



# **Selling Compliant Toys in The United States**

**U.S. Consumer Product Safety Commission**

**John Golden  
Regional Product Safety Attaché (Asia-Pacific)  
U.S. Embassy, Beijing**

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# Mission of the U.S. Consumer Product Safety Commission

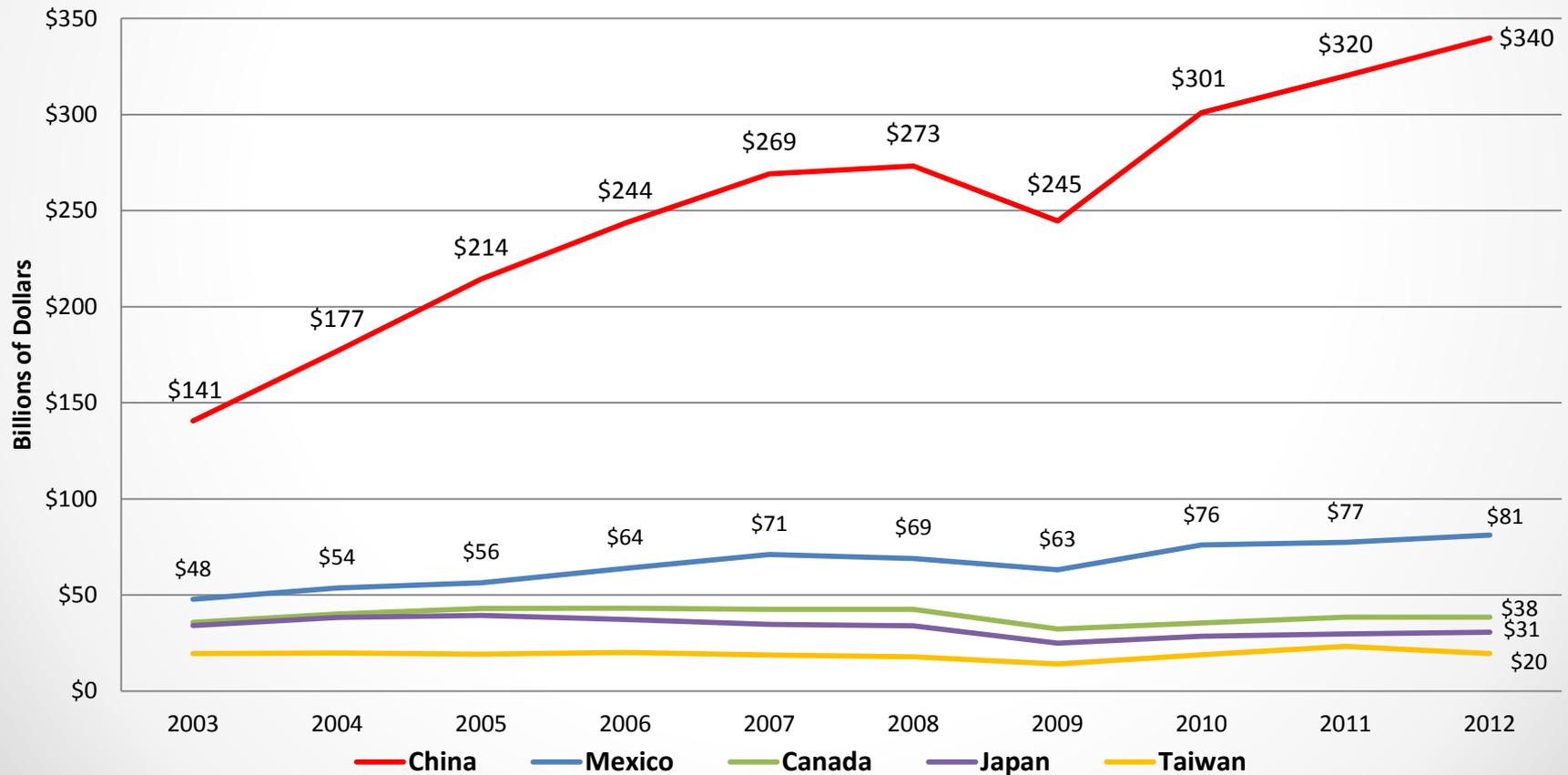
Protecting the public against unreasonable risks of injury from consumer products through education, safety standards activities, regulation, and enforcement.





