



**Investigation of Complaints Regarding Compliance with the
WHO Code of Marketing of Breast-milk Substitutes**

December 2004

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REPORT

Summary

Prior to the May 2004 World Health Assembly, the International Baby Food Action Network (IBFAN) released to the public a document entitled "Breaking the Rules, Stretching the Rules 2004, regarding alleged infringements of the WHO Code of Marketing of Breast milk Substitutes.

Nestlé investigates all allegations of WHO Code violations where adequate information is present, in order to assure our compliance with the Code and to take action when justified. Thus, we have done our utmost to investigate the validity of the alleged infringements in the IBFAN report.

This is part of a multi-faceted Nestlé program to assure compliance with the WHO Code, including detailed instructions on code implementation, ongoing staff training in the WHO Code, management review of adherence, systematic auditing by the corporate auditing team, an internal Ombudsman to handle complaints by "whistleblowers" and external audit procedures when deemed appropriate.

In those instances where alleged infringements are found to be valid, swift remedial action is taken.

Out of the 200 alleged infringements related to Nestlé in the IBFAN document, 81 did not have adequate detailed information to investigate. Nestle therefore asked the IBFAN international headquarters to provide further information to allow a proper investigation: They were able to provide additional clarification for 33 of those 81, and thus 48 could not be subjected to verification.

We have carried out a detailed and careful investigation of all IBFAN's allegations and have used the criteria laid out by the International Code of Marketing of Breast milk Substitutes and national legislation wherever these exist. Detailed tables containing information on each allegation are available in Annex 1.

In addition, an external audit was conducted in Thailand, where a large number of allegations were made. A summary of the audit is contained herein. The full report is available in Annex 3.

Of the 200 allegations, 17 cases of product information for health professionals, 4 mistakes in labelling of infant cereals, 2 marketing cases in Armenia, and 1 advertisement in Lithuania were confirmed and are being corrected or had been corrected before the IBFAN survey.

The table below summarizes the results of the examination of the 200 alleged infractions, and the remedial action taken where needed

17	Editing/Design changes needed on product information material for health professionals. A change has been made or the leaflets are no longer in use.
4	Mistakes in labelling and communication of complementary foods, e.g. infant cereals. Changes made before the publication of the IBFAN Report (May, 2004).
2	Armenian cases dealing with translation and shop display problem. Corrective actions taken.
1	Advertisement of follow on formula published in a Lithuanian baby care magazine in 2001 and 2002, against local legislation in place since 2000. The ad was immediately stopped when the mistake was discovered. This case is the only confirmed violation.
88	Cases dealing with activities permitted under the WHO Code, predominantly marketing of baby food and cereal products for infants over 6 months of age and not covered by the Code. Not valid, no action taken
40	Mistaken data, described situation had not occurred.
48	Inadequate information to investigate.
200	Total

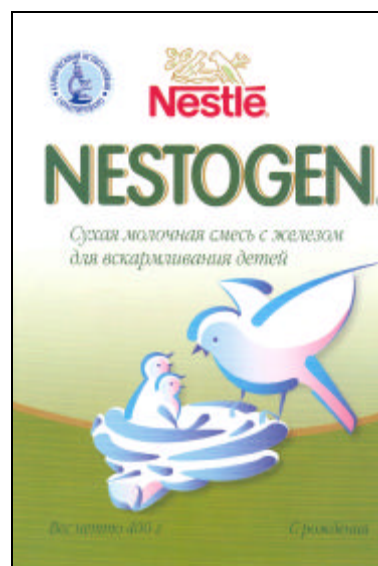
Results

Confirmed Oversights / Mistakes

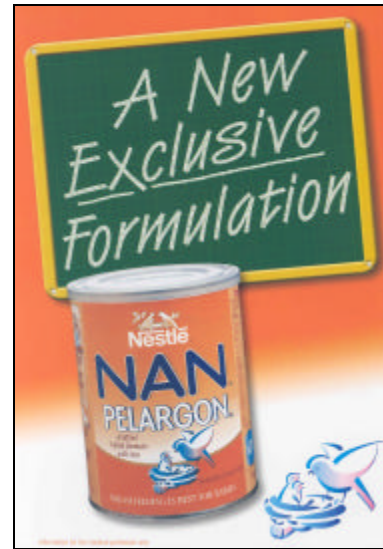
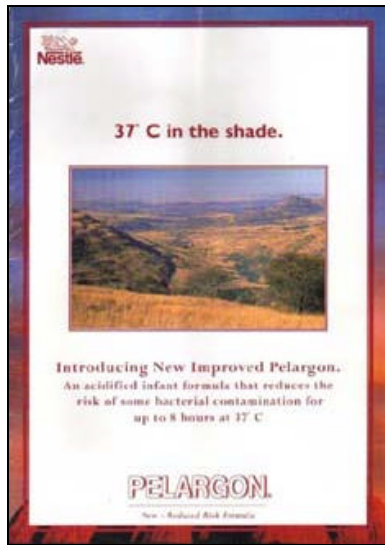
- **17 cases of information leaflets to health professionals and labels** of infant formulas were found where the design and editing needed to be improved. Most of these cases were minor changes and we have tightened the editing and design control to avoid style or illustration that does not reflect the scientific content enough. All these leaflets are now changed or are no longer distributed.

Examples:

COUNTRY	ALLEGATION	FACTS
Georgia and Russia	Leaflets promoting NESTOGEN infant formula featuring a pack shot of the product and a huge bottle and teat are found in health facilities, shops and pharmacies.	The comment refers to a brochure designed for medical professionals, and includes all information required by the WHO Code. Nestlé distributes such material only to health professionals. The brochure has not been used since end 2002. As of 2003 there is no bottle on the information material. (See in pictures below).



COUNTRY	ALLEGATION	FACTS
Botswana	A leaflet "37°C in the shade" claims that by using PELARGON "diarrhoea and its side effects are counteracted" but fails to explain the risks involved in artificial feeding where water is unsafe.	This leaflet has not been used since 2001. It was not destined to the general public or mothers, but only to health professionals who can have a discerning reading of the content. The scientific information provided was backed up by researches. All the important notices recommended by the WHO Code were also mentioned. However, we have ourselves decided to exert a closer control of our informational materials for health professionals to avoid style or illustration that does not adequately reflect a scientific tone. (The new design is shown in the next page)



COUNTRY	ALLEGATION	FACTS
Armenia	Nan and NESTOGEN carry images of a large feeding bottle on the label, thus promoting the culture of bottle-feeding. (Bottles on labels are only allowed for illustrating the method of preparation).	In mid 2003, labels were changed to eliminate images of bottles on any products imported to Georgia or Armenia. It might be possible that NESTOGEN products with old labels were still found in some pharmacies in regional cities. Sales people are instructed to change the product if any old labels are detected.



- 4 cases were related to labelling and communication of complementary foods for introduction at 6 months of age, for example a discrepancy between the labelling of the product (6 months) and the labels of the outer package (4 months). Those cases had been corrected before the publication of the IBFAN Report (May, 2004), however old labels could still be found on the store shelves.

Example of communication:

COUNTRY	ALLEGATION	FACTS
Indonesia	A community service billboard in Indonesia reminds mothers to send their babies to the community health centre and at the same time, advertises Nestlé milk porridge at four months with the slogan "Growing Moments, Nestlé Moments".(April 2003)	This billboard had been placed before our change in policy regarding the limit of 6 months of complementary food marketing and new billboards are now in place (see below). In early 2003, we began changing Nestlé Baby Cereals billboards to recommend use for babies over 6 months. The change, which reflects Nestlé's commitment to support exclusive breastfeeding for the first 6 months, was also made to product labels. Nestlé is the only company in Indonesia that has voluntarily implemented the World Health Assembly's Resolution 54.2 on exclusive breastfeeding.



- **2 cases in Armenia**, where Nestlé operates through a local distributor, were found to be valid. In one case, a word on an **infant formula label was not correct translated from Russian to Armenian. This label has been corrected.** In the other case, **infant formula was displayed in a shop, together with infant cereals, in what could be viewed as a special display.** This is not in keeping with Nestlé Instructions. As IBFAN has not been able to clarify where this happened it is impossible to say whether it was done as an initiative by the shop or by the distributor. This case have already been brought up to the distributor and made clear that it is not allowed.

Confirmed violation:

- 1 allegation related to an **advertisement of follow on formulas in a Lithuanian** baby care magazine in 2001 and 2002, against local legislation in place since 2000 The ad was immediately stopped when the mistake was discovered.

Cases confirmed not being violations:

- **88 cases** were found to be **in compliance with the WHO Code, or in the case of European Union, US and other developed countries, their national implementation of the Code.** Of these, 64 have to do with infant cereals marketed above 6 months of age.

Examples:

COUNTRY	ALLEGATION	FACTS
Botswana	In an amazing flyer obtained on a city bus in Gaborone, Botswana, Nestle violates every article of the Code by showing that it does not! * Upon complaint, Nestlé claims that these leaflets were used to “educate their distributors and salespeople in South Africa.”	This in fact relates to Nestlé South Africa's educational materials aimed at distributors to raise awareness of the WHO Code. The WHO Code indeed recommends "manufacturers and distributors should apprise their marketing personnel of the Code." With pictures easy to remember by sales people, <u>the material shows concrete examples of practices to be banned (with descriptive pictures being crossed out on the poster)</u> . The allegation that Nestlé is promoting its products by explaining what Code violations are does simply not stand to common sense, the less so as those materials were handed out to its distributors and retailers only, not to the general public. In any case, since these materials have been used in South Africa only, not in Botswana, it is therefore surprising that IBFAN claims it "obtained" one of the flyers on a bus in Gaborone. See the flyer below.



COUNTRY	ALLEGATION	FACTS
Germany	Nestlé provides health workers with information records used for the transfer of newborns during emergencies. The ALETE brand logo appears at the bottom of the sheet with the slogan "All the best for your child."	The leaflet contains solely an important information record and is used for the transfer of newborns during emergencies, developed and requested by health professionals. No information on infant feeding or breast-milk substitutes. The leaflet has the ALETE logo, Nestlé Germany's baby food brand <u>not including infant, and follow on formula until 2004, and no slogan</u> . This is in full compliance with German legislation as well as the EU Commission Directive 91/321/EEC.

- **40** allegations were found where **the factual basis was not correct**, therefore violations were not indicated.

Examples:

COUNTRY	ALLEGATION	FACTS
Zimbabwe	In Zimbabwe, no infant food promotion is allowed in the healthcare sector. Now Nestlé distributes PEPTAMEN and NUTREN Junior, nutritional supplements not meant for babies, as a way to maintain close contact with healthcare workers.	NUTREN and PEPTAMEN are not breast milk substitutes, both products are clearly positioned for children from 1 – 10 years. NUTREN is indicated for nutritional support before and after surgery, and for prevention or correction of malnutrition. PEPTAMEN is a specialised product for kids from 1 – 10 years with impaired gastrointestinal function.



COUNTRY	ALLEGATION	FACTS
Germany	A booklet for parents – “Intensive care unit for infants – advice for parents” advertises ALETE HA Brie and features the ALETE slogan “All the best for your child.” Complementary feeding is suggested to start as early as four months.	The first version of the booklet "Der Kinderintensivstation" (Intensive care units for infant) was developed in 1995 as an answer to the needs for information of parents of babies at the University-Clinic in Kiel. The authors are paediatricians and nurses specialized in neonatology and intensive care. The 5th edition was published in 2003, supported by Nestlé. The information in the booklet is solely about infants in intensive care units. It contains no Nestlé information, advertisements on neither H.A. Brei nor any other infant food product in the brochure. Only the ALETE logo appears on the back cover of the brochure. This is inline with EU directive and local legislation.



COUNTRY	ALLEGATION	FACTS
Dominican Republic	A magazine advertisement for NIDINA follow-up formula says “Give him all the protection he needs” and uses a baby picture to promote the use of NIDINA as of four months.	This allegation is inaccurate. In Dominican Republic, Nestlé does not sell the NIDINA Brand.

Differences between the IBFAN Code and the WHO Code

IBFAN's interpretation of the WHO "International Code of Marketing of Breast-milk Substitutes" differs significantly from that of most governments that apply it. IBFAN monitors Code compliance using their own understanding of the WHO Code as criteria. Thus, they classify as violations many cases that in our judgement are neither violations of the WHO Code nor infringements of any local legislation.

Some of the major differences have to do with:

- What products the Code applies to (very few countries implement the Code to include complementary foods, which are not breast milk substitutes).
- What kind of information can be given to health professionals.
- The understanding of the WHO Code as a recommendation for governments to implement according to national circumstances, particularly in Europe, North America, and other developed countries

Breast-milk Substitutes

The fundamental difference between use of the Code by IBFAN, and that of Nestlé and most governments, is that IBFAN applies the Code not just to breast milk substitutes, but also to what the Code refers to as complementary foods (e.g. infant cereals, baby foods in jars). The WHO Code Publication clarifies this, in its annex 3 excluding them if marketed for use above the recommended age of exclusive breastfeeding. Nestlé voluntarily and unilaterally applies the Who Code in developing countries to both starter and follow on formula, as well as any product marketed to infants before the recommended age for exclusive breastfeeding (6 months). We are the only company to do so. Nestlé also markets infant cereals and baby foods only after 6 months of age in developing countries, being also the only major company to restrict itself in this way.

Application of the WHO Code in Europe, US and Other Developed Countries

The Who Code was passed as a recommendation to governments to implement it according to their social and legislative framework. Our decision, more than two decades ago, to voluntarily and unilaterally apply the WHO Code in all developing countries was due to the fact that the economic, social and hygienic circumstances in most of those countries differs substantially from the situation in developed countries like the US or the EU countries. In developing countries where there is no local code in place, or if the local legislation is less strict or precise, we implement the WHO Code. Otherwise, we follow the local regulations.

Professional legal opinion on the WHO Code

By Jean Michel JACQUET, Professor of International Law at the Institut Universitaire de Hautes Etudes Internationales, HEI, (Graduate School of High International Studies in Geneva, Switzerland, from which M. Koffi Annan graduated) and currently its acting President. Professor Jacquet is also the director of the Journal of International Law.

Professor JACQUET wrote a memorandum of legal opinion for the purpose of clarifying various questions relating to the International Code of Marketing of Breast-Milk Substitutes. The questions were raised with particular regard to the "universality" and "scope" of the Code. The conclusions of Professor Jacquet's analysis are:

1/ Applicability of the WHO Code

-The WHO Code is a recommendation from the World Health Assembly to Member States for taking regulatory measures to put it into practice at a national level, as the Member States may deem it appropriate to their social and legislative frameworks and to their development objectives. Universality is thus something the WHO Code only aspires to.

-The Member States are invited to create a legal status inspired by the WHO Code and to monitor the enforcement of the national measures in co-operation with other addressees (healthcare staff, manufacturers, NGOs, etc.), which can inform the national authorities about compliance.

- In countries where no national measures reflecting the WHO Code is adopted, manufacturers can apply the Code on a voluntary basis: only when manufacturers decide to do so would the Code become directly applicable to them. Non-State Actors can intervene by requesting national authorities to issue norms and / or draw attention of manufacturers on alleged malpractices.

2/ Interpretation of the WHO Code

-Only State institutions have the legitimacy to interpret the Code, as implemented by the State. In case of divergence on the interpretation of the Code between Non-State Actors, only a neutral body, vested with judicial authority, can decide if an interpretation is correct or not in a given national context.

-States can refer to Articles 2, 3 and Annex 3 of the Code to establish the scope of their national implementations. States have however the authority to go beyond the Code's recommendations, or be less strict.

The Nestlé Instructions

The "Nestlé Instructions for implementation of the WHO Code of marketing of breast milk substitutes" were first issued in 1982, reviewed and refined in 1984 in consultation with WHO, UNICEF and the International Nestlé Boycott Committee. As a result, the International Nestlé Boycott was terminated, as there was a clear agreement between INBC and Nestlé that our policies were in line with the Code (later revisions of our Instructions in 1996 reflect new WHO policy changes adopted by the WHA). Furthermore, our Instructions and policies have been discussed with relevant authorities in all countries where we apply them, and they are accepted as a valid implementation of the International Code by those governments.

Please see **Annex 2**

Cases with Insufficient Information

The response we received from IBFAN regarding allegations with insufficient information allowed us to carry on a deeper investigation of only 33 allegations out of the 81. In the *Introduction* to the report IBFAN says that the results - checked, translated and collated by ICDC/IBFAN four collection centres "underwent legal and factual checking by ICDC/IBFAN, before being sorted by company and type of violation"

It is thus puzzling why adequate information could not be provided for all alleged infractions.

General Overview, Analysis and Verification

The IBFAN report makes allegations about 16 companies' compliance with the "International (WHO) Code of Marketing of Breast-milk Substitutes." These allegations are compiled in seven booklets, each one covering a given geographical area.

Within the seven reports, we identified 200 allegations related to Nestlé. All the Nestlé companies involved carried out thorough investigations into the respective allegations levelled against them, and Nestlé headquarters has analysed in detail the responses. Our response to the IBFAN report is thus the result of a long process of analysis of facts and evidence available.

Of the 200 allegations,

- **64** are not about infant formula but about infant cereals and baby foods. As the WHO Code Publication explains, Infant Cereals not marketed as breast-milk substitutes are considered as complementary foods, not covered by the Code's restrictions;

The WHO Code, Annex 3, paragraph 2, clarifies that "*Breast milk may be replaced (substituted for) during this period by bona fide breast-milk substitutes, including infant formula. Any other food, such 'as cow's milk, fruit juices, cereals, vegetables, or any other fluid, solid or semi-solid food intended for infants and given after this initial period, can no longer be considered as a replacement for breast milk (or as its bona fide substitute). Such foods only complement breast milk or breast-milk substitutes, and are thus referred to in the draft code as complementary foods.*"

The Code allows normal marketing of complementary foods when they are not represented as breast-milk substitutes. Nestlé's infant cereals are not marketed, in any country, as breast- milk substitutes. Moreover, Nestlé's infant cereals are marketed in full compliance with national regulations.

Changed WHO recommendations

Additionally, in May 2001, the World Health Assembly adopted 6 months as a new global public health recommendation for exclusive breastfeeding, with the introduction of complementary foods thereafter and continued breastfeeding up to two years or beyond. This changed the previous recommendation of exclusive breastfeeding during 4-6 months and followed the findings and recommendations of a WHO Expert Consultation.

Nestlé immediately announced its support the adoption of WHO's new recommendation by all countries, which have the responsibility to establish

national health policies. The Expert consultation highlighted that in developing-country settings the most important advantage of exclusive breast-feeding for six months relates to diarrhoeal disease, which is one of the most important causes for infant morbidity and mortality. Nestlé thus decided to move ahead and voluntarily and unilaterally implement the 6-month recommendation in developing countries. All labels on infant formula and complementary foods have now been changed to reflect this recommendation.

Considering the complexity of this task – number of countries, logistical problems, etc - we have to note that during a period of time old labels could be found on the shelves.

We do not know of any other infant food manufacturer having taken a similar step. Examples of these allegations are on pages 2 to 18 of Annex 1.

Of the remaining **136** allegations:

- **46 refer to printed material for health professionals:**

All printed educational material is intended for health professionals only, and contains scientific and factual information about the products, or scientific educational articles. This is in keeping with the WHO Code recommendations and Nestlé's Internal Instructions. Nestlé never displays these materials in Health care facilities.

Having said this we recognize that in some cases the printed material could be perceived as not being scientific enough. Our company strategy is to be science based, we have consequently tightened the editing and design control to assure that style and illustration better reflect the scientific content

Examples of these allegations are on pages 24 to 38 of Annex 1.

- **18 refer to marketing practices in developed parts of the world which have implemented the Code differently than IBFAN:**

The Code was purposely passed as a universal recommendation (rather than a regulation) to all member states of the WHO, to be implemented "*as appropriate to their social and legislative framework, including the adoption of national legislation, regulations or other suitable measures.*"

Where governments and public health authorities in developed countries, such as the EU countries or the United States, have clearly decided on how they want to implement the Code, we abide by the rulings of governments.

This means that Nestlé strictly complies with the national legislation / regulations in these countries.

Examples of these allegations are on pages 18 to 23 of Annex 1.

- **14 refer to labelling of Infant Formulas:**

The WHO Code stipulates what important information should go on each infant formula label. Nestlé's infant formula labels are in line with the WHO recommendations and national regulations. All tins and packets contain an "Important Notice" on the importance of breastfeeding ("Breast is best for babies") on consulting the doctor or clinic for advice before taking the decision to use breast-milk substitutes and the consequences of improper use. The labels include clear instructions on how to prepare the formula; these instructions are also

presented pictorially, in countries where local legislation allows us to, in order to ensure that this vital information is properly understood. The Code also specifies that the label should be printed in "an appropriate language." More than one language will thus be needed in some countries.

Infant formula is the only product recognised by the United Nations Codex Alimentarius Committee to be suitable as a breast-milk substitute. Nestlé continue to carry out intensive research to improve our infant formula products to provide the best possible substitute for babies who are not breastfed. This implies that our endeavour is to come as close as possible to breast-milk. The way we explain this on labels does not amount to idealising breast-milk substitutes, the less so as we never omit to include the important notice on the superiority of breast-milk.

Examples of these allegations are on pages 38 to 41 of Annex 1.

- **11 refer to samples of infant formulas**

Nestlé do not give samples of Infant Formulas to mothers (WHO Code Art. 5.2) For purposes of professional evaluation, two cans of new infant formula products may be given to health professionals only once during their lifetime, and this is subject to very strict control and complies with the WHO Code art. 7.4)

Examples of these allegations are on pages 41 to 43 of Annex 1.

- **10 refer to promotion to the public:**

In developing countries, information relating to infant formula is not communicated directly to mothers or to the public either through public media or by personal contact between company representatives and the public. All communication with parents goes through health professionals. Our instructions include bans on:

- Participation in/sponsorship of baby shows (even when invited to participate by health professionals or charitable institutions).
- Distribution of gift packs for mothers (for example, containing infant formula or feeding bottles or other baby accessories).
- Distribution to mothers of materials of a non-educational nature (whether product-related or not): birth certificates, calendars, baby albums, etc.

Our internal enquiry shows that no publicity on infant formula was conveyed to mothers or to the general public in the countries mentioned by IBFAN. This organization was not able to provide us with detailed information,

Examples of these allegations are on pages 43 to 46 of Annex 1.

- **9 refer to gifts to health workers:**

The small gifts occasionally given to health professionals (such as pens, notepads, etc.) never carry an Infant Formula brand, only the company logotype, which is in line with WHO Code. In fact, already in 1983, Nestlé sought explanation and guidance from WHO and UNICEF on materials for professional utility, which may be distributed to individual health workers. The list of such material, contained in the Nestlé Instructions, fully reflects this guidance.

Infant foods, e.g. infant cereals, not marketed as breast-milk substitutes, thus not governed by the Code, may benefit from normal standard marketing/ promotion practices. In the case of diaries, they are intended only for health professionals,

containing in some cases pack shots of the products and scientific information on each one.

Examples of these allegations are on pages 46 to 48 of Annex 1.

- **9 refer to display in health facilities:**

Nestlé carefully follows the WHO Code that says:

"No facility of a health care system should be used for the purpose of promoting infant formula or other products within the scope of this Code. This Code does not, however, preclude the dissemination of information to health professionals as provided in Article 7.2" (Art 6.2)

"Facilities of health care systems should not be used for the display of products within the scope of this Code, for placards or posters concerning such products, or for the distribution of material provided by a manufacturer or distributor other than that specified in Article 4.3." (Art 6.3:)

However, articles 4.3 and 6.8 allow the donation of equipment and materials carrying only the corporate logo but without reference to product brands, and when made under a written request from the institution. Nestlé do not display materials related to infant formula in Health care facilities.

Examples are on pages 48 to 50 of Annex 1.

- **8 refer to free and low cost supplies:**

Since 1993/1994, Nestlé has phased out free and low price supplies to hospitals and only gives such quantities of formula as is requested by national authorities or institutions under very special circumstances. This may be for orphanages, in the event of serious social disturbances or natural disasters, or for social welfare reasons such as multiple births or death of a nursing mother.

Examples are on pages 50 to 52 of Annex 1.

- **6 refer to support of scientific congresses and professional events:**

The WHO Code permits support for educational purposes (Article 7.5). When Nestlé gives support to health professionals a written request has to be provided by the respective professional and/or health institution to better ensure transparency.

Supporting transfer of knowledge and experience enables health professionals coming from countries with limited resources to achieve a higher level of expertise, which will benefit also mothers and children of their country.

Examples are on pages 52 to 54 of Annex 1.

- **4 refer to promotions at trade level:**

Nestlé does not have such practices for Infant Formulas in any developing country. Nestlé's Instructions are very clear regarding this topic in the Article 5.3, and our enquiry demonstrated that the Instructions are strictly adhered to. In fact, we educate the trade to better understand what is not permitted by the WHO Code, like the case in Botswana (p. 55 in the IBFAN report) an example that IBFAN, strangely enough, see as a violation.

In the case of Armenia, where infant formula was displayed in a shop, together with infant cereals, under a poster referring to complementary foods in what could be considered as a special display. This is not in keeping with Nestlé Instructions.

As IBFAN has not clarified where this happened it is impossible to say whether it was done as an initiative by the shop or by the distributor. Anyhow, Nestlé contacted the distributor immediately and addressed the situation.

The Code permits normal wholesale pricing policies and Nestlé applies this policy. No discounts or short-term rebates are given to the trade for infant formula products.

Examples can be found on pages 54 to 55 of Annex 1.

- **3 refer to direct contact with mothers:**

In developing countries Nestlé marketing staff dealing with infant formula is not allowed to have any kind of contact with pregnant women and mothers of infants below 6 months of age.

The IBFAN's report mentions, without any details (dates, name of the hospital, name of the mothers if possible, etc.), that Nestlé is having contact with mothers in some countries. We need information that is more detailed in order to carry out a more thorough examination. Disciplinary measures are taken should we have any kind of evidence that this has occurred.

Our internal enquiry shows that the contacts Nestlé general staff have with mothers in these countries remain strictly within the restrictions laid down by the WHO Code.

Examples can be found on page 55 of Annex 1.

Detailed response to each of the 200 allegations contained in the seven IBFAN reports is available in **Annex 1 List of Allegations and Result of Verifications**.

In-Depth External Audit in Thailand

Nestlé has committed itself to undertake independent external audits in cases of wide scale allegations related to a specific country. Due to the amount of allegations raised about our operations in Thailand, Nestlé decided to commission Emerging Markets Economics Ltd (EME), for an audit of Nestlé Thailand's marketing practices relating to breast-milk substitutes. EME is a London-based firm of economic, financial and management consultants, since long experienced in carrying out evaluations and social audits for both the public and private sectors throughout the world. The following summarises the external auditors' findings:

"We have evaluated the extent to which the policies and procedures of Nestlé Thailand (the Company) comply with the International Code of Marketing of Breast-Milk Substitutes (WHO Code), and investigated the evidence presented by the International Baby Food Action Network (IBFAN) in support of alleged violations of the WHO Code by the Company.

The Company's policies are in general compliant with the WHO Code, the Nestlé Instructions, and the regulations of Thailand's Food and Drug Administration. However, there is not yet a comprehensive local guide for staff as to what are appropriate marketing practices for products covered by the Code.

In practice, the Code requires interpretation, particularly with regard to certain "grey areas". The WHO Code is a recommendation to governments, which they need to adapt to their local social and economic conditions to provide specific guidance on

what are appropriate marketing practices in their countries. Such specific guidance should include clear definitions that are communicated to and understood by all concerned parties, and transparent monitoring and reporting procedures. The government of Thailand has yet to provide such guidance.

Many of the allegations cited in the IBFAN Report are a result of differences of interpretation of the WHO Code between that organization and the infant food industry, including Nestlé. IBFAN and the infant food industry differ on whether the Code applies to complementary foods and whether certain marketing practices are permitted.

In addressing violations, it is not helpful that IBFAN does not point to the specific WHO articles that it considers the practice to violate. There are many instances of allegations that were phrased in ways that suggest that a violation occurred but where close examination of the WHO Code would suggest that none had occurred. For example, it is alleged that videotapes on pre-natal care donated by Nestlé at the request of the health profession were in some way a breach of the WHO Code. However, it is not clear what the breach was since the material did not cover the feeding of infants and therefore does not fall under any article of the WHO Code. In other instances, the IBFAN allegation purports to Nestlé motives in the design of detailing aids that are of a psychological nature – separating the baby from the breast – such allegations are not based on any article of the WHO Code and are of a very subjective nature. In addition, there is confusion in the IBFAN Report between detailing aids to health professionals and communication to mothers. The WHO Code is restrictive on communication between manufacturers and mothers but allows communication on infant formula, to health professionals, but of a scientific and factual nature. Many of the alleged violations were about detailing aids.

Nevertheless, there were instances where weaknesses in Nestlé Thailand's procedures have led to materials being produced that are not entirely compliant with the Code. For instance, the wording of some detailing aids overstretched the scientific nature of the health claim. Failure to control tightly the volume of infant formula samples given to healthcare facilities for clinical validation enabled some health professionals to pass them to mothers. Procedural changes should help prevent such occurrences in the future.

