

# THE CONVENTION ON THE RIGHTS OF THE CHILD

68<sup>th</sup> Session / January 2015

---

## REPORT ON THE SITUATION OF INFANT AND YOUNG CHILD FEEDING IN SWITZERLAND



April 2014 (updated December 2014)

**Prepared by:**

Geneva Infant Feeding Association (IBFAN – GIFA) - IBFAN global liaison office

[www.ibfan.org](http://www.ibfan.org)

Tel. +41 22 798 91 64

## SUMMARY

*The following **obstacles/problems** have been identified:*

- High rate of caesarean sections (33%), with negative impact on the rate of early initiation to breastfeeding (66%)
- Low rate of exclusive breastfeeding until the age of 6 months (14%)
- Poor monitoring of key breastfeeding and infant and young child feeding indicators
- No national strategy on infant and young child feeding or breastfeeding
- Lack of funding allocated to breastfeeding/ infant and young child feeding protection, promotion and support
- Inconsistent national recommendations on breastfeeding and possible conflicts of interest within the two national institutions issuing recommendations on breastfeeding
- Only some provisions of the International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly resolutions (the Code) implemented into national legislation, resulting in many Code violations
- Autoregulation by the baby food industry, with adoption of a “voluntary” code of conduct and national monitoring done by a panel half composed of industrials
- Lack of training of health professionals (including paediatricians and pharmacists), resulting in uneven support to mothers
- Only 55% of maternity wards certified as “baby-friendly” and lack of governmental leadership on this issue
- No emergency preparedness plan to ensure integrated response to protect and support breastfeeding/ infant and young child feeding in case of emergencies
- Despite reports of regular and systematic violations of the Code committed abroad by companies based in Switzerland (Nestlé, Hero, Liptis, Wyeth), no legal or regulatory measures have been put in place to ensure Code compliance by baby food companies in all contexts

***Our recommendations** include:*

- Comprehensive **collection of disaggregated data on infant and young child feeding** and tracking of **key breastfeeding indicators**
- Development of a **national strategy** on breastfeeding with **allocated funds**, free from commercial pressure and interests
- Analyse and strengthen baseline **training to health professionals** accordingly, again free from commercial pressure and interests
- Strengthen **Code implementation and enforcement** and set an **independent monitoring system**
- Strengthen **BFHI implementation** independently of any other national measure and strongly consider **mother-friendly criteria** to counteract high caesarean section rate
- Provide **integrated response** to ensure protection and support of breastfeeding **in emergencies**
- Implement and enforce **legal and/or regulatory measures to ensure Code compliance of the baby food companies based in the Swiss territory** (extraterritorial obligation to protect child’s health)

## 1) General points concerning reporting to the CRC

---

In January 2015, the CRC Committee will review Switzerland’s combined 2<sup>nd</sup> to 4<sup>th</sup> periodic reports.

At the latest review in 2002 (session 30), IBFAN presented a report on the state of breastfeeding. In its last [Concluding Observations](#), CRC Committee made no direct recommendations to Switzerland concerning infant and young child feeding. However, in para 35, it urged the government to:

*“[...] take measures to establish **more childcare services to meet the needs of working parents**; and ensure that the childcare services **promote early childhood development**, in light of the principles and provisions of the Convention.”*

Even though it is not directly mentioned, these recommendations are related to breastfeeding. Breastfeeding is closely linked to optimal cognitive development, contributing to overall early childhood development.<sup>1</sup> Childcare services to be put in place in order to meet the needs of working parents include spaces where mothers can breastfeed or pump and store their breastmilk on their workplace.

In addition, in its [Concluding Observations](#) issued in 2010 (para 20), the CESCR Committee urged Switzerland to:

*“[...] adopt **concrete programmes on sex education as well as on sexual and reproductive health including in school curricula.**”*

Breastfeeding is an extension of the reproductive cycle and thus, forms integral part of it. The impact of breastfeeding, including early initiation of breastfeeding, on maternal health is scientifically recognized.<sup>2</sup>

---

<sup>1</sup> Leventakou V. *et al.* Breastfeeding duration and cognitive, language and motor development at 18 months of age: Rhea mother–child cohort in Crete, Greece. *Journal of Epidemiology and Community Health*. 2013. Available at: <http://jech.bmj.com/content/early/2013/12/13/jech-2013-202500.abstract>

<sup>2</sup> Hahn-Holbrook J. *et al.* Breastfeeding and Maternal Mental and Physical Health. In M. Spiers, P. Geller & J. Kloss (Eds.), *Women’s Health Psychology*. 2013. Available at: [http://www.sscnet.ucla.edu/comm/haselton/unify\\_uploads/files/Hahn-Holbrook%20et%20al.%20in%20press%20women's%20health%20psychology.pdf](http://www.sscnet.ucla.edu/comm/haselton/unify_uploads/files/Hahn-Holbrook%20et%20al.%20in%20press%20women's%20health%20psychology.pdf)

