



1 February 2018

(18-0730)

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Committee on Technical Barriers to Trade

Original: English

### NOTIFICATION

The following notification is being circulated in accordance with Article 10.6

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| <b>1. Notifying Member:</b> <u>UNITED KINGDOM</u><br><b>If applicable, name of local government involved (Article 3.2 and 7.2):</b> Wales  |
| <b>2. Agency responsible:</b><br>Welsh Government<br>Marine and Fisheries Division<br>Cathays Park<br>Cardiff<br>Wales<br>CF10 3NQ<br>Email: <a href="mailto:marine@gov.wales">marine@gov.wales</a><br>Tel.: 03000 253650<br>Website: <a href="http://www.gov.wales">www.gov.wales</a><br><br><b>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:</b><br><br>UK TBT Enquiry Point<br>Trade Policy Group<br>Department of International Trade<br>3 Whitehall Place<br>London<br>SW1A 2AW<br><a href="mailto:TBTUK_EP@trade.gsi.gov.uk">TBTUK_EP@trade.gsi.gov.uk</a> |
| <b>3. Notified under Article 2.9.2 [X], 2.10.1 [ ], 5.6.2 [ ], 5.7.1 [ ], other:</b>   |
| <b>4. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):</b> Cosmetics and Personal Care products   |
| <b>5. Title, number of pages and language(s) of the notified document:</b> The Environmental Protection (Microbeads) (Wales) Regulations 2018 (23 page(s), in English)   |
| <b>6. Description of content:</b> The draft regulations prohibit the use of microbeads as an ingredient in the manufacture of rinse-off personal care products and the sale of any such products containing microbeads.<br><br>In the draft regulations:<br><br>"microbead" means any water-insoluble solid plastic particle of less than or equal to 5mm in any dimension;<br><br>"plastic" means a synthetic polymeric substance that can be moulded, extruded or physically manipulated into various solid forms and that retains its final manufactured shape during use in its intended applications;   |

"rinse-off personal care product" means any substance, or mixture of substances, manufactured for the purpose of being applied to any relevant human body part in the course of any personal care treatment, by an application which entails at its completion the prompt and specific removal of the product (or any residue of the product) by washing or rinsing with water, rather than leaving it to wear off or wash off, or be absorbed or shed, in the course of time;

and for this purpose:

- (a) a "personal care treatment" means any process of cleaning, protecting or perfuming a relevant human body part, maintaining or restoring its condition or changing its appearance; and
- (b) a "relevant human body part" is:
  - (i) any external part of the human body (any part of the epidermis, hair system, nails or lips);
  - (ii) the teeth; or
  - (iii) mucous membranes of the oral cavity.

Breach of a prohibition is an offence.

Enforcement officers have powers of entry to carry out the necessary investigations in order to determine whether an offence has been committed.

A civil sanctions regime is introduced to enable the regulator to exercise a range of civil sanctions. These are variable monetary penalties, compliance notices, stop notices and enforcement undertakings.

Once the ban is in place it will be a criminal offence for anyone to manufacture, sell or offer to supply any rinse-off cosmetic or personal care products which contain plastic microbeads in Wales. There are also some related offences, for example, it will be an offence to fail to comply with a stop notice or fail to provide certain information within a reasonable period of being requested in writing to do so.

Where an offence has been committed the regulator will be able to impose a variable monetary penalty up to a maximum of £20,000.

The draft regulations apply to Wales, however, the UK administrations have developed this legislation collaboratively to ensure the definition of the ban is consistent. The difference between Wales and the rest of the UK is in the enforcement regime. The UK Government has completed a separate notification for regulations applicable to England (ref: G/TBT/N/GBR/28). The Devolved Administrations of Scotland and Northern Ireland have also committed to introducing a ban on microbeads and will submit separate notifications according to their own legislative processes and timescales.

**7. Objective and rationale, including the nature of urgent problems where applicable:** Protection of animal or plant life or health; Protection of the environment

We are proposing to introduce legislation to ban the manufacture and sale of "rinse-off" cosmetics and personal care products containing microbeads on the grounds that they cause harm to living species in the marine environment.

Up to 680 tonnes of plastic microbeads are used in cosmetic products sold in the UK every year resulting in billions of tiny beads entering our seas annually. These microbeads do not biodegrade and accumulate in the marine environment because, once released in to the environment it is impossible to recover them. Although the precise scale of the impacts from microbeads is unknown, there is evidence that microbeads can be ingested by marine animals which reduces their capacity to digest food and reproduce.

Some businesses have already taken voluntary actions but others still continue to use microbeads. Engagement with the UK cosmetics industry indicates that more than 72% of major companies will have ceased to sell cosmetic products containing microbeads by 2017. In the cosmetics industry, there are suitable, economically feasible alternatives. Microbeads in cosmetics are therefore an avoidable source of marine pollution which should be minimised in keeping with scientific advice.

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|            | <p>The microbeads ban is a UK wide ban and the intention of the Welsh Ministers is for the Welsh regulations to come into effect at the same time as the rest of the UK, in June 2018. There are no known manufacturers in Wales who currently use plastic microbeads, therefore, the Welsh Ministers have decided to implement both the ban on manufacture and sale at the same time. Whilst Welsh manufacturers will not be affected by a manufacturing ban the regulations will future-proof legislation.</p> <p>A ban of this kind will help to improve the state of the marine environment and address public concerns relating to marine environment impacts arising from such cosmetics products.</p> <p>The ban will afford protection of animal or plant life or health and protection of the environment.</p> |
| <b>8.</b>  | <p><b>Relevant documents:</b></p> <ul style="list-style-type: none"> <li>• The Draft Environmental Protection (Microbeads) (Wales) Regulations 2018.</li> <li>• The Draft Environmental Protection (Microbeads) (England) Regulations 2017.</li> </ul>  |
| <b>9.</b>  | <p><b>Proposed date of adoption:</b> 30 June 2018</p> <p><b>Proposed date of entry into force:</b> 30 June 2018</p>   |
| <b>10.</b> | <p><b>Final date for comments:</b> 90 days from notification</p>  |
| <b>11.</b> | <p><b>Texts available from: National enquiry point [ ] or address, telephone and fax numbers and email and website addresses, if available, of other body:</b></p> <p>UK TBT Enquiry point<br/> Trade Policy Group<br/> Department of International Trade<br/> 3 Whitehall Place<br/> London SW1A 2AW<br/> Email: <a href="mailto:TBTUK_EP@trade.gsi.gov.uk">TBTUK_EP@trade.gsi.gov.uk</a></p> <p>OR</p> <p>Marine and Fisheries Division<br/> Welsh Government<br/> Suite 3, Cedar Court<br/> Haven's Head Business Park<br/> Milford Haven<br/> Pembrokeshire<br/> Wales SA73 3LS<br/> Email: <a href="mailto:marineandfisheries@gov.wales">marineandfisheries@gov.wales</a></p>  |