

USDA Foreign Agricultural Service

# GAIN Report

Global Agricultural Information Network

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## **Nigeria**

### **Food and Agricultural Import Regulations and Standards - Narrative**

#### **FAIRS Country Report for Nigeria (2013)**

**Approved By:**

Russ Nicely, Regional Agricultural Counselor

**Prepared By:**

Peace Olaito

**Report Highlights:**

National Agency for Food and Drug Administration and Control (NAFDAC) has played the lead role for regulating food safety systems in Nigeria over the past decade. NAFDAC's recent success with international accreditation of the agency's two major laboratories is another important boost for food safety regulations in Nigeria's food production, distribution and consumption chain. Other Government of Nigeria (GON) agencies are also becoming active in Nigeria's food safety activities. [Sections I, II, V, VI and Appendix I were updated. Sections III and IV remain the same. Appendix III is new].

#### **SECTION I. FOOD LAWS:**

Nigeria's food supply chain has continued to grow more complex. The food supply chain is undergoing considerable transformation as Government has intensified efforts to improve safety. The GON is making concerted efforts to address food safety and food borne diseases through a new "National Policy on Food Safety and Implementation Strategy" which aims to strengthen food safety control systems, co-ordinate food safety activities and assign roles and responsibilities to relevant stakeholders i.e. government regulatory and standards bodies, research, academia and industry.

The responsibilities for regulating and monitoring food safety standards and practices in Nigeria devolve on the following government (GON) organizations and agencies:

- Ministries: Federal Ministry of Health, Federal Ministry of Agriculture & Water Resources and Federal Ministry of Commerce
- Departments: Federal Department of Fisheries and Federal Department of Livestock
- Agencies: National Agency for Food and Drug Administration and Control (NAFDAC), Standards Organization of Nigeria (SON), and Nigeria Agricultural Plant Quarantine Services (NAQS) and Consumer Protection Council

The following are the major Nigeria's food laws:

- Food and Drugs Act CAP F32, Law of Federation of Nigeria (LFN) 2004 (Cap 150) of 1990 as amended by Decree 21 of 1999 (formerly called Food and Drugs Decree 35 of 1974)
- The Animal Disease Control Decree 10 of 1988
- The Marketing of Breast Milk Substitutes Decree 41 of 1990 now CAP M5, LFN 2004
- NAFDAC Marketing of Infant & Young Children Food and other Designated Products (Registration, Sales, etc) Regulations 2005
- Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Decree 25 of 1999, now CAP C34, LFN 2004
- The National Agency for Food and Drug Administration and Control (NAFDAC) Decree 15 of 1993 (as amended by Decree 19 of 1999), now CAP N1 LFN 2004
- Drugs and Related Products (Registration etc) Decree 1993, now Food, Drugs and Related Products (Registration) CAP F33, LFN 2004
- Non-Nutritive sweeteners in drug products (Prohibition) Regulations 1996
- Pre-packaged Food (Labeling Regulations) 2005
- Food grade (Table or Cooking) salt regulations 2005
- Pre-shipment Inspection of Exports Decree 1996
- Pre-shipment Inspection of Imports Decree 1996
- Consumer Protection Council Decree 66 of 1992
- Inland Fisheries Decree 108 of 1992

NAFDAC is the Government of Nigeria's (GON) food safety authority and 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.

Over the last decade, NAFDAC has played the lead role in enforcing regulation and control of

processed food imports, manufacturing, distribution and promotion.

It 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."

NAFDAC's mandate requires they ensure compliance with regulations. The essence of control and regulation is to protect public health by ensuring that only quality regulated products that are safe, efficacious and wholesome reach the market, and ultimately the consuming public. Its scope is to regulate, 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.

Its food regulation activities also cover:

1. Licensing of food manufacturing premises;
2. Registration of food products and issuance of marketing authorization;
3. Importation & exportation of food;
4. Labeling of food products;
5. Advertisement of food products;
6. Inspection for GMP and GHP of food producing premises of foreign establishments whose products are to be imported into Nigeria;
7. Health control of Quick-service Restaurants;
8. Marketing of Breast milk substitutes.

