EN

European Communities

EUROPEAN PARLIAMENT

WORKING DOCUMENTS

English Edition 1986-87

2 April 1986 SERIES A DOCUMENT A 2-20/86

SECOND REPORT

drawn up on behalf of the Committee on Development and Cooperation

on the proposal from the Commission of the European Communities to the Council (COM(84) 703 final - Doc. 2-1530/84) for a directive on the approximation of the laws of the Member States relating to infant formulae and follow-up milks

Rapporteur: Mrs L. CASTELLINA

WG(VS1)/2690E PE 100.339/fin./II

By letter of 23 January 1985, the President of the Council of the European Communities requested the European Parliament to deliver an opinion, pursuant to Article 100 of the EEC Treaty, on the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to infant formulae and follow-up milks.

On 10 May 1985, the President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection and to the Committee on Development and Cooperation as the committee responsible.

At its meeting on 22 May 1985, the Committee on Development and Cooperation appointed Mrs Castellina rapporteur.

Moreover, at its sitting of 10 July 1985, the European Parliament, pursuant to Rule 47 of the Rules of Procedure, referred the motion for a resolution by Mr Roelants du Vivier and others on the approximation of the laws of the Member States relating to baby foods (Doc. B 2-528/85) to the Committee on Development and Cooperation.

At its meeting on 19 September 1985 the committee decided to deal with the motion for a resolution in the framework of Mrs Castellina's report.

The committee considered the Commission's proposal and draft report at its meetings of 16 September, 14 October and 16 October 1985.

At the last meeting, the committee unanimously decided to recommend to Parliament that it approve the Commission's proposal without amendment.

The committee then adopted the motion as a whole unanimously.

The following took part in the vote: Mrs FOCKE, chairman; Mr WURTZ, vice-chairman; Mrs CASTELLINA, rapporteur; Mr BAGET-BOZZO, Mr BEYER de RYKE, Mr COHEN, Mrs DE BACKER-VAN OCKEN, Mr FELLERMAIER, Mr GATTI (deputizing for Mr Pajetta), Mr HABSBURG (deputizing for Mr LUSTER), Mrs HEINRICH, Mrs LENTZ-CORNETTE (deputizing for Mrs Cassanmagnago Cerretti), Mrs PANTAZI, Mr PIRKL, Mrs RABBETHGE, Mr SCHWALBA-HOTH (deputizing for Mr Kuijpers), Dr SHERLOCK (deputizing for Mr de Courcy Ling), Mrs SIMONS, Mr ULBURGHS (deputizing for Mr Pannella), Mr VERBEEK, Mr VERGEER and Mr WAWRZIK.

The report was tabled on 18 October 1985.

The European Parliament considered the report at its sitting of 12 March 1986. Following the debate, Parliament decided to refer the report back to the Committee on Development and Cooperation, pursuant to Rule 85 of the Rules of Procedure.

At its meeting of 18 March 1986, the committee reconsidered the motion for a resolution and the amendments to it which had been tabled in plenary. It decided unanimously to resubmit its motion for a resolution to the European Parliament without changes.

Present: Mrs FOCKE, chairman, Mr BERSANI, vice-chairman; Mrs CASTELLINA, rapporteur; Mr BARROS MOURA, Mrs BUCHAN, Mrs CASSANMAGNAGO CERRETTI, Mr COHEN, Mrs DALY, Mrs DE BACKER VAN OCKEN, Mr DURAN CORSANEGO, Mr FERNANDES, Mrs GARCIA ARIAS, Mrs HEINRICH, Mr C. JACKSON, Mr KUIJPERS, Mr LUSTER, Mr McGOWAN, Mr PIRKL, Mrs RABBETHGE, Mr dos REIS CONDESSO, Mr RUBERT DE VENTOS, Mrs SCHMIT, Mrs SIMONS, Mr SIMPSON, Mr TRIVELLI, Mr VERBEEK, Mr VERGEER and Mr WAWRZIK.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

