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NESTLE SA
Form F-6 POS
May 07, 2007

As filed with the Securities and Exchange Commission on May 7, 2007
Registration No. 333-142360
=====

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

POST-EFFECTIVE AMENDMENT NO. 1
TO
FORM F-6
REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933
FOR AMERICAN DEPOSITARY SHARES EVIDENCED BY
AMERICAN DEPOSITARY RECEIPTS

NESTLE S.A.
(Exact name of issuer of deposited securities as specified in its charter)

N/A
(Translation of issuer's name into English)

Switzerland
(Jurisdiction of incorporation or organization of issuer)

CITIBANK, N.A.
(Exact name of depositary as specified in its charter)

399 Park Avenue
New York, New York 10043
(212) 816-6690
(Address, including zip code, and telephone number, including area
code, of depositary's principal executive offices)

Nestle USA, Inc.
800 North Brand Boulevard
Glendale, CA 91203
Attention: Don Gosline
(Name, address, including zip code, and telephone number,
including area code, of agent for service)

Copies to:

| | | |
|--|---|--|
| John T. Gaffney, Esq. Cravath, Swaine & Moore LLP Worldwide Plaza 825 Eighth Avenue New York, New York 10019 | Patricia Brigantic, Esq. Citibank, N.A. 388 Greenwich Street, 17th Floor New York, New York 10013 | Hans Peter Frick, Esq. Nestle S.A. Av. Nestle 55 CH-1800 Vevey Switzerland |
|--|---|--|

It is proposed that this filing become effective under Rule 466:
|_ | immediately upon filing.
|_ | on (Date) at (Time).

If a separate registration statement has been filed to register

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the deposited shares, check the following box |_|.

CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities to be Registered | Amount to be Registered(2) | Proposed Maximum Aggregate Offering Price Per Unit(1) | O |
|---|----------------------------|---|---|
| American Depositary Shares, each representing one-fourth (1/4) of one (1) registered share, nominal value CHF 1 per share, of Nestle S.A. | 100,000,000 | \$5.00 | O |

- (1) Each unit represents 100 American Depositary Shares.
- (2) The number of American Depositary Shares registered has been reduced by this post-effective amendment from 300,000,000 to 100,000,000.
- (3) Estimated solely for the purpose of calculating the registration fee. Pursuant to Rule 457(k), such estimate is computed on the basis of the maximum aggregate fees or charges to be imposed in connection with the issuance of such receipts evidencing such American Depositary Shares.
- (4) Previously paid.

The Registrant hereby amends this Post-Effective Amendment No. 1 to Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Post-Effective Amendment No. 1 to Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, or until this Post-Effective Amendment No. 1 to Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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This Post-Effective Amendment No. 1 to Registration Statement on Form F-6 may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

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PART I -- INFORMATION REQUIRED IN PROSPECTUS

ITEM 1. DESCRIPTION OF SECURITIES TO BE REGISTERED

CROSS REFERENCE SHEET

| Item Number and Caption | Location in Form of ADR Filed Herewith as Prospectus |
|-------------------------|--|
| ----- | ----- |

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| | |
|--|---|
| 1. Name of the depository and the address of its principal executive office. | Face of ADR - Introductory Paragraph |
| 2. Title of the American depository receipts and identity of deposited security. | Face of ADR - Top center. |
| Terms of Deposit: | |
| (a) the amount of deposited securities represented by one unit of American depository share; | Face of ADR - Upper right corner |
| (b) the procedure, if any, for voting the deposited securities; | Reverse of ADR - Sections (16) |
| (c) the procedure for collecting and distributing dividends; | Reverse of ADR - Section (14). |
| (d) the procedures for transmitting notices, reports and proxy soliciting material; | Face of ADR - Section (13). Reverse of ADR - Section (16). |
| (e) the sale or exercise of rights; | Reverse of ADR - Sections (14) |
| (f) the deposit or sale of securities resulting from dividends, splits or plans of reorganization; | Face of ADR - Sections (3) and (14) and (18). |
| (g) amendment, extension or termination of the deposit arrangements; | Reverse of ADR - Sections (22) provision for extensions). |
| (h) the rights that holders of American depository receipts have to inspect the books of the depository and the list of receipt holders; | Face of ADR - Section (13). |