## 2) General situation concerning breastfeeding in Switzerland

### General data<sup>3</sup>

	2010	2011	2012
Annual number of birth	80,290	80,808	82,164
Neonatal mortality rate (per 1,000 live births)	3.1	2.9	2.9
Infant mortality rate (per 1,000 live births)	3.8	3.8	3.6
Infant – under 5 – mortality rate (per 1,000 live births) <sup>4</sup>	5	-	4
Maternal mortality ratio (per 100,000 live births) (adjusted)	8 <sup>5</sup>	-	-
<i>Delivery care coverage (%):</i>			
Skilled attendant at birth	-	-	-
Institutional delivery	-	-	-
C-section	32.8 <sup>6</sup>	-	33.4 <sup>7</sup>
Stunting (under 5 years)	-	-	-

General data about infant and maternal health, delivery care coverage and stunting in Switzerland remain scattered, if not inexistent. However, it is of concern that almost **one third of the neonates are delivered by caesarean section**. Indeed, this could constitute a **barrier to early initiation of breastfeeding** within the first hour after delivery.<sup>8</sup>

### Breastfeeding data<sup>9</sup>

	2003
Early initiation of breastfeeding (within one hour from birth)	66%
Children exclusively breastfed (0-5 months)	14%
Introduced to solid food (6-8 months)	-
Breastfeeding at age 2	-

<sup>3</sup> Office fédéral de la statistique (OFS), Confédération suisse. Available at :

<http://www.bfs.admin.ch/bfs/portal/fr/index/themen/14/02/03/key/01.html>

<sup>4</sup> WHO, Global Health Observatory Data Repository, MDG 4: Child health: Under-five mortality Data by country.

Available at: <http://apps.who.int/gho/data/node.main.525>

<sup>5</sup> UNICEF, Switzerland, Statistics. Available at : [http://www.unicef.org/infobycountry/switzerland\\_statistics.html](http://www.unicef.org/infobycountry/switzerland_statistics.html)

<sup>6</sup> WHO, Global Health Observatory Data Repository, MDG 5: Maternal and reproductive health: Women

Data by country. Available at: <http://apps.who.int/gho/data/node.main.531>

<sup>7</sup> Office fédéral de la statistique (OFS), Confédération suisse. Available at :

<http://www.bfs.admin.ch/bfs/portal/fr/index/themen/14/01/new.Document.173800.xls>

<sup>8</sup> Rowe-Murray H.J., Fisher J.R. Baby friendly hospital practices: cesarean section is a persistent barrier to early initiation of breastfeeding. Birth. 2002 Jun; 29(2): 124-31. Available at:

<http://www.ncbi.nlm.nih.gov/pubmed/12000413>;

Örün E. *et al.* Factors associated with breastfeeding initiation time in a Baby-Friendly Hospital. The Turkish Journal of Pediatrics 2010; 52: 10-16. Available at: [http://www.turkishjournalpediatrics.org/pediatrics/pdf/pdf\\_TJP\\_726.pdf](http://www.turkishjournalpediatrics.org/pediatrics/pdf/pdf_TJP_726.pdf)

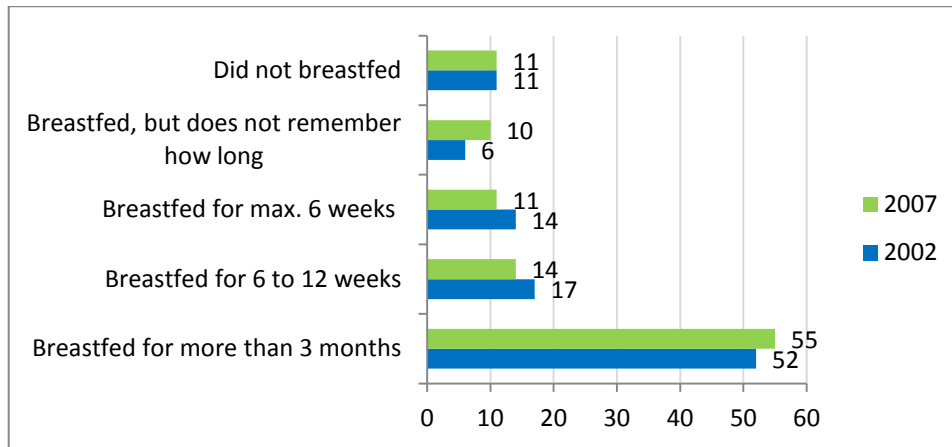
<sup>9</sup> UNICEF Suisse. Résultats de l'étude nationale sur l'alimentation des nourrissons en 2003

Alimentation des nourrissons en Suisse. Available at:

[http://assets.unicef.ch/downloads/unicef\\_alimentation\\_des\\_nourrissons\\_en\\_suisse.pdf](http://assets.unicef.ch/downloads/unicef_alimentation_des_nourrissons_en_suisse.pdf)

No recent data for key breastfeeding indicators exist. The latest data on exclusive breastfeeding until 6 months (National Study on Infant Feeding) was issued in 2003 and shows a **low rate of exclusive breastfeeding (14%)**. In Switzerland, despite the recommendation of WHO on exclusive breastfeeding, almost 9 infants out of 10 are not exclusively breastfed until the age of 6 months. In addition, more than 1 infant out of 3 is not breastfed within the first hour after delivery.

