



**Testimony before the U.S.-China Economic  
and Security Review Commission  
“Consumer Products from China:  
Safety, Regulations, and Supply Chains”**

**Friday, March 1, 2024**

**By Teresa Murray**

**Consumer Watchdog Director, U.S. Public Interest Research Group**

Good morning. I'm Teresa Murray, director of the Consumer Watchdog program at U.S. Public Interest Research Group. We are a non-partisan, non-profit organization founded more than 50 years ago. We focus on standing up to special interests involving problems that affect the public's health, safety and financial well-being. For 40 of those years, we've published an annual toy safety report that identifies dangers in the children's marketplace. We generally publish in November, ahead of the holidays and the busiest time for toy shopping.

Our research has found that, in general, toys such as stuffed animals and games are safer in many ways today than decades ago, because of the Consumer Product Safety Improvement Act [adopted in 2008](#), plus efforts by regulators, toy manufacturers and distributors, consumer advocates including PIRG and more awareness by parents and caregivers.

However, every year we at PIRG identify toys that pose some kind of threat, in violation of safety standards. In recent years, our work has led to dangerous toys being recalled or removed from the marketplace, as in fidget spinners sold by Target that we tested in 2017 and found contained

330 times the amount of lead allowed for children's products, and Calico Critters that [we wrote about in 2020](#) that posed a choking hazard and [were recalled in 2023](#).

And of course, every year, the Consumer Product Safety Commission (CPSC) and U.S. Customs and Border Protection (CBP) find dangerous toys, either that are on the market, already in people's homes or attempting to come across the border.

Frankly, dangerous toys invade our homes because too many domestic and international manufacturers, importers, distributors and retailers either don't know or don't care about safety standards. We find the biggest problems in the marketplace are:

- Imported toys
- Counterfeit toys that may have been produced domestically or internationally or
- Toys that have already been recalled but remain available for purchase.

The expectations for toys are high. "All children's toys manufactured or imported on or after February 28, 2018, must be tested and certified to ASTM F963-17 (ASTM) International was formerly known as American Society for Testing and Materials," [the CPSC says](#).

Further, "all toys intended for use by children 12 years of age and under must be third-party tested and be certified in a Children's Product Certificate as compliant to the federal toy safety standard enacted by Congress," [the CPSC says](#). The laboratory must be one accepted by the CPSC. The standards vary depending on the type of toy and the age group it's marketed to.

Dangerous products are usually identified in one of three ways:

- The company identifies a defect through its own testing or monitoring after a product is offered for sale.

- Consumers complain to the company.
- CPSC staffers do testing or secret shopping, or investigate incidents reported by consumers, doctors, fire officials or others on [SaferProducts.gov](https://www.saferproducts.gov). CPSC staff also review death certificates and other records to spot possible problems.

Pivot over to where our toys are coming from. From January through September of 2023, China manufactured 79% of the toys sold in the United States and Europe, according to a [Reuters report](#) in January 2024 using data from S&P Global Market Intelligence's trade data service Panjiva. That's [double the percentage](#) of imports from China to the United States for all types of consumer goods.

### **Toy recalls**

In 2023, the CPSC recalled 23 toys. Of those, 19 were manufactured in China. Of those, 12 posed a choking hazard and three violated toxics standards such as lead and phthalates.

Now, you might be saying, only 23 toys were found to be dangerous in 2023? That's not much. There are two big caveats to that:

### **Recalled toys represent a fraction of what authorities believe is dangerous**

First, the CPSC actually found hundreds of toys that violated safety standards last year. Of the 2,164 [Notices of Violation](#) issued by the CPSC from January through October (the latest data available,) 1,572 involved products made in China. Most of those were toys or other children's products. These notices usually involve imports; some are caught at the port.

Of the 2,164 Notices of Violation, 336 were recommended for recall, generally because some of the items had already been sold and had a serious issue. But only a handful were recalled as of Dec. 31, 2023.

Examples of some of the violative toys are a musical tree toy and a toy truck with small parts that could choke a young child, and a piggy bank with excessive lead in the paint. We believe that only two of the companies that were sent notices to recall toys (both are fidget magnets) had recalled them as of Dec. 31, 2023.

