

**Administrative Arrangement**  
**between**  
**the Directorate General for Justice and Consumers of the European Commission and**  
**the General Administration of Customs of the People's Republic of China**

**Background**

This Administrative Arrangement is concluded between the General Administration of Customs (or its successor) of the People's Republic of China and the Directorate-General for Justice and Consumers (or its successor) of the European Commission, hereinafter referred to as the “Participants”.

The General Administration of Customs of the People’s Republic of China (“GACC”) is the competent authority responsible for inspecting and monitoring imported and exported consumer products in China.

The Directorate General Justice and Consumers (“DG JUST”) is the European Commission’s directorate responsible for the European Union (EU) policies and legislation in the area of the protection of the health and safety of consumers, for operating the Rapid Alert System for dangerous non-food products and for promoting and coordinating cooperation between the enforcement authorities of the EU Member States and European Economic Area countries under the General Product Safety Directive<sup>1</sup>.

The Participants aim to protect the health and safety of consumers in their respective jurisdictions to the highest possible degree.

Due to the globalisation of product supply chains, the Participants acknowledge the importance and added value of working together to enhance the safety of products globally.

The Participants intend to continue their successful cooperation, including information exchanges, set up by the Memorandum of Understanding of 16 January 2006 between the former General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China and the former Directorate General for Health and Consumer Protection of the European Commission<sup>2</sup>. This Administrative Arrangement aims to further enhance cooperation between GACC and DG JUST in the area of non-food consumer product safety to promote mutual understanding, trust and bilateral cooperation between the Participants.

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<sup>1</sup> Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (Text with EEA relevance) OJ L 11, 15.1.2002, p. 4–17

<sup>2</sup> Memorandum of Understanding between the former General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China and the former Directorate General for Health and Consumer Protection of the European Commission, signed on 16 January 2006 by the Commissioner Markos Kyprianou and Minister Li Changjiang.

The Participants intend this Administrative Arrangement as an instrument to facilitate cooperation and information sharing on the safety of non-food consumer products and on the preventive, restrictive and corrective measures taken.

## **1. Objectives and purpose**

In order to protect and achieve a high level of health and safety of consumers, the Participants intend to cooperate in the area of non-food consumer product safety, within the scope of their mandate, authority and responsibilities and on the basis of applicable laws and regulations of the EU and China respectively.

The Participants intend to cooperate in the following areas:

- Exchange of information on changes in relevant laws and regulations in the area of non-food consumer product safety;
- Exchange of information on unsafe non-food consumer products under the ‘EU-China Safety Gate system’<sup>3</sup>, described under Section 2;
- Discussion on scientific, technical and regulatory aspects regarding the safety of non-food consumer products, including in particular:
  - significant emerging health and safety issues including those related to emerging and new technology products;
  - aspects for assessing the safety of products;
  - product safety surveillance, border control and enforcement activities.
- Facilitation of product traceability;
- Organization of meetings of the Consumer Product Safety Working Group to discuss issues of mutual interest (see Section 5 for the working modalities of the Working Groups);
- Joint organization of seminars on topics of interest for non-food consumer products;
- Organization of training activities to facilitate understanding of the Participants’ legislative frameworks and product safety surveillance procedures;
- Organization of other joint activities, such as joint enforcement actions regarding certain non-food consumer products presenting high risk for the health and safety of consumers.

## **2. Modalities of cooperation under the EU-China Safety Gate system**

Under the EU-China Safety Gate system, the Participants intend to cooperate in particular in the following areas:

- Exchange of information on unsafe non-food consumer products originating from the other Participant’s jurisdiction. DG JUST intends to provide GACC with information on unsafe

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<sup>3</sup> ‘EU-China Safety Gate system’ is the new name for the previously known ‘RAPEX-China system’ which reflects the planned change of the name of the EU Rapid Alert System for non-food dangerous products (now ‘RAPEX’). The ‘RAPEX-China system’ was set up by the Memorandum of Understanding of 16 January 2006.

non-food consumer products<sup>4</sup> in the Member States' jurisdictions that, as per the Member States' confirmation, have been exported from China to the EU, including product details, measures taken, risk descriptions and the identity of economic operators<sup>5</sup> (where known and if it is needed for follow-up investigation of product safety issues). Correspondingly, GACC intends to provide information on unsafe non-food consumer products in its jurisdiction confirmed to have been exported by the EU to China, including product details, measures taken, risk descriptions and the identity of economic operators<sup>6</sup> (where known and if it is needed for follow-up investigations of product safety issues). The Participants intend to ensure the confidentiality of such information. When a specific issue warrants more information, a Participant may submit a well-reasoned request to the other Participant for the latter to consider to provide complete test reports and/or a detailed risk assessment. If such request is acceptable and the requested information is available, the Participant who holds it intends to send to the other Participant a version in which personal data are removed.

- Quarterly reports provided by GACC detailing the activities undertaken by GACC on the basis of the information provided by DG JUST and regular responses from DG JUST to GACC's questions;
- In case of major withdrawal/recall operations of mutual interest, in a form to be jointly decided on a case-by-case basis;
- Regular meetings of the EU-China Safety Gate Working Group to discuss the operation, results and improvements of the EU-China Safety Gate.

### **3. Personal data**

Information exchanged under this Administrative Arrangement is not intended to and should not contain personal data and the Participants intend to ensure that personal data is not shared with each other. For the purpose of this Administrative Arrangement, 'personal data' means any information relating (directly or indirectly) to an identified or identifiable natural person.

If one Participant discovers that personal data has been provided or received inadvertently, the Participant should immediately inform the other Participant. The recipient Participant should take immediate and appropriate measures to permanently destroy the record(s) containing personal data and the providing Participant should provide an updated record in which personal data has been removed.

