

Press Release - November 22, 2000

European Parliament public hearing on Nestlé's baby food marketing activities

The European Parliament Development and Cooperation Committee has invited Nestlé, IBFAN and UNICEF to present evidence to a public hearing on baby food marketing on 22nd November.

Nestlé, the global market leader, is one of the companies criticised by IBFAN (the International Baby Food Action Network) for contributing to the unnecessary death and suffering of infants by aggressively marketing breastmilk substitutes in ways that violate the International Code of Marketing of Breastmilk Substitutes and subsequent, relevant Resolutions adopted by the World Health Assembly. Where water is unsafe an artificially-fed child is up to 25 times more likely to die as a result of diarrhoea than a breastfed child. According to UNICEF, reversing the decline in breastfeeding could save the lives of 1.5 million infants around the world every year.

Presentations will be made by a legal expert from UNICEF's Nutrition Section, which advises governments on interpretation of the International Code and Resolutions, and The Network for Consumer Protection in Pakistan, a member of IBFAN, which monitors the baby feeding industry. Nestlé has been asked to present information on an audit it commissioned earlier this year in response to evidence of malpractice from Syed Amar Raza, a former employee in Pakistan. An overview of Amar's documentary evidence, which exposes practices including the bribing of doctors, was published as the report *Milking Profits* by The Network last year.

IBFAN groups have registered complaints using European Union measures which require European-based enterprises to abide by the International Code in other countries (Nestlé exports from the European Union). It is hoped that the Development and Cooperation Committee will find ways to make the complaint procedures more effective.

Mike Brady, Campaigns and Networking Coordinator at Baby Milk Action (the UK IBFAN group), welcomed the hearings, arranged by Richard Howitt MEP, and said:

"The Code of Conduct paper adopted by the European Parliament last year, which calls for annual public hearings, has many measures which, if implemented, will mean that companies from any sector can be called to account if they break international standards anywhere in the world."

Notes for editors

1. To enter the European Parliament Building it is necessary to be invited by an MEP. The baby food issue is first on the programme for the special meeting. The meeting will also look at the textile/sportswear industry. A speaker on the UN Global Compact has also been invited, but, according to the draft programme, no-one has been invited to provide a critique of the initiative, such as a representative of The Alliance for a Corporate-Free UN.
2. For further information contact Mike Brady or Patti Rundall at Baby Milk Action, 23 St. Andrew's Street, Cambridge, CB2 3AX. Tel: (01223) 464420. Fax: (01223) 464417. E-mail: info@babymilkaction.org
3. The European Parliament Development and Cooperation Committee report under which the hearing has been called is entitled: EU standards for European Enterprises operating in developing countries: towards a European Code of Conduct. It was adopted by the Parliament on 15th January 1999. Richard Howitt MEP, who steered the report through Parliament and has organised the hearings, can be contacted for further information on: + 32 2 284 5477
4. For further details and for pictures for publication see the "codewatch" and "resources" sections. For information on IBFAN visit www.ibfan.org For information on the UN Global Compact see Tangled up in Blue at

www.corpwatch.org/trac/globalization/un/tangled.html

5. The International Code of Marketing of Breastmilk Substitutes was adopted by the World Health Assembly in 1981 as a "minimum requirement" to be implemented by Member States "in its entirety." Subsequent Resolutions have addressed questions of interpretation and changes in marketing practices and scientific knowledge.

6. According to UNICEF, reversing the decline in breastfeeding could save the lives of 1.5 million infants around the world every year. In Pakistan, 26% of the population does not have access to safe water and 53% do not have access to adequate sanitation.

7. Nestlé is the target of a boycott in 19 countries because of its unethical and irresponsible baby food marketing practices. In May 1999 the Advertising Standards Authority upheld all of Baby Milk Action's complaints against a Nestlé anti-boycott advertisement in which the company claimed to market infant formula "ethically and responsibly." In 1995 Baby Milk Action was called on to defend claims made in a boycott advertisement. The ASA found in favour of Baby Milk Action. The claims were: "Over 4,000 babies die every day in poor countries because they're not breastfed. That's not conjecture, it's UNICEF fact" and "They [Nestlé] aggressively promote their baby milks, breaking a World Health Organisation code of marketing."

