

FTSE4Good Breast Milk Substitutes Marketing Criteria Assessment

18 December 2014

PwC Verification Assessment Report

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1 Introduction, purpose and scope

1.1 Introduction and context

In September 2010, the FTSE4Good Policy Committee of FTSE International Limited (FTSE) approved the addition of a FTSE4Good Breast Milk Substitutes (BMS) Marketing Inclusion Criteria (the Criteria) which set requirements for company policies, lobbying, management systems, reporting and verification in relation to the World Health Organization (WHO) International Code of Marketing of Breast Milk Substitutes (the Code) and subsequent World Health Assembly resolutions. Inclusion into this index is governed by an independent FTSE4Good Breast Milk Substitute Committee (the BMS Committee).

There are differences between the Criteria and the Code in terms of geographical remit and scope. An overview of the Criteria and verification methodology is set out in FTSE's context document; Providing Context to the 2014 Nestlé FTSE4Good BMS Verification.

The products under the scope of the Criteria are infant formula for the use of infants under the age of 12 months, as well as delivery products (i.e. teats and bottles).

The requirements also set out that the company is subject to an independent verification assessment in two higher risk countries in terms of infant mortality and malnutrition conducted by a professional audit firm.

The verification assessment reviews compliance with the Criteria. Therefore a large part of the assessment is examining whether the company's policies align with the Criteria and have been implemented in the countries selected for the verification. There are cases where there are differences in interpretation of the Code, so it is important to note that the assessors do not act as a judge with regards to specific allegations but rather to assess whether the company's

practices are in line with the Criteria and their stated policies regarding implementation of the Criteria.

PricewaterhouseCoopers LLP (PwC) was engaged by FTSE to perform a verification assessment of Nestlé's BMS marketing practices against the Criteria, using the FTSE4Good BMS Marketing Verification Tool (the Tool). The Tool provides a consistent basis to assess the company's practices against a set of 104 principles which constitute the Criteria. In the 149 countries considered to be high risk by FTSE, Nestlé follows the stricter of its global policy for implementation of the Code or in-country legislation / guidance over the implementation of the Code (National Code).

We have worked with FTSE since 2011 to help develop an overall assessment process to meet the needs of the BMS Committee in making decisions on inclusion in the FTSE4Good Index under the Criteria. This is our third review to date.

The verification assessment forms part of FTSE's overall assessment of Nestlé's BMS marketing practices against the Criteria. We have performed procedures agreed with and directed by FTSE, using the Tool, at Nestlé Corporate head office and in country in Malaysia and Angola. The countries selected for site visits were selected through FTSE's risk assessment and selection process, supported by the risk assessment analysis. The output of our work is this Verification Assessment Report.

The Code is implemented in Malaysia through the "Malaysian Code of Ethics for the Marketing of Infant Foods and Related Products" which aims to ensure appropriate marketing and proper use, when required, of designated products (infant formula, special formula, feeding bottles, teats and pacifiers) and complementary foods. There is no local legislation implementing the Code in Angola.

Nestlé has provided us with access to its records, policies and procedures and staff. This is the third year that Nestlé has submitted its BMS marketing practices to be assessed against the requirements of the Criteria.

1.2 Report structure

Through performing the procedures described below we have satisfied the requirements of the Tool. All of the findings are presented in this report. The factual findings are grouped by key themes in the Executive Summary (Section 2). This is then followed by all the detailed factual findings from the corporate policies and procedures review as well as the two country site visits (Section 3). As part of this we have highlighted both findings and areas of good practice in relation to the Criteria noted during our procedures. Finally, we have cross referenced the factual findings and points for improvement against the elements of the Criteria to demonstrate how the factual findings map back to the Criteria and the Tool (Appendix I), which builds out the Criteria into further detail, so readers can see how the Tool has driven the procedures and factual findings.

1.3 Scope

The scope of our work was determined collaboratively in discussion with the Director of Environmental Social Governance at FTSE, the Principle Advisor of Responsible Investment at FTSE and the FTSE BMS Committee, and codified in the procedures required under the Tool. The procedures we performed were agreed by FTSE and consisted of:

- providing a risk assessment analysis to support FTSE's decision on country selection for site visits;
- reviewing Nestlé's BMS policies and procedures through reviewing documentation at the Nestlé Corporate level;
- country site visits to Malaysia and Angola to assess BMS marketing practices on the ground in these two countries;
- desktop review procedures; and
- reporting key factual findings.

This year's verification extended to the Wyeth Infant Nutrition (WIN) business which was acquired by Nestlé in November 2012. Nestlé launched a programme to

integrate and align WIN into its corporate level policies and procedures by the end of March 2014. This programme included instructions and guidelines issued by the Nestlé Head Office in Vevey to help with the implementation in-country. Our verification procedures in Malaysia incorporated WIN operations. WIN does not operate in Angola.

Furthermore, the following changes in approach, from the second verification performed in 2012, were agreed in collaboration with FTSE:

- the risk assessment criteria that support the FTSE4Good BMS Committee in making its selection of countries for verification assessment visits were revised and updated and are set out in FTSE's document, the FTSE4Good BMS Criteria Verification Process Country Risk Assessment Matrix;
- the notification period given to Nestlé in advance of the site visits was reduced;
- additional time and resource was committed to each site visit, including 4 team members working for 1 week in Angola and 3 team members working for 2 weeks in Malaysia.

