

Ad Hoc Expert Group Meeting on Consumer Protection / Product Safety
(virtual meeting)
24 June 2020

WebEx noon to 1.30 p.m. Geneva time (GMT+2)

SUMMARY OF THE SUBSTANTIVE ISSUES

1. The *Ad Hoc* Expert Meeting on Consumer Protection was attended by 121 participants from over 59 member States, intergovernmental and non-governmental organizations. This was a preparatory meeting for 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 (UN Review Conference), to be held, under the auspices of UNCTAD, from 19 to 23 October 2020. The *Ad Hoc* Expert Meeting held consultations on the issue of “*Preventing International Trade in Unsafe and Hazardous Consumer Products*,” following discussions of the UNCTAD Working Group on Consumer Product Safety, convened by the Intergovernmental Group of Experts on Consumer Protection Law and Policy (IGE).
2. Ms. Teresa Moreira, Head of UNCTAD’s Competition and Consumer Policies Branch, opened the meeting. She briefly introduced UNCTAD’s mandate and work on consumer protection and consumer product safety, stemming from the United Nations General Assembly resolution on consumer protection,¹ adopting the revised United Nations Guidelines for Consumer Protection (UNGCP) in 2015. The UNGCP are the only globally agreed instrument setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems. The General Assembly also entrusted UNCTAD with a mandate to serve as contact point within United Nations system on consumer protection.
3. Ms. Moreira presented the intergovernmental machinery on the issue of consumer protection and consumer product safety at the United Nations. Since 1980, the General Assembly convenes every five years the UN Review Conference, which traditionally addresses competition issues. In 2015, when adopting the revised UNGCP, the General Assembly decided that the Conference would also discuss consumer protection issues. Therefore, the UN Review Conference will review the work of UNCTAD on competition and consumer protection and will decide on its mandate for the following five years. The Conference is held at Ministerial level and reports back to the General Assembly. The Conference also invites the Trade and Development Board to take note of its outcome. The Conference convenes yearly meetings of the IGEs, which oversee the implementation of the mandate decided by the Conference. The IGE on consumer protection law and policy has been held since 2016. In 2018, the third session of this IGE held a discussion on the issue of consumer product safety and decided to convene an informal Working Group on Consumer Product Safety, whose work has been reported to the fourth session

¹ [A/RES/70/186](#)

of the IGE in 2019 and that will be reported also to the Conference Ms. Moreira concluded by presenting the provisional agenda for the Eight UN Review Conference, which includes, amongst others: a high-level segment discussion; the report on the Implementation of the United Nations Guidelines for Consumer Protection; a session on Strengthening Consumer Protection and Competition in the Digital Economy; a roundtable on "International enforcement cooperation among consumer protection authorities"; a roundtable on "Improving consumer product safety worldwide: good data for good policy"; and the Voluntary Peer Review of Peru's Consumer Protection law and policy.

4. The UNCTAD secretariat presented UNCTAD's Working Group on Consumer Product Safety (WGCPS). As previously referred, in 2018, the IGE held a session on consumer product safety.² In its agreed conclusions,³ the IGE emphasised the importance of strengthening consumer product safety frameworks at national, regional and international levels to protect consumers from hazards to their health and safety. The IGE also 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 the fourth session of the IGE. The WGCPS met four times before the following IGE session and reached a working definition of consumer products.⁴
5. In 2019, the IGE heard a report on the progress of the Working Group.⁵ In its agreed conclusions,⁶ the IGE recognized that effective policies that prevent trade in hazardous consumer products and unfair or misleading commercial practices can improve consumer confidence and provide more favourable conditions for sustainable economic development. The IGE decided to renew the mandate of the WGCPS 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, noting its efforts since its establishment by the IGE on Consumer Protection law and policy at its third session; 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.
6. In October 2019, the WGCPS decided its programme of work for 2019-2020.⁷ The workplan included four items: (i) the mapping of the regulatory framework of consumer product safety, which is done through UNCTAD's World Consumer Protection Map;⁸ (ii) the organization of a roundtable at the Eight UN Review Conference on "Improving

² [TD/B/C.I/CPLP/12](#)

³ [TD/B/C.I/CPLP/15](#)

⁴ "Consumer products: the category of products intended for and/or likely to be used by consumers. This category does not aim to cover food, drugs and medical devices, as these products should be subject to specific risk assessment and risk management in distinct regulatory frameworks."

