



USDA Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Template Version 2.09

Required Report - public distribution

Date: 7/15/2004

GAIN Report Number: NI4015

Nigeria

Food and Agricultural Import Regulations and Standards

Country Report

2004

Approved by:

Jamie Rothschild
U.S. Consulate, Lagos

Prepared by:

Ali Michael David

Report Highlights:

Updated on July 13, 2004.

Sections updated are IIB, VI, VII, IX and appendix I

Includes PSD Changes: No
Includes Trade Matrix: No
Annual Report
Lagos [NI1]
[NI]

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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 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. Under the provisions of GON Decree 19 of 1993 and its accompanying guidelines, no food item may be imported, advertised, sold or distributed in Nigeria unless it has been registered by NAFDAC. 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 advertised 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." Over the past two years, the management of NAFDAC has increased surveillance to curb widespread adulteration of food products. The main strategy employed by the agency for the enforcement of Nigeria's food laws is the process of product registration. Contravention of the provisions of existing food laws is subject to prosecution and punishment as specified in the code. In recent years, NAFDAC appears to have become more active and stringent in enforcing existing food laws, but primarily to protect local producers. 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.

SECTION II. LABELING REQUIREMENTS

A. General Requirements

NAFDAC regulations require food labeling to be informative and accurate. Following are NAFDAC's minimum labeling 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 provided on the product label.
- The production "batch" number, date of manufacture and best use before date.
- Net content, 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 should 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.
- NAFDAC registration number must be included on the product label

B. Requirements Specific to Nutritional Labeling

- Any nutritional claim must be justified on the product's label. Nutritional labeling is mandatory for any prepackaged food item for which the manufacturer makes a nutrition claim.
- 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), namely:
 - 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 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.

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 (about \$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 are documentation for registration and renewal of permit for imported food products:

- 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 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 in the country of origin, signed by the Chairman or President of the company stating names of products to be registered. The Power of Attorney shall also indicate authority to register the product with NAFDAC, valid for not less than five years.
- All importers must submit the certificate of registration of brand name/ trademark with the trademark Registry in the Ministry of Commerce in Nigeria. This is done in the name of the owner of the trademark.
- A NAFDAC application form duly completed by the local agent (importer) for the registration of each regulated product.
- 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 eight 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, authenticated by the Nigerian Embassy in the country of origin. 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.
- A comprehensive certificate of product analysis issued by the manufacturer indicating the name and designation of the analyst.
- A letter of invitation for the inspection of factory to be submitted by the applicant in Nigeria and shall state the full location address of the manufacturer, name of contact person, E-mail address, current phone and fax numbers

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 now involves personal visits by officials of the agency to factory

locations in the respective countries of origin and laboratory analysis of product samples to determine that the product is fit for human consumption. The registration of any food product with NAFDAC is a very slow system and could take between 1-2 months from the date samples are submitted for laboratory tests to be completed. U.S. manufacturers/exporters wishing to sell their food products in Nigeria also should be aware of relevant requirements and regulations of the Nigerian Customs Service mentioned in section IX of this report.

B. Expiry Dates

NAFDAC regulation stipulates that all food products should carry expiry dates and/or shelf life and specify active ingredients where applicable on their packaging. The policy states that the expiry date should be "at least half the shelf life as at time of inspection." The last sentence is interpreted to mean that at the time of inspection (by NAFDAC after clearing Customs), that the period from the inspection date until the expiration date should be equal to or greater than half of the total shelf life of the product (date of production until expiry.) NAFDAC's severely limited institutional capacity to carry out inspection and testing contributes to an arbitrary approach to enforcement.

