


DOC/HMD/05		IMPORT, EXPORT, AND TRANSIT RULES AND PROCEDURES PERTAINING TO CONTROLLED HORTICULTURAL PRODUCTS		 NAMIBIAN AGRONOMIC BOARD	
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1. INTRODUCTION

In terms of the Agronomic Industry Act 20 of 1992 (the "Act"), the following rules and procedures shall apply to the importation, exportation, and transit of horticultural products into Namibia. The rules and procedures set out in this document shall apply to controlled products as published in the GN No. 268 "Amendment of Government Notice No. 147 of 30 August 2002, relating to imposition of general levies on certain controlled products: Agronomic Industry Act, 1992", 31 December 2014.

This document must be read together with the Namibian Horticulture Market Share Promotion (MSP) Scheme rules and procedures.

2. DEFINITION

- **Commercial Use:** Horticultural products are meant for trading or marketing.
- **Controlled product:** This means a horticultural crop or product to which the provisions of the Agronomic Industry Act 20 of 1992 apply. The controlled horticultural products are also listed under **Annexure A** of these documents.
- **Consignment:** A batch of horticultural products destined for delivery to the same permit holder, transported on the same vehicle or vessel.
- **Exporter:** A person or company in Namibia that sends horticultural products to another country for sale.
- **Importer:** A person or company that brings horticultural products into Namibia from abroad for sale.
- **Landed cost:** The purchase price of the controlled horticultural product concerned, including any taxes, duties, and transport costs to the final destination in Namibia, payable in respect of the controlled product.
- **Market Share Promotion:** Refers to the Market Share Promotion scheme for horticulture subjected to a minimum percentage of Namibian fresh produce to be purchased locally by an importing trader as defined by the Board from time to time.
- **Personal Use:** Horticultural products meant for household consumption.
- **Primary Processed:** Any fresh fruit or vegetable that has been physically altered from its original form but remains in a fresh/chilled/frozen state.
- **Transiter:** Any person or company that transports horticultural products, through Namibia to other countries.

3. ABBREVIATION

- **AMID** – Agricultural Marketing Information Database
- **MAWLR** – Ministry of Agriculture, Water, and Land Reform
- **MSP** – Market Share Promotion Scheme
- **NAB** – Namibian Agronomic Board
- **PM** – Per Month, **PP** – Per Person, **PW** – Per Week, **PF** – Per Family
- **SCP** – Special Controlled Products

ANNEXURE A: List of controlled horticultural products. Go to page 13 of this document.



4. REGISTRATION REQUIREMENTS

4.1 Importers of controlled horticultural products

Any person importing controlled horticultural products (raw and/or fresh-cut) into Namibia for commercial use and specifically for human consumption shall be required to complete the application form for registration of traders of horticultural controlled products and attach the following documents:

- a) Certified copy of company registration or founding statement document.
- b) A Certified copy of the Identity Document (ID) of the applicant (company owners).
- c) Certified copy of the Certificate of good standing with the Social Security Commission (SSC) and the Namibia Revenue Agency (NamRA).
- d) A Certified copy of a Health or Fitness certificate issued by the Ministry of Health and Social Services (MoHSS) or Local authority for the facility where fresh fruits and vegetables will be handled, stored, and packaged. Only applicable in cases where the trade of fresh fruits and vegetables is to be done from a facility.
- e) The facility will be inspected by the Namibian Agronomic Board (NAB) to verify whether the facility has adequately and successfully implemented a food safety management system meeting the requirements of NAMS/SANS 10049 – Food Safety Management: Requirements for Prerequisite Programmes (PRP's), based on the NAB checklist. Only applicable in cases where the trade of fresh fruits and vegetables is to be done from a facility.
- f) The six (6) months planting agreement was signed by both parties i.e. the producer or supplier of 100% Namibian fresh produce.
- g) All first-time importers of horticultural-controlled products shall be required to pay twice the applicable levies for both the import and selling levies in advance, based on the monetary value declared to be imported for the first time.
- h) Once the monetary value of the first permits has been exhausted, levies shall be paid monthly once the monthly returns are submitted to NAB.
- i) In line with the MSP Scheme rules and procedure, all new traders shall be issued with a trade annual license for the sale of horticultural products and shall be valid for twelve (12) months, subject to renewal at least three (3) months before the commencement of the new license period. All conditions for renewal as determined by the NAB must be fully complied with before the new license is issued.

