From:	s22 on behalf of WHO
To:	s22
Subject:	Questionnaires on implementation of the International Code of Marketing of Breast Milk Substitutes - AUSTRALIA response [SEC=UNCLASSIFIED]
Date:	Thursday, 11 September 2014 12:41:34 PM
Attachments:	1 - Code General Questionnaire for all Countries (MAIF Australia) (D14-2175253).PDF 3 - Questionnaire 2 - Monitoring & Enforcement (MAIF Australia) (D14-2175266).PDF 2 - Questionnaire 1 - Legislation other measures related to Code (MAIF Australia) (D14-2175421).PDF 4 - Questionnaire 3 - Capacity Building (MAIF Australia) (D14-2175301).PDF

Dear s22

I refer to s22 's letter of 25 August 2014 to the Acting Secretary of the Australian Government Department of Health regarding Australia's implementation of the International Code of Marketing of Breast Milk Substitutes.

Please find attached below Australia's responses to the 4 Questionnaires which were attached to that request:

1 - Code General Questionnaire for all Countries (MAIF Australia) (D14-2175253).PDF 2 - Questionnaire 1 - Legislation other measures related to Code (MAIF Australia) (D14-2175421).PDF 3 - Questionnaire 2 - Monitoring & Enforcement (MAIF Australia) (D14-2175266).PDF 4 - Questionnaire 3 - Capacity Building (MAIF Australia) (D14-2175301).PDF

Please don't hesitate to contact us if you require any clarifications in relation to our responses.

Kind regards
s22

WHO Engagement — International Strategies Branch
Australian Government Department of Health

s22

International Code of Marketing of Breast-milk Substitutes and subsequent WHA resolutions

Pursuant to Articles 11.6 and 11.7 of the International Code of Marketing of Breast-milk Substitutes, adopted as an annex to WHA Resolution 34.22, and as reiterated in subsequent relevant WHA resolutions, Member States of the World Health Organization shall periodically report on the status of implementation of the Code.

As part of their bi-annual reporting requirements to the WHA, Member States have provided information on the status of implementation of Code in 2006, 2008 and 2010. Based on these responses and other information, WHO published in 2013 a status report on the progress countries have made in implementing the Code. Information on country progress has also been included in the WHO Global database on the Implementation of Nutrition Action (GINA). GINA collects and maps information on nutrition policies and programmes - including the Code. It is a repository of lessons learnt in implementing nutrition related actions and serves as a platform for sharing of local solutions to challenges commonly faced by countries. To facilitate the current reporting, the information received from country reports and/or available in GINA has been inserted into the present survey questionnaires.

This survey concerns existing legislation or other appropriate measures in place as well as supporting activities including monitoring and enforcement of the legislation and capacity building activities. It consists of:

- General information and verification to be completed by all countries (present questionnaire)
- Information on national legislation or other appropriate measures (questionnaire 1)
- Information on actions taken to monitor and enforce the Code (questionnaire 2)
- Information on capacity building activities related to the Code (questionnaire 3)

Country: Australia

Survey completed by:

Name: s22

Affiliation: Australian Government Department of Health

Email: s22

Date: 9 September 2014

General questions for all countries

1. Has the Government enacted legislation or other appropriate measure to implement the Code?

☒ Yes. *Please list titles and year of publication of each legislative or other appropriate measure:*

Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement - The MAIF A

For each legislative or other appropriate measure listed, please complete Questionnaire 1.

☐ No. *Please describe any plans to develop Code-related legislation in question 4 below.*

2. Does the government monitor and enforce the implementation of the Code?

☐ Yes. *Please complete Questionnaire 2.*

☒ No. *Please describe any plans to monitor and enforce Code-related legislation in question 4 below.*

3. Has the government conducted any capacity building activities related to the Code?

☐ Yes. *Please complete Questionnaire 3.*

☒ No. *Please describe any plans to conduct Code-related capacity building activities in question 4 below.*

4. Please describe briefly any other actions or plans to regulate the marketing of breast-milk substitutes:

The MAIF Agreement is a voluntary, self-regulated code of conduct between manufacturers and importers of infant formula in Australia. A new complaints management process is being developed that will ensure complaints against the MAIF continue to be managed in a transparent and accountable way. The new complaints process is expected to be operational in November 2014. When the new arrangements are agreed details will be available on the Marketing in Australia of Infant Formulas website (www.health.gov.au/apmaif). Stakeholders, including the Australian Breastfeeding Association and interested members of the public, actively monitor infant formula marketing activities in Australia.
The Australian Government has no plans to regulate the marketing of formula in Australia.

