

NIGERIA

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Acknowledgements

The Tobacco Industry Interference Index for Nigeria will form part of the Global Tobacco Industry Interference Index, a global survey of how public health policies are protected from the industry's subversive efforts, and how governments have pushed back against this influence. The Tobacco Industry Interference Index was initiated by the South-East Asia Tobacco Control Alliance (SEATCA) as a regional report,) now with support from Bloomberg Philanthropies' Stopping Tobacco Organizations and Products (STOP) is part of a global publication of the Global Centre for Good Governance in Tobacco Control (GGTC) at the School of Global Studies in Thammasat University.

This report is written by Olu'Seun Esan, a development expert and tobacco control advocate in Nigeria. The report also has inputs from Philip Jakpor and Akinbode Oluwafemi who are seasoned tobacco control experts in Nigeria. We acknowledge Mary Assunta and Yodhim Dela Rosa from GGTC for their technical advice in the preparation of this Index.

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Foreword

Tobacco control in Nigeria has come a long way. The first attempt by the colonial Nigerian government at controlling tobacco import and sale was in a 1951 revenue allocation document on licensing and controlling tobacco importation. The 1951 policy focused mainly on the regulation of tobacco trade, specifically, the licensing, importation of tobacco and payment of duties. Another major attempt to regulate tobacco use for health-related reasons occurred four decades later starting with the formulation of the Tobacco Smoking (Control) Decree 20, 1990 by the then military government. With Nigeria's transition to democratic rule in 1999, the decree was changed to an Act (Tobacco Control Act 1990 CAP.T16) though, the content of both documents remained the same. The policy was weak and no doubt poorly implemented during its about two decades of existence.

After Nigeria's ratification of the World Health Organization Framework Convention on Tobacco Control (WHO-FCTC) in 2005, stakeholders worked assiduously for the development of a FCTC-compliant comprehensive tobacco control bill. The bill was called the National Tobacco Control Bill 2009. The bill faced fierce resistance from the industry and had a tortuous process in the legislature. It received strong support from many domestic and international civil society groups including Nigerian NGOs like the Environmental Rights Action/Friends of the Earth Nigeria; the Nigerian Tobacco Control Alliance and a host of others. It was finally passed by the National Assembly and sent to the President for final assent in 2013; but the presidency failed to sign the bill due to pressure from the tobacco industry, while some government ministries that felt they should dictate some aspects of the tobacco control measures, government bureaucracy also played a role in the failure to sign the bill to law. With the failure of the bill due to lack of presidential assent, another version was developed by the Federal Ministry of Health and passed as an Executive Bill from the Federal Executive Council. From the Council it moved to the legislature for passage. Eventually, the Bill was approved by the Senate in the midst of supportive pressure from civil society and formidable resistance from the tobacco industry. The Bill was forwarded to President Goodluck Ebele Jonathan who signed it into law on the 27th of May, 2015 as the National Tobacco Control Act 2015.

The biggest challenge to the immediate commencement of the implementation of the Act came from a strange provision in the law (Section 39) which empowered the Health ministry to draft regulations for its implementation and send the draft back to the legislature for approval. The Regulations took another four years to be developed and approved in the legislature. The regulations was finally approved in May 2019 and gazetted in December 2019 with strong support by stakeholders.

The findings of this study will be helpful for advocates, policy makers, researchers and the general public to intensify efforts at prompt implementation of the National Tobacco Control (NTC) Act 2015 and the National Tobacco Control Regulations 2019.

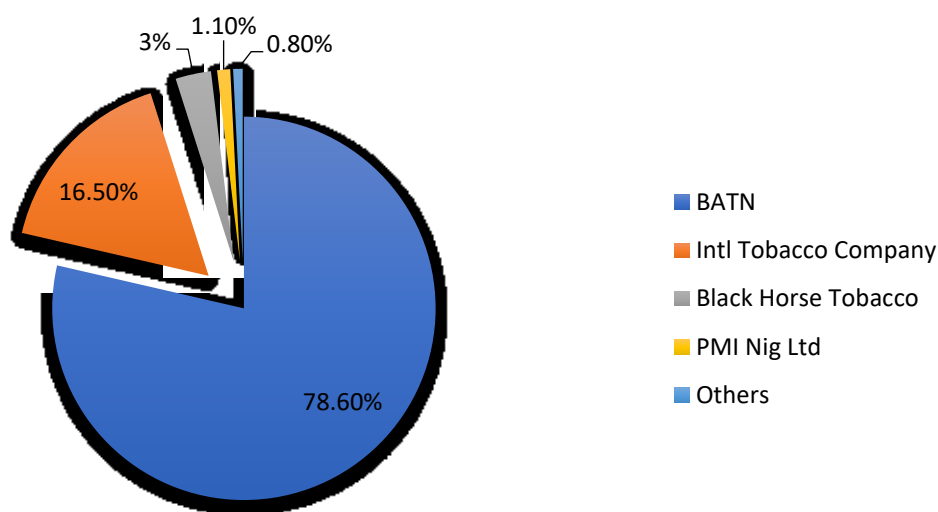
Mr. Akinbode Oluwafemi

Board Chairman, Nigeria Tobacco Control Alliance/ Member, National Tobacco Control Committee, Nigeria.

