

Reports about toy recalls in the United States have tarnished the image of Hong Kong and the Mainland's toy industry. *The Bulletin's* Editor Malcolm Ainsworth spoke with Jeffrey Lam, Chairman of the Hong Kong Trade Development Council's Toys Advisory Committee, last month about the recalls and their impact on the industry. Following are excerpts from that interview.

Bulletin: What do you think about the recent toy recalls?

Jeffrey Lam: Unfortunately they have been blown out of all proportion. Of course nobody wants to hear about recalls, but I feel particularly sad about how it has been portrayed, because all the hard work by both toy companies and manufacturers to build up the industry's reputation over all these years has been washed down the drain. There can

be a thousand and one reasons behind any recall, but whenever it happens, the first thing that crosses people's mind is that: "it must be the fault of the manufacturer."

B: Why does there seem to have been so many recalls recently?

JL: The large trade deficit between China and the U.S. is an ongoing issue. I think that as the U.S. presidential election draws closer, candidates are jumping on issues like this and toy safety to drum up public support and to put them in the media spotlight. Also, once news broke about the first recall, the authorities naturally stepped up toy inspections.

B: Do you feel the situation has been sensationalized?

JL: It has been blown up and sensationalized out of all proportion. First came a series of

Ensuring Toys are Safe

玩具安全 防患未然

recalls. Then the suicide of a Hong Kong manufacturer (Zhang Shuhong) after his company's toys for Mattel didn't meet specified standards. Then came a second recall by Mattel of 18 million toys. This caused some people – before they even knew the facts – to start pointing fingers at what they called unscrupulous Mainland manufacturers who would compromise toy safety just to make an extra buck!

Of course I cannot deny that every industry has some “rotten apples,” but as I said earlier, there can be many, many reasons behind a recall. Unfortunately, people like to pass judgment before waiting to see the whole picture and conjure up various conspiracy theories. As it turned out, Mattel came out to apologize and admitted that most of the toys were recalled because of its design defects, while the lead-tainted toys accounted for only a small percentage of those recalled.

In addition, last month two Canadian university professors (Prof Paul Beamish of University of West Ontario and Professor Hari Bapuji of University of Manitoba) released their research that found among the 550 toy recalls that have taken place in North America since 1988, 76% were due to design flaws by the original companies. Only about 10% were directly attributed to contractors' manufacturing defects.

From their research, it is obvious that certain people's efforts to catapult themselves into the limelight on the back of this issue has only managed to scare the public into wrongly worrying about the Made in China label. As a result everyone loses: not just manufacturers, but also toy companies and consumers.

B: What did you make of Mattel's apology to China for its handling of the recall?

JL: If Mattel came out earlier to clarify the reasons for the recall, it would have helped to ease tensions over the issue and dispel public misunderstanding about Mainland manufacturers. But now the damage has been done. The industry's reputation has been dealt a severe blow, and manufacturers are suffering as a result of this bad publicity. I think there is still some way to go before we can clean up this stain and fully restore consumer confidence. However, the company's apology is better late than never. The most important thing is that everyone has learned a good lesson from this, so we all have to make sure we do not forget.

Risks Faced by Toys Manufacturers

China-made toys hit the headlines recently due to safety concerns. SIMON LUK examines some of the reasons underlying the recalls, their legal ramifications on retailers and manufacturers, and how companies can limit their potential liabilities when exporting goods to the U.S.

China was the number one supplier for toys, fish, and tires to the United States in 2006. In particular, a staggering 86% of U.S. toy imports came from China.

In the last couple of months, however, millions of toys were recalled in the U.S. For example, in August 2007 alone, Mattel Inc., the world's biggest toymaker, recalled over 20 million Chinese-made toys due to excessive lead paint or loose magnets. Such recalls could cause financial losses for the responsible toy manufacturer, because they might have to bear the huge cost of recalls and the potential loss of business of U.S. retailers. In addition, they may be exposed to massive indemnity claims from U.S. retailers as a result of recently filed class actions in the U.S.

