

**H.R. \_\_\_\_\_,**  
**THE U.S.-MOROCCO FREE TRADE AGREEMENT IMPLEMENTATION ACT**  
**SECTION-BY-SECTION SUMMARY**  
**PREPARED BY THE COMMITTEE ON WAYS AND MEANS**

**Sections 1-3:** Short title, purposes and definitions

TITLE I: APPROVAL AND GENERAL PROVISIONS

**Section 101: Approval and Entry into Force**

Section 101 states that Congress approves the Agreement and the Statement of Administrative Action and provides that the Agreement enters into force when the President determines that Morocco is in compliance and has exchanged notes, on or after January 1, 2005.

**Section 102: Relationship of the Agreement to U.S. and State Law**

Section 102 provides that U.S. law is to prevail in a conflict and states that the Agreement does not preempt state rules that do not comply with the Agreement. Only the United States is entitled to bring a court action to resolve a conflict between a state law and the Agreement.

**Section 103: Implementing Actions in Anticipation of Entry into Force and Initial Regulations**

Section 103(a) provides that after the date of enactment, the President may proclaim actions and issue regulations as necessary to ensure that any provision of this Act that takes effect on the date that the Agreement is entered into force is appropriately implemented, but not before the date the Agreement enters into force.

Section 103(b) establishes that regulations necessary or appropriate to carrying out the actions proposed in the Statement of Administrative Action shall, to the maximum extent feasible, be issued within one year of entry into force or the effective date of the provision.

**Section 104: Consultation and Layover for Proclaimed Actions**

Section 104 provides that if the President implements proclamation authority subject to consultation and layover, the President may proclaim action only after he has: obtained advice from the International Trade Commission and the appropriate private sector advisory committees; submitted a report to the Ways & Means and Finance Committees concerning the reasons for the action; and consulted with the Committees. The action takes effect after 60 days have elapsed.

**Section 105: Administration of Dispute Settlement Proceedings**

Section 105 authorizes the President to establish an office within the Commerce Department responsible for providing administrative assistance to any panels that may be

established under the Agreement and authorizes appropriations for the office and for payment of the U.S. share of expenses.

### **Section 106: Arbitration of Claims**

Section 106 authorizes the United States to resolve certain claims covered by the Investor-State Dispute Settlement procedures set forth in the Agreement.

### **Section 107: Effective Dates; Effect of Termination**

The effective date of this Act is the date the Agreement enters into force with respect to the United States except sections 1-3 and Title I take effect upon the date of enactment. The provisions of the Act terminate on the date on which the Agreement terminates.

## **TITLE II: CUSTOMS PROVISIONS**

### **Section 201: Tariff Modifications**

Section 201(a) provides the President with the authority to proclaim tariff modifications to carry out the Agreement and requires the President to terminate Morocco's designation as a beneficiary developing country for the purposes of the Generalized System of Preferences program.

Section 201(b) gives the President the authority to proclaim further tariff modifications, subject to consultation and layover, as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Morocco provided for by the Agreement.

Section 201(c) allows the President, for any goods for which the base rate is a specific or compound rate of duty, to substitute for the base rate an ad valorem rate to carry out the tariff modifications in subsections (a) and (b).

### **Section 202: Additional Duties on Certain Agricultural Goods**

Section 202 of the bill implements the agricultural safeguard provisions of article 3.5 and Annex 3-A of the Agreement. Article 3.5 permits the United States to impose an agricultural safeguard measure, in the form of additional duties, on imports from Morocco of certain horticultural goods listed in the U.S. schedule to Annex 3-A of the Agreement.

No additional duty may be applied under section 202 if, at the time of entry, the good is subject to import relief under subtitle A of title III of this bill (the general safeguard) or chapter 1 of title II of the Trade Act of 1974 ("section 201" relief). The assessment of an additional duty shall cease to apply to a good on the date on which duty-free treatment must be provided to that good. If an agricultural good is subject to a tariff-rate quota under the Agreement, any additional duty assessed under this section shall be applied only to over-quota imports of the good. The sum of the duties assessed under an agricultural safeguard and the applicable rate of duty in the

U.S. schedule may not exceed the lesser of the existing normal trade relation (NTR)/most favored nation (MFN) rate or the NTR/MFN rate imposed when the Agreement entered into force.

### **Section 203: Rules of Origin**

Section 203 codifies the rules of origin set out in chapter 5 of the Agreement. Under the general rules, there are four basic ways for a good of Morocco to qualify as an “originating good” and therefore be eligible for preferential tariff treatment when it is imported into the United States. A good is an originating good if it is imported directly from the territory of Morocco into the territory of the United States and: (1) it is “wholly the growth, product, or manufacture of the Morocco, the United States, or both”; (2) it is a new or different good that has been “grown, produced, or manufactured in Morocco, the United States, or both” and the value of the materials produced and the direct cost of processing operations performed in Morocco, the United States, or both is not less than 35% of the appraised value of the good; (3) it satisfies certain rules of origin for textile or apparel goods specified in Annex 4-A of the Agreement; or (4) it satisfies certain product-specific rules of origin specified in Annex 5-A of the Agreement.