**Table 1. Breastfeeding of the youngest child, in 2002 and 2007 (in % of all mothers of a child under 15). From MOSEB Compendium of indicators, 2014.**



According to the compendium of indicators of the Monitoring system on nutrition and physical activity (MOSEB)<sup>10</sup>, based on the Swiss Health Inquiries issued in 2002 and 2007, almost 90% of the mothers of a child under 15 years have breastfed their youngest child. This rate seems to be slightly higher in the German-speaking part of the country (more than 90%) than in the Italian-speaking (85%) and French-speaking (84%) parts. The table shows also that **only about 50% of the mothers have breastfed for more than 3 months**. Unfortunately, the indicators are not disaggregated to distinguish exclusive breastfeeding from mixed feeding.

We can only regret the **very small number of cases analyzed** in the Swiss Health Inquiries (3,656 in 2002 and 3,228 in 2007) and in the previously mentioned National Study on Infant Feeding (2,919 in 2003), and the **lack of national monitoring of important indicators**, such as early initiation of breastfeeding, exclusive breastfeeding until 6 months of age and continued breastfeeding until 2 years of age or beyond.

<sup>10</sup> Confédération suisse, Recueil d'indicateurs du Système de monitoring alimentation et activité physique (MOSEB), Indicateur 2.7 Allaitement. Available at: [http://www.bag.admin.ch/themen/ernaehrung\\_bewegung/05190/07835/index.html?lang=fr&download=NHZLpZeg7t.Inp6I0NTU042I2Z6ln1ae2IZn4Z2qZpnO2YUq2Z6gpJCIdIJ\\_fWym162epYbg2c\\_JjKbNoKSn6A--](http://www.bag.admin.ch/themen/ernaehrung_bewegung/05190/07835/index.html?lang=fr&download=NHZLpZeg7t.Inp6I0NTU042I2Z6ln1ae2IZn4Z2qZpnO2YUq2Z6gpJCIdIJ_fWym162epYbg2c_JjKbNoKSn6A--)

### 3) Government efforts to encourage breastfeeding

---

#### *Promotion*

In Switzerland, approximately **15% of 6 to 12 years old children are affected either by overweight or by obesity**. Forecast projections show that until 2022 the proportion of overweight and obese children may increase to 16.8% in boys and 22.7% in girls.<sup>11</sup> Being conscious that overweight, obesity and other non-communicable diseases are induced by poor diets as well as lack of physical exercise, the Swiss government has set up a national programme on diet and physical activity (PNAAP) for year 2008 to 2012. This programme has been extended to 2016. One of the 5 aims of this programme is to “promote a balanced diet”, including through the promotion of breastfeeding.<sup>12</sup>

Nonetheless, the efforts to **promote optimal breastfeeding practices** (initiation of breastfeeding within 1 hour after birth, exclusive breastfeeding until 6 months and complementary breastfeeding until 2 years or more) **are yet not satisfactory**. There is no national strategy on infant and young child feeding or breastfeeding, and very little funds are allocated to breastfeeding promotion. Furthermore, the national breastfeeding recommendations do not reflect the WHO recommendations and are dispersed through various documents.

The Swiss Society of Paediatric (SSP), head organization of Swiss paediatricians, recommends breastfeeding initiation within 2 or 3 hours after birth and introduction of others foods into the child’s diet already from the age of 4 months. The Swiss Society of Nutrition (SSN), while recalling the WHO recommendations in one of its papers on breastfeeding<sup>13</sup>, sees no contradiction recommending the introduction of other foods from the age of 4 months in another paper.<sup>14</sup> With regard to the recommendation on the duration of breastfeeding, national recommendations also lack consistency, and consistently fail to mention that breastfeeding can be continued beyond 2 years. Recommendations on preparation of bottles issued by the SSP<sup>15</sup> are also confusing and in contradiction with WHO/FAO guidelines on the safe preparation, storage and handling of powdered infant formula.<sup>16</sup>

---

<sup>11</sup> Swiss Confederation, Overweight and obesity in Switzerland. Part 2: Overweight and obesity trends in children. Available at:

[http://www.bag.admin.ch/themen/ernaehrung\\_bewegung/05207/05218/05232/index.html?lang=fr&download=NHZlpZeg7t,lnp6I0NTU042I2Z6ln1ae2Izn4Z2qZpnO2Yug2Z6gpJCldHt7f2ym162epYbg2c\\_JjKbNoKSn6A--](http://www.bag.admin.ch/themen/ernaehrung_bewegung/05207/05218/05232/index.html?lang=fr&download=NHZlpZeg7t,lnp6I0NTU042I2Z6ln1ae2Izn4Z2qZpnO2Yug2Z6gpJCldHt7f2ym162epYbg2c_JjKbNoKSn6A--)

<sup>12</sup> Swiss Confederation, Programme national alimentation et activité physique 2008–2012 (PNAAP 2008–2012).

