
*Intergovernmental Group of Experts on Consumer Law and Policy
(IGE Consumer)*

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Morning Session

Working Group on Consumer Product Safety

UNCTAD Secretariat Report



Working Group on Consumer Product Safety

As indicated in its concept note, the purpose of this Working Group (“WG”) is to provide a forum for Member States representatives and interested stakeholders to exchange experiences about mechanisms to detect, minimize, and tackle the risks for consumers health and safety due to defective products.

The Working group held 4 teleconferences from November 2018 to May 2019.

The WG held its first conference call on November 6th 2018 when the participants decided: a) to work on a definition of product safety by sharing information on existing legal definitions, especially considering the ones adopted by the OECD, Organisation for Economic Co-operation and Development and the European Union, as a reference; b) to work on the classification of the goods that would be subject of the Working Group, excluding food and pharmaceuticals; c) to work on goods for children and vulnerable groups of consumers.

The WG held its second teleconference on January 18th 2019 when participants explained the challenges faced by developing countries on the surveillance and early detection of unsafe products such as a) the high levels of informality in developing countries’ markets, b) the fact that many authorities with overlap competences related to consumer’s health and safety; c) authorities are unable to take early measures due to the lack of information of accidents and injuries caused by defective products; d) the need for legislation improvement in order to restrict unsafe products that are rejected in other countries; e) the fact that e-commerce has been playing a relevant role in the international trade and new mechanisms of control and risk assessment are required and finally f) the need for developments in order to make recalls more effective.

Considering specific requests and the pertinence of making the consumer product discussion available to the largest number of member states as possible, for the 3rd conference call, it was organized two different days and time: March 27th and March 28th. During these meetings, participants agreed to: a) provide the Secretariat with information on the challenges faced by developing countries on the surveillance and early detection of unsafe products and the analysis and determination of possible policy options for consumer protection agencies, b) to work on a common schedule to deliver results for the purposes of the IGE Consumer 2019.

On this same occasion the Secretariat reminded member states of the tool World Consumer Protection Map (unctadwcpm.org) which includes consumer product safety matters and invited member states to provide information through the official channels.

Member States were once again invited to send contributions until April 30th.



The fourth conference call of the Working Group on Consumer Product Safety, was held on May 28, 2019 (at 8.30 a.m. and 5 p.m. Geneva time) when delegates discussed the reporting and expected outcomes of the Fourth session of the Intergovernmental group of experts on consumer protection law and policy. Two proposals were received and circulated in advance to the meeting:

i) Eurasian Economic Community

The Eurasian Economic Community (EEC) presented its proposal for the WG to create a single Global Rapid Alert System on hazardous consumer products, linking the existing networks (OECD Global Recalls, EU-RAPEX, OAS Rapid Alert System). The UNCTAD secretariat recalled that UNCTAD's mandate on consumer protection stems from the UNGA resolution 70/186, which established the IGE and decided that the necessary resources should be made available within the UNCTAD to carry out the tasks embodied in the revised guidelines through the reallocation of existing resources and/or the use of extrabudgetary resources from voluntary contributions. As at present UNCTAD has no resources available for such a project, secretariat welcomes expressions of interest from member States to financially support this project. The Chair of the OECD Working Party on Consumer Product Safety informed that the Global Recalls portal is also open for the participation of non-OECD countries.

ii) Argentina, Australia, Brazil, Colombia, the European Commission, Panama, and the United States.

Argentina, Australia and the United States presented the proposal submitted by, Australia, Brazil, Colombia, the European Commission, Panama, and the United States. In particular:

1. Proposal for a Product Safety Regulatory Mapping Survey: prepared by Argentina, for circulation to WG participants. Argentina reported some improvements to be made before proposing circulation in order to work out storage of data issues. The EEC expressed its intention to send comments to the questionnaire prepared by Argentina to expand on consumer product safety exchange of experiences. The UNCTAD secretariat reminded that the current priority, as contained in Agreed Conclusions of the First, Second and Third sessions of IGE, is to complete the World Consumer Protection Map (<https://unctadwcpm.org/>), which includes questions on the legal and institutional frameworks for consumer product safety and can provide intelligence for the mapping exercise of this Working Group. For this purpose, the link to the online questionnaire was sent to officially designated contact points. Member States are invited to contact the secretariat should they need any assistance in completing the survey.
2. Scope of products: it was proposed to adopt a working definition of product safety, following the OECD definition as follows: "*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". This proposal will be reported to the IGE, which may endorse it as an output of the WG.

3. Proposed Instrument to Prevent "Dumping" of Hazardous Consumer Products: the UNCTAD secretariat reminded that this proposal will need consultations and may be considered for the programme of work of the WG for the year to come. The UNCTAD secretariat also noted:
 - a) UNCTAD is not a monitoring agency: it is not in a position to ensure the enforcement of such an instrument;
 - b) The Eight United Nations Review Conference could endorse this initiative with a declaration of intentions;
 - c) UNCTAD can support this proposal as long as it gathers consensus and resources to implement it.

The United States proposed a more general language to be considered. The European Commission requested that examples be omitted.

The proposed text submitted by the United States as a follow-up to the meeting is as follows:

"The Working Party recognizes that there are occasions when a company may seek to export a hazardous consumer product to a foreign market specifically because its hazard(s) prevent it from being sold legally in the jurisdiction where the product is located. In some cases, the product may have been the subject of an intervention by the product safety authority.

The Working Party is of the view that member states should be encouraged to prevent companies, where possible, from "dumping" hazardous products on foreign markets. To that end, the Working Party proposes to engage in the preparation of an instrument, the nature of which is to be determined, calling on member states take appropriate action, within their legal frameworks, to prevent such "dumping"."

4. 2020 8th United Nations Review Conference Roundtable Session on Consumer Injury Data entitled: *"Collecting and Analyzing Injury Data for Making Informed Product Safety Policy"*: the UNCTAD secretariat reminded that all issues to be discussed in meetings should be related to the mandate of the UNGCP. The European Commission expressed interest in enlarging the topic to data collection in general. The secretariat asked to bear in mind that a great number of UNCTAD member States are developing countries and economies in transition, which may not have the legal and institutional frameworks for basic consumer product safety. The UN Review Conference will gather competition and consumer protection delegates at Ministerial level, so topics for discussion should also appeal to the interest of a high-level public. The UNCTAD secretariat recommended that all issues proposed for discussion at the UN Review Conference be of interest to as many member States and delegates as possible.

The European Commission expressed interested in hosting a joint conference between the European Commission and the Working Group on Consumer Product Safety during the European



Commission's International Product Safety Week in October 2019. Tele-participation would be possible, and the European Commission will liaise bilaterally with the UNCTAD secretariat.

The WG participants showed unanimous support to request the IGE to extend the mandate of the WG at least for another year.

The UNCTAD secretariat proposed the following language to be included in the Agreed Conclusions:

“Decides to renew the mandate of the Working Group on Consumer Product Safety established by the Intergovernmental group of experts at its third session to continue to highlight best practices, to facilitate information exchange and consultations, and to continue the work from the fourth 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 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”.

July, 2019.