4.2 Exporter and Transitters of controlled horticultural products

All Exporters and Transitters of controlled horticultural products shall be registered upon permit application.

5. PERMIT APPLICATION

- 5.1 An application for an import, export, and transit permit for controlled horticultural products, as the case may be under these rules and procedures, shall be made to the authorized NAB official via the online permit application system or manually.
- 5.2 Such application shall contain such information and shall be accompanied by such documents as may be specified by the NAB.
- 5.3 No import, export, and transit permit shall be issued at the port of entry offices; all permits should be obtained from the authorized NAB official as prescribed.



6. ISSUANCE OF PERMITS

- 6.1 Where the authorized NAB official is satisfied that an applicant for a permit is fit and the applicant has complied with all the conditions specified for the issuance of a permit for horticultural products.
- 6.2 Horticultural import permits are issued for fresh fruits and vegetables (raw whole, cut, and frozen), excluding ready-to-eat meals, canned or bottled processed products, and dried products. Dried products exclude dates and fruits that require a permit.
- 6.3 Import permits shall only be issued for special controlled horticultural (fresh raw or cut) products during the open border periods.

7. IMPORTATION OF CONTROLLED HORTICULTURAL PRODUCTS

- 7.1 All horticulture (fresh fruits and vegetables) import permits shall be strictly issued to registered commercial importers and in line with the MSP Scheme, whereby importers are required to source a minimum % of their total turnover from the local producer before an import permit is issued.
- 7.2 Mixed Fruits and vegetable imports shall be issued for general import of horticultural products that do not form part of the special controlled products and the Special import permits are issued separately from other horticultural products.
- 7.3 The special import permit shall be issued for the special controlled products during the open border period and no permit shall be issued during the closed border period.
- 7.4 Once the permissible import value is calculated, an importer will be issued with a quarter import permit stating the value qualified to be imported.
- 7.5 The mixed fruits and vegetable import permit shall be valid for a maximum fixed period of 90 days or 3 months, and shall be issued per consignment issued, while the Special import permit shall be valid for a fixed maximum period of 30 days or one (1) month and it issued per consignment.
- 7.6 At the port of entry, the Border Control Inspector shall verify the documentation of all consignments of controlled horticultural products to ensure that the permit conditions are complied with and physical inspections shall be done at the first point of offloading. Physical inspection of products at the port of entry should be carried out only when necessary and without compromising the cold chain.
- 7.7 Importation of controlled horticultural products shall be accompanied by the following documents, for each consignment:
- A valid NAB import permit, in the name of the registered importer.
 - Supplier invoice for applicable controlled horticultural products, including detail required by the permit (Supplier invoices shall contain the name and address of the supplier and consignment, invoice date, invoice number, name of the specific products, quantities (kg) or container size, and monetary values of the consignment to be imported or any other relevant information as required on the permit).
 - A phytosanitary certificate, where applicable.
 - Import Authorisation issued by the Ministry of Agriculture, Water and Land Reform (MAWLR).
- 7.8 All consignments to be inspected inland shall be sealed by NAB Inspectors at the port of entry and unsealed again by NAB Inspectors at the first offloading point. In the event of mixed loads containing fruit and/or vegetables with meat products, this consignment shall be unsealed by both regulatory body's representatives where applicable. Alternatively, the trader should obtain consent from either party in the event the other party is unavailable.



- 7.9 Vessels carrying imported horticultural products shall be considered as a consignment, despite the number of containers and there shall be no other import permit required to transport the product from the Namibian port to the final destination within the boundaries of the Republic of Namibia.
- 7.10 Once the NAB Inspector is satisfied with the compliance of the consignment being imported to the import requirements, a border receipt shall be issued to the importer.
- 7.11 Copies of all import documents shall be made at the entry border by the NAB Inspectors for record purposes and the levies.
- 7.12 The NAB import requirements for horticultural products are not final and therefore, importers must ensure to comply with the import requirements of other cross-border regulatory agencies.
- 7.13 Monthly before the 10th of each month, importers/traders are required to submit their monthly returns for fresh produce sourced from local producers and imported, captured into the MSP Excel sheet to calculate MSP%.

