

EUROPEAN COMMISSION
HEALTH & CONSUMERS DIRECTORATE-GENERAL

Directorate G - Veterinary and International Affairs
G6 - Multilateral International Relations

Brussels,
SANCO G6 EBP/ise D(2011) 1179461


To:	SPS Notification Authority of Australia GPO Box 858 Canberra ACT 2601	Telephone:	+(612) 6272 5446
		Fax:	+ (612) 6272 36787
		E-mail:	sps.contact@daff.gov.au
From:	Ella Strickland EU SPS Notification Authority SANCO/G6 F101 2/68	Telephone:	+ 32 2 2993030
		Fax:	+ 32 2 2998090 + 32 2 2998566
Copy to:	EU Delegation in Canberra 18 Arkana Street, Yarralumla Canberra ACT 2600	Telephone:	+ (61-2) 627 127 77
		Fax:	+ (61-2) 627 344 45
		E-mail:	australia@de.laus.ec.europa.eu
<hr/>			
	J. HIVONNET T. EMMERLING O. SITAR ENTR-EU-TBT VAN GOETHEM BERNARD TERZI LORENZO ERIC POUDELET VAN DYCK KOEN SANCO SPS TRADE-EU-SPS	DEL GENEVA ENTR/C3 SANCO/G SANCO/G7 SANCO/E SANCO/G4 SANCO/G6 TRADE /C1	Fax: + 41 22 734 22 36 B100 6/09 B232 3/85 B232 2/94 B232 4/89 B232 4/116 F101 2/68 CHAR 9/28

Subject: EU comments on the legal draft notified in document G/SPS/N/AUS/272

Dear Sir/Madam,

Please find attached the EU comments on the draft regulatory text notified to the WTO in G/SPS/N/AUS/272.

It would be very much appreciated if any reply to this letter were also copied to the EU Delegation in Canberra.


Ella Strickland
EU SPS Notification Authority

COMMENTS OF THE EUROPEAN UNION TO THE LEGAL DOCUMENT NOTIFIED BY AUSTRALIA TO THE SECRETARIAT OF THE WTO AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES UNDER CODE G/SPS/N/AUS/272 ON THE PROPOSAL P1007 - PRIMARY PRODUCTION AND PROCESSING REQUIREMENTS FOR RAW MILK PRODUCTS

The European Union (EU) would like to thank Australia once again for the opportunity to comment on the second assessment report on primary production and processing requirements for raw milk products (Australia only), issued by Food Standards Australia New Zealand (FSANZ). As an interested party, the EU has submitted comments since the release of the discussion paper in August 2008.

The EU is pleased to note that Australia is engaged in the process of enabling a greater range of dairy products to be produced in, or imported into, Australia including the establishment of generic criteria allowing for certain raw milk products to be placed on the market, by amending the current Australian dairy processing requirements in Standard 4.2.4 - Primary Production and Processing Standard for Dairy Products.

However, the EU considers the current Standard overly restrictive and believes that there is a large margin for modernizing its requirements by virtue of a less prescriptive approach. This could be accomplished on the basis of relevant international standards, and in particular those set by the Codex Alimentarius Commission, for example, CAC/RCP 57-2004 (Code of Hygienic Practice For Milk And Milk Products) or CAC/GL 21 – 1997 (Principles for the Establishment and Application of Microbiological Criteria for Foods). This will enable Australia to fulfil the dual objectives of allowing consumers to access a great variety of dairy products while maintaining a high level of public health and safety for the Australian population.

The EU has understood, in relation to the first assessment report, that Australia has switched its preferred approach from Option 3 (amend the Code to allow for Category 1 & 2 products) to Option 2 (amend the Code to allow for Category 1 products only), while a process for permitting Category 2 products will be dealt with in a separate new proposal, to be prepared at the end of 2011.

The EU finds the outcome of the second assessment report somewhat disappointing and limited in relation to its expectations (transmitted in the EU comments on the first assessment report), and encourages Australia to continue the process of reviewing its requirements for raw milk products.