Here are examples of two products manufactured in China that were recalled last year after the company received notice of violation. One was a toy; the other wasn't:

- **High-Powered Magnetic Balls**

This 216-piece set of 5 mm magnets “do not comply with the requirements of the mandatory federal magnet regulation because the sets contain one or more magnets that fit within CPSC’s small parts cylinder, and the magnets are stronger than permitted,” [the CPSC said](#).

The China-based company was sent a [Notice of Violation on Sept. 22, 2023](#). When high-powered magnets are swallowed, the magnets can connect and become lodged in the digestive system. This can result in perforations, intestinal blockages, infection, blood poisoning and death.

The [CPSC notes](#): “CPSC estimates 2,400 magnet ingestions were treated in hospital emergency departments from 2017 through 2021. CPSC is aware of seven deaths involving the ingestion of hazardous magnets, including two outside of the United States.”

About 4,240 of the magnet sets were recalled Dec. 28, 2023. They were manufactured in China, sold by Shanghai Yanlei Network Technology Co. Ltd., of China, through JD E Commerce America Limited (dba Joybuy), of Irvine, California and sold exclusively at Walmart.com from February 2022 through April 2023 for \$14 to \$15.

- **Moonseas Pack and Play Mattresses**

These were determined by the CPSC to be a suffocation hazard to infants. The China-based company was sent a [Notice of Violation on Sept. 22, 2023](#) because the crib mattresses violated several parts of

federal safety regulations, including thickness and missing labels. About 11,000 of the mattresses were [recalled Dec. 7, 2023](#). They were manufactured in China, imported by Huangshan Yueyang Ecommerce Co. Ltd., of China and sold exclusively on Amazon.

## **The CPSC can't just recall toys known to be dangerous**

The second reason why the 23 toy recalls in 2023 don't paint the whole picture: For the number of toys recalled every year, we're talking about only toys the CPSC believes are dangerous *and* that the CPSC can actually recall. Virtually all recalls announced by the Consumer Product Safety Commission are voluntary by the company; the CPSC can't easily mandate recalls without legal action. And the CPSC can't recall counterfeit products; the CPSC can't really recall something that isn't supposed to exist.

Because the CPSC doesn't have the authority to mandate the recall of a dangerous product, recalls of toys and other dangerous products often take months or years. Here are two examples of toys manufactured in China that were recalled in 2023 – years after the CPSC knew they posed significant safety risks.

- **Calico Critters**

Back in May 2018, a medical examiner in New Mexico [filed a report](#) with the CPSC regarding a 2-year-old girl he performed an autopsy on. "It was revealed she had a small part of a toy pacifier in her bronchus," [the report said](#). The toy pacifier came from the Calico Critters toy line, specifically the Yellow Labrador Twins set, by Epoch Everlasting Play, the report said. It was manufactured in China. Epoch was also aware of [two other incidents](#), including the death of a child in Japan in 2015.

We wrote about Calico Critters in our [2020 Trouble in Toyland](#) report, noting the danger they posed because they contained [small parts](#), but these toys were clearly aimed at children under 3. In fact, the company marketed them in the list of toys intended for children under 3. They were sold at Amazon, Meijer, Walmart and other stores

nationwide from January 2000 through December 2021 for between \$10 and \$80.

On March 9, 2023, nearly five years after the first death reported to the CPSC, [Epoch Everlasting recalled](#) 55 varieties of these toys, totaling 3.2 million products, valued at \$32 million to \$256 million.

- **Robo Alive Shark Swimming Bath Toys**

In September 2020, a 1-year-old baby girl slipped in the bathtub and fell on a Zuru Robo Alive Baby Shark and began bleeding in her groin area. She was rushed to the hospital. She had internal bleeding and cuts in two areas. Her mom [complained to the CPSC](#) that the fin of the shark was just too sharp.

In February 2022, a [19-month-old boy](#) was playing in the bathtub and slipped and fell on the shark and the fin caused a “cut and trauma to his anus.” He was treated by a doctor. “My son is terrified of diaper changes and baths now due to his injury! This was very traumatic for him and it shouldn't happen to anyone else's children,” the boy's parent [wrote in the report](#).

These were among 12 incidents reported involving the baby shark, going [back to at least 2018](#). Five years later, on June 22, 2023, Zuru recalled 7.5 million of the baby shark toys, which were manufactured in China. Customers were entitled to refunds. The value of the products recalled: \$136 million.

