



UNCTAD

Minutes of 21st Meeting
Working Group on Consumer Product Safety, May 30, 2023

The Working Group on Consumer Product Safety (WGPCS) held its twenty first teleconference on 30 May 2023 (at 8.30 a.m. and 5 p.m. Geneva time). The objective of the meeting was to discuss the developments in the work plan for the period 2022-2023 and to prepare for the [seventh session of the Intergovernmental group of experts on consumer protection law and policy \(3-4 July 2023\)](#). In particular, the WGPCS reviewed the activities undertaken and discussed the new mandate that the WGPCS will propose to the Intergovernmental group of experts.

Workplan 2022-2023

1. **Practical means for the implementation of the recommendation on preventing the cross-border distribution of known unsafe consumer products:** the WGPCS considered a concept note for the drafting of a handbook or toolkit (Annex 1, circulated on 11 April, comments received from Peru), and a concept note for the development of a Model Law (Annex 2, circulated on 29 March, no comments received), both prepared by the United States.

The United States suggested to seek the support of a research institution to support in the development of a Model Law (the American University expressed interest). This would free WGPCS resources during the first phase of the process that would consist of benchmarking.

2. **Third Joint EC-UNCTAD workshop on consumer product safety:** was held on 17 November 2022, the report prepared by the European Commission is available [here](#). This item of the work program is completed.

3. **Workshop on international trade (non-tariff measures) and product safety:** was held on 18 April 2023, the video recording is available [here](#) (for 7 days) and the event page [here](#). This item of the work program is completed.

4. **Workshop on product recalls:** was held in two parts on 4 May 2023, the video recording is available for the first session [here](#) and for the second session [here](#) (for 7 days) and the event page [here](#) (with presentations). This item of the work program is completed.

5. **Recommendation on product safety:** The WGPCS considered a concept note for the development of a recommendation on general product safety prepared by the European Union (Annex 3, circulated 14 February, no comments received). If adopted by the UN Review Conference (2025) it could be submitted for consideration by the UN General Assembly.

South Africa supported the development of this recommendation.



6. **Proposed mandate for the IGE:**

The two proposals that gathered most interest and generated consensus so far are the Model Law for preventing the cross-border distribution of known unsafe consumer products and the recommendation on general product safety. Both would require more than one year to come to fruition, the WGCPs could request for a two-year mandate until the UN Review Conference (2025). The secretariat proposed the following mandate:

Decides to 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.

The European Commission, Mexico, Sweden and the United States expressed support for this mandate. The United States expressed interest in pursuing the development of a handbook or toolkit informally (without a formal mandate).

Member States are invited to transmit drafting comments and suggestions to the secretariat, ideally before 23 June.

7. **Other issues:** The European Commission announced that its General Product Safety Regulation was adopted.

The IGE will discuss the report of the WGCPs on 3 July at 3 p.m. Geneva time and decide on its mandate at the closing plenary on 4 July at 4 p.m. Participants of the WGCPs are invited to register online [here](#).



UNCTAD

| Working Group on Consumer Product Safety | | |
|---|---|-------------------|
| 21st Meeting – List of Participants | | |
| Name | Organization | Country |
| Iara Asprella | Sub-secretariat for Consumer Defense | Argentina |
| Patricia Heffernan | Health Canada | Canada |
| Nataly Rojas, Juan David Rico Polo | SIC | Colombia |
| Sergey Sinyakov | Eurasian Economic Commission | |
| Eva Sinkovic, Myriam Denieul | European Commission | |
| Thomas Berbach | DGCCRF | France |
| Jisook Yan | Korea Consumer Agency | Republic of Korea |
| Rafael Regla, Ximena Galicia | Federal Attorney for Consumers – PROFECO | Mexico |
| Rosa Moran | National Institute for the Defence of Free Competition and the Protection of Intellectual Property - INDECOPI | Peru |
| Ewa Sikorska | Office of Competition and Consumer Protection - UOKiK | Poland |
| Thezi Mabuza | National Consumer Commission | South Africa |
| Yvonne Stein | Ministry of Finance | Sweden |
| Richard O'Brien | Consumer Product Safety Commission | United States |
| Antonino Serra | Independent expert | |
| Stefan Hall | | |



ANNEX 1: Draft Contents for a Handbook/Tool Kit to Assist Member States Implementing the Recommendation on Preventing Cross-Border Distribution of Known Unsafe Products (circulated on 11 April 2023)

Background:

- 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.¹
- The Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products was adopted by the 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 on October 23, 2020.² The Recommendation is the first global instrument calling for action to address international cross-border distribution of unsafe products.
- The UNCTAD Secretariat note “Modalities for the implementation of the Recommendation”³ was developed to help the implementation of the recommendation. This document compiles experiences by member states in preventing the distribution of unsafe products coming into and out of their borders. The document mentions several additional tools that governments can use and discusses current limitations including the lack of specific legislation to address the issue.
- The Working Group on Consumer Product Safety has a mandate to “propose practical means for the implementation of the recommendation on preventing the cross-border distribution of known unsafe consumer products.”