[http://www.bag.admin.ch/themen/ernaehrung\\_bewegung/13227/index.html?lang=fr&download=NHZlpZeg7t,lnp6I0NTU042I2Z6ln1ae2Izn4Z2qZpnO2Yug2Z6gpJCGfYR9gWym162epYbg2c\\_JjKbNoKSn6A--](http://www.bag.admin.ch/themen/ernaehrung_bewegung/13227/index.html?lang=fr&download=NHZlpZeg7t,lnp6I0NTU042I2Z6ln1ae2Izn4Z2qZpnO2Yug2Z6gpJCGfYR9gWym162epYbg2c_JjKbNoKSn6A--)

<sup>13</sup> Société Suisse de Nutrition, Alimentation et allaitement. Available at: [http://www.sge-ssn.ch/media/medialibrary/2012/06/feuille\\_d\\_info\\_alimentation\\_et\\_allaitement\\_2011.pdf](http://www.sge-ssn.ch/media/medialibrary/2012/06/feuille_d_info_alimentation_et_allaitement_2011.pdf)

<sup>14</sup> Société Suisse de Nutrition, L’alimentation du nourrisson durant la première année de vie. Available at:

[http://www.sge-ssn.ch/media/medialibrary/2013/05/feuille\\_d\\_info\\_alimentation\\_du\\_nourrisson\\_2012\\_4.pdf](http://www.sge-ssn.ch/media/medialibrary/2013/05/feuille_d_info_alimentation_du_nourrisson_2012_4.pdf)

<sup>15</sup> Eau du robinet ou eau minérale (non gazeuse) en bouteille pour la préparation de biberons. Mise à jour de l’information de la Commission de nutrition de la Société Suisse de Pédiatrie de 2001. Paediatrica, 24 (2013) 4.

Available at: <http://www.swiss-paediatrics.org/sites/default/files/recommandations/recommandations/pdf/36-.pdf>

<sup>16</sup> WHO, Guidelines for the safe preparation, storage and handling of powdered infant formula. Available at:

<http://www.who.int/foodsafety/publications/micro/pif2007/en/>

It is noticeable that the SSN, which is financed by the Swiss Confederation (CHF 265,000 in 2014)<sup>17</sup>, also received funds from the main baby food producers represented on Swiss market.<sup>18</sup> Moreover, it is of concern that neither of those two institutions (SSP and SSN) appears to have policy guidance on how to deal with potential conflicts of interests such financial links could create.

### Protection

In Switzerland, **only some provisions of the International Code of Marketing of Breastmilk Substitutes** and subsequent World Health Assembly resolutions (the Code) are implemented into legislation. The restriction of infant formula advertising is ruled by the Ordinance on foodstuffs<sup>19</sup> and the labelling of infant food is ruled by the Ordinance on special foods<sup>20</sup>. (For more details about the implementation of the International Code through Swiss legislation, please refer to the Annexes). However, the Law on foodstuffs<sup>21</sup>, which has a higher legal status than the Ordinances and aims, among others, to protect consumers from misleading marketing practices, does not enshrine compliance with the International Code as an obligation of the commercial sector.

In 1982, a “**voluntary**” **code of conduct** on marketing of breastmilk substitutes has been drafted and adopted by the main baby-food producers represented in the country. Revised in 1994 and in 2010, it has **no legally binding force** and covers very partially the Code.<sup>22</sup> Since 1995, this code of conduct is monitored by a committee called Codex Panel, where the industry has equal entitlement to representation as the Swiss Foundation for Breastfeeding Promotion (representing the civil society).<sup>23</sup> Thus, the situation prevailing in Switzerland is a **typical case of “autoregulation”**. Acting as both judge and jury, the baby food industry is therefore in an ideal position to block the full and legally binding implementation of the Code through national legislation.

### Support

There is little information available on training for health professionals in breastfeeding. There has been no proper study of the content of national curricula for doctors, paediatricians, midwives, nurses, and

---

<sup>17</sup> Question parlementaire No 13.1085 – Promotion de la santé en Suisse. Quelle est la place de l'allaitement?

Available at: [http://www.parlament.ch/f/suche/pages/geschaefte.aspx?gesch\\_id=20131085](http://www.parlament.ch/f/suche/pages/geschaefte.aspx?gesch_id=20131085)

<sup>18</sup> Nestlé, Danone and Milupa (owned by Danone). Donateurs de la Société Suisse de Nutrition. Available at:

<http://www.sge-ssn.ch/fr/toi-et-moi/la-ssn/donateurs/>

<sup>19</sup> Ordonnance sur les denrées alimentaires et les objets usuels (ODAIUOs). <http://www.admin.ch/opc/fr/classified-compilation/20050153/index.html>

<sup>20</sup> Articles 17a-19 Ordonnance du DFI sur les aliments spéciaux. Available at: <http://www.admin.ch/opc/fr/classified-compilation/20050168/201402040000/817.022.104.pdf>

<sup>21</sup> Loi sur les denrées alimentaires (LDAI). Available at: <http://www.admin.ch/opc/fr/classified-compilation/19920257/201310010000/817.0.pdf>

<sup>22</sup> Code de conduite des fabricants pour la commercialisation des préparations pour nourrissons. Available at: [http://www.allaiter.ch/logicio/client/stillen/file/material/codex/Verhaltenscodex\\_Rev\\_2010\\_FINAL\\_franz\\_rev\\_1\\_19\\_08\\_2011.pdf](http://www.allaiter.ch/logicio/client/stillen/file/material/codex/Verhaltenscodex_Rev_2010_FINAL_franz_rev_1_19_08_2011.pdf)