# Sources of Imports

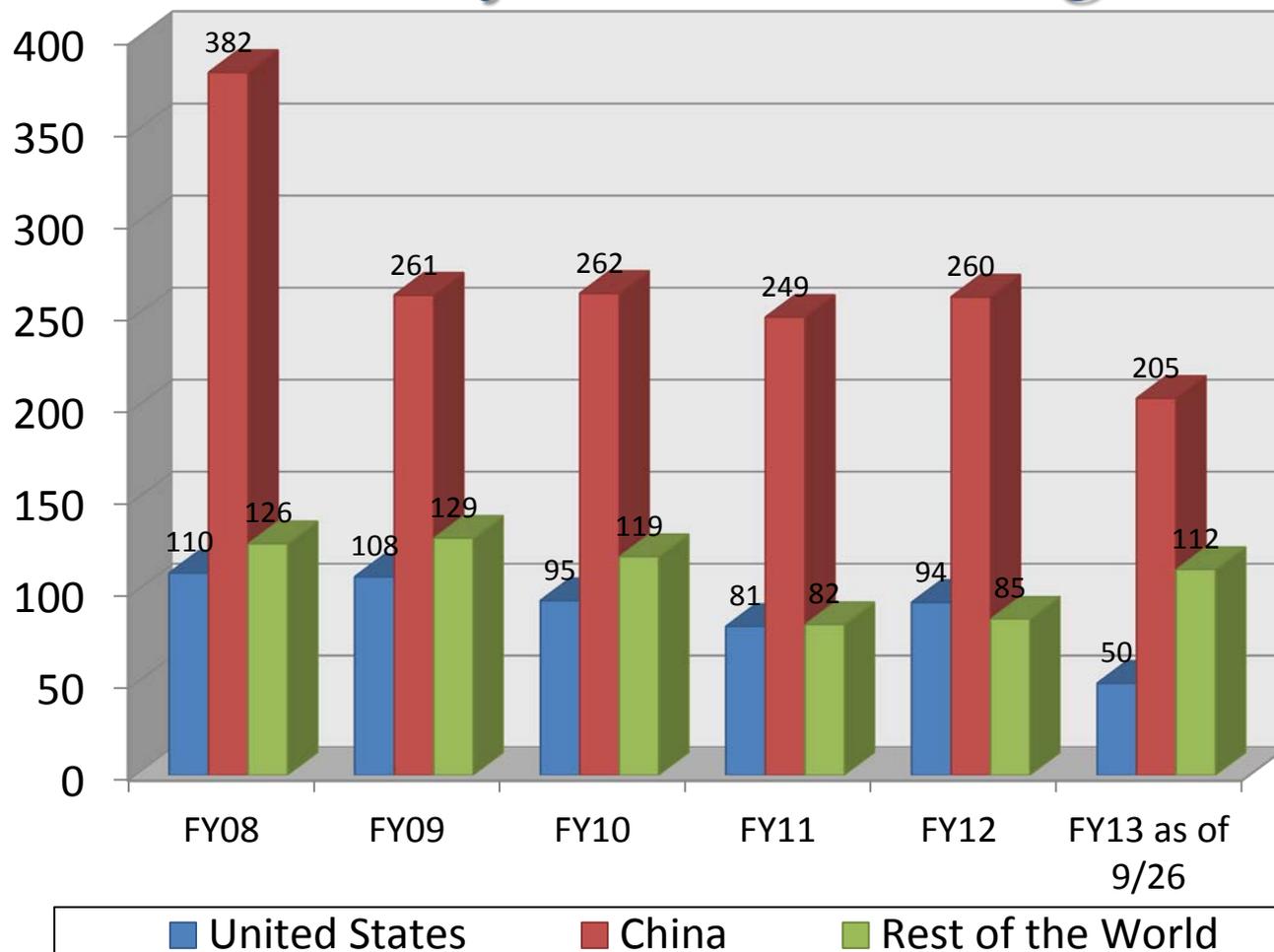
## Imports of Consumer Products from the Top Five Source Countries (Billion U.S. Dollars)



Source: U.S. International Trade Commission statistics and Directorate for Economic Analysis calculations.



