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Testimony before a subcommittee of the
Senate Foreign Relations Committee
Washington, D.C., May 19, 1983

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Mine is an unenviable assignment. How could anyone possibly oppose guidelines that are designed to protect the consumer? It takes a hard heart to question the proposed United Nations' promulgation of such good things as product safety and purity, consumer education, and international cooperation.

Yet, sadly, when you push aside the verbiage customary in international position papers, you quickly find that the "Draft Guidelines for Consumer Protection," now before the U.N.'s Economic and Social Council (ECOSOC), would flunk a truth-in-labeling test. Indeed, the so-called Guidelines have the makings of a blueprint for a more centrally directed society than now exists in any of the market-oriented economies in the world.

When we look beyond the label, it is apparent that the Guidelines are a model of vagueness and over-blown phraseology. Grand and unusual goals are set forth in language that is, at best, highly generalized and unclear. Attempts to carry out these Guidelines would surely result in worldwide confusion.

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In any event, the Guidelines likely would produce results contrary to the goal of open international trade promoted for many years by the United States. Some parts of this code of conduct would impose burdensome and costly controls on the world's economies -- and would tend to close, rather than open up, international markets. It is my belief that the United States and many other nations would be inviting disenchantment, as well as substantial costs, if they were to adopt this proposal. Above all, consumers themselves would be hurt rather than protected.

In addition, the Guidelines show the United Nations to be drifting further away from its fundamental and crucial goal of promoting and maintaining world peace. By seeking to regulate the commerce and internal economic activities of its member nations, the U.N. is stepping into areas that are properly left to individual countries. Furthermore, the U.N. is diverting its limited resources from its basic role of peacekeeper.

Implications of the Guidelines

The Draft Guidelines for Consumer Protection contain, first of all, seven objectives which are written *"with special emphasis on the needs of developing nations."* The objectives are, almost necessarily, quite general in nature. Several of them are particularly problematic. For example, one objective is "to facilitate production patterns geared to meeting the most important needs of consumers." In economies organized along private enterprise lines, the needs of consumers are always the strongest influence on "production patterns"; the pressures of the marketplace dictate that. But the Guidelines suggest the need for a controlled, highly centralized economy in which consumer choices are in practice limited by the decisions of an all-wise central government. This objective strongly implies that a central government

must identify, and then control, the means of achieving the "most important needs" of consumers. We need only consult the dismal record of any of the world's communist, centrally planned economies in feeding and meeting other essential needs of their citizens to know that promulgating this objective would severely hurt, rather than help, the developing nations.

Moreover, this objective overlooks the importance of world trade in meeting the needs of consumers. More than ever before, the more developed nations gear production for international markets rather than for the so-called "*more important needs*" of their own consumers. The case of Japan is instructive. If its post-war economy had been limited to meeting the needs of its own population, it surely would not enjoy the influence in world markets and the high standard of living that it has today. The same holds true for other market economies, ranging from West Germany to Hong Kong.

Let me quote a second sweeping and ill-conceived objective of the Guidelines:

To curb business practices at the national and international levels which adversely affect consumers (including abuses of a dominant position of market power by private and public enterprises).

Surely we all deplore business abuses, but how do we define business practices that "*adversely affect consumers*"? It is possible that a so-called "*adverse effect*" in India or Zaire would instead be a salutary effect for consumers in the Caribbean or Colombia. Comparative effects make it extremely difficult, if not impossible, to carve in stone what is a "good" product or service and what is "bad."

Moreover, nearly any product or business practice may be arbitrarily labeled "abusive" when it is held up against a standard that cannot be achieved or which consumers do not wish to pay for. Under the proposed

Guidelines, for example, Brand X Soap might be held to "adversely affect" consumers simply because it does not have the "ideal" qualities of Brand Y Soap. And where would this kind of thinking lead us? In many ways, this objective is a Pandora's box which, once opened, could be used to limit the choices of consumers around the world. It could even be used as a justification for erecting trade barriers, or strengthening barriers that already exist.

Other objectives in the Guidelines are equally troubling when we consider their far-reaching nature. Here is an example:

To promote just, equitable and sustainable economic and social development.

This is an imposing, high-minded ideal. But who is going to define what is "just" and "equitable" in any specific instance? Also, who is going to decide -- and then control -- what is "sustainable" development? And here is another "objective":

To establish standards of ethical conduct for those engaged in production and distribution of goods and services to consumers.