Last year, the CPSC issued 38 warnings regarding products it *wants* to get recalled, but the companies either won't cooperate or won't respond. The CPSC doesn't have mandatory recall authority over the roughly 15,000 products it regulates. Again, it can't force a company to recall a product [without taking legal action](#). Of the 38 warnings, 12 were for toys and eight were for infant sleep products. Others were a children's scooter, a children's bike helmet, a high chair and an infant sling. There were only a few products that weren't designed for children. Of the 38, 35 were imported; 20 were manufactured in China.

## **Counterfeit toys**

Besides the fact that the CPSC can't issue mandatory recalls without going to court, the CPSC can't recall toys or any other product if they're counterfeit. There's no such thing as recalling something that's not supposed to be for sale.

Bad actors frequently create counterfeits or knockoffs of name-brand toys that are in high demand and may be difficult for families to find at mainstream retailers. Counterfeit and knockoff toys are a threat because they often don't comply with U.S. safety standards and they're not tested to see whether they comply. Many are low-quality and can break easily and cause injuries, or they contain toxics, or both.

In FY23, the CPSC, in collaboration with U.S. Customs and Border Protection, [seized more than 1.1 million toys](#) that were dangerous or illegal. About 101,000 of those were lead-related.

Meanwhile, [Customs and Border Protection in FY22](#) (the latest statistics available) says it seized 101 shipments of toys from China (with 274 lines or different types or brands of products) for copyright infringement, meaning they're counterfeit. A single shipment seized on a given day could contain hundreds or thousands of the same item. So 101 shipments could mean tens of thousands or hundreds of thousands of toys. Seizures from all countries in FY22 totaled 165, with 381 lines of products. (See chart images in the appendix.)

That 101 shipments in FY22 is up from 77 shipments of counterfeits from China in FY21. Does that mean there are more counterfeit products, or just more getting detected and seized? Who knows. Either one is bad. Even one counterfeit toy that violates safety standards, not to mention that is harming legitimate businesses, is too much.

An example from FY22: the [CBP in New Orleans in 2022](#) seized 1,807 pop fidget toys that had copyright and trademark infringements. They had



targeted three international shipments for inspection, each with hundreds of fidget toys designed to look like popular brands, including Yoda, Spiderman, The Hulk and Bart Simpson. The shipments originated from Shenzhen, China, and were going to a local address in New Orleans. CBP said Shenzhen is frequently the source of all sorts of counterfeit items.



Here is one of the counterfeit "Bart Simpson" pop-em fidget toys seized by U.S. Customs and Border Protection in January 2022.

It's troubling that counterfeit toys, especially dangerous ones, may be imported and slip under the radar. U.S. Customs and Border Protection can't open every container, inspect every piece of paperwork and test every toy. And the CPSC's Office of Import Surveillance [has enough staffing](#) only to have investigators at about 6% of CBP's 327 ports of entry, often with only one investigator.



## **The impact of online shopping**

The backdrop here is consumers overall seem to be more comfortable with online shopping. That's another post-COVID phenomenon. But with shopping online comes a greater risk of buying a counterfeit product. It's often difficult for regulators to combat at times because many shoppers today order directly from international sellers, not from a large, well known online marketplace.

Or, we order from an online platform, thinking it's a U.S.-based seller, with no indication where the product is being shipped from. In some cases, online sellers will say they're located in Dayton, N.J. or Oxnard, Cal. – cities known to have a significant number of international reshipper warehouses. But the products are actually coming from China. I'd argue that consumers would be leery of buying anything that's misrepresenting where it's coming from.

In any case, regardless of the sender's address, small shipments addressed to an individual's home are less likely to be opened and inspected at the border.

Another cause of this problem of dangerous, imported toys: Companies don't really have strong disincentives. They can often import or sell toys and other products they know are dangerous or counterfeit, or illegal for other reasons, without fear of huge consequences.

For example, in August 2022, the [CPSC said](#) that Segway Powersports Inc. (SPI) of McKinney, Texas, was assessed a \$5 million [civil penalty](#) to resolve charges that it "knowingly imported" ATVs without a CPSC-approved ATV action plan. That's a violation of CPSA. The ATVs were imported from China. ATVs require a CPSC-approved action plan by federal law to "promote the safe and responsible use of ATVs, particularly for children under age 16."

