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Germany

Food and Agricultural Import Regulations and Standards - Narrative

FAIRS Country Report

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Report Highlights:

Germany is a member of the European Union (EU) and generally follows EU directives and regulations, including those relating to the importation of food products. This report provides an overview of food laws in force in Germany that cover areas which are not yet harmonized. This report also provides contact information and technical reference materials for exporters of U.S. foods to Germany.

Disclaimer

This report was prepared by the USDA/Foreign Agricultural Service in Berlin, Germany, for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

Germany, as a member of the European Union (EU), generally follows EU directives, regulations, and obligations. This report focuses on food laws in force in Germany that cover areas which are not yet EU-harmonized. EU regulations are explained in the Food and Agricultural Import Regulations and Standards (FAIRS) report <u>E70048</u> produced by the U.S. Mission to the EU in Brussels, Belgium, available at http://gain.fas.usda.gov/Pages/Default.aspx.

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Section I. Food Laws:

In Germany, the *Lebensmittel-, Bedarfsgegenstände- und Futtermittelgesetzbuch (LFBG)* comprises the basic German food and feed law, most of which is based on fully harmonized EU regulations and directives. The LFGB provides basic definitions, procedural rules and goals of the German food law. It defines general food safety and health protection rules, addresses labeling requirements, regulates inspection, detention, and seizure rules of suspect food. These rules apply to domestically produced and imported food products alike.

Ultimately, the German importer has final responsibility for the marketability of any imported products into Germany. The German law enforcement agencies hold the importer solely responsible for any violations of the Food Law since they cannot take action against foreign producers, including those in other EU countries. Violations of the Food Law by the importer constitute a punishable offence.

The authority for enforcement rests with the federal states (German Laender). This implies that on occasion, a minor infraction to the food law may be tolerated in one state but not in another or that interpretations can vary to a small degree. However, major violations are persecuted in all federal states. Domestic and foreign goods are checked by random sampling by government laboratories at the point of sale or any other point in the trade chain or at the processing location. German government laboratories, in addition to looking for prohibited ingredients or proper labeling, evaluate the general nature of a product in terms of honest trading practices and general consumer expectations. Whenever a product violates the Food Law and presents a risk to public health, regardless of whether it is a domestic or foreign product, this becomes known to the press, which will mention the brand name, importer or producer when informing the consumer. A general administrative agreement regarding food safety requires German food safety authorities to take five samples per thousand inhabitants annually. This includes samples at any location of the production and trade chain.

The responsible agency for monitoring compliance with German food law regulations is the *Bundesamt* fuer Verbraucherschutz und Lebensmittelsicherheit (BVL). It is under the supervision of the Federal Ministry of Food, Agriculture and Consumer Protection (BMELV).

Bundesamt fuer Verbraucherschutz und Lebensmittelsicherheit (BVL) (Federal Office of Consumer Protection and Food Safety) Bundesallee 50

38116 Braunschweig Tel.: +49 531 21497 0 Fax: +49 531 21497 299

E-mail: poststelle@bvl.bund.de

Website: www.bvl.bund.de

The BVL was established as an independent higher federal authority and is also responsible for risk management. BVL, inter alia, exercises authority over substances and products that harbor potential risks and that are directly or indirectly related to food safety (such as plant protection products and veterinary drugs).

BVL is involved in formulating general administrative rules to implement laws in the fields of consumer health protection and food safety, as well as in the preparation and monitoring of surveillance schemes and plans by the *Laender*. In addition, BVL acts as coordinator in the run-up to inspections carried out by the European Food and

Veterinary Office (FVO). It is responsible for implementing the European rapid alert system in the fields of consumer health protection and food safety in Germany.

The national reference laboratory for the detection of residues and the Community reference laboratory for the detection of residues are also part of BVL.

In line with EU regulations, in Germany product registration is only required for novel foods. An official agency, which could answer questions on the interpretation of Germany's extensive food law requirements for label registration, review, product clearance and approval, does not exist in Germany. In some instances, German inspection agencies at the point of entry may require the importer to arrange for further inspection of an imported product to satisfy the importer's legal duty to exercise due care and diligence. The importer may engage a private food laboratory to determine if the product is free of illegal substances and residues and labeled properly. German importers frequently use the assistance of officially certified commercial food labs. Fees for these services vary greatly, depending on the expertise and work required. (For a list of food laboratories see Appendix II.)

