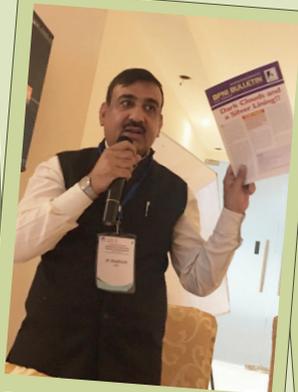


# The Regional Capacity Building Workshop on Monitoring the International Code of Marketing of Breastmilk Substitutes

New Delhi, India  
14 – 16 November 2016



Dr Arun Gupta, IBFAN Regional Coordinator Asia, welcomes participants.



Dr JP Dadhich describes the documents in the conference bag.



ICDC's Legal Advisor, Yeong Joo Kean, describes the course.



ICDC Programme Manager, Constance Ching, starts with history of the Code.



Getting to know you - Jaime from the Philippines introduces himself.



Discussing India.



Day 1: good progress & all smiles.



Participants in a mixed country group learn from one another.



The problem with China ... from NGO point of view.



Government officials from India look at social media promotion.



Analysing company materials - this is not acceptable ... this label is no good ... this is bad ... ... but this is ok.



Her Honour giving instructions to counsels for the prosecution and defendants.



Listening intently to the judge.



No common language but there is common understanding on the Code.



**IBFAN**  
defending breastfeeding

INTERNATIONAL  
**CODE**  
DOCUMENTATION CENTRE

# **Regional Capacity Building Workshop on Monitoring the international Code of Marketing of Breastmilk Substitutes**

14 – 16 November, 2016

Russian Centre of Science and Culture, New Delhi

## **A. Facilitators**

1. Yeong Joo Kean, Legal Advisor, International Code Documentation Centre (ICDC)<sup>1</sup>
2. Constance Ching, Programme Manager, ICDC

## **B. Background**

The Regional Training Course on Implementing the International Code of Marketing Breastmilk Substitutes was made possible through support and funding from IBFAN Asia. The intended goal of the training was to build capacity for a ‘younger’ generation of Code monitors and advocates from selected countries in Asia. Participants came from China, India, Maldives, Mongolia, Nepal, Philippines, and Thailand. Amongst the participants were officials from Ministries of Health, representatives from breastfeeding advocacy group/NGOs, paediatricians, and public health researchers.

The workshop, held at the Russian Centre of Science and Culture, New Delhi, was facilitated by trainers from ICDC. The Training Programme and the List of Facilitators & Participants appear in Annexes 1 and 2 respectively.

## **C. Programme Objectives**

Provide support to participants from different countries to –

- understand the importance of breastfeeding for child health and why regulation is needed to prevent unethical marketing practices by the baby feeding industry.
- identify the strengths and weaknesses of national laws compared to the International Code of Marketing of Breastmilk Substitutes and relevant World Health Assembly (WHA) Resolutions (hereinafter referred to collectively as the International Code); the challenges and opportunities available for improved national measures.
- establish a monitoring mechanism to measure compliance of the International Code and national laws to facilitate enforcement of national laws, where applicable.
- explore ways to raise public awareness about the International Code.

## **D. Preparatory Work**

To prepare for the workshop, ICDC prepared a Training Programme and dispatched 20 sets of training materials by courier to New Delhi prior to the training. A pre-course guideline was sent to participants before the training asking them to compile information on the state of Code implementation and to provide examples of Code

violations from their countries. The reports submitted by the participants, in brief PowerPoint presentations, were useful in facilitating discussion throughout training.

On 13 November, a day before the training, ICDC consultants had a brief meeting with Dr. J. P. Dadhich (National Coordinator) and Dr. Neelima Thakur (Senior Programmer) of the Breastfeeding Promotion Network of India (BPNI). They checked the training venue and finalise logistical arrangements for the workshop.