Now, \$5 million might sound like a lot of money, but the CPSC suspended all but \$1.25 million of it. Commissioner [Peter Feldman criticized](#) the decision as a slap on the wrist:

*“Such blatant disregard for our safety laws, at a minimum, should have resulted in a higher penalty. A civil penalty between \$7 and \$10 million would have been consistent with recent Commission precedent. Instead, the Commission chose to impose, and then to suspend, a \$5 million penalty based on SPI’s asserted inability to pay. I’m skeptical of this claim. Does anyone really believe that a Chinese subsidiary is not backed by the full faith and credit of its parent and ultimately the Chinese government? I don’t. Ninebot is a billion-dollar company with cash reserves in the hundreds of millions of dollars and access to vast amounts of additional Chinese capital.”*

But a couple thousand imported children’s products, mostly toys, are flagged every year for violating some safety standard. Most simply receive notices of violation and are told to stop selling the products already on the market, correct future production, change labeling or, in a small percentage of cases, recall the product.

The CPSC pursues much larger financial penalties with companies that fail to report injuries, deaths or serious incidents, as is required by law. But these penalties still aren’t large enough in many cases. For example:

- **May 5, 2023**

[Generac Power Systems, Inc.](#), of Waukesha, Wis., agreed to pay a \$15.8 million [civil penalty](#). The settlement follows charges by the CPSC that Generac failed to report complaints questioning the safety of its portable generator for more than a year, from October 2018 and into 2020. They were manufactured in the United States and China. When Generac finally told the CPSC, five people had already suffered finger amputations while trying to move their generator. Generac and the CPSC announced a [recall](#) of 321,160 generators on

July 29, 2021.

- **Sept. 29, 2023**

[BJ's Wholesale Club](#) Inc. of Marlborough, Mass., agreed to pay a \$9 million [civil penalty](#). The settlement follows charges by the CPSC that BJ's intentionally failed to report that Royal Sovereign brand portable air conditioners it sold contained a defect that put customers at risk of injury or death. The products were manufactured in China.

BJ's sold 1,778 of these air conditioners in 2011 and 2012, and 509 of them were returned to the store. In August 2016, one of the air conditioners sold by BJ's was involved with a fire at a house in New York, with a woman and her two children inside. They were rescued, but the woman later died. BJ's was informed about the fire no later than March 2017 and issued a warning to customers in March 2021 but still didn't inform the Commission, CPSC Chair Alex Hoehn-Saric [said](#) in a statement. Royal Sovereign and the CPSC announced a [recall](#) of 33,570 air conditioners on December 22, 2021.

- **November 08, 2023**

[HSN Inc.](#), of St. Petersburg, Fla., agreed to pay a \$16 million [civil penalty](#). The settlement follows charges by the CPSC that HSN intentionally failed to report that its Joy Mangano-brand My Little Steamer and My Little Steamer Go Mini contained a defect that could cause injuries. The products were manufactured in China.

From late 2012 until early 2019, HSN received "numerous" complaints that the steamers "would spray, expel, and/or leak hot water while in use, resulting in serious and permanent injuries, a limited number of which constituted grievous bodily injury." When HSN finally told the CPSC, it had received about 400 complaints of the steamers spraying or expelling hot water and about 700 more reports of leaks. Among the complaints: at least 91 injuries and 29 insurance claims regarding injuries including second and third-degree burns and one case of hearing loss. There were about 650 additional

complaints on HSN Online Reviews. HSN and the CPSC announced a [recall](#) of 5.4 million steamers on May 26, 2021.

Two of these cases were near the maximum civil penalty the CPSC can assess, which is currently \$17.5 million. These companies failed to notify the CPSC [within 24 hours](#), as required by law, when they receive information that “reasonably suggests” one of their products could pose a health or safety risk. Yet they couldn’t be penalized more than \$17.5 million, even after their products were connected with serious injuries or, in one case, a death.

## **Recommendations**

In conclusion, PIRG has several recommendations for Congressional action related to product safety in general and specifically for toys imported from China.

