IBFAN

INTERNATIONAL CODE DOCUMENTATION CENTRE

30 1981-2011 INTERNATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES

2011

STATE OF THE CODE BY COUNTRY

A commemorative issue to celebrate 30 years of the Code

A survey of measures taken by governments to implement the provisions of the International Code of Marketing of Breastmilk Substitutes & subsequent World Health Assembly resolutions

TO THE ATTENTION OF WHO & UNICEF

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This chart is based on ongoing surveys. While every effort has been taken to obtain accurate data, some information may not be completely up-to-date. ICDC welcomes updates and corrections and will incorporate them in future editions.

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Sources:
1. Government replies to ICDC survey.
2. Government reports to UNICEF Nutrition Section.
3. Reports to the World Health Assembly.
4. Data obtained by IBFAN groups.

Previous IBFAN–ICDC State of the Code by Country charts have been published in 1986, 1988, 1989, 1991, 1994, 1998, 2001, 2004, 2006 and 2009.

IBFAN

- The International Baby Food Action Network (IBFAN) is a coalition of more than 200 citizen groups in 95 developing and industrialised nations.
- IBFAN works for better child health and nutrition through the promotion of breastfeeding and the elimination of irresponsible marketing of baby foods, feeding bottles and teats.
- The Network helped to develop the International Code of Marketing of Breastmilk Substitutes and is determined to see marketing practices everywhere change accordingly.

INTERNATIONAL CODE DOCUMENTATION CENTRE

About ICDC

The International Code Documentation Centre (ICDC) was set up in 1985 to keep track of Code implementation worldwide.

- Since 1991, ICDC has been giving training courses on Code implementation to assist governments in drafting sound legislation to protect breastfeeding.
- ICDC collects, analyses and evaluates national laws and draft laws.
- ICDC also conducts Code monitoring courses and maintains a database on Code violations worldwide.
- ICDC publishes *Breaking the Rules, Stretching the Rules global monitoring report* and the *State of the Code by Country* chart every two to three years.

KEY TO CHART CATEGORIES

1. **Law:** These countries have enacted legislation or adopted regulations, decrees or other legally binding measures encompassing **all or nearly all** provisions of the International Code and subsequent WHA resolutions.
2. **Many provisions law:** These countries have enacted legislation or adopted regulations, decrees or other legally binding measures encompassing many provisions of the Code and subsequent WHA resolutions.
3. **Few provisions law:** These countries have enacted legislation or adopted regulations, decrees or other legally binding measures covering only few of the provisions of the Code or subsequent WHA resolutions.
4. **Voluntary code or policy:** In these countries the government has adopted all or most of the provisions of the Code and subsequent WHA resolutions through a voluntary code, a government policy or other non-binding measure. There are, however, no enforcement mechanisms.
5. **Some provisions in other laws or guidelines applicable to the health sector:** In these countries, the government has **i.** adopted some provisions of the Code and subsequent WHA resolutions in other laws in particular those pertaining to quality, labelling or consumer protection, or **ii.** issued directives applicable to the health sector.
6. **Some provisions voluntary:** In these countries, the government has adopted some of the provisions of the Code and subsequent WHA resolutions through voluntary measures, official guidelines or other non-binding measures.
7. **Measure drafted, awaiting final approval:** In these countries, a draft law or other draft measure exists to implement all or most of the provisions of the Code and subsequent WHA resolutions, and the draft is pending approval/adoption as a law.
8. **Being studied:** The government in each of these countries is still studying how to best implement the Code and subsequent WHA resolutions.
9. **No information/No action:** Either no information is available regarding Code implementation, or these countries have not taken any steps to implement the Code and subsequent WHA resolutions.

Code implementation worldwide

Thirty years after the Code was adopted, 77 percent of the 197 countries in this chart have taken some action to implement it. While that sounds good, monitoring and enforcement are generally still lacking in countries where either measures or legal systems are weak. Only effective national laws, properly enforced can stop baby food companies from competing with breastfeeding.

The worldwide baby food market exceeded US$31 billion in retail sales in 2008. The market is projected to grow, particularly in emerging economies, and that means that industry will no doubt fight a rear guard action against regulation. Companies pay lip service to breastfeeding but resist any strong laws that regulate the marketing of baby foods.

Food standards and advertising agencies in the UK are cracking down on health and functional claims used to promote infant foods which violate the International Code. In the US, where hitherto the International Code has been ignored, the Surgeon General issued a Call to Action to Support Breastfeeding in early 2011 which includes a recommendation for Code compliance. Such proactive steps taken by policy makers in industrialised countries bode well for Code implementation elsewhere.

