

 CTCA initial Target countries

TOBACCO INDUSTRY MONITORING REGIONAL REPORT FOR AFRICA

August, 2013

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**REGIONAL REPORT
FOR AFRICA**

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Foreword

One of the essential components of a comprehensive global tobacco control strategy is the systematic monitoring of tobacco industry (TI) activities that undermine countries tobacco control policies and programs. Article 5.3 of the World Health Organisation Framework Convention for Tobacco Control WHO-FCTC urges parties to protect their public health policies relating to tobacco control from commercial and other vested interests of the tobacco industry in accordance with national law. Furthermore, guidelines on Article 5.3 contain recommendations on how Governments can achieve TI monitoring (TIM). In this regard, the Centre for Tobacco Control in Africa (CTCA) developed a TIM tool which was shared with countries in Africa to collect baseline information on TI presence, operations and tactics. Data collection and analysis was supported by CTCA, WHO Regional Office for Africa (WHO-AFRO) and three international NGOs, namely, American Cancer Society (ACS) Campaign for Tobacco Free Kids (CTFK), and the International Union Against Tuberculosis and Lung Diseases (The UNION).

CTCA took the lead to analyze reports from the 13 countries to produce this TIM regional report. The thirteen (13) countries are Angola, Benin, Burkina Faso, Cameroon, Chad, Cote d'Ivoire, Ghana, Kenya, Mauritania, Niger, Nigeria, Senegal and Uganda.

The TIM Africa regional report is intended to provide a snapshot of the TI behaviors in terms of common activities and tactics, compare actions and make recommendations on how to counter the TI interference (TI interference) in the region. This report will be useful to governments in helping them achieve their obligations under WHO FCTC and to partners and civil society organizations and any other stakeholders engaged in tobacco control in the region and globally.



DR Possy Mugenyi
CTCA Center Manager



Acknowledgement

I would like to extend my appreciation to CTCA for developing the TIM tool that was used for the country data collection. I would also like to thank the partners for funding the collection of data and analysis as follows: American Cancer Society (ACS)- for Benin, Cameroon, and Senegal; Center for Tobacco Control (CTCA) - for Angola, Kenya, Mauritania and Uganda; the Campaign for Tobacco Free Kids (CTFK)- for Ghana and Nigeria; and the International Union Against Tuberculosis and Lung Diseases (the UNION) – for Burkina Faso, Chad, Cote d'Ivoire and Niger.

My appreciation also goes to World Health Organization for mobilizing the partners and providing the technical expertise in ensuring successful implementation of this exercise.

Finally, I would like to thank Governments in respective countries for guiding the data collection and analysis.



Associate Professor Dr. William Bazeyo

Director CTCA and Dean Makerere University School of Public Health

Acronyms and Abbreviations

ACS:	American Cancer Society
ATCC:	African Tobacco Control Consortium
BAT:	British American Tobacco
BMGF:	Bill and Melinda Gates Foundation
CTFK:	Campaign For Tobacco Free Kids
CSO:	Civil Society Organizations
CSR:	Corporate Social Responsibility
CTCA:	Centre for Tobacco Control in Africa
DSS:	Direct-to-Store Sales
ITGA:	International Tobacco Growers Association
MoU:	Memorandum of Understanding
TC:	Tobacco Control
TI:	Tobacco Industry
TIM:	Tobacco Industry Monitoring
Union:	International Union Against Tuberculosis and Lung Diseases
WHO:	World Health Organization
WHO-FCTC:	WHO - Convention on Tobacco Control
YSP:	Youth Smoking Prevention Programs



Brand stretching or brand extension is a marketing strategy in which a firm promotes by placing its brand name on an unrelated product for ease of visibility. Brand stretching of tobacco products uses brand names on non-tobacco merchandise or services. It has been used by the tobacco industry for many years as a means of promoting cigarettes when faced with a ban on direct tobacco advertising.

Examples:



Maroquinerie Marlboro Classics en vente privée



Vente privée de sacs, besaces et troussees en cuir Marlboro Classics
Jusqu'au 2 mai sur Private Outlet



POLO MARLBORO HOMME LOO5406-062 TAUPE

Attention : dernières pièces disponibles !
62.04 €



Brand extension of TI products: on bags, tee shirt and other goods on the market

Brand surrogating or surrogate advertising is duplicating the brand image of one product extensively to promote another product. Surrogate advertising is when the advertisement has a logo or brand of another company advertised within it.

