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Market Access Brief for Distilled Spirits

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 Distilled Spirits to Brazil

Level of complexity of importing distilled spirit into Brazil: Medium



1) Formula Study

Under the Brazilian legislation, regulators must maintain “positive” lists of ingredients approved for consumption. In addition, all food and 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 distilled spirits must comply with Brazilian legislation. It is recommended to perform a compliance study to determine if the distilled spirit is in accordance to the Brazilian legislation, particularly the Technical Regulations (RT), limits of additives and food safety criteria. In case of non-compliance, the composition must be adjusted to the requirements of the legislation.

Legislation:

- a) Technical Regulations (Food Standard)
 - Law n° 8,918 of December 14, 1994
 - Decree n° 6,871 of June 04, 2009

- MAPA Normative Instruction nº 15 of March 31, 2011

b) Food Additives

- RDC Resolution nº 286 of September 28, 2005
- RDC Resolution nº 45 of November 03, 2010
- RDC Resolution nº 46 of November 03, 2010
- RDC Resolution nº 40 of September 13, 2011
- RDC Resolution nº 05 of February 04, 2013

c) Food safety

- Contaminants
 - .Decree nº 55,871 of March 26, 1965
 - .SNVS/MS Ordinance nº 11 of May 15, 1987
 - .SVS Ordinance nº 685 of August 27, 1998
 - .RDC Resolution nº 42 of August 29, 2013
- Microbiology
 - .RDC/ANVISA Resolution nº 12 of January 02, 2001
- Mycotoxins
 - .RDC Resolution nº 7 of February 18, 2011
 - .RDC Resolution nº 59 of December 26, 2013
 - .RDC Resolution nº 138 of February 08, 2017
- Foreign matter
 - .RDC Resolution nº 14 of March 28, 2014
- Pesticide residues
 - .RE Resolution nº 165 of August 29, 2003

2) Product Registration (SISCOLE Compliance)

Ministry of Agriculture, Livestock and Food Supply (MAPA) requires from exporting countries a list of entities eligible to issue Certificate of Origin, Certificate of Analysis and Certificate of Typicality. When clearing cargo MAPA officials will check the SISCOLE system for this list. The list of U.S. labs/entities can be found at: <http://sistemasweb.agricultura.gov.br/siscole/consultaPublicaCadastro!consultarCadastro.action>.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) has the authority to certify labs and to issue the certificates of origin for alcoholic beverages. If a lab approved by TTB is not included on MAPA's list, TTB can request an update by MAPA. TTB's list of Certified Chemists can be found at: http://www.ttb.gov/ssd/chemist_certification.shtml. Before exporting to Brazil, exporters must complete this step.

Legislation:

- MAPA Normative Instruction nº 55 of November 18, 2009

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

Legislation:

c) *General Rules*

- Decree n° 55,871 of March 1965
- Law Decree n° 986 of October 21, 1969
- MA Ordinance n° 229 of October 25, 1988
- Law n° 7,678 of November 08, 1988
- RDC Resolution n° 259 of September 20, 2002; RDC Resolution n° 123 of May 13, 2004
- MAPA Normative Instruction n° 55 of October 18, 2002
- Decree n° 8,198 of February 20, 2014

d) *Net weight declaration*

- INMETRO Ordinance n° 157 of August 19, 2002

e) *Warnings*

- Irradiation
 - .Decree n° 72,718 of August 29, 1973
 - .RDC Resolution n° 21 of January 26, 2001

- 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
Lactose
.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
- Alcohol
.Law n° 9,294 of July 15, 1996
.Decree n° 2,018 of October 1, 1996

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:

- Certificate of Analysis and Certificate of Origin issued by the laboratory or authority listed on MAPA/SISCOLE website
- Certificate of Aging
- 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 products).
- Bill of lading
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 Lading (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:

- Decree n° 6,759 of February 05, 2009, and
- MAPA Normative Instruction n° 55 of November 18, 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
- RFB Normative Instruction n° 800 of December 27, 2007, and n° 1,473 of June 02, 201

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

The importer (or customs broker) must file a process with the MAPA Unit located at the point of entry of merchandise in Brazil, requesting the release of imported beverages with following documents:

- application for inspection of agribusiness products,
- additional data if the request contains more than one product,
- inspection document,
- the instrument of *bona-fide* depositary,
- document of sample collection,
- certificate of analysis and certificate of origin, issued by an official or authorized body of the origin country,
- certificate of ageing,
- bill of lading,
- commercial invoice according to Article 557 of Decree n° 6,759/09,
- LI,
- packing list,
- copy of the operation license of the warehouse that stores the product.

MAPA arranges for an inspector to pick up the samples and proceed with the release of the instrument of *bona-fide* depositary.

Legislation:

- Law n° 8,918 of December 14, 1994
- MAPA Normative Instruction n° 36 of November 10, 2006
- Decree n° 6,759 of February 05, 2009
- Decree n° 6,871 of June 04, 2009
- MAPA Normative Instruction n° 55 of November 18, 2009
- Decree n° 7,212 of June 15, 2010

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:

- RFB Normative Instruction n° 1,432, of December 26, 2013, n° 1.518 of November 27, 2014, 1,583 of August 31, 2014 and n° 1,673 of November 23, 2016
- Decree n° 6,759 of February 05, 2009
- MAPA Normative Instruction n° 55 of November 18, 2009.