Verification and approval

Your answers are important for periodic reporting on the implementation of the Code.

Through agreement to share information on GINA, your answers may also be helpful for other country representatives involved in breastfeeding programme management, legislation formulation or monitoring.

Please confirm your agreement to dissemination of information provided in this questionnaire:

On behalf of my country

- I agree that a summary of the information provided can be disclosed on GINA: ☒ Yes ☐ No
- I agree that PDF document of the national legislative or other appropriate measure is made available through GINA: ☒ Yes ☐ No

Any other comments:

Questionnaire 1: Legislative or other appropriate measures related to the Code

This questionnaire concerns legislative or other appropriate measures in place related to the Code. Legislation includes laws, regulations, decrees and implementing rules. Other appropriate measures include those of a voluntary nature, e.g. voluntary codes and guidelines.

If more than one legislative or other appropriate measure exist (e.g. law, updated law and implementing rules), please complete one questionnaire per document.

Title of document: Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement - T

Type of document Voluntary measure

Start date: 2003 End date (if any): _____

Published by: Commonwealth Department of Health and Ageing Published date: 2003

Adopted by: _____ Adopted date: _____

URL of document: http://www.health.gov.au/internet/main/publishing.nsf/Content/health-pubhlth-publicat-doc

URL in GINA: https://extranet.who.int/nutrition/gina/en/node/17817

Scope: designated products and age limit

1. Does this document cover the following products (designated products)?

Please tick off designated products, state age limit and indicate the relevant article or provision:

a. ☑ Infant formula. Age limit: up to 12 months. Article: _____
b. ☐ Follow-up formula. Age limit: _____ months . Article: _____
c. ☐ Complementary foods. Age limit: _____ months. Article: _____
d. ☐ Feeding bottles, teats and/or pacifiers. Article: _____
e. ☐ Milk for mothers. Article: _____
f. ☐ Other designated products: _____ . Article: _____

Provisions on information and education materials on infant and young child feeding

Informational and educational materials on infant and young child feeding include written, audio or visual materials dealing with the feeding of infants and intended to reach pregnant women and mothers of infants and young children (Code Article 4.2)

2. Does this document cover informational and educational materials on infants and young child feeding?

☑ Yes. Article: Clause 4 ☐ No. *Please proceed to question 7.*

3. Does this document require clear information on the following points?

Please tick off areas covered and indicate the relevant article of the law or regulation

a. ☑ The benefits and superiority of breastfeeding. Article: 4a
b. ☑ Maternal nutrition, and preparation for and maintenance of breastfeeding. Article: 4a
c. ☑ The negative effect on breastfeeding of introducing partial bottle-feeding. Article: 4a
d. ☑ The difficulty of reversing the decision not to breastfeed. Article: 4a
e. ☑ Where needed, the proper use of infant formula, whether manufactured industrially or home-prepared. Article: 4a

4. When such materials contain information about the use of infant formula and other breast-milk substitutes, does this document require that they include the following points?

Please tick off areas covered and indicate the relevant article of the law or regulation

a. ☑ The social and financial implications of its use. Article: 4b
b. ☑ The health hazards of inappropriate foods or feeding methods, e.g. early introduction of semi-solid foods or bottle-feeding. Article: 4b
c. ☑ The health hazards of unnecessary or improper use of infant formula and other breast-milk substitutes. Article: 4b

5. Are such materials prohibited from using any pictures or text which may idealize the use of breast-milk substitutes? ☑ Yes. Article: 5a ☐ No

6. Does this document require government request and/or approval for donation of company materials?

☑ Yes. Article: 4c ☐ No

If yes, what are the criteria for approval, if any?

Manufacturers and importers of infant formulas should not donate informational or educational equipment or materials unless it is at the request of, and with the written approval of, the appropriate government authority or within guidelines given by the Australian Commonwealth, State or Territory Governments for this purpose. such equipment or materials may bear the donating company's name or logo, but should not refer to a proprietary infant formula, and should be distributed only through the health care system.

Provisions on the promotion of designated products to the general public

Advertising includes but is not limited to written publications, television, radio, film, electronic transmission (e.g. web sites, sms or email message, social media), video or telephone; display of signs, billboards, or notices; or exhibition of pictures or models.

Sales devices include but are not limited to special displays, discount coupons, loss-leaders and tie-in sales (Code Article 5.3), such as premiums, rebates, special sales, prizes or gifts.

