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**Minutes of 8<sup>th</sup> Meeting  
Working Group on Consumer Product Safety, March 10, 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 eight teleconference call on 10 March 2020 (at 8.30 a.m. and 5 p.m. Geneva time). The objective of the meeting was to discuss the proposed recommendation entitled “*Recommendation to Member States - Avoiding Dangerous Consumer Product Exports to Foreign Jurisdictions*” (text in Annex 1) and the UNCTAD Ad Hoc Expert Meeting on Consumer Protection of 3 April 2020 in the Palais des Nations, Geneva. These were the issues discussed:

1. The UNCTAD secretariat updated on the foreseen **Ad Hoc Expert Group Meeting on Consumer Protection (3 April 2020 in Geneva, Switzerland)**
  - a. The meeting is to be devoted to the discussion of the text of this proposed recommendation (and also another proposed recommendation on cross-border enforcement cooperation discussed at the UNCTAD Working Group on consumer protection in e-commerce).  
<https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=2375>
  - b. Due to the **recent COVID-19 outbreak remote participation will be organized and encouraged for participants not based in Geneva**. As event unfold very rapidly it is possible that the meeting will be cancelled altogether. **Definitive information should be available by 16 March 2020**. In any case, it is important that working group participants engage their permanent missions in Geneva to ensure coordination.
  - c. Should consensus arise on the timeliness of this proposed recommendation during the Ad Hoc Expert Group Meeting, more rounds of consultations could be organized through teleconferences in preparation for the consideration of the: **Eighth United Nations Conference on Competition and Consumer Protection (6-10 July 2020 in Geneva, Switzerland)**  
<https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=2364>  
The Conference could adopt it as part of its resolution (10 July 2020) and could invite the United Nations General Assembly to adopt it as well, should member States so decide.
2. The United States Consumer Product Safety Commission (USCPSC) presented the new version of the proposed recommendation (Annex 1) and a brief exchange ensued, in particular:
  - a. The USCPSC thanked suggestions from participants of this working group and welcomed the constructive proposals from the European Commission (EC), all of which made the recommendation more efficient. The new text addresses all concerns to the previous draft without altering the initial intention.
  - b. There was some discussion on the use of “dangerous products” in the text:

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<sup>1</sup> [TD/B/C.I/CPLP/20](#)



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- i. South Africa suggested using “hazardous and unsafe”
  - ii. The EC suggested not using the concept “dangerous”
  - iii. The USCPSC acknowledged that definitions vary from country to country, so the priority should be to choose a term that can accommodate those differences and to explain the choice of terms.
  - iv. Consumers International suggested providing a working definition for which it may send language proposals
  - v. The UNCTAD secretariat suggested using language of the UN Guidelines for Consumer Protection, in particular guidelines 16 to 19 which use the term “unsafe” and also refer to “hazards”.
- c. Australia highlighted that the explanatory comment in Example 3 is useful to fully understand the main text and should thus be integrated in the main text.
  - d. The current text is **open for comments until 24 March 2020**. All comments, suggestions and opinions should be sent to [arnau.izaguerri@unctad.org](mailto:arnau.izaguerri@unctad.org).
  - e. Comments will be compiled and circulated, and a new version could result, if need be, in preparation for the Ad Hoc Expert Meeting on Consumer Protection of 3 April 2020.
3. Other issues:
- a. **Round table in Eighth UN Review Conference:** The UNCTAD secretariat shared that the roundtable on “*Improving product safety around the world: good data for good policy*” is scheduled for Tuesday 7 July from 3 to 4.30 pm. The final list of speakers will be made available to facilitators before 19 March 2020 after which the concept note will be finalized and speakers will be contacted.
  - b. **Consultations on draft recommendation during Eighth UN Review Conference:** should there be need, informal consultations on the draft recommendation can be organized on Thursday 9 July 2020, before adoption of the Conference resolution on Friday 10 July 2020.
  - c. **Consumers international:** is finalizing its report on consumer product safety and will launch it after World Consumer Rights Day on 15 March. Circulation to the Working Group will follow shortly after.

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The next meeting of the WGCPs will be called shortly.



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<b>Working Group on Consumer Product Safety</b>		
<b>8<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
Leonardo Marques,	National Secretariat for Consumers	Brazil
Pedro Brown	Immetro	Brazil
Natalia	Superintendence of Industry and Commerce	Colombia
	Eurasian Economic Commission	
Eva Sinkovic	European Commission	
Juhee	Korean Agency for Technology and Standards	Republic of Korea
Wendy Ledesma	Indecopi	Peru
Thezi Mabuza	National Consumer Commission	South Africa
Richard O'Brien & Tilven Salazar	Consumer Product Safety Commission	United States
Lara Godden	Office for product safety and standards	United Kingdom
Antonino Serra	Consumers International	



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**Annex 1:** Proposal submitted by the United States, on behalf of several governments entitled “*Recommendation to Member States - Avoiding Dangerous Consumer Product Exports to Foreign Jurisdictions*”

The text is open for comments, ideas, suggestions and reactions from members of the WGCPs. Please send comments, suggestions or opinions to [Arnau.izaguerri@un.org](mailto:Arnau.izaguerri@un.org) until **24 March 2020**.