Background and Introduction

The Federal Republic of Nigeria, a country in the south-east of West Africa, with a coast at the Bight of Benin and the Gulf of Guinea. Nigeria is bordered by Benin, Cameroon, Chad, and Niger. It shares maritime borders with Equatorial Guinea, Ghana, and São Tomé and Príncipe. Nigeria has a land area of 923,768 km² and an estimated population¹ of 200 million people, making it the seventh most populous nation in the world. The capital city is Abuja, located in the middle belt, while Lagos is the country's primary port city, economic hub, and the largest city. Spoken languages are English (official), Hausa, Igbo, and Yoruba. There are more than 500 other languages spread among the 250 different ethno-linguistic groups. Islam (41%) and Christianity (58%) are the country's major religions. Nigeria is a Federal Republic with a presidential system. Nigeria's constitution provides for the separation of powers among the three branches (Executive, Legislative, and Judicial branch) of government. The bicameral National Assembly consists of the Senate and the House of Representatives. Nigeria has emerged as Africa's largest economy, with a GDP estimated at US\$ 508 billion in 2017. Nigeria is one of the five main tobacco production hubs in Africa, with British American Tobacco Nigeria (BATN) serving both local and international markets. 2016 Company shares of cigarette volumes reveals that British American Tobacco Nigeria Limited control 78.6% market share, International Tobacco Company Limited has 16.5% market share, Black Horse Tobacco Company Limited has 3%, Philip Morris International Nigeria Limited has 1.1% while others constitute about 0.8% of the Market share in Nigeria (Source: Euromonitor International Cigarettes in Nigeria Report, August 2017).

Tobacco Company Market shares of Cigarette 2016



Domestic market share accounts for about 66 percent, imported market share accounts for 24% while illicit market share accounts for about 10% of tobacco market supply in Nigeria². Nigeria ratified the World Health Organization Framework Convention on Tobacco Control (WHO-

¹ World Population review – Nigeria Population <https://worldpopulationreview.com/countries/nigeria-population/>

² A scoping study of Nigeria's Tobacco market and policy space. CSEA Africa 2019 http://cseaafrica.org/wp-content/uploads/2019/01/CTFK-Report_Full-Report_5thDecember.pdf

FCTC) on 20 October 2005 and it entered into force on 18 January 2006. Nigeria enacted a National Tobacco Control Act on 10 June 2015. The Act covered several areas of tobacco control including regulation of smoking, the prohibition of tobacco advertising, promotion and sponsorship, regulation of tobacco products, contents and product packaging, licensing and protection from tobacco industry interference among others. Much could not be done on implementing the Act because the law empowered the Health ministry to draft regulations for implementation and send the draft to the legislature for approval; this did not only delay implementation but also exposed the regulation to debates at both chambers of the country's bi-cameral legislature. After about 4 years of campaign and efforts by advocates and the Health Ministry, the National Tobacco Control Regulations was approved in 2019. The country had its share of industry interference in years past despite having ratified the WHO-FCTC which requested Parties to protect their tobacco control policies from commercial and other vested interests of the tobacco industry (Article 5.3). A lot still needs to be done in effective implementation of laws and policies for tobacco control in the country to be in its rightful place.

This report took a cursory look at the industry participation in policy development in the country, industry's CSR activities, benefits to the tobacco industry, unnecessary interaction between the industry and Government officials, transparency in dealings with the industry, conflict of interest and preventive measures among others. The report covers the 2018 and 2019 period.

Methodology of this report is based on the Tobacco Industry Interference Index initiated by the South-East Asia Tobacco Control Alliance (SEATCA) and the 20 questions are based on Article 5.3 recommendations. A scoring system (0 – 5) is used where the higher score indicates the stronger tobacco industry interference.³

³ Assunta, M. Dorotheo, E. U. SEATCA Tobacco Industry Interference Index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3. April 2015
<http://tobaccocontrol.bmj.com/content/early/2015/04/23/tobaccocontrol-2014-051934>

Summary of Findings

Nigeria has an overall score of 49

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

There is substantial evidence that the industry still participates in policy development. The process leading to the approval of the National Tobacco Control Regulation 2019 had the industry participate actively. They submitted memoranda, made submissions and sent a high-powered delegation to the public hearing at the National Assembly. The Standards Organization of Nigeria (SON) also involved and continues to involve the industry during the standards setting processes.

