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Tunisia

Food and Agricultural Import Regulations and Standards - Narrative

FAIRS Country Report

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Report Highlights:

The Food and Agricultural Import Regulations and Standards (FAIRS) report provides an overview of the food laws and regulatory environment in Tunisia as it relates to U.S. food and agricultural exports. The approval process for a new and comprehensive food law was disrupted by the Tunisian revolution in 2011 and has been indefinitely postponed. Sections I, V, VII, and the Appendix have all been updated.

Section I. Food Laws:

The Tunisian food law that was drafted before the revolution, has been indefinitely postponed and most likely will not be approved until a new constitution is written and the election of a new parliament in 2014. The new food law was prepared by the Ministry of Commerce in accordance with local and European food agencies and is currently under review. The law was expected to harmonize Tunisian legislation with EU food regulation 178/2002 and to encompass all principles, requirements, and procedures concerning food and consumers' safety. According to resources persons that worked on the project, the drafted food law contains regulations on official controls, contaminants, additives, food contact materials, and pesticides.

Tunisia's difficult political situation has delayed the adoption of the law in an environment of increasing tension between the Ministry of Health and the Ministry of Commerce. Both the contents of the law, as well as the prerogatives of each ministry and enforcement of the law are under debate.. Recently there have been reports that the law will be cancelled and replaced by several amendments to the existing laws for the food sector. In the last two years, very few laws and regulations regarding the food industry were adopted.

Pending a final decision concerning the adoption of the new food law, Tunisian food legislation currently consists of several general laws intended to organize the food sector and to protect consumers (law # 92-117, 1992). Quarantine and phytosanitary requirements apply to unprocessed agricultural products of plant origin, as well as the sanitary control of live animals and food products from animal origin as defined by laws # 92-72 and # 99-24, respectively. Food distribution and marketing are structured by law # 94-86 dated July 23, 1994 which organizes market and retail services. Finally, law # 99-42 establishes the procedures for seeds production, propagation, import, marketing and protection of the rights relating thereto. These laws are implemented through a set of food regulations referred to as decrees or 'Arrêtés'. Food control activities are coordinated by the National Agency of the Sanitary and Environmental Control of Products (ANCSEP) created in 1999. The ANCSEP also ensures the observance of national and international standards in matters of sanitary and environmental food controls. It is worth noting that in 2013, an order of the Ministry of Health canceled the mandatory character of Tunisian norms and local standards on certain food products including milk products, cereals, and fruits (Order 04/16/2013).

Tunisia has made significant progress toward reforming its trade policy and reducing barriers facing trade of agricultural and food products. The law #94-41 liberalized trade and abolished the import-licensing regime to ensure compliance with WTO trade rules. A large majority of goods can be freely imported to Tunisia, with only 3 percent of imported products needing prior authorization. Products under the free imports regime need an import certificate supported by commercial documentation in order to be cleared, while products not included in the free regime require an import authorization granted by the Ministry of Commerce that generally lasts for 12 months. To obtain this license, a number of documents are required, such as the commercial contract (or other equivalent documents), as well as information about the contracting parties, the products, their origin and where they come from. Export companies and companies operating under the free trade zone regime can import freely without these requirements. The highest tariffs are applied to fruits, vegetables, and other imported agricultural products that compete with domestic products. Non tariff barriers such as quotas still exist for many agricultural products.

Section II. Labeling Requirements:

The Tunisian Ministry of trade published a new Order in September 2008 revising the old departmental Order dated July 22, 1985 and laying out labeling requirements regarding pre-packaged foodstuffs and consumer-ready food products. The Order does not apply to bulk and intermediate foods products intended for further processing.

II-A General Requirements

The 2008 Ministry of Trade's Order stipulates that any pre-packaged foodstuff has to be labeled in order to be marketed. Labels shall be applied in such manner that they will not become separated from the container and should avoid any misleading or confusing indications. Arabic has to be one of the languages used for product labeling (decree #2003-1718) while the measuring system in use is the international metric system. If pork meat, pork fat, beef fat or alcohol is one of the ingredients it should be clearly mentioned on the label. Labeling is also mandatory for all foods and food ingredients containing biotech products. An obligation exists to inform consumers when genetic engineering methods of production are involved (Principe de precaution). However, this obligation is not enough clear and doesn't give sufficient details on the type of products involved, the percentage of biotech product authorized and the authority in charge of the enforcement. In general the following particulars are mandatory on the labeling:

- The name of the food product, the country of origin, the name and address of the manufacturer, packager, importer, and/or distributor.
- Full list of ingredients in descending order of predominance. Ingredients that are supposed to be at the origin of allergy should be conspicuously labeled. This includes all cereal containing gluten, soybean, dairy products and shell fruits. Any ingredients that were obtained through biotechnologies should also be indicated in the labeling.
- Net content: to be indicated using the international metric system in units of volume in the case of liquids, units of mass in the case of other products. Food items packed in a liquid medium shall carry an indication of the net drained weight.
- Time limit for use or time limit for optimum use: the date of production and date limit for perishable food products has to be clearly indicated (dd/mm/yy). It is prohibited to import a food product that has exceeded half of its time limit for use. For goods having a shelf life of 3 months or more the mention of the month and the year is sufficient. For non-perishable goods a time limit for optimum use must be indicated using one of the following wordings: to be consumed preferably before.../ to be consumed preferably before end of.../ to be consumed preferably within a period of...
- Storage instructions: indications such as 'keep in a cool place, protect from light or from dampness' must be indicated when necessary.

II-B Specific Requirements to Nutritional Labeling

A new regulation partially inspired of the EC regulations of 2006 on the use of nutrition and health claims for foods was adopted in Tunisia in 2008. This Regulation lays out rules for the use of health or

nutritional claims (such as “low fat” and “helps lower cholesterol”) on foodstuffs based on nutrient profiles by means of positive lists of authorized claims that can be made on food. Health claims are prohibited on food intended for babies and children. Nutritional labeling of vitamins, minerals and other nutrients is mandatory when a producer is making health or dietary claims on the label. This provision applies to fortified products and to food items intended for particular use (e.g. infant formula). Otherwise, nutrition information is voluntary.

II-C Food Quality Label

A recent decree by the Ministry of Industry and Technology (Decree #2010-2525-JORT N°080) that was published on September 28, 2010 establishes for the first time labeling for quality of consumer-oriented products. The new label, which is called the Food Quality label, will be granted to products that meet certain quality attributes as Traditional and Superior products. The first group of products to benefit from the quality labeling includes bottled olive oil, sardines, and dates. A special committee called the “Committee of label quality” is created within the Ministry of Industry and Technology and will be in charge of granting, monitoring and suspending the quality labels for the producing companies.

Section III. Packaging and Container Regulations:

Materials intended to come into contact with foodstuffs, i.e. packaging materials, must meet Tunisian standards and bear a food grade international logo shown below (Decree #2003-1718 of August, 2003). This requirement entails either clearly stating on the container a short message such as "material fit for food contact" or featuring the food grade logo.

Section IV. Food Additives Regulations:

Departmental Order dated Mai 20, 1998 relating to the validation of Tunisian standard NT 117-01 (1995) governs the use of food additives. The purpose of this Order is to give an exhaustive listing of authorized additives (positive list), their conditions of use as well as their respective identification E-numbers. This standard is largely based on European regulations (directive 94/35/CE on sweeteners for use in foodstuffs, directive 94/36/CE on colors for use in foodstuffs, and directive 95/2/CE on food additives other than colors and sweeteners).

Section V. Pesticides and Other Contaminants:

The trade, distribution and use of pesticides for agricultural purposes have been systematically regulated in Tunisia since 1961. The last amendments to this law were approved in 1992 (law # 92-72). Any pesticide that is imported or formulated in the country has to be registered and officially authorized by the laboratory of the Ministry of Agriculture (Laboratoire de Contrôle et d'Analyse des Pesticides, created in 1985). In 1994, the decree #94-1744 made the control of the formulation of imported pesticides mandatory. Obligatory labeling items are set by the law, particularly the necessity to use French and Arabic language. Tunisian imports of pesticides amount to 3600 tons per year with more than 725 pesticides distributed in the market.

The laboratory of the National Institute for Nutrition of the Ministry of Public Health (Laboratoire de l'Institut National de Nutrition) and the Central Laboratory of the Ministry of Industry (Laboratoire Central) are responsible for pesticide residue analysis in foodstuffs. Maximum pesticide residues

tolerated in food items are set in the Tunisian standard NT 117-03 enacted in 1983 and technically equivalent to the Codex Alimentarius Standard #100-1981 (Codex CAC/RS 100-1978). It must be noted that Tunisian MRL could differ from the Codex MRL in case of a particular threat to the Tunisian consumer's health is identified.

In addition to pesticides, Tunisia also sets admissible maximum limits for other contaminants in foodstuffs, such as metals, metalloids, aflatoxines (B1, B2, G1, G2, M1, M2, ochratoxine and histamine). Maximum limits that were laid out in Tunisian standard NT 117-02 were canceled in 2013. A new decree published in May 2013 (Order#05/13/2013) set up the Maximum Limits Residues for food contaminants. The list was not published yet and most likely will be based on European limits.