8. Marketing Week magazine asked Marjorie Thompson of Saatchi & Saatchi how Nestlé should respond to the bad publicity surrounding its baby food marketing activities and reported (11th February 1999): "She suggests the way to counteract the bad publicity is to go on the offensive by using advertising showing the benefits of Nestlé's financial contributions to charities..." (See Boycott News 27).

Intervention by Ms Tracey Wagner-Rizvi,
The Network for Consumer Protection in Pakistan

European Parliament
Committee on Development and Cooperation

22nd November 2000

President and Members of the European Parliament,

I am very pleased to have been invited to present to you information about how transnational corporations based in and exporting from the European Union are affecting the health and survival of infants in Pakistan and around the world.

I represent a public interest group called The Network for Consumer Protection in Pakistan. We are a member of the International Baby Food Action Network (IBFAN), a global network of over 150 groups in more than 90 countries. IBFAN has been working for more than 20 years for implementation of and compliance with internationally agreed marketing standards for the baby food industry.

I come here today with three requests of the European Parliament:

1. That the Council Resolution and Export Directive on the marketing of breastmilk substitutes are reviewed so that they become effective tools to stop malpractice by European companies, wherever they operate outside the European Union.
2. That the European Union does all that it can to support full implementation of the International Code of Marketing of Breastmilk Substitutes and subsequent, relevant Resolutions adopted by the World Health Assembly by every country as minimum requirements and works to incorporate these measures in international frameworks, such as Codex Alimentarius and the World Trade Organisation agreements.
3. That a framework is set up, as proposed in the Code of Conduct paper, with an appropriate legal basis, so that governments, public-interest groups and individuals in third countries have a clearly defined set of procedures to follow to report violations.

Although we are discussing infant feeding in the context of dry regulations, the issue is actually about ensuring that mothers everywhere, including in Europe, are protected from commercial exploitation and enabled to make informed decisions about infant feeding.

WHO and UNICEF estimate that reversing the decline in breastfeeding could save the lives of 1.5 million infants around the world every year. Where water is unsafe an artificially-fed child is up to 25 times more likely to die as a result of diarrhoea than a breastfed child. Indeed, in a country like Pakistan, where nearly half the population does not have access to safe drinking water, breastfeeding, which provides protection against infections, can make the difference between life and death.

1. The European Union Council Resolution and Export Directive

The European Union's adoption of a Council Resolution and Directive has great potential, but let me share my experience of what happens when you try to use them.

In January 2000, The Network registered a complaint concerning labelling. The Export Directive says that "products shall be labelled in an appropriate language and in such a way as to avoid any risk of confusion between infant formula and follow-on formula". Our complaint stated that complete information in the local language (Urdu) is not available on the labels of Nestlé's Pre-Nan and that the colouring and design of the labels of Pre-Nan, Nan 1 and Nan 2 are similar to the point of being easily confused. Because only 24% of women in Pakistan can read, there is an increased likelihood of a mother giving this product (Nan 2) to her baby instead of this product (Nan 1). The higher level of salt and protein allowed in follow-on formula exacerbates the risk of dehydration and increases the renal solute load.

Nestlé is fully aware of the risks of such marketing and has promised for many years to phase out such product branding. Yet these products were introduced into Pakistan less than three years ago -- that is, more than 5 years after the adoption of the Export Directive.

The Netherlands Embassy say they have taken up the matter with Nestle but we are still awaiting a promised response from the company. I bought these in Islamabad on Sunday. This one was manufactured as recently as August . As you can see, the labels still violate the Directive.

I also complained to the European Commission because the Council Resolution says the Community will contribute to the application of appropriate marketing practices for breastmilk substitutes in third countries and references the International Code as the standard. Despite several exchanges of correspondence, the Commission has been unable to inform me who is the competent authority for registering complaints. As the International Code itself calls upon Non-Governmental Organisations (NGOs) to bring violations to the attention of concerned manufacturers and relevant authorities, then why does not the Commission? When the Council Resolution was adopted in 1992, IBFAN was led to believe that NGOs were included under the term "competent authority".