**Recommendation to Member States - Avoiding Dangerous<sup>2</sup> Consumer Product Exports to Foreign Jurisdictions**

*Reaffirming* General Assembly resolution 70/186 of 22 December 2015, entitled “Consumer Protection”, adopting the revised United Nations guidelines for consumer protection,

*Recognizing* that the Working Group on Consumer Product Safety of the Intergovernmental Group of Experts on Consumer Law and Policy is engaged in substantive activities aimed at improving Member States’ abilities to protect the health and safety of their consumers from dangerous products,

*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,

*Recognizing* that an effective enabling environment for consumer protection and development includes both national and international cooperation and enforcement to deal with cross-border unfair, fraudulent, and deceptive commercial practices,

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

*Recognizing* that the manufacture of dangerous consumer products will be reduced as globally, product safety frameworks are strengthened,

**Commented [OR1]:** Dangerous, hazardous, high-risk, are examples of words used in different jurisdictions to describe products with characteristics similar to those use in the definition found in the footnote. The word “dangerous” was used because it is easily understood in ordinary speech. The key is the definition in the footnote.

**Commented [OR2]:** Most comments about “Dumping” suggested replacing with standard language.

**Commented [OR3]:** To make it less like paragraph 10 of this section.

<sup>2</sup> Dangerous means a product that carries unreasonable risk of causing human injury or death during its foreseeable use or misuse.



*Recognizing* that Member States' product safety frameworks, requirements, and risk assessment approaches can greatly vary,

*Recognizing* that many Member States are still developing effective consumer product safety policy frameworks and as a result, may have difficulty preventing the importation and distribution of dangerous consumer products,

*Recognizing* that some Member States, where consumer dangerous products have been identified and removed or blocked from commerce, may also be in a position to prevent the export of those products,

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

*Recommends* that Member States consider putting in place strategies aimed at reducing international trade in dangerous consumer products. Annex 1 to this recommendation is offered as a non-exhaustive list of potential paths for implementing this *recommendation*.



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Annex 1

### Recommendation to Member States - Avoiding Dangerous Consumer Product Exports to Foreign Jurisdictions

The following is an illustrative, non-exhaustive list of potential measures for consideration by Member States to prevent occurrences of dangerous consumer products being exported to foreign jurisdictions. Noting that the legal frameworks of some Member States might not permit implementing the procedures described below, the example procedures might be viewed as possible starting points for developing their own policies. Each Member State can seek for itself, in this Annex or elsewhere, the action(s) that lie within its capability to implement, with the ultimate goal of avoiding exports of dangerous consumer products from its territory.

#### Example 1

Before an enterprise exports any consumer product that has been the subject of a safety recall in the Member State where the product is located, or that has been placed in commerce in that Member State with a non-conformity that contravenes its product safety requirements, the exporting enterprise should notify the facts of the intended export either

- a) to the relevant central government product safety authority where the product is located, or
- b) to the relevant central government product safety authority in the country to which the enterprise intends to export the product.

The notification should be made in time to permit the product safety authorities to exchange information about the intended shipment and the facts regarding the non-conformity, and to provide an opportunity for the foreign authority(s) to respond, or if desired, to apply the appropriate measures in accordance with governing the legal frameworks.

#### Example 2

When an enterprise exports any consumer product that has been the subject of a safety recall in the Member State where the product is located, or that has been placed in commerce in that Member State with a non-conformity that contravenes its product safety requirements, the exporting

**Commented [OR4]:** There was a comment suggesting to simplify two procedures by merging. We also changed the order based also on comment received.

**Commented [OR5]:** There was a suggestion that a similar notification should be also posted on one of the global or regional recall or alert platforms. At this time, there is no place on those platforms for such information and they are not controlled by the individual governments or enterprises discussed here.



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enterprise should ensure that a conspicuous notification is included in the Export Bill of Lading (or similar document) identifying the products and the non-conformity(s) with requirements of the Member State from which it is exported.

### Example 3

When a consumer product has been the subject of a safety recall in the Member State where the product is located, or has been placed in commerce in that Member State with a non-conformity that contravenes its product safety requirements, the product safety authority where the product is located should routinely discuss with the responsible enterprise what the enterprise intends to do with the products in its possession. If applicable, the authority should explain the potential harms from exporting for sale to consumers abroad and strongly encourage a search for alternatives.

**Commented [OR6]:** One comment suggested that the authority should consider destruction of the offending product rather than any other action. While this does ensure the product will not be sold to consumers, it enters the legal world of a government seizing property – an action of considerably greater legal implication than the other possibilities discussed here. The suggestion would make this instrument, for many, more difficult to support.

