

NEEDS ASSESSMENT FOR IMPLEMENTATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL IN NIGERIA



Photo: The Head of the Convention Secretariat and the needs assessment team meets Honourable Minister of Health Professor. Isaac F. Adewole (at the middle)

The Framework Convention Secretariat for Tobacco Control would like to thank the Government of Nigeria for the invitation to conduct the needs assessment

Convention Secretariat
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Supported by:



Table of abbreviations

APCON	Advertising Practitioners Council of Nigeria
CISLAC	Civil Society Legislative Advocacy Center
COP	Conference of Parties
CPC	Consumer Protection Council
DSA	Designated Smoking Area
DPH	Director Public Health
DFD	Director Food and Drugs
EHORECON	Environmental Health Officers Registration Council of Nigeria
ECOWAS	Economic Community of West African States
FAO	Food and Agriculture Organization
FCTC	Framework Convention on Tobacco Control
FMoH	Federal Ministry of Health
HMH	Honourable Minister of Health
HMSH	Honourable Minister of State for Health
GHPSS	Global Health Professions Student Health Survey
GSHS	Global School-based Student Health Survey
GSPS	Global School Personnel Survey
GYTS	Global Youth Tobacco Survey
MAN	Manufacturers Association of Nigeria
NATOCC	National Tobacco Control Committee
NAFDAC	National Agency for Food and Drug Administration and Control
NC NCD	National Coordinator Noncommunicable Disease Division
NDLEA	National Drug Law Enforcement Agency
NMA	Nigerian Medical Association
NSCDC	Nigeria Security and Civil Defence Corps
NTCA	Nigeria Tobacco Control Alliance
NTC Act	National Tobacco Control Act
NGO	Nongovernmental organizations
PSH	Permanent Secretary for Health
PSN	Pharmaceutical Society of Nigeria
STEPS	WHO STEPwise Approach to Surveillance
SON	Standards Organisation of Nigeria
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
WHO	World Health Organization

The WHO FCTC

- The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) was developed in response to the globalization of tobacco epidemic, which has taken place since the 20th century.
- The Convention is an evidence-based treaty that reaffirms the right of all people to the highest standard of health.
- The objective of the Convention is “to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke”, The Convention asserts the importance of demand-reduction measures as well as supply-side strategies to achieve this end, and Parties are also encouraged to implement measures beyond those required by the treaty.
- The Conference of the Parties (COP) is the decision-making body of the Convention. The Convention Secretariat was established as a permanent body to support the implementation of the Convention in accordance with Article 24 of the WHO FCTC.

The needs assessment exercise

- COP1 (February 2006) called upon developing country Parties and Parties with economies in transition to conduct needs assessments in light of their total obligations related to the implementation of all provisions of the Convention and to communicate their prioritized needs to development partners (decision FCTC/COP1(13)).¹
- The needs assessment is an exercise undertaken jointly with a government to identify the objectives to be accomplished under the WHO FCTC, resources available to the Party concerned for implementation, and any gaps in that regard. It is based on all substantive articles of the WHO FCTC so as to establish a baseline of needs.
- A tobacco control needs assessment was requested by the Government of Nigeria, through the Federal Ministry of Health. The Convention Secretariat of the Framework Convention on Tobacco Control led an international team to conduct a joint needs assessment with the host government from 10 to 13 October 2017. Meetings with local stakeholders took place to jointly review the status of implementation of the Convention. The needs assessment team met with representatives of the government agencies, representatives of legislative bodies, members of the international team and non-governmental organizations to identify the main challenges in implementation of the national tobacco control action plan.
- **Post-needs assessment assistance** has been provided to the Parties that have conducted needs assessments, based on the reports and priorities identified.

¹See COP1/2006/CD, *Decisions and ancillary documents*, available at: http://apps.who.int/gb/fctc/E/E_cop1.htm.

Impact of tobacco use in Public Health

Tobacco prevalence, exposure to tobacco smoke and tobacco-related mortality in Nigeria: Key Facts

Adult tobacco prevalence:

GATS Nigeria survey² 2012³,

- 5.6% **overall** (4.7 million) Nigerian **adults** aged 15 years or older currently used tobacco products:
- 10.0% (4.2 million) **of men** and 1.1% (0.5 million) **of women**.
- 29.3% of adults (6.4 million adults) were exposed to tobacco smoke when visiting restaurants.
7 in 10 current smokers planned to or were thinking about quitting.
3 in 10 current smokers who thought about quitting because of a warning label.
51.4% of adults believed smoking causes stroke.

Subnational STEPS survey⁴(Lagos State) in 2003.

- In the urban area, prevalence of current tobacco users was 9.9%. 90.2 % of these persons are males and 9.8% are females. Among males, those in the age group between 55-64 years have the highest prevalence of 25% (table 4a) while in females; those between the ages of 45-54 years have the highest prevalence of 7.7 %.

Youth tobacco prevalence:

• *GYTS (Abuja) 2008*

- 15.4% currently use tobacco (including 19.2 % of male and 11.1 % of female)
- 3.5 % currently smoke cigarette (including 5.6% of male and 1.3 % of female)

According to the 2016 report submitted to the Convention Secretariat, the current smokeless tobacco use is about

- 10,6 % for male and 6,8 % for female

²http://www.who.int/tobacco/surveillance/survey/gats/nigeria_country_report.pdf

³<http://www.afro.who.int/news/government-nigeria-releases-first-ever-global-adult-tobacco-survey-gats-report-african-region> ;

⁴http://www.who.int/chp/steps/2003_STEPS_Report_Nigeria.pdf?ua=1

Exposure to tobacco smoke:

- **GATS Nigeria⁵ 2012⁶.**
 - 29.3% of adults (6.4 million adults) were exposed to tobacco smoke when visiting restaurants
 - 17.3% of adults who worked indoors (2.7 million adults) were exposed to tobacco smoke at the workplace
 - 6.6 % of adults (5.2 million adults) were exposed tobacco smoke at home.

Tobacco-related mortality:

- **Tobacco Atlas 2015** revealed that:
 - Every year more than 17500 of Nigerians are killed by tobacco-related disease, while more than 370000 children and more than 4303000 adults continue to use tobacco each day.
 - In 2010, 1.3 % of deaths among men and 0.9 % of deaths among women are caused by tobacco.

⁵http://www.who.int/tobacco/surveillance/survey/gats/nigeria_country_report.pdf

⁶<http://www.afro.who.int/news/government-nigeria-releases-first-ever-global-adult-tobacco-survey-gats-report-african-region> ;

Milestones of tobacco control legislation in Nigeria (1990 – 2017)

1990

June, 25th 1990: TOBACCO SMOKING (CONTROL) DECREE No. 20⁷

- Restriction of tobacco smoking advertisement (*cinema, theater, stadium, offices, public transportation, lifts, medical establishments, school and nursery institutions*)
- No sponsorship and no promotion of tobacco product **at any sports events sponsored or promoted** by tobacco industry
- Tobacco packages to contain certain information (smoking is dangerous to health or smokers are liable to die young)
- Penalties for smoking in prohibited areas (a fine of not less than N200 and not more than N1000 or imprisonment for not less than one month and not more than two years; Not less than N5000 for smoking advertisement)

October, 1st 1990⁸: TOBACCO SMOKING (CONTROL) ACT ARRANGEMENT OF SECTIONS

2002

A LAW PROHIBIT ADVERTISEMENT OF CIGARETTE AND OTHER TOBACCO RELATED PRODUCTS (2002, No. 4) BY THE ADVERTISING PRACTITIONERS COUNCIL OF NIGERIA (APCON)

- No Tobacco manufacturer, firm, individual seller or body corporate shall advertise, sponsor or promote any of their cigarette products at **any public event in the state:**
- Penalty for advertisement cigarette is N3000 or 6 months imprisonment or both

2004

Nigeria signed the WHO FCTC **on 28 June 2004**

2005

Nigeria ratified the WHO FCTC: **20 October 2005**

2006

Entry into force of the WHO FCTC: **18 January 2006**

⁷<http://www.tobaccocontrollaws.org/files/live/Nigeria/Nigeria%20-%20Tobacco%20Smoking%20%28Control%29%20-%20national.pdf>

⁸<http://www.tobaccocontrollaws.org/files/live/Nigeria/Nigeria%20-%20Ch.%20T6%2C%20Tobacco%20Smoking%20%28Control%29%20Act%29%20-%20national.pdf>

