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**Modalities for the Implementation of the Recommendations on Preventing the  
Cross-Border Distribution of Known Unsafe Consumer Products**

*Contribution*

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# **COMESA COMPETITION COMMISSION**

## **MODALITIES FOR THE IMPLEMENTATION OF THE RECOMMENDATION ON PREVENTING THE CROSS-BORDER DISTRIBUTION OF KNOWN UNSAFE CONSUMER PRODUCTS**

**Presentation by Dr Willard Mwemba to the Intergovernmental Group of Experts  
on Consumer Protection Law and Policy  
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# BACKGROUND

- The Commission is a regional body established under Article 6 of the COMESA Competition Regulations
- The Regulations are enforced in 21 Countries: Burundi, Comoros, Djibouti, Democratic Republic of the Congo, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia and Zimbabwe.
- Consumer product safety laws contained in the Regulations are enforced in all the Member States

# PRODUCT SAFETY IN COMESA

- Member States are at different stages of enforcing consumer protection, with some having well established laws and institutions while others are yet to enact the laws and or establish institutions.
- Even where the laws and institutions are in place, similar to most developing countries, monitoring and enforcement is still weak
- The above creates a gap for entry of unsafe products.
- The Commission, based on its mandate, is implementing measures, including to large extent UNCTAD's Recommendations, to prevent cross-border distribution of unsafe products in the Region

# IMPLEMENTATION OF UNCTAD'S RECOMMENDATIONS

The Commission has been able to support member states through the following:

## ***I. Enforcement of the COMESA Competition Regulations***

- The Commission handles cases on consumer product safety with cross border effects, this mandate is within the Regulations( Article 30 and 32).
- Warning notices to consumers and compulsory product recalls have been issued pursuant to Articles 30 & 33, on unsafe product found on the market, cosmetics being the most affected.

## Example: Recall of Cosmetics

- The Commission became aware of a recall of Caro Light and Bronz Tone Maxi Tone in Europe due to high levels of hydroquinone and presence of clobetasol propionate.
- Investigations were carried out on samples collected from some Member States of the Common Market.
- Results showed that some of the products contained high levels of hydroquinone, above that recommended by World Health Organisation.
- The Commission issued a warning notice to Member States.

## ***II. Technical assistance to COMESA Member States***

- The Commission provides technical assistance to COMESA Member States with the aim of Strengthening national consumer protection authorities and associations.
- This is done through:
  - Training for staff of the agencies to build their capacity,
  - Supporting the review of national laws to ensure they are adequate to address among other things product safety concerns
  - Assisting in the establishment national authorities, where they do not exist.
- The Commission has assisted Burundi, Democratic Republic of Congo, Comoros, Djibouti, Eswatini, Rwanda, Uganda, and Zimbabwe in capacity building and developing their legislation

## ***III. Cooperation between the Commission and Member States***

- For effective coordination, the Commission works closely with the Member States to address product safety concerns.
- 11 Memorandum of Understanding have been signed to ensure effective coordination.
- In April, 2021, the COMESA Consumer Protection Committee was established.
- The Committee operates as a regional consultative forum comprising of national consumer protection authorities, consumer associations and umbrella private sector organizations in the Member States.



# IMPLEMENTATION OF UNCTAD'S RECOMMENDATIONS

- **Cont...**
- The Committee focuses on formulating policies to achieve procedural and substantive convergence in the protection of consumer rights in the Common Market including:
  - Establishment of a mechanism for imposing, overseeing and aiding the sanctioning of contraventions on product safety and information standards
  - Establishing a regional early warning system, tracking unsafe products and recalling dangerous goods from the market
- It also facilitates the development of advocacy for purposes of educating consumers and raising awareness among all stakeholders on consumer rights.

***Cont...***

The Commission working with the Committee intends to:

- Introduce consumer protection in the education curriculum within the Member States.
- Establish a regional early warning system, mechanisms for tracking unsafe products and recalling dangerous goods from the Common Market.
- This will include a dedicated web portal for member states to exchange information and report incidences of unsafe products in their jurisdictions.

The proposals have been discussed with the Committee and working groups to drive the process already established as of March, 2022

## ***IV. Cooperation between the Commission and Other International Organisations***

- The UNCTAD working together with the Commission have developed a project proposal aimed at strengthening consumer product safety at national and regional level in the Common Market.
- Once the project proposal is approved and funds made available, COMESA Member States will benefit from a number of initiatives aimed at addressing consumer product safety concerns in the region.

## ***V. Awareness creation among business communities and Consumers***

- The Commission undertakes advocacy activities to raise awareness on consumer rights among the businesses, consumers, policy makers and all stakeholders in the Member States. These are done through:
  - Conducting workshops and seminars in the Member States. Targeting specific Member States in each year,
  - Participation in other forums that bring together consumers and businesses such as trade fairs and business forums,
  - Taking part in TV talk shows, circulating publication through news papers, website and social media platforms on consumer rights .
  - Working with a network of Journalists in the region and has its work published in different Member States.

The following are some of the lessons learnt on product safety in the Region:

- The need for national, regional and international cross border collaboration by consumer protection authorities and other sectoral regulators. Signing of MOUs is essential in this regard.
- Private sector and consumer associations involvement in the policy dialogue and market observatory is crucial
- Harmonising laws and standards on product safety across the different Member States is important to eliminate the gap which sometimes is exploited by the suppliers.

# LESSONS LEARNT ON REGIONAL COOPERATION ON PRODUCT SAFETY



- Capacity building and technical support to Member States is crucial in curtailing the supply of unsafe products.
- It is important for Member States to look beyond their sovereign interests to enable collaborative frameworks to be effective, especially where cases have a cross border effect with extra territory jurisdictions.
- An early warning systems with coordinated and clear mechanism for monitoring, reporting, tracking, testing and removing unsafe products from the market is key.
- Advocacy activities to ensure alert consumers and suppliers is key to the elimination of unsafe products from the market.

## HOW UNCTAD CAN BEST ASSIST MEMBER STATES IN IMPLEMENTING THE RECOMMENDATION ON PREVENTING THE CROSS-BORDER DISTRIBUTION OF KNOWN UNSAFE CONSUMER PRODUCTS

- UNCTAD can work together with Member States and regional consumer protection authorities such as COMESA Competition Commission to implement the recommendations on the distribution of known unsafe consumer products.
- This could be done through:
  - Provision of Capacity building in form of training on enforcement of product safety laws to staff of agencies.
  - Providing technical assistance in form of supporting market inquiries or research studies to identify shortcomings in the existing frameworks on Product Safety in some countries that maybe lagging.

## **HOW UNCTAD CAN BEST ASSIST MEMBER STATES IN IMPLEMENTING THE RECOMMENDATION ON PREVENTING THE CROSS-BORDER DISTRIBUTION OF KNOWN UNSAFE CONSUMER PRODUCTS**

- UNCTAD to consider developing a mechanism for collaboration and cooperation among more developed economies that can easily detect unsafe products with developing economies that are still facing the challenge of detecting, testing and recalling unsafe products from the market.



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