The implementation of these regulations is not always rigorous, particularly the regulations that govern labeling, conditioning, handling, transport and storage of agricultural and food products. The National Institute for Statistics (Institut National des Statistiques -INS) has reported the importation of banned compounds such as DDT that were not authorized by the Ministry of Agriculture or Public Health has occurred in many instances. Moreover, investigations have shown that banned compounds were still being illegally imported from neighboring countries where their use has not been prohibited.

Section VI. Other Regulations and Requirements:

Technical controls

Principal other requirement for the majority of food products is the technical quality control prior to customs clearance. Importers must apply for a consumption authorization document called 'Autorisation de Mise à la Consommation' (AMC). The list of the products concerned by the technical control is regularly published in departmental orders. In general it focuses more on ready-use foods and beverages rather than products shipped in bulk in a protecting consumer approach. In general, products submitted to the technical check are the imported products intended for sale in its state and for the final consumption. However products free from the procedures of the technical check include raw materials, semi-finished materials intended for the professional use of the importer in the framework of his industrial, agricultural, craft or touristic activity and also the imported samples. The decree #94-1744 of 29 August 1994 amended in September 2010 (#55-2010), published three lists of imported goods that are subject to technical controls according to three distinct modalities:

1. List A includes all goods submitted to a systematic control i.e. a conformity assessment with or without sampling for further laboratory testing to be undertaken at each shipment regardless of whether the product has or has not been already tested in the past. This list includes virtually all processed agricultural products,
2. List B includes products submitted to the so-called certification regime whereby customs clearance is granted for goods accompanied by a certificate issued by the country of origin and stating that those goods are in compliance with international standards. Agricultural products are not among products subject to the certification regime.
3. List C includes products submitted to a conformity assessment with the conditions defined by a GOT-sanctioned specifications book (Cahier des charges). Agricultural products submitted to 'cahier des charges' are, in their majority, bulk and intermediate agricultural products. Conditions set out in 'cahier des charges' very often go beyond sanitary and phytosanitary aspects and set out conditions about the importer's eligibility in terms of storage capacity,

funding availability, production data disclosure, etc.

Dioxin and Radio-contamination

A certificate indicating the amount of dioxin residue is required for all imports of bulk and processed food items. A certificate of non-contamination from radioactivity issued at the country of origin or failing that delivered in Tunisia by the National Center for Radioprotection after testing is also required.

Biotech-derived products

Tunisia is at a crossroads on biotechnology policy. Tunisian policymakers are aware of the potential for biotechnology to address chronic problems such as crop disease, weed control, and irregularity of rainfall. A draft law is currently under consideration to establish a legal framework for the importation, commercialization, and usage of biotechnology in agriculture. However, this effort may be delayed by skepticism on about the use of biotechnology and Tunisia's close commercial ties with Europe. Labeling of food products and food ingredients containing genetically modified organisms (GMO) is mandatory. An obligation exists to inform consumers when genetic engineering methods of production are involved (Principe de precaution). However, this obligation is not sufficiently clear and does not give details on the type of products involved, the percentage of biotech product authorized and the authority in charge of the enforcement.

Environmental labeling

Tunisia has an environmental labeling requirement that applies for pre-packaged food items. So far this requirement is only enforced for bottled water and soft drinks. Decree #97-1102 dated on June 2, 1997 mandates for a national system managed by the ANPE, the National Agency for Environmental Protection, to collect and recycle used packaging. The manufacturer or the importer has three options to comply with this regulation:

- Tacking back and recycling the used packaging
- Entrusting the implementation of this obligation to an approved companies on a contractual basis
- Enrolling in the state-owned recycling system, which gives the right to print the Eco-lef logo on the product's label.

Section VII. Other Specific Standards:

A. CEREALS

The Tunisian Office of Cereals (the Grain Board) still enjoys a monopoly on the importation of durum wheat, soft wheat and barley. Physical, chemical as well as phytosanitary requirements are usually laid down in a tender document referred to as 'cahier des charges'. The latter stipulates that in case wheat is originated in the United States, the required quality is the one defined by the USDA/FGIS relevant standards for the grade mentioned in contracting documents. In 2012, the GOT decided to harmonize the quality requirements for imported and locally produced wheat. In a decree (#2012-621) issued in June 2012, the ministry of agriculture outlined all details required for importing wheat (soft and durum).

