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WITHIN THE UNITED NATIONS SYSTEM

CONSUMER PROTECTION

Report of the Secretary-General prepared in compliance with
Economic and Social Council resolution 1979/74

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KEY TO ACRONYMS OF INTERNATIONAL ORGANIZATIONS USED IN THIS REPORT

CTC	United Nations Centre for Transnational Corporations
DIESA	Department of International Economic and Social Affairs of the United Nations
ESCAP	Economic and Social Commission for Asia and the Pacific
FAO	Food and Agriculture Organization of the United Nations
GATT	General Agreement on Tariffs and Trade
ICAO	International Civil Aviation Organization
ILO	International Labour Organisation
IMCO	Inter-Governmental Maritime Consultative Organization
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
WHO	World Health Organization
WIPO	World Intellectual Property Organization

* * *

ICA	International Co-operative Alliance
IOCU	International Organization of Consumer Unions
ISO	International Standardization Organization

INTRODUCTION

1. At its second regular session in 1979, the Economic and Social Council, in resolution 1979/74, of 3 August 1979, requested the Secretary-General to prepare a comprehensive report on consumer protection with proposals for adequate standards and measures in this area which States could consider adopting.

2. It may be recalled that, in his progress report (E/1980/67, para. 6), the Secretary-General mentioned plans to hold regional consultations on consumer protection. While the first such consultation for the Asian and Pacific region took place at ESCAP headquarters from 2 to 8 June 1981, it was hoped that there would still be time to bring the findings and recommendations of that regional consultation before the Council by the time it began consideration of the present report. Also, in the light of the results achieved, the Council might wish to consider whether it would be useful to envisage similar consultations in other developing regions.

CHAPTER I

SPECIFIC NEEDS FOR CONSUMER PROTECTION, PARTICULARLY IN DEVELOPING COUNTRIES

3. The measures to be recommended to Governments emerge from the main issues that arise, particularly for developing countries, in the many areas where the consumer needs protection or intervention on his behalf. The main such areas are dealt with below, with somewhat greater space being devoted to areas such as economic offences on which attention was not focused in previous reports (E/5996, E/1978/81, E/1979/65 and Corr.1, E/1980/67).

A. Relationship of consumer protection, social well-being and economic growth

4. Consumer protection is related in many ways to the wider efforts being made by the international community to attain the central objectives of the New International Economic Order, that is to say, to accelerate the economic growth of developing countries and to promote the social well-being of their peoples.

5. From the standpoint of social well-being, it seems clear that protection is just as much needed by the average consumer in developing countries as the average consumer in developed ones, and perhaps because of his much lower income, even more so. Where per capita income is only a few hundred dollars a year, individual and family well-being depends greatly on the optimum use of each dollar to provide for essential material needs such as food, shelter, clothing and health. While in developed countries the consumer's attention tends to focus on which television set or automobile he should buy, in developing ones he is in need of protection from such menaces as contaminated food or from having to spend too large a proportion of

his small income on essential imported goods such as drugs. When the poorer consumer, of which there are so many in developing countries, is cheated, the effect on himself and his family is apt to be serious and even, in some cases, catastrophic.

6. Two main approaches towards helping consumers to attain higher standards of living without raising the level of their money income are by bringing about reductions in prices and by helping consumers to be more selective in their purchases of goods and services. As regards price reduction, the first concern must lie with efforts to seek greater efficiency in production and distribution. However, consumer protection is focused particularly on higher prices paid by consumers when the costs of economic crimes and other offences are added as increments to these prices. These offences involve not only manufacturers and merchants but also sometimes those outside the production and distribution chain. Measures against corruption, hoarding, black-marketing, embezzlement, usury, pilferage and consumer fraud have as their common objective the reduction of that portion of the cost of each good or service attributable to these economic offences. To the extent that these offences can be reduced, the purchasing power of the individual consumer would be increased and the economy as a whole benefited by the greater effective aggregate demand for the goods and services concerned. These matters are dealt with in greater detail in section D below.

7. The second approach is to promote increasing consumer alertness to the purchasing options open to him. This requires that he be educated more fully in his role as a consumer (and a borrower) and kept adequately informed of the choice and quality and price differentials of available goods and services. He should be alerted to possible unfair practices by manufacturers, retailers, bankers and other suppliers of goods and services and to the dangers of misleading advertising. This will help him to secure greater value for the same sum of money, even though prices remain unchanged. To the extent that individual consumers are able to optimize their purchases by finding and buying higher quality goods at lower prices, they reward efficient producers, distributors and retailers and penalize inefficient ones - and this rechanneling of demand should be beneficial for the economy as a whole. Section E, below, is devoted to these questions of consumer education and information.

8. Protection of consumer safety and health is likewise vital to social well-being. Food contamination is a major problem in many developing countries, ranging from a mere nuisance affecting food quality to a cause of illness and even death. The use of contaminated or deteriorated pharmaceuticals often creates similar problems. Manufactures such as defective household appliances and flammable furnishings as well as improper vehicular maintenance also involve dangers which it is a fundamental purpose of consumer protection to forestall or minimize. When the consumer is a worker, maintaining his health and ensuring his safety is not unconnected with his on-the-job productivity.

9. By encouraging competition, the elimination of restrictive business practices promotes greater efficiency in the production and distribution of higher quality of goods and services. This simultaneously leads to lower prices for consumers and serves economic growth.

10. Both objectives are also served by many aspects of standardization. For example, the standardization of inputs and spare parts contributes to greater efficiency and lower prices, and the gradual development and enforcement of safety and quality standards enhances the competitiveness of domestic manufactures, both within the developing country as import substitutes and in the world markets as well.

11. It is, of course, true that not all consumer protection measures assist economic growth, while a few may even retard it. For example, the sudden imposition of very high quality or safety standards may sometimes create serious obstacles to the development of certain domestic industries and may occasionally even jeopardize the future of existing enterprises. In such cases, it may be necessary, in the absence of overriding risks to consumer health and safety, to consider trade-offs between consumer protection and industrial growth. However, when the choice lies between vitally needed products and services or none at all, developmental and consumer interests tend to coincide.

12. It thus emerges that consumer protection very often contributes to economic growth as well as to social well-being in developing countries. In such cases, measures to promote consumer interests deserve to be doubly encouraged. When that is not the case, however, they ought to be adopted only after a careful weighing of any adverse consequences that might be entailed.

B. Consumer rights

13. The idea that the consumer should enjoy a well-articulated and comprehensive set of entitlements in the legal sense is still relatively new. It forms part of the larger effort to formulate and agree on economic, social and cultural rights such as those set forth in the International Covenant on these rights. Consumer charters were first adopted at the national level; for example, mention may be made of President Kennedy's message to the United States Congress in 1962, in which he cited the consumer's rights to choose, to safety, to be informed and to be heard. However, the realization of these rights by consumers involves complex problems both in the legal and the practical sense. While the role of government and of private consumer organizations in implementing these rights can be most helpful, their full realization depends also on autonomous economic and social factors.

14. While the United Nations Commission on Human Rights has so far not addressed consumer rights as a specific topic on its agenda, it has touched upon various aspects in the course of its standard-setting activities, as well as during its consideration of the realization of economic, social and cultural rights. Thus, the Commission's Special Rapporteur on the realization of economic, social and cultural rights, in a study prepared for the Commission on this topic stated as regards consumer rights that people must know and assert their rights as consumers if they are to obtain the maximum benefit from the development process. 1/

1/ Manouchehr Ganji, Special Rapporteur of the Commission on Human Rights, The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress (United Nations publication, Sales No. E.75.XIV.2).

International instruments on human rights such as the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Declaration on Social Progress and Development and the Universal Declaration on the Eradication of Hunger and Malnutrition, contain provisions relevant to various aspects of consumer rights such as: the right of everyone to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services; the right to the highest attainable standard of physical and mental health; the right to continuous improvement of living conditions; the right to adequate community services; the need to promote the advancement of food production technology, and the conservation of natural resources utilized for food production.

15. The Council of Europe has also been active in the enunciation of consumer rights. In its Consumer Protection Charter of 1973, the following consumer rights are set forth:

(a) The right of consumers to protection and assistance, including both protection against physical damage due to unsafe products and protection against damage to the economic interest of the consumer;

(b) The right to redress against damage;

(c) The right to consumer information;

(d) The right to consumer education;

(e) The right to representation and consultation.

The entitlements of consumers under each of these rights are spelt out by the Charter in considerable detail. Member States of the Council of Europe were urged to implement, each in accordance with its own traditions, the principles of consumer protection set forth in the Charter.