Overall, however, it is our view that Nestlé Thailand has a strong culture of Code compliance, a view that is supported by eminent members of Thailand's health profession who regard the company's staff to be ethical and well trained in nutritional matters.

Thailand has made significant progress in improving infant nutrition and there is a strong culture of breastfeeding. Infant formula sales are not growing in volume. However, the absence of national legislation and official mechanisms to implement the WHO Code means that there is a lack of clarity on what constitutes appropriate marketing. Hence practices that are reported violations of the Code are in reality not violations, whilst other practices currently followed by some manufacturers or distributors have been overlooked and are in fact potentially significant violations of the Code. Most importantly, health professionals are not able to play the role intended for them by the WHO Code of educating mothers on the appropriate use of infant formula for fear of violating the Code. In our opinion the Ministry of Health should take the lead in bringing together stakeholders to agree on a code of conduct that clearly sets out what is appropriate for marketing and communication about breast milk substitutes in Thailand, together with a monitoring mechanism under government's responsibility".

Suggestions to improve monitoring

The "International Code of Marketing of Breast-milk Substitutes" is a recommendation to all WHO Member States to adapt it, as appropriate, to their social and legislative framework. This includes the important task of monitoring Code compliance and Nestlé strongly support countries setting up transparent, government-led Code monitoring bodies. We agree that in many countries a better way of monitoring and enforcing the Code is needed and we believe this is best done by encouraging and supporting governments to take on this responsibility as indicated in the WHO Code itself.

As an infant food manufacturer, we have a clear responsibility to monitor our marketing practices' compliance with the WHO Code. Nestlé takes this responsibility very seriously and on an ongoing basis we have developed a range of internal mechanisms to assure Code compliance.

These include:

- Detailed instructions on WHO Code implementation;
- Education and information for our staff;
- Regular audits of our marketing practices relating to infant formula;
- Responding to requests from health authorities for assistance towards promotion of breast-feeding and raising Code awareness;
- Seeking governments' assessment of our Code compliance;
- An internal ombudsman scheme allowing any Nestlé employee to raise concerns about Code compliance confidentially;
- Commissioning independent external audits in case of multiple, broad scale allegations about non compliance to the WHO Code by Nestlé;
- Finally, Nestlé is the largest private distributor of the official WHO Code document in the world.

We continuously evaluate and seek to strengthen these mechanisms in order to fulfil our obligations.

When organisations like IBFAN are monitoring WHO Code compliance it is our belief that

- Criteria upon which the monitoring and the conclusion is based should be clarified and made transparent
- Findings should be shared with companies as well as with governments without any delay, as required by the WHO Code, so that corrective actions can be taken immediately, if necessary.

Nestlé appreciates being informed in a timely manner by governments, non-governmental organizations, professional groups, or individuals about any activities, which are believed not to be in line with the WHO Code or other relevant resolutions. This will help us take immediate action if needed and this is what the WHO Code recommends.

To protect the health and promote safe and adequate nutrition of infants and young children, it is essential that:

- **Governments are encouraged to enforce the WHO Code as well as other important WHO recommendations and strategies**
- **Monitoring is based on research methodologies that fulfil basic reliability criteria; carried out in a fully transparent way, according to national legislation wherever this measures exist.**

ANNEX 1
LIST OF ALLEGATIONS AND RESULT OF VERIFICATIONS

The allegations made against Nestle and contained in the IBFAN report, "Breaking the Rules, Stretching the Rules 2004," are here put together with the response in a clear and easy to read format.

The document is structured under following headings:

I. Complementary foods / Growing up milks (GUMs) / Clinical nutrition

I.I. Samples of Complementary foods

I.II. Promotion to public

I.III. Printed materials for health professionals

I.IV. Labels of complementary foods

I.V. Gifts to health workers

I.VI. Display in Health facilities

I.VII. Direct contact with mothers

II. Activities in developed countries and territories

III. Printed materials for health professionals

IV. Labelling of infant formula

V. Samples of infant formula

VI. Promotion to public

VII. Gifts to health workers

VIII. Display in health facilities

IX. Free and low cost supplies

X. Scientific congresses and professional events

XI. Trade promotion

XII. Direct contact with mothers

Each answer reflects the investigation carried out on each one of the allegations made in the IBFAN report.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
I. COMPLEMENTARY FOODS / GUMs / CLINICAL NUTRITION (62)					
I.I. Samples of Complementary foods (5)					
Dominican Republic	1	In the Dominican Republic, mothers receive free samples of Nestlé Cereals in health facilities (July 2003).	Global Report: Complementary foods Promotion in health facilities	65	Nestlé's Infant Cereals are marketed as complementary foods to breast-milk, and not as breast-milk substitutes. They are therefore not covered by the WHO Code or Local Laws. In any case, Nestlé does not provide samples of infant cereals to mothers in health facilities in the Dominican Republic.
Egypt	2	Distributing free gifts and samples to health providers and health care facilities, in violation of the Code. For example, Nestle distributes free samples of CERELAC.	Egypt Report	65	Nestlé infant cereals are marketed as complementary foods to breast-milk, and not as breast milk substitutes. They are therefore not covered by the WHO Code, neither are they by the local legislation. Therefore, provision of free samples of CERELAC to paediatricians violates neither the WHO Code nor Egyptian rules.
Hong Kong	3	Nestlé set up a stall at a Baby/Children Products Expo in Hong Kong to give out coupons which indicate that products are sold at special prices at the exhibition. When mothers fill in forms attached to the coupons they may select to receive samples of Nestlé Cereal recommended for use from four months or NESLAC growing up milk. (Aug. 2003)	Global Report: Complementary foods promoted as breast milk substitutes	64	Hong Kong enjoys the same living standards and the same level of education and healthcare as any country in Western Europe or North America. Giving samples of infant cereals or of growing up milks, together with the adequate nutrition recommendations, to mothers who are in a position to make an informed choice about when they should introduce those products into the diet of their babies are neither contradicting the WHO Code or any local regulations.
Malaysia	4	Free sample of Nestlé Rice Cereal recommends the products as suitable for use as of four months of age. (Nov. 2003)	Global Report: Complementary foods promoted as breast milk substitutes	64	In keeping with WHA Resolution 54.2, Nestle Malaysia started in June 2003 to phase in new labelling of infant cereals to recommend introduction after 6 months of age. The process was completed in December 2003. The samples referred to pre-date the new packaging.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Malaysia	5	Free 15 gm sachets of infant cereals recommended for use from four months are at the reception of a clinic in Malaysia. There is no limit to the amount that can be taken by patients. Nestlé representatives also visit antenatal classes and distribute door gifts comprising samples and pamphlets of Nestlé Cereals.	Global Report: Blue Bear Promotion in health facilities	66	As noted above, infant cereals, which are complementary foods, are now marketed for consumption by babies over six months. In keeping with WHA Resolution 54.2, Nestle Malaysia started in June 2003 to phase in new labelling of infant cereals. The process was completed in December 2003. The samples referred to pre-date the new packaging. Nestlé Malaysia does not give samples of infant cereals in antenatal classes.
I.II. Promotion to public (30)					
Argentina	6	En el programa para madres "Mi Bebé" de televisión por cable (Canal Utilísima Satelital) de Argentina, en una sección para enseñar a mamás primerizas cómo preparar biberón, se mostró la preparación del biberón sin mencionar la lactancia materna, y se empleó para ello una leche entera que, aún sin nombrarla, podía verse muy claramente que se trataba de la marca Nido, de Nestlé.	Latin América Report	11	No fue una actividad contratada, auspiciada o autorizada por Nestlé. Fue iniciativa del canal de televisión. Nestlé no tuvo conocimiento de este programa antes de su emisión. Cabe recalcar, que NIDO es una leche de crecimiento formulada para niños a partir de los 12 meses de vida; por lo tanto no es un sucedáneo de la leche materna y el Código ni la ley local regulan su comercialización.
Argentina	7	En Argentina, promotoras de Nestlé presentes en tres cadenas de supermercados asesoran sobre diversos productos, incluyendo las fórmulas infantiles de la empresa cuando se les consulta sobre el particular. Su tarea específica es promocionar la leche Nido 1+ a partir del año de vida, que atrae a las madres por sus etiquetas decoradas coleccionables	Latin América Report	12	Nestlé utiliza promotoras para promocionar sus productos en todo el mundo, sin embargo las promotoras de Nestlé reciben extenso entrenamiento sobre la restricción que existe de promocionar formulas infantiles en puntos de venta. Saben además que la compañía penaliza, hasta con despido, el incurrir en esta violación. El Texto del alegato deja claro que las promotoras promocionaban Nido 1+, leche en polvo para niños mayores a 1 año, por lo tanto no es una formula infantil ni su comercialización se regula por el Código de la OMS ni por la ley local Argentina.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Argentina	8	En este sentido Nestlé puede mostrarse como paradigma: lanzó su "Sistema de Nutrición NIDO", línea de leches entre las que se halla NIDO 1 + Prebio indicada desde el año de edad. Siendo una campaña Latinoamericana, publicidades en revistas, TV, Internet y vía pública pueden hallarse en diferentes países de la región. Como parte de su estrategia envió en Argentina cartas a los pediatras con un cupón para participar de un sorteo por un viaje a Seattle, USA. Consultada por la red IBFAN local, la empresa argumentó que "no se trata de leche sino de un alimento lácteo", aún cuando la etiqueta lo desmienta y no quede tampoco clara esa diferencia. Tampoco pudo aportar evidencia científica que justifique su empleo en lugar de leche humana en menores de 2 años de edad.	Latin América Report	21	Nido al igual que cualquier leche, o alimento lácteo, para niños mayores de un año no reemplazan a la leche materna en el periodo exclusivo, por lo tanto no es considerado como un Sustituto de la leche materna ni su comercialización se regula por el Código de la OMS ni por las leyes Argentinas, por lo tanto las actividades descritas no son violaciones.
Brasil	9	En Brasil la etiqueta de NINHO 1 promociona otros productos y utiliza la palabra "crecimiento", ambas cosas prohibidas en la ley local.	Latin América Report	21	El producto NINHO 1+ (contenido y etiqueta) es registrado y aprobado por el Ministerio de Agricultura. La promoción de otros productos en las etiquetas fue prohibida, al incluirse en la legislación local en Septiembre de 2002, La etiqueta del producto no promociona otros productos. La palabra "crecimiento" no está prohibida por la legislación y puede ser usada sin contravenir legislación alguna; así lo prueba su aprobación por parte de las autoridades competentes.
Argentina	10	«Mi Primer CD» regalado por Nestlé con música de The Beatles	Latin América Report	11	El CD se regalaba con la compra de Cereales infantil Nestlé, los cuales no nos Sustitutos de la Leche materna, sino sus Complementos. Se trata de la promoción de productos no cubiertos por el Código OMS ni por la ley loca, por lo tanto no es una violación.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Dominican Republic	11	Las madres reciben en R. Dominicana su próxima cita pediátrica auspiciada por Nestlé	Latin América Report	12	Pese a la poca información proporcionada, podemos aclarar que las tarjetas para citas son entregadas previa solicitud del médico y contienen el logo de Cereales Infantiles Nestlé, que son productos no cubiertos por el Código de la OMS o la ley local; por lo tanto esto no es una violación.
Trinidad & Tobago	12	A NESTUM Blue Bear leaflet from Trinidad and Tobago talks about introducing cereals from six months but one of the packshot labels has a four-month recommendation.(Nov. 2003)	Global Report: Complementary foods promoted as breast milk substitutes	65	These leaflets were printed in July 2002. We detected the unfortunate mistake a year later and immediately stopped distribution of the material and change the picture on July 2003 to reflect our 6 months policy.
Botswana	13	In shops in Botswana, Nestum cereals labelled from four months are sold at a discount and advertised in weekly special sales flyers as newspaper inserts, handouts in stores, to homes and on the streets. (Aug 2003). By Jan. 2004, Nestlé cereals in Botswana were still labelled at four months.	Global Report: Complementary foods promoted as breastmilk substitutes	63	Information that is more detailed is needed to assess this allegation. However, we can state that all labels for infant foods in Botswana were changed late 2003 to recommend consumption by babies over 6 months of age. It is possible that for some time afterwards some shops still had a few tins with old labels on their shelves, in areas where sales were slow. As NESTUM is marketed as a complementary food, the WHO Code's restrictions applicable to breast milk substitutes do not apply to NESTUM.
China	14	Promotion is widespread in all the cities monitored. Companies promote to the public by distributing leaflets, advertising in magazines and professional journals and going on air with special radio and TV programmes to attract new customers. Have you heard? The winners of Global Baby Competition are fed by Nestlé!	China Report:	3	Information that is more detailed is needed to assess this allegation. Nestle China has never conducted any advertising of infant formula on radio or TV, nor does it carry out consumer promotions in retail shops for infant formulas. The company advertises infant cereals as a complementary food, in line with the Chinese regulations, the WHO Code, and the 2001 World Health Assembly's recommendation for exclusive breastfeeding for 6 months. Nestlé China is thus the only infant food manufacturer in China to have changed the labels of its infant cereals to recommend use after the age of 6 months.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
China	15	Shops and supermarkets in China are flooded with a full range of breastmilk substitutes and are favoured points of contact with mothers. Companies often send their promoters to these retail outlets to conduct innovative promotional programmes. Free gifts with purchase of Nestlé products	China Report:	3	Information that is more detailed is needed to assess this allegation. Nestle China does not promote at all infant formula to consumers, including at retail level, which means no price discount, no gift for the purchase of an infant formula. We do use milk merchandisers to ensure the availability in shops of our milk products for older children and adults, i.e. products which are not breast milk substitutes. Gifts may happen to be given, but only in relation to the purchase of Nestle infant cereals or other products that are not breast milk substitutes, which is in line with the WHO Code and Local Legislation
China	16	In China, label changes took effect mid-2003. Even so, in August 2003, an advertisement in a scientific journal shows 15 very young babies (below six months) competing in a global baby competition and with the winner being a baby fed on cereals under the Nestlé Nutrition Plan.	Global Report: Complementary foods promoted as breastmilk substitutes	63	The advertisement, which was printed in a scientific magazine, the "Chinese Journal of Child Health Care," was for Nestle infant cereals, not infant formula. We received a complaint about this advertisement from the International Code Documentation Centre in January 2004 and have already replied on this matter. Promoting complementary foods to a qualified audience like the readers of a scientific journal is not contravening any provision of the WHO Code or of the Chinese regulations. However, Nestlé China decided to discontinue the ad and to ensure that any future use of baby pictures in relation to infant cereals show babies obviously older than six months of age.
Ghana	17	Nestlé sponsored shop sign in Ghana. At the time the picture was taken, CERELAC was still being promoted in the country for babies below six months	Africa Report:	3	The allegation does not mention when the picture was taken. According to our records, this kind of materials date back from 2000-2001. All existing labels and communication materials relevant to our infant cereal CERELAC recommend introduction of complementary foods after the age of 6 months.
Hong Kong	18	Blue Bear stickers with pack shots of "Infant Cereal Rice" and "Infant Cereal Milk" both labelled for use from four months onwards are distributed at the Hong Kong Baby Products Expo (Aug. 2003).	Global Report: Complementary foods promoted as breastmilk substitutes	63	Nestle Infant Cereals are marketed as complementary foods to breast-milk and not as breast-milk substitutes and are therefore not covered by the WHO Code. The criticised practice is not contravening any local regulation.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Hong Kong	19	Coupons with an attached application form to join the Nestlé Caring BB World are found in Hong Kong. Upon submission of the form, a free bib bearing the name of the baby is given as a gift. Cereals in Hong Kong are marketed for use at four months (Aug.2003).	Global Report: Complementary foods promoted as breastmilk substitutes	63	See above.
Hong Kong	20	A leaflet in Hong Kong entitled The Nestlé Nutrition Plan promotes "The New Improved Formulation of Nestlé Infant Cereals" from "Stage 1" (from four months) "so that your baby always gets the right nutrition at the right moment of development". The Blue Bear mascot is featured with a bowl of cereal. (July 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	See above.
Indonesia	21	A community service billboard in Indonesia reminds mothers to send their babies to the community health centre and at the same time, advertises Nestlé milk porridge at four months with the slogan "Growing Moments, Nestlé Moments".(April 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	We need, and have requested, more information on the location of this billboard. Early 2003, we began changing Nestle Baby Cereals billboards to recommend use for babies over 6 months. The change, which reflects Nestlé's commitment to support exclusive breastfeeding for the first 6 months, was also made to product labels. Nestle is the only company in Indonesia that has voluntarily implemented the World Health Assembly's Resolution 54.2 on exclusive breastfeeding.
Malaysia	22	Shelf talkers promote Nestlé Rice Cereal in supermarkets with the slogan "Nestlé Baby Cereal, weaning babies for generations." Label indicates four months. (April 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	As noted above, infant cereals, which are complementary foods, are marketed for consumption by babies over six months. In keeping with WHA Resolution 54.2, Nestle Malaysia started in June 2003 to phase in new labelling of infant cereals. The process was completed in December 2003.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
South Africa	23	No age recommended, but this South African magazine ad found in Zimbabwe implies that the products are suitable for young babies. The Zimbabwean law does not cover foreign publications but this ad violates both the International and South African Codes	Africa Report:	3	More information is needed to assess this allegation, in particular the name of this magazine and its publication date. According to our records however, that ad was run some 3 years ago, in 2001. The products shown were infant cereals, which all clearly carry an age indication on their packs. That ad has not been used since then as we have in the meantime changed the labels of our infant cereals to indicate use for babies older than 6 months.
Zimbabwe	24	No age recommended, but this South African magazine ad found in Zimbabwe implies that the products are suitable for young babies. The Zimbabwean law does not cover foreign publications but this ad violates both the International and South African Codes	Africa Report:	3	We need, and have requested more information, on the name and publication date of this magazine. However, we did run a magazine campaign in 2001 in the South African market that ended in early 2002.
Bulgaria	25	An advertisement in a magazine shows a happy couple with their baby on a beach with a pack shot of Baby Menu recommended for use from four months (April 2003).	Global Report: Complementary foods promoted as breastmilk substitutes	63	As from June 2003 all imported complementary food products (infant cereals) have been stickered with "as from 6 months" stickers. All advertisements of complementary foods have been adjusted accordingly as from June 2003.
Bulgaria	26	Another magazine advertisement shows a toddler and a whole range of eight Nestlé foods: three are recommended from four months and a partially hidden one is labelled from three months. (June 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	63	As from June 2003 all imported complementary food products (infant cereals) have been stickered with "as from 6 months" stickers. Since June 2003, <u>no</u> advertisements are published suggesting the introduction of complementary foods from 4 months. The magazine ad dates to a pre-change time.
Italy	27	A 24-page booklet delivered to Italian homes presents Nestlé ready-to-use complementary foods many of which are recommended from four months (April 2003).	Global Report: Complementary foods promoted as breastmilk substitutes	64	Complementary foods are not marketed as breast-milk substitutes. The booklet as well as labels is in full compliance with Italian law and the EU Commission Directive 91/321/EEC.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Italy	28	In Italy, Nestlé sends out gift boxes of Nestlé Cereals or Nestlé Prima Infanzia purees by mail to mothers. "Dear Mom" letter emphasising the need to start baby on complementary foods, either cereals or purees, as of four months. The letter fails to mention the importance and benefits of exclusive and sustained breastfeeding. The gift pack also contains a discount booklet with eight coupons worth a total of €4. (April 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	Complementary foods are not marketed as breast-milk substitutes. Nestlé Italy product labelling and activities are in full compliance with Italian law of April 6, 1994 n.500 implementing the EU Commission Directive 91/321/EEC. (May 14, 1991).
Italy	29	In pharmacies in Milan, Italy, Nestlé aggressively promotes their Nestlé Prima Infanzia products through the use of special displays, piles of promotional materials which encourage the use of the products as of four months, special occasion leaflets, special sales, discounts and shelf-talkers. (June 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	Complementary foods are not marketed as breast-milk substitutes. All material and activities are in full compliance with Italian law of April 6, 1994 n.500 implementing the EU Commission Directive 91/321/EEC (May 14, 1991).
Lithuania	30	A Lithuanian magazine ad offers a free pair of Nestlé Blue Bear socks in exchange for a Blue Bear cut out from Nestlé cereal boxes. Some of the products are recommended from four months onwards. (April 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	This claim relates to complementary foods not marketed as breast-milk substitutes. The activity is in full compliance with Lithuanian legislation as well as the EU Commission Directive 91/321/EEC. (May 14, 1991)
Serbia and Montenegro	31	An advertisement in a Serbian magazine recommends weaning with Nestlé Rice Cereals from four months. (July 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	The allegation is related to complementary foods, not marketed as breast-milk substitutes, and not covered by the WHO Code. As of July 2003, complementary foods are labelled for babies from 6 months. The last advertisement recommending infant cereals as from 4 months was published in April 2003.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Serbia and Montenegro	32	A leaflet headed "Nestlé: Why compromise when it's the question of baby's growth?" found in a Serbian shop advertises complementary foods from four months with packshots of jarred foods and a picture of the Blue Bear carrying a sign with a big '4' on red background. (July 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	The claim refers to old material from 2000/2001. The leaflet was printed in early 2000 for the first time, and reprinted in 2001. As from May 2002, this or any similar leaflets have <u>not</u> been distributed. As from June 2003, all labels and materials recommend complementary foods for babies over 6 months.
Serbia and Montenegro	33	A magazine advertisement for cereals with the same slogan induces mothers to submit their particulars on coupons which entitle them to receive free bibs from Nestlé. (July 2003)	Global Report: Complementary foods promoted as breastmilk substitutes	64	The claim relates to complementary foods not marketed as breast-milk substitutes and not covered by the WHO Code. As from June 2003, all labels and materials recommend complementary foods for babies over 6 months. April 2003 was the last time the advertisement was published.
Serbia and Montenegro	34	In Serbia where cereals are labelled for four months, a pharmacy gives out Blue Bear car stickers to mothers.	Global Report: Complementary foods promoted as breastmilk substitutes	65	The claim relates to complementary foods not marketed as breast-milk substitutes and not covered by the WHO Code. As from mid 2003, all labels and materials recommend complementary foods for babies over 6 months. Due to logistic/stock reasons old labels could be found on the shelves during a certain period.
Switzerland	35	Nestlé gives mothers an introductory copy of Nestlé Baby News magazine in maternities in Switzerland and sends updates and promotions by mail. The magazine advertises its website which shows a banner of Nestlé baby services and Blue Bear links to Nestlé's website.	Global Report: Blue Bear Promotion in health facilities	67	In this introductory copy of our Baby News distributed in maternities, including in some Baby Friendly Hospitals, there is no advertising whatsoever of infant formulas. Only information on breastfeeding is given; mothers can order the subsequent chapters if they want to do so. This is totally in line Swiss legislation.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
I.III. Printed materials for health professionals (5)					
Ghana	36	A CERELAC brochure given to health workers promotes use “from the sixth month”, effectively meaning that the product is being recommended for infants on completion of five months! During the monitoring survey, CERELAC was still labeled as suitable for infants from four months	Africa Report:	2	Information that is more detailed is needed to assess this allegation, particularly about the time the brochure was supposed to have been given to health workers, as this may be outdated material. In actual fact, in May 2000, following the promulgation of the Ghanaian Breastfeeding Promotion Regulation LI 1667, Nestle Ghana took the necessary steps to change all its infant cereal labels to recommend consumption by babies over 6 months. At that time, the competent authorities granted manufacturers and distributors a grace period to exhaust existing stocks with old labels.
Georgia	37	Found in a doctors cabinet in Georgia, a guide for mothers shows pictures of an infant being spoon-fed and a mother bottle-feeding her baby. Blue Bear wearing a bib reminds her of Nestlé cereals. The text discourages breastfeeding “If you can’t breastfeed your baby, use specialised infant feeding products, which are very close to breastmilk.”	Global Report: Blue Bear Promotion in health facilities	67	We would like to see this guide, as we have no record of any such material. We have never used text with this wording in any materials. The blue bear is used in connection Nestlé's Infant Cereals, which are marketed as complementary foods to breast-milk, and not as breast-milk substitutes. They are therefore not covered by the WHO Code or Local Laws.
Lithuania	38	A leaflet distributed at a paediatric conference in Lithuania promotes the use of all Nestlé products except for infant formula. Many Blue Bear cereals, purées and juices are recommended from four months.	Global Report: Blue Bear Promotion in health facilities	67	During scientific congresses and health professional seminars Nestlé is presented with information materials on Infant Formula as well as on complementary foods. This is fully in line with Lithuanian legislation as well as with the EU Commission Directive 91/321/EEC.
Macedonia	39	A leaflet in a Macedonian doctor’s office shows a range of Nestlé cereals recommended for use at four months. Other products on the leaflet includes fruit juices and purées.	Global Report: Blue Bear Promotion in health facilities	67	The leaflet was printed in 2000, and reprinted in 2001. It has not been distributed since May 2002, in keeping with Macedonian law. Nestlé recommends complementary foods for babies over 6 months as from June 2003.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Serbia and Montenegro	40	A leaflet When Life's Appetite is On the Rise, found in a doctor's office in Serbia, features a child's impression of Blue Bear. An 'actual' Blue Bear is pictured on the front while on the back page is a feeding table advising complementary feeding from four months.	Global Report: Blue Bear Promotion in health facilities	67	The claim refers to old material from 2000/2001, which has not been distributed since May 2002. Complementary Foods are not marketed as breast-milk substitutes and are not covered by the WHO Code. As from mid 2003, all labels and materials recommend complementary foods for babies over 6 months. Due to logistic/stock reasons old labels could be found on the shelves during a certain period.
I.IV. Labels of complementary foods (10)					
Argentina	41	Nestlé produce y comercializa sus cereales NESTUM recomendados desde el "sexto mes", equivalente a cinco meses de edad cumplidos. Además el osito del dibujo se halla semisentado, tal como ocurre con un bebé algo menor a seis meses, e indica además que debe ser preparado "exclusivamente con leche de vaca", no dando lugar a utilizar la propia leche de la madre.	Latin América Report	18	Los cereales infantiles Nestlé se comercializan como alimentos complementarios de la leche materna y no como sus sustitutos. Por lo tanto su comercialización no está regulada por el Código de la OMS ni las leyes locales. Con relación a la referencia al 6to mes, las madres entienden claramente que es cuando el niño cumple 6 meses de edad cumplidos, los que contados desde el nacimiento equivalen a 6 meses y no 5 como se menciona en el reporte de IBFAN. Las instrucciones de preparación de muestras Cereales infantiles, claramente mencionan que se pueden preparar con la leche que el niño este consumiendo, ya sea leche materna o formula. El osito que aparece en nuestros empaques fue se sienta como también lo haría un niño mayor a 6 meses.
Brasil	42	En Brasil MUCILÓN Arroz de Nestlé presenta falsos conceptos de seguridad, promociona otros productos de la línea, y otros detalles que violan la ley nacional. Las harinas lacteadas Nestlé en Brasil no poseen la frase de advertencia ni la edad en el frente de la etiqueta.	Latin América Report	18	Los productos mencionados no violan la legislación local brasilera, si eso ocurriese no tendríamos el producto registrado en dos ministerios. De acuerdo con la legislación de Brasil, en los productos denominados "Barinas Lácteas" no hay la necesidad de declarar la edad en el rótulo, pues son destinados a niños en edad PRE escolar, adolescentes y adultos. La tabla nutricional (RDA) utilizada en la etiqueta hace referencia a niños de 4-6 años.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Uruguay	43	Los cereales Nestlé en Uruguay poseen también la llamativa doble recomendación de edad de inicio: en el costado del envase dice «Desde los 6 meses en adelante», pero en el frente declara "sexto mes".	Latin América Report	18	Sin perjuicio de tratarse de un producto no cubierto por el Código OMS, la información del mismo de ninguna manera desalienta la utilización de la leche materna en menores de edad. "El Sexto mes" contado desde el nacimiento, significa en el momento en que el bebe cumple su sexto mes de vida. Cabe recalcar que el ministerio de salud no hizo ninguna objeción sobre este tema al registrar y Autorizar la comercialización de este producto
China	44	Nestlé CHE cereals in China are recommended for four months and show a large baby picture on label. (May 2003)	Global Report: Complementary foods labelling	65	In 2003, in keeping with WHA Resolution 54.2, labels for Nestle Infant Cereals were changed to recommend their consumption by babies over six months. Complementary foods are not covered by the WHO Code or by the relevant Chinese regulations. The package criticised was produced before the change.
Indonesia	45	Nestlé fruit purée label in Indonesia is packed in a cardboard carton with mainly French and English texts. Worse, the cardboard packaging recommends use from six months but the bottles inside the packaging have labels which recommend four months. (Aug. 2003)	Global Report: Complementary foods labelling	65	In the last term of 2003, Nestle Indonesia changed the labels of all Nestle Petit Duo products to recommend their consumption by babies over 6 months, with instructions in the local language, Bahasa. Our quality assurance department has also taken the necessary corrective action to prevent re-occurrence of discrepancies on labels of inner container vs. labels on outside packaging.
Malawi	46	In Malawi, the NESTUM label carries the age recommendation of four months. (July 2003)	Global Report: Complementary foods labelling	65	As Nestlé announced when at a global level it took the decision to change the labels of its infant cereals to recommend use for babies older than 6 months, products with old labels could still be found in retail shops for some time after the change, depending on the pace of the sales in the various local contexts. In the case of Malawi, we started the change process in January 2003 and completed the change for the whole range of complementary foods in August 2003.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Tanzania	47	Nestlé's infant cereal boxes had the "blue bear" logo covered with a sticker in an attempt to obliterate "idealising" images in Tanzania. Although Nestlé promised to start labelling cereals only for six months, these still are marked for four months. This violate WHA 54.2 in Tanzania where the law has not yet been revised to reflect the new recommendation.	Africa Report:	1	Contrary to most of other countries, Tanzania' s authorities found the " Blue Bear" symbol which is elsewhere used in relation to our range of complementary foods not acceptable. We had to devise specific labels for the Tanzanian market . As an interim measure, we were allowed to cover the " Blue Bear" with a sticker on labels of infant cereals destined to Tanzania. Together with the removal of the " Blue Bear," the new labels also indicate use after 6 months of age.
Vietnam	48	In Vietnam, Nestlé fruit purées are labelled as suitable for use from four months. Text on the carton is in French but a sticker in Vietnamese pasted over the bottle's label shows only the composition of the product. (Oct. 2003)	Global Report: Complementary foods labelling	65	The description of the product packaging does not match that of any of the products distributed under Nestle Vietnam's control. We assume that the fruit purée was brought into the country by third party importers on their own initiative.
Italy	49	Nestlé Prima Infanzia puree label in Italy recommends it for babies from the age of four months, before complementary foods are necessary. Nestlé's Blue Bear features on different types of puree. Nestlé non-milk cereal label advises that "milk feeding, preferably with breastmilk should continue as long as possible" but recommends the product for babies from four months. (April 2003)	Global Report: Complementary foods labelling	65	Nestlé Prima Infanzia and non-milk cereal labelling are in accordance with Italian law and the EU Commission Directive 91/321/EEC.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Switzerland	50	Nestlé's infant juice labels in Switzerland recommend the product for babies from four months. There is a special coupon on the label for collection of "bear points" in exchange for special offers. (July 2003)	Global Report: Complementary foods labelling	65	These products, which are complementary foods, are marketed in full compliance with Swiss law.
I.V. Gifts to health workers (5)					
Ghana	51	In a government polyclinic, medical students were seen wearing Nestlé-sponsored CERELAC t-shirts during Health Week;	Africa Report:	2	The way our infant cereal CERALC is marketed in Ghana, with a recommendation for use after 6 months of age, is fully in line with WHO's recommendations and with Ghana's Breastfeeding Promotion Regulation. For the last 5 years, Nestle Ghana has officially sponsored the Medical Students Health Week Celebration, together with other reputable organisations like the Planned Parenthood Association of Ghana. Every year the celebration chooses a theme, which is put on CERELAC T-shirts. We do not see how the fact that medical students wear those T-shirts during the event can be deemed a Code violation.
Malaysia	52	In Malaysia, Nestlé distributes stacks of notepads to health facilities with company name and Blue Bear mascot in various poses.	Global Report: Blue Bear Promotion in health facilities	66	All the materials referred to relate to Nestle infant cereals or growing up milks, which are marketed as complementary foods, not as breast milk substitutes. The notepads given do not mention anything related to an infant formula. They are thus not contravening any recommendation of the WHO Code or of the Malaysian Code.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
UAE	53	Nestlé distributes large CERELAC calendars to health facilities in the UAE and Russia where Blue Bear features as a common denominator. Various packshots promote products. CERELAC is described as "a spoonful of love."	Global Report: Blue Bear Promotion in health facilities	66	Our infant cereals CERELAC are marketed as complementary foods to breast-milk, and not as breast milk substitutes. They are therefore not covered by the WHO Code, or by the local legislation.
Armenia	54	Nestlé gives out ball-point pens with the Nestlé name and the Blue Bear mascot health workers in Armenia. The Blue Bear icon promotes Nestlé's cereal products.	Global Report: Blue Bear Promotion in health facilities	66	To give away small items, as in this case a pen with the Nestlé logo or the blue bear logo, which relates to complementary foods, is fully in line with the WHO Code.
Russia	55	Nestlé distributes large CERELAC calendars to health facilities in the UAE and Russia where Blue Bear features as a common denominator. Various packshots promote products. CERELAC is described as "a spoonful of love."	Global Report: Blue Bear Promotion in health facilities	66	The 2002 calendar uses the blue bear and pack shots of infant cereals, which are complementary foods not marketed as breast-milk substitutes and not covered by the WHO Code. This activity is fully in line with national legislation as well the WHO Code. Since 2003, complementary foods are labelled as from 6 months.
I.VI. Display in Health facilities (6)					
China	56	Many maternity and paediatric hospitals in China have notice boards on infant care and feeding. Those sponsored by Nestlé sport conspicuous Blue Bears.	Global Report: Blue Bear Promotion in health facilities	66	More information that allows us to identify maternity hospitals is needed to assess this allegation. The " Blue Bear" symbol is attached to our range of complementary foods, and is never used in relation to infant formula. Notice boards in maternity and paediatric hospitals contain educational information on the WHO code, and promote breastfeeding and appropriate complementary feeding. Nestle China provides some of these boards at the request of the hospitals. As allowed by Articles 4.3 and 6.8 of the WHO Code, only Nestle logo or Nestle China's name is marked on the boards provided by Nestlé, without any mention of an infant formula brand. Otherwise, all the contents of the boards are decided by the hospitals and checked by local health authorities.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
China	57	Unsuspecting health professionals in China were glad to use sheet after sheet of Blue Bear stickers on paediatric doors and neonatal walls totally unaware that these decorations were clever advertisements for complementary foods which their little patients would not need for at least six months or never. (WHO recommends home-made complementary foods out of local ingredients).	Global Report: Blue Bear Promotion in health facilities	66	Although complementary foods are not covered by the WHO Code or by the Chinese relevant regulations, it has never been Nestle China's intention to use Blue Bear stickers to promote complementary foods in maternity and neonatal wards. The company has therefore issued reminders to its medical contacts that Blue Bear stickers should not be displayed in neonatal intensive care units and maternity wards.
Indonesia	58	In Indonesia, Nestlé put up a signboard for a maternity in Indonesia which features the names of Nestlé and the CERELAC brand at the entrance of a health facility (April 2003).	Global Report: Complementary foods Promotion in health facilities	65	Nestle Baby Cereal is a complementary food not marketed as breast milk substitute; therefore it is not covered by the WHO or local codes. Nestle Indonesia has issued a policy to use only the company brand and logo for all supporting materials to medical health care facilities. Nestlé Indonesia has also stopped using the brand CERELAC for its infant cereals for several years. This signboard is obviously outdated and the company will ask the maternity in question to remove it.
UAE	59	A prescription pad in a United Arab Emirates hospital shows pack shots with check boxes and recommends cereals and other complementary foods from four months (Nov. 2003).	Global Report: Complementary foods Promotion in health facilities	65	The mention of our infant cereal CERELAC on a prescription pad is not contravening the WHO Code or local regulations. The prescription pad criticised was withdrawn from circulation as from September 2003 as a consequence of Nestlé' s decision to recommend introduction of complementary foods after 6 months of age.
Armenia	60	Nestlé distributes "Love my mom" baby suits to polyclinics and maternities.	Global Report: Gifts to health workers	57	The suits, wearing the corporate Nestlé logotype, were distributed in health care facilities during a short period in 2002 by the local distributor before it was stopped by Nestlé. The suits were then used as a pack promotion of infant cereals, which are complementary foods not marketed as breast-milk substitutes, in 2002 and 2003. This activity is in keeping with the WHO Code.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Zimbabwe	61	In Zimbabwe, no infant food promotion is allowed in the healthcare sector. Now Nestlé distributes PEPTAMEN and NUTREN Junior, nutritional supplements not meant for babies, as a way to maintain close contact with healthcare workers.	Africa Report:	3	NUTREN and PEPTAMEN are not breast milk substitutes, both products are clearly positioned for children from 1 – 10 years. NUTREN is indicated for nutritional support before and after surgery, and for prevention or correction of malnutrition. PEPTAMEN is a specialised product for kids from 1 – 10 years with impaired gastrointestinal function.
I.VII. Direct contact with mothers (1)					
Singapore	62	A card “An Invitation to all New Mothers” found in a Singaporean clinic invites mothers to enrol in Nestlé’s Infant Nutrition Plan; it requires contact information of mother baby’s birth details. It promises a free sample upon enrolment and promotes Nestlé products including four cereals recommended for four months.	Global Report: Blue Bear Promotion in health facilities	67	Mid 2003, Nestlé Singapore revised the age recommendation on all Nestle Infant Cereals labels to 6 months, and that change was completed in December 2003. Nestle is thus the only company in Singapore that has voluntarily implemented the World Health Assembly’s Resolution 54.2 recommending exclusive breastfeeding for 6 months. The materials referred to were in circulation before the change. Inasmuch as they are not marketed as breast milk substitutes, infant cereals are not covered by the WHO Code or by the local SIFECs Code. Samples of infant cereals are not given to a mother before her baby reaches the age of 6 months.
II. ACTIVITIES IN DEVELOPED COUNTRIES AND TERRITORIES (18)					
Taiwan	64	Nestle promotes NAN HA 1 and NAN 1 by organising special sales	Global Report: Point of Sale	55	Information that is more detailed is needed to assess this allegation. Indeed the picture shown by IBFAN does not enable the identification of the shop, nor does it depict anything that could be deemed a "special sales." Nevertheless, Nestlé Taiwan has never organised any " special sales" of infant formula.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
USA	63	<p>Nestlé maintains a US web site: verybestbaby.com It promotes Good Start formula with the slogan "It's the Good Start that will last a lifetime." " The baby formulas section claims its Good Start "Comfort Proteins" are gentle on a baby's tummy and are "patterned after breastmilk" containing the "recommended levels of fat, carbohydrates, vitamins and minerals for baby's first year." The section on "Choosing a Formula For Your Baby " idealises bottle feeding by suggesting that "bottle feeding offers another opportunity for you and other family members to comfort your baby". The section ends with a promotional message "When choosing a routine formula for your newborn, consider iron-fortified Nestlé Good Start Supreme DHA & ARA"</p>	Global Report: Promotion to public	54/55	<p>The United States is not a signatory to the WHO code, yet Nestlé USA abides by the aim of the code. The web site verybestbaby.com provides credible and relevant information to expectant and new mothers. On the home page a "flash" states, that "The content of this site is intended for U.S. residents only. If you do not live in the U.S., please read this special notice." The notice is a thorough statement explaining Nestlé's support and compliance with the WHO Code and includes the statement of breastfeeding as a baby's best source of nutrition, advice on how to continue breastfeeding after returning to work, and guidance on seeking a health professional's advice if considering the use of breastmilk supplements. The website contains a minimum of 14 articles specifically dedicated to the subject of breastfeeding, and includes several other references to breastfeeding. The activity is in full compliance with US legislation.</p>
Finland	65	<p>The NAN label in Finland claims that it "can be used from birth as an addition to breastmilk or to substitute it" and that the "amino acid composition of the product has been renewed...able to reduce the amount of protein which is now closer to the protein level of breastmilk".</p>	Global Report: Labelling	58	<p>The text: "The amino acid composition of the product has been renewed. That is why we have been able to reduce the amount of protein which is now closer to the protein level of breast milk" was the outcome following several conversations with National Food Authority in 2001. In November 2003, the label was reviewed and the wording is now shortened to "The amino acid composition of the product has been renewed." At the same time Nestlé Finland suggested to change "NAN infant formula can be used from birth as an addition to breast milk or to substitute it" to "NAN infant formula can be used from birth when the child is not breastfed" to follow even stricter the decision made by Finnish Health Ministry. In addition, this change was accepted by the Finnish Food Agency in November 2003.</p>