1.3.1 Risk assessment analysis

The countries selected for site visits are selected through a risk assessment process. We developed a risk assessment matrix with FTSE profiling the Higher Risk Countries per the Criteria, using objective, publicly available data. The Criteria was refreshed in collaboration with FTSE to include the following risk factors:

Risk factors:

- Child mortality;
- Malnutrition (including both stunting and wasting rates);
- HIV/AIDS;
- Corruption;
- Human development;
- Access to improved water;
- The incorporation of the Code in local legislation as per the 'State of the Code by Country' (IBFAN);

- Number of allegations made in the IBFAN Breaking the Rules, Stretching the Rules 2014 report;
- Countries / territories without any recent assurance (Nestlé Group Audit or external assurance providers) over the company's BMS practices;
- Countries / territories where WIN operates.

Data was gathered from a range of external sources including UNICEF, The United Nations Development Programme, WHO and Transparency International. Nestlé provided data on the recent assurance performed over their BMS practises and the countries in which WIN has a presence.

Information regarding Nestlé's scale of operations in the Higher Risk Countries, such as turnover, market share or number of staff, was provided but ultimately not used in FTSE's country selection decision. Particular weighting was given to the risk factor 'The incorporation of the Code in local legislation as per the 'State of the Code by Country' (IBFAN)' as this details the status of implementation of the Code into BMS-related regulation.

We populated the risk assessment matrix with a quartile scoring for the risk factors outlined above. This was then used by FTSE and the BMS Committee in deciding which two countries to direct site visit procedures to for the 2014 verification assessment.

1.3.2 Key challenges in the consistent implementation of the criteria

Nestlé experiences a number of challenges in implementing criteria requirements due to local operating conditions and the requirements of anti-trust laws:

Challenge 1: Limited influence on retailers with no contractual relationship with Nestlé:

In the 2 countries visited by PwC, Malaysia and Angola, Nestlé put in place

procedures detailing how to address instances of non-compliance with the FTSE4Good BMS Criteria, the Nestlé Policy and Instructions for implementation of the WHO Code and any National Code and legislations occurring in sales outlets which are initiated and solely attributed to the third-party retailers. When such instances take place in retailers with no contractual relationship with Nestlé, the Company has no contractual means to impose changes on their practices. When legally permitted, a direct contact with the retailer or the dispatch of a letter to remind the retailer on the practices for commercialisation of BMS will comprise the only mechanisms to address these instances of non-compliance.

In both Angola and Malaysia the challenge is made more complex by the vast number of retailers, which are often small outlets with whom Nestlé has no direct (use of a distributor) or contractual relationship, and the obligation of complying with antitrust and commercial legislation.

Challenge 2: Products imported from lower-risk countries by third-parties:

In Angola, infant cereals with labels that are not compliant with the Criteria were seen. Such products are imported from "lower risk" countries by third-parties with no contractual relationship with Nestlé permitting them to do so. We were able to see evidence that Nestlé investigates the origination of these products using their product codes. When legally permitted, Nestlé then sends letters to the relevant distributors of these products to remind them of their obligations to sell products in the appropriate geographical markets in order to respect regulatory requirements.

Challenge 3: Local anti-trust and pricing laws:

In both Malaysia and Angola, we noted that local anti-trust / pricing laws provide that companies are unable to influence prices in the market. This limits the implementation of the Criteria which states that product prices may not be discounted by retailers.

Although not related to any of the Criteria, another aspect limited by this

conflict is the control over varying prices across all in-scope products. In Angola, for example, a 900 gram can of NAN 2 ranged from 1,550 to 3,614 Kwanzas, with the highest price observed in a supermarket chain. Due the legal environment in Angola, a company cannot impose the retail selling price to the retailer. In addition, this particular SKU (NAN2 900g) is not sold by Nestlé Angola – it would appear that this is a parallel import from other countries without any involvement of Nestlé Angola.

1.3.3 Policies and procedures review at Nestlé corporate head office level

We reviewed Nestlé’s policies and procedures relating to the Criteria and the Code at the corporate head office level, and performed a series of interviews with key individuals charged with responsibility for overseeing or implementing the relevant policies and procedures we reviewed. Our procedures included the WIN business and covered an understanding of the key activities performed to ensure that WIN was integrated and aligned to Nestlé’s corporate policies and procedures by the end of March 2014.

Nestlé stated that there have been no changes to the Nestlé Policy and Instructions on the implementation of the Code since our last verification in 2012 during which we had performed selected detailed testing over the documents supporting the policies and procedures.

1.3.4 Nestlé country site visits

The country site visits performed to Malaysia and Angola consisted of:

- visiting the offices of Nestlé (Malaysia) Berhad (Nestlé Malaysia) and Nestlé Angola to perform procedures detailed in the Tool regarding the approach to implementing the requirements of the Criteria; and
- meetings with 38 healthcare professionals (HCPs), 92 retailers, 4 distributors and 1 non-governmental organisation (NGO). A further breakdown of interviews held is provided in the evidence gathering methodology section below.

1.3.5 Evidence gathering methodology

Our work with the HCPs, retailers, distributors, NGOs and country government officials was conducted through interviews. Where issues or items for further consideration emerged we sought evidence to support the issues where possible. This is described in the factual findings (section 3). Our assessment procedures are based on historical information and the projection of any information or conclusions in our report to any future periods would be inappropriate.

Our evidence gathering procedures in the countries selected for country site visits are based on interviews and retail outlet inspections. We performed specific enquiries to assess practices against the Criteria, following up and requesting evidence for any claim or allegation made. Given the interview nature of our procedures, coupled with the often historical nature of the information being given, requests for evidence to support statements were often not fulfilled. We have noted such instances throughout this report. In the context of the procedures described above, the factual findings reported in this report are any statements made by an HCP, retailer or other third parties during interview, or any practices noted during retail outlet inspections.

