STATE OF THE CODE BY COUNTRY

2018

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 WHA DELEGATES & MoH

INTERNATIONAL CODE DOCUMENTATION CENTRE

IBFAN

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This chart is based on ongoing surveys. While every effort has been made 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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Previous ***State of the Code by Country*** charts were published in 1986, 1988, 1989, 1991, 1994, 1998, 2001, 2004, 2006, 2009, 2011, 2014 and 2016.

IBFAN

About IBFAN

The International Baby Food Action Network (IBFAN) was founded in October 1979 and is now a coalition of 273 citizen groups in 168 developing and industrialised nations.

- IBFAN works for better child health and nutrition through the promotion of breastfeeding and the elimination of irresponsible marketing of infant foods, bottles and teats.
- The Network helped to develop the WHO/UNICEF Code of Marketing of Breastmilk Substitutes and is determined to see marketing practices everywhere change accordingly.
- IBFAN has successfully used boycotts and adverse publicity to press companies into more ethical behaviour. IBFAN also helps to promote and support breastfeeding in other ways.

INTERNATIONAL CODE DOCUMENTATION CENTRE

About ICDC

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

- ICDC collects, analyses and evaluates national laws and draft laws.
- ICDC also conducts courses on Code implementation and Code monitoring. It maintains a database on Code violations worldwide.
- From 1991 to 2017, ICDC trained over 2000 government officials from 148 countries in drafting sound legislation to protect breastfeeding.
- ICDC publishes a global monitoring report, *Breaking the Rules, Stretching the Rules* and a *State of the Code by Country* chart every 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, directives, 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 no enforcement mechanisms.
5. **Some provisions in other laws or guidelines applicable to the health sector:** In these countries,
   i) the government has 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) the government has directives applicable to the health sector only.
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. **No Measure:** These countries have not taken any steps to implement the Code and subsequent WHA resolutions.

Code implementation worldwide

In total, 85% of 198 countries have taken some action to implement the International Code of Marketing of Breastmilk Substitutes and subsequent relevant World Health Assembly (WHA) resolutions (collectively: The Code). While this may be an impressive percentage, the quality of national measures is uneven and problems with monitoring and enforcement persist. The global formula milk market was worth $44.8 billion in 2014 and is set to reach $70.6 billion by 2019 (Euromonitor 2015), making the baby food market the fastest growing food sector. Companies are aggressive in pushing sales to increase their foothold in lucrative markets. Breastfeeding and infant health are negatively impacted as a result. Realising this, some countries took steps to review existing Code measures. This should be a positive development but with few exceptions, national measures that were not first rate to begin with, ended up eroded. The powerful baby food industry is able to wield its influence to obstruct any fresh or renewed national attempt to curtail its marketing practices. In a battle of might between trade and health, the former invariably wins to the detriment of infant and young child health.

The policy making space for public health is increasingly opened to business interests through Public Private Partnerships, multistakeholder initiatives (PPPs/MSIs) and other close relationships with industry. Through PPPs/MSIs, industry is given a platform to participate in policy-making processes which very often result in the weakening of Code measures. Monitoring, law enforcement and the political will to act are weakened, undermined or eroded when governments are unable to withstand industry challenges and threats. It is against this discouraging background that 37 years after the Code was adopted by the WHA, aggressive marketing of breastmilk substitutes is still undermining efforts to protect the health of babies. The 2016 Lancet Breastfeeding Series reminds us about the importance of breastfeeding to the health and wealth of families and nations alike. There is every reason to adopt stricter measures that give effect to the Code and to monitor and enforce existing ones.

The Code and Trade

Although measures to protect health are legitimate policy objectives under all WTO agreements, the argument is often advanced that translating the Code into strong national laws will not be WTO compliant. Countries should not be discouraged by this argument. What they need to show is that even though their national Code measures have the effect of limiting trade, they are applied equally to foreign and domestic products and that less restrictive measures cannot meet their health objectives. More concerning than WTO are the new generation of mega regional trade agreements. These trade agreements have dispute settlement clauses which confer upon businesses the power to stop governments from using regulations to protect health if such laws are against their business interest. Other clauses that could impact on public health regulations include those relating to technical barriers to trade and intellectual property. Industry uses such agreements to argue against strong Code measures causing a regulatory standstill in many countries. It must be stressed that these agreements do not negate existing WTO rules which recognise public interest laws based on internationally adopted standards.

Additionally, Code implementation has been identified as an area of opportunity for positive "policy coherence" between trade and health. In this respect, WHO, as the parent UN body for the Codex Alimentarius, should continue its efforts to bring the whole Codex process more into line with WHO and FAO policy. Currently Codex meeting are wide open to undue commercial influence with manufacturers of highly processed foods and supplements and their front groups constituting 40% of Codex nutrition meetings.

