

For discussion on
26 May 2003

Legislative Council Panel on Economic Services

TOYS AND CHILDREN'S PRODUCTS: UPDATING OF SAFETY STANDARDS

Purpose

This paper seeks Members' views on the Government's proposal to update the safety standards in the Toys and Children's Products Safety Ordinance (TCPSO) (Cap. 424), taking account of the developments set out in paragraph 13 below.

Background

2. Safety of children is of paramount importance. The TCPSO was enacted in 1992 to require products designed or clearly intended for children to comply with the safety standards set out in the Ordinance.

Existing Provisions

A. Toys

3. In the case of toys, the TCPSO encompasses all products and materials that are designed or clearly intended for use in play by a child. Hong Kong has a small domestic market for toys, be they locally produced or imported. Hong Kong manufactured products are largely for export.

4. To avoid increasing business cost unnecessarily and to promote trade, the Government has decided not to introduce its own safety standards for toys. The TCPSO therefore adopted commonly accepted international standards for compliance by toys available in Hong Kong. These standards have been introduced or used by our major trading partners, as follows :

- (a) International Voluntary Toy Safety Standard (IVTSS) established by the International Committee of Toy Industries;
- (b) European Standard EN71 established by the European Committee for Standardization; and
- (c) ASTM F963 established by the American Society for Testing and Materials.

EN71 and ASTM F963 are safety standards for toys used by the European Union and the US markets respectively. Imports from and exports to these two economies amounted to about 1.5% and 75% respectively of the value of Hong Kong's total import and export of toys in 2002.

5. More specifically, the TCPSO provides that no person shall manufacture, import or supply a toy unless the toy, including its packaging, complies with each and every applicable requirement contained in one of the above three sets of safety standards. Where one or two of these sets of safety standards contain no applicable requirements for a particular toy, then the toy must comply with the requirement contained in the remaining set with applicable requirements. The Hong Kong Toys Council has pointed out that, while the intention is that a toy is required to comply with one of the three sets of safety standards specified under the TCPSO which contains "applicable" requirements, the definition of "applicable" under the Ordinance is not as clear.

B. Children's products

6. In the case of children's products, the TCPSO covers and stipulates specific safety standards for 13 products, vide **Annex I**. The 13 products specified in the TCPSO cover children's products commonly used in Hong Kong. Children's products not covered by the TCPSO are required to comply with the general safety requirement under the Consumer Goods Safety Ordinance, as in the case of other consumer goods. That is to say, they must be reasonably safe and meet reasonable safety standards published by a standards institute or similar body for that particular product.

7. As in the case of toys, our market for children's products is insignificant. Moreover, safety standards prescribed by various standards institutes worldwide for specific children's products are already in place. The Government has therefore decided not to introduce its own safety standards for children's products and adopt commonly accepted or established international standards for specific children's products, mainly those in Europe, the United States and Australia. Specifically, the TCPSO provides that no person shall manufacture, import or supply a children's product contained in the Ordinance unless the product complies in all respects with the respective specified safety

standards (vide **Annex II**).

Enforcement

8. The Customs and Excise Department (C&ED) is responsible for enforcing the TCPSO. In this connection, C&ED

- (i) conducts spot checks and obtains samples of toys and children's products suspected to be unsafe to the Government Laboratory for testing;
- (ii) acts on complaints against specific items;
- (iii) issues warning letters to the manufacturers, suppliers and importers concerned, or take prosecution actions, in respect of samples found not to be in compliance with the safety standards and relevant requirements stipulated in the TCPSO;
- (iv) issues prohibition notice to the relevant merchants to prohibit the continued supply of the products in the market, if a toy or a children's product were assessed to be of moderate or high risk; and
- (v) requires the parties concerned to recall the supplied products where the Department has reason to believe that the toy and children's products concerned pose a significant risk of causing serious injury.

9. Apart from taking enforcement actions, C&ED organizes regular seminars for the trade every year and alert traders to requirements for toys and children's products under the TCPSO. C&ED also closely monitors measures taken by other countries with regard to toys and children's products, and takes corresponding action, where the products concerned are also available for sale in Hong Kong.

10. Data on complaints and statistics of enforcement actions by C&ED relating to toys and children's products in the past three years are set out in **Annex III**.

Recent Developments

11. Like other consumer products, new toys and products for children

continue to be introduced into the market. Standards institutes revise, withdraw or replace obsolete safety standards for toys and children's products from time to time to ensure that the relevant requirements cater to product changes arising from technological developments, manufacturing technologies, customer demands, or the latest information pertaining to safety (such as accident data and scientific reports etc).

