

立法會
Legislative Council

Ref : CB2/SS/4/13

LC Paper No. CB(2)1670/13-14
(These minutes have been seen
by the Administration)

**Subcommittee on Toys and Children's Products Safety
(Additional Safety Standards or Requirements) Regulation,
Toys and Children's Products Safety Regulation (Repeal) Regulation and
Toys and Children's Products Safety (Amendment)
Ordinance 2013 (Commencement) Notice**

**Minutes of the third meeting
held on Monday, 24 March 2014, at 9:00 am
in Conference Room 2 of the Legislative Council Complex**

- Members present** : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Cyd HO Sau-lan
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
- Members absent** : Hon WONG Ting-kwong, SBS, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
- Public Officers attending** : Mrs Alice CHEUNG
Deputy Secretary (Commerce and Economic Development)
(Commerce and Industry)
- Ms Manda CHAN
Principal Assistant Secretary (Commerce and Economic
Development) (Commerce and Industry)
- Mr CHAN Kwok-kee
Assistant Secretary (Commerce and Economic
Development) (Commerce and Industry)

Ms Frances HUI
Acting Senior Assistant Law Draftsman

Mr CHAN Chi-keung
Head of Trade Controls
Customs and Excise Department

Mr MAK Yuk-kam
Principal Trade Controls Officer
Customs and Excise Department

Attendance by : Mattel Asia Pacific Sourcing Limited
invitation

Dr Sally LAM
Manager (Regulatory)

Hong Kong Association for Testing, Inspection and
Certification

Mr Tom HUN Sau-ming
General Manager

Hong Kong Toys Council

Mr Bernie TING
Honorary President

The Toys Manufacturers' Association of Hong Kong Ltd

Mr K C LO
Executive Vice-President

Clerk in : Ms Joanne MAK
attendance : Chief Council Secretary (2) 3

Staff in : Mr Stephen LAM
attendance : Assistant Legal Adviser 11

Ms Wendy LO
Council Secretary (2) 3

Mrs Fony TSANG
Legislative Assistant (2) 3

Action

I. Meeting with deputations and the Administration

[CITB CR 08/18/3, L.N. 17, 18 and 19 of 2014, LC Paper No. LS26/13-14]

The Chairman declared interest as the director and shareholder of toys manufacturing companies.

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. The Subcommittee received views from representatives of four deputations on the three items of subsidiary legislation.

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4. The Subcommittee requested the Administration to provide -
 - (a) written responses to the views and concerns expressed by deputations;
 - (b) response to the suggestion that guidelines should be drawn up to provide technical guidance on the operation of the provisions on phthalate control in the Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation ("Additional Safety Requirements Regulation") for the trade's reference; and
 - (c) clarification on the legal liability of persons concerned who had manufactured or imported before 1 July 2014 toys or children's products which failed to comply with the new requirements on phthalates in the Additional Safety Requirements Regulation.

(Post-meeting note: The Administration's information paper was circulated via LC Paper Nos. CB(2)1169/13-14(01) - (02) on 27 March 2014.)

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5. The Subcommittee also requested the Administration to brief the Panel on Economic Development on the draft guidelines after they had been drawn up.

6. The Subcommittee did not object to the Additional Safety Requirements Regulation, the Repeal Regulation and the Commencement Notice and would not propose any amendment. Members agreed that the Subcommittee would report its deliberations to the House Committee on 28 March 2014.

II. Any other business

7. There being no other business, the meeting ended at 11:00 am.

Council Business Division 2
Legislative Council Secretariat
30 May 2014

**Proceedings of the third meeting of the
Subcommittee on Toys and Children's Products Safety
(Additional Safety Standards or Requirements) Regulation,
Toys and Children's Products Safety Regulation (Repeal) Regulation and
Toys and Children's Products Safety (Amendment)
Ordinance 2013 (Commencement) Notice
on Monday, 24 March 2014, at 9:00 am
in Conference Room 2 of the Legislative Council Complex**

