

PRESIDENCY OF THE REPUBLIC
MINISTRY OF PUBLIC HEALTH

REPUBLIC OF GABON
UNION-WORK-JUSTICE

Stamp of the President
of the Council of State

DECREE No. 000033/PR/MSP
on the Promotion and Protection of Breastfeeding and on
Regulation of the Quality, Marketing Methods
and Use of Infant Foods in Gabon

**THE PRESIDENT OF THE REPUBLIC,
HEAD OF STATE,**

Considering:

The Constitution;

Decree No 000128/PR of 27 January 2002 establishing the composition of the Cabinet and all subsequent modifying texts;

Ordinance No 010/89/PR of 28 September 1989 on regulation of activities of traders, manufacturers and artisans in Gabon;

Ordinance No 01/95 of 14 January 1995 on health policy in Gabon;

Decree No 001574/PR/MICOCO of 19 September 1985 on the competence and organisation of the Ministry of Trade and Consumers Affairs;

Decree No 1158/PR/MSPP of 4 September 1997 on the competence and organisation of the Ministry of Public Health and Population;

The International Code of Marketing of Breastmilk Substitutes adopted by Gabon in 1981 together with the other Member States of the WHO;

Having consulted the Council of State;

Having heard the Council of Ministers;

HEREBY DECREES

Article 1: This decree, adopted pursuant to the provisions of article 109 of Ordinance No 01/95 of 14 January 1995 above, shall deal with the promotion and protection of breastfeeding and with the control of quality, marketing methods and use of infant foods in Gabon.

GENERAL PROVISIONS

Article 2: The provisions of this decree shall apply specifically to the marketing of the following infant feeding products:

- breastmilk substitutes;
- infant formulas;
- follow-up formulas;
- any other industrialised or home-made food products, milk-based or not, prepackaged, marketed, presented or used to feed infants;
- feeding bottles, teats, dummies, beak cups and other utensils that hamper breastfeeding and the use of which may harm the health and development of infants, and any other product which the Minister of Health declares a designated product for purposes of this decree;
- so-called medicinal milks and drinks covered by legislation on medicines.

These provisions shall further apply to the quality control, advertising, storage, transport, distribution and information on use of products covered by article 2 of this decree.

Article 3: For purposes of this decree, the following definitions shall apply:

- **Infant:** a child up to the age of 12 months.
- **Breastmilk substitute:** any food marketed or otherwise represented as a partial or total replacement for breastmilk, whether or not suitable for that purpose.
- **Infant formula:** any milk or non-milk product, animal or vegetable based, home-made [in an artisanal manner] or manufactured [industrially], in accordance with Codex Alimentarius standards, to satisfy the normal nutritional requirements of infants up to the age of six months and adapted to their physiological characteristics.
- **Follow-up formula:** any animal or vegetable-based milk product intended for infants over six months old, industrially formulated in accordance with Codex Alimentarius standards.
- **Complementary food:** any food, whether manufactured or locally prepared, suitable as a complement to breastmilk or to infant formula when either becomes insufficient to satisfy the nutritional requirements of infants over six months old. Such food is also commonly called “weaning food” or “breastmilk supplement”.
- **Advertising:** any representation, by any means or in any form, intended to directly or indirectly promote the sale or distribution of a designated product.
- **Promotion:** any method used to directly or indirectly present to anyone a product with a view to enticing her/him to purchase it.
- **Marketing:** any form of presentation or sale of a product covered by article 2 of this decree, including but not limited to promotion, distribution, advertising, public relations and information services related to said product.
- **Sample:** single or small quantities of a product provided without cost.
- **Dummy:** a teat given to babies to suck.

- **Container:** any form of packaging of a product for sale as a normal retail unit, including wrappers.
- **Label:** in addition to the label itself, any tag, brand, mark, pictorial or other descriptive matter, written, printed, stenciled, marked, embossed or impressed on, or attached to, a container of any products within the scope of the International Code of Marketing of Breastmilk Substitutes.
- **Distributor:** any person, corporation or entity in the private or public sector engaged, directly or indirectly, in the business of marketing at the wholesale or retail level a designated product, as well as any person active in providing information or public relations services related to a designated product.
- **Manufacturer:** any corporation or other entity in the public or private sector engaged in the business or function of manufacturing a product within the scope of the above-mentioned Code, whether directly or through an agent or an entity controlled by it or under contract with it.