2008

NIGERIAN INDUSTRIAL STANDARD (NIS) 463:2008, STANDARD FOR TOBACCO AND TOBACCO PRODUCTS, SPECIFICATIONS FOR CIGARETTES

- Revised standard for tobacco and Tobacco products
- New limit of tar, nicotine and carbon monoxide specified

2014

NIGERIAN INDUSTRIAL STANDARD (NIS) 463:2014, STANDARD FOR TOBACCO AND TOBACCO PRODUCTS, SPECIFICATIONS FOR CIGARETTES

- Incorporation of some relevant decision reached at the WHO FCTC

2015

NATIONAL TOBACCO CONTROL ACT

A. National Tobacco Control Committee and Tobacco Control Unit

- Establishment of National Tobacco Control Committee
- Cessation of Membership of Committee; Quorum and Committee's proceedings
- Functions of the Committee
- an Tobacco Control Unit

B. Tobacco Control Fund

- Funding of Committee

C. Regulation of smoking

- Prohibition of smoking in public places
- Duties of persons who own or control public places
- Penalties for non-compliance

D. Prohibition of Tobacco advertising, promotion and sponsorship

- Prohibition of Tobacco advertising, promotion and sponsorship
- Required disclosures
- Penalties of non compliances

E. Tobacco product sales

- Prohibition of sale or access to tobacco products to persons below 18 years of age
- Penalties for non-compliance

F. Regulation of Tobacco products, Tobacco product contents and emissions disclosures

- Regulations of standard of tobacco products
- Product content and emissions reporting
- Penalties for non-compliance

G. Tobacco product packaging and labeling

- Health warnings and other information on tobacco product and labeling
- Prohibition on misleading packaging, labelling and product design, regulation of promotional features
- Date for compliance with new regulations

- Duties not diminished by compliance with this part
- Penalties for non-compliance
- Limitation on interactions between government and tobacco industry
- Awareness raising and public education
- Prohibition on voluntary contributions from the tobacco industry
- Prevention and management of conflicts of interest

H. Licensing of Tobacco dealer

I. Enforcement

J. Education, communication, training and public awareness

K. Miscellaneous

2016

25th July 2016: National Tobacco Control Committee (NATOCC) inaugurated
Headed by Professor Christie Onawefe Ukoli, a Consultant Pulmonologist

2017

Tobacco Control Unit (TCU) created
Branch Head TCU, Dr. Mangai T. Malau

Executive Summary

The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) is the first international health treaty negotiated under the auspices of WHO and was adopted in 2003. It has since become one of the most widely and rapidly embraced treaties in the history of the United Nations, with 181 Parties to date⁹. Nigeria signed the WHO FCTC on 28 June 2004 and ratified the WHO FCTC on 20 October 2005 and the convention entered into force for Nigeria on 18 January 2006.

A needs assessment exercise for implementation of the WHO FCTC was conducted jointly by the Government of the Federal Republic of Nigeria, the World Health Organization, the United Nations Development Programme and the Convention Secretariat in October, including the mission of international team to Nigeria on 10-13 October 2017.

The detailed assessment involved relevant ministries and agencies of the Government of Nigeria with the support of the WHO country office in Nigeria (Annex 1).

This needs assessment report therefore presents an article by article analysis of the obligations that the Federal Republic of Nigeria has to the Convention; the progress the country has made in implementation; gaps that may exist and the subsequent possible actions that can be taken to fill those gaps.

The key elements which need to be put in place to enable the government of Nigeria to meet obligations to the convention are summarized below and further details are founded herein the needs assessment reports.

First, the WHO FCTC is an international treaty and therefore international law. Having ratified this treaty, the Federal Republic of Nigeria is obliged to implement its provisions through national laws, regulations and other measures. There is therefore need to identify all obligations in the substantive articles of the Convention, link them with the relevant agencies, avail the required resources and seek support internationally where appropriate.

Second, Nigeria has established the National Tobacco Control Committee (NATOCC) in 2016 in charge of advising and making recommendations to the Honourable Minister of health on the development and implementation of tobacco control policies, strategies, plans, programmes and projects, in accordance with the WHO Framework Convention for Tobacco Control, its implementing guidelines and protocols. However, some key stakeholders, such as the Federal Ministry of Finance, the Nigeria Police Force are not integrated in the NATOCC.

The NATOCC has not been able to hold regular meetings as stated in the National Tobacco Control Act, section 4.5 because of the delay in the establishment of the Tobacco Control Fund (section 8 of the National Tobacco Control Act). It is therefore recommended that the Tobacco Control Fund should be established as soon as possible. Resources should be made available for the National Tobacco Control Committee and the Tobacco Control Unit to be effective on the ground. As a first measure the funds that have been earmarked in the Federal Ministry of Health budget for Tobacco Control Unit should be made available as soon as possible.

It is also recommended to assure effective coordination mechanism on tobacco control by revisiting the composition of the National Tobacco Control Committee and by including a representative of the Ministry of finance, Foreign Affairs and Police amongst others.

⁹http://www.who.int/fctc/signatories_parties/en/

Third, the WHO FCTC is a comprehensive treaty whose implementation requires the involvement of many sectors for the formulation of regulations and other measures as well as the effective implementation of the National Tobacco Control Act. Therefore Nigeria has successfully passed the National Tobacco Control Act in October 2015. However, Nigeria needs to put in place regulations related to

- the health warning and packaging (Article 11 of the WHO FCTC);
- the smoke-free areas (Article 8 of the WHO FCTC);
- Tobacco advertising, promotion and sponsorship (Article 13 of the WHO FCTC);
- Tobacco Industry interference (Article 5.3 of the WHO FCTC);
- Provision of support for economically viable alternative activities (Article 17 of the WHO FCTC)

Fourth, while the National Tobacco Control Act provides regulation of smoking especially on the prohibition of smoking in public places, other tobacco products are not clearly mentioned. It is crucial to ensure that smoke free environment regulation includes prohibition of Shisha and electronic cigarettes, whether the particular product being smoked is tobacco or not.

Fifth, since the government applied a very low rate of 20% Ad valorem rate of excise on tobacco which is based on Unit Cost Analysis (UCA), Nigeria is not fully compliant with the WHO FCTC Article 6, there is an urgent need to:

- Revisit the amendment of Part III of the Customs Excise Tariff (CET) Act No. 16 of 1997, to be in line with the WHO FCTC requirements on tobacco taxation;
- Increase the price of tobacco products through higher taxes beyond the rate of 20 % applied nowadays by implementing the simplest and most efficient tobacco taxation system that meets public health and fiscal needs. The government should consider implementing a specific or mixed excise system as these systems have considerable advantages over purely ad valorem systems

Sixth, while the National Tobacco Control Act (2015) needs to be reinforced by strong regulations, the enforcement still remains a challenge. We recommend the development of a National Tobacco Control Strategic Plan of Action to include enforcement mechanism agreed by all the enforcement agencies with clear roles and responsibilities.

Seventh, following the emergence of the National Tobacco Control Act in 2015, it is recommended that Nigeria continuously conduct public awareness through print and digital media including social media at both Federal and State level on the provisions of the Act and other related matters. The government has to prepare the public for the entry into force of the Tobacco Control Act once the regulations are passed into law and do a media event for the occasion involving enforcements agents.

Eighth, Nigeria is a leading country in the ECOWAS region and should work toward the ratification of the Protocol to Eliminate Illicit Trade on Tobacco Products and start implementing its provisions

Ninth, there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests. The Federal and state government should develop a code of conduct for civil servants to prevent tobacco industry interference. NATOOC members should also sign a conflict of interest declaration in line with the National Tobacco Control Act (2.4.7)

Tenth, there are opportunities for international cooperation and collaboration between Nigeria and development partners including UN agencies regarding the implementation of the convention. The Federal government of Nigeria can work with different UN agencies and others stakeholders in the implementation of the economically sustainable alternatives to tobacco growing (article 17 and 18 of the WHO FCTC), aiming to make Nigeria a tobacco growing free Country

Eleventh, addressing the issues raised in this report will make a substantial contribution to meeting obligations to the WHO FCTC and improvement of the health status and quality of life in Nigeria. The full report of this joint needs assessment, which follows this summary, can also be the basis for any proposal(s) that may be presented to relevant partners to support Nigeria to meet its obligations to the Convention.

