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Food and Agricultural Import Regulations and Standards

Country Report

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"This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Lagos, Nigeria for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY."

SECTION I. FOOD LAWS

The National Agency for Food and Drug Administration and Control (NAFDAC) is the Government of Nigeria's (GON) regulatory body responsible for food product manufacturing, importation, advertisement and distribution in Nigeria. No food item may be imported, advertized, sold or distributed in Nigeria unless it has been registered by NAFDAC in accordance with the provisions of GON Decree 19 of 1993 and its accompanying guidelines. NAFDAC registration involves a review of the manufacturing process, an assessment of food safety and quality, and confirmation of compliance with NAFDAC's labeling regulations. The process of registration involves a laboratory analysis of product samples to determine that the product is fit for human consumption. U.S. manufacturers/exporters wishing to sell their food products in Nigeria also should be aware of relevant requirements and regulations mentioned in this report for the Nigerian Customs Service.

NAFDAC was established to protect and promote public health by ensuring the wholesomeness, quality and safety of food and drugs consumed in Nigeria. NAFDAC defines food as any "article manufactured, processed, packaged, sold or advertized for use as food or drink for human consumption, chewing gum and any other ingredient which may be mixed with food for any purpose whatsoever".

Contravention of any provision of Decree 19 is subject to prosecution and punishment as specified in the code. However, in recent years there have been very few cases of prosecution for non-compliance with Nigerian food laws by NAFDAC. In theory, any food item not registered with NAFDAC is not legally importable. In practice, many processed foods routinely enter Nigeria through neighboring countries without having gone through the registration process. This category includes a significant amount of undocumented imports of U.S. foods.

SECTION II. LABELING REQUIREMENTS

A. General Requirements

Food labeling must be informative and accurate. NAFDAC labeling regulations include the following minimum requirements:

- ' A product's brand name or common name must appear in bold letters.
- ' A complete "location" address of the manufacturer showing country of origin must be given on the product label.
- ' The production "batch" number, date of manufacture and best use before date.
- ' Net contents, specifying essential ingredients in metric weight for solids, semi-solids and aerosols, and metric volume for liquids.
- ' Ingredients must be listed by their common names in order of their prominence by weight unless the food is "standardized", in which case, the label must include only those ingredients which the standard makes optional.
- ' Food additives and colors must be declared on the label. Spices, flavors and colors may be listed as such, without naming the specific material, but any artificial color or flavor must be identified as such.
- ' Labeling should be in English. If it is in another language, an English translation must be shown on the label or package insert (where applicable).
- ' If the standard U.S. label addresses the above mentioned items, no additional labeling is necessary for imports of U.S. food items. Stick-on labels meeting NAFDAC requirements are permitted. Foreign labels must be adhered prior to product arrival at the Nigerian port of entry. Sample-size products or institutional packed products have no special labeling requirements.

B. Requirements Specific to Nutritional Labeling

- ' Foods for special dietary uses with claims of disease prevention, treatment, mitigation, cure or diagnosis must comply with NAFDAC's guidelines for registration of drugs and be registered as medicinal products. Labels must contain directions for safe usage.
- ' Additional nutritional labeling information is voluntary. The Standard U.S. nutritional fact panel is accepted by NAFDAC.

SECTION III. PACKAGING AND CONTAINER REGULATIONS

- ' NAFDAC regulations are not specific on packaging. No specific waste disposal laws or product recycling regulations impact on imported food products and NAFDAC does not impose any specific restrictions on packaging materials.
- ' Nigerian importers, however, often express a marked packaging preference for certain high-value food products (HVP) as follows:
 - ' Relatively small-sized products, prepared and packaged for one-time use.
 - ' Products that can be shipped in bulk and re-packaged locally.
 - ' Perishable food products that undergo processing/packaging treatment to achieve an extended shelf life without refrigeration.

SECTION IV. FOOD ADDITIVE REGULATIONS

Nigerian food additive regulations are specified in the GON's Decree 15 of 1993. NAFDAC has

not developed a positive additive list. A very short negative (prohibited) list does exist. Specific food additive regulations of NAFDAC tend to focus on the usage of non-nutritive sweeteners and on ingredients in wheat flour products. The food additive and contaminant regulations of the Codex Alimentarius Commission are applied by NAFDAC in its assessment of food safety.

- ' No person may manufacture, import, advertise, sell or present any food item or beverage containing a non-nutritive sweetener for human consumption unless the product is "specified for special dietary usage".
- ' Non-nutritive sweeteners are not permitted in any food or beverage to be consumed by infants or children. Non-nutritive sweeteners, including saccharin and cyclamates, may be used in low-calorie, dietary foods/beverages.
- ' Potassium bromate as a bread improver is not permitted. At present, NAFDAC is considering requiring wheat flour produced in Nigeria to be fortified with vitamin A.

