

The Report of the Working Group on Consumer Product Safety to the eighth session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy

June 2024

The [seventh session of the Intergovernmental Group of Experts \(IGE\) on Consumer Protection Law and Policy](#) held on 3 and 4 July 2023, decided to renew the mandate of the Working Group on Consumer Product Safety (WGCPs) “renew the mandate of the working group on consumer product safety until 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, to continue work on strengthening consumer product safety frameworks at the regional and national levels and improving international cooperation to protect consumers from hazards to their health and safety, to propose a recommendation on general consumer product safety, to explore the viability and potentially the development of a model law for the implementation of the recommendation on preventing the cross-border distribution of known unsafe consumer products and to report on its continued work to the eighth session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy.”¹

Since then, the WGCPs held five online meetings. On [20 September 2023](#), WGCPs participants discussed and adopted the workplan until the eighth session of Intergovernmental Group of Experts on Consumer Protection Law and Policy. The activities listed in the agreed workplan were implemented as follows:

- **Recommendation on general consumer product safety**: South Africa and the European Commission convened a drafting committee and presented a draft proposal for consideration of WGCPs participants.
The draft proposal is available as an annex to this report.
- **Model law for the implementation of the recommendation on preventing the cross-border distribution of known unsafe consumer products**: the United States, with the support of the American University, convened a drafting committee which is preparing a draft proposal for consideration of WGCPs participants.

¹ [TD/B/C.I/CPLP/37](#).

- **Joint European Commission-UNCTAD workshop:** took place on 12 December 2023 and under the title "[Unlocking the full potential of research in product safety](#)." Experts and participants brainstormed on how to maximize the potential of research in advancing product safety, as it is an area which has not been widely researched yet. The event featured an initial discussion with researchers and an interactive part with all participants. Speakers at the workshop included:
 - Ms. Pinuccia Contino, Deputy to the Director for Consumers, Head of Unite Product Safety and Rapid Alert System, European Commission
 - Prof. Elizabeth Keith, Professor of Legal Rhetoric, American University Washington College of Law in the United States
 - Prof. Sebastián Barocelli, Professor at the University of Buenos Aires in Argentina
 - Dr. Laura Best, Policy specialist in consumer protection and sustainability in South Africa
 - Dr. Eduard Fosch-Villaronga, Associate Professor of Law, Robots, and AI, eLaw Center for Law and Digital Technologies, Leiden University in the Netherlands

The topic and the format of breakout session were well received and may lead to future work in this area.

The fifth workshop will be held at the International Product Safety Week from 14 to 17 October 2024 in Brussels.

- **UN Trade and Development e-Commerce Week: Shaping the Future of the Digital Economy:** UN Trade and Development, Common Market for Eastern and Southern Africa (COMESA) and the European Commission hosted an online session on "[Regional cooperation for safer online consumer markets](#)" on 4 December. The session discussed the current regional policy frameworks in pursuit of a common agenda to enhance consumer information and data sharing on product safety in online markets, to help digital markets to be more trustful, transparent and fair. The speakers in the session were:
 - Willard Mwemba, CEO, COMESA Competition Commission;
 - Isabelle Pérignon, Director for Consumers, DG Justice and Consumers, European Commission; and
 - Khalid Al-Siyabi, Market Regulation and Market Monitoring Manager, Oman Consumer Protection Authority

See AI-generated report of the session [here](#).

- **Workshop on enhancing consumer product safety on online platforms:** took place on 17 April 2024 to foster dialogue and share best practices among policymakers, enforcers, and businesses to improve consumer product safety on online platforms. It built on the secretariat background note² on this issue prepared for the event and the discussions held at the seventh session of the intergovernmental group of experts.³ The speakers in the session were:
 - Rafael Regla, Head of Multilateral Affairs, Federal Attorney for Consumers, Mexico
 - Jisook Yang, Manager, Injury Information Monitoring Team, Department of Injury Information, Korea Consumer Agency, Republic of Korea
 - Faith P. Mwamba, Principal Investigator, Competition and Consumer Protection Commission, Zambia
 - Chloe Kontos, Customer Trust External Relations, Amazon
- **Publication on product safety:**

For its first publication on product safety, the UN Trade and Development secretariat is organizing a collection of contributions/articles from jurisdictions around the world. So far, Argentina, France, Peru, South Africa, Thailand, Vietnam, the European Commission and COMESA accepted to contribute.

The publication is expected to be presented at 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 in 2025.