Introduction

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first treaty negotiated under the auspices of the World Health Organization. The WHO FCTC is an evidence based treaty that reaffirms the right of all people to the highest standard of health. The WHO FCTC was developed in response to the globalization of the tobacco epidemic. Nigeria signed the WHO FCTC on 28 June 2004 and ratified the WHO FCTC on 20 October 2005 and the convention entered into force for Nigeria on 18 January 2006.

The convention recognizes the need to generate global action so that all countries are able to respond effectively in the implementation of the provisions of the Convention. The objective of the Convention is “to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke”. The Convention Secretariat was established as a permanent body to support the implementation of the Convention in accordance with Article 24 of the WHO FCTC.

The first session of the Conference of the Parties (COP)¹⁰ in February 2006, called upon developed country Parties to provide technical and financial support to developing country Parties and Parties with economies in transition¹¹. The needs assessment is an exercise undertaken jointly with a government to identify the objectives to be accomplished under the WHO FCTC, resources available to the Party concerned for implementation, and any gaps in that regard. It is based on all substantive articles of the WHO FCTC to establish a baseline of needs. It should be comprehensive and based on all substantive articles of WHO FCTC with a view to establishing a baseline of needs that a Party requires to fulfil its obligations under the Convention.

The needs assessment is also expected to serve as a basis for assistance in programme and project development for meeting the obligations under the Convention, particularly to promote and accelerate access to internationally available resources for implementation of the Convention.

To be comprehensive, the needs assessment is carried out in three phases: (a) initial analysis of the status, challenges and potential needs deriving from available sources of information; (b) visit of an international team to the country for a joint review with government representatives representing both the health and other relevant sectors; and (c) follow up with country representatives for further details and clarifications, review of additional materials jointly identified and the development and finalization of the needs assessment report.

A tobacco control needs assessment was requested by the Federal Government of Nigeria, through the Federal Ministry of Health. A joint assessment of the needs concerning the implementation of the WHO FCTC was conducted by an international team from the Secretariat of the WHO Framework Convention on Tobacco Control (WHO FCTC), in collaboration with the Government of Nigeria, the World Health Organization and the United Nations Development Programme from 10 to 13 October 2017. Meetings with local stakeholders took place to jointly review the status of implementation of the Convention. The needs assessment team met with representatives of the government agencies and representatives of legislative bodies, and nongovernmental organizations to identify the main

¹⁰The Conference of the Parties (COP) is the decision-making body of the Convention.

¹¹COP/1/2006/CD, *Decisions and ancillary documents*, available at: http://apps.who.int/gb/fctc/E/E_cop1.htm.

challenges in implementation of the national tobacco control Act in Nigeria. The following report is, therefore, based on the findings of the joint needs assessment exercise.

This report contains a detailed overview of the status of implementation of substantive articles of the treaty and also identifies gaps therein and areas where further actions are needed to ensure full compliance with the requirements of the treaty and implementation of guidelines adopted by COP when relevant.

Status of implementation, gaps and recommendations

This core section of the report follows the structure of the Convention. It outlines the requirements of each of the substantive articles of the Convention, reviews the stage of implementation of each article, outlines achievements and identifies the gaps between the requirements of the treaty and level of implementation by Nigeria. Finally, it provides recommendations on how the gaps identified could be addressed, with a view to supporting the country in meeting its obligations under the Convention.

Article 2. Relationship between this Convention and other agreements and legal instruments

Article 2.1 of the Convention, in order to better protect human health, encourages Parties *“to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law”*.

Gaps:

- Nigeria does not currently have measures which go beyond those provided for the convention. However, some measures on the ongoing draft of regulations under discussion at parliament, such as measure related to the graphic health warnings of 80% of the principal display surface, are going beyond those required by the convention.

It is therefore recommended that:

- Nigeria should vote measures that go beyond the minimum required by the convention.

Article 2.2 clarifies that the Convention does not affect *“the right of Parties to enter into bilateral or multilateral agreements ... on issues relevant or additional to the Convention and its protocols, if such agreements are compatible with their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat”*.

No such information has been provided so far by Nigeria. The Ministry of Foreign Affairs and any other ministries will identify these agreements and report as necessary.

Gaps:

- Lack of awareness of the obligation under this article.

It is therefore recommended that:

- The Government of Nigeria reports on any previous agreements as required on article 2.2.

Article 4. Guiding Principles

The Preamble of the Convention emphasizes *“the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women’s, youth, environmental and consumer groups,*

and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts”.

Article 4.7 recognizes that *“the participation of civil society is essential in achieving the objective of the Convention and its protocols”.*

A number of Non-Governmental Organizations (NGOs) have been instrumental in advancing the tobacco control agenda and legislation in Nigeria. These NGOs are active in bringing information of the health consequence of tobacco consumption (art.4.1), advocating for a strong political commitment (art.4.2) and training stakeholders on tobacco industry interference (art. 5.3). Some of them have played an important role in the political and legislative process, for example The Civil Society Legislative Advocacy Centre (CISLAC), others like Cedars Refuge Foundation (CRF) have been very active in influencing policy towards stronger tobacco control and health laws in Nigeria. (Articles 8, 12, 13, 16, 20 & 21). However, these Non-Governmental Organizations (NGOs) do not always have access to sufficient funds.

A Representative of tobacco control civil organization is participating in the NATOCC as a member.

Gaps:

- Lack of coordination, synergy and complementarity of action among the NGOs.

It is therefore recommended that:

- ***NGOs should work together and more closely by coordinating their work;***

- ***It is further recommended that Government continues to work with civil society in advocating for the urgent need to pass the national tobacco control regulations in the parliament.***

Article 5.General obligations

Article 5.1 calls upon Parties to *“develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention”.*

Due to the absence of an allocated budget, the National Tobacco Control Committee has not been able to work effectively and develop or implement multisectoral tobacco control strategies, plans and programme in line with the convention.

Gaps:

- Currently, there is no national tobacco control strategy or action plan with clear objectives and priorities by the five upcoming years.

It is therefore recommended that:

- ***A national tobacco control strategic action plan for five upcoming years with clear objectives and priorities should be drafted.***

Article 5.2(a) calls on Parties to “*establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control*”.

1. National coordinating mechanism

The WHO FCTC is a comprehensive treaty whose implementation requires the involvement of many sectors and key stake holders. Currently Nigeria has established the National Tobacco Control Committee (NATOCC) in 2016 in charge of advising and making recommendations to the Minister of health on the development and implementation of tobacco control policies, strategies, plans, programmes and projects, in accordance with the WHO Framework Convention for Tobacco Control, its implementing guidelines and protocols. However, some key stakeholders, such as the Federal Ministry of finance, the Nigeria Police Force are not integrated in the NATOCC.

Gaps:

- The NATOCC has not been able to hold regular meetings as stated in the National Tobacco Control Act, section 4.5 because of the delay in the establishment of the Tobacco Control Fund (section 8 of the national tobacco control Act).

- The Tobacco Control Fund are not yet made available by the Federal Government from the annual budgetary allocation (approved by the National Assembly) for activities of the NATOCC.

It is therefore recommended that:

- ***NATOCC should meet on a regular basis as stated by the National Tobacco Control Act;***

- ***All members of the NATOOC should be trained on the WHO FCTC and its guidelines;***

- ***It is also recommended that a specific budget line needs to be allocated to support the work of the NATOCC. In this regard the Tobacco Control Fund should be established as soon as possible. Resources should be made available for the National Tobacco Control Committee and the Tobacco Control Unit to be effective on the ground. As a first measure the funds that have been earmarked in the Federal Minister of Health budget for Tobacco Control Unit should be made available as soon as possible;***

- ***It is also recommended that the composition of the National Tobacco Control Committee should be revisited by including other sectors such as Ministry of Finance, Foreign Affairs and Police, amongst others.***

2. National tobacco control programme and focal point

National tobacco control programme, within the National Tobacco Control Unit, is running under the supervision of the head of the Non-Communicable Disease Division at the Department of Public Health within the Federal Ministry of Health as shown on the organogram of the tobacco control (annex 2). The functions of the Tobacco Control Unit are to implement the decisions of the National Tobacco Control Committee, to coordinate the

activities of the Ministries, Departments and Agencies responsible for the implementation of the National Tobacco Control Act.