Example



Brand Surrogating: Advertisement on Imperial Tobacco premise's during the Africa Cup of Nations 2010 in Burkina Faso and a corresponding pack of cigarettes

Direct-to-store sales (DSS): This is a method of selling and distributing tobacco products, services with the visibility of a brand. DSS is a strategy that manufacturers use to both sell and distribute tobacco goods directly to point of sales, or point of consumption, including additional product and market related services such as information gathering, or equipment servicing in retail or wholesale business.

Summary

CTCA has prepared this report for governments and other tobacco control (TC) stakeholders in Africa to provide a snapshot of the tobacco industry (TI) behavior in terms of its common activities and tactics, TI market share and progress on implementation of WHO– FCTC Article 5.3. Furthermore, this report provides a comparison of TI actions and makes recommendations on how to counter the TI Interference in the region. The report gives the synthesis of findings from thirteen (13) country reports, collected using the TIM tool developed by CTCA. The main objective of this regional report is to provide a more comprehensive understanding of the presence of the Tobacco Industry (TI) and its operations in Africa. The TI information was collected using a semi-structured questionnaire focusing on tobacco production, variety of tobacco products; prices, market share, promotional activities and level of the implementation of WHO –FCTC Article 5.3. Data analysis used primarily TI and media reports.

Major findings:

- **Market share:** The analysis revealed that the three major trans-national tobacco companies operating in these countries are: British American Tobacco (BAT), Imperial Tobacco (IT) and Philip Morris International (PMI). BAT has a strong presence in Angola, Burkina Faso, Ghana, Kenya, Senegal, and Uganda; while Imperial Tobacco has a strong presence in Côte d'Ivoire, Burkina Faso and Chad; PMI mainly found in Senegal and Nigeria.
- **Tactics and activities:** the analysis shows a gradual move from use of giant billboard to subtle but aggressive point of sale advertising. The findings also show that the TI is targeting children and the youth in their marketing.
- **Perceived Status of TI:** Some countries' view the TI as a partner, major source of revenue and an employer. However, in all countries studied the TI has continued to circumvent the implementation of TC Laws and regulations.

The report shows that Africa is a terrain of increasing TI interest in the domains of Corporate Social Responsibility (CSR), advertisement, promotion and other innovative activities to Increase its profits. While the TI enjoyed massive government patronage and support, youth smoking rates began to inch towards dangerous proportions in all Africa and it could raise Africa, to another stage of the tobacco epidemic. Consequently, Africa could suffer increasing damages in the medium/long term if tobacco control is not intensified.

The analysis further reveals weakness among the governments of the reporting countries in the implementation of WHO –FCTC-Article 5.3 and poor reaction to TI interference in TC programs at country level.

Some of the best practices in implementing WHO –FCTC Article 5.3 and activities carried out to circumvent TI interference include:

- Introduction of a green tax by the Government of Benin which requires TI to pay for the adverse effects on the environment due to tobacco production.
- MoH in Burkina Faso opposition to TI request to alter comprehensive regulations based on WHO-FCTC which regulates TI activities.
- Civil society in Burkina Faso (Afrique Contre le Tabac (ACONTA)), in Ghana (Vision for Alternative Development (VALD)), in Nigeria (Environmental Rights Actions ERA) and Kenya International Institute for Legislative Affairs (ILA), support activities that expose TI.
- Civil society support to individual in litigation against TI.

Key Messages

For African governments

- 1) Provide both a legal framework for effective implementation of WHO – FCTC -Article 5.3 and also resources (financial and human) to monitor and counter the TI interference.
- 2) Facilitate the Ministry of Health build capacity of other government sectors such as Agriculture, Finance, and Trade to appreciate the Guidelines of FCTC-Article 5.3 and coordinate TI monitoring.

For WHO

- 1) Support Governments to monitor TI interference according to WHO –FCTC-Article 5.3.
- 2) Collaborate with partners and civil society in coordinating TIM in the African countries.

- 3) Support capacity building for Ministries of Health and focal points in other ministries, to effectively implement the provisions of WHO – FCTC-Article 5.3

For CTCA

- 1) Provide evidence (research), toolkits, Guidelines and expertise in TIM

For TC Partners

- 1) Support capacity building in Africa and share global experiences on TIM and implementation of WHO –FCTC-Article 5.3.
- 2) Build capacity of CSO at country level to effectively monitor and expose the TI tactics and strategy.

Chapter one: Introduction

1.1 Background

CTCA developed a tool on Tobacco Industry Monitoring (TIM) to guide governments and other stakeholders on effective monitoring of the TI. This TIM tool has since been adopted by the partners.