Please note: The following products sourced in the United States and imported into the EU must originate from an EU-approved U.S. establishment -- red meat, poultry, meat products, milk and dairy products, seafood, bovine embryos and semen, porcine and equine semen, gelatin, and animal casings.

Section II. Labeling Requirements:

A. General Requirements

Germany applies EU-harmonized legislation to:

General Labeling Requirements Nutritional Labeling Product-Specific Labeling GMO and Novel Foods Labeling

For detailed information on the EU-harmonized labeling legislation, please consult the EU-27 FAIRS Report E70048 as well as the USEU website http://www.fas.usda.gov/posthome/useu/label.html.

All foods must be labeled in German. Multi-language labels are allowed. Labeling may also include illustrations. However, it is prohibited to show ingredients on the label that are not contained in the product, e.g. illustrations of fruits if only artificial flavors are used or a multi-fruit juice may only show pictures of those fruits contained in the product. There are numerous other special labeling requirements pertaining to specific foods or food groups. Since many other requirements are applicable, U.S. food manufacturers and exporters are urged to contact their potential German importer before making changes in labels on products labeled for distribution in Germany.

Some importers may agree to affix computer generated, adhesive labels in Germany for smaller quantities during a test-marketing phase.

GMO-free labeling

In Germany effective July 2008, a new labeling option claiming that the food has not been derived from biotech plants has been available. The label "without biotech" is voluntary and the German government and NGOs hope that the food industry develops a new third product market aside from conventional and organic foods where the consumer can chose between biotech-free and biotech food products. In order to better identify products labeled

"without biotech" BMELV launched a new logo which can be used cost-free by food companies. The administration of this program is largely entrusted to the "Verband Lebensmittel ohne Gentechnik e.V." (non-Biotech Foods Association). As of January 2013, the Association claims that 162 companies are using the label. For more information on the treatment of biotech foods in Germany, please see our report: <u>GM 12012</u>.

B. Health / Medical Claims

Health Claims

Medical claims or images attributing to a foodstuff the property of preventing, treating or curing human diseases are explicitly prohibited in the German/EU labeling directive, unless they are covered by the EU health claim regulation. However, an exception to this prohibition applies to dietetic foods (see below). An EU harmonized regulation on health claims went into force in July 2007. The European Food Safety Agency (EFSA) is currently in the process of evaluating the claims applied for approval and has not yet published a list. For more information please refer to the EU-27 FAIRS Report <u>E70048</u> as well as the USEU website http://www.usda-eu.org/trade-with-the-eu/eu-import-rules/nutrition-health-claims/

Dietetic Foods Ordinance:

The German Dietetic Food Ordinance (Verordnung ueber diätetische Lebensmittel, DiätV) defines the properties foods must have in order for the manufacturer to label them as dietetic. It requires that foods and beverages labeled as dietetic must differ substantially from other regular foods. A simple listing of the nutrient content, bread units, and/or caloric value on the label is not sufficient to allow the use of the term "dietetic." Health-related statements are strictly limited. Examples for such statements are:

Diaetetisches Lebensmittel geeignet zur Behandlung von ...

(Dietetic food suited to treat ...);

Diaetetisches Lebensmittel geeignet zur Behandlung von ... nur unter staendiger aerztlicher Kontrolle verwenden; and

(Dietetic food suited to treat ... only use if under continuous medical supervision) zur besonderen Ernaehrung bei ... im Rahmen eines Diaetplanes (special diet for ... if part of a diet plan).

It is strongly recommended that U.S. exporters consult with a German food laboratory before making any dietary claims for products to be marketed in Germany.

Nutritional Value Labeling:

Nutritional value labeling is not mandatory in Germany unless a nutrition claim is made on the label or in advertising messages. However, if nutritional labeling is provided, is has to comply with the rules laid down in the EU Nutritional Value Labeling Directive 90/496/EEC. For details please refer to the EU-27 FAIRS Report E70048.

