



Industry funding channelled through health professional bodies, such as ESPGHAN, weaken Codex standards

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Poor conflicts of interest and transparency safeguards have had a profound weakening effect on the trading standards adopted by the [Codex](#) Alimentarius Commission and subsequently on the scope of national laws

Codex is a joint UN body created in 1963 by the WHO and FAO with the dual mandate of protecting consumers' health and ensuring fair practices in the food trade. Its texts are widely used as a basis for national food legislation and as a benchmark in trade disputes. Because so many Codex standards are less health protective than WHO requirements, numerous challenges have been made in the World Trade Organisation, alleging that national laws on formula marketing are too restrictive and are unjustified barriers to trade.ⁱ The fear of such challenges has had a chilling effect on code legislation and essential infant and young child health protection the world over.

It's a matter of record that food industry representatives comprise 70% of non-state observers (without voting rights) and 28% of the member state delegations (with voting rights) in the [Codex Committee on Nutrition](#), greatly outnumbering independently funded civil society groups such as IBFAN. Less well known is the influence of health professional associations such as the [European Society for Paediatric Gastroenterology Hepatology and Nutrition](#) (ESPGHAN). ESPGHAN receives at least 43% of its income from the food industry and its conferences and participants are substantially sponsored by the leading baby food manufacturers. Over the years several ESPGHAN interventions have contributed to the weakening of standards in critically important areas.^{ii iii iv v}

Once the Code was adopted in 1981, the baby food industry's tactic was to create less refined formulas for older babies that could circumvent the restrictions of the Code and be marketed freely. By 1986, alarm bells had been raised by NGOs and health bodies and WHA Resolution 39.28 was passed, warning Member States that the *"specially formulated milks (so-called 'follow-up' milks) [are] not necessary."* Despite this, and with ESPGHAN in support, the Codex Standard for Follow-up Formula was adopted in 1987, with minimal marketing or composition safeguards and a statement that follow-up formulas *"are not breast-milk substitutes and shall not be presented as such."*^{vi} This bad standard led to many countries, including the EU, limiting the scope of their regulations to 'infant formula' rather than to all products covered by the Code's scope and to the fuelling of the global market for an ever-expanding range of harmful ultra-processed products.

In 2023, after 11 years of tortured negotiations, a revised Standard was finally adopted. The standard still contains many problematic weaknesses however its Preamble includes a clear reference to the *International Code*, the WHA resolutions and WHO Guidelines.^{vii viii} This reference to the Code will remove an important obstacle to the prohibition of all commercial promotion of these products.

At several key points, ESPGHAN continued to defend and/or not oppose industry positions, for example arguing that a prohibition of flavours would put the products at a disadvantage to 'less good' products that don't meet Codex standards. WHO, UNICEF, IBFAN, many Member States and the EU (representing 27 countries) argued for the prohibition on health grounds. [that the products function as breastmilk substitutes and the lack of technological justification for their addition]. In this way, the baby food industry, through ESPGHAN, prevented consensus on a critically important marketing strategy that will lead parents to believe that these risky products are somehow as healthy as fruit.^{ix}

With several baby food standards in the Codex portfolio that are not fit for purpose, Member States and health advocates must ensure that the scope of national legislations keeps pace with marketing developments, and covers all the ultra-processed cross-branded products that mislead parents and carers.^x Although governments have the sovereign right to adopt any legislation they consider necessary to protect child health (provided they follow international trade principles) there needs to be much stronger advocacy for policy coherence in all Codex texts to avoid triggering costly, time-consuming challenges.

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ⁱ Baker, P., Russ, K., Kang, M. *et al.* Globalization, first-foods systems transformations and corporate power: a synthesis of literature and data on the market and political practices of the transnational baby food industry. *Global Health* **17**, 58 (2021). <https://doi.org/10.1186/s12992-021-00708-1>

ⁱⁱ ESPGHAN Governance & Regulation <https://www.espghan.org/our-organisation/governance-and-regulation>
https://espgghancongress.org/?utm_source=google&utm_medium=paidsearch&utm_campaign=registration&gad_source=1&gclid=Cj0KCQjwLzixBhCoARIsAIC745C7kiHIE5q3EpEp8CUWd6dF898GECNM4dL1QYEetRjci84zPehLA8aAoXEEALw_wcB
Confirmed sponsors <https://espgghancongress.org/confirmed-sponsors-exhibitors/>

ⁱⁱⁱ The 1987 [Codex Standard for Follow-up Formula](#) CODEX STAN 156-1987 (amended 1989) has been especially problematic because it states that follow-up formulas "*are not breast-milk substitutes and shall not be presented as such.*"

^{iv} *Chronology of the Code in EU legislation* <https://www.babymilkaction.org/archives/21087/baby-milk-action-ibfan-uk-eu-chronology-2>

^v 2006. *EU and US block Thailand's proposal to reduce sugar in baby foods* FAO/WHO Codex Nutrition Committee (CCFSNDU) Chiang Mai, Thailand, 3rd November 2006. [Codex PR 2006](#) <https://www.babymilkaction.org/wp-content/uploads/2022/08/Codex-PR-2006.pdf>

^{vi} The 1987 [Codex Standard for Follow-up Formula](#) CODEX STAN 156-1987 (amended 1989) has been especially problematic because it states that follow-up formulas "*are not breast-milk substitutes and shall not be presented as such.*"

^{vii} **CODEx GREEN-LIGHTS WASTEFUL, SWEETENED, ULTRA-PROCESSED DRINKS FOR OLDER BABIES**

<https://www.ibfan.org/codex-green-lights-wasteful-sweetened-ultra-processed-drinks-for-older-babies/>

^{viii} **STANDARD FOR FOLLOW-UP FORMULA FOR OLDER INFANTS AND PRODUCT FOR YOUNG CHILDREN* CXS 156-1987**

Preamble: The application of this Standard should be consistent with national/regional health and nutrition policies and relevant national/regional legislation and take into account the recommendations made in the International Code of Marketing of Breast-milk Substitutes, as per the national/regional context. Relevant World Health Organization (WHO) guidelines and policies and World Health Assembly (WHA) resolutions were considered in the development of this Standard and may provide further guidance to countries.

^{ix} A compromise sentence was adopted: *National or regional authorities may restrict or prohibit the use of the listed flavourings.*

^x [Beliefs and Norms Associated with the Use of Ultra-Processed Commercial Milk Formulas for Pregnant Women in Vietnam.](#)
<https://www.mdpi.com/2072-6643/13/11/4143>