# Recalls by Product Origin





# The Consumer Product Safety Improvement Act of 2008 (CPSIA)

Congress passed the CPSIA in 2008 to improve and to modernize the agency. Many high-profile product recalls in 2007 and 2008, particularly those involving:

- Lead paint in children's toys
- Dangerous cribs



# Major Provisions of the CPSIA

- Bans lead beyond a minute amount in products intended for children 12 years of age and under.
  - 100 ppm for lead content in children's products and toys
  - 90 ppm for surface paint on children's products and toys.
- Permanent ban of three phthalates in toys and child care articles; interim ban of three other phthalates
  - No more than .1 percent of DEHP, DBP, or BBP—permanently banned
  - No more than .1 percent of DINP, DIDP, or DnOP—temporarily banned pending recommendation from Chronic Hazard Advisory Panel
- Requires tracking labels on children's products
- Deems ASTM toy standard a mandatory standard under CPSA
- Mandates that the CPSC issue mandatory federal safety standards for durable infant or toddler products
- Mandates premarket testing by certified laboratories of children's products for lead and for compliance with a wide range of safety standards.



# CPSIA Provisions

- Mandated the creation of a publicly searchable web-based database of injuries or risk of injuries available at [www.saferproducts.gov](http://www.saferproducts.gov)
- Confers greater powers for the CPSC to order mandatory recalls to protect the public
- Prohibits the sale or resale of recalled products
- Increases maximum civil penalties for violators of CPSC laws and enhances criminal penalty provisions



# CPSA Mandated Third-Party Testing of Children's Products

Testing is required to provide a "high degree of assurance" that product is compliant.

- Initial Certification Testing
- Component Part Testing (voluntary)
- Material Change Testing
- Periodic Testing for Continued Production
- Implement a rigorous recordkeeping system to document all relevant aspects of design and manufacturing to assure that all changes can be easily tracked



## Initial Certification Testing

- Identify one (or more) CPSC-accepted laboratory to conduct testing for identified regulatory requirements
- Certify in a Children's Product Certificate (CPC) based on passing test results
- Provide CPC to retailers and distribution and, upon request, to CPSC or U.S. Customs and Border Protection.

15 USC §2063; 16 CFR §1107.20; 16 CFR 1110.



# Component Part Testing

- If a finished product manufacturer purchases a component from a supplier who voluntarily tests its product (for example, a paint supplier), that manufacturer must “exercise due care” to rely on the component part certificate or component part test results in drafting its own Children’s Product Certificate.
- The concept of “due care” will vary depending upon the circumstances and the nature of the industry.

16 CFR Part 1109



# Component Part Testing

- For example, depending on the industry and the circumstances, the exercise of due care may include:
  - Being familiar with testing and sampling procedures,
  - Requesting written test procedures
  - Ensuring the supplier's third-party laboratory is CPSC accepted
  - Spot checking a supplier's test results
  - Visiting a supplier's factory or third-party laboratory, or
  - Agreeing contractually on testing and recordkeeping.

Document your "exercise of due care" and maintain records.



# Material Change Testing

- A material change means any change in the product's design, manufacturing process, or sourcing of component parts that a manufacturer exercising due care knows, or should know, could affect the product's ability to comply with applicable federal consumer product safety laws and regulations.

16 CFR Part 1107



# Material Change Testing

- If the manufacturer or importer make a material change to the children's product after initial certification, you must:
  - Retest the affected component part or the product to the rules potentially affected by the material change; and
  - Issue a new Children's Product Certification

16 CFR Part 1107



# Periodic Testing

- Periodic testing helps provide a manufacturer with a “high degree of assurance” that its children’s product continues to be compliant with the applicable children’s product safety rules while production of that product continues—and not just at the moment of initial testing and certification.
- [www.cpsc.gov/periodic-testing](http://www.cpsc.gov/periodic-testing)

16 CFR Part 1107



# Periodic Testing

- If you—the manufacturer or importer—have continued production of your children’s product, you must periodically retest your product using a CPSC-accepted laboratory.
- Periodic testing only applies if you have a continued production.