(Visit: [www.nafdac.gov.ng](http://www.nafdac.gov.ng) for details)

NAFDAC also plays other important roles in Food Safety including:

- WTO (SPS) Enquiry Point (EP) in Nigeria (visit: [www.spsenquirypointnigeria.net](http://www.spsenquirypointnigeria.net))
- INFOSAN Focal Point
- WHO – International Health Regulations (IHR)
- Member of the Nigerian delegation to Codex meetings
- Chair of the General Purposes Technical Committee of the National Codex Committee (NCC)
- NAFDAC is the designated Rapid Alert System for Food and Feed (RASFF) focal point in Nigeria and therefore relates with European union on Food matters

NAFDAC operates at the Federal and State levels along with the state government agencies. At the local government level there are primary healthcare agencies responsible for street food vending and traditional markets, although they refer to NAFDAC for all cases that affect health.

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 regulation.

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. Any food item not registered with NAFDAC is not legally importable. However, 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.

However, NAFDAC is currently applying modern technological tools such as Truscan, a hand held device to detect counterfeit medicines on the spot, to fight counterfeiting. Through its Pilot Mobile Anti-counterfeiting System (which uses text messaging technology to put the power of detecting counterfeits in the hands of the consumers), NAFDAC has also advanced efforts to educate consumers detection of counterfeit foods. It also doing this by collaborating with a number of Government Agencies and Civil Society Organizations including Standards Organization of Nigeria (SON), National Drug Law Enforcement Agency (NDLEA), Pharmacists Council of Nigeria (PCN), Nigeria Police Force (NPF), Nigeria Custom Service (NCS), Consumer Protection Council (CPC), Pharmaceutical Manufacturers Group of Manufacturers Association of Nigeria (PMG-MAN), Association of Food Beverages and Tobacco Employers (AFBTE), etc. [For details, visit: [http://www.nafdac.gov.ng/index.php?option=com\\_content&view=article&id=46:nafdac-organisation](http://www.nafdac.gov.ng/index.php?option=com_content&view=article&id=46:nafdac-organisation)]

Overlap of functions, absence of working collaboration and co-ordination with poor communication among Nigeria's food regulators and the overwhelming product adulteration/faking constitute a major challenge within Nigeria's food safety system. However, USDA/FAS had in 2010 collaborated with NAFDAC on a HACCP workshop which had as a result led to the formation and inauguration of Nigeria's National Food Safety Management Committee. The committee's composition recognized all sectors in Nigeria that are responsible for entire food chain in Nigeria. When fully operational, the committee will be responsible for food safety and quality control measures from farm to table.

## **SECTION II. DOCUMENTATION**

### **A. REQUIREMENTS**

The following documents (all originals and two (2) set of photocopies) are to be submitted to the LOD:

#### *1. Power of Attorney or Contract Manufacturing Agreement (where applicable)*

##### Power of Attorney

- Notarized by Notary Public in the country of manufacture.
- Issued by the manufacturer of the product.
- Signed by the MD, GM, Chairman or President of the Company, stating the names of the products to be registered.
- The Power of Attorney shall also indicate authority to register product with NAFDAC. Valid for not less than 5 years.

#### *2. Contract Manufacturing Agreement*

(a) Notarized by Notary Public in the country of manufacture.

Signed by both parties stating names and designations of the signatories with the names of all the products to be registered and other relevant clauses clearly explained in unambiguous language.

3. *Certificate of Manufacture and Free Sale shall:*

- Be authenticated by the Nigerian Embassy in the Country of manufacture; or any other embassy or high commission of any commonwealth or West African country where no Nigerian Embassy or high commission exists.
- Be issued by relevant health / regulatory body or any incorporated body from exporting countries once such document is endorsed by the relevant government authority of the country.
- Indicate the name of manufacturer and products to be registered.