16. In 1969, the International Co-operative Alliance adopted an International Declaration of Consumer Rights which, in addition to the rights enunciated above, covers also rights of special concern to consumers in developing countries. These rights are as follows:

(a) A reasonable standard of nutrition, clothing and housing;

(b) Adequate standards of safety and a healthy environment, free from pollution;

(c) Access to unadulterated merchandise at fair prices and with reasonable variety and choice;

(d) Access to relevant information on goods and services and to education on consumer topics; and

(e) Influence in economic life and democratic participation in its control.

C. Consumer protection and internal trade

17. Consumer rights may be realized only when they are widely recognized and observed in the market-place. Economic development has made many formerly self-sufficient rural people in developing countries dependent on the market-place for the satisfaction of their basic needs and increased their dependence on trade emanating from the cities. In addition, the possibilities for the exploitation of the consumer by the producer have increased as a result of the complexity and sophistication of modern production, processing, packaging and promotion.

18. The emergence of a market economy may be accompanied by several practices prejudicial to the consumer: shortages may be artificially induced by speculation; buying on credit may give rise to usury; and defective weights and measures and adulterated goods may become commonplace. Legislation to counteract these malpractices is usually among the first manifestations of consumer protection in any society.

19. In many, if not most parts of the developing world, a full-scale market structure, is still in its formative stages. For example, the two-tier structure of wholesale and retail trade often does not exist; retail outlets are few in number; the supplier of goods frequently doubles as provider of credit etc. The inadequacy of transport facilities further fragments national markets. These conditions, among others, lead to undue price differentials from place to place and to business practices which restrict competition and curtail consumer rights.

20. While there are many variations in different parts of the world, the distribution systems in many developing countries tend to be inadequate both in urban and rural areas; in the latter areas, especially, the low purchasing-power of the inhabitants is a disincentive to large-scale private investment. The village shopkeepers, therefore, are prone to exploit this situation, acting as money-lenders as well as suppliers of goods. In the circumstances, the distribution systems would need to be reviewed and strengthened possibly with the technical and financial assistance of the State and international sources. Organizations, such as co-operatives, which act in the interests of the producer as well as the consumer, have found useful ways of dealing with these problems in some developing countries.

21. Particularly in developing countries, the existence of a limited number of manufacturers and distributors in particular industries or lines of production often leads to restrictive business practices which enhance the power of producers and distributors vis-à-vis that of consumers. The frequent absence or inadequacy of labels and packaging commonly makes the salesman the only source of information on a product's quality, standards, safety and even weight and price. When printed information is provided, it is often in a language unknown to the consumer. Furthermore, in areas where a large portion of the population is illiterate, the printed word may be quite inadequate to convey information. Alternatives involving signs are badly needed.

22. Among common restrictive business practices five broad categories can be distinguished: 2/

(a) Concerted action between enterprises by means of restrictive agreements or the establishment of cartels to impose conditions on the market beneficial to themselves but frequently detrimental to consumers; for example, price-fixing agreements, limitation on production or sales, collusive tendering, tied purchasing, aggregated rebates;

(b) Abuse of a position of dominant market power, for example, through price discrimination, manipulation of the transfer pricing mechanism, exclusive dealing and associated practices, refusals to deal; tied purchasing arrangements;

(c) Growth in market power through acquisitions, mergers and takeovers;

(d) Growth of monopoly power through internal expansion;

(e) Practices directly affecting the consumer, in particular with regard to prices, for example, resale price maintenance; conditions of sale, warranties, age and description of products, hoarding and speculation.

23. An important consumer need is that of redress in the case of use of restrictive business practices as well as for unfair treatment, for example, misrepresentation of material, breach of contract, goods that are badly designed or made etc. Consumer redress frequently forms an explicit part of legislation, for example, the initiation of governmental action on the basis of consumer complaints and the claiming of damages. It should also be noted that in certain countries, treble damages can be sought. To work effectively, redress sought through legal means should be expeditious, inexpensive and binding on the parties, objectives that have proved in practice very elusive. Redress following legitimate complaints should be afforded by producers and/or distributors without recourse to legal proceedings. 3/

D. Consumer protection and economic offences

24. Some 800 categories of consumer fraud have been identified and the list of other economic offences and abuses whose impact may take more time to reach consumers is at least as long. While the specific forms of these offences may vary with each socio-economic system and stage of development, certain main types do emerge. The principal offences directly affecting prices paid by consumers and consumer health and safety comprise the more conventional kinds of property crimes, such as shoplifting; embezzlement by employees; consumer fraud by shopkeepers,

2/ See United Nations Conference on Trade and Development, Considerations for the drafting of a model law or laws on restrictive business practices to assist developing countries in devising appropriate legislation (TD/B/C.2/AC.6/8 of 6 September 1977).

3/ In this connexion, see section G-1, below.

including deception in weights and measures; sale of unsafe or substandard products and adulterated foods; service fraud, including deceptive contracts and warranties and unnecessary repairs; usury and commercial credit fraud; hoarding and price-gouging, especially as related to black-market operations; and false and misleading advertising. Usually, these acts involve criminal concealment, manipulation, breach of trust or illegal circumvention; and the consumer's position as victim is unmistakably clear.

25. There are also a wide range of economic offences that are equally detrimental to the consumer, though not quite so directly. These often involve abuses of power, especially economic and administrative power. They include high-level embezzlement, bribery and corruption, collusive price-fixing by large trading partners and other already-mentioned restrictive business practices engaged in by some national and transnational corporations; and the sale to developing countries of obsolete technologies, dated or unproven drugs or contaminated foodstuffs. The extension of basic international standards and greater consistency in the approaches of the various States would help to thwart the tendency of powerful trading partners to profit from loopholes and differences in national legislations, thus circumventing the law rather than directly infringing it.

26. While the losses to each individual consumer from each of the foregoing economic offences may be small, there can be no doubt that, taken together, their adverse effect on him is very large, both in developed and developing countries. But their aggregate impact imposes particular hardships on the urban and rural poor in developing countries where there is frequently no consumer organization to protect them.

27. In the absence of adequate testing facilities, regulatory mechanisms and other methods of control, people everywhere, and particularly in developing countries, are an easy target for consumer fraud. Hazardous articles and drugs, contaminated foodstuffs and worthless products abound, sometimes of local origin, but often imported from abroad. ^{4/} Sometimes, products banned in their countries of origin find a ready market in developing countries and warnings of the dangers inherent in their use are often either missing or unintelligible. There are frequently no warranties or guarantees for products being marketed and no mechanism for redress when fraud leads to financial loss or damages to health.

^{4/} "There are locally made eyebrow pencils laden with lead, mosquito coils impregnated with DDT; baby bottles of polyvinyl chloride which melt in the water boiled to sterilize them; condensed milk loaded with sugar sold as food for infants; ginger candy whose cherry color usually is derived from Red Dye No. 2 (banned in the U.S. as cancer-causing) ... high-priced protein billed as health food ... (Brand's essence of chicken ... heavily promoted as concentrated protein ... costs 130 times more than the protein in local whitebait), models of electronic gadgets like immersion coils and hair dryers long ago recalled in the West". Barry Newman, "Watching Abroad: consumer protection is underdeveloped in the Third World but Malaysian Group decries questionable pesticides, food and drug imports", Wall Street Journal, 8 April 1980, No. 195, p. 1.

28. Exploitative lending and credit practices also victimize the poorer consumer most. Even where they exist, usury laws are difficult to enforce. Non-institutional credit extended by professional money lenders, shopkeepers and others carries interest rates of up to 200-300 per cent in some rural areas of Africa and Asia, often disguised as part of the sale price of goods. Indigenous credit associations have recently sprung up in various developing countries, but many of them are informal and short-lived. Nevertheless, such self-help initiatives have been successful in decreasing usurious, exploitative lending practices. Legislative initiatives, such as "truth in lending", "fair credit reporting" and "equal credit opportunity" acts have been introduced in some countries to control abusive and discriminatory credit practices.

29. The changes accompanying development create ever-increasing opportunities for the commission of economic offences, sometimes in new forms; for example, the increasing use of computers has augmented the opportunity for fraud, and prospective developments, particularly in EFTS (Electronic Funds Transfer Systems), will offer still further scope for unscrupulous manipulators to profit at consumer expense.

30. New approaches are also needed to detect and deter many more familiar economic offences. For example, bribery and corruption, though officially prohibited in almost all countries, continue to be fairly widespread. Recently, several instances of bribery at the transnational level have been brought to light, and this has led some States to adopt remedial measures, as well as to international initiatives in this field.