The Code and infant feeding in emergencies

The spate of emergencies resulting from natural disasters and conflict situations over the past two decades show that responses often include large unsolicited donations of infant formula and feeding bottles. Although intentions are generally good, such donations can do serious harm as safe preparation of infant formula is impossible under emergency circumstances. Artificially-fed infants and young children are exposed to increased risk of disease and death. A key policy guidance document – the Operational Guidance on Infant and Young Child Feeding in Emergencies (version 2.1, February 2007) – has integrated key provisions of the International Code and WHA recommendations to help aid agencies avoid donations of breastmilk substitutes, feeding bottles and teats. They are guided instead to do a proper needs assessment, procure only limited quantities of suitable substitutes and ensure that the protection provided by breastfeeding is not disrupted during emergencies. Countries are urged by resolution WHA 63.23 [2010] to follow the Operational Guidance in their preparedness plans and emergency responses.

The Code and the Baby Friendly Hospital Initiative (BFHI)

The Baby Friendly Hospital Initiative (BFHI) aims to protect, promote and support breastfeeding in maternity care facilities. BFHI-accredited facilities create a supportive environment for mothers to breastfeed. BFHI is an important policy measure in tackling the marketing ties between health professionals and industry, as accredited hospitals may not accept free or low cost supplies of breastmilk substitutes. The concept of BFHI was revised in 2006 to include Code compliance more fully as a component for accreditation.

The Code, breastfeeding and HIV

In 2010, WHO revised guidelines on HIV and infant feeding following evidence that antiretroviral (ARV) interventions to either the HIV-infected mother or HIV-exposed infant can significantly reduce the risk of postnatal transmission of HIV through breastfeeding. Where ARVs are available, mothers known to be HIV-infected are now recommended to exclusively breastfeed for 6 months and to continue breastfeeding until 12 months of age. It is firmly laid down that counselling and support to mothers known to be HIV-infected, and health messaging to the general population, must be carefully delivered so as not to undermine optimal breastfeeding practices, especially for mothers who are free from HIV or of unknown HIV status. This accentuates the importance of applying the International Code and subsequent World Health Assembly Resolutions to ensure that breastfeeding is not undermined.

The Code and the Global Strategy on Infant and Young Child Feeding

Endorsed by the WHA in 2002, the Global Strategy identifies the Code as high priority for action by governments. They should act by implementing and monitoring existing measures or, where appropriate, strengthening them or adopting new measures. Paragraph 44 of the Strategy restricts the role of companies to meeting Codex Alimentarius standards and to ensuring that their conduct at every level conforms to the Code and subsequent WHA resolutions.

The Code and the Convention on the Rights of the Child (CRC)

The child's right to the highest attainable standard of health is enshrined in the CRC. Breastfeeding diminishes infant and child mortality, disease and malnutrition. Article 24 of the CRC requires governments to ensure that everyone is informed about the advantages of breastfeeding. Governments reviewed by the Committee on the Rights of the Child are being asked to improve breastfeeding practices, to develop pro-breastfeeding policies and to draft protective legislation including marketing laws.

Maternity protection at the workplace

Successful breastfeeding requires support in many areas and particularly at the workplace. Supportive legislation and regulations at national, local and at workplace level helps to ensure that women enjoy adequate paid maternity leave, job security as well as time during the workday for breastfeeding or for expressing breastmilk. The ILO Maternity Protection Convention 2000 (No. 183) entitles women, inter alia, to a minimum of 14 weeks paid maternity leave and lactating mothers to one or two paid breastfeeding breaks per working day.

To date 20 countries have ratified the Convention: Albania, Austria, Belarus, Belize, Bosnia and Herzegovina, Bulgaria, Cuba, Cyprus, Hungary, Italy, Latvia, Lithuania, Luxembourg, Mali, Moldova, the Netherlands, Romania, Serbia, Slovakia and Slovenia.

STATE OF THE CODE BY COUNTRY

This State of the Code by Country 2011 chart (SOC 2011) summarises the status of 197 countries in respect to the implementation of the International Code of Marketing of Breastmilk Substitutes. When the International Code was adopted thirty years ago, the World Health Assembly (WHA) stressed that breastfeeding is the only natural method of infant feeding and that it must be actively protected and promoted in all countries (WHA 34.22 [1981]). The WHA also stated in the same resolution that adoption and adherence to the International Code is a minimum requirement. Thirty years on, these statements still hold true. The Code was revisited in 14 subsequent resolutions on infant and young child nutrition. They upheld the International Code, clarified and extended certain provisions.