Objective:

- Provide a handbook/tool kit with practical examples of stand-alone measures that may prove useful to Member State governments that do not have legislation providing specific measures intended to prevent the cross-border distribution of unsafe products.

¹ [A/RES/70/186](#)

² [TD/RBP/CONF.9/9](#)

³ [TD/B/C.I/CPLP/28](#)



Annotated Table of Contents

1. Introduction

Describes the purpose of this document, how governments can make use of it, and the sources for examples that are cited.

2. Governments' knowledge of unsafe products in their jurisdictions

How to identify "*known unsafe products*" per the Recommendation.

a) Government market surveillance and testing

Methodologies for market surveillance, sampling, and testing.

b) Notifications by economic operators

Procedures to compel and strategies to persuade company notifications to a product safety authority regarding unsafe products in their distribution chains.

c) Notifications by consumers and other domestic parties

Strategies and tools to elicit notifications from the public to a product safety authority about unsafe products in the market.

d) Notifications by foreign governments

Making use of recall and public warning notices published by other governments.

3. Controlling exports of unsafe products - reporting, restriction, and control measures common to many governments

a) Export notification

Procedures to compel and strategies to persuade company notifications to a product safety authority and/or customs authority regarding intended exports of known unsafe products.

b) Export restrictions

Procedures to compel a company to cease plans to export a known unsafe product.

4. Raising awareness and sharing useful information

a) Educating exporters and export services

Ensuring that suppliers, exporters, and export services are aware of the problem of unsafe products, ways of identifying unsafe products, and the ethical issues involved with trading in such products.

b) Advising exporters about potential criminal or civil accountability



UNCTAD

Informing exporters about domestic or foreign legal liabilities that may come into play when exporting a known unsafe consumer product.

c) Sharing information among authorities

Providing foreign product safety authorities with information about shipments of known unsafe consumer products entering their jurisdictions.



UNCTAD

ANNEX 2: Proposal for a Model Law based on the Recommendation on Cross-Border Distribution of Known Unsafe Products (circulated 29 March 2023)

Background:

- The United Nations guidelines for Consumer Protection⁴ 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.
- The Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products was adopted by the 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 on 23 October, 2020.⁵ The Recommendation is the first global instrument calling for action to address international cross-border distribution of unsafe products.
- The UNCTAD Secretariat note “Modalities for the implementation of the Recommendation”⁶ was developed to help the implementation of the recommendation. This document compiles experiences by member states in preventing the distribution of unsafe products coming into and out of their borders. The document outlines additional tools that governments can use and discusses current limitations including the lack of specific legislation to address the issue.
- The Working Group on Product Safety has a mandate “to further propose practical means for the implementation of the recommendation on preventing the cross-border distribution of known unsafe consumer products.”

Objective:

- For member States that do not have a legal framework from which they can address the cross-border distribution of unsafe products, a UN model law to control such activities could be a useful tool. Governments could use, modify, or adapt the model law as needed, with confidence that it has been drafted, reviewed, and found beneficial for reference by the Working Group on Consumer Product Safety and the Intergovernmental Group of Experts on Consumer Protection Law and Policy.

⁴ [A/RES/70/186](#)

⁵ [TD/RBP/CONF.9/9](#)

⁶ [TD/B/C.I/CPLP/28](#)



UNCTAD

Timeline/Steps:

May

- Informal meeting between the UNCTAD Secretariat and the university law school that has shown interest in voluntarily drafting a model law.
- Assessment of resources needed and development of a preliminary timeline for research, drafting, review, and delivery.
- Obtain support from the Working Group on Product Safety based on preliminary assessment of resources and timeline.
- If positive, establishment of a “task group” with volunteer member states to support the work of the university, minimizing burden on Secretariat.

June

- The Task group to develop a proposal for possible approval at the IGE in July.



UNCTAD

ANNEX 3: Proposal for an UNCTAD Resolution on general product safety principles (circulated on 14 February 2023)

For Discussion

Proposal for an UNCTAD Resolution on general product safety principles

Context:

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, 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.

