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Food and Agricultural Import Regulations and Standards

Country Report

2003

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Report Highlights:

The report contains updates on food laws, labeling requirements, food additives regulations, pesticides and other contaminants, copyright/trademark laws, import procedures and regulatory agencies. Please contact this office if you have any comments or suggestions about the material in this report (see appendix B for contact information). Please see Disclaimer on page one.

Includes PSD Changes: No
Includes Trade Matrix: No
Unscheduled Report
Santo Domingo [DR1]
[DR]

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DISCLAIMER: This report has been prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in (Santo Domingo, Dominican Republic) for U.S. exporters of domestic food and agricultural products. While every possible care has been taken in the preparation of this report, information provided may be no longer complete nor precise as some import requirements are subject to frequent change. It is highly recommended that U.S. exporters ensure that all necessary customs clearance requirements have been verified with local authorities through your foreign importer before the sale conditions are finalized.

FINAL IMPORT APPROVAL OF ANY PRODUCT IS ALWAYS SUBJECT TO THE RULES AND REGULATIONS AS INTERPRETED BY THE COUNTRY OF IMPORT AT THE TIME OF PRODUCT ENTRY.

Section I. FOOD LAWS

Although there is legislation requiring that labels be in Spanish and state volume, product composition contents and expiration date, US labeling requirements and standards are generally accepted in practice.

All food products need to be registered at the Public Health Secretariat (SESPAS). Among the supporting documents needed when registering a food product are the following: US certificate of free sale and of origin; manufacturer labels indicating qualitative and quantitative formulation; a copy of the letter of assignment or contract with a local agent (if one exists for the product); registration fees and product samples. All foreign documents should be legalized at the nearest Dominican consulate.

Shipments of fresh produce must be accompanied by a phytosanitary certificate from the country of origin and fresh animal products. There are special provisions to protect some agricultural products. These are: rice, beans, garlic, onions, poultry, sugar and milk. In addition, there are other products that have been added unilaterally to the safe guard or protected list. These are: turkey and pork. Unfortunately, these distortions to trade actions have been imposed by the Secretary of Agriculture, mainly at the Livestock Directorate. They are World Trade Organization (WTO) inconsistencies and fall into two areas:

Absorption Requirements: Requirements to purchase domestic product, in order to receive an import permit for a similar product, are specifically prohibited in the World Trade Organization (WTO). However, in the case of turkey, the Livestock Directorate is reportedly requiring importers to purchase up to 25 percent of their requirements from domestic sources, in order to receive import permits. In many cases, import permits are not granted, even when this requirement is met. Apparently, absorption requirements for pork and dairy products, such as cheese and yoghurt, are being considered.

Transparency: The WTO requires that import procedures be transparent, meaning that import procedures and requirements must be clearly stated and, if those requirements are met, the import permits must be granted. However, the current process for granting import licenses is arbitrary, with applications for licenses being rejected or subject to lengthy delays, with little or no explanation and no basis in Dominican law.

IMPORT PERMIT REQUIREMENTS, NON COMPLIANT WITH WTO COMMITMENT

Products containing fresh plant or animal products require a "no objection to import" [NO] authorization from the Plant Health Department or Livestock Department (Animal Health Division) of the Dominican Secretariat of Agriculture. The procedure is not efficient and it takes as much as 2-4 weeks to obtain. In case of plant material, the NO is requested via a request letter (addressed to the head of Plant Health, accompanied by a RD\$ 00* fee. In case of animal products a similar letter is addressed to the Head of the Livestock Department, when approved for

* Exchange Rate: RD\$ 27 per US\$

meat or for dairy (separated), a RD\$ 1,000* fee must be paid before the permit is issued. In addition to the above, there are certain protected or safe-guarded products (*ie.* sugar, rice, beans, onions, garlic, potatoes, milk and poultry) which require an additional authorization. Pork and turkey have been informally added to this protected item list and also require another permit issued by the Agricultural and Livestock Promotion Committee headed by the Secretary of Agriculture himself. The cost for this authorization requires an additional RD\$ 600*.