The Participants intend to treat information on legal persons that identifies a natural person as personal data and to treat it according to this section.

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<sup>4</sup> For the purpose of this Administrative Arrangement, 'unsafe non-food consumer product' means any product which, under normal or reasonably foreseeable conditions of use, including duration and, where applicable, putting into service, installation and maintenance requirements, presents a risk not considered acceptable and consistent with a high level of protection of health and safety of consumers.

<sup>5</sup> Excluding personal data as set out in Section 3.

<sup>6</sup> Excluding personal data as set out in Section 3.

#### **4. Confidentiality**

The Participants expect that confidential and/or non-publicly available information on unsafe consumer products can be provided for the purpose of carrying out functions concerning the protection of human health or safety in relation to unsafe non-food consumer products. The Participants intend to exchange and use the confidential and/or non-publicly available information only for that purpose. The participants do not intend to share among themselves information considered as trade secrets.

The Participants intend to consider the confidential and/or non-publicly available information shared by the other Participant under this Administrative Arrangement as protected, i.e. not to be actively published and actively shared beyond the purpose of this Administrative Arrangement.

The Participant receiving confidential and/or non-publicly available information may disclose it to its employees, contractors or agents if they cumulatively:

- i. Request the information solely for advancing the purpose of this Administrative Arrangement;
- ii. Intend to use that information solely for advancing the purpose of this Administrative Arrangement; and
- iii. Are under a legally enforceable obligation to maintain the confidentiality of the confidential and/or non-publicly available information in accordance with the laws, regulations and procedures applicable to the receiving Participant.

Except when the Participant providing the confidential and/or non-publicly available information consents to its disclosure, the Participants intend to make all reasonable efforts to prevent disclosure of confidential and/or non-publicly available information to third parties and intend to:

- i. subject to the laws and regulations applicable, make every efforts to inform the other Participant of any request made to obtain confidential and/or non-publicly available information that has been received from the other Participant; and
- ii. if disclosure is required pursuant to the applicable laws and regulations, make every efforts to ensure that the information is disclosed in a manner that protects the information from further disclosure that is not required.

The Participants intend to make all reasonable efforts to inform each other of any changes to the laws, regulations, or procedures applicable to them that may affect their treatment of confidential information and/or non-publicly available information obtained under this Administrative Arrangement.

The Participants understand that, for the purpose of carrying out functions concerning the protection of human health or safety in relation to unsafe non-food consumer products, DG JUST intends to disclose the confidential and/or non-publicly available information received from GACC through the appropriate channels to the EU Member States and for the sole purpose of cooperating under this Administrative Arrangement.

Correspondingly, GACC also intends to disclose confidential and/or non-publicly available information received from DG JUST through appropriate channels to their local offices.

DG JUST intends to take all appropriate measures to ensure that EU Member States are informed of the requirement to treat any confidential and/or non-publicly available information in accordance with their applicable laws, regulations and procedures.

The Participants understand that statistics from the EU-China Safety Gate system are not confidential information.

## **5. Overall working modalities**

The Participants intend to hold regular meetings to:

- Discuss the items listed in Section 1 via the Consumer Product Safety Working Group, whose meetings are expected to take place in China or online;
- Take stock of the information-exchange under Section 2 via the EU-China Safety Gate Working Group, whose meetings are expected to take place in the territory of the Union or online.

The members of the Consumer Product Safety Working Group are intended to be representatives of DG JUST, GACC, Chinese local customs authorities and other relevant Chinese organisations, unless otherwise jointly decided by the Participants.

The members of the EU-China Safety Gate Working Group are intended to be representatives of DG JUST, GACC, EU market surveillance authorities and other relevant European organisations, unless otherwise jointly decided by the Participants.

The Participants intend to organise at least one meeting per year of each of the two groups.

This Administrative Arrangement does not entail any financial commitments on either Participant. All activities under this Administrative Arrangement are subject to availability of appropriate funds and resources.

As far as necessary for achieving the objectives of this Administrative Arrangement, DG JUST intends to liaise, and where appropriate, coordinate with the market surveillance and other enforcement authorities of the EU Member States, the European standardisation organisations and the other competent Commission services, to facilitate contacts and cooperation with their Chinese counterparts. Correspondingly, GACC intends to liaise, and coordinate with local customs and other enforcement authorities, other departments relevant for achieving the objectives of this

Administrative Arrangement and relevant Chinese industry organisations and standardisation organisations to facilitate contacts and cooperation with their European counterparts.

For the purposes of this Administrative Arrangement, for non-food consumer products that are not under the remit of the Participant, the same Participant intends to facilitate contacts with authorities or departments competent for such products.

## **6. Final dispositions**

This Administrative Arrangement does not intend to create any legal rights or obligations in respect of either Participant under international or domestic law.

The activities under this Administrative Arrangement are to commence upon its signature.

Collaboration may continue until the Participants decide that the objectives of this Administrative Arrangement have been achieved or until one Participant discontinues its participation in this Administrative Arrangement.

This AA replaces the parts that relate to the safety of non-food consumer products of the Memorandum of Understanding between the former General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China and the former Directorate General for Health and Consumer Protection of the European Commission, signed in January 2006 by the Commissioner Markos Kyprianou and Minister Li Changjiang, and its subsequent amendments.

Signed in duplicate in Chinese and English languages via exchange of letters, both texts having equal validity.

**For the Directorate General for  
Justice and Consumers  
of the European Commission**

**For the General Administration  
of Customs  
of the People's Republic of China**

**Ana Gallego  
Director-General  
In Brussels, on ...**

**LYU Weihong  
Vice-Minister  
In Beijing, on ...**

