which the States Parties to this Agreement grant special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

3. If a State Party to this Agreement considers that a given practice is incompatible with the provisions of paragraphs 1 and 2, it may take appropriate measures under the conditions and in

accordance with the procedures laid down in Article 25 (Procedure for the application of safeguard measures).

Article 18

State aid

1. Any aid granted by a State Party to this Agreement or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it may affect trade between an EFTA State and Morocco, be incompatible with the proper functioning of this Agreement.
2. Any practices contrary to paragraph 1 should be assessed on the basis of the criteria set out in Annex VI.
3. The States Parties to this Agreement shall ensure transparency of state aid measures by exchanging information as provided in Annex VII.
4. If a State Party to this Agreement considers that a given practice is incompatible with the provisions of paragraph 1, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 25 (Procedure for the application of safeguard measures).

Article 19

Dumping

If an EFTA State finds that dumping within the meaning of Article VI of the General Agreement on Tariffs and Trade 1994 is taking place in trade with Morocco, or if Morocco finds that dumping within this meaning is taking place in trade with an EFTA State, the State Party concerned may take appropriate measures against this practice in accordance with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and with the procedure laid down in Article 25 (Procedure for the application of safeguard measures).

Article 20

Emergency action on imports of particular products

Where any product is being imported in such increased quantities and under such conditions as to cause, or threaten to cause:

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the importing State Party to this Agreement, or
- (b) serious disturbances in any related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the State Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 25 (Procedure for the application of safeguard measures).

Article 21

Structural adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 4 (Customs duties on imports and charges having equivalent effect) may be taken by Morocco in the form of increased customs duties.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. After the introduction of these measures, the total ad valorem customs duties applicable in Morocco to products originating in the EFTA States may not exceed 25% and shall maintain an element of preference for products originating in the EFTA States. They may not exceed customs duties levied on imports to Morocco of similar goods from any other country. The total

value of imports of the products which are subject to these measures may not exceed 15% of total imports of industrial products from the EFTA States as defined in Article 2(a) during the last year for which statistics are available.

4. These measures shall be applied for a period not exceeding three years unless a longer duration is authorized by the Joint Committee. All exceptional measures regarding structural adjustment shall cease to apply at the latest eight years after the entry into force of this Agreement.

5. Morocco shall inform the Joint Committee of any exceptional measures it intends to take and, at the request of the EFTA States, consultations shall be held in the Joint Committee on such measures and the sectors to which they apply before they are applied. When taking such measures Morocco shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties at equal annual rates starting at the latest two years after their introduction. The Joint Committee may decide on a different schedule.

Article 22

Re-export and serious shortage

Where compliance with the provisions of Articles 7 (Customs duties on exports and charges having equivalent effect) and 8 (Quantitative restrictions on imports or exports and measures having equivalent effect) leads to:

(a) re-export to a third country against which the exporting State Party to this Agreement maintains, for the product concerned, quantitative export restrictions, export duties or measures or charges having equivalent effect; or

(b) a serious shortage, or threat thereof, of a product essential to the exporting State Party to this Agreement;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting State Party, that State Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 25 (Procedure for the application of safeguard measures). The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

Article 23

Balance of payments difficulties

1. The States Parties to this Agreement shall endeavour to avoid the imposition of restrictive measures for balance of payments purposes.

2. Where an EFTA State or Morocco is in serious balance of payments difficulties, or under imminent threat thereof, the EFTA State or Morocco, as the case may be, may, in accordance with the conditions established under the General Agreement on Tariffs and Trade 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994, adopt trade restrictive measures, which shall be of limited duration and non-discriminatory, and may not go beyond what is necessary to remedy the balance of payments situation. Preference shall be given to price-based measures which shall be progressively relaxed as balance of payments conditions improve and eliminated when conditions no longer justify their maintenance. The EFTA State or Morocco, as the case may be, shall inform the other States Parties to this Agreement and the Joint Committee forthwith, if possible, prior to their introduction and shall provide a time schedule for their removal. The Joint Committee shall, upon the request of any other State Party, examine the need for maintaining the measures taken.

Article 24

Arbitration Procedure

1. Disputes between States Parties to this Agreement, relating to the interpretation of rights and obligations of the States Parties to this Agreement, which have not been settled through consultation or in the Joint Committee within six months, may be referred to arbitration by any State party to the dispute by means of a written notification addressed to the other State party to the dispute. A copy of this notification shall be communicated to all States Parties to this Agreement.
2. The constitution and functioning of the arbitral tribunal is governed by Annex VIII.
3. The arbitral tribunal shall settle the dispute in accordance with the provisions of this Agreement and applicable rules and principles of international law.
4. The award of the arbitral tribunal shall be final and binding upon the States parties to the dispute.