U.S. consumer class actions

Although class actions are unheard of in Hong Kong, they are common in the U.S., especially when consumer products are involved, because the affected class of plaintiffs can be very large.



KAREN SHERLOCK/ICMCT

B: Could this “fear” about made in China toys spread to other sectors, like refrigerators, computers, etc?

JL: I doubt this will happen as long as everyone does their job properly. In fact, the toy industry has been working very hard to

restore the public’s confidence. I know many manufacturers have increased their spending on quality control and quality management procedures. They conduct more tests on the product’s design and conduct more checks on every procedure. Actually, Hong Kong manufacturers have built up a long-standing reputation globally for producing top-quality toys, which is widely recognized. That’s why they have been enjoying a leading position in the highly-competitive global market for such a long time. We should not allow this fear to linger on.

B: Some buyers are asking their suppliers to re-test the safety of their products, despite the fact that they already passed all previous safety requirements. Do you expect these demands for additional tests to continue?

JL: As I said earlier, manufacturers are now doing everything that they can to ensure their goods meet all safety requirements. Manufacturers, as well as buyers, are now stepping up inspection and testing processes to restore public confidence. It is natural that when safety requirements are raised, we have to conduct more tests to meet the standards.

On August 20, a Philadelphia law firm filed a class action lawsuit in Los Angeles County Superior Court against Mattel Inc., asking the company to set up a fund to allow concerned parents to have their children tested for lead poisoning. The medical cost per child is around US\$50. The class size will likely reach millions of plaintiffs because according to public statements made by Mattel, 1.22 million children’s toys that it sold carried surface lead paint.

Indemnity and contract claims by toy retailers

In addition to possible termination of future business with Chinese toy manufacturers, U.S. retailers may make indemnity claims against Chinese toy manufacturers to recover:

- (i) compensatory payments that they have made to consumers;
- (ii) legal costs for defending consumer claims; and
- (iii) costs of the recall programs.

Whether or not these indemnity claims will succeed will depend on the drafting of the indemnity clauses in the contracts between the two parties.

Besides indemnity claims, Chinese toy manufacturers may be sued by U.S. retailers under contract law for

other reasons, including misrepresentations, breach of warranties, and breach of promises regarding safety and quality of their products.

Enforcement of U.S. lawsuits

Against Assets in U.S. – A U.S. judgment can be enforced against assets of a Chinese toy manufacturer that are based in the U.S., which may include, contractual rights that the toy manufacturer has with other companies. For example, if a Chinese toy manufacturer has accounts receivables in the U.S. from a U.S. buyer, that can be subject to execution of a U.S. judgment.

New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards – With respect to the enforceability of arbitral awards, China is a party of the “New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.” This means that an arbitration award issued in the U.S. (or in a third country) can be enforced in Chinese courts.

Minimum Contacts – Although U.S. courts do not have jurisdictional power over companies incorporated outside the U.S. and not conducting business there, a

B: Will all these demands raise production costs for companies?

JL: This is for sure. Toy manufacturers are facing a very tough environment. The cost of production over the past two years has risen sharply due to price increases in raw materials, the appreciation of RMB, rising labour and utility costs, etc. Now they have to conduct more tests and to increase quality control measures. Obviously production costs are bound to shoot up. The issue now is who is going to pay for all these rising costs?

B: Does part of the problem lie with buyers continually squeezing suppliers for lower prices?

JL: As everyone knows, production costs have been rising constantly in the past few years, but if you look at retail prices, they've either gone down or remained the same. On top of the rising costs that I just mentioned, manufacturers now have to spend more on testing and inspection. I think if buyers continue to squeeze suppliers for lower and lower prices, this will only lead to a dead end for everyone. Buyers should realize that prices need to be adjusted both ways from time to time to enhance toy safety. Threatening

suppliers to take their business elsewhere if they don't meet the price they are willing to pay is not healthy for either party or the industry in general. After all, every party has a role to play in enhancing toy safety. It is a shared responsibility and everyone has to contribute to that goal.