Customs clearance, which had been a significant problem in the Dominican Republic, is showing signs of improvement. Some things to watch out for include non-acceptance of commercial invoices as a basis for customs valuation, occasional demands for non-official payments, and poor port organization. However, all of these problems are being addressed and goods which used to sit in customs for weeks are now usually being cleared within three or four days through an established custom broker. After 15 days in port, shipping lines assess a daily charge for the use of containers.

Importers report that the Customs Department has price reference valuation lists with set prices for products, Although it is sometimes arbitrary depending on the product, it serves as a guideline to determine if the invoices can be accepted on its face value. Even though it is not specified by law, if it is detected that the declared value of a product in the invoice is too low, there can be a fine of twice the undeclared value plus a 20% of the fine value.

The introduction of a new food product requires registration at the Public Health Secretariat and this is generally done through a local agent, not necessarily an exclusive distributor. For established products, customs brokers are generally used to clear customs and ensure delivery to the customer.

Section II. LABELING REQUIREMENTS

1. Labeling of Prepackaged Foods

The label on the prepackaged food, issued by DIGENOR (Norms & Standards Bureau) must contain the following information as it is applicable to the product to be labeled. The current national standard (NORDOM 51) has been in place but not enforced, follows the *Codex Alimentarius* standard and is described below:

1. Food Name
2. The name of the product must indicate its true nature, and usually should be specific, not generic.
3. When according to the Codex or to a national norm there are several names for the same product, at least one of these names must be used.
4. In other cases, the name prescribed by the National Legislation must be used.
5. When the above names are not available a common name should be used, as long as it does not deceive the consumers.
6. In the label any phrase or sentence needed to clarify the nature of the product, such as kind of covering, presentation of the product or any special treatment (like dehydration, reconstitution or smoked), must be placed close to the name of the product.

2 Ingredients list

- In all cases, except when the product has only one ingredient, an ingredient list must appear in the label.
- The list must have an appropriate title with the word "ingredient" included.
- The list should be ordered, in a decreasing order, by the weight of the ingredient (wt./wt.) when the food was manufactured.
- When an ingredient is a combination of two or more product additives, this ingredient (compound ingredient) can be listed as one, as long as it goes with a list (in parenthesis) of its individual constituents in decreasing order of proportions. When a compound ingredient, which has a name from the Codex or from a national norm, has a 25 percent share (or less) of the total product, its ingredients list does not need to be specified, except for the food additives that have a technological function in the final product.
- If water is added it must be indicated in the list of ingredients, except when the water is part of ingredients such as broth in a food product and declared as such in the list of ingredients. It will not be necessary to declare water or other volatile ingredients which evaporate during the production process.
- As an alternative to the general dispositions of this section, for dehydrated or condensed foods destined for reconstitution, the ingredients can be listed by order of proportions in the reconstituted product, as long as the list includes a sentence such as "Product ingredients when prepared following the instructions on the label."
- The following generic names for the ingredients that belong to the corresponding classes can be used (see table on next page):

Ingredient Class	Generic Names
Refined oils different than Olive oil	Oil, with the word vegetable or animal, and classified as hydrogenated or partially hydrogenated
Refined fats	Fat, with the word vegetable or animal
Starch, different than chemically modified starch	Starch
All fish, when it is an ingredient for other product and as long as the label does not refer to a specific kind of fish	Fish
All poultry meat, when it is an ingredient for other products as long as the label does not refer to a specific kind of poultry meat	Poultry meat
All cheese, when it is an ingredient for other products as long as the label does not refer to a specific kind of cheese	Cheese
All spices or their parts (no more than 2 percent weight), alone or mixed with the food	Spice or spice mix
All aromatic herbs or their parts (no more than 2 percent weight), alone or mixed with the food	Aromatic herbs or aromatic herb mix Gm based
All gum preparations used in the manufacture of the bubble gum base	Gum based
All saccharose	Sugar
Anhydrous dextrose and monohydrated dextrose	Dextrose or glucose
Refined or extracted cocoa butter	Cocoa butter
Candy covered fruits (no more than 10 percent of the product's weight)	Candy covered fruits

As an exemption the following products must be specified by their specific names: pork fat, butter and bovine fat.