Sadly, other IBFAN groups in many other countries have faced similar difficulties. Reports have been made to the Commission and/or national authority as appropriate for violations in Argentina, Hungary, Indonesia, Kenya, Russia, Ukraine and Tanzania with no resulting action being taken.

2. Implementation of the International Code and Resolutions in legislation

I now come to my second point about the need for strong national legislation backed up by international frameworks. As the author of two reports about Pakistan in the last two years, I would like to explain the complex and devious ways that companies seek to expand markets in countries like Pakistan with scant regard for the impact on health and, when exposed, the lengths to which they will go to suppress evidence in order to maintain their company reputation.

Our evidence comes from extensive independent monitoring of company compliance with the International Code and Resolutions. Our nationwide survey covered 33 cities

and towns, visiting 217 health facilities, 562 medical stores and interviewing 662 mothers and numerous health workers. A conservative estimate of one-to-one encounters is more than 2,500. We collected 400 specimens of promotional and informational materials and other objects. We also analysed product packaging.

The findings, published as the report "Feeding Fiasco", showed that not a single company was abiding by the International Code and Resolutions. It is necessary to keep in mind when discussing violations of the International Code, some of which appear insignificant to the uninformed, that each violation can result in a mother making decisions that will put her child's life at risk.

We found products that were not labelled in the correct language. Specialised formulas, such as Al-110 for lactose intolerant babies, being promoted to doctors as "A nutrition that helps prevent diarrhoea" when diarrhoea is more likely due to infection and mothers are best advised to breastfeed. We found gifts being given to doctors as inducements to promote products. One of the five company representatives we interviewed spoke of "Jackpots" - doctors or hospitals which will recommend a company's products for 6 months or a year in exchange for a cash payment. One hospital was even known as a "Lactogen hub" as promotion there had been so securely sewn up by Nestlé.

The company representatives we interviewed during the survey all wished to remain anonymous. Shortly before Feeding Fiasco was released, however, a former employee of Nestlé, Syed Aamar Raza, came forward with internal company documents that further substantiated the evidence published in Feeding Fiasco and again demonstrated the institutionalised nature of the malpractice. Executives' signatures appear on cheques used to bribe doctors and on the sales targets set for marketing staff, among many other things. Examples were subsequently published as the report "Milking Profits".

Nestle has gone to great lengths to keep this evidence out of the media. They have attempted to intimidate Syed Aamar Raza and have attacked his character in an attempt to distract from the substance of the evidence.

These two reports are not unique. Monitoring in other countries by IBFAN and others have exposed routine and systematic violations of the International Code and Resolutions around the world. If any of you have any doubt that there is a need for enforceable instruments implementing the International Code and Resolutions please read these reports. Companies have a moral obligation to abide by these measures, but are not legally bound until governments enact legislation to that effect. With legislation comes the power of enforcement and questions of interpretation can be resolved in the courts.

The Government of Pakistan has been preparing legislation to regulate baby food industry marketing since 1992. The delay in enactment has been caused at least in part by the interventions of the baby food industry, especially by Nestle. These companies have complained about the proposed law's "draconian clauses" and that the proposed law was being "shoved down the throat" of the industry. Their lobbying against the law has seen key sections weakened and the independence of monitoring bodies challenged. Industry representatives continue to meet with the Minister for Health and even the highest office of the land, the Chief Executive General Pervaiz Musharaf.

I am appalled that Nestle shows such disregard to the democratic process and this Committee that it has refused the invitation to appear on the panel here today, especially when Nestlé's Chairman, Helmut Maucher, told shareholders last year that the company welcomed these hearings. Instead we have a gentleman who can only speak about his very narrow experience with the company as a consultant for a short period earlier this year.

I would like to comment on the audit he prepared into the marketing practices of its Pakistan subsidiary. I have with me a detailed analysis of the audit report, the study's methodology and its findings, which is being publicly launched today. In short, the audit is a whitewash. For example, it uses Nestle's widely criticised interpretation of the International Code and subsequent Resolutions rather than the interpretation used by World Health Assembly and UNICEF. Its methodology is biased. Its conclusions are not

supported by its findings. Too much evidence has been ignored. The company should answer these charges and address the real issues. Why are they not prepared to do so?