In conclusion, the WGCPs agreed to propose to the eighth session of the Intergovernmental group of experts on consumer protection law and policy that its mandate be continued in the following terms:

Decides to continue the mandate of the working group on consumer product safety until the Ninth United Nations Conference, to continue work on strengthening consumer product safety frameworks at the regional and national levels and improving international cooperation to protect consumers from hazards to their health and safety, to pursue consultations leading to a resolution on general consumer product safety, to pursue the development of a model law for the implementation of the recommendation on

² See [Building trust in digital markets through enhanced consumer protection on online platforms](#), 21 April 2023, pages 10-11.

³ [TD/B/C.I/CPLP/37](#) pages 6-8.

preventing the cross-border distribution of known unsafe consumer products and to report to the Ninth United Nations Conference;

All minutes and documentation of the WGCPS are available in the dedicated UNCTAD [webpage](#).

Results of consultations as of 11 June 2024:
Draft recommendation on general product safety principles

Recalling General Assembly Resolution 70/186 of 22 December 2015 on consumer protection, which adopted the revised United Nations guidelines for consumer protection, setting out the main characteristics for effective consumer protection legislation, enforcement institutions and redress systems²⁷

Recognising that consumers often face imbalances in economic terms, educational levels, and bargaining power, and might find themselves in vulnerable situations towards unsafe products,

Affirming the right for all consumers to have access to safe products and the need to provide consumers worldwide, including consumers in vulnerable situations, with a high level of protection against unsafe products both online and offline,

Taking into account the interests and needs of consumers in all [m](#)Member States, particularly in the ones with least developed product safety frameworks,

Recalling that the World Health Organisation defines 'health' as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,

Affirming that products offered to consumers **should** not pose an unreasonable risk to the health or safety of consumers, in reasonably normal or foreseeable use or misuse,

Reaffirming that product safety contributes to building trust in economic operators and markets, reduces costs to society associated with injuries, ill health, deaths and property loss, and hence contributes to economic development,

Recognising that product safety plays a critical role in sustainable consumption, that sustainable products **should** also be safe, conscious of the role which the circular economy will play in the climate change mitigation and acknowledging the interplay between health, safety and environmental risks,

Affirming the importance of setting —general product safety principles, to assist all [m](#)Member States with formulating and enforcing domestic and regional product safety **frameworks (e.g., policies, laws, rules and regulations etc.)**,

Affirming the need for consumers to have at their disposal sufficient means and effective tools to enforce and protect their right to safe products and for [m](#)Member States to have adequate instruments and measures at their disposal to achieve the objectives laid down in this recommendation,

Recognizing the importance of building local, national, regional and international cooperation in the area of product safety,

Having regard to the [UNCTAD 2020 Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products](#) which encourages [m](#)Member States to pursue policies, consistent with World Trade Organization [ru](#)Rules, aimed at preventing cross-border distribution of consumer products known in their own jurisdiction to be unsafe,

Recognizing that the [informal](#) 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,⁴ 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,⁵

Noting that the Intergovernmental Group of Experts on Consumer Protection Law and Policy, in its seventh session, renewed the mandate of the working group on consumer product safety to continue work on strengthening consumer product safety frameworks at the regional and national levels and improving international cooperation to protect consumers from hazards to their health and safety and to propose a recommendation on general consumer product safety⁶;

Noting that the [informal](#) 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 excluding food, drugs and medical devices, as these products are often subject to specific risk assessment and risk management in distinct regulatory frameworks,

Calls on Member States to have in place product safety frameworks in order that:

I. Safety of products on the market

1. Products offered to consumers are safe, online and offline, both new and second-hand, in reasonably normal or foreseeable use or misuse.
2. Businesses have the primary responsibility to ensure that products they make available to consumers are safe.

⁴ https://unctad.org/meetings/en/SessionalDocuments/cicplpd15_en.pdf

⁵ https://unctad.org/meetings/en/SessionalDocuments/cicplpd20_en.pdf

⁶ https://unctad.org/system/files/official-document/cicplpd37_en.pdf

3. Businesses take safety into account in the design, quality assurance, production and supply of consumer products throughout their entire life cycle.