In addition, Germany promotes a voluntary labeling model called "1 plus 4" model. The model was developed in 2008, in order to deal with the increasing obesity in the Germany, and was last updated in 2010. It recommends expanded nutritional information on the caloric content and levels of sugar, fat, saturated fatty acids and salt in food products displayed in absolute values and percentage of the RDA. The update includes minimum criteria for establishing serving sizes. The traffic light labeling system as promoted by the UK Food Standards Agency that had been discussed in Germany in recent years has not made it into the "1 plus 4" model, but may be used on a voluntary basis. More information (in German language) can be found on the BMELV website.

Section III. Packaging and Container Regulations:

Germany applies EU-harmonized legislation to packaging and containers.

For detailed information on the EU's harmonized legislation on packaging and container regulations, please consult the EU-27 FAIRS Report E70048.

However, Germany applies additional requirements regarding packaging waste and recycling of packaging material.

Packaging Waste Recycling - Green Dot System

The German Packaging and Waste Avoidance Law (Verordnung über die Vermeidung und Verwertung von Verpackungsabfällen, VerpackV) requires producers, importers, and distributors of consumer products, including food stuffs, to enter into a contract for recycling of packaging material with one of the licensed national recycling companies. Traditionally, the German industry has been using the "Green Dot" symbol to assure that packaging material will be recycled in a controlled system. The "Green Dot" is found on the packaging material of virtually all products retailed in Germany. Since January 1, 2009, the recycling law no longer requires that the "Green Dot" to be printed on product packaging to prove that the material will be recycled in a proper manner. However, if the manufacturer or the importer chooses to continue using the Green Dot symbol, a licensing contract needs to be signed with the Duales System Deutschland GmbH (DSD).

For further information on the Green Dot packaging material disposal and recycling program contact your potential German importer and/or one of the following companies, which are registered as Green Dot recycling enterprises.

Der Grüne Punkt – Duales System Deutschland GmbH, Köln - www.gruener-punkt.de
BellandVision GmbH, Pegnitz - www.bellandvision.de
EKO-PUNKT GmbH, Mönchengladbach - www.eko-punkt.de
INTERSEROH Dienstleistungs-GmbH, Köln - www.interseroh.de
Landbell AG, Mainz - www.landbell.de
Reclay VFW GmbH & Co. KG, Köln - www.reclay-group.com
Veolia Umweltservice GmbH, Hamburg - http://www.veolia-umweltservice.de
Zentek GmbH & Co. KG, Köln - www.zentek.de

Mandatory Deposit System for One-way Beverage Packages

Since May 2006, a Germany-wide uniform mandatory refund system covers one-way beverage packages with a content volume of 0.1 to 3.0 liter. The deposit is collected at the retail level and applies to domestically produced or bottled products as well as to imported beverages.

Excluded from this deposit system are containers holding the following:

- fruit and vegetable juices and nectars;
- milk and milk mix beverages containing minimum 50 percent milk;
- dietetic drinks, except for special sports beverages;
- spirits and wine including mix drinks containing minimum 50 percent wine; and
- multi-layer carton packages (since they are regarded to be the least environmentally disturbing).

The refund option has to be shown on the label. Detailed information about the deposit system is available through:

DPG Deutsche Pfandsystem GmbH Luisenstr. 46 10117 Berlin, Germany Tel.: +49 30 800 974 0 Fax: +49 30 800 974 111

Website: www.dpg-pfandsystem.de E-mail: info@dpg-pfandsystem.de

Section IV. Food Additives Regulations:

Germany applies EU-harmonized legislation regarding food additives. For detailed information on the EU-harmonized legislation on food additive regulations, please consult the EU-27 FAIRS Report <u>E70048</u> as well as the USEU website http://www.usda-eu.org/trade-with-the-eu/eu-import-rules/food-additives/.

Section V. Pesticides and Other Contaminants:

Tolerance levels for pesticide residues were harmonized within the EU in 2008. An EU database on pesticide maximum residue levels (MRLs) is available at http://ec.europa.eu/food/plant/protection/pesticides/database_pesticide_en.htm.