The EU notes that Australia intends to incorporate the assessment work for Category 2 products already undertaken, into the new proposal for permitting Category 2 products. The EU would like to reiterate its availability to further collaborate with Australia in such a process, and believes that the comprehensive work already done, together with the work performed by the Codex Alimentarius Commission, would provide a good basis for Australia to smoothly conclude on the new proposal and set up generic conditions to allow production and import of raw milk cheeses that are safely produced.

For this purpose, the EU believes that Australia should consider the overarching principles applicable to the production, processing and handling of all milk and milk products (including raw milk cheeses) as set out in the Code of Hygienic Practice for Milk and Milk Products (CAC/RCP 57-2004) of the Codex Alimentarius Commission:

- From raw material production to the point of consumption, dairy products should be subject to a combination of control measures, and these control measures should be shown to achieve the appropriate level of public health protection.
- Good hygienic practices should be applied throughout the food chain so that milk and milk products are safe and suitable for their intended use.
- Wherever appropriate, hygienic practices for milk and milk products should be implemented within the context of HACCP.
- Control measures should be validated as effective.

Furthermore, the EU would like to reiterate its comments made on the first assessment report where it invited Australia to distance itself from a regulatory approach based on a categorization scheme.

The adoption of such a categorization scheme to classify raw milk cheeses (in accordance with identified intrinsic characteristics and/or processing factors that will eliminate, or influence the development of pathogens that may have been present in the raw milk), might be a useful tool to better understand general trends. It might also be used to start developing control measures to be applied in a given process, resulting in a product with an acceptable level of public health risk, or to establish an official control scheme.

However, given the extreme variety of cheeses and cheese types, such an approach would risk excluding a set of safe products, and would fail to reach some of the main objectives of the proposal:

- to be based on outcome and risk analysis using the best available scientific evidence;
- to be consistent with Codex standards; and
- to address food safety across the entire food chain.

In particular, the EU considers that the criteria for categorising products are excessively prescriptive and that they will exclude products that would comply, in principle, with the proposed criteria. For example, Australia considers as criteria for Category 1, in addition to pasteurisation and thermisation, a process, such as curd cooking at $>48^{\circ}\text{C}$, extended ripening (≥ 120 days) at $\geq 10^{\circ}\text{C}$ and a moisture content $\leq 39\%$. The EU is convinced that such prescriptive process criteria does not provide an exhaustive list for the full range of cheese products which have properties and/or use processing factors to eliminate pathogens that may have been present in the raw milk.

Australia also refers to Category 3 (defined as those products likely to allow for the survival of pathogens that may have been present in the raw milk and may support the growth of these pathogens) as "softer mould ripened varieties and fresh cheeses, which have a higher moisture and pH profile and can support the growth of pathogens". Considering that Australia will not allow such Category 3 products, the EU fears that Australia could well exclude some EU cheeses produced to the highest safety standards. The EU is also concerned that Australia will not consider all the relevant control measures, such as on farm controls, that are taken to lead to the safe production of such cheeses.

The EU would also like Australia to further clarify such aspects of the proposal.

Moreover, the EU considers that this review would be of limited value if not accompanied by a revision of the current Australian microbiological criteria, aligning them with the relevant international standards, and in particular those set by the Codex Alimentarius Commission.

In this regard, the EU recalls that in the first assessment report it is stated that the microbiological limits specified in Standard 1.6.1 *Microbiological Limits for Food* will be reviewed as part of the Proposal. The EU urges Australia to clarify the current status of such a revision and the timeframe planned for it.

In conclusion, the EU believes that a safety assessment of a given product should be based on a system validation, in which:

- The producer is in the best position to design and put in place the appropriate preventive measures to guarantee a safe product, taking into account, amongst others,
 - Control of sanitary risks at milk farm level,
 - Historical data of milk production,
 - Milking hygiene,
 - HACCP system at processing unit;
- Control measures are based on a set of logistical support factors, including continuous access to laboratories performing validation and verification analysis under HACCP procedures;
- The producer is able to demonstrate the effectiveness of the control measures applied;
- Control measures are officially validated in accordance with a specific control plan, and accessed by regular official controls.

