

立法會
Legislative Council

Ref : CB2/BC/6/12

LC Paper No. CB(2)502/13-14
(These minutes have been seen
by the Administration)

Bills Committee on Toys and Children's Products Safety
(Amendment) Bill 2013

Minutes of the first meeting
held on Thursday, 24 October 2013, at 10:45 am
in Conference Room 2B of the Legislative Council Complex

- Members present** : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan
Hon Alan LEONG Kah-kit, SC
Hon Steven HO Chun-yin
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, 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

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

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Wendy LO
Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

Action

I. Election of Chairman

Mr Jeffrey LAM Kin-fung was elected Chairman of the Bills Committee.

II. Meeting with the Administration

[LC Paper Nos. LS77/12-13 and CB(2)130/13-14(01)]

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Admin

3. The Bills Committee requested the Administration to -

- (a) provide a paper on the proposed framework for regulating the concentration of phthalates in toys and children's products;
- (b) advise whether the formulation of the definition of "Commissioner" in section 2 of the Toys and Children's Products Safety Ordinance (Cap. 424) ("the Ordinance") was also adopted in other Ordinances;
- (c) consider whether the expression "長牙" could be replaced by "出牙" or any other alternative as the Chinese rendition of "teething"

in the proposed new section 2B(1)(b)(ii) in the light of members' views;

- (d) clarify whether the Commissioner of Customs and Excise could have a toy/children's product tested by other approved laboratories for determining whether it complied with the relevant safety standard, apart from having it tested by the Government Chemist under section 9(3) of the Ordinance; and
- (e) consider making an express provision to put beyond doubt about the policy intention that food and medicine were not to be regulated under the Ordinance.

Invitation for written submissions

- Clerk 4. Members agreed that the Bills Committee should invite the public and interested organizations to give views on the Bill by providing written submissions. A general notice to invite the public to provide written submissions would be posted on the website of the Legislative Council.

Date of next meeting

5. Members agreed that the Bills Committee would schedule another meeting for continuation of the clause-by-clause examination of the Bill.

(Post-meeting note: With the concurrence of the Chairman, the next meeting of the Bills Committee was scheduled for 5 November 2013 (Tuesday) at 2:30 pm.)

III. Any other business

6. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
11 December 2013

**Proceedings of the first meeting of the
Bills Committee on Toys and Children's Products Safety
(Amendment) Bill 2013
on Thursday, 24 October 2013, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000140 - 000203	Mr Abraham SHEK Mr Jeffrey LAM	Mr Jeffrey LAM's declaration of interest as the director of toys manufacturing and export companies.	
000204 - 000352	Mr Abraham SHEK Mr WONG Ting-kwong Mr Jeffrey LAM Ir Dr LO Wai-kwok	Election of Chairman	
000353 - 001132	Chairman Administration	<p>Briefing by the Administration on the Toys and Children's Products Safety (Amendment) Bill 2013. The Bill mainly proposes to expand the existing definition of "children's products" in the Toys and Children's Products Safety Ordinance (Cap. 424) ("the Ordinance") to cover not only the products specified in column 1 of Schedule 2 to the Ordinance ("Schedule 2 products") but also certain other products that are intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age and that contain any plasticized material, and their packaging; and to make other amendments to the Ordinance, in particular, to enable subsidiary legislation to be made to impose control on the concentration of six types of phthalates (i.e. DEHP, DBP, BBP, DINP, DIDP and DNOP) in certain toys and children's products ("phthalate control").</p> <p>The Administration's advice that it intended to make subsidiary legislation to implement the proposed phthalates control after the enactment of the Bill.</p>	
001133 - 001618	Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong's views that the proposed phthalates controls would ensure that Hong Kong's product safety regime was on par with those in advanced economies in protecting children from exposure to phthalates.</p> <p>Mr WONG's enquiry on whether other daily consumer products were subject to the proposed phthalates control for protection of children.</p>	

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		<p>The Administration's advice that having regard to the legislation of and the animal testing conducted by advanced economies (e.g. the European Union and Canada) which had shown that the main concern about human exposure to phthalates was through the oral route, the proposed restriction against the use of six types of phthalates in toys as well as children's products that were intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age was considered appropriate.</p>	
001619 - 002137	<p>Chairman Ir Dr LO Wai-kwok Administration</p>	<p>The views of the Chairman and Ir Dr LO Wai-kwok that the proposed phthalate control should not apply to the packaging of toys or children's products as the restrictions against the use of phthalates in toys and children's products adopted in the European Union and the United States did not apply to the packaging of those products.</p> <p>The Administration's clarification that, in line with the regulatory approach adopted in the European Union and the United States, the proposed phthalate control would not apply to the packaging of -</p> <p>(a) toys;</p> <p>(b) Schedule 2 products; or</p> <p>(c) products (other than toys and Schedule 2 products) that are intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age and contain any plasticized material.</p>	
002138 - 003133	<p>Chairman Administration Mr SIN Chung-kai Mr WONG Ting-kwong Chairman Ir Dr LO Wai-kwok</p>	<p>The Administration's advice that after the implementation of the proposed phthalates control, the Customs and Excise Department ("C&ED") would, in accordance with the amended Ordinance, conduct regular test purchases on products available in the market, issue enforcement notices (e.g. recall notices mandating the withdrawal of unsafe products from the market), and initiate prosecutions against offenders as appropriate to ensure compliance with the additional safety requirements.</p>	
003134 - 003635	<p>Chairman Dr Fernando CHEUNG</p>	<p>The views of Ir Dr LO Wai-kwok, Dr Fernando CHEUNG and Mr Steven HO that the proposed</p>	

