

2006: A Controversial Agreement between Morocco and the United States Comes into Effect

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It only took four years – from 2002 to 2006 – for the Free Trade Agreement between Morocco and the US to be proposed (2002), negotiated (2003), signed (2004), ratified (2004) and enter into effect (2006). In contrast, the negotiation of Association Agreements between the European Union (EU) and Lebanon and Syria took nearly 9 and 10 years, respectively, while negotiations on a free trade agreement between the EU and the Gulf Cooperation Council have been ongoing since 1988. In this brief paper, I would like to provide an overview of the general context, analyse the content of the Agreement and the reactions it generated, and make a preliminary appraisal of its application.

The United States' Commercial Offensive in the Arab World

In another paper (Khader; 2005a), I analysed in greater depth the factors leading the United States to engage in a serious commercial offensive in the Arab world as of 2001. A study carried out by the Institute for Research: Middle Eastern Policy (IRMEP) entitled "*Dividends of Fear*," asserted that in 2002, the share of US exports to Arab countries had plunged from 18% in 1997 to 13% in 2001. The IRMEP estimated that the American profit loss in exports to Arab countries amounted to \$31 billion from 1998 to 2002. On the demand side, the eroding commercial position of the United States has been ascribed not only to

the growing Arab mistrust of US unilateralism and its unflinching alliance with Israel, but also and above all to Europe's privileged position on the Arab and Mediterranean market, consolidated by the Euro-Mediterranean Partnership (1995) and corroborated by the elevated trade rates between Mediterranean and Arab countries and the EU, surpassing 50% (for Mediterranean countries) and 40% (for the ensemble of Arab countries). In general, average European trade with Euro-Mediterranean Countries represented over 4 times that of US trade, concentrated in Turkey and above all, Israel.

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The conclusions drawn by US analysts and policymakers are clear: the EU has captured a particularly lucrative market in the Mediterranean Basin. Even more alarming is the fact that the United States is, moreover, being outstripped, above all in the Middle East, by Asian countries, in particular Japan and China. The start of negotiations between the US and Morocco for the agreement must be understood in this context, likewise marked by the repercussions of 11 September 2001 events.

Morocco on the Lookout for New Markets

The erosion of the United States' commercial position in the Arab world became clear at a time when certain traditional US allies, including Jordan, Morocco and Egypt, were experiencing the need to diversify their export markets in order to gain opportunities and

minimise the effects of EU Enlargement, perceived as negative insofar as diversion of investment and trade, and the alarming perspective of the entrance into effect of the World Trade Organization's new regulations on 1st January 2005, with everything this entailed, such as increased competition, in particular in the textile industry.

It is in this context that the eagerness of the King of Morocco, Mohammed VI, to accept President Bush's offer to engage in negotiations on a Free Trade Agreement on his visit to the US in April of 2002 must be understood. Indeed, in the summer of 2002, Morocco appointed a Secretary of State to coordinate such negotiation. By the same token, President Bush established an American negotiation team presided by Catherine Novelli in November of 2002.

On 21st January 2003, negotiations began in Washington, in a climate rendered uncomfortable by the perspective of the US invasion of Iraq and the "openly hostile reaction" of Morocco's European partners, in particular France. Najib Akesbi (2006) reported on the cutting statements by made by the French Minister of Foreign Trade, who considered that "a free trade agreement between Morocco and the United States is incompatible with strengthening economic relations with the EU," a position which was dubbed a retrograde point of view by the US Trade Representative, Robert Zoellick. Nevertheless, despite the invasion of Iraq and the EU's ill temper, negotiations continued at an accelerated rhythm: 11 task forces were working on different aspects. The stalemate – particularly on such issues as agricultural products, textiles, medicines and intellectual property – was quickly overcome; indeed, too quickly, as both sides were eager to close negotiations as rapidly as possible. This occurred in 2004. After 9 rounds of negotiation that lasted nearly 14 months (January 2003 - March 2004), everything had been settled: the Free Trade Agreement was concluded on 2nd March 2004 in Washington, signed on 15th June in the same city and ratified by the US Senate and House of Representatives on 21st and 22nd July. Less than a month later, on 17th August, President Bush signed the order making the agreement effective. This was the second agreement of this type between the United States and Arab countries after the one signed with Jordan.

