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Nigeria

Food and Agricultural Import Regulations and Standards - Narrative

FAIRS Country Report

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Report Highlights:

Appendix 1 has been revised to reflect the appointment of Mr. Paul Orhii as the new Director General of the National Agency for Food and Drug Administration and Control. The remainder of the report is largely unchanged from previous submissions.

Section I. Food Laws:

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 it's preparation, or because clear information about these policies were 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 the regulation and control of food product manufacturing, importation, exportation, advertisement, sale and distribution in Nigeria. Under the provisions of the GON Act No 19 of 1993 (as amended) and the Food and Related Products (Registration) Act No. 20 of 1999 and the accompanying Guidelines, no food item may be imported, manufactured, 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, safety and efficacy (as applicable) of food, packaged water, drugs, cosmetics, medical devices, chemicals and detergents (referred to as regulated products) 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, which has increased the level of awareness of the consumer to make informed choices and has also encouraged local producers. In theory, any food item not registered with NAFDAC is not legally importable. In practice, many processed foods are routinely illegally smuggled into Nigeria through the land borders, by sea and by air without having gone through the registration process.

Section II. Labeling Requirements:

A. General Requirements

NAFDAC regulations require food labeling to be informative and accurate and not fraudulent or misleading.

- The following is the outline of NAFDAC's minimum labeling requirements:
 1. A product's brand name or common name must appear in bold letters.
 2. Name and full "location" address of the manufacturer showing country of origin must be provided on the product label.
 3. The production "batch" number, date of manufacture and best before/expiry date.
 4. Net content, specifying essential ingredients in metric weight for solids and metric volume for liquids.

5. Ingredients must be listed by their common names in order of their prominence by weight.
 6. 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.
 7. NAFDAC registration number must be included on the product label.
- 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 provided they don't remove easily. Foreign labels must be adhered prior to the product arrival at the Nigerian port of entry.
 - Foreign label must be applied prior to export
 - Sample-size products or institutional packed products have no special labeling requirements.
 - For production and expiry dates, Nigerians write the date before the month. 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.
 - NAFDAC regulation stipulates that all food products should carry best-before dates and/or shelf life on their packaging. The regulation 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 does not grant exceptions to labeling requirements

B. Requirements Specific to Nutritional Labeling:

- The standard U.S. nutritional fact panel is acceptable by NAFDAC.
- Any nutritional claim on the product's label must be justified. 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 or nutraceuticals. 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 regulations on packaging. No specific waste disposal laws or product recycling regulations impact imported food products and NAFDAC does not impose any specific restrictions on packaging materials. However, plastics must be of food grade and should not leach into the product.

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 Act 19 of 1993. NAFDAC has developed a positive additive list, which is available at the Regulatory Affairs Unit of Registration and Regulatory Affairs Directorate. A very short negative (prohibited) list does exist. NAFDAC has a specific food additive regulation on non-nutritive sweeteners and on fortification. NAFDAC requires that wheat and maize flour, vegetable oil and sugar be fortified with Vitamin A, while salt must be iodized. NAFDAC applies the food additive standards of the Codex Alimentarius Commission, EU and FDA 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. Other several bread improvers are now available.

Any person or company found to be in violation of any provision of the NAFDAC Decree No 19 of 1993, as amended, 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 limits and mycotoxin standards of the Codex Alimentarius Commission, EU and USDA 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 radioactive contents in addition to other quality parameters. There is a maximum residue limit for approval of pesticides. NAFDAC reserves the right to subject any domestic or imported product to its own analysis to determine wholesomeness of food product. NAFDAC officials routinely subject imported foods to inspection and analysis at the port of entry, retail level and also perform laboratory analysis. Contaminated products are 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). NAFDAC has Pesticides Regulation in place available at any of our offices nationwide.

Section VI. Other Regulations and Requirements:

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.

NAFDAC requires wheat and maize 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 Trade Marks Registry of the Federal Ministry of Commerce 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 IPRs 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 NI7005.

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 concession. 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.

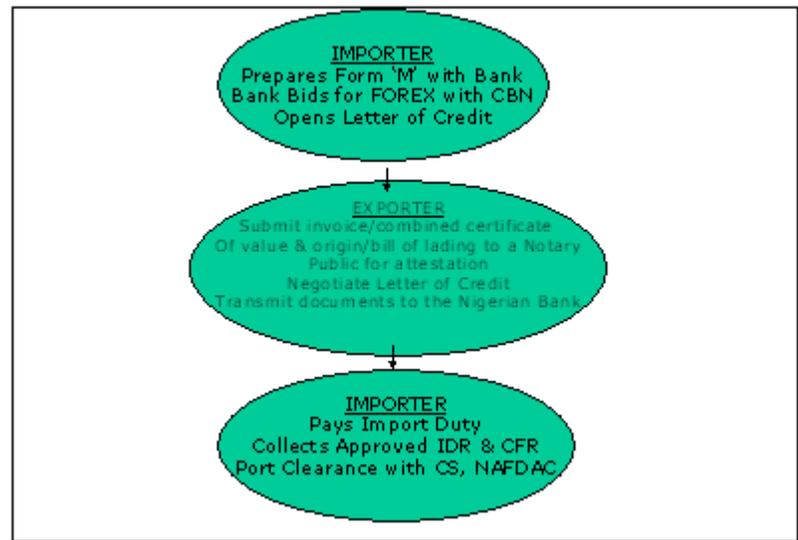
B. Documentation

- 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.
- 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.
- 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'.
- 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.
- 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 Industrial Standards-NIS, British Standards PD,

ISO, IES, DIN (etc).

- 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.

On September 25, 2008, the GON released to the public the new 2008-2012 tariff book, almost two years after the last one expired. The new tariff book further liberalized imports by eliminating some of the import bans and significantly reducing high tariffs. These changes now allow corn, crude vegetable oil and other products to be imported into Nigeria. In addition, the duty on rice has been reduced considerably, from 109 percent previously to only 5 percent for un-milled and brown rice and 30 percent for milled rice. Previously, high duties had encouraged large scale smuggling

of rice from neighboring Benin. This reduction of duties has largely eliminated rice smuggling.

The new tariff structure is based on the ECOWAS Common External tariff (CET) structure of four tariff bands, which Nigeria began to partially implement in 2005. A fifth band of 50 percent, which had been introduced by the GON (authorized by ECOWAS), has been reduced to 30 percent. The bands are now:

BAND	ITEMS DUTIABLE
0%	Necessaries, special medicaments, industrial machinery and equipment (industrial machineries and equipment will only attract 0% duty if imported during the first year of an establishment's operation.)
5%	Raw materials and other capital goods
10%	Intermediate goods
20%	Finished goods
30%	Finished goods in industries that the government wants to protect

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:

Dr. Paul B. Orhii
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National Agency for Food and Drug Administration and Control
Federal Ministry of Health
Plot 2032, Olusegun Obasanjo Way
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Appendix II. Other Import Specialist Contacts:

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