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**Minutes of 9<sup>th</sup> Meeting**  
**Working Group on Consumer Product Safety, May 19, 2020**

Following the renewal of its mandate by the Fourth session of the Intergovernmental group of experts on consumer protection law and policy of 8 and 9 July 2019,<sup>1</sup> the WGCPs adopted its work plan for 2019-2020 on 9 October 2019. It held its ninth teleconference call on 19 May 2020 (at 8.30 a.m. and 5 p.m. Geneva time). The objective of the meeting was to discuss the proposed recommendation entitled "*Preventing International Trade in Unsafe and Hazardous Consumer Products*" (text in Annex 1 as amended following the discussion in the ninth meeting) to explore whether this draft reflects existing consensus and the next steps. These were the issues discussed:

1. The UNCTAD secretariat updated on the upcoming **Eighth United Nations Conference on Competition and Consumer Protection** <https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=2364>: the meeting is postponed to **19 to 23 October 2020** (instead of the initially foreseen 6 to 10 July 2020). This Conference will decide on the proposed recommendations and may submit it to the General Assembly for later adoption.
2. The secretariat also presented the **most salient changes in the current draft** following suggestions and comments received to the previous draft:
  - a. The current draft is sponsored by the Superintendence of Industry and Commerce (SIC) of Colombia, with the support of various other countries.
  - b. It includes a cover note on context and the importance of preventing the international trade in unsafe and hazardous consumer products. This aims to provide some background to interested parties who may be less aware with the discussions of the Working Group, namely permanent missions in Geneva, as their participation will be necessary in the coming steps. The text reflects the mandate of the Working Group and the content of the United Nations Guidelines for Consumer Protection (UNGCP). Only paragraphs 8 and 9 are new text.
  - c. It has redrafted and reorganized perambulatory and operative clauses to comply with UNCTAD resolution customary practices and style.
  - d. It has replaced "dangerous" by "unsafe and hazardous" to use UNGCP established language.
  - e. Regarding operative clauses:
    - i. Various participants had shared concerns regarding the administrative burdens to authorities and business that the previous recommended practices entailed.
    - ii. Various participants had also shared the need to enact fresh legislation to comply with the previous recommended practices and were wary of agreeing on a text for which they may not be able to ensure implementation.
    - iii. Thus, the current draft reflects the general principle of recommending the pursuit of policies aimed at preventing international trade in unsafe and

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<sup>1</sup> [TD/B/C.I/CPLP/20](https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=2364)



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hazardous consumer products and leaves the discussion on the concrete implementation options to a modalities report to be produced by the UNCTAD secretariat shortly after adoption of the resolution.

- iv. The said modalities report would also allow for more detailed (and thus less compelling) description of the policy options member States would have to implement the resolution.
- v. The operative clauses also request the UNCTAD secretariat to report on the implementation of the recommendation to the ninth United Nations Conference on Competition and Consumer Protection (2025).

f. The current draft is open for comments until 12 June 2020.

3. The secretariat presented the **next steps** in the process leading to consideration by the United Nations Conference on Competition and Consumer Protection: if participants of the Working Group agree that this text reflects existing consensus, UNCTAD will call for a meeting (also through teleconference, tentative dates 24 or 25 June) inviting participants of the Working Group and permanent mission in Geneva. The meeting would be the first preparatory meeting to the Conference and may begin discussing the text of perambulatory and operative clauses. Once the official communication is issued to permanent mission in Geneva, the secretariat will circulate it among participants of the WGCPs so as to facilitate coordination among consumer product safety authorities and permanent missions. The secretariat can also facilitate contacts of permanent missions upon request from consumer product safety authorities.
4. SIC addressed participants as the sponsor of the recommendation. SIC is convinced that this would be a breakthrough in consumer product safety at the global level. SIC welcomed other countries wishing to co-sponsor the resolution.
5. The Australia Competition and Consumer Commission (ACCC) welcomed the introductory text and the proposal to let a modalities report detail the implementation policy options. ACCC proposed a redrafting of a perambulatory clause: *"Recognizing that Member States' product safety frameworks, requirements, and risk assessment approaches can greatly vary so that a product may be assessed as posing different levels of safety risk across Member States,"*
6. The Swiss Federal Consumer Affairs Bureau (FCAB) shared that Switzerland had no legal framework to regulate exporting firms, so the previous draft posed problems in its implementation as well as associated administrative burdens. The current text, however, is acceptable to FCAB, although it is important to bare these concerns in mind when drafting a modalities report.
7. The Korea Consumer Agency supported the current text.
8. The United States Consumer Product Safety Commission (USCPSC) is supportive to the recommendations and welcomed Colombia's leadership. The USCPSC also welcomes the new text. Although at the beginning USCPSC believed that it was possible to include examples in an Annex, it became clear that did not gather consensus. This being the first time that the importance of the protection of consumers from product hazards be raised in the General Assembly, so it is important to move forward. USCPSC suggest to 1 trillion USD in consumer