4. *Comprehensive Certificate of Product Analysis shall:*

- Be issued by the manufacturer
- Indicate the name and designation of analyst.

5. *Certificate of Business Incorporation* of applicant with Corporate Affairs Commission in Nigeria.

6. *Certificate of Registration of Brand name / Trademark* with Trademark Registry in the Ministry of Commerce in Nigeria. This should be done in the name of the owner of trademark as the case may be.

*Expired License (For product Renewal)*

1. Application letter for Import Permit by local representative (Applicant)

Duly completed Food Registration Form purchased with bank draft of N250.00 (Two Hundred and Fifty Naira) per product in favour of National Agency for Food and Drug Administration and Control.

Notarized Declaration: To be typed-filled and notarized by a notary public here in Nigeria. Collect format in LOD

## **B. LABELING REQUIREMENTS:**

### **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:

- A product's brand name or common name must appear in bold letters. Name and full "location" address of the manufacturer showing country of origin must be provided on the product label;
- The production "batch" or "lot" number, date of manufacture and best before/expiry date;
- Net content, specifying essential ingredients in metric weight for solids and metric volume for liquids;
- Ingredients must be listed by their common names in order of their prominence by weight;
- Food additives and colors must be declared on the label either by their actual names or class

with INS code;

- 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;
- 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;
- 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.

### **C. 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 "nutriceuticals";
- Labels must contain directions for safe usage, cautions such as interactions when taken with other drugs;
- Mandatory nutritional labeling information would commence in 2014.

### **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 \$700) 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 USFDA are applied by NAFDAC in its assessment of food safety. All food products must have a certificate of analysis, which demonstrates NAFDAC’s requirements that the item is free of radioactive material 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 all its offices nationwide.

NAFDAC’s recent success with international accreditation of the agency’s two major laboratories is another important boost for food safety regulations in Nigeria’s food production, distribution and consumption chain. NAFDAC’s Mycotoxin and Pesticides Residues Laboratories located in Lagos obtained the ISO 17025 accreditation conducted by the American Association of Laboratory Accreditation. The accreditation project was sponsored by United Nations Industrial Development (UNIDO) ([www. http://allafrica.com/stories/201311260737.html](http://allafrica.com/stories/201311260737.html))

## **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 Nigerian company with facilities to implement a recall of the product when necessary. Note that the representative will be responsible for ensuring that the health 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 to the Trademarks, Patents and Designs Registry under Nigeria's Federal Ministry of Trade, Investment and Industry to register the product's Trademarks, Patents or Designs ([www.iponigeria.com](http://www.iponigeria.com)). After trademark registration, the prospective importer (that will represent the foreign manufacturer) will apply for registration with NAFDAC on a prescribed form to the Directorate of Registration and Regulatory Affairs, 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 implement a product recall when necessary;
- NAFDAC considers the local representative to be fully responsible for all matters on the product, such as registration, distribution re-calls, legal actions etc;
- The Nigerian importer/distributor must file evidence of a Power of Attorney from the manufacturer, which authorizes him to be the representative in Nigeria;
- 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 an added advantage;
- 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 to protect the owner.

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) depending on pack size 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;
- 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 process involves documentation, inspection of manufacturing facilities, review of the GMP inspection report, laboratory analysis for assessment of wholesomeness and quality, vetting of labels to confirm compliance with NAFDAC's labeling regulations. The process also



involves advertisement (optional) control to ensure that it is not deceitful, fraudulent or misleading. These activities culminate in the issuance of a NAFDAC Registration Number, which is an attestation of product quality and safety. 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 1-3 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 Drug Control Laboratory, Yaba, 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 payable to NAFDAC;
- 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 authenticated by the Nigerian Embassy in the USA;
- Power of Attorney, notarized, issued by the manufacturer to the Nigerian local agent.

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 Pre-packaged Food Labeling Regulations stipulates that all food products should carry best-before dates and/or shelf life 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 every five years. The renewal fee is 450,000 naira per product. Additionally, NAFDAC requires an additional payment of port inspection and clearance fees 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.