2. INDUSTRY CSR ACTIVITIES

There is evidence to show that the Industry engages in so-called Corporate Social Responsibility (CSR) activities in Nigeria. While many are discreetly done, there are examples of CSR activities done with fanfare and media presence. The commonest example is the British American Tobacco Nigeria Foundation (BATNF) which sponsors and supports a number of CSR activities, most especially in Lagos and Ogun States. BAT's CSR programmes are endorsed by the government. In 2018, BAT announced a NGN 700million (about USD1.8million) Country Programme to support small-scale farmers to run for five years from 2018 to 2022. It has 180 programmes across 36 states and the Federal Capital Territory, endorsed by the Federal Ministry of Agriculture.

3. BENEFITS TO THE INDUSTRY

It was difficult to get evidence to establish this. There have been instances in the past 5 years of such benefits to the industry but there is no concrete information to establish the fact. Conversations with Government officials could not ascertain the fact too.

4. UNNECESSARY INTERACTIONS

There are few evidences to suggest that there have been unnecessary interactions between the industry and some Government agencies. The industry being part of some committees and groups that also include Government agencies makes the interactions plausible.

5. TRANSPARENCY

Nigeria has policies and laws that clearly provide for transparency and accountability on dealings with the tobacco industry. The National Tobacco Control Act, 2015 and the National Tobacco Control Regulations 2019 clearly provides for transparency and probity while dealing with the industry. The problem lies in the effective implementation and enforcement of the policies and laws. There are evidences that reveal that States and Federal government officials held meetings and interactions with the tobacco industry without publicly disclosing the details of such meetings. Section 25 of the National Tobacco Control Act was very clear on interactions between the government and the tobacco industry; the act stipulated that all meetings should be conducted in a transparent manner and details of such meeting must be made readily available to the public. An effective implementation of tobacco control policies will forestall interactions that are antithetical to the standards of transparency and probity while dealing with the tobacco industry.

6. CONFLICT OF INTEREST

Nigeria has policies and laws that clearly provides for the prevention and management of conflict of interest on dealings with the tobacco industry. The National Tobacco Control Act, 2015 and the National Tobacco Control Regulations 2019 clearly deals with how to handle conflict of interests.

7. PREVENTIVE MEASURES

The Nigeria's tobacco control laws and the policies clearly provide for substantial preventive measures.

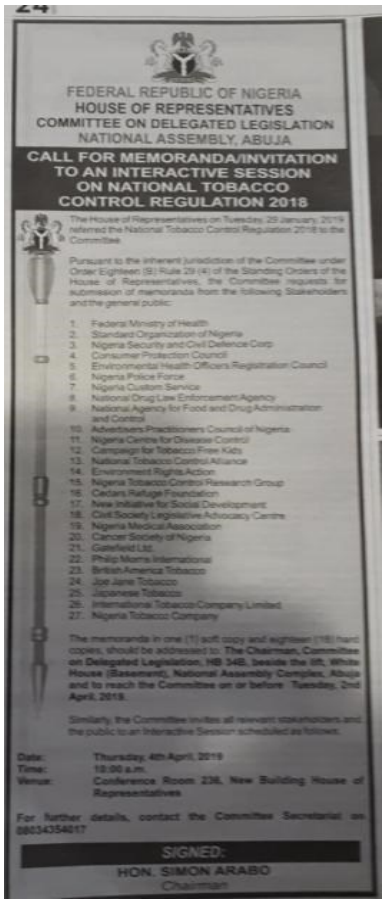
Recommendations

It is recommended that Nigeria has to do the following:

- The Government must fully implement the National Tobacco Control Act 2015 and the National Tobacco Control Regulations 2019.
- As a signatory to the WHO-FCTC, the Government must clearly provide information as regards its dealings, interactions, economic incentives and benefits that the tobacco industry receives from it.
- The Federal and States Government should provide clear platforms and processes for Government agencies to fully disclose minutes and proceedings of meetings and interactions with the tobacco industry.
- Ministries, Departments and Agencies of Government should consistently update their websites for easy information dissemination and for transparency.
- All Government officials in Ministries, Departments and Agencies relevant to tobacco control must be made to mandatorily sign the conflict of interest forms occasionally. Tobacco Control thrives on transparency, probity and accountability.