Certainly, ethical conduct is laudatory. But who will set the standards of "ethical conduct"? Who will place themselves above all others and regulate private behavior? I shudder to think how substantially a totalitarian interpretation of ethical conduct would differ from that of various free societies.

The draft Guidelines also contain a set of general principles that governments are called upon to follow "*to develop or strengthen their consumer protection policies.*" These principles are written as high-minded but vague and controversial notions of "rights." The list is impressive and includes the right to:

- o *"physical safety from dangerous goods and services"*
- o *"economic safety from offences or malpractices" that deny benefits to consumers*
- o *consumer information and education*
- o *"available and effective redress"*
- o *form consumer groups and have these groups' views represented in "the decision-making process"*

At first blush, most of these principles or "rights" seem to be admirable and worthy. But even if some kind of consensus could be reached on these principles, we must remember that they do not materialize out of thin air. Making them a reality is not automatic. In each case, they imply a substantial expansion of the role of government, at least in the economies now based on markets and competition.

Furthermore, nowhere do the Guidelines stipulate that there are costs attached to the litany of benefits. A sense of balance between costs and benefits (and between costs and effectiveness) is essential if consumer protection is to be considered -- especially in less developed nations where resources are so limited. For example, the achievement of greater physical safety involves added costs in producing or distributing a product, particularly if the goal is anything approaching the idyllic "zero risk" notion embedded in much existing consumer protection legislation.

The United States has learned the lesson that government-mandated safety standards raise the price of products -- and, as a result, "price out" some of the most vulnerable consumers (e.g., those with low incomes) from the market for those products. Ironically, such "pricing out" could lead to greater consumer risk. For example, requiring a safer but more expensive ladder than those now in common usage would probably cause many people climb on chairs and tables instead -- a much riskier approach than using existing ladders, with whatever shortcomings they possess.

Thus, product safety regulation can be an imperfect and even self-defeating tool. Moreover, individual beliefs of what is proper or adequate safety protection are not absolute. The world over, some people want more safety in a product, while some people may want less. In certain instances, people require a great deal of safety from a step-ladder or an appliance or a tool; in other instances, consumers do not.

Who, then, is going to decide what constitutes "*physical safety*," as set forth in these Guidelines? Who is going to decide what are "*dangerous goods and services*"? In terms of injuries, few consumer products may compete with the kitchen knife in terms of frequency of injuries. Clearly the utility of many products leads us to accept a reasonable amount of risk in our daily lives.

Similarly, criticisms may be made about the statement in the Guidelines of "*the right to such information as is necessary in order to make informed choices*." Transmitting information about goods and services is a worthy goal, if the information is useful and accurate. But the task needs to be carefully approached. Just take a look at the maze of fine print that is often required on products in this country -- fine print which results from the regulator's simple-minded notion that more information is always better than less. It is important to realize that market economies reduce the need for specific product information. Producers of goods and services know that they have a reputation at stake in their brand names; it is in their interest to maintain a high quality in what they produce rather than to provide voluminous (and often unused) "information."

As for the "*right to consumer education*," the U.N. Guidelines imply the same high-handed attitude towards educational systems as they do toward

economic systems. Consumers in less developed countries may, in fact, need a great deal of education with regard to products and services -- but they may need basic educational skills even more. As an educator, I am naturally suspicious when outside interests attempt to dictate the contents of a curriculum. The results are usually ineffective utilization of scarce educational resources.

A questioning attitude also must be taken with respect to the proposed *"right to available and effective redress."* Apart from quibbling about a useful definition of what constitutes "effective redress" at an international level, we would have to examine whether a new claims court, or something on that order, would duplicate or override existing legal systems. That is just one illustration among many of the dangers inherent in using broad, sweeping language in setting forth new policies at the international level.

One general principle in the Guidelines raises very grave concerns:

the right to economic safety from offenses or malpractices which deny consumers optimum benefit within their economic resources.

Taken at face value, this is merely gibberish. But given the frequency with which people in communist countries are thrown in jail for so-called "economic offenses" against the state, this provision is potentially a very dangerous part of the proposed U.N. Guidelines. Is "Big Brother" to determine what are "offenses and malpractices" and the point at which consumers have derived "optimum benefit" from resources? If this so-called principle does anything, it points out that the list of various "rights" is a matter for individual nations to decide.

