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GAIN Report

Global Agricultural Information Network

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Market Access Brief for Dairy Products

Report Categories:

Market Development Reports

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Report Highlights:

U.S. exporters often reach out to our office with questions about market access and Brazil's import regulations, finding legislation confusing and not transparent. To bring a bit more clarity, ATO Sao Paulo prepared a series of Market Access Briefs by product category. These briefs are intended to serve as a guide for each step of the export process from formula study and label development to shipping and final customs clearance. ATO Sao Paulo also assigned a complexity level for each product category. The information contained in each brief was developed in concert with private consultants, importers, and customs agents.

DISCLAIMER: This report was developed by the U.S. Agricultural Trade Office (ATO), USDA/Foreign Agricultural Service in Sao Paulo, Brazil, in collaboration with private consultants, importers and customs agents. While every possible care has been taken in the preparation of the study, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies and procedures are not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their Brazilian 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 RULE AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

I. Import Procedures for Dairy Products into Brazil

Level of complexity of importing dairy products into Brazil: High



1) Formula Study

Under the Brazilian legislation, regulators must maintain “positive” lists of ingredients approved for consumption. In addition, all food or beverage ingredients must meet government specifications and tolerance levels. The “Technical Regulation” provides the “Identity and Quality Standard” (PIQ) for any given product. This means that only specifically authorized products (including additives, colorings, preservatives, etc.) are allowed to enter the market. All imported dairy products must comply with Brazilian legislation. It is recommended to perform a compliance study to determine if the dairy product is in accordance to Technical Regulations (RT), limits of additives and food safety criteria. In case of non-compliance, the product must be adjusted to the requirements of the legislation.

Legislation:

a) Technical Regulations (*Food Standard*)

- Law n° 1,283 of December 18, 1950
- Decree n° 30,691 of March 29, 1952
- All animal-origin food must comply with the provisions of their respective Identity and Quality Standards (PIQ) that are determined by specific legislations.

The PIQs define each of MAPA food categories, including criteria for quality, additives and specific labeling.

b) Food Safety

- Contaminants
 - .Decree n° 55,871 of March 26, 1965
 - .SNVS/MS Ordinance n° 11 of May 15, 1987
 - .SVS Ordinance n° 685 of August 27, 1998
 - .RDC Resolution n° 42 of August 29, 2013
- Microbiology
 - .RDC/ANVISA Resolution n° 12 of January 02, 2001
- Mycotoxins
 - .RDC Resolution n° 7 of February 18, 2011
 - .RDC Resolution n° 59 of December 26, 2013
 - .RDC Resolution n° 138 of February 08, 2017
- Foreign Matter
 - .RDC Resolution n° 14 of March 28, 2014
- Pesticide Residues
 - .RE Resolution n° 165 of August 29, 2003, and updates

2) Product Registration (SISCOLE Compliance)

The importation of products of animal origin and by-products requires the registration of foreign producer establishment in the List of establishments qualified to export products of animal origin and by-products to Brazil. After qualification, the manufacturer can request the registration of a product that is intended for exportation to Brazil. Depending on the product category, the registration is granted immediately or requires previous approval by the DIPOA.

a) Registration of Producing Establishment

The plant of producing establishment must qualify with the Department of Inspection of Animal Origin Products (DIPOA)/Ministry of Agriculture, Livestock, and Supply (MAPA) to import any product of animal origin to Brazil. The qualification of producing establishment with DIPOA is obtained with the American Embassy in Brasília. The producer must provide following information to the American Embassy, which in turn requests plant qualification with DIPOA:

- complete name and address of producer, including telephone and fax number and contact person,
- number of plant registration with the Agricultural Marketing Service (AMS/USDA) or the number of the central file of Food and Drug Administration (FDA) for dairy products, and
- Description of products to be exported to Brazil.

It is important to note that DIPOA registers only the establishments with federal inspection in the United States, i.e., AMS/USDA or FDA for dairy products.

b) Registration of product

The product registration is requested on MAPA electronic site: www.agricultura.gov.br

Foreign producers must register the company, providing following documents (original and translation into Portuguese):

- copy of the document issued by an authority of the origin country, informing the name of the establishment representative

- copy of the personal identification document of establishment representative.