Concerning corn, imports has been liberalized since the mid-90s. Technical and phytosanitary requirements are defined by an Order jointly issued on January 11, 1997 by ministers of Agriculture,

Finance and Commerce.

B. MILK PRODUCTS

Title V, Chapter III of Law # 2005-95 dated October 18, 2005 sets legal conditions relating to milk production, processing and marketing. Some of the applicable standards are listed below:

- TS 14-01 Milk definition
- TS 14-02 Raw and natural milk
- TS 14-28 Determination of milk density
- TS 14-32 Determination of milk fat content

Most of the milk being processed or imported into Tunisia is essentially semi-skimmed, UHT (Ultra High Temperature), thus permitting dairy plants to recover fats for butter production. A new sanitary certificate for exporting U.S. dairy products to Tunisia has been successfully negotiated between USDA/FDA and the Tunisian regulatory authorities.

B-1 Dry milk

Import of dry or powdered milk, which is subject to a quotas allocation system run by the Ministries of industry and Commerce, shall be undertaken according to specifications set in the so-called 'Cahier des Charges'. Quotas are allocated on the basis of the annual requests presented by the end-users (cheese and yoghurt processors). Importing out of the quotas is almost impossible with a duty of 300%. The volume of the quotas was around 3000T for 2012.

C. ANIMAL FEED

The Ministers of Agriculture, Public Health and Commerce Orders dated July 29, 1999 and September 12, 2001 lay down rules for feed production and marketing. To import ingredients for compound feed production, importers are required to maintain a register showing:

- Name and quantities of imported ingredients
- Name and address of supplier
- Date of production of ingredients
- Name and address of buyer
- Quantities and numbers of lots of ingredients sold or in stock
- Analysis certificates giving contents of noxious elements

In addition, the same decree defines:

- Marketing and labeling regulations
- And animal feeds quality controls. The first Tunisian public laboratory for feed control is under construction and will begin operating in 2013. This will help improve Tunisia's control of imported feed consisting of mainly corn and soybean.

D. Feed Additives

The list and conditions of production and marketing of additives used as feed constituents are set by the Ministers of Public Health, Agriculture and Commerce Orders dated January 4, 1996 and September 7, 2005.

Additives that may be included in compound feeds are:

- Antibiotics
- Substances with anti-oxygen effects
- Coccidiostatics and medicinal substances
- Colorants, including pigments
- Emulsifying, stabilizing, thickening and jelling matters
- Vitamins and provitamins
- Oligo-elements
- Conservation agents
- Binding, coagulating and anti-lumping agents
- Growth factors
- Aromatic substances
- Acid regulators

E. Live Animals/ Animal Semen

An import health certificate approved by the Tunisian Veterinary service must accompany all shipments of live animals (dairy heifers and bull-calves). At the present time, U.S exports of live animals to Tunisia are almost non-existent, partly due to the lack of the import health certificates. .For US bovine semen export must comply with a ‘Cahier Charge’ issued by Ministry of Agriculture. There are no specific restrictions on US imports.

F. Meat

Imports of bovine and sheep meat are governed by a set of specifications (cahier des charges) included in a model health certificate that has not been established between Tunisia and the United States. It is important to know that slaughtering according to the Halal ritual is mandatory and that meat from hormone-fed animals cannot be allowed into the country.

G. Plant Products

A Phytosanitary certificate conforming to the model established by the International Convention of plant protection must accompany all shipments of plants to Tunisia (Order 05/28/2013). The certificate has to be issued, in Arabic, English or French, by the exporter country sanitary authority with a maximum 14 days prior to the shipment day. The sanitary certificate has to stipulate that the plants are free of certain diseases listed in the order. Imports of seeds and seedlings must comply with Decrees #2002-621 and #2004-2179, dated March 19, 2002 and September 14, 2004, respectively. These decrees set rules to import all seeds and seedlings. Of particular interest is the impact of systematic technical controls applied to planting seed imports. These imports are subject to a redundant system of phytosanitary controls. This delays clearance by several weeks in some cases, making the seeds not available for farmers at sowing time or obliges them to sow late. Apart from the phytosanitary aspects, main provisions are the obligation for the importer to apply for a license, to have a minimum storage capacity and to keep records for its inventories. Seeds and seedlings covered by these decrees are: potato, citrus, strawberry, pulses, horticultural seeds, forages, cereals and vines.