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Finland	66	In Finland, a brochure aimed at health care professionals compares NAN baby formula to breastmilk.	Global Report: Misleading text and pictures which violate the Code	60	The brochure was distributed to health workers in 2002 when launching new NAN infant formula. The information is scientifically based and in full compliance with Finnish legislation as well as the EU Commission Directive 91/321/EEC.
France	67	A magazine ad says "NIDAL Bifidus 2 thanks mothers for being the model" thereby equating its formula to mother's milk	Global Report: Promotion to public	54	The ad says exactly "Le lait Nidal Bifidus 2 remercie les mamans de lui avoir servi de modèle" and it further explains "le lait maternel est le meilleur des laits pour bébé. La recherche Nestlé l'a pris comme modèle de référence pour créer Nidal Bifidus 2. Naturellement présent chez le bébé nourri au sein, le bifidus participe à l'équilibre de sa flore intestinale et aide à stimuler ses défenses immunitaires. Avec Nidal Bifidus 2, les bébés nourris au biberon peuvent désormais profiter de tels bienfaits". Thus, it does not "equate its formula to mother's milk." It says that Nestlé research is based on factual knowledge of breastfed babies gut flora and that Nestlé develop products to emulate the specificities and benefits of mother's milk. The information is in full compliance with French legislation as well as the EU Commission Directive 91/321/EEC.
Germany	68	Nestlé provides health workers with information records used for the transfer of newborns during emergencies. The ALETE brand logo appears at the bottom of the sheet with the slogan "All the best for your child".	Global Report: Gifts to health workers	56	The leaflet, contains solely an important information record, used for the transfer of newborns during emergencies, developed and requested by health professionals. No information on infant feeding or breast-milk substitutes. The leaflet has the ALETE logo, Nestlé Germany's baby food brand until 2004, <u>and no</u> slogan. This is in full compliance with German legislation as well as the EU Commission Directive 91/321/EEC.
Germany	69	Booklets distributed to health workers at a perinatal conference in Berlin have many phrases discouraging breastfeeding or equating Nestlé products to breastmilk. For example –	Global Report: Misleading text and pictures which violate the Code	60	Factual and scientific based information about infant food products to health professionals is important and permitted in the WHO Code, the EU Commission Directive 91/321/EEC as well as in German legislation. The information complies with recommendations and rules with respect to breast-milk substitutes as well as complementary foods. The brochures contain the WHO recommended information on the importance of breastfeeding.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Germany	70	a booklet titled Allergen-Low Infant Nutrition with ALETE displays a healthy infant on the front page with the motto "All the best for your child".	Global Report: Misleading text and pictures which violate the Code	60	The brochure is for health professionals only containing factual and scientific information about infant nutrition related to babies with an allergy risk. The first and strong recommendation is exclusive breastfeeding during 4-6 months (EU Directive) followed by a general recommendation that babies with high allergy risk should start complementary feeding after the 6th month. This because the risk of allergies can be reduced by starting late with complementary food. It contains Nestlé product information about allergen-low infant formula as well as complementary foods and baby food in jars. There is no slogan at all at the front page but an ALETE logo. The booklet is in line with the EU Commission Directive 91/321/EEC and German legislation.
Germany	71	booklet for parents has advertisements for ALETEMIL HA 1 & 2 and has the ALETE slogan "All the best for your child". There is a statement claiming that "Babies need allergen-low nutrition to prevent allergies. If there is not enough breastmilk, ALETEMIL HA is ... the proven alternative from birth."	Global Report: Misleading text and pictures which violate the Code	60	The text starts with "Mothers milk is the best for you child." Should the mother be partly breast-feeding, or not breast feed anymore, the advertisement suggests ALETEMIL H.A. 1 and 2, which are hypoallergenic formulas for infants with a heightened allergy risk. It does <u>not</u> say that babies need the hypoallergenic formula. The information is scientifically substantiated and in line with the EU Commission Directive 91/321/EEC and German legislation.
Germany	72	A booklet for parents – "Intensive care unit for infants – advice for parents" advertises ALETE HA Brei and features the ALETE slogan "All the best for your child." Complementary feeding is suggested to start as early as four months.	Global Report: Misleading text and pictures which violate the Code	60	The first version of the booklet "Der Kinderintensivstation" (Intensive care units for infant) was developed in 1995 as an answer to the needs for information of parents of babies at the University-clinic in Kiel. The authors are paediatricians and nurses specialized in neonatology and intensive care. The 5th edition was published in 2003, supported by Nestlé. The information in the booklet is solely about infants in intensive care units. It contains no Nestlé information or advertisements on H.A. Brei (which is a complementary food!) Nor any other Nestlé infant food product.
Germany	73	A daily nutrition booklet meant for parents recommends the use of ALETE complementary foods from the fifth month and baby teas from the second week of life.	Global Report: Misleading text and pictures which violate the Code	60	More information from IBFAN is needed to identify the specific brochure, which is not a recent one and which we have not been able to track.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Germany	74	A BEBA booklet claims that it can solve infant colic with its low lactose content.	Global Report: Misleading text and pictures which violate the Code	60	This refers to scientific and factual product information distributed personally by Nestlé’s medical delegates to medical professionals only.. The product, BEBA Sensitive belongs to the FSMP category (food for special medical purposes), the health claim is substantiated by clinical trials and proven. The information is in full compliance with German legislation.
Germany	75	A BEBA Pre leaflet titled “Nestlé BEBA Pre even nearer to the natural model” equates BEBA to breastmilk. It also claims to contain proteins “even closer now to mother’s milk.”	Global Report: Misleading text and pictures which violate the Code	60	This refers to factual and scientific information to medical professionals only. The phrase "... nucleotides modelled on breast milk" states that breast milk is the role model, which is logic, but it does not state that BEBA Pre is equal to breast milk. The brochure starts to highlight, in red, that breastfeeding is best and it ends with the same elaborated statement in a different colour call-out. The information is in full compliance with WHO recommendations, the EU Commission Directive 91/321/EEC, and German legislation. .
Germany	76	A BEBA Pre booklet uses phrases like “... history of life-saving Nestlé products” to catch the attention and confidence of the reader. Text like“BEBA Pre contains nucleotides modelled on breastmilk” attempts to equate bottle feeding with breastfeeding.	Global Report: Misleading text and pictures which violate the Code	60	This refers to factual and scientific information to medical professionals only. The information states that breast milk is the role model, which is logic, but it does not state that BEBA Pre is equal to breast milk. The brochure starts to state, in red, that breastfeeding is best and it ends with the same elaborated statement in a different colour call-out. The information is in full compliance with WHO recommendations, the EU Commission Directive 91/321/EEC, and German legislation.
Luxembourg	77	A parent’s magazine advertises BEBA Sensitive special formula with the claim that “BEBA is nearly lactose free and suitable for infants who are sensitive to lactose” and the product gives “the safe feeling to make the right choice”	Global Report: Promotion to public	54	The accusation refers to an advertisement in "Eltern," a German parent's magazine. The product, BEBA Sensitive belongs to the FSMP category (food for special medical purposes), the health claim is substantiated by clinical trials and proven. The advertisement and the information are in full compliance with the EU Commission Directive 91/321/EEC and German legislation.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Netherlands	78	NAN 2 is promoted as Royal feeding in a clever ad in Kinderen magazine, Netherlands. "Royal feeding" in Dutch "Vorstvoeding" is only one letter away from Borstvoeding (breastfeeding). The ad appeared one month after the birth of a princess in the Royal Dutch family. N.B.– Like in other EU countries, the Dutch law is weaker than the International Code and allows for advertising in publications specialising in baby care. The International Code does NOT permit this. Nestlé's own Instructions forbid promotion of follow-up formula when the brand name is the same as the infant formula name.	Global Report: Promotion to public	55	This advertisement, published only once, is in full compliance with Dutch legislation as well as the EU Commission Directive 91/321/EEC.
Switzerland	79	An advertisement Baby Nutrition from Nestlé in a supermarket magazine promotes BEBA 2 and other products and states that parents can be assured "...that their child gets, at any step of his development, the nutrition precisely correspondent to his needs. From milk formulas to the delicious little complete menus...". There is a picture of a happy mother and child	Global Report: Promotion to public	54	The advertisement showed follow-up formula together with complementary foods and was produced by Migros for the introduction of the Nestlé product range. Swiss authorities as well as the Codex Panel view such an activity complying with the existing Swiss code.
Switzerland	80	A supermarket magazine promotes a range of Nestlé formulas and complementary foods such as BEBA 2 and BEBA 2 HA and jarred foods all recommended as suitable from four months.	Global Report: Point of Sale	55	Migros shows solid baby foods and Follow-up formulas recommended <u>after</u> 4 months, not <u>from</u> 4 months as claimed. According to the Swiss Codex Panel, this kind of communication is allowed. In the future Nestlé Switzerland will additionally include the "important notice" on breast-feeding with communicating on Follow-on formula.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
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III. PRINTED MATERIALS FOR HEALTH PROFESSIONALS (46)					
Argentina	81	Advertisements in professional journals and leaflets promote NAN as “the most complete, balanced and safe range of infant formulas” and “... closest to mother’s milk, at lowest price”, “nutritive and natural as your love” and “the most economic starter formula”.	Global Report: Misleading text and pictures which violate the Code	58	The add and leaflets referred to are in total compliance with WHO Code and local legislation, including the important notice and the breast milk support statement required. They are intended for Health professionals only and are not misleading in any way.
Argentina	82	A NAN 2 promotion “Nutritionally superior to cow’s milk” while NAN HA says “Infant formula which prevents allergy.”	Global Report: Misleading text and pictures which violate the Code	58	The mentioned leaflets are intended for health professionals only and include all requirements made by the WHO Code and Local Legislation. They explain the risks of feeding cow's milk to infants below 12 months of age. The claims made on NAN HA, a partially hydrolysed Infant Formula, are scientifically proven, thus factual and scientific.
Dominican Republic	83	A Nan leaflet in the waiting room of a paediatric clinic says that “the best infant formulas have a composition qualitatively and quantitatively adapted to human milk”; “New Nan – optimum calcium phosphorus ratio ... in quantities closer to human milk”	Global Report: Misleading text and pictures which violate the Code	60	After having received the name of the Clinic where the leaflet was allegedly found, we could investigate this case closer finding no evidence of the alleged violation. Nestlé's printed materials are designed to provide scientific information to doctors, not to mothers, and are never left in waiting rooms or clinics by our staff.
Dominican Republic	84	A booklet “Nucleotides in infant nutrition” given to mothers in clinics states that “Nan 1 starter formula has added nutrients to cover the needs of the newborn, among them nucleotides”. The booklet promotes Nan 1 as equivalent to breastmilk.	Global Report: Misleading text and pictures which violate the Code	60	The leaflet was distributed by Nestlé only to health professionals who can have a discerning reading of the content. The scientific information provided is backed up by researches. All the important notices recommended by the WHO Code were also mentioned.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Dominican Republic	85	Nan 1 booklet Importance of adequate protein ingestion found in clinics bears the message - "Breastmilk: high quality protein; Nan 1: the appropriate alternative". There are tables comparing Nan 1 composition to that of breastmilk. It claims that the stool patterns of babies fed on Nan 1 are similar to those fed on breastmilk.	Global Report: Misleading text and pictures which violate the Code	60	We need more information on where this booklet was found, as it was never to our knowledge used in the Dominican Republic. Nestlé's printed materials are designed to provide scientific information to doctors, not to mothers, and our personnel never leave them in waiting rooms or clinics.
Dominican Republic	86	A magazine advertisement for NIDINA follow-up formula says, "Give him all the protection he needs" and uses a baby picture to promote the use of NIDINA as of four months.	Global Report: Misleading text and pictures which violate the Code	60	This allegation is inaccurate. In Dominican Republic, Nestlé does not sell the NIDINA Brand.
Dominican Republic	87	Nestlé aprovecha cualquier tema para introducir la imagen de mamá y bebé (Dominicana)	Latin America Report	10	The picture of a mother and a baby on the front-page of the edition of the scientific journal "Annales Nestlé" focused on Obesity in Childhood, is cited as a violation. "Annales Nestlé" is a well-respected paediatric journal, published since 1942, written by internationally known scientists. Each publication focuses on a specific topic such as diabetes or trace elements requirements for infants and children. Showing a picture of a mother and baby in this context is totally in compliance with any resolution adopted by the World Health Assembly.
General	88	En un folleto sobre las ventajas de la formula infantil sobre la leche de vaca, Nestlé trata de confundir acerca del origen de las fórmulas: ella stambién están hecha con leche de vaca!	Latin America Report	10	The mentioned material is a booklet intended for health professionals, explaining the risks of feeding cow's milk to infants below 12 months of age. Infant formulas are made from adapted cows milk, following strict Codex Alimentarius standards to ensure the appropriate nutrients are included.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
not specified	89	Lactancia Materna: "tanto como sea posible..." dice Nestlé en lugar de repetir la recomendación mundial de la OMS: «hasta los 2 años o más»...	Latin America Report	10	We fail to see how this allegation can be considered as a violation. We would also like to mention that the phrase we use is taken out from the WHO's expert consultation document, from which the recommendations presented in Resolution WHA54.2 where taken:. "The expert consultation recommends exclusive breastfeeding for six months, with introduction of complementary foods and continued breastfeeding thereafter. This recommendation applies to populations"
not specified	90	Tratando de mejorar su imagen, Nestlé envía a los médicos pediatras de Argentina una publicación donde destaca las actividades que desarrollan en temas sociales (izq.). Otra estrategia es el envío del "Código Internacional de la OMS - Action Report" (der.), boletín que muestra el supuesto cambio realizado por la empresa en las etiquetas de sus alimentos complementarios. Sin embargo resalta en todo momento que "el Código es aplicable (y fue creado) para los países <en vías de desarrollo>".	Latin America Report	21	The "Nestlé WHO Code Action Report" is a publication intended to inform about new recommendations by the WHO, and how Nestlé applies those recommendations. For example Nestlé supporting exclusive breastfeeding for 6 months, and having accordingly changed labels of its complementary foods in all developing countries. In the Report we also state our interpretation of the WHO Code: "The Who Code was passed as a recommendation to governments... governments have the responsibility to implement the Code as They find appropriate with respect to the local circumstances... Nestlé universally follows all countries implementation of the WHO Code. Our decision decades ago to voluntarily and unilaterally implement the Code as a minimum in all developing countries is due to the fact that economic, social and sanitary conditions in most of those countries differs substantially from the situation in developed countries... The initial reason for developing an international Code... had also to do whit the poor situation in the developing world."

