

13 December 2011

The Honourable Ban Ki-Moon
Secretary General
760 United Nations Plaza
United Nations
New York, NY 10017



Baby Milk Action is a non-profit organisation which aims to save lives and protect infant and young child health through independent controls on babyfood marketing.

We are a member of the International Baby Food Action Network (IBFAN), a network of over 200 citizens groups in more than 100 countries.

www.babymilkaction.org

www.ibfan.org

Dear Secretary General,

Request for clarification over UN Global Compact Integrity Measures

I am contacting you from Baby Milk Action in the hope that your office may be able to help us understand the UN Global Compact *Integrity Measures* as the UN Global Compact Office (GCO) has been unable to provide the information we are seeking. The specific points where we would appreciate assistance are set out in the attached letter, which was sent to the UN Global Compact Office on 29 August 2011.

We are writing to you in your position of Chair the Global Compact Board and because the UN Global Compact was launched by your office (under your predecessor, Kofi Anann). We are copying this letter to members of the UN Global Compact Board and associated organisations so they are aware of the problems we have been experiencing with this initiative.

We registered a complaint with the GCO under the *Integrity Measures* in 2009 alongside other civil society organisations regarding egregious violations of the Global Compact Principles by Nestlé. We have also found that Nestlé is bringing the Global Compact into disrepute by using the Global Compact name in public relations campaigns to counter efforts by these organisations to hold it to account.

We have been engaging in correspondence with Nestlé on our specific concern about violations of the *International Code of Marketing of Breastmilk Substitutes* and subsequent, relevant Resolutions of the World Health Assembly for many years. Complying with these measures comes within the requirements of the Global Compact Principles.

The GCO has been copied into our correspondence with Nestlé since our complaint was registered as it said its role is to promote dialogue. The GCO has simply forwarded the aforementioned correspondence to Nestlé a second time.

Given that Nestlé refuses to take action to stop the bulk of the violations reported to it, or more generally to bring its policies and practices into line with the *International Code* and Resolutions, we have asked the GCO to take other actions that we understand that it should or could take under the *Integrity Measures*. It has stated that it cannot take any of these actions and that its role is solely to promote dialogue.

We have found this confusing given that the text of the *Integrity Measures* seems to clearly suggest otherwise. We have asked the GCO to provide clarification, even setting out the

specific points over which there is confusion, but it has refused to do so. In its last communication of 10 November it simply stated: “*Regarding the letter addressed to the UN Global Compact, we do not plan to provide a point by point response. The integrity measures and frequently asked questions document are self-explanatory in this regard.*”

Accordingly, we would welcome a more considered explanation of the *Integrity Measures* from someone in your office.

The GCO earlier informed us that not a single company has been excluded from the Global Compact under the terms of the *Integrity Measures* following a complaint from a civil society organisation. Given the way it has handled our complaint and how it is interpreting the *Integrity Measures* it seems inevitable that no action will be taken. This does raise questions of why civil society organisations should engage with this process, as we have been seeking to do in good faith.

We look forward to any assistance your office is able to provide.

Yours sincerely,

Mike Brady
Campaigns and Networking Coordinator
Baby Milk Action

CC:

UN Global Compact Office
UN Global Compact Board Members
UN Global Compact Advisory Council
Associated UN organisations

29 August 2011

Ursula Wynhoven
UN Global Compact Office
DC2-612, 2 UN Plaza
New York NY 10017



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Dear Ursula,

Request for clarification of the *Integrity Measures*

I am responding to your email of 26 August 2011 concerning the complaint we registered under the *Integrity Measures* in 2009 regarding egregious violations of the Global Compact Principles by Nestlé and its bringing the initiative into disrepute.

I have been asking the UN Global Compact Office to take action described in the *Integrity Measures*. Like you, I feel that the text is self-explanatory and have been surprised by the responses I have received from your Office.

Clearly, you disagree that the UN Global Compact Office can play any role in encouraging Nestlé to meet its commitments to abide by the Global Compact Principles or to "*learn and improve*" - as the FAQ you directed me to puts it - other than by encouraging communication. This is not what the *Integrity Measures* state on my reading and I would like to understand this difference in views.

We brought our complaint in good faith and I respectfully ask that you have patience with me.

Specifically:

1. The Integrity Measures state: "*The purpose of these measures in the first instance always will be to promote continuous quality improvement and assist participants in aligning their actions with the commitments they have undertaken with regard to the Global Compact principles.*"

As far as I am aware, the UN Global Compact Office has done nothing to assist Nestlé in aligning its actions with its commitments and you suggest there is nothing that it can do.

