INTERNATIONAL REGULATORY CO-OPERATION

Draft Case Study on Consumer Product Safety

7th meeting of the Regulatory Policy Committee
19-20 November 2012
The OECD Conference Centre, Paris

This case study on consumer product safety was developed by the Information, Communications and Consumer Policy Division of the Directorate for Science, Technology and Industry in the context of the project on International Regulatory Co-operation of the Regulatory Policy Committee. It was discussed by the Working Party on Consumer Product Safety of the Committee on Consumer Policy on its 4th session held on 18-19 April 2012 in Tel-Aviv, Israel. Consequently, a revised version of the case study was put on OLIS. This document is also available on OLIS under the reference [DSTI/CP/CPS(2012)7/REV2].

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SUMMARY

1. The Working Party on Consumer Product Safety was invited to contribute to a project on international regulatory co-operation mechanisms of the OECD Regulatory Policy Committee. This project, which is described in document GOV/RPC(2011)5/REV2, is aimed at identifying the different forms of regulatory co-operation, the types of issues where efforts at international regulatory co-operation can be successful, as well as its challenges, with a view to identifying good practices and developing operational guidance on why, when and how countries should pursue international regulatory co-operation.

2. The Secretariat then developed a draft to support the work. It was circulated for written comment and discussed at the 4th session of the working party, held on 18-19 April 2012, in Tel-Aviv, Israel. This document was then prepared, to address comments. It will feed into a stock taking paper on International Regulatory Cooperation to be discussed by the Regulatory Policy Committee at its 7th session, to be held on 19-20 November 2012, in Paris, France.

3. In the meantime, if delegates have further comments or updates, they should forward them to the secretariat (Ewelina.marek@oecd.org).
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ISSUES

Introduction: the context of international regulatory co-operation (IRC)

1. Consumer product safety authorities are responsible for protecting household consumers from unreasonable risks of illness, injury or death from products that they purchase and use. In many jurisdictions the responsibility for protecting the consumers is shared among a number of specialised agencies.

2. Co-operation and co-ordination among product safety regulators have taken on increased importance in recent years, particularly with respect to products that are traded internationally. The situation reached a critical point in the summer of 2007, when a number of high-profile incidents occurred, leading to the launching of a major project at the OECD.

3. The work resulted in the development of an action plan aimed at improving information sharing within and across jurisdictions [DSTI/CP(2010)3/FINAL]. The scope of the work was limited to help keep it manageable; it does not, for example, include food and pharmaceutical products. The plan encompasses a series of short-, medium- and long-term actions. To support its implementation, the Committee on Consumer Policy established a Working Party on Consumer Product Safety, in April 2010. The work has attracted increased interest as a number of OECD jurisdictions have recently adopted legislation that has lowered barriers to sharing information.

4. The mandate for the working party calls on it to promote the safety of consumer products in global markets by: i) promoting the exchange of information on product safety within and between economies, coming from OECD and non-Members and ii) promoting the development of systematic methods for monitoring and assessing developments in consumer product safety, including developments in policy and enforcement.

I. Main characteristics of the IRC under consideration

Actors involved

5. The working party provides a forum for identifying, examining and discussing emerging issues and developing practical tools to improve the way product safety issues are being addressed across borders. Participants include product safety regulators and experts from member and non-member countries and international organisations that focus on product safety issues.
6. In addition to the OECD member\textsuperscript{1} countries and the European Commission, Brazil, Egypt and India participate as regular observers, and a number of countries have been taking part on an \textit{ad hoc} basis. They include Indonesia, Malaysia, the People’s Republic of China, United Arab Emirates, Laos, Mongolia, Tunisia and Singapore. International organisations that are involved with the work include:

- Asia-Pacific Economic Cooperation forum (APEC),
- Association of Southeast Asian Nations (ASEAN),
- European Free Trade Association (EFTA),
- GS1 (a non-profit business organisation that develops standards to facilitate supply-chain management; its work includes development of a product taxonomy that is widely used by business),
- International Consumer Product Safety Caucus (ICPSC),
- International Consumer Product Health & Safety Organization (ICPHSO),
- International Organization for Standardization - Committee on consumer policy (ISO COPOLCO),
- Organization of American States (OAS) and

7. Country representatives include delegates from consumer agencies (\textit{e.g.} the National Institute for Consumer Protection of Spain and the Korea Consumer Agency), national market surveillance agencies responsible for product safety (\textit{e.g.} the US Consumer Product Safety Commission and the Australian Competition and Consumer Commission), from relevant ministries (\textit{e.g.} the Ministry of Industry, Trade and Labor of Israel), from standardisation bodies [\textit{e.g.} the National Institute of Metrology, Quality and Technology of Brazil (Inmetro)]. In their jurisdictions, agencies are responsible for ensuring consumer product safety on the domestic marketplace.