Evidence gathering activity

- We held interviews with personnel at the Vevey Corporate Head Office;
 - We held interviews with personnel at market level Nestlé Head Offices;
 - We had access to all policies and procedures relating to the application of the Criteria at the Corporate and market levels;
 - We performed limited testing of evidence to corroborate the application of policies and procedures.
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We visited the following numbers of HCPs and retailers during our country site visits to Malaysia and Angola:

Procedures performed	Malaysia	Angola
<i>In-country HCP interviews</i>	<ul style="list-style-type: none"> • 20 HCP interviews: nurses, midwives, doctors. 	<ul style="list-style-type: none"> • 18 HCP interviews: nurses, midwives, doctors.
<i>In-country retail visits</i>	<ul style="list-style-type: none"> • 61 retail visits: supermarkets/large chains, independent stores/small retailers, Chinese medical halls, pharmacies. 	<ul style="list-style-type: none"> • 31 retail visits: supermarkets/large chains, independent stores/small retailers, pharmacies, petrol stations.
<i>Other interviews and procedures</i>	<ul style="list-style-type: none"> • Interviews with 2 distributors. • Interview with 1 NGO. We tried to contact several NGOs and relevant organisations during our planning and fieldwork to get in-country background and information but were only able to engage with one NGO. 	<ul style="list-style-type: none"> • Interviews with 2 distributors. • We tried to contact several NGOs and relevant organisations during our planning and fieldwork to get in-country background and information but were unable to engage with any NGOs or relevant organisations.

1.4 Purpose of this report

This report explains the procedures we performed and our factual findings. It is produced for the use of the FTSE4Good BMS Committee, but is being shared publicly as part of reporting on the overall assessment process in response to stakeholder feedback on the need for transparent reporting on the assessment process. The findings included in this report have been communicated to Nestlé and we understand Nestlé’s responses to the findings will be included in the BMS section of FTSE’s website with other information relevant to the overall BMS marketing practices assessment of Nestlé.

Our findings are presented for the BMS Committee’s consideration. It is the responsibility of FTSE and its BMS Committee to decide on the appropriate course of action with regard to decisions on inclusion of Nestlé in the FTSE4Good Index.

1.5 Use and distribution of this report

As noted above the verification assessment forms part of FTSE's overall assessment of Nestlé’s BMS marketing practices against the Criteria. This report has been prepared solely for the use and benefit of our client, FTSE, and it’s BMS Committee in accordance with the terms of our engagement letter dated 27 June 2014 and for no other purpose.

We consent to the publication of this report in conjunction with FTSE’s other documents and descriptions, to enable FTSE to explain and demonstrate to stakeholders how they have performed their assessment of Nestlé’s BMS marketing practices against the Criteria, without accepting or assuming any responsibility or liability on our part to anyone other than FTSE save where expressly agreed by our prior consent in writing.

2 *Executive summary*

For ease of use of this report, summarised below are the key findings of our procedures, highlighted for the consideration of the BMS Committee in its review of inclusion in the FTSE4Good Index under the Criteria. All factual findings from the procedures performed are documented in Section 3.

Findings – Split by key themes

Policies and procedures

Areas of good practice

- **Implementation of BMS policies, procedures and training materials:** Detailed BMS policies, procedures and training materials are defined against the Criteria.
- **Integration of WIN with Nestlé:** After the acquisition of WIN in November 2012, Nestlé launched a programme to integrate WIN into its corporate level policies and procedures on the implementation of the WHO code to ensure that WIN was aligned with Nestlé’s existing practices by the end of March 2014. This programme included instructions and guidelines issued by the Nestlé Head Office in Vevey to help with the implementation in-country.

Key findings in 2014

- **Inconsistent implementation of selected procedures across countries:** Documentation provided to distributors for internal use or distribution to retailers is not consistent between Angola and Malaysia:
 - No formalised procedure document is available at the distributor sites in Malaysia to detail how the violations reporting process works. However, we noted through our interviews that distributor personnel were aware of this process;
 - WHO code annual reminder letters and retailer “dos and don’ts” leaflets are not provided to retailers who purchase in-scope products through distributors in Angola.

Update on open findings from prior reviews

- No open findings.

Management systems and governance

Areas of good practice

- **Delivery of training and awareness programmes for in-country medical delegates/nutrition specialists/nutrition executives and wider Nestlé staff:** We found evidence of detailed training and awareness programmes run for in-country medical delegates/nutrition specialists/nutrition executives and wider Nestlé staff on the Criteria, the Nestlé Policy and Instruction for the implementation of the Code and National Codes during the country site visits to Malaysia and Angola.
- **Reassessment of industry association:** As part of Nestlé’s assessment of association, we were informed that Nestlé revoked its membership of a global trade association/ industry policy group and one of the reasons was the inconsistency between the Criteria and the Code application practices defined by this association.
- **Implementation of external grievance system:** A publically available, web-based, external reporting grievance system, “Tell Us”, was implemented in January 2014 and made available on the corporate website. Nestlé is gradually increasing communication about this system and as part of this are providing links to the system from local market websites. This system enables any external stakeholders to raise any concerns they may have with Nestlé directly.
- **Re-evaluation of stylised graphical representations on WIN products:** Nestlé has voluntarily amended the ‘WIN lion’ stylised graphic on some infant formula labels in Malaysia following the acquisition. With the new look, the WIN lion no longer displayed a developmental milestone of a 6 month old child through the change in its body position (from a sitting to a standing position).