<sup>23</sup> Composition of the Swiss Codex Panel. Available at:

[http://www.allaiter.ch/logicio/pmws/indexDOM.php?client\\_id=stillen&page\\_id=schweiz&lang\\_iso639=fr](http://www.allaiter.ch/logicio/pmws/indexDOM.php?client_id=stillen&page_id=schweiz&lang_iso639=fr)

pharmacists. One published study on the information and training needs of Swiss paediatricians<sup>24</sup> revealed that 3 paediatricians out of 4 felt the **need for more information on breastfeeding**, and that 1 paediatrician out of 3 faced difficulties in dealing with breastfeeding due to lack of time, but also **lack of training**. There are also numerous reports from mothers having received contradicting and/or false information from health professionals on breastfeeding, thus highlighting, all in all, a **strong need to update and strengthen baseline and ongoing training of health professionals** on breastfeeding.

Some ongoing training to health professionals is offered although sporadically. The Fondation Suisse pour la Promotion de l’Allaitement Maternel for example organizes yearly events during World Breastfeeding Week on a theme related to breastfeeding. More recently, as part of the Geneva obesity prevention program “Marchez mangez malin” (2013-2016), GIFA has been mandated by PharmaGenève, in collaboration with the University of Geneva, to offer a one hour ongoing training session on breastfeeding to pharmacists on a yearly basis. No national training is available on the Code, and GIFA documented a **lack of awareness of the pharmacists’ obligations**.

In the context of the Baby-friendly Hospital Initiative (see section 4), training of health professionals is carried out when hospitals/maternalities are undergoing the process of certification. However, even there, there seem to be gaps. To our knowledge, one baby-friendly hospital was recently re-certified, yet some **staff from the maternity wanted to refuse the label**, claiming that they did not have sufficient time and resources to allocate to breastfeeding.

On a positive note, in Switzerland, training of **lactation consultants** (baseline and ongoing) is available at national level; what is more, lactation consultants are recognized as part of the health care system and insurances cover costs of a certain number of consultations for breastfeeding mothers.

#### **4) Baby-friendly Hospital Initiative (BFHI)**

---

In 2009-2010, there were about **65 hospitals and maternity wards certified as “baby-friendly”** out of 118 facilities, resulting in a coverage rate of **55%**. According to a recent study, *“rates of exclusive breastfeeding during hospital stay and uninterrupted rooming-in increased significantly over the 9 years. Continued promotion of the BFHI may be needed to maintain or further improve the breastfeeding rates and to find ways to deal with difficulties that hospitals face when applying the 10 steps of the BFHI.”*<sup>25</sup>

The BFHI was revised at international level in 2009. An additional global criterion was developed on the Code as well as an optional global criterion on **mother-friendly care**. In Switzerland, so far, there has not been any initiative towards implementing the optional BFHI criteria on mother-friendly care, which includes care that does not involve invasive procedures including caesarean sections. Given the very high

---

<sup>24</sup> Jeannot E. & Pellaud N. Allaitement maternel : quels besoins d’information-formation pour les pédiatres ? Une enquête réalisée en 2007 auprès des pédiatres suisses. Paediatrica; 19 (6) 2008. Available at: <http://www.swiss-paediatrics.org/sites/default/files/paediatrica/vol19/n6/pdf/30-32.pdf>

<sup>25</sup> Forrester-Knauss C. *et al.* The baby-friendly hospital initiative in Switzerland: trends over a 9-year period. Journal of Human Lactation 2013 Nov; 29(4): 510-6. Available at: <http://www.ncbi.nlm.nih.gov/pubmed/23578942>



rate of caesarean sections in the country, implementation of this criterion with the BFHI at national level should be given particular attention.

With respect to the Code and the BFHI, UNICEF Switzerland has developed a **position statement related to gifts and promotional brochures in maternities**.<sup>26</sup> Despite of this, about 25% of the mothers received gift boxes during their hospital stay, containing samples of follow-on formula, complementary foods, bottles, teats, and promotional brochures related to these products, according to the 2003 National Study on Infant Feeding.

Coordination of the BFHI is since a few years undertaken by UNICEF Suisse and does not fall under the responsibility of any existing national public health authority. There seems to be a **lack of governmental leadership** in this area.

## 5) Maternity protection for working women

---

In Switzerland, 2,180,000 women are working, representing 45% of the active population. Approximately 75% mothers with a child younger than 6 years of age are working.

### Maternity leave:

All working mothers (employed, self-employed and unemployed women, and women who work in their husband's or a relative's business and are paid wages) are entitled to paid maternity leave. To receive the daily allowance, employees must be insured under Swiss social insurance for nine months prior to giving birth and must have worked for at least five months during pregnancy. Therefore, women working in the informal sector ("black economy"), such as domestic employees without valid work permit, are not entitled to paid maternity leave, unless their employer pay their social contributions ("grey economy").

