NOTIFICATION

The following notification is being circulated in accordance with Article 10.6

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| **1.** | **Notifying Member:** Australia  **If applicable, name of local government involved (Article 3.2 and 7.2):** |
| **2.** | **Agency responsible:** Food Standards Australia New Zealand (FSANZ)  **Name and address (including telephone and fax numbers, email and website addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:**  Department of Foreign Affairs and Trade email: [tbt.enquiry@dfat.gov.au](mailto:tbt.enquiry@dfat.gov.au) website: [www.dfat.gov.au](http://www.dfat.gov.au) |
| **3.** | **Notified under Article 2.9.2 [****X],** **2.10.1 [****],** **5.6.2 [****],** **5.7.1 [****],** **other****:** |
| **4.** | **Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):** Food for retail sale in Australia in which caffeine is present at a concentration greater than: (i) 5%—if the food is a solid or semi-solid food; and (ii) 1%—if the food is a liquid food |
| **5.** | **Title, number of pages and language(s) of the notified document:** Final Consideration Report for Urgent Proposal P1054 - Pure and highly concentrated caffeine products. (49 page(s), in English) |
| **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 *Australia New Zealand Food Standards Code* 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.** | **Objective and rationale, including the nature of urgent problems where applicable:** 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.; Protection of human health or safety |
| **8.** | **Relevant documents:**   * Australia New Zealand Food Standards Code (English) |
| **9.** | **Proposed date of adoption:** 12 December 2019; The date of adoption and entry into force is 12 December 2019.  **Proposed date of entry into force:** 12 December 2019; The date of adoption and entry into force for the urgent measure is 12 December 2019. Note that FSANZ will reveiw this interim emergency measure within 12 months. A notification of the final measure incorporating changes resulting from the review will follow. |
| **10.** | **Final date for comments:** 60 days from notification; The final date for comments is 16 February 2020. |
| **11.** | **Texts available from: National enquiry point [****X]** **or address, telephone and fax numbers and email and website addresses, if available, of other body:**  Documents are available from the Food Standards Australia New Zealand website:  <https://www.foodstandards.gov.au/code/proposals/Pages/P1054.aspx> |