C O N T E N T S

The Committee on Development and Cooperation hereby submits to the European Parliament the following motion for a resolution together with explanatory statement

A

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to infant formulae and follow-up milks

The European Parliament,

- having regard to the proposal from the Commission to the Council[1],

- having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 2-1530/84),

- having regard to the motion for a resolution by Mr Roelants du Vivier and others on the approximation of the laws of Member States relating to baby foods (Doc. B-528/85),

- having regard to the first report of the Committee on Development and Cooperation (Doc. A 2-127/85) and the report of the Committee on the Environment, Public Health and Consumer Protection,

- having regard to the second report of the Committee on Development and Cooperation (Doc. A 2-20/86),

- having regard to the result of the vote on the Commission's proposal,

A. bearing in mind the decisions of the 34th WHO Assembly, in May 1981, which adopted an International Code of Marketing of breast-milk substitutes and which was supported in this by the Member States of the European Community at the time, under the Council presidency of The Netherlands,

B. bearing in mind the resolutions adopted by the European Parliament on 15 October 1981 concerning an 'international code for the commercialization of mothers' milk substitutes adopted by the WHO (OJ C 287/75); and of 11 April 1983 on the same subject, which supported the need for a Council directive based on the internationally recognized WHO Code,

C. whereas the draft directive proposed by the Commission does not include any references to the WHO Code,

1. Invites the Commission to revise its draft directive in line with the previous recommendations of the European Parliament, so that it conforms with the dispositions contained in the 'International Code of Marketing in Breast Milk Substitutes of the OMS;

2. This directive, modified according to the WHO principles, shall be applied to manufacturers and producers based in the EEC and as regards their operations both in the EEC and in the countries to which their products are exported;

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[1] OJ No. C 28, 30.1.1985, p. 3

3. Welcomes the Commission proposal for a Council resolution contained in Annex 4 of the proposed directive particularly as regards the offer of 'effective support to the competent authorities of these countries in their efforts to apply the international code in their territory' via the delegations in developing countries;

4. Expressed its concern, however, as to the effectiveness of such provisions in Asia and Latin America where delegations are 'regional' and not 'national' and therefore are possibly ill-equipped to deal with such demands;

5. Considers therefore that an additional budgetary line be created in order to effectively manage the above provisions;

6. Requests that the Commission delegations act to inform and advise the governments and the authorities of the developing countries about the content and provisions of the proposed directive, following its modification and adoption, and assist them when requested in the drafting of legislation based on the text of the WHO Code;

7. Supports the call made by the United Nations for the creation of an international monitoring committee and requests the Commission to participate along with relevant NGOs, producers, consumer groups and representatives of developing countries;

8. Requests that, on a regular basis, the Commission publishes annual reports, in order to improve public awareness both within the Community and the developing countries as to the situation and that such reports be made available to the WHO, IDACE, UNICEF and other interested bodies;

9. Instructs its President to forward to the Council and Commission of the European Communities, to the ACP Committee of Ambassadors and to the World Health Organization, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

B

EXPLANATORY STATEMENT

1. The subject of the present resolution is the proposal for a Council Directive 'on the approximation of the laws of the Member States relating to infant formulae and follow-up milks' and 'Council Resolution on the marketing practices for breast-milk substitutes in developing countries by Community-based manufacturers', the latter being annexed to the proposal for a Directive which was submitted by the Commission on 15 December 1984 (COM(84) 703 final).

2. These Commission proposals have been referred both to the Committee on Development and Cooperation and to the Committee on the Environment, Public Health and Consumer Protection, the former to discuss, in particular, aspects of the problem relating to developing countries and the latter - those which arise within the Community. Since, however, for reasons which will be explained below, it is rather difficult and somewhat artificial to separate these two aspects, it is appropriate, at least in the explanatory statement, to treat the problem as a whole.

