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# International Cooperation in Consumer Protection

## Abstract

The advent of the digital economy combined with the challenges imposed by COVID19 pandemic resulted in several international cooperation efforts among consumer protection agencies and experts.

The existing regional and international networks like COMESA, ASEAN, the European Union, MERCOSUR, ICPEN and the OECD prove to be relevant efforts for exchanging experiences and best practices. However, this research shows that there is a large room for development and improvement in the field of international cooperation in consumer protection.

UNCTAD is playing a pivotal role following the formal mandate on consumer protection law and policy received by the General Assembly in 2015 and is expected to contribute to the improvement of international cooperation in consumer protection issues through its three pillars of work: consensus-building, research and analysis and technical assistance and capacity building.

This paper aims to contribute to the implementation of coordinated actions to better protect consumers, serving as cornerstone for efforts on consumer protection at the international level.

**Key words:** consumer protection, international cooperation, enforcement, product safety, e-commerce



UNITED NATIONS

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## Contents

<b>Acknowledgements</b> .....	<b>3</b>
<b>Abbreviations</b> .....	<b>4</b>
1. <b>Introduction</b> .....	<b>5</b>
2. <b>The United Nations Guidelines for Consumer Protection</b> .....	<b>7</b>
A. <b>International cooperation</b> .....	<b>7</b>
B. <b>International institutional machinery</b> .....	<b>9</b>
3. <b>Bilateral/cross-border cooperation</b> .....	<b>10</b>
4. <b>Regional cooperation</b> .....	<b>13</b>
A. <b>Africa</b> .....	<b>13</b>
B. <b>The Americas</b> .....	<b>17</b>
C. <b>Asia</b> .....	<b>20</b>
D. <b>Europe and Central Asia</b> .....	<b>24</b>
5. <b>Multilateral cooperation</b> .....	<b>32</b>
A. <b>International Consumer Protection and Enforcement Network</b> .....	<b>32</b>
B. <b>Organization for Economic Cooperation and Development</b> .....	<b>34</b>
C. <b>United Nations Conference on Trade and Development</b> .....	<b>36</b>
6. <b>Trends and challenges</b> .....	<b>40</b>
7. <b>Conclusions</b> .....	<b>43</b>
<b>References</b> .....	<b>45</b>

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## Abbreviations

ACCP	ASEAN Committee on Consumer Protection
ASEAN	Association of Southeast Asian Nations
CCP	OECD Committee on Consumer Policy
CEMAC	Economic and Monetary Community of Central Africa
COMESA	Common Market for Eastern and Southern Africa
CONCADECO	Central American Council for Consumer Protection
CPC	European Consumer Protection Cooperation Network
CSHN	Consumer Safety and Health Network of the Organization of American States
EAEU	Eurasian Economic Union
EEC	Eurasian Economic Commission
ECC	European Consumer Centres
FIAGC	Iberoamerican Forum of Government Agencies for Consumer Protection
ICPEN	International Consumer Protection Enforcement Network
IGE	UNCTAD Intergovernmental Group of Experts on Consumer Protection Law and Policy
ISO	International Organization for Standardization
MERCOSUR	The Southern Common Market
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
SICA	Central American Integration System
UNCTAD	United Nations Conference on Trade and Development
WPCPS	OECD Working Party on Consumer Product Safety

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# 1. Introduction

In its resolution on Consumer Protection of 2015,<sup>1</sup> the General Assembly acknowledged that although significant progress has been achieved with respect to the protection of consumers at the normative level since the adoption of the United Nations Guidelines in 1985, such progress has not been consistently translated into more effective and better-coordinated protection efforts in all countries and across all areas of commerce.

It went on to state its belief that a robust legal and regulatory framework for consumer protection, including effective dispute resolution and redress mechanisms and the ability of consumer protection enforcement authorities to cooperate in obtaining redress, where available, across borders for consumers harmed by fraudulent and deceptive commercial practices, serves an important public interest, contributing to economic dynamism and consumer welfare. Finally, it recognized the value of coordination and partnership with established multilateral organizations that focus on consumer protection in order to maximize the benefits to consumers and avoid duplicating efforts.

This resolution on consumer protection finds renewed meaning in the context of the COVID-19-induced economic crisis, which opened the floodgates of unfair, misleading, and abusive business practices, hitting consumers hard and leaving the most vulnerable even more disadvantaged. The pandemic also accelerated the shift towards a digital world, as people have turned to online platforms to shop, telework, and connect with families and friends. A recent UNCTAD survey<sup>2</sup> found that online purchases increased by 6 to 10 percentage points across most product categories.<sup>3</sup> Between 1 January and 17 November 2020, the international initiative to collect consumer complaints, [e-consumer.gov](https://www.e-consumer.gov), received 4,862 consumer complaints in connection to COVID-19 mostly related to fraud in online shopping (3,289 complaints) and travel or vacations (825 complaints), totaling a fraud loss of US\$ 19.98 million.

