

THE CARICOM RAPID ALERT SYSTEM FOR THE EXCHANGE OF INFORMATION ON DANGEROUS (NON-FOOD) CONSUMER GOODS – CARREX

1. About CARREX

Articles 184, 186 and 67 of the Revised Treaty of Chaguaramas (RTC) provides for action to promote and protect the interest of consumers within the Member States of the Caribbean Community (CARICOM).

Towards this end, the CARICOM Rapid Alert System for the Exchange of Information on Dangerous (Non-Food) Consumer Goods (CARREX) was developed under the Ninth European Development Fund (9th EDF) in response to the Community consumers perception that there was increased permeability of the regional market by unsafe goods. The consumers were of the view that unsafe goods faced more difficulties entering neighbouring territories where market surveillance systems were more effective than within the Community where systems were more lax and in some instances non-existent.

CARREX operates as a secure web-based live portal which facilitates the rapid exchange of information on dangerous non-food consumer goods which pose a serious risk to the health and safety of the consumers in Member States of the Community. Through this portal, National Contact Points (NCPs) in Member States are able to transmit Alerts and Information Only Notifications. Additionally, National Authorities (NAs), Economic Operators (EOs), consumers and Consumer Non-Governmental Organizations (NGOs) can also submit complaints.

CARREX helps to prevent and restrict the supply of goods that pose a serious risk to consumer health and safety by the rapid exchange of information through the system. CARREX also facilitates the monitoring of the effectiveness and consistency of market surveillance and enforcement activities in the Member States. The system provides a basis for identifying the need for action at the Community level and makes for consistent enforcement of consumer protection legislation, standards and other goods safety requirements.

The notification procedure within the CARREX System provides for an exchange of information between the Member States and the CARICOM Secretariat on measures adopted in relation to goods posing a serious risk to the health and safety of consumers.

There are two types of CARREX Notifications, namely 'Alert Notifications' and 'Notifications For Information Only'.

2. Objectives of CARREX

CARREX was established to:

- i. provide for a rapid information exchange mechanism between Member States and the CARICOM Secretariat on preventive and restrictive measures taken in relation to consumer goods posing a serious risk to the health and safety of consumers;
- ii. inform the CARICOM Secretariat and Member States of action taken with regard to information exchanged through CARREX on consumer goods posing a serious risk to the health and safety of consumers as well as the conclusions of follow-up action taken by Member States regarding these goods.

CARREX will also help to:

- i. prevent and restrict the supply to consumers of dangerous goods;
- ii. monitor the effectiveness and consistency of market surveillance and enforcement activities carried out by Member State authorities;
- iii. identify needs and provide a basis for action and policy at national and regional levels;
- iv. make for consistent enforcement of the goods safety requirements and thus the smooth functioning of the internal market.

3. Components of CARREX

CARREX consists of several complementary components, which are crucial for its effective and efficient operation. Most important are:

- i. the guidelines the operation and management of the CARREX;
- ii. the online web-based portal (CARREX System), which allows Member States and the CARICOM Secretariat to exchange information rapidly via a web-based platform;

- iii. CARREX National Contact Points, (Contact Persons and their Alternates) based at the Consumer Protection Agencies responsible for operating CARREX in all the Member States;
- iv. the CARREX National Networks established in all Member States, which include the CARREX Contact Point and all national authorities involved in ensuring consumer goods safety through the implementation of CARREX;
- v. the CARICOM Secretariat Team at the CARICOM Single Market and Economy (CSME) Unit, which examines and validates documents submitted through the system, and maintains and ensures its daily operations;
- vi. the CARREX website, which provides summaries of Alerts on dangerous goods submitted by Member States;
- vii. The CARREX Framework which establishes the legal requirements for Member States to exchange information on dangerous consumer goods which pose a serious risk to the health and safety of consumers in Member States;
- viii. The Memorandum of Understanding (MOU) template which provides the basis for cooperation among the ministries, departments and agencies required to implement the CARREX through the CARREX National Network (CNN);
- ix. CARREX publications such as statistics, annual reports and other promotional materials.