Background

3. The problem of breast-milk substitutes has already been referred twice to the Committee on Development and Cooperation which discussed it and subsequently submitted to Parliament two resolutions which were adopted by the House on 15 October 1981 (OJ C 287, 9.11.1981, p. 75) and in April 1983 (OJ C 128, 16.5.1983, p. 16) in which the Commission was invited to draw up a proposal for a Directive for the application in the Community of the International Code of the WHO adopted by that organization's 34th World Assembly in May 1981.

4. The Code is concerned in particular with the marketing of baby foods which both the WHO and Unicef, after ten years' research and debate, found it necessary to subject to controls because the prevalent marketing practices are today one of the main obstacles preventing the success of campaigns to promote a return to breast-feeding, which has strongly declined in the last 50 years but which is being increasingly recognized as necessary for the infant's health.

5. The Code, which contains a number of recommendations concerning labelling and sales-promotion practices, was adopted by 118 votes, with 3 abstentions and 1 vote against: that of the United States (where, however, failure to vote for the Code aroused violent opposition including resignations in protest by Stephen Joseph from the post of director in the Agency for International Development and Eugene Debb from that of director of the Nutrition Service). The European Community, represented at the WHO 34th Assembly by the Netherlands, voted for the Code and undertook to implement its recommendations.

6. As was pointed out at the Assembly, the WHO Code, drawn up after lengthy consultations between health authorities and representatives of the manufacturing industries, is a minimalistic compromise. Most of the delegates would in fact have preferred not only stricter standards but above all that the Code should take the form of a regulation which would make these standarads obligatory (that, notably, was the position of the developing countries). For the sake of the broadest consensus, however, the Code was formulated as a recommendation although in paragraph 11 it is explicitly stated that the obligation is laid on the signatory states' governments to take the necessary steps to implement the principles laid down in the Code 'through national laws, regulations or other appropriate measures'. It was precisely in response to paragraph 11 of the WHO Code that the European Parliament decided that a Community Directive was necessary and therefore in its resolution of October 1981 called on the Commission to prepare it.

7. When a year and a half had passed since the adoption of that first resolution and the Commission had failed to submit the requested proposal for a Directive, Parliament voted a second resolution in which it deplored the delay, reiterated its earlier demand and called on the Commission 'to draw up without further delay a proposal for a Directive on the application of the WHO Code'. In the plenary debate Mr Narjes, representing the Commission, while again voicing his doubts in the matter, which he had already expressed in the previous debate (he would have preferred a voluntary agreement rather than a directive), stated nevertheless that Parliament's request was perfectly acceptable (Debates EP No. 1-297).

Analysis of the Directive

8. It is not clear whether the proposal for a Directive now before us is a response to the two resolutions voted by Parliament. On the one hand it would appear not to be, since it is not concerned with the marketing of breast-milk substitutes, nor does it make any mention of the WHO Code whose implementation Parliament requested (in fact, neither the WHO Code nor Parliament's resolutions are referred to in the Explanatory Note preceding the text of the Directive); on the other hand, however, it emerges from a reading of the 'Report on infant feeding and the implementation of the International Code of marketing of breast-milk substitutes' annexed to the proposal for a Directive,as well as of Annex 3 (text of the 'Industry Code of Practice for the marketing of breast-milk substitutes in the EEC') and of Annex 4 (text of proposal for a 'Council Resolution on the marketing practices for breast-milk substitutes in developing countries by Community-based manufacturers') that the Commission considers that its proposals exhaustively satisfy Parliament's two resolutions referred to above.

9. In fact, however, on reading the Commission's proposal and the annexes, it is difficult to believe that Parliament's opinion had been taken into consideration, and this for the following reasons:

(a) the proposal for a Directive constitutes in fact only one specific application to baby foods of earlier directives (of 21 December 1976 and 18 December 1978) on the quality, composition and labelling of products, to which it only adds one recommendation on advertising (Art. 9, para. 6(b)) containing the injunction that advertising, like labelling, 'must not idealize the use of the products' and hence terms such as 'humanized', 'maternalized', 'adapted' or similar must not be used. The Directive has nothing to say, however, on marketing practices, i.e. it makes no reference whatever to the standards of the WHO Code;