Reactions to the Agreement

As could be expected, the Americans did not conceal

their satisfaction. The agreement was hailed by Robert Zoellick as "the first stone" laid in their Greater Middle East plan, "the best agreement made with an emerging country," and "a concrete example of American commitment to supporting open and prosperous Muslim societies" (*L'Intelligent*, 14 March 2004).

On behalf of Morocco, Taieb Fassi Fahri, the Moroccan Minister of Foreign Affairs and Cooperation emphasised the new opportunities that the Agreement represented for the Moroccan economy insofar as access to a dynamic market of 300 million Americans, encouragement of tourism, attraction of US investment and diversification of export markets. Nevertheless, he was confronted with a great deal of protest by the media and civil society, which rebuked him not only for the 'opacity' of negotiations, but also the absence of political debate and concessions granted with 'lightness.'

The objection by certain Moroccan organisations to the Free Trade Agreement grew over the course of the months following its signature. Certain opponents put forth an objection based on principle: you cannot negotiate with an imperialist power that turns its back on Arab rights, is insensible to the suffering of the Palestinian people and imposes "a new form of colonialism" on Morocco, as asserted by Mahdi El-Manjara (*L'Economiste*, 22nd April 2004). Others doubted its appropriateness: "why negotiate with a power that invades Iraq and, what's more, poses as 'the Axis of Good'?" While others decried the "hasty concessions" made by the Moroccan government that go beyond the standards set by the WTO (World Trade Organisation). The following concessions were namely singled out:

- 1) Extension of protection by patent beyond the commonly accepted duration of 20 years;
- 2) Acceptance of American conditions with regard to access to medicines and intellectual property.

Is the discontent of the leaders of Moroccan civil society organisations founded? The reply to this question is most probably condensed in the following remark by Robert Zoellick, the American representative, who boasted of having concluded an agreement that established "an inordinately elevated level for

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intellectual property” (*Action 93*, 15th May 2004). It is thus easy to understand the great number of Moroccans who view the Agreement with scepticism, going so far as to predict “a dire future” for the nation’s pharmaceutical industry, which could be destroyed by US competition. The statements by Joseph Stiglitz, Nobel Prize Laureate in Economics, made a few days before the signature of the Agreement, should have sounded the alarm bell. Speaking in Casablanca on 17th February 2004, Stiglitz appealed to Morocco to demonstrate prudence, not to accept “inequitable” conditions going beyond the “standards established” by the WTO in Doha in 2001 (in particular on access to pharmaceuticals), to learn from former agreements concluded by the United States with Mexico and Chile, where the Americans were clearly the most benefited party, and finally, to engage in public debate on the different clauses of the Agreement, thereby reiterating one of the main demands of the Moroccan coalition in favour of freezing negotiations

(communiqué dated 16th February 2004). Surprisingly, France, which usually balks at ‘lecturing’ Morocco so as not to incur the rebuke of super-annuated paternalism, did not hesitate, via the voice of Jacques Chirac, to denounce “the immoral extortion” of Morocco by the American administration. Nevertheless, neither the mobilisation of some forty Moroccan NGOs grouped together in a coalition, nor the repeated warnings by Joseph Stiglitz, nor the concerns expressed by certain Moroccan industrialists (above all in the pharmaceuticals sector), to say nothing of the denunciation of the agreement by J. Chirac and other French senior officials, succeeded in reorientating the position of Moroccan negotiators. The process of ratifying the Agreement began in the Moroccan Parliament on Wednesday, 5th January 2005. Strangely enough, under the pretext that the Agreement and its annexes comprised 1,600 pages, only the parliamentary groups were issued a copy on paper. The 31 Representatives of the Foreign Affairs

THE MAIN PROVISIONS OF THE AGREEMENT CAN BE SUMMED UP AS FOLLOWS:

Agricultural Products

The Agreement establishes a *progressive liberalisation that takes into account national production and the needs of the industry*. In this regard, ceilings were fixed taking into account the country’s annual needs with transitional periods and customs duty roll-back schemes of up to 25 years in duration.