**GLOBAL LISTING FOR SUPERMARKET (GLS) ITEMS:** Major supermarket operators or importers can import mixed container loads of high value products (HVP) under NAFDAC's global listing for supermarket (GLS) items. 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 after a satisfactory evaluation of application has been revised as follows:

<b>Number of Items</b>	<b>Global Annual Registration Tariff</b>
Less than 500	375,000 Naira + 5% VAT
501 – 2500	1,000,000 Naira + 5% VAT
2501 – 5000	2,500,000 Naira + 5% VAT
5001- & above	5,000,000 Naira + 5% VAT

**Exchange Rate: US\$1 = 160 Naira**

- All fees for processing and registration have to be paid in 'bank draft' payable in favor of the "National Agency for food and Drug Administration and Control plus five percent value added tax for each transaction.
- 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.

#### **F. Procedure for NAFDAC Registration/Renewal of Imported Food Products**

(Please see appendix III for steps involved and other Registration details.)

#### **SECTION VII. OTHER SPECIFIC STANDARDS:**

After several years of discussion and debate, the Nigeria Senate passed the Bio-safety Bill into law on June 1, 2011.

- The passage of the law demonstrates that the country is prepared to receive, regulate and most importantly, commercialize biotechnology products.
- The law leans heavily on the precautionary approach and requires certification and mandatory labeling for imports of all products of biotechnology.
- Nigeria is currently conducting field trials for transgenic cow pea, sorghum and cassava varieties.
- Visit the following FAS GAIN Report for details: <http://fasintranetapps-gain.fas.usda.gov/Lists/Advanced%20Search/AllItems.aspx>
- At present, 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 (ASYCCUDA+++) 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:

- Generic product name, i.e. product type, category
- Mark or brand name of the product where applicable.
- Model name and or model or reference number where applicable.
- Description of the quality, grade, specification, capacity, size performance etc.
- 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. 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.

### **D. 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. Dr. Paul B. Orhii**

Director General  
National Agency for Food and Drug  
Administration and Control (NAFDAC)  
Plot 2032, Olusegun Obasanjo Way  
Zone 7, Wuse District, Abuja, Nigeria  
Tel.: 234-9-5240996, 5240994  
E-mail: [nafdac@nafdac.gov.ng](mailto:nafdac@nafdac.gov.ng)  
Website: [www.nafdac.gov.ng](http://www.nafdac.gov.ng)

### **2. Dr. Monica Eimunjeze**

Director, Registration and Regulatory Affairs Directorate  
National Agency for Food and Drug  
Administration and Control (NAFDAC)  
Central Laboratory Complex,  
3 / 4 Apapa– Oshodi Expressway, Lagos  
Website: [www.nafdac.gov.ng](http://www.nafdac.gov.ng)  
E-mail address: [registration@nafdac.gov.ng](mailto:registration@nafdac.gov.ng), [meimunjeze@yahoo.com](mailto:meimunjeze@yahoo.com)  
Telephone numbers: +234 1-4772452, +234 1-4748627

### **3. Mrs O.N Mainasara**

Director, Food Safety and Applied Directorate  
National Agency for Food and Drug  
Administration and Control (NAFDAC)  
445, Herbert Macaulay Way, Yaba, Lagos  
Website: [www.nafdac.gov.ng](http://www.nafdac.gov.ng)  
E-mail address: [manaogo2000@yahoo.com](mailto:manaogo2000@yahoo.com), [mainasara.o@nafdac.gov.ng](mailto:mainasara.o@nafdac.gov.ng)  
Telephone numbers: +234 8033217430

### **4. Dr. Joseph Odumodu**

Director General/ Chief Executive  
Standards Organization of Nigeria  
Plot 13/14 Northern Business District  
Victoria Arobieke Street  
Lekki Peninsula Scheme 1 Lekki, Lagos  
Tel: 234-1-2708247, 2708230-5  
E-mail: [info@sononline-ng.org](mailto:info@sononline-ng.org)  
Website: <http://www.sononline.org>