F. Fruits (Apple)

According to a decree initially published in August 1992 and confirmed in May 2012 (#2012-45), imports of several fruits including apples into Tunisia are banned. The reason for the ban is to prevent the spread of Fire blight (*Erwinia amylovora*) which is a contagious disease that affects apple and pear cultivations. It is worth mentioning that despite the official ban there are apples imported illegally into Tunisia, though in small quantities. The Tunisian Ministry of Agriculture has no intention of removing this import ban soon. The 2012 decree includes other fruits from the citrus family, as well as, palm trees.

Section VIII. Copyright and/or Trademark Laws:

Tunisia has a copyright law (law #94-36 dated February, 1994). The Law establishes the Tunisian Institution for the Protection of Copyright (Organisme Tunisien de Protection des Droits d'Auteur). The Institution has several functions, including the protection of copyright. According to Article 18 of the Law, the copyright shall be valid during the author's lifetime and shall continue for fifty calendar years after the author's death. The law established monetary sanctions for violations or infringements. A person who violates the law may be obliged to pay fines ranging from \$ 500 to \$5,000.

Tunisia is a member of WIPO (World Intellectual Property Organization) and has signed most WIPO conventions. The law # 2001-36 enacted on March 17, 2001 protects trademarks and brand names. Registration with the National Institute for Standardization and Industrial Property (INNORPI) is required to obtain protection and is normally issued upon filling an application for registration. A trademark registration is valid for fifteen years from the date on which the application for registration is filled. It may be renewed indefinitely for similar periods of time. Tunisia does not require use of a trademark as a condition for maintaining registration.

Section IX. Import Procedures:

In addition to phytosanitary and sanitary certificates, the majority of consumer-oriented food products are subject to a technical quality control prior to customs clearance mandated by decree # 94-1744 dated August 1994. In order to expedite customs clearance, the importer is entitled to a temporary document called "Autorisation Provisoire d'Enlèvement (APE)", pending dossier instruction but must refrain from distributing or further processing the imported good until the AMC is delivered by the Ministry of Commerce, Directorate of Quality and Consumer Protection.

Local agents/distributors are crucial to introducing new products into the Tunisian market. Both commission agents and distributors may represent foreign businesses in Tunisia. The agency-principal relationship is governed by article 625 and 626 of the Commercial Code of Tunisia. Tunisian law prohibits the flow of currency out of Tunisia as payment for imports before documents are presented to the issuing bank confirming that the merchandise has entered the country. Imports have to be domiciled at a bank in order to make international payments in hard currency. The process of customs clearance is composed of two essential operations:

It should be noted that in 2010 Tunisia upgraded its electronic trade information systems that allowed a faster way for assembling import and export documents.

1. Declaration

Since 2001, import declarations could be completed on-line with the Tunisian customs office. As a

result, the time required to make an import declaration has been reduced significantly to 45 minutes. The declaration consists in an application form which has to be submitted along with the following documents:

- Commercial invoice: Since October 2006, customs clearance requires domiciliation of the commercial invoice with an approved financial intermediary (i.e. commercial bank).
- Packing list
- Bill of lading
- Technical notice describing the product
- Other document (s) at the discretion of the Authorities

2- Custom control

All merchandise that arrives for entry are systematically sorted by the information system of customs called SINDA (Système d'information douanier automatisé) according to certain criteria, particularly the type of the product and the importer. The products are then inspected accordingly to the procedures described in section VI in order to receive the approval for market distribution (Autorisation de Mise à la Consommation). This operation can take up to 20 days depending on the product. The entire customs clearance process for a product imported under the free regime takes, on average, less than 12 days. Customs fees are assessed at about 3%.

Appendix I. Government Regulatory Agency Contacts:
Directorate General for Veterinary services (DGSV)
Ministry of Agriculture, Environment and Hydraulic Resources

30, rue Alain Savary, 1002, Tunis, Tunisia
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Directorate General for Agricultural Production (DGPA)

Ministry of Agriculture, Environment and Hydraulic Resources
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Directorate General for Crop Protection and Quality of Agricultural Products (DGPCQPA)

Ministry of Agriculture, Environment and Hydraulic Resources
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Phone: 216 71 786 833
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Directorate General of Customs

<http://www.douane.gov.tn/index.php?id=30>

Directorate of Quality and Consumer Protection (DQPC)

Ministry of Commerce
Address: 37, av. Keireddine Pacha, 1002 Tunis
Phone: (216) 71 890-070 / 890 337
E-mail: mcmr@ministeres.tn

National Agency of the Sanitary and Environmental Control of Products (ANCSEP)

Ministry of Public Health
Adresse : Appt. Idriss - 3ème Etage - Bloc N°9 - Cité Elmhiri - Berges du Lac - 2045 Tunis
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Institut National de Normalisation et de Propriété Industrielle (INNORPI)

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