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| | |
|---|--|
| Item Number and Caption ----- | Location in Form of ADR Filed Herewith as Prospectus ----- |
| (i) restrictions on the right to transfer or withdraw the underlying securities; and | Face of ADR - Sections (2), (3) and (9) and (10). |
| (j) limitations on the depository's liability. | Face of ADR - Section (7); Reverse of ADR - Section (14) |
| 3. Fees and charges that a holder of American depository receipts may have to pay, either directly or indirectly. | Face of ADR - Section (10). |
| ITEM 2. AVAILABLE INFORMATION | Face of ADR - Section (13). |

Nestle S.A. (the "Company") furnishes the United States Securities and Exchange Commission (the "Commission") with certain public reports and documents required by the laws of Switzerland or otherwise in accordance with Rule 12g3-2(b) under the Securities Exchange Act of 1934. These public reports and documents can be inspected by holders of ADRs and copied at public reference facilities

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maintained by the Commission in Washington, D.C.

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PROSPECTUS

The Prospectus consists of the proposed form of American Depositary Receipt (the "ADR") included as Exhibit A to the form of Second Amended and Restated Deposit Agreement filed as Exhibit (a) (i) to this Post-Effective Amendment to Registration Statement on Form F-6 and is incorporated herein by reference.

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PART II -- INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 3. EXHIBITS

(a) (i) Form of Second Amended and Restated Deposit Agreement, dated as of ____, 2007, by and among the Company, Citibank, N.A., as depositary (the "Depositary"), and all Holders and Beneficial Owners of American Depositary Shares ("ADSs") evidenced by American Depositary Receipts ("ADRs") issued thereunder (including the form of ADR to be issued thereunder). Filed herewith as Exhibit (a) (i).

(a) (ii) Amended and Restated Deposit Agreement, dated as of June 15, 2004, by and among the Company, the Depositary, and all Holders and Beneficial Owners of ADSs evidenced by ADRs issued thereunder (including the form of ADR to be issued thereunder). Previously filed as Exhibit (a) to Registration Statement on Form F-6 (Reg. No. 333-142360), filed with the Commission on April 25, 2007.

(b) Any other agreement to which the Depositary is a party relating to the issuance of the American Depositary Shares registered hereunder or the custody of the deposited securities represented thereby. Not applicable.

(c) (i) Form of Amended and Restated Rule 144A Deposit Agreement, dated June ____, 2004, by and among the Company, Citibank, N.A., as Rule 144A depositary (the "144A Depositary"), and all Holders and Beneficial Owners of Rule 144A American Depositary Shares issued thereunder. Previously filed as Exhibit (c) (i) to the Pre-Effective Amendment No. 1 to Registration Statement on Form F-6 (Reg. No. 333-114927), filed with the Commission on June 14, 2004.

(c) (ii) Form of Letter Agreement, June ____, 2004, by and between the Company and Citibank, N.A. as the Depositary and the Rule 144A Depositary. Previously filed as Exhibit (c) (ii) to the Pre-Effective Amendment No. 1 to Registration Statement on Form F-6 (Reg. No. 333-114927), filed with the Commission on June 14, 2004.

(d) Opinion of Patricia Brigantic, counsel for the Depositary, as to the legality of the securities to be registered. Filed herewith as Exhibit (d).

(e) Rule 466 Certification. None.

(f) Powers of Attorney for certain officers and directors and the authorized representative of the Company. Previously filed as Exhibit (f) to Registration Statement on Form F-6 (Reg. No. 333-142360), filed with the Commission on April 25, 2007.

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ITEM 4. UNDERTAKINGS

(a) The Depositary hereby undertakes to make available at the principal office of the Depositary in the United States, for inspection by holders of the ADRs, any reports and communications received from the issuer of the deposited securities which are both (1) received by the Depositary as the holder of the deposited securities; and (2) made generally available to the holders of the underlying securities by the issuer.