3. "Code of Conduct" provisions

As my third request, I would like to ask all MEPs to support the Committee in fully implementing the provisions in its Code of Conduct paper. The framework proposed could go a long way to implementing the International Code and Resolutions globally and protecting infant health . The European Union has a special role to play to ensure that the economic interests of companies in the world's richest countries do not take precedence over the health and well-being of the citizens of the rest of the world.

Thank you.

UNICEF statement to the European Parliament
Development and Co-operation Committee - Special
meeting on standard setting by European enterprises in
developing countries.

The International Code of Marketing of Breastmilk Substitutes and
Subsequent Resolutions of the World Health Assembly

Imagine that the world had invented a new "dream product" to feed and immunise everyone born on Earth. Imagine also that it was available everywhere, required no

storage or delivery - and helped mothers to plan their families and reduce the risk of cancer. Then imagine that the world refused to use it.

At the end of a century of unprecedented discovery and invention, even as scientists discover the origins of life itself, this scenario is not, alas, a fiction. The "dream product" is breastmilk, available to us all at birth, and yet we are not using it (ref 1).

In 1981 the World Health Assembly adopted the International Code of Marketing of Breastmilk Substitutes (ref 2) to address the serious concerns that had arisen over the effects of marketing of artificial feeding on the health of infants and young children. Since then the Assembly has adopted eight subsequent Resolutions clarifying the Code and attempting to close loopholes in the original text. Since the Code itself was adopted as a resolution, these subsequent resolutions have the same legal status as the Code itself and should be read along with it.

In the preamble to the Code, the Member States of the World Health Organisation recognised that:

"inappropriate feeding practices lead to infant malnutrition, morbidity and mortality in all countries, and that improper practices in the marketing of breast-milk substitutes and related products can contribute to these major public health problems;"

This statement contains two of the major elements underlying the Code:

FIRST: The Code applies in ALL COUNTRIES. As its name suggests, the Code is INTERNATIONAL and applies globally (ref 3). The drafters never contemplated that it should apply only to developing countries. Parents of infants in Europe and North America have the same right to protection from inappropriate marketing as parents in Asia, Africa and South America.

SECOND: The Code applies to ALL BREASTMILK SUBSTITUTES and related products, which include feeding bottles and teats. The Code is not limited to basic infant formula intended for healthy babies born after nine months of gestation and with adequate weight and length for age as many companies would argue. The Code covers special formulae such as those for premature infants, hypoallergenic formulae, lactose free formulae and follow-on formulae (ref 4). It also covers waters, juices, teas, and foods if marketed or in any other way represented as a partial or total replacement for breastmilk.

These two principles, universality and the scope including all breastmilk substitutes, cannot be overemphasised given the tendency of the infant feeding industry to attempt to limit the application of the Code.

The Code does not, of course, try to lessen the availability of breastmilk substitutes. It seeks to regulate the way in which they are promoted. According to the World Health Assembly:

"...in view of the vulnerability of infants in the early months of life and the risks involved in inappropriate feeding practices, including the unnecessary and improper use of breast-milk substitutes, the marketing of breast-milk substitutes requires special treatment, which makes usual marketing practices unsuitable for these products." (ref 5).

A THIRD key principle is contained in Article 11.3 of the Code (ref 6). This Article states that manufacturers and distributors of products covered by the Code must make sure that they comply with the Code irrespective of measures that have, or have not been

taken by others to implement it. (ref 7). Thus even if no action has been taken in a country to give effect to the Code and subsequent relevant Resolutions, all companies must still comply.

Many people have questioned the continued relevance of the Code in the context of mother-to-child transmission of HIV through breastfeeding. Let me assure you that there is an even greater need to ensure Code compliance in areas of high HIV prevalence. The Code protects artificially fed children as well as those mothers who decide to breastfeed.

One of its aims, as specified in Article 1, is to ensure the proper use of breastmilk substitutes when these are necessary. If incorrectly prepared, infant formula can be lethal. Over-dilution, the result of unsuitable availability of formula, leads to malnutrition. Under-dilution can cause serious health problems such as kidney failure. This is without discussing whether sanitation and access to clean water, fuel, and adequate skills permit safe preparation.