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Trinidad & Tobago	91	<p>Numerous copies of a leaflet found in a waiting room of a community health centre in Trinidad and Tobago describe the “unique characteristics” of Nestlé’s soy-based CARNATION ALSOY - “nutritionally complete” and CARNATION Follow-up Soy - “slightly sweeter taste than soy starter which increases compliance in infants”. Carnation Good Start is “designed to keep the osmolality similar to breastmilk” producing “stool consistency similar to breastfed infants” and Carnation Follow-up is “ enriched with vitamins and minerals for healthy growth and development.”</p>	Global Report: Misleading text and pictures which violate the Code	62	<p>We need more information on the name and location of the clinic in order to pursue this allegation in terms of the copies left in the waiting room. Nonetheless, we can clarify that health professionals receive only one information leaflet per visit, in the Doctor or Nurse's office and never in the waiting area. The Medical Delegate highlights that the information is for health professionals only and points out the footnote that states it. Information leaflets are never given to Health Professionals while in the waiting area or placed in the waiting area.</p>
Trinidad & Tobago	92	<p>A leaflet on Nestlé Carnation Follow-up formula in Trinidad and Tobago claims that the product is a “nutritionally complete baby formula specially formulated for babies 4 months of age and older to ensure active babies’ needs for calcium” and although “starter formulas are adequate for the first year, ... Follow-up provides extra nutrition insurance”. “Priced to save parents up to 20% compared to Enfamil (Mead Johnson) and Similac (Abbott-Ross)”, it “helps promote the continued use of an iron-fortified formula throughout the first year of life”.</p>	Global Report: Misleading text and pictures which violate the Code	62	<p>The leaflet on CARNATION Follow Up Formulae was printed in the US in 2001 intended for professional use by paediatricians. In the US, this information is allowed. Its distribution in Trinidad & Tobago was stopped in 2001, right after its initial use and when the comparative information and the age of introduction were observed. It was replaced by another leaflet which did not include the aforementioned price comparison and the recommended age of introduction of follow on formulas was 6 months</p>

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Uruguay	93	Publicidad de Nestlé en Uruguay. Fórmula antirreflujo propuesta «desde el nacimiento». Algún Neonatólogo la recomendaría desde el momento mismo de nacer un bebé?	Latin América Report	9	Aunque la información disponible sobre esta acusación es limitada, podemos afirmar que: NAN AR es una fórmula de inicio (fabricada bajo los estándares del Codex Alimentarius para la alimentación de infantes hasta el 6to mes de vida) su característica antiregurgitación está dada por su formulación especial con adición de espesantes naturales que la hacen ideal para la alimentación de infantes con reflujo gastroesofágico. Este tipo de fórmulas está contemplado en la legislación Uruguay (Diario Oficial, Reglamento Bromatológico Art. 29.1.30) Por su parte, los materiales científicos utilizados por Nestlé en Uruguay, no son publicidad sino pretenden apoyar a los Agentes de Salud con información científica apropiada, lo que se hace cumpliendo con los requisitos del Art. 7.2 del Código OMS. Cabe recalcar que el ministerio de salud no hizo ninguna objeción sobre este tema al registrar y Autorizar la comercialización de este producto.
Botswana	94	An 8-page booklet found in a Botswanan hospital proclaims that “Growing up is Thirsty Work” and promotes LACTOGEN 1 “for the hungry full term infant” and LACTOGEN 2 as “specifically adapted to the needs of infants on complementary food” and “high in bio available iron.”	Global Report: Misleading text and pictures which violate the Code	59	This leaflet has not been used since 2001. It was not destined to the general public or mothers, but only to health professionals who can have a discerning reading of the content. The scientific information provided was backed up by researches. All the important notices recommended by the WHO Code were also mentioned. However, we have ourselves decided to exert a closer control of our informational materials for health professionals to avoid style or illustration that does not reflect a scientific tone enough.
Botswana	95	A leaflet "37°C in the shade" claims that by using PELARGON “diarrhoea and its side effects are counteracted” but fails to explain the risks involved in artificial feeding where water is unsafe.	Global Report: Misleading text and pictures which violate the Code	59	See comment above.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
China	96	Mothers receive information and educational materials meant for health workers. Companies readily supply bulk copies to ensure they 'trickle down' to mothers. Most are promotional in nature and entice mothers to purchase their products. Nestlé: use NAN and "Raising an excellent child is no longer a dream"	China Report:	3	Information that is more detailed is needed to assess this allegation, particularly about where and when our informational materials destined to health workers might have been distributed to mothers. The contents of those materials address the need for information of health professionals, and cannot be understood by a reader who is not conversant in scientific matters. Furthermore they are handed one by one to doctors, and; have never handed out huge quantities of those materials to target the mothers. Some words or pictures in those materials may not be sound scientific enough, we shall tighten the editing control to ensure that the content is more scientific and factual.
China	97	A leaflet in a Chinese maternity ward, Nan healthy baby, the future will be even brighter claims that Nan 1 is the only formula that is low in phosphorus and closest to breastmilk. The background is similar to a Nan label.	Global Report: Misleading text and pictures which violate the Code	59	See comment above. The leaflet criticised, which was used during the 2nd quarter of 2001, contained all the warnings recommended by the WHO Code, and explained the scientific aspects of low phosphorus in infant formula. NAN is indeed the infant formula which has the lowest phosphorus content in China. There was no claim that the product is equal or superior to breast milk. In order to pre-empt any misperception, Nestlé China has improved the leaflet and stopped including baby pictures after a discussion with a representative of IBFAN on Oct. 21,2003.
China	98	Another Chinese leaflet with a similar picture asks "Why the Nan baby's bottom is not red?" Two of the babies suffer red bottoms but the one fed on Nan does not, implying that Nan 2 with Bifidus can prevent sore bottoms.	Global Report: Misleading text and pictures which violate the Code	59	See comment above. The leaflet criticised contained scientific explanations about the intestinal micro-flora and measures to prevent sore bottom for babies. In order to pre-empt any misperception, Nestlé China has improved the leaflet and stopped including baby pictures after a discussion with a representative of IBFAN on Oct. 21,2003.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
China	99	An advertisement in a professional journal promotes LACTOGEN 1 and LACTOGEN 2 by showing a colourful sketch of children playing accompanied by the slogan "Look! More and More LACTOGEN Babies Grow Healthily and Happily". The advertisement claims that LACTOGEN is the leading brand in China and uses advanced technology in its manufacture.	Global Report: Misleading text and pictures which violate the Code	59	The advertisement was printed in the Chinese Journal of Child Health Care. The audience of this specialised publication are health professionals, who have the necessary qualifications to make a discerning reading of the communication. The text used aimed at providing health professionals information about the properties of the new formulation of LACTOGEN as compared to previous products, not as compared to breast milk. It did specify the superiority and benefits of breastfeeding and warned against the potential negative impact of bottle-feeding, as required by Article 4.2 of the WHO Code. Again, in order to pre-empt any misperception, Nestlé China decided to stop using this advertisement since late 2003, and has informed the International Code Documentation Centre of this decision in January, 2004.
China	100	A LACTOGEN leaflet starts with the slogan "the natural smell of milk and DHA content makes your baby healthy and smarter." The same slogan also appears on a Nan leaflet. Nestlé denies it portrays bottle feeding as equivalent to breastfeeding and explains instead that DHA oxidises easily and can develop a fish off-taste and that Nestlé's manufacturing process ensures the natural taste of milk is preserved.	Global Report: Misleading text and pictures which violate the Code	60	See comment above. The mentioned leaflet aimed at presenting to doctors the properties of re-formulated LACTOGEN and NAN enriched with DHA through an advanced technology, which avoids the normal oxidation of DHA that causes strong fishy off-taste and develops harmful peroxides. The leaflet did not imply that our formula has the same taste as breast milk. Nestlé China has however revised this communication late 2003 to pre-empt any misperception.
China	101	A NAN leaflet proclaims that "raising an intelligent child is no longer an impossible dream" with Nan 1 and Nan 2 and that the Bifidus in Nan makes "excellent baby".	Global Report: Misleading text and pictures which violate the Code	60	See comments above. Nestlé China has already answered ICDC on this matter in January 2004.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Egypt	102	Nestlé repeatedly uses phrases such as: “as in breast milk”, “identical to breastmilk” or “similar to breastfed” and reminds mothers to mix feed from five months (frace in leaflet: "As close as possible to mother nature")	Egypt Report	1	These informational materials are never given to mothers, but are destined to health professionals who can make a discerning reading of the communication. They all mention "for the medical profession only" and highlight the important notice recommended by Article 4.2 of the WHO Code. However, after receiving late 2003 ICDC' s comment that the text contained too many comparisons to breast milk, Nestlé Egypt decided to discontinue using those materials and to develop new materials avoiding language or illustration that can lend itself to misinterpretation.
Egypt	103	The slogan at the top of the brochure: “The Perfect Start” continues “with guaranteed FOLLOW-UP throughout the first year” on the back page. Nestle also disregards the Code in another brochure by idealising its infant formula, NESTOGEN, with terms such as “close to breast milk” and “same as breast milk”. These points are driven home with a picture of a breastfeeding mother inside the brochure, making the similarity seem inevitable.	Egypt Report	3	See comment above.
Egypt	104	Follow-up formula with the same name and label design as infant formula promotes brand loyalty. Companies deliberately interpret the Code to cover only infant formula and advertise or highlight their infant formula indirectly through the promotion of follow-up milks in the same range. (mention of a NAN 1 and NAN 2 Leaflet.)	Egypt Report	4	Although follow-on formulas do not fall under the scope of the WHO Code, Nestlé is the single infant food manufacturer to unilaterally apply all the Code restrictions to follow-on formulas carrying the same brand as a starter formula, e.g. NAN 1 and NAN 2. Thus, Nestlé follow on formula is not promoted to the public in developing countries.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Ghana	105	In Ghana, Nestlé reps persuade health workers of a baby-friendly hospital to accept LACTOGEN 1 and 2 promotional leaflets on the grounds that HIV+ mothers, orphans, mentally sick or caesarean mothers would need it. The front of the leaflet shows packshots of LACTOGEN 1 and 2, while under LACTOGEN 1 it says “the right choice” and under LACTOGEN 2, “Two feeds of LACTOGEN 2 a day provides the daily protection needs of the infant”.	Global Report: Misleading text and pictures which violate the Code	61	Information that is more detailed is needed to assess this allegation. The WHO Code allows manufacturers to provide informational materials relating to breast milk substitutes to health workers, as long as this information is restricted to factual and scientific matters and include some specific notice mentioned in Art. 4.2 of the Code. The informational leaflets Nestlé Ghana distributed to health professionals only, comply with these recommendations, and always underscore the superiority of breastfeeding. Some of the titles used in those leaflets may lead to misperception that we try to idealise formula feeding, Nestlé Ghana will review these titles in developing new leaflets.
Ghana	106	A six-page brochure– Nan 1 – The New Standard: Closer to the reference – in Ghana is portrayed as scientific and factual information for health professionals. It promotes Nan as having “a protein content equivalent to the mean density of mature breastmilk and an increased protein quality closer to the nutrient composition of human milk.”	Global Report: Misleading text and pictures which violate the Code	61	All the information in this criticised brochure is based on scientific facts and researches carried out by the Nestle Research Centre in Switzerland. The brochure explains the scientific methods that had gone into the preparation of the new NAN to improve its amino-acid profile. It was specifically produced for health professionals who have the necessary qualification to understand the information. This informational material was handed to health professionals during a seminar on Child Development, Health, and Nutrition held with the permission and under the supervision of the Food and Drugs Board of Ghana.
Ghana	107	A booklet titled I am Breastfeeding my Baby is endorsed with the statement that it is “Educational materials for mothers for distribution by health professionals only. Presented with compliments of Nestlé.” It contains misleading information on breastfeeding and was stopped from circulation by Ghanaian authorities in June 2003 after complaints by health workers. In March 2004, the booklet, purportedly revised, is back in circulation but still has misleading information particularly on positioning and attachment.	Global Report: Misleading text and pictures which violate the Code	61	Art. 4.3 of the WHO Code allows manufacturers to provide informational and educational materials to pregnant women and mothers at the request of local authorities, subject to specific content laid out under Art. 4.2 The booklet in question covers the following topics: benefits of breastfeeding; preparing to breastfeed; starting to breastfeed; and breastfeeding tips, and contains absolutely nothing which could be deemed promotion of formula feeding. <i>In accordance with local regulations</i> , Nestlé Ghana sent in May 2003 copies of the booklet to the Food and Drugs Board for clearance. Copies were also submitted to the Paediatric Society of Ghana.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Thailand	108	When closed, leaflet seems to promote breastfeedingWhen opened, a different story unfolds! A selection of the many information materials for health professionals in Thailand – they are not restricted to scientific and factual matters. A Nan 1 brochure claims to have “new improved protein efficiency” and starts with the statement that “breastmilk is best” with a page showing the face of a baby next to another page showing the mother’s breast. The leaflet opens up to symbolically separate the baby from the breast with a picture of Nan 1 and the statement that “Nan 1 is closer now than ever ...”	Global Report: Misleading text and pictures which violate the Code	61	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	109	A Nan 1 brochure found in a Thai hospital claims the product “gives valuable nutrients which have complete benefits for baby from birth to one year.” It also equates the product with breastmilk by claiming that “the amino acid profile of Nan 1 is close to breastmilk and is suitable for the best growth”. The brochure uses the picture of a lovely healthy baby with the caption “add value with quality protein...”.	Global Report: Misleading text and pictures which violate the Code	61	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	110	A brochure Protect your baby from allergy shows a picture of a healthy looking baby with a happy family. The brochure states that if a mother is not able to breastfeed, the risk of allergy in the baby will increase and the alternative would be to use Nan HA formula which is similar to breastmilk.	Global Report: Misleading text and pictures which violate the Code	61	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Thailand	111	Other brochures found in a hospital promote Nan HA under different slogans such as "Protect your beloved baby from allergy", "Nan HA: for baby...there's no risk involved." All claim to decrease the risk of allergies in a child because of small molecules of proteins which ease digestion and absorption like breastmilk. A statement boldly equates Nan HA to breastmilk by stating that "If mother cannot breastfeed, risk of allergy will be increased. The other choice is hypoallergenic formula (HA) which is similar to breastmilk."	Global Report: Misleading text and pictures which violate the Code	62	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	112	A leaflet given out at a perinatal conference offers free membership of Nestlé's Dear Mom Club which comes with the promise of programmes for mother and child and free gifts.	Global Report: Misleading text and pictures which violate the Code	62	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	113	A Nan 2 brochure, part of a set called Full of Love from Mother's Breast claims that it contains Bifidus BL which promotes body resistance and prevents infection the same way as in breastfed children. Another brochure in this set promotes Nan HA as similar to breast milk with a statement "Breastfed baby and/or Nan HA fed baby can reduce the incidence of skin allergy". It idealises Nan HA with a picture of a healthy baby.	Global Report: Misleading text and pictures which violate the Code	62	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	114	A leaflet on NAN HA, NAN 1 and NAN 2 with a healthy baby picture idealises the use of the products with the caption "Complete nutrition for healthy growth and development".	Global Report: Misleading text and pictures which violate the Code	62	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
UAE	115	In the UAE, a brochure for GUIGOZ 1 and GUIGOZ 2 for the medical profession specifically targets mothers in the Middle East with claims that the improved formula addresses mother's worries regarding a list of common ailments including "fever, coughs and colds, colic" and "baby not developing normally: weight, walking and talking, etc., baby not sleeping well	Global Report: Misleading text and pictures which violate the Code	62	The brochure in question was strictly destined to health professionals and contained technical information on the new formulation of GUIGOZ, with some references to a study conducted in 3 countries in the Middle East which highlight the concerns of mothers using infant formula.
Vietnam	116	Nestlé promotes LACTOGEN 1 by distributing a four-page card leaflet in health facilities in Vietnam. This leaflet has packshots of LACTOGEN 1 with 'rays' emanating from a can and arching towards the baby's brain, bones and body implying the product is beneficial to the baby's growth and development.	Global Report: Misleading text and pictures which violate the Code	62	This refers to a leaflet which Nestlé Vietnam stopped using more than a year ago. That leaflet was not destined to the general public or mothers, but only to health professionals, who can have a discerning reading of the content (information on the properties of LACTOGEN 1 that can all be scientifically substantiated). Nestlé Vietnam has been instructed to be stricter on the choice of illustrations for such informational materials for health professionals to pre-empt misperception that the content is of a promotional nature.
Armenia	117	Promotional leaflets on Nan are distributed to polyclinics and then passed on to mothers.	Global Report: Gifts to health workers	57	We need and have request more information to pursue this allegation. As a rule leaflets, clearly marked "information for medical professionals only" are personally handed over to the health professionals.
Armenia	118	Nestlé distributes prescription forms to doctors in clinics in Armenia. The prescriptions are given to mothers to take to pharmacies where they purchase whatever Nestlé product is prescribed. Doctors then get a commission, reportedly about 10% of the sale.	Global Report: Gifts to health workers	57	We need and have requested more information to pursue this serious allegation. Nestlé does not engage in these kinds of activities and takes significant steps to ensure that our distributors and importers promote our products in compliance with the WHO code. We have not distributed prescription forms and doctors never get a commission. Any violation results in immediate termination of the importer's contract. For information: In 2003, Nestlé started to have it is own medical representatives in Armenia.
Armenia	119	A leaflet found in a paediatric hospital claims Nan is a fully adapted infant formula and is close to human milk in content and digestibility.	Global Report: Misleading text and pictures which violate the Code	59	The leaflet, for medical professionals only, suggests that "new NAN is closer to the reference" than competing formulas. It does not say that NAN 1 is better, or similar to breast milk. In fact, it acknowledges that breast milk is best. The wording is in full compliance with the WHO Code.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Armenia	120	Nan leaflets – Nan: New with improved quality of proteins and Nestlé Nan Acidophilic - distributed to health workers at a Nestlé conference make road claims comparing the product with breastmilk and compare the growth of the breastfed child with one who is fed new Nan. There are statements which claim that Nan promotes formation of bones, brain development and visual acuity.	Global Report: Misleading text and pictures which violate the Code	59	The information is based on validated clinical extracts. The statements clarify the properties of NAN are not undermining breastfeeding. As always, also this brochure includes all-important information re the superiority of breastfeeding as required by the WHO. The leaflet is for medical professionals only.
Armenia	121	A Nestlé Nutrition booklet in Russian promotes the full range of Nestlé infant formula, NESTOGEN, NAN, ALSOY, ALPREN and ALFARE with a summary of micro and macronutrients added to the products making them closer to breastmilk, closer to nature and fully replacing breastmilk.	Global Report: Misleading text and pictures which violate the Code	59	This booklet, clearly marked " this information is for medical professionals only" and containing all the important information on breastfeeding and uses as a reference babies fed with breast-milk as some characteristics are different. Normal infant formula is developed to come as close as possible to breast milk, which is very important for those babies who are not breastfed. According to the Definitions in the WHO Code, Article 3, a breast-milk substitute (which includes infant formula is " <i>any food being marketed or otherwise represented as a partial or total replacement for breast milk ...</i> ".
Georgia	122	A Nan leaflet found in a doctor's office claims that its protein, carbohydrate, amino acid and mineral components are close to mother's milk.	Global Report: Misleading text and pictures which violate the Code	60	All information material to health professionals are clearly marked " this information is for medical professionals only" and contain all the important information on breastfeeding. Product information has to be factual and scientifically based. NAN is developed to come as close as possible to breast milk, which is very important for those babies who are not breastfed. The basic composition of an infant formula follows the standards set by Codex Alimentarius, the joint FAO/WHO body setting foods safety standards. We have asked to see the leaflet which will allow us to investigate the details..

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Georgia	123	Leaflets promoting NESTOGEN infant formula featuring a packshot of the product and a huge bottle and teat are found in health facilities, shops and pharmacies.	Global Report: Misleading text and pictures which violate the Code	60	The leaflet was withdrawn from circulation in mid 2003 when Nestlé changed complementary food labels to recommend introduction at 6 months.
Russia	124	A leaflet found in a supermarket in Arkhangelsk, Russia promotes NESTOGEN and idealises the use of formula with a large bottle printed on the front and back of the leaflet. Packshots of five other products are shown – Nan, ALPREN, AL110, ALSOY and ALFARE.	Global Report: Misleading text and pictures which violate the Code	61	The comment refers to a brochure designed for medical professionals, and includes all information required by the WHO Code. Nestlé distributes such material <u>only</u> to health professionals. The brochure has not been used since end 2002 and as from 2003 there is no bottle on the information material
Serbia and Montenegro	125	A Nan booklet found in a doctor's office in Serbia promotes its lactose- free formula by implying medical endorsement of the product with a nurse's cap and a stethoscope 'worn' by a Nan tin.	Global Report: Misleading text and pictures which violate the Code	61	This brochure is for medical professionals only, the information about the product is factual and scientifically based, and it was approved by local authorities before its release.
Serbia and Montenegro	126	Another Serbian brochure entitled Nan 2 Follow-Up for Older Infants shows a beautiful picture of a baby's hand clutching an adult's finger together with the Blue Bear mascot on a label of Nan 2. It could symbolise bonding. It also equates bottle feeding to breastfeeding by stating that "Nan is the first choice at the right moment".	Global Report: Misleading text and pictures which violate the Code	61	This old material for health professionals dates back to 1998, the distribution finished in 1999. The revised information on NAN 2 follow-up formula includes no blue bear or feeding bottle. The brochure includes all-important information required by WHO.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
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IV. LABELS OF INFANT FORMULAS (14)					
Brasil	127	En Brasil, NAN presenta la ilustración (pájaros) y en NAN AR además indica condición de salud (anti reflujo), ambas situaciones prohibidas por la ley local. Precisamente en Brasil puede observarse cómo, coincidente con lo que parece ser una estrategia mundial de transformar el logotipo de la empresa en un diseño atractivo donde la mamá alimenta a sus hijitos, la fórmula NAN AR se ha transformado	Latin América Report	16	La indicación "anti reflujo" no es y tampoco fue usada en la etiqueta de NAN AR. El descriptivo usado es "anti regurgitación" el cual fue aprobado inicialmente por el Ministerio de la Salud. Por solicitud del ministerio de Salud fechada en octubre/2004, hemos retirado el descriptivo de la etiqueta de NAN AR. La imagen del nido, es el logotipo, legalmente registrado, presente en todos nuestras formulas infantiles, y como tal permitido por el código de la OMS y la Ley Local.
Mexico	128	Nestlé's NAN 2 label claim the product have "new improved protein efficiency from start."	Global Report: Labelling	58	This allegation is incorrect. The health claim "New improved Protein Efficiency" refers to the improved metabolic effect of the new amino acid profile of NAN 1. This statement about its effect is scientifically based.
Peru	129	Nestlé's NAN 1 claim the product have "new improved protein efficiency from start."	Global Report: Labelling	58	The statement "New improved Protein Efficiency" refers to the improved metabolic effect of the new amino acid profile of NAN 1. This statement about its effect is scientifically-based.
Perú	130	En Perú la fórmula de seguimiento NAN 2 dice "Nueva eficiencia proteica mejorada de inicio", colocando una confusión a la edad de su indicación debido a la costumbre de emplear la expresión «de inicio» en las fórmulas para bebés en los primeros meses de vida.	Latin America Report	18	This allegation is incorrect. The health claim "New improved Protein Efficiency" refers to the improved metabolic effect of the new amino acid profile of NAN 1. This statement about its effect is scientifically based. The label for our Follow up Formula, NAN 2, clearly states "suitable from 6 months."

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
China	131	Nan 1 labels say "Choose quality food, choose Nestlé" and claim that the product is close to breastmilk. Nan 1 is idealised by the claim that its low phosphorous content helps calcium absorption and promotes the growth of Bifidus bacteria.	Global Report: Labelling	58	In a local context where fake breast milk substitutes abound, it is important for Chinese consumers to be able to rely on strict quality assurance. All Nestle products sold in China include a red band with the phrase "Choose Quality, Choose Nestle," which reflects the quality commitment of Nestle China vis-à-vis its consumers. Emphasizing strict quality standards is not in any way contravening the WHO Code (c f its Article 10 : "The quality of products is an essential element for the protection of the health of infants and therefore should be of a high recognized standard."). As for the health benefits related to the low phosphorus content in our infant formula range, they can all be scientifically substantiated.
South Africa	132	Labels on Pre Nan, Nan Hypoallergenic 1, and PELARGON are only in English without the local languages as required by the Code.	Global Report: Labelling	58	South Africa has 11 official languages. As it is impossible for a product, especially in small containers, to be systematically labelled in all the official languages, a selection has to be made, in consultation with public health officials and the medical profession, taking into account the consumers' profile for each type of product. PRENAN and NAN HA have been introduced with English-only labels as these speciality formulas were intended for sales in pharmacies only on prescription, with the necessary explanations, by doctors. Nestlé South Africa is however developing a plurilingual label for NAN HA as this product is becoming more widely used. PELARGON uses English together with some of the other official languages, and always has.
South Africa	133	The LACTOGEN 1 label suggests the product has the same benefits as breastmilk with the claim that it "has all vitamins and minerals required by an infant for growth and development."	Global Report: Labelling	58	The text on the label does not compare the formula with breast milk, it qualifies the composition of the product as containing all vitamins and minerals required by an infant for growth and development compared to the standards of the United Nations' Codex Alimentarius.
Tanzania	134	The PELARGON label promotes its higher acidic content as being able to aid digestion.	Global Report: Labelling	58	This health claim is scientifically proven, as required by Codex Alimentarius' standards.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Zimbabwe	135	Nestlé Zimbabwe, without official approval, changed its infant formula labels to include an enlarged and 'idealising' logo showing a bird feeding its chicks. The label also breaches provisions of the national law requiring specific text that breastfeeding protects the baby against diarrhoea and other illnesses and that cup feeding is safer than bottle feeding. The "Breastmilk is best" notice on some NAN labels is obscured by the lid and can only be read after its seal has been removed	Africa Report:	4	On labels of NAN HA sold in Zimbabwe the upper part of the important notice for mothers was indeed covered by the transparent safety lid, the notice thus could be easily readable only when the product was purchased and opened for use. This has been rectified and since February 2004 on all NAN HA packs sold in Zimbabwe the important notice is fully visible. Regarding the content of our infant formula labels, all the specific texts required by the national law are included. It refers to Nestlé corporate logo, which has been legally used throughout the world for more than a century. Both language and illustration on labels of our infant formula sold in Zimbabwe are routinely cleared with the Infant Nutrition Committee of Zimbabwe.
Zimbabwe	136	Nestlé's Nan 1 label is not in the two main local languages which are chiShona and isiNdebele.	Global Report: Labelling	58	In May 2003, after a series of stock outages due to a raw material shortage, we asked -- and received -- permission from the Department of Health to temporarily bring from South Africa products with labels not containing these 2 local languages.
Armenia	137	the ALFARE label has instructions in 13 languages and translation is inconsistent. For example the statement: "Semi-elemental formula with low osmotic activity" in Russian reads as "semi-elemental formula with low asthmatic activity" in Armenian.	Global Report: Labelling	58	There is a mistake in the translation which will be corrected immediately. Osmotic is the right word.
Armenia	138	Translation is also inconsistent on the NESTOGEN label. In Russian, there is a statement that breastmilk is the ideal nutrition for a "newborn", meaning a baby below one month, while in Armenian breastmilk is said to be ideal for a "baby".	Global Report: Labelling	58	The word "baby" was used to indicate that breast-milk is ideal for infants during a longer period of time.
Armenia	139	Nan and NESTOGEN carry images of a large feeding bottle on the label, thus promoting the culture of bottle-feeding. (bottles on labels are only allowed for illustrating the method of preparation).	Global Report: Labelling	58	In mid 2003, labels were changed to eliminate images of bottles on any products imported to Georgia or Armenia. It might be possible that NESTOGEN products with old labels were still found in some pharmacies in regional cities. Sales people are instructed to change the product if any old labels are detected.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Georgia	140	Nan and NESTOGEN carry images of a large feeding bottle on the label, thus promoting the culture of bottle-feeding. (bottles on labels are only allowed for illustrating the method of preparation).	Global Report: Labelling	58	In mid 2003, labels were changed to eliminate images of bottles on any products imported to Georgia or Armenia. It might be possible that NESTOGEN products with old labels were still found in some pharmacies in regional cities. Sales people are instructed to change the product if any old labels are detected.
V. SAMPLES OF INFANT FORMULA (11)					
Argentina	141	Mothers receive free samples of Nan Soya in health facilities.	Global Report: Promotion in Health facilities: Samples and Supplies	56	We need, and have requested, more information to pursue this allegation. As a result of the additional information provided to us, we were able to track this allegation further, however we did not find any proof of samples being given by Nestlé Argentina to mothers in the "Centro de Salud Las Americas"; as the WHO Code and Nestle policy prohibits the distribution of breast-milk substitute samples to mothers in health facilities.
Argentina	142	Nestlé regala en Argentina muestras de NAN Soya.	Latin América Report	6	Nestlé Argentina no entregan muestras de formulas infantiles a madres. Muestras son entregadas a profesionales médicos según las instrucciones del artículo 7.4 del Código de la OMS.
Dominican Republic	143	In one clinic, mothers received Nan 1 infant formula from nursing staff in the perinatal room and also LACTOGEN, NESTOGEN and Nestlé Cereals elsewhere.	Global Report: Promotion in Health facilities: Samples and Supplies	56	Our investigation found no trace of Nestlé Products being given to mothers in health facilities. It should be noted that infant formula products are sold in the pharmacies of medical centres and clinics, where patients can buy them by prescription only. Nestlé sells to the pharmacies as we do to any other trade channel. LACTOGEN is not sold in Dominican Republic.
Dominican Republic	144	Nestlé regala en Rep. Dominicana muestras de NAN.	Latin America Report	6	Although the allegation is not clear enough, we can ensure that Nestlé does not give away samples of Infant Formulas to mothers. Samples of infant formulas are given to doctors for professional evaluation, as the article 7.4 of the WHO Code allows it. (2 cans when a new product is introduce or for a newly qualified professional)

