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Preface

Countries worldwide face tremendous challenges in promoting breastfeeding. One obstacle is the aggressive commercial promotion of breastmilk substitutes. While direct advertising for infant formula has stopped in many countries, more subtle forms of promotion continue. Mothers still receive samples and coupons and there is widespread advertising for follow-up formulas, growing-up milks and feeding bottles and teats. Obviously, this multi-million dollar marketing expenditure is in direct competition with breastfeeding.

The development of the **Code Essentials** series is one of many follow-up actions recommended at the WHO/UNICEF Consultation on Breastfeeding Protection, Promotion and Support held in Manila in June 2007. Due to its long-standing experience with Code implementation worldwide, ICDC was requested to prepare Code materials for different groups of actors; government officials, health educators and Code advocates. This is to support countries in the region in developing and strengthening legislative, regulatory or other effective measures to control the marketing of breastmilk substitutes.

As of the end 2017, many countries have taken action to give effect to the Code. There are laws and other regulatory measures in place at the national level but monitoring and enforcement remain a challenge. An ever-present industry influence to roll back and weaken any form of regulation means that aggressive marketing of breastmilk substitutes persists as a threat to the promotion of breastfeeding. Code implementation and Code monitoring must therefore continue to be supported and documented.

Code Essentials 1
*annotates and integrates
the main messages of
subsequent resolutions
(1982-2016) into the
analysis of the Code*

Code Essentials 1: Annotated International Code of Marketing of Breastmilk Substitutes and relevant WHA resolutions (first

published in 2007) aims to develop a deeper understanding of Code provisions and subsequent World Health Assembly resolutions. This second edition of **Code Essentials 1** incorporates new guidelines, recommendations and guidance that have been developed over the last ten years. It annotates and integrates the main messages of subsequent resolutions (1982-2016) into the analysis of the Code.

Initial support the **Code Essential series** came from the UNICEF East Asia and Pacific Regional Office (EAPRO) and the WHO Western Pacific Regional Office. This second edition is produced and published with the support of UNICEF EAPRO.

Although prepared for the Asia Pacific region, this publication will be useful in other regions as the Code and resolutions are universal in their application.

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This booklet is the first in a series of four on the International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly resolutions. Each booklet, listed below, can stand independently and focuses on different categories of users.

Code Essentials 1: *Annotated International Code of Marketing of Breastmilk Substitutes and subsequent WHA resolutions.*

Code Essentials 2: *Guidelines for Policy Makers on the Implementation of the International Code of Marketing of Breastmilk Substitutes and subsequent WHA resolutions.*

Code Essentials 3: *Responsibilities of Health Workers under the International Code of Marketing of Breastmilk Substitutes and subsequent WHA resolutions.*

Code Essential 4: *Complying with the International Code of Marketing of Breastmilk Substitutes and subsequent WHA resolutions. A Guide for Regulators and Compliance Staff .*

" If breastfeeding did not already exist, someone who invented it today would deserve a dual Nobel Prize in medicine and economics. For while "breast is best" for lifelong health, it is also excellent economics. Breastfeeding is a child's first inoculation against death, disease, and poverty, but also their most enduring investment in physical, cognitive, and social capacity."

Hansen, K. (2016). *Breastfeeding: a smart investment in people and in economies*. Retrieved from [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(16\)00012-X/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(16)00012-X/abstract)

A brief introduction to the International Code of Marketing of Breastmilk Substitutes

History

During the 1960s and 70s, public attention was drawn to the decline in breastfeeding rates around the world. There was growing concern that aggressive marketing of breastmilk substitutes by baby food companies was contributing to an alarming decline in breastfeeding. Associated with this was an increase in malnutrition, morbidity and mortality among infants and young children worldwide.

The World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), concerned with the decline in breastfeeding rates, jointly convened a Meeting on Infant and Young Child Feeding in Geneva in October 1979. Present at the meeting were governments, scientists, industry and non-governmental organisations. The final statement of that meeting stressed that society is responsible for the promotion of breastfeeding and for the protection of mothers from disruptive influences. It emphasised that poor infant feeding practices and their consequences are, to a large extent, a man-made problem, and a serious obstacle to social and economic development to not just the developing world but also the developed world.