Nigeria: 2020 Tobacco Industry Interference Index

Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. 'The government ⁴ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ⁵ in setting or implementing public health policies in relation to tobacco control ⁶ (Rec 3.1)				3		
<p>The TI was invited by the Parliament for inputs and memoranda during the hearings for the National Tobacco control regulations held in April 2019. This is the usual practice of consultation with all stakeholders.⁷ The Regulations was approved in May 2019 with inputs from the TI.</p>  <p>A newspaper clip of the call for memoranda and attendance for the interactive session on the Regulations. The TI were specifically invited. (Daily Trust Newspaper, 31st March, 2019.)</p>						

⁴ The term “government” refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

⁵ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁶ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁷ National Assembly Nigeria, Why We Are Enacting Tobacco Control Law-Dogara, 5th May 2019:

<https://www.nassnig.org/news/item/958> | Newspaper Clip, 31st March 2019 -

<https://drive.google.com/file/d/1WvkCi2-ufBPuNQeAD5qjDZmZ6ic0aGe0/view?usp=sharing>

	0	1	2	3	4	5
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)				3		
<p>The Government usually involves the tobacco industry in consultations for policies on tobacco control. For an instance, as quoted above, the TI was invited by the Parliament for inputs and memoranda during the hearings for the National Tobacco control regulations held in April 2019.⁴</p> <p>(As in footnote 4 above)</p>						
3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)					4	
<p>The tobacco industry is on various technical committees of Standards Organization of Nigeria (SON)⁸ and few other agencies. An example as in footnote 5 was a statement by the SON which reported that the Industry is part of the committee for Standards. In 2017, BAT announced it got re-certified with the latest quality management system, ISO 9001:2015.⁹ While BAT's statement gives the impression it is operating by standards set by an independent body for its products, it does not divulge that it is a member of that standards body. The government's approach to setting standards independently on products that are harmful has been compromised.</p>						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) (Rec 4.9 & 8.3)		1				
<p>Health Minister, Dr. Osagie Ehanire compelled all delegates to COP8¹⁰ in 2018 to sign a mandatory declaration of interest form and insisted this would be the practice henceforth. With this requirement the Nigerian delegation was united in advocating that the tobacco industry be held accountable for tobacco harms and also became one of the standard bearers at the COP8 negotiations in ensuring that the treaty talks remained focused on stamping out loopholes that might be exploited by the tobacco industry to infiltrate country delegations.^{11 12 13}</p>						
INDICATOR 2: Industry CSR activities						
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2)					4	

⁸ SON statement, February 10, 2018 - <http://son.gov.ng/nigeria-reviews-cigarette-standards-considers-drafts-for-other-tobacco-products>.

⁹ This Day. BATN: Setting Standards in Quality Management, 12 December 2017. <https://www.thisdaylive.com/index.php/2017/12/22/batn-setting-standards-in-quality-management-2/> [hww.thisdaylive.com/index.php/2017/12/22/batn-setting-standards-in-quality-management-2/](https://www.thisdaylive.com/index.php/2017/12/22/batn-setting-standards-in-quality-management-2/)

¹⁰ FCTC/COP/8: List of Participants (pg 20) 5 Oct 2018
https://www.who.int/fctc/cop/sessions/cop8/LOP_Final.pdf?ua=1

¹¹ Premium Times Newspaper. Groups lauds Nigerian Delegations. Oct. 15, 2018
<https://www.premiumtimesng.com/news/more-news/290510-group-lauds-nigerian-delegations-performance-at-tobacco-treaty-talks.html>

¹² Vanguard Newspaper. Nigeria honoured at WHO FCTC COP8. Oct. 4 2018:
<https://www.vanguardngr.com/2018/10/nigeria-honoured-at-who-fctc-cop8-for-tobacco-control-policies/>

¹³ Premium Times Newspaper. Nigeria, others unite against big tobacco. October 2, 2018 -
<https://www.premiumtimesng.com/news/more-news/287830-cop8-nigeria-others-unite-against-big-tobacco.html>

	0	1	2	3	4	5
B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						
<p>The government recognises BAT Nigeria's CSR activities among rural communities,¹⁴ which is carried out through its Foundation.</p> <p>In 2018, BAT announced it has launched a N700million (about USD1.8million) Country Programme to support small-scale farmers.¹⁵ This initiative, to run for five years (2018 to 2022) has 180 programmes across 36 states and the Federal Capital Territory. BATNF had reportedly signed the Memorandum of Understanding (MoU) with the Federal Government in 2002 to promote socio-economic development in the country. This MoU has enabled BAT to conduct activities endorsed by local state governments.</p> <p>Lagos State Government and BAT Nigeria Foundation on partnership for CSR¹⁶</p> <div>    </div> <p>BAT Nigeria's CSR programme endorsed by the Lagos State Government</p>						