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Indonesia	145	(please refer to the pictures on the Front page) <i>Mother with LACTOGEN sample in hospitals</i>	Indonesia Report	1	The information provided in the Report is not complete enough to allow us to investigate this allegation. However it is Nestlé's policy not to allow samples of infant formulas to be distributed, except in strictly defined cases reflecting the WHO Code's recommendations. We are continuously making efforts at disseminating the awareness about those restrictions to our distributors and contacts within the health profession, to avoid situations where our infant formula are involved in sampling initiatives taken by third parties.
Thailand	146	Nestlé gives out samples of products like LACTOGEN 1 and Nan 1 to mothers in shops.	Global Report: Point of Sale	55	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	147	Nestlé gives out samples like LACTOGEN 1 and Nan 1 to mothers at home. Samples of Bear Brand follow-up formula are given to mothers in an introduction scheme where mothers are asked to provide their friends' contact information to Nestlé.	Global Report: Promotion to public	55	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	148	Mothers are given samples purportedly to 'help them save money.'	Global Report: Promotion in Health facilities: Samples and Supplies	56	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	149	it distributes LACTOGEN 1 and Nan 1 and gift packs through obstetricians, paediatricians, nurses and general health workers who pass them on to mothers.	Global Report: Promotion in Health facilities: Samples and Supplies	56	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Armenia	150	Two 450 g tins of ALFARE hypo-allergenic formula marked “sample for professional evaluation” are routinely given to each patient in a resuscitation unit. Doctors fill up request forms but no evaluation is conducted.	Global Report: Promotion in Health facilities: Samples and Supplies	56	Information that is more detailed is needed to pursue this allegation further. ALFARE is sold in 400g tins in Armenia, not 450g. ALFARE is a speciality formula (FSMP, Food for Special Medical Purposes) for very sick babies and is not sold in shops. It is only distributed in hospitals through doctors for sick babies that have special need for ALFARE.
Bulgaria	151	Free samples of NAN 1	Global Report: Promotion to public	54	We need and have requested more information to investigate this very general allegation. Nestle Bulgaria does <u>not</u> give free samples of NAN 1, or any infant formula product, to mothers. Two tins of infant formula are given to health specialists, one time only, for professional evaluation in the following occasions: introduction of a new product; introduction of a new formulation of an existing product; contact with a newly qualified health professional. The Nestlé company has to maintain sample distribution record. This is fully in line with the WHO Code.
VI. PROMOTION TO PUBLIC (10)					
Argentina	152	Distributor use Internet (www.etoledo.com.ar) to promote IF and cereals, including the idealising statement "Nan 2 is a maternalised milk"	Global Report: Promotion to public	54	The web page referred to is not contained in a Nestlé Website. Moreover, internet sale pages from retailers are like any other trade channel. As such, it can show and sell Infant formula products using a picture to help the buyer recognize the item they want to purchase; just as if they were placed in the shelves in a retail store. No information about the product or its use is provided in the web page.
Dominican Republic	153	Fortnightly, Nestlé representatives leave promotional materials on Nan products at a pharmacy in San Cristobal in the Dominican Republic. Employees receive free samples for themselves and to pass on to customers.	Global Report: Point of Sale	55	More detail is needed to pursue this allegation, unfortunately this information has not been provided. Nestle policy is that no promotional material for infant formulas should be distributed in pharmacies, neither for customers nor for sales personnel. Samples of infant formulas are given only to doctors for professional evaluation (2 cans when a new product is introduced or for a newly qualified professional) as allowed by the article 7.4 of the WHO Code and not to trade channels.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Botswana	154	In an amazing flyer obtained on a city bus in Gaborone, Botswana, Nestle violates every article of the Code by showing that it does not! * Upon complaint, Nestlé claims that these leaflets were used to “educate their distributors and salespeople in South Africa.”	Global Report: Promotion to public	55	This old allegation relates to a Nestlé South Africa's initiative to raise awareness of the WHO Code among distributors and their sales people. The WHO Code indeed recommends " manufacturers and distributors should apprise their marketing personnel of the Code." With pictures easy to remember by sales people, the material shows concrete examples of practices to be banned (with descriptive pictures being crossed out on the poster). The allegation that Nestlé is promoting its products by explaining what Code violations are does simply not stand to common sense, the less so as those materials were handed out to its distributors and retailers only, not to the general public. In any case these materials have been used in South Africa only, not in Botswana, it is therefore surprising that IBFAN claims it "obtained" one of the flyers on a bus in Gaborone.
China	155	Nestlé sends sales reps to shops and supermarkets in Fuzhou, Nanjing and Wuhan to promote NAN and LACTOGEN.	Global Report: Point of Sale	55	Information that is more detailed is needed to assess this allegation as we fail to understand what activities precisely are criticised by IBFAN under the term "promote." In fact Nestlé China does not promote infant formula to consumers at retail level, which means no price discount, no gift for the purchase of an infant formula. We do use milk merchandisers to ensure the availability in shops of our milk products for older children and adults, i.e. products which are not breast milk substitutes. Gifts may happen to be given, but only in relation to the purchase of Nestlé, infant cereals, or other products that are not breast milk substitutes. All our sales representatives receive regular training on the marketing restrictions stemming from the WHO Code and know that promotion for infant formula at points of sales is not allowed. They may carry out only such activities that are not prohibited by the WHO Code or the local legislation such as checking stock rotation and ensuring clean maintenance of infant formula packs on shop shelves.
Indonesia	156	A display of Nan products is prominently set up near the entrance of a shop in Solo.	Global Report: Point of Sale	55	More information is needed to assess this allegation. Nestle never asks shop owners to display its infant formula near the entrance of the shop; it is usually the shop owner's own initiative to do so. While promoting infant formula at the point of sales, including special promotional displays, is prohibited, the mere presence of infant formula in retail shops does not violate either the letter or the spirit of the WHO Code.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Indonesia	157	Nestlé promotes LACTOGEN and NAN through salespeople in pharmacies in Gowa and Sidoardjo. It also offers discounts to customers buying Nan 1 in shops in Surabaya.	Global Report: Point of Sale	55	Information that is more detailed is needed to assess this allegation as we fail to understand what activities precisely are criticised by IBFAN under the term "promote." In fact, Nestle Indonesia does not promote infant formula to consumers at retail level, which means no price discount, no gift for the purchase of an infant formula. All Nestlé sales representatives are well trained on promotion prohibitions stemming from the WHO Code or the local regulations. Some shopkeepers at retail level may on their own initiative resort to occasional promotion of infant formula. The company makes continuous efforts at training its distributors and agencies on restrictions concerning infant formula, seeking the distributors' help to convey awareness about its policy throughout the retail level, which comprises over a million outlets in the country.
South Africa	158	A poster displayed in a pharmacy in South Africa – "The LACTOGEN range, the specialty range and introducing the range of Nan" – shows a row of LACTOGEN and Nan products.	Global Report: Misleading text and pictures which violate the Code	61	Such a poster should normally be handed out to health professionals only to inform them on the range of our products and their respective properties. Upon receipt of more details about which pharmacy was concerned, Nestlé South Africa has asked the pharmacy to stop displaying the poster. Our policy indeed prohibits promotional devices, such as special displays, for infant formula at points of sales, which a pharmacy is.
Thailand	159	recommends the use of its products by distributing promotional materials and samples, offers services and gifts such as special classes on infant feeding and video tapes on pre-natal care such as "Guide for expectant mother" to promote company loyalty among women at a time when they are making infant feeding decisions	Global Report: Promotion in Health facilities: Samples and Supplies	56	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Armenia	160	Special displays of Nan. Posters of the blue bear logo have the slogan "Start with the best."	Global Report: Point of Sale	55	In Armenia, Nestlé works with an importer/distributor, who has signed an agreement with Nestlé clarifying that they have to comply with the WHO Code in the same way as Nestlé. According to the picture, NAN infant formula is displayed together with complementary foods, the poster referring to complementary foods as well, which is not in keeping with Nestlé Instructions. As IBFAN has not clarified where this happened it is impossible to say whether it was done as an initiative by the shop or by the distributor. Anyhow, Nestlé contacted the distributor immediately and addressed the situation.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Lithuania	161	A magazine ad promoting Nan 2 shows an infant hand reaching for support from an adult	Global Report: Promotion to public	54	The EU Directive 91/321/EEC permits advertising follow-on formula, and Lithuania was one of the transition countries when the advertisement was published in 2001 and 2002. However, since 2000 national legislation prohibit advertisement of follow-on formulas in Lithuania. The advertisement was immediately stopped when the mistake was discovered.
VII. GIFTS TO HEALTH WORKERS (9)					
Colombia	162	Gifts such as mouse pads, diaries, clocks, prescription pads and stationeries, all with the Nestlé name and logo, are distributed to health workers.	Global Report: Gifts to health workers	56	Small culturally appropriate gifts baring corporate logo are permitted by the WHO Code. These gifts are not to be considered as material inducement. Product brands and logos are not used, only a generic Nestle logo.
Costa Rica	163	Gifts such as mouse pads, diaries, clocks, prescription pads and stationeries, all with the Nestlé name and logo, are distributed to health workers.	Global Report: Gifts to health workers	56	Small culturally appropriate gifts baring corporate logo are permitted by the WHO code they are not to be considered as material inducement. Product brands and logos are not used, only a generic Nestle logo.
Dominican Republic	164	Gifts such as mouse pads, diaries, clocks, prescription pads and stationeries, all with the Nestlé name and logo, are distributed to health workers.	Global Report: Gifts to health workers	56	Small culturally appropriate gifts baring corporate logo are permitted by the WHO code they are not to be considered as material inducement. Product brands and logos are not used, only a generic Nestle logo.
Indonesia	165	(please refer to the pictures on the Front page) <i>Gifts of calendars to health workers promote products and companies</i>	Indonesia Report	1	Those calendars are inexpensive and cannot be deemed inducement for the sales or promotion of infant formula. Both WHO Code and Indonesian Code allow the use of company name or corporate on culturally appropriate gifts. Infant formula brands and logos are not used.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Indonesia	166	Nestlé distributes posters, diaries, calendars, stationery and materials on infant care and nutrition to health facilities which are displayed in waiting rooms, nurseries and doctors' offices. Many of these materials contain promotional pictures and text for products such as Nan and LACTOGEN. Nestlé also provides gifts for distribution to mothers. Gifts vary depending on which class mothers are warded in	Global Report: Gifts to health workers	57	The WHO Code allows manufacturers to give inexpensive items of professional utility to health workers. Company name and corporate logo may be shown on those items, but not infant formula brands or logos. Agendas given by Nestlé Indonesia to medical contacts contain a section dedicated to scientific information. The company never gives such items to mothers.
Nigeria	167	Nestlé gives out notepads to health workers. Each page reminds them of the Nestlé name and logo with a caption promoting the company as "...the experts in nutrition."	Global Report: Gifts to health workers	57	Article 6.8 of the WHO Code states: " Equipment and materialsdonated to a health care system may bear a company's name or logo, but should not refer to any proprietary product within the scope of this Code". This was strictly adhered to with regard to the notepads given by Nestlé Nigeria.
Thailand	168	Nestlé distributes many gifts to health workers which feature the company name with and without the logo of the 'fattened birds' – organisers, booklets and growth charts, pregnancy cycle cards, candles, paper holders, toys, bags and pens.	Global Report: Gifts to health workers	57	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
UAE	169	Nestlé distributes every year expensive desk and pocket diaries to health workers.	Global Report: Gifts to health workers	57	Only inexpensive items of professional utility are given to health professionals, in line with the WHO Code and the local regulations. These diaries are given only once a year to some medical contacts. The important notice recommended by the WHO Code is mentioned in those diaries.
Serbia and Montenegro	170	Nestlé distributes table calendars as gifts to health workers	Global Report: Gifts to health workers	57	The calendar is a small gift to paediatricians. It includes information about complementary foods, which are not marketed as a breast-milk substitutes and which are not under the scope of the Code. This is full compliance with local legislation as well as the WHO Code.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
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VIII. DISPLAY IN HEALTH FACILITIES (9)					
Dominican Republic	171	Nestlé representatives provide free infant formula for display in clinics which the paediatricians will then prescribe to mothers.	Global Report: Promotion in Health facilities: Samples and Supplies	56	After receiving additional information, we were able to peruse this Case. *Policlinico de la Vega* is the health care institution refers to in the allegation. The normal exhibition of infant formula products is carried out in the Pharmacy of the institution by initiative of the shopkeeper. Health professionals working in the hospital will eventually prescribe an infant formula product to a baby only when he thinks that he/she needs a breast milk substitute. None of these practices is against the Code or local legislations. Nestlé has not donated free product for this purpose, we supply the health care institution via normal procurement channels.
Venezuela	172	Nestlé distributes aprons with the company name and logo to nurses and other workers in paediatric wards.	Global Report: Gifts to health workers	57	This does not represent a violation of the WHO Code or local law. It was carried out following a request from the institution and the aprons carry only the corporate brand, as required by the WHO Code and Local Legislation.
China	173	- The display of products in health care facilities is not allowed - Nestlé's 'blue bear' in maternities represents complementary food and encourages early weaning - No brand names are mentioned but medical endorsement of Nestlé's products is implicit	China Report:	2	Information that is more detailed is needed to assess this allegation, as the display of infant formula in health care facilities is prohibited by Nestle policy. Our staff receives clear instructions about this prohibition. As for some excessive use of Blue Bear stickers by health workers in maternity and neonatal wards, it has never been Nestle China's intention to use "Blue Bear" stickers to promote its complementary foods in maternities, even if complementary foods are not covered by the WHO Code or by the relevant Chinese regulations. The company has therefore issued reminders to its medical contacts that Blue Bear stickers should not be displayed in neonatal intensive care units and maternity wards.
Egypt	174	Distributing free gifts and samples to health providers and health care facilities, in violation of the Code. For example, Nestle give growth charts.	Egypt Report	2	Information that is more detailed is needed to assess this allegation. As for the growth charts, they are given to doctors only as inexpensive items of professional utility, as allowed by the WHO Code. They mention the logo and pictures of our infant cereals, not infant formula.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Ghana	175	A public health unit reported that Nestlé persuaded health workers to accept free LACTOGEN 1 for HIV+, mentally sick or caesarean mothers and orphans. Nestlé also distributes materials promoting LACTOGEN 2;	Africa Report:	2	Information that is more detailed on the name and location of the public health unit mentioned is needed to assess this allegation. In fact, the company does not need to solicit requests for donations of infant formula as it often receives spontaneous requests for more donations than it can afford to satisfy. As for our policy, infant formula can be donated only in strictly defined cases, with reference to WHO' s definition of circumstances where infants need to be fed on breast milk substitutes. Nestlé Ghana would donate infant formula only upon a request from the medical profession or a social welfare institution and a letter of authorisation from the Ministry of Health. Donated products must bear a special sticker and are sent o the institution, never to mothers.
Ghana	176	Code awareness lacking among health workers: Day-old LACTOGEN baby in a Ghana maternity home which has a policy of starting babies on formula; the same maternity home gives all pregnant mothers a list of things to bring for delivery. The list includes feeding bottle and a choice of either LACTOGEN or SMA.	Africa Report:	2	We do not control the type of infant formula prescribed by health personnel to mothers. We do whatever is within our means to discourage health workers from displaying infant formula packs and information brochures in health facilities. We do our best to promote knowledge of the Code among our medical contacts and strict monitoring by the authorities.
Indonesia	177	(please refer to the pictures on the Front page) <i>Exhibiting samples</i> of formula in hospitals is forbidden by the Code.	Indonesia Report	1	More information is needed to assess this allegation, as the display of infant formula in health care facilities is prohibited by Nestle policy. Our staff has clear instructions on the prohibition of such displays. We are continuously making efforts at disseminating the awareness about those restrictions within the health profession, to avoid situations where our infant formula are involved in initiatives taken by third parties that are not in line with Code recommendations.
Indonesia	178	The Code bans promotion in hospitals and clinics but nearly all the facilities visited were full of promotional materials bearing the names and logos of companies and/or their products: Nestlé, (calendars, clocks, sign boards, posters, feeding schedule)	Indonesia Report	2	The WHO Code allows the mention of company name and corporate logo on culturally appropriate gifts and materials donated to health facilities. The company never shows infant formula brands and logos on the donated materials.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
South Africa	179	Nestlé wall clocks are displayed in a health facility	Global Report: Gifts to health workers	57	Upon receipt from IBFAN of details enabling us to identify the health facility, Nestlé South Africa is investigating which kind of wall clock is concerned. Art. 6.8 of the WHO Code allows donation of equipment and materials to a health care system, provided that the materials bear only the company' s name or logo and do not refer to any infant formula brand. Nestlé South Africa has never provided clocks to health facilities which bear an infant formula brand.
IX. FREE AND LOW COST SUPPLIES (8)					
Colombia	180	Un hospital "amigo" de Colombia logra mejores precios de NAN 1 al utilizar el sistema de "compras conjuntas". En Argentina Nestlé dona muestras de NAN Soya y cereales a centros de salud. Y en Dominicana, NESTOGEN y NAN.	Latin America Report	8	We have requested information that is more detailed in order to clarify this allegation. However, it must be noted that health institutions receive lower prices only in the context of official bids and tenders, which are overseen by health authorities. This special trade price structures are allowed under the WHO Code. No samples or donations are given to any health institution neither in Colombia, Argentina nor in the Dominican Republic.
Dominican Republic	181	en Dominicana, Nestlé dona NESTOGEN y NAN.	Latin America Report	8	Although the allegation is not clear enough, we can ensure that Nestlé does not provide free supplies of Infant Formulas to mothers or health institutions.
Peru	182	Nestlé offers supplies of Nan.	Global Report: Promotion in Health facilities: Samples and Supplies	56	This allegation is very vague; we need and have requested more detail to pursue it, However the information received is not enough to allow a complete investigation. We can state with confidence that Nestlé in Peru has never offered free supplies of infant formula to public health facilities. We only provide formula as part of an official tender, overseen by health authorities.
Perú	183	Donaciones de NAN 1 fueron detectadas en hospitales "amigos" de Perú y también cereales en centros de salud.	Latin America Report	8	We need and have requested more detail on the names and locations of these health facilities so that we may pursue the allegation. Again, we can state Nestlé Peru does not provide free supplies to hospitals.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
China	184	In the Chinese provinces Fujian, Nanjing and Jiangsu, Nestlé donates unsolicited infant formula Nan 1 to hospitals including Baby Friendly ones.	Global Report: Promotion in Health facilities: Samples and Supplies	56	Nestle China has not and does not donate unsolicited infant formula to hospitals. We provide formula for social welfare cases, in strict accordance with WHO' s definition of circumstances where infants need to be fed on breastmilk substitutes, or for clinical validations by health professionals, only upon official requests in writing from the hospitals or the social welfare institutions. Otherwise, we provide one or two tins of infant formula to individual doctors for professional evaluation of the product, when we have a new formula or formulation changes. The products donated must bear a sticker mentioning either "Sample for professional evaluation", or " Formula provided for Clinical Validation only, not for resale," or "Formula provided for social welfare cases, not for resale", to make sure that they are not used for other purposes. All the written requests and delivery notes as well as the final reports signed by the health professionals concerned are properly documented. In the cases of the hospitals indicated by IBFAN, our records show that Nestlé infant formula have been given strictly within the confines of Art. 6.6, 6.7, and 7.4 of the WHO Code.
Indonesia	185	Nestlé is reported to have donated supplies of Nan 1 and LACTOGEN 1, either: - unsolicited - or upon request of health workers - or as a sale without collecting payment - or at a hefty discount.	Global Report: Promotion in Health facilities: Samples and Supplies	56	Nestlé policy prohibits any free supply of infant formula to any party except in cases allowed by the WHO Code, i.e. only for the purposes of professional evaluation or clinical validation by health professionals, within well defined conditions, or for social welfare cases if and as approved by the competent authorities. Nestlé Indonesia is following an even stricter policy, and does not give free infant formula to hospitals for any purposes, be it professional evaluations, clinical validations or even social welfare cases. The hospitals where IBFAN claims to have "observed" such donations have confirmed that Nestlé Indonesia has never given free infant formula to them. Unless IBFAN can produce evidences to the contrary, this serious allegation should be considered totally baseless
Indonesia	186	The company also distributes samples of Nan 1 and LACTOGEN 1 to mothers through Indonesian midwives.	Global Report: Promotion in Health facilities: Samples and Supplies	56	See comment above.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
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Thailand	187	Nestle provides health facilities with free supplies of LACTOGEN 1, Nan 1, Nan HA and Bear Brand follow-up milk.	Global Report: Promotion in Health facilities: Samples and Supplies	56	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
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X. SCIENTIFIC CONGRESS AND PROFESSIONAL EVENTS (6)

Argentina	188	Nestlé: fue patrocinante del Congreso Argentino de Pediatría 2003, donde obsequió café y helados, promocionando a la vez NAN 1 y 2. Utilizó vasitos con la publicidad de sus cereales y agua mineral Pureza Vital. Regaló calendarios con publicidad de sus cereales en los que se lee: "tan naturales como tu amor", sin mencionar la lactancia materna, y recomienda "a partir de un año...la leche sigue siendo un alimento fundamental a incluir diariamente", sin aclarar que debería ser la materna. Los profesionales solicitaban un cupón y accedían a un almuerzo gratuito y al sorteo de bolsos con productos de la empresa (caldos, café, etc.). Pareciera que el contacto con los médicos jóvenes es una estrategia especialmente considerada por Nestlé: en la Jornada de Pediatras Jóvenes Residentes de Clínica Pediátrica de la Sociedad Argentina de Pediatría, llevada a cabo en la sede de la Sociedad, Nestlé fue auspiciante con la ubicación de un stand	Latin América Report	1	Durante el Congreso Argentino de Pediatría y en las Jornadas de Pediatría, en los que Nestlé participo como auspiciante, tal como lo permite el Código de la OMS, se realizaron únicamente actividades informativas respecto a NAN 1 y NAN 2 destinadas a Agentes de Salud, conforme permitido por el Art. 7 del Código OMS, entregando solo materiales científicos sobre estos productos. Los vasitos y el calendario contienen información relativa a alimentos complementarios, los que no son regulados por el Código de la OMS o la Ley Local. No se realizaron las actividades promocionales señaladas en la acusación como: cupones y sorteos promocionando formulas infantiles.
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COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Argentina	189	Lanzó el "Primer Premio Anual a la Investigación Científica en la Argentina" cuyos temas fueron: "Introducción de alimentos semi-sólidos en el primer año de vida" e "Impacto Físico y Cognitivo de la Nutrición en los Dos Primeros Años de Vida", con un efectivo de \$10.000.- (US\$ 3.500.- aprox.).	Latin América Report	7	No se trató de un incentivo financiero ligado a actividad promocional de productos. Esta actividad fue de fomento a la investigación científica al premiar un trabajo sobre un tema propuesto por el investigador y seleccionado por un jurado de notables sin injerencia de Nestlé de ninguna naturaleza.
Colombia	190	En hospitales "Amigos" de Colombia brinda patrocinio de reuniones, regalando: almohadillas para ratones de computación, y esferos. Dicta conferencias y cursos.	Latin America Report	2	We have requested more specific information on where and when these conferences took place. However, Nestlé de Colombia support continuing scientific education and conferences, as requested by health institutions. None of them is promotional in nature. Support to scientific education is not prohibited by the WHO code. Mouse pads, note pads and pens only bear Nestlé or Infant Cereal logo, which is allowed under the WHO code.
Costa Rica	191	En hospitales "Amigos" de Costa Rica brinda patrocinio de reuniones, conferencias y cursos, además de regalar materiales como agendas.	Latin America Report	2	We have requested more specific information on where and when these conferences took place. However, contribution to scientific activities, when requested by a health institution, is permitted by the WHO Code (article 7.5). As to the low price gifts as date books, they are given exclusively to participating doctors as courtesy gifts at the events. This is in line with WHO Code articles 6.8 and 7.3.
Dominican Republic	192	En hospitales "Amigos" de la Republica Dominicana regala materiales de oficina, relojes de pared, recetarios, agendas, libretas, y calendarios además, patrocina eventos como reuniones, conferencias y cursos.	Latin America Report	2	We have requested more specific information on where and when these conferences took place. All activities carried out in health facilities are requested in writing by the institution. Nestlé Dominicana carries out only one scientific event intended for health professionals: the "Jornada Nestlé de Pediatría," which is to share scientific knowledge. There is no promotion of infant formulas during the event.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Perú	193	En hospitales "Amigos" de Perú brinda patrocinio de reuniones, conferencias y cursos y regala materials de oficina, lapiceros , bolsas con promoción de cereales, recetarios. En un hospital "amigo" de Perú, Nestlé realizó una conferencia para dar a conocer sus productos ofreciendo una cena a la que acudieron pediatras, médicos generales y enfermeras.	Latin America Report	2	We have requested more specifics on these allegations. It should be noted that Nestlé In Peru supports events only when they are of a scientific nature. The materials given to doctors are culturally appropriate gifts and do not represent a material incentive. In keeping with the WHO Code, these gifts include the corporate brand and logo and products are not mentioned (as approved by the WHO CODE and Local Legislation) Complementary foods are not covered by the Code or by Local Legislation. A scientific conference was organized by Nestlé Peru to launch a new product. After the conference, Doctors were offered a dinner, which is not a material inducement or discouraging breastfeeding.
XI. TRADE PROMOTIONS (4)					
Dominican Republic	194	Representantes de Nestlé les ofrecen unidades gratis por cantidades compradas y descuentos que aumentan con el plazo del pago (mientras más corto el plazo, mayor descuento). Además brindan charlas acerca de sus productos al mismo personal. Esto ocurre cada 15 días aproximadamente.	Latin America Report	12	We need and have requested more information on these allegations; Nestle does not use such promotion schemes in the marketing of Infant Formulas. Training is provided regularly to sales personnel at distributors level covering product information as well as The WHO Code and local legislations and restrictions.
Dominican Republic	195	En Dominicana pueden encontrarse exhibidores especiales de las leches Nido Crecimiento y NAN.	Latin America Report	14	We would like more specific information on where these displays might be found. However, it should be noted that NIDO Crecimiento is not a breast milk substitute, and thus, not covered by the WHO Code or local legislation. In addition, NAN is never displayed next to NIDO Crecimiento at the point of sale, nor does it have a special display.

COUNTRY	REF NUMBER	ALLEGATION	REPORT	PAGE	FACTS
Perú	196	En Perú la empresa Nestlé promueve la compra de sus productos NAN en farmacias a través de la visita de sus representantes de ventas. donde además existen exhibidores especiales	Latin America Report	12	We have requested more information on the names and locations of these pharmacies. We would like to clarify that the sale of infant formulas in pharmacy chains is carried out following the parameters set for normal sale channel by our sales force. This means no additional discounts to those set by the functional scale. We do not have special displays or exhibitions.
Malaysia	197	Nan 2 sold out quickly when promoted as a special offer.	Global Report: Point of Sale	55	The Malaysian Code does not allow special offers or promotions for follow-up milks. Nestlé Malaysia strictly abides by both WHO Code and Malaysian Code, and therefore has never carried out any promotions or price offers on NAN 2. Nestlé Malaysia has reminded the supermarket mentioned by IBFAN that it should exclude infant formula from the discount policy it generally applies to all products sold in the supermarket. The company will continue its efforts at checking initiatives taken by shop owners which are not in line with its policy.
XII. DIRECT CONTACT WITH MOTHERS (3)					
Indonesia	198	Nestlé reps then call on new mothers at home to enquire whether they are still giving their babies Nestlé products.	Global Report: Promotion in Health facilities: Samples and Supplies	56	Nestlé's policy prohibits its medical representatives from soliciting direct contact with pregnant women or mothers of infants and young children. Company personnel may only respond to consumer complaints or unsolicited request for information on correct use of infant formula. We shall immediately investigate this accusation if IBFAN would let us have their evidence, or at least some details enabling us to identify the places and mothers concerned.
Thailand	199	Actively promotes Nan 1 and LACTOGEN 1 to pregnant women and mothers in health facilities	Global Report: Promotion in Health facilities: Samples and Supplies	56	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.
Thailand	200	persuades pregnant women and mothers to fill in forms with their contact information and expected delivery date so that specific product promotion can be mailed out at appropriate stages. Health facilities are asked to distribute samples and sign-up sheets to mothers	Global Report: Promotion in Health facilities: Samples and Supplies	56	We have commissioned an external audit of Nestlé Thailand's marketing practices relating to breast milk substitutes. Pl. refer to the external auditors' report.