(b) in the 'Report on infant feeding and the implementation of the International Code of marketing of breast-milk substitutes, which is annexed to the Commission document, we find (in paragraph 2.2-Marketing practices) not the opinion of Parliament, but that expressed by Commissioner Narjes at the time, i.e. that 'a total ban on advertising, as advocated by the International Code, would be contrary to the constitution of several Member States' and that 'all Member States are in favour of voluntary agreements for the control of the marketing practices for breast-milk substitutes'; it is this view that the Commission has followed;

(c) as the model text for such voluntary agreements the Commission offers, as an annex to its official document, not the WHO Code, but the code drawn up by the Association of Dietetic Food Industries in the EEC (IDACE) which was put forward in its final form at the end of 1984. This substitution has some important practical consequences: as both WHO and Unicef and all the non-governmental organizations that have dealt with the problem have stressed, the two codes present substantial differences. To quote just a few examples: the IDACE Code allows: (1) many kinds of advertising directed at the mother; (2) the use of health service infrastructures to promote publicity for the product; (3) the distribution of free samples to mothers through health service staff; (4) gifts of the product to mothers by commercial representatives; and so on and so forth.

In other words this Code allows a whole series of marketing and promotion practices which take no account of the need to provide adequate information on bottle-feeding, including its social and economic aspects - practices, that is, which the WHO Code is intended to eliminate because of the risks they carry.

Can the WHO Code standards be incorporated in a Directive?

10. The Commission's objection that a Directive giving effect to the WHO Code would be contrary to the constitution of several Community countries because, by banning advertising, it would violate the right to promote 'freedom of information', appears to your rapporteur to be entirely unfounded, for the following reasons:

(a) It is not true, first of all, that the WHO Code totally prohibits advertising of baby foods. What it does, is impose restrictions: it prohibits direct advertising to the public while allowing advertising to professional personnel. It thus lays down standards analogous to those already adopted in other cases, and particularly for such products as pharmaceuticals which, while beneficial when used in specific circumstances, may be harmful in others. The WHO Code therefore does not introduce any new principle in this respect but merely stresses the need to apply also to baby foods a number of restrictions already imposed in other cases from considerations of safety, health or public order;

(b) Examination of the constitutions and legislations in force in the Community Member States shows that already in many cases restrictions on 'freedom of information' are regarded as legitimate when that 'freedom' may be harmful to the vital interests of society. It is certainly the case for all advertising of such substances which may have their uses but are more frequently harmful. For instance, even in the FRG, where standards in this respect are strictest, direct advertising to the public of 'infant teas' has recently been banned. Your rapporteur believes that there is, indeed, general agreement with Mrs Maij-Wegen's statement in the course of the last debate on baby foods, namely that when freedom of enterprise threatens the lives of babies, it is the duty of public authorities, including those of the European Community, to lay down, if necessary by means of legislation, rules to eliminate the risk involved;

(c) Even if we were to accept as correct - which it is not - the Commission's contention that it is not possible to give legal force to the standards contained in the WHO Code and that only voluntary agreements by the manufacturers would be possible, it is not clear why the Commission should propose as the reference standard for such voluntary agreements the IDACE rather than the WHO Code, given that the latter was approved by the Community at the WHO's 34th Assembly.

11. Whatever opinion one may hold about 'freedom of information' and on whether, when, and to what extent it may be restricted, your rapporteur believes that everybody will agree that the one body least suitable for laying down standards of conduct with regard to the marketing of products is the body that represents the producers, i.e. IDACE. Clearly, even the most conscientious manufacturers want to maximise sales and can be induced to moderate their aggressive sales tactics only through the intervention of an external authority that is specifically concerned with the protection of public health and whose principal task this is.

12. The Commission's choice of a IDACE Code instead of the WHO's which, as we have said, is only a minimalist compromise resulting from negotiations with the producers' organizations who were given an opportunity to state their views, is thus unacceptable.