II. Product safety authorities

4. Member States empower authorities responsible for product safety to investigate and take actions against unsafe products. These powers may include the following:

(a) mandate businesses to report to the relevant authorities responsible for product safety, incidents associated with a product they have made available to consumers, without undue delay from the moment they become aware about the incident;

(b) request businesses to notify the relevant authorities responsible for product safety on any unsafe product they have made available to consumers, without undue delay from the moment they know about the risk;

(c) require businesses to provide in their reports and notifications to the relevant authorities responsible for product safety complete information with respect to the safety aspects and to the supply chain of their products;

(d) order businesses to take certain measures, such as those enumerated in chapter VI (corrective measures) in relation to a product presenting a danger to consumers;

(e) issue takedown and staydown orders to stop the sale of products presenting a danger to consumers on online marketplaces;

(f) receive and process complaints submitted by consumers in relation to a product presenting a danger; and

(g) any other power deemed necessary for the effective protection of consumers from unsafe products.

5. The contact details of the relevant authorities responsible for product safety are made publicly available and disseminated as widely as possible.

6. Member States are encouraged to develop a system for timely communication of product safety alerts between relevant authorities responsible for product safety, at national and/or regional level, and to use existing platforms to disseminate and exchange information to stakeholders at a global level.

7. Member States are encouraged to explore the use of new technologies for the enforcement of product safety requirements on their markets, keeping in mind that such technologies should be strictly delineated, contain safeguards for the protection of fundamental rights, and be used in a strictly proportionate manner.

8. Member States adopt systematic procedures for risk identification, assessment and management.

III. Product risk identification

9. To identify risks, Member States are encouraged to collect data, where available, from:

(a) consumer and business complaints made to the relevant authorities responsible for product safety;

(b) reports of death, serious injury or illness;

(d) recalls and other corrective measures notified by businesses;

(e) market surveillance activities to identify non-compliant or unsafe products;

(f) information from other domestic and international regulators;

(g) networks of consumer, business, government and other organisations ;

(h) media monitoring of news sources and other government or organisation publications and media statements;:-

(i) Consumer products reviews.

IV. Product risk assessment

10. When assessing the safety of a product, the following elements are taken into account:

(a) the characteristics of the product, in particular its design, features, composition, packaging and, where applicable, instructions for assembly, for installation, use and maintenance;

(b) the presentation and marketing of the product, the labelling, including age suitability, any warnings and instructions for its safe use and disposal, and any other indication or information regarding the product;

(c) the types of consumers using the product, in particular consumers in vulnerable situations such as children, older people and persons with disabilities, and taking into account the diversity of consumers;:-

(d) the compliance of the product, whether in its final form or its manufacturing components, with the international specifications and/or standards approved by each Member Sstate;

(e) other environmental considerations such as weather use conditions, climate change, operational use related to national needs (for instance, electrical devices energy needs) and other that could be relevant in each country's characteristics

V. Product risk management and corrective measures

11. Where a product made available to consumers appears to be unsafe, businesses take appropriate and timely corrective measures to ensure the product no longer poses a risk and coordinate with the relevant authority in this regard.

12. In case ~~the responsible~~ businesses do not act upon an unsafe product or where the corrective measures taken by them are considered unsatisfactory by the relevant authority responsible for product safety, such authority has the power to order corrective measures to ensure the product no longer poses a risk.

13. Measures, adopted by businesses or ordered by the relevant authority responsible for product safety authorities, may include one or more of the following, whichever is most appropriate to the risk presented:

(a) notifying consumers of the risks in a clear and efficient manner

(b) marking the product with appropriate warnings on the risk or warning consumers of the risk;

~~(c)~~ the withdrawal of the product from the market;

~~(d)~~ a recall of the product from end users;

~~(e)~~ the destruction of the product;

~~(f)~~ a removal of the product listing by online marketplaces.:-

(g) product repair if possible and allowed by relevant legislation, especially when risk is on part or a piece of a product.

14. In addition to the measures mentioned above, relevant authorities responsible for product safety authorities might order the following measures:

(a) making the marketing of the product subject to prior conditions;

(b) a ban on the supply, offer to supply, display or export of the product;

(c) a rejection of the importation of the product at a national border;

(d) any other measure ensuring the product no longer poses a risk to consumers.

15. In the event of a product safety recall, initiated by a business or ordered by a relevant authority responsible for product safety, the business responsible for the product safety recall should offers the consumer an effective, cost-free and timely remedy, such as a repair, replacement or adequate refund of the recalled product.

VI. Product safety regulation and standards

16. Member States empower relevant authorities responsible for product safety to develop laws, rules and regulations and also participate or encourage the development of standards for the safety of products.

17. Member States are encouraged to formulate or promote the elaboration and implementation of standards for the safety of products jointly at regional level.

