Executive Summary

Nigeria is at a major crossroads in tobacco control as comprehensive legislation remains (as of March 2010) under public discussion at the national legislative level. The proposed legislation was under intense Senate scrutiny for much of 2009, and the tobacco control community awaits word on where the legislation will go after these hearings. The legislation is FCTC-compliant and has been vetted by the domestic tobacco control community and its many international allies (e.g. Tobacco Free Kids, Framework Convention Alliance, International Development Research Centre, etc.). With adult prevalence rates approaching at least 20% and increasing (and likely higher for youth), there is a clear need to address tobacco issues in the near term, especially in such a populous (>150M), varied (hundreds of distinct ethnic and/or linguistic groups) and poor country.

There appears to be considerable political will for the legislation at many high official levels, but Nigerian politics are very complex. Prominent members of the legislature openly support the legislation as does the Minister of Health, but there are still several major political layers to navigate including two Houses in the national legislature. On one hand, if the legislation is not passed, the tobacco control community will either need to pursue new comprehensive legislation or consider smaller pieces of legislation that will be more politically viable. On the other hand, if the legislation is passed, the tobacco control community will have to shift gears to consider the challenges of implementation and enforcement.

In November, 2009, the tobacco control community team enjoyed a significant victory when Osun State passed a comprehensive smoke-free law (one of the ATSA initiatives). The team had been sensitizing state legislators and the state-level executive branch (the governor and his staff) about tobacco control for months through education programs. The team is now shifting its efforts to enforcement. As a federal system, considerable power is decentralized to the states so the “demonstration effect” of a smoke-free Osun State could have powerful positive diffusion effects.

Moreover, the tobacco control community is currently dealing directly with enforcement of the previously-passed smoke-free Abuja laws (the enforcement is also one of the ATSA program actions). They are having a very useful “practice” run at implementation and enforcement challenges, and have been sensitizing the Abuja minister to tobacco issues (Abuja is the Federal Capital Territory and the minister in charge is the equivalent of a state governor). In late 2009, the Minister officially incorporated a line item in the
2009/10 budget for tobacco law enforcement activities. This action is an enormous victory for the tobacco control community because the laws are becoming more self-sustaining (i.e. not requiring as much external funding for awareness and enforcement), and Abuja could also serve as an excellent model for the rest of the country.

The challenges are large in Nigeria, including a very politically and economically powerful tobacco industry. In the mid-2000s, British American Tobacco made Nigeria its West African manufacturing hub, and it has a large presence in the country. However, the tobacco control community is experienced, dogged and creative in their approaches. Currently, organizations working in tobacco control, particularly the ERA-Friends of the Earth and the Nigerian Heart Foundation, are seeking aggressively to expand their full-time tobacco-focused staff, which is a necessity in a country this large and complex.
Nigeria

2009 Population (World & Africa Ranking): 149,229,090 (9, 1)
Geographical Size (Ranking): 923,768 sq km, (39)
2008 GDP by Purchasing Power Parity (Ranking): $335.4 Billion US Dollars (36)
GDP Real Growth Rate 2006-08 6%
GDP per Capita (Ranking): $2,300 US Dollars (178, 2008)
Main Industries: Crude Oil, Coal, Tin, Columbite, Palm Oil, Peanuts, Cotton, Rubber, Wood, Hides and Skins, Textiles, Cement and other construction materials, food products, footwear, chemicals, fertilizer, printing, ceramics, steel, small commercial ship construction and repair

Languages: English (Official), Hausa, Yoruba, Igbo (Ibo), Fulani, and Kanuri (country is comprised of more than 250 ethnic groups)

ODA as a percent of GDP: 0.98%
Largest Donors (disbursements): UK 354.1, Netherlands 344, Austria 321.3, US 240.6, Denmark 94.4, EC 78.9, Global Fund 39.6, UNICEF 33.8

2007 Tobacco Production in Volume: 9,000 tons
Tobacco Exports (2007): Cigarettes: 760 tons at $13, 633 per ton, # 7 export
Tobacco imports (2007): Tobacco unmanufactured: 12,278 tons at $2921 per ton, # 14 import

Brief Description of Political System

Type: Nigeria is a presidential federal republic with 36 states and 1 territory.
Executive: Umaru Musa Yar’adua was elected in 2007 and is the chief of state and the head of government.
Cabinet: Federal Executive Council.
Legislature: The legislature is made up of a bicameral National Assembly. The Senate is comprised of 109 seats with 3 seats from each state and one seat from Abuja that are elected every 4 years by popular vote. In late 2009, the main political parties in the Senate were the People’s Democratic Party (PDP) 53.7%, All Nigeria People’s Party (ANPP) 27.9%, and the Alliance for Democracy (AD) 9.7%. The House of Representatives is comprised of 360 seats that are elected every 4 years by popular vote. The main political parties in the House are the PDP (54.5%), the ANPP (27.4%), and the AD (8.8%).
Judiciary: Supreme Court (Judges recommended by National Judicial Council and appointed by president)

Prevalence

Summary: While data on prevalence are inconsistent, it is relatively clear that prevalence rates for cigarette use are likely greater than 15% for adults (possibly even higher), and still higher for youth (perhaps 20% or greater). These rates also appear to be increasing, though time trend data are weak. There are no dedicated, wider studies on smokeless tobacco use, a gap that needs to be addressed.