The meeting recommended that:

"There should be an international code of marketing of infant formula and other products used as breastmilk substitutes. This should be supported by both exporting and importing countries and observed by all manufacturers."

Eighteen months and four drafts later, the World Health Assembly (WHA) at its 34th session adopted the International Code of Marketing of Breastmilk Substitutes, on 21 May 1981. It was adopted as a recommendation under the constitution of the World Health Organization.

The Code's legal status

Being a recommendation, it can be argued that the Code is not legally binding on Member States. However, as a WHO recommendation, it is an expression of the judgment of the collective membership of the highest authority on health and therefore carries strong moral or political weight and has persuasive authority. Moreover, the Convention on the Rights of the Child (CRC), which has been ratified by 196 state parties, mentions specifically the importance of breastfeeding in ensuring the child's right to the highest attainable standard of health. State parties thus have the responsibility to disseminate positive information about breastfeeding and to promote it through the health-care system, media and schools, as well as protecting the public from propaganda and misinformation through implementation of the Code.

At the country level, a deciding factor in the implementation of the Code is the political commitment to promote and protect breastfeeding. This requires giving effect to the principles and aim of the Code in their entirety, as a minimum measure, as stated in Resolution WHA 34.22 [1981]. Member States can do this by translating the Code into national legislation, regulations or other suitable measures, as appropriate to their social and legislative frameworks. Political commitment also implies monitoring compliance with national measures, imposition of sanctions and making available adequate human and other resources for follow-up.

Subsequent WHA resolutions

It must be noted that there is only one version of the Code. However, there have been a number of WHA resolutions adopted since 1981 that refer to the marketing and distribution of breastmilk substitutes. These resolutions clarify or extend on issues covered in the Code.¹ When implementing the Code nationally, it must be read together with subsequent WHA resolutions.² (For the sake of brevity, these are collectively referred to as the 'International Code' or as 'Code and resolutions'.)

Implementation at country level

To have legal effect at the national level, Member States must translate the International Code into national legislation, regulations or other suitable measures, as appropriate to their social and legislative frameworks. Resolution WHA 34.22 [1981] stressed that adoption of and adherence to the International Code is a **minimum requirement** and urged Member States to implement the International Code **“in its entirety.”** They can adopt additional or stronger provisions than those set out in the International Code. National laws or codes must never be weaker or less complete than the International Code.

Global Strategy on Infant and Young Child Feeding

In 2002, WHO and UNICEF jointly formulated the Global Strategy on Infant and Young Child Feeding which was endorsed by Resolution WHA 55.25 [2002]. The Global Strategy is a guide for countries to develop approaches to improve the nutritional status of infants and young children through optimal feeding. The Global Strategy reaffirms the urgency of implementing the International Code as one of the key steps to achieve this objective, and lists the roles of governments, international organisations, industry and other concerned parties in achieving its targets.

Guidance on the inappropriate promotion of foods for infants and young children

In May 2012, resolution WHA 65.6 requested the Director-General of WHO *“to provide clarification and guidance on the inappropriate promotion of foods for infants and young children”* cited in resolution WHA 63.23 [2010]. A series of consultations resulted in a Guidance on the inappropriate promotion of foods for infants and young children (A69/7 Add.1). In May 2016, Member States adopted resolution WHA 69.9 [2016] that calls on countries to implement Guidance 69/7 Add.1. This is in response to a growing body of evidence which shows that the promotion of breastmilk substitutes and some commercial foods for infants and young children undermines optimal infant and young child feeding. The Guidance serves as a complement to existing tools, such as the International Code and subsequent relevant WHA resolutions, as well as the Global Strategy on Infant and Young Child Feeding. It encourages Member States to develop stronger national policies that protect children under the age of 36 months from marketing practices that could be detrimental to their health. The Guidance targets all commercially produced foods and beverages that are marketed as suitable for feeding infants and young children aged 6–36 months. The implications of the Guidance on the International Code are discussed in the annotations of the relevant Code articles.

“From tobacco, to sugar, to formula milk, the most vulnerable suffer when commercial interests collide with public health. Robust advertising regulation – covering all milk products for children up to 3 years, and banning social media promotion – is the next step to protect them.”

