Is Morocco Africa’s Leading Free Trade Bastion?

By:

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In August of 2018, the United States and Morocco entered into a monumental trade agreement which will allow for the importation of American poultry (source). This could prove to be a colossal step towards increasing American trade presence in Africa, a market currently dominated by other major players such as China, which sits as Africa's largest trade partner (Stephen Lande & Dennis Matanda, *Defining and Redefining U.S.-Africa Trade Relations during the Trump Presidency*, 111 AJIL Unbound 389, 390 (2017-2018)). Additionally, it is just another example of Morocco's focus on establishing itself as the leading liberal free trade state in Africa. By reaching a deal on the importation of American poultry, one of its most cherished industries, Morocco has again displayed its willingness to make concessions to advance its interests through international trade. This is beginning to become a pattern for Morocco, separating itself from the rest of the continent as the leading proponent of free trade, especially with external trading partners. In the meantime, Morocco has yet to ratify the AfCFTA.

Beginning with the free trade agreement negotiated by the Bush Administration in 2006, the trade relationship between the United States and Morocco has flourished over the years. In 2012, the two countries entered into another free trade deal, with Morocco adjusting its intellectual property laws to more similarly mirror that of the United States, a decision that was applauded by big pharmaceutical companies (James Gathii, *The Neo-Liberal Turn in Regional Trade Agreements*, 86 Washington Law Review 1, 42 (2011)).Following the agreement's signing, Morocco's intellectual property law was adjusted to prohibit the marketing of pharmaceutical products that are infringing on global patents (Id. at 43). Morocco is also required to inform patent holders when a patent infringement has occurred (Id.). While Morocco was more than happy to accept the changes to its IP law in order to secure a free agreement with the United States and secure its position as the U.S.'s primary trade ally on the continent, the Southern African Customs Union (SACU) refused to consent to stronger intellectual property protection (Id.). SACU's resistance stemmed from their belief that the increased protection for intellectual property disproportionately benefitted the United States (Id.). Both the European Union and the United States use their positions as coveted trade partners to require intellectual property protections than those required by the World Trade Organization's TRIPS Agreement into their bilateral trade agreements (Id. at 42). Morocco's decision to concede to the IP law rules that the United States required of it is another example of that Morocco is perhaps one of the leading economies committed to a free trade regime with its non-African trading partners. Its pledge to free trade paved the way for the 2018 poultry agreement between the countries.

The new poultry agreement between the United States and Morocco has been hailed by American agricultural organizations for opening a new market for their poultry products (source). The trade deal created a duty-free quota of 6,400 metric tons of chicken parts, increasing by 200 metric tons each year, eventually granted unlimited duty-free access to the Moroccan market (Id.). By the year 2024 all turkey and turkey products will be duty-free with chicken gaining the same treatment in 2030 (source). The American poultry producers have the Moroccan government to thank which allowed the duty-free entry of poultry following a reassessment of its health regulations.

The deal allows for the import of eligible American poultry and poultry-based meat products with some exceptions. Beef and beef-based products, poultry that does not meet certain requirements related to the spreading of bird flu, and poultry from certain areas of Missouri, California, and Minnesota will not be permitted to enter Morocco (source). In addition to meeting the eligibility requirements, the poultry must be accompanied by specific documentation and be shipped in specially designed containers to keep the meat either frozen or refrigerated throughout transit (Id.). Furthermore, each prepackaged item must have the product information clearly displayed in Arabic with its shelf life in plain view (source).

The poultry deal also showcases Morocco's strong relationship with the United States. This trade deal was not a full-fledged trade agreement in the traditional sense, but rather a subject-specific bilateral arrangement between the parties that required little congressional oversight. This is a popular trend in American trade law, in which the President acting through the United States Trade Representative has entered into trade agreements that do not require congressional oversight or participation as anticipated by the Trade Promotion Authority framework in which Congress and the Executive branch share responsibility in the negotiation and approval of trade agreements (source). As these somewhat informal yet legitimate trade practices continue, sometimes sealed through oral agreement or even a hand-shake, the Moroccan-U.S. trade alliance could continue to grow rather quickly.

It is clear that over the past decade, there is perhaps no other African country that has made such large concessions to the United States as Morocco has. By first adjusting its intellectual property laws, and now allowing the importation of American poultry despite concerns for its domestic market, Morocco's has affirmed its loyalty to its trade partner. By contrast, countries such as South Africa, which refused the U.S.'s intellectual property law requirements and implemented anti-dumping tariffs against American poultry, are moving in the opposite direction of liberalized free trade with the United States particularly with regard to poultry (source).

Morocco's enthusiasm for establishing free trade has extended to other parties as well, including the European Union. On January 16, 2019, the European

Parliament voted to agree that a new trade deal between the EU and Morocco would also apply to Western Sahara (source). The territory of Western Sahara will receive the same preferential tariff rates to that of Morocco, despite the fact that there is still no solution to the political status of the area (source). Additionally, both the European Commission and Morocco agreed on a traceability mechanism for goods exported from the area to help define the origin of these products (Id.). This resolved the issue that grounded the liberalized trade agreement between the EU and Morocco in 2013, which was struck down three years later by the EU Court of Justice since it included the disputed territory of Western Sahara without their consent (Id.). Morocco has already poured millions of U.S. dollars into developing the territory and plans to spend nearly 5.2 billion dollars on the region by the year 2021(source). Ultimately, Morocco's free trade aspirations outweighed their adamant claim of ownership over the area, choosing to permit exported Western Saharan goods to retain their own identity to advance the country's free trade relationship with the EU.

The Kingdom of Morocco is clearly a leader in adopting free markets in its relationships with its external trading partners. By establishing free trade partnerships with both the United States and the European Union, it is beginning to shape its reputation as a desirable free trade ally by aligning itself with some of the world's largest exporters. Its dedication to obtaining this status has at times outweighed the desires of its domestic markets, resulting in substantial concessions to satisfy its trade partners. From the implementation of strong intellectual property laws to allowing the importation of American poultry, Morocco appears devoted to being a free trade leader on the African continent, no matter the cost. Its willingness to trade will likely attract other trade allies, which will continue to advance the country's position in the global market.

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