National-level tobacco usage statistics differ widely among data sources in Nigeria. For example, the revised Tobacco Atlas cites fairly low tobacco prevalence rates of 9% for adult men, less than 1% for adult women, 9.7% for teen-aged boys, and 5.7% for teen-aged girls. Similarly, the Demographic Health Surveys (DHS) from 2003 cites a general rate of cigarette smoking of 8% for men and less than 1% for women, and low usage (<2%) of non-cigarette tobacco products. In contrast, 2008 Global Youth Tobacco Survey (GYTS) data for Nigeria compiled by Dr. Ima-Obong Ekanem, a member of the Nigeria Tobacco Control Alliance, found that youth tobacco use (13-15 year-olds) has reached alarming rates – 17% to 27% of the adolescents surveyed were regular tobacco users (rates vary by region).

Most data tend toward higher rather than lower rates. Two surveys by the Nigerian Ministry of Health (1998 and 2001) found smoking prevalence rates of 17.1% among adults over 15 and 18.1% among youths age 13 to 15. Also, the Ministry of Health has reported that total consumption of tobacco in Nigeria increased at an annual 4.7% rate between 2001 and 2006. In any event, even if one were to assume that Nigerian tobacco use was at a middling base five or ten years ago, it is pretty clear by all accounts that it is rapidly approaching alarming rates.

One notable statistic is that consumption remains relatively low with two-thirds of smokers reporting 1-5 cigarettes per day, and only 16% reporting consumption of more than 10 cigarettes. Of course, these patterns of low consumption are common across developing nations with serious poverty issues as in Nigeria, and the distinct challenges of low consumption should be considered in any tobacco control strategy.

A pessimistic appraisal of the data is also supported by recent mortality statistics cited by four Nigerian provinces in their separate lawsuits against British American Tobacco (BAT). Lagos state government recorded more than 9,000 cases of tobacco-related illnesses in the state’s 26 hospitals during 2006 alone; extrapolating to the whole country, 352,000 Nigerians suffer from tobacco-induced illnesses annually.

Politics of Tobacco

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2 See http://www.tobaccoatlas.org/tobaccoatlas/about.html.
4 See http://www.afro.who.int/dnc/databases/gyts/reports/NIGERIA_GYTS%202008.pdf.
5 “Nigeria’s war on tobacco.” Semiu Salami, Business Eye, 10 January 2007.
Summary: The politics of tobacco in Nigeria benefit from strong coordinated activity by civil society organizations and some government support for tobacco control in spite of opposing efforts by British American Tobacco Nigeria (BATN). Consistent observation of World No Tobacco Day over the past two decades has also increased public awareness of the dangers of tobacco use and exposure. As of 2009, a new comprehensive tobacco control bill, which would amend a 1990 law, is being considered by the federal government. Not surprisingly, BATN is mounting strong opposition to the Bill, framing the issue as health versus the economy. Meanwhile, at least eight state governments have initiated cost-recovery litigation against the tobacco industry. The ATSA Nigeria team is supporting the enforcement of a smoke-free policy in Abuja and has pursued and achieved a smoke-free policy in Osun State. Political mapping played a key role in promoting both of these initiatives. The ATSA team is also hoping to capitalize on the impending review of current tax policies by the national government to introduce changes to tobacco taxation policy.

Overall context
Documented attempts by the Nigerian government to regulate the activities of tobacco manufacturers date back to the early 1990s. The first recorded policy was the Tobacco Smoking (Control) Decree 20, 1990. In 2001, the Decree was converted to an Act when Nigeria moved to democratic rule. It is now titled: “Tobacco (Control) Act 1990 CAP.T16”. The act provided for a ban on smoking in specified public places and warning messages on every tobacco advertisement and sponsorship. The highly ineffective warning messages: “The Federal Ministry of Health warns that Smokers are Liable to Die Young” was enforced, but the ban of smoking was not enforced in all the specified places like schools and stadia. Beginning in 1990, Nigeria has consistently marked the World No Tobacco Day (WNTD) with the tobacco control community creating awareness and disseminating information to members of the public on the adverse effects of tobacco on public health. These efforts were always civil society-driven, but in the late 2000s, the Ministry of Health also organized WNTD events.

In 1999, in an effort to reinforce the government’s position on tobacco control, a National Smoking Cessation Committee was inaugurated and a short term Plan of Action was developed. These actions were shortly followed by a “total ban” on tobacco advertisement by the Advertising Practitioners Promotion Control (APCON) of Nigeria in 2002. In 2004, Nigeria signed the FCTC and subsequently ratified it on October 20, 2005. In 2007, the Abuja Smoke-Free Policy was introduced by the minister of the Federal Capital Territory banning smoking in public places. The federal government has further demonstrated its political will to regulate the tobacco industry by paying its voluntary FCTC contribution to the WHO up to 2007, and halting the establishment of the $80 billion tobacco factory by the Imperial Tobacco Group plc in Osun state. This action was the combined effort of Ministry of Health officials and tobacco control non-governmental organizations (NGOs).

Importantly, as of 2009, there is a new comprehensive tobacco control bill being considered at the federal government level. The bill, which would amend the 1990 law, is
sponsored by Lagos East Senator (and Deputy Minority Leader), Dr. (MD) Olorunnibe Mamora, and was considered in a formal hearing by the Senate health committee in July, 2009. The proposed legislation is entitled: “A Bill for an Act to Repeal the Tobacco (Control) Act 1990 Cap T16 Laws of the Federation and to Enact the National Tobacco Control Bill 2009 to provide for the Regulation or Control of Production, Manufacture, Sale, Advertising, Promotion and Sponsorship of Tobacco or Tobacco Products in Nigerian and for other Relates Matters” (the short citation is the “National Tobacco Control Bill 2009”). In brief, the bill seeks to ban smoking in public places, to forbid persons under the age of 18 to sell and buy tobacco products, and to forbid communication between the manufacturers and consumers (i.e. advertising, sponsorship and promotion).

Notably, this bill received its official second reading in the Senate in February 2009, six months before the hearing. According to tobacco control advocates, BAT actively sought to quash the bill, and it was only after vigorous efforts on the part of civil society organizations that the bill advanced to the committee stage.