Article 25

Procedure for the application of safeguard measures

1. Before initiating the procedure for the application of safeguard measures set out in the following paragraphs of the present Article, the States Parties to this Agreement shall endeavour to solve any differences between them through direct consultations, and inform the other States Parties to this Agreement thereof.
2. Without prejudice to paragraph 6 of the present Article, a State Party which considers resorting to safeguard measures shall promptly notify the other States Parties and the Joint Committee thereof and supply all relevant information. Consultations between the States Parties to this Agreement shall take place without delay in the Joint Committee with a view to finding a commonly acceptable solution.
3. (a) As regards Articles 17 (Rules of competition concerning undertakings) and 18 (State aid), the States Parties concerned shall give to the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the State Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee or if the Joint Committee fails to reach an agreement after consultations, or after thirty days following referral for such consultations, the State Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.
(b) As regards Articles 19 (Dumping), 20 (Emergency action on imports of particular products) and 22 (Re-export and serious shortage), the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by the State Party concerned. In the absence of such a decision within thirty days of the matter being referred to the Joint Committee, the State Party concerned may adopt the measures necessary in order to remedy the situation.
(c) As regards Article 32 (Fulfilment of obligations), the State Party concerned shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a commonly acceptable solution. If the Joint Committee fails to reach such a solution or if a period of three months has elapsed from the date of notification, the State Party concerned may take appropriate measures.
4. The safeguard measures taken shall be notified immediately to the States Parties to this Agreement and to the Joint Committee. They shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures that will least disturb the functioning of this Agreement. The measures taken by Morocco against an action or an omission of an EFTA State may only affect the trade with that State. The measures taken against an action or omission of

Morocco may be only taken by that or those EFTA States the trade of which is affected by the said action or omission.

5. The safeguard measures taken shall be the object of regular consultations within the Joint Committee with a view to their relaxation, substitution or abolition, when conditions no longer justify their maintenance.

6. Where exceptional circumstances requiring immediate action make prior examination impossible, the State Party concerned may, in the cases of Articles 19 (Dumping), 20 (Emergency action on imports of particular products) and 22 (Re-export and serious shortage) and in cases of state aid having a direct and immediate incidence on trade between the States Parties, apply forthwith the precautionary and provisional measures strictly necessary to remedy the situation. The measures shall be notified without delay and consultations between the States Parties to this Agreement shall take place as soon as possible within the Joint Committee.

Article 26

Security exceptions

Nothing in this Agreement shall prevent a State Party to this Agreement from taking any measures which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies
 - (i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or
 - (ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
 - (iii) taken in time of war or other serious international tension.

Article 27

Evolutionary clause

1. The States Parties to this Agreement undertake to review the present Agreement in light of further developments in international economic relations, i.a. in the framework of WTO and to examine in this context, and in the light of any relevant factor, the possibility of further developing and deepening the co-operation under this Agreement and to extend it to areas not covered therein. The States Parties to this Agreement may instruct the Joint Committee to examine this possibility and, where appropriate, to make recommendations to them, particularly with a view to opening up negotiations.

2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the States Parties to this Agreement in accordance with their own procedures.

Article 28

Services and Investments

1. The States Parties to this Agreement recognize the growing importance of certain areas, such as services and investments. In their efforts to gradually develop and broaden their co-operation, in particular in the context of Euro-Mediterranean integration, they will co-operate with the aim of further promoting investments and achieving a gradual liberalization and mutual opening of markets for trade in services, taking into account on-going work under the auspices of the WTO.

2. The EFTA States and Morocco shall review developments in the services sectors with a view to considering liberalization measures between the parties.

3. The EFTA States and Morocco will discuss this co-operation in the Joint Committee with the aim of developing and deepening their relations under this Agreement.

Article 29

Technical assistance

In order to facilitate the implementation of this Agreement the States Parties shall agree upon appropriate modalities for technical assistance and co-operation of their respective authorities in particular in the fields of intellectual property, customs matters and technical regulations. To this end, they shall co-ordinate efforts with relevant international organizations.

Article 30

The Joint Committee

1. The implementation of this Agreement shall be supervised and administered by a Joint Committee which shall simultaneously act under the Declaration signed in Zermatt in December 1995.