When listing food additives belonging to different classes, the following generic names (together with the specific name according to the Codex or to the National Legislation) must be used: Agglutinant(s); Antioxidant(s); Dyes(s); Emulsifier(s); Aroma enhancer(s); Glossy agent(s); Preserving substance(s); Stabilizer(s); Thickener/jellier(s); Antisparkling(s); Flour treatment agent(s); Artificial sweetener(s); Acidity regulator(s); Propellent(s); Yeast(s); Emulsifier salt (Only in case of melted cheese and its by-products).

For food additives belonging to the same class, which are listed in the Codex and its use has been authorized, the following generic names can be used:

Aroma(s)

Chemically modified starch.

The "aromas" can be classified as: naturals, similar to naturals, artificial or a mix of them.

Elaboration cooperator and food additive transfer.

Any food additive that has been used as a part of the ingredients of a compound ingredient or in the product's raw materials, and that has a technological effect in the final product, must be included in the list of ingredients.

The food additives transferred to the food in small quantities, and the elaboration cooperators do not need to be declared in the list of ingredients.

Net weight and drained weight.

The net weight must be in units of the International System.

The net weight must be declared as follows:

- i. volume, for liquid foods
- ii. weight, for solid foods
- iii. weight, for semi-solid and viscous foods

In foods preserved in a liquid environment, in addition to the net weight, the drained weight must also be declared. Liquid environment will be understood as: water, sugar or salty water based solutions, fruit and vegetable juices and vegetables preserved in vinegar.

Name and Address

The name and address of the producer, wholesaler, importer, exporter or retailer must be written in the label.

Country of Origin

The country of origin must be printed on the label. When a product's nature is changed in a second country because of any process change, the second country must be reported as the country of origin.

Lot Identification

Each container must have a clear and distinct identification specifying the manufacturing company and a lot number.

Date and Preserving Instructions

Unless the Codex, or one individual national norm specifies it, the date declaration should include:

- 1) The "best before" date (minimum duration date) should be used.
- 2) This date must have at least the following:
 - Month and day for products with a minimum shelf-life of less than three months.
 - Month and year for products with a minimum duration of more than three months. If the month is December use only the year.
- 3) The date declaration must have the words "Best if consumed before...", for cases other than the ones in 2.
- 4) The sentence must be accompanied by:
 - The date itself.
 - A reference to the place where the date is printed.
- 5) The day, month and year must be numbers not codes. The month can be abbreviated with letters in countries where this practice does not confuse the consumers.

- 6) As an exception to 4.7.1 (I) the following products will not need the minimum duration date:
- i. Fresh fruits and vegetables, including fresh potatoes (not peeled or cut);
 - ii. Wine, sparkling wines, fruit wines and sparkling fruit wines;
 - iii. Alcoholic beverages with more than 10 percent of alcohol by volume;
 - iv. Bakery products that must be consumed within 24 hours;
 - v. Vinegar;
 - vi. Salt (for food);
 - vii. Solid sugar;
 - viii. Candy products;
 - ix. Bubble gum;
 - x. Specific products, as determined by the Products Committees, national or Codex.
 - xi. Any special instructions in order to preserve the product until that date must be printed on the label.

User Instructions

Instructions on how to use the product must be printed on the label (especially if the product needs to be reconstituted).

Quantitative Labeling of the Ingredients

When an important ingredient is printed on the label, the percentage of this ingredient used in the elaboration of the product (wt./wt.) must be indicated. In addition, when the label indicates that a product has a low level of an ingredient, the percentage of this ingredient in the final product must be indicated.

If the product name refers to an ingredient, this will not indicate (by itself) that the ingredient has special importance. This also applies for ingredients such as aromas (or used in small quantities) on the product label.

Exemptions to the Mandatory Labeling Requirements

Except for species and aromatic herbs, units of product smaller than 10 square centimeters (their largest surface) are exempted of the labeling requirements specified by the previous sections.

Optional Labeling

The labeling of products can have any desired information as long as it does not violate the obligatory requisitions of this standard, including the requisitions regarding declaration of properties and fraud, as of Section 3 (General Principles).

Quality Designations

- When quality designations are used, they must be easily understandable and not deceptive in any way.
- The data on the label must be clear, so that consumers will be able to read all the information printed.
- When a container is wrapped, the wrapping must have all the required information, or the

- container's label must be readable through the wrapping.
- The food's name and net weight must be placed in a prominent place and at the same level.
 - All labels must be in Spanish. For cases when the label is not in this language, a complementary label containing the information translated into Spanish, must be added.
 - When a new label (or a complementary label) is added to the container, the obligatory information must reflect the information printed on the original label.