4. Goods covered by CARREX

CARREX is limited to the exchange of information related to dangerous non-food consumer goods. For the purpose of CARREX these consumer goods are -

- (i) **goods intended for consumers** – goods that are designed and manufactured for and made available to consumers;
- (ii) **migrating goods** – goods that are designed and manufactured for professionals and which are likely, under reasonably foreseeable conditions, to be used by consumers. These are goods manufactured for professionals that are made available to consumers who can purchase and operate them without any special knowledge or training, e.g. a power drill, an angle grinder and a table saw designed and manufactured for professionals but

also supplied on the consumer market (i.e. consumers can readily purchase them in shops and operate them on their own without any special training);

- (iii) Both goods intended for consumers and migrating goods can be given to consumers free of charge, can be purchased by consumers and can be provided to consumers in the context of a service. All three situations are covered by the system.

Goods provided to consumers in the context of a service include:

- (i) goods supplied to consumers that are taken away and used outside the premises of a service provider, for example, cars and lawn-mowing machines rented or leased;
- (ii) goods used on the premises of a service provider, provided that consumers themselves actively operate the goods (e.g. start the machine, have the option of stopping it, affect its operation by changing its position or intensity during use). Sun-beds used in tanning salons and fitness centres are examples of such goods. Use of the goods by consumers must be active and involve a significant degree of control. Merely passive use such as the use of shampoo by a person whose hair is washed by a hairdresser, or the use of a bus by its passengers, does not qualify as use by consumers.

By contrast, equipment used or operated by a service provider to supply a service is beyond the scope of CARREX and therefore such goods cannot be notified through the system, e.g. equipment on which consumers ride or travel and is operated by a service provider.

5. Goods not covered by CARREX

CARREX does not cover:

- (i) goods that are not covered by the definition of 'goods' in Section 2.1;
- (ii) goods that were designed and manufactured for and made available only to professionals and are not likely, under reasonably foreseeable conditions, to be used by consumers ('professional or industrial goods')

6. Scope of Coverage of CARREX

National and Regional Authorities

The Policy shall be implemented by:

- (i) Member States of CARICOM;
- (ii) the authorities in Member States that are responsible for consumer goods safety and are participating in the National CARREX network, including and not limited to: market surveillance authorities responsible for monitoring the compliance of consumer goods with safety requirements, and authorities in charge of external border controls;
- (iii) Sub-regional and cross-border Community authorities with a consumer protection mandate for example the Organization of Eastern CARIBBEAN States (OECS) Commission and the CARICOM Competition Commission (CCC);
- (iv) the CARICOM Secretariat, as the regional clearing house for Policy formulation and reference point for managing the System.

7. Alerts and Notifications

Alert Notifications

The participation of Member States in the CARREX is mandatory and thus Member States have a legal obligation to notify the CARICOM Secretariat when the following three (3) notification criteria are met:

- (i) the good is a consumer good;
- (ii) the good poses a serious risk to the health and safety of consumers;
- (iii) the goods is subject to measures that prevent, restrict or impose specific conditions on its possible marketing or use ("preventive and restrictive measures").

8. The Case of Serious Risk to the Health and Safety of Consumers

The Alert Notification applies to measures which prevent, restrict or impose specific conditions on the marketing and use of consumer goods posing a serious risk to the health and safety of consumers. Notified goods must pose a serious risk to the health and safety of consumers. Such a risk may be defined as one that requires rapid intervention by the Member States authorities and also includes risks of which the effects are not immediate. It is not necessary for the danger to threaten to occur immediately; a risk likely to occur in the long term may be enough to initiate the system. As this type of notifications is not intended for the exchange of information on goods posing non-serious risks, a notification on measures taken with regard to such goods cannot be sent through CARREX.

Goods do not need to be the subject of a notification simply because it is not in conformity with the requirements of the national standards, even if those standards have been drafted likewise with the objective of protecting the health and safety of consumers; conversely, goods which do conform to a regulation or a compulsory standard may well be found unsafe and present a risk.

In all cases, the essential criterion for notification is the existence of a serious danger to the health and safety of consumers. A risk assessment must be performed by the National CARREX Network in order to verify that the risk at stake is serious enough to justify the use of the alert system.