The application for registration is made by the foreign producer, providing following information and documents in Portuguese:

- identification of the establishment,
- data for identification and characterization of product,
- composition of the product with indication of the ingredients by descending order of quantity,
- description of the manufacturing process,
- opinion of the regulatory health authority about the use of claims of functional or health properties, if such claims appear on the label,
- calculation of thermal processing for canned goods, submitted to commercial sterilization for each type of packaging and weight of product,
- reliable and legible reproduction of label, with original colors, indicating the dimensions and size of characters of the mandatory label information, and
- other documents required by the legislation that regulates the granting of registration of specific products.

Depending on the product category, the registration is granted immediately or requires previous approval by the DIPOA. See:

- Products with PIQ => registration granted after the entry of information in the system.
- Products without PIQ => requires previous approval of information and documents entered into the system.

MAPA can evaluate these processes, and in case of nonconformities, it informs the sanitary authority of the origin country, specifying the nonconformity and granting a period to adjust. Non-compliance with the requirements is subject to cancellation of product registration.

The list of products with PIQ is available in the computer system.

Legislation:

- SDA/MAPA Normative Instruction nº 01 of January 11, 2017

3) Label Development

If the label of a product is not in Portuguese, it is possible to place an adhesive label containing all mandatory information in Portuguese over the original label. This label can be placed at origin or in Brazil, but always before its commercialization.

In general, the label and tag must contain the following information:

a) *Mandatory items in Front Panel*

- Technical name, as defined in the specific Technical Regulations
- Brand
- Information about alcohol content
- Weight/volume indication – note the minimum height for figures and letters, according to the following table

| Net content (g or ml) | Minimum height of letters (mm) |
|---------------------------|--------------------------------|
| Lower than or equal to 50 | 2.0 |

| | |
|--|-----|
| Higher than 50 and lower than or equal to 200 | 3.0 |
| Higher than 200 and lower than or equal to 1,000 | 4.0 |
| Higher than 1,000 | 6.0 |

When the original package of the product does not show any indication of quantity in the main panel or shows dimensions or units in disagreement with those determined in the INMETRO Ordinance n° 157/02, such information should be inserted on the label before the product goes to the final consumer.

b) *Other Mandatory items*

- List of Ingredients
- Warnings (allergens, gluten, alcohol consumption and others)
- Origin Country
- Manufacturer data (name and complete address)
- Importer data (corporate name, complete address and CNPJ)
- Number of importer registration
- Expiration date
- Lot. Manufacturing date or expiration date can replace the lot
- Conservation care
- Instructions for use and preparation, as applicable
- Nutrition Information mandatory information that must be according to RDC Resolutions n° 359, 360/03 and n° 163/06. The Nutrition Facts should follow one of the ANVISA approved formats and provide mandatory information about:
 - .energetic value
 - .carbohydrate
 - .protein
 - .total fat
 - .saturated fat
 - .trans fat
 - .dietary fiber
 - .sodium.

Following is one of the approved formats for a nutrition facts table:

| NUTRITION FACTS | | |
|---|----------------|----------|
| Serving... g or ... ml (household measure) | | |
| Quantity per serving | | % VD (*) |
| Energetic value | ...kcal =...kJ | |
| Carbohydrate | g | |
| Protein | g | |
| total fat, | g | |
| saturated fat, | g | |
| <i>Trans</i> fats | g | ** |
| ietary fiber, and | g | |
| Sodium | mg | |

* % Daily Values based on a 2,000-kcal or 8,400-kJ diet. Your daily values can be higher or lower, depending on your energy needs.