C. Registration Fees

In January 2003, NAFDAC increased its fee for registration, vetting and documentation for all imports. The fee for registering each product was increased to 750,000 naira (about \$6,000), up from 10,000 naira (about \$100) in 2002. Additionally, NAFDAC requires that:

- No applicant will be allowed to register a food product in more than one name.
- Where different flavors of the same food are produced, each flavor will have to be registered separately.
- Major supermarket operators or importers can import mixed container loads of high value products (HVP) under NAFDAC's global listing of supermarkets (GLS). Items listed under the GLS include those regulated by NAFDAC sold in supermarkets and other specialties required by hotels, fast food chains and international organizations. Firms participating in the program are routinely inspected by the agency. The annual tariff for group product registration is categorized as follows:

Number of Items	Global Annual Registration Tariff
Less than 500	750,000 Naira
Less than 1000	1,000,000 Naira
Greater than 1000	2,000,000 Naira

In addition to the fees, normal port handling charges are assessed. Products imported under the GLS must meet the labeling and other requirements listed in sections II and VI. For products imported under GLS, a representative sample is subject to laboratory tests.

D. Prepackaged Food Products

The following guidelines govern the sale of prepackaged food products in Nigeria:

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

- A prepackaged 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.
- Prepackaged food items that are 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. Submitting a copy of the product's license or certificate of registration can do this.
- NAFDAC must be provided evidence from a competent health authority from the country of product origin that the sale of the product does not contravene the food laws of that country. This evidence usually takes the form of a Free Sale Certificate.
- 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 prepackaged food item, temporarily or permanently as well as impose a fine of 50,000 Naira (\$450) against any product failing to comply with the above regulations.

E. Advertisement Requirements

- NAFDAC must approve all advertisement/promotional materials prior to utilization.
- Advertised food products must demonstrate to the GON that the products are legally registered with NAFDAC.
- 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 VII. OTHER SPECIFIC STANDARDS

- Nigeria's bio-safety protocol (yet to be passed into law) requires food items containing products of biotechnology to be labeled accordingly to protect consumers right to know.
- At present, NAFDAC requires wheat flour and sugar produced in Nigeria to be fortified with vitamin A.

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. Inspection

The GON operates a pre-shipment inspection (PSI) policy. Under the scheme, goods entering Nigeria must have a Clean Report of Findings (CRF), which is issued at ports of origin by an authorized agent prior to shipment. The CRF validates the commodity being shipped and its valuation for import duty purposes. The exporter arranges for the pre-shipment inspection.

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 is still mandatory for all imports despite the introduction of 100 percent physical destination inspection policy by the NCS since 2001 to curtail smuggling and under-valuation of imports.

Nigerian ports are characterized by cumbersome documentation systems, dilapidated infrastructure, and inefficiency. Clearances may require the approval of NAFDAC, Standards Organization of Nigeria, Nigerian Drug Law Enforcement Agency and a number of other agencies stationed at Nigerian ports

B. Documentation

Following are documentation procedures for all imports:

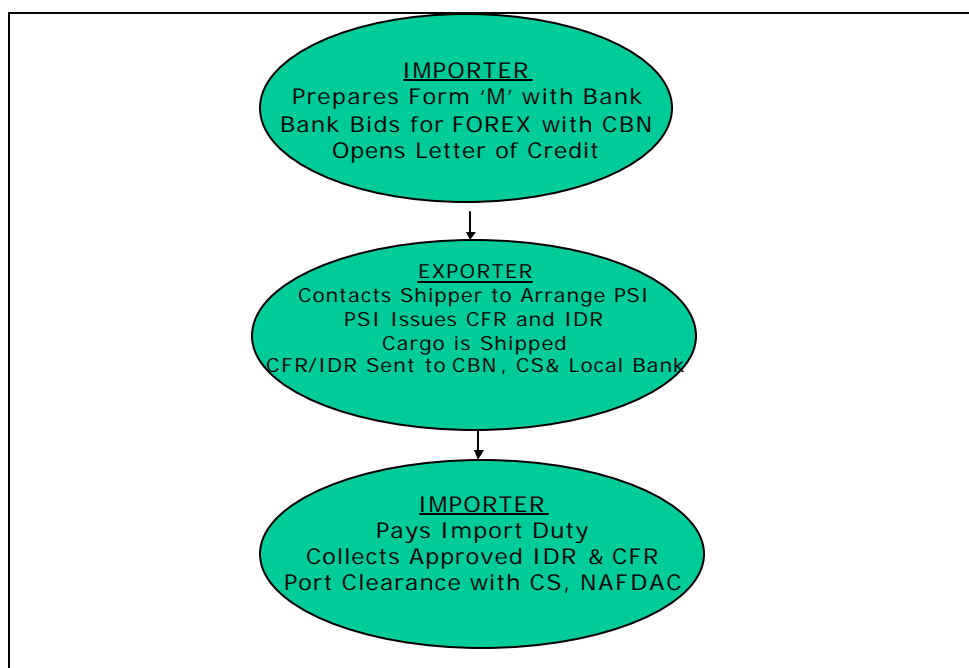
- Importer contacts his local bank with import documents such as invoice/s, insurance certificate/s, etc, so the 'Form M' can be prepared. The bank needs the 'Form M' to apply for foreign exchange from Nigeria's Central bank (CBN) to pay for the goods. A Clean Report of Findings (CFR) number is assigned after the CBN approves the use of foreign exchange. (Average two days).
- The local bank bids for the required foreign exchange. Often, banks do not obtain foreign exchange for the total invoice value from the CBN and will need to bid multiple times. Importer opens a Letter of Credit for the purchase. (Average two weeks)