\textit{Intended objectives}

8. The mandate for the Working Party is to promote the safety of consumer products in global markets by:

- Promoting the exchange of information on product safety within and between economies;
- Supporting research on product safety issues;

\textsuperscript{1} Participation is open to all OECD members. Thus far, the following OECD countries have indicated their interest in taking part in the working party’s activities: Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Finland, France, Hungary, Israel, Japan, Korea, Mexico, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, and United States.
• Promoting the development of systematic methods for monitoring and assessing developments in consumer product safety, including developments in policy and enforcement;

• Promoting co-operation between Members and non-members on product safety issues of mutual interest;

• Promoting harmonisation of product safety requirements and information collection.

9. To this end it developed a ten-point action plan (box 1). Top priority has been placed in developing a global portal on product recalls and an inventory of international and national consumer product safety initiatives. The former is aimed at an automatic gathering of information on unsafe products from domestic web sites into a single OECD platform and the latter at provision of a web space for exchange of information on ongoing and upcoming activities in the consumer product safety area. Both platforms shall be operational in 2012. The inventory is already in place and the recalls portal shall be made publicly available by end-2012. The information gathered on these two platforms is both quantitative and qualitative in nature.

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<td><strong>Short-term actions</strong></td>
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<td>1) Pool information on recalls and emergency alerts on a single web site. [Work underway and on track]</td>
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<td>2) Develop mechanisms to co-ordinate international product safety initiatives more effectively. [In place]</td>
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<td>3) Support other regional and global fora: will help to i) increase understanding of domestic differences, ii) promote harmonisation of standards, iii) flag emerging issues. [Work underway and on track]</td>
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<td>10) Enhance international co-operation on traceability. [Action taken]</td>
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Forms that co-operation is taking

10. Co-operation is voluntary and is based on a mutual interest between the working party members and related organisations. It is aimed at better co-ordination and streamlining of work in the product safety area. All participants are encouraged to actively participate in the working party’s efforts to enhance information-sharing. The co-operation takes the form of a managed network to co-ordinate product safety activities. Non-governmental stakeholders are also benefiting from the work. For instance, it was agreed that the global portal on product recalls should be made publicly available; therefore consumers and businesses will be able to access it. The inventory of national and international initiatives will have two separate sections: one for regulators only and another for a broader audience.

11. For 2013-14, the working party is developing an evaluation mechanism to assess the performance and impact of its activities on a regular basis. Thus far, it identified three main areas which could be assessed in the future: i) improving responsiveness and effectiveness of product safety policy and regulatory regimes, ii) improving co-ordination of international product safety work, and iii) enhancing cooperation and collaboration with non-members in examining and responding to product safety challenges. In addition, regular meetings and particularly organisation of roundtables on recent policy and regulatory developments during the working party sessions, help to gather and share information on an on-going basis.

Functions being coordinated

12. The working party is currently focusing its work on data collection and monitoring. Over time, it is likely to become more active in using this information for identifying best practice and for co-ordinating enforcement actions.

II. Short history of the development of the IRC

Triggers

13. Interest in the IRC was triggered during 2007, when a series of highly publicised product recalls resulted in a number of countries proposing that the OECD will carry out work to determine what could be done to improve co-operation. Changes in the international situation heightened interest. With the growing role that developing countries have been playing in manufacturing and the increasing complexity of products and the supply chain, product safety authorities have been facing greater challenges in ensuring consumer safety, particularly in products traded internationally. Improving information sharing across borders has become increasingly important for addressing emerging concerns in the product safety area, so that unsafe products can be identified more swiftly and removed from markets in a timely fashion. At the same time, changes in regulations are allowing countries to share information about products more freely. Development of the global product taxonomy resulted in facilitation of classification and tracking unsafe products across borders. Moreover, the ability of jurisdictions to share information has become easier with the development of the Internet as a cost and time-effective mechanism for information sharing; it is now possible to exchange information in real time, enabling regulators and other stakeholders to move quickly when products need to be recalled or alerts need to be made.

