



NAVIGATING THE REGULATORY FRAMEWORK FOR CHEMICAL IMPORTATION IN NIGERIA

Chemical importation is a highly regulated business activity in Nigeria. This is largely due to the sensitive nature and the possible abuse of some of these chemical items, especially in the wake of the incessant acts of terrorism which has now become a global phenomenon.

Thus, it is incumbent on every business owner intending to carry out chemical importation activities (either for manufacturing or marketing purposes) to ensure that they are conversant and compliant with all the extant regulations guiding same in Nigeria, as failure to do so will likely expose the business to punitive sanctions. It is also worth mentioning that only registered businesses and incorporated entities are eligible to submit applications for chemical importation in Nigeria, as the extant laws did not make room for individuals in this regard.

Hence to ensure full compliance, a business entity must consider the following salient questions before venturing into chemical importation in Nigeria:

- Which agencies regulate chemical importation in Nigeria?
- What are the requirements of these agencies for chemical importation?
- What permits or certificates must be obtained for chemical importation?

AGENCIES REGULATING CHEMICAL IMPORTATION IN NIGERIA

In Nigeria, chemical importation is regulated by multiple agencies, this is understandably so because of the extensive and diverse nature of chemical items in general. From ordinary flavourings and food preserves, cleaning agents and disinfectants, to even more harmful substances, use of which depending on the circumstances, must either be restricted or controlled or in some cases banned (for example, the importation of Urea was temporarily banned in 2018) to preserve the environment and protect the citizenry as a whole.

These regulatory agencies monitor and regulate the importation, manufacture, use and distribution of chemicals in Nigeria. Some of the dominant agencies in charge of chemical importation in Nigeria are:

- National Agency for Food and Drug Administration and Control (NAFDAC)
- Office of the National Security Adviser (NSA)
- Federal Ministry of Agriculture and Rural Development (FMARD)
- National Environmental Standards and Regulations Enforcement Agency (NESREA)

NATIONAL AGENCY FOR FOOD AND DRUGS ADMINISTRATION AND CONTROL

NAFDAC was established and empowered by the NAFDAC ACT to regulate and control the importation, exportation, manufacture, advertisement, sale, distribution and use of chemicals amongst other products. In furtherance of its power, NAFDAC has classified all chemicals differently, and created separate departments to regulate the importation of same viz, general, restricted (also described by NAFDAC as agro-chemicals and fertilizers), controlled (further split by NAFDAC into precursor chemicals, controlled substances and precursor drugs), and weapon convention chemicals.

Requirements

According to the NAFDAC guidelines, general chemicals and weapon convention chemicals only require a permit to import, whilst restricted and controlled chemicals require both a permit to import and a permit to clear. The permit to import is usually processed first and must be obtained before the consignment of chemicals is shipped.

General, Restricted and Weapon convention chemicals are processed by the Chemical Evaluation and Research Directorate at NAFDAC, whilst Controlled chemicals are processed by Narcotics and Controlled Substances Directorate.

Permits

Importers of general and weapon convention chemicals are only required to obtain a permit to import, but a further permit to clear is required for restricted and controlled chemicals.

A permit to import is processed on the trade portal, whilst a permit to clear is to be submitted physically at the NAFDAC office.

Both permits are issued at a fee to be determined by NAFDAC. Permits are usually valid only for the year of issuance, all permits will expire on the 31st December, and are to be renewed annually.

OFFICE OF THE NATIONAL SECURITY ADVISER (NSA)

The Office of the National Security Adviser is the office charged with the responsibility of managing national security issues on behalf of the President. Therefore for security reasons, some chemicals have been classified as controlled chemicals by the Office of the National Security Adviser and entities intending to import these chemicals must, in addition to other required permits, also obtain an End User Certificate (EUC).

EUC is an undertaking by an importer that the chemicals covered by the certificate are for lawful use within Nigeria, and that the items are not for transfer or re-export to any other entity or country without the prior written consent of the Office of the National Security Adviser.

Requirements

An application for EUC is to be processed online via the EUC portal, therefore a business, through its representative, must be registered on the portal before an application can be submitted. The requirements for registration suggests that only registered businesses and incorporated entities can register on the EUC portal, and therefore by implication it would seem that only registered businesses and incorporated entities can import these controlled chemicals into Nigeria.

Permit

Successful applicants are usually issued an End User Certificate upon approval at no monetary cost. The certificate is only valid for one year from the date of issuance, and is required to be renewed annually.

FEDERAL MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT

The Federal Ministry of Agriculture and Rural Development has the mandate to ensure food security in respect of crop, livestock and fisheries, stimulate agricultural employment and services, promote the production and supply of raw

materials to agro industries, provide markets for the products of the industrial sector, generate foreign exchange and aid rural socio-economic development. As part of the measures to achieving its mandate, the agency has set up the **Farm Input Support Service Department** to regulate amongst other functions, the quality standards of fertilizers in Nigeria.

Therefore, the Farm Input Support Service Department monitors the importation and marketing of chemicals considered to be fertilizers, and issue a Certificate for same.

NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY (NESREA)

NESREA is the agency responsible for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.

To this end, it is NESREA's mandate to enforce compliance with regulations on the importation, exportation, production, distribution, storage, sale, use, handling and disposal of hazardous chemicals. In line with this, the agency regulates the importation of banned and restricted chemicals and other hazardous chemical substances, as well as some designated items and equipment through the issuance of Environmental Import Clearance according to the National Environmental Sectoral Regulations.

The Environmental Import Clearance is to be processed and obtained for every consignment of regulated items.

Permits

Upon the payment of the regulatory fees, an Environmental Import Clearance is issued listing the items approved for importation. Note that this clearance is valid per invoice, that is, a company may import multiple items with one import clearance as long as they are all covered by the same invoice.

CONCLUSION

Suffice to say, regulatory requirements for chemical importation are constantly evolving and ensuring compliance with all the regulatory agencies involved can be a daunting task for business entities. It is therefore advisable to engage the services of consultants who can properly advise on the legal framework for chemical importation in Nigeria from time to time, and also assist with obtaining the relevant permits by applying skills and expertise to obtain desired results.

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