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El Salvador

Food and Agricultural Import Regulations and Standards - Narrative

FAIRS Country Report

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Report Highlights:

Updated Sections: I. Food Laws, VI. Other Regulations and Requirements and Appendix I. Government Regulatory Agency Contacts.

Section I. Food Laws:

El Salvador does not have a specific food law that applies to imported foodstuffs. Instead, the Salvadoran Health Code is the most widely used instrument to enforce local food safety. The Ministry of Public Health and Social Assistance (MPHSA) is in charge of all registrations and authorizations to import, manufacture, and sell foodstuffs and beverages, as well as any raw materials used in the production process. The most pertinent regulation used to enforce proper food safety when importing foodstuffs is Section 12/Article 88 of the Salvadoran Health Code. This particular article states that in order to import any food or beverages their use must be authorized by a Certificate of Free Sale and Consumption issued by the Environment Safety Department (DSA) of the MPHSA. Each respective certificate must include the name of the product and its components. Other products such as fresh produce and products of animal origin are regulated by the Plant and Animal Health Division (DGSVA) of the Ministry of Agriculture (MAG). For U.S. products the Ministry

of Health will accept the Certificate of Free Sale issued by the producer or distributor signed and sealed by a U.S. Attorney.

The Government of El Salvador (GOES) has been unable to design a program geared towards the implementation of food safety laws and their proper enforcement. The main problem has been attributed to limited resources due to other important needs such as public infrastructure and social programs. However, local policy makers are beginning to react to criticism by unsatisfied consumers regarding food safety and quality control. A Consumer Protection Law was ratified by the National Assembly and has been in effect since April 1996. According to the law, the Ministry of Economy through the Consumer Protection Agency (DGPC) is the entity in charge of enforcing all the provisions of this law. The National Assembly has ratified an updated Consumer Protection Law. Under the revised law, the Consumer Protection Agency (DC) has been designated as the sole entity in charge of safeguarding consumers from unsafe products.

Most food products are inspected for safety at the port of entry. However, the MPHSA carries out random testing at the retail and wholesale level to make sure that foodstuffs comply with all the required health and quality standards. Nevertheless, many unchecked products manage to reach their final destinations due to lack of human resources and appropriate infrastructure to control illegal distribution channels.

The trend in food safety in El Salvador is toward tighter control and more efficient regulations, and the use of Codex Alimentarius norms. Meanwhile, Central American norms, and in some instances FDA norms are being used until Codex norms are revised and adopted.

Section II. Labeling Requirements:

The MPHSA requires the following labeling information for all products sold in El Salvador:

- › 1) The label should express the nature of the product, composition, quality, origin and general processing method.
- › 2) Name of the product: must be the specific name.
- › 3) Net Content: It must be expressed in decimal metric system units.
- › 4) Ingredients: They should be listed with their proper names, in decreasing order, according to their importance in the composition of the product. It is not necessary to identify the percentage of each ingredient.
- › 5) Additives: Must be mentioned by the group it belongs to (for example: antioxidant), followed by its specific name and its concentration in the final product.
- › 6) Lot identification and manufacturing date: in order to identify the lot, a code can be used, which must be provided and clarified to the Health authorities. To identify the manufacturing date, 6 digits must be used (year, month, and day).
- › 7) Expiration date: When a product has limited shelf life, it must be declared on the label. Labels for food products whose shelf life is between 3 and 18 months must include the statement “PREFERABLY CONSUME BEFORE”, followed by the day and month. Labels for food products that expire in shorter periods should state “Expiration Date”, with the day and month.
- › 8) Storage instructions.
- › 9) Manufacturer’s name: The label must include the manufacturer, importer, dealer, distributor or legal representative of the product, and their respective addresses.
- › 10) Sanitary Registry: The label must declare the number of Sanitary Registry (Reg. No. D.G.S. El Salvador), issued by the Environmental Health Department, Section of Food Safety of the Ministry of Health.
- › 11) Country of Origin.
- › 12) The product must contain the name and address of the supplier in El Salvador in the form of a sticker, which is usually provided by the supplier or distributor.

El Salvador’s labeling law requires that the product description be in Spanish. There is no enforcement at this time. However, major retail outlets are requiring stickers with product description in Spanish to comply with the law. GOES is working on a new regulation that will begin enforcement of labels only in Spanish for all food products sold in this market.