#### **4. Agricultural Affairs Office**

USDA/Foreign Agricultural Service  
U.S. Consulate General  
2, Walter Carrington Crescent  
Victoria Island, Lagos, Nigeria  
Telephone: 234-1-460-3577, 460-3485  
E-mail: [aglagos@usda.gov](mailto:aglagos@usda.gov)  
Web site: <http://www.fas.usda.gov>

#### **5. Commercial Law Department, Trademarks, Patents and Designs**

Ministry Of Trade and Investment  
No 5 Ndola crescent, zone 5 Wuse Abuja  
Email: [info@iponigeria.com](mailto:info@iponigeria.com)  
Phone: +2348092194426 or +2348092194416  
Website: [www.iponigeria.com](http://www.iponigeria.com)

### **Appendix II: Specific Questions (Q) & Answers (A) on Wine Export Regulations to Nigeria**

**Q: When wine is sent to Nigeria how many samples are to be sent per varietal?**

**I know it says 15 samples--that would be 15 bottles (750ml ea) of each varietal. That sounds like a lot and quite expensive.**

A: Yes — the 15 bottles of each is so much. NAFDAC argues they want enough of each for the numerous laboratory tests. Importers who are comfortable with the number just comply to get registered for exclusive distribution.

**Q: When a winery ships wine into Nigeria is it an exclusive with that importer? In other words is this importer the only one that can bring that Winery's wine into Nigeria once approved by NAFDAC?**

A: Yes. It is only the importer that can bring that Winery's wine varietal that NAFDAC had registered for that importer. Example—if NAFDAC registers a U.S. Winery's product wine 'A Super' for a Nigerian importer 'A Company Nigeria Ltd', no other importer can legitimately bring wine 'A Super' into the country except 'A Company Nigeria Limited'. However, 'B Company Nigeria Limited' can register with NAFDAC and import and distribute in Nigeria the same U.S. Winery's product, Wine 'X Super'. This implies that one U.S. Winery may decide to divide up its wine product varietals and share exclusivity among different Nigerian importers/importing firms.

**Q: Can you give me more information about the Global Listing for Supermarkets (GLS)**

GLS which involves shipping your products in smaller quantities as part of mixed container to local importers requiring them. Evidently this is a **much cheaper way to go.**

A: Prior to importation, the local importer contacts NAFDAC and applies to *list* product items he/she desires to be importing within any one of the four categories indicated in our FAIRS report. If for example, the importer applies within the minimum 'less than 500' product items category, he/she pays about \$2,350 *annual*

registration *fee*. This importer can only buy within the listed 'less than 500' (499) product items. Again, this importer is only allowed to buy/ship a maximum 2,500 cartons or boxes of each of the listed product items per year. Calculation is cumulative until maximum is reached for the year.

This window is convenient, cheaper and flexible for supermarkets, other retail distributors/small wholesalers as well as institutional consumers. Registered product items are not exclusive to any one importer. Other importers are free to register a particular product item as many times as they desire provided each of the importers does not exceed 2,500 cartons of the item in one year.

Also, the products must not be anyone that is already registered by an importer under exclusivity and the products imported must not be banned items. The importer also is not permitted to advertise/promote the products.

**Q: Does GLS also require the same number of samples for testing?**

A: No. Samples are not required for registration under Global Listing. The items are only inspected at the ports or warehouses. Some samples may be taken out for the inspection.

**Q: It sounds like the fees incurred are per shipment rather than obtaining a license for 5 years as with the General requirements for NAFDAC as we mentioned above.**

A: Yes.

**Q: Again would this be an exclusive between the winery and the importer?  
Please clarify.**

A: No. The Winery is free to sell to any importer desiring to buy.

