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Mexico

Agricultural Situation

Processed Food Import Documentation Requirements 1999

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Report Highlights: This report seeks to clarify Mexico's import document requirements for certain processed foods, with the objective of minimizing problems U.S. exporters experience in shipping products to Mexico. There is a common interest by the three NAFTA countries to minimize paperwork and hard copy record keeping to the extent possible, while simultaneously ensuring the integrity of their food safety import inspection programs.

Includes PSD changes: No
Includes Trade Matrix: No
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PROCESSED FOOD IMPORT DOCUMENTATION REQUIREMENTS FOR MEXICO

Proposals for A Simplification and Harmonization of Requirements to Facilitate Trade in Respective Products in the NAFTA Countries

INTRODUCTION

On January 21, 1998, the Government of Mexico announced in its *Diario Oficial* (Federal Register) new import regulations for specified processed foods considered to pose the greatest potential risk to public health. This initiative added to the list of products identified by H.S. codes whose import and export, movement inland or externally, would be subject to sanitary regulation by the Secretariate of Health (SSA). Many processed foods, dairy products and fish products were included in the new list.

The new regulations have created some confusion on the part of the U.S. food export and Mexican import trade. To assist the trade in better understanding the new regulations, the U.S. Government undertook a review of the specific problems the industry faced and the causes behind them. The review involved face-to-face visits with food processing and manufacturing industries, border Customs Brokers and Customs Agents, other government officials and others who are involved in food safety certification for the affected products.

BACKGROUND

Mexico's *Ley General de Salud* (General Health Law) is the basic legislation defining the country's public health policy. This law has been modified over the years as has been determined necessary by the Government of Mexico. The January 21, 1998 initiative added many products of significant export importance to the U.S. trade. Under the new rules, importers of designated products, considered to pose the greatest potential health risk, must obtain prior import approval before the goods are entitled to enter Mexico (Attachment 1); importers of other designated products would have to notify the Mexican government prior to actual import (Attachment 2). According to SSA, increased imports and past problems prompted them to add the new items to the list of products subject to pre-clearance approval.

This report seeks to clarify Mexico's current requirements with the objective of minimizing problems U.S. exporters experience in shipping products to Mexico. There follows a step-by-step description of what is required.

PRE-CLEARANCE PROCEDURE FOR ARTICLE 1 A) PRODUCTS

The first step in obtaining approval for importing products under Article 1 A) is to submit a completed ***Solicitada de Autorizacion Sanitaria Previa de Importacion*** (Request for Sanitary Prior Approval to Import) (Attachments 3 and 3A). The importer or Custom broker is normally responsible for completion and submission of the document, with information and documents provided by the manufacturer or supplier. The

document may be submitted to the General Directorate of Sanitary Quality for Goods and Services (**DGCSBS**) or to the competent Coordinating Public Health officials (**SCSP**) in the Mexican states of Baja California, Coahuila, Chihuahua, Chiapas, Tamaulipas and Veracruz.

The prior approval request is required for each listed product to be exported. A single form may include up to two products, with additional products included on an annex.

INFORMATION REQUIRED ON THE FORM

Importer Information

- Name, address, telephone and fax of importer

Product Information

- Brand and generic description of the product
- Port of entry of the product
- Quantity imported, both numerically and written
- Unit of measurement
- Specific product (coded) as to whether raw material, additive, final product or bulk
- Specify use of product (coded) as to whether for manufacture, direct use, resale, conditioning, donations, analysis, research, sample, without value, or other (specify)
- Specify ultimate use of product (coded) as to whether for food, non-alcoholic drink, alcoholic beverage, tobacco, cleaning, perfumes, cosmetics
- Series that identifies the lot or lots
- Date of manufacture
- Expiration date (Note: AS opposed to sell by or best sold by date)
- Tariff number of product
- Whether first-time import of product
- Value of product in currency of country of origin
- Name and address of manufacturer of product
- Name and address, and date of arrival where product will be warehoused, and geographic region where the product will be marketed
- Date and place the request is submitted
- Name and signature of the importer requesting the permit, or his legal representative

DOCUMENTS TO ACCOMPANY THE PRIOR APPROVAL REQUEST

- **Health Certificate:** A document signed by a State of Federal inspection official certifying each lot of product shipped to Mexico. This certificate may be submitted in lieu of the following Certificate of Free Sale and Physical/Chemical and Microbiological Analyses if State of Federal health authorities are unable to certify each production run.
- **Certificate of Origin:** Manufacturer may certify. Must be submitted in original once per year for each product.