¹⁴ Chik Izuora. FG's Agriculture Policy intervention strengthening smallholder farmers. 18 March 2020 <https://leadership.ng/2020/03/18/fgs-agriculture-policy-intervention-strengthening-smallholder-farmers-2/>

¹⁵ The Guardian. BATN Foundation launches N700m project to support small-scale farmers. 5 June 2018. <https://guardian.ng/news/batn-foundation-launches-n700m-project-to-support-small-scale-farmers/>

¹⁶ BAT-LASG. https://drive.google.com/drive/folders/1EoKE68fD-a_Y90cmhIZOJrCGIyiEz2S_?usp=sharing /

BATN Foundation's CSR activities endorsed by Lagos State Government¹⁷

	
<p>Presentation of awards to winners by the BATN foundation in the Lagos farm fair on 16th Oct. 2018</p>	<p>Presentation of awards to farmers group by the BATN foundation in the Lagos farm fair on 16th Oct. 2018</p>

Title: BATN Foundation and Ogun State Government¹⁸


<p>A representative of BATN Foundation giving a gift to the Honourable Commissioner for Agriculture in Ogun State, Dr. Adeola Odedina during a visit to his office. Feb. 5, 2020. BATN has always partnered Ogun State on Empowerment and CSR¹⁹²⁰</p>

¹⁷ <https://twitter.com/BATNFoundation/status/1184447124072816640>

¹⁸ Corporate Farmers Int. Feb.6 2020 <https://twitter.com/CorpFarmersTV/status/1225291694855348224>

¹⁹ Punch Newspaper. Ogun, groups empower 1,000 rural women. April 19, 2018. <https://punchng.com/ogun-groups-empower-1000-rural-women/>

²⁰ BATN Foundation. 22 July, 2019. **Entrenching modern farming techniques among farmers.**
http://www.batnigeria.com/group/sites/BAT_7YKM7R.nsf/vwPagesWebLive/DO7YLFW3?opendocument

	
<p>BATN's joint event with Lagos State attended by Hon Gbolahan Lawal, Commissioner of Agriculture Lagos state.²¹</p>	<p>2019World Food Day: The Hon Commissioner for Agriculture Prince Gbolahan Lawal, the Permanent Secretary, Dr Olayiwole Onasanya at the BATN Foundation event.²²</p>

There are several evidences that BATN Foundation occasionally collaborates and partners with States Ministries of Agriculture on a strings of initiatives. The picture depicts World Food Day on October 16th, 2019 when Lagos State Government represented by the Ministry, BATN Foundation and others partnered to mark the event tagged the Lagos farm fair. In attendance were Lagos State Government Officials including The Honourable Commissioner for Agriculture, Prince Gbolahan Lawal, the Permanent Secretary, Dr. Olayiwole Onasanya and the Director -General Lagos State Agricultural Development Authority.

INDICATOR 3: Benefits to the Tobacco Industry

<p>6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)</p>					4
<p>According to the Ministry of Health, the implementation of the National Tobacco Control Act 2015 has been delayed by four years.²³ The speaker of the House of Representatives noted that there has been a delay in the implementation of the Act because its regulatory documents have not been approved by the legislature.²⁴</p> <p>Other details can be found in: PM News Nigeria. 24th July 2018: https://www.pmnewsnigeria.com/2018/07/24/national-tobacco-control-act-nigeria-explains-delay-in-implementation/</p>					
<p>7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)</p>				3	

²¹ World Food Day activity by BATNF and Lagos State. October 16, 2019 <https://twitter.com/CorpFarmersTV/status/1197900809809399809>

²² <https://twitter.com/LagosAgriculture/status/1184722996017160192>

²³ Africa Times. Nigeria welcomes tobacco control measures. 31 May 2019. <https://africatimes.com/2019/05/31/nigeria-welcomes-tobacco-control-measures/>

²⁴ National Assembly. WHY WE ARE ENACTING TOBACCO CONTROL LAW-DOGARA 5 April 2019 <https://www.nassnig.org/news/item/958>

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Tobacco companies receive benefit from the Export Expansion Grant (EEG) Scheme at inception of the scheme as part of a post-shipment incentive designed to improve the competitiveness of Nigerian products and commodities and expand the country's volume and value of non-oil exports.²⁵ The ECOWAS tax directives which prescribed a minimum of 50 per cent duty plus a specific excise tax of at least 0.02 dollars per stick of cigarette is also not applied.

Unfortunately, it is difficult to ascertain a fact that the TI still enjoys the EEG or not. The EEG of the Government has been shrouded in secrecy and it is unclear which Industry benefits and those that do not.²⁶ The Government has always been reluctant to give a list of organizations that have benefitted from the grants in any given year. Detailed financial policies in Nigeria are not usually made available. Phone conversation with top officials from relevant agencies that they are not aware of the exemption of the TI from the Export Expansion grant.