Key findings in 2014

- No findings.

Update on open findings from prior reviews

- **External grievance reporting procedures:** It was noted during the Laos site visit that procedures for allowing third parties to report items to Nestlé’s ombudsman could be improved, even if this was just a case of making other distributor staff aware of how they could raise an issue.
Current year update: *During this year’s review we noted that a publically available, web-based, external reporting grievance system, “Tell Us”, was implemented in January 2014 and made available on the corporate website. Nestlé is gradually increasing communication about this system and as part of this are providing links to the system from local market websites. This system enables any external stakeholders to raise any concerns they may have with Nestlé directly.*
 - **Board reporting:** The 2011 assessment highlighted that annual reports on internal monitoring and compliance issues produced by Nestlé had not been shared at Board level.
2012 update: We noted the equivalent 2012 reports had been shared at Board level.
Current year update: *We were informed by Nestlé that the Board are made aware of compliance issues and allegations through the annual internal reporting process. The number of allegations reported is also published external in Nestlé’s annual report.*
 - **Influencing third parties:** In 2011 we noted challenges in the extent to which Nestlé can influence third parties selling their BMS products (e.g. distributors) or making policy statements (e.g. trade associations); and the conflict between the Criteria requirements and local operating conditions and/or anti-trust law.
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2012 update: We did not note any further specific instances of this during our 2012 work. Nestlé has altered its management systems by changing its contract clauses with third parties to include further requirements regarding the sale of its BMS products. Nestlé state that all third party contracts now contain a clause in regards to the WHO Code compliance.

Current year update: *No further observations were noted. However, the conflict between the Criteria requirements and local operating conditions and/or anti-trust law continues to be a challenge for Nestlé as noted above in section 1.3.2.*

Interactions with healthcare professionals (HCPs)

Areas of good practice

- **Provision of training to Medical Delegates/Nutrition Specialists/Nutrition Executives (all Nestlé personnel):** Detailed training is provided to Medical Delegates/Nutrition Specialists/Nutrition Executives on the Criteria and its requirements regarding interactions with HCPs.

Key findings in 2014

- **Distribution of samples:** In Malaysia, four out of 20 HCPs stated that two or more years ago samples of stage 1 and 2 products were given by Nestlé/WIN. However, they stated that this does not happen anymore. Furthermore, we were unable to obtain any evidence of these samples.

Update on open findings from prior reviews

- **Distribution of samples:** Two HCPs interviewed in Morocco said Nestlé had left samples of BMS products or that they felt able to request samples. We requested but were not able to find or see examples.

Current year update: *During this year's review in Malaysia, we noted that 4 HCPs stated that 2 or more years ago samples of stage 1 and 2 products were given by Nestlé/WIN. However, they stated that this does not happen anymore. Furthermore, we were unable to obtain any evidence of these samples.*

- **HCP collaborations with Nestlé:** In Laos, two HCPs noted that they collaborate with Nestlé on studies or research. This is a potential grey area which could raise the risk of inappropriate interaction between Nestlé and HCPs which could be interpreted by some as promotional.

Current year update: *During this year's review in Angola we were informed by an HCP that she was sponsored by Nestlé Nutrition Institute, which is a not-for-profit organisation within the Nestlé Group providing non-product related medical education to HCPs. This was not in contravention of the Criteria.*

- **Nestlé activities which could be regarded as promotional – paying for attendance at conferences and seminars:** During HCP interviews in India in 2011, they noted they believed there was some communication or influence used by infant nutrition companies with the Indian Government or the Indian Association of Paediatricians. No specific examples or evidence could be provided.

2012 update: This issue was noted again in Morocco and Laos. It appears to require greater clarity in interpretation and implementation.

Current year update: *Nestlé has a policy regarding event and HCP sponsorship. We noted in both Malaysia and Angola that events were organised by Nestlé and only HCPs were invited to attend.*

- **Contact between Nestlé medical delegates and mothers:** In 2011 some Indian HCPs claimed Nestlé medical delegates demonstrate infant feeding to HCPs if asked. The Criteria prevents such demonstrations, however it does not state if the intent is to prevent this to HCPs, mothers or

both.

2012 update: We asked about this during all HCP interviews; one HCP in Morocco claimed that a Nestlé medical delegate was breaching the Code by having direct contact with patients and nurses and offering gifts. However, this was noted as being 2-3 years ago and no evidence, for example records of the complaint from the HCP or Nestlé, could be provided.

Current year update: *No occurrences were noted.*

Retail

Areas of good practice

Provision of guidance to distributors and relevant Nestlé staff: Detailed instruction, specific to how BMS products are displayed and priced, is provided to distributors and Nestlé staff responsible for interaction with retailers on the Code, as implemented by the National Code and the Nestlé Policy and Instructions for its implementation.

Key findings in 2014

Inappropriate product promotion by retailers: Retailers inappropriately promoted in-scope products:

- Four retail outlets out of 61 visited in Malaysia and one out of 31 in Angola displayed in-scope product in the shop window;
- In one retailer out of 61 in Malaysia, we were able to purchase in-scope product at a 2% discount after inquiring whether a discount on infant formula for infants over 12 months was available on in-scope products;
- In a number of retailers in Malaysia, we observed the use of branded shelving strips with “Nestlé Good Food Good Life” or “Nestlé Nutrition” under the in-scope products.
- In-scope product was displayed at the end of an aisle in one retailer out of 31 in Angola.

The trading and legislative environment in Angola affect how in-scope products are traded: Independent parallel imports of products from lower-risk countries by third parties were seen.