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costs that unsafe and hazardous products entail in the US market, to explain not only the human life value but also the economic value.

9. The European Commission (EC) supported that the recommendation gathers a momentum to bring product safety forwards which is all the more important in the midst of the present COVID-19 crisis.
10. The Brazilian National Secretariat for Consumers (SENACON) asked whether there will be a translation in Spanish. The secretariat informed that the official translation will only if it is adopted by the Conference (as an annex to the Conference resolution), but unofficial translations from volunteering member States are very welcome and will be circulated among participants.
11. Consumers International (CI). The COVID-19 crisis put us in a different position: product safety has become more important in the current situation. This working group can advance not only with respect to the resolution, but also around other areas it could explore in the future and could propose for the mandate to be received in the Review Conference. The secretariat reminded participants that any suggestion regarding future mandate of the working group is welcome.

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A meeting with participants of the WGCPs and permanent missions in Geneva may be called shortly.



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| <b>Working Group on Consumer Product Safety</b>  |  |                   |
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| <b>9<sup>th</sup> Meeting – List of Participants</b>   |  |                   |
| <b>Name</b>  | <b>Organization</b>                            | <b>Country</b>    |
| Neville Matthew  | Australian Competition and Consumer Commission | Australia         |
| Jacqueline Salmen  | National Secretariat for Consumers             | Brazil            |
| Pedro Brown  | Immetro  | Brazil            |
| Jean-Emmanuel Simiand  | Health Canada                                  | Canada            |
| Maria Carolina Corcione ,<br>Cirstina Rodríguez, Andrea<br>Peña, Juan Felipe Barrera &<br>Natalia Alarcón, | Superintendence of Industry and<br>Commerce    | Colombia          |
| Sergey Sinyakov  | Eurasian Economic Commission                   |                   |
| Pinuccia Contino & Bori Szij   | European Commission                            |                   |
| Yoona Kim  | Korean Consumer Agency                         | Republic of Korea |
| Matthias Gehrig  | Federal Consumer Affairs Bureau                | Switzerland       |
| Damla Yeşeren Arafal   | Ministry of Trade                              | Turkey            |
| Richard O'Brien & Tilven<br>Salazar  | Consumer Product Safety Commission             | United States     |
| Antonino Serra   | Consumers International                        |                   |



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**Annex 1:** Proposal sponsored by Colombia, with the support of several other member States entitled “*Preventing International Trade in Unsafe and Hazardous Consumer Products*”

The text was open for comments, ideas, suggestions and reactions from members of the WGCPs until **12 June 2020**. This text reflects the comments received.