ANNEX 2
THE "WHO CODE"

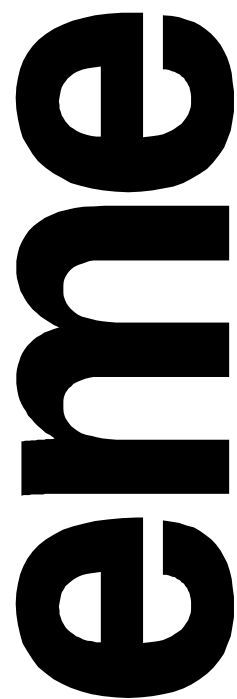
THE WHO CODE OF MARKETING OF BREAST MILK SUBSTITUTES

TOPIC	IBFAN ' S STANCE	COMMENTS FROM NESTLE
Universality	<p>The International Code was adopted by the World Health Assembly on 21 May 1981. It is intended to be adopted as a <i>minimum requirement</i> by all governments and aims to protect infant health by preventing inappropriate marketing of breastmilk substitutes.</p>	<p>Nestlé recognizes that the WHO Code, as well as subsequent World Health Assembly resolutions are global in the sense that they are recommendations to all WHO's Member States. This is clearly stated in WHA Resolution 34.22, which includes the WHO Code and was adopted in 1981 (1). The WHO 's "international Code of Marketing of breast-milk substitutes" in its paragraph 11.1 states...</p> <p>"11.1 Governments should take action to give effect to the principles and aim of this Code, as appropriate to their social and legislative framework, including the adoption of national legislation, regulations or other suitable measures. For this purpose, governments should seek, when necessary, the cooperation of WHO, UNICEF and other agencies of the United Nations system. National policies and measures, including laws and regulations, which are adopted to give effect to the principles and aim of this Code should be publicly stated, and should apply on the same basis to all those involved in the manufacture and marketing of products within the scope of this Code."</p> <p>Resolution 34.22, in its recommendation to governments, also stresses that they have the full sovereignty to implement the WHO Code as they find appropriate to their social and legislative framework. It also mentions that the adoption of the International Code of Marketing of Breast-milk Substitutes is <i>"a minimum requirement and <u>only one of several important actions required</u> in order to protect healthy practices in respect of infant and young child feeding."</i> Which means that the Code itself is not enough and additional actions are needed to promote good practices related to infant and young child feeding</p> <p>Our decision, more than two decades ago, to voluntarily and unilaterally apply the WHO Code in all developing countries and regions was due to the fact that the economic, social and hygienic circumstances in most of those countries differs substantially from the situation in developed countries like the US or the EU countries. In developing countries and regions where there is no local code in place, or if the local legislation is less strict or precise, we implement the WHO Code. Otherwise, we follow the national regulations.</p> <p>In the joint statement of the International Nestlé Boycott Committee (INBC) and Nestlé, signed in January 25th 1984, it is highlighted that:</p> <p><i>"...Both parties praise the United Nations Children Fund assistance in clarifying provision of the Code.</i></p>

		<p><i>The international Nestlé Boycott Committee commends Nestlé for taking the leadership role in industry's compliance with the International Code.</i></p> <p><i>Nestlé recognizes and supports the commitment of the International Nestlé Boycott Committee and its members to safeguard the children of the Third World from hazards related to the inappropriate marketing of infant formula"</i></p> <p>The Joint statement signified the termination of the Nestlé boycott in 1984.</p>
<p>Scope</p>	<p>The Code covers the marketing of <i>all</i> breastmilk substitutes (Article 2). These include:</p> <p>Infant formula (including so-called 'special' baby milks such as 'hypoallergenic' formula, preterm milks and others); follow-up milks; complementary foods such as cereals, teas and juices, water and other baby foods marketed for use before the baby is six months old.</p> <p>The Code also covers feeding bottles and teats. (Articles 2, 3 and WHA 54.2 [2001]).</p>	<p>The "International Code of Marketing of Breast-milk substitutes" as published by WHO since its adoption in 1981 has included a clarification to the scope of the Code in its annex 3.</p> <p>"The scope of the draft code is defined in Article 2. During the first four to six months of life, breast milk alone is usually adequate to sustain the normal infant's nutritional requirements. Breast milk may be replaced (substituted for) during this period by bona fide breast-milk substitutes, including infant formula. <u>Any other food, such 'as cow's milk, fruit juices, cereals, vegetables, or any other fluid, solid or semi-solid food intended for infants and given after this initial period, can no longer be considered as a replacement for breast milk (or as its bona fide substitute). Such foods only complement breast milk or breast-milk substitutes, and are thus referred to in the draft code as complementary foods.</u> They are also commonly called weaning foods or breast-milk supplements. Products other than bona fide breast-milk substitutes, including infant formula, are covered by the code only when they are "marketed or otherwise represented to be suitable ... for use as a partial or total replacement of breast milk." <u>Thus, the code's references to products used, as partial or total replacements for breast milk are not intended to apply to complementary foods unless these foods are actually marketed, as breast-milk substitutes, including infant formula, are marketed-as being suitable for the partial or total replacement of breast milk.</u> So long as the manufacturers and distributors of the products do not promote them as being suitable for use as partial or total replacements for breast milk, the code's provisions concerning limitations on advertising and other promotional activities do not apply to these products."</p>

		<p>Beside starter formula (suitable for feeding during the first 6 months of life) and follow-on formula (suitable for infants up to 12 months of age), Nestlé does not market any other type of products as being suitable for the partial or total replacement of breast milk. Nestlé 's complementary foods and other foods products for babies are not marketed as breast milk substitutes. This is clearly mentioned on all labels. According to the clarification conveyed by Annex 3 of the WHO Code, these products therefore do not fall within the scope of the Code.</p>
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ANNEX 3
Evaluation of Nestlé Thailand's Policies and Procedures for Complying
with the WHO Code



Evaluation of Nestlé Thailand's Policies and Procedures for
Complying with the WHO Code

Final Report

Emerging Market Economics Ltd (Eme)

September 2004

Preamble

Nestlé S.A. has commissioned a study to evaluate the extent to which the policies and procedures of Nestlé Thailand (Company) comply with the International Code of Marketing of Breast-Milk Substitutes (WHO Code). The study examines also the evidence presented by the International Baby Food Action Network (IBFAN) in support of alleged violations of the WHO Code by the Company.

This study has been undertaken by Emerging Market Economics (eme). Eme is a firm of economic, financial and management consultants serving both the public and private sectors. Eme is experienced in carrying out evaluations and providing advice to governments and aid agencies throughout the world. Our client base is primarily major aid agencies such as the World Bank, the Asian Development Bank, the International Trade Centre, the European Union and the UK Department for International Development (DFID). In the private sector, we advise corporations on sovereign risk, market entry strategies, M&A and joint ventures and corporate social responsibility. Our clients include major multinationals, financial institutions as well as small and medium-sized companies.

In corporate social responsibility, we have carried out social audits, developed management systems for integrating corporate principles into the operations of businesses, measured the economic and social impacts of businesses and developed risk assessment tools. We have recently developed a country risk assessment tool that sets out the major reputational risks of operating in 158 countries.

Our terms of reference were to carry out an evaluation and report the findings of this investigation to Nestlé S.A. The terms of reference for the study made it clear that we were to report objectively on our findings without influence from either Nestlé Thailand or Nestlé S.A. Nestlé S.A. made sure that we had access to documents and personnel at Nestlé Thailand. We wish to acknowledge the willing co-operation and support given to our endeavour by the management and staff of Nestlé Thailand who gave unstintingly of their time and facilitated our investigations.

The views presented in this report are of the study team alone, and may not reflect the views of either Nestlé Thailand or Nestlé S.A.

Chapter One: Objectives, Methodology and Status of the Code

1.1. Objectives

The objective of this study is to evaluate the extent to which the policies of Nestlé Thailand (the Company) comply with the International Code of Marketing of Breast-Milk Substitutes, the Nestlé's Instructions to its subsidiaries for implementation of the WHO Code and, to the extent that they exist, national regulations that are derived from the Code. It examines also the extent to which procedures provide assurance that its policies with respect to the Code are implemented in practice and the culture within the Company is supportive of continued compliance with the Code. We have also investigated the evidence presented by the International Baby Food Action Network (IBFAN) in support of alleged violations of the WHO Code by the Company¹.

The methodology to achieve this was:

- ❑ Analysis of the WHO Code, the Nestle Instructions and the extent of national regulations to establish the framework for compliance;
- ❑ Establishing the Company's policies by examining Company documents and interviewing senior management to assess their interpretation of policy;
- ❑ Examining procedures followed by the Company to implement policies;
- ❑ Interviews with marketing and sales staff and distributors to test knowledge of policies and the implementation of procedures and assess the culture within the Company and its distributors towards the Code;
- ❑ Limited interviews with key stakeholders in government and the health profession to assess their understanding of the extent to which the Code is being complied with in Thailand and any concerns they have over the Company's compliance.

It should be noted that, in line with the Terms of Reference we have not ourselves carried out a comprehensive audit of the records and systems of Nestlé Thailand, though we have reviewed records and documents to assess the evidence provided by IBFAN on alleged violations of the

¹ The evidence is provided in *Breaking the Rules, Stretching the Rules*, IBFAN 2004 and *Look What They are Doing: Monitoring Code Compliance in Thailand*, Published by IBFAN in collaboration with the Thai Breast Feeding Alliance and the Ministry of Health.

International Code. Nor have we carried out extensive surveys of external stakeholders that would provide additional verification of the extent of compliance.

The evaluation is not prescriptive; it aims simply to establish the facts. Its recommendations are by way of suggestions to Nestlé on ways to improve compliance with the Code.

1.2. Purpose of the WHO Code

The stated purpose of the Code, as detailed in its first article is, 'to contribute to the provision of safe and adequate nutrition for infants, by the protection and promotion of breast-feeding, and by ensuring the proper use of breast-milk substitutes, when these are necessary, on the basis of adequate information and through appropriate marketing and distribution'. It is important to note that the Code does not, as some observers have claimed, discourage the marketing and sale of breast-milk substitutes for commercial profit. On the contrary, the preamble to the Code states that 'considering that when mothers do not breast-feed, or only do so partially, there is a legitimate market for infant formula and for suitable ingredients from which to prepare it; that all these products should accordingly be made accessible to those who need them through commercial or non-commercial distribution systems'. The Code is concerned, however, that breast-milk substitutes 'should not be marketed or distributed in ways that may interfere with the protection and promotion of breast-feeding'.

The preamble to the Code makes clear that it is a recommendation to governments who are called upon to 'take action appropriate to their social and legislative framework and their overall development objectives to give effect to the principles and aim of this Code, including the enactment of legislation, regulations or other suitable measures'. It sets out also that UN agencies, non-governmental organisations, the medical profession and manufacturers and distributors all have a duty to 'co-operate in activities aimed at the improvement of maternal, infant and young child health and nutrition' and that manufacturers and distributors themselves have a role to play in 'the promotion of the aim of this Code and its proper implementation'.

1.3. The Framework for Compliance in Thailand

The WHO Code was passed as a recommendation to governments in 1981. This however did not give it the force of law in Thailand. That requires national legislation or regulations to be passed. Whilst some provisions of the WHO Code, particularly with respect to labelling and advertising, were

incorporated in the regulations of the Food and Drug Administration (FDA) of Thailand, the Government has not passed legislation or regulations to make the rest of the provisions of the Code legally binding.

In the mid 1990s, an attempt was made by the Ministry of Health (MOH), with support from UNICEF and with the active collaboration of some infant food manufacturers such as Nestlé, to develop a voluntary code for compliance with the WHO Code. Although a memorandum of understanding was agreed with the MOH and signed by 4 infant food manufacturers, including Nestlé, the other infant food manufacturers did not sign the memorandum. The MOH then released a document that represented a code of conduct (the Red Book) but the provisions of this document were, and still are, considered unrealistic by both the health profession and infant food manufacturers and hence it was not implemented. In the contacts we took with leading representatives of the health profession such as the President of the Royal College of Paediatricians, the President of the Royal College of Obstetricians & Gynaecologists and the Secretary of the Neonatal Society, none of them was aware of the document.

As a result, there is considerable uncertainty over the framework for compliance with the WHO Code in Thailand. There are a number of different interpretations of the WHO Code. The Thai Breast Feeding Alliance (TBFA) for instance, is guided in its interpretation by a document produced by IBFAN², a network of non-governmental organisations that, with the aim of protecting breast feeding, may go to such extreme as ridiculing the use of infant formula and appear hostile to the infant formula industry³. Their interpretation of the Code is disputed by the International Association of Infant Food Manufacturers (IFM). The members of IFM, including Nestlé, are committed to support the principles of the Code 'by conforming to the WHO Code in its entirety in developing countries, except where specific national codes or other measures have been implemented by governments'.⁴ They are therefore guided by the WHO Code itself, rather than by IBFAN's Guide.

Reflecting one of its key business principles,⁵ Nestlé states that it seeks to promote 'safe and adequate nutrition for infants by encouraging and supporting breast feeding as the best start in life and by providing constantly improved infant formula for use when a safe alternative to breast milk is needed'. To implement this business principle, Nestlé's policy is to ensure that its infant food marketing practices conform strictly to national legislation, regulations or other formal measures

² Complying with the Code: A Manufacturers' and Distributors' Guide to the Code, IBFAN Penang, 1998

³ In Complying with the Code, for instance, the use of infant formula is ridiculed by the analogy of cows feeding their calves human milk.

⁴ A commitment to Infant and Young Child Health, IFM, September 1991.

⁵ Corporate Business Principles, Nestlé S.A., 2002

taken by governments to give effect to the aims and principles of the WHO Code. Additionally, in all developing countries, whether or not their governments have taken measures to implement the WHO Code, it has decided to unilaterally and voluntarily implement the WHO Code and subsequent relevant resolutions of the World Health Assembly (WHA), when those recommendations provide clear guidance and do not conflict with national regulations.

In view of the fact that the Government of Thailand has not put in place regulations to implement the WHO Code, the framework for compliance for Nestlé Thailand is provided by the WHO Code itself, the Nestlé Instructions, as these represent the guidance on Code compliance provided by its parent company, and those elements of the International Code that have been integrated into the Food and Drug Administration the regulations of the Food and Drug Administration (FDA). We have therefore carried out the evaluation on the basis of this framework for compliance.

1.4 Coverage of Products

In our experience, and as acknowledged by IBFAN⁶, allegations made against Nestlé subsidiaries of breaches of the WHO Code frequently stem from a disagreement over which products are covered by the Code. Specifically, Nestlé and its subsidiaries do not regard complementary or weaning foods as being covered by the Code. Some of the NGOs that allege breaches of the Code take the opposite view.

Article 2 of the WHO Code defines its scope as follows: 'The Code applies to the marketing and practices related thereto, of the following products: breast-milk substitutes, including infant formula; other milk products, food and beverages, including bottle-fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breast-milk; feeding bottles and teats'.

The wording suggests that bottle-fed complementary foods are included but other forms of complementary foods are not. However, the article does leave room for diverging interpretations. This was recognised by the WHO Executive Board and Annex 3 was appended to the Code to provide a tighter definition of the products covered. Annex 3 states: 'during the first four to six months of life, breast milk alone is usually adequate to sustain the normal infant's nutritional requirements. Breast milk may be replaced (substituted for) during this period by *bona fide* breast-

⁶ Complying with the Code, 1998

milk substitutes, including infant formula. Any other food, such as cow's milk, fruit juices, cereals, vegetables or any other fluid, solid or semi-solid food intended for infants **and given after this initial period, can no longer be considered as a replacement for breast milk (or as its *bona fide* substitute)**. Such foods only *complement* breast milk or breast-milk substitutes⁷.

The age range of 4-6 months was vague and this too added to difficulties of interpretation. The World Health Assembly has debated the issue and resolved in Resolution 54.2 (May 2001) that exclusive breast-feeding is recommended, as a global public health recommendation, up to the age of six months, after which complementary foods should be introduced. In response, Nestlé immediately took the decision to support exclusive breast-feeding up to six months and instructed its subsidiaries to change the labelling and instructions for use of all Nestlé's complementary foods and baby foods to state that they were suitable from six months onwards. Nestlé was the first infant food manufacturer to have taken this decision and to apply it in all developing countries, even in countries whose governments have decided to continue recommending introduction of complementary feeding between 4 and 6 months of age.

In Thailand, the situation was different to other developing countries where complementary foods were allowed to be marketed as suitable for infants from 4 months. The FDA had already ruled that complementary foods should be marketed from the age of six months and hence Nestlé Thailand was already compliant with the Nestlé policy announced in 2001. By stating that its weaning foods are suitable for use only after the recommended period for exclusive breast-feeding it has ensured that they meet the stipulations of Annex 3 of the Code and subsequent WHA resolutions and so should not be regarded as replacement for breast milk. Further, they are generally not suitable for bottle feeding. To comply fully with other WHA resolutions⁷, Nestlé Thailand is also committed to ensure that the marketing of complementary foods does not undermine exclusive breast feeding before 6 months and sustained, though not exclusive, breast feeding thereafter. Our evaluation takes account of these commitments.

We note, however, that IBFAN continues to hold the view that complementary foods are covered by the Code and its alleged violations of the Code include references to the marketing of infant cereals by Nestlé subsidiaries. The Red Book, in fact, attempted to increase the coverage of the Code to all

⁷ See for instance, WHA Resolution 47.5 (1994) urging member states to foster appropriate complementary feeding from the age of about six months and 49.15 (1996) urging member states 'to ensure that complementary foods are not marketed for or used in ways that undermine exclusive and sustained breast-feeding'

industrially processed foods sold to infants and children up to the age of three. This made little sense to either the industry or the health profession as it extends beyond the age recommended for sustained breast feeding, while leaving out the wide range of foods a child may be fed with at that age which are not industrially processed. This caused both to reject that document. There is a need for the MOH to provide clear guidance on this issue, having consulted all stakeholders, including the TBFA, the health profession and the infant formula industry.

Whilst it is clear that all infant formula is covered by the Code, i.e. that the Code covers the marketing of NAN 1 and LACTOGEN 1 (starter formula), there is an issue with respect to follow on formula. The practice of branding the follow-on formula the same as starter formula but designating it with a different number is common in the infant formula industry. It gives mothers the confidence that comes from continuity. Though the letter of the Code would suggest that follow on formula is not covered, honoring the spirit of the Code requires that, for instance, there should be no advertising of follow-on formula if it carries the same name as the starter formula. In practice, following a policy decision by Nestlé, as stated in its Instructions, Nestlé Thailand applies the provisions of the Code also to all follow on formula that carries the same name as starter formula, in effect to all follow on formula it markets.

For the purposes of this evaluation, we have therefore included all follow on formula with same brand as starter formula as being included under the Code. This is the stated policy of the Company. We note however that the current situation in Thailand is anomalous with respect to the coverage of the Code as many other infant formula manufacturers do not apply the Code to follow on formula.

There are, in addition, other areas of disagreement between stakeholders such as the TBFA and the infant food industry and between infant food manufacturers themselves. The situation is not conducive to the effective implementation of the Code. The rules are not clear and there is little hope of effective implementation of the Code as there are no mechanisms to enforce them, either statutory or through self regulation. The result is the absence of a levelled playing field amongst manufacturers and a lack of agreement over what constitutes a violation of the Code between stakeholders such as the TBFA and the industry. The health profession cannot therefore play the role intended for it in the Code to implement the Code and monitor violations by manufacturers.

We hope that the MOH will convene a meeting of all stakeholders to agree on a code of conduct for the marketing of breast milk substitutes. As primary legislation takes time and huge effort, this could,

to start with, be a voluntary code, enforced through self-regulation and supervised by a panel composed of the main stakeholders, as is the case in Australia. The panel could use naming and shaming to discourage those who fail to self regulate. Should this attempt fail, however, the MOH should aim to introduce the provisions of the code as secondary legislation or regulations under other acts of parliament, working in collaboration with agencies such as the FDA. It is in the interests of all stakeholders that there are clear rules and a levelled playing field in marketing breast milk substitutes. Most importantly, such an outcome is important for protecting breast feeding and promoting infant nutrition in Thailand.

1.5 Breast Feeding & the Code in Thailand

Over the past twenty years, Thailand has made huge progress in improving human development indicators. This includes infant health and nutrition. Rates of infant mortality have declined from 74 per thousand in 1970 to 24 in 2001. Moreover, the health profession reports that the incidence of malnutrition amongst infants has declined with economic prosperity so that it is now rare. Almost universal access to safe drinking water has reduced the incidence of gastro intestinal disorders. The MOH's Public Health Department has also played major role in addressing these issues. The Public Health Department's capabilities have been demonstrated recently also in combating HIV/AIDS.

As a result of the activities of the Public Health Department of MOH and the TBFA, there is strong awareness amongst mothers and the health profession that breast feeding is the best start in life. Exclusive breast feeding is almost universal to start with, encouraged by the hospitals. The large public, teaching hospitals are very diligent in promoting breast feeding and even in the private hospitals, there is considerable attention devoted to helping mothers breast feed. Some of the larger private hospitals, however, tend to make the effort only for the first child.

The rate of exclusive breast feeding, however, tails off after a few weeks, especially amongst working mothers when they return to work. Female participation in the work force has increased and this has affected the rate of exclusive breast feeding. Exclusive breast feeding rates are much higher in rural areas and much lower in Bangkok, caused mainly by the proportion of women in formal sector jobs which demands strict adherence to working times and do not provide crèche facilities. Nevertheless, rates of exclusive breast feeding are estimated at around two thirds for the country as a whole with a further quarter of mothers practicing mixed feeding. Exclusive feeding of infant formula is less than 10% of mothers. These rates are favourable compared with other developing countries at similar income levels and are testament to the work of the MOH and TBFA.

Fertility rates in Thailand have fallen dramatically over the past two decades and, at 1.7 per woman, are nearly half that of neighbouring Malaysia (3.2). The number of births has thus fallen. With breast feeding the preferred choice of mothers, this means that the market for starter formula has in fact been declining. This is compensated by an increase in the market for follow on formula which has increased due to increased participation of women in the work force but, overall, the market for infant formula is not increasing in volume terms. The market is growing in value terms because of the greater affordability and willingness to pay of consumers, caused by higher incomes and fewer births, providing the infant formula industry with an incentive to provide better, higher value products. The attempt to move to higher value products may cause the infant formula industry to make claims for its products that are not entirely justifiable on a scientific basis.

As a result of the work of the MOH and the TBFA, there is widespread awareness amongst the health profession of the existence of the WHO Code. However, knowledge of the specific provisions of the Code is patchy. Whilst many health professionals are aware that there should be no advertising of infant formula or promotion in health facilities, knowledge of what is permitted under the Code with respect to donations of educational materials and equipment, free supplies of infant formula, sponsorship and gifts is much less clear. On occasion, this results in allegations of violations when in fact none has occurred, or conversely the tolerance of practices that are violations of the Code.

This is reflected partly in the alleged violations reported by the TBFA that were published in the IBFAN report on Thailand – Look What They are Doing and reproduced in Breaking The Rules. The information published in that report was based on a survey of health professionals who were asked to report what they thought were violations. Their responses were then interpreted by the TBFA using the IBFAN document 'Complying with the Code', which is an interpretation of the Code to which the infant food industry does not subscribe. As Chapter 2 shows, the majority of allegations against Nestlé Thailand stem from different interpretations of the WHO Code.

This reinforces the need to have clearer guidelines on the interpretation of the Code noted earlier and to educate the health profession on what is allowed and prohibited under the Code. All relevant parts of the health profession, the Royal College of Paediatricians, the Royal College of Obstetricians & Gynaecologists and the Neonatal Society confirmed the need for greater practical guidance on the issue.

Perhaps the greatest concern that emerged was over the role of the health profession in educating mothers on the use of infant formula. In the current climate in Thailand, health professionals do not discuss the preparation of infant formula, common problems of feeding infants with it or advise mothers on which type may be most appropriate for their infant for fear of violating the WHO Code. The irony is that the WHO Code aims to ensure that the health profession, provided with scientific and factual information by manufacturers, is the *only* source of advice for mothers. The neonatal society reports that better information on infant formula was listed by its members as one of the highest priority topics to be discussed at their forthcoming annual conference. Moreover, that its members reported that, in the absence of professional advice from them, mothers were taking the advice of neighbours and relatives whose home spun answers to issues such as constipation occasionally served to make matters worse. Urgent action is required to address this issue.

In Summary

The absence of national legislation in Thailand means that the framework for compliance with the WHO Code for Nestlé Thailand is provided by the WHO Code itself, the guidance provided by its parent company in the Nestlé Instructions and by the elements of the WHO Code that have been incorporated into the regulations of the FDA. There are different interpretations of the WHO Code between the non-governmental organisations that, with the aim of protecting breast feeding, may be hostile to the infant formula industry. These need to be addressed by the authorities in Thailand to ensure that all stakeholders understand the rules and are held accountable for any violations. The lack of clarity results in allegations of violations when none have occurred or the overlooking of violations when they have occurred. Most importantly, the current situation is unsatisfactory as it is hindering the health profession from playing the role envisaged by the WHO Code for it in providing objective advice to mothers on the use of infant formula.

Rates of breast feeding in Thailand are better than comparable countries and there is a strong positive association with breast feeding amongst mothers and the health profession of which the MOH and TBFA should be proud. However, there is still a crying need for a more effective mechanism for enforcing the Code as this would be in the interest of all stakeholders, especially those infant formula companies that are committed to complying with the Code.

Chapter Two: Evaluation Findings

This chapter sets out Nestlé Thailand’s policies and procedures for implementing the WHO Code and the evidence provided by IBFAN of alleged violations of the Code by the Company. It starts with an overview of policy and procedures and then examines policies and procedures and alleged violations of the Code article by article of the Code.

2.1 Overview of Policies and Procedures

Nestlé Thailand is yet to produce a comprehensive policy statement that concerns adherence to all of articles of the WHO Code. In practice, the Company uses as its policy statement the Nestlé Instructions that are derived from the WHO Code by its parent company Nestlé S.A. as well as the Code itself. All marketing and sales personnel involved in the marketing of infant foods are trained in the WHO Code and Nestlé instructions. Matters of interpretation are clarified, firstly, internally by the Category Marketing Manager for Infant Foods. When issues of interpretation arise on which further guidance is necessary, the matter is referred to the Nutrition Strategic Business Division (NSBD) and, if appropriate, the Corporate Affairs Department of Nestlé S.A..

To provide practical guidance, the induction of all new staff into the Company, whether involved in the marketing of infant foods or not, includes familiarisation with the Company’s policy of complying with the WHO Code and the issuing of the Nestlé Charter. The charter provides a list of dos and don’ts as well as important information and advice for mothers and health professionals

The ‘dos and ‘don’ts of the Nestlé Charter are reproduced in full below:

<p><u>The Nestlé Charter</u></p> <p>Nestlé Does</p> <p>Encourage and support exclusive breast-feeding as the best choice for babies during the first months of life</p> <p>Warn mothers of the consequences of incorrect or inappropriate use of infant formula</p> <p>Believe that there is a legitimate market for infant formula when a safe alternative to breast milk is needed</p> <p>Believe that parents have the right to choose how their babies are to be fed on the basis of adequate and objective information</p> <p>Comply with both the letter and the spirit of the World Health Organisation's International Code of Marketing of Breast-Milk Substitutes</p> <p>Support efforts by governments to implement the International Code through legislation, regulation, or</p>

□

other appropriate measures

Encourage sustained breast-feeding after the introduction of complementary foods

Nestlé Does Not

Advertise infant formula to the public

Permit staff whose responsibilities include the marketing of infant formula to make direct contact with mothers, except in response to consumer complaints

Give incentives to its staff based on infant formula sales

Use pictures of babies on its infant formula packs

Distribute free infant formula samples to mothers

Give financial or material incentives to health professionals for the purpose of promoting infant formula

Allow educational material relating to the use of infant formula to be displayed publicly in hospitals and clinics

Donate free infant formula for use by healthy new born babies except in exceptional social cases (e.g. where the government policy allows manufacturers to respond to a specific medical request, for example if the mother dies in child birth)

Nestlé Will

Take disciplinary measures against any Nestlé personnel who deliberately violates this policy.

Nestlé invites government officials, health professionals, and consumers, to draw to its attention any Nestlé infant formula marketing practices in developing countries which they consider are not in conformity with the above commitment.

The Nestlé Charter also includes information that is required by WHO Code Article 4.2 to be printed on all infant formula labels and educational materials intended for mothers.

For example, under a section called 'Information for Mothers – Labels', it states that the following wording should be used on labels of breast-milk substitutes:

Important notice: Breast-milk is best for babies. Before you decide to use an infant formula consult your doctor or clinic for advice.

Warning: Unboiled water, unboiled bottles or incorrect dilution can make your baby ill. Only prepare one bottle at a time. If necessary, keep only in refrigerator. Follow instructions exactly.

Under 'Educational Materials' for mothers, the following wording is required:

IMPORTANT ADVICE FOR MOTHERS

Breast feeding

Breast feeding provides the best nutrition and protection from illness, for your baby. For most infants, breast milk is all that is needed for the first 6 months. Many mothers continue to breast-feed after 6 months and then give other foods as well. For advice on breast-feeding, consult your doctor or any other health professional, or a friend or relative who has successfully breast-fed. Frequent feeding is the best way to establish and maintain a good milk supply. A nutritionally adequate diet, both during pregnancy and after delivery, also helps sustain an adequate supply of breast milk.

Advice especially for working mothers

Your baby can still receive the benefits of breast milk even if you go out to work. Partial breast-feeding is better than bottle feeding completely, so continue to breast-feed even if you have been advised to give up other foods. If you sleep with your baby, he will breast-feed during the night without disturbing you. Before you leave home in the morning and again when you return, breast-feed your baby. When mixed feeding, always offer the breast before giving other foods. **Remember:** *breast milk is the best and most economical choice for our baby.*

Seek advice

The use of foods which are not intended for young babies can be harmful. Unnecessary introduction of partial bottle feeding or other foods and drinks, will have a negative effect on breast-feeding. Therefore always consult a health professional before introducing anything other than breast milk.

Using a breast-milk substitute

If a doctor or other health professional recommends an addition to breast-feeding or its replacement, during the first 6 months, it is preferable to use an infant formula meeting recognised quality standards. When used correctly, this supplies the nutritional needs of your baby in an easily digestible form. You will need more than one can (450g) per week if your baby is only bottle fed, so keep your family circumstances and costs in mind before deciding whether to use infant formula.

The Nestlé Charter also sets out the wording that should be reproduced on all materials intended for medical and paramedical professions, in keeping with Article 7.2 of the WHO Code, as follows:

IMPORTANT NOTICE: The World Health Organisation (WHO) has recommended that pregnant women and new mothers be informed of the benefits and superiority of breast-feeding – in particular the fact that it provides the best nutrition and protection from illness for babies.

Mothers should be given guidance on the preparation for, and maintenance of, lactation, with special emphasis on the importance of a nutritionally adequate diet both during pregnancy and after delivery. Unnecessary introduction of partial bottle feeding or other foods and drinks should be discouraged since it will have a negative effect on breast-feeding. Similarly, mothers should be warned of the difficulty of reversing a decision not to breast-feed.