(d) While open to IDACE's views, the Commission, in drawing up its proposals, has taken little trouble to seek the opinions of institutions concerned with health protection. In the explanatory note prefacing the proposal for a directive we are informed that the Commission services had consulted a number of organizations on the problem. But among these organizations two are missing: the WHO and UNICEF, i.e. precisely the two institutions that for a very long time now have done more than any other to research the effects of the use of baby foods and had condemned the manufacturers' abusive marketing practices. (In a letter addressed to the Commission of the time, the director of the European Regional Office of WHO, Dr. Leo Caprio, wrote in reference to the IDACE Code: 'we are concerned about voluntary agreements which would allow current marketing practices to continue unchanged'. There followed a detailed justification of this statement but it would seem that the Commission has not taken any account of what are, after all, highly authoritative views of Dr. Caprio');

(e) The Commission maintains that the International Code was launched at the WHO's 38th World Assembly in the form of a recommendation and not a regulation and that, therefore, there is no obligation on the EEC to put its prescriptions into a directive. This is true. But the obligation to issue a directive is laid upon the Commission not by the WHO but by the two resolutions voted by the European Parliament which express the will to adopt one of the possible options for the implementation of the Code suggested in paragraph 11 thereof.

The marketing of baby foods in developing countries

13. If it is important to regulate by law the marketing of baby foods in the countries of the European Community, it is all the more important to do so in the developing countries where, as experience unfortunately shows, the conduct of the manufacturing concerns is much less responsible: both because of the weakness of consumer control in these countries and because, as a consequence of this, firms which export to the Third World are not restrained by public opinion campaigns denouncing any possible malpractices. In fact, to quote the expression frequently heard at the WHO 34th World Assembly, this is a case of 'an overtly colonialist attitude'. The issue of the implementation of the WHO Code, it was also said there, would become the litmus test of North-South relations'. Implementation of the Code, also in the countries of the Third World, should therefore become one of the central objectives of the directive - and as the special duty of our committee if it is to retain its credibility.

14. However, specific rules, though essential, are not sufficient for regulating the marketing of baby foods in developing countries in accordance with the recommendations of the WHO Code. It is of the utmost importance that the WHO Code should be observed first and foremost in the developed countries because practices in these countries tend to assume the status of models to be emulated elsewhere. Among the urban elite of the Third World in particular, the image of the bottle-fed plump white baby bursting with health which is promoted by advertising has now acquired the role of a status symbol

15. This is another reason why, in terms of the specific concern of the Committee on Development and Cooperation, i.e. the implementation of the WHO Code in Third World countries, it is essential that the directive should provide for the strict application of the Code also in the Community countries (where incidentally abusive marketing practices also cause enormous damage which is well documented. This is why it was stressed at the beginning of the present Explanatory Statement that the matter must be dealt with comprehensively without introducing artificial divisions.

Characteristics and trends in the use of breast-milk substitutes in developing countries

16. If we look at the evolution of attitudes towards substitutes for breast-feeding we find that in the Third World their use is spreading exceptionally fast under the influence of western models, of health workers who have usually been trained in developed countries and of aggressive sales tactics by baby food manufacturers. (To quote some examples: 84% of hospital-born babies in 1980 in Mauritius were fed on baby foods. Last year the hospitals in the Phillipines received free of charge or at extremely low prices such quantities of breast milk substitutes that they were more than enough to feed all the babies born in them).

17. Because feeding with breast-milk substitutes requires special care, it is essential to ensure social and hygienic conditions in which incorrect preparation of the feed can be avoided. Such conditions do not exist in the developing countries. To mention some examples: the instructions must be precisely understood, which is impossible when the mother is illiterate and does not know the language in which the instructions are written; the product must be kept and transported in conditions and at a temperature which will not result in its deterioration; the date limits for freshness must be easily checked; the powder must be carefully dosed; very pure water must be used for diluting the product; and so on and so on. It is thus clear that in developing countries the risks to babies' health from the use of baby food are even greater than elsewhere. Hence the need for even greater control.

