

Current Challenges at European Level regarding the Safety of Consumer Products Originating from China

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Abstract

The paper approaches the product safety issue, which became nowadays a global challenge, a common concern, and a shared responsibility.

Already making a third of the world's consumer goods (and three quarters of its toys, for instance), China has become a key trading partner for the European Union (EU) over the past decade. Unfortunately, in the past years, China has been frequently pushed into the spotlight regarding the issues of its export quality in terms of product safety, as the majority of EU consumer products found to be unsafe originate from China.

The paper examines actual facts and future challenges concerning the safety of EU products originating from China, underlining both parties' preoccupations for dealing with the stringent need to ensure compliance with safety requirements and consumer protection.

Key words: *product safety, European Union, China, RAPEX-China, international cooperation*

JEL Classification: *D18*

Introduction

Products' quality represents a permanently actual issue in terms of assessment, regulations, implications on markets and consumers. Evaluating a quality of a product implies a comparison between the analyzed product's quality and a reference (another benchmark product, consumer requirements¹, different standards and regulations).

At present, the EU market is increasingly receiving consumer products from third countries (and mainly from China). In this context, there is a strong need for the EU trade economic operators to successfully address the issues of international product safety, because, as consumer product companies have shifted large segments of their production overseas, it has been more difficult to maintain the safety of their products.

As EU and China became biggest trade partners in the world, China is considered to be "the single most important challenge for EU trade policy" [Mandelson, 2007], as it has re-emerged as the world's second largest economy and the biggest exporter in the global economy, but also an increasingly important political power. EU-China trade has increased dramatically in recent

¹ Stancu, A., *Product Quality Measurement versus Evaluation*, The 12th International Conference, „The Knowledge Based Organization”, “Nicolae Balcescu” Land Forces Academy Sibiu, 11th - 14th June, 2007, Economics, Conference Proceedings IV, pp. 226-233

years: China is the EU's first supplier and its second customer behind the USA. The EU is also China's biggest trading partner (first customer and second supplier after Japan). In 2011, EU goods exports to China amounted to €136.2 billion, and EU goods imports from China to €292.5 billion – marking a rise compared to 2010 [Mandelson, 2007].

While product safety is not a problem restricted to China only, in the last years, products made in China or containing Chinese components, ingredients, parts, materials - ranging from hazardous food, tires, toothpaste, toys, aircraft and automotive products - have been causing product liability matters and recalls all over the world.

On the occasion of the Annual Conferences on Product Liability and Recall (2009, 2011, 2012), it was emphasized the fact that - while manufacturers continue to shift their operations and production facilities from the US and Europe to contract factories in China - the number of product recalls and product liability lawsuits filed against manufacturing companies could continue to rise.

In the past, product failures had a somewhat limited impact, being often attributed to local or functional errors in product design, manufacturing process, or inadequate labeling. Nowadays, a single product safety problem can have significant consequences on a global scale.

Unsafe Products from China – Causes and Implications

Globalization of most industries has determined a growing awareness of the various risks and vulnerabilities that products are exposed to as they move along the supply chain stages - from design to manufacture, transportation, distribution and final sale to the consumer [Maruchek et al., 2011].

Many economic entities including outsourcers and subcontractors situated in emerging economies such as China handle the globally traded product as it moves across borders, thus generating numerous threats and risks to product safety.

As a country whose industry has evolved rapidly, China's economic, legal and social systems are overwhelmed by its rapid growth and are susceptible to generate faults and drawbacks.

Due to their scale and severity, social media insisted on numerous occasions on headlines regarding adulterated food and consumer products, counterfeit drugs and toxic toys (several incidents in the past five years).

For instance, the famous case of the *contamination of powdered milk with melamine* (an industrial chemical compound used in the production of plastics and glue) in 2008 had serious consequences for all those involved. Nearly 300,000 babies were hospitalized with kidney problems and six died when melamine was found in Chinese-made dairy products [Chinoy, 2009]. This occurrence appeared after a string of major product safety scandals in 2007, when Chinese exports of contaminated drugs and toothpaste, poisonous pet food, toxic toys due to lead paint decoration, fake or poor quality goods sparked international outrage.

Specialists consider that substandard and counterfeit goods are so ordinary and widespread in China that the Chinese have an expression: *heixin* (translated as “black heart”) for describing those who manufacture, sell or profit from cheap, hazardous, low-quality items.