Before advising a mother to use an infant formula, she should be advised of the social and financial implications of her decision: for example, if a baby is exclusively bottle-fed, more than one can (450g) per week will be needed, so the family circumstances and costs should be kept in mind. Mothers should be reminded that breast milk is not only the best, but also the most economical food for babies.

If a decision to use an infant formula is taken, it is important to give instructions on correct preparation methods, emphasising that unboiled water, unboiled bottles or incorrect dilution can all lead to illness.

Whilst the above is a useful guide for staff, it would be better for the Company to have a detailed policy manual that sets out its approach to implementing each article of the Code, focusing on potential 'grey areas' of the Code where there are differences in interpretation between IBFAN and Nestlé and between Nestlé and other infant formula manufacturers. The document should take account of FDA regulations and, as advised in the WHO code, social conditions in Thailand. Ideally, the document should be produced in consultation with the health profession, the TBFA and the MOH.

2.2 Evaluating Policies, Procedures and Alleged Violations

Not all of the articles of the WHO Code are applicable to manufacturing companies such as Nestlé. Some of them are applicable only to other stakeholders, including governments, the health profession or concerned non-governmental organisations.

The WHO Code groups its 11 Articles as follows:

- Article 1 – Aim of the Code
- Article 2 – Scope of the Code

- Article 3 – Definitions
- Article 4 – Information and Education
- Article 5 – the General Public and Mothers
- Article 6 – Health Care Systems
- Article 7 – Health workers
- Article 8 – Persons employed by manufacturers and distributors
- Article 9 – Labelling
- Article 10 – Quality
- Article 11 – Implementation and Monitoring

For an evaluation of this type, the articles pertaining to manufacturers are more usefully grouped as follows:

- *Relations with the general public and mothers* – articles 4.2, 4.3, 5.1, 5.2, 5.3, 5.4, 5.5 and 8.2. These concern the nature and content of information that is permitted to be provided to mothers on infant formula and advertising and promotional activities.
- *Relations with health workers and health facilities* – articles 6.2, 6.3, 6.4, 6.5 and 7.2. These articles concern the interface between manufacturing companies and the health profession.
- *Donations* – articles 4.3, 6.8, and 7.3. These deal with donations to health institutions and individual health workers.
- *Sponsorship* – article 7.5. This concerns all sponsorship activities.
- *Free and low price supplies* – article 6.6 and 7.4. These set out the circumstances under which free or low price supplies are permitted to be issued.
- *Quality and labelling* – articles 9.1, 9.2 and 9.4. In addition to quality requirements, these set out requirements for the information that should be provided on labels of infant formula products.
- *Management and personnel* – articles 8.1 and 11.5. These deal with the issue of sales incentives and the requirement to inform staff of their responsibilities under the Code.
- *Monitoring and reporting* – articles 11.2 and 11.3. These set out requirements for monitoring adherence to the Code.

We set out below each article of the Code, grouped as above, explain its underlying intent and identify the effect that each article should have on the policies and procedures of infant formula manufacturers. Against each article, we set out the main findings of our evaluation of Nestlé

Thailand's policies and procedures for implementing the Code. At the end of each section, we review the evidence presented by IBFAN on alleged violations of the Code by Nestlé Thailand.

2.3 Relations with the General Public &

WHO Code Article/provisions in the Decree/Nestlé Instructions	Intent	Impact on policies	Findings – Nestlé Thailand Policies and Procedures
RELATIONS WITH THE GENERAL PUBLIC AND MOTHERS			
<p><i>Article 4.2.</i></p> <p>Informational and educational materials, whether written, audio, or visual, dealing with the feeding of infants and intended to reach pregnant women and mothers of infants and young children, should include clear information on all the following points: (a) the benefits and superiority of breast-feeding; (b) maternal nutrition, and the preparation for and maintenance of breast-feeding; (c) the negative effect on breast-feeding of introducing partial bottle-feeding; (d) the difficulty of reversing the decision not to breast-feed; and (e) where needed, the proper use of infant formula, whether manufactured industrially or home-prepared. When such materials contain information about the use of infant formula, they should include the social and financial implications of its use; the health hazards of inappropriate foods or feeding methods; and, in particular, the health hazards of unnecessary or improper use of infant formula and other breast-milk substitutes. Such materials should not use any pictures or text which may idealize the use of breast-milk substitutes.</p> <p><i>Article 4.3</i></p> <p>Donations of informational or educational equipment or materials by manufacturers or distributors should be made only at the request and with the written approval of the appropriate government authority or within guidelines given by governments for this purpose. Such equipment or materials may bear the donating company's name or logo, but should not refer to a proprietary product that is within the scope of this Code, and should be distributed only</p>	<p>The intent of this article is to:</p> <p>a) avoid any situation where mothers might start bottle-feeding because they are not aware of the benefits and superiority of breast-feeding and the possible negative effects of partial bottle-feeding. For example, some mothers are not able to return to breast-feeding once they have tried infant formula. Additionally, bottle feeding may have serious financial consequences for poor families in developing countries.</p> <p>b) ensure that if breast-milk substitutes are used, mothers are provided with sufficient information to be able to prepare the product in a way that will protect the health of the baby.</p> <p>The intent of this article is to prevent manufacturers and distributors from using the donation of equipment and materials to promote infant formula brands. It recognises that such donations may play a useful public education role and so does not prohibit them. It places the responsibility on the government and the health profession to ensure that what is produced is useful to</p>	<ul style="list-style-type: none"> ▪ Companies may communicate to mothers about infant nutrition through the provision of informational and educational material. ▪ Any information provided must stress the importance and superiority of breast-feeding, and highlight the potential adverse consequences of bottle-feeding. ▪ Information should be carefully scrutinised to ensure that it contains the wording specified in Article 4.2. and does not provide wording or text that idealises the use of breast-milk substitutes ▪ Employees should be trained to know and understand this requirement. ▪ Material should only be produced at the request of and with the written approval of the relevant government authority and distributed via the healthcare system. 	<ul style="list-style-type: none"> ▪ The Nestlé Charter contains required wording on informational and educational material for mothers that meets the requirements of this article. It also exceeds the Code's requirements in one aspect, as it provides additional advice for working mothers on how they can continue to partially breast-feed. ▪ All new material is checked for compliance with the WHO Code by the Sr. Manager Field Operations, the Nutrition Adviser and the Category Marketing Manager. ▪ Advertising agencies responsible for producing informational material are provided with a copy of the Nestlé Charter, as well as specific guidelines in what should and should not appear in printed material by the Category Marketing Manager. ▪ Nestlé Thailand has produced material at the request of the health profession without the written approval of the government. The material, however, did not refer to infant feeding and did not contain brand names (see below). This is the common practice in Thailand.

through the health care system.	pregnant women and mothers and reaches those whom it is likely to benefit.		
<p><i>Article 5.1</i></p> <p>There should be no advertising or other form of promotion to the general public of products within the scope of this Code.</p>	<p>Advertising infant formula to the general public may induce mothers to believe that infant formula is superior to breast milk, and/or induce them to use infant formula where it is not medically necessary.</p>	<ul style="list-style-type: none"> ▪ Advertising or any other form of promotion of products within the scope of the Code should be prohibited. ▪ No budgets should be set for this purpose. ▪ Advertising agents should be provided with instructions that they must not advertise infant formula. 	<ul style="list-style-type: none"> ▪ As set out in its Charter, Nestlé Thailand's policy is to prohibit advertising of all infant formula, starter, and follow-on formula with the same name as starter formula (e.g NAN 1 and NAN 2). ▪ No budgets are set for advertising or promotion to the general public, and both the Category Marketing Manager and his line supervisor the Marketing Director check that this is the case. ▪ Nestlé Thailand's advertising agencies are provided with the Charter, informed that infant formula should never be advertised and trained to avoid including infant formula in corporate advertising that covers Nestlé products.
<p><i>Article 5.2</i></p> <p>Manufacturers and distributors should not provide, directly or indirectly, to pregnant women, mothers or members of their families, samples of products within the scope of this Code.</p>	<p>The principle here is that mothers are likely to be induced to use infant formula if they are given free samples. They may then not be able to go back to breast-feed their babies once their babies have become used to the bottle.</p>	<ul style="list-style-type: none"> ▪ Samples, or any other inducements for mothers to use infant formula, should not be manufactured. ▪ No budgets should be set for this purpose. ▪ Staff should be trained so that they know and understand this requirement. ▪ Contracts with staff and distributors should make it clear that this activity is prohibited, and that they will be held accountable for their actions. 	<ul style="list-style-type: none"> ▪ In keeping with its Charter, Nestlé Thailand's policy is to prohibit this activity. ▪ No money is set aside to produce samples, except for the purposes of professional evaluation and clinical validation trials, in keeping with WHO Code Article 7.4. This is checked by the Category Marketing Manager and the Marketing Director. ▪ If samples of products are provided for professional evaluation purposes, in keeping with the Nestlé Instructions, only one or two tins are provided and these are clearly marked 'Sample: For clinical validation purposes only'. Nestlé's Clinical Validation Protocol, set out in Annex 5 of the Nestlé Instructions is followed strictly and records of the evaluation are kept. ▪ Monitoring of the provision of samples for professional evaluation is carried out through Medical Representatives Call Reports.

<p><i>Article 5.3.</i></p> <p>In conformity with paragraphs 1 and 2 of this Article, there should be no point-of-sale advertising, giving of samples, or any other promotion device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-in sales, for products within the scope of this Code. This provision should not restrict the establishment of pricing policies and practices intended to provide products at lower prices on a long-term basis.</p>	<p>The principle to be followed is that products should not be placed in retail stores in such a way as to attract the special attention of consumers, as this could influence mothers to buy infant formula where it is not medically necessary.</p> <p>Pricing should not be used as a promotional vehicle. However, this is not to say that pricing policies cannot pass on savings from transport or sales management to the customer in ways that would reduce the price, on a long term basis to consumers.</p>	<ul style="list-style-type: none"> ▪ No budgets should be set for this purpose. ▪ Retailers should be informed of their responsibilities and actively discouraged from using any promotional device. ▪ Retailers, agents and distributors should not be provided with any point of sales advertising material that targets consumers. ▪ Retail outlets should be monitored for their compliance. ▪ Pricing policies should be based on long term market positioning and profitability criteria and should exclude short-term promotion. 	<ul style="list-style-type: none"> ▪ Nestlé Thailand's strict policy is that no money is provided for point of sale activities. The Category Marketing Manager and the Sales Director both check that there are no budgets set. The sales department has communicated this policy to retailers and those contacted acknowledged that this was Company policy and practice. ▪ The Company follows a strict policy of giving no discounts on infant formula, maintaining a single price across Thailand. This exceeds the requirements of the Code. ▪ Both Nestlé Medical Representatives and sales staff monitor retail outlets to make sure that there are no in-store promotions or other such activities that would draw the attention of consumers to infant formula products.
<p>Article 5.4</p> <p>Manufacturers and distributors should not distribute to pregnant women or mothers of infants and young children any gifts of articles or utensils which may promote the use of breast-milk substitutes or bottle-feeding.</p>	<p>If gifts that promote the use of breast-milk substitutes are provided to mothers, this may induce them to try using infant formula when this is not necessary. Once they have started using infant formula it may also mean that they cannot return to breast-feeding.</p> <p>Although outside the Code, samples of complementary foods may also constitute inducements for mothers to stop exclusive breast-feeding prematurely.</p>	<ul style="list-style-type: none"> ▪ No budgets should be set for this purpose. ▪ Staff should be trained so that they know and understand this requirement. ▪ Staff job descriptions and distributors' contracts should make it clear that this activity is prohibited, and that they will be held accountable for their conduct in this regard. 	<ul style="list-style-type: none"> ▪ It is Nestlé Thailand's strict policy that no such gifts are provided to pregnant women and mothers of infants and young children. ▪ No budgets are set for this purpose. This is checked by the Category Marketing Manager- ▪ It is Nestle Thailand's policy that all labelling and promotion of complementary foods contain the message that the product is suitable for children over 6 months and the benefits of sustained breast-feeding
<p>Article 5.5</p> <p>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.</p>	<p>It is important to ensure that Company staff do not seek contact with mothers, as they may end up in a situation where they – knowingly or unknowingly - influence them to use infant formula.</p>	<ul style="list-style-type: none"> ▪ Staff must be trained so that they know and understand this requirement. ▪ Staff job descriptions should make it clear that this activity is prohibited, and that they will be held accountable for their 	<ul style="list-style-type: none"> ▪ In keeping with its Charter, it is Nestlé Thailand's strict policy that its marketing personnel should not seek direct or indirect contact with mothers. ▪ Regular training is provided to Medical Representatives to reinforce their awareness and understanding of the need to

		conduct in this regard.	<p>comply with this requirement. They are made aware that strict disciplinary action, including possible dismissal, will be taken against staff that breach this or any other provision of the WHO Code.</p> <ul style="list-style-type: none"> ▪ In promoting products other than infant formula and follow-on formula, Nestlé Thailand encourages mothers to make contact with the company by filling in a form. This information is only used when the child is over 6 months of age and for promoting products not covered by the Code.
<p>Article 8.2</p> <p>Personnel employed in marketing products within the scope of this Code should not, as part of their job responsibilities, perform educational functions in relation to pregnant women or mothers of infants and young children. This should not be understood as preventing such personnel from being used for other functions by the health care system at the request and with the written approval of the appropriate authority of the government concerned.</p>	<p>Marketing staff should not be put in such a position that they could be wrongly perceived by mothers as being part of the healthcare system. In performing educational functions with respect to pregnant women or mothers of infants and young children, they may be the case, and they may therefore exercise influence over mothers in their choice of bottle feeding vs. breast-feeding.</p>	<ul style="list-style-type: none"> ▪ Staff should be trained so that they know and understand this requirement. ▪ Staff job descriptions should make it clear that this is prohibited, and that they will be held accountable for their conduct in this regard. 	<ul style="list-style-type: none"> ▪ In keeping with its Charter, it is Nestlé Thailand's policy that its marketing staff should not perform educational functions in relation to pregnant women or mothers of infants and young children. Medical Representatives receive regular training on this requirement, and understand their obligations. Disciplinary procedures are in place. ▪ If the Company receives a request from the health profession to perform educational functions, its standard procedure is to suggest that an expert from the health profession undertake the activity.

In its report Breaking the Rules 2004, IBFAN makes the following allegations against Nestlé Thailand with respect to relations with the general public and mothers:

1. Under the section on Promotion in Health Facilities (p56), it is suggested that the Company gave to mothers, as a gift, video-tapes on pre-natal care entitled 'Guide for Expectant Mothers' to promote loyalty amongst women at a time when they are making infant feeding decisions.
2. That the Company provides samples of infant formula (LACTOGEN 1 and NAN 1) to mothers at home and in shops (p55) and in health facilities (p56).
3. Samples of Bear Brand follow-on formula are given to mothers in an introduction scheme where mothers are asked to provide their friend's contact information to Nestlé.

The video tape was produced some five years ago at the request of the health profession to provide better information on health and nutrition during pregnancy to expectant mothers. A thousand tapes were produced and all given to health professionals to be used in educating expectant mothers. The health professionals gave the tapes to women who had become pregnant for the first time and expressed an interest in receiving information. As acknowledged by IBFAN itself, the subject matter did not concern infant feeding. Article 4.2 and the subsequent Article 4.3 are concerned with the informational and educational material that manufacturers provide on infant feeding lest they undermine breast feeding. Hence, the Company had not violated either of these articles. It did not, as suggested by the TBFA in face to face discussions, need clearance from the MOH under article 4.3, as the subject matter did not concern infant feeding. In fact, in the report, the substance of the IBFAN allegation is that the gift of the video tape was meant to generate loyalty towards Nestlé, presumably to induce mothers to use the Company's infant formula. Thus, potentially, the giving of the video tape, could be considered a violation of article 5.4 – the giving of gifts of articles or utensils that might promote the use of breast milk substitutes and bottle-feeding.

Suggesting that the giving of educational and informational material on subjects other than infant feeding is a breach of article 5.4 is tenuous at best but helpful for the purpose of illustrating a principle of the WHO Code that IBFAN appears to have over looked. Article 5.4 was designed to prevent the infant formula industry and manufacturers of feeding bottles giving the equipment required to prepare

and feed infants with infant formula as an inducement to mothers to try infant formula, with all the negative consequences for breast feeding. The video tape for expectant mothers clearly does not fall into this category. Moreover, its main objective was to fill a public education need identified by the health profession and thus to generate good will for Nestlé amongst the health profession and those women who received the tape. The high cost of producing tapes and the limited number produced made it a very ineffective tool for generating loyalty amongst the 800,000 pregnant women in Thailand. The WHO Code expressly permits, in article 6.8, the donation of equipment and materials other than information and educational material dealing with infant feeding to the health care system. It states that such material and equipment may bear the company's name and logo but not refer to any proprietary product within the scope of the Code. The Code therefore allows manufacturers to generate good will for them amongst the health profession and their patients, including pregnant women and mothers of young infants. Clearly, the donation of an incubator to a hospital with the name of the company displayed would generate good will and is a practice that no one would wish to discourage. What the Code forbids is the use of such donations to promote brands of infant formula.

Thus, in the case of the video tape, Nestlé Thailand was not guilty of violating the WHO Code. But discussions with MOH did raise a concern over the Company's procedures. Providing informational and educational material that plays a public education role is the responsibility of the MOH's PUBLIC HEALTH DEPARTMENT. To ensure that concerns over the possible use of such materials to promote the use of infant formula are assuaged and that all its actions are not only Code compliant but are seen to be compliant, it may be advisable for the Company to seek the approval of the MOH over the contents of all such material, whether it explicitly addresses infant feeding or not. Discussions with the MOH revealed that the PUBLIC HEALTH DEPARTMENT would welcome being consulted over all material destined to reach pregnant women and mothers of infants and young children.

The second allegation, that of giving samples of infant formula, was discussed with the TBFA in the presence of the MOH. No evidence was provided of mothers being given samples at home or in shops. Major retailers reported that, to their knowledge, infant formula samples were not given to mothers in shops by Nestlé Thailand. What was practiced was the giving of samples of complementary foods. Nestlé Thailand's merchandising staff that sample complementary foods have been trained not to offer samples of complementary foods to mothers of infants below 6 months of age to prevent the premature cessation of exclusive breast feeding.

Nestlé Thailand produces samples of infant formula for giving to the health profession for professional evaluation and clinical validation, as permitted under article 7.4 of the Code. All samples produced can be accounted for through the Call Reports of Medical Representatives that record the 1 or 2 tins given for professional evaluation when a new formulation is produced or a new contact is made with a health professional, and the Clinical Validation Protocols signed by health facilities when they wish to evaluate infant formula. To substantiate the allegation, the TBFA produced a LACTOGEN sachet marked 'Sample: For clinical validation purposes only' that had clearly been given in the first place to a health facility and then, presumably, passed on to a mother by the health facility. The TBFA pointed out that it was difficult to comprehend the purpose of clinical validations on a product that has been in the market as long as LACTOGEN. This is a matter of concern. Nestlé Thailand needs to tighten its procedures to prevent the passing on of infant formula samples given to the health profession for professional evaluation and clinical validation to mothers. The issue is discussed further under Free and Low Price Supplies below.

The company does provide samples of Bear Brand growing up milk to mothers. This product is not covered by the Code. The labels of product and all its promotional material stress that the product is suitable for use by children over 1 year old. The information collected from mothers who receive samples of Bear Brand growing up milk is used to promote products not covered by the Code. There is a strict policy for staff involved in the marketing and sale of infant formula to not make contact with mothers of infants. Growing up milks are the responsibility of another department.

What the above reveals is that the evidence provided by IBFAN points to weaknesses in the Company's procedures that have allowed IBFAN to cast doubt over its motives in producing educational material such as the video tape for expectant mothers, and to reveal weaknesses in its procedures that have allowed samples of infant formula to reach mothers. Changes in procedure should help it refute unfounded allegations and reduce undesirable outcomes such as samples intended for the health profession reaching mothers.

There are other practices with respect to the marketing of infant formula in Thailand that the MOH should address in conjunction with the FDA. Whilst Nestlé Thailand and a few other manufacturers do not advertise infant and follow on formula in any form, some manufacturers circumvent article 5.1 which prohibits advertising with the permission of the FDA. They place 'advertorials' in magazines

that are bought by the general public and mothers, describing the attributes of their products. As these advertorials do not refer to brands of infant formula, the FDA permits this practice. However, the advertorials are accompanied by the use of logos and product messages that are associated with brands of infant formula. Moreover, some manufacturers' brands have the same name as the manufacturer with a number to designate whether it is starter or follow on formula. In the advertorials, the number is not used but the use of the manufacturers name in the same font as the brand's label serves to recall to the reader the brand of infant formula.

In most other developing countries, such advertorials are permitted only in medical journals, based on Article 7.2 which allows manufacturers to provide scientific and factual information about their products to the health profession. However, the magazines in which advertorials appear in Thailand are not restricted to the medical profession. The FDA appears to have given its consent based on the fact that such advertorials are not out and out advertising. However, whilst the Code does allow communication of a scientific and factual nature about infant formula with the health profession, it does not permit such communication with mothers and the general public, with or without the explicit use of brand names.

2.4 Relations with Health Workers and Health Facilities

HEALTH WORKERS AND HEALTH FACILITIES			
<p>Article 6.2 No facility of a health care system should be used for the purpose of promoting infant formula or other products within the scope of this Code. This Code does not, however, preclude the dissemination of information to health professionals as provided in Article 7.2.</p>	<p>If marketing staff were to promote infant formula products to mothers at healthcare facilities, this might be perceived as an endorsement of infant formula on the part of the health facility.</p>	<p>No promotional materials for health facilities should be produced. No budgets should be set for this purpose. Medical field staff should be trained so that they understand their responsibilities, and monitored for their compliance. Health facilities should be monitored for their compliance.</p>	<p>No budgets are set for promotional activities whatsoever, and this is checked by the Category Marketing Manager and the Marketing Director. Medical delegates receive induction and regular refresher training to ensure compliance. Disciplinary procedures are in place. Staff are trained to only visit pharmacies, not health care facilities. The WHO Code does not include pharmacies as part of the healthcare system.</p>
<p>Article 6.3 Facilities of health care systems should not be used for the display of products within the scope of this Code, for placards or posters concerning such products, or for the distribution of material provided by a manufacturer or distributor other than that specified in Article 4.3.</p>	<p>If products or posters are displayed in areas of health facilities that are open to the public, there is a chance that mothers using the health facilities might be influenced to use infant formula rather than breast-feeding.</p>	<p>No promotional materials for health facilities should be produced. No budgets should be set for this purpose. Medical field staff should be trained so that they understand their responsibilities, and monitored for their compliance. Health facilities should be monitored for compliance.</p>	<p>Nestlé Thailand's strict policy is that no promotional materials for products covered by the Code should be produced. No budgets are set for this purpose. This is checked by the Category Marketing Manager.</p>
<p><i>Article 6.4</i> <i>The use by the health care system of "professional service representatives", "mothercraft nurses" or similar personnel, provided or paid for by manufacturers or distributors, should not be permitted.</i></p>	<p>The principle here is to prevent health facilities from being funded by companies to promote infant formula.</p>	<p>Companies should not provide or pay for such personnel No budgets should be set for this purpose.</p>	<p>To ensure compliance, no budgets are set for this purpose. This is checked by the Category Marketing Manager and the Marketing Director.</p>
<p>Article 6.5 Feeding with infant formula, whether manufactured or homeprepared, should be demonstrated only by health workers, or other community workers if necessary; and only to the mothers or family members who need to</p>	<p>If Company staff were to demonstrate infant feeding to mothers, this would be likely to put them in a situation where they would, wittingly or unwittingly, influence them to choose bottle feeding over breast-feeding.</p>	<p>Ensure that Company personnel do not demonstrate infant feeding to mothers. Medical Field Staff should be trained so that they understand their responsibilities, and</p>	<p>It is Nestlé Thailand's strict policy that all staff comply with this requirement. This is reinforced through regular training of Medical Representatives. Disciplinary procedures are in place.</p>

<p>use it; and the information given should include a clear explanation of the hazards of improper use.</p>		<p>monitored for their compliance.</p>	
<p>Article 7.2 Information provided by manufacturers and distributors to health professionals regarding products within the scope of this Code should be restricted to scientific and factual matters, and such information should not imply or create a belief that bottle-feeding is equivalent or superior to breast-feeding. It should also include the information specified in Article 4.2.</p>	<p>The principle is to ensure that any information provided by companies to the health system does not lead them to believe that infant formula is preferable to breast-feeding.</p> <p>Whilst the Code accepts that health professionals need to be kept updated about infant formula products developed by manufacturers, it aims to control what information is allowed and to prevent unrealistic claims or blatant promotion of the product. This does not prevent the transmission of scientific information on the product.</p>	<p>Companies may provide general information on infant nutrition to health professionals, but this must be of a strictly scientific nature. It should be intended to contribute to building clinical knowledge in this area, and must not imply or create a belief that infant formula feeding is equivalent or superior to breast-feeding</p>	<p>Written information concerning products is provided to health professionals by Nestlé Medical Delegates in the form of 'detailing aids'. The information produced in the detailing aids corresponds to a set of communication objectives that are prepared for visits by Medical Representatives to doctors, mid wives and nurses. These are restricted to scientific and factual matters. They are either produced locally by Nestlé Thailand, or they are prepared by Nestlé S.A.. In both cases, they are checked for Code compliance by the nutrition adviser and the Category Marketing Manager. However, there are concerns over the contents of some detailing aids (see below).</p>

The report *Breaking the Code* contains seven examples (p61-62) of what is described as 'misleading texts and pictures which violate the Code and there is an example of another in the report *Look What they are Doing*. The report refers to brochures found in hospitals. In fact, these are all examples of detailing aids aimed at the health profession and so are subject to article 7.2 of the Code. They are not intended to reach pregnant women and mothers. This was confirmed by examining the invoices for the printing of these materials. Without exception, all the print runs were for less than 12,000 copies, the number of health professionals with which the Company is in contact. Unlike materials intended for pregnant women and mothers where, in line with article 4.2 and the Nestlé Instructions, no pictures of babies are used lest they idealise the use of infant formula, in communicating with the health profession, the use of such pictures is not prohibited. In many instances, IBFAN refers erroneously to the use of pictures of healthy babies in these aids as a violation of the Code.

The first alleged violation cited in *Breaking the Rules* appears to not break any article of the Code and is founded on IBFAN's interpretation that the Company intended to promote infant formula through symbolism of a psychological nature. It is stated that the brochure claims that NAN 1 has 'new improved protein efficiency'. This is neither misleading nor a violation of the Code. It is in fact a good example of the sort of scientific and factual information that article 7.2 was designed to encourage. The other part of the alleged violation addresses the way the picture of a breast and a baby on the cover of the leaflet with the message breast is best opens up to symbolically separate the baby from the breast. The symbolism apparent to IBFAN was not intended by the brand manager and it is difficult to see what would be gained by it. In fact, as demonstrated by the other allegations, Nestlé Thailand appears to wish to associate its products as closely as possible to breast milk. To allow allegations of violations of the Code to be investigated properly, it would be helpful in future for IBFAN to cite which article of the Code it believes has been violated.

The other allegations cited in *Breaking the Rules* that address misleading pictures and texts appear based on the view that the detailing aids violated article 7.2 by claiming that Nestlé products are equivalent to breast milk. There is some substance in these allegations. For instance, in one case, the words used were 'the amino acid profile of NAN 1 is close to breast milk and is suitable for the best growth'. Although the information is scientific and may be factual, there is a suggestion made of equivalence to breast milk. In other instances, the detailing aids claim that the Nestlé product is similar to breast milk. Nestlé Thailand's explanation was that breast milk is the gold standard

against which infant formula should be compared. However, greater care is required over the wording of detailing aids to ensure that there is no hint of equivalence with breast milk. Comparing the product on a scientific basis with the products of competitors should be sufficient to show the superiority of the product without comparing the product to breast milk.

In discussions with the TBFA and MOH it appeared that the Nestlé detailing aid referred to in Look What They are Doing, whilst being scientific and factual, may have over stated the claim for the product. No doubt, the advertising agencies that help prepare the detailing aids will wish to use the scientific and factual information that Nestlé provides to its full extent in making claims for the product. It is up to the Category Marketing Manager, assisted by the Nutrition Adviser, to ensure that they, however, do not over step the mark.

As discussed above under Relations with the General Public and Mothers, the report Breaking the Rules alleges that Nestlé Thailand promotes infant formula in hospitals by giving samples and signing up mothers thus violating article 6.2 . This is strongly denied by both Nestlé Thailand and the health profession. All public hospitals in Thailand are Baby Friendly and do not allow company representatives to roam freely and mingle with patients. Many private hospitals also follow the same rules. No doubt, some private hospitals may be less strict but it is ingrained in the training of Nestlé Medical Representatives that they are not allowed to contact mothers anywhere and that they would be liable for dismissal if they did so. Sales staff are forbidden to visit hospitals.