8. SMALL-SCALE IMPORTATION OF CONTROLLED HORTICULTURAL PRODUCTS FOR COMMERCIAL USE

- 8.1 Any person importing not more than N\$15,000.00 worth of horticultural products per month for commercial purposes shall be classified as a small-scale importer.
- 8.2 Small-scale importers shall be required to obtain an import permit for each consignment and such importers shall not be required to comply with MSP requirements.
- 8.3 No importation of Special Controlled Products (SCP) shall be allowed during the closed border periods.

9. IMPORTATION OF CONTROLLED HORTICULTURAL PRODUCTS FOR PERSONAL USE

- 9.1 The following horticultural products may be imported for household consumption/personal use without an import permit, provided they do not exceed the maximum allowable quantities and are declared on the border.

Key: PP-per person, PM-per month, PW-per week

Product Type	Maximum allowable quantities
Root and tuber vegetables (e.g. carrots, potatoes, sweet potatoes, etc.)	1 bag pp pm or equivalent not exceeding 10kg
Stem vegetables (e.g. asparagus)	1 bag pp pw or equivalent not exceeding 2kg
Leafy vegetables (e.g. cabbage, lettuce, spinach, rape, etc.)	2 heads pp pw or leaf vegetables not exceeding 1kg pp pw
Bulb vegetables (e.g. onions, garlic)	1 bag pp pm or equivalent not exceeding 10kg
Fruit vegetables (e.g. tomatoes, sweet peppers, etc.)	1 bag pp pw or equivalent not exceeding 2kg
Tropical/subtropical fruits (e.g. oranges, bananas, apples, pears, avocado, etc.)	1 bag pp pm or equivalent not exceeding 10kg
Pulses (e.g. green beans)	1 bag pp pw or equivalent not exceeding 1kg

Horticultural products imported for household use shall not be allowed to be imported as a group or through other persons. Importation of horticultural products for household consumption per family shall not exceed 20kg per month, and no import permit is required; however, such consignments shall be recorded by NAB Border Control Inspectors for monitoring purposes. The NAB Border Control Inspector shall maintain a register containing all relevant information such as name,



ID/passport, vehicle registration, and the quantity imported.

10. IMPORTATION OF CONTROLLED HORTICULTURAL PRODUCTS FOR DONATION

- 10.1 In times of a declared state of emergency, e.g. disease/pandemic outbreaks, drought, flood, etc.; the NAB may decide that permits be issued to the Government or other organisations for the importation of donated controlled agronomic and horticultural products for humanitarian purposes, after due consideration of the impact of such on the local market.
- 10.2 Importers of the donated controlled horticultural products shall be required to submit a written request by way of completing the prescribed form and attach the applicable documents for the NAB's consideration.
- 10.3 Once such a request has been approved by NAB, the importer shall be required to apply for an import permit for statistical and control purposes. The normal import permit procedures shall apply.
- 10.4 The consignment with all the relevant and applicable documents will be receipted at the port of entry by NAB Inspectors.
- 10.5 The consignment shall be inspected at the first point of offloading in Namibia.
- 10.6 Donated consignments shall be exempted from NAB permit fees and levies provided that the import rules and procedures are fully adhered to.
- 10.7 Donated products shall not be sold in Namibia and shall only be used for the intended purpose.
- 10.8 The importers shall be required to comply with the import requirements of other cross-border regulatory agencies since the NAB permit is not final.
- 10.9 The NAB board reserves the right to refuse the importation of controlled horticultural products if such imports may be detrimental to the local market.

