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<p style="text-align: center;"><b>Minutes of 10<sup>th</sup> Meeting</b> <b>Working Group on Consumer Product Safety, September 22, 2020</b></p>
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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 tenth teleconference call on 22 September 2020 (at 8.30 a.m. and 2.30 p.m. Geneva time). The objective of the meeting was to discuss the proposed recommendation entitled “*Preventing Cross-border distribution of Known Unsafe Consumer Products*” (introductory note and text in Annex 1 as amended following consultations) to explore whether this draft reflects existing consensus and the next steps. These were the issues discussed:

1. The UNCTAD secretariat updated on the upcoming **Eighth United Nations Conference on Competition and Consumer Protection** <https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=2364>: the will be held from **19 to 23 October 2020**.
  - a. [Online registration](#) is compulsory. Government consumer product safety officials must get in touch with their permanent missions in Geneva to be included in the official delegation (credentials). Credentials should be uploaded during the online registration. **Registration is open until 9 October**.
  - b. Government consumer product safety officials must get in touch with their permanent missions to share positions and interests, especially regarding outcomes of the Conference.
2. Recommendation on “**Preventing Cross-border distribution of Known Unsafe Consumer Products**”:
  - a. The [Ad Hoc Expert Meeting on Consumer Protection – Product Safety](#) of 24 June 2020 reached consensus on the need to address international trade/cross-border distribution of unsafe products, following previous consultations in this Working Group.
  - b. On 6 August 2020, Colombia formally submitted a draft recommendation on this issue to all permanent missions in Geneva which will be considered at the Eighth United Nations Conference on Competition and Consumer Protection
  - c. The recommendation will be discussed on Thursday 22 October from 12.30 a.m. to 1 p.m. The concept note for the session will be posted in the Conference website shortly. Delegates wishing to take the floor are invited to contact the secretariat.
3. Comments from participants to the revised text:
  - a. The current draft received comments from China and the United States and were accepted by Colombia and Australia as sponsors of the resolution. The resulting text and the introductory note are contained in Annex 1.
  - b. The United States informed that the text was consulted with other national agencies, receiving good feedback. In particular: the change in title from “Preventing

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



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- international trade in unsafe consumer products” to “Preventing cross-border distribution of known unsafe consumer products” is a change in the perception which allows to focus on the importance of distribution rather than on trade. It also focuses on the fact that the country of exports knows that the product is unsafe. Consistency with WTO rules is emphasized as well as the voluntary nature of the recommendation
- c. Australia, the Dominican Republic and Canada expressed initial agreement with the modifications.
  - d. Canada and Argentina expect to send comments before 25 October.
  - e. The text as annexed to these minutes will be circulated to permanent missions in Geneva.
4. Member States must decide on the legal nature of the recommendation at the time of adoption. They should transmit their position to the UNCTAD secretariat as soon as possible.
- a. The options are:
    - i. A resolution from the Eighth United Nations Conference on Competition and Consumer Protection (which will be annexed to the Conference resolution).
    - ii. A resolution from the Eighth United Nations Conference on Competition and Consumer Protection (which will be annexed to the Conference resolution) and an invitation to the General Assembly to consider the draft to be adopted as a United Nations General Assembly resolution. This was the option used to revise the United Nations Guidelines for Consumer Protection in 2015, as reference please see the Resolution of the Seventh United Nations Conference [here](#) (operative clauses 13 to 15).
  - b. Any of the two possibilities is voluntary for member States. The difference is basically the moral suasion of the recommendation: while the Eighth United Nations Conference on Competition and Consumer Protection addresses the participating authorities, the General Assembly addresses the States at the highest level.
  - c. If member States decided to submit the recommendation to the General Assembly for consideration, it would be necessary to continue the consultations before the Second Committee of the General Assembly in New York (mainly through permanent missions there). The UNCTAD secretariat will draft the provision in the Conference resolution according to member States wishes, as the product safety recommendation will be annexed to the Conference resolution.
  - d. Sweden asked what the consequence of the UN General Assembly not adopting the resolution is. In that case the recommendation would remain a resolution of the Eighth United Nations Conference.
  - e. Consumers International asked whether there is need for the UN General Assembly to consider this issue, which will ultimately be decided by member States.
5. Roundtable “**Improving product safety around the world: good data for good policy,**” facilitated by the USCPSC, will take place on Thursday 22 October from 11.30 to 12.30. The concept note will be uploaded in the Conference website shortly. Remote participants will only be able to intervene and listen discussions in English (in person participants will benefit from interpretation to all UN languages). The line of speakers is confirmed as follows:



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- a. **Moderator:** Ms. Thezi Mabuza, Deputy Commissioner, National Consumer Commission, South Africa
  - b. **Speakers:**
    - i. Ms. Anina del Castillo, Executive Director of ProConsumidor, Dominican Republic, and President of Consumer Safety and Health Network of the Organization of American States
    - ii. Ms. Yvonne Stein, Deputy Director, Consumer Policy Division, Ministry of Finance, Sweden
    - iii. Mr. Stephen J Hanway, Associate Executive Director for Epidemiology, Consumer Product Safety Commission, United States
    - iv. Ms. Ann Conley, Vice President, Risk Engineering Services, Chubb Insurance
6. Joint EC-UNCTAD Workshop on “**Fundamentals of Product Safety**” on 12 November, in the margins of ICPHSO:
- a. The European Commission informed participants that the workshop will be online and during lunchtime at Brussels time. 9 and 10 November sessions will be open to participants of the WGCPs.
  - b. The EC will send the invitation to the UNCTAD secretariat to circulate it to participants of WGCPs.

Upon request from various participants the next teleconference of the Working Group will be held on 13 October 2020 at 8.30 a.m. and 2 p.m. Geneva time (GMT+2).

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<b>Working Group on Consumer Product Safety</b>		
<b>9<sup>th</sup> Meeting – List of Participants</b>		
<b>Name</b>	<b>Organization</b>	<b>Country</b>
Cecilia Loto	National Directorate on Consumer Protection	Argentina
Neville Matthew	Australian Competition and Consumer Commission	Australia
Karine	Immetro	Brazil
Peng Bensheng,	Consumption Environment Development of Online Transaction Regulation Department, SAMR	China
Jean-Emmanuel Simiand	Health Canada	Canada
Maria Carolina Corcione, Cristina Rodríguez, Natalia Alarcón, Juan Felipe Barrera	Superintendence of Industry and Commerce	Colombia
Nabil Ramia	ProConsumidor	Dominican Republic
Sergey Sinyakov	Eurasian Economic Commission	
Eva Sinkovic & Borbala Szij	European Commission	
Asma Ba'Omar,	Consumer Protection Authority	Oman
Wendy Ledesma, Benjamín Vila	INDECOPI	Peru
Yvonne Stein	Ministry of Finance	Sweden
Julien Volery	Swiss Mission to the WTO and UNCTAD	Switzerland
Damla Yeşeren Arafal	Ministry of Trade	Turkey
Richard O'Brien & Tilven Salazar	Consumer Product Safety Commission	United States
Antonino Serra	Consumers International	



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**Annex 1:** Proposal sponsored by Colombia, with the support of several other member States entitled “*Preventing Cross-border distribution of Known Unsafe Consumer Products*”

**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**

***Preventing Cross-Border Distribution of Known Unsafe Consumer Products***

Introductory note by the UNCTAD secretariat

**Context**

1. The General Assembly, in its resolution [35/63 of 5 December 1980](#), adopted the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, requested the Trade and Development Board to establish an intergovernmental group of experts on restrictive business practices within the United Nations Conference on Trade and Development (UNCTAD) and decided to convene a United Nations conference to review all aspects of the Set in 1985. Since then, that conference has been convened every five years.

2. The General Assembly, in its resolution [70/186 of 22 December 2015](#), adopted the revised [United Nations Guidelines for Consumer Protection](#) and decided to establish an intergovernmental group of experts on consumer protection law and policy within UNCTAD, to provide the international institutional machinery for the Guidelines and to operate between and report to the United Nations conferences to review all aspects of the Set.

3. The Intergovernmental group of experts, in its third session, discussed the issue of consumer product safety on the basis of the UNCTAD secretariat note on the issue (see [TD/B/C.I/CPLP/12](#)). The Group 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 its fourth session<sup>2</sup> (see [TD/B/C.I/CPLP/15](#)).

4. The Intergovernmental group of experts, in its fourth session, heard the [report by the UNCTAD secretariat on the Working Group on Consumer Product Safety](#) discussions and decided to renew the mandate of the Working Group 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 [...]; 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 to Review All Aspects of the Set (see [TD/B/C.I/CPLP/20](#)).

5. The Working group, in its [fifth meeting of 9 October 2019](#), discussed and adopted its work plan for 2019-2020, aiming, among others, to discuss language proposals and gather consensus around a recommendation to prevent international trade in unsafe consumer products. It conducted four additional meetings on this matter.

6. The [Ad Hoc Expert Meeting on Consumer Protection / product safety of 24 June 2020](#) pursued consultations among member States’ consumer product safety authorities and permanent missions in Geneva on a draft recommendation on preventing the international trade in unsafe consumer products. As consensus emerged, on 29 July 2020 Colombia submitted the following text for consideration of the Eighth United Nations Conference to Review All Aspects of the Set.