In order to determine if a product can be imported with only the standard U.S. label, it is necessary to examine U.S. labeling norms and compare them to the general norms of the Codex Alimentarius for labeling of foodstuffs. The National Council for Science and Technology (CONACYT) is currently working on labeling regulations based on the Codex. Due to lack of resources the GOES has not enforced this policy and food products with U.S. labels can be seen throughout the distribution chain. However, the GOES is currently requiring that a sticker in Spanish that includes a list of ingredients, manufacturing method, and expiration date be used until the requirement of Spanish-English labels can be fully implemented.

The MPHSA/DSA and the Ministry of Economy/DGCP enforce local labeling regulations. All products should be properly labeled prior to distribution for human consumption.

Sample-size product labeling requirements are identical to those listed above. However, local authorities are a bit lenient with this type of product due to the small quantities that are imported.

Bulk packed or institutional size products are required to visibly display the contents and ingredients either in the container or package.

Nutritional labeling is not required by the MPHSA. The U.S. nutrition label needs to be analyzed by the Nutrition Department of the MPHSA in order to be accepted. Some locally produced products at the retail level have nutrition facts in English to comply with U.S. regulations due to expectations of exporting to the U.S. market under the Central America – U.S. – Dominican Republic (CAFTA-DR) Free Trade Agreement. According to local health officials, the possibility of consumers being misled by U.S. labels exists. Since most Salvadorans do not speak English, local health officials fear they could be basing their opinion on the picture that is used in the label by U.S. manufacturing companies.

The only requirement for shelf life of a product is the expiration and manufacturing date. The DGSVA requires a country of origin certificate for all products that are imported to El Salvador.

The GOES does not grant any exceptions under the labeling law. However, in extreme cases, the MPHSA can analyze a product in order to guarantee consumer health and decide whether that particular product can be imported for human consumption.

Both Uniform Code Council (UCC) and EAN bar codes are acceptable in El Salvador. Bar coding is rapidly becoming an important instrument in the food business. Currently all local supermarket chains require that products sold throughout their stores is coded.

When alcoholic beverages are being imported, the label must read: "The excessive consumption of this product is harmful and creates addiction. Sales to consumers under the age of 18 are prohibited". This is based upon Article 26 of the Regulatory Law for the Provision and Commercialization of Alcohol and Beverages. In the case of tequila, the following is also required: area of production, alcohol grade and manufacturing process.

Section III. Packaging and Container Regulations:

There are no special packaging or container size requirements at this time. However, due to purchasing power constraints, consumers prefer smaller size packages at the retail level. This is especially true at the open market and mom and pop stores. Wholesale outlets offer foodservice size packaging.

Section IV. Food Additives Regulations:

The list of food additives allowed by the MPHSA is based on the additive lists of the Central American Institution for Industrial Research and Technology (ICAITI), the Codex Alimentarius norms and in certain occasions those of the FDA.

The MPHSA allows the use of the following colorants in foodstuffs: Yellow #5, Yellow #6, Blue #1, Blue #2, Red #2, Red #3 and Red #40.

Section V. Pesticides and Other Contaminants:

DGSVA through the Inspection and Registration Division is the agency in charge of enforcing all regulations regarding pesticides and their use. By law, no pesticide can be manufactured, formulated, imported or distributed in El Salvador if it hasn't been properly registered. There is no positive or negative residue list at this time. DGSVA takes into

consideration maximum tolerances for most pesticides based on Codex tolerances only for registration purposes. A commission for Codex Alimentarius matters has been created by the GOES. The initiative to control residues has been pushed forward by the private sector using the quality Control Lab of the Salvadoran Foundation for Economic and Social Development (FUSADES) to carry out all necessary tests.

In El Salvador, pesticides are regulated by:

- Law for pesticide, fertilizer and agricultural products control. Legislative Decree # 315, 04/28/73.
- Regulation for the application of the pesticide control law. Executive Decree # 28, 05/21/80.

In addition, the following accords, norms and international agreements are taken into consideration for pesticide registration and control:

- International Behavior Code for the distribution and use of pesticides (amended in 1989) of FAO.
- Regional agreements for the harmonization of pesticide labeling and required procedures for registration and fiscalization.
- FAO specifications for pesticide quality control. Tolerance (MRLs) specified in the Codex Alimentarius.

Pesticides must be registered by the Agricultural Safety Department of the MAG. In order to register a pesticide, the following information must be specified:

- Scientific and commercial name of the product, quantitative and qualitative formula, structural chemistry, and other necessary information for its complete identification.
- Name and address of the person or company that manufactures, imports, or distributes the product.
- Certificate of Origin and confirmation of Free Sale in the country of origin.