1.2 Objectives

The main objective of the TIM report is to provide a deeper understanding of the TI presence, operations and tactics in AFRO countries, this report aims at giving:

- I. A snapshot of the TI behaviors in terms of common activities and tactics in the African Region,
- II. Recommendations to stakeholders on how to counter the TI interference in the region.

1.3 Methods

This report was generated from TIM reports of the 13 countries that used CTCATIM tool to collect information on TI activities from September 2012 to March 2013. Information and data from countries was reviewed and analyzed to come up with the regional report.

The TIM report covers the whole range of TI activities such as tobacco farming, advertising, promotion, sponsorships, corporate social responsibility, and TI interference with TC legislative process. In addition this report to focuses on critical challenges to the implementation of the WHO – FCTC Article 5.3 due to the specific TI tactic.

This report meant to guide Governments, CSOs and other stakeholders on countering the threat from TI based on data from the following countries: Angola, Benin, Burkina Faso, Cameroon, Chad, Cote d'Ivoire, Ghana, Kenya, Mauritania, Niger, Nigeria, Senegal and Uganda.

Chapter Two: Findings and Analysis

Section 1:

Tobacco Entities and Products

2.1 Tobacco farming

In four out of the 13 countries (Angola, Chad, Mauritania and Niger), tobacco farming is not commonly practiced, and all tobacco products are imported. In Burkina Faso and Benin tobacco is grown solely for local consumption. While in Cameroon, Nigeria and Senegal, tobacco cultivation is intensive and is sustained respectively by the Federation of Tobacco Growers and other Food Crops (FTGF), by the fund from the Highly Indebted Poor Countries (HIPC), Nigeria Independent Tobacco Association by the fund from the BAT and the Association of Tobacco Farmers in Senegal By the Fund of various TI (BAT, PMI).

In the nine tobacco growing countries referred to in this study, TI advances inputs (fertilizers, seedlings and pesticides) to farmers, and sustains the crop by providing agricultural extension services. This practice creates “credit bondage” of the farmers to TI. TI provides loans which farmers can hardly reimburse so they are left with no choice than continue tobacco farming. In Burkina Faso, TI credit support to farmers has been recently prohibited by law and the State has taken the responsibility to develop policies and programs to replace tobacco growing with other economically viable crops, which do not impact negatively on health and the environment.

Tobacco growing in the West and Central African countries in this study contrasts significantly with that of their counterparts in East African (Uganda and Kenya). In the former, tobacco growing is practiced on small scale around homes. In East Africa (Kenya and Uganda), however, tobacco growing is more extensive, involving a larger number of farmers and a corresponding TI support. Nevertheless the tobacco farmers have remained poor.



The home of a tobacco farmer in Kenya with tobacco leaves stored in the living room

Tobacco farming in Africa also involves the whole family. To replace aging farmers the TI encourages the older farmers to introduce their underage children who work on fields and are exposed to chemicals used in tobacco farming. These children of course will miss schools.



A child tobacco farmer in Nigeria

2.2 Manufacturing of tobacco products

The major transnational tobacco companies operating in the studied countries are: BAT, with strong presence in Angola, Burkina Faso, Ghana, Kenya, Nigeria Senegal, and Uganda; Imperial Tobacco (IT) in Côte d'Ivoire, Burkina Faso and Chad; and PMI found predominantly in Senegal. These multinationals hold the majority shares of domestic companies such as Manufacture Burkinabe des cigarettes (MABUCIG) in Burkina Faso owned by IT (71%); The Société Ivoirienne des Tabacs (SITAB) in Cote d'Ivoire, also owned by IT (91.7%). The BAT is the major shareholder in Nigeria (85%). In East Africa BAT is also the major shareholder in Kenya (68%) and Uganda (85%) .