** Daily Value not established.

The Nutrition Facts must provide information per serving of the food, indicating its corresponding Household Measure. A serving is the average amount of food that should be consumed by healthy persons, with age above 36 months, at each consumption occasion, to allow a healthy diet. The term Household Measure is the measure equivalent to the serving of food, obtained by using a utensil that is commonly employed by the consumer to measure food (for example, glass, cup, tablespoon and others). The RDC Resolution n° 359/03 determines the servings of each food and their corresponding household measures.

a) General Rules

- Decree n° 30,691 of March 29, 1952
- Decree n° 55,871 of March 1965
- Law Decree n° 986 of October 21, 1969
- MAPA Normative Instruction n° 22 of February 24, 2005

b) Net weight declaration

- INMETRO Ordinance n° 67 of February 02, 1986
- INMETRO Ordinance n° 67 of March 31, 1989
- INMETRO Ordinance n° 75 of May 19, 1999
- INMETRO Ordinance n° 157 of August 19, 2002
- INMETRO Ordinance n° 153 of May 19, 2008
- INMETRO Ordinance n° 258 of July 24, 2008

c) Nutritional labeling

- RDC Resolution n° 359 and n° 360 of December 23, 2003
- RDC Resolution n° 163 of August 17, 2006.

d) Warnings

- Aspartame, Polyalcohols
.SVS/MS Ordinance n° 29 of January 13, 1998
- Tartrazine
.RDC Resolution n° 340 of December 13, 2002
- Gluten
.Law n° 10,674 of May 16, 2003
- GMO
.Decree n° 4,680 of April 24, 2003
.CC/PR/MJ/MS/MAPA Joint Normative Instruction n° 01 of April 1, 2004
.MJ Ordinance n° 2,658 of December 22, 2003
- Allergens
.RDC Resolution n° 26 of July 02, 2015
- Lactose
.Law n° 13,305 of July 04, 2016
.RDC Resolution n° 136 of February 08, 2017
- Irradiation - Decree n° 72,718 of August 29, 1973; RDC Resolution n° 21 of January 26, 2001

e) Nutritional Claims

- RDC Resolution n° 54 of November 12, 2012
- RDC Resolution n° 03 of February 04, 2013

f) Food for Special Dietary Uses

- SVS/MS Ordinance n° 29 of January 13, 1998
- RDC Resolution n° 135 of February 08, 2017

() Except for nutritional claims and claims allowed for Foods for Special Dietary Uses, all information is mandatory, when applicable, and should be included in product labeling.*

4) Exporter's Pro Forma

The import operation begins after the commercialization of merchandise is agreed upon by the exporter and importer. For importation, a Pro-Forma Invoice must be created, a standard document used in international commerce, containing all information about the negotiation and details of purchased merchandise (product data, payment terms, transport mode and other data).

5) Issuance of an import License (LI)

After accepting the Pro Forma Invoice, the importer must get an Import License (LI). The LI is one document issued electronically through the Integrated Foreign Trade System (SISCOMEX) by the importer and approved by MAPA. The LI is required to clear the product. The LI can be requested after the shipping of merchandise but it needs to be issued before the product arrival. The importer or a person previously authorized to operate the SISCOMEX on behalf of the importer performs this procedure.

Legislation:

- SECEX/MDIC Ordinance n° 23 of July 14, 2011
- MAPA Normative Instruction n° 51 of November 04, 2011
- MAPA Normative Instruction n° 16 of June 21, 2012

6) Shipping Instructions

Before shipping, the importer has to provide the exporter with Shipping Instructions, consisting of information about the negotiation and terms of merchandise shipping, such as quantity of product, payment terms, the temperature of transportation, packaging, pallet, etc. ***Special note on pallets.*** Before shipping goods to Brazil, exporters should be aware of wood pallets and wood packaging regulations. Pallets must be in compliance with International Standards for Phytosanitary Measures N° 15 (ISPM 15) and have the International Plant Protection Convention (IPPC) stamp. For countries that have not adopted the ISPM 15 standards, the phytosanitary certificate may be substituted for the IPPC stamp, with an additional declaration on treatment records or the certificate of treatment stamped by the National Plant Protection Organization (NPPO). Wood pallets, both treated and untreated, are always inspected by MAPA. Inspectors will check for the presence of pests and may or may not release the cargo. Costs related to phytosanitary treatment or returning pallets/cargo to the country of origin will be the exporter/importers' responsibility. The pallets made with different materials (cardboard, fibers, plastics, and others) and those made with industrialized or processed wood are exempt from these requirements.