Maternity leave covers **98 days** (or 14 weeks) and begins when the child is born.<sup>27</sup> Mothers are paid **80% of their pre-delivery wages** in the form of a daily allowance, but no more than CHF 196 per day. Specific cantonal provisions, staff rules and collective labour agreements may provide additional solutions. Women are not allowed to work during the first eight weeks following delivery.<sup>28</sup> Employees may not be dismissed during their pregnancy and the 16 weeks following delivery.<sup>29</sup>

### Breastfeeding breaks:

According to the Swiss labour law, mothers should be granted the time required to breastfeed their child or to pump their milk.<sup>30</sup>

---

<sup>26</sup> Attitude d'UNICEF Suisse concernant la compatibilité des cadeaux publicitaires dans les maternités avec les dispositions du Code. Available at: [http://www.unicef.ch/sites/default/files/documents/unicef\\_attitude\\_dunicef\\_suisse\\_-\\_cadeaux\\_publicitaires\\_2012.pdf](http://www.unicef.ch/sites/default/files/documents/unicef_attitude_dunicef_suisse_-_cadeaux_publicitaires_2012.pdf)

<sup>27</sup> Article 329f Code des obligations suisse.

<sup>28</sup> Article 35a ch. 3 Loi fédérale sur le travail.

<sup>29</sup> Article 336c al. 1 let. c Code des obligations suisse.

<sup>30</sup> Article 60 al. 2 Ordonnance 1 relative à la loi sur le travail ab initio

The ILO Convention No 183 on maternity protection (Convention 183) prescribes the granting of **paid nursing breaks**. After having faced strong opposition from the employers' organizations, Switzerland can be commended for the recent adoption of the new legislation on breastfeeding breaks<sup>31</sup> which would allow the nursing mothers to take the time necessary to breastfeed their infant and would ensure them paid nursing breaks (minimum 30 minutes for a mother working 4 hours per day or less, minimum 60 minutes a mother working more than 4 hours per day and minimum 90 minutes for a mother working more than 7 hours per day) until their infant reaches the age of one year. This new legislation will enable the country to ratify Convention 183.

## 6) HIV and infant feeding

---

A woman infected with HIV can transmit the virus to her child through breastfeeding. Therefore, the WHO recommends that national authorities in each country decide which infant feeding practice, i.e. breastfeeding with an antiretroviral (ARV) intervention to reduce transmission or avoidance of all breastfeeding, should be promoted and supported by the national Maternal and Child Health services.

In Switzerland, the HIV prevalence is 0.3% in the general population. About 90% of the ARV treatment is paid for by the basic health insurance. The **Federal Office of Public Health recommends that HIV-infected mothers do not breastfeed** to avoid any risk of vertical transmission through breastfeeding and the possible side-effects of the ARV treatment on the infant.<sup>32</sup>

## 7) Infant feeding in emergencies (IFE)

---

Over the last decade, the IFE Core Group (constituted by WHO, UNICEF, UNHCR, WFP, IBFAN-GIFA, CARE USA, Foundation Terre des hommes and the Emergency Nutrition Network (ENN)) issued two training modules<sup>33</sup> as well as an Operational Guidance<sup>34</sup> that aim to provide concise, practical guidance on how to ensure appropriate infant and young child feeding in emergencies. In 2010, WHA urged all Members States to “ensure that national and international preparedness plans and emergency responses follow the evidence-based Operational Guidance for Emergency Relief Staff and Programme Managers on infant and young child feeding in emergencies, which includes the protection, promotion and support for optimal breastfeeding, and the need to minimize the risks of artificial feeding, by ensuring that any required breast-milk substitutes are purchased, distributed and used according to strict criteria”. Yet, 4 years later,

---

<sup>31</sup> Revision of 30<sup>th</sup> April 2014 of the article 60 al. 2 Ordonnance 1 relative à la loi sur le travail. Available at: <http://www.seco.admin.ch/aktuell/00277/01164/01980/index.html?lang=fr&msg-id=52808>

<sup>32</sup> Commission clinique et thérapie VIH/sida de l'OFSP. VIH, grossesse et accouchement. Mise à jour des recommandations pour la prévention de la transmission verticale du VIH. Available at: [http://www.bag.admin.ch/hiv\\_aids/05464/12752/index.html?lang=fr&download=NHZLpZig7t,Inp6I0NTU042I2Z6In1ae2IZn4Z2qZpnO2Yug2Z6gpJCHeH18fWym162dpYbUzd,Gpd6emK2Oz9aGodetmqaN19X12IdvoaCUZ,s-](http://www.bag.admin.ch/hiv_aids/05464/12752/index.html?lang=fr&download=NHZLpZig7t,Inp6I0NTU042I2Z6In1ae2IZn4Z2qZpnO2Yug2Z6gpJCHeH18fWym162dpYbUzd,Gpd6emK2Oz9aGodetmqaN19X12IdvoaCUZ,s-)

<sup>33</sup> Infant Feeding in Emergencies Module 1 - For emergency relief staff. Available at: [http://www.who.int/nutrition/publications/emergencies/ife\\_module1/en/](http://www.who.int/nutrition/publications/emergencies/ife_module1/en/)

Infant Feeding in Emergencies Module 2 Version 1.1 - For health and nutrition workers in emergency situations for training, practice and reference. Available at:

[http://www.who.int/nutrition/publications/emergencies/ife\\_module2/en/](http://www.who.int/nutrition/publications/emergencies/ife_module2/en/)

<sup>34</sup> Infant and Young Child Feeding in Emergencies - Operational Guidance for Emergency Relief Staff and Programme. Available at: <http://www.enonline.net/pool/files/ife/ops-guidance-2-1-english-010307-with-addendum.pdf>

there is still **no emergency preparedness plan** to ensure integrated response to protect and support breastfeeding in case of emergencies in Switzerland. The Swiss criteria for the use of milk products in emergencies do however refer to the Operational Guidance on Infant and young child feeding in emergencies<sup>35</sup>.