Encouragingly, in 2009, the Minister of Health, Professor Babatunde Osotimehin, spoke out publicly in support of the proposed legislation. He stated: “I want to tell you that I am very passionate about anti-tobacco legislation. This British-American Tobacco (BAT) people once came to talk to me on how we could work together but I said no! I cannot work with BAT people because the human cost of tobacco is enormous” (Shaibu from Vanguard, July 10, 2009).

The bill has received strong support from some civil society groups. For example, three major NGOs – the Environmental Right Action/Friends of the Earth Nigeria (ERA/FoEN), the Nigeria Tobacco Control Alliance (NTCA) and the Coalition Against Tobacco – aim explicitly and vocally at ensuring that the long-term damaging effects of tobacco on smokers and non-smokers are curtailed.

The proposed bill has also been commended by international agencies (including the WHO) and non-governmental organisations (e.g. Campaign for Tobacco Free Kids). The World Health Organisation (WHO) Country Representative in Nigeria, who was represented at the senate public hearing by Dr. Kayode Soyinka, said the hearing was a significant step by the legislative branch’s Upper Chamber to rescue the lives of millions of Nigerians from tobacco addiction. In a memorandum to the public hearing, signed by its president, Matt Myers, a leading tobacco control group in the United States, Campaign for Tobacco Free Kids (TFK), expressed support for the tobacco control bill “in its current form,” and urged the Senate to pass it promptly. The memorandum also stated that the bill is essential to bring Nigeria into compliance with its international obligations under the Framework Convention on Tobacco Control (FCTC)

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Expectedly, the issue has been controversial and faces opposition, or at least scepticism. British America Tobacco Nigeria (BATN) initially attempted diplomatic opposition. While BATN agreed that tobacco had impacts on public health, it supported “appropriate” regulation of the industry that would help to reduce the impact. According to then-BATN Director, Regulatory Affairs, Tony Okwoju: "There are provisions in the bill, which we believe are either extreme and would have unintended consequences or will only make it difficult or impossible for the legal industry to operate, without necessarily achieving the desired objective of reducing the impact of tobacco on public health.” He is also on record stating that "We have seen cases where extreme regulation has resulted in an increase in the levels of illicit trade" and "The effect of passing a law that is not adequately considered is that it will undermine its own intentions by placing tobacco outside of the control of the regulator, thereby leaving those who continue to smoke at the mercy of smugglers.”

In a related public statement, Saka Muniru, representing the Ibadan Progressive Union, told the Senate Committee on Health that the closure of the British American Tobacco Company factory located in Ibadan, Oyo State, alone would ultimately lead to loss of more than 500,000 jobs. This dramatic claim was quickly and publicly refuted by ERA/FoEN.7

In 2009, a journalist, Tayo Olatoye, in an editorial in a major national newspaper raised a couple of issues. First, he noted the ambiguity of possibilities under Clause 23 (2) (c) of the proposed legislation, which says "any citizen concerned about tobacco can enforce the provisions of the law." Second, he claimed that the creation of the National Tobacco Control Committee (NATOCC) is a development that is largely unnecessary and too expensive at this point in time (Olatoye, Feb 18, 2009). ERA/FoEN believes that media reports like this one are likely syndicated by BAT, and essentially publish BAT’s position, suggesting above all else that there is corruption in the media.

The public senate committee hearing on the proposed legislation was led by Senator Iyabo Obasanjo Bello, the Chairman of the Senate Committee on Health, an influential and important position in the legislature. In opening the hearing on the bill, Senate President David Mark, another influential leader in the legislature, remarked that “we are torn between economy and the health of Nigerians in passing this bill, but we’ll not compromise because it’s only those who are alive that can talk about economy.” Though the Senate President did express some reservation about the bill saying, “I will remain neutral on this bill because the two key issues are health versus economy. How many jobs can we provide from the tobacco industry? How many people are going to lose their jobs now if the tobacco industries are not able to produce in this country? More importantly, if the tobacco Industries here close down, will it stop Nigerians from smoking?” (The Weekly Trust and the Daily Trust, July 21, 2009). Despite the somewhat mixed remarks, the tobacco control community believes that he is very supportive of the pending legislation.

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7 [http://234next.com/csp/cms/sites/Next/News/Metro/Health/5473065-146/Group_urges_Senate_to Expedite_action.csp](http://234next.com/csp/cms/sites/Next/News/Metro/Health/5473065-146/Group_urges_Senate_to Expedite_action.csp)
Senator Mark also commented on bribery allegations concerning the bill, stating unequivocally that no senator has been bribed to influence the passage or otherwise of the National Tobacco Control Bill. Senator Mark said the issue of checking cigarette smoking was contentious as there are global lobbyists for a ban on tobacco smoking as well as organisations against the ban saying, “I have heard all sorts of stories about lobbyists trying to see that the public hearing does not go on, or that lobbyists insist that the public hearing must go on.” For example, tobacco control advocates have gathered from highly reliable sources that BATN is offering to construct constituency project for some parliamentarians.

Notably, on July 21, 2009, BATN changed its position, pledging to comply with the legislation. BATN’s Director, Regulatory Affairs, Tony Okwoju, made the pledge before the Senate Committee on Health. Okwoju also said in addition to paying N$80 billion in taxes, the company in 2002 established the BATN Foundation, which to date has completed 77 community projects in 34 of the 36 states in Nigeria. Notably, Okwoju was fired from BAT shortly after the open endorsement of the bill on behalf of BATN.