Also, the Shipping Instruction must contain all documents to be submitted by the exporter to the importer:

- Original International Sanitary Certificate issued by the Official Veterinary Service of the origin country. The origin country may request the consular legalization of the certificates issued in Brazil. A Certificate in a foreign language requires a sworn translation.
- Certificate of Analysis and Certificate of Origin, issued by a laboratory or an entity of the country of origin contained in the list available on MAPA Website.
- LI or LSI statement.
- A commercial invoice containing following information:
 - . complete name and address of exporter
 - . full name and address of the importer
 - . specification of merchandise, in Portuguese or the official language of the General Agreement on Tariffs and Trade, or in another language, accompanied by a translation into Portuguese, at the discretion of customs authority, containing own and commercial denominations, with an indication of the elements that are indispensable for their perfect identification
 - . mark, numbers and reference number of volumes, if any
 - . quantity and type of volumes
 - . gross weight of volumes, in other words, the burden of merchandise with all its containers, packages and other wrappers
 - . net weight, i.e., the weight of the merchandise free of every wrapping
 - . origin country, the country where the production of merchandise or the last substantial transformation occurred
 - . acquisition country, the country of acquisition of the merchandise for exportation to Brazil, independently of the origin country of merchandise or inputs
 - . source country, the country where the merchandise was at the time of acquisition
 - . unit and the total price of each type of merchandise and the amount and nature of decreases and discounts granted to the importer, if any
 - . freight and other expenses referring to the merchandise specified in the invoice
 - . payment terms and currency
 - . term and condition of sale (INCOTERM)
- Packing List (declaration with details of imported product).
- Bill of Landing
The exporter submits the Shipping Instructions to the shipping company, containing the necessary information for the issuance of the bill of lading (Air Waybill (AWB), Railway Bill (RWB) or Road Bill (CMR) or Marine Bill of Landing (B/L). The bill of lading is the proof of shipping that is issued by the shipping company and contains all the details of transportation.

Legislation

- Law nº 1,283 of December 18, 1950
- Decree nº 30,691 of March 29, 1952

- MAPA Normative Instruction n° 36 of November 10, 2006
- Decree n° 6,759 of February 05, 2009

7) Arrival of the Merchandise at the Port

When the merchandise arrives at the port, the cargo proceeds to the Bonded Warehouse (warehouse) pre-designated by the importer. Otherwise, the cargo goes to the terminal with which the shipping company has an agreement. After the proper placement of the merchandise, the terminal confirms and generates a “Cargo Manifest”, in other words, the terminal informs the conditions of cargo receipt on the SISCOMEX. The registration of the Import Declaration (DI) in the SISCOMEX is not possible without the cargo manifest.

Legislation:

- RFB/MT Normative Instruction n° 797 of December 20, 2007, and
- RFB Normative Instruction n° 800 of December 27, 2007, and n° 1,473 of June 02, 2014.

8) Registering the Import Declaration (DI)

After the clearance of LI by MAPA, the importer or authorized customs agent registers the Import Declaration (DI) with the SISCOMEX. The DI is a document containing all information about the importation.

- Importer data
- Cargo data
- Bonded warehouse data
- Merchandise data
- Negotiated payment terms
- Federal taxes (Import Tax (II), Industrialized Products Tax (IPI), Social Integration Tax (PIS), and Social Contribution Tax (COFINS) and antidumping rights, as applicable); federal taxes are automatically debited from importer or customs agent account
- State taxes – State Value Added Tax (ICMS); the ICMS is collected using the Form of State Collection (GAE), which is payable at any bank branch in Brazil. The Federal Revenue Service should receive the original payment evidence.
- Additional information, as the case may be (for example, authorized customs agent)
- The exchange rate of the negotiation currency, as determined by the Brazilian Central Bank
- A detailed description of merchandise, according to the LI and the commercial invoice