### **Appendix III: NATIONAL AGENCY FOR FOOD AND DRUG ADMINISTRATION AND CONTROL-REGISTRATION AND REGULATORY AFFAIRS DIRECTORATE**

#### **Procedure for Registration / Renewal of Imported Foods Products**

##### **STEP I: DOCUMENTATION**

The following documents (all originals and two (2) set of photocopies) are to be submitted to the LOD:

1. *Power of Attorney or Contract Manufacturing Agreement (where applicable)*

*Power of Attorney*

- Notarized by Notary Public in the country of manufacture.
- Issued by the manufacturer of the product.
- Signed by the MD, GM, Chairman or President of the Company, stating the names of the products to be registered.
- The Power of Attorney shall also indicate authority to register product with NAFDAC. Valid for not less than 5 years.

2. *Contract Manufacturing Agreement*

(a) Notarized by Notary Public in the country of manufacture.

Signed by both parties stating names and designations of the signatories with the names of all the products to be registered



and other relevant clauses clearly explained in unambiguous language.

3. *Certificate of Manufacture and Free Sale shall:*

- Be authenticated by the Nigerian Embassy in the Country of manufacture; or any other embassy or high commission of any commonwealth or West African country where no Nigerian Embassy or high commission exists.
- Be issued by relevant health / regulatory body or any incorporated body from exporting countries once such document is endorsed by the relevant government authority of the country.
- Indicate the name of manufacturer and products to be registered.

4. *Comprehensive Certificate of Product Analysis shall:*

- Be issued by the manufacturer
- Indicate the name and designation of analyst.

4. *Certificate of Business Incorporation* of applicant with Corporate Affairs Commission in Nigeria.

5. *Certificate of Registration of Brand name / Trademark* with Trademark Registry in the Ministry of Commerce in Nigeria.

This should be done in the name of the owner of trademark as the case may be.

**Expired License (For product Renewal)**

1. *Application letter for Import Permit* by local representative (Applicant)

Duly completed Food Registration Form purchased with bank draft of N250.00 (Two Hundred and Fifty Naira) per product in favour of National Agency for Food and Drug Administration and Control.

Notarized Declaration: To be typed-filled and notarized by a notary public here in Nigeria. Collect format in LOD

**STEP II: IMPORT PERMIT**

On satisfactory documentation, import permit (i.e. permit to import samples for registration) shall be obtained from the Food Registration Division on payment of N10, 500 (Ten Thousand, Five Hundred Naira) 5% VAT inclusive.

**STEP III: PRODUCT VETTING:** The following are to be submitted for sample vetting:

- *A letter of invitation for the inspection of factory* abroad from the manufacturer and shall state the name & full location address of factory (not administrative office address); Name, E-mail address, Current phone & Fax No. (office and mobile phones) of contact person overseas; Name of Airport closest to location and Guide Map illustrating the shortest Land / Air route to the factory; Name, full location address, telephone No., fax No & e-mail address of local agent; name (s) of product(s) for registration.
- *A copy of the import permit and receipt of payment for import the permit.*
- *Certificate of Analysis of the product(s).*
- *Three (3) well labeled\* vetting samples of the product(s)*

***For Imported Food Products:***

**STEP III: PRODUCT VETTING:** The following are to be submitted for *imported food* sample vetting:

- *A letter of invitation for the inspection of factory abroad from the manufacturer and shall state the name & full location address of factory (not administrative office address); Name, E-mail address, Current phone & Fax No. (office and mobile phones) of contact person overseas; Name of Airport closest to location and Guide Map illustrating the shortest Land / Air route to the factory; Name, full location address, telephone No., fax No & e-mail address of local agent; name(s) of product(s) for registration.*
- *A copy of the import permit and receipt of payment for import the permit.*
- *Certificate of Analysis of the product(s).*
- *Three (3) well labeled\* vetting samples of the product(s)*
- *Acknowledgement of receipt of samples shall be issued on receipt of satisfactory vetting samples.*

**STEP IV: LABORATORY ANALYSIS**

The following are to be submitted for laboratory analysis:

Bank Draft of N777, 000.00 (5% VAT inclusive) per product in favour of National Agency for Food and Drug Administration and Control.