- Support the Sunshine in Product Safety Act, or similar legislation, which would allow the CPSC to warn consumers more quickly about all kinds of dangerous products, including toys, when there’s a grave threat involving a product in people’s homes. It was first introduced in [2021](#). It was reintroduced in [March 2023](#) in the House and Senate.
- Congress or courts would act to clarify that the 1996 Communications Decency Act doesn’t insulate online platforms from responsibility for products sold illegally on their websites. This would give the CPSC more authority to pursue enforcement against platforms such as Facebook Marketplace and eBay, just like the regulator does with big box retailers. Currently, the CPSC can’t require an online marketplace to remove a product from its platform or notify the CPSC of hazards or injuries unless the marketplace is a manufacturer, distributor, importer or retailer.

- Bolster the resources of Customs and Border Protection and the CPSC to provide more staffing at the border to stop dangerous imports, especially toys and other products, from entering the country. The bipartisan [Securing America's Ports of Entry Act](#) would provide more CBP staffing, although not necessarily focused on counterfeits and other dangerous products.
- Empower the CPSC with mandatory recall authority in cases where the CPSC believes a product represents a grave threat, based on reports from hospitals, fire departments, coroner and complaints from consumers. The CPSC should also be authorized to recall a dangerous product when a company isn't being responsive, especially an international company.
- Pass the [CAP Act](#), which would increase the civil penalties companies could face if they violate product safety laws and endanger people, especially children.
- Pass the [Ban Water Beads Act](#), which would categorize water beads as a hazardous product under section 8 of the Consumer Product Safety Act. The bill was introduced following the July 2023 death of a 10-month-old baby in Wisconsin who had swallowed water beads, and the serious injury of a 9-month-old baby in Maine who had swallowed water beads, which caused an intestinal obstruction that required surgery.

About 7,800 children were treated in emergency rooms from 2016 through 2022 for injuries or illnesses caused by water beads, [according to data from the CPSC](#).

[Buffalo Games recalled](#) about 52,000 Chuckle & Roar Ultimate Water Beads Activity Kits on Sept. 24, 2023. The product was connected to the death of the Wisconsin baby and injury of the Maine baby. The water beads were manufactured in China and imported by Target Corp. of Minneapolis, Minn.

- Empower the CPSC to continue to research the risks of phthalates and other toxics. Laws were passed on lead and some phthalates in children's products. There are more toxic chemicals we should learn more about.
- Give the CPSC more resources. The CPSC is supposed to protect the public from dangers that may exist with 15,000 different kinds of consumer products. The expectations for the CPSC are enormous: setting mandatory safety standards; influencing voluntary safety standards; requiring labeling; forcing hazardous products to be removed from store shelves; pursuing product recalls; educating the public about product safety; and collecting and analyzing data about injuries, death and incidents. The CPSC reviews about 8,000 unintentional product-related death certificates each year, and tracks at least 15.5 million injuries each year that are treated in emergency rooms and associated with consumer products.
- Consider strengthening the bi-partisan INFORM Consumers Act, which went into effect June 27, 2023. The [INFORM Consumers Act](#) requires online marketplaces to verify "high-volume" third-party sellers by authenticating the seller's government ID, tax ID, bank account information, and contact information. And makes it much more difficult for a bad guy to use burner accounts, unless he or she had multiple government-issued IDs. "A high-volume seller is defined as any seller that, in a continuous 12-month period, has entered into and completed 200 or more discrete sales or transactions and, as a result, has accumulated an aggregate total of \$5,000 or more in gross revenue."

But the law won't stop smaller sellers, who might sell fewer than 200 items in a year. And it doesn't do anything to deal with counterfeits at brick and mortar stores.

- Work to fix the broken product recall system, by requiring companies to do more to notify customers about recalls and by requiring

companies with recalled products to have a consumer-friendly process to get a refund, repair or replacement.

We know this is possible because so many companies large and small do this already. Half of the companies that offered refunds in 2023 had a reasonably easy remedy request process, according to research and an analysis we published last month in our [Too Much To Recall](#) report.

When recalls are difficult to get, dangerous products remain in people's homes, with the potential for even more calamities.

The bottom line here: About 200,000 people are treated in emergency rooms every year for toy-related injuries. About three-fourths of those – 150,000 – are sustained by children 14 years old or younger; more than one-third – about 70,000 – are sustained by children 4 years old or younger.

And the 23 toys that were recalled last year are implicated in 68 injuries and the deaths of three children, so far. There are far, far more dangerous toys out there than just the ones recalled every year.

We know that parents, caregivers, families and shoppers of all types generally assume that because something is for sale, it must be safe. Of course that's often tragically wrong.