I believe the issues we have raised are "*sufficiently serious as to call into question whether the company concerned is truly committed to learning and improving*" (to quote the FAQ). With our partners we have reported systematic violations of human rights standards, breaking of environmental regulations and refusal to abide by court rulings regarding a labour dispute.

2. The Integrity measures state: "*Thus, when a matter is presented in writing to the Global Compact Office, the Office will:*"

• *(inter alia) The Global Compact Office would be available to provide guidance and assistance, as necessary and appropriate, to the participating company concerned, in taking actions to remedy the situation that is the subject matter of the allegation in order to align the actions of the company with its commitments to the Global Compact principles."*

It seems to me there is a variety of things the Global Compact Office could say to Nestlé to provide guidance on remedying the situations we have presented, but from your responses, you suggest this is outside the scope of the *Integrity Measures*. Why is this the case?

3. To quote the Integrity Measures once again: "*The Global Compact Office may, in its sole discretion, take one or more of the following steps, as appropriate...*"

The *Integrity Measures* suggest, inter alia, that your Office can involve national offices "*to assist with the resolution of the matter*" and "*Refer the matter to one or more of the UN entities that are the guardians of the Global Compact principles for advice, assistance or action*".

In your communications to me, your office suggests the ONLY action it can take is "*to facilitate adherence to the principles of the Global Compact through openness and enhanced communication.*"

I would welcome your assistance to understand why these actions are listed in the *Integrity Measures* if the Office is unable to perform them.

4. The Integrity Measures refer to a review: "*If, as a result of the process outlined above and based on the review of the nature of the matter submitted and the responses by the participating company, the continued listing of the participating company on the Global Compact website is considered to be detrimental to the reputation and integrity of the Global Compact, the Global Compact Office reserves the right to remove that company from the list of participants and to so indicate on the Global Compact website.*"

When I asked the Global Compact Office to conduct this review, I was told (email 25 August): "*As you well know, the Global Compact Office is not an adjudicatory body.*"

Indeed, it has been made clear from the outset that the Global Compact Office is not an adjudicatory body. All I am asking is to conduct the "*review of the nature of the matter submitted and the responses by the participating company*".

The Global Compact Office has been following our dialogue with Nestlé over the past two years. In our opinion, our evidence and Nestlé's response to it demonstrate that it is guilty of egregious violations of the Global Compact Principles and brings the initiative into disrepute.

It is detrimental to the reputation and integrity of the Global Compact to continue to list Nestlé (as well as post its reports on your site and have it as patron sponsor of UN Global Compact events) and under the terms of the *Integrity Measures* I would expect Nestlé to be removed from the list of participants.

Why is it that the Office suggests the possibility of a review does not exist?

Related to this, we have previously been told by the Global Compact Office that no company has ever been delisted due to a complaint being registered under the *Integrity Measures* (delistings mainly occur, we were told, due to companies failing to file Communications on Progress, with a few cases of companies failing to enter into dialogue or on recommendations from national offices).

Can I ask if the review referred to in the above quote from the *Integrity Measures* has ever been conducted for any company following a complaint from a member of the public or a civil society organisation?

5. The Integrity Measures state: "*The Global Compact Office is committed to ensuring a fair process for the parties involved.*"

I contacted the Global Compact Office on 23 August to ask it to conduct the above-mentioned review as Nestlé had refused during the course of two years to change its practices or to provide the statements that would make a meeting worthwhile and not counterproductive.

The Office did not reply to me, but instead emailed Nestlé the same day promising to support its demand that Baby Milk Action meet. This email did not encourage Nestlé to provide the statements we have repeatedly requested - and already discussed at length with your Office - nor did it refer to them.

To recap, we have said we will meet with Nestlé if it first accepts that it should abide by the baby food marketing requirements, which come within the scope of the Global Compact Principles, in all countries as minimum standards and that it needs to make changes to its marketing policies and practices to bring them into line with these measures. Without these statements, a meeting will serve no purpose other than to have Nestlé dismiss our requests once more (which we hear in any case from executives at its shareholder meeting and at other encounters).

Nestlé has refused to provide the statements we are requesting and I do not believe it was fair of the Global Compact Office to write to Nestlé backing its position. I asked the Office to reconsider the message it sent to Nestlé, but the response I received from your Office just an hour later ignored this request, stating: "*I remind you that the UN Global Compact's emphasis is on learning, dialogue and partnerships.*"

To conclude, I understand that the Global Compact Office will not be taking any of the actions described in the *Integrity Measures*, as quoted above.

That being the case, I ask for your patience in answering my questions on each of the five points from the *Integrity Measures* so I can understand them better.

Yours sincerely,

Mike Brady
Campaigns and Networking Coordinator
Baby Milk Action