MEMORANDUM OF UNDERSTANDING ON MUTUAL ASSISTANCE IN CONSUMER PROTECTION SAFETY MATTERS BETWEEN THE CONSUMER PRODUCT SAFETY COMMISSION OF THE UNITED STATES OF AMERICA AND THE OFFICE OF THE FEDERAL ATTORNEY FOR CONSUMER PROTECTION OF THE UNITED MEXICAN STATES

The Consumer Product Safety Commission ("CPSC") of the United States of America and the Federal Attorney for Consumer Protection ("Profeco") of the United Mexican States;

RECOGNIZING the desire to reduce unreasonable risks of injuries and deaths associated with some consumer products and desiring to improve the effectiveness of the enforcement of the Consumer Protection Laws of both countries;

RECOGNIZING that the laws of both countries contain certain restrictions on international law enforcement assistance, including information disclosure, and that nothing in this Memorandum of Understanding calls on the Participants to provide assistance if such assistance is prohibited by their respective national laws and all other applicable regulations as well as enforcement policies and other important interests;

Have reached the following understanding:

ARTICLE I
Definitions

For the purposes of this Memorandum of Understanding the following terms are understood as:

A. "Consumer Protection Laws" associated with the risks of injuries related to consumer products refers,

1. in the case of the United States of America, to the U.S. Consumer Product Safety Act (CPSA), the U.S. Federal Hazardous Substances Act (FHSA), the U.S. Flammable Fabrics Act (FFA), the U.S. Poison Prevention Packaging Act (PPPA), the U.S. Refrigerator Safety Act (RSA), and regulations issued, and

2. in the case of Mexico, to the Federal Law for Consumer Protection, Federal Law for Metrology and Standardization, and the applicable Official Mexican Regulations,

as well as any amendments thereto, and such other laws or regulations as the Participants may from time to time identify as "Consumer Protection Laws" for purposes of this Memorandum of Understanding. Each Participant intends to use

best efforts to notify the other of any relevant amendments to its Consumer Protection Laws.

B. "Participants",

1. in the case of the United States of America, CPSC, and

2. in the case of Mexico, Profeco,

acting with respect to their respective enforcement responsibilities under the Consumer Protection Laws as above defined.

C. "Request" any request for assistance pursuant to this Memorandum of Understanding.

D. "Requested Participant" is the Participant from which assistance is sought pursuant to this Memorandum of Understanding, or the Participant which has provided such assistance.

E. "Requesting Participant" is the Participant seeking or receiving assistance pursuant to this Memorandum of Understanding.

F. "Consumer Products",

1. in the case of the United States of America, those articles defined as consumer products in Section 3 of the U.S. CPSA [15 U.S.C. §2052]; and

2. in the case of Mexico, those products subject to contractual relations between consumers and producers in accordance with the Federal Law for Consumer Protection Article 2 fractions I and II.

ARTICLE II
Scope

This Memorandum of Understanding provides a framework through which the Participants can share expertise, information, and other support to improve consumer product safety. In that sense,

A. The Participants recognize that it is in their common interest to share information and provide assistance that will facilitate effective enforcement of their respective Consumer Protection Laws, within their respective jurisdictions, to help reduce the number of deaths and serious injuries associated with some consumer products, and to keep each other informed about developments, in their respective countries that may affect the implementation of the terms of this Memorandum of Understanding.

B. The Participants intend to use their best efforts to assist one another and to cooperate on a reciprocal basis in order to reach the common goal of improving consumer product safety. Such cooperation, subject to limitations of funds, resources, policies, priorities and other factors, will help to reduce the loss of life and serious injuries associated with specific consumer products. As permitted by applicable laws, the cooperation may include, but is not limited to:

1. identifying emerging hazards and hazard reduction strategies, and

2. data sharing and exchanging information to help reduce the incidence of loss of life and serious injury.

C. The Participants intend to use their best efforts to inform each other, as permitted by applicable law, as soon as reasonably possible, about violations of Consumer Protection Laws that occur or originate in the territory of a Participant and that affects or may affect consumers' safety in the territory of the other Participant.

ARTICLE III
Assistance

A. The Participants recognize that it is in their common interest to share information and provide assistance to promote a better understanding of each of their respective Consumer Protection Laws and related activities.

B. In furtherance of this common interest, the Participants intend to use their best efforts to exchange and provide appropriate information and assistance such as that described in Article IV.

ARTICLE IV
Instances of Information Exchange and Assistance

Subject to Articles VI and VII, the Participants intend to exchange information and assist each other on consumer product safety matters that may include, but are not limited, to the following instances:

1. the Participants intend to communicate on consumer product recalls and other safety notices. Each Participant should provide to the other, upon request, and to the extent practicable, public documents (e.g., periodicals, annual reports, case studies, proposed regulations, statistics, and corrective actions on potentially hazardous products) relating to consumer product safety;

2. the Participants intend to exchange scientific, technical, and regulatory information, to help ensure the quality, safety and proper labeling of consumer

products. Such information may include research; speeches, research papers, and journal articles; compliance education programs; amendments to relevant legislation; and information on staffing and resource issues;

3. the Participants intend to exchange information on emerging issues of significant public health and safety within the scope of the mandate and authority of each Participant. A Participant may provide information regarding products and manufacturers, if permitted under the laws of each country;

4. the Participants intend to address, through consultations, safety problems related to the consumer products covered in this Memorandum of Understanding which are manufactured in the country of one Participant and sold in the country of another Participant;

5. a Participant may consider, in appropriate cases and as permitted under the laws of each, inspection results obtained by laboratories authorized by the other Participant;

6. a Participant may provide training for laboratory and inspection personnel of the other Participant, as mutually agreed in advance, and

7. the participants also may consider, on a case by case basis, and subject to resources and other limitations, safety training programs, expert exchanges and other activities that the Participants consider to be mutually beneficial.