## **DAY 1**

### **Opening Address**

The workshop started with a welcome address **Dr. Arun Gupta, Regional Coordinator of IBFAN Asia/BPNI**. Dr Gupta spoke about the need to increase breastfeeding rates in the region and the need for commitment in protecting breastfeeding from younger advocates. **Yeong Joo Kean, Legal Advisor of ICDC**, then thanked IBFAN Asia for organising the workshop and making it possible for the Network to cultivate younger Code advocates. The guest of honor, **Dr. Ajay Khara, Deputy Commissioner of Child Health, Ministry of Health and Family Welfare, Government of India** expressed hope that the workshop would lead to better understanding of the Code and to improved monitoring and enforcement in the region.

### **Participants Introductions & Background**

Participants gave a brief introduction about their background, knowledge about breastfeeding and the International Code and their expectation from the workshop.

### **History of the International Code**

Conducted by **Constance Ching, ICDC Programme Manager**, this session focused on the historical events that led to the adoption of the Code; the beginning of public awareness on the link between artificial feeding and malnutrition, early battles with baby food companies, international meetings and advocacy which led to tabling of the Code at the World Assembly in 1981. A summary of the International Code a brief overview of relevant major Code provisions followed to provide the foundation for ensuing sessions.

### **Overview of Code implementation in Asia**

**Yeong Joo Kean** provided a brief overview of status of Code implementation in Asia; She reviewed national measures that give effect to the Code in China, India, Maldives, Mongolia, Nepal, Philippines, and Thailand. She provided examples of countries with strong laws that have positively impact on breastfeeding rates and showed how laws, together with monitoring and enforcement can changed company behavior. Joo Kean also discussed the effects of company promotion on breastfeeding and the various ways the Code came under attack and was

undermined. These include multi-lateral trade agreements, pressure from trade associations, public-private partnerships, manipulation of public opinion and biased monitoring and evaluation reports from industry related forces.

### Review and Discussion of Problem Areas

This interactive exercise required participants to firstly, compare their own assessment of Code implementation in their countries with the ICDC’s State of the Code chart. All countries were in agreement with the assessment in ICDC’s State of the Code chart. Secondly, participants were asked to identify areas of Code implementation they felt their country are doing well in and those areas they found to be difficult. A discussion ensued about the challenges of Code implementation, monitoring and enforcement and facilitators suggested ways to overcome some of the barriers identified.

### PROBLEM AREAS WITH CODE IMPLEMENTATION

COUNTRY	POLITICAL COMMITMENT / AGREEMENT	DRAFTING NATIONAL MEASURE	EDUCATION & TRAINING	SIGNING / APPROVAL	MONITORING	ENFORCEMENT	REVISION & STRENGTHENING
China	Green	Green	Yellow	White	Orange	Orange	Yellow
India	Green	Green	Yellow	Green	Orange	Orange	Yellow
Maldives	Green	Green	Orange	Green	Yellow	Green	Orange
Mongolia	Orange	Green	Yellow	Yellow	Yellow	Orange	Green
Nepal	Orange	Green	Yellow	Yellow	Yellow	Yellow	Yellow
Philippines	Orange	Green	Orange	Green	Yellow	Yellow	White
Thailand	Green	Yellow	Yellow	Yellow	Orange	Orange	White

Participants assessed how their countries are doing in different areas of Code implementation with coloured post-its notes. Their assessments are summarised in this chart.

### Importance of Breastfeeding

**Dr. JP Dadhich, National Coordinator, BPNI** began his presentation by discussing **global** breastfeeding recommendations and explaining how breastfeeding is more than a source of nutrition but is crucial for child survival, growth and their cognitive, development and even their future earning capability. He explained that breastfeeding is also important for the prevention of non communicable diseases and brings health benefits to mothers and is environmentally friendly. Using data on undernutrition, child mortality and morbidity, he showed how breastfeeding can save lives and confer long term benefits. He shared data which showed that infant and young child feeding (IYCF) practices in many regions are far from optimal and forward suggestions on how IYCF practices can be improved especially in relation to breastfeeding. The Code is shown as an important element.