For detailed information on EU-harmonized legislation on pesticide and contaminant regulations, please consult the EU-27 FAIRS Report <u>E70048</u> as well as the USEU website <u>http://www.usda-eu.org/trade-with-the-eu/eu-import-rules/pesticides/</u>.

For application of an import tolerance for a not yet regulated substance in Germany contact:

Federal Ministry of Food, Agriculture and Consumer Protection (BMELV)

Referat 322 - Rueckstaende u. Kontaminanten in Lebensmitteln

Rochusstr. 1

53123 Bonn, Germany Tel.: +49 228 529 3677 Fax: +49 228 529 4262

E-Mail: poststelle@bmelv.bund.de

Website: www.bmelv.de

The responsible agency for scientific evaluation of pesticide residues in Germany is:

Bundesamt fuer Verbraucherschutz und Lebensmittelsicherheit (BVL) (Federal Office of Consumer Protection and Food Safety) Bundesallee 50

38116 Braunschweig Tel.: +49 531 21497 0 Fax: +49 531 21497 299

E-mail: poststelle@bvl.bund.de

Website: www.bvl.bund.de

Private Industry Standards for Pesticide Tolerance Levels

As a marketing tool, some retail chains in Germany exceed the EU regulations and require their suppliers to adhere to stricter company policies that limit the maximum residues to 30, 50, or 70 % of the respective EU MRL. Reports indicate that suppliers violating the new contract standard are at risk to be delisted from the

approved suppliers list of the particular retail chain.

Section VI. Other Regulations and Requirements:

The German Government applies EU-harmonized legislation for other related regulations and requirements including product inspection, registration and certification.

For detailed information on certification, please consult the following websites:

- Certificates for Plant Products http://www.usda-eu.org/trade-with-the-eu/eu-import-rules/certification/plant-health-certification/
- Certificates for Products covered by veterinary certification http://www.usda-eu.org/trade-with-the-eu/eu-import-rules/certification/products-exempt-from-veterinary-certification/

Section VII. Other Specific Standards:

For detailed information on the EU-harmonized legislation on other specific standards, please consult the EU-27 FAIRS Report. Detailed information may also be obtained at the following links:

- A. GMOs
- B. Novel Foods
- C. Fortified Foods
- D. Dietetic or Special Use Foods
- E. Organic Foods
- F. Pet Food
- G. Seafood

Genetically Engineered Foods and Feeds

The relevant authority for the approval of new biotech events and for monitoring the trade of products derived from biotechnology is the Federal Ministry of Food, Agriculture and Consumer Protection (BMELV). For more information specific to Germany, please see our report: <u>GM 12012</u>.

Functional Foods – Food Supplements

In Germany, the marketing challenge of functional foods in many cases is its definition and demarcation from pharmaceutical products, which require special and specific product approval. A German Federal Court ruling determined that products may only be classified as foods if a pharmaceutical effect is not evident to the consumer and consumers do not expect pharmaceutical effects if they consume the product according to the producers dosage advice. German consumers increasingly associate the improvement of physical fitness and musclebuilding with functional food and/or food supplements. German health authorities carefully monitor this to prevent abuse of these products.

Fruits, Vegetables and Nuts

The number of food scandals that have occurred in Europe in recent years involving various commodities - including fresh produce - has prompted the food industry to come up with various programs to ensure the safety of the traded food. While these programs are voluntary, the majority of retail chains in Germany require certification of good agricultural practice. The two most common private certification programs in Germany are GlobalGap (formerly EurepGap) and Q+S. While Q+S is a three-tier system that involves everyone who handles

the produce from producers, to wholesalers, and the retail chains, GlobalGap mainly focuses on the producer level and is often supplemented by the IFS (International Food Standard) on the wholesalers level. A major component of both systems is the extensive documentation requirement for all stages of the production process.

Both systems/standards are open to international producers provided that they comply with the system and obtain a certification. Also, a simultaneous certification for Q+S and GlobalGap is possible at the producer level. For more information please visit:

www.globalgap.org

www.q-s.de/home gb.html

Almonds must be accompanied by a Voluntary Aflatoxin Sampling Program - VASP certificate issued by laboratories approved for the VASP program. Peanuts must be tested and certified prior to export based on the EU Pre-Export Certification Program.

