Welcome!

Please take your seats.
The program will begin shortly.
Understanding the Code

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International Code adopted by the World Health Assembly in 1981

- Recommendation to all governments to adopt national regulations.

- Updated regularly by subsequent WHA Resolutions that clarify, reinforce, expand and close loopholes; must be read together with the Code.

- Protects caregivers from misinformation by prohibiting all advertising or any other forms of promotion of BMS, feeding bottles and teats.

- Prohibits the use of the health care system to promote BMS, feeding bottles and teats.

- Requires Governments to provide parents and caregivers with objective and consistent information on IYCF.
There should be an international code of marketing of infant formula and breastmilk substitutes, supported by both exporting and importing countries and observed by all manufacturers.
“In view of the vulnerability of infants in the early months of life and the risks involved in inappropriate feeding practices, including the unnecessary and improper use of breastmilk substitutes, the marketing of breastmilk substitutes requires special treatment, which makes usual marketing practices unsuitable for these products.”

Preamble to the Code
There is an obligation under international law for a country to implement the Code.
“We call upon States to … fully align with the recommendations contained in the International Code and the aforementioned new WHO Guidance. Adopting such measures must be recognized as part of States’ core obligations under the Convention on the Rights of the Child and other relevant UN human rights instruments.”

- UN Special Rapporteur on the Right to Food
- UN Special Rapporteur on the Right to Health
- Working Group on Discrimination against Women in law and in practice
- Committee on the Rights of the Child
“Those who make claims about infant formula that intentionally undermine women’s confidence in breastfeeding are not to be regarded as clever entrepreneurs just doing their job, but as human rights violators of the worst sort”

Stephen Lewis, then Deputy Executive Director, UNICEF
April 1999
The term "breastmilk substitutes" means infant formula and follow-on formulas intended for children up to the age of 24 months.
Recommendation 2: Breastmilk Substitutes

“Products that function as breastmilk substitutes should not be promoted"

A breastmilk substitute includes any milks (including non-dairy milk), in either liquid or powdered form, that are specifically marketed for feeding infants and young children up to the age of 3 years (including follow-up formula and growing-up milks).
Article 2. Scope of the Code

Applies to breastmilk substitutes or any food being marketed or otherwise represented as a partial or total replacement for breastmilk.

This includes:

- Infant formula.
- Follow-up formula.
- Growing-up milk.
- Any other milk for children 0 < 36 months.
- Any other food or liquid (such as cereal, jarred food, infant tea, juice and mineral water) that is represented as suitable to be fed to infants less than six months of age.
- Bottles and teats.

Note: WHA 69.9 extends to foods for infants and young children, but these do not fall under the same prohibition of promotion, requiring the regulation of *inappropriate* promotion.
Article 5: No advertising or other promotion to the general public

This includes promotion via internet including social media.

France - A 30 second YouTube ad on Guigoz 2 shows how its Optipro formulation contributes to the normal functioning of the immune system and development of the brain.

Images courtesy of WHO/WPRO
Products under the scope of the Code should not be sold in shops or supermarkets.

TRUE? or FALSE?
The Code is intended to prohibit all forms of promotion of products under its scope but **does not** prohibit their sale.
Article 5. Promotion to the public

5.2 **NO samples** of products within the scope of this Code to pregnant women, mothers or members of their families.

5.3 **NO point-of-sale advertising**, samples, or any other promotion devices in shops, to induce sales directly to the consumer at the retail level, including:

- special displays, special sales, loss-leaders, tie-in sales, discount coupons or premiums.

A violation never happens once: Free samples of infant formula and brochures are distributed at different hospitals.
Article 5. Promotion to the public

5.4 **NO gifts** of articles or utensils which may promote the use of breastmilk substitutes or bottle feeding to pregnant women or mothers of infants and young children.

5.5 Marketing personnel, in their business capacity, should not seek direct or indirect **contact of any kind** with pregnant women or with mothers of infants and young children.
Cross-promotion

Guidance on Inappropriate Promotion of Foods for Infants and Young Children (WHA 2016)

“There should be no cross-promotion to promote breastmilk substitutes indirectly via the promotion of foods for infants and young children.”