18. It is often objected that the high cost of baby foods means that the likelihood of their widespread use is very small since the vast majority of mothers will not be able to afford them. It is true that, compared with average incomes, the prices are enormous (it has been calculated that in Ethiopia the cost of 6 months' feeding of a baby with breat-milk substitute equals the average per capita annual income for that country). Unfortunately, however, this only aggravates the situation. Mothers are usually persuaded to use baby foods while they are still in hospital where they are offered free samples of the product. Therefore they use it: but after interrupting breast-feeding for three days they lose their own milk and they lose it permanently. They then have to use the substitutes on which they become entirely dependent. But because the cost of the baby food is so high the mothers tend to over-dilute it, with the result that many babies are severely undernourished.

19. For all these reasons - and the evidence could be multiplied (but they have been amply described by the WHO representative, Elizabeth Elsing, who took part in our committee's hearing on 18 September last) - it is essential for the Community directive to lay down specific rules that will control the marketing practices of baby food manufacturers based in the Community also with regard to exports to third countries.

The Commission's proposals concerning the Third World

20. In the Commission's proposal for a directive experts are mentioned only with reference to the composition and labelling of the product (Art. 7). It says nothing about advertising or, more generally, marketing. On these two matters the Commission proposes that the Council should adopt the 'Council Resolution on the Marketing Prices for Breast-Milk Substitutes in Developing Countries by Community-based Manufacturers' already referred to and contained in Annex IV. This resolution states the Council's intention to assist the countries of the Third World with the correct application of 'appropriate marketing practices for breast-milk substitutes in developing countries'. The Commission, it is further stated, will instruct its delegations in the developing countries to serve as contact points for the competent authorities. Any complaints could be notified to these delegations and the Commission will be ready to examine such cases and to assist in the search for a satisfactory solution for all parties concerned.

21. In your rapporteur's view these proposals are insufficient for the following reasons:

(a) since in the proposed directive nothing is said on marketing (which is thus left to the goodwill of the manufacturing companies unconstrained by any regulation), the Community delegations will have no standard of reference to judge whether practices which are being questioned are appropriate or not. Thus the cooperation these delegations are to offer, though useful in principle, is likely to be pointless in practice. In the absence of precise Community regulations banning those practices which the WHO Code regards as inappropriate, the term 'appropriate practices' is in effect so vague as to leave the way open to every possible abuse;

(b) because it is absurd to believe that the Community delegations will be able to refer to standards which the developing countries themselves have introduced by implementing the WHO Code in their national legislations. There are, in fact, very few countries which have introduced such laws (as far as is known, only Kenya, Lesotho and Bangladesh have introduced them so far, together with Algeria which has gone so far as to withdraw baby foods from commercial distribution'). But even where such local laws exist it is often rather difficult for the authorities of the developing countries to control the activities of foreign exporters. What is needed is strict regulation of these activities in the countries where these companies are based;

(c) because abusive practices in the marketing of baby foods are only one particular aspect of a widespread and most serious phenomenon: the increasingly aggressive marketing in the Third World by pharmaceutical or chemical companies who are able to disregard in these countries all the restrictions to which they are subject at home. This is known as the 'double standard': as legislation or the pressure of public opinion at home become more strict, European or North American concerns turn increasingly towards the 'freer' markets of the Third World. (A recent tragic disaster at Bopol is but one example illustrating the operation of this 'double standard' by agro-chemical multinationals).

22. As a result of these developments, some NGOs (the European Bureau of Consumers' Unions - BEUC, Health Action International - HAI, Pesticide Action Network - PAN) have recently launched an international campaign 'to induce the European Community and its Member States to introduce a consistent policy of control over exports towards developing countries of all pesticides and other pharmaceutical products produced by industries based in Community countries which have been banned or are subject to strict regulation'.

23. Your rapporteur considers that it is our committee's duty to respond in a positive way to this campaign by proposing a directive which will introduce legislation to control the activities of Community undertakings which export to the Third World, beginning with baby foods because these are symbolic of many similar cases.