To commemorate the 30th anniversary of the International Code, SOC 2011 continues to grade national measures on a fixed set of criteria. The main yardsticks used are scope, ambit and enforceability. Any national measure that does not cover all breastmilk substitutes, does not prohibit promotion or is not legally enforceable will not, as a matter of principle, qualify for category 1 or 2.

In summary:

- 33 countries in **category 1** implemented most of the Code provisions as law. Afghanistan and Fiji are new. Pakistan, previously in category 2, was upgraded when rules were introduced in 2009 to give effect to the existing Ordinance.
- 34 countries in **category 2** implemented many, but not all, provisions of the Code as legally enforceable measures. New entrants to this category are Egypt and Jordan. Only two countries in Europe, Norway and Luxembourg, are in category 2. Their laws are stronger than other countries which transposed the inadequate European Directive 2006/141/EC on infant formulae and follow-on formulae into their national law.
- The 42 countries in **category 3** have mostly chosen to maintain a narrow scope. Their laws did not take subsequent WHA resolutions into account. Most EU countries are in this category. Turkmenistan is the new entrant.
- 17 countries in **category 4** have implemented the entire Code as a voluntary measure. Such measures are not legally enforceable but they can be effective if properly monitored.
- Five countries namely Algeria, Armenia, Canada, Macedonia and United Arab Emirates are in **category 5**, which caters for the few countries which incorporated parts of the Code into other laws, in particular those pertaining to labelling, quality and consumer protection. Armenia and UAE are in the process of drafting a new law.
- 23 countries have some voluntary provisions and are listed under **category 6**. Although the approach taken in **category 6** is voluntary and similar to that of **category 4**, countries in **category 6** enjoy less protection from their national measures, either due to dominant industry influence or the lack of independent monitoring mechanisms. Thailand, Hong Kong and Liberia are in the process of remedying the situation.
- 20 countries in **category 7** have draft laws. Malta, which is part of the EU, reported in April 2011 that it is in the final stages of implementing the Code. Some countries have remained in this category for many years and appear to have become complacent in relation to Code implementation.
- **Category 8** lists countries where the Code is being studied, while **category 9** is a combination of countries where there is either no information or no action.

SOC 2011 reflects how far some countries have come with Code implementation and how others still have some way to go.

Status of the Code	1 All or nearly all provisions law	2 Many provisions law	3 Few provisions law	4 Voluntary code or policy	5 Some provisions in other laws or guidelines	6 Some provisions voluntary	7 Measure drafted	8 Being studied	9 No information / no action
Asia									
Afghanistan	●								
Bangladesh		●[a]							
Bhutan				●					
Brunei						●			
Cambodia		●							
China			●[a,c]						
Hong Kong, SAR China						●[a,b]			
Macao, SAR China				●					
India	●								
Indonesia		●[a]							
Japan						●[b]			
Kazakhstan								●	
Korea, Dem. P.R. of									●
Korea, Republic of						●			
Kyrgyzstan		●							
Laos			●						
Malaysia				●[b]					
Maldives	●								
Mongolia		●							
Myanmar						●			
Nepal	●								
Pakistan	●								
Philippines	●								
Singapore						●[e]			
Sri Lanka	●								
Taiwan						●[b,e]			
Tajikistan		●							
Thailand						●[a,b]			
Timor Leste							●		
Turkmenistan			●						
Uzbekistan								●	
Vietnam		●							
Africa									
Angola							●		
Benin	●								
Botswana	●								
Burkina Faso		●							
Burundi							●		
Cameroon	●								
Cape Verde	●								
Central African Rep.									●
Chad							●		
Comores							●		
Congo, Dem. Rep. of		●							
Congo, People's Rep. of							●		
Côte d'Ivoire							●		
Equatorial Guinea									●
Eritrea								●	
Ethiopia			●[d]						
Gabon	●								
Gambia	●								
Ghana	●								
Guinea			●[d]						
Guinea-Bissau			●						
Kenya				●[d]					
Lesotho							●		
Liberia						●[d]			
Madagascar	●								
Malawi		●							
Mali		●							
Mauritania								●	
Mauritius						●			
Mozambique	●								
Namibia							●		
Niger		●							
Nigeria		●							
Rwanda							●		
São Tomé & Príncipe							●[d]		
Senegal		●							
Seychelles		●							
Sierra Leone							●		
Somalia									●
South Africa				●[d]					
Swaziland				●[d]					
Tanzania	●								
Togo							●		
Uganda	●								
Zambia		●							
Zimbabwe	●								
M. East & N. Africa									
Algeria					●				
Bahrain	●								
Djibouti		●							
Egypt		●							
Iran		●							
Iraq							●		
Jordan		●							
Kuwait			●						
Lebanon	●								
Libya			●						
Morocco						●[d]			
Oman		●							
Palestine				●					
Qatar			●						
Saudi Arabia		●							
Sudan			●						
Syria		●							
Tunisia		●							
United Arab Emirates					●[d]				
Yemen	●								