- **Certificate of Free Sale:** Attests that the manufacturer is engaged in the business of manufacturing and distributing products in the state where the plant is located, that the products are subject to the applicable health provisions of the state or federal government and that the product may be freely distributed and consumed in the state. An authorized State or Federal official must certify, and the document must be notarized. The Certificate of Free Sale must be submitted in original once per year for each product. This and other documents are required in lieu of an official health certificate if none can be produced, according to SSA. Its purpose is ostensibly to prevent the shipment to Mexico of product that is illegal for consumption in the country of origin.
- **Physical/Chemical Analysis:** Routine requirement. The manufacturer's laboratory may complete. The document must be in original, and submitted with each new lot.
- **Microbiological Analysis:** Routine requirement. The manufacturer's laboratory may complete. It must be in original, and submitted with each new lot. For fresh fluid milk, Ciudad Juarez (at least) draws samples of each shipment for analysis in Chihuahua. Product nonetheless may cross and go into the market prior to receiving the results.
- **Other Specific Analyses:** Normally no other analyses are required for food products from the U.S. One source nonetheless mentioned shrimp.
- **Label:** Labels must meet Mexican labeling regulations. (Non pre-packaged products may be exempted upon written request.)
- **Pro forma Invoice**

The individual forms and documents referred to above are found in Attachments 4-9. Attachment 10 gives a tabular overview of Mexico's pre-clearance requirements.

PRIOR NOTIFICATION PROCEDURE FOR ARTICLE 2 A) PRODUCTS

Products listed under Article 2 A) of the Announcement do not require prior approval, but must meet certain requirements to be eligible for import. The **Aviso Sanitario de Importacion** (Sanitary Import Notice) form can be used to fulfill this requirement. (See Attachment 11.) Information required on the form is similar to that in Article 1 A).

Importer Information

- Name, address and telephone number of the importer

Product Information

- Brand and generic description of the product
- Port of entry of the product
- Quantity imported, both numerically and written
- Unit of measurement
- Specific product (coded) as to whether raw material, additive, final product or bulk

- Specify use of product (coded) as to whether for manufacture, direct use, resale, conditioning, donations, analysis, research, sample, without value, or other (specify)
- Specify ultimate use of product (coded) as to whether for food, non-alcoholic drink, alcoholic beverage, tobacco, cleaning, perfumes, cosmetics
- Series that identifies the lot or lots
- Date of manufacture
- Expiration date (Note: As opposed to sell by or best sold by date)
- Tariff number of product
- Whether first-time import of product
- Name and address of manufacturer of product
- Name and address, and date of arrival where product will be warehoused, and geographic region where the product will be marketed
- Date and place the request is submitted
- Name and signature of the importer requesting the permit, or his legal representative

DOCUMENTS TO ACCOMPANY THE PRIOR NOTIFICATION FORM

Either a Sanitary Certificate, a Certificate of Free Sale or physical/chemical analysis.

IMPORT REVIEW PROCEDURE

For products requiring prior approval, once all the documentation is in order and the Request for Prior Approval is submitted, the DGCSBS or SPSC authority issues an ***Autorización Sanitaria de Importación***, or Health Import Permit. (Attachment 12) This document is Submitted to Customs officials at the time of import, confirming official approval for the product to enter the country. All documents accompanying the Prior Approval Request are returned to the importer with the permit.