The head of the Noncommunicable Disease Division at the Federal Ministry of Health is serving as tobacco control focal point for the WHO FCTC.

Gaps:

- The tobacco Control Funds are not yet made available by the Federal Government from the annual budgetary allocation (approved by the National Assembly) for activities of the National Tobacco Control Unit.

It is therefore recommended that:

- A dedicated budget line should be allocated to finance focal points for tobacco control, including the participation on the conference of parties.

Article 5.2(b) calls on Parties to “adopt and implement effective legislative, executive, administrative and/or other measures, and cooperate, as appropriate, with other Parties in developing appropriate policies, for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke”.

Nigeria has successfully passed the national tobacco control Act in 2015. This Act regulates all aspects of tobacco control including smoke-free places, tobacco advertising, promotion and sponsoring, tobacco packaging and labeling, prevention of tobacco industry interference, the creation of a National Tobacco Control Committee, the prohibition of the sale of single sticks .

The act authorizes the Federal Ministry of Health to issue certain regulations. However the Act also requires such regulations to be approved by both houses of the National Assembly.

Gaps:

- Regulations on the health warning and packaging, the smoke free areas, tobacco advertising, promotion and sponsoring, tobacco interference and provision of support for economically viable alternative activities are not yet in place in Nigeria.

It is therefore recommended that:

-The National Assembly of the Federal Republic of Nigeria should take immediate action to adopt the National Tobacco Control Regulations. It is also recommended that the government should develop an enforcement mechanism agreed by all the enforcement agencies (Ministry of Justice, Police, etc.) with clear roles and responsibilities for the prevention and reduction in tobacco consumption, addiction to nicotine and exposure to tobacco smoke.

Article 5.3 stipulates that in setting “public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry”. Further, the guidelines for implementation of Article 5.3 recommend that “all branches of government... should not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible”.

There is however no clear procedures on how civil servant or government agencies can relate to tobacco industry and other vested interests. The national Tobacco Control Act is only indicating that there should be a limitation of interaction between government and tobacco industry without any further guidance.

Gaps:

- Limited awareness about article 5.3 and its guidelines among government officials. There is no clear guidance within the government on implementing article 5.3 and its guidelines

It is therefore recommended that:

- The Government of Nigeria ensures, in line with the treaty obligations, that the tobacco industry does not participate in the development of any tobacco control policy;

- The government should develop and implement a code of conduct for government officials and civil servants for their interactions with the tobacco industry, in line with Article 5.3 and its guidelines. NATOCC members should also sign a conflict of interest declaration as reflected in the Tobacco Control Act (section 2.2; 4.7).

Article 6.Price and tax measures

In Article 6.1, the Parties recognize that *“price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons”*.

Article 6.2(a) further stipulates that each Party should take account of its national health objectives concerning tobacco control in implementing *“tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption”*.

Article 6.2(b) requires Parties to prohibit or restrict, *“as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products”*.

Article 6.3 requires that Parties shall *“provide rates of taxation for tobacco products ... in their periodic reports to the Conference of the Parties, in accordance with Article 21”*.

Nigeria uses currently ad valorem rate of excise on tobacco products. The level of taxation is very low with 20% ad valorem rate of excise on tobacco, as compared to others countries in the ECOWAS region.

ECOWAS directive on harmonization of excise duty on tobacco products recommended that the structure of taxation for tobacco products should be a mix of ad valorem and specific excise rates.

However, the Customs, excise Tariff. Act No.16 of 1997 provides that only goods manufactured in Nigeria shall be charged with excise duties at rate specified under the schedule 5 of the Act.

Nigeria has commenced high level discussions for the automation of excise tax collation on tobacco through a track and trace solution. The Federal Government is looking at proposals

from international companies from USA and Europe towards providing the technology/solution for improving efficiency in excise tax collection using a robust Data Management System (DMS) and tax stamps to mobilize additional revenue and curb contraband tobacco trade.

The Ministry of Finance has constituted a tax reform committee, which is working on the tax laws in Nigeria. There is an ongoing close collaboration between the fiscal authorities and Legislature to ensure that obsolete sections of relevant laws requiring amendments are fast tracked to meet the objectives of the tobacco framework and revenue mobilization.

Gaps:

- Currently the tobacco product taxation rate is based on ad valorem system with a very low rate of 20% as compared to other ECOWAS state countries. There are no taxes imposed on snuff tobacco and smokeless tobacco. There is no earmarking of any percentage of the taxation income for funding any national plan or strategy on tobacco control.

It is therefore recommended that:

-Nigeria should implement the simplest and most efficient tobacco taxation system that meets their public health and fiscal needs. The Government should monitor, increase or adjust tobacco tax rates on a regular basis, potentially annually, taking into account inflation and income growth developments in order to reduce consumption of tobacco products;

- The government should consider implementing a specific or mixed excise system as these systems have considerable advantages over purely ad valorem systems. This should be accompanied by strong tax administration such as strengthening enforcement agencies to minimize tax evasion by manufacturers and criminal organizations.

Article 8. Protection from exposure to tobacco smoke

Article 8.2 requires Parties to “adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.”

Article 8 guidelines emphasize that “there is no safe level of exposure to tobacco smoke” and call on each Party to “strive to provide universal protection within five years of the WHO Framework Convention’s entry into force for that Party”.

The National Tobacco Control Act has a ban on smoking in

- residential house co occupied by a person who is below 18 years of age, except in a room exclusively occupied by the smoker;
- a tricycle, vehicle, aircraft, sea vessel, railroad coach, lift or any means of public transportation, except in a vehicle exclusively occupied by the smoker; indoor or any enclosed public place such as health care facilities, educational facilities, universities, governmental facilities, indoor private offices and workplaces, restaurants and cafes, playground, amusement park, leisure park, sales shop, shopping mall, market, public transportation or any other public place that the Minister may prescribe.

However, there is no explicit provision that bans designated smoking rooms or smoking areas in buildings in other indoor public places. There is “no smoking” sign available in some public building, restaurant, etc. In some restaurants or hotels there are still ashtrays available in these public places.

Gaps:

- Effective measures to provide protection from exposure to tobacco smoke, as envisioned by article 8 of the WHO FCTC, require the total elimination of smoking and tobacco smoke in a particular space or environment in order to create 100% smoke-free environment. The National Tobacco Control Act and current draft of regulations are not fully compliant with the article 8 of the WHO FCTC

It is therefore recommended that:

- Nigeria amends the tobacco control Act and regulations in line with Article 8 and its guidelines, to:

- ensure that all indoor are smoke-free by providing that the designated smoking area (DSE) should be outside the premises at least 10m from entrance of indoor public places;

- ensure that smokefree environment (SFE) regulations includes prohibition of smoking of shisha and electronic cigarettes;

- It is further recommended that all levels of government do not construct nor pay for the construction of designated smoking rooms.

Article 9. Regulation of the contents of tobacco products and Article 10 Regulation of tobacco product disclosures

Article 9 requires Parties to “adopt and implement effective legislative, executive and administrative or other measures” for the testing and measuring of the contents and emissions of tobacco products.

Article 10 requires each Party to “adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce”.

The partial guidelines for the implementation of Articles 9 and 10 recommend a range of measures in relation to Article 9, including that Parties should prohibit or restrict ingredients that may be used to increase palatability in tobacco products, that have colouring properties, that may cause tobacco products to be perceived as having health benefits, and that are associated with energy and vitality such as stimulant compounds.

Gaps:

- Lack of legislation to meet the obligation under the convention for regulation of the contents of tobacco products. There is no laboratory that is accredited in accordance with the - International Organization for Standardization (ISO) Standard 17025 and that can conduct comprehensive testing of contents and emissions of tobacco products.

- There are no measures and standards of tobacco products and electronic nicotine delivery systems.

It is therefore recommended that:

- Relevant regulations should be developed which include testing and measurement of contents and emission of tobacco products;

- Assess and review the testing and laboratory capacity among the existing facilities in the country. This will help to later decide whether Nigeria should develop its own testing capacity or utilize capable laboratories in the region through bilateral arrangement;

- Nigeria requires manufacturers and importers of tobacco products disclose to the government authorities information on the content and emissions by product type and brand at specified intervals. It is further recommended that Nigeria enable public access to information submitted by the tobacco industry.