The [United Nations Guidelines for Consumer Protection](#) provide that consumers all around the globe should have the right to safe products. They also acknowledge the need to take into account the interests and needs of consumers in all Member States, particularly in least developed ones.

As stressed in the 2020 Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products, many Member States are still developing effective consumer product safety policies and measures and, as a result, may have difficulty preventing unsafe consumer products from being brought to national markets.

In 2020 and 2021, UNCTAD and the European Commission organised joint workshops addressed more specifically to least developed countries on “Kick-starting consumer product safety – a worthwhile endeavour” and “Building effective consumer product safety frameworks together”. One of the major conclusions of these workshops was the need for guidance at the global level for the development of efficient national product safety frameworks, particularly for least developed countries.

In this respect, the development of an UNCTAD Resolution on general product safety principles could complement the existing instruments addressing product safety by providing specific guidance to countries in the process of setting up or revising their product safety framework.

State of play:

Currently, consumer product safety is addressed in two UN instruments:

- the 2016 United Nations Guidelines for Consumer Protection;
- the 2020 Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products.

Both instruments address key product safety aspects but they could be complemented by a general instrument on product safety.



UNCTAD

1) United Nations Guidelines for Consumer Protection

The United Nations Guidelines for Consumer Protection are a set of principles that set out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems.

The Guidelines set out important principles when it comes to product safety. In particular, they provide for the fact 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*
 - *Appropriate policies should ensure that goods produced by manufacturers are safe for either intended or normally foreseeable use. Those responsible for bringing goods to the market, in particular suppliers, exporters, importers, retailers and the like should ensure that while in their care these goods are not rendered unsafe through improper handling or storage and that while in their care they do not become hazardous through improper handling or storage.*
 - *Consumers should be instructed in the proper use of goods and should be informed of the risks involved in intended or normally foreseeable use. Vital safety information should be conveyed to consumers by internationally understandable symbols wherever possible.*
 - *Appropriate policies should ensure that if manufacturers or distributors 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. Member States should also consider ways of ensuring that consumers are properly informed of such hazards.*
 - *Member States should, where appropriate, adopt policies under which, 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 compensated⁷.*
- ➔ While the principles mentioned in these Guidelines are still perfectly relevant, they could be detailed and complemented by an instrument focusing on general product safety principles more specifically in order to better assist interested Member States in formulating and enforcing domestic and regional product safety laws, rules and regulations. For instance, general provisions related to the powers of product safety authorities, risk assessment or market surveillance could be added or developed.

⁷ Guidelines 16 to 19.



UNCTAD

2) Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products

Under the Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products, Member States are notably encouraged to pursue policies, consistent with World Trade Organization rules, aimed at preventing cross-border distribution of consumer products known in their own jurisdictions to be unsafe.

The Recommendation recalls that Member States should adopt or encourage the adoption of appropriate measures, including legal systems, safety regulations, technical standards, risk assessment best practices, and the maintenance of safety records to ensure that products are safe for either intended or normally foreseeable use.

- ➔ The proposed Resolution would therefore usefully complement the Recommendation by helping Member States which currently do not have a product safety framework, or are looking at improving it, to set up such frameworks. This would as a result contribute to reducing the number of unsafe products circulating across borders.

Objective of proposed Resolution on general product safety principles:

The objective of the proposed Resolution on general product safety principles would be to provide a guide for countries setting up or revising their product safety framework.

It would build on and complement the product safety principles mentioned in the United Nations Guidelines for Consumer Protection and in the Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products.

It would aim at covering the main elements to consider to set up an effective product safety framework, such as, for example:

- legal provision(s) providing for a safety net for the products on the market
- powers of authorities - to ensure they are equipped to address product safety issues
- obligations of businesses – to make sure businesses are accountable for the products they place on the market
- rights of consumers – to empower them to enjoy their right to safe products

Having a high-level general product safety instrument would also send a strong signal to countries which have for the moment not considered developing a specific product safety framework and it would contribute to the visibility of the work of the Working Group. In addition, it could be used as a basis for cooperation and capacity-building projects conducted by UNCTAD aiming at developing product safety frameworks.

Timeline/ steps:

- Agreement of the Informal Steering Committee and Working Group on the development of a Resolution on general product safety principles;



UNCTAD

- Establishment of team of volunteer participants to cooperate on the preparation of the first draft of the proposal;
- Drafting of proposal;
- Consultation of ISC members;
- Consultation of Working Group members;
- Preparation of revised proposal;
- Discussion at IGE for endorsement by Working Group and further steps for adoption of resolution.