Since February 2020, Governments around the world were forced to face price gouging and hoarding of essential hygiene consumer products such as masks, hand sanitizer and basic household products have surged, forcing governments to insert price caps in France, Greece, India, Italy, Kenya and Nigeria. Misleading advertisements with false claims are also flourishing, ranging from products claiming to prevent COVID-19 infection to fake test kits. Financial fraud schemes soliciting false donations and using phishing techniques are also on the prowl. At the same time, Governments also have had to shift their priorities to accommodate for increased online consumption and to strengthen the online means to reach consumers and enforce the laws. This brought a new sense of urgency to long-standing issues such as digital illiteracy, consumer product safety, the responsibility of online platforms, financial services and fintech, tourism and travel.<sup>4</sup>

In order to better address the challenges stemming from the COVID-19 pandemic in consumer protection, Governments stepped up their international cooperation efforts. Informal cooperation networks and international organizations [compiled and disseminated information regarding COVID-19 measures and consumer warning messages](#), and increased the frequency of knowledge sharing through webinars and online workshops. They focused their enforcement and awareness raising initiatives on COVID-19 related frauds.<sup>5</sup>

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<sup>1</sup> A/RES/70/186

<sup>2</sup> UNCTAD (2020), Covid19 and e-commerce, findings from a survey of online consumers in 9 countries. Available at [https://unctad.org/system/files/official-document/dtlstictinf2020d1\\_en.pdf](https://unctad.org/system/files/official-document/dtlstictinf2020d1_en.pdf)

<sup>3</sup> UNCTAD, COVID-19 has changed online shopping forever, survey shows, see <https://unctad.org/news/covid-19-has-changed-online-shopping-forever-survey-shows> (accessed 2 December 2020)

<sup>4</sup> OECD Policy Responses to Coronavirus (COVID19): Rebuilding tourism for the future: COVID-19 policy responses and recovery. Available at: <http://www.oecd.org/coronavirus/policy-responses/rebuilding-tourism-for-the-future-covid-19-policy-responses-and-recovery-bced9859/> (accessed 10 December 2020).

And WORLD TRADE ORGANIZATION WTO report looks at impact of COVID-19 pandemic on services trade available at [https://www.wto.org/english/news\\_e/news20\\_e/serv\\_29may20\\_e.htm](https://www.wto.org/english/news_e/news20_e/serv_29may20_e.htm). (accessed 2 December 2020).

<sup>5</sup> The ICPEN's Fraud Prevention Month 2020 Campaign was devoted to #COVID-19Emergency #PreventingScams.

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Some issued common declarations<sup>6</sup> and conducted coordinated action before key businesses.<sup>7</sup> UNCTAD issued nine recommendations<sup>8</sup> for Governments to ensure better protect consumers during the current health and economic crisis. One addressed cooperation between consumer protection agencies by exchanging information on coronavirus-related national policies and measures in the field of consumer protection.

The United Nations Guidelines for Consumer Protection call on UNCTAD to “*consider relevant studies, documentation and reports from relevant organizations of the United Nations system and other international organizations and networks, to exchange information on work programmes and topics for consultations and to identify work-sharing projects and cooperation in the provision of technical assistance.*”<sup>9</sup> This research paper aims to contribute in the implementation of this recommendation and to serve as cornerstone for better coordination efforts on consumer protection at international level.

The research paper analyzes the current international framework, namely the United Nations Guidelines for Consumer Protection (chapter 2). It then presents the current state in bilateral and cross-border cooperation among governmental consumer protection authorities, based on the data displayed in UNCTAD’s World Consumer Protection Map (chapter 3). The paper then presents the inputs received from regional and multilateral initiatives and organizations that channel international cooperation among government consumer protection agencies (chapters 4 and 5). Following these descriptive parts, the paper presents the preliminary trends and challenges identified, which will benefit from further discussion among relevant stakeholders (chapter 6). A brief conclusion follows.

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<sup>6</sup>The Iberoamerican Forum of Consumer Protection Agencies issued a Declaration on COVID-19, stating their commitment to combatting unfair business practices and calling upon consumers to avoid hoarding and to prefer online shopping and to follow sanitary authorities’ recommendations.

<sup>7</sup>On 23 March 2020, the Consumer protection authorities of all European Union member States (Consumer Protection Cooperation network), issued a common position on the most reported scams and unfair practices in the COVID-19 context. The objective is to ask and assist online platform operators to better identify such illegal practices, take them down and prevent similar ones to reappear.

<sup>8</sup>UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD). COVID-19 : Firmer action needed to better protect consumers. Accessible at: <https://unctad.org/news/covid-19-firmer-action-needed-better-protect-consumers> (accessed 2 December 2020).

<sup>9</sup>UNGCP 97(f)

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## 2. The United Nations Guidelines for Consumer Protection

The United Nations Guidelines for Consumer Protection (United Nations Guidelines or the Guidelines) are a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems and for assisting interested member States in formulating and enforcing domestic and regional laws, rules and regulations that are suitable to their own economic and social and environmental circumstances, as well as promoting international enforcement cooperation among member States and encouraging the sharing of experiences in consumer protection.<sup>10</sup>

The General Assembly first adopted the Guidelines in 1985, after which they were expanded in 1999 to incorporate sustainable consumption and revised in-depth in 2015. Since their initial adoption, the Guidelines have remained the only internationally agreed global-level instrument on consumer protection. They have been widely implemented by UNCTAD member States.<sup>11</sup> UNCTAD's World Consumer Protection Map<sup>12</sup> provides useful insights on the current state of inter-agency cooperation.