The Global Strategy on Infant and Young Child Feeding

Adopted by the WHA and the UNICEF Executive Board in 2002, it identifies the Code as an area of high priority for action by governments and calls on them to monitor existing measures, strengthen them or adopt new ones. The Global Strategy provides a protective framework and its Paragraph 44 restricts the role of companies to meeting Codex standards and to ensuring that their conduct at every level conforms to the Code and subsequent WHA resolutions.

The Code and the Baby Friendly Hospital Initiative (BFHI)

BFHI was launched in 1991 by WHO and UNICEF and it is a key initiative to ensure continuous support for breastfeeding within the health care system. The foundation of BFHI is the "Ten Steps to Successful Breastfeeding". While full application of the Code and the WHA resolutions has been a major component of the BFHI, it was not part of the original Ten Steps. The latest revision of the Ten Steps in 2018 formally incorporates the requirement to comply with the Code and WHA resolutions into Step 1 as part of the infant and young child feeding policies. BFHI facilities must now have, among other things, a policy that describes how it abides by the Code, including procurement of breastmilk substitutes, not accepting support or gifts from producers or distributors of products covered by the Code and not giving samples of breastmilk substitutes, feeding bottles or teats to mothers.

The Code and Human Rights

The child's right to the highest attainable standard of health, achievable through breastfeeding, is enshrined in the Convention on the Rights of the Child (CRC) (Article 24). Governments reviewed by the Committee on the Rights of the Child are being asked to create the enabling environment women need to breastfeed optimally. This includes legislation to control marketing. In 2013, the CRC Committee released General Comments No.15 and 16 that specifically urge State Parties to implement the Code and for industry to fully comply with it. In 2016, the Committee on the Elimination of Discrimination against Women followed suit by issuing CEDAW General Recommendation No. 34 which calls on State Parties to implement and monitor the Code for effective regulation of marketing of breastmilk substitutes. Also in 2016, the UN Office for the High Commission of Human Rights declared that breastfeeding is a humans rights issue for both mothers and children and should be protected and promoted for the benefit of both.

Maternity protection

Successful breastfeeding requires support and protection, particularly at the workplace. Supportive legislation helps to ensure that all working women enjoy adequate paid maternity leave, job security and non-discrimination as well as breastfeeding breaks. The ILO Maternity Protection Convention 2000 (No.183) entitles women, to inter alia, a minimum of 14 weeks paid maternity leave and lactating mothers to one or two paid breastfeeding breaks per working day. The ILO Safety and Health in Agriculture Convention 2001 (No. 184) specifically addresses the special needs of women agricultural workers in relation to breastfeeding. To date, Convention 2000 (No.183) has been ratified by 34 countries; Convention 2001 (No.184) by 16 countries.

STATE OF THE CODE BY COUNTRY

The International Code Documentation Centre (ICDC), IBFAN's global programme office for Code implementation and monitoring, collects information on national Code implementation. Every two years since 1986, ICDC has been publishing this State of the Code Chart. ICDC has undertaken this exercise independently, with the help of IBFAN regional coordinating offices (RCOs) and national IBFAN groups, and occasionally through information sharing with UNICEF.

As of 2016, WHO and UNICEF have started cooperating with ICDC to collect and review national measures adopted by countries. This cooperation allows all three organisations to gain access and share data that hitherto were unavailable, thus enabling all to fill in missing or incomplete information. New assessment tools from WHO provides ICDC the opportunity to re-examine national measures. After verification with RCOs, we were able to achieve consensus with WHO and UNICEF on the state of the Code in many countries. This works in particular for countries with dedicated Code legislation. ICDC has, however, maintained its tradition of assessing and classifying countries with national measures other than laws. This is where this Chart differs from the joint WHO/UNICEF/IBFAN report which only records legislative measures, not voluntary ones or national policies.

There are changes made to the position of some countries after the recent reassessment. Some countries were upgraded, others downgraded because existing measures have not caught up with subsequent World Health Assembly resolutions and are no longer able to keep up with prevailing marketing practices. Changes have also been introduced to the categorisation of the different types of measures taken to better reflect the actual status of countries close to 40 years after the Code was introduced.

Countries whose positions shifted as a result of reassessment and re-categorisation are listed below together with the justifications for the shifts.

Upgraded because legislation meets new assessment criteria - Colombia – 3 to 2. Downgraded because existing legislation fails to meet new assessment criteria: Argentina 2 to 3, Cameroon 1 to 2, Canada 5 to 8, Costa Rica1 to 2, Cuba 3 to 5, Guatemala 1 to 2, Guinea 3 to 9, Iran 2 to 3, Israel 3 to 9, Kenya 1 to 2, Oman 2 to 3, Monaco 9 to 3, Nicaragua 2 to 3, Niger 2 to 3, Rwanda 5 to 2, Senegal 2 to 3, Trinidad and Tobago 3 to 5, Solomon Islands 5 to 3, Uruguay 2 to 3.