### Understanding Marketing

This session, facilitated by **Constance Ching**, reflected on socio-economic factors that contributed to the expansion of the baby food market, especially in the Asia Pacific region. Information related to baby food market and socioeconomic conditions of

China, India, and Thailand was shown as examples. An interactive exercise with participants took place to show how companies reach parents and influence their infant and young child feeding decisions through multiple channels. These include mass media, shops, healthcare systems and professionals, sponsorships, and public-private partnerships. "Unseen" or indirect marketing promotional strategies were also emphasized.

### **Why Monitor?**

**Yeong Joo Kean** gave an in-depth coverage of Article 11 of the Code pertaining to implementation and monitoring. Reasons for monitoring in countries with laws as well as in countries without laws were discussed. In any situation, it was stressed that monitoring is critical in holding companies accountable for their behavior. Monitoring can ensure that the law is being observed and is effective; and where there is no law, it can help advocate for legal measures by providing evidence for policy makers. She further discussed in detailed the monitoring responsibilities that can be invoked at different levels (governments, companies, NGOs, consumer organisations, etc.) and emphasized that monitoring should be carried out in an independent manner free from commercial influence. Importance of monitoring to capture new trends and technologies (internet, webcasts, online chat rooms, social media, smart phone apps), and during humanitarian crisis and emergencies was also discussed.

## **DAY 2**

### **Scope of the Code**

In this technical session, **Yeong Joo Kean** focused on Code Article 2 (the scope of the Code), Article 3 (definitions) and relevant WHA resolutions (39.28, 49.15, 54.2, 69.9) that clarified and extended products that are covered under the scope of the Code. Attention was drawn to the Guidance on inappropriate promotion of foods for infants and young children that was enshrined in WHA 69.9 [2016] (hereinafter referred to as "the Guidance"), which clarified that the scope covers breastmilk substitutes up to the age of 3 years (i.e. milks for young children / growing up milks) - a long-debated grey area. She also asked participants to compare International Code provisions against relevant provisions in their national law. Images and specimen of a range of baby food products were shown to participants to help them identify products that fall within the scope. Cross promotion strategies were also highlighted.

### **Exercise on Scope**

A brief interactive exercise was conducted showing images of various products related to infant and young child feeding. Participants had to identify whether or not each of them was covered in the scope of the Code and their national laws.

### **Major Code Provisions – Part I (Arts. 4, 5, & 9)**

In this session, **Yeong Joo Kean** provided an in-depth coverage on major Code provisions that are most relevant to marketing - Article 4 (Information and Education), Article 5 (Promotion to the Public and Mothers) and Article 9 (Labelling); and relate these provisions to parallel provisions in national laws. Relevant WHA resolutions were also highlighted. Issues such as the thin line between promotion and information and the government's role and capacity in reviewing company materials were raised. Questions regarding relevant provisions in national laws were weaved through the session.

### **Major Code Provisions – Part I (Arts. 6 & 7)**

**Constance Ching** facilitated this session with a focus on the health sector - Article 6 (Healthcare Systems) and Article 7 (Health Workers) of the International Code read with relevant WHA resolutions and parallel provisions from the national laws. Many questions were raised by participants on sponsorship of health workers and professional associations, and attention was drawn to provisions in the Guidance that disallow donation of equipments and services to the health system and sponsorship of health professionals' meetings by companies promoting foods for infant and young children. This session highlighted the risks involved in such practices, as well as the inadequacy of disclosure as a way to mitigate conflicts of interest inherent in sponsorships. Concerns raised regarding sponsorship provided the basis for the session on Conflicts of Interest.

### **Working Group 1 & Plenary Report – Articles 4, 5, 6, 7 & 9 (and parallel provisions in national laws)**

Participants were divided into 4 groups and assigned a case study each. They were asked to imagine themselves as members of a special Regional Code Task Force. This Task Force has been asked to advise Utopia, a fictitious country in Asia which has recently adopted the International Code of Breastmilk Substitutes and relevant resolutions as law. They were told that the Ministry of Health in Utopia does not have officials who are trained on the Code and it has sought technical assistance from the Regional Code Task Force for advice to strengthen their national monitoring effort. Each group was asked to examine the specific case study assigned to the group and to analyse the case study in the context of the International Code and resolutions. If any country represented in the group has provisions in their national law/measure that address the situation at hand, they are asked to share that with the group and subsequently, during the Plenary.