**The importance of preventing cross-border distribution of known unsafe consumer products**

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<sup>2</sup> The Working Group is informal and open to all interested member States and other relevant stakeholders. It meets regularly through virtual means.



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7. Consumer product safety policies are particularly important to ensure the health and safety of consumers and to contribute to an inclusive and sustainable development for countries. Data shows that even with a mature product safety framework in place, the harm associated with dangerous consumer product can be immense. For example, the United States reports 43,000 deaths and 40 million injuries per year associated with consumer products. In that same country, consumer product associated deaths and injuries account for over 1 trillion USD annually (3,000.00 USD per capita) in societal costs. Enhancing consumer product safety directly contributes to the achievement of Sustainable Development Goal 3 (good health and well-being) and indirectly to that of Goals 1 (no poverty), 4 (quality education), 8 (decent work and economic growth), 9 (industry, innovation and infrastructure), 10 (reduced inequalities), 11 (sustainable cities and communities), 12 (responsible consumption and production) and 17 (partnership for the goals).

8. In order to protect consumers' physical safety, 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. These constitute product safety requirements.<sup>3</sup>

9. Those responsible for bringing goods to the market, in particular suppliers, exporters, importers, retailers and the like (hereinafter referred to as "distributors"), hold the primary responsibility for ensuring that these goods under their care are safe for consumption. This can be achieved through appropriate testing, verification, and certification by accredited conformity assessment bodies or national authorities. Should they 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. 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 compensated by the relevant economic actors.

10. The United Nations Guidelines also recommend that Member States work to ensure that the quality of products and the information relating to such products does not vary from country to country in a way that would have detrimental effects on consumers' safety.

11. Consumer product safety requirements are set nationally as well as regionally. Although regulations may vary from country to country or regionally, consumer product safety authorities regularly exchange information on product recalls either via national alert web postings or via international networks (including but not limited to the [European Union Rapid Alert System \(RAPEX\)](#); [Organization of American States Consumer Safety and Health Network](#), and [Organisation for Economic Co-operation and Development Global Recalls](#)). This information is relevant for comparing and assessing the potential or actual risks of products found in national markets. However, it does not allow for the exchange of information on the possible cross-border distribution of products known to be unsafe. Also, the current efforts do not include the entirety of United Nations member States.

12. Currently, rogue distributors are able to export consumer products that have been withdrawn from one market, 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. This proposed recommendation aims to address such problem.

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<sup>3</sup> In particular, see [guidelines 16 to 19 and 70 to 82](#).



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***Preventing Cross-Border Distribution of Known Unsafe 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 safe products and to be protected against the negative consequences involving unsafe products,

*Recognizing* that appropriate policies that promote trade in safe 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, international standards, conformity assessment best practices, and the maintenance of safety records to ensure that products are safe for either intended or normally foreseeable use,

*Reaffirming* that measures to ensure the health and safety of consumers should not create unnecessary obstacles to trade and be no more trade restrictive than necessary, consistent with rules of the World Trade Organization,

*Reaffirming* that Member States should develop or strengthen information sharing 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 products and production processes in order to avoid detrimental effects for consumers,

*Recognizing* that instances of unsafe consumer products being distributed in national markets can be reduced globally as international cooperation is strengthened,

*Recognizing* that consumers everywhere may benefit when the manufacture and cross-border distribution of unsafe consumer products is reduced,

*Recognizing* that there may be variation in Member States' product safety requirements, and risk assessment approaches,

*Recognizing* that 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,

*Recognizing* that many Member States where unsafe consumer products have been identified and withdrawn or blocked from commerce, may not be able to prevent the export of those products,



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*Taking Note* that steps by Member States to prevent the export of known, unsafe 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,<sup>4</sup> 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,<sup>5</sup>

*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, consistent with World Trade Organization rules, aimed at preventing cross-border distribution of consumer products known in their own jurisdictions to be unsafe.
2. *Calls* on Member States to raise awareness among businesses responsible for bringing goods to the market on the potential harms of cross-border distribution of unsafe consumer products.
3. *Calls* on Member States to raise awareness among consumers on the risks to their physical safety posed by unsafe 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 national and regional consumer product safety frameworks in order to better protect consumers and to prevent cross-border distribution of unsafe consumer products.
6. *Requests* the secretariat of the United Nations Conference on Trade and Development to propose modalities for the implementation of the present recommendation 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.

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<sup>4</sup> [TD/B/C.I/CPLP/15](#)

<sup>5</sup> [TD/B/C.I/CPLP/20](#)