Further, the related principle that *"transnational corporations should conform to national and international standards for consumer protection"* is not only vague in its stated purpose, but blatantly discriminatory. Why are

"transnational corporations" singled out for special attention, and not all enterprises? I can only conclude that transnationals are focused upon in these Guidelines as a scapegoat.

The one-sidedness of the Guidelines is further indicated in the "right" of consumer organizations *"to be consulted and to have their views represented in the decision-making process."* The Guidelines make absolutely no provision for representing the views of private enterprise -- the very businesses that would be regulated under these Guidelines. In fact, this U.N. document is not written from the viewpoint of free-market societies: it speaks of *"the decision-making process,"* as though only one can exist. That, I believe, is the give-away. These Guidelines are not intended for free, private-enterprise economies; they are designed to establish or promote centralized, planned economies in which the national government makes the key economic decisions.

Further Implications of the Guidelines

It is useful to list some of the specific Guidelines and let them speak for themselves. Do any of these sound like regulatory areas in which the United Nations should be involved?

It is the responsibility of the manufacturer to ensure that goods produced are adequately safe for intended and normal use. It is the responsibility of the importer or distributor to ensure that no unsafe goods are brought onto the market. . . .

Governments should . . . ensure that the intended level of safety is met . . . through compliance with safety regulations, national or international standards, and voluntary agreements, and by requiring the maintenance of exact safety records.

On the one hand, the Guidelines are clearly dictatorial: governments should "ensure" safety and, presumably, determine an "intended" level of safety. On the other hand, they ask governments to create paperwork mills *"by requiring the maintenance of exact safety records."* There is no indication of having

learned from experience in the United States with agencies such as the Occupational Safety and Health Administration. OSHA has been cutting back its paperwork requirements after learning that so much of its initial, onerous recordkeeping requirements were not needed.

There are other provisions worthy of our attention. Here are several Guidelines listed under "protection of economic interest":

Government policies should seek to ensure that consumers obtain the maximum benefit from their economic resources.

Does not this describe the United Nations as a global "nanny"? Extending this notion to its "illogical conclusion," if I want to buy something silly for my wife's birthday, I could wind up violating a U.N. policy.

Here's another provision:

Producers should ensure the availability of reliable after-sales service.

From the standpoint of economics and simple logic, this Guideline is total nonsense. Why presume that service must be provided by the producer, unless a sale is a non-competitive, tie-in sale? Production and service, after all, are not necessarily provided best by the same source -- at least this is true in competitive, open markets. Moreover, is this properly a concern of the United Nations? In the United States, we do not consider this an area for government regulation at all.

The same criticisms apply to the following Guideline:

Governments should formulate and put into effect national codes on marketing and other business practices to ensure that such practices are fair to consumers. Consumer organizations should participate in the elaboration and monitoring of such codes.

The demand for "national codes" such as those mentioned here completely ignores the fact that several member nations of the U.N. have a federal form

of government in which the powers of the national government are limited. Examples include the United States, Australia, Canada, and West Germany.

Two other Guidelines in the category of "protection of economic interests" again cast the shadow of "Big Brother." One is the following:

Governments should intensify their efforts to prevent economic offenses through systematically monitoring the adherence to the established laws and standards by producers, distributors and others involved in the provision of goods and services.

It goes on to state that consumer groups "should be encouraged and supported in monitoring economic offenses." What is the true meaning and purpose of a provision such as this one? What sort of government systematically monitors the actions of private citizens? What sort of government encourages and supports specific private groups in the monitoring of other private groups, as though they were licensed vigilantes? It is obvious that the authors of the Guidelines have little interest in either economic freedom or personal liberty.

Another suspect Guideline is the following:

Governments should consider adopting a specific policy for improving the distribution system for essential consumer goods and services, particularly in rural areas.

Why only rural areas? But beyond that, what amount of choice does such a provision allow for? Who is going to decide what are the "essential" goods and services?