31. Economic offences are likely to be difficult to detect and prosecute and are often overlooked entirely, especially in cases where there is no single readily-identifiable victim and losses are shared among large numbers of consumers. The law courts too often lack personnel with the necessary expertise in accounting, commercial law etc., to match the resourcefulness and means of large-scale economic offenders. Also, the sanctions imposed for economic offences have generally not been commensurate with the harm done, often involving only injunctions "to cease and desist" or nominal fines. Even offenders found guilty of committing serious economic crimes are rarely imprisoned in most countries. Consumers could also be encouraged to initiate not only civil suits in the form of class actions but also criminal proceedings against alleged offenders, including enterprises. Any new measures in this area should be carried out in close co-ordination with consumer protection efforts of which they are but another side.

32. Since many economic crimes and offences cut across national frontiers, wider efforts must be aimed at prevention and control. Some progress in this respect has already been made, with the adoption of international instruments such as the International Agreement on Illicit Payments. International standards of accounting and treaties on tax evasion and avoidance, developed both regionally and at the international level, and other kinds of minimum standards would help to improve and co-ordinate practices so as to minimize international economic crimes and other offences. Practical collaboration between States with common problems has proven fruitful and may be further encouraged, including regional alignments for added leverage and standard-setting, and bilateral assistance in judicial matters, including detection, prosecution and extradition arrangements. The timely

dissemination of relevant information on economic offences, systematic channels for the exchange of data on products and practices detrimental to consumers and the upholding of basic consumer rights, including those of redress, all help to promote accountability and to stem major abuses. Vigorous non-governmental initiatives in the consumer field and an informed and vigilant public are also essential elements of successfully counteracting and preventing the economic crime and offences which make consumers their main victims.

E. Consumer education and information and use of the mass media for these purposes

33. The mass merchandising of goods involves hundreds of thousands of products of widely differing quality, sizes and packaging and is often accompanied by merchandising practices that may make it still harder for the consumer to select among alternative products on a rational basis. This problem of a rational choice looms larger in developing countries where most consumers have more limited means, reading ability and experience, and where there are more apt to be information gaps on the specific qualities and dangers associated with the various goods. To ensure that they are able to make a wise choice of the goods and services they need, much greater attention needs to be focused on the education of both urban and rural consumers in these countries.

34. Consumer education aims to counter the somewhat unequal relationship between those who produce and sell goods and services and those who buy and use them. An important contribution of consumer education is the physical and mental preparation of the consumer to cope with the rapid changes created by advances in technology and innovation and the availability of so many varieties of goods and services. Consumer education helps the consumer to plan and provide for his current and future needs, to become more fully aware of substitutes and thus to choose goods and services in a considered way.

35. The right to education included in the charter of consumer rights by the Council of Europe, specifically provides for children to receive consumer education in the schools, as a regular part of the curriculum. Teachers need to be trained themselves so that the students will receive proper instruction in the main consumer issues. For adult consumers, who make most decisions for the purchase of goods and services, a general consumer education is likewise useful and necessary.

36. Consumer education is still relatively little known in the developing countries. Efforts in this direction by the consumer organizations tend to focus on urban areas and on the middle-class consumers in those areas; whereas, the need is the greatest among the urban and rural poor.

37. Consumer alienation and cynicism occur in most parts of the world, but are probably more common in developing countries. Poorer consumers all too often feel helpless in the face of the economic power of the traders and of their inability to choose among alternatives on the basis of adequate information. In many cases, because of ignorance, consumers are not even aware of their entitlements and suffer unjust treatment in silence.

38. Consumer unions and co-operatives have long been conducting educational programmes for their members. These cover principles and practices of co-operation, democratic participation, family budgeting, household management, "substitute consciousness" and balanced diet, all designed to raise their standard of living. Co-operatives of the Nordic countries have been conducting effective educational campaigns among their members on basic food, basic clothing and basic furniture, with a view to helping them, inter alia, to resist the temptation to purchase goods they do not really need. Co-operatives in the Nordic countries have also introduced the sale of non-branded essential goods at rates 15-20 per cent below the market prices. These successful experiments in developed countries are now being replicated in developing countries. For example, in Sri Lanka, a consumer education project in the co-operative sector is being technically and financially supported by the Co-operative Movement in Sweden. Bilateral and multilateral projects among the co-operative movements offer considerable scope for spreading consumer education among people in the developing countries.

39. The use of the mass media for purposes of promoting consumer education and spreading consumer information is being pursued in many countries as the most promising way of raising consumer consciousness. Media assistance is particularly needed in developing countries to help overcome the apathy of the urban masses and to reach out to those who live in remote rural regions. It is important that the transition of many rural populations from the self-sufficiency of a subsistence economy to dependence on far-off markets and distribution systems should be accompanied by some orientation on their role as consumers.

40. The mass media available for this purpose fall into written and audio-visual categories. In many developing countries, the phenomenal growth in recent years of newspaper and magazine circulation could be utilized to bring consumer education and information to the attention of readers. This could be done in two ways: by including articles especially written to educate and inform consumers; and by reviewing advertising with the aim of deterring the circulation of untrue or misleading claims for products and services.

41. Of all the mass media, radio is perhaps the most universal. It has found its way into the most remote rural fastnesses and can reach everyone including the illiterate who are the majority in many areas. Radio stations could be utilized more than at present for consumer-oriented programmes.

42. In many developing countries, television is becoming an increasingly important medium though often the stations operate only in large cities for a limited number of hours. Because of the intensity of its visual impact, television will have a growing potential for carrying the message of consumer protection to the masses in these countries. Well-planned short documentaries screened during cinema shows might also bring consumer education to millions of viewers.

43. If the foregoing plans are to be carried out, mass media professionals, including directors, editors, programme writers, artists, photographers and technicians would need well-conceived training programmes to brief them on the main problems of consumer protection. They could focus on aspects suited to their

own media and use them, as and when possible. The Asian Institute of Broadcasting and Development, Kuala Lumpur, Malaysia, set up by UNESCO, has carried out some pioneering work in this direction. Several mass media programmes in the region have already availed themselves of the training courses organized by this institute.

44. In some developing countries where many cannot read, it is necessary to find novel ways of bringing consumer education to the public, especially in rural areas. For example, the informal plays and puppet shows that entertainers give in such areas might contain messages of use to consumers while retaining their primary aim as entertainment.

45. Consumer education in most countries is handled in an ad hoc manner. Only a few Governments have embarked upon systematic educational campaigns. The voluntary organizations conduct a substantial portion of consumer education as part of their promotional activities. Better facilities for providing consumer education and information in a systematic way will surely be needed in the years ahead.

F. Consumer protection, international trade and transnational corporations

46. The linkages between international trade measures and the individual consumer are closer than might appear at first glance. Protectionist policies in developed countries conflict with the interests of their own consumers as well as with those of developing countries which export or could become exporters of the protected products. As a result of protecting a declining industry from foreign competition, the final prices for consumers are higher and their choice of products more limited. Although developing countries also protect their infant industries, their rationale is different. By promoting industrial development they serve the longer-term, though not necessarily the short-term, interests of their own consumers. The lack of symmetry between the obligations of developed and developing countries in their international trade relations has been validated in such instruments as the Tokyo Ministerial Declaration of 1973 and by the results of the ensuing round of trade negotiations concluded in 1979/1980.

47. The developing countries account for over one quarter of world trade and a large proportion of the goods they import and export are consumer goods. However, a distinction must be drawn between the long-term consumer interest and the immediate needs for consumer protection. At present, one can mention two recently concluded international agreements which protect consumers in developing countries, whether directly or indirectly and two other agreements which are still under negotiation.

48. The first agreement is the one on Technical Barriers to Trade, known as the Standards Code, which was one of the agreements resulting from the Tokyo Round of Negotiations. Technical regulations or standards protect consumers, but the existence of different standards among countries may constitute a trade barrier. Internationally accepted standards, or at least a greater uniformity of standards,

facilitate trade and have been the objective of several technical international organizations. The Agreement negotiated in GATT can help developing countries in a number of ways. By promoting more generally accepted standards, it facilitates the exports of the developing countries. It also provides for technical assistance and for differential and more favourable treatment to developing countries, including specified, time-limited exceptions from its obligations.

49. The second international agreement was reached in 1980 at the United Nations Conference on Restrictive Business Practices, held under UNCTAD auspices, which approved a Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices. This Set of Principles and Rules was subsequently adopted by the General Assembly in resolution 35/63 of 5 December 1980.