12. Generally speaking, the product life cycle of toys is shorter than that of children's products because toys have more and swifter product variations. The safety standards for toys are therefore updated more frequently. For example, the relevant standards institutes update toys safety standards EN71 and ASTM F963 almost annually, while the relevant safety standards for children's products are updated over longer periods.

13. The safety standards for toys and children's products in the TCPSO were last updated in 1997 and 1998 respectively. Since then,

- (a) in the case of toys –
 - (i) the International Committee of Toy Industries decided to withdraw the IVTSS on the ground that it had been superceded by country-specific toys standards;
 - (ii) the International Organization for Standardization (ISO), a worldwide federation of national standards bodies from over 140 countries, has established ISO 8124 as a safety standard for toys, which has been widely adopted by manufacturers in the world; and
 - (iii) the European Committee for Standardization has made a number of amendments to the EN71 series of safety standard for toys.
- (b) in the case of children's products, respective standards institutes have withdrawn four and amended 18 of the safety standards stipulated in the TCPSO, details at **Annex II**.

14. We propose to adopt the above amendments and update the respective safety standards in the TCPSO to ensure children's safety and facilitate trade. In this connection, we have consulted the trade : the response is generally supportive.

Legislative Amendments

15. We have set in train arrangements to update the respective safety standards in the TCPSO to reflect the latest developments and address the Hong Kong Toys Council's concern at paragraph 5 above. Under the existing arrangement, safety standards for toys are set out in the main Ordinance: amendments can only be made by means of an Amendment Bill, the preparation and enactment of which requires time. As toys safety standards are updated frequently, we are considering whether the legislative process might be simplified, such as by way of general notices in the gazette, so that amendments to the relevant safety standards made by the respective standards institutes can be made to apply to Hong Kong in a timely manner. We will seek Members' advice again on the approach after consulting the Department of Justice.

Advice Sought

16. Members are invited to offer their views on the proposal to update the existing safety standards for toys and children's products in the TCPSO.

Economic Development and Labour Bureau
May 2003

**Children's Products Covered in the
Toys and Children's Products Safety Ordinance**

- ◆ Babies' dummies
- ◆ Baby nests
- ◆ Baby walking frames
- ◆ Bottle teats
- ◆ Bunk beds for domestic use
- ◆ Carry cots and similar handled products and stands
- ◆ Child safety barriers for domestic use
- ◆ Children's cots for domestic use
- ◆ Children's high chairs and multi-purpose high chairs for domestic use
- ◆ Children's paints
- ◆ Children's safety harness
- ◆ Playpens for domestic use
- ◆ Wheeled child conveyances.

Annex II

Children's Products : Major Differences between the Existing and the Amended Safety Standards

	Existing Versions	Amended Versions	Major Differences/ Remarks
1.	<i>Babies' dummies</i>		
(a)	NZS 5857:1993	To be deleted without replacement	<ul style="list-style-type: none"> • This standard has been withdrawn by the relevant standards institution without replacement. • This standard is identical to AS 2432-1991 at (d) below. Its deletion will not affect protection to children.
(b)	ASTM F963-96a	ASTM F963-96a ^{e2}	<ul style="list-style-type: none"> • The new version only involves minor editorial changes such as correction to typos in the existing versions.
(c)	BS 5239:1988 amended by AMD 6219:1989 and AMD 6336:1991	BS EN 1400-1:2002 BS EN 1400-2:2002 BS EN 1400-3:2002; and EN 1400-1:2002 EN 1400-2:2002 EN 1400-3:2002	<ul style="list-style-type: none"> • The safety requirements of the existing and the replacing standards are basically similar. • The new versions – <ul style="list-style-type: none"> ➢ includes new safety requirements on biting endurance and rotation endurance, and levels of mercury, selenium, mercaptobenzothiazole, antioxidants and volatile components; ➢ imposes more stringent requirements on construction, performance of soother in respect of impact resistance, puncture resistance and tear resistance, marking, and instructions for use; ➢ tightens maximum limits for migration of antimony, arsenic, barium, cadmium, chromium and lead.
(d)	AS 2432:1991	No change	N.A.
2.	<i>Baby nests</i>		
	BS 6595:1985	To be deleted without replacement	<ul style="list-style-type: none"> • This standard has been withdrawn by the relevant standards institution without replacement. This product is seldom found in Hong Kong nowadays. Deletion of this standard has no