Several fundamental issues can be identified trying to answer a complex matter of why China is producing such a high number of defective/hazardous/recalled products; we list some of these *causes* below:

- Importing companies demand for low price (“as cheap as possible”) products leads to Chinese factories making severe compromises in order to reduce costs and increase profit. Manufacturer's ability to offer cheaper products remains China's greatest asset, but it may

- also represent the country's greatest liability, as it leads to process shortcuts and poor quality control.
- the Chinese government's ineffective and counter-productive bureaucracy undermines effective regulation [Chinoy, 2009]. This confusing and dysfunctional mechanism exacerbates corruption while enforcement and surveillance can get more and more difficult.
 - most reforms are politically unrealistic to be implemented for the Chinese Communist Party, because they may be perceived to threaten the Party's absolute hold on national and local political power. At the same time, as China has begun the transition from being a developing country to a newly industrialized one, there will likely be greater public pressure for improved public services, reduced corruption, better regulation and consumer protection from both consumers and producers. These rising expectations for changes may eventually force Beijing to make larger structural improvements in its regulatory and legal systems with political implications in the long run [Chinoy, 2009].
 - The small size and large numbers of China's manufacturers make market surveillance difficult;
 - Counterfeiting and bribery are common phenomena in China, due to the wide underground economy and large number of workers involved;
 - Inappropriate work conditions for employees in some factories adversely affect output quality, while inspectors may be bribed to prepare favorable reports;
 - Unrefined manufacturing process management, insufficient training of factory employees and managers due to frequently high turnover rate, translation difficulties and haste to create quantity over quality threaten the products quality.
 - Insufficient regulation leads to products contamination and products adulteration.
 - Lack of qualification, resources, experience and personnel to carry through measures against unsafe products. Thus, although strategies can be developed at different levels, putting them into practice remains a difficult task with little chance to succeed.

In this context, organizations and government agencies worldwide are developing and launching initiatives to strengthen quality assurance and ensure Chinese products' and ingredients' safety. For instance, Technomic Asia – a strategic marketing advisory firm assisting globally-expanding companies to build their Asian businesses - recommends three practical steps for foreign companies dealing with Chinese suppliers [De Guzman, 2012]:

1. *“Follow the six d's: due diligence, due diligence, due diligence”*

Companies should gather as much data as possible, not only about production quality but also about the quality of the company itself by direct visits, reference checks.

2. *“Wait for the 10th shipment”*

Companies should assess correctly the capabilities and commitments of Chinese suppliers. It is possible to get proper quality at first, then, as the supplier gets negligent and strives to reduce costs, subsequent quality can begin to diminish. Specialists advise companies to spend sufficient time testing and checking quality through at least the first 10 shipments, while, in turn, the supplier should learn the standards and practices of their foreign customer.

3. *“Do it yourself”*

Even if, at source, product quality depends on manufacturer capability, the ultimate responsibility for managing quality lies with the foreign buyer of the Chinese products. They should anticipate threats and assume supervision tasks by arranging regular visits, putting people on site for extended periods of time and supplying relevant training.

As D. Chinoy formulated in 2009 as a positive prediction, the market could eventually settle this issue by making “heixin” goods less profitable and more risky, providing a self-regulating mechanism in which hazardous products cannot succeed [Chinoy, 2009]. Other factors may contribute to that: the expansion of Internet access in China, the development of social media

frequently reporting on product safety incidents. Due to China political context, even if delicate underlying causes are not openly brought into spotlight, the news and updates on widespread and significant quality problems spread rapidly, and, as an effect, consumers will respond by turning to other brands. Businesses in China should be more motivated to ensure that the goods they sell meet quality standards, as otherwise they may face bankruptcy (as it happened for Sanlu, the company involved in the melamine scandal, when as consumers turned to imported milk instead).

However, China's recent export incidents generated a global tightening of regulations on product safety, supply chain accountability and increased testing and inspection of imported ingredients [De Guzman, 2012].

In order to achieve the goal of better protection of EU consumers in international markets, EU Consumer Policy strategy for 2007-2013² approaches also the need for regulators and enforcers throughout the world to co-operate in order to detect unsafe products, risks and carry out risk assessments. The strategy confirms that the Commission “will strengthen co-operation with US and Chinese authorities on the basis of the existing agreements and will seek to develop new agreements, where appropriate”³.

International Co-operation – the Cornerstone for the Fight against Chinese Dangerous Products on the EU Market

In terms of product safety, the main responsibility lies with economic actors, whose *obligations* include⁴: produce and market only safe products; introduce proper marking to allow product traceability; monitor safety; take necessary action to avoid risks to consumers; notify and cooperate with authorities.