In exchange, *immediate free access for fresh or processed Moroccan agricultural products* such as clementines, flowers, olives and tomatoes is stipulated. This free access likewise concerns all agro-industrial products with or without a quota (500 T for tomato concentrates).

Industrial Products

Asymmetrical conditions to the benefit of Moroccan products are stipulated. Thus, immediate free access will be given to nearly all Moroccan industrial and fisheries products (98%); of 7,052 American tariff headings, 6,966 will be exempt from the onset of the Agreement. Insofar as access of American products to the Moroccan market, the Agreement stipulates an exemption from import duties at the onset of the Agreement amounting to 58% of the tariff headings. The remainder of duties shall be eliminated within a maximum period of 9 years.

Textiles:

The Agreement establishes three symmetrical lists:

- A list of duty-free items as of the onset of the Agreement;
- A list of 43 products that will be duty-free within the limit of a contingent to increase by 25% every year for 5 years.
- Duties on the remaining products will be symmetrically eliminated over the course of 6 years, with a 50% reduction as of the first year.

Rules of Origin:

- Simplification of customs procedures.
- 35% ad valorem for industrial products excepting textiles
- Specific rules for agricultural and textile products;

- Specific rules for certain industrial products (electric cables and certain chemical and metallurgical products).
- Bilateral cumulation

Trade in Services / Investment

Moroccan investors and service providers are guaranteed conditions, insofar as access to the American market, at least equal to those granted other partners already having entered into free trade agreements with the United States.

With regard to access to the Moroccan market, Morocco managed to obtain the following conditions:

- The protection of existing monopolies (OCP, ONE, ONCF, municipal monopolies, etc.)
- Limited access to the Moroccan market in certain sensitive sectors for Moroccan enterprise;
- The granting of priority to Moroccan nationals for the majority of professional services.

Moreover, Morocco made exceptions concerning certain highly sensitive sectors allowing it to maintain or adopt (in the future) any regulation measures for these sectors. And finally, Morocco obtained a transitional period of 2 years for certain unrecognised or non-regulated sectors.

With regard to financial services, Morocco managed to retain manoeuvring room with regard to:

- Control of major banks: Morocco has reserved the right to prohibit the takeover of large Moroccan banks by foreign capital.
- Future regulation of financial services: Morocco was guaranteed the authority to introduce restrictions to market access in the future for financial services that were unregulated at the time of signing the agreement as well as for new financial services emerging thereafter.
- Granting advantages to State financial institutions: Morocco retains the prerogative of granting advantages to public financial institutions, which may not be extended to the private sector.

Commission of the Chamber of Representatives (Morocco's lower house) each received only a CD-Rom, whereas not all Representatives know how to use a computer, ironically remarked Lahsen Daoudi, Vice-President of the Islamist Group of the lower house (*Le Monde*, 8th January 2005). Finally, the text was adopted on 13th January by the Chamber of Representatives and on 18th January by the upper house, the Chamber of Councillors, without having cleared up the thorny issue of the Agreement's geographical scope. In fact, whereas R. Zoellick stated that the Agreement ratified by the United States on 22nd July 2004 concerned "the internationally recognised territory of Morocco, not including Western Sahara," the Minister of Foreign Affairs, Taieb Fassi Fihri, made the opposite interpretation, asserting that the Agreement covered "the entirety of Moroccan territory, including the southern Saharan provinces" (*Le Nouvel Observateur*, 19th January 2005) – an edifying example of the confusion permeating this controversial agreement.