Case Study 1 is about a professional symposium for health workers at a university which a monitor found out from a poster in the university. The symposium is described as an accredited event for health workers and it includes a session on Baby Nutrition by Nestle, one of the sponsors of the symposium. The group assigned to this case study was asked to decide whether or not the symposium is in violation of the International Code and resolutions and relevant national law/measures. In the report that was delivered during Plenary, the group correctly pointed out that Code

Art. 7.5 only required disclosure of sponsorship by both companies and recipients but they were able to refer to subsequent WHA resolutions WHA49.15 [1996] and WHA58.23 [2005] which called attention to the problem of conflicts of interest. Participants also referred to the Guidance on ending the inappropriate promotion of foods for infants and young children enshrined in WHA 69.9 [2016] whereby health workers, health systems, and health professional associations should not allow companies to sponsor meetings of health professionals and scientific meetings and to provide gifts or incentives to health workers

**Case Study 2** is about a complaint lodged about a local baby food company that has organised an event for mothers. The event publicised in the press as part of the company's Corporate Social Responsibility programme was purported aimed at encouraging mothers to breastfeed their babies. Mothers were also given gifts packs containing formula and complementary products and other gifts. The group handling this case study ably applied Code Articles 5.4 and 5.5 of the Code to the situation to consider what were Code violations and what were not. They also referred to WHA 39.28 [1986], 49.15 [1996] and the Guidance (WHA 69.9 [2016]) to strengthen their arguments about the distribution of growing up milks and complementary foods. They also looked critically at the promotion of milks for mothers which at best, can only be deemed a bad practice and be reported as a practice which "stretches the rules" rather than "breaks the rules". There was also discussion about conflicts of interest.

**Case Study 3** pertains to a complaint about an existing project Nestle has with a social media community. The project targets mothers with young babies aged less than 4 months and the community is used as an intermediary to provide products for mothers to try and share with other mum friends, playing the role of 'influencers'. Mothers who signed up are encouraged to post photos of their little ones on the community's social media platforms like Facebook, Instagram and Twitter, unwittingly becoming Nestlé's accomplices in violating the Code. The group handling this case considered that complementary foods marketed to infants below 6 months were covered by Code Article 2 and hence Code Articles 5.1 and 5.2 applied and the project is a Code violation. They also relied on relevant resolutions on promotion of complementary foods and other foods for infants and young children (WHA 39.28 [1986], WHA 49.15 [1996], WHA 63.23 [2010] and WHA 69.9 [2016] including the 2016 Guidance on ending the inappropriate promotion of foods for infants and young children to arrive at their conclusions.

In **Case Study 4**, the assigned group was asked to assess the following situations encountered in a health care facility:

- A. Giving samples of growing up milks to health professionals "for professional evaluation".
- B. Giving personal gifts (pens and prescription pads) with company logo to health workers.
- C. Donation of infant formula to the hospital to give to low-income mothers.

D. Company reps approaching health workers to offer research funding on issues related to infant feeding.

Again, participants in this group demonstrate that they were able to identify the various provisions in Codes Articles 6 & 7 and WHA 58.32 [2005], as being relevant provisions to rely on for debate. Participants were also able to establish that some of activities like research are in fact allowed at the national level because of different wording in national laws.

From these Case Studies, participants understood that the Code has weak areas and that some provisions have been extended and clarified by subsequent resolutions. Hence they must always be read together. They also understood that in many cases countries have fallen below the minimum standard. Even in countries with strong laws, there is a need for amendment and updates. The point was however stressed that monitoring should be initiated at the individual, community or national levels regardless of the state of Code implementation to hold companies to account for the protection of infant and young child health.

