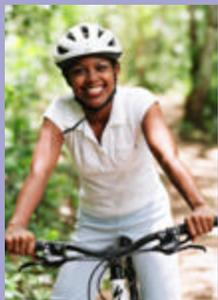




U.S. Consumer Product Safety Commission



TESTIMONY OF THE HONORABLE NANCY A. NORD ACTING CHAIRMAN

SUBMITTED TO
THE SENATE COMMITTEE ON COMMERCE,
SCIENCE AND TRANSPORTATION

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TESTIMONY OF THE HONORABLE NANCY A. NORD
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TO THE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE

JULY 18, 2007

Good morning, Mr. Chairman, and thank you for the opportunity to come before the Committee today to discuss the important issue of consumer product safety with respect to imported products, and specifically imported products from China.

As you know, the U.S. Consumer Product Safety Commission (CPSC) is a small, independent and bipartisan agency established by Congress and charged with protecting the public from unreasonable risks of injuries and death associated with more than 15,000 types of consumer products under the agency's jurisdiction. Since its inception in 1973, CPSC's work has contributed substantially to the decline in the rates of injury and death related to the use of consumer products.

While we are proud of the agency's many achievements, consumer product safety is never a completed task but always an ongoing process of research, standards development, enforcement and public education. Ever more technologically complex products, expanding retail sales over the Internet, and an unprecedented surge of imports, especially from China, are a few of the new dynamics that are continuously challenging the Commissioners and the professional staff at the agency.

In recent years, about two-thirds of all U.S. product recalls are of imported products, and the large majority of those products are manufactured in China. A 2007 study showed that the value of U.S. imports from all countries of consumer products under CPSC's jurisdiction was \$614 billion in 2006. Of this amount, the value of U.S. imports of consumer products manufactured in China was \$246 billion, comprising

approximately 40% of all consumer products imported into the United States. From 1997 through 2004, the share of all U.S. imports of consumer products from China increased by almost 300%.

As I reported in my testimony at the Committee's oversight hearing this past March, these imports have strained the agency's resources and challenge us to find new ways to work to ensure the safety of imported products that enter the stream of commerce. I would like to report to you in more detail today on the initiatives that the CPSC has undertaken in recent years to address the growth in imports and to relate to you what actions we are planning for the future.

The issue of Chinese imports cannot be adequately addressed by any one remedy but rather requires a multi-pronged approach to the problem. The CPSC is addressing the issue of Chinese imports with a four part plan of action: dialogue and initiatives with the Chinese government; working with the private sector including Chinese manufacturers directly; increased surveillance and enforcement activities at the borders and within the marketplace; and modernization of our governing statutes.

INITIATIVES WITH THE CHINESE GOVERNMENT

Historically, CPSC has not actively engaged in international activities. However, in 2004, recognizing the continuous and significant increase in the number of imported consumer products entering the American marketplace from China, my predecessor became the first Chairman of the CPSC to travel to that country. That first step was the genesis for a formal relationship between the CPSC and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), our counterpart agency in China, and it resulted in the signing of a Memorandum of Understanding (MOU) between our two nations later that year. Since becoming Acting Chairman last July, I have viewed the task of building upon that foundation as one of my highest priorities.

In 2005, at the first U.S.-Sino Product Safety Summit, the CPSC signed an Action Plan on Consumer Product Safety with AQSIQ. The Action Plan outlines specific cooperative actions to be taken by CPSC and AQSIQ to improve the safety of consumer products: training; technical assistance; a mechanism to provide for "urgent consultation" when necessary; information exchanges; and the creation of Working Groups to address issues in four priority areas—fireworks, lighters, electrical products and toys.

The tasks of the Working Groups are to develop strategies to address safety problems; to be able to respond quickly to urgent product safety issues; to exchange information on changes to safety standards; and to exchange laboratory and inspection personnel in each other's respective facilities. At the beginning of this year, we identified and

communicated to our Chinese counterparts specific problems and proposed actions to address these problems with respect to each of the four product categories covered by the Working Groups. In May 2007, I traveled to China with a delegation of top CPSC officials for in-person discussions of the issues identified by this process. Negotiations are continuing over the summer and we are hopeful that by this Fall we will have agreement on specific actions both the Chinese and the U.S. governments will take with respect to the issues identified.

Currently, the CPSC is planning our second Biennial U.S.-Sino Product Safety Summit to be hosted by CPSC at locations in the Washington area this September. At the Summit, we hope to finalize and announce the agreements that have been reached by the Working Groups.

Another program recently implemented is notification to Chinese government officials and the involved Chinese manufacturer (where it can be determined) of a consumer product that was recalled in the United States. The agency sends letters to the Chinese government and the Chinese manufacturer, in both English and Mandarin, briefly explaining the recall and enclosing a copy of the CPSC press release announcing the recall. I believe it is critical that the Chinese government be notified formally of the recall and, where known, the identity of any Chinese manufacturer whose product is the subject of a safety action.

PRIVATE SECTOR/MANUFACTURERS INITIATIVES

The second prong of our plan to address Chinese imports is to work with the private sector including Chinese manufacturers. One of the Commission's first initiatives in responding to the growth in imports was to establish the Office of International Programs and Intergovernmental Affairs to support a comprehensive effort to ensure that imported consumer products complied with recognized American safety standards. The mission of CPSC's International Programs Office is to coordinate the agency's work with other countries regarding safety standards development and harmonization, as well as inspection and enforcement activities.