Update on open findings from prior reviews

- **Labelling quality of in-scope products:**

- In Laos we noted that part of the Lao language label was not affixed securely to product imported from Thailand, raising the risk of information not being available to Laotian consumers.
- Related to the point above, Nestlé noted that in Laos some product is sold by retailers per the half box, in an unlabelled sachet. Nestlé advised it is taking actions to address this issue.

Current year update: *No similar findings were noted during this year’s review.*

- **Nestlé activities which could be regarded as promotional – branded retail display cabinets:** In 2011 we noted a Nestlé Nutrition branded display cabinet being used to sell BMS products. We recommended the BMS Committee should consider whether this was a special display.

The issue was then raised between FTSE and Nestlé.

2012 update: We noted some branded display items during country site visits in Morocco and Laos, indicating continued focus is required on training for those dealing with BMS products at the point of sale. We note ongoing discussions between FTSE and Nestlé regarding policy reform in this area.

Current year update: *No branded retail display cabinets were observed in Malaysia and Angola. We noted incidents of inappropriate product promotion by retailers; please refer to 'Inappropriate product promotion' above. In a number of retailers in Malaysia, we observed the use of a shelving strip with "Nestlé Good Food Good Life" under the in-scope products.*

- **Nestlé activities which could be regarded as promotional – price flashes used to highlight price of BMS products by retailers:** This was not noted during 2012 retail visits. We noted Nestlé has included clauses in its distributor contracts in Morocco and Laos as part of a Group-wide initiative to include BMS marketing clauses with third parties selling Nestlé products on its behalf.

Current year update: *Incidents of inappropriate product promotion attributable to retailers were noted. Please refer to the point above about 'Inappropriate product promotion' where we noted:*

- *One retailer out of 61 in Malaysia and one out of 31 in Angola displayed in-scope product in the shop window;*
 - *In one retailer out of 61 in Malaysia, we were able to purchase in-scope product at a 2% discount after inquiring whether a discount on infant formula for infants over 12 months was available on in-scope products;*
 - *In a number of retailers in Malaysia, we observed the use of a shelving strip with "Nestlé Good Food Good Life" under the in-scope products.*
 - *In-scope product was displayed at the end of an aisle in one retailer out of 31 in Angola.*
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3 *Factual findings*

The procedures contained in the Tool were used to perform the assessment of Nestlé's BMS marketing practices against the Criteria. During our work we also observed practices which are of note, but that do not correspond directly to the Criteria included in the Tool. These may represent an opportunity for Nestlé to enhance or strengthen an existing process and as such have been displayed as additional recommendations.

The findings have been grouped according to the key phases of the work – the review of Nestlé Corporate level documentation and country visits to Malaysia and Angola.

Throughout these findings, to facilitate the reference to the different products covered by the scope of the Criteria and therefore verification process, the infant formula (0-12 months) and complementary foods for infants under 6 months of age encompassed by the FTSE4Good Criteria are referred to as BMS. Bottles and teats are not manufactured or sold by Nestlé in Malaysia and Angola.

3.1 Nestlé Corporate policies and procedures review

Interviews with staff from the Nestlé Headquarters were performed in June 2014. The procedures entailed obtaining, from Nestlé, details of any changes to procedures made since the last verification and interviews with relevant staff to discuss the policies and procedures in place along with any changes within the scope of the Criteria. The key challenges noted this year are consistent with those noted in the prior reviews, and have been included in the factual findings provided in the table below.

Procedures performed
Factual findings
Approach to implementation of the criteria

- **Governance structure:** The Criteria and Nestlé Policy and Instructions for implementation of the Code are authorised and overseen by the Nestlé Head Office in Vevey. Where there is a National Code in a particular market, the local market team will review the Criteria and Nestlé Policy and Instructions for implementation of the Code in relation to the National Code and suggest where policies and procedures need to be amended.
 - **Knowledge of the Criteria:** Wide ranging interviews were performed with all corporate functions involved in Nestlé's application of the Criteria and relevant national legislation. Detailed Criteria knowledge was noted at each corporate function interviewed and across the individuals interviewed including WIN staff.
 - **Integration of WIN within Nestlé:** Our procedures included the WIN business and covered an understanding of the key activities performed as part of the programme launched by Nestlé to integrate and align WIN to its corporate policies and procedures on Code related practices by the end of March 2014. This programme included instructions and guidelines issued by the Nestlé Head Office in Vevey to help with the implementation in-country.
 - **Training and awareness:** Training and awareness of the Nestlé Policy and Instructions requirements is a part of every Nestlé Nutrition employee's induction.
 - **Compliance:** Nestlé stated that any non-compliance with the Criteria is taken very seriously. No instances of non-compliance by Nestlé personnel were brought to our attention or identified during our interviews.
 - **Implementation of BMS policies, procedures and training materials:** Detailed and widely communicated corporate policies are in place regarding the implementation of the Criteria. The Nestlé Policy and Instructions for implementation of the Code is publically available on the Nestlé corporate website.
 - **Infant nutrition team:** Nestlé employs a dedicated, senior team experienced in infant nutrition to oversee the implementation of the Criteria as well as implementation and monitoring of the Nestlé Policy and Instructions for implementation of the Code.
 - **Nestlé's support of public policy (government lobbying):** Nestlé stated that it supports efforts by governments to implement the Code through the implementation of national legislation (a National Code). Nestlé stated that effective introduction and implementation of BMS marketing legislation is necessary to provide a level competitive environment for all infant formula manufacturers in each operating market.
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Procedures performed