Time period, main landmarks

14. The recent work on consumer product safety resumed related work carried out a number of years ago. In 1972, a Working Party on Consumer Safety was created and was active through 1997, when
reductions in the resources allocated to consumer issues resulted in it being abolished. While it was active, the body provided a platform for carrying out research and developing policy guidance. As indicated above, work resumed in 2007. In 2008, an analytic review of existing consumer product safety regimes in the OECD countries was prepared and discussed with stakeholders from member and non-member countries.

15. In 2009 and 2010, the Committee examined what could be done to improve the way safety issues were being addressed, deciding to focus on ways to improve information sharing. In April 2010, the Committee completed its work, with the publication of a Report on enhancing information sharing on consumer product safety, which contained the ten-point action plan mentioned earlier. At the same time, it decided that the OECD should take the lead in implementing the recommendations, in co-operation with other organisations carrying out related work. It created the Working Party on Consumer Product Safety in April 2010, for this purpose.

16. Since 2010, the working party has been focusing its attention on two projects. It is developing a global portal on product recalls, which will draw information on recalls from different jurisdictions together, on a shared website, and it has created a web-based platform for collecting information on international and national initiatives.

17. In addition to these initiatives, the working party is being used as a vehicle for discussing policy and regulatory developments in product safety and organising workshops on key issues (e.g. risk assessment and traceability). It is expected that this will work towards greater consistency in the way that countries view problems and improved communication.

**Institutional set-up; who does what at what level of government**

18. The working party meets two times per year in plenary session. When possible, the timing and venue of the meetings are linked to other product safety events, to enhance efficiency. A number of informal working groups have been established to advance work in key areas in between meetings. These groups currently address five areas: the global portal on product recalls, the inventory of national and international initiatives, global outreach, workshop planning and PWB preparation. Participants in the working party and the informal groups include senior product safety officials and product safety experts.

19. The working party also co-ordinates its work with other organisations that are carrying out related work, as follows.

**International Consumer Products Safety Caucus (ICPSC)**

20. Membership in the ICPSC is open to consumer product safety regulators and market surveillance authorities worldwide. It aims at facilitating the exchange of information on consumer product safety issues in the area of governmental policy, legislation and market surveillance, with a view towards strengthening collaboration and co-operation among participating economies.

**International Consumer Product Health and Safety Organization (ICPHSO)**

21. The ICPHSO is a multi-stakeholder forum which addresses health and safety issues related to globally marketed consumer products through symposiums, training sessions, newsletters and its website. Consumer organisations and consumer advocates, government agencies, businesses, legal firms and academia participate in the organisation.
Organization of American States (OAS)

22. The OAS is a regional forum whose objective in the field of product safety is to enhance political dialog and economic efficiency in the Western Hemisphere (i.e. North and South Americas and the Caribbean) by providing a venue for sharing information and co-ordinating domestic product safety initiatives. It mainly focuses on capacity building. It has recently developed a web platform, for collecting and disseminating information on product safety issues and recalls, in English, Spanish and Portuguese.

Association of Southeast Asian Nations (ASEAN)

23. The ASEAN’s Committee on Consumer Protection, which was established in 2007, includes a working group that is developing a rapid alert system and information exchange designed to enhance information sharing on recalled/banned products and information on measures taken by businesses on unsafe products. The system covers all consumer products except food, pharmaceuticals, health supplements, traditional medicines, cosmetic products and medical equipment. The system relies on the completion of notification forms, which are then shared with other authorities in the region. In the future, the mechanism will be expanded to include voluntary recalls made by the private sector, from both manufacturers and importers. The recalls will be also published on the ASEAN website.

Asia-Pacific Economic Cooperation (APEC)

24. In APEC, consumer product safety regulators have focused on issues related to toys. It has recently undertaken a toy safety initiative to enhance toy safety standards and practices, by increasing transparency, encouraging better alignment and reducing unnecessary impediments to trade.

International Organization for Standardization- Committee on consumer policy (ISO COPOLCO)

25. The ISO-COPOLCO is a technical committee that reports to the ISO Council that provides a forum for the exchange of information on the experience of consumer participation in the development and implementation of standards in the consumer field, and on other questions of interest to consumers in national and international standardisation. This includes specific work on products safety standards. COPOLCO also proposes new areas for standardisation where there is a perceived need for enhanced consumer protection. The ISO COPOLCO currently has 62 participating country members and 43 observer country Members.