A major emphasis of this program is working with foreign manufacturers to establish product safety systems as an integral part of their manufacturing process. We have found that many overseas manufacturers, particularly those from the developing world, are either ignorant of existing voluntary and mandatory standards or simply choose not to design and manufacture their products to those standards.

As part of our plan to address this problem, in 2005 the CPSC published the *Handbook for Manufacturing Safe Consumer Products* underscoring our message that safety must be designed and built into consumer products in conformance with safety systems

planned, established and implemented at the direction of executive management. The *Handbook* presents a comprehensive systematic approach to manufacturing safe products and has been published in Mandarin and distributed in China.

In 2006 CPSC facilitated the translation of the identification and scopes provisions that summarize the requirements of nearly 300 U.S. mandatory and voluntary consumer product safety standards into Mandarin to assist Chinese manufacturers in understanding what U.S. product safety standards require when manufacturing various products. CPSC determined which standards would be translated primarily by analyzing what imported Chinese products were recalled in the largest numbers and selecting the corresponding U.S. mandatory or voluntary standards for translation. The translation of the identification and scopes provisions of U.S. product safety standards facilitates Chinese manufacturers understanding of what is required of them when they manufacture products for the U.S. market. The translations of the identification and scopes provisions of the selected standards are available at standardsportal.org, a website operated and maintained by ANSI.

The CPSC has also conducted industry-specific safety seminars and retail and vendor training seminars in China. In fact, this week a member of CPSC's compliance staff is in China making a presentation to Chinese toy manufacturers about manufacturing to our toy safety standards. Last year staff conducted a number of other safety training activities in China dealing with toy safety, electrical product safety, fireworks safety and a supplier safety seminar for retailers.

Finally, we are undertaking conversations with specific industry groups to encourage testing and certification programs. For example, ANSI and other standards, industry and retail groups are considering the development of testing and certification programs. We have also talked with the toy industry about such a program, and shortly we will be scheduling a public meeting to be briefed on what the industry is planning.

INCREASED SURVEILLANCE AND ENFORCEMENT

The third prong of our plan of action for Chinese imports is increased surveillance and enforcement activities. Although the Commission has been without a quorum for over six months, the agency has been active in addressing the challenge of imported products, not only directly with the Chinese government, but also here in the United States. In Fiscal Year 2006, the CPSC announced an all-time record number of recalls of defective products. These recalls represented a wide range of consumer products and product hazards. Over two-thirds of these recalls were of imported products, primarily from China.

CPSC's Compliance staff working in conjunction with U.S. Customs and Border Protection (CBP) undertakes both routine and targeted surveillance and sampling of products at U.S. ports of entry. CPSC recently began participating in the Automated Commercial Environment (ACE). ACE is the new U.S. CBP processing system that allows CPSC to facilitate the efficient collection and analysis of records of incoming consumer products to identify likely shipments of violative products before they can be introduced into the stream of commerce. Our early experience with using the ACE system indicates that it will provide us with better data at an earlier point in the process so that our port inspection activities can be precisely targeted and thus more effective.

CPSC obviously attempts to keep dangerous products from entering into the country in the first instance. However, in the event a defective product does enter the stream of commerce, CPSC has been taking stronger measures to effectively remove such products from the marketplace. For example, after a product has been recalled, CPSC has stepped up the number of recall verification inspections of the recalling firms to ensure the product is being removed from the marketplace. CPSC has also adopted a new practice of notifying major retailers of all CPSC recalls, as well as routinely conducting internet searches for sales of recalled products.

CPSC staff is also working with various domestic and international associations and standards groups to assure that a strong message is being delivered to Chinese manufacturers and exporters.

STATUTORY MODERNIZATION

The fourth prong of our plan of action for Chinese imports is the modernization of our governing statutes to better allow us to address the large influx of imports. Congress was farsighted when it crafted the Consumer Product Safety Act, the CPSC's governing statute. When the law was written in 1973, Congress recognized that the agency could not impose U.S. law in foreign countries against foreign manufacturers, so our statutes hold everyone in the product's stream of commerce in the U.S. responsible and potentially liable. In brief, the American importer, as well as the domestic retailers and distributors, are held responsible when we cannot reach an overseas manufacturer.

However, what Congress could not foresee 34 years ago was the flood of exports that would be entering the United States in the 21st Century. That is one reason that I believe it is in the best interest of consumer product safety to modernize CPSC's statutes and to strengthen the agency's hand in protecting the American public.

As you know, Mr. Chairman, the CPSC was last reauthorized in 1990. Clearly, the dynamics of the marketplace have changed dramatically since that time. In that regard,

I would like to submit for the record a copy of a working paper that describes proposed revisions to CPSC's statutes that I believe will help the agency respond to the 21st Century challenges of growing imports, emerging hazards and modern retail technology. For example, it would address obvious gaps in our statutes by making it unlawful to sell a recalled product in commerce.

Mr. Chairman, the CPSC is determined to make certain that imported consumer products meet the same high standards that we require of products manufactured in America. While the CPSC historically has been a relatively small agency, I believe that with the proper tools we can continue to accomplish our mission of making certain that the products American families bring into their homes and playgrounds are safe and sound.

Thank you again for the opportunity to testify today, and I look forward to answering your questions and working with the Committee on these important issues.