The cost for registration of a DI, according to SRF Normative Instruction n° 1,158/11 is of R\$ 185,00 per DI, plus the cost of each merchandise added, which varies according to the number of additions. Cost of fee = R\$185,00 + value referring to the number of additions of DI.

| Number of Additions | Value per Addition (R\$) |
|---------------------------|--------------------------|
| Up to 2nd addition | 29,50 |
| From 3rd to 5th addition | 23,60 |
| From 6th to 10th addition | 17,70 |

| | |
|----------------------------|-------|
| From 11th to 20th addition | 11,80 |
| From 21st to 50th addition | 5,90 |
| As of the 51st addition | 2,95 |

Legislation:

- SRF Normative Instruction n° 680 of October 02, 2006
- SRF Normative Instruction n° 1,158 of May 24, 2014

9) Physical review by MAPA Authority

To release the products of animal origin, the importer needs to obtain a Previous Authorization for Importation, in other words, the Importation License (LI)/Previous Authorization must be obtained electronically before product shipping, using the SISCOMEX. When the product arrives in Brazil, the inspector checks its appropriate authorization. Otherwise, the product cannot be released. In addition to the LI, to import and release the products of animal origin following documents are required:

- Application to the Inspection of Agribusiness Products, according to MAPA Normative Instruction n° 36/06.
- Additional data if the request contains more than one product. 3 copies
- Application for Consent to the Importation of Products of Animal Origin with shipment authorized by the Service of Inspection of Agribusiness Products (SIPAG), Federal State Superintendencies or DIPOA/SDA, Service of Agribusiness Health, Federal State Superintendencies (SEDESA/DT-UF), or the Department of Animal Health of Livestock Defense Secretary (DSA/SDA).
- Original International Sanitary Certificate issued by the Official Veterinary Service of the origin country. The origin country may request the consular legalization of the certificates issued in Brazil. A Certificate in a foreign language requires a sworn translation.
- certificate of analysis and certificate of origin, issued by an official or authorized body of the origin country,
- commercial invoice according to Article 557 of Decree n° 6,759/09,
- LI,
- Copy of the Bill of Lading or Cargo Manifest.
- Copy of Importer Registration with MAPA.
- Copy of Product Label Registration with MAPA.
- packing list,
- copy of the operation license of the warehouse that stores the product,

Finally, after the verification of documents and merchandise, the Inspection Document is issued with the authorization or prohibition of customs clearance, requirements or registered occurrences to be complied with, according to MAPA Normative Instruction n° 36/06 .

In the event of document irregularities, or noncompliance, the merchandise may enter directly to the establishment defined in the DILEI, upon a Control of Traffic of Imported Products (CTPI), without the right of use, until the compliance with pending requirements and submission of the Term of Commitment and Term of Depositary.

A previous inspection authorized by customs is subject to the monitoring of importer and depositary legal representatives. In case of discrepancies with the requirements, an Incident Report is issued with

additional instructions. The entire process for requesting previous authorization and inspection is performed for each new importing and before customs clearance.

Legislation:

- Law n° 1,283 of December 18, 1950
- Decree n° 30,691 of March 29, 1952
- MAPA Normative Instruction n° 36 of November 10, 2006
- Decree n° 6,759 of February 05, 2009

10) Federal Revenue Parameterized Selection

After the registration of DI, the Federal Revenue Service performs the parameterization in the SISCOMEX. The system performs the parameterization, and selects one of following channels:

- Green Channel: exempts examination of documents and review of merchandise, and the release occurs in about one (01) day.
- Yellow Channel: only the review of records is required, and the release of merchandise takes place in about two (02) days.
- Red Channel: in addition to a review of documents, merchandise must be physically examined, and the release of the product takes place in about four (04) days.
- Gray Channel: this is a special customs control channel, and it may take more than 60 days after parameterization.

The parameterization process must conclude within the periods set forth, and after all correct documents for customs clearance are provided according to MAPA Normative Instruction n° 55/06:

Legislation:

- Decree n° 6,759 of February 05, 2009.