24. The Commission claims that its proposal, i.e. the Council Resolution, is the maximum that is possible within the existing legal framework since to legislate for the case of Community-based companies who export would involve the adoption - not legally permissible - of extraterritorial measures which, even if they were adopted, would infringe the sovereignty of Third States. The opinion of your rapporteur is that in fact this would not be the case, some of the reasons being:

(a) that the rules which would be introduced would be applied to Community-based firms which have broken the laws of Third countries by acts, i.e. improper marketing practices, conceived, programmed and organized in the Community, the profits of such illegal conduct accruing to the Community. The Member States should be duty-bound to guard against malpractices by their own undertakings even if part of such improper conduct takes place in foreign territory;

(b) that the governments of the developing countries, for their part, do not seem averse to the possible introduction of rules to control the activities of export concerns which affect their territory, nor would they consider it a violation of their sovereignty. On the contrary, they regard such legislation by the home countries of the exporting concerns as a contribution to the protection of their own population against the malpractices of foreign undertakings.

25. At the 34th WHO World Assembly the representative of Algeria expressed a view widely prevalent among the representatives of the Third World when he said: 'this minority - and I mean the developed countries - has even ensured that the final text of the Code does not include the principle, on which agreement in fact seemed to have been reached, that the responsibility of countries who are baby food exporters should extend beyond their own frontiers. Yet this is the crux of the problem of control over marketing methods used in the Third World';

(c) that the responsibility of the Community Member States for the conduct of enterprises based in Community territory has already been admitted by the Commission with respect to the composition of the products and, at least in part, with respect to its labelling;

(d) that the European Parliament has already proposed standards of this type for other products, as, for instance, in the fairly recent resolution by Anthony Simpson on the export of pharmaceuticals to the Third World;

(e) that, while it is true that the WHO Code makes no specific reference to the responsibility of the states where the exporting undertakings are based, it is also true that the Code explicitly stresses that its application should be world-wide. The existence of such a responsibility was in fact recognized at the WHO 34th Assembly by the delegation of the North European countries. It was recently confirmed jointly by the Association of Diatetic Food Industries, Denmark (SEDAM) and that country's Minister of the Interior (who solemnly assured the Foreign Minister that Denmark would observe the WHO Code also in export target countries).

26. The problem was given special attention in the resolution adopted at the joint meeting of the WHO and UNICEF in October 1979. The resolution states that any international code on the marketing of infant formulae should be upheld both by exporting and importing countries and observed by all manufacturing concerns. Infant formulae should not be marketed in a country unless the marketing practices conform to national legislation, where that exists or, where none exist, to the spirit of the present meeting.

27. When in 1981 the Committee on Development and Cooperation discussed baby foods for the first time, it was so conscious of the special importance of the problem of exports to developing countries that in its resolution it included, in paragraph 10, the following words: 'the European Parliament calls on the Commission and Council ..... to take the necessary steps to ensure that firms based inside the Community and exporting breast-milk substitutes to Third World countries ... respect the terms of the Code of Marketing in all their activities in whatever part of the world': and, in paragraph 11: 'calls upon organizations representing manufacturers and distributors who export breast-milk substitutes to the developing countries to take initiatives to ensure all their members follow the good practices presented in the Code'.

28. In the second resolution submitted by the Committee on Development and Cooperation on the same subject in 1983, the same idea, 'that companies based in Member States and operating in developing countries comply with the provisions of the WHO Code or local legislation and codes in developing countries' is reaffirmed in paragraph 2.

29. Your rapporteur believes that, in line with the work of the Committee on Development and Cooperation in recent years and on the basis of improved knowledge of the problems of the Third World now in its possession, it is its duty to reaffirm the same concept once again and hence to propose that the directive should include specific provisions to ensure that the WHO Code is observed by Community-based companies, whether operating within the confines of the Community or in export target countries.