50. Restrictive business practices are a major feature of the present international market structure. They may take many forms, including cartels or agreements among producers as well as buyers, restricting the supply and purchase of goods, the distribution of goods through market-sharing arrangements and the cost of goods through price-fixing. Enterprises, through parallel behaviour or singly, may engage in restrictive business practices by abusing their dominant position of market power. Such practices involve, inter alia, exclusive dealing, tied sales, refusals to deal, resale price maintenance, discriminatory pricing, inter alia, through the use of resale price maintenance. Acquisitions, mergers, takeovers and joint ventures are frequently used to attain or strengthen control of an enterprise in national and international markets including with respect to the distribution and marketing of goods. In the Set of Principles and Rules, restrictive business practices are defined as acts or behaviour of enterprises which, through an abuse or through acquisition and abuse of a dominant position of market power, limit access to markets or otherwise unduly restrain competition, having or being likely to have adverse effects on international trade, particularly that of developing countries, and on the economic development of these countries or which through formal, informal, written or unwritten agreements or arrangements among enterprises have the same impact. Effective application of these principles and rules is bound to be of great benefit to consumers in all countries, but especially to those in developing countries.

51. The two agreements still being negotiated are the International Code of Conduct on Transfer of Technology and the Code of Conduct for Transnational Corporations. Among the objectives of the draft code on the transfer of technology are the following: (a) to encourage transfer of technology transactions, particularly those involving developing countries in such a way as to avoid abuses of a stronger position; (b) to facilitate and increase the international flow of technological information; and (c) to increase the contributions of technology to the identification and solution of social and economic problems of all countries, particularly the developing countries including the development of basic sectors of their national economies.

52. The proposed Code of Conduct on transnational corporations now has concluded provisions on consumer protection. They provide that transnational corporations should carry out their operations, in particular, production and marketing, in accordance with national laws, regulations, administrative practices and

policies concerning consumer protection of the countries in which they operate. Other provisions cover the observance by these corporations of relevant standards on health and safety and the supply of related information.

53. In a general way, the manipulation of prices of goods entering international trade must be presumed to be harmful to the interests of consumers. Under-pricing of exports is usually compensated by over-pricing of domestically-sold goods; over-pricing of exports reflects a monopolistic situation. The world-wide operations of transnational corporations, while offering valuable advantages for host countries when properly utilized by those countries, sometimes involve manipulations of the final prices of imports and exports, as well as of the transfer prices of transactions among subsidiaries. This may be significant since intra-firm trade accounts for an increasingly large share of world trade and since the market power of these corporations provides considerable scope for discriminatory pricing.

G. Governments and their role in consumer protection

1. Institutional arrangements

54. The increasing awareness of the need for government intervention on behalf of the consumer is expressed in economic policies, legislation and administrative and judiciary arrangements. Other economic groups have usually been better organized and thus better able to look after their interests. While consumers are more numerous, they are more widely spread and, in spite of recent progress, face far greater difficulties in promoting their interests than these other groups. In most countries, Governments are increasingly intervening to redress the balance.

55. Institutional arrangements to protect consumers differ from country to country. Some countries have a fully fledged ministry of consumer affairs; others, a department; while in still others, consumer protection is the responsibility of a section within the ministry of trade or the ministry of economics. In some countries, a number of ministries share responsibility for consumer protection. There seems to be a trend in favour of designating a single ministry (or other unit) for consumer affairs and giving it a co-ordinating role among the other interested government agencies.

56. Many Governments extend technical and financial support to consumer organizations that operate outside government. The latter tend to develop and become active in urban areas and in large cities, but efforts may be made to extend their services to small and medium-sized towns and to rural areas. Governments could also utilize the advice and experience of consumer organizations more than in the past by involving them in the economic planning process.

57. In some countries, consumer protection consultative or advisory boards have been set up. Governments could keep under review their composition with a view to ensuring that they are adequately representative of consumer interests. Governments could further promote the creation of consumer protection offices and consumer education and information bureaux and their co-operation with consumer organizations. Governments sometimes also encourage self-regulating mechanisms drawn up with the full collaboration of the concerned parties.

58. Furthermore, in some countries, Governments have introduced small claims courts to help consumers recover sums of money not exceeding a certain ceiling in cases of contractual dispute or a delict. These courts are based on the principle that justice can be delivered expeditiously and inexpensively. The procedure is simple, the presence of lawyers can be dispensed with and judicial costs are kept to a minimum. In some countries, the procedures are judiciary and in others, quasi-judiciary and, in most cases, there is a tendency to be inspired by the rules of arbitration.

59. In some countries, it is also possible for consumers to introduce a collective or class action on behalf of all affected consumers. This solution is particularly useful when a large number of consumers have suffered a damage which is too small to justify an action by one consumer on his own behalf.

2. Legislation

60. Legislation in respect of consumer protection has a two-fold purpose: firstly, to make known and give the force of law to government policies in the consumer field and to stipulate the consequences if these policies are not adhered to; and, secondly, to provide the consumer who is usually the weaker party in any dispute, with a basis on which to assert his rights and secure legal remedies.

61. In most countries, the basic law refers to contracts and sale of goods and the aggrieved consumer generally has a remedy available against a breach of contract by the other party. However, these remedies are costly, time-consuming and require consumer awareness of his rights. To fill this gap, legislation in the field of consumer protection has grown considerably in the last decade in both developed and developing countries.

62. Legislation on consumer protection may be required to cover such areas, as food, health and safety, weights and measures, credit sales, labelling, misleading advertising and restrictive business practices. Consumer organizations call for adequate legislation on the basis of proven exploitations of consumers. Business interests, however, favour voluntary codes of conduct and often claim that laws and regulations intended to benefit the consumer do more harm than good, since their costs are passed on to him in the form of higher taxes and prices. No rigorous cost-benefit analysis of consumer legislation is known to have been undertaken in any country, but the costs include, in particular, administration and enforcement costs for public bodies and implementation costs for business: the former are passed on to taxpayers and the latter are passed on by way of higher prices.

63. Irrespective of cost, it is widely recognized that the areas mentioned above, among others, constitute the irreducible minima for consumer protection legislation; others include quality control, contract terms, control of various trade and professions and procedure for redress. The rural poor are among those who most need protection, both through legislation and also by means of back-up action, such as, inspection, information and education.

3. Public enterprises

64. The role of government in protecting the consumers of goods and services produced by public enterprises varies with the position of the particular enterprise within the country's economic and social system. However, an attempt is made below to describe and analyse certain frequently encountered situations from the consumer's standpoint.

65. When all the means of production and distribution are publicly owned, all decisions regarding them are acts of government. In principle, such acts take into consideration all interests, including those of the consumer. Thus, prices would be determined politically in the same way as taxes on the basis of national economic needs. The same may be said for other practices affecting consumers such as distribution, marketing, safety, quality and so on.

66. When a means of production and distribution is publicly owned, it is intended that it should operate in the public interest under the direction of the public authorities. In such situations, consumer protection becomes partly a matter of government ensuring that its plans for production and distribution are well-implemented, for example, that production schedules are maintained; that goods are not misrouted on their way to distribution centres; and that the administratively determined prices are not exceeded at the retail outlets. However, since in practice it is difficult to ensure the full and timely implementation of all aspects of a country's economic policies and development plan, the existence of consumer protection machinery that is partly or wholly independent of the Government, or at least administratively separate from the public enterprise or enterprises concerned, may prove to be almost as useful as in a system where most means of production and distribution are privately owned.

67. In the latter kind of system, a public enterprise may have a legal monopoly over the supply of a given good or service or it may simply be one among several privately owned enterprises. The latter case is not frequent, but it describes a situation where the publicly owned enterprise, being in competition with private corporations comes close to being one of them in its commercial activities. If its costs are higher, it will be either closed down or subsidized by the Government and hence by the taxpayer. The subsidy is a measure of the "constraints" under which it operates. But some of these constraints, at any rate, may be motivated by deliberate government policies, for example, higher wages or greater attentiveness to environmental or consumer needs. In such cases, government may in effect set the standard in practice before it lays it down by law.

68. Most of the same considerations continue to be valid in the more frequent case of a public enterprise enjoying a monopoly either in fact or by law. One difference is that the prices may be more as well as less than enough to cover costs: when they are less than enough, the enterprise requires a subsidy; but the enterprise may equally well translate its monopoly into higher prices and profits which would then be passed on to government. The lower prices may provide a way of ensuring that poorer consumers can afford their share of basic goods, while maintaining quality, safety and health standards with regard to them. On the other hand, all consumers ultimately pay for the subsidies in the form of higher taxes and reduced

purchasing power. Higher prices would signal a contrary policy of discouraging consumption without, of course, jeopardizing consumer safeguards for product quality and safety. So basically, the level of consumer orientation (as well as the level of wages and all other policies) become a matter of policy choice, very much as in a system where all means of production and distribution are publicly owned.