Factual findings

Factual findings – Corporate policy and procedure

- **Implementation of external grievance system:** The publically available, web-based, external reporting grievance system, “Tell Us”, was implemented in January 2014 and made available on the corporate website. Nestlé is gradually increasing communication about this system and as part of this is providing links to the system from local market websites. This system enables any external stakeholders to raise any concerns they may have with Nestlé directly. It is externally managed and issues raised through this system are reported to both the Nestlé Ombudsman and Public Affairs. When we searched for the “Tell Us” link on the local country websites, it could not be found on the Central and West African website, whereas we were able to find the link quickly and clearly on the Malaysian website.
- **Re-evaluation of stylised graphical representations on WIN products:** Nestlé has voluntarily amended the ‘WIN lion’ stylised graphic on some infant formula labels in Malaysia following the acquisition. The amendment was made to the packaging of the steps 1 and 2 to adjust the illustration from a baby lion that is crawling to one that is standing up. With the new look, the WIN lion no longer displayed a developmental milestone of a 6 month old child through the change in body position. We recommend that Nestlé keeps in-scope product packaging under review to ensure images are not perceived to be idealising the use of infant formula.

Additional recommendations

- **Labelling:** We observed the use of the term “stage 1” on Nestlé complementary foods such as Cerelac and the use of the brand names, which include numbers, NAN 1, NAN 2, Lactogen 1, Lactogen 2, etc. The usage of the “1” and “2” number scheme on both types of products that are appropriate for infants at different ages could be misleading and cause consumers to purchase a “stage 1” complementary food when they intended to purchase a first stage BMS. Upon closer inspection the appropriate age from which an infant can consume the product is indicated on the packaging (refer to photos 1 and 2). This product was identified by Nestlé as a parallel import from Iran with a discontinued label. The use of the “stage” language has been replaced by the use of the appropriate “age from” from which the product can be used.
- **Opportunity to enhance Internal Audit procedures:** Nestlé Market Internal Audit have not visited HCPs to validate the conduct of their Medical Delegates/Nutrition Executives/Nutrition Specialists since 2012 in Malaysia and 2011 in Angola, as this is not part of their standard work plan when reviewing Criteria compliance. We were informed that Nestlé performs a risk assessment before planning their internal audit reviews to focus their resources on higher risk areas. The visit to HCPs is a recommended step in the internal audit of the Nestlé Policy and Instructions for implementation of the Code.

3.2 Country site visit 1 – Malaysia

The country site visit to Malaysia was performed in June 2014. The factual findings of the visit are provided in the table below.

Procedures performed	Factual findings
<i>Country background and local operating context</i>	<ul style="list-style-type: none"> • Awareness of the Code: The government has a National Code over BMS marketing practices and based on our interviews with HCPs, there is a good awareness of this code. The National Code in Malaysia is more stringent than the Code. • Government initiatives to support breastfeeding: There is a government initiative to establish “baby-friendly” hospitals which actively promote and support mothers to breastfeed. • Channels to market: In-scope BMS products are sold to retailers and wholesalers in two ways; either directly by Nestlé or through third party distributors. However, WIN in-scope products are only sold through a sole distributor. These products are sold to consumers through a range of different retail outlets, including supermarkets / large chains, independent stores / small retailers, Chinese medical halls and pharmacies. • Breastfeeding trends: UNICEF data suggests that the rate of exclusive breastfeeding is on an upward trend. • Sharing of insights and information: In our initial in-country meeting with Nestlé market personnel, it was brought to our attention that in-scope products were found by Nestlé to be on display on the window shelves in certain stores. We were informed by Nestlé that they have contacted the relevant retailer and have issued them with a letter recommending that the retailer places its in-scope products in a more discreet area. • WIN operations: WIN operates in Malaysia and our review covered all relevant WIN in-scope products.
<i>Approach to implementation of the criteria</i>	<ul style="list-style-type: none"> • Implementation of BMS policies, procedures and training materials: The detailed BMS marketing policies and procedures produced and applied by Nestlé Malaysia are based on Nestlé Corporate Headquarters policies and procedures, as implementation of the Criteria and adherence to the Code is centrally controlled by Nestlé Headquarters. The policies and procedures produced and applied by Nestlé Malaysia have been updated to bring them into line with the National Code; however they remain similar in the level of detail and objectives to the Nestlé Corporate Headquarters policies and procedures. • Knowledge of the Criteria: Nestlé Malaysia employees demonstrated knowledge of the Criteria and stated their commitment to adhering to the BMS marketing practices required by the Criteria and FTSE’s Criteria. Nestlé’s implementation of the Criteria at the market level is based on implementing the requirements of the Criteria, the National Code and the Nestlé Policy and Instructions for implementation of the Code.

Procedures performed	Factual findings
<i>Factual findings – Distributor interviews</i>	<ul style="list-style-type: none"> • Provision of guidance to distributors and relevant Nestlé staff: A procedure document detailing the process to be followed by distributors for reporting Code violations is formally documented but not made available at the distributor sites. However, during our interviews with the distributors we noted that the representatives we met with were fully aware of the procedure they must follow for reporting any Code violations.
<i>Factual findings – HCP interviews</i>	<ul style="list-style-type: none"> • Distribution of samples: Four HCPs stated that two or more years ago samples of stage 1 and 2 products were given by Nestlé / WIN. However, they stated that this does not happen anymore. Furthermore, we were unable to obtain any evidence of these samples. We noted the presence of Wyeth promotional soft toys (refer to photo 3).
<i>Factual findings – Retail visits</i>	<ul style="list-style-type: none"> • Inappropriate product promotion at retailers: <ul style="list-style-type: none"> - We found that in-scope products from a range of BMS manufacturers were on display on the window shelves in three small chain stores (refer to photo 4) and one independent retailer (refer to photo 5). - In one retailer there were signs detailing a discount on products for infants over the age of 12 months (out of scope product). When asked, the retailer explained they would give the same rebate to us for products for infants 0-12 months (refer to photo 6). We were able to purchase the product at the discount displayed. - In one retailer we observed the use of shelving strips with “Nestlé Good Food Good Life” and “Nestlé Nutrition” under the in-scope products (refer to photos 7 and 8).