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(b) If the amounts of fees charged are not disclosed in the prospectus, the Depositary undertakes to prepare a separate document stating the amount of any fee charged and describing the service for which it is charged and to deliver promptly a copy of such fee schedule without charge to anyone upon request. The Depositary undertakes to notify each registered holder of an ADR thirty (30) days before any change in the fee schedule.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, Citibank, N.A., acting solely on behalf of the legal entity created by the Amended and Restated Deposit Agreement, dated as of June 15, 2004, as proposed to be amended and restated by the form of the Second Amended and Restated Deposit Agreement, dated as of [o], 2007 (as may be so amended, the "Deposit Agreement"), by and among Nestle S.A., Citibank, N.A., as depositary, and all Holders and Beneficial Owners from time to time of American Depositary Shares evidenced by American Depositary Receipts issued thereunder, certifies that it has reasonable grounds to believe that all the requirements for filing on Form F-6 are met and has duly caused this Post-Effective No. 1 to the Registration Statement on Form F-6 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on the 7th day of May, 2007.

Legal entity created by the Amended and Restated Deposit Agreement, dated as of June 15, 2004, as proposed to be amended by the form of the Second Amended and Restated Deposit Agreement, dated as of [o], 2007, for the issuance of American Depositary Shares evidenced by American Depositary Receipts, each American Depositary Share representing one-fourth (1/4) of one (1) registered share, nominal value CHF 1 per share, of Nestle S.A.

CITIBANK, N.A., solely in its capacity as Depositary

By: /s/ Emi Mak

Name: Emi Mak
Title: Vice President

SIGNATURES

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Pursuant to the requirements of the Securities Act of 1933, as amended, Nestle S.A. certifies that it has reasonable grounds to believe that all the requirements for filing on Form F-6 are met and has duly caused this Post-Effective Amendment No. 1 to Registration Statement on Form F-6 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Vevey, Country of Switzerland, on the 7th day of May, 2007.

NESTLE S.A.,
By: /s/ David P. Frick

Name: David P. Frick
Title: Member Executive Board

Pursuant to the requirements of the Securities Act of 1933, as amended, this Post-Effective Amendment No. 1 to the Registration Statement on Form F-6 has been signed by the following persons in the following capacities on May 7, 2007:

| Name | Title |
|--------------------------------------|--|
| ---- | ----- |
| * ----- Peter Brabeck-Letmathe | Chairman of the Board of Directors and Chief Executive Officer (Principal Executive Officer) |
| * ----- Andreas Koopmann | 1st Vice Chairman of the Board of Directors |
| * ----- Rolf Hanggi | 2nd Vice Chairman of the Board of Directors |
| ----- Edward George (Lord George) | Director |
| * ----- Kaspar Villiger | Director |
| * ----- Jean-Pierre Meyers | Director |
| * ----- Peter Bockli | Director |
| * ----- Andre Kudelski | Director |
| ----- | Director |

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Daniel Borel

* Director

Carolina Muller-Mohl

* Director

Gunter Blobel

* Director

Naina Lal Kidwai

Director

Jean-Rene Fourtou

* Director

Steven George Hoch

* Chief Financial Officer (Principal
----- Financial and Accounting Officer)
Paul Polman

* Authorized Representative in
----- the United States
Don Gosline

*By: /s/Hans Peter Frick Attorney-in-Fact

Hans Peter Frick

Index to Exhibits

| Exhibit ----- | Document ----- | Sequentially Numbered Page ----- |
|------------------|--|-------------------------------------|
| (a) (i) | Form of the Second Amended and Restated Deposit Agreement, dated _____, 2007 | |
| (a) (ii) | Amended and Restated Deposit Agreement, dated as of June 15, 2004* | |
| (c) (i) | Form of Amended and Restated Rule 144A Deposit Agreement, dated June _____, 2004** | |

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- (c) (ii) Form of Letter Agreement, dated June
____, 2004**
- (d) Opinion of counsel for the Depositary
- (f) Power of Attorney*

* Previously filed as an exhibit to Registration Statement on Form F-6 (Reg. No. 333-142360), filed with the Commission on April 25, 2007.

** Previously filed as an exhibit to the Pre-Effective Amendment No. 1 to Registration Statement on Form F-6 (Reg. No. 333-114927), filed with the Commission on June 14, 2004.