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Food and Agricultural Import Regulations and Standards

Country Report

2006

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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 as amended by Decree 20 of 1999 and the 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 few 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/expiry 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:

- The standard U.S. nutritional fact panel is acceptable by NAFDAC.
- 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 or dietary 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.

SECTION III. PACKAGING AND CONTAINER REGULATIONS

- At present, NAFDAC regulations are not specific on packaging, but the agency is in the process of developing regulation 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 ADDITIVES REGULATIONS

Nigerian food additive regulations are specified in the GON's Decree 19 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, including saccharin and cyclamates, may be used in low-calorie, dietary foods/beverages but are not permitted in any food or beverage to be consumed by infants or children.
- Potassium bromate as a bread improver is not permitted.

Any person or company found to be in violation of any provision of Decree 19 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 in addition to other quality parameters. 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 and possible prosecution. 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 manufacturer shall make an application for the registration of processed food. In case of a manufacturer outside Nigeria, such shall be represented in Nigeria by a duly registered company with facilities to affect a recall of the product when necessary. Note that the representative will be responsible for ensuring that the competent authority in the country is informed of any serious hazard newly associated with a product.

Importers of food products must first submit an application on a prescribed form to the Registration Division, NAFDAC, stating the name of the manufacturer, name (brand name where applicable) of the product. This form, labeled ["FORM D-REG/001"](#) is available online at NAFDAC's website for download.

A separate application form shall be submitted for each regulated product.

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 when 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 register the product with NAFDAC. (Note that the Power of Attorney is to register the product with NAFDAC. The manufacturer could enter a separate, mutually beneficial distribution agreement with the representative.) The original Power of Attorney must be notarized in the country of origin.
- A certificate of manufacture and 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 is adequate.
- 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.
- Permit must be obtained to import limited quantities for the purpose of registration.
- 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 GMP audit visits by inspectors of the agency to factory locations in the respective countries of origin. The registration of any food product with NAFDAC is a detailed process 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. A successful application will be issued a certificate of registration with a validity period of five years.

Guidelines for Agents of Foreign Manufacturers

Agents of foreign manufacturers are to take the necessary steps to ensure that regulated products intended for the Nigerian market are registered before consignments of such products are imported into the country. The NAFDAC will normally authorize the importation of small quantities of unregistered products for the purpose of submission as samples for registration. A written authorization specifying the quantity of the unregistered products to be imported can be obtained from the Registration and Regulatory Affairs Directorate of NAFDAC at the Central Laboratory Complex, Oshodi, Lagos, PMB 12949-12525, GPO Marina, Lagos. On arrival of the imported samples and presentation of the authorization to the NAFDAC inspectors at the ports, the consignment will be treated the same way as other normal imported consignments. Before the consignment is therefore cleared from the ports, the importer is required to present the following: -

- Authorization to import samples of the unregistered product.
- Bank draft for the prescribed port inspection fees.
- Properly completed Customs Bill of Entry
- Certificate of Analysis of the product issued by the manufacturer.
- Certificate of Manufacture and Free Sale issued by a Government Authority empowered by law in the country of origin to exercise regulatory control over the product.

In the event of any violation, the consignment of the unregistered product would be cleared from the ports to a bonded warehouse at the expense of the importer. Thereafter, the importer is prosecuted and the products forfeited to the Government together with any assets or property obtained or derived directly or indirectly from the commission of the offence.

B. Expiry Dates

NAFDAC regulation stipulates that all food products should carry best-before 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). U.S. exporters are advised to specify the month in words (July 1, 2005 or indicate mm/dd/yr) to avoid conflicts that may arise in mistaking the day for the month.

C. Registration Fees

The initial fee for registering each product is 750,000 naira (about \$5,800). The license is renewable after every four years. The renewal fee is 450,000 naira per product. Additionally, NAFDAC requires an additional payment of 90,000 Naira for each container.

- 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 allowed under the GLS include those regulated by NAFDAC sold in supermarkets and other specialties required by hotels, fast food chains and international organizations (excluding registered items). Firms participating in the program must have supermarkets that are certified by NAFDAC and are routinely inspected by the agency. The annual tariff for group product registration has been revised as follows:

Number of Items	Global Annual Registration Tariff
Less than 500	375,000 Naira
501 - 2500	1,000,000 Naira
2501 - 5000	2,500,000 Naira
Greater than 5000	5,000,000 Naira

Exchange Rate: US\$1 = 128 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 officials routinely visit depots, markets and retail outlets 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 administrative fines 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

- At present, Nigeria has no laws regulating products of biotechnology. However, a draft biosafety bill has been developed and will soon go for public debate. The draft bill advocates mandatory labeling of food items containing products of biotechnology to protect consumers right to know. When the bill is passed, NAFDAC will be the enforcement agency for labeling.
- At present, NAFDAC requires wheat flour, vegetable oil and sugar consumed in Nigeria to be fortified with vitamin A. Salt must also be fortified with iodine.

