

EQUIVALENCY

EXPERIENCE PAPER – TOYS AND CHILDREN'S PRODUCTS SAFETY ORDINANCE

Communication from Hong Kong, China

I. INTRODUCTION

1. Article 2.7 of the TBT Agreement requires WTO Members to give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfill the objectives of their own regulations. This concept of equivalency is featured also in Article 6.1 of the Agreement on recognition of conformity assessment. Of late, there is a proposal that the concept should also be extended to standards whose preparation, adoption and application are subject to the Code of Good Practice in Annex 3 to the TBT Agreement.

2. Hong Kong, China attaches importance to the concept of equivalency; and by outlining below our regulatory regime on toys and children's products safety as an illustration, highlights how Hong Kong, China puts this concept into practice.

II. ENACTMENT OF THE TOYS AND CHILDREN'S PRODUCTS SAFETY ORDINANCE

3. The Toys and Children's Products Safety Ordinance (the Ordinance) was enacted in November 1992 and came into effect on 1 July 1993. The Ordinance aims at protecting consumers, especially children, against unsafe toys and children's products supplied in the Hong Kong market. The original regulatory requirements for toys and children's products are set out below.

A. TOYS

4. Under Section 3(1) of the Ordinance, no person shall manufacture, import or supply for local consumption a toy unless the toy, including its packaging, complies with each and every applicable requirement contained in one of the following sets of safety standards for toys:

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

B. CHILDREN'S PRODUCTS

5. There are a total of 13 specified children's products which fall under the regulation of the Ordinance.

6. Under Section 5(1) of the Ordinance, no person shall manufacture, import or supply for local consumption a specified children's product unless the product complies with the corresponding specification established by the British Standards Institution (BSI).

III. SUBSEQUENT MEASURES TAKEN TO IMPLEMENT THE EQUIVALENCY CONCEPT

7. Recognizing the benefits implementation of the concept of equivalency can bring to the trade, we have put in place a mechanism to consider and accept relevant national/international standards on toys and children's products safety as equivalent. Under the mechanism, the Innovation and Technology Commission (ITC) has been charged with the responsibility to identify relevant national/international standards. ITC would screen and forward preliminary acceptable standards to the Government Laboratory for technical verification/confirmation. The Government Laboratory would recommend standards that have fulfilled the technical requirements to the Economic Services Bureau for further deliberation and decision. Economic Services Bureau which has policy responsibility for consumer protection will arrange for the incorporation of the accepted standards into the Ordinance. The public will be informed through government gazette.

A. TOYS

8. Apart from the three sets of safety standards mentioned in paragraph 4 above, we are actively considering the acceptance of ISO 8124 – Safety of Toys. Other standards where appropriate will also be considered in the same light.

B. CHILDREN'S PRODUCTS

9. When the Ordinance was enacted in 1992, the BSI specifications were considered to be the most comprehensive in product range and safety aspects. Since then, there have been submissions from the trade and industrial organizations as to the adoption of safety standards other than the BSI specifications.

10. We have responded positively to such submissions. The Government Laboratory has examined a number of non-BSI standards applicable to children's products, including those suggested by the trade and industrial organizations. Since August 1997, Hong Kong, China has accepted, in addition to the BSI specifications, one or more standards of Australia, New Zealand, the US and the ISO, etc. for 11 out of the 13 types of children's products (A list of these standards are set out in Annex). Recently, we have examined and agreed to include a Japanese standard on babies' teats into the Ordinance. We are prepared to consider other safety standards for children's products provided that the alternatives proposed are equivalent in their safety standard to the statutory requirement.

IV. CONCLUSION

11. Hong Kong, China adopts an open and non-discriminatory regime in considering and accepting safety standards for toys and children's products. We believe that the effective implementation of the equivalency concept in this area not only meets the objective of the legislation to protect consumers against unsafe toys and children's products but also increases consumer choices and facilitates trade.