7. Does this document prohibit the following forms of promotion to the *general public* (including at points-of-sale and in health care facilities)?

Please tick off areas covered and indicate the relevant article.

a. ☑ Advertising. Article: Clause 5 and 6
b. ☑ Sales devices. Article: Clause 5 and 6
c. ☑ Samples, gifts to pregnant women and mothers. Article: Clause 5 and 6
d. ☑ Direct and indirect contact with pregnant women and mothers. Article: Cl. 5&6

Provisions on the promotion of designated products to health workers an health care facilities

Materials include but are not limited to equipment, samples, pens, calendars, posters, note pads, growth charts and toys, which refer to or may promote the use of a designated product.

Gifts include but are not limited to fellowships, research grants or funding for meetings, seminars, continuing education courses or conferences (Code Article 7.5).

8. Does this document prohibit the following forms of promotion to *health workers* and *health care facilities*?

Please tick off areas covered and indicate the relevant article.

a. ☑ Provision of free or low-cost supplies. Article: Clause 6 and 7
b. ☑ Materials and gifts. Article: Cl 6&7

Provisions on labelling of designated products

Labelling of designated products should provide the necessary information about the appropriate use of the product and not discourage breastfeeding (Code Article 9.1). The Code spells out a series of specific requirements for labels (Code Article 9.2).

The Fifty-eight World Health Assembly urged Member States to ensure that nutrition and health claims are not permitted for breast-milk substitutes, except where specifically provided for in national legislation (WHA 58.32 1(2), 2005). It also urged Member States to ensure information that powdered infant formula may contain pathogenic microorganisms and must be prepared and used appropriately; and, where applicable, that this information is conveyed through an explicit warning on packaging (WHA 58.32 1(3), 2005).

9. Does this document require the following for the labels of breast-milk substitutes?

Please tick off areas covered and indicate the relevant article

a. ☑ Recommended age for introduction of designated product. Article: Clause 9
b. ☑ Clear message on superiority of breastfeeding required. Article: Clause 9
c. ☑ 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. Article: Clause 9
d. ☑ Instructions for appropriate preparation, and a warning against the health hazards of inappropriate preparation. Article: Clause 9
e. ☑ Ban on pictures of infants, other pictures or text which may idealise the use of infant formula. Article: Clause 9
f. ☑ Warning that powdered infant formula may contain pathogenic micro-organisms and must be prepared and used appropriately. Article: Clause 9
g. ☑ Ban on nutrition and health claims. Article: Clause 9

Provisions on the establishment of monitoring mechanisms

This question concerns the call for establishment of monitoring mechanism. Please mention here the basis and criteria for establishing *monitoring mechanisms as mentioned in the legislative or other appropriate measure.* The actual establishment, functioning and monitoring activities of such mechanism are further inquired in questionnaire 2 “Monitoring and enforcement”.

10. Does this document call for establishment of mechanism(s) for effective monitoring?

☑ Yes. Article: Clause 10 ☐ No

If yes, please tick off criteria mentioned in this document for such mechanism and indicate the relevant article:

a. ☑ Independent and transparent, Article: 10
b. ☐ Free from commercial influence, Article:
c. ☐ Empowered to investigate Code violations, Article:
d. ☐ Empowered to impose legal sanctions, Article:

Questionnaire 2: Monitoring and enforcement

This questionnaire concerns the established formal and informal monitoring mechanisms as well as actions taken to enforce the implementation. Please describe here the structure, mandate and criteria of any established monitoring mechanism. Please also describe the actual monitoring activities and sanctions implemented.

1. Has a formal mechanism been established by the government to monitor the implementation of the national legislative or other appropriate measure? ☐ Yes ☒ No. *Please proceed to Question 24.*

2. Title of monitoring mechanism: _____

3. When was the mechanism established? _____

4. Which government sector and agency is responsible for the monitoring mechanism?

Sector: Please select Agency: _____

5. Which other government sectors and agencies are involved in the monitoring mechanism?

Please list sector and title of up to five government sectors and agencies involved in the mechanism

Sector: Please select Agency: _____
Sector: Please select Agency: _____
Sector: Please select Agency: _____
Sector: Please select Agency: _____
Sector: Please select Agency: _____

6. Which nongovernmental partners are involved in the monitoring mechanism?

Please list type and title of up to five nongovernmental partners involved in the mechanism

Type: Please select Partner: _____
Type: Please select Partner: _____
Type: Please select Partner: _____
Type: Please select Partner: _____
Type: Please select Partner: _____