GS1

26. The GS1 is a non-profit organisation, which develops voluntary standards for businesses and facilitates their co-operation at the international level. It has for instance developed a product taxonomy, which is a classification system for grouping products through use of the Global Trade Item Numbers (GTIN) that serve a common purpose, are of a similar form and material, and share the same set of category attributes. The system is used by businesses, and more recently by some customs, regulators and the working party to develop its Global Portal on Product Recalls. It is particularly helpful in supply chain management and has also proven to support market surveillance actions by regulators. In Korea, for example, consumer protection authority is able to block unsafe products at the point of sale within half an hour after issuing information that a product poses risk to consumers.
Informal initiatives at the international level

27. In addition to formal activities, regulators carry out informal initiatives at the international level. For example, currently Australia, Canada, the European Commission and the United States are seeking to clarify and address the hazards of a number of products, including corded internal window coverings, baby slings and chair top booster seats. Results shall be presented in a “consensus paper” which will be used by the countries when developing standards and/or regulations at domestic level. A paper has already been developed on corded internal window coverings; it describes the approaches actively being pursued by participating countries. Another initiative, led by Australia, Japan, Korea and the United States, concerns button batteries, which are small batteries that are being used in a wide variety of products, in ways that may easily be accessible to young children. If swallowed the batteries can lodge in the throat (or intestines) and burn through tissue resulting in serious injury or death. Regulators have engaged actively with stakeholders including researchers, industry representatives and consumer groups to address the problem. The issue will be closely examined at the forthcoming World Health Organisation conference, to be held in October 2012, in New Zealand. It is anticipated that wide consideration of issues will result in a productive international discussion and a co-ordinated approach.

Next steps envisaged in the co-operation

28. The working party’s programme of work and budget for 2013-14 [DSTI/CP/CPS(2012)4] was discussed at the working party’s 4th session, held on 18-19 April 2012, in Tel-Aviv, Israel. It was proposed that during 2012, a work on a longer term project to develop a common framework for injury data collection and dissemination could begin. Currently, there are several jurisdictional or regional based systems that collect injury data on consumer products. There is, however, no single source of this data at a global level. It was agreed that the work in 2012 will focus on assessing the feasibility of the project and possible funding. In early 2013, attention could turn to the development of a data portal, in co-operation with other bodies that are carrying out related work.

29. Continued emphasis will be placed on strengthening ties with non-members. These countries will be invited to take part in meetings, initially on ad hoc basis. If mutual interest is established, participation as a regular observer will be explored. Longer term, the working party will explore the possibility of non-members joining as full participants in its work. The possibility of creating a global forum will be examined in this regard.

III. Assessment

Benefits

30. It is expected that the working party activities will bring financial and non-financial benefits for participating stakeholders, including government regulatory agencies (including customs authorities), businesses and consumers.

For regulators

31. Development of mechanisms for enhancing international co-operation in a more efficient and effective way will support regulators in detecting and acting on consumer product safety issues, both within and across jurisdictions. Thanks to enhanced information-sharing across borders, enforcement actions could be better co-ordinated. This could avoid overlap of activities and more effective and efficient
market surveillance. In other words, a recall in one domestic market could be swiftly pursued in another country in which the same product would be available on the market. With the OECD web-solutions, the working party members expect also to improve their market surveillance techniques, which would be based on a greater amount of information from their counterparts.

32. The stakes are high as injuries associated with the use of unsafe consumer products are affecting tens of millions of persons worldwide each year, with treatment costs that are estimated to exceed USD 1 trillion per year. Members of the OECD working party expect that the number of injuries could be reduced around the globe through enhanced information sharing as it could support regulators in removing dangerous products from markets in a more timely manner. At the same time, a publicly available global portal on product recalls could increase awareness of consumers and businesses about unsafe products worldwide. Sharing of information on legislative developments and case studies of hazards, moreover, could enhance the effectiveness of regulatory bodies.