2. For the purpose of the proper implementation of this Agreement, the States Parties to this Agreement shall exchange information and, at the request of any State Party to this Agreement, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the EFTA States and Morocco.

3. The Joint Committee may take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

Article 31

Procedures of the Joint Committee

1. For the proper implementation of this Agreement the Joint Committee shall meet whenever necessary but normally once a year. Each State Party to this Agreement may request that a meeting be held.

2. The Joint Committee shall act by common agreement.

3. If a representative in the Joint Committee of a State Party to this Agreement has accepted a decision subject to the fulfilment of constitutional requirements, the decision shall enter into force, if no later date is contained therein, on the date the lifting of the reservation is notified.

4. For the purpose of this Agreement the Joint Committee shall adopt its rules of procedure which shall, inter alia, contain provisions for convening meetings and for the designation of the Chairman and his/her term of office.

5. The Joint Committee may decide to set up such sub-committees and working parties as it considers necessary to assist it in accomplishing its tasks.

Article 32

Fulfilment of obligations

1. The States Parties to this Agreement shall take all necessary measures to ensure the achievement of the objectives of this Agreement and the fulfilment of their obligations under this Agreement.

2. If an EFTA State considers that Morocco has, or if Morocco considers that an EFTA State has failed to fulfil an obligation under this Agreement, the State Party concerned may take the appropriate measures under the conditions and in accordance with the procedures laid down in Article 25 (Procedure for the application of safeguard measures).

Article 33

Relation between this Agreement and the WTO Agreement

The States Parties to this Agreement commit themselves to ensure the consistency of the Agreement with their rights and obligations under the WTO. The States Parties shall extend to each other a treatment no less favourable than that granted under the WTO.

Article 34

Annexes and Protocols

The Annexes and the Protocols to this Agreement are an integral part of it. The Joint Committee may decide to amend the Annexes and Protocols.

Article 35

Trade relations governed by this Agreement

This Agreement applies to trade relations between, on the one side, the individual EFTA States and, on the other side, Morocco, but not to the trade relations between individual EFTA States, except if otherwise provided for in this Agreement.

Article 36

Territorial application

This Agreement shall apply to the territories of the States Parties to this Agreement except as provided for in Protocol E.

Article 37

Customs unions, free trade areas, frontier trade and other preferential agreements

This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas, arrangements for frontier trade and other preferential agreements in accordance with Article XXIV and Part IV of GATT 1994 to the extent that these do not negatively affect the trade regime provided for by this Agreement.

Article 38

Amendments

Amendments to this Agreement other than those referred to in Article 34 (Annexes and Protocols) which are approved by the Joint Committee shall be submitted to the States Parties to this Agreement for acceptance and shall enter into force when they have been accepted by all the States Parties. The text of the amendments as well as the instruments of acceptance shall be deposited with the Depositary.

Article 39

Accession

1. Any State, Member of the European Free Trade Association, may accede to this Agreement, provided that the Joint Committee decides to approve its accession, to be negotiated between the acceding State and the States Parties concerned, on such terms and conditions as may be set out in that decision. The instrument of accession shall be deposited with the Depositary.

2. In relation to an acceding State, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument of accession.

Article 40

Withdrawal and expiration

1. Each State Party to this Agreement may withdraw therefrom by means of a written notification to the Depositary. The withdrawal shall take effect six months after the date on which the notification is received by the Depositary.

2. If Morocco withdraws, this Agreement shall expire at the end of the notice period, and if all EFTA States withdraw it shall expire at the end of the latest notice period.

3. Any EFTA Member State which withdraws from the Convention establishing the European Free Trade Association shall ipso facto on the same day as the withdrawal takes effect cease to be a State Party to this Agreement.

Article 41

Entry into force

1. This Agreement is subject to ratification. The instruments of ratification shall be deposited with the Depositary.
2. This Agreement shall enter into force on the first day of the second month following the deposit of all instruments of ratification.

Article 42

Depositary

The Government of Norway, acting as Depositary, shall notify all States that have signed or acceded to this Agreement of the deposit of any instrument of ratification or accession or of acceptance of amendments under Article 38, as well as of the entry into force of this Agreement and amendments thereto made under the procedure laid down in Article 38, of its expiration or of any withdrawal therefrom.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed the present Agreement.

DONE at Geneva, this 19th day of June 1997, in single original in the English and French languages, both texts being equally authentic, which shall be deposited with the Government of Norway. The Depositary shall transmit certified copies to all Signatory States, and States acceding to this Agreement.