B: Should the toy industry police itself more strictly, or should toy safety associations around the world be more stringent in their testing?

JL: Of course everyone in the industry should do their job properly to make sure they meet all the required regulations and standards. In fact, everyone within the industry has been working very hard on this, such as setting up their own in-house testing laboratories to double check certificate claims on raw materials that they buy. In addition, authorities in Beijing and the U.S. have stepped up their own safety policies and inspection processes.

B: What are the long-term implications of the recalls?

JL: There shouldn't be any long-term implications. As I mentioned earlier, in

Chinese toy company that is systematically tapping the U.S. market, such as sending representatives to U.S. trade shows, visiting companies in the U.S. and sending electronic messages, may be found to have sufficient "minimum contacts" with the U.S. such that a U.S. court can exercise jurisdiction over it. A foreign defendant does not need to have an office nor hire employees in the U.S.

Consumer Product Safety Act 1972

U.S. legislation that gives the CPSC its power is the Consumer Product Safety Act 1972. Under this Act, every manufacturer, distributor and retailer of a consumer product is required to inform the CPSC within 24 hours when they obtain information which reasonably supports the conclusion that such a product:

- (1) fails to comply with an applicable consumer product safety rule;
- (2) contains a defect which could create a substantial product hazard; or
- (3) creates an unreasonable risk of serious injury or death.

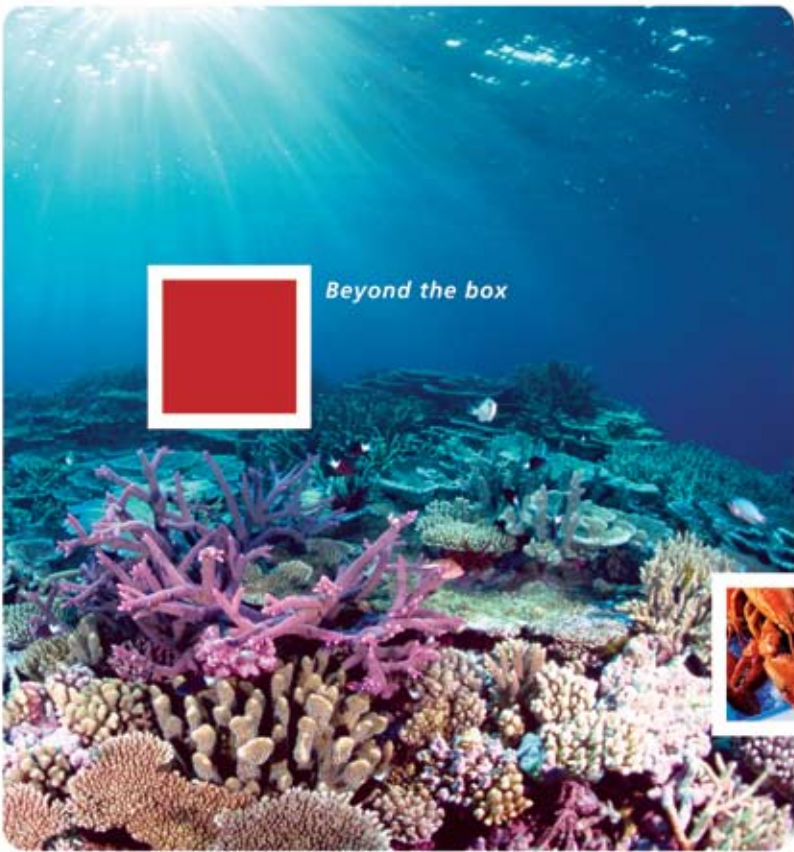
On September 4, the CPSC stated that it was investigating whether Mattel Inc. "knowingly" withheld

information regarding potential safety risks associated with its toys that were involved in a major recall in August. If the CPSC decides that Mattel did breach provisions of the Act, then it has the power to issue fines on Mattel of up to US\$2 million.