INDICATOR 4: Forms of Unnecessary Interaction

8. Top level government officials (such as President/ Prime Minister or Minister ²⁷) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)					4	
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On 9 October 2019, BATN organized a "A walk for a healthy diet" event attended by state officials held at the Secretariat Alausa, Ikeja, Lagos.²⁸ BATN also held a Farm Fair at the police college ground Ikeja.

	
BATN organized a "A walk for a healthy diet" event, 9 th October 2019	BATN Farm Fair at the police college ground Ikeja, 16 th October 2019

Participating in an industry event brings government officials into unnecessary interaction with the tobacco industry. In November 2019, the Lagos State Commissioner spoke at BATNF's event in Lagos.²⁹ Ogun and Lagos States have consistently been having interaction with the TI.

²⁵ Premium Times. Don't grant incentives to tobacco firms, Govt-led group urges Nigeria 23 May 2018 <https://www.premiumtimesng.com/news/top-news/269480-dont-grant-incentives-to-tobacco-firms-govt-led-group-urges-nigeria.html>

²⁶ Business day Nigeria. May 20, 2019. Inside Nigeria's scandal plagued EEG Scheme <https://businessday.ng/exclusives/article/inside-nigerias-scandal-plagued-export-expansion-grant-scheme/>

²⁷ Includes immediate members of the families of the high-level officials

²⁸ <https://twitter.com/BATNFoundation/status/1181915995520278528>

²⁹ <https://twitter.com/NOIPolls/status/1197804398694600704>

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The Ogun State Commissioner for Agriculture entered into an agreement with BATNF. The handshaking image and the interaction was promoted on social media to show the positive relationship BATN enjoys with the government. ³⁰						
9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)			2			
<p>Although Article 5.3 of the FCTC calls on Parties not to collaborate with the tobacco industry, BATN has a partnership with the Nigerian Government through the Nigeria Customs Service (NCS) on Illicit trade. Other than a brief reference to this partnership on BATN's website,³¹ there are no details available on this partnership on the NCS' website.</p> <p>In September 2018, the Assistant Superintendent of NCS wrote positively about this partnership on the World Intellectual Property Organization (WIPO) Magazine saying this partnership with BATN goes way back to 2001.³² Additionally, the Anti-Counterfeiting Collaboration of Nigeria (ACC Nigeria) has among its members Japan Tobacco International (JTI) and other corporations, joined forces with the NCS to conduct a two-week capacity-building program to train 124 frontline officers from across the country on IP enforcement.</p> <p>A study by the Centre for the Study of Economics of Africa (CSEA) has revealed that Customs Department divulged that tobacco industry players put their resources to use in undermining the activities of Customs personnel in their efforts to curtail smuggling.³³ According to the report, tobacco companies offer residents of border towns incentives to smuggle cigarettes in small quantities over a long period of time.</p>						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>			2			
The Nigeria Customs Service (NCS) has a partnership with BATN (see Question 9). Although, the Government never discloses or puts out any information of such partnerships in the public domain. In fact such are denied by Government officials; thus' it has always been difficult establishing such partnerships or agreement with concrete evidence.						
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)					4	

³⁰ <https://twitter.com/CorpFarmersTV/status/1225291694855348224>

³¹ BAT Nigeria website. Accessed on 3 May 2020.

http://www.batnigeria.com/group/sites/BAT_7YKM7R.nsf/vwPagesWebLive/DO7YLF6?opendocument

³² Nnenna Ugo Awa, Building respect for IP: Nigeria Customs Service on the frontline. Sep 2018 WIPO Magazine. https://www.wipo.int/wipo_magazine/en/2018/si/article_0002.html

³³ CSEA. A Scoping study of Nigeria's tobacco market. 22 January 2019

https://media.africaportal.org/documents/A_scoping_study_of_nigeria_s_tobacco_market.pdf