ARCH Study Senegal 2016
78% commercially produced complementary food labels contained elements of cross promotion for the manufacturer’s breastmilk substitute products.
Cross-promotion

• In July 2022, a Brazilian court granted an injunction against Nestlé Brazil for its deceptive marketing practices that promoted ultra-processed toddler milk as an alternative to infant formulas and gave Nestlé 60 days to add a warning sticker to its products:

“ATTENTION CONSUMERS! This product called growing-up milk should not be confused with infant formula or whole cow’s milk. Growing-up milks have packaging and labels very similar to those of infant formulas, they are usually placed side by side on the shelves of supermarkets and pharmacies and have lower prices. According to the Ministry of Health, they do not replace breast milk or infant formula, and should not be offered to babies and children under 2 years of age.”

• Nestlé has appealed, and has not added the warning sticker as ordered, nor paid the fine.
• The case continues.
Labels of BMS and complementary foods should inform consumers of the health benefits of the products.
No health claims on breastmilk substitutes or foods for infants and young children

WHA Resolutions in 2005 and 2010

Nutrition and health claims not permitted for breastmilk substitutes or for foods for infants and young children, except where specifically provided for, in relevant Codex Alimentarius standards or national legislation.
Old Tricks, New Opportunities: How Companies Violate the International Code of Marketing of Breast-Milk Substitutes and Undermine Maternal and Child Health during the COVID-19 Pandemic

by Constance Ching 1,* Paul Zambrano 2, Tuan T. Nguyen 3, Manisha Tharaney 4, Maurice Gerald Zafimanjaka 5 and Roger Mathisen 3

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Screenshots of advertisements from Nestlé’s Nangrow 3 Facebook page in Pakistan, featuring immunity claims and fear-provoking questions.

Fig 2, Ching et al. 2021
Article 6. Health care systems

6.2 Health care facility NOT to be used for the promotion of products within the scope of this Code.

6.3 No display of products...

Guidance A69/7 Add.1 [2016]: Manufacturers and distributors … should not donate or distribute equipment or services to health facilities.
Article 7: Health workers

7.1 Health workers … should make themselves familiar with their responsibilities under this Code…

7.4 Samples of infant formula or other products within the scope of this Code, or of equipment or utensils for the preparation or use, should not be provided to health workers …

Guidance A69/7 Add.1 [2016]
No gifts or incentives should be offered by companies that market foods for infants and young children …

Health workers should not give samples of infant formula to pregnant women, mothers of infants and young children, or members of their families.
Article 7.2 Information for health workers

Information by companies on products should:

- Be restricted to scientific and factual matters.
- Include information specified in 4.2 (benefits & superiority of breastfeeding, costs & dangers of artificial feeding, proper use of formula etc).
- NOT imply or create a belief that bottle feeding is equivalent or superior to breastfeeding.
TRUE?  or  FALSE?

Powdered milk formulas are not sterile and may contain pathogenic microorganisms.
Labelling – pathogen warnings

- Powdered infant formulas are *NOT* sterile products
- They can become contaminated at factory level with heat resistant, pathogenic and highly contagious bacteria such as *Cronobacter sakazakii* (which before 2007 was named *Enterobacter sakazakii*)

In 2005, WHA called on governments to:

- Inform that powdered infant formula may contain *pathogenic microorganisms* and must be prepared and used appropriately
- Ensure explicit warning on packaging
WHO Guidelines for minimizing risks of contamination (2007)

**How to prepare a bottle feed**

- **Step 1:** Clean and disinfect a surface on which to prepare the feed.
- **Step 2:** Wash your hands with soap and water, and dry with a clean or disposable cloth.
- **Step 3:** Boil some safe water. If using an automatic kettle, wait until the kettle switches off. If using a pan to boil water, make sure the water comes to a rolling boil.
- **Step 4:** Read the instructions on the formula's packaging to find out how much water and how much powder you need. Adding more or less formula than instructed could make infants ill.
- **Step 5:** Taking care to avoid scalds, pour the correct amount of boiled water into a cleaned and sterilized feeding bottle. The water should be no cooler than 70°C, so do not leave it for more than 30 minutes after boiling.
- **Step 6:** Add the exact amount of formula to the water in the bottle.
FDA Investigation of Cronobacter and Salmonella Complaints: Powdered Infant Formula (February 2022)

Do not use recalled Similac, Alimentum, or EleCare powdered infant formulas produced at Abbott Nutrition's Sturgis, MI facility

If you want to check if your powdered formula is part of the recall, you can enter the product lot code on the bottom of your package on the company's website.