With respect to Chinese toy manufacturers, the CPSC may initiate seizure and condemnation proceedings if the products are determined to be hazardous. When the CPSC designates a product as a substantial hazard, it may require that the manufacturer give public notice of the product's defect and either make repairs, replace the product, or give refunds to consumers. Also, a manufacturer who knowingly violates any rule and whose product subsequently injures any person may be subject to civil fines and criminal penalties.

China's General Administration of Quality Supervision, Inspection and Quarantine

China's General Administration of Quality Supervision, Inspection & Quarantine (AQSIQ) is a governmental department in China in charge of the quality of goods being imported into and exported out of China.



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Currently, the CPSC is working closely with AQSIQ, which means that if the CPSC is interested in investigating a particular manufacturer in China, AQSIQ may help the CPSC to carry out an investigation or it may decide on its own to follow up CPSC's investigation.

On September 12, CPSC and AQSIQ held a Consumer Product Safety Summit, which resulted in both parties agreeing to:

- (i) increase inspections of consumer products destined for the U.S.;
- (ii) assist the CPSC in tracing hazardous products to the manufacturers, distributors and exporters in China; and
- (iii) stop and prohibit manufacturers in China from using lead paint to manufacture all toys exported to U.S. immediately.

In addition, both agencies agreed on a roadmap for bilateral efforts to improve safety in the toy industry. The two agencies expect to review the plans' effectiveness within one year to identify possible areas for improvement.

Limiting potential liabilities

Contractual terms – Toy manufacturers can protect themselves by carefully considering what to include in contracts. Toy manufacturers are advised to perform a "risk audit" to list potential liabilities. Obviously, it is vital that any contract between a U.S. retailer and toy manufacturer be drafted thoroughly, and that risks be allocated fairly. Every term and provision in a contract can have significant legal ramifications and need to be reviewed and revised by experienced international lawyers.

Indemnification provisions – Both parties should clearly understand indemnification. When something goes wrong, should the manufacturer be liable for all costs of the recall? If so, for how much? Who should bear the costs of the design fault? These issues should be considered before entering into a contract.

Incorporation of safety standards – The degree of quality and the safety standards of products should be stated in detail under the contract. This will avoid U.S. retailers from claiming that the products do not meet the required standards. Manufacturers should also have documentary

Toy Recalls by Type of Flaw (1988-2007)

基於不同問題的玩具回收個案 (1988-2007)

Year 年份	Number of Recalls 回收個案數目	Recalls due to Design Flaws 基於設計失誤的 回收個案	Recalls due to Manufacturing Flaws 基於生產失誤的 回收個案
1988	29	25	2
1989	52	42	2
1990	31	25	3
1991	31	29	1
1992	25	16	0
1993	20	15	1
1994	29	21	4
1995	35	32	0
1996	26	15	5
1997	22	17	1
1998	29	23	1
1999	20	15	2
2000	31	25	2
2001	23	15	4
2002	25	20	3
2003	15	14	0
2004	15	8	4
2005	19	14	3
2006	33	23	6
2007	40	26	10

basically the past 20 years, only 10% of recalls were due to manufacturing defects. So if buyers raise their design standards, and manufacturers do their job well, consumers should have nothing to worry about.

B: What can the industry do to minimize the likelihood of such incidents from happening again?

JL: They should strengthen their design, testing, inspection and manufacturing process, as well as their code of conduct. There should also be more communication between buyers and suppliers. They should work as partners. Whenever they spot a problem, they should be able to discuss this and to try to find a solution before it is too late without the fear that the buyer will cancel their order.

They should always work as partners to build long-term relations and not just jump from one supplier to another in search of lower and lower prices. They must realize that if they want a certain quality, they need to pay a certain price. It is very important that all buyers from around the world realize that they need to pay the right price for top-quality toys. After all, you only get what you pay for. 🌸

proof that production was in compliance with detailed safety standards.