Mandatory, 16 CFR Part 1107



# Record Keeping by Manufacturer

- For 5 years, a manufacturer must maintain records of
  - All Children's Products Certificates,
  - All third party certification test results from initial certification and material change testing, and
  - All descriptions of material changes in a product's design, manufacturing process, and sourcing of component parts during the continued production of a product.



# Record Keeping for Testing Party and Certifier for Component Parts

- For 5 years, each testing party and certifier must provide the following records, either in hard copy or electronically, to a certifier relying on the records as a basis for issuing a certificate:
  - Test reports, including the test values, if any;
  - Identification of the party that conducted each test;
  - Identification of the:
    - Component part or the finished product
    - Lot or batch tested
    - The applicable rules tested
    - Testing methods and sampling protocols used
    - Date or date range when the component part or finished product was tested



# CPSA Section 15 Reporting Obligation

- Report to CPSC is required if a firm obtains information that -
  - Its product violates a safety regulation or ban, or
  - reasonably supports the conclusion that the product contains a defect, which could create a substantial product hazard.
- Firm must report “immediately”
  - Within 24 hours
- <https://www.cpsc.gov/cgibin/sec15.aspx>



# Identifying Defect/Hazard

- Pattern of defect
  - Defect, flaw, error, or other issues associated with design, engineering, quality control, labeling, use, assembly, etc. of the product
- Number of defective units distributed into commerce
- Severity of risk
  - Severity of injury
  - Likelihood injury will occur
  - Vulnerable population affected



# What to Provide When Reporting

## Initial Report – 16 CFR 1115.13(c)

- Must submit immediately after a firm has obtained information which justifies reporting.
- Includes details about the product, manufacturer or importer, potential defect and hazard, samples, and all other available information.

## Full Report – 16 CFR 1115.13(d)

- All information requested in the CFR, including details about the product, manufacturer, retailers, defect, injuries, and remedy.



# Fast Track Reporting

- A company reports under Section 15(b) and implements a corrective action within 20 business days.
- No “preliminary determination” (PD) of hazard is made by CPSC staff.
- Benefits for stakeholders:
  - Firm receives no PD on product
  - Firm can quickly implement recall
  - Fewer staff resources required of CPSC
  - Consumers receive notification earlier