## 8) Extraterritorial obligations of States

---

By definition, the activities of transnational corporations (TNCs) are not territorially confined. States in which they operate, in particular those in the developing world, often face great challenges to develop and adopt national regulations related to the business sector, as TNCs can exercise substantial political and economical pressure upon legislative and regulatory bodies. Regrettably, TNCs remain only subjects to domestic laws, which are in most cases too weak to make them responsible for their actions, while at the international level no binding instrument has been put in place to regulate their activities with regard to human rights.

Recognizing that territorial limitation of obligations has led to gaps in human rights protection and drawing from international law, a group of renowned experts has conducted legal research and adopted the Maastricht Principles.<sup>36</sup> These principles aim at clarifying the content of extraterritorial State obligations to realize economic, social and cultural rights. Regarding States' extraterritorial obligation to protect, Maastricht Principle 25 reiterates that States have an obligation under international law to ensure that companies based in their territory do not infringe the economic, social and cultural rights of people in other countries.<sup>37</sup> This was further emphasized in the CRC General Comment No 16 (para 42). Thus, in application of the article 24 (e) of the Convention on the Rights of the Child and following authoritative interpretation given by the CRC Committee in its General Comment No 15 (para 44 and 81), **States are accountable for adopting binding regulations and measures to ensure that companies domiciled in their territory comply with the International Code and subsequent relevant World Health Assembly resolutions in all context and wherever they operate.**

Monitoring has shown that baby food companies based in Switzerland, such as Nestlé, Hero, Liptis and Wyeth (owned by the Nestlé group), regularly and systematically violate the International Code.<sup>38</sup> However, despite its extraterritorial obligation to protect the child's right to health, **the Swiss government has not yet implemented any legal or regulatory measure that would ensure compliance of the baby food companies domiciled in its territory with the International Code.**

---

<sup>35</sup> Confédération Suisse, Direction du développement et de la coopération, 2006. Critères pour l'utilisation des produits laitiers dans le cadre de l'aide alimentaire. Available at: [http://www.deza.admin.ch/ressources/resource\\_fr\\_168092.pdf](http://www.deza.admin.ch/ressources/resource_fr_168092.pdf)

<sup>36</sup> Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights – Introduction. [http://www.etoconsortium.org/nc/en/library/maastricht-principles/?tx\\_drblob\\_pi1%5BdownloadUid%5D=23](http://www.etoconsortium.org/nc/en/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23)

<sup>37</sup> Maastricht Principle 25: ***“States must adopt and enforce measures to protect economic social and cultural rights through legal and other means, including diplomatic means, in each of the following circumstances: [...] c) as regards business enterprises, where the corporation or its parent controlling company, has its centre of activity, is registered or domiciled, or has its main place of business or substantial business activity, in the State concerned”***

<sup>38</sup> IBFAN-ICDC, 2014. Breaking the Rules Stretching the Rules 2014. Evidence of Violations of the International Code of Marketing of Breastmilk Substitutes and subsequent resolutions compiled from January 2011 to December 2013.



## ANNEX

The provisions of the Swiss legislation on the marketing of breastmilk substitutes (articles 11a ODAIOUs and 17 to 19 OAS) do not reflect the full International Code and subsequent relevant WHA resolutions (the Code). The Swiss legislation does not apply to bottles and teats, and covers only infant formula for children under 6 months of age. Indeed, follow-on formula, others foods and breastmilk substitutes aimed at young children are not covered.

Violations of the Code are thus common in Switzerland. For example, according to the 2003 national inquiry on young child feeding, 23% of mothers received samples of breastmilk substitutes during their hospital stay.

The table below illustrates some examples of the many violations of the Code in Switzerland that were found by random monitoring in 2014.

Abbreviations :