11. IMPORTATION OF CONTROLLED HORTICULTURAL PRODUCTS FOR ANIMAL FEED

- 11.1 Feed-grade controlled horticultural products may be imported for animal feed, upon obtaining written approval from the NAB.
- 11.2 The importer shall obtain a trade import permit from NAB stating that the purpose of importing is for animal feed use only.
- 11.3 The importer shall be required to pay the permit fee, before submitting a permit application.
- 11.4 The import permit shall only be issued once the proof of payment has been received.
- 11.5 No levies shall apply to products imported for animal feed, provided such products are strictly not used for human consumption.
- 11.6 The imported consignment shall be receipted by NAB Inspectors at the entry border, subject to the validity of the permits and submission of the required import documents.
- 11.7 Any other import documents/permits required by other regulatory border agencies or ministries must be obtained.
- 11.8 The importer shall be responsible for the cost of inspections which includes transport, meals, and accommodation, based on NAB rates.
- 11.9 Accommodation costs shall only be applicable in situations where overnight is necessary for the Inspector due to distance from the duty station.
- 11.10 The importer will be invoiced for the application based on a total of three (3) inspections. The first inspection will be done during offloading of the consignment and the remaining two inspections will be unannounced.



- 11.11 The import requirements stated under point 7.8 must be complied with fully and in terms of horticultural products imported for animal feed, the feed grade certificate must be obtained from the country of origin and it must clearly state the product being imported is feed grade.
- 11.12 The NAB will physically verify the imported grain at the first offloading point to make sure that the product is indeed feed grade.

12. EXPORTATION OF CONTROLLED HORTICULTURAL PRODUCTS

- 12.1 Exporters of all controlled horticultural products thereof shall be registered upon permit application and after registering as a web user for the online permit application.
- 12.2 The export permit application shall be done via the online permit application and manual application shall only be accepted when the system is offline or in special cases.
- 12.3 The export permit shall be valid for 21 days and issued per consignment.
- 12.4 Food safety sampling and product conformity inspection may be conducted as the NAB board may determine.
- 12.5 The NAB shall verify documents at the exit border were applicable.
- 12.6 All supplier invoices must contain the name and address of the supplier and consignment, invoice date, invoice number, name of the specific products, quantities (kg) or container size, and monetary values of the consignment to be exported.
- 12.7 Export permit receipt shall be issued at the exit border for each consignment exported.
- 12.8 There shall be no restriction on exports, even though producers are required to prioritise local markets.
- 12.9 Exportation of controlled horticultural products shall be accompanied by the following documents, for each consignment:
- A valid export permit, in the name of the registered exporter;
 - Supplier invoice for applicable controlled horticultural products, including detail required by the permit; and
 - A phytosanitary certificate, issued by the Ministry of AWLR.
- 12.10 The NAB export requirements for horticultural products are not final and therefore, exporters must ensure to comply with the export requirements of other cross-border regulatory agencies.

13. TRANSIT OF CONTROLLED HORTICULTURAL PRODUCTS

- 13.1 Transit permits shall be issued to all controlled horticultural products in transit through Namibia to other neighbouring countries, upon permit application and after registering as a web user for the online permit application.
- 13.2 All transit permits shall be valid for 21 days and all consignments entering Namibia shall exit within 48 hours from the time an entry receipt has been issued, unless such consignment will be stored in a bonded warehouse, and concession fees are applicable in such cases for control purposes.
- 13.3 In the event, that the exit period of a transit consignment has been delayed due to unforeseen circumstances, then the permit holder shall immediately inform the NAB Border Control Inspectorate.
- 13.4 Converting transit consignment for controlled horticultural products as an import into Namibia shall only be allowed if a company doing the in transit is already registered as a horticulture trader in Namibia, with a valid trading license and all the import requirements shall be fully complied with in



such cases, and no converting of transit consignment shall be allowed during a close border period of the specific products.