## **Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices**

### ***Recommendation on Preventing International Trade in Unsafe and Hazardous Consumer Products***

Introductory note by the UNCTAD secretariat

#### **Context**

1. The General Assembly, in its resolution [35/63 of 5 December 1980](#), adopted the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, requested the Trade and Development Board to establish an intergovernmental group of experts on restrictive business practices within the United Nations Conference on Trade and Development (UNCTAD) and decided to convene a United Nations conference to review all aspects of the Set in 1985. Since then, that conference has been convened every five years.
2. The General Assembly, in its resolution [70/186 of 22 December 2015](#), adopted the revised [United Nations Guidelines for Consumer Protection](#) and decided to establish an intergovernmental group of experts on consumer protection law and policy within UNCTAD, to provide the international institutional machinery for the Guidelines and to operate between and report to the United Nations conferences to review all aspects of the Set.
3. The Intergovernmental group of experts, in its third session, discussed the issue of consumer product safety on the basis of the UNCTAD secretariat note on this issue (see [TD/B/C.I/CPLP/12](#)). The Group requested the UNCTAD secretariat to convene a working group on consumer product safety to highlight best practices, to facilitate information exchange and consultations, and to continue the work from the third session, led and integrated by member States on a voluntary basis, without financial implications for the regular budget of the United Nations, and to report to its fourth session<sup>2</sup> (see [TD/B/C.I/CPLP/15](#)).
4. The Intergovernmental group of experts, in its fourth session, heard the [report by the UNCTAD secretariat on the Working Group on Consumer Product Safety](#) discussions and decided to renew the mandate of the Working Group to continue the work on strengthening consumer product safety frameworks at the national, regional and international levels to protect consumers from hazards to their health and safety [...]; and to recommend policy options for addressing challenges faced by consumer protection authorities in this area, and to report on its continued work to the Eighth United Nations Conference to Review All Aspects of the Set (see [TD/B/C.I/CPLP/20](#)).
5. The Working group, in its fifth meeting of 9 October 2019, discussed and adopted its work plan for 2019-2020, aiming, among others, to discuss language proposals and gather consensus around a recommendation to prevent international trade in unsafe and hazardous consumer products. The positive consultations that ensued among member States’ consumer product safety authorities

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<sup>2</sup> The Working Group is informal and open to all interested member States and other relevant stakeholders. It meets regularly through virtual means.



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led to a draft text, sponsored by Colombia to be submitted for consideration of the Eighth United Nations Conference to Review All Aspects of the Set.

### **The importance of preventing the international trade in unsafe and hazardous consumer products**

6. Consumer product safety policies are particularly important to ensure the health and safety of consumers and to contribute to an inclusive and sustainable development for countries. For example, the United States reports 43,000 deaths and 40 million injuries per year associated with consumer products. In that same country, consumer product hazards account for over 3,000.00 USD in societal costs per capita annually. Enhancing consumer product safety directly contributes to the achievement of Sustainable Development Goal 3 (good health and well-being) and indirectly to that of Goals 1 (no poverty), 4 (quality education), 8 (decent work and economic growth), 9 (industry, innovation and infrastructure), 10 (reduced inequalities), 11 (sustainable cities and communities), 12 (responsible consumption and production) and 17 (partnership for the goals).

7. In order to protect consumers' physical safety, the United Nations Guidelines for Consumer Protection call on member States to adopt or encourage the adoption of appropriate measures, including legal systems, safety regulations, national or international standards, voluntary standards and the maintenance of safety records to ensure that products are safe for either intended or normally foreseeable use. These constitute product safety requirements.<sup>3</sup>

8. Those responsible for bringing goods to the market, in particular suppliers, exporters, importers, retailers and the like (hereinafter referred to as "distributors"), hold the primary responsibility for ensuring that these goods under their care are safe for consumption. Should they become aware of unforeseen hazards after products are placed on the market, they should notify the relevant authorities and, as appropriate, the public without delay. If a product is found to be seriously defective and/or to constitute a substantial and severe hazard even when properly used, manufacturers and/or distributors should recall it and replace or modify it, or substitute another product for it. If it is not possible to do this within a reasonable period of time, the consumer should be adequately compensated.

9. The United Nations Guidelines also recommend that Member States work to ensure that the quality of products and the information relating to such products does not vary from country to country in a way that would have detrimental effects on consumers.

10. Consumer product safety requirements are of national nature (apart from the European Union, where they are regional). Although standards may vary from country to country, consumer product safety authorities regularly exchange information on product recalls (namely within the frameworks of [European Union Rapid Alert System \(RAPEX\)](#); [Organization of American States Consumer Safety and Health Network](#), and [Organisation for Economic Co-operation and Development Global Recalls](#)). This information is relevant for comparing and assessing the potential or actual hazard of products found in national markets. However, it does not allow for the exchange of information on the possible international trade in unsafe and hazardous products. Also, the current frameworks do not gather the entirety of UNCTAD member States.