If you have questions or need information about the recall, you can submit questions/get assistance.

If your infant is experiencing symptoms related to Cronobacter or Salmonella infection, such as poor feeding, irritability, temperature changes, jaundice, grunting breaths, abnormal movements, lethargy, rash, or blood in the urine or stool, contact your health care provider to report their symptoms and receive immediate care.

To report an illness or adverse event, you can:

- Call an FDA Consumer Complaint Coordinator if you wish to speak directly to a person about your problem.
- Complete an electronic Voluntary MedWatch form online.
- Complete a paper Voluntary MedWatch form that can be mailed to FDA.

The FDA, along with CDC and state and local partners are investigating consumer complaints and/or reports of infant illness related to products from Abbott Nutrition’s Sturgis, MI facility. All of the ill patients are reported to have consumed powdered infant formula produced from Abbott Nutrition’s Sturgis, MI facility.

As of February 28, CDC has announced one additional illness of Cronobacter sakazakii with exposure to powdered infant formula produced at Abbott Nutrition’s Sturgis, MI facility. Cronobacter infection may have been a contributing cause of death for this patient. In total, this investigation includes four reports.
Labelling

• Product labels must clearly state the superiority of breastfeeding, the need for the advice of a health care worker and a warning about health hazards.
• No pictures of infants, other pictures, or text idealising the use of formula.
• Labels must have the warning that powdered infant formula may contain pathogenic microorganisms and must be prepared and used appropriately.
• Labels on complementary foods should not cross-promote breastmilk substitutes, should not promote bottle feeding, and should state the importance of continued breastfeeding.
How to Make a Baby Bottle

Guidelines on how to mix and store baby formula for your little one

Preparing formula with boiled water

Ask your baby’s doctor if you need to use cooled, boiled water for mixing and if you need to boil (sterilize) bottles, nipples, and rings before use. If you choose to boil, follow these steps:

1. Bring water to a rolling boil for 1 minute, then turn off the heat. Overboiling can increase the concentration of impurities.

2. Let the water cool to room temperature before adding formula. Making formula with boiling water can cause clumping and decrease the nutritional value.

3. Before feeding, sprinkle a few drops on the inside of your wrist to make sure it is not too hot.

4. Feed or refrigerate the prepared formula.

Note: If you are concerned about lead or other harmful substances in your water, talk to your healthcare professional before making formula with tap water. Bottled or filtered water can contain bacteria and should still be boiled.
QUIZ!

There are exceptions to the Code for emergencies or humanitarian settings

TRUE? or FALSE?
Infants and young children are the MOST vulnerable

Even in healthy populations child morbidity and crude mortality can increase by 20% in two weeks

In emergencies rates of child mortality can increase from 2 to 70 times

Published total mortality rates for children younger than one year in emergencies are as high as 53%. (...)

Carothers, C., & Gribble, K. (2014)
Why Uphold the Code in emergencies?

- Protect and promote of breastfeeding
- **Proper use of BMS** when required
- **Stop** the aggressive marketing of products covered by the Code
- Sets out the **responsibilities** of the infant food industry, health workers, governments and organisations.

The Code is especially important in emergencies

- Controlling donations
- Preventing the distribution of unsuitable products
- Preventing companies from using emergencies to increase market share or for public relations.

What is the problem with donations?

- Unsafe (expired, the wrong type & quality etc.)
- Labelled in the wrong language / unlabeled
- The wrong quantity (usually too much)
- Inconsistently / unreliably supplied
- Used by breastfeeding mothers
- Not targeted to those who need them
- Lacking the instructions, supplies to minimise risk (e.g. safe water)
- Excessive time and resources to manage (transport, storage),
- Contributing to conflict relations **donations and uncontrolled distributions undermine the health of all infants in all emergencies**
6.1 Do **NOT** call for, support, accept or distribute donations of:

- Breastmilk substitutes e.g. infant formula, growing up milks (> 3 years)
- Other milk products e.g. powdered milk
- Feeding equipment e.g. bottles and teats
- Commercial complementary foods

6.3 – Do not send supplies of **donor human milk** to emergencies that are not based on identified need and a part of a coordinated, managed intervention
Some examples from recent emergencies

Türkiye/Syria Earthquake

Government calls for help.