- 13.5 Converting of transit consignments shall not be permitted if the applicant for conversion is not the permit holder.
- 13.6 Document verification shall be carried out at the entry and exit border post and all transit consignments shall be sealed at the entry border post and verification of seals shall be done at the exit border.
- 13.7 A permit receipt shall be issued at the entry and exit border post.
- 13.8 Trans loading will only be allowed in the presence of NAB officials and at designed premises.
- 13.9 All supplier invoices shall contain the name and address of the supplier and consignment, invoice date, invoice number, name of the specific products, quantities (kg) or container size, and monetary values of the consignment to be in transit.
- 13.10 Transit of controlled horticultural products shall be accompanied by the following documents, for each consignment:
 - NAB Transit Permit
 - NAB Transit entry and exit receipts
 - Supplier invoice
 - Phytosanitary certificate
 - Import permit to the country of destination
 - Import Authorisation issued by the Ministry of AWLR.
- 13.11 Each vessel shall be treated as one consignment in terms of 13.10, and each truck or vehicle transporting horticultural products via Namibia from the port to other countries shall also be accompanied by the documents referred to in 13.10.
- 13.12 All flatbed transit trucks shall be installed with hooks for sealing; and have a cargo net and a nylon cargo carrier cover that covers the cargo.
- 13.13 The NAB transit requirements for horticultural products are not final and therefore, Transitters must ensure to comply with the transit requirements of other cross-border regulatory agencies.

14. TRANSPORTATION

- 14.1 All controlled horticultural products must be transported in clean trucks without any risk of product contamination that can compromise food safety and hygiene.
- 14.2 Cattle trucks used to transport horticultural products must be clean and accompanied by a relevant disinfection certificate issued by the authorised authority, and the consignment must be physically covered.

15. FEES AND LEVIES

- 15.1 All importation of controlled horticulture products (fresh raw whole or cut products) for commercial use is subject to levies and no permit fees are applicable.
- 15.2 Importers of controlled products shall pay a general levy to the Board per the applicable *Government Gazette*.
- 15.3 In cases where a client fails to give a supplier invoice or proof of payment as proof of the actual transport cost incurred, to calculate the levies referred to under 15.2, the transport cost will be estimated at 10% of the import price.



- 15.4 No levies are applicable on frozen or dried (excluding dates) horticultural products, but a permit fee is applicable.
- 15.5 A permit fee is payable on controlled horticultural products imported for personal use and animal feed.
- 15.6 No import permit fee applies to controlled horticultural products imported for donation.
- 15.7 Exportation products shall be subject to a permit fee, and no levies applicable.
- 15.8 Transit permits shall also be subjected to permit fees, inspection fees, and optional trans-loading fees. Transit inspection fees shall be charged based on truck types i.e. tautliner, flatbed, and cooler truck. No levies apply to transit consignments.
- 15.9 Product conformity Inspection and sampling fees may be charged for the exportation of horticultural products as the board may determine.
- 15.10 Clients with outstanding fees and levies shall not be issued with any permit, until such time when the amount has been paid.
- 15.11 All export and transit fees shall be paid on the application for a permit, and no permits shall be issued on credit or account, unless permitted by the head of the Finance Division, in line with the NAB debt policy.
- 15.12 For small-scale commercial importers, permit fees and levies shall be paid upon application for an import permit. The permit fee for consignment imported for personal use shall also be paid upon issuance of the permit.
- 15.13 All Concession fees of N\$100 000.00 are payable for consignment temporally kept at a non-bounded warehouse, that will be guarded by NAB inspectors, and a guarding fee of N\$700.00 per day shall be charged. The NAB will deduct the levies and all fees due should a controlled product in transit get sold in local markets. The concession fee is refundable, in cases where the company ceases business or with keeping controlled products in a non-bounded warehouse, provided the client has no outstanding levies or fees.
- 15.14 All the above-mentioned fees are subject to changes on an annual basis, and the NAB undertakes to publish all new fees on its website before the commencement of a new financial year.

16. OFFENCES AND PENALTIES

The following guidelines shall apply when handling non-compliances, in terms of Table 2 below:

- (i) The warning shall indicate the nature of the offense, the penalty, and the implications if further offenses are committed by the offender.
- (ii) The offender shall sign the warning acknowledging guilt and agreement to conditions of frequent physical inspections of their premises/trucks.
- (iii) In case of failure to declare a controlled product at the entry or exit border post, the consignment shall be confiscated and donated to a charity organization once the food safety aspect has been verified and if there are food safety non-compliances, the confiscated products must be discarded.
- (iv) The offender referred to under point (iii) shall be subjected to frequent physical inspections at each border of entry or first offloading points for a duration equivalent to half of the warning period; whereas extra costs associated with such frequent physical inspections will be payable by the offender.
- (v) Any suspension of registration as an importer, exporter, and transiter shall be for a period not exceeding twelve (12) months.