Section VI. Other Regulations and Requirements:

In general, most products are subject to lab tests when undergoing routine controls and when the product is registered. The GOES requires that importers be registered with the MPHSA. Importers must also register each product to be imported with the MPHSA to ensure the product is fit for human consumption. A product that is registered undergoes physical, chemical, microbiological and other related tests to determine that it meets minimum health and sanitary standards. Product registration usually takes two to three weeks. Registration of a product, once granted, is valid for five years. The MPHSA is working on the development of an online import permit mechanism that will be linked to Customs to expedite food import procedure.

Certificates of Free Sale are required for those imported products not registered with the MPHSA. A certificate of free sale, ideally, is a certificate from an authorized public health agency stating that the product to be imported meets all health and sanitary requirements of that agency and it is freely sold and consumed in the country of origin. The certificate can include more than one product and is valid for one year. The certificate must be in Spanish or be accompanied by a copy of an official translation that can be provided by the importer. Radiation Certificates are required depending on a product's hazard to human health.

Food groups such as baby food, diet foods, and health foods undergo the same required regulations as the rest. In the case of meat, zoosanitary regulations are required. These regulations are enforced by DGSVA through the Law for Sanitary Inspection of Meat (Executive Decree # 39, 07/13/71). Meat and meat products can be imported from any country whose meat inspection system is equivalent to the one established and maintained in El Salvador. Each shipment that contains meat and meat products from a foreign country must include an official certificate of meat inspection from the country of origin in Spanish. In addition, to obtain the import permit, meat-processing plants must be inspected and certified by a DGSVA inspector and the importer must present a lab analysis for pesticide residue and heavy metals. Under the CAFTA-DR agreement, El Salvador granted equivalence to the U.S. inspection system for beef, pork, poultry and dairy products and no longer requires plant-by-plant inspections. In addition, due to BSE, DGSVA is requiring that the Export Certificate contain the following additional remarks: "Boneless meat from cattle 30 month or younger, that have had all Specific Risk Materials (SRM's) removed and not mechanically deboned". However, a new protocol for beef that reflects the current U.S. status of controlled risk country granted by the World Animal Health Organization (OIE) is under negotiation with the Ministry of Agriculture. Dairy products also must

contain a microbiological lab analysis. There are no special packaging or container size requirements in El Salvador.

In the past, while all of the above requirements were official government policy, few were actually enforced. Most products were not registered. Importers had been able to import the majority of all processed products with a notarized letter from the manufacturer stating the product is fit for human consumption. However, the MPHSA is now enforcing the product registration requirement and does not allow any imported food product into the country without having fulfilled this requirement. Product registration at the MPHSA is US\$35.00 per product plus the microbiological analysis cost that ranges from US\$50 to US\$100 per product.

According to the health authorities in El Salvador, the following information is required for an exporter to register a product:

- An application must be filed at the Environmental Health Department of the Ministry of Public Health and Social Assistance, which shall include the following information:
 - Petitioner’s name and address.
 - Description of the product.
 - Name, address and telephone number of the establishment or factory where the product is manufactured.
 - Product use.
 - Name, address and telephone of the supplier in El Salvador.
 - Type of packaging material.
 - Net content.
 - Commercial brand name.

This application must be filed with the following documents:

- Power of attorney granted in favor of the Salvadoran attorneys or the company representative in the country, duly notarized at the nearest Consulate of El Salvador in the U.S. or by Apostille.
- The product Registration Certificate of the exporting country duly notarized at the nearest consulate of El Salvador or by Apostille.
- Product samples: the Environmental Health Department requires for solid products 3 samples of the product weighing 200 grams each. For liquid products, the Ministry of Health requires 3 samples of the product weighing 200 milliliters each.
- For alcoholic beverages, 2 samples of 200 milliliters each must be presented.
- For bottled water, 3.785 liters (one gallon) for the physical-chemical analysis and 1 sample of 500 milliliters for the microbiological analysis.
- A Certificate of free sale of the product, issued by the Health Authorities of the country of origin, duly notarized at the nearest Salvadoran Consulate or by Apostille. It must contain the product’s registration number and the manufacturing state of country.
- Functioning license of the local warehouse where the product will be stored. Usually the local distributor obtains this license.
- Five labels of the product, which shall specify the ingredients and the expiration date.