30. Reaffirmation of this principle and of a demand that it should be contained in the Community directive will lend credibility to the entire North-South dialogue. (At the WHO 34th Assembly the representatives of the Third World stated that they regarded the application of the WHO Code by companies in developed countries as a test of this credibility).

This credibility is today in jeopardy because of the issue of baby foods. Hundreds of reports from health organizations and some of the most authoritative NGOs show that, four years after the WHO Code was launched, violations of its provisions are continuing. Voluntary restraints have proved altogether inadequate. The situation would be made even worse if we not only failed to make the Code's provisions obligatory by including them in the directive, but were to adopt in the present form proposed by the Commission the IDACE Code as the basis of a voluntary agreement which would to a large extent legitimize those practices which the WHO sought to ban.

31. Before concluding the present report your rapporteur would like to quote two examples of violations of the Code which are particularly symptomatic:

(1) an interesting report on Bangladesh describes how the population of that country, because of the high price of infant formula foods (on which the mothers have now been made 'dependent'), has started to use ordinary powdered milk for feeding new-born babies. This powdered milk comes in fact from the Community which sends it there as 'aid'. In fact the tins containing Dano, non-skimmed powdered milk which are distributed in Bangladesh carry instructions which advise the use of the product for feeding babies one month old! Thus the milk which poisons new-born babies is a gift from the Community: this is happening despite the optimistic declarations by Mr Narjes in the last parliamentary debate when he categorically stated that powdered milk supplied as aid by the Community was not used as baby food*;

(2) The Christian Medical Commission of the World Council of Churches recently stated in one of its circulars that in March 1985 Dutch physicians working in CHAG (mission) hospitals in Ghana had received hundreds of tins of Frigosen, a Dutch infant formula product, through the Dutch Embassy in Accra. This was in blatant contravention of Article 6.2 of the WHO Code. It seems that in fact the Agogo hospital in Accra refused the offer: but it goes to show how serious is the situation if even an embassy can take part in violating WHO standards.

(*) Bernard Kerwyn. From dairy aid to milk powder business: the dairy sector in Bangladesh. Community Development Library. Dana. August 1981.

MOTION FOR A RESOLUTION (Doc. B 2-528/85)

tabled by Mr ROELANTS du VIVIER, Mrs DURY and Mrs VAN HEMELDONCK

pursuant to Rule 47 of the Rules of Procedure

on the approximation of the laws of the Member States relating to baby foods

The European Parliament,

A. whereas the European Parliament adopted a resolution in October 1981 in favour of the International Code of Marketing of Breastmilk Substitutes adopted by the World Health Assembly (OJ No. C 287, 9.11.1981, p.75),

B. stressing the importance of this code for babies' health and its worldwide relevance,

C. emphasizing the Commission's undertaking to Parliament to draw up a proposal for a directive to ensure uniform application of the WHO Code throughout the Member States,

D. having regard to the document COM(84) 703 final of 14 December 1984 setting out a proposal for a Council directive on the approximation of the laws of the Member States relating to infant formulae and follow-up milks,

E. approving the declared aim of helping to provide for healthy, adequate food for babies by protecting and encouraging breastfeeding and by making rational use, if necessary, of breastmilk substitutes on the basis of adequate information and an appropriate marketing and distribution system,

1. Calls on the Commission to review its proposed solution without delay so as to make it truly correspond to its declared objective and previous undertakings;

2. Calls on the Commission to draft another directive that will incorporate all the WHO recommendations on the marketing of breastmilk substitutes;

3. Calls on the Commission to take particular account of the problems caused by direct advertising and free samples and gifts for mothers and the staff of maternity hospitals;

4. Calls on the Commission in this connection not to endorse the voluntary code drawn up by the baby food industry (IDACE), which can in no way be compared with the WHO Code or serve as a substitute for it;

5. Calls on the Commission to act in accordance with the wishes of the delegations from all the EEC Member States present at the World Health Assembly in May 1981, at which the International Code was adopted;

6. Instructs its President to forward this resolution to the Commission, the Council and the governments of the Member States.