The EU believes that such an approach should be the basis of a control system, and thus the EU encourages Australia to base its safety requirements on these principles, and to allow imports of products produced and approved under a control system based on such principles.

The EU would like to thank Australia for the opportunity to comment on the second assessment report on primary production and processing requirements for raw milk products and respectfully requests its concerns be taken into consideration.

WORLD TRADE ORGANIZATION

G/SPS/N/AUS/272

19 August 2011

(11-4142)

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): Non-pasteurised hard to very hard cooked curd cheeses
4.	Regions or countries likely to be affected, to the extent relevant or practicable: <input checked="" type="checkbox"/> All trading partners The requirements will apply to imported as well as domestically produced foods sold in Australia. <input type="checkbox"/> Specific regions or countries:
5.	Title of the notified document: Proposal P1007 - Primary Production and Processing Requirements for Raw Milk Products Language(s): English Number of pages: 33
6.	Description of content: The Proposal amends the processing requirements in the Australia only Standard 4.2.4 of the <i>Australia New Zealand Food Standards Code</i> to permit non-pasteurised hard to very hard cooked curd cheeses. In particular, a broader range of production parameters will be specified for cheese and cheese products e.g. minimum moisture content, minimum storage time. There are also consequential amendments to Standard 4.2.4A to delete specific cheeses in Standard 4.2.4A as they will be covered by Standard 4.2.4.
7.	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. All proposals to change the <i>Australia New Zealand Food Standards Code</i> must be assessed in the context of the following objectives: (a) the protection of public health and safety; (b) the provision of adequate information relating to food to enable consumers to make informed choices; and (c) the prevention of misleading or deceptive conduct.
8.	Is there a relevant international standard? If so, identify the standard: <input checked="" type="checkbox"/> Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text) Codex Code of Hygienic Practice for Milk and Milk Products CAC/RCP 57-2004 <input type="checkbox"/> World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number)

<p><input type="checkbox"/> International Plant Protection Convention (<i>e.g. ISPM number</i>)</p> <p><input type="checkbox"/> None</p> <p>Does this proposed regulation conform to the relevant international standard? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, describe, whenever possible, how and why it deviates from the international standard:</p>
<p>9. Other relevant documents and language(s) in which these are available: <i>Australia New Zealand Food Standards Code</i> (available in English)</p>
<p>10. Proposed date of adoption (dd/mm/yy): Notification to Government anticipated April 2012 with adoption (gazettal) to follow, pending Government consideration.</p> <p>Proposed date of publication (dd/mm/yy): N/A</p>
<p>11. Proposed date of entry into force: <input type="checkbox"/> Six months from date of publication, and/or (dd/mm/yy): Date of Gazettal, pending Government consideration (see Item 10 above).</p> <p><input checked="" type="checkbox"/> Trade facilitating measure</p>
<p>12. Final date for comments: <input type="checkbox"/> Sixty days from the date of circulation of the notification and/or (dd/mm/yy): 14 October 2011</p> <p>Agency or authority designated to handle comments: <input checked="" type="checkbox"/> National Notification Authority, <input checked="" type="checkbox"/> National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</p> <p>Food Standards Australia New Zealand P.O. Box: 7186 Canberra BC ACT 2610 Australia Fax: +(61 2) 6271 2278 E-mail: standards.management@foodstandards.gov.au</p>
<p>13. Texts available from: <input checked="" type="checkbox"/> National Notification Authority, <input checked="" type="checkbox"/> National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</p> <p>Documents will be available from the FSANZ website from 19 August 2011 at "http://www.foodstandards.gov.au/foodstandards/changingthecode/documentsforpublicco868.cfm"</p> <p>Copies are also available from:</p> <p>The Australian SPS Notification Point GPO Box 858 Canberra ACT 2601 Australia Fax: +61 2 6272 3678 E-mail: sps.contact@daff.gov.au</p>