### **Sponsorship & Conflicts of Interest**

This session, conducted by **Constance Ching**, aimed to help participants identify undue influences in sponsorship, research, public private partnership, and multi-stakeholderisation in the infant and young child feeding arena. As public-private partnerships are rampant on the international and national levels, risks of conflicts of interest inherent in nutrition "movements" such as Scaling Up Nutrition (SUN) and the Global Alliance on Improved Nutrition (GAIN) were discussed. IBFAN's standpoint on the flawed conceptualisation on conflicts of interest (confusing conflicts of interest with conflicting interests) entrenched in these initiatives was explained. A guideline to identify, assess, and manage conflicts of interest was shared with participants as examples for policymaking and practice guidance.

### **DAY 3**

#### **How to Monitor?**

In this session, **Constance Ching** highlighted the "nuts and bolts" of monitoring - the practical considerations that are important when organising a national monitoring project, including the "Why, Where, When, How and What" of monitoring, importance of streamlining and minimising duplication of efforts, different ways of reporting, and techniques during monitoring activities. The importance of setting in place a monitoring system that is continuous, manageable and sustainable was also highlighted. ICDC's Code Monitoring Forms and online monitoring tools were also introduced. Additionally, instructions on how to download the monitoring smart phone app were given to participants. Constance explained how these tools have made monitoring convenient, as they can be accessed anytime and anywhere, and encouraged participants to adapt them for their national or organizational monitoring needs.

## **Working Group 2 & Plenary Report - Monitoring**

In this exercise, participants were asked to analyse company materials for violations of the Code and the national laws using ICDC's monitoring forms, and then to present their findings in the Plenary. Each participant analysed at least 2 specimens. From the feedback provided during Plenary, participants showed they were able to make fairly decent analyses of the materials before them. There were common misconceptions that can be rectified with practice. Among the mistakes made by participants were on the question of whether or not a product is a "designated product" under the scope of their national law, there was also some confusion about labelling and whether warning and statements on labels could be analysed as "information". From the exercise, a violation that was previously unknown was discovered on an Indian product. On the side of the box of a Nestlé's follow-up (number 2) milk, there was text claiming it as "follow-up milk/complementary food", a company practice to circumvent the Code and national laws.

### **Exercise: Mock Trial**

To help participants to further understand the different provisions of the International Code and resolutions, a mock trial was conducted involving a case against a multinational for violating the law in Utopia, a fictitious country. The case involved the distribution wrist bands bearing the company name and logo (but not the product name) which were used as identification tags on new born babies. In the Utopian Mock Court, one group represented industry, another group the prosecution. Another team was assigned the role of Amicus Curiae (friend of the Court) to advise the Mock Court on the provisions of the International Code of Marketing of Breastmilk Substitutes and the need for a robust interpretation of the law for the protection of infant and young child health. Yet another small group was appointed as members of the jury who decided on the case after receiving instructions from the presiding Judge.

With the issuance of the Guidance on inappropriate promotion of foods for infants and young children, the case took on an added dimension involving conflicts of interest involving foods for infants and young children. Participants acting for the prosecution and "members of the public" who received permission to address the Mock Court on this point were able to convince the Jury that the distribution or wrist bands in health care facilities was a violation of the law in Utopia.

### **Parking Lot**

Participants raised the following outstanding items/issues, on which facilitators clarified and elaborated:

- confusion between complementary foods and breastmilk substitutes
- lack of understanding on Codex
- case examples of COI
- small countries receiving imported products from other countries with non-compliant labels

- selecting monitors – what to do with mothers who want to be given samples
- the need for national training