Dispute resolution – When a dispute arises between parties, which country should it be resolved in? Which country's law or court's procedures should be followed? The answers to these questions depend on whether a class action is possible directly against a toy manufacturer. Is there is a designated neutral third party (i.e. mediator or arbitrator) that can help to resolve the dispute? Again, all these issues should be clearly stated in the contract.

Design – Chinese toy manufacturers should pay extra attention to the designs of any product that they are asked to produce. Most of the time, it is the design of the product that is the root of a problem. Even if a toy manufacturer produces a product exactly to the retailer's requested specifications, that product might have problems because its design did not meet the required standard of safety or quality in the U.S.

Even Mattel admitted that its design defects were the main reason for most of its recalls. On September 21, Mattel's Executive Vice President for worldwide operations apologized to China for harming the reputation of Chinese manufacturers.

In particular, he said: "the vast majority of those products that were recalled were the result of a design flaw from Mattel, not through a manufacturing flaw of China's manufacturers."

Liability insurance – Both retailers and manufacturers should take out product liability insurance to cover themselves.

On-going inspection

On-going inspections between U.S. retailers and manufacturers should be conducted to ensure the quality of toys. Also, the supply chains should be transparent, recorded and tested to control and maintain quality.

With closer cooperation among Chinese toy manufacturers and U.S. retailers, and better allocation of risks among these parties, manufacturers can have a clearer picture of potential risks and minimize the negative consequences of the recent toy recalls.

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近日有關美國回收玩具的報導，已嚴重損害香港和內地玩具業的形象。本刊總編輯麥爾康上月專訪了香港貿易發展局玩具業諮詢委員會主席林健鋒，以了解回收詳情和事件對業界的影響。下文乃當天訪問的內容精華。

問：你對近期的回收行 有何看法？

答：這些事件都是一些言過其實的誇張報導，令人遺憾。當然，沒有人希望聽到此類回收的消息，但對於有關事件的報導手法，我尤感失望，因為玩具企業和製造商多年來努力為業界建立的聲譽，都被徹底摧毀。任何回收事件背後都可能有眾多原因，但每當事故發生後，所有人的第一個反應都會是：「問題必然出於製造商。」

問：為甚麼近期接連出現回收事件？

答：中國對美國的龐大貿易逆差是一個有待解決的議題。我認為，隨著美國總統大選迫近，玩具安全等一類議題將成為候選人的抨擊焦點，用以爭取公眾的支持和引起傳媒的注意。此外，一旦有回收的消息傳出，有關當局自然會加強玩具檢測。

問：你認為有關情況是否被過分渲染？

答：這些事件都被大肆誇大和渲染。首先是出現

連串的回收行，接著更傳出港商（張樹鴻）因其公司為美泰 (Mattel) 生產的玩具未達標準而自殺身亡的消息，其後美泰亦二度宣布回收1,800萬件玩具。連串的報導或會令人在得悉事實真相之前，已把矛頭直指一些所謂無良 德的內地製造商，批評他們不惜為多賺一分一角，而漠視玩具安全！

當然，我不能否認每個行業都有一些「害群之馬」，但正如我先前提及，每宗回收事件背後都可能有許多原因。可惜，大眾往往未及了解箇中原委前，已先行作出判斷，並編造出各式各樣的陰謀論。結果，美泰公開道歉，承認召回的玩具大部分是由於設計失誤，只有少數是與油漆含鉛量過高有關。

此外，加拿大兩位大學教授（西安大略大學教授Paul Beamish 及馬尼托巴大學教授Hari Babuji）在上月發表的研究報告中指出，北美自1988年來發生的550宗玩具回收個案中，有76%是出於設計失誤，只有約10%可直接歸咎於承包商的生產問題。

他們的研究反映了某些人藉著吹噓有關議題，意圖博取公眾注意，做法只會令大眾的焦點錯誤轉移至中國製的標籤上，讓他們產生不必要的憂慮。結果是各方都蒙受損失：除了禍及生產商，玩具商和消費者也遭牽連。