3.3 Country site visit 2 – Angola

The country site visit to Angola was performed in July 2014. The factual findings of the visit are provided in the table below.

Procedures performed	Factual findings
<i>Country background and local operating context</i>	<ul style="list-style-type: none"> • Rate of exclusive breastfeeding: HCPs interviewed suggested that the rate of exclusive breastfeeding under 6 months is relatively low. Public UNICEF data indicated a rate of 11%. HCPs stated that the decision to breastfeed or use BMS depended on a family’s economic position and generally noted that “poverty stricken” mothers would breastfeed, whereas “middle class” mothers would choose to use BMS. • Alternative food: Some HCPs stated that other types of BMS are porridge and yoghurt-type products. • National Code: There is no National Code in Angola so Nestlé Angola aligns its practices to the Criteria and the Nestlé Policy and Instructions for implementation of the Code. • Channels to market: <ul style="list-style-type: none"> - In-scope BMS products are sold to retailers and wholesalers in two ways; either directly by Nestlé or through third party distributors. - In-scope BMS products are sold to consumers through a range of different retail outlets, including supermarkets/large chains, independent stores/small retailers and pharmacies. Nestlé have contractual relationships with distributors who deal with petrol stations, so we visited a number of these to validate that no products had filtered through into this retail channel. • Independent parallel imports of products from lower-risk countries by third parties: Nestlé BMS products sold in Angola are labelled in Portuguese and have been specifically designed for sale in the country. We noted that infant cereals designed for sale in Portugal (considered a “low risk” country per the Criteria) can also be found in Angola. These are imported from Portugal through independent parallel import channels operated by third parties and do not comply with the Criteria in a high risk country. • Sharing of insights and information: our initial in-country meeting with Nestlé market personnel, two items were brought to our attention: <ul style="list-style-type: none"> - The prices of consumer products, including BMS, in Angola can vary significantly due to in-country pricing laws that controls the cost and profit margin a company is able to recognise on any product. - The baby food products that were illegitimately imported from Portugal. • WIN operations: WIN does not operate in Angola.
<i>Approach to implementation of the Criteria</i>	<ul style="list-style-type: none"> • Implementation of BMS policies, procedures and training materials: The detailed BMS marketing policies and procedures produced and applied by Nestlé Angola are based on Nestlé Corporate Headquarters policies and procedures, as implementation of the Criteria and adherence to the Code is centrally controlled by Nestlé Headquarters. The policies and procedures produced and

Procedures performed	Factual findings
	<p>applied by Nestlé Angola are similar in the level of detail and objectives to the Nestlé Corporate Headquarters policies and procedures.</p> <ul style="list-style-type: none"> • Knowledge of the Criteria: Nestlé Angola employees demonstrated knowledge of the Criteria and stated their commitment to adhering to the BMS marketing practices required by the Code and FTSE’s Criteria. Nestlé implementation of the Criteria at the market level is based on implementing the requirements of the Nestlé Policy and Instructions for implementation of the Code, with procedures altered to also bring in the requirements of FTSE’s Criteria.
<p><i>Factual findings – Distributors</i></p>	<ul style="list-style-type: none"> • Inconsistent implementation of procedures across countries: Retailers who purchase in-scope products from third party distributors do not receive: <ul style="list-style-type: none"> - annual letters to acknowledge compliance with the WHO code; - Illustrative ‘do’s and don’ts’ leaflets. <p>Retailers who purchase product directly from Nestlé receive the above documents.</p>
<p><i>Factual findings – HCP interviews</i></p>	<ul style="list-style-type: none"> • No factual findings.
<p><i>Factual findings – Retail visits</i></p>	<ul style="list-style-type: none"> • Inappropriate product promotion by retailers: <ul style="list-style-type: none"> - In 13 retail outlets we saw the Cerelac product which is imported through independent parallel import channels from Portugal. The packaging of this product displays an image on the front of a mother and child (refer to photo 9). We obtained evidence to show that Nestlé had followed up with the relevant Angolan authorities and distributors to highlight this issue and remind them of their obligations under the Code; - In-scope products were on display in the window of one pharmacy (refer to photo 10); - In-scope products were on display at the end of an aisle in one independent retailer (refer to photo 11).

Appendices

Appendix I – Photographic evidence

Photo 1 – Nestlé usage of ‘stages’ on complementary foods.



Photo 2 – Appropriate age of consumption.



Photo 3 – Example of WIN promotional products.



Photo 4 – Nestlé infant formula visible in a small chain store window.



Photo 5 – Nestlé infant formula visible in an independent shop.



Photo 6 – Discount signage noted at a retailer.



Photo 7 – Shelving strip with ‘Nestlé Good Food Good Life’.



Photo 8 – Shelving strips with ‘Nestlé Nutrition’.



Photo 9 –Parallel imported Cerelac product from Portugal.



Photo 10 – In-scope products were on display in the window of one pharmacy.



Photo 11 – In-scope products were on display at the end of an aisle in one retailer.