ANNEX

TOYS AND CHILDREN'S PRODUCTS SAFETY ORDINANCE (CAP.424)
ACCEPTANCE OF MULTIPLE STANDARDS

| Gazette Date | Children's Products Concerned | Standards (other than BSI) Included |
|----------------|---|---|
| 19 August 1997 | Babies' dummies | ASTM Standard - ASTM F963-96a Standard Consumer Safety Specification on toy safety Australian Standard – AS 2432:1991 Babies' dummies New Zealand Standard – NZS 5857:1993 Babies' dummies |
| | Baby walking frames | ASTM Standard – ASTM F977-96 Standard Consumer Safety Performance Specification for infant walkers |
| | Carry cot and similar handled products and stands | Australian Standard – AS 2196:1978 Carry cots and stands (Safety requirements) New Zealand Standard – NZS 5844:1989 Carry cots and stands (Safety requirements) |
| | Children's high chairs and multi-purpose high chairs for domestic use | ASTM Standard – ASTM F 404-89 Standard Consumer Safety Specification for high chairs International Standard – ISO 9221-1&2:1992 Furniture-Children's high chairs – Part 1: Safety requirements and Part 2: Test methods New Zealand Standard – NZS/BS 5799:1986 Specification for safety requirements for children's high chairs and multi-purpose high chairs for domestic use |

| Gazette Date | Children's Products Concerned | Standards (other than BSI) Included |
|-----------------|-------------------------------|---|
| | Children's paints | <p>ASTM Standard – ASTM F 963-96a Standard Consumer Safety Specification on toy safety</p> <p>Australian Standard – AS 1647.3: 1995 Children's toys (Safety requirements) – Part 3: Toxicological requirements</p> <p>European Standard – EN71-3:1994 Safety of toys – Part 3: Migration of certain elements</p> <p>New Zealand Standard – NZS 5820:1982 Specification for the safety of toys</p> |
| | Playpens for domestic use | <p>ASTM Standard – ASTM F406-89 Standard Consumer Safety Specification for play yards (<i>Amended as ASTM F406-97 in 1998</i>)</p> |
| | Wheeled child conveyances | <p>ASTM Standard – ASTM F833-95a Standard Consumer Safety Performance Specification for carriages and strollers (<i>Amended as ASTM F833-97 in 1998</i>)</p> <p>Australian/New Zealand Standard - AS/NZS 2088:1993 Prams and Strollers – Safety requirements</p> |
| 13 October 1998 | Bunk beds for domestic use | <p>ASTM Standard – ASTM F1427-96 Standard Consumer Safety Specification for Bunk Beds</p> <p>Australian/New Zealand Standard – AS/NZS 4220:1994 Bunk beds</p> <p>European Standard – EN747-1 & 2:1993 Furniture – Bunk beds for domestic use – Part 1: Safety requirements and Part 2: Test methods</p> |

| Gazette Date | Children's Products Concerned | Standards (other than BSI) Included |
|--------------|--|---|
| | | International Standard – ISO 9098-1 & 2: 1994 Bunk beds for domestic use – Safety requirements and tests – Part 1: Safety requirements and Part 2: Test methods |
| | Child safety barriers for domestic use | ASTM Standard – ASTM F 1004-92 Standard Consumer Safety Specification for expansion gates and expandable enclosures |
| | Children's cots for domestic use | ASTM Standard – ASTM F1169-88 Standard Specification for full size baby crib European Standard – EN716-1 & 2:1995 Furniture – Children's cots and folding cots for domestic use – Part 1: Safety requirements and Part 2: Test methods International Standard – ISO 7175-1 & 2: 1997 Children's cots and folding cots for domestic use – Part 1: Safety requirements and Part 2: Test methods |
| | Children's paints | International Standard – ISO 8124 –3: 1997 Safety of Toys – Part 3: Migration of certain elements |
| | Children's safety harnesses | Australian Standard – AS 3747-1989 Harnesses for use in prams, strollers, and high chairs (including a detachable walking rein) |