*Breakdown:* a. N640, 000.00 for processing fee + N32, 000 (5%) VAT  
b. N100, 000.00 for product license + N5, 0000 (5%) VAT

*NOTE:* 25% of total cost of registration for products manufactured in ECOWAS country.  
60% of total cost of registration for renewal of product license.

(b) Acknowledgement of receipt of vetting samples received from LOD II

Product samples for analysis.

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NOTE:

All correspondence in respect of product registration should be addressed to:

The Director-General  
National Agency for Food And Drug  
Administration and Control (NAFDAC)  
Plot 2032, Olusegun Obasanjo Way,  
Zone 7, Wuse, Abuja  
Tel: 09-5240996  
Fax: 09-5240994

Attention: Director,  
Regulatory and Registration Directorate.  
445, Herbert Macauley Street,

Yaba, Lagos.

Tel: 01- 8929418, 4772452, 4728627

E-mail: [registration@nafdac.gov.ng](mailto:registration@nafdac.gov.ng)

Website: [www.nafdac.gov.ng](http://www.nafdac.gov.ng)

**\*Labeling**

1. Labeling shall be informative and accurate.
  2. Minimum requirements on the package label:-
    - Name of product– brand name or common name must appear in bold letters.
    - Full Location address of the manufacturer.
    - Provision for NAFDAC Registration Number on product label
    - Batch Number, Manufacturing Date and Best Before Date.
    - Net contents of essential ingredients in metric weight units in case of solids, semi solids and metric volume in case of liquids.
    - In the case of food, the ingredients must be listed by their common names in order of their predominance by weight unless the food is standardized, in which case the label must include only those ingredients which the standard makes optional.
- Food additives must be declared on the label. Spices, flavours and colours may be listed as such, without naming the specific materials, but any artificial colour or flavours must be identified as such.
  - Labeling of Food for Special Dietary Uses:
    - “Special Dietary Use” may be defined as a particular use for which a food purports or is represented to be used, including, but not limited to the following:
      - (i) Supplying a special dietary need that exists by reason of physical, physiological, pathological and other conditions, including the condition of disease, convalescence, pregnancy, lactation, infancy, allergic, hypersensitivity to food, under weigh for the need to control sodium intake.
      - (ii) Supplying a vitamin, mineral or other ingredient for use by humans to supplement the diet by increasing total dietary intake.
      - (iii) Supplying a special dietary need by reason of being a food for use as the sole item of the diet. Manufacturers and importers of food in this class (including infant formula) must consult the Registration Division of the Agency before importing or manufacturing food represented by labeling or otherwise as dietary food.
        - When special dietary foods are labeled with claims of disease prevention, treatment, mitigation, cure or diagnosis they must comply with the guidelines for drugs and be registered as medicinal products.
        - The label must contain directions for safe use where appropriate or necessary on the information panel (IP) or on the package insert (PI)
        - Any regulated product which is labeled in a foreign language shall NOT be considered for registration unless an English translation is included on the label and package insert (where applicable).

*NOTE: (i) Failure to comply with these requirements may result in the disqualification of the application or lead to considerable delay in the process of registration.*

All correspondence in respect of product registration should be addressed to:

The Director-General  
National Agency for Food And Drug  
Administration and Control (NAFDAC)

Plot 2032, Olusegun Obasanjo Way,  
Zone 7, Wuse, Abuja

Tel: 09-5240996  
Fax: 09-5240994

Attention: Director,  
Regulatory and Registration Directorate.  
445, Herbert Macauley Street,  
Yaba, Lagos.

Tel: 01- 8929418, 4772452, 4728627

E-mail: [registration@nafdac.gov.ng](mailto:registration@nafdac.gov.ng)  
Website: [www.nafdac.gov.ng](http://www.nafdac.gov.ng)