Appendix II – Summary scoring

The table below provides an overview of our findings as they relate to the Tool Criteria. Areas shaded in grey indicate the existence of at least one finding. Please note that some of our findings relate to more than one Criteria point. Cells shaded in **blue** represent those areas where there are on-going observations. Cells shaded in **green** are those areas where observations have been closed.

Policy criteria						
Criteria	Assessment design			Assessment implementation		
	Corporate	Malaysia	Angola	Corporate	Malaysia	Angola
FTSE Criteria 1: Company policy should be publicly available and include acknowledgement of the importance of the International Code of Marketing of Breast-milk Substitutes, and subsequent relevant WHA resolutions, hereafter referred to as ‘the Code’.						
FTSE Criteria 2: Naming the person responsible at Corporate Executive Board level or Executive Management level and at the individual country level for the implementation and monitoring of the policy.						
FTSE Criteria 3: Acknowledgment that, independently of any other measures taken by governments to implement the Code, manufacturers are responsible for monitoring their marketing practices according to the principles and aim of the Code, and for taking steps to ensure that their conduct at every level conforms to their policy in this regard.						
FTSE Criteria 4: Acknowledgment that the adoption and adherence to the Code is a minimum requirement for these countries and where national legislation or regulations implementing the Code are more demanding than the Code, the company will follow the national measures in addition to the Code (Additional Policy Criteria with Regards to Company Operations in High Risk Countries ¹).						

¹ The requirements for low risk country operations will be reviewed by the FTSE4Good BMS Committee within 5 years for revisions to bring them, over time, in-line with high risk requirements.

Policy criteria

Criteria	Assessment design			Assessment implementation		
	Corporate	Malaysia	Angola	Corporate	Malaysia	Angola
FTSE Criteria 5: Explicit confirmation that there will be no advertising or promotion of infant formula, follow-on-formula products, or delivery products (i.e. teats and bottles) in these countries (Additional Policy Criteria with Regards to Company Operations in High Risk Countries).						
FTSE Criteria 6: Explicit confirmation that complementary (weaning) foods and drinks will not be promoted for the use of infants under the age of six months in these countries (Additional Policy Criteria with Regards to Company Operations in High Risk Countries).						
FTSE Criteria 7: Commitment to follow all national regulations in relation to the marketing and promotion of breast milk substitutes (Additional Policy Criteria with Regards to Company Operations in Low Risk Countries).						

Corporate public policy and lobbying of regulators

Criteria	Assessment design			Assessment implementation		
	Corporate	Malaysia	Angola	Corporate	Malaysia	Angola
FTSE Criteria 1: Companies have a valid and important engagement role in the development of effective and appropriate legislation. They should have clear, openly-stated and enforceable policies on the objectives and practice of their political lobbying regarding government’s implementation of the Code, and specifically companies must be open about their objectives, and make position papers publicly available to demonstrate consistency.						
FTSE Criteria 2: Seek to ensure that the trade associations and industry policy groups, to which they belong, operate to the same high standards with membership of such organisations being disclosed.						

Management systems

Criteria	Assessment design			Assessment implementation		
	Corporate	Malaysia	Angola	Corporate	Malaysia	Angola
FTSE Criteria 1.1: Clear communication of the company policies, procedures for its implementation throughout the production and marketing processes, and provision of training in its application, to senior management and all relevant marketing staff operating in the high risk countries.						
Additional Assessment Measures 1.2: Information and Education						
Additional Assessment Measures 1.3: General Public and Mothers						
Additional Assessment Measures 1.4: Health Care Systems						
Additional Assessment Measures 1.5: Health Workers						
Additional Assessment Measures 1.6: Persons Employed By Manufacturers and Distributors						
Additional Assessment Measures 1.7: Labelling						
Additional Assessment Measures 1.8: Quality						
FTSE Criteria 2: Clear accountability and responsibility within the Company for the implementation of systems for compliance with policy at all levels						
FTSE Criteria 3: Whistle-blowing procedures that allow employees to report outside their normal management reporting line potential non-compliance with company policy in a way that protects them from possible negative consequences of such reporting.						
FTSE Criteria 4.1: On-going systematic internal monitoring of compliance with policy.						
Additional Assessment Measures 4.2: Implementation and Monitoring						
FTSE Criteria 5: Systems for investigating and responding in a timely manner to alleged non-compliance reported by governmental bodies, professional groups, institutions, NGOs or other individuals from outside the Company.						

Management systems

Criteria	Assessment design			Assessment implementation		
	Corporate	Malaysia	Angola	Corporate	Malaysia	Angola
FTSE Criteria 6: Systems for taking, as well as tracking, corrective action on all non-compliance cases, both internally and externally reported.						
FTSE Criteria 7: Regular external verification to provide evidence of well-functioning Policy compliance management and monitoring systems, conducted by a suitably qualified external expert.						
FTSE Criteria 8: In addition to management reviews, the production of annual summary reports to the Board of Directors on internal monitoring, external reporting and corrective actions taken regarding non-compliance.						
FTSE Criteria 9: In addition for operations in high risk countries, companies must provide to the FTSE BMS Committee, on request, copies of any related marketing literature and product labelling and inform the Committee (Additional Policy Criteria with Regards to Company Operations in High Risk Countries).						

External reporting

Criteria	Assessment design			Assessment implementation		
	Corporate	Malaysia	Angola	Corporate	Malaysia	Angola
FTSE Criteria 1: Adequate company reporting procedures should include making annual summary reports available on adherence to policy, non-compliance, and corrective action taken.						



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