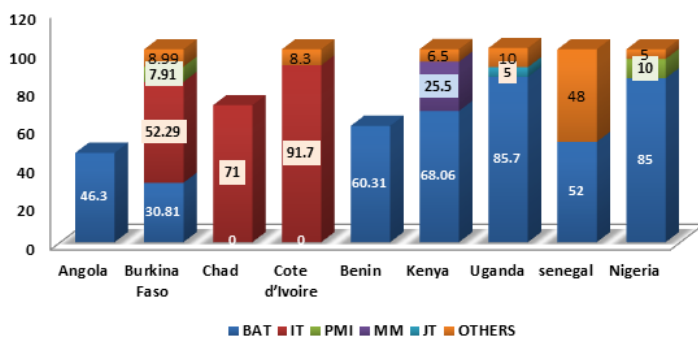


Figure 1: Market shares of cigarette companies in some sub-Saharan Africa countries

BAT dominates the market share in the East Africa while Imperial IT is leading in West Africa

Tobacco companies operate strategically to dominate the national and regional markets, they increase their operating margins through factory rationalization, introduction of new operating model that standardizes and reduces production costs. For example, in the West African Economic Monetary Union (WAEMU) BAT manufactures cigarettes in Nigeria, Senegal and Burkina Faso and sells its products to the rest of the region. In Niger, tobacco companies have never benefited from tax rebates conferred by the Code of Investments, hence TI has not invested in manufacturing there. In East Africa BAT moved its manufacturing factory from Uganda to Kenya, while intensifying leaf production from Uganda.

2.3 Tobacco Products

Diverse brands of cigarettes are emerging in many African countries as more and more manufacturing companies invest in Africa. This trend has been facilitated by the less stringent trade and investment conditions as well as the weak Tobacco control policies in most African countries.

Table 1: Types and origins of tobacco products in Africa

	ANGOLA	BENIN	BURKINA F.	CAMEROON	CHAD	COTE I.	KENYA	NIGER	NIGERIA	SENEGAL	UGANDA
1. Smoke products											
a. Locally manufactured for local use											
- Cigarettes			X		X	X	X		X	X	
b. Locally manufactured for export											
- Cigarettes			X			X	X		X	X	
c. Imported or sold on local markets											
- Cigarettes	X	X	X	X	X	X	X	X	X	X	X
- Other smoke-tobacco products (cigar, cigarillo, etc.)		X		X	X		X		X	X	X
2. Smokeless products											
a. Locally made for local use											
- Other smokeless-tobacco products		X	X	X	X	X	X	X	X	X	X
- Locally made for export										X	



Section 2: Tobacco Industry activities / tactics and target groups

3.1 Tobacco Industry activities and tactics

Almost all TI firms in the surveyed countries use similar cigarette promotion strategies and channels to recruit new smokers. The most commonly used strategies include advertisement by brand stretching and surrogate marketing, promotion at point of sales and Corporate Social Responsibility.

3.1.1 Advertising

The study shows a reduction in advertising using billboards, but increase in point of sale advertising across the twelve countries. Similarly, there is a growing trend towards brand stretching, and offering of free tobacco products. In Benin, Burkina Faso, Chad, Côte d'Ivoire, Ghana, Niger, Nigeria and Senegal, there is aggressive advertising through retail points of sale in supermarkets, kiosks, bar, restaurant, tables/sales kits, racks/shelf stockers and on umbrellas, sunshades. Other TI tactics include brand pictures on cars and cigarettes like candy.



Evolution of Advertisement on Kiosks in Niger before the Law after the adoption of the law and since few weeks



Advertisement in bars and hotels in Burkina Faso



Promotion-Games competitions in Burkina Faso



Advertising: Decoration of cars in Senegal



Advertising: Points of sales (Kiosk) in Senegal



Advertising: Points of sales (tables) in Nigeria



Advertisement in streets and at points of sale in Benin, in Cote d'Ivoire and in Burkina Faso

During the three previous World Cups, and the three previous Africa Cups of Nations, TI used brand surrogating on cigarette packs, and a number of items like premises of the TI and other items like lighters, boxes of matches, ashtrays, T-shirts, caps, plastic bags, travel bags, pots of ice, pens, ties, bags, posters, stickers, flyers and leaflets, Illuminated brand signs are also commonly found on street sides. In newspapers TI advertises in different ways, for instance by placing banner strip announcements, annual statements, business reports, price lists or job announcements.



Advertising: on a bus in Cote d'Ivoire

Advertising: plastic Bags in Burkina Faso



Advertising: on billboards in Benin

Advertising: on billboards in Angola



TI self-promotion in Burkina Faso (left picture TI seek for perfection and right picture they are deeply implanted in Africa)

In Ghana, direct advertisement has been banned but there is evidence of posters depicting tobacco products in bars and night clubs. Popular hotels in Accra, (Obuasi and Tamale) were sited, in 2010, to have their entrances decorated with colour-coding of some tobacco brands. Cigarette-like candy is reported to be produced by TI and sold close to schools. It was also reported that matches bearing pictures of a man lighting a cigarette and a child standing by were seen in the informal markets.



