

Joint EC-UNCTAD workshop: Building effective consumer product safety frameworks together

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The workshop on *Building Effective Consumer Product Safety Frameworks Together* was the second workshop organised jointly by the European Commission and the United Nations Conference on Trade and Development (UNCTAD) in the area of product safety.

Hosted live from a TV studio in Brussels on 9 November 2021, the EC-UNCTAD event brought together speakers from around the world to talk about ways to better protect consumers from dangerous products.



Opening remarks

“There is so much we can learn together,” **Didier Reynders, European Commissioner for Justice and Consumers**, said, opening the workshop. “Product safety is an area that requires us all to work together.”



The Commissioner gave an overview of EU product safety legislation. “For us there is a simple principle behind product safety rules, Mr Reynders said. “Products need to be safe to be sold on the EU market.” The EU has several laws ensuring the safety of specific products, such as toys, electrical appliances, or chemicals, he explained. In addition, there is the General Product Safety Directive, which covers all risks and products not addressed by sectorial legislation. “This has been a safety net for consumers for the past two decades.” The existence of the general safety requirement means that consumers can be protected from dangerous products for which there is no specific legislation, Mr Reynders stressed. “Such a requirement may therefore be an excellent first step for other countries.”

He further explained that the EU’s General Product Safety Directive is now being updated to make it future-proof. “In two decades markets have changed dramatically” Mr Reynders explained. Online shopping and new technologies mean people’s shopping habits are almost unrecognisable from what they were at the start of the millennium.

The Commissioner highlighted the benefits of cross-border cooperation. “In the EU, we see every day that cooperation between regulators from different countries is more effective than purely national action.” This means that as soon as a product is blocked, withdrawn or recalled for safety reasons in one Member State, the authorities in the others take action.

“But this goes beyond the EU,” he noted. “Many products on the EU market come from third markets.” Listing examples, he said that China is one of the biggest exporters to the EU, and that the EU is also stepping up cooperation with other countries, such as Canada.

“I am delighted that EU’s work on consumer product safety can be a source of inspiration to our international partners,” Mr Reynders concluded. “We are going to work closely with our UNCTAD colleagues to support countries wishing to develop or strengthen their product safety frameworks. For today, and for the years to come.”

Responding to Commissioner Reynders, **UNCTAD Secretary General Rebeca Grynspan** agreed on the key importance of the workshop's subject.



“Trade is an important source of economic recovery,” she explained. “We need to make it work for consumers.” As the world is emerging from the Covid-19 pandemic, the global economy is likely to grow by 5.3% in 2021, Ms Grynspan said. “This is the highest rate in five years. The problem is the divergence in economic recovery,” with poorer regions left behind wealthy countries. With this in mind, she said the UN was thrilled to partner with the European Commission to improve cross-border cooperation on consumer product safety.

No country should forget about the safety of consumers, she said. The US alone reports 43,000 deaths and 40 million injuries every year associated with consumer products, Ms Grynspan said. “This happens in a developed country with high compliance and strong regulations. We can be sure the situation is far worse in developing countries.” She stressed that this shows the need for better legal basis and more cross-border cooperation, the two issues discussed during the event.

In addition, the pandemic has affected consumer behaviour considerably. Sales of home office equipment and online communication software have risen ever since the pandemic began, while transport, hospitality, and international travel have all suffered a huge decline.

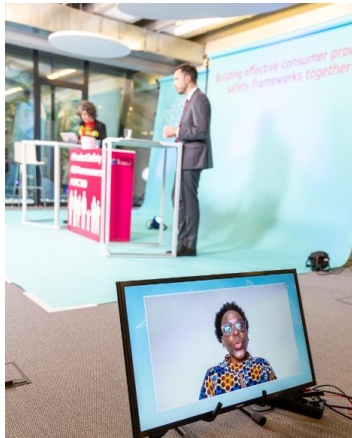
Making sure that no one is left behind in building a safe, healthy economy for consumers has never been more important, Ms Grynspan said. “There is much still to be done. We need better legal frameworks and better cross-border cooperation.” In a survey carried out by UNCTAD in the framework of the World consumer protection map, more than 60% of jurisdictions reported having no experience in cross-border cooperation.

“This is not just building back better,” Ms Grynspan said. “It is building back differently and building back together. Consumer product safety has to be complementary to trade policy, because trade can be beneficial only when goods are safe.”

Panel 1: Legal frameworks for consumer product safety: where to start?

'Tough Rules and Soft Skills'

Thezi Mabuza, Deputy Commissioner at the National Consumer Commission of South Africa, agreed that a combination of clear rules and communication was needed for good product safety enforcement.



She explained that a clear mandate was vital to ensuring that product safety authorities can protect consumers. This means that parameters have to be clearly outlined to show where a mandate starts and ends. “What is really important to us as regulators is to have the ownership of a regulation, and a clear legal framework,” she said. A lack of clarity, particularly within a broad consumer protection framework, leads to “conflict with others,” she warned.

In South Africa, the National Consumer Commission is empowered to oblige producers to investigate and report on any product deemed to pose a safety risk. If during investigation the risk is considered to be too high to leave a product on the market, the Commission can order an immediate recall. The Commission works together with the suppliers to ensure they set up an effective recall program and the Commission monitors this, notably through periodic feedback.

Even without “hard” legislation, Ms Mabuza stressed, authorities could bring about real improvements in consumer safety. She explained that when South Africa started to step up consumer product safety policy in 2011, there were no specific regulations to support the power of the Commission. Guidelines were developed, initially only as voluntary recommendations – until it became clear that some producers would not follow a non-binding system. “So we started to exercise our powers, to enforce the guidelines, to ensure we were notified of consumer safety concerns and could act accordingly,” said the deputy Commissioner.

Ms Mabuza mentioned the example of a vehicle recall. In this case, safety concerns about a vehicle engine combusting had led the Commission to oblige the company to investigate the matter, do a recall and report back, in spite of the company's claim that the guidelines were voluntary. Following this, Ms Mabuza noted that companies started taking the Commission seriously and being more proactive.

"What is important, if you don't have regulations, is to have guidelines and to start enforcing them," concluded Ms Mabuza. "Stand your ground."

Brahim Yahyaoui, Head of Division of planning and Market Surveillance at the Ministry of Industry, Trade, Green and Digital Economy in Morocco, said Moroccan product safety rules were largely inspired by the EU framework, in particular, Law No 24-09 relating to the Safety of Products and Services.



The national consumer product safety framework contains some 10 key pieces of legislation but overriding all of them was the idea that only safe products can be put on the Moroccan market. "The general principle of safety is set out by law," Mr Yahyaoui explained. Morocco also has a number of services in place to evaluate compliance with the rules, as well as ensure more general "market surveillance and coordination."

But he added that responsibility goes well beyond governments and national authorities. To have a well-functioning legal framework for consumer product safety, you have to "responsibilise" the producers and importers. They must themselves have a clear role and obligations, Mr Yahyaoui explained. "The legal framework must include a general principle of safety, plus sanctions, plus clear legal and safety obligations," the Head of Division said.

To get the necessary buy-in from the industry and consumers, he explained that Morocco works with consumer associations and economic operators to set out and implement regulations, as well as to develop standards. "It takes time for a transition to take place," he noted. "You have to raise awareness." He also stressed the importance of relying on a strong market surveillance system to perform checks on goods and make sure that businesses comply with their obligations.

Mr Yahyaoui said the pandemic did not change the legal framework for consumer product safety, “because we already had the rules and had to implement them. The obligations were there and they remain valid during Covid.” But he explained that the pandemic did affect market surveillance, as physical checks became impossible once social distancing was introduced. He said Morocco had developed remote surveillance systems using phones, iPads and other portable technologies.

He also mentioned that adjustments are needed to keep up with the rapid growth of ecommerce and the general trend towards digitalisation. This will be an international challenge, boosting the need for international cooperation. “We need to harmonise and make sure products comply with consumer safety rules on different markets”, Mr Yahyaoui concluded.

Ms. Nguyen, Deputy Director General of Vietnam’s Competition and Consumer Authority stressed the importance of having a strong legal framework to guarantee consumers’ safety. In Vietnam, this legal framework notably comprises the 2007 Law on product safety and the 2010 Law on consumer protection, together with more specific legislation.



Ensuring the safety of consumer products is the shared responsibility of authorities, businesses, and consumers. In case a product turns out to be dangerous, a recall programme is needed, she explained.

But this is about more than speedy recalls, she added. People need to know when and why a product is taken off the market, if safety rules are to have a real impact. Mass media is therefore used to communicate with consumers, when a recall takes place. This does however leave a problem for consumers in low income or remote areas, who may not have access to the media used.

She said there was also a lack of awareness among consumers about their own responsibilities, or of how they could benefit from the product safety rules and guidelines available.

She agreed with other speakers that the regulation of ecommerce - which in 2020 accounted for 22% of retail sales turnover in Vietnam - was a challenge and an opportunity for the near future.

She explained that in order to tackle the challenges she mentioned, a revision of the Law on consumer protection was initiated in July 2021. On top of legislative reform, she stressed the importance of cooperating closely with local authorities, which play an essential role in disseminating information to consumers. Finally, she insisted on reinforcing the responsibility of businesses, as they have a primary role in ensuring the safety of products.

Concluding the panel, **Pinuccia Contino, Head of Product Safety and Rapid alert system Unit at the European Commission's Directorate-General for Justice and Consumers** stressed that a successful product safety framework should include several elements, the first of which is legislation and standards. Complementary to this, Ms Contino added, is the need to enforce the rules in place and effective communication. "The pandemic has made it clearer than ever", she said. The panel offered valuable opportunities to understand some of the best practices and challenges experienced by consumer product safety authorities around the world.



Panel 2: Cross-border and regional cooperation: what benefits can it bring?

‘Unity creates strength’

The free circulation of products on the EU single market means the group of 27 Member States has valuable lessons on cross-border cooperation when it comes to consumer protection, said **Nils Behrndt, Acting Deputy Director General of the European Commission’s Directorate for Justice and Consumers**. He explained that EU action regarding product safety has gone hand in hand with the development of the internal market and the need to protect consumers’ health and safety.



It is in the ADN of the EU to encourage the circulation of goods, which calls for sharing information about dangerous products between Member States. This is why the EU developed a rapid information exchange system (Safety Gate/RAPEX), to identify and share alerts about non-food products that pose a risk to human health or safety. Thanks to the system, national authorities can quickly share information about corrective measures, including recalls, with their colleagues in other countries, making it much easier to address problems across the whole EU single market.

Mr Behrndt also explained that having a regional system gives more leverage to the alerts. Indeed, partner countries and economic operators appreciate having a single regional system for the whole EU. For instance, the EU has established product safety cooperation with China since 2006. Chinese authorities follow up on alerts concerning products of Chinese origin, which are sent via the Safety Gate/RAPEX system.

Mr Behrndt further stressed that the European Commission has facilitated the signature by 11 online marketplaces of the Product Safety Pledge, which includes a number of voluntary commitments on product safety. The first of these commitments is to consult information on

dangerous products available on the Safety Gate/RAPEX system and take appropriate action with respect to the products concerned.

Mr Behrndt also discussed the main challenges that product safety authorities are facing. “Consumers in the EU now order more and more from outside the EU,” he explained. In such cases, it may be difficult for authorities to enforce product safety legislation. Products have also become more complex: “Technical developments result in new products with new features. This is offering new benefits to consumers, but also new risks,” Mr Behrndt said.

He stressed the importance of international cooperation to tackle such challenges, and explained that this is why the European Commission values the discussions that take place in the framework of UNCTAD and OECD. The “DNA” of the European Commission, as well as his own DNA, joked Mr Behrndt, “is to work together.”

“In an area like consumer protection, there’s nothing one can do alone,” he concluded.

Sebastián Barocelli, National Director on Consumer Protection at the Ministry of National Development in Argentina, agreed that the need to regulate complex markets and issues showed the importance of sharing experience and information, to promote consumer protection.



In Argentina, the National Directorate for Consumer Protection (DNDC) oversees the application of consumer protection policies. This includes strengthening national and regional cooperation, to make it easier to quickly identify and tackle dangerous consumer products, Mr Barocelli explained.

Argentina is a member of Mercosur trading bloc, whose Committee No 7 on Consumer Protection brings together consumer protection authorities from all Member and associate States twice or three times during each semester in order to share experiences and draft resolutions on different issues. They are currently developing voluntary pledges and some best practices guidelines, notably on sustainable consumption and data protection. In addition, a Network of Civil Consumer Associations and academics was founded this year. Moreover, they organize joint activities about different topics, such as workshops and seminars.