| Time Marker | Speaker(s) | Subject(s) | Action required |
|--------------------|---|--|------------------------|
| 000245 - 000507 | Chairman | Opening remarks | |
| 000508 - 000714 | Chairman Mattel Asia Pacific Sourcing Limited | Presentation of major views - (a) expression of support for the proposed phthalate control but the regulatory regime should be in line with the international norm, including that of the United States ("US") and the European Union ("EU"); and (b) the proposed regulation on phthalate control for a toy/children's product that could be placed into a child's mouth should be applicable to children aged three or under to align with the US requirement. | |
| 000715 - 000908 | Chairman Hong Kong Association for Testing, Inspection and Certification | Presentation of major views - (a) expression of concern as to whether the proposed regulatory regime on phthalate was in line with that implemented in US and EU, and whether it might cause additional burden to the local toys industry; and (b) the proposed regulation on phthalate control for a toy/children's product that could be placed into a child's mouth should be applicable to children aged three or under to align with the US requirement. | |
| 000909 - 001030 | Chairman Hong Kong Toys Council | Presentation of major views - [LC Paper No. CB(2)1086/13-14(01)] (a) a component part of a toy/children's product that was inaccessible by children should not be taken into account in calculating the total weight of the phthalates concerned and the total weight of the plasticized materials in the toy/children's product; and | |

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| | | (b) the proposed regulation on phthalate control for a toy/children's product that could be placed into a child's mouth should be applicable to children aged three or under to align with the US requirement. | |
| 001031 - 001155 | Chairman The Toys Manufacturers' Association of Hong Kong Ltd | Presentation of major views - (a) expression of support for the proposed phthalate control; and (b) the Administration should clarify how testing certificates produced by the local toys industry would be handled under the proposed regulation on phthalate control. | |
| 001156 - 001751 | Chairman Administration | The Chairman's declaration of interest. Responding to the deputations, the Administration's explanation that - (a) the application of the proposed regulation on phthalate control for a toy/children's product that could be placed into a child's mouth to children under four years of age was in line with the US regulatory regime (applicable to children aged three and younger in US, i.e. also under four years of age) as well as the Canadian regulatory regime. "Under four years of age" was the same as "aged three and younger"; (b) in the light of the comment of the former Bills Committee on Toys and Children's Products Safety (Amendment) Bill 2013, the Administration had clearly stipulated in the Additional Safety Requirements Regulation that any component part of a toy/children's product that could not come into contact with a child (for Class 1 phthalates) or with a child's mouth (for Class 2 phthalates) through reasonably foreseeable use (including reasonably foreseeable improper use) of the toy/children's product would not be taken into account in calculating the total weight of the phthalates concerned and the total weight of the plasticized materials in the toy/children's product; | |

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| | | <p>(c) the phthalate control regime as set out in the Additional Safety Requirements Regulation was formulated after drawing reference from the relevant regimes implemented in other advanced economies, including EU, US and Canada. The relevant provisions in EU regulation provided that BBP, DBP and DEHP (i.e. Class 1 phthalates) combined shall not be used at concentrations higher than 0.1% by mass of the plasticized material in toys and child care articles; and DIDP, DINP and DNOP (i.e. Class 2 phthalates) combined shall not be used at concentrations higher than 0.1% by mass of the plasticized material in toys and child care articles which could be placed in the mouth by children. The relevant provisions in the US legislation prohibited any children's toy or child care article that contained concentrations of more than 0.1% of each of the Class 1 phthalates; and any children's toy that could be placed in a child's mouth or child care article that contained concentrations of more than 0.1% of each of the Class 2 phthalates; and</p> <p>(d) the calculation of the weight of the above mentioned phthalates as 0.1% of the total weight of the plasticized materials in a toy/ children's product as stipulated in the Additional Safety Requirements Regulation was consistent with the provisions set out in EU and US legislation.</p> | |
| 001752 - 003235 | <p>Chairman Mr SIN Chung-kai Administration The Toys Manufacturers' Association of Hong Kong Ltd Hong Kong Association for Testing, Inspection and Certification Hong Kong Toys Council Mattel Asia Pacific Sourcing Limited Dr Fernando CHEUNG</p> | <p>Expression of concerns of deputations about the possible dilution of phthalate concentration in a product caused by different testing methods as illustrated in the example in the submission of Hong Kong Toys Council [LC Paper No. CB(2)1086/13-14(01)].</p> <p>The Administration's explanations that -</p> <p>(a) the threshold of "0.1% of the total weight of the plasticized materials" represented a measurable quantity. Its use was to take into account impurities, not to allow the use of the six types of phthalates concerned. In order to plasticize a toy or children's product, concentrations of phthalates of more than 10%</p> | |