Influential Senator Jibrin Aminu (a former minister, former ambassador, two-time senator, and chairman of the Senate Committee on Foreign Affairs) also spoke out against tobacco, though he has distinct ideas about how to handle the challenges that are different than many in the tobacco control community. He urged the Federal Government to simply close down all tobacco companies in the country because of their ill effects on society. Aminu, who said he quit smoking in 1963, advised the government not to adopt the United States' approach because, according to him, the U.S. simply increased the taxes paid by tobacco companies, a situation which he noted, would only transfer the tax burden to the consumers. Aminu said: "I don't like that approach, we should discourage and prevent it completely. We should not be deceived by the sweet messages propagated by these tobacco companies" (Azimazi Momoh Jimoh, Nigeria Guardian news, July 10th).

Unfortunately and bizarrely, some of the press from the recent hearings was dedicated to a distracting sideshow, which tobacco control advocates suggest, in another example of the industry’s creative reach, was played up by public relations companies hired by BATN. The wife of the former Chief Justice of Nigeria and member of the African Union Committee of Experts on the Rights and Welfare of the Child, Mrs. Maryam Uwais and the Chairman of the Senate Committee on Health, Senator Iyabo Obasanjo-Bello engaged in a highly public argument on the propriety or otherwise of disallowing children to participate in the bill’s public hearing. Mrs. Uwais demanded that the children be allowed to testify while the Senator forbade it. The children did not ultimately testify.

In a tidy and disturbing demonstration of opposition to tobacco control within the federal bureaucracy, as well as a sign of poor coordination across government agencies, a high-ranking government official publicly commended BATN in July, 2009. The Comptroller-General of the Nigeria Customs Service, Dr. B.E. Nwadialo, praised BATN for its

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commitment to the development of the Nigerian economy, especially through employment generation and prompt payment of taxes and duties to the government.

However, in a positive national-level tobacco control development in 2009, the federal cabinet banned fresh investments in the tobacco and allied industry. Executive Secretary and Chief Executive Officer of the Nigerian Investment Promotion Commission (NIPC), Mustafa Bello, made this disclosure at the 2nd Nigeria-Japan Business and Investment Forum, which took place in the cities of Osaka and Tokyo. Bello had said in response to an inquiry from a prospective Japanese investor that the Federal Government, in line with global efforts at stemming the use of tobacco products and isolating manufacturers of the product, may not be well disposed to fresh investments in that sector.

Litigation has been one of the more recent tools employed by the tobacco control community in Nigeria. On behalf of the Lagos state government and ERA/FoEN, the former Attorney-General and Commissioner of Lagos State, Prof. Yemi Osibajo, on April 30, 2007 sued five tobacco companies (British American Tobacco Nigeria Limited, International Tobacco Limited, British American Tobacco PLC, British American Tobacco (Investment) Limited and Philip Morris International) to recoup the money – N2.5 trillion – spent on treating people who became sick from using tobacco products. He was the first to file a suit against tobacco companies when he was in office.

Before the end of 2007, three other states – Oyo, Kano, Gombe – and the Federal Government of Nigeria, taking a cue from the Lagos action filed various cost-recovery suits against the tobacco industry. Oyo state is claiming, in punitive and anticipatory damages, N366 billion; Gombe, N600 billion; Kano, N3 billion; and the Federal Government, N5.3 trillion.

In 2008, the cases in the various states made little progress due to what government lawyers called „deliberate act to frustrate the litigation”. The defendants’ counsel raised several preliminary objections, many of which were technical, in a deliberate attempt to delay or frustrate the cases from going to trial. However, there have been positive developments in states such as Kano and Oyo where judges have thrown out a series of objections and motions filed by defendants on the basis of lacking merit and acting in bad faith with a view to slow the judgment of the courts. Despite these early setbacks, four other states – Ekiti, Ogun, Ondo and Akwaibiom – subsequently joined the class-action suit.

The government legal team has actively fought back with legal means such as injunctions against the industries’ efforts to stymie the suits. Also, ERA/FoEN has engaged in a series of workshops and campaigns to drum up high-profile support for the litigation in the newest states. The results of these efforts have been very positive including favorable

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media coverage and an elevation of the general level of discussion on tobacco control and litigation in the states.

Implementation of a Smoke-free Abuja (Federal Capital Territory)

An Abuja smoke-free policy was promulgated on May 31st, 2008, but as of early 2010, it continues to require enforcement (for example, see Onche, Feb. 1, 2009 from Leadership). Notably, the Abuja case is an example not of legislation but of a policy pronouncement by a minister, which can add the possibility of other avenues to reach tobacco control goals beyond the heavy burden of passing national legislation. Abuja is particularly well suited for a “demonstration” (i.e. for other states) because the status of Abuja as the Federal Capital Territory (FCT) makes the position of the minister (in this case, former FCT minister Aliyu Moddibo) equivalent to that of a governor of a state. According to the former minister, the rule was not intended to forcefully stop smokers from smoking, but to create room for proper ventilation for residents of the FCT.

As of late 2009, the ATSA team has achieved some success in terms of their goal to get the government to enforce the ban. In fact, there was N18,700,00 earmarked specifically for this purpose in the 2009 FCT budget by the current Abuja minister, Adamu Aliero. This money will go toward a mobile court to try violators and an awareness campaign. There is also money set aside for 2010. This is a huge victory for the tobacco control community, and as they state, “Success is when the government is putting in its own money.” The mapping below helps to explain some of the process that the team used, and continues to use, as they seek to enforce a smoke-free Abuja.

The political mapping conducted by the ATSA team for the Abuja smoke-free policy examined the potential influence and current level of support of stakeholders to the successful enforcement of the policy. The analysis mapped the stakeholders into four critical groups: advocates, low priority, problematic and antagonistic stakeholders. The degrees of influence of the stakeholders were reviewed in the context of their level of support and importance to the enforcement of the policy priority.