Status of the Code	1 All or nearly all provisions law	2 Many provisions law	3 Few provisions law	4 Voluntary code or policy	5 Some provisions in other laws or guidelines	6 Some provisions voluntary	7 Measure drafted	8 Being studied	9 No information / no action
Oceania									
Australia				●[b]					
Cook Islands						●			
Fiji	●								
Kiribati						●[d]			
Marshall Islands						●			
Micronesia							●		
Nauru									●
New Zealand				●[b,e]					
Palau	●								
Papua New Guinea			●						
Samoa						●[d]			
Solomon Islands								●	
Tonga				●					
Tuvalu									●
Vanuatu						●			
Americas									
Antigua & Barbuda									●
Argentina		●							
Bahamas						●			
Barbados				●					
Belize						●			
Bolivia		●							
Brazil	●								
Canada					●				
Chile				●[b]					
Colombia		●[a]							
Costa Rica	●[a]								
Cuba			●						
Dominica				●					
Dominican Republic	●								
Ecuador				●[b]					
El Salvador							●		
Grenada						●			
Guatemala	●								
Guyana				●					
Haiti							●		
Honduras				●					
Jamaica				●					
Mexico		●							
Nicaragua		●							
Panama	●								
Paraguay			●						
Peru	●								
Puerto Rico, C'wealth of			●						
St Kitts & Nevis						●			
St Lucia						●			
St Vincent						●			
Surinam									●
Trinidad & Tobago			●[c]						
[i] United States									●
Uruguay		●							
Venezuela	●								
Europe									
Albania	●								
Armenia					●[d]				
*Austria			●						
Azerbaijan		●							
Belarus								●	
*Belgium			●						
[ii] Bosnia & Herzegovina							●[b,c]		
*Bulgaria			●						
Croatia							●		
*Cyprus			●						
*Czech Republic			●						
*Denmark			●						
*Estonia			●						
*Finland			●						
*France			●						
Georgia	●								
*Germany			●						
*Greece			●						
*Hungary			●						
Iceland									●
*Ireland			●						
Israel			●						
*Italy			●						
Kosovo							●		
*Latvia			●						
Liechtenstein									●
*Lithuania			●						
*Luxembourg		●							
Macedonia					●				
*Malta							●		
Moldova									●
Monaco									●
Montenegro									●
*Netherlands			●						
Norway		●[c]							
*Poland			●						
*Portugal			●						
*Romania			●						
Russian Federation								●	
Serbia		●							
*Slovakia			●						
*Slovenia			●						
*Spain			●						
*Sweden			●[c]						
Switzerland						●[b,e]			
Turkey			●[d]						
Ukraine								●	
*United Kingdom			●[c]						

IBFAN SCALE
The Code in 197 countries

33
Law

34
Many provisions law

42
Few provisions law

17
Voluntary code

5
Some provisions in other laws

23
Some provisions voluntary

21
Measure drafted

8
Being studied

14
No information/ No action

● Categories highlighted in green denote countries which straddle more than one category. Their sub-categories are indicated by small letters. See Notes below.

Notes

a. Country is revising existing measure.
b. Country also has adopted some provisions as law.
c. Country also has a voluntary code or policy.
d. Country also has a draft law or other measure.
e. Industry code

Legends

* These countries belong to the EU and are required to align their laws with the 2006 EU Directive on Infant Formulae and Follow-up Formulae or adopt stronger measures. Most reported that they have implemented the 2006 EU Directive which does not meet the minimum standards of the Code and resolutions.

i Partial implementation in Massachusetts and New York State.

ii Part of Bosnia & Herzegovina, Republika Srpska has an autonomous legal system which adopted the Code as a code of conduct and part of the Code as a decree.