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## GLOBAL COUNCIL

November 3, 2021

Honorable Justices of the Second Chamber  
Mexican Supreme Court

**Subject: Review of the appeal of unconstitutionality 358/2022**

MEMBERS

Dr Marcos Arana  
Co-Chair  
IBFAN Mexico

Nomajoni  
Ntombela  
Co-Chair,  
IBFAN Africa

Elisabeth Sterken  
IBFAN North  
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Ines Fernandes  
IBFAN SE Asia

Patti Rundall  
Baby Milk Action  
IBFAN UK

The International Baby Food Action Network (IBFAN) has been made aware that writ of unconstitutionality is under discussion in the Supreme Court that regards the Mexican front-of-pack warning label. This letter is to acknowledge IBFAN's support for the existing Mexican warning label, that we consider to be an important public health tool and a model that we are promoting in our advocacy.

IBFAN is a 43-year old network, comprised of 148 public interest groups working in 108 countries to protect, promote and support breastfeeding and culturally appropriate, biodiverse young child feeding practices. Our members are active at national level and within the United Nations system, including at the World Health Assembly, Codex Alimentarius, the Committee on Food Security and the Committee on the Convention on the Rights of the Child, advocating policies that bring an end to predatory marketing practices and ensure that mothers and their families are not misled.

We are aware of the strong evidence-base showing the effectiveness of the warning label system that was first adopted in Chile and now in effect in Mexico. It is clear that this system is much more effective than the traffic-light or GDA systems in informing consumers about high levels of sugars, fats or sodium in products, products that are all too often ultra-processed, with all the attendant risks. It is heartening that so many other countries – Peru, Israel, Uruguay, Mexico and soon Brazil, Colombia and Argentina – are now implementing warning labels and that Canada and various countries, including in the Caribbean, may soon follow. We are pleased that warnings have been recommended by UNICEF and the Pan-American Health Organization.

We find it highly concerning, though perhaps not surprising, to learn that the food and beverage industry is attempting to delay implementation and place doubt on the effectiveness of Mexico's front-of-pack warning labels. Such tactics have parallels with the opposition that we have faced in our work to strengthen regulations on the marketing of baby feeding products, where the baby food industry uses the six tobacco industry tactics to undermine political will to adopt strong legislation: (1) maneuvering to hijack the political and legislative process; (2) exaggerating economic importance of the industry; (3) manipulating public opinion to gain appearance of respectability; (4) fabricating support through front groups; (5) discrediting proven science; and (6) intimidating governments with litigation.”

The food industry and exporting countries also use Codex standards and trade ‘agreements’ to challenge governments who wish to strengthen national legislation to protect health. Indeed, we understand that between 1995 and 2019, there were 245 interventions made in the WTO concerning commercial milk formula marketing, labelling or safety testing regulations of another member state.

We believe it is paramount to protect policies such as the front-of-pack warning label from such attempts—which is based on evidence free of conflict of interest, and was developed through an inclusive and transparent, government-led process—from threats from commercial actors.

Considering the above, IBFAN would like to show its full support of the existing Mexican warning label and acknowledge its importance to guarantee the rights to health and children’s rights in Mexico. We support a resolution in the Second Chamber of the Mexican Supreme Court in favor of the existing warning label.



Patti Rundall, OBE

En nombre del Consejo Global de IBFAN

Dr Marcos Arana and Nomajoni Ntombela (Co Chairs), Elisabeth Sterken and Ines Fernandez

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1 Arrúa A, Machín L, Curutchet MR, Martínez J, Antúnez L, Alcaire F, et al. (2017). Warnings as a directive front-of pack nutrition labelling scheme: comparison with the Guideline Daily Amount and traffic-light systems. *Public Health Nutr* 2017; 20(13):2308-17.

2 Organización Panamericana de la Salud/Organización Mundial de la Salud (OPS/OMS), Fondo de las Naciones Unidas para la Infancia (UNICEF). Un etiquetado nutrimental frontal claro y de fácil comprensión protege a niñas, niños y adolescentes en México, 2019.

3 Interference in public health policy: examples of how the baby food industry uses tobacco industry tactics. *World Health Nutrition*. <https://worldnutritionjournal.org/index.php/wn/article/view/155>

4 Russ K, Baker P, Byrd M, et al. What you don’t know about the Codex can hurt you: how trade policy trumps global health governance in infant and young child nutrition. *International Journal of Health Policy and Management* 2021; 10(12): 983-97. Baker et al. *Globalization and Health* (2021) 17:58. Advocacy at Work During the Codex Committee on Food Labelling Meeting