On January 14, 2008, the then Minister of the Federal Capital Territory (FCT), Alhaji Aliyu Umar Modibo made a public declaration that his administration would begin enforcement of the ban of smoking in Public Places beginning June 1st, 2008. Prior to the deadline, the Minister constituted an implementation committee that had two representatives from civil society, Akinbode Oluwafemi of ERA/FoEN and Toyosi Onaolapo of the Coalition Against Tobacco (CAT). Other committee members were drawn from the different departments of the Federal Capital Territory and law enforcement agencies. The committee mapped out a number of activities to flag off the enforcement of the ban, including when the ban was declared on World No Tobacco Day 2008 with enforcement set to begin officially on June 1, 2008.

The ATSA team’s mapping identified the President, the Abuja Minster, the Ministries of Health and Environment and the Abuja Smoke-Free Implementation Committee as very important advocates currently in support of the policy. Because Abuja as the Federal Capital Territory derives its policy directives from the presidency and the federal executive council, these high-level political actors are very important (in Nigeria, when a minister speaks in support of a policy, it is taken as the President’s position). Unfortunately, the Abuja Minister lost his seat in the December 2008 executive cabinet reshuffle announced by the President. With this development, the ATSA team suggested the conduct of advocacy meetings to consolidate on what the former Minister initiated as well as to ensure effective enforcement of the policy.

The police were also identified as a crucial stakeholder, particularly for the enforcement component. Moreover, the existing level of support of the executive arm of government, guarantees that the Inspector General and the Commissioner of Police for Abuja are bound to comply with the policy directives. The police is the principal law enforcement organ in Nigeria so they have the responsibility for enforcing every law passed by the government.

The ATSA team identified a number of key civil society organizations (CSO) that are/were actively engaging government on these issues including the Coalition Against Tobacco (CAT), the Nigerian Heart Foundation (NHF), the Nigerian Cancer Society (NCS), Environmental Rights Action/Friends of the Earth, Nigeria (ERA/FoEN), the All Nigeria Consumers Movement Union (ANCOMU), Educare Trust, Citizens Centre, People Against Drug Dependence and Ignorance (PADDI), Doctors Against Tobacco (DAT), and the Nigerian Tobacco Alliance (NTCA). The team’s mapping also noted that these CSOs should be trained and incorporated into the planned advocacy effort to government on the enforcement of the policy, and a first major training occurred on November 5th and 6th, 2009.

Though the “low priority” stakeholders are not directly involved in the enforcement of the policy, the ATSA team believes that they are capable of positively affecting ongoing efforts to enforce the policy. On the civil society side, The Nigeria Medical Association (NMA) is a potential ally in the campaign, but has so far not taken any significant position on the issue. Tobacco control advocates plan to engage this powerful organization. On the government side, the Ministries of Information, Justice, Women Affairs, Youth and the Abuja Secretary of Tourism all present very viable potential allies. Advocates would like to engage these actors with informational meeting, but as of late 2009 did not have a sufficient budget for such activities.

The National Agency for Food Drug Administration and Control (NAFDAC) is another key tobacco regulatory institution that provides opportunity for engagement in the enforcement of the policy. However, the replacement of the NAFDAC leadership in December 2008 has presented a challenge, and it now requires renewed advocacy for support. This agency remains a high priority. Similarly, the Standards Organization of Nigeria (SON) is another regulatory body that must be sensitized to shore up their level
of support for the policy priority. The Office of the First Lady of Nigeria is considered to be a strong advocacy agent to drive the enforcement of the smoke-free policy. Currently, the President’s wife’s pet project is on breast cancer awareness and prevention, which presents an opportunity to involve her in the campaign for the enforcement of the smoke-free policy through adequate sensitization. The Consumer Protection Council (CPC) is another body that has distinguished itself by the recent activities on tobacco control, and deserves at least an informational meeting about the enforcement of the Abuja smoke-free policy. The tobacco control CSOs continue to court these organizations, and in recent positive developments, both NAFDAC and SON have demonstrated public support including participation at the public hearing on the national bill in July, 2009.

The tobacco industry was identified by the ATSA team as both a problematic and antagonistic stakeholder. For example, there is ample anecdotal evidence that they have been trying to compromise parliamentarians (in large part through the funding of constituency projects). They have also used the media to distort information in the public domain (see above for discussions of the distractions generated by BAT during the hearing on the national bill). An additional tool they have used effectively is promoting BAT’s image through Corporate Social Responsibility (CSR) projects, such as scholarship programs.

The media are both supportive and problematic resulting from the activities of some media practitioners; however the ban on tobacco advertisement by the Advertisement Practitioners Council of Nigeria (APCON) has greatly stemmed the unwelcome and illegal practice by members who subtly carry tobacco advertisement. Tobacco control capacity-building for the media is an opportunity to promote effective enforcement of the Abuja smoke-free policy. Similarly the entertainment industry continues to be problematic due to their influence on the youth and uninformed patrons of their services. In the Nigerian film industry, often called Nollywood, there has been consistent promotion of smoking in films; ERA/FOEN released a report on the smoking in films issue in 2005.11

Another CSO group believed to be both problematic and antagonistic is the Institute of Public Policy Analysis (IPPA). The group has in recent time embarked on campaigns in support of the tobacco companies through public dialogue and advertorials (an advertisement disguised poorly as an editorial). Unfortunately, not very much is known about this organization other than the fact that they did work directly funded by BAT.

Finally, tobacco control advocates concluded that it was quite necessary to conduct mass awareness on the policy to elicit the support of the general public in Abuja. This campaign should be in the form of rallies, dissemination of posters and stickers and engagement of role models in public pronouncement (which all comprised components of the eventual ATSA action plan).