- (i) Any cancellation of permits shall only come into effect five (5) working days after the notification, to make provision for consignments that might already have been bought and paid for by the permit holder.

Table 2: Offences and penalties schedule.

The offenses and penalties listed hereunder will be applied as guidelines and are by no means exhaustive. The penalties contained in this table offer guidelines on how non-compliance will be treated.

Nature of Offence	Penalty (First Offence)	Penalty (Second Offence)	Penalty (Third Offence)
1. Offenses relating to registration as an importer, exporter, and transiter:			
a. Falsifying registration documents.	Final Warning valid for six (6) months, plus provide correct documents	Suspend for twelve (12) months	
b. Providing false information.	Final Warning valid for six (6) months, plus provide correct information	Suspend for six (6) months.	
c. Failure to comply with conditions of registration as an importer, exporter, and transiter.	Written warning valid for three (3) months plus compliance with the specific conditions	Final Written warning valid for twelve (12) months plus compliance with the specific conditions	Suspend registration for three (3) months
d. Trading and processing agronomic products without a valid license.	Close down the business until such time when a valid license is obtained		
e. Failure of transit consignments to exit within 48 hours	Final written warning valid for twelve (12) months.	Suspend the issuance of transit permits for six (6) months	
f. Failure to provide information on the whereabouts of the transit consignment	Suspended for twelve (12) months; de-registration. Plus, levies payable		
g. Leaving the port of entry without seals	Written warning valid for 3 months, plus compliance with the specific conditions	Final Written warning valid for 12 months plus compliance with the specific conditions	Suspend the issuance of transit permits for three (3) months
2. Permit application and issuance-related offenses:			

Commented [ES1]: The 48 hours provided for in this offence and penalty section is not realistic due to the nature of the clearance processes at the ports of entry. The consignment may be cleared by the NAB, but may face delays at the other border agencies while the 48 hours count-down has commenced on AMID. This creates a scenario whereby the consignment arrives within two days at the ports of exit, but still indicated as exceeded exit. This creates a situation whereby there will have to be on average 30 to 50 warning letters to be issued to traders even though 90% of the time the delay is not within their control. Hence the recommendation to review the 48 hours timeline and align with other border agencies e.g. MAWLR. However, this leaves a risk of transmitters being relaxed and possible smuggling.

Commented [ES2]: Another option: Instead of having a penalty of a warning. After 48 hours have lapsed there should be a reporting mechanism within the space of 24 hours to establish the reasons of the delay, which is possible based on the monitoring mechanism implemented by the NAB; then the NAB can waive the penalty based on the type of delay of the consignment. E.g. breakdown, delayed payments etc.

Commented [ES3]: Proposed sanction: Final warning valid for 12 months. Coupled with 100% percent inland inspection for a period of six months. This is a very serious offence because it has a high risk of illegal importations and smuggling.



Nature of Offence	Penalty (First Offence)	Penalty (Second Offence)	Penalty (Third Offence)
a. Failure to provide true information on the permit application.	Written warning valid for three (3) months plus provide correct information	Final Written warning valid for twelve (12) months plus provide the correct information	Suspend registration for three (3) months
b. Transfer or sell a permit to another person.	Final Written warning valid for twelve (12) months plus such permits shall not be accepted at the NAB	Suspend registration or permit holder for three (3) months	
3. Offenses relating to inspections:			
a. Presentation of tampered/canceled permit documents at entry or exit border post.	Final Written warning valid for twelve (12) months plus reject such permits, until when the correct permit is obtained	Suspend registration for six (6) months	
b. Failure to indicate or provide specified information on the supplier invoices such as the name of the product, weight, value, etc.	Written warning valid for three (3) months plus non-compliance to be corrected	Final Written warning plus non-compliance to be corrected	Suspend registration for two (2) weeks, plus non-compliance to be corrected
c. Exceeding the stipulated permit value and tonnage.	Written warning valid for three (3) months plus non-compliance to be corrected before the consignment is released.	Final Written warning valid for twelve (12) months plus non-compliance to be corrected before the consignment is released	Suspend registration for two weeks, plus non-compliance to be corrected before the consignment is released
d. Undervalue of controlled products.	Written warning valid for three (3) months plus non-compliance to be corrected	Final Written warning valid for twelve (12) months plus non-compliance to be corrected	Suspend registration for six (6) months plus non-compliance to be corrected
e. Failure to obtain a border receipt at NAB Border offices.	Written warning valid for three (3) months plus a receipt to be obtained	Final Written warning valid for twelve (12) months plus a receipt to be obtained	Suspend registration for two (2) months plus a receipt to be obtained
f. Obstruct, hinder, or delay an Inspector or Officer from performing his/her duties.	Final Written warning valid for twelve (12) months plus allow the	Suspend registration for three (3) months	