Embassies put out appeals and include formula on their lists
Sometimes we are part of the problem

This fundraising agency appeal for Ukraine is intended to drive funds to support mothers and their newborns... *it reinforces perception of need which leads to donations of bottles and formula.*
Nestlé, Philips announce they are donating infant formula, bottles and teats in Turkey

And companies are always ready to “lend a helping hand”
What can we do?

In 2010 the World Health Assembly urged member states to ensure that national and international emergencies preparedness and response plans follow the evidence-based IYCF-E operational guidance ...

... to save lives.

- **Enact the Code** into national legislation in preparedness and enforce at all times, including during emergency response.
- Ensure that existing legislation is fully in line with the Code.
- Monitor and report Code violations.
- Enact legislation and adopt policies in line with the WHA 69.9.
Foods for infants and young children

The 2016 Guidance covers all commercially produced foods that are marketed for infants and children six months to three years of age.
There should be no promotion of commercially produced complementary foods.

**TRUE?** or **FALSE?**
Guidance on Ending Inappropriate Promotion of Foods for Infants and Young Children (WHA 2016)

Recommendation 3: Foods for infants and young children

Should be promoted **only** if they meet relevant **standards** for composition, safety, quality and nutrient levels and in line with national dietary guidelines.
Guidance on Ending Inappropriate Promotion of Foods for Infants and Young Children (WHA 2016)

Recommendation 4:
Promotional messages for foods for infants and young children

Messages should support optimal feeding and always include the importance of continued breastfeeding and of not introducing complementary feeding before 6 months of age.

Inappropriate messages should not be included (suggesting use under 6 months, promoting bottle feeding, undermining breastfeeding or conveying an endorsement by a professional body).
Guidance on Ending Inappropriate Promotion of Foods for Infants and Young Children (WHA 2016)

Recommendation 6: Companies must not create conflicts of interest

Companies that market foods for infants and young children should not create conflicts of interest in health facilities or throughout health systems.

Health workers, health systems, health professional associations and nongovernmental organizations should avoid such conflicts of interest.

Recommendation 6: Companies must not create conflicts of interest

- No free samples passed on through health workers
- No donated equipment or services to health facilities
- No gifts or incentives to health care staff
- No use health facilities to host events, contests or campaigns
- No gifts or coupons to parents, caregivers and families
- No provision of education to caregivers on infant and young child feeding in health facilities
- No information for health workers other than that which is scientific and factual
- No sponsorship of meetings of health professionals and scientific meetings
New resource on industry interference and conflicts of interest

www.globalbreastfeedingcollective.org
Implementation and Monitoring

**Article 11**: “Governments should take action to give effect to the principles and aim of the Code, as appropriate to their social and legislative framework, including the adoption of national legislation, regulations or other suitable measures.”

**Resolution WHA 69.9 [2016]**
“Manufacturers and distributors of foods for infants and young children are called upon to end all forms of inappropriate promotion, as set forth in the guidance recommendations.”

**Resolution WHA 49.15 [1996]**
Urges Member states to “ensure that monitoring the application of the International Code and subsequent relevant resolutions is carried out in a transparent, independent manner, free from commercial influence.”
Network for Global Monitoring and Support for Implementation of the International Code of Marketing of Breast-milk Substitutes and Subsequent Relevant World Health Assembly Resolutions (NetCode)
New Resource on the Code

What I Should Know About ‘the Code’
A guide to implementation, compliance and identifying violations

www.globalbreastfeedingcollective.org
Conclusions

• Code implementation is an effective measure to decrease harmful marketing practices that undermine breastfeeding

• Governments have an international human rights law obligation to take measures to protect infant feeding, including by introducing laws to implement the Code