Smoke-free Osun state

As a key part of the ATSA project, the team pursued and achieved a smoke-free law for Osun State. Osun State is particularly pivotal for a number of other very important reasons. First, it is considered widely to be a culturally strong and important state in the south west of Nigeria. Second, Osun is located near to much of the tobacco cultivation/production in Nigeria (there is a BAT factory in the bordering state of Oyo). Third, Osun hosts an internationally-known festival that is recognized by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) as culturally very important. This festival has been supported for the last five years by British American Tobacco. Fourth, Imperial Tobacco sought to locate a factory in the state, but the plan was aborted after vehement objections by anti-tobacco activists, amongst others.

The preliminary mapping conducted for the Osun State smoke-free law – executed months before the law was passed – examined the magnitude of support/opposition of key actors including government institutions (especially the state legislature), the private sector and community leaders. These potential stakeholders were mapped to the degree of their importance and current levels of support. Building on the current high level of support for tobacco control in the federal government as indicated in the mapping of the Abuja smoke-free policy enforcement, the Osun state mapping identified the following federal actors, the President, the Ministers for Health, Justice and Environment as being potentially supportive advocates. The First Lady of Nigeria was also identified again as supportive due to her current project on Breast Cancer prevention, which is currently being implemented nationwide. These stakeholders were identified as potential allies to the campaign for the Osun State smoke-free law.

At the state level, the Osun State Governor was identified as an important stakeholder whose support would significantly influence the outcome to the legislative process. The state commissioners of Justice, Health, and Environment were all mapped as potential allies to the campaign for the Osun state smoke-free law. The support of these high-ranking officials was very helpful during the bill drafting especially in determining the approach to adopt in tabling the bill, either as an executive bill or private member bill, hence the need for extensive consultations and advocacy meetings.

Prominent members of the Osun state legislature were identified as important advocates, and whose individual positions and levels of support were investigated and reinforced (and countered if they were negative). These actors included: the Chairman and members of the House Committee on health, the House Speaker, the Majority Leader, and both the Secretary and Clerk of the House. The mapping equally suggested further investigation of the House of Assembly to establish the most suitable approach to presenting the bill, either as a private member or an executive Bill. In fact, the ATSA team held a training for parliamentarians to sensitize them to the issues. Eventually, it was passed as a private member Bill, sponsored by the Chairman of the Health Committee, the Honourable Ayobami Salinsile. Furthermore, as the mapping anticipated, the explicit support of the Speaker was very important to the passing of the bill.
A second major group of potential stakeholders were mapped as low priority stakeholders because of their indirect involvement in the legislative process and their capacity to influence/lobby the legislature and campaign for consumers of tobacco products to adhere to the new smoke-free law. This group included the state commissioners for poverty alleviation, youth empowerment and women affairs; and major religious leaders. Also, the ATSA team identified the Head of Sponsorship, National Premiership (football) League, Mr. Segun Odegbami, because of the overwhelming influence of the league on youth, who constitute a large proportion of the consumers of tobacco product. The league, more generally, presents opportunities to engage the football brand in the campaign against young people’s initiation of smoking.

In discussing the stakeholders mapped as problematic and antagonistic, advocates emphasized that the influence of the tobacco companies in Osun is very apparent. As mentioned above, tourism is considered a vital source of income, particularly the annual Osun Oshogbo Festival, which attracts an extensive international patronage and sponsorship from firms like the British American Tobacco Company. The mapping suggested adequate and continued sensitization of cultural leaders to limit the patronage of tobacco companies of their events. The ATSA team is now moving to the next stage of building support for the enforcement of the bill, which they anticipate will be a crucial aspect.

The media, the entertainment industries, patrons and operators of hospitality industries and the Road Transport Workers (particularly long distances drivers) were mapped as problematic stakeholders due to their often close relationships with tobacco companies and/or their wide usage of tobacco products. Advocates identified informational meetings with the leaders of the listed sectors as an opportunity to reduce the influence of their activities on the legislative process and negative public opinion of the Osun State smoke-free law. Similarly, the retailers/vendors of tobacco products were equally identified as antagonistic stakeholders for their current role in advertising and marketing tobacco product to end users. Their opposition to similar measures emerged dramatically following the ban on all forms advertisement in the mass media.

**Taxation**

The third ATSA priority on taxation was pursued based in large part on the impending review by the national government of current tax policies, and the government’s expressed intention of formulating future national budgets more on the income derived from tax earnings. Accordingly, this was considered a timely opportunity to draw government attention to issues around tobacco taxes and how it can be used as an effective control mechanism. The tobacco control community is planning to pursue this issue with great energy in the short term.

Building on proposed research objectives of identifying the current government tax process, establishing optimal levels of a tobacco tax increase, and to consider smuggling implications, the mapping identified the following high-ranking officials and/or departments as potentially supportive advocates: the President; the Minister of Finance
and the ministry’s Chief Executive officer; and the Federal Inland Revenue Service. Tobacco control advocates believe that these actors will be supportive because of the new policy thrust of the federal government to substantially fund its future annual budgets with proceeds from taxes, thus necessitating an overhaul of the current tax policy regime. The general impression of the ATSA team is that the current administration generally supports tobacco control and would like to increase revenues from new sources, which might include tobacco taxation.

Several other governmental actors are thought to be critical to the success of future tobacco taxation efforts. The Customs Comptroller General will be an important ally because of their role in monitoring the tobacco companies and the activities of the smugglers. The recent public statement in praise of BAT by the head of the customs division does indicate the sizeable need for more future work to bring government agencies together. Nigeria’s ECOWAS (the regional organization of West African countries) secretariat is also considered to be an important stakeholder to engage, as the organization coordinates many of the economic policies of member states. Finally, the House Committees on Finance and Appropriation are important because of their role in coordinating the appropriation and budgetary process of the House. Engaging the committee chairmen and members will increase access to vital information.