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| | | <p>were needed. The example concerned might therefore be hypothetical;</p> <p>(b) even if the level of impurities might slightly exceed the 0.1% threshold in an individual part of a toy/children's product as in the example, it should not be a concern if the total weight of the phthalates concerned did not exceed 0.1% of the total weight of the plasticized materials in that toy or children's product; and</p> <p>(c) the Administration generally did not envisage any difficulty for products fulfilling the safety requirements of the mentioned advanced economies to comply with the provisions on the phthalate control in the Additional Safety Requirements Regulation.</p> | |
| 003236 - 004007 | Dr Fernando CHEUNG Chairman Administration | In response to Dr Fernando CHEUNG's concern, the Administration advised that it would consider strengthening public education on the risks of phthalates to children in collaboration with the Consumer Council. | |
| 004008 - 013054 | Chairman Ms Cyd HO Administration Hong Kong Toys Council The Toys Manufacturers' Association of Hong Kong Ltd Hong Kong Association for Testing, Inspection and Certification Mattel Asia Pacific Sourcing Limited Mr SIN Chung-kai Assistant Legal Adviser 11 ("ALA") | <p>Ms Cyd HO's concern that Hong Kong would become a dumping ground for non-compliant product if the phthalate control under the Additional Safety Requirements Regulation would be less stringent than that implemented in other advanced economies.</p> <p>The Administration's advice that a toy/children's product supplied in Hong Kong, irrespective of its place of manufacture, had to comply with the additional safety requirements on phthalates under the Additional Safety Requirements Regulation upon its implementation.</p> <p>Expression of concerns by deputations on whether the phthalate control under the Additional Safety Requirements Regulation would be more stringent or less stringent than that implemented in other advanced economies, and whether a testing certificate showing a product's compliance with the relevant requirement implemented in these advanced economies (e.g. US and EU) would be considered as proof of compliance with the provisions on the phthalate control in the</p> | |

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| | | <p>Additional Safety Requirements Regulation. Their suggestion that guidelines should be drawn up for the trade's reference.</p> <p>At the request of the Subcommittee, the Administration agreed to draw up guidelines to provide technical guidance on the operation of the provisions on phthalate control in the Additional Safety Requirements Regulation for the trade's reference.</p> | <p>Admin (paragraphs 3 & 4 of the minutes)</p> |
| 013055 - 014106 | <p>Chairman Ms Cyd HO Mr Abraham SHEK Administration Mattel Asia Pacific Sourcing Limited</p> | <p>Upon Ms Cyd HO's request, the Administration agreed to provide written responses to the views and concerns of deputations, including information on the guidelines to be drawn up.</p> <p>Mr Abraham SHEK's views that the Administration had to consult the trade in preparing the guidelines. The Chairman's request that the Administration had to brief the Panel on Economic Development on the draft guidelines after they had been drawn up.</p> | <p>Admin (paragraphs 3 & 4 of the minutes)</p> |
| 014107 - 015922 | <p>Chairman Administration ALA Hong Kong Toys Council Dr Helena WONG Dr Fernando CHEUNG</p> | <p>The views of the Chairman and deputations that a grace period should be allowed for the industry to make preparations for complying with the additional safety requirements on phthalates under the Additional Safety Requirements Regulation.</p> <p>The Administration's advice that the trade had been consulted on the commencement of the proposed phthalate control in July 2014 which had taken into account the time needed by the industry to make preparations for complying with the new legislative requirements. The Administration received no objection in this regard. In order to strike a balance between enhancing protecting children's health and responding to the trade's concern, the Customs and Excise Department would, during the early stage upon the commencement of the Additional Safety Requirements Regulation, advise or warn the persons concerned if appropriate and practicable.</p> <p>Dr Helena WONG and Dr Fernando CHEUNG's expression of support to the proposed commencement date of the phthalate control to afford early protection to children. Dr CHEUNG considered that while persons who had</p> | |

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| | | <p>manufactured or imported before 1 July 2014 toys/children's products which failed to comply with the new requirements on phthalates should not be held liable, should such non-compliant products be put on sale on or after 1 July 2014, parties concerned should be held legally liable.</p> <p>The Chairman and the Assistant Legal Adviser sought clarification on the legal liability of persons concerned who had manufactured or imported before 1 July 2014 toys/children's products which failed to comply with the new requirements on phthalates in the Additional Safety Requirements Regulation. The Administration was requested to provide supplementary information.</p> | <p>Admin (paragraph 3 of the minutes)</p> |
| 015923 - 020134 | Chairman | <p>Legislative timetable</p> <p>Closing remarks</p> | |

Council Business Division 2
Legislative Council Secretariat
 30 May 2014