ARTICLE V
Requests for Assistance

A. Requests by Profeco should be addressed to: Director, Office of International Programs and Intergovernmental Affairs, Consumer Product Safety Commission of the United States of America, 4330 East West Highway, Bethesda, MD, 20814, United States of America; and Requests by CPSC should be addressed to: Director de Asuntos Internacionales, Procuraduría Federal del Consumidor de los Estados Unidos Mexicanos, Av. José Vasconcelos 208, Piso 7, Col. Condesa, Delg. Cuauhtémoc, C.P. 06140, México, D.F. Those contact points should be responsible for notifying the other Participant, through its contact point, of consumer product safety matters of potential mutual interest.

B. A Participant that requests assistance in the enforcement of the other Participant's Consumer Protection Laws or assistance on research and consumer and business education, should include in its request, if applicable:

1. a general description of the subject matter and nature of any proceeding to which the Request relates,

2. a description of the information sought and the foreseen use of the requested information,

3. a description of the action that the Requesting Participant is requesting be taken,

4. requirements, if any, for confidential treatment of the Request or its contents, and

5. any other information that the Requesting Participant believes would be helpful in facilitating review or execution of a Request.

C. the Participants should consult regarding a Request in order to reach agreement with respect to the manner and timing of addressing the Request, taking into consideration the nature and availability of the requested information.

ARTICLE VI
Limitations on Assistance

A. Consistent with its national laws, international obligations, enforcement policies, and other important interests, each Participant intends to use its best efforts to provide assistance in response to a Request. The Requested Participant may decline to provide assistance.

B. Notwithstanding any other provision of this Memorandum of Understanding, a Participant should not communicate information to the other Participant if such communication is prohibited by the laws governing the Participant possessing the information or would be incompatible with that Participant's important interests.

C. Before denying a Request, the Requested Participant intends to consult with the Requesting Participant to determine whether assistance may be given in part, subject to specified terms and conditions. If a Requested Participant denies a request, it should provide the Requesting Participant with a written explanation of the basis for denial.

ARTICLE VII
Confidentiality

Unless otherwise decided by the Participants, each Participant intends to, consistent with its laws, maintain the confidentiality of any request of assistance, consultations and information communicated to it in confidence by the other Participant under this Memorandum of Understanding.

ARTICLE VIII
Changes in Applicable Law

In the event of a significant modification to a Participant's Consumer Protection Laws, the Participants should use their best efforts to consult promptly to determine whether this Memorandum of Understanding should be modified.

ARTICLE IX
Costs

The Requested Participant should normally pay all ordinary costs of executing a Request. Where the costs of providing assistance under this Memorandum of Understanding are substantial or extraordinary, the Requested Participant may request the Requesting Participant to undertake to pay those costs as a condition of proceeding with the Request. In such an event, the Participants intend to consult on the issue at the request of either Participant.

ARTICLE X
Duration of Cooperation

A. This Memorandum of Understanding will come into effect on the date of signature by both Participants and will continue in effect for a period of three years from the date of signature, unless a Participant provides notice of its intention to terminate it to the other Participant. A Participant should endeavor to provide the other Participant with 30 days written notice before ending its cooperation under this Memorandum of Understanding. Prior to terminating this Memorandum of Understanding, a Participant should use its best efforts to consult with the other Participant on its reasons for withdrawal.

B. After this Memorandum of Understanding terminates, each Participant intends to maintain the confidentiality of any Request and information communicated to it in confidence by the other Participant pursuant to this Memorandum of Understanding prior to its termination.

ARTICLE XI
Review of Memorandum of Understanding

This Memorandum of Understanding may be modified by the Participants in writing by mutual consent, specifying the date on which such modifications are intended to enter into force.

The Participants intend to consult and review the Memorandum of Understanding on an annual basis regarding the cooperation, coordination, and enforcement assistance undertaken by the Participants.

ARTICLE XII
Legal Effect

This Memorandum of Understanding is intended to create a framework for cooperation between the Participants and is not intended to create binding obligations under international law. Each Participant's implementation of this Memorandum of Understanding will be consistent with its domestic law.

Signed in duplicate at Washington, D.C. on the 7th of December of two thousand and five, in English and Spanish languages.

FOR THE CONSUMER PRODUCT SAFETY COMMISSION OF THE UNITED STATES OF AMERICA

Hal Stratton,
Chairman

FOR THE OFFICE OF THE FEDERAL ATTORNEY FOR CONSUMER PROTECTION OF THE UNITED MEXICAN STATES

Carlos Francisco Arce Macías,
Federal Attorney