中國玩具製造商面臨的風險

最近，中國製玩具因美國政府提出的安全問題以及美國玩具零售商的多次大規模召回，而屢屢成為新聞關注的焦點。本文作者陸志明將討論這些召回事件的主要原因、所帶給零售商和玩具製造商的法律後果，以及中國玩具製造商向美國出口商品時，應如何減少有可能承擔的潛在責任。

中國是美國眾多產品的最大供應商之一。在2006年，中國是最大的玩具、魚類以及輪胎供應國，而美國的進口玩具更有多達86%來自中國。

然而，過去數月，數以萬計的玩具在美國被召回。例如，單在2007年8月份，全球最大玩具製造商——美泰公司 (Mattel Inc.) 已召回超過2,000萬件中國製玩具產品，原因是油漆含鉛量超標和磁鐵鬆。這些回收行將使中國玩具製造商在財務上蒙受損失，因為他們得承受巨額的召回費用，並可能會流失美國零售客戶。此外，他們還可能因美國零售商最近在美國提出的集體訴訟，而面臨巨額的賠償訴求。

美國消費者集體訴訟

儘管集體訴訟在香港仍很陌生，但在美國卻司空見慣，特別是當涉及消費者產品所影響的原告團體規模較大。

2007年8月20日，費城一家律師事務所在洛杉磯縣高級法院向美泰公司提出了集體訴訟，要求美泰公司設立基金予家長使用，讓他們的子女接受鉛毒測試。鉛毒檢查的醫療費用約為每位50美元。該集體訴訟的規模將有可能達到數以萬位原告，因為根據美泰公司作出的公開陳述，其銷售的122萬件兒童玩具的表面有含鉛油漆。

玩具零售商的賠償金和合約訴求

除可能終止與中國玩具製造商的未來交易外，美國零售商也可能會針對中國玩具製造商提出賠償訴求，以彌補：

- (i) 支付給消費者的補償費用；
- (ii) 對消費者訴訟進行抗辯所需的法律費用；以及
- (iii) 召回過程的費用。

這些賠償訴求是否能夠獲得勝訴，將取決於雙方合同中有關賠償條款的擬定情況。

除賠償訴求外，中國玩具製造商也可能受到美國零售商因其他原因而根據合同法提出起訴，包括不實陳述，違反保證條款，以及違反有關其產品安全和質量的承諾等。

美國訴訟的執行

針對在美國的資產——美國判決可針對中國玩具製造商在美國的資產執行，包括該玩具製造商與其他公司之間的合同權利。例如，若



KEAMPHIA BOURAPHANJUMCT

問：你怎麼理解美泰就處理回收一事上向中國致歉？

答：若美泰早些向外澄清回收的原因，便能有助舒緩有關議題所引發的緊張氣氛，並消除大眾對內地生產商的誤解。然而，事情發展至今，已對業界造成影響，行業的聲譽嚴重受損，生產商也蒙上污名。我認為，要洗脫這個污點和完全恢復消費者信心，仍然需要花些時間和功夫。不過，玩具商作出道歉始終是較佳的做法，總好過讓事情不了了之。最重要的是，所有人都從此事中吸取到教訓，我們必須緊記有關教訓。

問：這種對中國製玩具的恐慌會否蔓延至其他行業，例如雪櫃和電腦等產品？

答：只要所有人能各盡本份，這類事件應不會再次發生。事實上，玩具業一直為重建公眾信心而付出很大努力。許多生產商已提高了在質量控制和質量管理程序方面的開支，並就產品設計和每個程序進行更多檢測。長久以來，香港生產商所製作的玩具質素，已獲各地廣泛認同，並在全球建立了良好信譽，故他們一直都能在競爭激烈的全球市場中維持領導地位。我們不應讓這種恐懼延續下去。

