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"Breastfeeding is one of the smartest investments a country can make to build its future prosperity. It offers children unparalleled health and brain-building benefits. It has the power to save the lives of women and children throughout the world, and the power to help national economies grow through lower healthcare costs and smarter workforces. Yet many societies are failing to adequately support women to breastfeed, and as a result, the majority of the world's children - along with a majority of the world's countries - are not able to reap the full benefits of breastfeeding."

Global Breastfeeding Collective. (2017). Nurturing the Health and Wealth of Nations: The Investment Case for Breastfeeding. New York, NY: UNICEF.

Preface

Experts on child health have repeatedly emphasised that breastfeeding is one of the highest impact interventions providing benefits for children, women, and society. If scaled up to nearly universal levels, breastfeeding could save more than 800,000 child lives and add more than \$300 billion to the global economy each year. This will be a key driver in achieving the 2030 Sustainable Development Goal (SDG) of ending hunger, achieving food security and improving nutrition (SDG 2). Countries will also be set on the right path to achieving the SDGs of improving health, ending poverty, promoting economic growth, reducing inequalities and ensuring sustainable consumption.

Yet, the practice of breastfeeding continues to decline. Most babies worldwide are not breastfed according to WHO guidelines, and baby food manufacturers and distributors continue to prosper through successful marketing. Estimates suggest that the global sales of baby milk formula will be worth USD \$71 billion by 2019, with growth expected to be more than 20 times higher in developing countries as opposed to developed ones. The baby food industry spends within the range of USD 4-6 billion (10-15% of its global sales) on marketing and promotion of formula milks. The increase of formula sales volume indicates that these marketing strategies are effective, underscoring the importance of comprehensive legislation to curb marketing practices.

A multi-pronged approach is needed to provide (i) an environment that protects, promotes, and supports breastfeeding; (ii) quality breastfeeding education for both health workers and women; (iii) supportive health services and community programmes; (iv) imaginative maternity legislation and (v) protection from commercial promotion. Regulating the baby feeding industry would be a critical step towards creating a more favourable environment for breastfeeding, and government leadership in this respect is crucial.

Code Essentials 2 (CE 2) lays out how governments can best implement the International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly resolutions. (For brevity, collectively referred to as the 'Code and resolutions' or 'the International Code'). CE 2 contains four parts:

- Part A introduces the reader to the background of the Code and resolutions (summarised in Annexes 1 and 2) and gives an overview on how these, and other instruments, protect mothers, health workers and the health care system. This is followed by a discussion of the Code's legal status and how countries give effect to the Code and resolutions. A listing of countries grouped according to the steps they have taken to implement the Code and resolutions appears in Annex 3.
- Part B examines each article of the Code as well as the relevant WHA resolutions and explores how they are dealt with in selected countries. The suggested text for national implementation is found in a Model Law in Annex 4. Countries can emulate and adapt to suit their social and legislative framework.

- Part C focuses on the importance of monitoring and suggests practical ways to organise monitoring at the national level.
- Part D tackles other issues which are normally raised during the Code implementation process, suggests ways in which they can be handled and guides readers to relevant publications on the topics discussed.

CE 2 also addresses the following:

- What legal instruments will best give effect to the provisions of the Code and resolutions.
- What specific steps need to be taken before the law making process begins.
- How to draft effective and enforceable legal provisions based on the Code and resolutions. CE 2 incorporates a Model Law which countries can follow or adapt.
- What promotional practices constitute Code violations and how to set up a monitoring system with a view to enforcing Code-based laws.

The discussion of these points in CE 2 will assist legislators and policy makers in drafting laws that are appropriate to their individual country situation. Governments with no national measures and those that seek to review and strengthen existing measures will also find this publication useful.

Although CE 2 can stand on its own, users are encouraged to read it in conjunction with **Code Essentials 1: Annotated International Code of Marketing of Breastmilk Substitutes and subsequent WHA resolutions** to gain a deeper understanding of the Code and resolutions.

ICDC appreciates the support from UNICEF East Asia and Pacific Regional Office to produce this edition of Code Essentials 2. Although intended for the Asia Pacific region, this publication will also be useful in other regions since the Code and resolutions are universal in their application.

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This is the second in a series of four booklets on the International Code of Marketing of Breastmilk Substitutes and subsequent WHA resolutions. Each one can stand on its own and is aimed at a different category of readers.

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 .*

" Breastfeeding is one of the smartest investments to boost human capital, stimulate economic growth and give every child the same opportunity to thrive."

UNICEF (2016). From the first hour of life - Making the case for improved infant and young child feeding everywhere. New York, NY.

"Leadership is needed to pass and enforce national laws and policies that reflect the collective responsibility to protect, promote and support breastfeeding. By enacting legislation to restrict the marketing of breastmilk substitutes – and monitoring its compliance – governments can act against unethical business practices and send the message that breastfeeding matters."

*UNICEF (2016). From the first hour of life
- Making the case for improved infant and young child feeding everywhere. New York, NY.*

Part A Introduction

The World Health Assembly (WHA), the forum of Member States that governs the World Health Organization (WHO) and sets its health policies, adopted the International Code of Marketing of Breastmilk Substitutes as a recommendation in 1981 through resolution WHA 34.22.