CHAPTER I: BREASTFEEDING

Article 4: Breastfeeding shall be defined as the ideal natural way of feeding an infant with mother's milk. Breastfeeding alone is sufficient to ensure the growth of an infant from birth up to six months old, at which age a young child should start to receive complementary foods. Breastfeeding shall not be replaced except under the conditions provided for in this decree.

Article 5: There shall be created, under the Minister responsible for Health, a National Multisectoral Committee responsible for issues related to breastmilk substitutes and complementary foods. It shall be referred to hereafter as the Committee.

Article 6: The National Multisectoral Committee shall ensure coordination of all parties involved in the implementation of the provisions of article 2.

Article 7: The Committee shall be comprised of the following:

- Director General of Health or his representative, the Chairman;
- Director of Regulation and Quality of Health Care, member;
- Director of the Nutrition Centre, member;
- Director General of Commerce, member;
- Representative of the Directorate of Consumer Affairs, member;
- Representative of the Directorate of Agriculture, member;
- Representative of FAO, member;
- Representative of WHO, member;
- Representative of UNICEF, member;
- One representative of each of the following professional associations: pediatricians, midwives, nurses, dieticians, nutritionists – members;
- Representative of the consumers' organisation, member;

- One representative of each NGO specialised in [infant] feeding recognised by the government, members.

The organisation and operation of the National Multisectoral Committee shall be determined by decree of the Minister responsible for Health.

CHAPTER II : BREASTMILK SUBSTITUTES AND COMPLEMENTARY FOODS

SECTION I – PRODUCT QUALITY

Article 8: Products under the scope of article 2 of this decree shall only be marketed if they conform to the quality and food hygiene standards of the Codex Alimentarius.

Article 9: Any application for approval of infant foods shall be accompanied by a file of technical information in conformity with international standards.

Article 10: The importation, local production, distribution and sale of any new product under the scope of article 2 shall require the technical approval of the ministries responsible for health, commerce and agriculture.

Article 11: The prior technical approval required for the sale or distribution of a new product in the national territory shall be delivered only after sanitary inspection of the manufacturing and/or storage sites.

Laboratory analysis shall be carried out at the request of the Ministry of Health and shall check the conformity of products to the infant food standards of Codex Alimentarius.

Article 12: Each lot of imported or locally manufactured products shall be accompanied by a quality certificate granted by the competent authority in the country of origin, certifying conformity of the products with Codex Alimentarius standards.

A copy of said certificate shall be submitted to the Ministry of Health by the importer or manufacturer within one month after the importation of the product or after the product leaves the factory.

Article 13: The distribution, sale, storage or exhibition for sale of any designated product that is not approved, or whose expiry date has passed, or that is not in its original container, shall not be permitted.

SECTION II – LABELLING

Article 14: The following information shall appear on all products under the scope of article 2 of this decree:

- instructions for appropriate preparation, conservation and use of the product;
- the words "Important Notice";
- a mention of the superiority of breastfeeding over breastmilk substitutes and infant formula;
- a warning about the health risks of incorrect preparation or inappropriate use [of the product].

Article 15: The use of expressions such as "humanised", "maternalised" or similar ones on the label [of a product] shall be banned.

Article 16: The label or the container [of a product] shall not display any image or representation of an infant nor other illustrations that may idealise the use of breastmilk substitutes or infant formula.

Article 17: The label [of any product under the scope of this decree] shall display:

- the age for which the product is recommended;
- the composition of the product;
- the weight of the product;
- the storage conditions;
- the batch number;
- the place of manufacture;
- the expiry date.

Article 18: The instructions printed on each container or on a label that cannot easily be detached from the container shall be clearly visible, readable, indelible and written in French.

SECTION III – ADVERTISING

Article 19: Any advertising or promotion to the general public of [products related to] breastmilk substitutes, as well as the distribution of samples, promotional sales [techniques] and low-price sales shall be banned. The same ban shall apply to utensils and objects that promote [the use of] breastmilk substitutes, infant formula or bottle feeding.

Article 20: Promotional sales practices [of direct sales] to consumers at the retail level, such as special displays, discount coupons, premiums, special sales, pay-backs, loss-leaders and tie-in sales for breastmilk substitutes shall be banned.

Article 21: Advertising and promotion of complementary foods shall require prior vetting by the General Inspectorate of Health. Any advertising or promotion presenting complementary foods as suitable to replace breastmilk before the age of six months shall be banned.

Article 22: Only qualified persons shall be authorised to demonstrate the use of breastmilk substitutes or infant formula.