OAS: Ordonnance du DFI sur les aliments spéciaux


ODAIIOUs : Ordonnance sur les denrées alimentaires et les objets usuels

<i>Violations</i>	<i>Swiss legislation</i>	<i>International Code</i>
<p><u>Clip advertisement for BEBA:</u></p> <p>« [...] BEBA avec protect plus <b>renforce les défenses naturelles</b> de bébé et le protège des petits problèmes <b>sur le modèle du lait maternel</b> [...] »</p> <p>« [...] BEBA with protect plus <b>reinforces the baby's natural defence system</b> and protects him/her from little problems <b>just like mother's milk</b> [...] »</p> <p>Available at:</p> <p><a href="http://www.clipeco.ch/entreprises-et-marques-de-suisse/matieres-transformees/produits-alimentaires/nestle-sa/nestle-suisse-sa/spot-publicitaire-lait-infantile-beba-de-nestle-parlons-bebe.html">http://www.clipeco.ch/entreprises-et-marques-de-suisse/matieres-transformees/produits-alimentaires/nestle-sa/nestle-suisse-sa/spot-publicitaire-lait-infantile-beba-de-nestle-parlons-bebe.html</a></p>	<p><b>VIOLATION</b></p> <p><b>Article 11a § 1 ODAIOUs</b></p> <p>Advertisement for infant formula should contain only factual and science-based information</p> <p><b>Article 18 § 6 OAS</b></p> <p>Prohibition of the terms “humanized”, “maternalized”, “adapted” or similar terms</p>	<p><b>VIOLATION</b></p> <p><b>Article 9.2</b></p> <p>Prohibition of pictures or texts which may idealize the use of infant formula. The terms “humanized”, “maternalized” or similar terms should not be used.</p> <p><b>WHA resolution 58.32 (2005)</b></p> <p>Prohibition of nutrition and health claims for foods for infants and young children, except where specifically provided for, in relevant Codex Alimentarius standards or national legislation.</p>

<p><b>BÉBÉ BONHEUR</b> Ma pharmacie dès le premier âge</p>  <p><b>Pharmacie Populaire vous offre un rabais permanent de 10% sur tous les produits bébé</b></p> <ul style="list-style-type: none"> <li>• Alimentation (laits, petits pots, céréales, etc.)</li> <li>• Soins du corps (visage, cheveux, corps, etc.)</li> <li>• Petite puériculture (biberons, tétines, tire-laits, etc.)</li> </ul> <p>Rabais non cumulable avec d'autres avantages sauf Budget Santé, le compte fidélité de Pharmacie Populaire</p> <p>Pharmacie Populaire Ma pharmacie</p>	<p><b>VIOLATION</b></p> <p><b>Article 11a § 2 ODAIIOUS</b></p> <p>Prohibition of promotional practices such as discount on infant formula for children under 6 months of age</p>	<p><b>VIOLATION</b></p> <p><b>Article 5</b></p> <p>There should be no point-of-sale advertising, giving of samples, or any other promotion device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-in sales.</p>
 <p><b>BON</b></p> <p>Für den Kauf von 1 BEBA-Folgemilch Pour l'achat d'un lait de suite BEBA</p> <p>Nestlé <b>BEBA</b></p> <p>Tel gratis: 0800 55 44 66 www.nestlebaby.ch</p> <p><b>3.00 CHF</b></p>	<p>NO VIOLATION</p> <p>This highlights the <i>weakness of the Swiss law</i>, which does not fully implement the Code.</p>	<p><b>VIOLATION</b></p> <p><b>Article 5</b></p> <p>There should be no point-of-sale advertising, giving of samples, or any other promotion device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-in sales.</p>
 <p><b>Rabatt Rabais 2.- Fr.</b></p> <p>Dans la famille des flocons disponibles Soupage (avant) Bouillie à la Semoule et Bouillie aux Fruits</p>	<p><b>VIOLATION</b></p> <p><b>Article 11a § 2 ODAIIOUS</b></p> <p>Prohibition of promotional practices such as discount on infant formula for children under 6 months of age</p>	<p><b>VIOLATION</b></p> <p><b>Article 5</b></p> <p>There should be no point-of-sale advertising, giving of samples, or any other promotion device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-in sales.</p>





 <p><b>PHILIPS AVENT</b></p> <p>Recevez à l'achat d'un biberon un pot VIA</p> <p>Le système VIA de Philips Avent est idéal et ultra-pratique pour la conservation et le transport du lait maternel, des purées, compotes et jus.</p> <p><b>Les biberons de Philips Avent</b> Cliniquement prouvé comme atténuant les coliques et réduisant les sensations d'inconfort. Muni d'une valve anti-colique, le biberon Philips AVENT s'adapte naturellement au rythme de succion pour une tétée saine et activée par votre bébé. La tétine spéciale facilite l'alternance sein/biberon.</p> <p>La forme du biberon le rend stable et maniable, il est cintré pour faciliter sa manipulation et son goulot large simplifie les préparations et la nettoyage.</p> <p>Les biberons Philips AVENT sont disponibles en polypropylène (PP), sans BPA, ou bien en polyéther sulfone (PES), matériaux de haute qualité.</p> <p>Bon Avent* Pharmacie Populaire</p>	<p>NO VIOLATION</p> <p>This highlights the <i>weakness of the Swiss law</i>, which does not fully implement the Code and <i>does not cover bottles and teats</i>.</p>	<p><b>VIOLATION</b></p> <p><b>Article 2</b></p> <p>The Code applies to the marketing, and practices related thereto, of the following products: [...] feeding bottles and teasts.</p> <p><b>Article 5</b></p> <p>There should be no point-of-sale advertising, giving of samples, or any other promotion device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-in sales.</p>
--	---	---

**Conclusion:** Based on this overview, strengthening and enforcement of the Swiss Code-based legislation is urgently needed for the Swiss government to fulfill its obligation with regard Article 24 of the Convention on the Rights of the Child.