Radiated Foods

Labels of products that have been irradiated must indicate such treatment in a place near the product name. The use of the international sign is optional, but whenever it is used, it must be placed near the product name.

When an irradiated product is used as an ingredient, it must be declared in the list of ingredients. Also, when a product is made of only one ingredient and this is prepared with irradiated raw materials, the undergone treatment must be specified on the label.

Genetically Modified Organisms are not being considered under Dominican regulations.

Section III. FOOD ADDITIVE REGULATIONS

The Dominican Food Standard defines "Food Additive" as any substance that is not consumed normally for nutritional value, nor used as a typical ingredient in the food, and does not have any intrinsic nutritive value. The additive's purpose in the product is to achieve a characteristic which the food does not naturally possess (such as enhanced color, taste, or shelf life). Said additive could be included in the making of the product, in the treatment of the packaging, if it comes in contact with the food, or in the packaging process. Also, if there is something in the manner of transporting or storing the product which changes the chemical integrity of the product it must be noted. This term does not refer to contaminants or substances added to maintain or improve the nutritional value of the products.

Section IV. PESTICIDE AND OTHER CONTAMINANTS

The Secretary of Agriculture and Livestock is in charge of regulating pesticide residues in foodstuffs. Every chemical, biological, biochemical or related substance for agricultural use must be registered at the Secretariat of Agriculture. Registration requirements may be waived for products in transit, products used in research and products used to combat specific phytosanitary problems. The requirements and procedures for registration, importation, exportation, production, storage, distribution, transportation, repackaging, mixing, research, sale and use of these substances are described in the Technical Regulations for each type of agricultural input, including pesticides, fertilizers, biological and biochemical substances and related agricultural substances. Dominican pesticide regulations are based primarily on EPA regulations.

The most important regulations concerning pesticide use are contained in Law 311-68; SEA Regulation 322-88; Decree 217-91 and SEA Resolutions 10-97 and 11-97.

Section V. OTHER SPECIFIC STANDARDS

None

Section VI. COPYRIGHT/TRADEMARK LAWS

Trade names and trademark registration is regulated in the Dominican Republic by Law No. 1450 of 1937. This law establishes the requirements for registration, the time limits and taxes to which the petitioner is subject.

Anyone who wishes to register a trade name or trademark must determine the availability of the name or mark in the desired class with the Ministry of Industry and Commerce. If the name is available, the Ministry will issue a certificate of availability, valid for 30 days in which the petitioner must apply for the desired registration. The applicant must submit an application letter for registration to the Ministry. It must contain the petitioner's name, profession, address, and nationality. If the petitioner resides in the Dominican Republic, identification number card and is required. If the petitioner is a corporation, this information must be submitted with respect to an official of the company.

When submitted by a legal representative, the information must be given for the legal representative. If the power of attorney was granted abroad, a copy of the power of attorney must accompany the application, duly certified by the authorities (nearest Dominican Consulate).

The application furthermore must contain a detailed description of the following: (1) all the elements that characterize the trademark or trade name being registered; (2) the type of business for which the trademark or trade name will be used; (3) the products, goods or business to which the mark or name will be applied; (4) the period of time for which the petitioner wishes to register the mark or name. For registration of a trademark, the petitioner must indicate the class corresponding to the product, according to the classification prescribed in Law 1450. This classification does not conform with the international classification established by the Convention of Trademarks and Trade names.

The petition must be accompanied by four (4) or more samples of facsimiles of the mark or name being registered, together with a detailed explanation of what the mark or name is requested for. The petitioner cannot include in one registration application a name or mark that protects different products.

Brand or name may be registered for 5, 10, or 20 years. Once a trade name or trademark is registered, the petitioner is guaranteed the exclusive right to use the mark or name for the requested period of time. This registration period can be extended or renewed for equal periods. There are cases in which the name or trademark can be contested if improperly registered.

Bad faith in a trademark or trade name registration is actionable by the International Convention for the Protection of Industrial Property, dated March 20, 1923, revised in The Hague in 1925.