	Existing Versions	Amended Versions	Major Differences/ Remarks
			adverse impact on protection to children.
3.	<i>Baby walking frames</i>		
(a)	BS 4648:1989 amended by AMD 6680:1991 and AMD 6948:1992	BS EN 1273:2001 and EN 1273:2001	<ul style="list-style-type: none"> • The safety requirements of the existing and the replacing standards are basically similar. • The new version – <ul style="list-style-type: none"> ➢ adds new requirements on marking, flammability and limit for migration of selenium; ➢ imposes more stringent safety requirements on material, construction requirements for opening, edges, decals, cords, seats and wheels of baby walking frames, performance requirements on folding mechanisms and strength, marking, and instructions for use; ➢ tightens maximum limits for migration of antimony, arsenic, barium, cadmium, chromium, mercury and lead.
(b)	ASTM F977-96	ASTM F977-00	<ul style="list-style-type: none"> • The two versions are almost identical, except that the new version adds more detailed requirements for warning labels.
4.	<i>Bunk beds for domestic use</i>		
(a)	ASTM F1427-96	ASTM F1427-01	<ul style="list-style-type: none"> • The two versions are almost identical, except that the new version imposes more stringent performance requirements for foundation support system and guardrail.
(b)	BS EN 747-1:1993	No change	N.A.
(c)	BS EN 747-2:1993 amended by AMD 8084:1993	No change	N.A.
(d)	EN 747-1&2:1993	No change	N.A.

	Existing Versions	Amended Versions	Major Differences/ Remarks
(e)	AS/NZS 4220:1994	No change	N.A.
(f)	ISO 9098-1&2:1994	No change	N.A.
5.	<i>Carry cots and similar handled products and stands</i>		
(a)	BS 7551:1992	BS EN 1466:1998 amended by AMD 10172:1998; and EN 1466:1998 amended by EN 1466/AC:1998	<ul style="list-style-type: none"> • The safety requirements of the existing and the replacing standards are basically similar. • The new version – <ul style="list-style-type: none"> ➢ adds new requirements on flammability and limit for migration of selenium; ➢ imposes more stringent safety requirements on material, gap sizes, detachable components, length of cords, cot height, stability, durability of handle, strength of stands, marking, and instructions on use and maintenance; ➢ tightens maximum limits for migration of antimony, arsenic, barium, cadmium, chromium, mercury and lead.
(b)	AS 2196:1978	To be deleted without replacement	<ul style="list-style-type: none"> • This standard has been withdrawn by the relevant standards institution without replacement. Given that this standard was published in 1978 and that the new standards at (a) above will be adopted, deletion of this standard will not adversely affect protection to children.
(c)	NZS 5844:1989	To be deleted without replacement	<ul style="list-style-type: none"> • The standard has been withdrawn by the relevant standards institution without replacement. Given that this standard was published in 1989 and that the new standards at (a) above will be adopted, deletion of this standard will not adversely affect protection to children.
6.	<i>Child safety barriers for domestic use</i>		

	Existing Versions	Amended Versions	Major Differences/ Remarks
(a)	BS 4125:1991	BS EN 1930:2000 and EN 1930:2000	<ul style="list-style-type: none"> • The safety requirements of the existing and the replacing standards are basically similar. • The new version – <ul style="list-style-type: none"> ➢ adds new requirements on flammability, abuse tests, and limit for migration of selenium;
			<ul style="list-style-type: none"> ➢ imposes more stringent safety requirements on material, construction requirements, performance requirements on locking mechanisms, marking, and instructions on use and maintenance; ➢ tightens maximum limits for migration of antimony, arsenic, barium, cadmium, chromium, mercury and lead.
(b)	ASTM F1004-92	ASTM F1004-02a	<ul style="list-style-type: none"> • The safety requirements of the existing and the replacing standards are basically similar. • The new version adds new general requirements on exposed coil springs, scissoring, shearing, pinching, labeling, and performance requirements on protective components.
7.	<i>Children's cots for domestic use</i>		
(a)	ASTM F1169-88	ASTM F1169-99	<ul style="list-style-type: none"> • The two versions are almost identical except that the new version adds new requirements for crib side testing.
(b)	BS EN 716-1&2:1996	BS EN 716-1:1996 amended by AMD 9413:1997; and BS EN 716-2:1996	<ul style="list-style-type: none"> • The two versions are exactly the same except one trivial textual amendment which has no impact on the safety standard of the product tested.
(c)	EN 716-1&2:1995	No change	N.A.
(d)	ISO 7175-1&2:1997	No change	N.A.
8.	<i>Children's high chairs and multi-</i>		