Section VII. Other Specific Standards:

The following table provides the name of the law/legislation and regulatory agencies that affect certain regulations for importation of food products to the local market:

Regulations	Regulatory Agency	Law/Legislation
Weight & Measures	Ministry of Economy	Consumer Protection Law
Food Sanitation	MPHSA	Health Code

Animal Quarantine	DGSVA	Law for Agricultural Sanitation/1
Marine Products	MPHSA	Health Code
Meat & Meat Products	DGSVA	Meat Sanitation
Wine & Alcoholic Beverages	MPHSA/Ministry of Economy	Health Code
Organic Foods & Health Foods	MPHSA	Health Code

1/ Decree of the Civil/Military Directorate, 02/09/61. Law is being updated.

The local postal system is not used to send product samples to El Salvador.

Section VIII. Copyright and/or Trademark Laws:

The Law of Trademarks and Other Distinctive Signs, approved in 2002, brings El Salvador closer to compliance with the World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The law reinforces established regulations for the acquisition, registration and protection of trademarks, logos, statements, distinctive advertising signs, and geographical indicators. The law also makes it more difficult to register a trademark already in use outside El Salvador—particularly well-known marks—by requiring the person attempting to register the mark to show that he is authorized to do so. El Salvador has also joined the Paris Convention and the Berne Convention; both became effective in February 1994. Additionally, El Salvador has approved the World Trade Organization (WTO) and the agreement on TRIPS.

To comply with CAFTA-DR obligations, El Salvador approved a series of reforms to intellectual property laws. The concept of marks was expanded to include marks in respect of goods and services, collective marks, and certification marks, and that geographical indications are eligible for protection as marks. The law now provides for rules on domain name management that require a dispute resolution procedure to prevent trademark cyber-piracy. Regarding copyright and related rights, the law provides broad protection of copyright and related rights. For instance, each party must provide copyright protection for the life of the author plus 70 years, or 70 years (for corporate works). It clarifies that the right to reproduce literary and artistic works, recording, and performances encompasses temporary copies, an important principle in the digital realm. It also calls for each party to provide a right of communication to the public, which will further ensure that copyright holders have the exclusivity to make their works available online, and specifically protects the rights of performers and producers of phonograms.

An individual can acquire exclusive trademark rights by registering a branded product with the National Registry Center (CNR). Trademark registrations are granted for a period of 10 years and can be renewed indefinitely for similar periods. It is mandatory to record assignments, change of name and address of the registrant, and used licenses affecting trademarks registered in El Salvador.

El Salvador's legal system provides a series of effective actions to combat any illegal procedures regarding trademarks. CAFTA-DR provides that law enforcement agencies must have authority to seize suspected pirated and counterfeit goods, the equipment used to make or transmit them, and documentary evidence. The courts are also given authority to order the forfeiture and/or destruction of such items. Enforcement actions could also be taken without waiting for a formal complaint. Besides in determining damages, the parties should take into account the value of the legitimate goods as well as the infringer's profits. El Salvador now applies criminal penalties against counterfeiting and piracy, including end-user piracy.

The following information is required to register a trademark or brand name:

- Name of product manufacturer.
- Address.
- List of products that are manufactured under each specific brand.
- Brand logo.

- Power of attorney legally notarized by the nearest Salvadoran Consulate.
- Registration certificate from the country of origin legally notarized by the nearest Salvadoran Consulate.
- Once the power of attorney has been duly registered at the Salvadoran Product Registration Office, a sworn declaration of adoption for each registered brand is also requested.

El Salvador, Guatemala, Honduras and Nicaragua signed a Customs Union Treaty on June 30th, 2000. Under this treaty, any food or beverage product having sanitary registration in any of the signatory countries will be valid in the rest.

El Salvador is a signatory country since 2002 of the 1996 WIPO Copyright Treaty and of the WIPO Performance and Phonograms Treaty. Under CAFTA-DR obligations, El Salvador also joined the Patent Cooperation Treaty (PCT) and the Budapest Treaty on the International Recognition of the Deposit of Microorganism for the Purposes of Patent Procedure.

Section IX. Import Procedures:

Usually when clearing a product through Customs, a Customs inspector, a Customs police officer, and a MPHSA inspector are involved in the process. English is the commercial language used for import documents. On average, it takes approximately three to five days to clear a product through customs. Most importers use a customs agent to expedite the clearing procedures. At this time, there is no appeals system in place for disputed product rejections.