### Future Planning

- Maldives: will develop a monitoring plan to start monitoring as soon as possible and the plan will include capacity building of monitors.
- Mongolia: waiting for approval from government on monitoring, will work on advocating for a stronger law, and will tap into social media to recruit mothers as monitors.
- Nepal: will work on raising awareness of the Code among health workers, and start planning for monitoring trainings.
- Philippines: will try to lobby for stronger enforcement, raise awareness at grassroots level through education, and will develop plan to strengthen monitoring.
- Thailand: will disseminate information within DOH, and will convince government about training and monitoring (with emphasis on qualitative / theme-based monitoring).
- China: will develop monitoring plans, maybe set a “Code” celebration day to raise awareness on the Code, and will report to government on the need to revise law in China to bring it up to date with the subsequent resolutions.
- India: advocacy with central and state governments and develop sensitisation trainings, boost awareness in monitoring, and revise session on IMS act in the BPNI IYCF training more substantial.
- General: each country to develop a monitoring tool according to country needs, and when necessary, request for WHO/UNICEF/IBFAN support on capacity building and consultation. In this regard, IBFAN-ICDC is prepared to render technical support and welcomes future collaboration with IBFAN Asia and national groups.

### Evaluation

11 evaluations forms were received and the feedback was very positive. 10 people evaluated the workshop as “very useful, one said the workshop was “useful”. Many said that the training was helpful in providing them with a working knowledge of the Code and resolutions. They feel able to undertake action to build a monitoring system, either nationally or at a smaller scale and to actively participate in Code implementation in their country.

Dated 18 November 2016



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Yeong Joo Kean



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Constance Ching

**The Regional Capacity Building Workshop on  
Monitoring the International Code of Marketing of Breastmilk Substitutes  
New Delhi, India  
14 – 16 November 2016  
Programme**

Date/Time	Agenda item	Facilitator(s)
12& 13 /11/2016 – Arrivals		
<b>14/11/2016 – DAY 1</b>		
09.00	Welcoming remarks	Dr. Arun Gupta, BPNI/IBFAN Asia  Yeong Joo Kean, IBFAN-ICDC , Malaysia  Dr. Ajay Khara, DC(CH), MOHFW, Government of India
09.30	Participants Introductions & Background Knowledge Test	Dr. Arun Gupta, BPNI/IBFAN Asia Yeong Joo Kean, ICDC (YJK)
10.00	History of the International Code	Constance Ching, ICDC (CC)
11.00	<i>Break</i>	
11.15	Overview of Code implementation in Asia	YJK
12.15	Review and discussion of problem areas	CC & YJK
13.00	<i>Lunch Break</i>	
14.00	Importance of breastfeeding	Dr. JP Dadhich, BPNI/IBFAN Asia
15.00	Understanding Marketing	CC
16.00	<i>Break</i>	
16.15	Why Monitor?	YJK
17.00	Adjourn	
<b>15/11/2016 – DAY 2</b>		
09.00	Scope of the Code	YJK
10.00	Exercise on Scope	YJK & CC
11.00	<i>Break</i>	
11.15	Major Code Provisions – Part I (Arts. 4, 5, & 9)	YJK
12:15	Major Code Provisions – Part I (Arts. 6 & 7)	CC
13.00	<i>Lunch Break</i>	
14.00	Working Group 1 & Plenary Report – Arts. 4, 5, 6, 7 & 9	YJK & CC
16.00	<i>Break</i>	
16.15	Sponsorship & Conflicts of Interest	CC
17.00	Adjourn	
<b>16/11/2016 - DAY 3</b>		
09.00	How to Monitor?	CC
9.45	Working Group II - Monitoring	CC
11.00	<i>Break</i>	
11.15	Plenary Report on working Group II – Monitoring	YJK
12.00	Mock Trial Prep	CC
13.00	<i>Lunch</i>	

14.00	Mock Trial	YJK
15.00	Parking Lot	CC
15.30	Discussion on Future Plans	Dr. JP Dadhich, BPNI/IBFAN Asia & ICDC
16.30	Evaluation, Closing remarks and Presentation of Certificates	Dr. JP Dadhich, BPNI/IBFAN Asia
17.00	Adjourn with Tea	

**List of the participants**  
**Regional Capacity Building Workshop on**  
**Monitoring the International Code of Marketing of Breastmilk Substitutes**

*New Delhi, India, 14 – 16 November, 2016*

**Programme**

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## ANNEX 2

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