At the time the product is to be shipped, the importer presents to the Customs officials the Import Permit and any additional health information as specified on the permit, as well as other fiscal documentation, etc. The Customs official will examine the documents and normally allow the shipment to proceed if the paperwork is in order. Mexican Customs has a red light/green light system of control in which roughly 10 percent of all commercial shipments are detained for closer examination. In the event of a red light, the trailer will be opened to undergo a series of checks to ensure that everything is in order.

Customs has a maximum of three hours to clear the shipment. If there are problems, the product will be detained until they are cleared up. The delay will depend upon how quickly the matter can be resolved. This rarely takes more than a few hours, but can last longer. Only that part of any multi-product shipment or lot that is in question will be detained.

If the matter cannot be resolved, the shipment is rejected. If product can not be brought into compliance it will be either re-exported or destroyed.

COMMON MISUNDERSTANDINGS AND EXPLANATIONS

Mexico maintains a more comprehensive documentation system than the United States in order to ensure that imported product meets the country's food safety standards. It is very important that those companies wishing to export to Mexico be aware of the possible pitfalls. Therefore, what follows is an overview of some of the more common misunderstandings uncovered by this study.

It should first be pointed out that the Mexican government had intended to publish a procedures manual within six months of the date of the original January 21, 1998 announcement. This has not yet happened. Publishing the document may, in fact, do much to clear the air. The document has been written, and is now being cleared through official government channels. However, no one is certain when the document will be ready.

The Prior Approval Request and Prior Notification forms: Their complexity has frequently resulted in importers and Custom Brokers erroneously completing the form. The above information on what is required should be helpful to ensure the required information is correctly provided. That confusion exists seems avoidable, since the instructions listing the specific requirements are detailed and complete.

Other required documents: Several other documents must also accompany the prior approval request and prior notification forms. These represent additional steps in the process and many question whether these forms actually serve the purpose for which they are intended. Particularly troublesome was the Certificate of Free Sale. Obtaining official state authority certification and notarization for each new product is exceptionally cumbersome. SSA notes that an official health certificate can replace the Certificate of Free Sale and the analysis certificates.

Many feel that the requirement for Physical/Chemical and Microbiological Analyses infringed on proprietary information. SSA notes that they are not interested in product formulation. Their concern is that no product be allowed into the country that has specific characteristics or contains chemicals that are illegal in Mexico.

The area in which there seems to be the most confusion and attendant frustration is the requirement for reporting lot numbers as a part of the prior approval request. The trade stated repeatedly that a new Prior Approval Request form, along with all supporting documentation, must be completed for every new lot. They argued that this is a timely and costly process. Many contacts said that the importer must pay 811 (recently increased to 876) pesos (\$81.00, or now about \$87.00) for the passage of each lot of each product crossing the border. According to these sources, if there are ten different products or ten lots of one product on a truck entering Mexico, for example, there will be a total charge to the importer of roughly \$870.00. (Fresh fluid milk imported from the U.S. to Ciudad Juarez is subject to an additional \$176.00 fee for drawing a sample and sending to Chihuahua for microbiological analysis.)

Not so claimed SSA officials. They pointed to the printed instructions which state that the fee is levied only on each prior approval request and not by lot nor even by shipment. They added that while lot numbers are required on the request form, they are not the basis for overall import control. In fact, SSA noted that an importer can include multiple products on one request form, and that the Import Permit will provide import authorization for all of those products that meet all requirements.

Other submissions, such as samples of labels and Certificate of Origin also must accompany the Prior Approval request and receive favorable consideration before import approval will be granted. Mexico's labeling requirements frequently have been troublesome for U.S. exporters. However, this study was restricted to health documentation requirements, and did not address this matter in detail. In addition, many of those interviewed asserted that the labeling requirements were no longer so problematic, now that they have experience with them. SSA notes that since labeling and other information is necessary to comply with other government

requirements, they are simply asking for the information as well.

Once all documentation is in order and the Request for Prior Approval is submitted, most interviewees responded that approval normally is granted and the Import Permit issued within five working days. SSA documents state that the process can take up to ten days if the request is submitted to officials in states other than those listed above. As mentioned, sometimes the Permit stipulates that other health documents must accompany the Permit to enable importation.