Article 11. Packaging and labelling of tobacco products

Article 11 requires each Party “within a period of three years after entry into force of the Convention for the Party to adopt and implement... effective measures” on packaging and labelling of tobacco products.

This is one of the articles of the Convention that contains a deadline for implementation of specific measures. The three-year deadline for Nigeria was 18 January 2009. However, the NATOCC has drafted regulations, submitted to the National Assembly, that include text and graphic health warnings of 80% of the main display areas.

In support of the government’s efforts to implement Article 11 and the guidelines for its implementation, the Convention Secretariat together with the WHO Headquarters, Regional and Country Office are committed to give access to the WHO FCTC graphic health warnings database tested for Africa and technical support upon request from the Government.

Gaps:

- The deadline for Nigeria to meet obligations under article 11 was 18 January 2009

It is therefore recommended that:

-National Assembly should take decisive action to approve the new tobacco control regulations to be in line with recommendations of Article 11 guidelines.

Article 12. Education, communication, training and public awareness ()

Article 12 requires that “each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote” education, communication and public awareness about the health, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke, the benefits of tobacco cessation and

tobacco-free lifestyles as well as training to all concerned professionals and persons and public access to information on the tobacco industry.

Many Civil Society Organizations (such as CISLAC, ERA, NTCA, CTFK) are involved in raising awareness about the health, economic and environmental consequences of tobacco consumption and exposure to second-hand smoke.

Gaps:

- Lack of sustainable financing mechanism for training activities with the involvement of all stakeholders including NATOCC members;
- Interventions (e.g. school curriculum or life-skills education) to reduce prevalence of youth tobacco use and prevent early smoking initiation are not evaluated for their effectiveness;
- There is no training for other persons involved in tobacco control, especially those concerned with implementation of the law, about the health, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke.

It is therefore recommended that:

- The Federal Ministry of Health work closely with other ministries, parliamentarians and civil society organizations to develop a sustained mass media campaign targeting all relevant stakeholders;***
- Continuously conduct public awareness through print and digital media including social media at both Federal and State level on the provisions of the act and other related matters to prepare the public for the entry in force of the Tobacco Control Act once the regulations are approved;***
- The Ministry of Health work together with the Ministry of Education and other civil society organizations to strengthen training for teachers and health professionals; and***
- Conduct regular training for persons involved in tobacco control, especially those concerned with implementation of the law, about the health, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke.***

Article 13. Tobacco advertising, promotion and sponsorship

Article 13.1 of the Convention notes that the Parties “recognize that a comprehensive ban on advertising, promoting and sponsorship would reduce the consumption of tobacco products”.

Article 13.2 of the Convention requires each Party to: “in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21”.

During the needs assessment many CSO reported many form of the indirect advertisement by tobacco industry using the corporate social responsibility. A research concluded in Lagos State on violations of Tobacco Industries on Tobacco Advertising Promotion and Sponsorship (TAPS), and on Smoke-Free compliance in Ekiti State, by “New Initiative for Social Development” (NISD), a local NGO with offices in Ekiti, Lagos, Osun and Oyo States, showed the following results

From a total of 246 retailers in the survey (65% of the retailers that were visited sold tobacco and 35% of the retailers that were visited did not sell tobacco), the survey recorded a total of 263 forms of advertising in the observational survey:

- 47.1% were Tobacco Product Displays
- 32.3% were Tobacco brand marking on Physical Structures
- 16.7% were Posters/signs
- 2.7% were Stickers
- Less than 1% were advertisements non-tobacco products for sale with a tobacco brand name or logo
- Less than 1% were a promotional free-gift with purchase.

The survey found out that 100% of the retailers had some form of tobacco advertising and/or promotion. This study found that the TI gives people free branded umbrellas to serve as roof over any available “open space” where goods are sold. Branded tobacco umbrellas were found primarily at the 2nd most observed store type – Open Space Traders - which is indicative of the pervasiveness of this form of industry distributed advertisement and ends up being an inadvertent form of advertising which assists the TI in promoting tobacco products without selling them. By having branded umbrellas around these cities, this form of advertisement promotes brand recognition and normalizes smoking. It is important to highlight that 35% of the store types that were visited did not sell tobacco but still had some form of advertising.

Gaps:

- The national Tobacco Control Act is not focusing on a comprehensive ban of tobacco products, especially section 12.2.b that provides exception of communication between manufacturers, retailers of tobacco or tobacco products and any consenting person who is 18 years of age or above and manufacturers, distributors, sellers and tobacco plant farmers;
- Tobacco Industries are violating TAPS by strategically advertizing and promoting their products;
- Tobacco Industries are misinforming the citizen on TAPS to be Corporate Social Responsibility;
- The lack of regulations aligned with the National Tobacco Control Act 2015 is limiting its implementation on the ground;
- There is a lack of Awareness and Sensitization on the national tobacco control act to ensure full compliance among relevant stakeholders and the public at large.

It is therefore recommended that:

- ***The government and the parliament accelerate the passage of tobacco control regulations that are fully in line with Article 13 and its guidelines; The draft of the national tobacco control regulations should be amended to include in the section 7(e)***

the prohibition of all corporate Social Responsibility activities from the tobacco industry;

- The government should also strengthen and enforce bans on tobacco product display at point of sale and ban free distribution of tobacco products. It is also recommended that the FMOH and other relevant stakeholders develop awareness and sensitization of the ban on tobacco advertising, promotion and sponsorship and strengthen enforcement, especially in the surroundings of schools.

Article 13.5 encourages Parties to: *"implement measures beyond the obligations set out in paragraph 4".*

Nigeria has not implemented any measures beyond the obligations set out in paragraph 4.

Article 13.7 reaffirms Parties' *"sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law".*

Nigeria has not implemented any measures to ban cross border advertising, promotion and sponsorship entering into its territory

Gaps:

- Lack of regulation to ban cross border advertising, promotion and sponsorship originating from and entering into its territory.

It is therefore recommended that:

- Nigeria should amend regulations to ban cross border advertising, promotion and sponsorship.

Article 14. Measures concerning tobacco dependence and cessation

Article 14.1 requires each Party to *"develop and disseminate appropriate, comprehensive and integrated guidelines [concerning tobacco dependence and cessation] based on scientific evidence and best practices... [and] take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence".*

Gaps:

- No measures concerning tobacco dependence and cessation were communicated during the needs assessment

It is therefore recommended that:

-Nigeria put in place cessation activities, and at the same time draft guidelines on cessation counseling, taking into account the recommendations of the guidelines for the implementation of Article 14 of the Convention.

Article 14.2 stipulates that to achieve the end outlined in Article 14.1, “each Party shall endeavour to” implement effective tobacco cessation programmes aimed at promoting the cessation of tobacco use, include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence, and ensure the accessibility and affordability of treatments for tobacco dependence.

Gaps:

- There is no national guideline on tobacco cessation;
- Pharmaceutical products for treatment of tobacco dependence are not available in the public health service;
- There are no training courses on cessation and treatment of tobacco dependence;
- There is no training on providing brief cessation advice.

It is therefore recommended that:

- ***National programmes and services on diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use should be established. These services should be provided in the health care facilities, educational institutions. It should be integrated into the national health and education system.***
- ***The cost of treatment of tobacco dependence and cessation services should be covered by the appropriate national authority.***

Article 15. Illicit trade in tobacco products

The volume of illicit cigarettes smuggled into Nigeria constitutes 20 percent of the total product consumed and has been on the rise lately. Apart from posing health risks to consumers, illicit tobacco trade deprives government of its much-needed revenue through taxes and import duties.¹²

In Article 15.1 of the Convention the “Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control”.

Gaps:

- Nigeria has not yet acceded to the protocol to eliminate illicit trade or met its obligation under 15.1 of the convention

It is therefore recommended that:

¹² <https://www.businessdayonline.com/tobacco-regulation-perspectives-illicit-trade-tobacco/>

-A subgroup of the National Tobacco Control Committee (NAT OCC) is tasked to work on the ratification process and boost it, and to prepare an advocacy document for the ratification of the illicit trade Protocol.

Article 15.2 calls on each Party to “adopt and implement effective legislative, executive administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products.”

Gaps: No measures have been taken to ensure that all unit packets and packages of tobacco products and any outside packaging of such product are marked to assist in determining their origin.