Standardization plays a vital role in the field of consumer products safety as, since EU laws establish essential or specific safety requirements, EU standards specify how to meet legal requirements. EN Standards enhance safety of products by helping business to comply with European legislation, facilitate market surveillance activities and remove trading barriers.

Dealing with the complex matter of China imports quality in the EU, international co-operation is of paramount importance for building mutual trust and develop a coordinated response to product safety concerns, as well as maintain product safety at the top of the international political agenda. International priorities include product traceability, convergence of safety requirements, advice to manufacturers, and joint enforcement actions [Marucheck et al., 2011].

This approach is relying upon *two types of co-operation*:

1. *Bilateral co-operation*: High Level Dialogue EU (the European Commission Directorate General for Health & Consumers - DG-Sanco) - China (the General Administration of Quality Supervision, Inspection and Quarantine of China - AQSIQ)

In 2004, a Memorandum of Understanding (MoU) was signed between the European Commission and AQSIQ. On this basis, the main instrument is the RAPEX-China Application (see detail in the next chapter of the paper), which *aims* at: enhancing product safety by allowing AQSIQ to enforce corrective action at the source; allowing AQSIQ to target market

² Commission of the European Communities, Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee, *EU Consumer Policy strategy 2007-2013*, Brussels, 13.3.2007, COM(2007) 99 final

³ *Idem*

⁴ DG Health and Consumers, European Commission, *EU Product Safety System Overview*, Joint China-U.S.-EU Initiative on Consumer Product Safety Compliance 19. – 24. September 2008

surveillance and enforcement activities; increasing awareness of the EU safety rules and standards; enhancing consumer confidence in Chinese products.

In the future, bi-lateral co-operation will seek to:

- promote discussions on including product traceability, product safety requirements and product surveillance;
 - improve the response to RAPEX China system;
 - explore possibilities to undertake joint surveillance activities;
 - continue product safety training activities for mainland businesses;
 - focus on specific issues (e.g. cosmetic products safety).
2. *Trilateral co-operation*: Joint China - U.S. (Consumer Product Safety Commission - CPSC) - EU Initiative (High-Level China-U.S. Trilateral Meeting)

In 2008, the EU, U.S., and China launched a trilateral approach regarding product safety, designed to develop a coordinated response on product safety concerns on the basis of mutual trust, targeting better health and safety of consumers across three continents.

After two years, the three parties held a second High-Level EU-China-U.S. Trilateral Meeting in Shanghai, reflecting their determination to keep product safety at the top of the international political agenda. Priority action areas include product traceability, convergence of safety requirements, advice to manufacturers, and joint enforcement actions⁵.

On this occasion, the three partners also agreed to jointly explore the concept of a 'seamless surveillance approach'. *Seamless surveillance* represent a model of enforcement based upon linking product safety controls throughout the product supply chain - from manufacture through to consumer purchase, with emphasis on customs, shipping procedures and import checks at point of entry.

Following in the footsteps of the previous two trilateral summits (2008 and 2010), the US, EU and China held again in 2012 high-level meetings to discuss non-food consumer product safety issues with a theme of "*Product Safety Surveillance from Factory to Front Door: a Cooperative Effort*". CPSC, AQSIQ and DG-Sanco issued a joint statement as the culmination of the Third Biennial Consumer Product Safety Trilateral Summit on June 28-29 2012, outlining the main coordinates of future co-operation based on the "seamless surveillance" concept - through encouraging regulatory cooperation, promoting consumer product safety messaging, sharing market data and deepening overall communication channels among the three groups⁶. The next Consumer Product Safety Trilateral Summit is scheduled to take place in 2014.

Recently, the European Commission identified several future challenges in international cooperation, putting great emphasis on tackling product safety problems at source⁷. In that respect, future work will focus on the following *objectives* [Sachetti, Xiaobang, 2011]:

- Enhance safety of consumer products exported to the EU by cooperation on consumer product traceability and product safety standards issues, awareness raising campaigns, training AQSIQ staff, joint enforcement actions;
- Enhancing information exchange at bilateral and multilateral level, regarding emerging risks, market surveillance, border control and enforcement, risk assessment, product testing,

⁵ http://ec.europa.eu/consumers/safety/int_coop/

⁶ *** Third Biennial Consumer Product Safety Trilateral Summit United States - China - European Union, Joint Press Statement, June 29, 2012, Bethesda, Maryland, U.S.A., available at http://ec.europa.eu/dgs/health_consumer/dyna/enews/enews.cfm?al_id=1273, accessed on 12th of July 2012

⁷ Commission of the European Communities, Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee, *EU Consumer Policy strategy 2007-2013*, Brussels, 13.3.2007, COM(2007) 99 final

- upcoming regulations and standards, product recalls worldwide and best practices on enforcement initiatives;
- Activities to improve safety at source, as primary responsibility lies with manufacturers and importers; there is a need to continue to invest in informing/educating businesses about their obligations under product safety legislation.