Any person or company found to be in violation of any provision of Decree 15 will be subject to a fine of 100,000 Naira (\$1,000) or imprisonment for a period of one year or both.

SECTION V. PESTICIDES AND OTHER CONTAMINANTS

The pesticide residue and mycotoxin standards of the Codex Alimentarius Commission are applied by NAFDAC in its assessment of food safety. All food products must have a certificate of analysis which demonstrates to NAFDAC's satisfaction that the item is free of pesticide and radioactive contaminants. NAFDAC reserves the right to subject any domestic or imported product to its own analysis to determine freedom of contamination. NAFDAC officials routinely subject imported foods to inspection and analysis at the port of entry and at the retail level. Any product found to be contaminated is subject to seizure and destruction by NAFDAC. Additionally, information on approved pesticides may be obtained from NAFDAC (see contact information at end of this report).

SECTION VI. OTHER REGULATIONS AND REQUIREMENTS

A. General

The following regulations govern imported food products:

- ' All imported food products must be registered with NAFDAC to be legally importable. An application for the registration of a regulated product shall be made by the manufacturer. Foreign manufacturers, must be represented in Nigeria by a duly registered company or individual with the capacity to affect a product recall if necessary. NAFDAC considers the local importer to be acting as a representative of the foreign manufacturer. In practice, it is the local representative that handles/coordinates the registration process for imported foods.
- ' The registration applicant (normally the Nigerian importer/distributor) must file evidence of a Power of Attorney from the manufacturer which authorizes him to

represent his principal on all matters relating to the imported product. The original Power of Attorney must be notarized and submitted to NAFDAC.

Fifteen product samples (twenty in the case of dairy products) must be provided to NAFDAC for physical/laboratory analysis and vetting which takes about four to seven weeks. Samples may be shipped by DHL or other express mail and are not subject to standard food import regulations.

A certificate of manufacture and a certificate of free sale, issued by a competent health authority, a product license or evidence of product registration in the country of origin, and a certificate of laboratory analysis performed in the country of origin must be provided to complete NAFDAC's product registration process.

B. Pre-Packaged Food Products

The following guidelines govern the sale of pre-packaged food products in Nigeria:

No person may sell a pre-packaged food unless a label has been affixed thereto.

A pre-packaged food label must not be presented in a manner which is false, deceptive or likely to create an erroneous impression regarding its character, quality, quantity and origin.

A complete list of ingredients used in preparing the food item will be declared on the label in a descending order of their proportion. A date of minimum durability must be identified on the label along with any special storage conditions.

Pre-packaged food items which have been treated with ionizing radiation must be so declared and the nature of the ionizing radiation will be stated on the label.

NAFDAC must be provided evidence of product registration by a competent health authority in the country of manufacture. This can be done by submitting a copy of the product license or certificate of registration.

NAFDAC must be provided evidence from a competent health authority from the country of product origin that the sale of the product does not constitute a contravention of any food laws of that country. This evidence usually takes the form of a Free Sale Certificate.

Any nutritional claim must be justified on the product's label. Nutritional labeling is mandatory for any pre-packaged food item for which a nutrition claim is made by the manufacturer.

NAFDAC officials routinely visit retail outlets in Nigeria to confirm that all imported food products are in compliance with local regulations.

NAFDAC may prohibit the importation, distribution, sale or use of any pre-packaged food item, temporarily or permanently as well as impose a fine of 50,000 Naira (\$500) against any product failing to comply with the above regulations.

C. Advertisement Requirements

Advertised food products must demonstrate to the GON that the products are legally registered with NAFDAC.

NAFDAC must approve all advertisement/promotional materials prior to utilization.

An application for advertisement must be submitted to NAFDAC for its approval. This approval process is in addition to the Certificate of Registration issued by NAFDAC which authorizes importation and sale in Nigeria.

SECTION VIII. COPYRIGHT AND TRADEMARK LAWS

Nigeria is a member of the World Intellectual Property Organization (WIPO) and a signatory to the Universal Copyright Convention (UCC) and other major International Agreements on Intellectual Property Rights (IPR). Despite active participation in international conventions and an apparent interest in IPR issues, GON efforts are largely ineffectual in curtailing widespread copyright violations.

The Nigerian Standards Organization is responsible for issuing patents, trademarks, and copyrights. Once conferred, a patent conveys the exclusive right to make, import, sell, use a product, or to apply a patented process. The Trademarks Act of 1965 governs the registration of trademarks. Registering a trademark grants the holder the exclusive right to use the registered mark for a specific product or class of products.

Statutes which govern IPR in Nigeria include the Copyright Act of 1988 (amended in 1992). The copyright decree of 1988 which is based on WIPO standards and U.S. copyright law, makes counterfeiting, exporting, importing, reproducing, exhibiting, performing, or selling any work without the permission of the copyright owner a criminal offense. Enforcement of the 1988 law is not common. The expense and time required to pursue a copyright infringement case through the Nigerian judicial system often deters prosecution of such cases.