Evaluation of the danger should be made on the basis of well-defined criteria, for example:

- i. the occurrence of one or more accidents;
- ii. the fact that the good had appeared as likely to lead to an accident under reasonably foreseeable conditions;
- iii. the cross-referencing of scientific information shedding doubt on the safety of the goods;
- iv. the fact that the good lent itself easily to uses different from those for which it was initially designed, placing the user in danger;
- v. the nature of the danger justifying a direct intervention by the competent authorities;

- vi. the higher vulnerability of the category of consumers likely to use the goods.

The risk assessment should be performed by an authority of a Member State that either carried out the investigation and took appropriate measures or if it monitored voluntary action taken with regard to the dangerous goods by a producer or a distributor. Before a CARREX Notification is sent to the CARICOM Secretariat, the risk assessment performed by an authority of a Member State (to be included in the Notification) is always verified/validated by the National CARREX Network. Any unclear issues must be resolved by the National CARREX Network with the responsible authority before a notification is transmitted through CARREX.

9. Categories of Measures Notified

All categories of preventive and restrictive measures taken in relation to the marketing and use of consumer goods posing a serious risk to the health and safety of consumers are subject to the notification obligation under CARREX. The different categories of measures that are notifiable under the system include measures such as:

- (i) marking a good with appropriate warnings on the risks it may present;
- (ii) making the marketing of goods subject to prior conditions;
- (iii) warning consumers of the risks that could be posed by goods for certain persons;
- (iv) temporary ban on the supply, offer to supply and display of goods;
- (v) ban on the marketing of goods and any accompanying measures;
- (vi) withdrawal of goods from the market;
- (vii) recall of goods from consumers;
- (viii) destruction of withdrawn or recalled goods.

10. Type of Measures Notified

Both obligatory and voluntary measures are to be notified through the CARREX. Preventive and restrictive measures can be taken in relation to dangerous goods either on the initiative of a producer or a distributor who placed and/or distributed it on the market (voluntary measures) or as ordered by an authority of a Member State

competent to monitor the compliance of goods with the safety requirements (obligatory measures).

11. Obligatory Measures initiated by Authorities in charge of External Border Controls

Measures adopted by the authorities in charge of external border controls that prevent the marketing in the CARICOM region of consumer goods posing a serious risk to the health and safety of consumers (e.g. decisions to stop the import at the border) should be notified to the CARICOM Secretariat through CARREX in the same manner as measures adopted by market surveillance authorities that restrict the marketing or use of goods.

12. Exclusion of Generally Applicable Obligatory Measures

Generally applicable acts adopted at the national level and aimed at preventing or restricting the marketing and use of generally described categories of consumer goods due to the serious risk they pose to the health and safety of consumers should not be notified to the CARICOM Secretariat through the system as an alert. Such national measures apply to only generally defined categories of goods, such as all goods in general or all goods serving the same purpose – and not to categories of goods specifically identified by their brand, specific look, producer, trader, model name or number, etc.

13. Timing of the Notification

The objective of the system is to ensure the rapid exchange of information between Member States and the CARICOM Secretariat in order to prevent the supply and use of goods that pose a serious health or safety risk to consumers. National Contact Points are therefore required to notify the CARICOM Secretariat as soon as possible and at the latest three (3) days after the competent authorities have taken the decision or have decided to adopt measures relating to goods presenting a serious risk.

The same deadline applies in the case of voluntary measures; the National Contact Point must inform the CARICOM Secretariat at the latest three (3) days after the producer or distributor have informed the national authority or after the conclusion of an agreement between authorities and producers and/or distributors.

This deadline applies even if an appeal against them at the national level is likely; they are already under appeal or subject to publication requirements. All Alert Notifications

should be preceded by a telephone call by the National Contact Point to the CARICOM Secretariat CARREX Contact Point to ensure immediate validation and follow-up. This rule applies in particular to notifications transmitted on weekends or during holiday periods.

14. Notifying Authorities

Both obligatory and voluntary measures are to be notified through CARREX by the CARREX National Contact Point, which is responsible for all information transmitted through the system by a Member State.