Candy cigarettes in Ghana



Cigarette smoking advertised in matches in Ghana

In Burkina Faso, Chad, Benin, and Niger, for instance, brand stretching and reverse branding and product placement in films are predominant. Cross-border advertising is reportedly regulated in some of 12 countries studied but is not implemented.

3.1.2 Promotions

Direct cigarette promotion is common throughout Africa. Preferred sites include: bars and restaurants, markets, and supermarkets, bus stations and places of gathering of young people such as concerts.

Marketing networks are well organized to reach even the most remote areas of a country, making the product widely known and available. Direct-to-store sales (DSS) are one of the ways the TI uses to serve retailers and build business partnerships. DSS gives the Tobacco industry, visibility and control over the sales and distribution processes and access to market and consumer information. It also provides a direct commercial link to the most strategic retail accounts. Cigarettes are sold as single sticks and in small packets, though the former is more common and preferred by the youth and low income earners. New products on the market are particularly intensively promoted.

In Ghana the importing companies have their own internal distribution networks. They also have staff dispatch riders who distribute the products directly to the retail traders in the market. The industry gives free samples of cigarette products to drivers before the product is actually launched for the drivers and passengers to pretest their products.

BAT organized in 2010 a promotional evening, primarily for the youth, to introduce the new cigarette brand “CRAVEN A” at Palais des Congrès in Cotonou.



Moritz Fashion & style Quaterly fashion shows in Nigeria

3.1.3 Sponsorships

Some countries like Angola, Cameroun, Chad, Niger did not report sponsorship events, but for Benin, Burkina Faso, Cote d'Ivoire, Nigeria and Senegal, the Industry continues to sponsor events despite the prohibition.

Table 2: “Past and Recent” Sponsorship activities in some developing countries

Event	Details of sponsorship	Country
Sporting events	-Sponsoring the <i>Night of Champions</i> organized by sports journalists -Sponsorship of the Football Federation with funds of 200 million FCFA per year. -Sponsoring football matches of some Members of Parliament	Burkina Faso
International cultural events	-Sponsoring of the film festival (FESPACO) in 2007 and other cultural nights (events) organized by the youth	
Institutional support	-Sponsorship of <i>Day of Solidarity</i> held by Ministry of Social Action and National Solidarity to celebrate the Day of the Elderly -Relief to the victims of the floods of 2009 in Burkina Faso, organized by Ministry of Social Action and National Solidarity	
Dancing parties	- Sponsoring dance parties in bars and nightclubs	
Donation	- Donated two bags of maize to workers in the City Council of Ouagadougou, during a Christmas season	
Concerts	- Music, evenings of Maracana	Cote Ivoire
Fundraising	- L'ASC de l'Unité 17 des Parcelles Assainies of Dakar in 2010, received a proposal from PMI to contribute to their fundraising evening but only if they accept to distribute their products. at the event	Sénégal
Local cultural events	- A club of students of UCAD received an offer from IDT to sponsor their cultural day	
Farmers	- Crop insurance to cover contracted tobacco farmers from perennial losses	Kenya
Charity	- Sponsoring charity initiative	
Reforestation	- National tree planting	
Health	- Sponsoring health to support children with heart disease	
Business	- Sponsoring the Commonwealth Business Forum	Uganda
Philanthropies	- Donation of 2 million shillings towards the Royal wedding - Donation of 2000 jerricans to the displaced people in Katakwi	
Others	- Scholarship scheme, education programmes, infrastructure rehabilitation and construction and re forestation program for nature conservation.	
Events	- Annual farmers' days - Nigeria Media Merits Awards - Annual Guild of Editors Conference	Nigeria

3.1.4 Corporate Social Responsibility

This is one of the plank activities that the tobacco industry defends strongly in the studied countries. The report encountered important brand promotion strategies in the guise of CSR:

- i) Youth Smoking Prevention Programs: In Burkina Faso, and Angola TI organized campaigns targeting young people through public conferences.
- ii) Providing assistance to combat illicit trade of tobacco products in Angola, Benin, Burkina Faso and Ghana by :
 - Sharing of information on the flow of smuggling/illicit tobacco
 - Funding media, tobacco association growers, foundations, training programs, seminars and conferences on illicit trade in general.
 - Providing technical assistance to draft legislation on tobacco control.

