Asia Pacific Food Law Guide - Philippines

Licensing and approvals requirements to import/export food

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# Customs registration

Regular importers, including food importers, are required to secure accreditation from the BOC. As part of the accreditation process with the BOC, the importer is also required to be registered with the Client Profile Registration System. The accreditation must be obtained preferably prior to the
arrival of the goods, and must not be obtained later than 30 days from arrival of the goods. Otherwise, the importer will not be allowed to file an import entry, and will risk forfeiture of the goods. Under customs law, the non-filing of the import entry within 30 days from arrival of the cargo will result in the deemed abandonment of the goods and forfeiture thereof in favor of the government.

In addition, manufacturers, importers, traders, distributors and exporters of food must obtain an LTO from the FDA, as well as a CPR for each product.

# Import permit

Under FDA Circular No. 2013-32, no import clearance is required from the FDA for the importation of finished food products. The importer, however, must be able to present a valid LTO and CPR. In particular:

only the LTO shall be presented or submitted to the BOC for raw materials to be used in food, including ingredients and additives, that are imported by licensed food
establishments for their own use; and

both the LTO and the CPR must be presented or submitted to the BOC for raw materials to be used in food, including ingredients and additives, when intended for distribution or for sale by licensed food establishments.

Food products that are not covered by CPRs, but are intended to be imported for use as exhibition, in trade promotions or for clinical trial purposes, among others, must be covered by the FDA import clearance or certification.

In addition, under the GM Circular, all importation of GM Plants, for whatever use, must be covered by a SPSIC issued by the Bureau of Plant Industry. No shipment of any GM Plant shall be allowed without a SPSIC. Furthermore, only GM Plants which are included in the Registry of Approved Regulated Articles, which is updated by the Bureau of Plant Industry, may be imported into the Philippines.

# Inspection and testing of imported foods

Under the Food Safety Act, imported foods shall undergo cargo inspection and clearance procedures by the DA and the DOH at the first port of entry to determine compliance with national regulations. This inspection by the DA and the DOH shall take place prior to the assessment for tariff and other charges by the BOC.

The Customs Code also provides for the conduct of examination of imported goods. The customs officer tasked with examining, classifying and appraising imported articles shall determine whether the packages designated for examination and their contents are in accordance with the declaration in the entry, invoice and other pertinent documents. The officer will also indicate whether the articles have been truly and correctly declared at entry with regard to their quantity, measurement, weight and tariff classification and are not imported contrary to law. He shall submit samples to the laboratory for analysis when feasible to do so and when such analysis is necessary for the proper classification, appraisal and/or admission into the Philippines of the imported articles.

# Export permits/clearances

All exporters in general, including exporters of food, are required to secure accreditation, depending on whether they are investment or export-oriented.

The accrediting agencies for investment promotion-oriented exporters are the Bureau of Investments, Philippine Economic Zone Authority, Freeport Zone Authorities (i.e., Clark
Development Corporation, Subic Bay Metropolitan Authority, Authority of Freeport Area of Bataan, Cagayan Economic Zone Authority) and Zamboanga City Special Economic Zone Authority.

The accrediting agency for export promotion-oriented exporters, as well as coffee exporters operating under the Export Development Act and the International Coffee Organization Certifying Agency is the Bureau of Export Trade Promotion-Department of Trade and Industry.

The accrediting authority for exporters not falling within any of the above, except Customs Bonded Warehouse operators, shall be the Philippine Exporters Confederation, Inc.

Once accreditation with the relevant government agency is obtained, the Exporter may proceed with its registration with the Client Profile Registration System. Please note that this is separate and distinct from the CPRS registration as importer.

Furthermore, under the FDA Law, importers, traders, distributors and exporters of food must obtain an LTO as an establishment from the FDA, and a CPR for each product.

Under the Food Safety Act, exported foods shall comply at all times with the national regulations of the importing country. Returned shipments shall undergo border inspection clearance as imported products.

Under the FDA Law, food intended for export shall not be deemed to be adulterated or misbranded if: (i) it conforms with the specification of the foreign purchaser; (ii) it is not in violation of the laws of the country to which it is intended for export; and (iii) it is labeled on the outside of the shipping
package that it is intended for export. However, if such article is sold or offered for sale in the Philippines, it must comply with the applicable laws and regulations for products that are distributed locally.

In addition, the Bureau of Plant Industry has export certification procedures and a phytosanitary certification system for the export of regulated articles, which are implemented by its Plant Quarantine Service.

# Other notifications/approvals/licenses

Before obtaining the industry-specific licenses and registrations from the FDA, there are basic registration requirements for entities that intend to do business in the Philippines.

A person or corporation that intends to do business in the Philippines, including manufacturers, importers, traders, distributors and exporters of food, must obtain the appropriate registration or license from the SEC (for domestic and foreign corporations) or the DTI (for sole proprietorship).

In addition to the registration or license from the SEC or the DTI, the entity must obtain certain basic registrations and licenses, as follows:

business/mayor's permit with the local government unit where it is located;

BIR, as a taxpayer;

Philippine employment agencies, as an employer (Social Security System, Philippine Health Insurance Corporation, Home Development Mutual Fund and Department of Labor
and Employment); and

if an importer, with the BOC.

Also, Presidential Decree No. 856, otherwise known as the Code of Sanitation of the Philippines, states under Section 14 that "No person or entity shall operate a food establishment for public patronage without securing a permit from the local health office." Moreover, under Section 15, it states that "No person shall be employed in any food establishment without a Health Certificate issued by the local health authority."

Under Section 37 of the Food Safety Act, it is unlawful for any person to fail to comply with an order relating to notifications to recall unsafe products.

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