2.5 Donations & Sponsorship

DONATIONS			
<p><i>Article 4.3</i></p> <p>Donations of informational or educational equipment or materials by manufacturers or distributors should be made only at the request and with the written approval of the appropriate government authority or within guidelines given by governments for this purpose. Such equipment or materials may bear the donating company's name or logo, but should not refer to a proprietary product that is within the scope of this Code, and should be distributed only through the health care system.</p>	<p>The intent of this article is to prevent manufacturers and distributors from using the donation of equipment and materials addressing infant feeding and intended to reach pregnant women and mothers to promote infant formula brands. It recognises that such donations may play a useful public education role and so does not prohibit them. It places the responsibility on the government and the health profession to ensure that what is produced is useful to pregnant women and mothers and reaches those whom it is likely to benefit.</p>	<ul style="list-style-type: none"> ▪ Material should only be produced at the request of and with the written approval of the relevant government authority and distributed via the healthcare system. 	<ul style="list-style-type: none"> ▪ Nestlé Thailand has produced material at the request of the health profession without the written approval of the government. The material, however, did not refer to infant feeding and did not contain brand names (see above).
<p><i>Article 6.8</i> <i>Equipment and materials, in addition to those referred to in Article 4.3, donated to a health care system may bear a company's name or logo, but should not refer to any proprietary product within the scope of this Code.</i></p>	<p>The principle is clear – other types of equipment or materials may be donated but should have no promotional content.</p>	<ul style="list-style-type: none"> ▪ Ensure that donated equipment or materials do not bear the name of, or any pictorial or written information about products ▪ Establish – and publicise – clear and transparent guidelines for donations to remove the potential of any link with the promotion of Nestlé infant formula. ▪ Maintain records of all donations to health facilities 	<ul style="list-style-type: none"> ▪ Nestlé Thailand does donate other equipment and material to the health care system. Though no brand names are used, there are concerns over the use of symbols and words that are associated with its infant formula.
<p><i>Article 7.3</i></p> <p>No financial or material inducements to promote products within the scope of this Code should be offered by manufacturers or distributors to health workers or Members of their families, nor should these be accepted by health workers or members of their families.</p>	<p>The purpose of this article is to eliminate the possibility of manufacturing companies using gifts as a means of inducing the health profession to prescribe infant formula, thereby reducing the chance of it being prescribed where it is not necessary.</p>	<p>Article 7.3. of the Nestlé Instructions state that 'financial or material inducements to promote infant formula may not be offered to health workers or member of their families. Low-cost items of professional utility ... or culturally</p>	<ul style="list-style-type: none"> ▪ In line with the Nestlé Instructions, Nestlé Thailand does give gifts to individual health professionals in the form of 'low cost items of professional utility' in line with Article 7.3 and Annex 4 of the Nestlé Instructions which help operationalise WHO Code Article 7.3. Gifts by Nestlé Thailand are usually very

health workers or members of their families.	Articles 4.3 and 6.8 imply that companies are allowed to give donations to institutions, if strict controls are applied. This article, however, refers to individual health workers and their families. The key questions are, what constitutes a financial inducement? Is it acceptable to provide health professionals with low-cost items of professional utility? Are 'culturally appropriate' gifts allowed? The answers to these questions are partially dependent on the country concerned.	appropriate gifts may be given to health workers on an occasional basis provided they are not used as a sales inducement. Such items may bear the Corporate logo'.	small, such as pens, diaries etc.
SPONSORSHIP			

<p>Article 7.5</p> <p>Manufacturers and distributors of products within the scope of this Code should disclose to the institution to which a recipient health worker is affiliated any contribution made to him or on his behalf for fellowships, study tours, research grants, attendance at professional conferences, or the like. Similar disclosures should be made by the recipient.</p>	<p>This article implies that it is acceptable to sponsor health professionals to conduct academic activities, in recognition of the value to the healthcare system of such sponsorship.</p> <p>However, the article also intends to prevent the use of sponsorship as a form of inducement to health facilities and health workers, therefore it asks for transparency in the process.</p>	<ul style="list-style-type: none"> ▪ Establish strict procedures on sponsorships so that requests are considered on their merit – i.e. their utility for the health profession. ▪ Ensure that any contributions made do not create the impression of, or represent endorsement of Nestlé's policies or activities by the recipient. ▪ Ensure sponsorship is always notified to head of the institution 	<ul style="list-style-type: none"> ▪ Nestlé Thailand sponsors conferences and seminars organised by the health profession.. It also sponsors individual health workers to attend important conferences taking care always to do so transparently by notifying the head of the institution concerned ▪ The Company participates in the Nestlé Nutrition Scholarship scheme, whereby promising candidates are invited to apply for a scholarship to pursue academic study in the field of nutrition. This is organised by Nestlé S.A. which has established strict procedures to ensure that the process of awarding a scholarship is transparent and that there is no link with the recipients subsequent use or promotion of infant formula.
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In the reports Breaking The Code and Look What they are Doing, IBFAN shows examples of Nestlé Thailand donating other equipment and materials such as growth charts, pregnancy cycle cards to health facilities that it considered were violations of the Code. Clearly, the donations of such materials is permitted under article 6.8 and in fact serves a valuable purpose. The donations did not carry any brand names. The use of the corporate logo of the two birds that IBFAN refers to is expressly allowed by article 6.8. Hence, no violation occurred. However, in discussions with the TBFA, it pointed out that in the two cases referred to in Look What they are Doing, both reproduced words and a logo (3Bs) that are associated with infant formula. The materials in question were a box of tissues and a growth chart. This practice

should cease and procedures improved to ensure that there is greater scrutiny of such materials to ensure that no words or logos associated with infant formula are used in such materials.

In addition, allegations were made by IBFAN that the Company gave low cost items such as pens and paper holders to health workers. This allegation stems from a disagreement between IBFAN and Nestlé on interpreting the Code. IBFAN believes that Article 7.3 means that no gifts, no matter how trivial, should be given. Nestlé that the giving of low cost items of professional utility and culturally appropriate gifts does not constitute a financial or material inducement. Common sense would tend to favour the Nestlé interpretation. As noted earlier, the Code is not against manufacturers building good will amongst the health profession. The intent of the Code is to prevent the use of financial or material inducements influencing the actions of health professional. It is unlikely that the receipt of a pen, paper holder or for that matter a pregnancy cycle chart with Nestlé written on it is likely to sway the professional judgement of a health professional on the relative merits of breast feeding and infant formula. Health professionals receive such gifts regularly from the medical representatives of drug companies.

This is an example of the type of issue that the Code left to national governments, taking account of their social conditions, to rule upon. In many cultures, gifts are given and received on feasts and special occasions as part of the normal commercial relationship. They are considered part of the process of building a relationship and fostering good will, and so long as they are of low cost, not as forms of inducement. Without guidance from the MOH, Nestlé Thailand is simply following the Instructions of its parent company in giving low cost items of professional utility and culturally appropriate gifts.

2.6 Free and Low Price Supplies

FREE AND LOW PRICE SUPPLIES			
<p><i>Article 6.6</i></p> <p>Donations or low-price sales to institutions or organizations of supplies of infant formula or other products within the scope of this Code, whether for use in the institutions or for distribution outside them, may be made. Such supplies should only be used or distributed for infants who have to be fed on breast-milk substitutes. If these supplies are distributed for use outside the institutions, this should be done only by the institutions or organizations concerned. Such donations or low-price sales should not be used by manufacturers or distributors as a sales inducement.</p>	<p>This is based on the recognition that there are instances where children have to be fed on infant formula, and where affordability is a constraining issue. Therefore, the provision or sale at low price of infant formula for charitable purposes is allowed. However, it is important that companies providing such supplies should verify that the institution concerned has genuine problems of affordability, and that the formula will only reach babies who are in need. Companies are not allowed to provide free or low-price supplies of infant formula as a sales inducement.</p>	<ul style="list-style-type: none"> ▪ Ensure that free or low-priced products covered by the WHO Code do not constitute sales inducements. ▪ Establish, and publicise clear guidelines for donations or supply at low price of infant formula to institutions. ▪ Ensure that the institutions concerned are bona fide welfare institutions, and that there are genuine problems of affordability. 	<ul style="list-style-type: none"> ▪ Nestlé Thailand's policy is that it will provide free donations of infant formula to healthcare institutions provided that the institution certifies that the formula will only be used for infants that have to be fed on breast-milk substitutes. In addition, the supply of the infant formula is made to a health institution, not the recipient. This ensures that the infant formula is used under the institutions own supervision. ▪ The procedure is that all requests for low price supplies of infant formula must be made on a standard form that includes a statement that the institution will comply with the WHO Code and that the formula will only be used for infants that have to be fed on breast-milk substitutes. ▪ In line with subsequent WHA resolutions, a revision of the Nestlé Instructions is being prepared by Nestlé S.A that will prohibit the giving of free or low price supplies to the health care system, restricting such supplies to social welfare organisations. Nestlé Thailand will need to change its policy when this revision is released.

<p>Article 7.4</p> <p>Samples of infant formula or other products within the scope of this Code, or of equipment or utensils for their preparation or use, should not be provided to health workers except when necessary for the purpose of professional evaluation or research at the institutional level. Health workers should not give samples of infant formula to pregnant women, mothers of infants and young children, or members of their families.</p>	<p>If samples of infant formula are given to health workers, other than for the strict purpose of professional evaluation and clinical validation, there is a risk that s/he will give them on to mothers who would otherwise have breastfed their babies. Once they try infant formula they may then find it difficult to switch back to breast-feeding.</p>	<ul style="list-style-type: none"> ▪ Ensure that strict control is placed over the manufacture and distribution of samples. ▪ Ensure that no samples of infant formula products are provided to health professionals, except under the following circumstances: a) introduction of a new infant formula b) introduction of a new formulation of an existing product c) introduction of Nestlé infant formula range to newly qualified health professional In those cases, only 1 or 2 tins may be given. d) for clinical validation or other specified research. ▪ Provide appropriate training to staff so that they understand that they must not provide samples to health professionals or the general public, and that they will be held accountable for their actions if they do so. 	<ul style="list-style-type: none"> ▪ Nestlé Thailand's policy, derived from the Nestlé Instructions is to give samples only if one of the conditions stated on the left under a)-d) is fulfilled. The only circumstances in which samples (1 or 2 tins) are provided are for evaluation by health professionals is to introduce a new product, a new formulation or to a newly qualified professional that it unfamiliar with Nestlé products. ▪ For clinical validation, an elaborated policy must be adhered to by all parties concerned: company representatives, health professionals and mothers involved. The clinical validation protocol ensures that the health professional reports back how much formula was used by how many babies and the findings of the clinical trial. The participating institution has to sign a clinical validation agreement that states that they will complete the clinical validation protocol and that the mothers of the infants are aware of the superiority of breast-feeding and have selected to use infant formula after consultation with a doctor. ▪ This is in full compliance with the WHO Code. However, despite these safeguards, it appears that samples of infant formula provided for clinical validation are reaching the general public and mothers.
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Though it has followed sensible procedures to restrict samples of infant formula supplied to the health profession, as noted earlier, such supplies are reaching the general public. It is clear that, irrespective of such safeguards, if the quantity supplied for clinical validation is large, some samples may reach mothers, if for no other reason than the wish of the health profession to help poorer mothers meet the cost of infant formula. The purpose of the clinical validation protocol set out in the Nestlé Instructions was to provide samples only if a proper piece of scientific research was conducted on the product. For products such as LACTOGEN that have been around for many years, the TBFA is right to question the purpose clinical validations serve. We understand that the TBFA argument has proved persuasive to Nestlé Thailand and the Company has decided to stop all clinical validation except where a scientific trial is to be conducted that has the approval of Nestlé S.A.'s NSBD because it breaks new ground in scientific research on the product.

2.7 Quality and Labelling

QUALITY AND LABELLING			
<p>Article 9.1</p> <p>Labels should be designed to provide the necessary information about the appropriate use of the product, and so as not to discourage breast-feeding.</p>	<p>The intent of this article is to ensure that:</p> <p>a) the information provided on product labels concerning the use of infant formula does not induce mothers to buy infant formula where its use is not medically necessary.</p> <p>b) for mothers who have purchased the product, that they are provided with sufficient information to be able to prepare the product in a way that will protect the health of the baby.</p>	<ul style="list-style-type: none"> ▪ Companies should endorse the superiority of breast-feeding on their labelling, and provide appropriate information on the preparation and use of infant formula so that mothers are not misled. ▪ Implement a strict procedure for label design to ensure that it bears the required wording. 	<ul style="list-style-type: none"> ▪ Labelling is covered by both the WHO Code and FDA Regulations. Nestlé Thailand's policy towards labelling is to ensure that the requirements of both the WHO Code and the FDA are met in full. All labels contain a notice about the superiority of breast-feeding and a warning to follow the instructions for use. ▪ All labels are checked for compliance with the Code at Nestlé S.A. and in Nestlé Thailand are double-checked for compliance with FDA regulations. Approvals of the FOM, Category Marketing Manager and the Nutrition Adviser are given on the label. We would recommend that a separate docket is created for this purpose, allowing for comments, as the current practice is for the signatures to be written on the labels themselves. ▪ The Food and Drug Administration approves all labels.
<p>Article 9.2</p> <p>Manufacturers and distributors of infant formula should ensure that each container has a clear, conspicuous and easily readable and</p>	<p>This article contains recommendations for the wording of statements that should be included on labels (requirements 9.2. a, b, c, d). Pictures of infants are clearly not</p>	<ul style="list-style-type: none"> ▪ Companies should endorse the superiority of breast-feeding on their labelling, and provide appropriate 	<p>As above.</p>

<p>conspicuous, and easily readable and understandable message printed on it, or on a label which cannot readily become separated from it, in an appropriate language, which includes all the following points: (a) the words "Important Notice" or their equivalent; (b) a statement of the superiority of breast-feeding; (c) a statement that the product should be used only on the advice of a health worker as to the need for its use and the proper method of use; (d) instructions for appropriate preparation, and a warning against the health hazards of inappropriate preparation. Neither the container nor the label should have pictures of infants, nor should they have other pictures or text which may idealize the use of infant formula. They may, however, have graphics for easy identification of the product as a breast-milk substitute and for illustrating methods of preparation. The terms "humanized", "maternalized" or similar terms should not be used. Inserts giving additional information about the product and its proper use subject to the above conditions, may be included in the package or retail unit. When labels give instructions for modifying a product into infant formula, the above should apply.</p>	<p>allowed. However there is also room for interpretation with respect to what is meant by 'pictures or text which may idealize the use of infant formula'. Does this include drawings of baby bears or baby birds being fed by their mother? It is important to keep in mind the spirit of the Code, and to ensure that this article is adhered to in spirit as well as letter.</p>	<p>information on the preparation and use of infant formula.</p> <ul style="list-style-type: none"> ▪ Implement a strict procedure for label design to ensure that it contains the required wording ▪ Fully reproduce the required wording on the labels, and only provide graphics to help customers identify the product as a <i>bona fide</i> breast-milk substitute and for the purpose of illustrating methods of preparation only. 	
<p>Article 9.4</p> <p>The label of food products within the scope of this Code should also state all the following points: (a) the ingredients used; (b) the compositional analysis of the product; (c) the storage conditions required; and (d) the batch number and the date before which the product is to be consumed, taking into account the climatic and storage conditions of the country concerned.</p>	<p>This article is intended to ensure that appropriate quality standards are upheld, to ensure that the health of babies being fed on infant formula is protected.</p>	<ul style="list-style-type: none"> ▪ Reproduce the required wording and information in full. 	<p>As above.</p> <p>Retail stores are monitored to ensure stock rotation and the removal of any out of date products.</p>

No concerns were raised on the quality and labelling of Nestlé Thailand products by IBFAN or the health profession.

2.8 Management & Personnel

MANAGEMENT AND PERSONNEL			
<p>Article 8.1</p> <p>In systems of sales incentives for marketing personnel, the volume of sales of products within the scope of this Code should not be included in the calculation of bonuses, nor should quotas be set specifically for sales of these products. This should not be understood to prevent the payment of bonuses based on the overall sales by a company of other products marketed by it.</p>	<p>If marketing or sales staff are incentivised or in any way pressurised to increase sales of infant formula, this might create pressure on them to breach the WHO Code. This may result in greater numbers of women choosing to use infant formula where it is not medically necessary.</p> <p>This article intends to remove the link between sales of infant formula and reward. It makes it clear that whilst bonuses that are linked to the sale of infant formula are prohibited, general bonuses based on overall company sales are allowed.</p>	<ul style="list-style-type: none"> ▪ Ensure that no incentives are provided either to staff or distributors that provide a direct link between levels of sales of infant formula and remuneration. ▪ Institute policies to mitigate pressure to breach the Code, for example by providing for positive reinforcement of compliance with the Code in staff incentive systems. ▪ Ensure that distributors and agents agree to policy that the volume of sales of infant formula are not included in the calculation of bonuses provided to staff. 	<ul style="list-style-type: none"> ▪ Nestlé Thailand's policy is to ensure that all those concerned with the marketing and sales of infant formula do not receive any sales incentives. Senior management are also not incentivised through growth in the sales of infant formula. ▪ Marketing and sales are separated within the Company. The marketing function is headed by the Category Marketing Manager. The Field Operations Manager (FOM) is the person directly concerned with the marketing of infant formula. She controls Medical Representatives who are the key interface with the health profession. Marketing staff receive no sales bonuses. Their remuneration is fixed. The computer system that calculates the bonus due to sales staff as a result of sales, does not allow sales of infant formula to be included in the calculations. ▪ Retailers are made of the Nestlé Thailand policy and all the retailers interviewed, whether large, modern retailers or small, traditional outlets, knew of this provision of the Code.

<p>Article 11.5</p> <p>Manufacturers and primary distributors of products within the scope of this Code should appraise each member of their marketing personnel of the Code and of their responsibilities under it.</p>	<p>It is the Company's responsibility to ensure that all their personnel – not just those within the infant nutrition division – know, and understand their responsibilities for implementing the Code, to ensure that infant formula is marketed in an appropriate and responsible manner.</p>	<ul style="list-style-type: none"> ▪ Ensure through staff training that staff know and understand their responsibilities for complying with the Codes. ▪ Ensure that contractors and distributors include a requirement that they train their staff in the Code. 	<ul style="list-style-type: none"> ▪ All staff are made familiar with the WHO Code irrespective of whether they work on infant formula and issued the Nestlé charter. Medical Representatives are provided with advanced training on the Code and refresher courses periodically. They are tested regularly on their knowledge of the Code. Medical Representatives interviewed during this evaluation demonstrated a strong understanding of the WHO Code. ▪ Sales staff receive intermediate level training on the Code and are tested regularly for their knowledge. They, in turn, train, distributors and retailers. A new post of trainer in the WHO Code is being established in the infant foods department. That trainer should undertake the training of distributors and retailers in future.
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Nestlé Thailand is fully compliant with the Code articles concerned with management and personnel in policy and procedures.

2.9 Monitoring & Reporting

MONITORING AND REPORTING			
<p>Article 11.2</p> <p>Monitoring the application of this Code lies with governments acting individually, and collectively through the World Health Organisation as provided in paragraphs 6 and 7 of this Article. The manufacturers and distributors of products within the scope of this Code, and appropriate non-governmental organisations, professional groups, and consumer organisations should collaborate with governments to this end.</p>	<p>This requires active collaboration in setting up monitoring and enforcement systems.</p>	<ul style="list-style-type: none"> ▪ Ensure that Company collaborates with governments and other stakeholders on monitoring implementation of the Code. ▪ Actively support activities to raise awareness of WHO Code and enforcement mechanisms 	<ul style="list-style-type: none"> ▪ Nestlé Thailand's policy is to comply with this article, in keeping with its statement in the Nestlé Charter that it 'invites government officials, health professionals and consumers, to draw to its attention any Nestlé infant formula marketing practices in developing countries which they consider are not in conformity with [the WHO Code]'. ▪ There is an industry association for manufacturers of breast-milk substitutes. Nestlé Thailand is an active participant in the association and has sought for some time to agree a system of enforcement of the Code, be it based on a voluntary Code of conduct enforced through a memorandum of understanding with MOH and other stakeholders. ▪ Nestlé Thailand carries out internal audits for compliance with the Code at regular intervals. The report of the internal auditor is actioned directly by the Managing Director. In addition, all audits of regional offices and operations also check for compliance with the WHO Code. Again, action is taken under the authority of the Managing Director. Nestlé S.A. carries out independent audits of its subsidiaries for compliance with the WHO Code on a bi-annual basis. The recommendations of the audit are sent both to the Managing Director for action, as well as to the head of the Nutrition Strategic Business Division (NSBD). A summary of those audits is sent to the Group 's CEO and to the Board of Directors' audit committee.

<p><i>Article 11.3.</i></p> <p>Independently of any other measures taken for implementation of this Code, manufacturers and distributors of products within the scope of this Code should regard themselves as responsible for monitoring their marketing practices according to the principles and aim of this Code, and for taking steps to ensure that their conduct at every level conforms to them.</p>	<ul style="list-style-type: none"> ▪ The article makes manufacturers and distributors responsible for the monitoring of their own practices with respect to the Code. 	<ul style="list-style-type: none"> ▪ Conduct regular audits of compliance with policies, and take corrective action where necessary. ▪ Inform distributors and retailers of their responsibilities for compliance, and monitor them for compliance. ▪ Develop system of reporting Code violations and taking effective action. 	<ul style="list-style-type: none"> ▪ Nestlé Thailand uses its Medical Representatives to monitor implementation of the Code at the retail level, using a Code Violation Form. The sales department also monitors for compliance. ▪ The agreements with all distributors carries a clause which states that they are expected to follow the Nestlé Charter and WHO Code. ▪ Regular audits check for compliance as described above. ▪ Nestlé Thailand has appointed an Ombudsman, to whom staff can report suspected violations of the Code on a confidential basis, for investigation.
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There is a strong culture of compliance with the Code. Staff are aware that any breach of the Code will result in disciplinary action, up to and including dismissal. The induction process includes signing a declaration that they have been familiarised with the Code and have received a copy of the Nestlé Charter. Interviews with the health profession revealed that Nestlé Thailand staff were the best trained in nutrition and most ethical in promoting infant formula of all the manufacturers in the country. The fact that the Company is the only one to have approached the MOH and TBFA to discuss reported violations of the Code and the possibility of introducing some form of regulation, formal or voluntary, to ensure compliance speaks for itself. As shown above, the management of Nestlé Thailand were not afraid to admit shortcomings in procedures and to act decisively to stop potential violations of the Code, as shown by the decision to stop clinical validation as currently handled. They are to be commended for this attitude. The implementation of additional measures suggested in this report should help to reinforce the already strong culture of Code compliance within the organisation.

Chapter Three Conclusions & Recommendations

The absence of national legislation in Thailand means that the framework for compliance with the WHO Code for Nestlé Thailand is provided by the WHO Code itself, the guidance provided by its parent company in the Nestlé Instructions and by the elements of the WHO Code that have been incorporated into the regulations of the FDA. The absence of either legislation or a voluntary code of conduct has allowed different interpretations of the WHO Code to exist side by side. These need to be addressed by the authorities in Thailand to ensure that all stakeholders understand the rules and are held accountable for any violations. The lack of clarity results in allegations of violations when none have occurred and the overlooking of violations when they have occurred. Many of the allegations cited in the IBFAN reports are a result of differences of interpretation between that organization and Nestlé Thailand and, for that matter, other infant formula manufacturers and parts of the health profession.

Rates of breast feeding in Thailand are better than comparable countries and there is a strong positive association with breast feeding amongst mothers and the health profession of which the MOH and TBFA should be proud. However, this should not make for complacency. A more effective mechanism for enforcing the Code is in the interest of all stakeholders, especially those infant formula companies that are committed to complying with the Code. This requires that the MOH convene a meeting of all stakeholders to agree on a voluntary code of conduct, backed up, if necessary by formal regulation. Perhaps, most importantly, when a code of conduct or formal regulations are in place, the health profession should be made aware of them so it can play its role in monitoring Code compliance more effectively. The Presidents of the Royal Colleges concerned with infant nutrition called for such awareness raising.

The Company has established a framework for compliance with the Code. Policies are in line with the Code, Nestlé Instructions and FDA regulations. Procedures are designed to implement policy consistently and, in general do so consistently. There are areas where procedures can be improved as set out below. The structure of the organisation separates marketing from sales to reduce the possibility of breaches of the Code. The culture of the Company reinforces policies and procedures for compliance. The inclusion of the Charter in induction training of all staff, the remuneration system's exclusion of any sales-related bonus for senior management and sales staff dealing with products covered by the Code provide the platform for a Code compliant culture.

Whilst many of the allegations made by IBFAN are due to differences in interpreting the Code, there were some allegations that raised concerns over the procedures followed by the Company. Our recommendations are as follows:

Whilst the Charter is a strong starting point, it may be useful to produce a more comprehensive statement of policy that compiles all the unwritten policies that address the specific articles of the Code. This would make it clearer to all those with whom the Company staff come into contact as to what Nestlé Thailand will or will not do, including to IBFAN. In addition, the manual would serve as a useful training and in succession planning for key positions such as the Field Operations Manager, the Nutrition Adviser and Category Marketing Manager.

The development of a procedures manual for Code related activities would also help with training and succession planning. Nestlé Thailand's management has assured us that the development of such a procedures manual is has been planned for the next few months.

The procedures with regard to approval of information and educational informational material addressing infant feeding and other relevant subjects that play a public educational role should include approval by the PUBLIC HEALTH DEPARTMENT of the MOH.

It is the duty of the Company to raise the issue of advertorials in journals intended to reach the general public and mothers with the offending parties, the MOH, TBFA and stakeholders in the health profession.

Greater care is required in preparing detailing aids to ensure that they do not suggest any equivalence with breast milk. Words such as similar to or close to breast milk should be avoided.

To abide by not only the letter but also the spirit of the Code, in preparing other materials and equipment to be donated for use by health facilities, care should be taken to avoid not just brand names but also the use of words and logos such as the 3 Bs that are associated with infant formula products.

The company needs to discuss the difference interpreting article 7.3 with the main stakeholders, the MOH, the TBFA and the rest of the health profession to arrive at consensus view, or at least to have the rationale for its position, and that of Nestlé S.A understood by them. It should explain why it believes that the giving of low cost items of professional utility and culturally appropriate gifts does not constitute a financial or material inducement and is in line with cultural practices in Thailand.

The Company's decision to stop all clinical validations, except for formal clinical research on issues not previously researched as approved by NSBD, is to be commended. This should prevent the passing on of samples of infant formula by the health profession to mothers.

The management of Nestlé Thailand is to be commended for its decision to hold discussions with the MOH and TBFA on the allegations presented by IBFAN and to take decisive action to improve procedures such as limiting clinical validation to very exceptional instances. The Company needs to continue to work with MOH to bring about a more effective framework for Code compliance even if its efforts in the past have not been fruitful.

ANNEX 4 **GLOSSARY OF TERMS**

For the purposes of information, this appendix contains the definitions given by the **WHO's International Code of Marketing of Breast-milk substitutes in its article 3.**

"Breast-milk substitute" means: any food being marketed or otherwise represented as a partial or total replacement for breast milk, whether or not suitable for that purpose.

"Complementary food" means: any food, whether manufactured or locally prepared, suitable as a complement to breast milk or to infant formula, when either becomes insufficient to satisfy the nutritional of the infant. Such food is also commonly called "weaning food" or "breast-milk supplement"

"Container" means: any form of packaging of products for sale as a normal retail unit, including wrappers.

"Distributor" means: a person, corporation or any other entity in the public or private sector engaged in the business (whether directly or indirectly) of marketing at the wholesale or retail level a product within the scope of this Code. A "primary distributor" is a manufacturer's sales agent, representative, national distributor or broker.

"Health care system" means: governmental, nongovernmental or private institutions or organizations engaged, directly or indirectly, in health care for mothers, infants and pregnant women; and nurseries or child-care institutions. It also includes health workers in private practice. For the purposes of this Code, the health care system does not include pharmacies or other established sales outlets.

"Health worker" means: a person working in a component of such a health care system, whether professional or non-professional, including voluntary, unpaid workers.

"Infant formula" means: a breast-milk substitute formulated industrially in accordance with applicable Codex Alimentarius standards, to satisfy the normal nutritional requirements of infants up to between four and six months of age, and adapted to their physiological characteristics. Infant formula may also be prepared at home, in which case it is described as "home prepared".

"Label" means: any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container (see above) of any products within the scope of this Code.

"Manufacturer" means: a corporation or other entity in the public or private sector engaged in the business or function (whether directly or through an agent or through an entity controlled by or under contract with it) of manufacturing a product within the scope of this Code.

"Marketing" means: product promotion, distribution, selling, advertising, product public relations, and information services.

"Marketing personnel" means: any persons whose functions involve the marketing of a product or products coming within the scope of this Code.

"Samples" means: single or small quantities of a product provided without cost.

"Supplies" means: quantities of a product provided for use Over an extended period, free or at a low price, for social purposes, including those provided to families in need.