⁵ [Report of WGCPS 2019.](#)

⁶ [TD/B/C.I/CPLP/20](#)

⁷ [Proposed work plan WGCPS 2019-2020.](#)

⁸ <https://unctadwcpm.org/>

consumer product safety around the world: Good data for good policy;” (iii) the organization of a joint workshop with the European Commission in the framework of its International Product Safety Week 2020 from 27 to 30 October; and (iv) the discussion of drafting proposals and gathering consensus on the issue of “*Preventing international trade in unsafe and hazardous products.*”

7. Since then the WGCPS met five times, discussing and improving a proposal on “*Preventing international trade in unsafe and hazardous products.*” Currently, rogue distributors are able to export consumer products that have been withdrawn from markets 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. The said proposal aims to address this issue. The latest text discussed in the WGCPS is attached in Annex 1.
8. An interactive discussion ensued. Most member States' representatives⁹ expressed their support to the WGCPS's work, stressing that the difference in consumer product safety standards around the world can have a negative impact on consumers' health and safety. These differences in legal requirements have led to perverse incentives to companies which may export products considered unsafe in one jurisdiction to other jurisdiction that may have less control over product safety. This situation involves both developing and developed countries and does not depend on the level of economic development but on the existing national legislative frameworks.¹⁰
9. Some delegates highlighted the cross-border and interdependent nature of consumer product safety due to globalization and digitalization. This means that developing and developed countries need to cooperate to improve consumer product safety levels across the world to better protect consumers at home.¹¹ One delegate was of the view that the proposed recommendation reflects the spirit of the UNGCP and allows member States to improve their consumer product safety frameworks.¹² One representative of a non-governmental organization called for the inclusion of a reference to the online trade of counterfeit products as posing risks to consumers.¹³
10. One delegate expressed interest in formally submitting the draft text as a proposal for consideration of the Eight UN Review Conference.¹⁴
11. Following the unanimous support for the discussions in the WGCPS, the secretariat read the latest draft of the proposed recommendation (Annex 1) and opened the floor for further comments. One representative of a non-governmental organization¹⁵ shared that 80-90% of respondents to a survey among consumer groups across the world identified international cooperation on product safety as a priority. One delegate was of the view

⁹ Australia, Brazil, Colombia, European Commission, Indonesia, Peru, South Africa, Tanzania, United States and Zambia.

¹⁰ Colombia.

¹¹ Peru.

¹² South Africa.

¹³ Transnational Alliance to Combat Illicit Trade.

¹⁴ Colombia.

¹⁵ Consumers international.

that the current proposal is compliant with current international trade rules as it aims to protect public health and safety.¹⁶ One delegate asked what would be the legal nature of such recommendation, if it would be of voluntary or binding nature.

12. Ms. Moreira recalled that the UNGCP are recommendations, thereby non-legally binding and that both the UN Review Conference and UN General Assembly's resolutions are non-binding to member States, although member States are sovereign to decide on the nature of their commitments. The secretariat recalled that for the proposed recommendation to be submitted for consideration of the Eighth UN Review Conference, a member State or a group of member States' representatives must formally request so to the UNCTAD secretariat through their permanent missions in Geneva. The secretariat would then circulate the draft resolution to all permanent missions and to members of the WGCPS to ensure wide consultations. Further meetings to pursue consultations on this issue may be called upon if a member State requests so.

¹⁶ United States.

Annex 1: Proposal discussed at the Working Group on Consumer Product Safety as of 12 June 2020

Recommendation on Preventing International Trade in Unsafe and Hazardous Consumer Products

[unedited]

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,

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, 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,

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,

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, 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.