The Code ensures that labels contain suitable warnings, and clear and understandable preparation instructions. The decision to feed an infant artificially and the choice of brand should be made on the basis of full information provided through counselling by an independent health worker, and not influenced by commercial interests. The Code, when implemented and monitored, also helps prevent spillover of artificial feeding to the majority of infants in the world who would benefit from breastfeeding, and whose lives, in many cases, depend on it.

Given the fundamental importance of Code implementation to infant health, survival and development, it is hardly surprising that UNICEF expects every company to fulfill its obligations under this instrument in every country in the world. Every child has the right to the highest attainable standard of health. The Convention on the Rights of the Child, an international treaty ratified by all but two nations, recognises this right. Moreover, the CRC recognises the fundamental role that breastfeeding plays in fulfilling the child's right to health, and the importance of ensuring that parents receive full and unbiased

information on the benefits of breastfeeding. The promotion of artificial feeding undermines a mother's right to make an informed decision about how to feed her infant. Implementation of the Code protects against misinformation that will interfere with the rights of infants and their caregivers.

In conclusion, the 5 key points that UNICEF would like to leave in your minds are:

1. The Code and subsequent relevant resolutions are global, not limited to developing nations.
2. The Code and resolutions aim to regulate the marketing of all breastmilk substitutes, feeding bottles and teats. The scope is not limited to infant formula.
3. Manufacturers and distributors of breastmilk substitutes, feeding bottles and teats must comply with the Code and resolutions irrespective of action taken by national authorities to translate them into domestic law.
4. The Code and resolutions protect both breastfed and artificially fed children. Its implementation becomes even more important in the context of the HIV pandemic.
5. Implementation of the Code and resolutions is an important component in protecting the right of every child to the highest attainable standard of health under the Convention on the Rights of the Child.

References

1. Slightly reworded from Take the Baby-Friendly Initiative! A global effort with hospitals, health services and parents to breastfeed babies for the best start in life. UNICEF, New York
2. International Code of Marketing of Breast-milk Substitutes, WHO, Geneva 1981
3. World Health Assembly Resolution 34.22 which adopted the Code in 1981 "URGES all Member States: (2) to translate the International Code into national legislation, regulations or other suitable measures;" .

4. In discussing the definition of infant formula, Sami Schubber, the former Senior Legal Officer of WHO states that "The wording of the definition contains nothing to suggest a distinction between a certain type of infant formula and another, or between a certain infant and another." Shubber, S., *The International Code of Marketing of Breast-milk Substitutes: an international measure to protect and promote breastfeeding*. The Hague: Kluwer Law International, 1998.

5. Preamble, International Code of Marketing of Breast-milk Substitutes, WHO, Geneva 1981

6. Article 11.3 states "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".

7. There is support for the proposition that the obligation placed on companies under Article 11.3 is a legal one and not just a moral one. See Shubber, *op.cit.*, p.262

Note from Baby Milk Action

Asked if Nestlé correctly interpreted the International Code and Resolutions, UNICEF commented that the titles of the Code and Nestlé's "Charter" gave an indication of how accurately Nestlé interpreted the Code. The International Code of Marketing of Breastmilk Substitutes is international (applying to all countries) and covers all breastmilk substitutes. On the other hand Nestlé infant formula policy in developing countries (its "Charter") applies only to a very narrow classification of breastmilk substitutes and does not apply to all countries.

Adidas attacked for Asian 'sweatshops'

MEPs told of Dickensian conditions in Indonesia

Andrew Osborn in Brussels

Thursday November 23, 2000

Indonesian factory workers producing clothes for the German sportswear giant Adidas are subject to forced overtime, physical abuse and poverty-line wages, the European parliament heard yesterday.

In a controversial hearing organised by a British Labour MEP, Richard Howitt, an Indonesian non-governmental organisation described how workers toiled in Dickensian conditions which it said breached the company's own code of conduct.

"Wages are still below the legal minimum set by the government, the number of hours people work exceeds the legal maximum and people are paid less than a dollar a day," Rainy Hutabarat of Urban Community Mission (UCM) said after the hearing, which Adidas did not attend.