69. A second difference is that the public enterprise with a monopoly may offset with higher prices the additional costs arising from higher wages or better consumer and environmental protection. These cost-raising options may obviously involve trade-offs, for example, more consumer protection in terms of quality and safety (higher standards, extensive after sales services, prompt action on complaints, detailed product information) brings with it less consumer protection in terms of price.

70. The absence of competition also raises questions whether the consumer does not suffer from inefficiencies of management and unduly high wages. The utility of having separate machinery to watch over consumer interests is as manifest in these cases as it is when all means of production and distribution are publicly owned.

71. It must be borne in mind that States often act on behalf of consumers in the purchase of goods and services. Ordinarily, they have the resources to obtain high quality products at reasonable prices. However, in some of the least developed countries, the State may be at a disadvantage, particularly when it deals with large transnational corporations. Since costs usually have to be passed on in retail prices (or in higher taxes), the individual consumer in such countries, among the poorest of all consumers in the world, has an interest in these dealings being conducted in an equitable way. The CTC now provides assistance to developing countries in this area.

H. Consumer protection in specific categories of goods

1. Food

72. Especially in the developing countries, consumer concerns on food centre around its availability, quality, safety, freedom from adulteration, contamination and price. The people, especially the poorer segments of society, have genuine difficulties in securing such a basic requirement and their problems are compounded by their low level of literacy, inadequate understanding of nutrition, low purchasing power, traditional food customs and often by serious shortcomings in their systems for distributing and handling food.

73. At the moment, developing countries as a whole produce domestically nearly 90 per cent of their food requirements. While the situation may vary from country to country, the food systems in most cases are not well developed and the bulk of the food is handled in the unorganized sector. There is a high incidence of food losses, both quantitative and qualitative, due to rodent and insect infestation. In most cases, food is sold in its natural form. Processing, if any, is minimal,

often done at village level or in the home prior to consumption. In the absence of food-processing industries on a large scale, standards, quality control, prepackaging and informative labelling are mostly non-existent or, at any rate, at a very rudimentary stage. There are a large number of retail outlets, and the number of petty traders and middlemen is, in fact, growing. Storage and refrigeration facilities are underdeveloped while the need for them is greater in tropical climates. This picture is further aggravated by inadequate transportation facilities, especially in the rural areas. There is a high incidence of economic crimes and offences and the situation is harmful for the consumer in a cumulative way.

74. In developing countries, the average consumer spends on food a proportion of his income varying from about 50 per cent in urban areas to about 80 per cent in rural areas. The importance of food in the over-all priorities for consumer protection in developing countries is, therefore, quite obvious.

75. Pesticides are necessary to increase food production and food additives are used as a means of food preservation; both are being increasingly resorted to in developing countries. However, pesticide residues and the uncontrolled use of food additives can be harmful to consumers. Hence, it is necessary to use good agricultural/manufacturing practices and regulate the use of pesticides and food additives.

76. Recently, there has been a growing concern about environmental contamination of foods particularly from aflatoxins, pesticide residues and heavy metals. Because of the poor facilities for post-harvest drying and storage, the extent of these problems is now only beginning to be realized. Much more concerted action is required for monitoring and control of these contamination problems.

77. Considerations of poverty, the general lack of hygiene and sanitation often lead to serious problems of food hygiene. Diseases in many cases are the result of inadequate levels of personal and food hygiene which, in turn, result from non-existence of appropriate sanitary programmes. Measures to protect the consumer in these matters should include education and surveillance of food handlers, control of processing facilities and eating establishments and promotion of hygienic food handling and preparation by the consumers themselves.

78. One of the more serious problems in most of the developing countries is the lack of effective food control systems for the implementation of food standards and protection of the consumer. Very often the food laws are outdated and the regulations do not respond to present-day concerns of food safety and quality. Infrastructure for food control is apt to be inadequate and there is seldom over-all co-ordination at the national level to implement the programmes in a coherent manner. The situation is further compounded by shortages of trained manpower. Very often food control measures are viewed as "policing" activities rather than sorely needed steps to improve the food handling systems.

79. Because of the lack of effective food control systems, many developing countries easily become dumping grounds for substandard foods or foods which do not

provide their money's worth in terms of nutrients or the local food habits. At the same time, such countries cannot enter sophisticated export markets where the food laws and regulations are rigidly enforced and, hence, they cannot fully develop their potential for export earnings of much needed foreign exchange. Consumers are the ultimate losers from all this.

80. The FAO/WHO Codex Alimentarius Commission was established to promote consumer protection in the food area and to facilitate international trade. The Commission is engaged in the drafting of international food standards and codes of practice and has a current membership of 118 Governments. The Commission has recommended 170 international food standards, in addition to evolving 26 codes of hygienic and technological practices, lists of food additives, over 1,000 maximum limits for pesticide residues and other contaminants, analytical methodology, several guidelines and standards for labelling and a code of ethics for international trade in food. A number of countries have already accepted some of the Codex standards in full or in part, and many others are examining the need for revising their own regulations to include the Codex standards before formally accepting them. According to the principles and procedures laid down, the acceptance of Codex standards by a country would result in a single recognizable standard for internal as well as international trade and would be in the best interests of the consumer.

81. The Codex Alimentarius Commission, however, has been engaged in determining international standards for processed food items that enter international trade. Since the bulk of the food produced in developing countries is consumed within the country in its unprocessed form, these countries have to determine their own national criteria and standards with regard to these items. The Codex standards provide a very important guide in this area and the work of the Commission, particularly in regard to its recommendations regarding pesticide residues, contaminants, labelling, codes of hygienic practices is of particular relevance to the developing countries.

82. The Food and Agriculture Organization of the United Nations (FAO), on its own and in collaboration with other United Nations organizations such as WHO, UNEP, UNDP, as appropriate, has been helping to strengthen food control systems through improved food laws and regulations, monitoring food contaminants programmes, prevention of food losses and improvements in food handling practices etc. The activities of WHO in food safety and public health also support national efforts to protect the consumer.

2. Infant health and nutrition

83. Infants are among the most vulnerable of consumer subgroups and are consequently in need of special protection from society at large if they are to attain and maintain full health. Breast-feeding is an unequalled way of providing ideal food for the healthy growth and development of infants. In addition to forming a unique biological and emotional basis for the health of both mother and child, the anti-infective properties of breast-milk help to protect infants against disease. The protection and promotion of breast-feeding - and protection against inappropriate feeding practices which lead to infant malnutrition, morbidity and mortality - are, therefore, important consumer protection objectives.

84. In recent years, it has been recognized that improper practices in the marketing of breast-milk substitutes and related products can contribute to these major public health problems. Such practices were among the several topics discussed by a joint World Health Organization/United Nations Children's Fund Meeting on Infant and Young Child Feeding which was held in October 1979 as part of the two organizations' ongoing programmes on the promotion of breast-feeding and improvement of infant and young child nutrition. Participants at this meeting included representatives of Governments, United Nations agencies, non-governmental organizations, the infant food industry and scientists working in the field.

3. Water

85. The provision of reliable and safe water supply is a critical element of consumer protection, particularly in developing countries. The importance of the need to ensure consistently high levels of water quality in supplying urban and rural populations is illustrated by estimates that as many as 13 million children may be dying every year in these countries as a result of contracting diarrhoeal diseases, many of which are waterborne.

86. To the extent that it is within their means, Governments thus have an obligation to ensure that water supplies for drinking purposes should be free from organisms and chemical substances hazardous to health and should meet certain standards that make it pleasant to drink. Government agencies responsible for water quality have varied responsibilities to consumers, including the establishment of water standards, the surveillance of the quality of water being distributed, the siting of new projects in areas where water is unpolluted and giving advice on measures required to improve water quality within existing systems.

87. Most developing countries still have to tackle fundamental problems concerning the development of water standards commensurate with national health objectives and of uniform methods for measuring its quality. While Governments in many developing countries may have a fairly high degree of control over the quality of water in urban areas, the situation is very often unsatisfactory for rural populations. Particularly in many remoter areas, the quality of water supplied is not under the control of official water authorities and, indeed, is often not monitored by anyone. In such cases, as a minimum measure to protect consumers, there should be para-professionals from local communities to perform certain simple tests designed to provide some preliminary monitoring of quality. The instruction of the local population in basic sanitary and hygienic practices, as well as their participation in the process of estimating needs and of implementing projects, are indispensable steps in reducing the toll from water-borne diseases. At the institutional level, the multiple governmental authorities dealing with quality and supply aspects need to co-ordinate their activities and pool their resources for the effective implementation of programmes.