Article 23: Free or low-cost supplies of breastmilk substitutes and infant formula shall be allowed only for childhood aid organisations recognised as charities by the National Multisectoral Committee.

In such cases, the donors shall take steps to ensure that the provision [of free or low-cost supplies] is guaranteed for as long as the infants concerned need it.

Article 24: Staff of maternity wards, birth clinics and other facilities that provide health care for mothers and infants, whether public, para-public or private, as well as company representatives, shall not:

- bring into such facilities any direct advertisements for breastmilk substitutes;
- provide advice or recommendations to pregnant or lactating women that could deter them from breastfeeding;
- accept from a manufacturer or distributor of breastmilk substitutes any gifts nor financial or material inducements of whatever value to promote in whatever way said products;

- distribute samples of breastmilk substitutes or gifts.

Article 25: The Ministry of Health shall ensure the production, distribution and display of placards, posters, booklets, leaflets or other means of information in maternity wards, clinics, doctors' offices, ante-natal consultation and pediatric clinics, health centres and health posts, as well as any other appropriate place, with a view to drawing the attention of pregnant women, mothers and families to:

- the benefits of breastfeeding and the risks of early weaning;
- the appropriate use of complementary foods.

SECTION IV – INFORMATION AND EDUCATION

Article 26: Any information, education and sensitisation materials on infant feeding, whether written or audiovisual, intended for pregnant women and mothers shall include clear and precise information on:

- the benefits and superiority of breastfeeding;
- maternal nutrition and the preparation for and maintenance of breastfeeding;
- the negative effect on breastfeeding of introducing complementary foods before the age of six months and the difficulty of reestablishing breastfeeding after introducing bottle feeding, even for a very brief period.

This information shall be written in French.

Article 27: Donations of informational or educational equipments or material by manufacturers and distributors shall be made only at the request and with the written approval of the appropriate government authority or within the framework of guidelines given by the government for this purpose.

Such equipment or materials may bear the donating company's name or logo, but shall not refer to any proprietary product under the scope of this decree, and shall be distributed only through the health care system.

Any informational material shall not include any images or text that might promote bottle feeding or discourage breastfeeding.

Article 28: Information intended for health professionals shall be restricted to scientific and factual matters.

Article 29: Any health worker who receives a fellowship or grant for attendance at a professional conference or the like from a manufacturer or distributor of breastmilk substitutes shall disclose this fact to the Minister responsible for health.

Any professional association or any non-governmental organisation acting in the area of health who receives a subsidy or grant from a company that markets said products [breastmilk substitutes] shall be subject to the same obligation [of disclosure].

This notwithstanding, pediatricians, nutritionist or dieticians shall be allowed to receive samples for professional evaluation or research at the institutional level, with agreement of their hierarchical superiors.

CHAPTER IV : PROHIBITIONS AND MONITORING

Article 30: Marketing or distribution of infant feeding products shall be subject to authorisation and monitoring by the Ministries of Health, Commerce and Industry.

Article 31: The Minister [of Health] shall establish by decree, every two years, the list of breastmilk substitutes and other products under the scope of this decree.

Any product that does not appear on this list shall not be used to feed infants.

Article 32: The importation, storing and sale of products under the scope of article 2 of this decree shall be subject to prior approval by the Ministry of Commerce on technical advice from the Ministry of Health.

Article 33: Authorised officers of the Ministry of Health and the Ministry of Commerce shall have the right to carry out, jointly or not, periodic and unannounced inspections of products under the scope of article 2 of this decree.

Article 34: Violations of the provisions of this decree shall be investigated, established and punished according to existing legislation.

CHAPTER V : FINAL PROVISIONS

Article 35: Regulations shall be issued, where necessary, to provide for the implementation of this decree.

Article 36: This decree shall abrogate any contrary previous provisions and shall be registered and published following urgency procedures and communicated to all interested parties.

Done at Libreville, 28 Jan 2004 (?)

The President of the Republic,
Head of State

El Hadj Omar Bongo Ondimba

The Prime Minister
Head of Government

Jean François Ntoutoume Emame

The Minister of Public Health

Faustin Boukoubi

The Deputy Prime Minister, Minister of Agriculture, Cattle Raising
and Rural Development, responsible for Human Rights and Missions

Paul Mba Abessole

The Minister of Commerce and Industrial
Development, responsible for NEPAD

Paul Biyoghe Mba

The Minister for Family Affairs, Protection of Childhood
and Promotion of Women

Angélique Ngoma

The Minister of State, Minister for Economy and Finance,
Budget and Privatisation

Paul Toungui

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