Commented [ES4]: This offence should not necessarily warrant punitive measures such as warning etc.

Proposed sanction: Refuse entry and request for correction or compliance.

Commented [ES5]: The penalty should be multi-faceted:

At the port of entry: Refuse entry and request correction for compliance

Inland or at the premises: Proposed sanction is final written warning and correction requested. Very high risk in terms of levies and invoicing.

Commented [ES6]: Add proposed sanction: No offloading or Inland inspection until such consignment can provide border receipt/clearance. Reason is that there is no proof that the consignment was cleared legitimately at the port of entry.

For Transit: Proposed sanction is that the consignment should not be allowed to proceed/exit, until border receipt for the port of entry is obtained. Warning valid for 6 months



Nature of Offence	Penalty (First Offence)	Penalty (Second Offence)	Penalty (Third Offence)
	Inspector/Officer to perform his duties		
g. Failure to declare a controlled product at entry or exit border or premises.	Written warning valid for three (3) months plus confiscate the product and pay all levies/fees due <u>Final Written warning valid for twelve months plus reject such permits, until when the correct permit is obtained</u>	Final Warning plus confiscate the product and pay all levies/fees due	Suspend registration for six (6) months, Confiscate the product, and levies/fees due must be paid.
h. Importing a controlled product into Namibia without a valid permit or license.	Final Warning valid for twelve (12) months plus confiscate the product; all levies/fees due must be paid. In a case where the product is sold before it can be confiscated, issue a final warning and charge applicable levies/fees	Suspend registration/license for six (6) months, plus all levies/fees due must be paid.	
i. Refuses to answer any questions put to him or her by an inspector/officer in the course of his or her duties.	Written warning valid for 3 months plus answer any questions from the Inspector/Officer <u>Suspend registration for one (1) month</u>	Final Written warning plus answer any questions from the Inspector/Officer	Suspend registration for one (1) month
j. Prevents the inspector from searching the premises to ascertain whether a controlled product is present.	Suspended registration for three (3) months, and allow Inspector to search premises	Suspend registration for three (3) months	
k. Tamper with, destroy, or in any way alter anything seized by an inspector in the exercise of his or her powers. Or removes detained or confiscated goods from premises where the first inspection was conducted.	Suspended registration for three (3) months		
l. Unsealing a consignment of controlled products without permission from the NAB Inspector.	Final written warning valid for 12 months. <u>Suspend registration for one (1) month</u>	Suspended registration for three (3) months	

Commented [ES7]: The final warning is based on the level of risk posed by not declaring products at port of entry.

Commented [ES8]: Providing information for the purpose of investigation or establishment of facts is very critical. Hence, the three months warning is too light compared to the implications and risks involved if critical information is not provided to the inspector.

Commented [ES9]: Unsealing of consignments without the presence of inspectors or authorization deprives the NAB from properly exercising its mandate and ensuring compliance to the regulatory framework.