SECTION IX. IMPORT PROCEDURES

A. Pre-shipment Inspection

Nigeria recently re-introduced a pre-shipment inspection policy which requires all imports to be inspected by designated agents in the country of origin. A report of findings is issued by the authorized agent prior to shipment. This report validates the commodity being shipped and its valuation for import duty purposes. The exporter arranges for the pre-shipment inspection. The GON abolished the pre-shipment inspection procedure in April 1999, replacing it with destination inspections. These were hampered by logistical problems related to poorly trained staff and inadequate facilities. The GON re-introduced pre-shipment inspections last November.

The pre-shipment inspection agent for all U.S. goods destined to Nigeria is:

Swede Control/Intertek Services International
3741 Red Bluff Road, Pasadena, Texas 77503
P. O. Box 5666, Pasadena, Texas 77503
Tel.: (713) 475-2082
Fax: (713) 475-2083

The issuance of a "Clean Report of Finding" (CFR) and an "Import Duty Report" (IDR) by the designated agent conducting the pre-shipment inspection is mandatory for all imports. Swede Control/Intertek must forward copies of the IDR directly to the importer's local bank and to the Nigeria Customs Service.

B. Import Documentation/Procedures

The importer's bank issues a certified check to the Federal Government's Import Duty Account for payment of the import tariff. This payment must be completed before the original IDR and other necessary shipping documents are released by the Nigerian Customs Service (NCS) to the importer who may now initiate the process of clearing his goods.

Import duty rates for high-value food products (HVP) generally range from 20 percent to 75 percent. Many fall below 35 percent. All HVP imports are assessed a 5 percent Value Added Tax. Additionally, they are subject to a port surcharge equivalent to 7 percent of the duty amount and a Customs Service inspection service charge equal to 1 percent of the duty amount.

Extensive port and customs reforms implemented by the GON since 1996 to reduce congestion and corruption largely have been ineffectual. Although customs revenue has increased, the GON has not achieved its goal of completing port clearance procedures for imported good within 48 hours. The Nigerian Customs Service did implement its Automated System of Custom Data (ASCUDA) last year to expedite administrative procedures with the Port Authority as a means of improving port operations. To date, however, port efficiency has not been significantly altered by this program. In general, most HVP import shipments are cleared within 1 to 2 weeks, although longer periods are not uncommon.

Often, Nigeria's high imports duties and port charges encourage local importers to receive their imported goods through neighboring country ports. When import bans exist or import duty rates are judged to be excessive, U.S. food items routinely enter Nigeria as undocumented trade. As a result, a large proportion of total U.S. high-value food products shown on official U.S. trade statistics as exports to other West African countries is actually destined for the Nigerian market. Some Nigerian importers receiving U.S. foods through these channels purchase directly from overseas suppliers while others act as secondary distributors for importers/buyers located in neighboring countries.

The Nigerian importer must obtain a 'Form M' which is the Government's document needed to process applications for foreign exchange and is utilized by the GON for maintaining trade statistics. Three copies of the Form M are sent to Swede Control/Intertek Services International, and one each to the importer's bank, the Nigerian Customs Service, and the Nigerian National Maritime Authority. The U.S. exporter sends a signed pro forma invoice--showing unit prices, total cost and freight--to the importer who attaches this document to his Form M.. The local bank uses the Form M to bid on dollars from the Central Bank on behalf of the importer. Once successfully obtained, the local bank makes payment to the exporter through a letter of credit. It should be noted that opening letters of credit in Nigeria often is a time-consuming and expensive endeavor. Many Nigerian importers often arrange payment for their imported food items through inter-bank wire transfers. This avoids the Form M and central bank bidding process for dollars. Undocumented border trade often is paid for in cash.

Many U.S. exporters to Nigeria insist on payment terms involving confirmed, irrevocable letters of credit opened by Nigerian banks with correspondent banks in the United States. This guarantees payment. U.S. exporters may wish to contact the Agricultural Affairs Office of USDA in Lagos for assistance in locating reputable representatives and/or importers for their products.

POST CONTACT ADDRESS FOR FURTHER INFORMATION

Agricultural Affairs Office
American Embassy
2, Walter Carrington Crescent
Victoria Island, Lagos, Nigeria
Tel. / Fax #: 234-1-261-3926
e-mail: aglagos@fas.usda.gov
web site: <http://www.fas.usda.gov>

APPENDIX I. GOVERNMENT REGULATORY AGENCY CONTACTS

National Agency for Food and Drug Administration and Control
Federal Ministry of Health
Federal Secretariat, Phase II
2nd Floor, Room 215
Ikoyi, Lagos
P.M.B 12949, G.P.O. Marina
Lagos Nigeria

Tel. : 234-1-2693105, 2695163
Fax : 234-1-2693104
E-mail : nafdac.lagos@alpha.linkserve.com

Contact Person: Professor Gabriel Osuide, Director General