Guidelines Relating to Specific Industries

It is also helpful to examine the Guidelines which have been proposed for specific industries. Here is one example:

Governments, when formulating national policies and plans with regard to food production and distribution, should take into account the needs of all consumer groups. Such policies and plans should inter alia provide for adequate post-harvest handling, storage,

processing and distribution and should include mechanisms for appropriate activity in the case of seasonal fluctuation in food supply and prices.

Again, let us look at the true meaning of a Guideline such as this one. How is a government going to take into account the needs of "all" consumer groups unless, in fact, it identifies and controls the "needs" of those groups? What possible role could private enterprise play in such a process? Certainly a very small one, since carrying out the Guideline will inevitably require centralized planning. The same applies to "*adequate post-harvest handling,*" and so forth, since a central government would have to direct those processes. But perhaps the most disturbing part of this provision is the bureaucratic language about "*mechanisms for appropriate activity in the case of seasonal fluctuation in food supply and price.*" Plainly and simply, this means price controls and, further, import controls. This Guideline is totally inconsistent with the workings of a modern private enterprise economy.

The Guidelines' disregard of the market system is further displayed in two provisions under national strategies "*for food safety and quality control.*" One of these states:

Food contamination monitoring and control programmes should be established or strengthened. . . .

This Guideline gives absolutely no indication that some countries have already done this -- and done it quite well without United Nations mandates. Instead, what we have here is a simple-minded assertion and the belief, as always in these draft Guidelines, that more is better than less -- more regulation, more intervention and control, more power in a central government. Food standards -- or "*remedial actions*" in the words of the Guideline -- can be used by a nation to justify the erection of barriers to international trade.

Finally, we see once again how the marketplace gets superseded in another section concerning food:

Business practices affecting the processing and distribution of food products and especially the marketing of highly refined and expensive food products should be regulated in order to ensure that such practices do not conflict with consumers' interests or government aims in the area of food policy.

Who is going to judge the so-called "conflict" between consumers' interests and business practices regarding the processing, distribution and marketing of food products? In free societies with market economies, if there is some kind type of "conflict," consumers will protect their interests by not buying the product. Resorting to regulation may simply project "government aims" in food policy -- and that is probably the true purpose of this provision. Moreover, why are "highly refined and expensive food products" singled out here? What all-wise power in a nation is going to determine that a specific category of food products presents a "conflict" with the interests of consumers, whereas another category does not?

The Central Role of the U.N.

International regulation of the production and distribution of goods and services via these Guidelines is a far cry from the central role of the United Nations which is, according to the U.N. charter, "to maintain international peace and security." That role deserves the greatest amount of emphasis in the dangerous world in which we live. Frankly, it is sad to see the U.N. diverting its resources to large-scale forms of economic regulation when it is doing such an inadequate job of carrying out the basic tasks for which it was established.

One purpose of the United Nations set forth in its charter is "to achieve international cooperation in solving international problems of an economic,

social, cultural or humanitarian character." Surely this goal should be pursued in the interests of world peace. But these Guidelines for Consumer Protection make no effort to enhance economic cooperation among nations. They would, in fact, tend to damage economic conditions in developing nations, where the cause of peace is so crucial today.

Above all, the U.N. charter explicitly prohibits the United Nations from intervening "in matters which are essentially within the domestic jurisdiction of any state." Much of what the Consumer Protection Guidelines has to offer would involve just such intervention -- and on a massive scale. The examples I have presented here show that, wittingly or unwittingly, the Guidelines point to a society in which governments in each nation of the world would have a much larger role in economic activity -- sometimes by orders of magnitude.

Conclusion

Regulation of internal economic activity is a matter for individual nations to carry out. As we have seen for many years now in the United States, regulation is a mixed blessing. It can be an imperfect, costly, and at times counterproductive instrument. Moreover, the proposed U.N. Consumer Protection Guidelines are not consistent, by any stretch of the imagination, with the workings of a private enterprise economy. Rather, they are designed to promote a much larger government role in the private sector. If the United Nations were to take on the role of global "nanny" in regulating the activities of private enterprise, it would likely do so at the expense of sacrificing many of the freedoms that are basic to the United States and many other member nations.

To recapitulate, in this statement I have attempted to make three main points: (1) the U.N. Guidelines attempt to impose centralized control on the

economies of sovereign nations, (2) the United Nations should focus instead on its fundamental role of peacekeeper, and (3) the U.N. should not assume the role of global "nanny" or international consumer "cop."