The United Nations Guidelines aim to assist States in achieving or maintaining adequate protection for their populations as consumers. They recognize that consumers often face imbalances in economic terms, education levels and bargaining power and recognize the right of consumers to access non-hazardous products. The Guidelines also promote just, equitable and sustainable economic and social development and environmental protection. The Guidelines allow States to set their own priorities for the protection of consumers in accordance with national economic, social, and environmental circumstances and the needs of the population.

Section VI of the Guidelines is devoted to international cooperation (Guidelines 79 to 94) and section VII to the international institutional machinery (Guidelines 95 to 99). Section VI originally contained provisions on policy coordination, capacity building, information exchange, including in procurement, product recalls and international product safety standards and the general principle that consumer policies do not become barriers to international trade and are consistent with trade obligations. The 1999 expansion brought recommendations on technology development and transfer, capacity building, cooperation with civil society, and consumer education and information (Guidelines 91 to 93). The 2015 revision incorporated the breath of recommendations on cross-border enforcement cooperation inspired by the *Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders* of the Organization for Economic Cooperation and Development (OECD), in Guidelines 82 to 90, and established the international institutional machinery (Guidelines 95-99). The next sections below elaborate on the content of the Guidelines regarding international cooperation, while cross-border cooperation is further analyzed in chapter 3.

### A. International cooperation

Section VI on international cooperation begins with broad recommendations to member States, which in some cases are wider than the mandate of national consumer protection governmental agencies. The Guidelines ask member States to “*develop, review, maintain or strengthen, as appropriate, mechanisms for the exchange of information on national policies and measures in the field of consumer protection.*” Such exchanges usually take place in the context of international conferences and particularly within international networks and organizations. The present paper presents the activities of such organizations in its parts 2 and 3.

The Guidelines ask member States to cooperate or encourage cooperation in the implementation of consumer protection policies to achieve greater results within existing resources. The Guidelines provide some examples

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<sup>10</sup> A/RES/70/186

<sup>11</sup> TD/B/C.I/CLP/23

<sup>12</sup> UNCTAD World Consumer Protection Map. See <https://unctadwcpm.org/> (accessed 2 December 2020)

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for this, which are: collaboration in the setting up or joint use of testing facilities, common testing procedures, exchange of consumer information and education programmes, joint training programmes and joint elaboration of regulations. The implementation of this recommendation is not homogeneous. While the elaboration of regulations does happen within regional groups, there is, for instance, a lack of specialized testing labs, such as car crash facilities, in developing countries. The exchange of consumer information education programmes does happen regularly in several fora, including in the International Consumer Protection and Enforcement Network (ICPEN) and in UNCTAD's technical cooperation programmes, as detailed below in chapter 4.

The Guidelines encourage member States to cooperate to improve the conditions under which essential goods are offered to consumers, giving due regard to both price and quality. Such cooperation could include joint procurement of essential goods, exchange of information on different procurement possibilities and agreements on regional product specification. These recommendations seem to gain renewed relevance in the context of the COVID-19 pandemic.

An example of cooperation enhanced during the international health crisis caused by COVID-19 can be found in the ambit of the International Organization for Standardization (ISO), in the exchange of information related to health products standards<sup>13</sup> and related efforts to support members. The ISO Transaction assurance in E-commerce Committee<sup>14</sup> (ISO/ TC 321) is dedicated to the research and improvement of transactions in e-commerce related processes, including “*Assurance of transaction process in e-commerce (including easier access to e-platforms and stores); protection of online consumer rights including both prevention of online disputes and resolution process; interoperability and admissibility of inspection result data on commodity quality in cross-border e-commerce; and assurance of e-commerce delivery to the final consumer.*”

The Guidelines call on member States to 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 and to 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. These recommendations must be read in connection with guideline 94, which requests that policies and measures for consumer protection are implemented with due regard to their not becoming barriers to international trade and that they are consistent with international trade obligations. Although much progress has been achieved at regional level<sup>15</sup> due to the regular exchange of information on product recalls at national, regional and international levels, for example through the European Union Rapid Alert System (RAPEX), the Organization of American States Consumer Safety and Health Network, and the Organization for Economic Cooperation and Development (Global Recalls), there is still room for traders to better guarantee that exported goods are safe.

The Eighth United Nations Conference on Competition and Consumer Protection adopted the *Recommendation on Preventing Cross-Border Distribution of Known Unsafe Consumer Products*,<sup>16</sup> aiming at strengthening consumer product safety frameworks at the national, regional and international levels to protect consumers from hazards to their health, by raising awareness among businesses and consumers, and also by counting on cooperation among consumer authorities by regularly exchanging information on measures and policies,

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