It should be noted that opening letters of credit in Nigeria often is a time-consuming and expensive endeavor. Many Nigerian importers arrange payment for their imported food items through Inter-bank wire transfers. The exporter simply ships the items to importer upon

receipt of his bank transfer payments avoiding the rigors of Form M and PSI procedures. This import procedure (now classified as “non-IDR imports”) is now a high risk to the importer with a recent GON’s expressed postponement of the destination inspection policies.

- Exporter contacts his shipper to arrange pre-shipment inspections (PSI) with GON’s agent (Intertek/Swede Control).
- The PSI agent issues Clean Report of Findings (CFR) and, Import Duty Report (IDR), which validate the commodity being shipped and, its valuation for import duty purposes.
- Cargo is shipped (on average, transport time from the U.S. to Nigeria is three weeks)
- The PSI agent sends both CFR and IDR to CBN and Nigeria Customs Service (NCS) as well as forwards copies of the IDR directly to the importer’s local bank.
- Importer initiates port clearances with the Nigerian Customs Service as well as inspections and clearances by NAFDAC, the Nigerian Drug Law Enforcement Agency and sometimes, the Standards Organization of Nigeria and other agencies stationed at Nigeria’s ports (on average two weeks).

C. Flowchart: Import Documentation Procedures



D. Duty

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. This could be accomplished during transport time.

Import duty rates for high-value food products (HVP) generally range from 70 percent to 100 percent. All HVP imports are assessed a 5 percent Value Added Tax, a port surcharge equivalent to 7 percent of the duty amount and a Customs inspection service charge equal to 1 percent of the duty amount.

The GON frequently reviews its list of items prohibited for imports. Exporters to Nigeria should ascertain the import status of their products before shipment.

E. Method of Payment

It is advised that confirmed, irrevocable letters of credit opened by Nigerian banks with correspondent banks in the United States be used to guarantee 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
U.S. Consulate General
2, Walter Carrington Crescent
Victoria Island, Lagos, Nigeria
Tel. / Fax #: 234-1-261-3926, 775 0830
e-mail: aglagos@usda.gov
web site: <http://www.fas.usda.gov>

APPENDIX I. GOVERNMENT REGULATORY AGENCY CONTACTS

Dr. (Mrs.) Dora N. Akunyili
Director General
National Agency for Food and Drug Administration and Control
Federal Ministry of Health
Plot 2032, Olusegun Obasanjo Way
Zone 7, Wuse District
Abuja, Nigeria
Tel.: 234-9-5240996, 5240994
Fax: 234-9-5240994
E-mail: nafdac.lagos@alpha.linkserve.com
Website: www.nafdacnigeria.org

2. Mrs. H.J. Keri
Director, Registration & Regulatory Affairs
National Agency for Food and Drug Administration and Control
Federal Ministry of Health
23 Temple Road
Ikoyi
Lagos, Nigeria
Tel: 234-1-2694568, 2695138
Fax: 234-1-2695006
E-mail: nafdacrr@linkserve.com