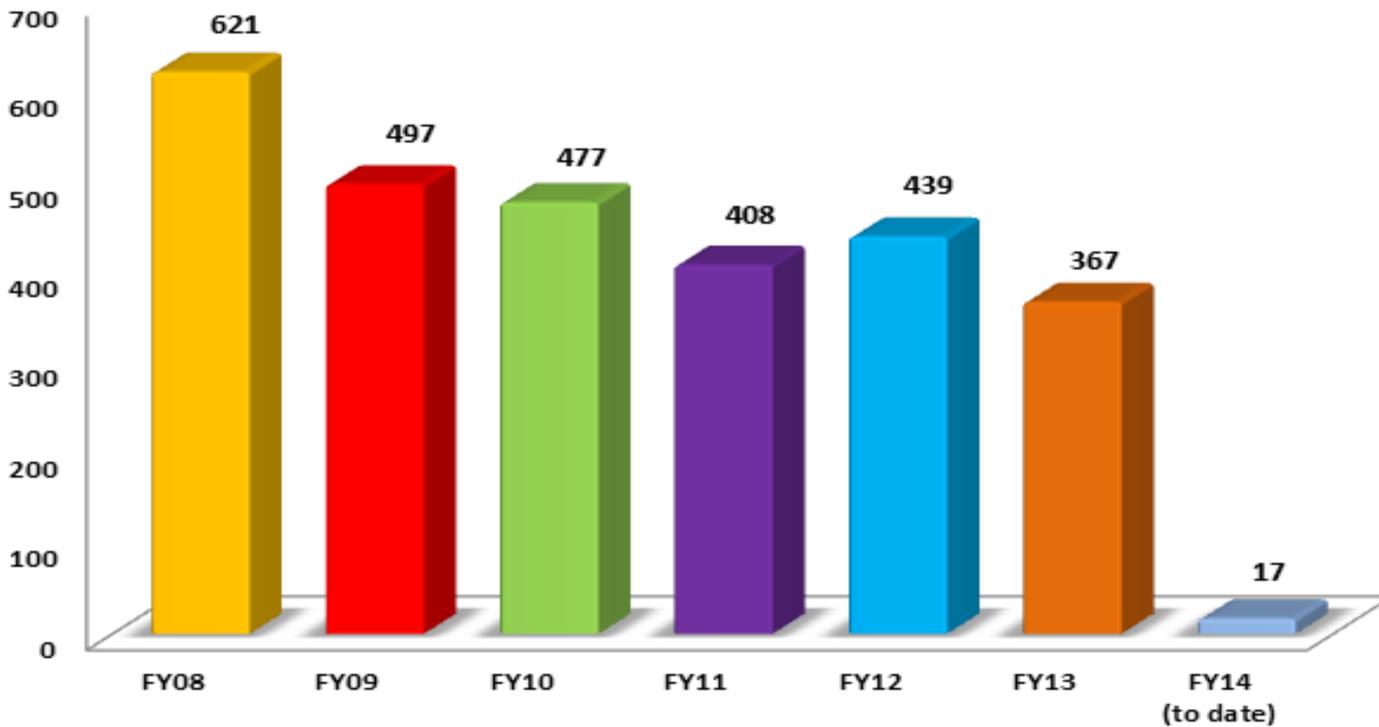
# Fast Track Reporting

- With CPSC approval, firm can provide repair, replacement, or refund as corrective action.
  - Staff still review repair or replacement before implementing.
- Firm must still provide a full report and all requested information for a fast track recall.





# Voluntary Recalls by Fiscal Year





## Civil Penalties

- Any person who knowingly commits a violation is subject to a civil penalty.
- Beginning January 1, 2012, penalties are \$100,000 per violation with a maximum of \$15,150,000 for any related series of “knowing” violations.



# Our Import Safety Strategy

- Working with Asian regulators and manufacturers to adhere to U.S. safety standards
- Best practices in design and manufacturing
- Independent testing
- Tracking of shipments in transit (CTAC)
- Strong partnership with CBP at key US ports
- Detect, detain, destroy/re-export violative shipments



## Working with Industry

- In 2009, established first CPSC overseas office located adjacent to the U.S. Ambassador's residence in Beijing, China.
- In 2010, CPSC created the Office of Education, Global Outreach, and Small Business Ombudsman to coordinate and provide outreach to stakeholders including manufacturers, retailers, resellers, small businesses, and foreign governments. Made the Small Business Ombudsman a full-time position.
- CPSC trained more than 17,000 executives, quality control, and manufacturing professionals throughout the world in 2011-12.



## Additional Information

- Monitor CPSC Activities:
  - Follow on social media (Twitter, YouTube, Flickr)
  - Visit [www.cpsc.gov](http://www.cpsc.gov)
  - Recall Announcement Subscriptions
  - Public Calendar Subscriptions
- [www.SaferProducts.gov](http://www.SaferProducts.gov) (firms should register)
- [www.recalls.gov](http://www.recalls.gov)
- Recall Handbook (Revised March 2012)  
<http://www.cpsc.gov/businfo/8002.pdf>

# Thank you

**John Golden**

**Regional Product Safety Attaché (Asia-Pacific)**

**U.S. Embassy, Beijing**

**Phone: 86-10-8531-3318**

**Fax: 86-10-8531-3652 (fax)**

**[JGolden@cpsc.gov](mailto:JGolden@cpsc.gov)**

**[GoldenJx@state.gov](mailto:GoldenJx@state.gov)**



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CONSUMER PRODUCT  
SAFETY COMMISSION