問：儘管一些產品早前已通過所有安全檢定，惟部分買家仍要求供應商重新測試產品安全。你預料買家對這些額外測試的要求會否持續？

答：我先前提過，生產商正盡一切努力，確保產品符合所有安全要求。現時，生產商和買家都加強了檢

一家中國玩具製造商在美國擁有來自某美國買方的應收賬款，則美國判決會針對該項應收賬款執行。

承認和執行外國仲裁裁決的《紐約公約》— 就仲裁裁決的可執行，中國是《承認和執行外國仲裁裁決紐約公約》的締約方。這意味著在美國 (或第三國) 作出的仲裁裁決也可以在中國法院執行。

最低聯繫 — 儘管美國的法院對不在美國成立且不在美國開展業務的公司不具備管轄權，但定期接觸美國市場的中國玩具公司，例如派遣代表參加美國貿易展、訪問美國公司和發送電子信息，便可足以被認定是與美國有「最低聯繫」，這樣美國法院便可對該公司行使管轄權。一位外國被告無需在美國設立辦公地點或僱用員工。

1972年《消費產品安全法》

授予消費產品安全委員會 (CPSC) 權力的美國法案是1972年頒布的《消費產品安全法》。根據此法案，消費產品的每家製造商、分銷商和零售商均被要求在其得到合理支持該產品出現下列情況的信息後24小時內通知CPSC：

- (1) 未能符合適用的消費產品安全規定；
- (2) 含有可造成潛在產品危險的 陷；或
- (3) 引致嚴重傷害或死亡的不合理風險。

2007年9月4日，CPSC 表示正在調查美泰公司是否「故意」隱瞞2007年8月大規模回收行 所涉及玩具有關的潛在安全風險的

信息。倘若CPSC 確定美泰公司確實違反了上述法案的規定，則CPSC將有權向美泰公司罰款高達200萬美元。

就中國玩具製造商而言，如果產品被確定具有危險，則CPSC可能會協查和沒收程序。在CPSC認定一種產品具有潛在危險時，可要求製造商公開通告產品的 陷，以及修理、替換該產品，或向消費者退款。同時，故意違反任何規定的製造商，且其產品隨後對任何人造成傷害的，則會受到民事罰款和刑事處罰。

國家質量 督檢驗檢疫總局

中國國家質量 督檢驗檢疫總局 (AQSIQ) 是主管中國進出口商品質量的政府部門。

目前，CPSC 與AQSIQ正緊密合作，即假若CPSC想調查中國某家製造商，AQSIQ可協助CPSC 進行調查，或AQSIQ可自行決定繼續跟進CPSC的調查。

2007年9月12日，CPSC和AQSIQ合辦消費產品安全峰會。會上，雙方達成了協議，AQSIQ同意：

- (i) 加強檢驗出口到美國的消費產品；
- (ii) 協助CPSC追緝危險產品在中國的製造商、分銷商和出口商；以及
- (iii) 立即停止和禁止中國製造商在出口到美國的所有玩具上使用含鉛油漆。

測，以回復公眾信心。當安全要求有所提高，我們自然會進行更多測試，務求達到標準。

問：這類要求會否增加企業的生產成本？

答：這是難免的了，玩具生產商都面對艱難的經營環境。過去兩年，由於原材料價格上升、人民幣升值及勞工和公用事業成本上漲，生產成本已大幅增加。現在，他們需要進行更多測試和增加質量控制措施，生產成本勢必急漲。當前的問題，是誰來支付這些不斷上升的成本？

問：部分問題是否可歸因於買家不斷向供應商壓價？

答：眾所周知，生產成本在過去數年一直不斷增加，但零售價格卻在下跌或維持不變。除了剛提及的成本上升因素之外，生產商現在亦需要在產品檢測上多加投資。我認為，若買家繼續向供應商壓價，這只會令雙方陷入僵局。買家應該明白，價格需要不時由雙方作出調整，從而提升玩具安全。若買家發現供應商所訂的價格與他們願意支付的金額不符，並嚷著要轉換供應商，以威迫他們降價，這種做法對雙方或整個業界來說都沒有益處。畢竟，各方均有共同責任提升玩具安全，每人都應為達成有關目標而盡一分力。