It is therefore recommended that:

- New measures should be introduced to include this requirement.

Article 15.2 (a) requires that “unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry statement: “sales only allowed in (insert name of the country, subnational, regional or federal unit) “or“ carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market”

Gaps:

-It is not required that tobacco products sold on the domestic market (in Nigeria) carry the statement: “Sales only allowed in Nigeria” or carry any other effective marking indicating the final destination of the product.

It is therefore recommended that:

- New measures should be introduced to include this obligation so that the words “sales only allowed in Nigeria” are required on all unit packets.

Article 15.2 (b) calls Parties to “Consider, as appropriate, developing a practical tracking and tracing regime that would secure the distribution system and assist in the investigation of illicit trade”

Gaps:

- Nigeria has not yet developed the tracking and tracing regime.

It is therefore recommended that:

- Nigeria should develop a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.

- The government of Nigeria has been advised to not accept any tracking and tracing system proposed by the tobacco industry.

Article 15.3 requires that “the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.”

Gaps:

- The government of Nigeria does not required that marking is presented in legible form and/or appears in the principal language or languages of the country

It is therefore recommended that:

- ***New measures should be introduced to include this obligation.***

Article 15.4 (a) requires that each Party shall monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements

Gaps:

- The government of Nigeria does not require the monitoring and collection of data on cross-border trade in tobacco products, including illicit trade
- Nigeria still lacks a system which facilitates the exchange of this information among customs, tax and other authorities, as appropriate, and in accordance with national law and applicable bilateral and multilateral agreements.

It is therefore recommended that:

- ***New measures should be introduced to include these requirements***

Article 15.4 (d) requires that each Party “adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction;”

Gaps:

- There are no measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties.

It is therefore recommended that:

- ***New measures should be introduced to include this obligation.***

Article 15.6 (d) requires that “promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products”

Gaps:

- There are neither regional directives nor cooperation agreement between national agencies to eliminating illicit trade in tobacco products

It is therefore recommended that:

- Nigeria should promote the adoption of new measures/directives at regional level (ECOWAS and WAEMU) to eliminate illicit trade in tobacco products.

- The Convention Secretariat together with the WHO Headquarters, Regional and Country Offices are available to finance a study visit to Kenya to explore the track and trace system and to coordinate any assistance needed to combat illicit trade in tobacco products.

Article 16. Sales to and by minors

Article 16 requires “*measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen.*”

The national tobacco control act (15.1 and 15.2) prohibit the sales of tobacco products to person who is below 18 years of age or employ or use a person who is below 18 years of age to sell or trade tobacco products.

Nigeria has met the obligations under this article. However, enforcement and compliance is still a challenge. The sale of Tobacco products is still easily accessible to the minors.

Article 16.1.(a) requires Parties to ensure that “*all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, [to] request that each tobacco purchaser provide appropriate evidence of having reached full legal age*”.

Gaps:

-Minors are still able to purchase cigarettes in a store and were not refused because of their age.

It is therefore recommended that:

- The Government should draft regulations to require tobacco product sellers to place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors, and, in the case of doubt, request that each tobacco purchaser provide appropriate evidence of having reached full legal age.

The Convention Secretariat together with the WHO Headquarters, Regional and Country Offices are available to support training in enforcement.

Article 16.1.(b) requires Parties to “*ban the sale of tobacco products in any manner by which they are directly accessible, such as store shelves*”.

The National Tobacco Control Act bans the sale of tobacco products in any manner by which they are directly accessible.

Article 16.1(c) requires Parties to prohibit “*the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors*”.

TAPS of any kind is prohibited. Refer to first schedule of the NTC Act 2015

Article 16.1(d) calls on each Party to ensure “*that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors*”.

Vending machines currently do not exist in Nigeria. Nigeria therefore has no tobacco sales through vending machines.

Gaps:

- Lack of regulation on banning tobacco vending machine makes it possible for tobacco industries and retailers to introduce tobacco vending machine in the future.

It is therefore recommended that:

- A provision be introduced in the draft of regulations to prohibit the use of tobacco vending machine in the future.

Article 16.3 calls on Parties to “*endeavour to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors*”.

Nigeria has met this obligation under section 15.5 of the National Tobacco Control Act that prohibits to sell smoked tobacco products except in a package which shall be intact and contain minimum of 20 sticks.

Gaps:

- The enforcement of this provision is still a challenge.

It is therefore recommended that:

- Nigeria develops an enforcement mechanism agreed by all the enforcement agencies, Ministry of Justice, Police, etc. with clear roles and responsibilities.

Article 16.6 calls on Parties to “*provide penalties against sellers and distributors in order to ensure compliance.*”

The National tobacco control (NTC) Act imposes penalties for violations on sale to and by minors.

Article 16.7 calls on Parties to “*adopt and implement effective legislative, executive, administrative or other measures to prohibit the sales of tobacco products by persons under the age set by domestic law, national law or eighteen.*”

Nigeria has met the obligations under section 15.5 of the NTC Act.

Article 17. Provision of support for economically viable alternative activities

Article 17 calls on Parties to promote, as appropriate, *“in cooperation with each other and with competent international and regional intergovernmental organizations... economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers”*.

Tobacco is grown in Nigeria. The Ministry of Agriculture is a member of the national tobacco Control Committee. However there is, on one hand, no clear policy to implement economically viable alternatives for tobacco workers, growers and individual sellers. On the other hand, there are very promising opportunities for the government to take advantage of the presence of the Food and Agriculture Organization (FAO), The World Food Programme (WFP) and the United Nations Development Programme (UNDP) in the country to explore cooperation opportunities in meeting the obligations under article 17.

Gaps:

- There is no national policy promotion of economically viable and sustainable alternatives for tobacco workers or individual tobacco sellers. The Ministry of agriculture currently lacks resources in providing extension service to farmers to shift to alternative livelihoods.

It is therefore recommended that:

- The government of Nigeria should work in synergy with different UN agencies and other stakeholders in the implementation of article 17 and 18 aiming at making Nigeria a tobacco-free growing country;

- The government of Nigeria in collaboration with the UNDP should explore conditions to conduct an investment case study to identify and promote economically viable alternatives for tobacco workers and individual tobacco sellers.

Article 18. Protection of the environment and the health of persons

In Article 18, Parties agree to *“have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture”*.

Gaps:

- There is no information on any measure or policy in place to protect the environment and health of persons involved in tobacco manufacturing.

It is therefore recommended that:

- The Ministry of Labour, Environment in collaboration with the Ministry of Agriculture and the NATOCC work together and make joint efforts in meeting this treaty obligation.

Article 19. Liability

Article 19 requires Parties to consider, for the purpose of tobacco control, *“taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate”*.

Gaps:

- No efforts have been initiated so far to identify existing laws that could be used to address compensation in tobacco control

It is therefore recommended that:

- ***Ministry of Justice and other relevant agencies should be encouraged to take action to use the existing laws to deal with criminal and civil liability, including compensation where appropriate.***

Article 20. Research, surveillance and exchange of information

Article 20 requires Parties to “develop and promote national research and to coordinate research programmes at the regional and international levels in the field of tobacco control”.

Substantial research and surveillance in the fields related to tobacco control have been conducted. For each survey, financial and technical assistance were provided as well as training for key country personnel on survey methodology, implementation and analysis. GYTS was conducted in 2008 and GATS have been conducted on 2012. Recent national level data on adults and youths are not available. However, there is a need for periodic collection of data.

There are research teams on GYTS and GATS within the country.

Gaps:

- There are no financial resources to conduct regular youth and adult surveys

It is therefore recommended that:

- ***The Government conducts regular youth and adult surveys at least every 5 years at national level;***
- ***To establish a national system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators and integrate it into national, regional and global health surveillance.***

Article 21. Reporting and exchange of information

Article 21 requires each Party to “submit to the Conference of the Parties, through the Secretariat, periodic reports on its implementation of this Convention”.

Nigeria has provided three implementation reports in 2012, 2014, and 2016. Nigeria and is encouraged to continue to do so.

The COP established a new two-year cycle of Parties’ implementation reports starting from 2012 with a deadline of submission six months prior to each COP session,

It is recommended that:

- the Government start the preparation of the next report well in advance in 2017/2018 to meet the deadline in 2018 and thereafter, and to ensure complete and accurate reports.