Underpayment and poor conditions for child workers in the developing world is not confined to Indonesia. The problem is severe in India where, according to aid organisations, children are making sports goods in appalling conditions.

The new allegations against Adidas centre on the Tuntex factory in Jakarta, where 1,700 workers, most of them women, produce jackets and socks.

A UCM investigation into conditions at Tuntex and two other factories - Tainan and Nikomas Gemilang - alleges that employees face "extraordinarily high financial sanctions" if they make mistakes or are late for work.

UCM also claims that sexual harassment and verbal and physical abuse are rife. Workers at the Tainan factory are, UCM says, threatened with the sack unless they work overtime, and are locked up if they refuse. It also alleges that children as young as 14 are working illegally.

Adidas yesterday denied the vast majority of the allegations. "These allegations are based on old facts. We don't use child labour and we pay above the minimum wage," Jan Runau, the company spokesman, said. "We have nothing to hide and we are confident that our suppliers are following our business practices."

He added that Adidas was maintaining a special team to check that suppliers adhere to the firm's code of conduct.

But later he appeared to admit that problems persisted. "We know that everything is not perfect with our business partners which is why we are continuing to carry out audits."

MEPs also heard allegations concerning Nestlé, the food multinational, which has long been criticised for the way it markets baby milk products in Pakistan and elsewhere. No one from Nestlé was present at the hearing.

Mr Howitt, who is keen to bring in a binding code of conduct for European multinationals, said that the companies were guilty of "astonishing arrogance".

Adidas boycotts EU ethics hearing

By Stephen Castle in Brussels

23 November 2000

Two of Europe's best-known multinationals came under attack yesterday for boycotting a parliamentary hearing that was given graphic evidence of their unethical behaviour in developing countries.

The Swiss and German industrial giants, Nestle and Adidas, refused to send company representatives to a meeting in the European Parliament in Brussels that heard a litany of accusations against producers of some of Europe's most familiar branded goods.

The hearing was told that workers manufacturing Adidas goods in Indonesia were forced to perform more than 50 hours of overtime a week, while being paid less than the legal hourly limit for the work.

Nestle's sales team in Pakistan was accused of offering anything from small inducements to large items of medical equipment to boost sales of formula milk. The use of breast milk substitutes is discouraged by most aid workers in the Third World because, with the water supply so unreliable, artificially fed infants are about 25 times more likely to contract fatal illnesses.

The refusal of both companies to attend the hearing provoked outrage among Euro MPs. Richard Howitt, rapporteur for ethical business issues, accused the firms of showing "utter contempt for a properly-constituted public hearing". He said: "Not to attend reveals a combination of arrogance and distance which has set their cause back."

Wolfgang Kreissl-Dörfler, a German green MEP, also attacked the behaviour of the two firms as "unacceptable".

The companies did agree to send third-party representatives who had done audits of their activities. But, in the case of Adidas, the individual had worked in India and had no knowledge of conditions in Indonesia, the main focus of yesterday's hearing. The development committee of the European Parliament is pressing for binding rules to take the place of codes of conduct, which, they argue, can be broken with impunity.

Despite its Swiss ownership, Nestle is an object of the parliament's scrutiny because it exports some of its produce from the Netherlands. Sunil Sunha, director of Emerging Market Economics, which audited Nestle's marketing practices in Pakistan, said the

detected breaches of the firm's code of conduct – which outlaws the offering of inducements – were "relatively minor" ones.

But Tracey Wagner-Rizvi, representing the Network for Consumer Protection in Pakistan, launched a scathing attack on Nestle, arguing that large numbers of women were misled into using formula milk. "In a country like Pakistan, where half the population does not have access to clean water, breastfeeding can make the difference between life and death," she said.

Mrs Wagner-Rizvi accused the company of delaying moves to introduce legislation and of taking part in a "whitewash".

Adidas was accused of unethical conduct by Ingeborg Wick, an academic and member of the European Clean Clothes Campaign, who interviewed workers in a factory near Cakung, east of Jakarta, in September. She said she was "shocked" by the amount of forced overtime they did for Adidas.