The steps in custom clearance for a prepackaged foodstuff are:

- Request Import Permit from DGSVA.
- Once the import permit has been granted by DGSVA, the importer must take the sanitary registration, packing list, bill of lading, insurance policy, airway bill, shipping information and product invoices to the Revenue Department at the Ministry of Finance to get the policy for payment of import tariff.
- The import policy has to be cleared by Customs, Customs police and the Regional Organization for Agricultural Sanitation (OIRSA).
- Customs police conduct a product inspection.
- Once product has been cleared by Customs Police it can be withdrawn by the importer.

The Ministry of Hacienda has implemented a system called “Teledespacho” designed to expedite Customs procedures. This system uses satellite technology to allow importers and exporters to send their commercial invoices, bills of lading, and airway bills through an electronic link or web to the Salvadoran Customs office to be processed. All customs agents have access to this satellite system through an individual Personal Identification Number that enables them to get in contact with Customs. This system is also available to import/export companies that have offices outside El Salvador. These companies can purchase the software to hook up with the Customs satellite system to send their product invoices. The Teledespacho system makes it possible for merchandise to clear Customs 24 hours a day, seven days a week.

In addition to Teledespacho, the GOES uses an "auto liquidation" process that allows the presentation, assessment, calculation and payment of duties directly by the importer, without physical inspection of the merchandise in 85 percent of the cases. Local businesses, importers and shippers have noticed a big improvement in the operation of Salvadoran customs since the initiation of the above mentioned reforms.

MAG has an online system to process import permits for dairy, meat and fresh produce called Agricultural Food Safety Information System (SISA). Importers have access to this system with an authorized PIN and no longer have to visit MAG offices to request import permits. According to MAG, this new procedure is part of a GOES process to expedite import as well as export procedures. These procedures are due to increased trade as a result of El Salvador’s continued negotiations of free trade agreements. This system can be accessed at MAG’s website www.mag.gob.sv.

The Ministry of Health also has an online system to request import permits for food products. This system can be accessed at the following website: www.gaisa-mspas.gob.sv. Information of costs for different services such as import permits and product registrations can also be found at this website.

Appendix I. Government Regulatory Agency Contacts:

- Agency: Ministerio de Salud Pública y Asistencia Social.

Departamento de Saneamiento Ambiental (DSA)
Tiago Ghiringhello
Carretera Roosevelt, Edificio Laboratorio
Calle 1 Dr. Max Bloch, San Salvador.
Teléfono: 221-0966 Ext. # 105, 2271-1300
2260-6835

E-mail: <mailto:dpsanamb@es.com.sv>
<mailto:sghiringhello@gaisa-mspas.gob.sv>

- Agency: Ministerio de Agricultura y Ganadería.
Dirección General de Sanidad Vegetal y Animal
Armando Lizano
Ave. Norte, Santa Tecla, La Libertad, El Salvador.
Teléfono: 241-1750/2288-5220/2297-8435
228-9029
mlizano@mag.gob.sv

- Agency: Ministerio de Economía
Dirección General de Protección al Consumidor (DGPC)
Armando Flores
Carretera Roosevelt, Centro de Gobierno entre
Carretera Guadalupe y Avenida Juan Pablo II,
Calle C-1 ó C-2, San Salvador.
Teléfono: 81-1122
221-3586

- Agency: Centro para la Defensa del Consumidor
de Medrano
Carretera del Norte bis # 525, Centro de Gobierno,
San Salvador.
Teléfono: 22-1122
221-0522

- Agency: Dirección General de Sanidad Vegetal y Animal,
División de Certificación Fitozoosanitaria para el Comercio
Armando Navarro
Avenida Norte, Santa Tecla,
La Libertad, El Salvador.
Teléfono: 41-1773/77
Fax: (503) 2228-2735
e-mail: <mailto:anavarro@mag.gob.sv>

- Agency: Dirección General de Sanidad Animal y
Vegetal, Departamento de Inspección de
Productos de Origen Animal - IPOA
Armando Cromeyer Milla
Calle El Matazano, Soyapango,
San Salvador.
Teléfono: 97-8432
Fax: (503) 2297-8432

- Agency: Regional Organization for Agricultural
Sanitation (OIRSA)
Armando Aragón
Avenida Norte y Avenida Manuel

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- Agency: National Council for Science and Technology
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Appendix II. Other Import Specialist Contacts:

- Company: MUDISA

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