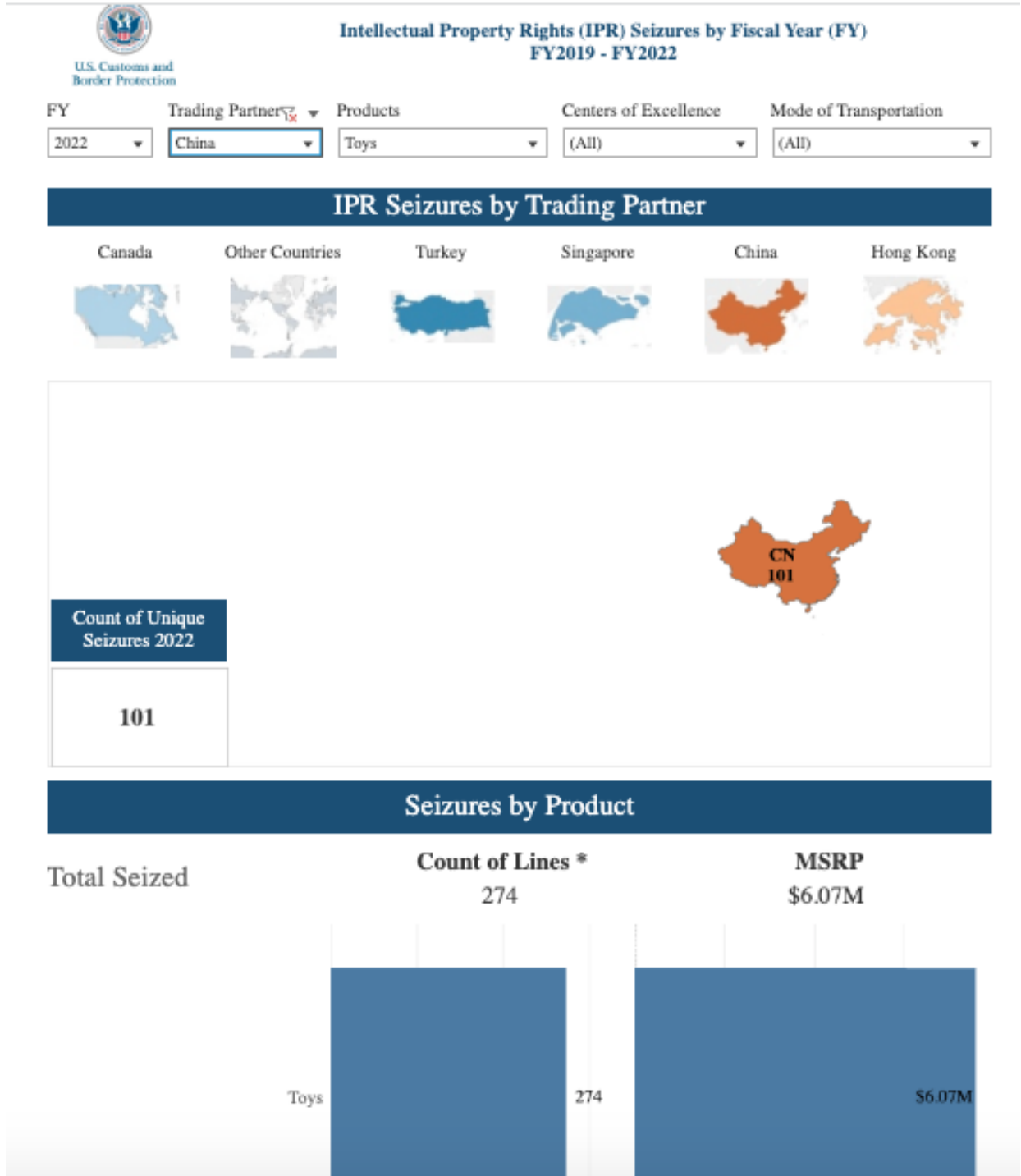
Thank you for your time.