For the Republic of Iceland For the Kingdom of Morocco

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For the Principality of Liechtenstein

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For the Kingdom of Norway

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For the Swiss Confederation

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RECORD OF UNDERSTANDING RELATING TO
THE AGREEMENT BETWEEN THE EFTA STATES AND THE KINGDOM OF MOROCCO
Protocol B

1. The States Parties agree that the provisions of Article 1 (e) of Protocol B shall not prejudice the right of Morocco to benefit from special and different treatment and other derogations accorded to developing countries by the Agreement on Implementation of Article VII of GATT 1994.
2. Appendix II to Protocol B is based on the HS version of 1992. It will be adjusted to the second revision of the HS (HS version 1996) by the entry into force of the Agreement by a Joint Committee decision.
3. The EFTA States and Morocco declare their readiness to include Tunisia in a diagonal cumulation system on condition that trade between the EFTA States and Tunisia and between Morocco and Tunisia is governed by rules of origin identical to those contained in the Agreement and the administrative co-operation shall be ascertained.
4. In a situation where a free trade agreement is established between the EFTA States and Algeria, the States Parties declare their readiness to explore the possibilities of the inclusion of Algeria into the provisions of the Agreement governing cumulation of origin.
5. The EFTA States and Morocco agree to explore the possibilities on a reciprocal basis between all three parties to include the European Communities into the provisions of the Agreement governing cumulation of origin.
6. Furthermore, the EFTA States and Morocco agree to explore the possibilities to further extend and improve the rules of origin including cumulation and no-drawback or exoneration in

order to expand and promote production and trade between European countries and countries in the Mediterranean Region.

7. In any case a discussion between Morocco and the EFTA States shall be initiated at the latest two years after entry into force of the Agreement aiming at adapting Protocol B taking into account progress made with regard to the rules of origin both with the European Communities and the WTO.

General exceptions

8. The EFTA-Morocco Agreement shall not preclude prohibitions or restrictions of imports or goods in transit on grounds of the protection of the environment, imposed under the provisions of Article 9 (General exceptions), provided that such prohibitions or restrictions are made effective in conjunction with equivalent measures imposed domestically or undertaken in pursuance of obligations under an intergovernmental agreement on the environment. Any difficulty in interpreting the notion "protection of the environment" in the context of Article 9 shall be examined by the Joint Committee.

Payments and transfers

9. The provisions of paragraph 3 of Article 14 apply provided investments are made in foreign currency.

10. Switzerland and Morocco confirm that paragraph 3 of Article 14 and paragraph 9 of this Record of Understanding is of no prejudice to their bilateral agreement on the Promotion and Reciprocal Protection of Investments of 3 April 1991.

Public procurement

11. The States Parties shall actively promote the work in the field of government procurement to be conducted under the auspices of the WTO as laid down in the Singapore Ministerial Declaration.

Protection of intellectual property

12. Under the EEA Agreement the EFTA States shall comply in their legislation with the substantive provisions of the European Patent Convention of 5 October 1973. It is the understanding of Iceland and Norway that the obligations under Article 16 (Protection of intellectual property) do not differ in substance from the obligations under the EEA.

Structural adjustment

13. It is understood that the level of any duty applied under Article 21 (Structural adjustment) must not be higher than 25 per cent.

14. With reference to paragraph 3 of Article 21 (Structural adjustment), if there is a disagreement with regard to the actual value of imports of industrial products, international trade statistics such as those of UN/ECE, WTO and OECD will be used.

Economic co-operation between the EFTA States and Morocco

15. The EFTA States declare their willingness to support the efforts of Morocco in consideration of its long-lasting social and economic development and to promote co-operation on the basis of the Zermatt Declaration.

16. Co-operation will be established in areas related to the process of liberalization of the Moroccan economy and particularly the liberalization of trade between Morocco and the EFTA States, and concentrate on activities and fields where the EFTA States have special expertise. DONE at Geneva, this 19th day of June 1997, in single original in the English and French languages, both texts being equally authentic, which shall be deposited with the Government of Norway. The Depositary shall transmit certified copies to all Signatory States, and States acceding to this Agreement.

For the Republic of Iceland For the Kingdom of Morocco

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For the Principality of Liechtenstein

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For the Kingdom of Norway

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For the Swiss Confederation

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1 The Annexes and Protocols thereto have been submitted to the Secretariat for consultation by interested Members (Office 3006).

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