Joint media campaigns also make it easier for members of the public to find and understand information about product safety. Mr Barocelli mentioned the product safety campaign launched through social media, aiming to raise consumers' awareness about the safety of products sold online before Black Friday. This campaign, gathering all member states of Mercosur, is coordinated by Consumer Protection Committee of Mercosur and promoted by influencers.

Mr Barocelli stressed that common product safety standards do not have to be part of all trade deals. Mercosur does however sometimes work on deals that include consumer protection requirements, he added.

In addition, Argentina has experience in cross-border trade and information sharing, as part of inter-American collaboration within the Organization of American States.

"Aligning rules may be important, but so are cooperation and sharing information," he concluded.

Willard Mwemba, Acting Chief Executive Officer at the COMESA Competition Commission, agreed with Mr Behrndt and Mr Barocelli on the benefits from cooperation and coordination.



Mr Mwemba explained that COMESA was the second regional competition authority created in the world, after the European Competition Authority.

Different COMESA countries are at different levels of development, Mr Mwemba noted. Some COMESA members do not even have consumer laws in place. He added that COMESA could act to protect consumers if a problem affected two or more of its member states.

Many of the benefits brought by COMESA membership are similar to those associated with the EU's General Product Safety Directive and its rapid alert system, he said. "If we are able to identify an issue at COMESA level through cooperation, it becomes very easy for us to inform other member states," the acting CEO explained. "The message spreads quite quickly."

In practice, he explained, when there is a recall in one country, the company may be tempted to sell the same products in other countries where there are weaker consumer laws. In this way, the problem is just shifting from one country to another, but if there is a proper cooperation mechanism, such an issue could be avoided. We also engage in joint product recalls, he added. Tackling product safety problems through COMESA means that "all countries are working jointly on addressing the issue."

In addition, COMESA membership brought clarity as to whom consumers can complain to, he noted. Thanks to COMESA, there are now mechanisms whereby consumers can get refunds, or can get information about the goods. If consumers prove that they have been injured due to a dangerous product, they are entitled to compensation, and the responsible business may be fined.

Mr Mwemba added he would welcome cooperation across even more borders, notably in the form of a partnership with the EU. He mentioned that COMESA recently had to recall a product because of fears about a carcinogen. "If we had some kind of cooperation with EU partners, it would perhaps not have taken so long to find out that these products had already been recalled in Germany."

But he said COMESA still has its limits when it comes to working across borders within Africa. In particular, communicating with consumers remains difficult. "The people most affected by dangerous products also tend to be less affluent. We need to make sure people understand our mandate and the concerns we are raising." As in the EU, the number of languages spoken across many countries and borders raises important translation challenges, he said.



Concluding the panel, **Pinuccia Contino, Head of Unit at the European Commission Directorate-General for Justice and Consumers**, said it was very encouraging to see the diversity of regional cooperation schemes around the world. “Product safety challenges are becoming more similar, online and across borders,” she said. “We see today that many more things are possible when you trigger regional cooperation.”

Conclusions and closure: Current Best Practices and Lessons for the Future

“Trade, health, social and environmental protection - the workshop clearly showed that all these issues are closely linked with product safety”, said **Teresa Moreira, Head of the Competition and Consumer Policies Branch of UNCTAD**.



Closing the conference, Ms Moreira said that the two panels and keynote interventions had shown that businesses who place consumer products on the market must be responsible for making sure they are safe. “This is very evident in the EU consumer product framework. Hopefully, with time, it will become more evident internationally.”

The conference had shown that more efficient cross-border collaboration and effective enforcement are key areas for improvement, Ms Moreira noted.

At the same time she welcomed the many calls for awareness-raising and education. This is even more relevant in developing countries. They need to be aware that ensuring consumer safety can improve their own competitiveness.”

Above all, she reminded the audience that “consumer product safety is a cornerstone of sustainable development. Protecting that right is key to the revised UN guidelines for consumer product safety.”

Looking forward, she said the UN focuses on trying to avoid the dumping of unsafe products in developing markets. In July 2022, the meeting of the intergovernmental group of experts on consumer protection will be the occasion to discuss the modalities for the implementation of the recommendation on preventing the cross-border distribution of non-safe consumer products.

“We certainly hope to continue to partner with the European Commission to make sure consumers are safer around the world,” Ms Moreira concluded.