18. Where relevant authorities responsible for product safety do not have the mandate to promulgate product safety regulations, they work closely with the appropriate authority responsible for regulation in their jurisdiction.

19. The fact that a product formally complied with relevant product safety requirements does not preclude relevant authorities responsible for product safety from taking all appropriate corrective measures where there is evidence that the product is unsafe.

20. Instruments laying down mandatory product safety requirements are readily available to the public.

21. Member States are encouraged to perform outreach activities to industry regarding applicable product safety requirements. This might include drawing up guidelines for the interpretation of product safety legislation, targeted actions for small and medium enterprises, or the establishment of a government service to help businesses comply with product safety requirements.

22. Member States encourage the availability of testing and certification facilities.

VII. Cooperation between businesses and relevant authorities responsible for product safety

23. Businesses cooperate with relevant authorities responsible for product safety regarding actions to-which could eliminate or mitigate risks that are presented by the products which they have made available on the market.

24. Member States are encouraged to facilitate and monitor the recall process, for example, by assisting businesses with recall notice language free of charge.

25. Member States are encouraged to promote voluntary initiatives by businesses, going beyond the legal obligations in place, to improve the safety of products.

26. Member States are encouraged to foster opportunities to bring all stakeholders, including business organisations, consumer organisations and ~~product-relevant safety~~ authorities responsible for product safety, together to discuss product safety issues.

27. Businesses are encouraged to take similar actions to protect consumers in all jurisdictions.

VIII. Consumer information, education, and empowerment

28. Businesses provide consumers with information on the safe use of their product in a clear and accessible way, taking into account the widest possible range of consumers and paying particular attention to the needs of the most vulnerable. Such information on the safe use of the product should equally be provided for online offers.

29. For this purpose, and for sustainability and circular economy considerations, businesses are encouraged to make user manuals pertinent to the safe use of the product available free of charge to any interested party in electronic format or in other format when there are portions of the population that are unable to access electronic documents⁷.

30. Businesses provide consumers with channels to report product safety issues and incidents.

29. Businesses clearly inform consumers on actions to take when a product which they have placed on the market presents a danger to the consumer or after an incident has occurred linked to the use of the product.

31. When a product is recalled, businesses use information at their disposal to directly contact consumers affected by the recall. In addition, businesses disseminate the recall notice as widely as possible via various media.

32. Member States develop a system to effectively and timely communicate recalls and information on unsafe products, enabling consumers to identify the product, understand

⁷ For current number of internet users you can consult:
<https://www.statista.com/statistics/617136/digital-population-worldwide/#:~:text=Worldwide%20digital%20population%202024&text=As%20of%20January%202024%2C%20t here,population%2C%20were%20social%20media%20users.>

the nature of the risk and the measures taken. Member States are encouraged to involve stakeholders to disseminate product safety information.

33. Member States provide consumers with a channel to reach out to relevant authorities responsible for product safety on questions related to product safety matters or to report safety issues.

34. Member States and businesses are encouraged to develop consumer education and awareness-raising programmes on product safety disseminating them through effective channels of communication.

IX. International cooperation

35. In order to improve the overall level of safety of products, Member States are encouraged to cooperate at regional and international levels, including through the use of communication systems enabling the rapid sharing of information on unsafe products found on their markets. Such tools should enable the communication of an unsafe product found on the market of a Member State to relevant authorities responsible for product safety of other Member States and include essential information like the identification of the product, the nature of the risk and the corrective measures taken.

36. Where an unsafe product is found on the market of one Member State and appears to be originating from or to be available on the market of another Member State, Member States cooperate and exchange information on the product in question, following a general principle of good cooperation, and in accordance with their national laws.

37. The Member States Decide to establish an intergovernmental group of experts on consumer product safety law and policy within the framework of an existing commission of the Trade and Development Board of the United Nations Conference on Trade and Development, which will report to the United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

38. Consider creating an international tool supervised by UNCTAD to exchange information on unsafe products and/or recalled from the markets, which traded in member countries. The aim of this mechanism is to facilitate early warning of existence of these products and to avoid any harm that maybe caused by distributing and exchanging these products.

39. Further consider, creating an electronic database, supported by UNCTAD member states, that contains information of defective and unsafe products. The information on these products should include: the commercial name, the nature of the product, components, characteristics, design, composition and packing, instruction of assembly

and installation of the product, its use and maintenance, in addition to any potential harm it may cause and ways to avoid that harm.