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	Administration Mr Steven HO Ir Dr LO Wai-kwok	<p>legislation could ensure that the safety standards for toys and children's products in Hong Kong were on par with international requirements.</p> <p>The Bills Committee's decision to invite the public and interested organizations to give views on the Bill by providing written submissions.</p> <p>In response to Dr CHEUNG, the Administration's advice that it was expected that the proposed phthalate control (applicable to both imported merchandise and stocks) could be implemented in the first half of next year subject to the passage of the relevant subsidiary legislation by the Legislative Council.</p>	
003636 - 004635	Chairman Mr SIN Chung-kai Administration Ir Dr LO Wai-kwok Mr Alan LEONG	Mr SIN Chung-kai's enquiry and the Administration's explanation on the limits of the six types of phthalates imposed in other jurisdictions as detailed in Annex B to the Legislative Council Brief on the Bill (File ref: CITB CR 08/18/3).	
004636 - 005011	Mr Alan LEONG Chairman Administration	In response to Mr Alan LEONG's concerns about toys imported from Australia which did not impose the same restrictions as those adopted in the European Union and the United States, the Administration advised that C&ED would continue to conduct sample checks to ensure product safety after the implementation of the proposed control of the concentration of phthalates in toys and children's products under the Ordinance.	
005012 - 005719	Chairman Dr Fernando CHEUNG Administration	<p>Dr Fernando CHEUNG's enquiry about the enforcement actions against toys imported from the Mainland which might not comply with the phthalates requirements in the proposed legislation.</p> <p>The Administration's advice about the number of inspections and sample checks on toys and children's products conducted by C&ED from 2011 to 2013 in accordance with the Ordinance. The Administration further advised that -</p> <p>(a) under the established mechanism, C&ED would carry out enforcement actions having regard to the risk level of the imported products (e.g. recall notices on toys/children's products issued by other jurisdictions) and</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>conduct targeted sample checks on certain toys such as products specifically designed for festive occasions;</p> <p>(b) C&ED had from time to time explained the legal requirements on the standards of toys and children's products to relevant trade associations and traders, and would enhance publicity on the proposed phthalate control. C&ED would also strengthen the enforcement actions against non-compliant products; and</p> <p>(c) depending on facts and evidence, retailers, wholesalers or importers could be held liable under the amended Ordinance.</p>	
005720 - 005851	Chairman Mr SIN Chung-kai Administration	Mr SIN Chung-kai's enquiry and the Administration's response on the conduct of the spot checks at small toy shops.	
Clause-by-clause examination of the Bill			
005852 - 010919	Chairman Administration Ir Dr LO Wai-kwok Mr Alan LEONG	<p><u>Section 2 (Interpretation)</u></p> <p>The Administration's reiteration that the proposed phthalate control would not apply to the packaging of toys or children's products concerned, and this would be reflected in the subsidiary legislation to be made after the enactment of the Bill.</p> <p>The Administration was requested to provide a paper on the proposed framework for regulating the concentration of phthalates in toys and children's products for members' reference.</p>	Admin (paragraph 3 of the minutes)
010920 - 012051	Administration Chairman Assistant Legal Adviser 9 ("ALA") Mr Alan LEONG	The Administration's explanation of the deletion of the definition of "regulation" in section 2 of the Ordinance in response to the enquiry of Mr Alan LEONG and the legal adviser to the Bills Committee.	
012052 - 012720	Chairman Administration Mr SIN Chung-kai Mr WONG Ting-kwong	Mr SIN Chung-kai's query on the formulation of the definition of "Commissioner" in section 2 of the Ordinance. The Administration was requested to advise whether such formulation was also adopted in other Ordinances.	Admin (paragraph 3 of the minutes)
012721 - 014526	Administration Chairman ALA Ms Cyd HO	<p><u>Proposed addition of sections 2A and 2B after section 2</u></p> <p>The Administration's advice that it was all along the policy intention that food and medicine were</p>	Admin (paragraph 3

Time Marker	Speaker(s)	Subject(s)	Action required
	Ir Dr LO Wai-kwok Mr SIN Chung-kai Mr WONG Ting-kwong	not to be regulated under the Ordinance. The Administration was then requested to consider making an express provision to put such intention beyond doubt. Discussion on whether the expression "長牙" could be replaced by "出牙" or any other alternative as the Chinese rendition of "teething" in the proposed new section 2B(1)(b)(ii). The Administration was requested to re-consider the drafting in the light of members' views.	of the minutes) Admin (paragraph 3 of the minutes)
014527 - 015056	Chairman Administration	<u>Part III heading</u> <u>Section 5 (Children's products must comply with children's product standards)</u> <u>Part IV heading</u> <u>Section 8 (The general safety requirement)</u>	
015057 - 015853	Chairman Mr SIN Chung-kai Administration Ir Dr LO Wai-kwok Mr WONG Ting-kwok ALA	<u>Section 9 (Laboratories)</u> In the light of Mr SIN Chung-kai's enquiry, the Administration was requested to clarify whether the Commissioner of Customs and Excise could have a toy/children's product tested by other approved laboratories for determining whether it complied with the relevant safety standard, apart from having it tested by the Government Chemist under section 9(3) of the Ordinance.	Admin (paragraph 3 of the minutes)
015854 - 015943	Chairman	Date of next meeting	