



18 December 2019

(19-8826)

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Committee on Sanitary and Phytosanitary Measures

Original: English

NOTIFICATION

1. Notifying Member: <u>AUSTRALIA</u> If applicable, name of local government involved:
2. Agency responsible: Food Standards Australia New Zealand (FSANZ)
3. Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): Food for retail sale in Australia in which caffeine is present as a concentration of: (i) 5% or greater - if the food is a solid or semi-solid food; and (ii) 1% or greater - if the food is a liquid food.
4. Regions or countries likely to be affected, to the extent relevant or practicable: <input checked="" type="checkbox"/> All trading partners <input type="checkbox"/> Specific regions or countries:
5. Title of the notified document: Final Consideration Report - Urgent Proposal P1054 - Pure and highly concentrated caffeine products. https://www.foodstandards.gov.au/code/proposals/Pages/P1054.aspx . Language(s): English. Number of pages: 48
6. Description of content: To protect human safety and health, Food Standards Australia New Zealand (FSANZ) has approved - as an interim emergency measure - an amendment to the <i>Australia New Zealand Food Standards Code</i> to prohibit the retail sale of foods in which total caffeine is present in a concentration of 5% or more (if the food is a solid or semi-solid food) or 1% or more (if the food is a liquid food). This decision followed a recent death in Australia caused by ingestion of pure or highly concentrated caffeine powder. The decision is based on a risk assessment that confirmed that pure and highly concentrated caffeine food products sold at retail directly to consumers pose an immediate and acute health and safety risk. The ingestion of small amounts of pure and highly concentrated caffeinated substances can result in death or severe health effects. This interim measure comes into force in December 2019. FSANZ will review this interim emergency measure and decide within 12 months whether to affirm, amend or repeal the measure, taking into account comments by WTO members received as a result of this notification. Australia is notifying this interim measure under both TBT and SPS Agreements as caffeine cannot be considered to be an additive for the purposes of the SPS Agreement in relation to all food stuffs - such as pure caffeine products in which it is the primary ingredient. The latter would be covered the TBT Agreement (and not the SPS Agreement).

7.	<p>Objective and rationale: <input checked="" type="checkbox"/> food safety, <input type="checkbox"/> animal health, <input type="checkbox"/> plant protection, <input type="checkbox"/> protect humans from animal/plant pest or disease, <input type="checkbox"/> protect territory from other damage from pests. The objective and rationale is the urgent protection of human health from immediate and acute risk posed by the sale of pure or highly purified forms of caffeine to consumers.</p>
8.	<p>Is there a relevant international standard? If so, identify the standard:</p> <p><input type="checkbox"/> Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text):</p> <p><input type="checkbox"/> World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number):</p> <p><input type="checkbox"/> International Plant Protection Convention (e.g. ISPM number):</p> <p><input checked="" type="checkbox"/> None</p> <p>Does this proposed regulation conform to the relevant international standard?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, describe, whenever possible, how and why it deviates from the international standard:</p>
9.	<p>Other relevant documents and language(s) in which these are available: <i>Australia New Zealand Food Standards Code</i> (English)</p>
10.	<p>Proposed date of adoption (dd/mm/yy): 12 December 2019</p> <p>Proposed date of publication (dd/mm/yy): 12 December 2019 The date of adoption and entry into force for the urgent measure is 12 December 2019. Note that FSANZ will review this interim emergency measure within 12 months. Notification of the final measure incorporating changes resulting from the review will follow.</p>
11.	<p>Proposed date of entry into force: <input type="checkbox"/> Six months from date of publication, and/or (dd/mm/yy): As above the date of adoption and entry into force for the urgent measure is 12 December 2019. Note that FSANZ will review this interim emergency measure within 12 months. Notification of the final measure incorporating changes resulting from the review will follow.</p> <p><input type="checkbox"/> Trade facilitating measure</p>
12.	<p>Final date for comments: <input type="checkbox"/> Sixty days from the date of circulation of the notification and/or (dd/mm/yy): 16 February 2020</p> <p>Agency or authority designated to handle comments: <input checked="" type="checkbox"/> National Notification Authority, <input type="checkbox"/> National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</p> <p>Food Standards Australia New Zealand PO Box 5423 KINGSTON ACT 2604 Australia Fax: +(61 2) 6271 2278 E-mail: standards.management@foodstandards.gov.au</p>

13. Text(s) available from: National Notification Authority, National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

<https://www.foodstandards.gov.au/code/proposals/Pages/P1054.aspx>

Copies are also available from:

The Australian SPS Contact Point
GPO Box 858
CANBERRA ACT 2601
AUSTRALIA
Email: sps.contact@agriculture.gov.au