The tobacco industry and its distribution vendors/retailers were mapped as problematic and antagonistic stakeholders due to the anticipated loss in revenue resulting from any increase in tobacco taxes. In a related – and encouraging – taxation development, the Export Expansion Grant (EEG) policy was reviewed by the government, and BAT was removed from being beneficiary of the program. Previously, in an effort to woo BAT when it was consolidating its manufacturing in Africa, the federal government had given favorable tax policies to the company.

It is worthy to note that the taxation mapping was largely based on anecdotal sources of information, which is insufficient to guide an evidence-based advocacy campaign for the review of tobacco taxation. The NTSA coalition recommends further investigation of all identified stakeholders and others that might be of importance toward achieving the policy objectives.

**Tobacco industry monitoring**

**Summary:** The tobacco industry is particularly strong, well-organized and well funded in Nigeria. They seek to subvert existing rules, and have sought aggressively to affect the new legislation. They are a major agricultural producer, manufacturer, employer and tax-payer in Nigeria, and clearly have influence at the highest levels of government. Civil society organizations do a good job monitoring their behaviors, but there is no doubt that it is a challenging prospect. The tobacco industry will continue to be a major obstacle to tobacco control in Nigeria.
Production: The status of Nigeria in the global tobacco trade has been changing in recent years – it is no longer a net importer of tobacco products, but rather, has become a major producer and exporter. As recently as the late 1990s, Nigerian tobacco cultivation scarcely met two-thirds of domestic demand and the country hardly exported. The tobacco production situation has changed dramatically since that time.

BAT plans for Nigeria to become a regional hub for tobacco production that not only produces for the enormous domestic market but also exports to Cameroon, Niger, and other West African states. In 2001, BAT invested US$150 million in a state-of-the-art tobacco processing factory in Ibadan, Oyo State. With its construction and upgrades to an existing factory, located in northern Kaduna State, BAT offered inducements to farmers in western and southern provinces to take up tobacco cultivation.

It is not at all clear, however, that BAT needs or wants to boost domestic cultivation in Nigeria. Because firms only pay 5 per cent duty on imported leaves, it is likely that imported leaves are cheaper. However, there is still some leaf cultivation, and researchers note that Nigerians have not yet well understood that tobacco cultivation adversely affects food security by reducing the acreage available for cereals (Salami 4). A principal concern is that the area where tobacco cultivation has been promoted by BAT is the “food basket” of the southwest of the country.

Employment: Though firm statistics are lacking, every source concurs on the basic characteristics of tobacco industry employment: thousands of farmers fight an unequal battle of debt servitude to BAT and its agents (similar to most if not all other SSA countries). BAT purchases 80% of Nigerian tobacco produced; in many regions, it is the sole buyer (Salami 5). With a price-setting monopoly, BAT determines the value of tobacco leaves, and it often cheats the local farmers about the grade of leaves they picked (Salami 5). Nigerian tobacco workers – primarily women and young children – are vulnerable to skin diseases because they handle raw tobacco leaves without access to proper protective clothing.

Advertising and promotions: BAT heavily advertises and promotes its products to large audiences in Nigeria, using sophisticated methods. The company has in recent years put advertisements on the sides of moving vehicles and thereby circumvented Nigerian laws forbidding fixed advertisements. There is strong evidence that it uses BAT-promoted movies, concerts, and fashion shows to gather crowds of youthful Nigerians and give them free cigarettes (Salami 3).

From the perspective of corporate social responsibility (or CSR), BAT sponsors a wide array of community projects in Nigeria including scholarships for tobacco farmers’ children, potable water supplies, tree planting, and building a cassava processing facility (Salami 5). Its own Social Report,12 recently updated through 2006/07, provides greater details of their myriad CSR activities.

Interactions with government (at all levels): At all levels, BAT energetically works to subvert Nigerian government institutions. Infamously, it donated twenty-one jeeps to the Nigeria Consumers Protection Council (CPC) and still more to the Nigerian Customs Service. As mentioned above, a high-ranking official at the customs service has praised BAT publicly as recently as July of 2009. Also, BAT officials are known to hold periodic breakfast meetings with Nigerian media executives, and to sponsor journalistic conferences and awards to foster pliant coverage of its activities. Local government officials often struggle to resist BAT’s claims that its presence can generate much-needed foreign direct investment (Salami 1).

Inventory of Existing Laws and Regulations

Summary: Some basic tobacco control legislation has existed in Nigeria since 1990, but the path has been very challenging. Provisions for advertising and public-smoking bans, and some warning restrictions, have been flagrantly overlooked or ignored by both the industry and the government. New comprehensive legislation is being considered, and its passage would be a major victory. That said, if it is passed, a host of new issues will arise as the tobacco control community and the government seeks to implement and enforce the new regulations.

The first significant tobacco control regulation in Nigeria was the Tobacco Smoking Act (Decree #20) of 1990, which began as a dictatorial decree. In 1993, the Act was re-authorized by the new civilian government. This Act banned smoking in public places, and demanded warnings on advertisements, promotions, and sponsorships. By most accounts, the law was not observed. Only the provision on warnings was effectively enforced.

To reinforce its position, in 1999, the government inaugurated a National Smoking Cessation Committee and a short term Plan of Action was developed. This was shortly followed by the partial ban on tobacco advertisement by the Advertising Practitioners Promotion Control of Nigeria (APCON) in 2002, the agency that regulates advertising practice in Nigeria. These regulations place some restrictions on tobacco advertising.