• Lack of regulation allows companies to continue to undermine caregivers’ rights to make informed decisions and the child’s right to the highest attainable standard of health.
Thank you
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The BMS Code and International and National Laws

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Outline

**International Law**
1. Trade law
2. Human Rights treaties
3. Codex

**Domestic Law**
1. Human rights in national law
2. Food laws
3. Media and advertising laws
4. Consumer and competition laws
5. Other relevant legal frameworks
Global Congress on Implementation of the Code of Marketing of Breast-milk Substitutes
June 2023

International Law

Relevant treaties and principles
1. International Trade Law Framework

- **World Trade Organization**
  - ‘Umbrella’ agreement
  - Rules govern trade in goods, services and protection of intellectual property
  - Enforced through dispute settlement system

- **Free trade agreements (FTAs) and customs unions**
  - Eliminate substantially all barriers to trade
  - Go beyond WTO law
  - Can involve formation of a single customs territory (customs unions)

- **Investment treaties**
  - Standalone, or as investment chapters in FTAs
  - Protect foreign investors and their investments, including from expropriation and through fair and equitable treatment
1. World Trade Organization (WTO) Law

- WTO covered agreements most relevant to domestic implementation of the Code:
  1. General Agreement on Tariffs and Trade (GATT)
  2. Technical Barriers to Trade (TBT)
  3. Sanitary and Phytosanitary Measures (SPS)
  4. Trade-Related Aspects of Intellectual Property Rights (TRIPS)

- Members must generally comply with each agreement cumulatively
- Exception = SPS and TBT Agreements (A measure is covered by one or the other - Members have tended to address BMS regulations through the TBT Committee)
- Dispute settlement system between WTO Members
- No formal WTO disputes to date on measures implementing the BMS Code
Core WTO Principles: Non-discrimination

- Discrimination is prohibited:
  - Between WTO Members (most-favored-nation principle)
  - Against imported products (national treatment principle)
    - For example, GATT Art. III:4 prohibits less favorable treatment of imported goods as compared to like products of national origin through laws, regulations or requirements.
    - Basic principles of GATT 1994 reelected in other WTO Agreements

- Discrimination may occur through the form or effect of a measure.

- Any discrimination must be based solely on a legitimate regulatory distinction between the products in question
WTO Law - General Exceptions

- WTO law recognizes a balance between rights (to regulate) and obligations.
- Each agreement permits WTO Members to implement measures to protect human health as a legitimate regulatory objective.

GATT Article XX:

*Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures: …*

(b) *necessary to protect human, animal or plant life or health;*

TBT preamble:

"no country should be prevented from taking measures necessary … for the protection of human … health"
Core WTO Principles - Necessity

- TBT Agreement applies to technical regulations and standards
- Article 2.2 of the TBT Agreement:
  - (mandatory) technical regulations must be no more trade restrictive than necessary to achieve a legitimate objective such as protection of human health or prevention of deceptive practices.
  - There is an obligation to use relevant international standards as a basis for technical regulations unless they would be inappropriate or ineffective (to fulfil the legitimate objective). (Article 2.4)
  - A technical regulation in accordance with relevant international standards is rebuttably presumed to be not more trade restrictive than necessary. (Article 2.5)
- Is a measure ‘necessary to achieve the objective’?
  - WTO Panels weigh and balance the contribution of a measure to the goal, against the extent to which trade is restricted, in light of the importance of the objective.
  - Legal analysis of necessity will depend on evidence of risk and contribution
- There must be no less trade restrictive reasonably available alternative measure to achieve the goal
- It is possible that the Code or Codex Standards (or parts of them) could constitute relevant international standards (open question)
TRIPS Agreement

- TRIPS may be relevant if measures restrict use of words and imaging which are trademarks.
- TRIPS obliges WTO Members to ensure minimum standards of protection for intellectual property rights, including trademarks.
  - e.g. Article 20: The use of a trademark in the course of trade shall not be unjustifiably encumbered by special requirements, such as use with another trademark, use in a special form or use in a manner detrimental to its capability to distinguish the goods or services of one undertaking from those of other undertakings.
- These minimum standards generally require WTO Members to grant negative rights (rights to exclude others from one’s intellectual property) rather than positive rights (rights to use one’s intellectual property).
- WTO Members are obliged to permit registration of trademarks in certain circumstances (Article 15.1).
- There is no general obligation under TRIPS to permit use of trademarks.
- For the most part, TRIPS obligations are subject to ‘flexibilities’ rather than exceptions (e.g. Doha Declaration).
Harmonization and Notification