The opposition to the US-Morocco FTA was not mitigated throughout 2005. European circles in particular continued to see the risk of a diversion of trade. Thus, in a meeting on the eve of the visit by Spain's King Juan Carlos to Morocco in January of 2005, King Mohammed showed irritation at the criticism. "We Moroccans are obliged not to put all our eggs in one basket," he stated, before adding "this is an initiative that complements but does not substitute the agreements concluded by Morocco with the EU." It is a "decision based on Morocco's sovereignty," he further emphasised, claiming not to understand that "certain circles in Europe have reacted negatively to this agreement concluded with the United States," which he qualified as a "friendly country" with whom Morocco maintained "excellent relations" (*El Pais*, 16th January 2005).

Preliminary Economic Evaluation

Morocco is not Mexico: it is many thousands of kilometres away from the United States, does not have an émigré

community in the US as it does in Europe and is a nearly insignificant partner in commerce. At the end of 2005, Morocco was the 79th US merchandise export market and the 89th US import market, commerce in goods having totalled \$989 million in 2005.

General Overview of Commerce

Exports

Goods exports from the United States to Morocco in 2005 totalled \$528 million, increasing by 1% (\$524 million) over the amount in 2004 and by 29% over 1994 (the year before the Uruguay Round). The five leading export categories (according to the Harmonisation System codes for commodities classification) in 2005 were: Aircraft (\$166 million); Cereals (\$82 million); Machinery (\$55 million); Oil Seeds, Miscellaneous Grains, Medical Plants and Straw (primarily soybeans) (\$63 million); Electrical Machinery (\$25 million); and Animal Feed (\$17 million). Exports of agricultural products from the United States to Morocco amounted to \$165 million in 2005. Among the main products were: maize (\$94 million), sugar (\$16 million) and soybeans (\$95 million).

Imports

Imports of Moroccan goods by the United States amounted to \$443 million in 2005, sinking by 14% (\$62 million) vis-à-vis 2004 and rising by 130% vis-à-vis 1994. The five leading import categories in 2005 were: Electrical Machinery (\$107 million); Salt, Sulphur, Earth and Stone (primarily calcium phosphate) (94 millions de \$); Mineral Fuels (\$45 million); Woven Fabrics (\$37 million); Edible Preparations of Meat, Fish, Crustaceans, Molluscs or Other Aquatic Invertebrates (\$23 million); and Preparations of Vegetables, Fruits, Nuts or Other Plant Parts (primarily olives) (\$23 million). Imports of Moroccan agricultural products by the United States amounted to \$88 million in 2005. Among the main products were: fish, olives and olive oil.

TABLE 29 United States Goods Trade with Morocco (in Millions of \$)

Year	1985	1990	1994	1998	1999	2000	2001	2002	2003	2004	2005
Trade Balance	240	386	217	218	180	82	-152	173	83	9	85
Exports	279	495	409	561	566	523	282	565	468	524	528
Imports	39	109	192	343	386	441	435	392	385	515	443

The Trade Balance

The US-Morocco trade balance exceeded \$85 million in 2005. (TABLE 29)

1st January 2006:

The Agreement Enters into Effect

The Agreement was initially slated to enter into effect in 2005 but this was postponed due to a proposal made late in the process regarding patent rights and considered to take Morocco's 'cultural exceptions' into account. This project was not examined and adopted by both of Morocco's parliamentary chambers until 20th December 2005. The ground was set for the Agreement's entry into effect on 1st January 2006. Morocco thus became the first African State and second Arab country (after Jordan) to conclude a Free Trade Agreement with the United States.