- It is also recommended that the relevant Government departments contribute to the preparation of country reports by providing data as requested in the reporting instrument of the WHO FCTC in a timely manner.¹³

Article 22. Cooperation in the scientific, technical, and legal fields and provision of related expertise

Article 22 requires that Parties “shall cooperate directly or through competent international bodies to strengthen their capacity to fulfil the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national tobacco control strategies, plans and programmes”.

The Government is beneficiary of a World Bank study of tobacco and alcohol tax reform. Nigeria also received support from the United States Center for Disease Control for various surveys under the Global Tobacco Surveillance System.

The WHO FCTC has a clear link with the sustainable development goal (SDG), especially the SDG 3.

Gaps:

- The broader international cooperation on implementing the convention has not been fully utilized

It is therefore recommended that:

- The government of Nigeria should proactively seek opportunities to cooperate with other Parties, competent International Organizations and development partners present in the country.

Article 26. Financial resources

In Article 26, Parties recognize “the important role that financial resources play in achieving the objective of this Convention”. Furthermore, Article 26.2 calls on each Party to “provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes”.

¹³One of the approaches found efficient in other countries is to coordinate with the government agencies and other stakeholders who have the necessary information to contribute with to the preparation of the national implementation report, for example through requesting initiation of data collection by such entities in a circular note sent by the Ministry of Health focal point and later, once data have been collected by the relevant entities, to organize a meeting for the finalization of the implementation report.

The National Tobacco Control Act (NTC Act) has established the tobacco control fund (section 8) that consists of monies made available by the Federal Government from annual budgetary allocation approved by the National Assembly, monies from subventions from any governments of the federation to meet the objectives of this act and gifts, donations and testamentary dispositions where the objectives of the entities making the gifts, donations or testamentary dispositions are not inconsistent with the NTC Act

Gaps:

- The Tobacco Control Fund is not functional and funds are not yet accessible

It is therefore recommended that:

- ***The Government of Nigeria should make the Tobacco Control Fund functional as soon as possible. Resources should be made available for the National Tobacco Control Committee and the Tobacco Control Unit through the fund. As a first measure, the funds that have been earmarked in the FMOH budget for the tobacco control unit should be made available as soon as possible.***

Article 26.3 requires Parties to “promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multisectoral comprehensive tobacco control programmes of developing country Parties and Parties with economies in transition”.

International organizations and development partners are active in Nigeria (UNICEF, UNFPA, UNAIDS, UNDP).

Gaps:

- Nigeria has not yet fully utilized the bilateral, regional, subregional and other multilateral channels available to provide funding for the development and strengthening of a multisectoral comprehensive tobacco control programme.

It is therefore recommended that:

- ***The Government of Nigeria seek assistance from development partners and promote the inclusion of implementation of the Convention in bilateral and multilateral agreements and action plans developed with these agencies.***

Article 26.4 stipulates that “Parties represented in relevant regional and international intergovernmental organizations and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations”.

Gaps:

- Currently Nigeria has not been successful in mobilizing financial assistance from regional and international organizations and financial and development institutions which provide aid to developing countries;

- The Government is fully committed that Nigeria will promote implementation of the convention in the relevant bilateral and multilateral forums.

It is therefore recommended that:

- Nigeria takes leadership role in meeting this obligation and becomes a strong advocate for putting the WHO FCTC higher in the international development agenda.

ANNEX I

List of the Participating Organizations and the International Team of the joint Needs Assessment

Government:

- Federal Ministry of Health
- Federal Ministry of Justice
- Federal Ministry of Finance
- Federal Ministry of Agriculture and Rural Development
- Federal Ministry of Environment
- Federal Ministry of Education
- Federal Ministry of Foreign Affairs
- Federal Ministry of Youth and Sport
- Federal Ministry of Industry, Trade and Investment;
- Ministry of Foreign Affairs
- National Drug Law Enforcement Agency
- National Agency for Food and Drug Administration and Control
- Standards Organisation of Nigeria
- Nigeria Customs Service
- Consumer Protection Council
- National Orientation Agency
- Federal Inland Revenue Service
- Advertising Practitioners Council of Nigeria
- Nigeria Police Force
- Nigeria Security and Civil Defence Corps
- Environmental Health Officers Registration Council Nigeria
- Manufacturers Association of Nigeria

Civil Society Organizations:

- Nigerian NCD Alliance
- Civil Society Legislative Advocacy Centre
- Nigeria Tobacco Control Alliance
- Environmental Rights Action
- Campaign for Tobacco- Free Kids
- National Tobacco Control Research Group Ibadan
- New Initiative for Social Development
- Cedars Refuge Foundation
- Tobacco-Free Club University of Abuja
- University of Calabar Teaching Hospital

National Organizing Committee

- Prof. Isaac F. Adewole, Honourable Minister of Health,
- Dr. Nnenna Ezeigwe, NC/TC Focal point, NCD Division
- Prof. Christie Ukoli, NATOCC Chairperson

- Mr Ordu Donald A., NCD Division
- Mrs. Elayo Laurat, Director Legal Services FMOH
- Barrister Toyin Abdulsallam, Legal Services FMOH
- Dr Mangai.T. Malau, Branch Head, Tobacco Control Unit, NCD Division
- Dr Osaghae Ikponmwosa, Tobacco Control Unit, NCD Division
- Mr Abraham Emmanuel Agbons, Tobacco Control Unit, NCD Division

WHO FCTC Convention Secretariat

- Dr.VeraLuiza da Costa e Silva
- Dr Maria Carmen Audera Lopez
- Prof. Patrick Bakengela Shamba, Consultant