Nature of Offence	Penalty (First Offence)	Penalty (Second Offence)	Penalty (Third Offence)
<u>m. Transloading of transit consignments without authorization and supervision of from the NAB</u>	<u>Suspend registration for three (3) months and transloading permit fees to paid in full.</u>		
4. Offences related to submission of specified information:			
a. Fail to submit and keep specified records concerning the controlled products.	First Written warning valid for three (3) plus submission of the specified records. Failure of which may result in further action;	Final Written warning valid for twelve (12) months, plus submit the outstanding records	Suspend registration for three (3) months, plus submit the specified records
b. Failure to furnish the NAB with specified information or returns in a specified manner and at specified times.	First Written warning valid for three (3) months plus submission of the returns	Final Written warning plus submit the outstanding returns, with specified information	Suspend registration for three (3) months, plus submit the returns
c. Falsification of information related to returns submitted to the NAB.	Final Written warning valid for twelve (12) months plus correct.	Suspend registration for three (3) months	
5. Offences related to levies/fees:			
a. Outstanding levies/fees over 60 days plus.	No new permit shall be issued, plus cancel all valid permits until such time there is compliance.		
b. Submitting forged proof of payment	Suspend registration for twelve (12) months, plus the outstanding amount to be paid in full		

Commented [ES10]: It is very high-risk violation or poses a high risk of smuggling and food safety risks. Transloading of consignments without the presence of inspectors or authorization deprives the NAB from properly exercising its mandate and ensuring compliance to the regulatory framework.

17. APPEAL PROCEDURES

The purpose of this section is to ensure that appeals submitted to the Board in respect of illegally imported products are dealt with most efficiently and effectively. Therefore, the following appeal procedures shall apply:

17.1 Appeal procedures to the Board

- (i) Should the offender refuse to sign either the first, second, or third written warnings, this does not warrant any of these written warnings invalid but is subject to a formal appeal process.
- (ii) The offender may appeal to the Board chairperson in writing against any of the written warnings within five (5) working days from the date of issuance of such written warnings.



- (iii) The Board may convene an arbitral panel of three (3) adjudicators to resolve a dispute by way of arbitration.
- (iv) If the offender refuses to sign the warning and also fails to appeal within the specified time frame, the Board shall execute its powers (1) to cancel all existing import permits issued to the offender; and (2) to refuse the issuance of new import permits to the offender until such time that the warning letter is signed in terms of Sections 10(n)(i) and (p)(i) of the Agronomic Industry Act, (Act 20 of 1992).

17.2 Appeal against the decision of the Board

Subject to Section 11 of the Agronomic Industry Act, (Act 20 of 1992) where under this Act a decision of the Board is subjected to a right of appeal to the Minister, the person aggrieved by the decision may within fourteen days after notification of the decision, appeal with the Minister, who may confirm, vary or set aside the decision as he or she deems fit.

ANNEXURE A

LIST OF CONTROLLED HORTICULTURAL PRODUCTS (RAW AND PRIMARY PROCESSED)

1	Apple	32	Grape	61	Pineapple
2	Apricot	33	Guava	62	Plum
3	Artichoke	34	Horseradish	63	Pomegranate
4	Asparagus	35	Jack fruit	64	Pomelo
5	Avocado	36	Kholrabi	65	Potato
6	Banana	37	Kiwi fruit	66	Prickly pear
7	Beetroot	38	Kumquat	67	Pummelo
8	Blackberry	39	Leaf lettuce	68	Pumpkin
9	Boer Bean (Broadbean)	40	Leek	69	Quince
10	Butternut	41	Lemon	70	Radish
11	Cabbage	42	Lime	71	Raspberry
12	Carrot	43	Litchi	72	Rhubarb
13	Celery	44	Loganberry	73	Sage
14	Chayote	45	Loquat	74	Seville orange
15	Cherry	46	Maize	75	Shallot
16	Chicory	47	Mandarin orange	76	Sourfig
17	Chili	48	Mango	77	Spinach
18	Chive	49	Maranka	78	Strawberry
19	Coriander	50	Medlar	79	Sweet marjoram
20	Crisp mint	51	Mulberry	80	Sweet melon
21	Cucumber	52	Mushroom	81	Sweet potato
22	Custard apple	53	Nectarine	82	Thyme
23	Date	54	Onion	83	Tomato
24	Eggfruit	55	Orange	84	Tree tomato
25	Endive	56	Parsley	85	Turnip
26	Fennel	57	Parsnip	86	Watermelon
27	Fig	58	Pawpaw		
28	Garlic	59	Pea all varieties		
29	Gem squash	60	Peach		
30	Ginger	61	Pear		
31	Granadilla	62	Pepper		