Under the rules in chapter 4.3 and Annex 4-A of the Agreement, an apparel product must generally meet a tariff shift rule that implicitly imposes a “yarn forward” requirement. Thus, to qualify as an originating good imported into the United States from Morocco, an apparel product must have been cut (or knit to shape) and sewn or otherwise assembled in Morocco from yarn, or fabric made from yarn, that originates in Morocco or the United States, or both. However, Article 4.3.11 provides an exception to this general rule allowing access for 30 million square meter equivalents of apparel that does not meet the yarn forward rule of origin in the first year of the Agreement, phasing down over a ten-year period. Section 203 also includes a de minimis exemption providing that in most cases a textile or apparel good will be considered originating if the total weight of all nonoriginating fibers or yarns is not more than 7 percent of the total weight of the good.

The remainder of section 203 addresses valuation of materials and special definitions.

### **Section 204: Enforcement Relating to Trade in Textile and Apparel Goods**

Section 204 implements the verification provisions of the Agreement at article 4.4 and authorizes the President to take appropriate action while the verification is being conducted. Such appropriate action includes suspending liquidation of the textile or apparel good for which a claim of origin has been made or, in a case where the request for verification was based on a reasonable suspicion of unlawful activity related to such goods, for textile or apparel goods exported or produced by the person subject to a verification. If the Secretary determines that the information obtained from verification is insufficient to make a determination, the President may take appropriate action described in section 204(d), including publishing the name and address of the person subject to the verification and denial of preferential treatment and denial of entry to certain textile and apparel goods produced or exported by the person subject to the verification.

## **Section 205: Regulations**

Section 205 provides that the Secretary of the Treasury shall issue regulations to carry out provisions of this bill related to rules of origin and Customs user fees.

### **TITLE III: RELIEF FROM IMPORTS**

#### **Subtitle A: Relief from Imports Benefiting from the Agreement (Sections 311-316)**

Sections 311-316 authorize the President, after an investigation and affirmative determination by the U.S. International Trade Commission (ITC), to impose specified import relief when, as a result of the reduction or elimination of a duty under the Agreement, a Moroccan product is being imported into the United States in such increased quantities and under such conditions as to be a substantial cause of serious injury or threat of serious injury to the domestic industry.

Section 311(c) defines “substantial cause” and applies factors in making determinations in the same manner as section 201 of the Trade Act of 1974.

Section 311(d) exempts from investigation under this section Moroccan articles for which import relief has been provided under this safeguard since the Agreement entered into force.

Under sections 312(b) and (c), if the ITC makes an affirmative determination, it must find and recommend to the President the amount of import relief that is necessary to remedy or prevent serious injury and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Under section 313(a), the President shall provide import relief to the extent that the President determines is necessary to remedy or prevent the injury found by the ITC and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Under section 313(b), the President is not required to provide import relief if the President determines that the relief will not provide greater economic and social benefits than costs.

Section 313(c) sets forth the nature of the relief that the President may provide as: a suspension of further reductions for the article; or an increase to a level that does not exceed the lesser of the existing NTR/MFN rate or the NTR/MFN rate imposed when the Agreement entered into force. Section 313(c)(1)(C) specifies that if a duty is applied on a seasonal basis, then the NTR/MFN rate corresponds to the immediately preceding season. Section 313(c)(2) states that if the President provides relief for greater than one year, it must be subject to progressive liberalization at regular intervals over the course of its application.

Section 313(d) states that the import relief that the President is authorized to provide may

not exceed three years. If the President determines that import relief continues to be necessary and there is evidence that the industry is making positive adjustment to import competition, then he may extend the relief, but the aggregate period of relief, including extensions, may not exceed five years.

Section 314 provides that no relief may be provided under this subtitle after five years from the date on which the United States must eliminate duties on the good at issue under the Agreement.

Section 315 authorizes the President to provide compensation to Morocco consistent with article 8.5 of the Agreement.

Section 316 provides for the treatment of confidential business information.

### **Subtitle B: Textile and Apparel Safeguard (Sections 321-328)**

Section 321 provides that a request for safeguard relief under this subtitle may be filed with the President by an interested party. The President is to review the request and determine whether to commence consideration of the request. If the President determines to commence consideration of the request, he is to publish a notice commencing consideration and seeking comments. The notice is to include a summary of the request.

Section 322(a) of the Act provides for the President to determine, pursuant to a request by an interested party, whether, as a result of the elimination of a duty provided under the Agreement, a Moroccan textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

Section 322(b) identifies the relief that the President may provide, which is the lesser of the existing NTR/ MFN rate or the NTR/MFN rate imposed when the Agreement entered into force.

Section 323 of the bill provides that the period of relief shall be no longer than three years. The President may extend the relief, but the aggregate period of relief, including extensions, may not exceed five years.

Section 324 provides that relief may not be granted to an article under this safeguard if relief has previously been granted under this safeguard, or the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974.

Under section 325, after a safeguard expires, the rate of duty on the article that had been subject to the safeguard shall be the rate that would have been in effect but for the safeguard action.

Section 326 states that the authority to provide safeguard relief under this subtitle expires ten years after the date on which duties on the article are eliminated pursuant to the Agreement. Section 327 of the Act gives authority to the President to provide compensation to Morocco if he orders relief. Section 328 provides for the treatment of business confidential information.