Organic Foods

The responsible German authority for organic import rules is:

Bundesanstalt fuer Landwirtschaft und Ernaehrung (BLE)

Deichmannsaue 29 53179 Bonn, Germany

Tel.: +49 228 6845 3332 Fax: +49 228 6845 3787 Website: www.ble.de Contact: Beate Scheer

Mail: beate.scheer@ble.de

Please note that in 2012 the United States and the European Union entered into a 'organic equivalence' arrangement. Foods certified under the USDA/NOP program may be sold as 'organic' in Germany and the EU. For more on this please click here.

Beef labeling

In the EU, a compulsory beef labeling scheme has been in place since 2000. Under this scheme, labels for all bovine meat must indicate the following sets of information. The label must include the following information and German terms to be used are:

- "geboren in: [name of third country]" born in
- "gemaestet in: [name of third country or third countries]" reared in
- For beef derived from animals born, raised and slaughtered in the same third country, the above indications may be combined as "Ursprung: [name of third country]" - origin
- A reference number ensuring the link between the meat and the animal or animals
- "geschlachtet in: [third country / approval number of slaughterhouse]"
- "zerlegt in: [third country / approval number of cutting plant]"
- A traceability code linking the meat to the animal or a group of animals representing the production of maximum one day.

In addition to the compulsory labeling program, the German food industry initiated a 'Quality and Safety' program (QS) to assure the consumer that the production of such labeled products is fully controlled and recorded based on legal requirements and additional industry-determined production process criteria. The quality and safety program is certified by an approved certification organization. The objective of the QS system is to render foodstuff production processes transparent to consumers from the field and stable to the sales counter, thus increasing consumer confidence in the production, processing, and marketing of foodstuffs. The system is open for domestic and imported products.

QS Qualitaet und Sicherheit GmbH Schedestr. 1-3 53113 Bonn Phone +49 228 35068-0

Fax +49 228 35068-10 Contact: info@q-s.de

Website: www.q-s.de/home_gb.html

Seafood Products

EU laws require that on retail level fishery products have to be labeled with origin indication and production method. The German terms are:

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"gefangen in [...]" (caught in [catch region]), or
"aus Binnenfischerei in [...]" (caught in freshwater in [country]), or
"aus Aquakultur in [...]" (farmed in [country]), or
"gezuechtet in [...]" (cultivated in [country]).
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Section VIII. Copyright and/or Trademark Laws:

In Germany, the legal basis for trademarks is laid down in the Markengesetz (trade mark law) and the Markenverordnung (trade mark ordinance). Trademarks are granted for duration of 10 years. Applications should be directed to the German Patent and Trade Mark Office:

Deutsches Patent- und Markenamt Zweibrückenstr. 12 80331 München

Phone: +49 89 2195-0 Fax: +49 89 2195-2221 E-mail: post@dpma.de

Website: http://www.dpma.de/english/index.html

Companies which also export to other EU member states may want to consider obtaining the EU Community Trademark. For detailed information please consult the EU-27 FAIRS Report E70048...

In addition, Germany is a Member of the World Intellectual Property Organization (WIPO/OMPI) and to the Madrid Agreement on International Registration of Trademarks.

Section IX. Import Procedures:

Import Derogation for Product Samples:

Sample shipments of food products containing meat, poultry or cheese from plants not approved for export to the

EU require a derogation (special import permit) from the (state) veterinary authority at the first port of entry into the European Union. For shipments to Germany, this is often Frankfurt airport. Frankfurt airport is located in the State of Hesse; consequently, the veterinary office in Wiesbaden, the capital of Hesse, is responsible for issuing the import permit.