Some felt that there was no reason to repeat detailed information submitted with the Request for Prior Approval form, and was an unnecessary bureaucratic impediment. SSA noted that repeat information is only required when there is doubt about some of the copied documentation, or when there has been a history of problems with imports. The time limits established by the Import Permits were questioned. Repeating the prior approval process once the Import Permit expires creates additional financial and bureaucratic burden on the trade. Furthermore, doubt existed as to what purpose such time limits actually achieved for processed products.

Inconsistencies to the question concerning the validity period for an Import Permit were noted. There seems to be no written guidelines, prompting border inspection authorities to set their own limits. Trade responses ranged from a minimum of three days to a maximum of three months, and one importer saying he has permits valid for up to a year. Some variation is accounted for by the type of product. Longer validity periods are granted for canned and preserved goods, while fresh fluid milk gets only one to three days. SSA stated that the current maximum period is 30 days, with the possibility of a 30-day extension by advance written request for companies with a proven reliable track record. SSA noted that they are considering extending the validity period for companies with a proven responsible trade history.

CONCLUSIONS AND RECOMMENDATIONS

There is a common interest by the three NAFTA countries to minimize paperwork and hard copy record keeping to the extent possible, while simultaneously ensuring the integrity of their food safety import inspection programs. The United States and Canada have made significant progress toward reducing paperwork and the burdens placed on trade to effect product flow across borders. Mexico's system is under review, and certain changes will be considered. However, there was little on Mexico's agenda that seemed to deal with the objective of minimizing bureaucratic paperwork and, accordingly, relieving the increased burdens placed on traders and SSA's and State resources to enforce the program. It was acknowledged that both the Canadian and U.S. systems were much more streamlined, but there was no suggestion that they could serve as models for Mexico.

Officials at SSA headquarters in Mexico City explained in detail what was behind the January 21, 1998 Diario Oficial Announcement and how the entire pre-clearance process is intended to function. They defended the system's merits with conviction, and left the impression that a significant overhaul would not easily be achieved despite the frequent calls for simplification. Furthermore, they argued that the instructions for the pre-clearance application process were clear, simple, and efficient.

Again, the procedures manual, when published, should help. But also, no dramatic reform to the system will be forthcoming with that manual. SSA did offer that they will consider extending the length of the Import Permit for companies with a proven positive performance history. They did not indicate how long the extension might be. In view of the confidence Mexican authorities have in their system, any significant change will likely be effected only over the long run. Meanwhile, a group of experts from the regulatory bodies (FDA, CFIA and

SSA) of the NAFTA partners has formed to review and compare their respective food safety requirements. The body, the Canada-US-Mexico Compliance Information Group (CUMCIG) has already met several times, and there are plans to continue this process.

SSA is supportive of CUMCIG objectives, and sees this body as the best forum for a three-way discussion of food safety related matters. One long-term objective of CUMCIG is to look at ways in which their inspection and documentation systems can be simplified and harmonized. Accordingly, any efforts to simplify Mexico's food safety documentation requirements should continue with that group. The information obtained from this study has been shared with the Food and Drug Administration, and should serve to advance understanding of Mexico's policies. SSA officials look forward to continuing to work within the framework of CUMCIG. In the meantime, U.S. exporters must ensure that they become fully informed about the requirements to export processed food products before commencing the process. First and foremost in this process is to procure the services of an established, reliable broker. U.S. companies and Mexican importers with substantial experience in importing into Mexico by and large seemed to have considerably fewer problems and were less frustrated with the process. The respective trade associations may wish to review with their membership their respective experiences in working with brokers.

Exporters who do experience problems at the border should ensure that they have a very good understanding as to the nature of the problem, and insist on clear explanations as to how any detained or rejected product violates Mexico's regulations or laws, whether due to documentation or to other reasons. All detentions must be documented by health authorities; the trade has a right to see that documentation. Exporters should ensure that their brokers or importers provide them a copy for their information. If, after observing the explanation there is no persuasive evidence of a violation, the trade should direct their questions to the:

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