The RAPEX-CHINA Application – Useful Tool in Tackling Hazardous Products

As a result of the EU focus on developing and implementing general product safety regulations, RAPEX system was created in 2004, on the basis of Article 12 of Directive 2001/95/EC on general product safety, which allows the market surveillance authorities and the European Commission to distribute and effectively fructify information about dangerous products identified in the European market, to the benefit of consumers [Ene, 2011].

“RAPEX” (as the English acronym for “*European Rapid Alert System for Dangerous Consumer Products*” or “*Rapid Alert System for Non-Food Consumer Products*”) is the single EU rapid alert system intended for dangerous consumer products (except for food, feed, pharmaceuticals and medical devices, which are regulated by other mechanisms. Its role is to facilitate the rapid exchange of information between Member States and the Commission on measures taken to prevent or limit the sale or use of products posing a risk to consumer health and safety.

The “RAPEX-CHINA” system is one of the actions set out under the framework of MoU on general product safety, allowing the Commission to submit information to AQSIQ about dangerous products of Chinese origin found on the EU market and notified through RAPEX. This application ensures the regular and rapid transmission of data between the EU and China’s product safety administration.

Through RAPEX-China application the Commission provides the Chinese authorities with relevant information on consumer products which have been identified as dangerous and, as a consequence, banned or withdrawn from the EU market by Member State authorities. Specific procedures of this application allow the Chinese authorities to act directly on notifications regarding unsafe products coming from their territory and to identify areas where the safety standards are weaker⁸. Subsequently, AQSIQ investigates these notifications and launches measures, where necessary, to prevent or limit further export of the notified dangerous consumer products to the EU.

According to the latest RAPEX Report (for 2011)⁹ China (including Hong Kong) was indicated as a country of origin for 54% (839 notifications) of notified products, marking a decrease in the number of consumer products posing a serious risk to the health and safety of consumers of Chinese origin notified via RAPEX (compared to 58% in 2010). This remains yet a very high number in the context of the significant market penetration of Chinese-manufactured consumer products in European markets.

Cooperation in the framework of the RAPEX-China system allows AQSIQ to submit quarterly reports (19 by now) to the Commission containing findings and outputs of the follow up actions undertaken with regard to the data provided through the application. The information provided in the reports allows the Commission and Member States to monitor and analyze the follow-up

⁸ *** Questions and answers - RAPEX in 2011, MEMO/12/309, Brussels, 08 May 2012

⁹ Commission of the European Communities, Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee, *EU Consumer Policy strategy 2007-2013*, Brussels, 13.3.2007, COM(2007) 99 final

market surveillance activities carried out by the Chinese authorities on their territory, and as a consequence it allows them to identify and address weak points in the cooperation system¹⁰.

In 2009, AQSIQ established an “Information platform for RAPEX-CHINA special project” and officially put it into operation within the nationwide inspection and quarantine agencies [Xiaobang, 2011].

Up to now, AQSIQ has ensured follow-up action with regard to 1752 RAPEX notifications¹¹. Analysis of 19 quarterly follow-up reports received so far from AQSIQ shows that over a three-month period AQSIQ investigates on average 92 RAPEX cases. In 985 cases (56%) investigations resulted in preventive or restrictive measures being adopted either by AQSIQ or voluntarily by the Chinese manufacturer/exporter (ex. export stop or strengthened supervision), while in 767 cases (44%) no measures were taken¹².

As mentioned in the 2011 Annual Report on the operation of RAPEX¹³, *explanations* from the AQSIQ reports for this include:

- limited resources and lack of documents do not always allow national authorities to trace the origin of the product;
- the information about Chinese companies submitted by the Member States is incorrect or inaccurate;
- the Chinese company denies its role in the production or export of a notified product and does not keep any orders, contracts, invoices or other documents which could prove or disprove its involvement;
- a change of address or bankruptcy of the responsible Chinese company,
- the great complexity of the multiple trade relations of the responsible Chinese authorities.

Conclusions - Challenges and the Way ahead

Today, many consumer product industries are increasingly globalizing their supply chains (that cross emerging markets such as China), which exerts a notable effect on product safety risks and vulnerabilities.