Hessisches Ministerium fuer Umwelt, laendlichen Raum und Verbraucherschutz (Ministry of Environment, Rural Regions and Consumer Protection of the State of Hesse)

Mainzer Strasse 80

65189 Wiesbaden, Germany Tel.: +49 611 815 1465 Fax: +49 611 44789 770

E-Mail: veteinfuhr@hmuelv.hessen.de

The request for derogation can be made informally by letter, fax, or email stating the quantity, origin, and composition (e.g. raw or cooked meat) of the product as well as the intended purpose (machinery testing, trade show display, product competition, etc.) and place of destination. Based on this information the veterinary office will issue the import permit, specifying the veterinary certificates they require in that particular case.

The import permit is in German and the veterinary office charges a small fee. Because of language, time difference, and distance (the permit will be sent by commercial mail), it is recommended that the German recipient of the product handle the application for the import permit, wherever feasible. If the point of entry is different from Frankfurt, please contact AgBerlin for information on the applicable veterinary office.

Appendix I. Government Regulatory Agency Contacts:

A. List of Major Regulatory Agencies

Bundesministerium fuer Ernaehrung, Landwirtschaft und Verbraucherschutz, BMELV (Federal Ministry of Food, Agriculture and Consumer Protection) Rochusstr. 1 53123 Bonn, Germany

Tel: +49-228 - 529-0 Fax: +49-228 - 529-4262 Website: www.bmelv.de

Bundesamt fuer Verbraucherschutz und Lebensmittelsicherheit (BVL)

(Federal Office of Consumer Protection and Food Safety)

Bundesallee 50 38116 Braunschweig Tel.: +49 531 21497 0 Fax: +49 531 21497 299

E-mail: poststelle@bvl.bund.de
Website: www.bvl.bund.de

The biotech division and the novel foods/feeds division of BVL are responsible for registration and approval of biotech products and novel foods.

B. World Trade Organization (WTO) Inquiry Post

Each EU member government is responsible for the notification procedures associated with the agreement under

the World Trade Organization (WTO). Examples here relate to the Sanitary and Phyto Sanitary (SPS) and Technical Barriers to Trade (TBT) Agreements. WTO obligations include notifying any trade significant proposals which are not substantially the same as international standards, providing copies of the proposed regulation upon request, allowing time for comments. The German Federal Ministry of Economics and Technology (BMWi) has mandated the German Institute for Standardization (DIN) to set up and run the German »National Enquiry Point« according to the WTO Agreement on Technical Barriers to Trade (TBT).

DIN Deutsches Institut fuer Normung e.V.

Burggrafenstr. 4-10 10772 Berlin, Germany Tel: +49 30 - 260 12600 Fax: +49 30 - 260 11260 E-mail: auskunft@din.de

Website: www.din.de

DIN also provides information on all technical rules (including standard, technical regulations and certification systems) valid in the Federal Republic of Germany, irrespective of whether the technical rules have been issued by federal or local authorities or by non-governmental bodies.

Appendix II. Other Import Specialist Contacts:

List of German Food Laboratories

Analytec Labor fuer Lebensmitteluntersuchung

Laufener Str. 83

83395 Freilassing, Germany

Tel: +49-8654- 62322 (German line) Fax: +43-662- 434 109 19 (Austrian line)

E-mail: office@analytec.de Website: <u>www.analytec.de</u>

Arotop Food & Environment GmbH

Dekan-Laist-Str. 9 55129 Mainz, Germany Tel: +49-6131 - 583800 Fax: +49-6131 - 5838080

E-mail: arotop@arotop.de Website: www.arotop.de

Eurofins Analytik GmbH Wiertz-Eggert-Joerissen Neulaender Kamp 1 21079 Hamburg, Germany Tel: +49-40- 492 940

Fax: +49-40- 492 94 111 E-mail: <u>info@eurofins.de</u>

Website: http://www.eurofins.de/

SGS Institut Fresenius GmbH Im Maisel 14 65232 Taunusstein, Germany Tel: +49-6128 - 744-0 Fax: +49-6128 - 744-9890

E-mail: <u>info@institut-fresenius.de</u>
Website: <u>www.institut-fresenius.de</u>

Dr. Wessling Gruppe

Oststrasse 6

48341 Altenberge, Germany

Tel.: +49-2505 - 896 25 Fax.: +49-2505 - 896 20 E-mail: <u>info@wessling.de</u>

Website: de.wessling-group.com/de