88. Action at the international level to deal with the foregoing concerns now forms one of the main activities being conducted under the 1981-1990 International Drinking Water Supply and Sanitation Decade. Within the United Nations system, WHO, UNICEF, UNDP and the World Bank are the main organizations involved in assisting the efforts of Governments in this area.

4. Pharmaceutical products

89. Drugs play an important role in protecting, maintaining and restoring the health of consumers, but they are clearly not by themselves sufficient to provide adequate health care. In recent years, there has been a tremendous increase in the number of pharmaceutical products marketed without, however, a proportionate improvement in health.

90. Many pharmaceutical products are marketed with little concern for the differing health needs and priorities of individual countries. Promotional activities of the manufacturers have created a demand greater than the actual needs. Since up to 40 per cent of the total health care budget in developing countries may be spent on drugs, the result has been an increase in the cost of health care or a reduction in funds available for other health services. The cost has affected even developed countries, and their Governments are increasingly worried by the rising expenditure on pharmaceutical products. In the developing countries, the problem is magnified by limited economic resources, shortages of trained health personnel and often an absence of well-concerned drug policies. In the least developed countries, where communicable diseases and lack of elementary health care are the major medical concerns, large segments of the population are in urgent need of essential drugs.

91. It is clear that for the optimal use of limited financial resources, the available drugs must be restricted to those proven to be therapeutically effective, to have acceptable safety and to satisfy the health needs of the population. The selected drugs are called "essential" drugs, indicating that they are of the utmost importance and necessary for meeting the health needs of the population.

92. Drugs included in such a list differ from country to country depending on many conditions, such as the pattern of prevalent diseases, the type of health personnel available, financial resources and genetic, demographic and environmental factors.

93. About 85 per cent of the world's production of pharmaceutical products is located in the industrialized countries. A great proportion of the drug production in developing countries is largely controlled by the multinational pharmaceutical manufacturers through the supply of basic chemicals and/or intermediates and the provision of know-how and technology. This control manifests itself in various ways which all work against the transparency of the market for drugs, such as, transfer pricing, restrictive marketing practices and the utilization of the doctor's role in prescribing drugs.

94. Of the 10,000 pharmaceutical companies in the world, about 100 supply 90 per cent of the world shipments of pharmaceutical products, realizing around \$48 billion. The number of basic and essential drugs is in the range of 200-250, but the pharmaceutical firms produce a much larger number of drugs, each carrying its own brand name; at any one time, as many as 3,000-4,000 drugs are marketed in different countries with as many as 100,000 brand names. Many of the drugs manufactured and traded across frontiers are not based on existing or anticipated disease patterns and, therefore, the sale of such a large number of drugs, in many

cases, may not be related to actual needs. Moreover, the cost of promotional efforts raises considerably the retail price which is paid by the consumer.

95. The adequacy of the quality of a drug is basically the responsibility of the manufacturers. Developed countries have their own laws and regulations which require certain manufacturing practices and quality controls that are prerequisites to their registration and sale. Many of the developing countries do not yet have stringent laws and also lack adequate testing facilities.

96. There is concern that drugs intended for export are not always subjected to the same quality control procedures as those produced for the home market. Developing countries lacking adequate laboratory facilities for drug analysis are placed at particular disadvantage in such cases. To redress this unsatisfactory situation, WHO has sought to extend and unify schemes already operated by the health authorities of some exporting countries who issue a certificate on request to foreign importers in respect to drugs that have been subjected to statutory control. A "Certification Scheme on the Quality of Pharmaceutical Products moving in International Commerce" was adopted in 1975, and 54 countries have now agreed to participate through designated national authorities. This scheme is concerned primarily with quality rather than the inherent safety of drugs. The health authority of the exporting country is required to certify on request whether a specific product offered for export is available on the home market, and whether the manufacturer has been found, on inspection, to comply with defined standards of practice in the manufacture and quality control of drugs. In the case of a product not authorized for sale or distribution in the exporting country, the reasons are explicitly stated and, when relevant, grounds for refusal of registration are disclosed. Provision is also made for batch certification but, for this information, reliance has generally to be placed on declarations made by the manufacturer rather than the competent national authority.

97. The supply of drugs in developing countries calls for a systematic approach. There is an urgent need to determine the requirements of individual countries in the light of their disease patterns. It would also be desirable to manufacture locally, when feasible, the most essential drugs. In each country, a national formulary committee could be appointed to draw up a list of essential drugs in their generic names and be the central purchasing authority. In addition, the committee could encourage doctors to prescribe the drugs in their generic names and could also provide consumers directly with information on the drugs. Developing countries could further build up their drug-testing facilities, keep drug advertising to desired levels and review their legislation to include provisions for good manufacturing practices, inspection and the withdrawal of drugs which are declared unsafe.

98. Since 1976, strategies for formulating and implementing a programme for improving national management capabilities in the pharmaceutical supplies system have been elaborated by WHO in collaboration with United Nations bodies such as UNDP, UNICEF, UNIDO, UNCTAD and non-governmental organizations. These strategies provide for drug research and development, legislation and regulations for the provision of safe and efficacious products, quality control, collective and bulk procurement from multisource supply, the gradual increase of local manufacturing

facilities, the establishment of appropriate distribution systems, drug information, utilization, surveillance and education and the control of drug prices. The establishment of regional centres in developing countries for producing some drugs in bulk is also being envisaged.

99. In developing countries, especially in the rural areas, indigenous doctors have from time immemorial been prescribing herbal medicines with varying degrees of success. Once these medicines and methods are tested and found to be therapeutically sound, they could be encouraged with suitable State recognition; they have the advantage of being acceptable to potential consumers, inexpensive and economical of foreign exchange.

5. Manufactured goods

100. Manufactured products account for an increasingly wide range of consumer goods bought in developing countries. Whereas many are still imported, a growing proportion is produced locally by newly-established industries. Nevertheless, the spectrum of consumer durables of general interest in developing countries is narrower than in developed countries. It includes such goods as furniture, watches, clocks, bicycles, scooters, radios and refrigerators. Non-durables include textiles and garments, household articles, books, toys and tobacco products. In urban areas consumers may spend as much as 20 to 30 per cent of their income on manufactured goods, but in rural areas the proportion, out of a generally lower income, may be as low as 10 per cent. 5/

101. The chronic shortages of consumer goods and the frequent absence of specific standards and quality controls, lead to a casual approach to quality. Consumers' safety can suffer; producers' liability can be limited or non-existent; and there often is no method of redress open to consumers who have cause for complaint.

102. In the absence of effective certification schemes and even of informative labelling, it is impossible for the consumers to make a rational choice. It would thus be desirable for Governments to introduce statutory quality controls and compulsory certification schemes for a small number of essential goods in the first instance and to encourage voluntary controls for the remaining products.

103. Governments should also actively encourage the improvement of after-sale service and the provision of warranties or performance guarantees; at the same time, the prices of spare parts should be vetted. The introduction of national and international standards as well as restrictive business practices legislation should control the monopolistic practices often employed by producers as a result of their control over the supply of spare parts.

104. Within the United Nations system, UNIDO carries out activities having as their long-term objectives the elaboration and implementation in developing countries of

5/ India: Pocket Book of Information (Government of India publication, 1973-1974), p. 45.

national standardization policies and systems in collaboration with the different production sectors in order to respond, on the one hand, to consumer requests on a national level and, on the other, to assure an adequate level of product quality and competitiveness and a good image at the international level that are likely to promote increasing exports of developing country manufacturers.

CHAPTER II. CONCLUSIONS AND MEASURES FOR CONSIDERATION BY STATES

A. Conclusions

105. The multiplication of products and their mass merchandising have heightened the need for consumer protection. Measures need to be taken, first of all, at the level of the local market-place. Defective weights and measures, substandard and shoddy goods, artificial shortages, hoarding, black-marketing, usury, adulteration and over-pricing are a few of the main problems confronting consumers in developing countries. Other economic offences such as smuggling, shoplifting, embezzlement, misrepresentation, misleading advertising, corruption and a variety of restrictive business practices directly or indirectly raise the cost of what the consumer buys and sometimes jeopardize his health and safety as well. These problems are so massive and so deep-seated that no one set of measures by any single agency would make a dent in them. The situation calls for a concerted effort by Governments, business communities, labour and consumer groups and, above all, by the consumers themselves. International organizations also have an increasing contribution to make to such a concerted effort.