11. Currently, rogue distributors are able export consumer products that have been withdrawn from the market due to non-compliance with consumer product safety requirements to other jurisdictions where that non-compliance has not been assessed or acted upon, thus endangering the physical safety of consumers in the importing country. This recommendation aims to address such problem.

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<sup>3</sup> In particular, see [guidelines 16 to 19 and 70 to 82](#).



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Proposal submitted by Colombia entitled

***Recommendation on Preventing International Trade in Unsafe and Hazardous Consumer Products***

*Recalling* General Assembly resolution 70/186 of 22 December 2015 on consumer protection adopting the revised United Nations guidelines for consumer protection,

*Recalling* also that consumers should have the right of access to non-hazardous products,



*Recognizing* that appropriate policies that prevent trade in unsafe and hazardous consumer products can improve consumer confidence and provide more favourable conditions for sustainable economic development,

*Recalling further* that Member States should adopt or encourage the adoption of appropriate measures, including legal systems, safety regulations, national or international standards, voluntary standards and the maintenance of safety records to ensure that products are safe for either intended or normally foreseeable use,

*Reaffirming* that Member States should develop or strengthen information links regarding products which have been banned, withdrawn or severely restricted in order to enable other importing countries to protect themselves adequately against the harmful effects of such products,

*Reaffirming further* that Member States should work toward a high level of safety for consumer products globally and similarly, availability of safety information relating to unsafe and hazardous products in order to avoid detrimental effects for consumers,



*Recognizing* that instances of unsafe and hazardous consumer products being distributed in national markets can be reduced globally as product safety frameworks are strengthened,



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*Recognizing* that consumers everywhere may benefit when the manufacture and international trade in unsafe and hazardous consumer products is reduced,

*Recognizing* that Member States' product safety frameworks, requirements, and risk assessment approaches can greatly vary so that a product may be assessed as posing different levels of safety risk across Member States,

*Recognizing* that many Member States are still developing effective consumer product safety policy frameworks and as a result, may have difficulty preventing unsafe and hazardous consumer products from being brought to national markets,

*Recognizing* that many Member States where unsafe and hazardous consumer products have been identified and withdrawn or blocked from commerce, may not yet be able to discourage the export of those products,

*Taking Note that* steps by Member States to discourage the export of known, unsafe and hazardous consumer products would be mutually beneficial to the health and safety of consumers everywhere,

*Recognizing* that the Working Group on Consumer Product Safety, established at the third session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy, under the auspices of the United Nations Conference on Trade and Development,<sup>4</sup> aims at strengthening consumer product safety frameworks at the national, regional and international levels to protect consumers from hazards to their health, and on recommending policy options for addressing challenges faced by consumer protection authorities in this area,<sup>5</sup>

*Noting* that the Working Group has focused its efforts on "consumer products," understood to mean the category of products intended for and/or likely to be used by consumers but without including food, drugs and medical devices, as these products are often subject to specific risk assessment and risk management in distinct regulatory frameworks,

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<sup>4</sup> [TD/B/C.I/CPLP/15](#)

<sup>5</sup> [TD/B/C.I/CPLP/20](#)





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1. *Recommends* that Member States pursue policies aimed at preventing international trade in unsafe and hazardous consumer products.
2. *Calls on* Member States to raise awareness among businesses responsible for bringing goods to the market on the potential harms of international trade in unsafe and hazardous consumer products.
3. *Calls on* Member States to raise awareness among consumers on the risks to their physical safety posed by unsafe and hazardous products, especially when engaging in cross-border online transactions.
4. *Recommends* that Member States regularly exchange information on national policies and measures on product safety recalls and safety requirements.
5. *Requests* the United Nations Conference on Trade and Development to continue to assist Member States in improving their consumer product safety frameworks in order to better protect consumers and to prevent international trade in unsafe and hazardous consumer products.
6. *Requests* the secretariat of the United Nations Conference on Trade and Development to propose modalities for the implementation of the present resolution following its adoption.
7. *Requests* the secretariat of the United Nations Conference on Trade and Development to exchange information on progress and experiences therefrom, review that information and report to the General Assembly on this subject on the occasion of the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