33. The savings and benefits achieved are expected to greatly exceed the cost of the activity (estimated at EUR 215 000 to EUR 340 000 per year) in the long term. A quantitative evaluation of benefits is, however, not possible for the time being. Harmonisation of data can also lead to substantial monetary savings. For instance in the United States, according to GS1, the use of global trade item numbers (GTINs) could reduce the volume of imported consumer toy products subject to examination by the US Consumer Product Safety Commission (CPSC) by 75 percent, which would result in about USD 16.8 million in savings for toy importers and USD 775 000 in cost savings for the CPSC over five years. The estimated return on investment is over $8 for every dollar invested. Qualitatively, an analysis of OECD consumer product safety regimes identified the need for improved information sharing amongst governments internationally as one of the most emerging issues to be addressed (figure 1).

![Figure 1. Addressing emerging consumer product safety issues](image)

1- Urgently needed; 2- High priority; 3- Not urgent; 4- Not needed.

This chart represents the views of 13 countries.

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2 US ITDS Product Information Committee “The business case for using e-commerce data to manage product admission at international borders: Guidance for Government Agencies and Interested Supply Chain and Trade Companies”
34. There are also benefits for countries which have not yet developed product recall systems (*i.e.* largely non-members), as they would have the possibility of adapting the global portal on product recalls for domestic use, at low cost.

35. The inventory is providing a robust platform for sharing information on product safety activities, which will ultimately improve quality and effectiveness of regulation. More efficient market surveillance is expected, as are increases in the compatibility of information systems, which will further enhance the effectiveness of regulation, particularly in cross-border contexts.

**For businesses**

36. For business, enhanced co-ordination and discussion among governments about product safety problems are expected, over time, to result in more consistent regulatory responses across jurisdictions, which will be beneficial to firms. More timely and effective responses to problems, could, moreover, reduce the number of persons affected, thereby resulting in fewer claims. The portal will also contribute to fight against counterfeited products, which do not follow safety requirements.

**For consumers**

37. Governments play a critical role in establishing the framework in which consumer decisions are made. In this regard, market surveillance agencies are increasingly examining ways to go beyond protecting consumers, by improving and enhancing their ability to critically evaluate goods and services to avoid injuries. Providing information on products that could pose a danger or are unsafe in an easily accessible manner, *e.g.* via mobile phones or the Internet, would assist consumers in this regard. Ultimately, enhanced market surveillance activities may improve consumer trust in markets and the safety of purchased products.

**For economies**

38. From a macroeconomic point of view, prevention of injuries and death would generate savings for participating economies. It would decrease the number and therefore the costs for treating the injuries and could, as a result, increase productivity.

**For customs**

39. Customs authorities play an important role in detecting unsafe products at borders. Linking the global portal on product recalls to the WCO classification system would facilitate their ability to identify unsafe products.

**Other**

40. Over time, co-operation among regulatory bodies could well lead to greater harmonisation of standards, which could have benefits for all stakeholders. For business, the cost of compliance with varying standards and the potential need to modify products to meet different standards could diminish. At the same time, regulatory agencies could have greater possibilities to co-ordinate testing and market surveillance, thereby reducing costs. The business community is highly interested in the potential for savings in this regard. The US Chamber of Commerce, for example, has proposed that the US and EU
regulatory agencies undertake Transatlantic Regulatory Impact Assessments (TARIA) on significant existing and pending product safety regulations in order to overcome the costs of unnecessary regulatory divergences and to enhance the efficiency and effectiveness of regulators.\(^3\)

**Challenges**

41. One of the key challenges is avoiding duplication of work that might be taking place in other global fora. This is particularly important with respect to the global platforms. Efforts are therefore being made to co-operate closely with other organisations that are carrying out related work.

42. Legal constraints to sharing information are also a challenge. These were recently relaxed to some extent in some jurisdictions but still do not allow for full information sharing on consumer product safety issues. One of the examples of lowering barriers to information sharing is the US Consumer Product Safety Improvement Act (CPSIA), which was passed by the Congress in 2008 to allow the sharing of confidential information with foreign regulators (Section 207 of the CPSIA). Previously the CPSC could only exchange certain general information.\(^4\)

43. Another important aspect of information sharing globally is related to identifying ways to code products in a way that would enable a recalled product in one country to be swiftly identified in another. This will require either that existing domestic systems be harmonised modified, or, under the current approach, that domestic information be successfully mapped onto a common taxonomy.

44. Finally once in place, the global portal on product recalls, along with the inventory of initiatives will require continuous efforts to maintain their timeliness and relevance. Sufficient resources will be required to achieve this, which could also prove challenging.

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\(^3\) U.S. Chamber of Commerce “Determining Compatible Regulatory Regimes between the U.S. and the EU”