*Please see appendix images below.*

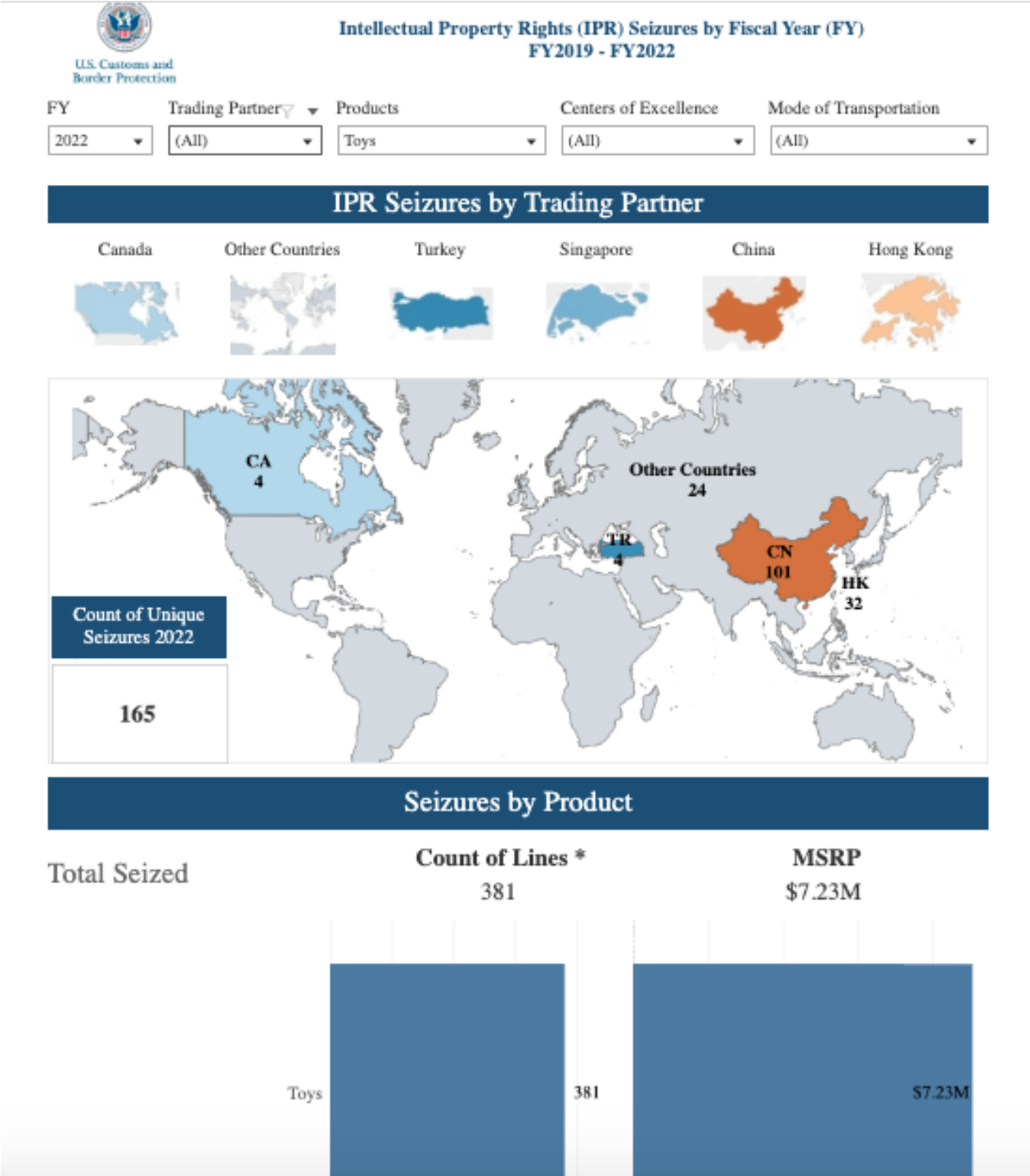


# Data from Customs and Border Protection

## Seizures of products that violate intellectual property rights from China in FY22.



**Seizures of products that violate intellectual property rights from all countries in FY22.**



## RECALLS OF ALL PRODUCTS AND TOYS

In 2007, awareness grew that many children’s products violated lead standards for paint and surface coatings. The maximum level for paint and surface coatings of toys and other children’s products was [600 ppm](#), a standard set way back in the 1970s. That led to an increase in recalls in 2007. Among the 447 recalls that year, more than 100 stemmed from excessive levels of lead in paint. That fueled greater focus on children’s products in 2008, especially toys that children often put in their mouths. In 2008, Congress passed the CPSIA that restricted lead content in children’s products.