Endorsing the Agreement's entrance into effect, Mohamed Benayad, Secretary General of Morocco's National Council for Foreign Trade, acknowledged its 'political dimension' and did not conceal his frustration with the results of the Association Agreement between Morocco and the European Union. "*The promises made to upgrade companies have not been kept, the implementation of financing systems has proven Kafkaesque and we have not obtained the expected compensation.*" One could deduce from these remarks that the Morocco-US Agreement was a reaction to the perception that the Morocco-EU Agreement was a failure. Benayad held his ground, pointing out Morocco's interest in diversifying its partnerships and markets and sharpening its competitive edge in an increasingly globalised economy. "*There's more than just Europe,*" he asserted, adding that "*we must go beyond Europe*" (*Libération*, published in Casablanca, 9th January 2006). He could not have been more explicit. What Benayad is not saying is the risk of a global agreement – concerning agriculture as well as industries and services – between two economies with such asymmetrical levels of development.

In any case, one thing is clear: since 1st January 2006, 98% of Moroccan industrial products have entered the American market exempt of duties, in exchange for the roll-back of Moroccan duties on imports of American industrial products that are not in competition with local production. Apart from the risk of Morocco's becoming specialised in industrial markets of low added value (textiles) and low technological content, it is highly probable that trade in industrial products

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will become more and more imbalanced, to the detriment of Morocco. The same is true for the services sector, where there is a real risk of having Moroccan banks and insurance sector, not to mention transport and the media, come under the control of US companies.

Pragmatic, the Americans quickly got to work to ensure that the US-Morocco Agreement would not be just an empty shell. In June of 2006, the US Agency for international Aid (USAID), in partnership with the Moroccan Ministry of Commerce and Industry (MICMANE), launched the project, "Morocco: Creating New Business Opportunities" (27th June 2006). The project was designed to familiarise Moroccan exporters with how the American market functions. Indeed, Moroccan exports to the US market showed a decreasing trend in the first five months of 2006, i.e. January to May (-1.2% less than in 2005). During that same period, US exports to the Moroccan market registered a growth of 8.8% (over the same period of the preceding year), thus confirming the fears of imbalanced relations.

Globally, in the first semester of 2006, the value of Moroccan exports was nearly 1.8 times less (\$193.8 million) than what it imported from the United States (*L'Economiste*, 17th August 2006). In all, the United States represented \$353 million in 2006, that is, 3% of overall Moroccan trade, a ludicrous percentage compared with Moroccan-European Union trade (+55-60%). In 2006, the United States was Morocco's 7th supplier and its 8th most important customer.

Conclusion

Morocco is a key factor in US strategy for economic expansion in Africa. As recalled by Yahia Zoubir in July of 2006, Morocco is a pillar for the United States in the Maghreb (Zoubir, 2006). It is thus no coincidence

that it was the first African State to sign a free trade agreement with the United States, just as Jordan was the first Arab State to sign a similar agreement.

This privileged treatment arises from Morocco's traditional alliance with the United States during the cold war, its support of the Gulf War in 1991, its "role as a bulwark" against anti-Western forces, its position – deemed by Washington to be moderate – concerning the Israeli-Arab conflict, its potential role as a natural bridge to Africa and the progressive reform of its political system.

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The idea underlying the American approach to economic partnerships like the one with Morocco is that economic and political reform, "coupled with free trade, judicious governance and well-focussed aid programmes evaluated on the basis of their results, should foster economic development and social integration, thus reducing the risks of insecurity and instability" (Deblock, 2003). The aim is commendable and coincides with the postulates of the Euro-Mediterranean Partnership (Khader, 2005b); yet the supposed sequence of events – economic liberalisation, political reform, attracting investment, stability and security – may not be so automatic.

It is indeed clear that, in a context of asymmetrical competition, the profits of free trade are far from

being equitably distributed and that the Moroccan agricultural sector may be the hardest hit. In the first 6 months of 2006, US cereal exports to Morocco had already jumped up by 50%. By the same token, the costs of adjustment are likely to be very high. 'Competitive integration' into the global economy largely depends on the economic dynamism of the industrial fabric, the capacity of national enterprise to adapt to market constraints, regulation mechanisms and training adjusted to market needs. And it cannot be said that Morocco currently meets these criteria for taking advantage of the potential of a free trade agreement with a post-industrial economy like the American one.

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