106. But consumers will not be in a position to uphold their interests adequately in their dealings in the market-place until they have had at least a minimum of consumer education and unless they receive the information they need to evaluate the goods and services from which they choose. The inclusion of consumer education in primary and secondary school curricula will help the next generation to become more sophisticated consumers, while adult education would enable older persons to cope more successfully with their consumer problems. Some teacher training is also needed to ensure that curricula are properly carried out. The role of the media in both education and information is equally important. For example, radio could be used increasingly, particularly in developing countries, to bring reliable consumer information to the poor in urban shanty towns and remote rural areas. It is also important that the misinformation or misleading information sometimes circulated should be reduced by the more careful monitoring of advertising, which remains by far the most important channel of information for consumers.

107. The governmental role in consumer protection is also vital to consumer well-being, and finds expression through policy making, legislation and the system for its enforcement. To provide a legal basis for enforcing basic consumer rights, every country needs to have an irreducible minima of consumer protection legislation, covering standards, quality control, weights and measures, work-place hygiene and sanitation, control of various trades and professions including the rural shop keepers, consumer safety, product liability, contract terms, restrictive business practices and, finally, procedures for redress. Governments also need to

have the necessary machinery to enforce such legislation with a reasonable degree of effectiveness.

108. Since the cost of enforcing consumer protection legislation is ultimately borne by the taxpayers (the consumers) and since the cost of its implementation, while initially borne by the trade, is frequently passed on to consumers through increased prices, every effort should be made to ensure that such legislation is necessary, clear and as as easy as possible to implement.

109. Voluntary standards going beyond the actual legislation at the national level, elaborated with the full collaboration of trade and consumer interests, have sometimes proved to be useful; there should also be appropriate procedures for monitoring such voluntary standards.

110. As an expression of the growing desire to codify common practices on a basis that may or may not be legally-binding, there has developed, in recent years, a preoccupation with consumer rights cast in general rather than specific terms and presented as a comprehensive set of entitlements. It is, of course, true that some consumer rights (for example, the right to redress) are more open to legal enforcement than others (for example, the right of access to basic goods). In this context, attention is drawn to the Charter and Declaration adopted respectively by the Council of Europe and the International Co-operative Alliance. These instruments provide Governments with useful models to assist them in making, if they so desire, their own codifications.

111. Consumer protection priorities in developing countries are mainly focused on the rather different spectrum of goods in widest use, that is to say, food, drugs and essential manufactured products. For the rural and urban poor in those countries, as much as 80 per cent of the family budget may go for food, and it follows that a large part of the limited resources available for consumer protection should be directed to consumer problems connected with food. The needs in that sector are manifold: they include well-conceived food laws and adequate machinery for their implementation, including the necessary testing facilities; greater attention to retail distribution systems that often do not reach large groups of consumers, particularly in rural areas; and development of standards not only for processed foods, but also for foods in their natural form which comprise by far the greater part of what is eaten in developing countries. The use of additives and pesticides must be controlled and food contamination prevented. Special problems arise with regard to infants and very young children, particularly regarding the marketing of infant formula and other products used as breast-milk substitutes. Also, greater attention needs to be focused on protecting consumers, particularly infants and young children, against the life-threatening risks of polluted drinking water supplies.

112. The growing use of pharmaceutical products in developing countries poses a number of important issues for consumer protection. Enactment of the necessary legislation and the enforcement of such legislation through adequate testing facilities form the cornerstones of any consumer protection policy. Most drugs are imported from transnational pharmaceutical firms in developed countries, and questions of quality control, price and marketing arise in this connexion. The use, where possible, of only a limited number of generic drugs saves scarce foreign

exchange and means much lower prices for the consumer. Establishing the proper role for traditional indigenous drugs and preparations also needs to be considered by policy makers.

113. Finally, it must not be overlooked that the consumer needs protection in many areas of which he is totally unaware, but which, none the less, affect him deeply. Some international trade measures, for example, tariffs and other barriers, tend to increase the retail prices of imported consumer goods and usually of similar goods produced at home. Barriers to the free movement of new technologies may mean that less efficient ones will continue to be used in developing-country factories. The world-wide operations of transnational corporations, although having distinct advantages for host countries when properly utilized by those countries, may sometimes result in over-priced and/or substandard goods being brought to developing-country consumers. In areas such as these, the work of international organizations such as GATT, UNCTAD, WIPO and CTC has been actively supporting consumer interests and well-being in both developed and developing countries.

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114. The Governments of developing countries have rightly tended to attach very high priority to their plans for development and economic growth. Moreover, in the long run, the consumers of these countries can be adequately supplied with quality goods and services at reasonable prices only if domestic productive capacity is greatly increased. In the final analysis, consumer protection measures, no matter how necessary or urgent they may appear, have to be evaluated in that context. However, if the considerations adduced in section A of chapter I are valid, most consumer protection measures will promote rather than retard development and economic growth. Perhaps, in this case, the present relatively low priorities generally accorded to such measures may need to be re-examined. Perhaps, consideration should also be given to integrating such measures in national development plans, where this is not already the case.

B. Measures for consideration by States

115. In the light of the foregoing conclusions, the following measures are offered for consideration by States in compliance with the Council's request in operative paragraph 3 of Economic and Social Council resolution 1979/74 of 3 August 1979.

(a) Consumer protection policy

To consider the formulation and adoption of a consumer protection policy, including the promotion of consumer protection activities and the development of relevant non-governmental organizations;

(b) Governmental advisory and regulatory machinery

(i) In order to facilitate the monitoring and implementation of consumer protection measures, to entrust certain advisory and/or regulatory

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functions to special public bodies in accordance with national priorities and taking into account the functions of already existing institutions. These could particularly concern: the consultation of consumer organizations, of the business community and other bodies; the creation of a focal point within the government administration for general (that is, non-sectoral) consumer protection matters; the administration of specific consumer protection laws by special agencies; consumer education, information and advisory activities etc.;

- (ii) Relevant institutional arrangements might comprise, inter alia, the following (as separate entities or combined, as appropriate):
- a. Co-ordinating body (National Council of Consumer Protection) comprising representatives of all government agencies dealing with sectoral aspects of consumer protection, with the representative of the Ministry/Department/Branch mainly responsible for consumer affairs acting as Secretary;
 - b. Consumer protection consultative board (or Advisory Body) comprising representatives of consumer organizations, the business community and government agencies concerned with consumer protection matters, to assist Governments in formulating policies and in preparing regulatory measures;
 - c. Consumer protection office, to assist in preparing relevant government policy guidelines and regulatory measures, to monitor their effectiveness, to maintain consultative relations with consumer organizations and the business community and other interested parties to carry out studies to channel financial support for specific consumer protection programmes, to maintain contacts with regional and interregional institutions etc.;
 - d. Agencies with executive functions, to administer specific laws, for example, in the sectors of product safety, food and drugs;
 - e. Consumer education and information bureau, to carry out or to support consumer education and counselling programmes;
- (c) Elaboration of standards for product safety and quality of consumer goods and services
- (i) To elaborate and implement national standards for the safety and quality of essential goods and services and give them the widest publicity and, where possible, to adopt and implement relevant international standards or criteria for product safety and quality;
- (ii) Where necessary, to prescribe a standard lower than the generally accepted international standard for a limited period, after which it should be raised to the level of the international standard;

(d) Implementation of standards

- (i) To enforce the national standards, through the appropriate legislation, providing, if necessary, for a gradual implementation within a specified number of years. Such legislation may also require the certification of the safety and quality of certain consumer goods and services as appropriate;
 - (ii) In order to ensure implementation of their standards, to set up, as appropriate, facilities to test and certify the safety, quality and performance of at least essential consumer goods and services, or to support such facilities if they are operated by other institutions in the interest of consumers;
 - (iii) To consider intercountry collaboration (for example, at the regional level) in the setting-up, or joint use of testing facilities; this might include agreements on testing procedures and on acceptance of test results in relation to national requirements;
 - (iv) To apply tests to both domestically-produced and imported goods and services; however, in respect of imports, testing methods and administrative procedures should not become an arbitrary barrier to international trade. This also applies to the standards themselves and to certification systems;
- (e) National regulation of business practices covering, inter alia, the regulation of sales and accurate description of goods
- (i) To undertake a review of the existing legislation in respect of consumer protection and to ensure that it provides adequate safeguards to consumers in respect of restrictive business practices and redress;
 - (ii) In the light of the foregoing review, to adopt or strengthen, as necessary, legislation relating to the control of restrictive and other practices affecting the prices and sale of consumer goods and services. There should be appropriate measures forbidding false and misleading advertising and other deceptive selling practices and controlling terms and conditions of sale (credit sales, instalment systems and warranties), labelling and description of products and the provision of after-sales services. To facilitate enforcement and consumer awareness, these aspects might be consolidated within a single piece of legislation;
 - (iii) To consider reviewing the existing legislation in respect of weights and measures and strengthening the machinery for its enforcement. In particular, such legislation might provide for the maintenance of a set of weights and measures at all retail outlets for the use of the customers;
 - (iv) To take special measures to ensure that the scope of regulatory measures for consumer protection covers rural populations;