- Regional trade agreement and customs unions go beyond WTO law and can require **harmonization** of technical measures, including labelling.
  - For example, EU law and MERCOSUR require harmonized approaches to some aspects of food labelling (subject to exceptions, including for regulations necessary to protect health).

- Other regional trade agreements encourage Parties to harmonize and this may also be done as a matter of practice.

**Notification requirements:**
- TBT Agreement obligations to notify TBT Committee of draft measures and share for comment by WTO Members
- may also apply in addition under regional trade agreements to which a state is party
2. Human rights - UN Convention on the Rights of the Child

- **Article 2:**
  1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

  2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

- **Article 4:** States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

- **Article 6:**
  1. States Parties recognize that every child has the inherent right to life.

  2. States Parties shall ensure to the maximum extent possible the survival and development of the child.
2. Human rights - UN Convention on the Rights of the Child

Article 24 of the UN Convention on the Rights of the Child

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health [...].

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: [...]

(c) To combat disease and malnutrition, including within the framework of primary health care [...] through the provision of adequate nutritious foods and clean drinking-water [...];

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding ...

- The above provisions provide support for a human rights-based approach to implementing the BMS Code
3. Codex Alimentarius Commission - Nutrition and Labelling

- Codex provides guidance:
  - on the compositional requirements of foods so that they are nutritionally safe.
  - on general labelling of foods and the health or nutrient claims producers make on labels.
  - to ensure that consumers understand what they are buying and that "it is what it says it is".

- The Codex Committee on Nutrition and Foods for Special Dietary uses (CCNFSDU) addresses a wide range of technical and regulatory issues for foods that can contribute to the prevention of nutritional deficiencies and diet-related non-communicable diseases.

- The Codex Committee on Food Labelling (CCFL) sets standards and guidelines for nutrition information on food packages enabling consumers to make informed food choices.

- Nutrition and Labelling committees are fora in which member countries, industry associations and consumer organisations participate.

- Codex documents are international standards, guidelines and recommendations, but not legally binding.

- Potential to be considered international standards under TBT Agreement.
3. Codex Alimentarius International Food Standards

Examples of Codex Guidance and Standards relevant to implementation of the BMS Code

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<tr>
<th>Reference</th>
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<th>Last modified</th>
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<tr>
<td>CXG 2-1985</td>
<td>Guidelines on Nutrition Labelling</td>
<td>2021</td>
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<td>CXS 1-1985</td>
<td>General Standard for the Labelling of Prepackaged Foods</td>
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<td>Advisory Lists of Nutrient Compounds for Use in Foods for Special Dietary Uses intended for Infants and Young Children</td>
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<td>CXG 8-1991</td>
<td>Guidelines on Formulated Complementary Foods for Older Infants and Young Children</td>
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<td>CXS 156-1987</td>
<td>Standard for Follow-up formula</td>
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<td>CXS 74-1981</td>
<td>Standard for Processed Cereal-Based Foods for Infants and Young Children</td>
<td>2019</td>
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Domestic Law

National and sub-national laws potentially relevant to implementation of the BMS Code
1. Human rights under national law

- **National Constitution**
  - may include guarantees of fundamental rights and duties on government supportive to regulations to implement BMS Code
    - rights to life, health, food and nutrition
    - duties to protect public health, children or consumers
  - may include guarantees to fundamental commercial rights which can support arguments against regulations to implement BMS Code
    - rights to property, freedom of expression, right to trade or run a business

- **Domestic human rights laws**

- **Laws to protect the welfare of children, women or families**
2. Food Laws

- Food safety laws
- Laws / Regulations / Standards governing food:
  - packaging and labelling
  - advertising, marketing and sponsorship
  - sale and supply
- Pre-market registration processes
- Licensing of food suppliers and vendors
- Regulation of sale or marketing of certain food products in specific zones, settings or within retail locations
3. Media and Advertising laws