	0	1	2	3	4	5
<p>Section 25 of the National Tobacco Control Act 2015³⁴ of the country stipulated the procedure for all interactions with the tobacco industry; the provisions emphasized transparency, openness and publicly available record of meetings. Unfortunately, like several other provisions of the Act, it is not effectively implemented and enforced. There are evidences of meetings/interactions between Government officials and the tobacco industry with record of the details of such interaction. For example, there is no publicly available information on how the Ogun State Commissioner for Agriculture entered into an agreement with BATN Foundation.³⁵</p> <p>In February 2018, the SON website reported that the Technical Committee on Tobacco and Tobacco products met in Abuja to review the Nigeria Industrial Standard NIS 463:2014 for Tobacco and Tobacco Products – Specifications for Cigarette and considered drafts for development of standards for other tobacco products in Nigeria.³⁶ Although representatives of the tobacco industry sit on various technical committees of Standards Organization of Nigeria and few other agencies, this information is not made publicly available.³⁷</p>						
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)		1				
<p>The National Tobacco Control Regulations 2019³⁸ Section 7(g) provided for full annual report and disclosure of tobacco industry subsidiaries, entities, affiliated organizations, joint ventures, partners, suppliers, licensees, agents and individuals acting on their behalf including lobbyists.</p>						
INDICATOR 6: Conflict of Interest						
13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)			2			
<p>There is a law that forbids contributions from the tobacco industry to political parties. The National Tobacco Control Act 2015 (Section 27). But it is not being enforced because major political parties in the country do not usually make their funding and budget public.³⁹</p>						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)				3		
<p>Chief Kola Jamodu the current Chairman of BATNF was formerly a Minister of Trade. BATNF is known for appointing former top Government officials as chairmen.⁴⁰</p> <p>Mr Aminu Bashir Wali Minister for Foreign Affairs 2014-2015, Chairman International Tobacco Company.⁴¹</p>						

³⁴ Google Document. National Tobacco Control Act 2015.

<https://drive.google.com/file/d/1A5FjaB4Nlx2QJAWXByUiSy9W2CwU5FSW/view?usp=sharing>

³⁵ <https://twitter.com/CorpFarmersTV/status/1225291694855348224>

³⁶ <http://son.gov.ng/nigeria-reviews-cigarette-standards-considers-drafts-for-other-tobacco-products>

³⁷ Source of this information is for restricted, internal use only.

<https://www.tobaccocontrol.org/files/live/Nigeria/Nigeria%20-%20NIS%204632018%20-%20national.pdf>

³⁸ Google Document. National Tobacco Control Regulations 2019.

<https://drive.google.com/open?id=1zscZp2ejKya2yHCX9XeAG-oEIXslfPFI>

³⁹ Google Document. National Tobacco Control Act 2015.

<https://drive.google.com/file/d/1A5FjaB4Nlx2QJAWXByUiSy9W2CwU5FSW/view?usp=sharing>

⁴⁰ British American Tobacco Nigeria. Board of Directors, British American Tobacco Nigeria Foundation.

http://www.batnf.com/groupms/sites/bat_9ayeww.nsf/vwPagesWebLive/DO9B3JDP?opendocument

⁴¹ United Nations. Profile of Mr. Aminu Bashir Wali. 2005. <https://www.un.org/press/en/2005/bio3693.doc.htm>

	0	1	2	3	4	5
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	0					
No current government officials are holding any position in the tobacco business.						
INDICATOR 7: Preventive Measures						
16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)				3		
The Federal Ministry of Health is planning to put in place such policy. The policy is still in its planning stages.						
17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2)		1				
Yes, the National Tobacco Control Act 2015 (Section 27) ⁴² forbids the TI from offering any donation to any Government entity; it also forbids any Government agency/entity from accepting any contribution of any kind. (Section 27a). The law also forbids any public official for accepting or soliciting and kind of contribution. Section 28 of the Act also clearly provided for prevention and management of conflict of interest. It covered full disclosure of existing or prior affiliation with the TI.						
18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. (5.2)		1				
Yes, the National Tobacco Control Regulations 2019 established this (Section 7). ⁴³						
19. The government has a program / system/ plan to consistently ⁴⁴ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)				3		
The National Tobacco Control Strategic plan which addresses this is being developed at the moment.						
20. The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)		1				
The National Tobacco Control Act 2015 has clearly spelt this out (Section 27 and 28). ⁴⁵						
TOTAL	49					

⁴² Google Documents. National Tobacco Control Act 2015.

<https://drive.google.com/file/d/1A5FjaB4Nlx2QJAWXByUiSy9W2CwU5FSW/view?usp=sharing>

⁴³ Google Documents. National Tobacco Control Regulations 2019.

<https://drive.google.com/open?id=1zscZp2ejKya2yHCX9XeAG-oEIXslfPFI>

⁴⁴ For purposes of this question, “consistently” means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.