問：玩具業應否加強自我管理？世界各地的玩具安全組織應否收緊檢測標準？

答：當然，業內每一個人都應各盡其職，以確保符合所有規例和標準。事實上，業內所有人一直為此而努力，例如自設內部測試實驗室，以反覆核實原材料證明書上的說明。此外，北和美國有關當局已改善國內的安全政策和檢驗過程。

問：回收事件會帶來甚麼長遠影響？

答：事件應不會構成長遠影響。正如我早前提到，在過去20年，只有一成的回收行是由生產失誤所導致的。因此，若買家能提高設計標準，而生產商亦作出配合，消費者則從此再沒顧慮。

問：業界應採取甚麼行，避免同類事件再次發生？

答：他們應改善設計、測試、檢驗和生產過程，以及業內操守。買家與供應商也應加強溝通，建立夥伴關係。每當發現問題時，雙方應合力商討，及早尋求解決方法，不必憂慮買家會取消訂單。

買家與供應商應視對方為合作夥伴，建立長期的關係，不應為了更低價格而經常轉換供應商，更必須了解質素與價格相稱的道理。各地所有買家亦必須知道，要入優質玩具，便得付出合理的價錢，畢竟一分錢一分貨。✶

此外，雙方通過了玩具業的未來合作計劃，包括致力提高產品安全的路線圖。雙方希望在一年內檢討該項計劃的成效，以確定有可能改善的範疇。

控制潛在責任

合同條款 — 中國玩具製造商可透過仔細擬備合同條款以保障自己。玩具製造商應進行「風險審計」，以了解其潛在責任。重要的是，美國零售商與玩具製造商之間所起草的合同，均應做到仔細和詳盡，並公平地分配風險。合同的每一條款和規定都有可能引發重大的法律後果，需要由富經驗的國際律師審核和修訂。

賠償規定 — 雙方應對賠償有清晰的理解。當發生像近期玩具回收之類的問題時，製造商是否應負責回收的全部費用？如是的話，回收費用具體是多少？誰應承擔設計失誤的責任？這些問題在簽署合同前便應考慮。

設立安全標準 — 產品的質量和安全標準應在合同中詳細陳述，以避免美國零售商聲稱產品未能達到指定標準。中國製造商應有書面證明文件，證明其生產符合有關的詳細安全標準。

解決爭議 — 雙方產生爭議時，應在哪個國家進行解決？應遵循哪個國家的法律或法院程序？答案取決於是否會出現可能針對玩具製造商而提出的集體訴訟。是否有一個指定的中立第三方（即調停人或仲裁人）幫助解決爭議？這些問題均應在合同中清楚說明。

設計 — 中國玩具製造商應特別注意所要求生產的任何產品之設計。在大多數情況下，問題都源於產品的設計。即使玩具製造商所生產的產品完全符合零售商要求的規格，該產品仍有可能出現問題，因為其設計未能達到美國要求的安全或質量標準。

甚至美泰公司也承認其設計失誤是大部分回收行的主因。2007年9月21日，美泰公司全球營運執行副總裁Thomas A. Debrowski就對中國製造商聲譽造成損害一事，向中國致歉。特別的是，他表示：「這些回收產品中的絕大多數都是因美泰公司而被召回，而非中國製造商的生產陷。」

責任保險 — 零售商和製造商都應為自己買產品責任保險。

持續檢驗

美國零售商和製造商應不斷進行檢驗，以確保玩具產品的好質量。同時，供應鏈（即產品各部分配件的來源地）應具透明度，並應進行記錄和檢測，以控制和保持產品質素。

隨著中國玩具製造商和美國零售商加強合作，以及改善彼此之間的風險分配，製造商將能更清楚理解其潛在風險，並能把近期玩具回收事故的負面影響降至最低。

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