- Legislation, regulations or codes of conduct covering relevant media channels:
  - broadcasting (TV, radio, telephone promotions)
  - media laws
  - digital - internet, information / entertainment, social media
- Information and Communications Acts
- Advertising laws/regulations - may be general or specific to products or media
- Regulation of advertising or sponsorship in specific settings (e.g. government facilities)

- Restrictions on marketing to children or generally
- May target food, advertising to children, or BMS and IYC
4. Consumer protection / Competition law

- Legislation / regulation prohibiting:
  - unlawful, misleading, deceptive or unfair business conduct
  - anti-competitive conduct
to protect consumers.
- May also be drafted from the perspective of protecting fair competition or consumer economic interests from unfair business-to-consumer commercial practices, as unfair exploitation of consumers can distort markets and undermine fair competition.

- Regulation of health and nutrition claims
- Disclosure requirements
- Often include mechanisms for monitoring and enforcement

Example: Australia – ACCC action vs Heinz - action by consumer and competition regulator for misleading conduct in advertising of foods being marketed for consumption by young children
5. Other domestic legal frameworks potentially relevant to implementation of the BMS Code

**Public Health Law enabling regulations:**
- To be issued by Ministry of Health
- To protect public health
- To regulate health-harming products

**Intellectual Property**
- Registration of trademarks
- Trademark rights
- Limitation of trademark rights

**Procurement laws**
- Public procurement laws
- Contracts for food and product procurement for healthcare and childcare

**Workplace laws**
- Paid maternity leave
- Leave and/or facilities for breastfeeding

**Privacy**
- Data privacy
- Restrictions on use of personal information

**Healthcare professionals**
- Codes of conduct
- Conflicts of interest
- Training
Thank you!
Global Congress on Implementation of the Code of Marketing of Breast-milk Substitutes
June 2023

Elizabeth Zehner
Project Director
Helen Keller International’s Assessment and Research on Child Feeding project
Global Congress on Implementation of the Code of Marketing of Breast-milk Substitutes
June 2023

Tools for Understanding the International Code of Marketing of Breastmilk Substitutes

Elizabeth Zehner
Director, ARCH Project
Helen Keller Intl.
What resources are available for understanding and implementing the Code?

- The Code and subsequent relevant WHA Resolutions
- Model Code laws
- Code eCourse
- FAQs documents and Information Notes
- NetCode Toolkit
- WHO/UNICEF/IBFAN Code Status Reports

and many more useful resources!
The Global Breastfeeding Collective Website

www.globalbreastfeedingcollective.org

You will find many resources!
The Code and Subsequent Resolutions

WHO website:
Nutrition and Food Safety

qr.link/wMGI7D
The International Code of Marketing of Breast-Milk Substitutes

*Frequently Asked Questions*

**Languages:** English, French, Spanish, Arabic, Chinese, Russian

qr.codes/w0fbXx
The International Code of Marketing of Breast-Milk Substitutes

Frequently asked questions on the roles and responsibilities of health workers

Language: English

qr.codes/wiLXFq
The International Code of Marketing of Breast-Milk Substitutes

A quick guide to summarizing the Code and relevant resolutions of the World Health Assembly

Language: English

qr.codes/IU4An
The International Code of Marketing of Breast-Milk Substitutes e-course

Language: English

qr.link/pYSO7H
Marketing of Breast milk Substitutes

National Implementation of the International Code

Status Report

Language: English

qr.link/Zs2fBk
Guidance on Ending the Inappropriate Promotion of Foods for Infants and Young Children

Implementation manual

Language: English
Information Notes

Clarification on the classification of follow-up formulas for children 6-36 months as breastmilk substitutes

Language: English

International trade agreements and implementation of the Code

Language: English

Clarification on sponsorship of health professional and Scientific meetings by companies that market foods for infants and young children

Language: English
Netcode Toolkit

Monitoring the Marketing of Breast-milk Substitutes:
- Protocol for Ongoing Monitoring Systems
- Protocol for Periodic Assessments