⁴⁵ <https://drive.google.com/file/d/1A5FjaB4Nlx2QJAWXByUiSy9W2CwU5FSW/view?usp=sharing>

Annex A: Sources of Information

I. TOBACCO INDUSTRY ACTIVITY

Top 5 Transnational Tobacco Company	SEATCA Report (Y if SEATCA Report contains information on this, N if not)	Sources other than SEATCA Report
British American Tobacco Nigeria	Y (78.6% market share)	Website
Philip Morris Limited Nigeria	Y (1.1% market share)	Website and the internet
Japan Tobacco International Nigeria	N	Internet

LOCAL TOBACCO COMPANIES

Top 5 Local Tobacco Company	Market Share and Brands	Source
International Tobacco Company	16.5%	Internet, Euromonitor Cigarette in Nigeria 2017 Report
Leaf Tobacco and Commodities Nigeria Ltd	Not available	Internet
Black Horse Tobacco Company	3.0%	Internet, Euromonitor Cigarette in Nigeria 2017 Report
Greg Jane International Ltd	Not available	Internet

TOBACCO FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	Source
Manufacturers Association of Nigeria	A platform established in Nigeria to protect and promote manufacturers' collective interest	https://www.manufacturersnigeria.org/#
Initiative for Public Policy Analysis	IPPA is a think tank based in Nigeria that provides market-oriented analysis of current and emerging policy issues, with a view to influencing the public debate and the political decision-making	https://www.ippanigeria.org/
Business Renaissance Group	Civil Society front group	https://www.vanguardngr.com/2018/06/group-heads-court-fg-okays-new-excise-rates-tobacco-alcoholic-beverages/

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	Source
Sustained Development Collective	Civil Society front group	
Nigeria Independent Tobacco Farmers Association	Civil Society front group	https://www.business-humanrights.org/en/nigeria-farmers-allege-british-america-tobacco-putting-them-in-modern-slavery-claim-child-labour-used-to-reduce-costs-as-a-result

a. News Sources

Top 5 Newspaper/Dailies	Type (Print/Online)
ThisDay Newspaper	Print/Online
Vanguard	Print/Online
Leadership	Print/Online
The Guardian	Print/Online
Premium Times	Print/Online

b. Government Agencies (Refer also to Annex A)

Agency	Specify if more than one office is involved in this function:	General Sources of Information/ News for each office
1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty	NO	Newspapers, Memos
2. National Assembly (Policy makers)	Yes. Senate and House of Representatives	Website, Newspapers, Memos
3. National Tobacco Control Committee	No	Newspapers, Memos
4. Nigeria Customs Service	No	Newspapers, Memos
5. Federal Ministry of Education	No	Newspapers, Memos
6. Federal Ministry of Environment	No	Newspapers, Memos
7. Federal Ministry of Finance	No	Newspapers, Memos
8. Federal Ministry of Health	No	Website, Newspapers, Memos
9. Federal Ministry of Labour	No	Website, Newspapers, Memos

Agency	Specify if more than one office is involved in this function:	General Sources of Information/ News for each office
10. Federal Ministry of Trade and Industry/ Investments	No	Newspapers, Memos
Additional agencies/sectors to be named per country:		Newspapers, Memos
11. Federal Inland Revenue Service	No	Newspapers, Memos
12. Federal Competition and Consumer Protection Commission	No	Newspapers, Memos
13. Standard Organizations of Nigeria	No	Website, Newspapers, Memos

c. Meetings Attended/ Public Hearings

List the types of meetings and name of groups meeting (Working Group, Drafting group, National Assembly Public Hearing, National Tobacco Control Committee, etc.) and the contact person / source of the minutes:

Type of Meeting	Source
Technical Committee on Tobacco and Tobacco Products	Provided for by the National Tobacco Control Act, 2015: https://www.tobaccocontrollaws.org/files/live/Nigeria/Nigeria%20-%20NIS%204632018%20-%20national.pdf Contact Person: The Tobacco Desk Officer, Standards Organization of Nigeria
Tobacco Taxation National Technical Working Group	Contact Person: Dr M.T. Malau (Federal Ministry of Health, Abuja)
National Tobacco Control Committee (NATOCC)	Contact Person: Dr M.T. Malau (Federal Ministry of Health, Abuja)

II. Laws, Policies, and issuances:

HEALTH LAWS:

1. Is there a health law database? If yes, please list which one will be used and cite the limitations: No
2. If there is no existing health law database, then list the primary source of the law listing to be searched:
<https://www.tobaccocontrollaws.org/files/live/Nigeria/Nigeria%20-%20NIS%204632018%20-%20national.pdf>
3. Does the above sources include issuances? O Yes O No
If no, please list the alternative source for the issuances: Yes (Can be downloaded from the Google Docs and the internet.)

ALL LAWS:

4. Is there a centralized (all) law database? If yes, please list which one will be used and cite the limitations:
The Federal Government Printer, Lagos, Nigeria. (limitation: it has no online presence and cannot be accessed remotely)
5. If there is no existing centralized law database, then list the primary source of the law listing to be searched:
The laws and policies were scanned and put on Google documents for access
6. Does the above sources include issuances? O Yes O No
If no, please list the alternative source for the issuances:
No. The laws and policies were obtained for Organizational use prior to this research.