Advertising, Promotion and Sponsorship

Summary: The 1990 Tobacco Smoking Act had vague provisions for warnings on advertising and sponsorship. In some contrast, the 2002 APCON directives are partial bans on tobacco advertising, but were designed as a “pre-emptive strike” on the issue of advertising before comprehensive legislation could be passed. In other words, the supporters of APCON sought a diluted ban in hopes of affecting any subsequent ban in favour of advertisers. By most accounts, however, neither the Act nor the APCON ban has been entirely successful. The comprehensive legislation currently under review (as of
December 2009) has strong provisions for bans on all of advertising, promotion and sponsorship.

The APCON directives are partial bans and were pre-emptive strikes on the proposed comprehensive ban of tobacco advertising, promotion and sponsorship. They ban tobacco products advertisement on Radio, TV and newspapers. These bans have been well observed. The bans, however, allow for non-product advertising such as Corporate Social Responsibility (CSR) activities, sponsorships of events (with no product advertising), etc.

Packaging and Labeling

**Summary:** The 1990 legislation (Decree #20) obligates descriptive text on tobacco packages that includes tar and nicotine content. There are also packaging stipulations in the APCON directive from 2002. In light of the inherent weaknesses of the existing legislation and directives, the proposed comprehensive legislation currently under government consideration has FCTC-compliant packaging and labelling provisions.

The APCON directive has some specific, though weak, provisions. It requires that all text on tobacco product packs, including health warnings, be printed in English or a Nigerian language. It requires that every tobacco product pack shall carry a health warning approved by APCON, and that the health warning shall be an integral part of every commercial/advertisement. The health warning must be any of the following: 1) smoking is addictive; 2) smoking damages lungs; 3) smoking can kill; 4) smoking can cause cancer; or 5) smoking can damage the foetus. The warning must be printed at the base of the front of the pack or at the side without detracting from its prominence. There is no size stipulation. The warning must be printed in white over a black background. On cigarette packs (20s and 10s), the type size must not be less than 6 points, and the typeface, Univers Bold in upper and lower case, is recommended for reasons of readability.

Smoke-free Policies

**Summary:** The 1990 Tobacco Smoking Act had provisions to ban smoking in all public places. The 2002 APCON also has provisions to ban smoking in certain places. By most accounts, neither the Act nor the APCON ban has been successful. The comprehensive legislation currently under review (as of August/September 2009) has strong provisions for bans on smoking in all public places.

Beyond the description in the above summary concerning the lack of effective smoke-free policies at the national level, there is movement at the sub-national level. In particular, as described in detail above, the Abuja Minister (Federal Capital Territory) and the Osun state government have passed smoke-free laws/regulations for public places. The ATSA team is actively pursuing the enforcement of these initiatives. In Nigeria, health is on the legislative concurrent list, which implies that it can be legislated.
upon by all levels of government: local, state and federal. Besides, the team argues, a smoke-free law has higher possibility of early passage than comprehensive tobacco control legislation. In addition, the team argues that smoke-free has immediate positive impacts on the public.

Taxation

Summary: There is a 40% excise tax on tobacco products in Nigeria (it is also applied to alcohol). There are no other recorded taxes specific to tobacco. Tariff levels on tobacco leaf are low (5%), and tariff levels on manufactured tobacco products are largely inconsequential since most products are produced domestically.

Tobacco Control Community

Advocacy Organizations:
1) Nigeria Tobacco Control Alliance (NTCA) – continues to play a key organizational leadership role in the tobacco control community.
2) Nigerian Heart Foundation (NHF) – continues to play a key organizational leadership role in the tobacco control community.
3) Environmental Rights Action/Friends of the Earth Nigeria – continues to play a key organizational leadership role in the tobacco control community.
4) Coalition Against Tobacco (CAT) – particularly involved in the mobilization of high-profile support for the tobacco litigation.
5) Nigerian Cancer Society (NCS)
6) All Nigeria Consumers Movement Union (ANCOMU), CRSSSANC
7) Educare Trust
8) People Against Drug Dependence and Ignorance (PADDI)
9) Doctors Against Tobacco (DAT)
10) Journalists Action on Tobacco or Health (JATH)

Advocacy Individuals:
11) Adeola Akinremi
12) Dr. Kingsley Kola Akinroye
   Executive Director (Scientific Affairs & Research), Nigerian Heart Foundation

13) Mr. Auwal Ibrahim Musa
   Executive Director,
   Civil Society Legislative Advocacy Center, Abuja

14) Barr. Nurudeen Ogbara
   Chairman, Nigeria Bar Association, Ikorodu Chapter,
   Director, Citizens Center, Lagos, Nigeria

15) Mr. Akinbode Oluwafemi,
   National Coordinator, Nigeria Tobacco Control Alliance (NTCA)
   Program Manager, Environmental Rights Action/Friends of the Earth, Nigeria

16) Prof. Yemi Osibajo
   Former Lagos State Attorney-General and Commissioner for Justice – lead counsel for the ongoing litigation

Government:
1) Dr. Michael Anibueze
   Director and National Coordinator, NCDs, Federal Ministry of Health
   - the national focal point for tobacco control for the Nigerian government – was instrumental in negotiating the FCTC, and has played an active role in tobacco control for a number of years.

Academic/Research
1) Prof. Ima-Obong Ekanem
   University of Calabar Teaching Hospital
   - led the GYTS in-country team and is an academic with a longstanding interest in tobacco control

2) Dr. Lanre Onigbogi
   Senior Registrar, University College Hospital, Ibadan
   National Coordinator, Doctors Against Tobacco, Nigeria

3) Dr. Adeleke Joshua Oluwatoyin
   Senior Lecturer, University of Ibadan,

4) Dr. (Mrs) Comfort Omolara Hassan,
   Centre for Research and Development Initiative (CRDI) Ibadan,

Media:
1) Mr. Alex Akao, Editorial Contributor Board, The Sun Newspaper