*Lancet Editorial. (2016). No ifs, no buts, no follow-on milk.
Retrieved from [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(16\)30599-2/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(16)30599-2/fulltext)*

1. The International Code of Marketing of Breastmilk Substitutes: Frequently Asked Questions (2017 Update), Geneva, Switzerland, World Health Organization; 2017. The resolutions are WHA 35.26, 37.30, 39.28, 41.11, 43.3, 45.34, 46.7, 47.5, 49.15, 54.2, 55.25, 58.32, 59.11, 59.21, 61.20, 63.23, 65.6, 69.9. There is also a decision adopted on maternal, infant and young child nutrition in 2014, WHA 67(9) that focused among other things on indicators to achieve global nutrition targets including Code implementation. Under Article 23 of the WHO Constitution, the normative weight given to resolutions and decisions is the same.
2. A summary of the Code and subsequent resolutions appear in Annex 1 and Annex 2 respectively. ICDC's publication, "International Code of Marketing of Breastmilk Substitutes and relevant resolutions" contains a compilation of the full text of these documents in one handy volume.

Recent findings continue to support the case for breastfeeding

In January 2016, the British medical journal *The Lancet* published a major new series on breastfeeding that represents the most in-depth analysis done so far into the health and economic benefits of breastfeeding.³

The Breastfeeding Series evaluates global breastfeeding levels, trends and inequalities, in addition to the short- and long-term consequences of breastfeeding for both mother and child. It underscores the importance of policy interventions to increase and sustain breastfeeding levels. Results published in the Series reveal that:

- increasing breastfeeding to near-universal levels could save more than 800,000 lives every year, the majority of which are children under 6 months;
- nearly half of all diarrhoeal diseases and one-third of all respiratory infections in children in low- and middle-income countries could be prevented with increased rates of breastfeeding;
- children who are breastfed perform better in intelligence tests, are less likely to be overweight or obese, and are less prone to diabetes later in life; and
- mothers who breastfeed reduce their risk of developing breast and ovarian cancers. At current breastfeeding rates, an estimated 20,000 deaths from breast cancer are prevented and an additional 20,000 mothers could be saved if rates improved.

The Series presents a strong economic case for investing in promoting and protecting breastfeeding worldwide. The global economic loss from lower cognition associated with not breastfeeding was more than US\$ 300 billion in 2012, equivalent to 0.49% of the world's gross national income.

Increasing breastfeeding rates would also cut treatment costs of common childhood illnesses such as pneumonia, diarrhoea and asthma. As a result, boosting breastfeeding rates of infants below 6 months of age to 90% in the United States, China, and Brazil would save each country's healthcare system at least US\$ 2.45 billion, US\$ 223.6 million and US\$6.0 million respectively.

Boosting breastfeeding rates to just 45% in the United Kingdom would save its healthcare system US\$ 29.5 million.

The review of the evidence and country case studies show that successful protection, promotion, and support of breastfeeding needs measures at many levels, whether it be legal and policy directives to social attitudes and norms, women's work and employment conditions, or health and services to support women and their families to breastfeed optimally. One action point proposed in the Series is to regulate the breastmilk substitute industry.

“Breastmilk substitutes are a multi-billion-dollar industry, the marketing of which undermines breastfeeding as the best feeding practice in early life. No new interventions are needed—the Code is an effective mechanism for action. However, much greater political commitment is needed to enact and enforce the relevant, comprehensive legislation and national investment to ensure implementation and accountability. Without these commitments, agreed principles of responsible marketing will continue to be violated”

*Rollins, N. et al. (2016). “Why invest, and what it will take to improve breastfeeding practices?”
Lancet; 387:491–504 at p.501*

3. The Lancet Breastfeeding Series (2016) comprises of (1) Victora, C. G., Bahl, R., Barros, A. J., França, G. V., Horton, S., Krasevec, J., ... & Group, T. L. B. S. (2016). Breastfeeding in the 21st century: epidemiology, mechanisms, and lifelong effect. *The Lancet*, 387(10017), 475-490 and (2) Rollins, N. C., Bhandari, N., Hajeebhoy, N., Horton, S., Lutter, C. K., Martines, J. C., ... & Group, T. L. B. S. (2016). Why invest, and what it will take to improve breastfeeding practices?. *The Lancet*, 387(10017), 491-504.