WHO AFRO

- Dr William Maina

UNDP

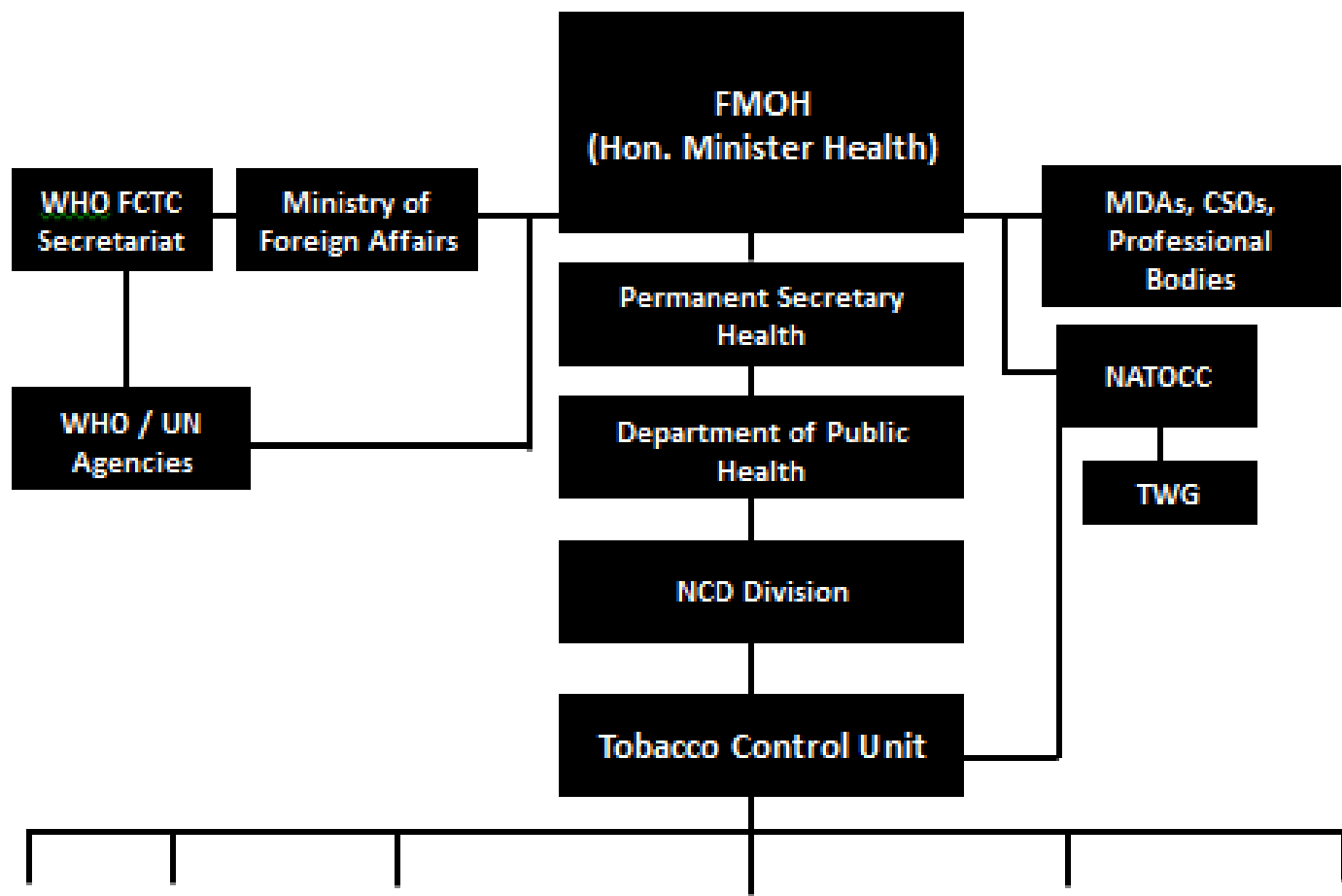
- Dr Amitrajit Saha

WHO Country office

- Dr Wondi Alemu
- Dr Mary Stephen
- Dr Mary Dewan

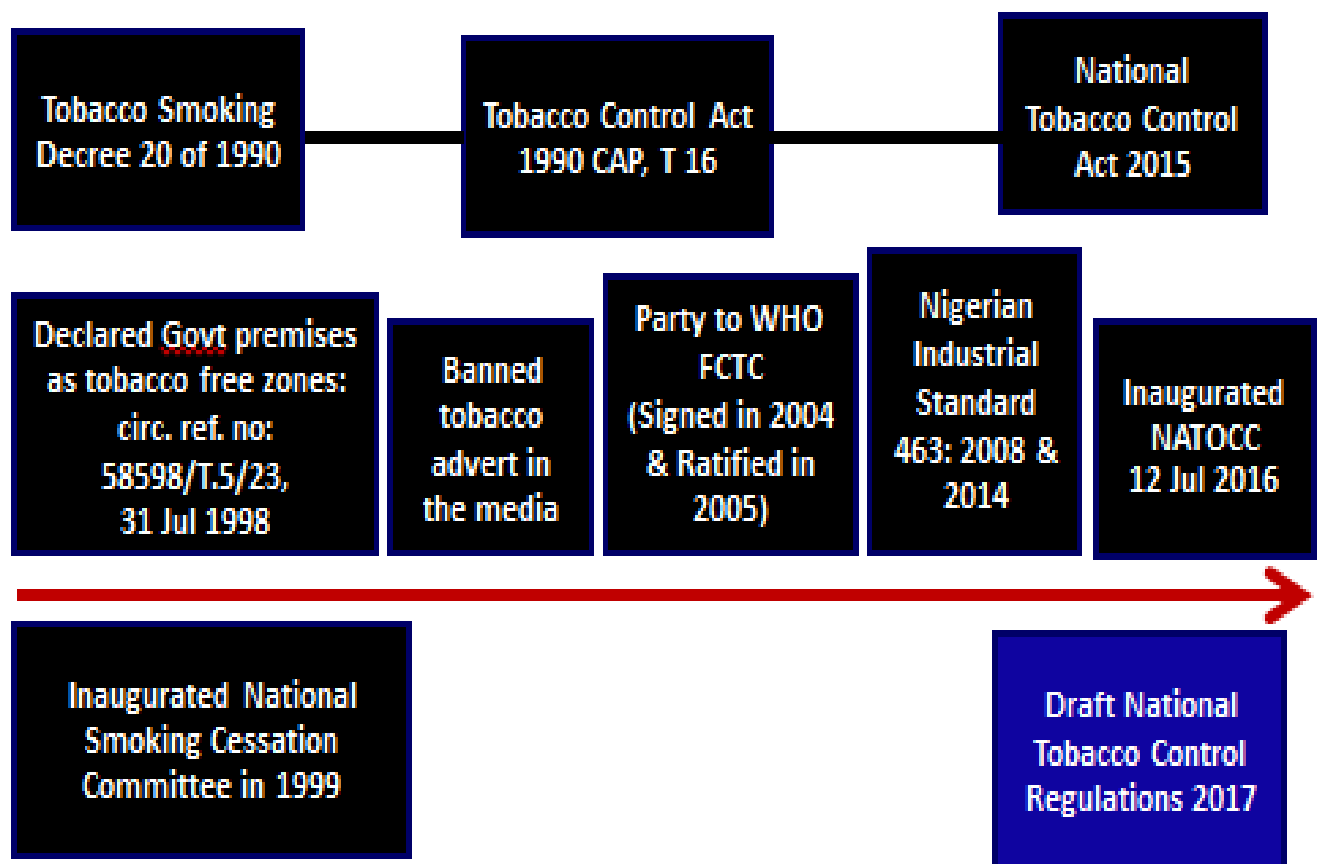
ANNEX II

EVOLVING ORGANOGRAM OF THE TOBACCO CONTROL UNIT IN NIGERIA



ANNEX III

KEY MILESTONES OF TOBACCO CONTROL LEGISLATION IN NIGERIA (1990 – 2017)



ANNEX IV

NIGERIA KEYS FACTS

Tobacco prevalence, exposure to tobacco smoke and tobacco-related mortality in Nigeria:

a) Global Adult Tobacco survey (2012)

	Men(%)	Women(%)	Overall (%)
• Tobacco smokers			
Current tobacco smokers	7.3	0.4	3.9
Daily tobacco smokers	5.6	0.3	2.9
Current cigarette smokers	7.2	0.3	3.7
Daily cigarette smokers	3.5	0.3	1.9
• Smokeless Tobacco users			
Current smokeless tobacco users	2.9	0.9	1.9
Daily smokeless tobacco users	2.2	0.6	1.4
• Tobacco users (smoked and /or smokeless)			
Current tobacco users	10.0	1.1	5.6

The Global Adult Tobacco Survey was conducted in Nigeria in 2012 as a household survey of persons 15 years of age and older. This survey shows that 10 % of men, 1,1% of women, and 5,6 % overall (4,5 million adults) currently used tobacco products.

7.3 % of men, 0;4 % of women, and 3,9 % overall (3.1 million adults) currently smoked tobacco. 2.9 % of men, 0.9 % of women and 1.9 % overall (1.6 million adults) currently used smokeless tobacco.

b) Sub national STEPS survey¹⁴ (Lagos state) in 2003

- In the urban area, prevalence of current tobacco users was 9.9%. 90.2 % of these persons are males and 9.8% are females. Among males, those in the age group between 55-64 years have the highest prevalence of 25% while in females; those between the ages of 45-54 years have the highest prevalence of 7.7 %.

c) Global Youth Tobacco Survey (GYTS): subnational (Abuja): ages 13 to 15¹⁵

	Youth tobacco use		Youth smokeless use
Prevalence (%)	Current tobacco use	Current cigarette smoking	Current smokeless tobacco use
Male	19.2	5.6	10.6
Female	11.1	1.3	6.8
Total	15.4	3.5	8.8

¹⁴http://www.who.int/chp/steps/2003_STEPS_Report_Nigeria.pdf?ua=1

¹⁵http://www.who.int/tobacco/surveillance/policy/country_profile/nga.pdf

ANNEX V**FOLLOW UP ACTIONS FOR THE NEEDS ASSESSMENT**

Activity	Date and place	Sources of funding
The NATOCC to review regulations following recommendations from the Needs Assessment Team •	As soon as possible	Federal Ministry of Health/ WHO FCTC
The Ministry of Health to request Minister of Finance to fast track the establishment of the Tobacco Control Fund pursuant to clause 8 of the Tobacco Control Act	October, November 2017	Federal Ministry of Health
Honourable Minister of Health to request the President to approve the allocation by the Ministry of finance of 50% the levy on tobacco to the tobacco control fund.	October, November 2017	Federal Ministry of Health
In collaboration with UNDP Conduct an investment case study	As soon as possible	UNDP
To conduct a study visit to Kenya to explore the track and trace system	By December or January 2018	WHO FCTC, WHO Afro
Organize an awareness raising and training session with Parliamentarians	November, December 2017	WHO FCTC