

Congress of the United States
Washington, DC 20515

November 18, 1998

Hon. William Jefferson Clinton
President of the United States
The White House
1600 Pennsylvania Ave.
Washington, DC 20500

Dear Mr. President:

Recently there have been allegations that the Administration may be attempting to block efforts by the European Union to protect children from a plastic additive used in toys and other products. We are writing to inquire whether these allegations are true.

According to news reports and numerous environmental and health organizations, the Department of Commerce is lobbying to prevent the European Union from banning the sale of toys made with phthalates, a chemical additive used as a softener in plastics. Some studies have indicated that phthalates used in soft polyvinyl chloride (PVC) baby toys leach out when children suck on them. Other studies suggest that in sufficient quantity, phthalate exposure is identified as causing hormonal disturbance, liver and kidney damage, and cancer.

The EU is considering the ban to reduce health risks to children based on studies undertaken by Dutch Ministry of Health, Welfare and Sport, the Netherlands' Health Protection Inspectorate, Greenpeace, and others. In 1998, a risk analysis of phthalates by the Dutch National Institute of Public Health and Environment found that "the resulting uptake by young children was estimated to approximate or exceed the tolerable daily intake," and the Chief Inspector for Health Protection recommended that retailers voluntarily withdraw soft baby toys from the market. A study by Brunel University in the United Kingdom identified other sources of phthalate exposure in food samples, river water, and printing inks and adhesives used in food packaging.

Several individual countries and companies are also acting to minimize risks of PVCs and its chemical additives. Austria, Sweden, Denmark, and Norway have initiated bans on toys containing phthalates. Lego and Nike have pledged a comprehensive phase-out of vinyl in all of their products.

We recognize that the science on phthalates is evolving and there is scientific uncertainty about the risks these compounds pose. Nevertheless, if the reports about the Department of Commerce's actions are accurate, we are very concerned that they represent an unwarranted intrusion into the ability of other countries to make their own decisions about public health risks.

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During the 1993 NAFTA debates, U.S. Trade Representative Kantor wrote members of Congress that "each government may establish those levels of protection for human, animal or plant life or health that the government considers to be appropriate." In the context of the General Agreement on Tariffs and Trade negotiations, the Sanitary and Phytosanitary Standards (SPS) Agreement specifically recognizes that "the basic aim of the SPS Agreement is to maintain the sovereign right of any government to provide the level of health protection it deems appropriate," so long as protections are not used to create an unfair trade barrier. Application of these principles to phthalates would seem to require that the United States respect the EU's right to determine for itself an appropriate level of risk.

To help us better understand these issues, we ask you to provide the Administration's views on whether toys and other products made with phthalates are potentially hazardous to children's health and whether safe alternatives are available as a replacement. The Consumer Product Safety Commission is undertaking a study of phthalate exposure that will be released shortly. Will the Administration and relevant agencies consider aggregate exposure of phthalates to children in determining appropriate levels of risk and product safety? In addition, we request a detailed account of Administration actions with regard to the EU's proposed ban on toys made with phthalates. Did the Departments of Commerce or State lobby against the proposed ban?

The Administration has taken the lead on protecting children. Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," which we strongly support, directs each federal agency to "ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks." Consistent with this objective, we urge you to take all necessary steps to ensure that children's toys and other products are safe for children.

It is our understanding that the EU and individual countries are considering this ban in order to protect children's health. It would be unfortunate if the United States found itself undermining these efforts for the benefit of toy company profits.

In advance, we appreciate your timely attention to these allegations and the serious nature of this issue.

Sincerely,



GEORGE MILLER, M.C.



HENRY A. WAXMAN, M.C.

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cc: Hon. William Daley, Secretary of Commerce
Hon. Ann Brown, Chairman, Consumer Product Safety Commission
Hon. Carol Browner, Administrator, Environmental Protection Agency

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Hon. William Jefferson Clinton
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1600 Pennsylvania Ave.
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Dear Mr. President:

I inadvertently left out two names of Members of Congress who joined me today in writing to you concerning recent allegations that your Administration may be attempting to block efforts by the European Union to protect children from a plastic additive used in toys and other products.

Reps. Thomas Manton and Donna Christian-Green also agreed to sign the letter.

I regret this oversight and I would appreciate your adding their names to the list of those who signed the letter.

Thank you very much.

Sincerely,

George Miller, M.C.

Cc: Hon. William Daley, Secretary of Commerce
Hon. Ann Brown, Chairman, Consumer Product Safety Commission
Hon. Carol Browner, Administrator, Environmental Protection Agency

Letter to Clinton on Toxic Toys 11/18/98

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Wayne Gilchrest
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Maurice Hinchey
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Dale Kildee
Max Sandlin
Dennis Kucinich
Sam Farr
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