Section VII. IMPORT PROCEDURE

The Customs Code, Law 14-93, became effective as of August 28, 1993. The objectives of the Code are:

There are six groups of eight rates which define the eight different categories of goods, defined by a base tax that will be charged on the CIF (Cost, Insurance, Freight) value. The conversion from foreign currency will be made at the official exchange rate in effect at the time the payment of the taxes. In addition to the base tax there VAT (value-added tax currently at 12 percent of the CIF value and a special 30 percent luxury tax on alcoholic beverages and tobacco products.

The Law exempts some imports from customs duties, such as articles for international organizations and the Diplomatic Corps, objects for religious worship, samples displayed in international fairs, and imports to free zones.

The Dominican Customs Department has implemented the GATT valuation system for imported goods (July 1, 2001), which accepts invoice and airway bill of lading prices as the means of determining duties rather than reference prices. Under this system, the prices declared by importers could be subject to verification. In cases where undervaluation is determined to be evident, the Customs Department will charge additional duties and exact a fine. The Dominican government has requested the exclusion of 31 items, but Customs officials indicate that the WTO requires Customs to issue a statement within 60 days. The Dominican Customs office has indicated that it will not exclude any items from the GATT valuation until the WTO issues its opinion.

For imports from countries not members of the WTO, the valuation will continue to be done taking in consideration the minimum valuation lists created by Dominican Customs. There are 23 existing Customs offices in the Dominican Republic, ten at ports, seven at airport zones, and six on the border with Haiti. The principal offices handling the majority of the cargo are the Ports of Haina (Oriental and Occidental), Las Americas and Licey International Airports, and the Ports of Puerto Plata and San Pedro de Macoris.

Customs officials indicate that the average clearance time is three days from submission of pertinent and complete documentation. Clearances can be made in hours if importers make use of express clearance procedures. However, delays beyond three days are common.

Many importers are using one of the following express clearance procedures:

- a) Advance Declaration (Declaracion Anticipada): importers may submit customs documentation 25 days prior to the arrival of the shipment.
- b) Express Dispatch (Despacho Expreso): This mode includes advance declaration of the goods and the verification of the shipment by customs officials at the importer's warehouse. Shipments may be dispatched in four hours when using Express Dispatch.

There is a proposed Customs Council (Consejo Superior de Aduanas) that is awaiting approval by Congress. The council would include a representative from the private sector to oversee customs operations.

There are no provisions for the temporary entry of agricultural products into Free Trade Zone operations. However, agricultural products (i.e., hides and tobacco) may be imported for re-export. These products are excluded from most of the import requirements and almost all customs duties.

Taxes and duties for imported goods are calculated upon the "ad-valorem price," i.e., CIF price in US dollars multiplied by the unified foreign exchange rate (presently about US\$ 1 = RD\$ 27 pesos). All duties and taxes are collected in Dominican pesos. There are generally four taxes on imports except for those subject to exemptions provided by law. The taxes are: 1) Tariff (Arancel): This is the basic import tax which can be as low as 0 percent and as high as 20 percent;

2) Luxury Tax (Impuesto Selectivo al Consumo): This is a consumption tax for luxury imports or "non-essential" goods that ranges between 15 and 60 percent. This tax is calculated on the CIF price;

3) Exchange Surcharge (Recargo Cambiario): This is a 3.00 percent tax imposed on all imports into the Dominican Republic and

4) Industrialized Goods and Services Tax (ITBIS - Impuesto de Transferencia a los Bienes Industrializados y Servicios): This is a twelve percent tax on processed agricultural goods and all non-agricultural goods. ITBIS is calculated on the CIF price plus the amount paid for all taxes and duties previously mentioned.

APPENDIX A – MAJOR REGULATORY AGENCIES

Industry and Commerce Secretariat,
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Norms and Standards Directory (DIGENOR)

Edificio Oficinas Gubernamentales, 11th Floor
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Santo Domingo, Dominican Republic
Tel: (809) 682-2205/06/07
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Price Stabilization Institute (INESPRE)

Avenida Luperon, esquina 27 de Febrero, Plaza Independencia, D.N.
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Contact: Pablo Mercedes, Executive Director

Dominican Sugar Institute (INAZUCAR)

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Fax: (809) 533-2402
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National Commission for Livestock Production (CONAPROPE)

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