The resolution stresses that the adoption of and adherence to the Code is **a minimum requirement**, and Member States are expected to give effect to the principles and aim of the Code **in their entirety**. Member States may therefore adopt additional or stronger provisions than those set out in the Code, however, they must not omit or dilute any of its provisions. **For the Code to take legal effect at the national level, it must first be translated into legislation, regulations or other suitable measures as appropriate to the social and legislative framework of the implementing country.**

There is only one version of the Code, but many subsequent WHA resolutions adopted since 1981 clarify or extend issues covered by the Code.¹ These resolutions keep the Code up-to-date with evolving marketing trends and the latest scientific knowledge. When implementing the Code nationally, legislators must read it together with subsequent WHA resolutions.²

Code implementation is only one of several important actions required to protect optimal infant and young child feeding practices. On its own, it will not improve breastfeeding rates. For that to happen, health authorities must introduce a multi-pronged approach which includes quality breastfeeding education for health workers and women; supportive health services and community programmes and imaginative maternity legislation.

The marketing of breastmilk substitutes negatively affects breastfeeding. Global sales in 2014 of USD 44.8 billion show the industry's large and competitive claim on infant feeding. Unlike other commodities, baby milk formula seems resilient to market downturns, and by 2019 its market value is projected to reach USD 70.6 billion.³ The Code not only keeps competition posed by marketing practices at bay so that breastfeeding has a chance to thrive, but also empowers women to make informed decisions on infant and young child feeding, free from commercial pressures. While the Code does not prohibit the availability of breastmilk substitutes, it does restrict promotional practices and directs health authorities to encourage and promote breastfeeding by providing objective and consistent information. For infants who are artificially fed, the Code seeks to minimise health risks by requiring appropriate labelling of products and warnings on information materials.

There is compelling evidence to support Code implementation at the national level for the protection of breastfeeding. In January 2016, the British medical journal *The Lancet* published a major new series on breastfeeding, which represents the most in-depth analysis done to-date on the health and economic benefits that breastfeeding can produce.

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. The full text of the Code and resolutions are also available at www.who.int/nutrition/netcode/resolutions/en/.
3. Euromonitor (2016) Market overview: Identifying new trends and opportunities in the global infant formula market. Retrieved from <https://www.slideshare.net/Euromonitor/market-overview-identifying-new-trends-and-opportunities-in-the-global-infant-formula-market>.

The first paper⁴ in the Series confirms what health advocates have known all along– that breastfeeding improves the survival, health, and development of all children. It saves women’s lives and contributes to human capital development. The benefits span populations living in high-income, middle-income, and low-income countries.

The second paper⁵ summarises the evidence on determinants of, and interventions to improve, breastfeeding practices. It discusses the effect the baby food industry has on breastfeeding practices and explores the reasons why some countries have been more successful in improving breastfeeding rates than others. The paper concludes from a review of the evidence that political support and financial investment are needed to protect, promote, and support breastfeeding. It underscores that best outcomes are achieved when interventions are implemented concurrently through several channels. Action points suggested to approach the challenges faced by breastfeeding include:

- The robust dissemination of evidence on breastfeeding’s fundamental role for both rich and poor societies, so that the value of breastfeeding is recognised.
- Fostering positive societal attitudes towards breastfeeding by reinforcing a “breastfeeding culture,” and a vigorous defence against incursions of a “bottle feeding culture” through expert social marketing and communication innovations.
- Mainstreaming breastfeeding into preventive measures for non-communicable diseases for both children and women, as well as for the prevention of morbidity and mortality from infections of early childhood. The economic gains provided by breastfeeding should be fully appreciated and evaluated when funding for the promotion and protection of breastfeeding is assessed.
- Regulating the multimillion dollar breastmilk substitute industry. No new interventions are needed - the Code is an effective mechanism for action. However, the paper stressed that 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.
- Scaling up and monitoring breastfeeding interventions and trends in breastfeeding practices. Interventions to support women in their homes, communities and through health services are effective, if tailored in response to patterns of suboptimal breastfeeding in each given setting.
- Enabling interventions to remove structural and societal barriers that hinder women’s ability to breastfeed. Legislation and accountability mechanisms should ensure that maternity protection and workplace interventions that support breastfeeding are implemented, and that all maternity health services comply with the Code and the Baby Friendly Hospital Initiative.

The paper states that knowledge of the baby food market and marketing practices are essential for understanding the competing environment in which efforts to protect, promote, and support breastfeeding operate. It reviewed studies which show that:

- Marketing by the baby food industry and the availability of formula, including the distribution of free samples, increases rates of bottle-feeding.
- Formula advertisements portray baby milk to be as good as or better than breastmilk, or present it as a lifestyle choice rather than a decision with health and economic consequences.
- Media is an important source of information. Mothers’ recollection of formula advertisements is associated with decreased breastfeeding.
- Marketing messages can also convey that breastfeeding is difficult, or that breastmilk substitutes help to settle fussy babies.
- Gifts of free milk samples are associated with shorter breastfeeding duration.
- The baby food industry often sponsors health professional associations. This might introduce conflicts of interest in their support of breastfeeding.

4. 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.

5. 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.