- (v) To formulate national codes on business practices, including on advertising;
- (f) Voluntary standards
- (i) To encourage business communities (manufacturers and suppliers of consumer goods and services) to adhere to voluntary standards which offer to consumers, services and guarantees going beyond the legally prescribed minimum level in the country concerned, to the extent that such voluntary standards do not become barriers to trade. Furthermore, there could be voluntary standards with regard to advertising, description and sale of products and services, guarantees, servicing facilities and prompt settlement of consumer complaints;
- (ii) Responsibility for monitoring the observance of voluntary standards could also be shared by the business communities, which should take the necessary steps to encourage such observance among their members. Consumers' organizations should also play an appropriate role in ensuring the observance of these standards;
- (g) Distribution facilities for essential consumer goods and services
- (i) To consider adopting a specific policy for improving the distribution system for essential consumer goods and services, particularly in rural areas. Such a policy could relate to assistance for the creation of adequate storage and shop facilities in rural centres, to incentives for consumer self-help, to better control of safety, quality and prices of essential goods and services in rural areas and to better consumer information and education for consumers having low literacy standards;
- (ii) Where wholesale and retail prices of essential commodities are fixed by the Government, to take into account distribution costs in order to avoid spot shortages;
- (h) Measures to enable consumers to obtain redress
- (i) To consider introducing regulatory and administrative measures to help consumers obtain redress through formal or informal procedures;
- (ii) To provide adequate facilities for redress, particularly for low-income consumers; these could include, inter alia, free or subsidized provision of legal advisory services and testing facilities; legal possibility for groups of consumers, their representatives or government authorities on their behalf to undertake or appear in legal proceedings; introduction of complaints and arbitration procedures; legal measures defining liabilities of producers and distributors of consumer goods and services (including public utilities); statutory provisions concerning redress which would govern sales contracts, hire purchase agreements etc.; special jurisdictional or institutional arrangements such as local market courts or consumer ombudsman to provide quick and inexpensive procedures close to the consumer's home;

(i) Education and information programmes

- (i) To provide institutional and financial facilities for consumer education and information programmes, making optimum use of all the available mass media;
- (ii) To include consumer education as part of the curriculum in primary and secondary schools;
- (iii) To organize consumer education programmes for educators and mass media professionals to enable them to play their roles effectively in carrying out the foregoing tasks;
- (iv) To encourage consumer non-governmental organizations to undertake educational and information programmes, particularly for the benefit of low-income consumers in rural and urban areas;
- (v) In particular, to design appropriate consumer education and information programmes for the specific needs of rural populations and to broadcast them through the radio network at convenient hours;
- (vi) To undertake, in collaboration with consumer organizations, the preparation of educational materials for distribution to media, schools and other institutions, including special articles for publication in the mass media;
- (vii) In view of the high rate of illiteracy to be found in many rural areas, to adopt novel methods of consumer education, such as incorporating a consumer message in popular plays and puppet shows well attended by the people in those areas;

(j) Economic offences

- (i) To adopt comprehensive legislation with regard to economic crimes and other offences harmful to consumers;
- (ii) To enforce such legislation through measures aimed at ensuring the detection and punishment of those who commit such crimes and other economic offences;
- (iii) To train personnel in better methods of detection and investigation (including specialized teams) of economic crimes and other offences;
- (iv) To prevent economic offences through the more systematic monitoring of the adherence to established laws and standards by producers, manufacturers, wholesalers, shopkeepers and others involved in the provision of goods and services;
- (v) To develop better information systems on the forms, extent, impact and trends of consumer fraud and other offences that affect, directly or indirectly, consumer well-being;

(k) Measures specifically related to food

- (i) To formulate a national policy in regard to food which should, among other things, provide for improvements in post-harvest handling, storage, processing and distribution of foods;
- (ii) To assess the country's needs for the development of integrated food-control systems covering food throughout the production, processing, storage and distribution chain;
- (iii) To establish or update national food laws and to develop adequate food regulations and codes of practices, including establishment of standards for essential food articles;
- (iv) To strengthen national food control administrations, including the provision of adequate technical and managerial personnel and facilities for inspection and analysis for control of quality and safety of foods;
- (v) In order to stimulate effective implementation of food laws and regulations, to encourage consumer groups, as appropriate, and with financial and technical support, to utilize a network of simple test centres linked to more sophisticated referral laboratories;
- (vi) To develop and implement food contamination monitoring and control programmes to prevent losses of foods and to protect consumers throughout the country;
- (vii) To take action to develop needed manpower, in such areas as food inspection, management and laboratory research through national, regional or international training programmes based on national institutions in developing countries and the promotion of technical co-operation among them;
- (viii) To accept the international food standards and the Code of Ethics for the International Trade in Food developed by the FAO/WHO Codex Alimentarius Commission under the Joint FAO/WHO Food Standards Programme;
- (ix) To regulate business practices affecting the marketing, distribution and processing of food products, particularly of advertising and use of trade marks;

(l) Measures specifically related to water

- (i) To establish the necessary machinery to monitor the sources, quality and safety of drinking water and to educate people, especially those in rural areas, on the importance of using good quality water for drinking purposes;
- (ii) To promote public participation in the construction and maintenance of water-supply facilities and to train personnel to perform simple water-quality monitoring tests;

(m) Measures related specifically to pharmaceutical products

- (i) To adopt legislation and regulations applying to all pharmaceutical products, whether imported or manufactured in the country, which would require good manufacturing practices and adequate standards, including informative and complete labelling, package inserts and certification procedures, as well as control and regulation of the importation, production, distribution and advertising of such pharmaceutical products;
- (ii) To review relevant legislation, such as patent legislation, in respect of pharmaceutical products and/or processes of production in order to facilitate the import of active components from all sources and to encourage the local production of finished products;
- (iii) To strengthen national capabilities of countries in the selection, procurement, manufacture, distribution and proper use of essential drugs to meet the health needs of the majority of their populations;
- (iv) To strengthen whenever feasible the quality control of such drugs at the national level;
- (v) To make essential drugs, including vaccines, available under favourable conditions in order to extend primary health care and disease control;
- (vi) To establish a registration system of pharmaceutical products on the basis of evaluated information obtained through regional agreements or from international organizations, particularly the World Health Organization;
- (vii) To review and regulate the production and use of indigenous drugs to meet local needs;
- (viii) To promote the adequate education and training of personnel dealing with drug distribution, drug control and drug utilization such as administrative staff, inspectors, accountants, storekeepers, packers, transporters, pharmacists, dispensers etc.;
- (ix) To appoint a national formulary committee to draw up a list of essential drugs in their generic names and be the central purchasing authority. In addition, the committee could encourage doctors to prescribe the drugs in their generic names and could also provide consumers directly with information on the drugs;
- (x) To review all agreements in connexion with transfer of technology pertaining to the manufacture of drugs and to take such action as may be necessary, inter alia, to protect consumer interests.

C. Organizational arrangements at the international level for carrying out activities in consumer protection

116. In resolution 1979/74 of 3 August 1979, the Economic and Social Council requested that the present report should contain the suggestions of the Secretary-General on the organizational arrangements for carrying out the work on consumer protection within the United Nations system. A rather large number of organizations are involved in carrying out the various aspects of this work and there is an allocation of responsibilities among them. There has been full recognition of the need to ensure that these variegated activities, which are related to one another in many ways, should be carried out in a concerted fashion in pursuit of the common objectives of consumer protection. Through existing collaboration between agencies and through a series of interagency meetings, there has been progress in ensuring that these many activities have a common thrust towards attainment of the main objectives of consumer protection. Furthermore, the organizations have worked together in planning and preparing for the Bangkok regional consultation and look forward to future opportunities for such collaboration among themselves. Under the circumstances, at least until the views of Governments on the future work required of the secretariats in this field have been ascertained, there seems no need to suggest any changes in the present organizational arrangements for co-operation that have been working quite smoothly until now.