As EU Trade Commissioner Peter Mandelson has asserted at a seminar on product safety in Beijing in 2007 [Mandelson, 2007], safety of exported goods is not a “made in China” problem, but “a shared concern and a shared responsibility”.

The need to cooperate in the field of products safety is more stringent than ever as supply chains are more and more complex. The EU's open market has been a large contributor to China's export-led growth but has also benefited from the growth of the Chinese market. In this context, the EU needs to restore public confidence in the ability of manufacturers and governments to assure the safety of consumer products.

In the past decade, a number of high profile safety incidents concerning consumer products have heightened public attention to the safety and security of the products on the EU market and subsequently drove China to consider building a more efficient and robust safety and quality system.

¹⁰ *** Questions and answers - RAPEX in 2011, MEMO/12/309, Brussels, 08 May 2012

¹¹ Idem

¹² Idem

¹³ European Commission, *Keeping European Consumers Safe – 2011 Annual Report on the operation of the Rapid Alert System for non-food consumer products RAPEX*, Luxembourg: Publications Office of the European Union, 2012, available at

http://ec.europa.eu/consumers/safety/rapex/stats_reports_en.htm#annual

Cooperating in the field of product safety means sharing experience and knowledge with similar authorities, coordinate standardization efforts, ensure manufacturers worldwide are aware of the applicable safety requirements and comply with them.

Cooperation between the European Commission and Chinese authorities has become tighter and is yielding good results, developing around trilateral co-operation EU-US-China and bi-lateral cooperation: joint action with key-partner AQSIQ under MoU, working groups on consumer safety/market surveillance and RAPEX-China application).

Operational since September 2006, the RAPEX-China Application provides access to RAPEX data for AQSIQ (which prepares a report every 3 months), covering RAPEX notifications concerning products coming from China. RAPEX-China provides AQSIQ with information that allows targeting market surveillance and enforcement, thus enhancing safety of products by creating the premises to enforce corrective action and tackle the problem at the source. As a result, the application contributes to promoting consumer confidence in Chinese products and establishes a basis for Chinese manufacturers and exporters education on the EU safety rules and standards.

Even if the European Commission's last annual report on product safety (presented in Brussels on May 2012 by Health and Consumer Policy Commissioner John Dalli) certifies that fewer dangerous goods are finding their way onto EU shelves, consumer groups (ANEC, BEUC) disagree and consider more efforts and resources are needed to improve market surveillance and product traceability.

The development of EU-China economic and trade relationship will definitely face even more persistent *challenges* related to:

- Protecting consumers' rights and interests by ensuring quality and safety of consumer products;
- Raising and maintaining consumers' and business' confidence towards the healthy and sustainable development of EU-China trade.

Besides, greater convergence / harmonisation of safety requirements and standards would be desirable for optimal levels of consumer protection and effective international cooperation [Sahetti, Xiaobang, 2011].

After the events of last years, restoring, and then preserving consumer and businesses trust and confidence in Chinese products must be China's priority if it wants to maintain the recent export growth rates. As pressures keep coming from the US and the EU, China is working to improve the product safety by removing corrupt officials, shutting plants, revoking licenses, establishing and enforcing product safety standards.

In this context, cooperation remains crucial for dealing with product safety and counterfeiting challenges. Maintaining and improving European efforts to secure the safety of consumers requires daily commitment and efforts of all parties involved: the authorities in the Member States - working constructively together and economic operators - ensuring the safety of the products they manufacture, import and sell.

It is a fact that customers play an important role in identifying defects and forcing producers to bear responsibility for their products' quality [Mandelson 2007], but the final responsibility rests with diligent businesses and with public authorities on both sides.

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Provocări actuale pe plan european privind siguranța produselor de consum provenind din China

Rezumat

Articolul abordează problematica siguranței produselor, care a devenit astăzi o provocare la nivel mondial, o preocupare și o responsabilitate comună.

Participând deja cu o treime la comerțul mondial cu bunuri de consum (respectiv cu 3/4 din comerțul cu jucării, de exemplu), China a devenit un partener comercial-cheie pentru Uniunea Europeană (UE) în ultimul deceniu. Din păcate, în ultimii ani, China s-a aflat frecvent în centrul atenției cu privire la calitatea produselor sale de export și mai ales siguranța acestora, în condițiile în care cele mai multe produse de consum de pe piața UE dovedite a fi periculoase provin din China.

Articolul analizează stadiul actual și provocările viitoare privind siguranța produselor UE originare din China, subliniind preocupările ambelor părți pentru a se adresa nevoii stringente de a garanta conformitatea cu cerințele de siguranță și protecția consumatorilor.