	Existing Versions	Amended Versions	Major Differences/ Remarks
	<i>purpose high chairs for domestic use</i>		
(a)	ASTM F404-89	ASTM F404-99a	<ul style="list-style-type: none"> The safety requirements of the existing and the replacing standards are basically similar. The new version adds new general requirements for non-paper labels, and performance requirements for passive crotch restraint system, structural integrity.
(b)	BS 5799:1986 amended by AMD 6681:1991	No change	N.A.
(c)	ISO 9221-1&2:1992	No change	N.A.
(d)	NZS/BS 5799:1986	No change	N.A.
9.	<i>Children's paints</i>		
(a)	BS 5665- 3:1995	BS 5665-3:1995 amended by AMD 10795:2001	<ul style="list-style-type: none"> The two versions are almost identical except that: <ul style="list-style-type: none"> ➤ typos in the existing version have been corrected. ➤ The extraction solvent used in certain testing procedures have been changed from "1,1,1-trichloroethane" to "n-heptane". This change has no impact on the safety standard of the product tested.
(b)	ASTM F963-96a	ASTM F963-96a ^{e2}	<ul style="list-style-type: none"> The new version only involves minor editorial changes such as correction to typos in the existing versions.
(c)	EN 71-3:1994	EN71-3:1994 amended by EN 71- 3:1994/A1: 2000; EN71-3:1994/ A1:2000/AC:2000; and EN71-3:1994/A1/2000/AC:20	<ul style="list-style-type: none"> The two versions are almost identical except that: <ul style="list-style-type: none"> ➤ typos in the existing version have been corrected. ➤ The extraction solvent used in certain testing procedures have been changed from "1,1,1-trichloroethane" to "n-heptane". This

	Existing Versions	Amended Versions	Major Differences/ Remarks
		02	change has no impact on the safety standard of the product tested.
(d)	AS 1647.3:1995	No change	N.A.
(e)	NZS 5820:1982	No change	N.A.
(f)	ISO 8124-3:1997	No change	N.A.
10.	<i>Playpens for domestic use</i>		
(a)	BS 4863:1991	BS EN 12227-1:1999 BS EN 12227-2:1999; and EN 12227-1: 1999 EN 12227-2: 1999	<ul style="list-style-type: none"> The new version imposes more stringent safety requirements on material, construction requirements on opening, holes, gaps, edges, points, corners, moving parts, dimensions, detachable components, rim, base, sides, castors, screws, and stability, packaging, marking, and instructions for use.
(b)	ASTM F406-97	ASTM F406-02	<ul style="list-style-type: none"> The two versions are almost identical except that the new version adds new requirements for mattress support testing and dropside latch testing.
11.	<i>Wheeled child conveyances</i>		
(a)	ASTM F833-97	ASTM F833-01	<ul style="list-style-type: none"> The two versions are almost identical except that the new version adds new general requirements for non-paper labels, and performance requirements for products with combination unit.
(b)	AS/NZS 2088:1993	AS/NZS 2088:2000	<ul style="list-style-type: none"> The two versions are almost identical except that the new version adds new construction requirements for shoulder straps and waist straps.
(c)	BS 7409:1996 amended by AMD 9270:1996	No change	N.A.
12.	<i>Bottle teats</i>		
(a)	BS 7368:1990	No change	N.A.
13.	<i>Children's safety harnesses</i>		

	Existing Versions	Amended Versions	Major Differences/ Remarks
(a)	BS 6684:1989 amended by AMD 6531:1990	No change	N.A.
(b)	AS 3747-1989	No change	N.A.

I. Complaints and C&ED's enforcement actions relating to toys safety

	2000	2001	2002
Complaints	25	16	13
- Cases involving injuries as result of accident ⁽¹⁾	3	3	0
- Confirmed cases involving products not in compliance with statutory requirements	5	6	2
Spot checks⁽²⁾	1,028	1,097	1,058
Investigations⁽³⁾	291	354	363
Prosecutions	17	9	5

II. Complaints and C&ED's enforcement actions relating to children's products safety

	2000	2001	2002
Complaints	13	12	13
- Cases involving injuries as result of accident ⁽¹⁾	1	2	2
- Confirmed cases involving products not in compliance with statutory requirements	5	2	1
Spot checks⁽²⁾	412	442	440
Investigations⁽³⁾	137	68	55
Prosecutions	21	11	18

Note

- (1) All the toys and children's products involved in these cases are in compliance with the statutory requirements and the accidents are caused by improper use of the products concerned.
- (2) To ensure children's safety, C&ED inspects regularly retailers and importers of toys and children's products. As the number of retailers and importers of toys far exceeds that of children's products, C&ED's inspections for toys safety are much more frequent than those for children's products safety.
- (3) C&ED investigates all importers and retailers of toys or children's products found not in compliance with the Toys and Children's Products Safety Ordinance. As such, the number of investigations will largely depend on the number of non-complying items and the number of importers and retailers involved.