Languages: English, French, Spanish, Russian

qr.codes/q56FWi  qr.codes/q56FWi  qr.codes/q56FWi
Effective regulatory frameworks for ending inappropriate marketing of breast-milk substitutes and foods for infants and young children in the WHO European Region

Overview
The Policy Brief is intended to guide Member States in the WHO European Region as they embark on the vital task of safeguarding parents and caregivers from all forms of promotion of breast-milk substitutes (BMS) and the inappropriate promotion of foods for infants and young children (IFC). Such promotion undermines optimal infant and young child feeding practices, including breastfeeding and safe and appropriate complementary feeding, placing a child’s survival, growth and development at risk. It also contributes to the growing public health problem of childhood overweight and obesity. To address these issues, Governments need to strengthen national policies and regulations to prevent inappropriate marketing of breast-milk substitutes and other food products for infants and young children.

The International Code of Marketing of Breast-milk Substitutes and subsequent Resolutions by the World Health Assembly, along with the 2018 WHO Guidance on ending the inappropriate promotion of foods for infants and young children provide the regulatory framework to put an end to unethical marketing practices. This policy brief provides the evidence for national policies and strategies to address these issues. It is intended to be a practical tool for Member States to develop and strengthen effective national policies and strategies for implementation and enforcement. The aim is to help ensure that all countries are making progress in strengthening policies and implementing effective systems for implementation and enforcement. This includes the use of a “stop sign” developed specifically for the region to demonstrate what effective regulations should look like.

Language: English

qr.codes/oW6pOI
Regional Model Law for West and Central Africa

Regulating the marketing of breastmilk substitutes, foods for infants and young children, and related feeding utensils

Language: English and French

qr.codes/F8SZAK
IBFAN Code Essentials and Model Law

IBFAN Code Essentials

Annotated International Code of Marketing of Breastmilk Substitutes and subsequent WHA resolutions
Second Edition

Guidelines for Policy Makers on Implementing the International Code of Marketing of Breastmilk Substitutes and subsequent WHA resolutions
Second Edition

Free downloads and Virtual Shop

Baby Milk Action is the UK member of the International Baby Food Action Network (IBFAN), a network of over 340 citizens' groups in more than 100 countries. In order to protect our independence and ability to speak out, we accept no commercial funding of any kind.

We are funded by membership fees, donations and the sales of a limited number of materials that are available from our VIRTUAL SHOP. Page down for notes about the materials. Thank you for helping to make our work possible.

FREE DOWNLOADS OF ICDC MATERIALS

For more than 30 years the IBFAN/International Code Documentation Centre in Penang has monitored and reported on violations of the International Code and Resolutions and assisted countries in drafting or strengthening national legislation. Following the closure of the ICDC Penang office, IBFAN's regional offices are taking up this work. Many ICDC materials are available as free downloads – see below – some hard copies are from the VIRTUAL SHOP.

- Code and Resolutions (Updated 2022)
- Code Essentials 1 (CE1) 2nd Edition
- Code Essentials 2 (CE2) Includes the Model Law 2nd Edition
- Code Essentials 3 (CE3) 2nd Edition
- Code Monitoring Kit (Update 2019)

qr.link/GHfLaA

Baby Milk Action

Shop, Membership & Donations

Code Essentials
IBFAN Website

Many resources are available on various IBFAN sites!

www.ibfan.org
Thank you!
## Breakout Room Assignments Wednesday

<table>
<thead>
<tr>
<th>Region</th>
<th>Room Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa (English)</td>
<td>Room V</td>
</tr>
<tr>
<td>French</td>
<td>Auditorium left side / Z1</td>
</tr>
<tr>
<td>Arabic</td>
<td>Room X</td>
</tr>
<tr>
<td>Asia (English)</td>
<td>Room U</td>
</tr>
<tr>
<td>America &amp; Caribbean (English)</td>
<td>D46025</td>
</tr>
<tr>
<td>Spanish</td>
<td>Room T</td>
</tr>
<tr>
<td>Europe &amp; Central Asia (English)</td>
<td>Auditorium right side / Z4</td>
</tr>
</tbody>
</table>
Coffee break
10:20 – 10:45

Group work
10:45 – 12:00

Lunch
12:00 – 13:30