New/additional* measure adopted since the last ICDC Chart in 2016: Bangladesh* 2 to 1, Chile* 5 to 3, Ethiopia 4 to 3, Mongolia 2 (unchanged), Thailand 6 to 2, Hong Kong 6 to 4.

Repeal/Amendments^: China 3 to 5, Fiji^ 1 to 2.

New information: Belarus 9 to 5, Monaco 9 to 3, Guinea 3 to 8.

There are still countries that have done nothing while some have taken retrogressive steps. These include the United States and China, the two biggest economies. This Chart gives place to special administrative areas and territories with large populations and Code measures of their own. Under this current reassessment, we now have information on all countries.

The keys to the categories in this chart are shown overleaf.

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

Status of the Code	Law	Many provisions law	Few provisions law	Voluntary Code or Policy	Some provisions in other laws or guidelines	Some provisions voluntary	Measure drafted	No Measure	No information
Europe	1	2	3	4	5	6	7	8	9
Albania	●								
Armenia	●								
*Austria			●						
Azerbaijan		●							
Belarus					●				
*Belgium			●						
**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			●						
*Poland			●						
*Portugal			●						
*Romania			●						
***Russian Federation					●				
Serbia		●							
*Slovakia			●						
*Slovenia			●						
*Spain			●						
*Sweden			●						
Switzerland			●[e]						
Turkey			●						
Ukraine					●				
*United Kingdom			●						
Americas	1	2	3	4	5	6	7	8	9
Antigua & Barbuda								●	
Argentina			●						
Bahamas						●			
Barbados				●					
Belize						●			
Bolivia	●								
Brazil	●								
Canada								●	
Chile			●						
Colombia		●							
Costa Rica		●							
Cuba					●				
Dominica				●					
Dominican Republic	●								
Ecuador			●						
El Salvador		●							
Grenada						●			
Guatemala		●							
Guyana				●					
Haiti							●		
Honduras			●						
Jamaica				●					
Mexico		●[c]							
Nicaragua			●						
Panama	●								
Paraguay			●						
Peru	●								
Puerto Rico, C'wealth of			●						
St Kitts & Nevis						●			
St Lucia						●			
St Vincent						●			
Surinam								●	
Trinidad & Tobago					●[c]				
United States								●	
Uruguay			●						
Venezuela	●								
Oceania	1	2	3	4	5	6	7	8	9
Australia				●[b]					
Cook Islands						●			
Fiji		●							
Kiribati						●[d]			
Marshall Islands						●			
Micronesia							●		
Nauru								●	
New Zealand				●[b,f]					
Palau	●								
Papua New Guinea			●						
Samoa						●[d]			
Solomon Islands			●						
Tonga				●					
Tuvalu								●	
Vanuatu						●			

IBFAN SCALE
The Code in 198 countries

Indonesian IBFANer Meliana Tjia with Micha, exclusively breastfed.

36 Law

31 Many provisions law

61 Few provisions law

12 Voluntary Code or Policy

13 Some provisions in other laws or guidelines

17 Some provisions voluntary

12 Measure drafted

16 No measure

Legend ●

Categories highlighted in blue 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 has adopted some Code provisions in other laws or guidelines.
c. Country also has a voluntary code or policy.
d. Country also has a draft measure.
e. Country also has an industry code.
f. Industry Code.

** These countries are part of the European Union (EU) and are classified under category 3 (few provisions law) as they are governed by EU Regulation 609/2013 - which came into effect on 20 July 2016. Article 11 of the Regulation empowers the Commission to adopt Delegated Acts. Commission Delegated Regulation (EU) 2016/127 (DR) will replace Commission Directive 2006/141/EC as of 22 February 2020. Under Article 10 (1) of the DR, Member States may further restrict or prohibit advertising of infant formula. Member States will have to adopt additional legislation for enforcement.*

Following the European Economic Area Agreement, the positions of Iceland, Liechtenstein and Norway are aligned with the EU.

EU legislation, while weak on marketing of products over 6 months, does have important safeguards relating to Food Safety, such as the Precautionary Principle and Risk Assessment. It has also adopted new rules on the classification of Foods for Special Medical Purposes which could help stop the exploitation of this group of products.

*** Apart from regulations adopted at the central level that are aligned with EU directives, the entity of Republika Srpska, through its autonomous legal system, has adopted the Code as a decree. The Federation of Bosnia and Herzegovina, a separate entity, has a voluntary Code in place.*

**** The Code is given partial effect in the region of Volgograd.*

Sources

1. Government replies to ICDC survey.
2. UNICEF Nutrition Section.
3. Department of Nutrition for Health and Development, WHO.
4. World Breastfeeding Trends Initiative Reports, IBFAN Asia.
5. Data obtained by IBFAN groups and regional coordinators.