7. What is the mandate of the monitoring mechanism?

a. ☒ Monitor compliance with national legislative or other appropriate measure
b. ☒ Monitoring in:
   1. ☐ Health facilities
   2. ☐ Media
   3. ☐ Billboards/signs
   4. ☐ Retail shops
   5. ☐ Pharmacies
   6. ☐ Other: _____

8. If the mechanism is budgeted /funded, please provide further information on the amount of resources available and the sources for funding

a. Amount: _____

b. Funding sources: _____

9. Are the following criteria met for operationalization of the monitoring mechanism?

a. ☒ Transparent
b. ☒ Independent
c. ☒ Free from commercial influence
d. ☒ Budgeted/funded
e. ☒ Empowered to take action
f. ☐ Sustainable

10. When did the first monitoring exercise take place? _____

11. Is monitoring still ongoing?

a. ☐ Yes. Approximately how often is monitoring taking place? _____

b. ☐ No. When did monitoring cease? _____
Why did monitoring cease? _____

12. When did the last monitoring exercise take place? _____

13. Where did the monitoring take place (geographical location)?

14. Which delivery channels were monitored?

a. ☐Health facilities
b. ☐Media
c. ☐Retail shops
d. ☐Pharmacies
e. ☐Other: _____

15. Was a report published? ☐ Yes ☐ No

If yes, please provide report title and URL if publically available:

a. Title of report: _____
b. URL of report: _____

16. Were violations identified? ☐ Yes ☐ No. *Please proceed to Question 23.*

17. Were sanctions imposed? ☐ Yes. ☐ No. *Please proceed to Question 23.*

18. What kind of sanctions were imposed?

a. ☐ Criminal sanctions
b. ☐ Administrative sanctions
c. ☐ Other: _____

19. When were the sanctions imposed? _____

20. Who were responsible for implementing the sanctions? _____

21. Were the sanctions documented? ☐ Yes ☐ No

If yes, please provide report title and URL if publically available:

Title of report: _____

URL of report: _____

22. Was there a public dissemination of the sanctions?

☐ Yes. Public dissemination through: ☐ Media ☐ Publication ☐ Other: _____

☐ No

23. Please describe any lessons learnt from monitoring or imposing the sanctions. What were the challenges encountered and how did you overcome these challenges?

24. Are there any other informal mechanisms in place to monitor the implementation of the Code or national legislation? ▣ Yes ☐ No

If yes, please describe:

Stakeholders actively monitor infant formula marketing activities in Australia to ensure consistent and accurate information in the marketing of infant formula in Australia.

25. Any other comments:

Although the MAIF Agreement is not actively monitored by government, up until November 2013 complaints against industry under clauses of the Agreement were assessed by a government funded Advisory Panel on the Marketing in Australia of Infant Formula (APMAIF) who determined if there was a breach against the Agreement.

Since the abolition of the APMAIF, the Australian Government has been working with Industry to develop a new transparent process for assessing complaints against the MAIF Agreement. The new process is anticipated to be in place by the end of 2014.

Questionnaire 3: Capacity building activities related to the Code

This questionnaire concerns any capacity building activities related to developing, implementing, monitoring and enforcing the Code.

1. Please describe the focus of the capacity building activities related to the Code:

a. ☑ General information on the International Code and WHA resolutions
b. ☐ Monitoring of the implementation of the International Code and WHA resolutions
c. ☐ Monitoring of the implementation of national Code-related legislation or other appropriate measures
d. ☐ Drafting national Code-related legislation
e. ☐ Other: _____

2. Please describe the activities undertaken, e.g. orientation and training, advocacy materials:

Australia implements the WHO Code through adherence to the MAIF Agreement and the:
- National Breastfeeding Strategy 2010-2015 that provides a framework for priorities and action for

3. When was the capacity building conducted? _____

4. Which government sectors and agencies were involved in conducting the capacity building?

Please list sector and title of up to five government sectors and agencies involved in conducting the capacity building

Sector: Please select Agency: _____
Sector: Please select Agency: _____
Sector: Please select Agency: _____
Sector: Please select Agency: _____
Sector: Please select Agency: _____

5. Which nongovernment partners were involved in conducting the capacity building?

Please list type and title of up to five nongovernment partners involved in conducting the capacity building

Type: Please select Partner: _____
Type: Please select Partner: _____
Type: Please select Partner: _____
Type: Please select Partner: _____
Type: Please select Partner: _____

6. Please describe any lessons learnt from the capacity building. What were the challenges encountered and how did you overcome these challenges?

7. Any other comments or a brief description of the capacity building: