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E-MAIL

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Subject: **G/TBT/N/BRA/612 – Ordinance N°. 489, 4 November 2014. Conformity assessment procedures for toys with a focus on safety, through the establishment of a mandatory certification carried out by an accredited body, in order to prevent consumption accidents – EU comments**

Message:

Dear Sir or Madam

Please find attached the comments from the European Union on the above-mentioned notification.

Could you please acknowledge receipt of this e-mail? Thank you.

Yours faithfully

Giuseppe Casella
Head of Unit

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COMMENTS FROM THE EUROPEAN UNION RELATING TO NOTIFICATION

G/TBT/N/BRA/612

ORDINANCE Nº. 489, 4 NOVEMBER 2014. CONFORMITY ASSESSMENT PROCEDURES FOR TOYS WITH A FOCUS ON SAFETY, THROUGH THE ESTABLISHMENT OF A MANDATORY CERTIFICATION CARRIED OUT BY AN ACCREDITED BODY, IN ORDER TO PREVENT CONSUMPTION ACCIDENTS

The European Union (EU) would like to thank the Brazilian authorities for providing the opportunity to comment on the notified draft and for prolonging the deadline for comments.

The EU would like to raise the following issues and questions in relation to this notified draft:

The notified draft establishes criteria to assess conformity and security of toys in order to be compliant with the Conformity Assessment Program for Toys through a certification mechanism and it puts requirements related to toy certification in a single ordinance. In addition, the notified draft makes reference to INMETRO Ordinance 491 of 13 December 2010 which approves the procedure for granting, maintaining and renewing the Registry of Objects.

The EU welcomes the compilation of requirements for conformity and security of toys in one piece of legislation and supports the objectives related to toy safety.

According to the notified draft new conformity evaluations will have to be conducted for new toys as only compliant toys can be placed on the market. According to Article 6.3.5.1 of the notified draft, the certificates of conformity shall be valid for three years. The EU would like to ask the Brazilian authorities to consider allowing toys which are placed on the market with a conformity certificate to be deemed still compliant with the notified draft after the expiry of the certificate. This would be essential to bring legal certainty for toys which have a longer market life than three years as it is costly and burdensome to recall them after three years. Furthermore, according to the notified draft, the checking of samples is a prerequisite of the evaluation of conformity and shall take place before a new toy is placed on the market. However, the EU would like to suggest to the Brazilian authorities, in order to make this requirement less burdensome for economic operators, to consider allowing for the taking of samples at customs warehouses before the goods are cleared by the customs office.

The EU notes that according to the notified draft numerous mechanical, chemical, hygiene and flammability tests are to be performed on a wide range of products. The EU would like to ask the Brazilian authorities to limit the testing requirements to specific safety problems which are characteristic for certain types of toys.

Moreover, the EU would like to suggest a clear graduation of non-conformity issues according to their severity (formal non-compliance, serious risk) which would simplify safety examination procedures. For example, a formal non-compliance due to the wrong size of a marking would not imply a safety issue and hence it would not trigger new safety assessments.

In addition, the EU would like to ask for clarification of whether, under the new rules, strongly affixed labels would be acceptable as an alternative to a printed text on the packaging.

Concerning the reference to Ordinance 491 in the notified draft, it seems to add a complex registration system to the toy certification system. With respect to this the EU would like to note that a registration number on the pack imposed by Ordinance 491 seems unnecessary as the existing system already provides for a seal of conformity which demonstrates compliance with the applicable legislation. Therefore the EU considers that an additional registration number would be duplicative and an unnecessary burden for economic operators.

The EU would be grateful, if the above comments could be taken into account by the Brazilian authorities and would welcome receiving a reply on the issues.