SECTION VIII. COPYRIGHT AND /OR 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

Effective January 1, 2006, the GON commenced the implementation of Destination Inspection (DI) to replace Pre-shipment Inspection (PSI). Under the new scheme, goods destined for Nigeria's ports are inspected at the point of entry rather than at the point of shipment, which was hitherto the practice. The scheme will be carried out by the Nigeria

Customs Service (NCS), while three firms that will act as Destination Inspection Service Providers, will provide scanning services at ports of entry. For details of the operational guidelines for the new inspection scheme, including import procedures, import duty payment procedures, documentation requirements and processes, refer to GAIN Report NI6005.

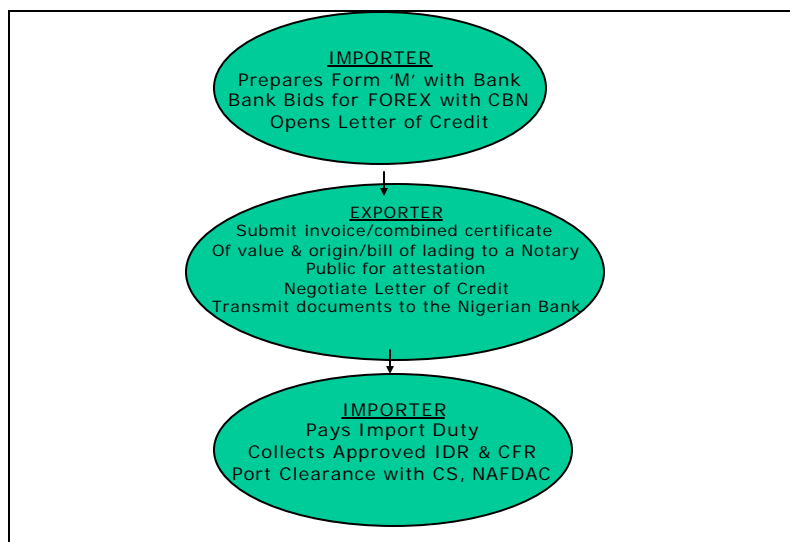
Nigeria's ports continue to present major obstacle to trade. Clearances may require the approval of NAFDAC, Standards Organization of Nigeria, Nigerian Drug Law Enforcement Agency and a number of other agencies stationed at Nigerian ports. Importers face inordinately long clearance procedures, high berthing and unloading charges and corruption. It is hoped that the recent adoption of the Automated System of Custom Data (ASYCUDA++) with the assistance of UNCTAD will ultimately streamline the operations of the Nigeria Custom Service.

As part of its commercialization program, the GON has embarked upon port concessioning. Under this program, the GON owns the port while private sector operators would provide some port operations. The GON adopted this policy because of such perceived advantages as; increased efficiency, increased return on assets and smoother operations.

B. Documentation

- (1) Any person intending to import physical goods into Nigeria shall in the first instance process Form 'M' through any authorized dealer bank irrespective of the value and whether or not payment is involved.
- (2) Supporting documents shall be clearly marked 'VALID FOR Foreign Exchange (FOREX) / NOT VALID FOR FOREX' as appropriate i.e. depending on whether or not foreign exchange remittance would be involved. The validity period of Form 'M' for plants and machineries shall be for a period of one year.
- (3) All applications for goods subject to Destination Inspection shall carry the "BA" code; while those on exemption shall indicate "CB" in the prefix of the numbering system of the Form 'M'. Exemption shall be as approved by the Honorable Minister of Finance prior to completion of Form 'M'.
- (4) The Form 'M' and relevant pro-forma invoice shall carry a proper description of the goods to be imported to facilitate price verification viz.
 - A) Generic product name, i.e. product type, category
 - B) Mark or brand name of the product where applicable.
 - C) Model name and or model or reference number where applicable.
 - D) Description of the quality, grade, specification, capacity, size performance etc.
 - E) Quantity and packaging and or packing.
- (5) Documents in respect of each import transaction shall carry the name of the product, country of origin, specifications, date of manufacture, batch or lot number, Standards to which the goods have been produced (e.g. Nigeria Standards-NIS, British Standards PD, ISO, IES, DIN (etc)).
- (6) Where import items such as food, drinks, cosmetics, drugs, medical devices, chemicals etc., are regulated for health or environmental reasons, they shall carry EXPIRY dates or the shelf life and specify the active ingredients, where applicable.

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.

In January 2006, Nigeria began a partial implementation of the ECOWAS Common External Tariff (CET). The GON reduced its tariff bands from twenty to five. The five tariff bands are a zero duty on capital goods, machinery, and medicines such as anti-retroviral drugs and other medicines not produced in the country; 5% duty on imported raw materials; 10% duty on intermediate goods; 20% duty on finished goods; and 50% duty on goods in industries that the GON wants to protect. 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.

APPENDIX I. GOVERNMENT REGULATORY AGENCY CONTACTS

1. Prof. (Mrs.) Dora N. Akunyili
Director General
National Agency for Food and Drug Administration and Control

Federal Ministry of Health
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