Table 3: Corporate Social Responsibility by TI

Examples of CSR	Target	Uganda	Kenya	Cote d'Ivoire	Benin	Senegal	Cameroon	Nigeria
Project to protect the environment and to support farmers	Villages (Chad) Administration, NGOs, Youth and women Farmers, Artisans ...	<ul style="list-style-type: none"> Scholarship programs, donations and re-forestation program Sponsoring Commonwealth Business Forum 	<ul style="list-style-type: none"> Crop insurance to tobacco farmers against perennial losses 	<ul style="list-style-type: none"> Donations to fight malaria, Support projects for young people 	<ul style="list-style-type: none"> Supports a program for young entrepreneurs Support handicraft sector 	<ul style="list-style-type: none"> Donation of 20 motorcycle pumps 	<ul style="list-style-type: none"> Construction of drinking water wells 	<ul style="list-style-type: none"> Annual farmers'day Dredging of rivers
Youth Smoking Prevention Program	Youth	Education - scholarship programs,		Funding of national tobacco control program	Financing national days against smoking in schools.			Education - scholarship programs,

3.1.5 Interference with policy and legislative process

The country reports show that the TI continues to use various strategies to oppose tobacco control, such as misinformation and manipulation of the media, interference with legislation and formulation of policies on advertising, promotion and sponsorships; corporate social responsibility; Graphic Health Warnings; use of economic arguments; intimidation and smuggling.

In Burkina Faso, Ghana and Uganda, TI seeks engagement with decision makers to corrupt, or delay the debate on policy making process. TI particularly influences legislators to believe that raising tobacco tax encourages illicit trade. In Cote d'Ivoire and Burkina Faso, Tobacco industry accompanied by the Ministry of Economy and Finance (Taxation and customs) and Trade, visited the Ministry of Health to argue that tobacco control will lead to loss of employment and revenue. In Burkina Faso (2010), TI interfered with the drafting of the tobacco Bill by supporting a parallel Bill, with significant changes in favour of TI. As the Bill reached Parliament, another Bill was introduced by TI, making two Bills in the House of Parliament. In the process, the content of the original Bill was watered down.

During the public hearing of the then Public Health Bill of Ghana, BAT (Ghana) and Target Link Company Limited actively participated and submitted oral and written memoranda for modification of the tobacco control measures in the Bill. BAT is using similar strategy in Uganda where the tobacco control bill is presently under consideration in the parliament.

The screenshot shows a news article from 'Le Pays' dated Wednesday, June 13, 2010. The main headline is 'L'Appel de ACONTA au député' under the sub-headline 'Le projet de loi contre le tabac'. The article discusses the 'Loi contre le Tabac' and mentions the 'Assemblée nationale'. A red box highlights a specific paragraph in the article, and a red arrow points from it to a text box on the right.

It therefore would be a direct interference with the health policies in the field of tobacco control. If the articles of the draft bill suggested by the tobacco industry had to be incorporated, the draft Tobacco Control Act of the Government, would be denatured and perhaps even emptied and it will be contrary to the Framework Convention for the tobacco control whose bill prevails.

The press Declaration of the NGO ACONTA during the adoption of the Law in Burkina Faso in 2010 (on TI interference)

In Nigeria throughout the processes for the passage of the National Tobacco Control Bill (NTCB), BAT consistently promoted self-regulation and what is called “responsible regulations”. BAT was unrelenting in its efforts to prevent the bill from becoming law. BAT made direct contact with some parliamentarians with the offer of building some constituency projects in their names.

3.1.6 Intimidation

In Senegal, TI accomplices intimidated the tobacco control NGO - LISTAB by burglary of its offices and assault of the LISTAB President.

3.1.7 Litigation

There are no reports of TI taking TC individuals to courts of law in the 14 countries. However, in Burkina Faso and Niger, the NGOs ACONTA (in 2004) and SOS Tabagisme (in 2008) lost in a court case, against TI, due to pressure and influence from TI and the lack of providing NGOS the right to sue TI. And in Côte d'Ivoire TI take into court the smokefree decree in 2013. Civil society has played an important role of supporting litigation by a peasant seeking compensation from BAT-Kenya after his right leg was amputated following 48 years of heavy smoking.

In Nigeria TI is yet to adopt litigation as a strategy of intimidation. However the Nigerian Newspaper Proprietors Association (NPAN) had in a suit in 2002 challenged Advertising Practitioners Council of Nigeria decision to ban tobacco advertisement but later the suit was dropped.

3.1.8 Alliances of TI with front groups

In Benin, TI infiltrated the press and accessed entrance to certain events under the guise of the press. A workshop session on strategies for tobacco taxation in Benin held in 2012 in the city of Cotonou was infiltrated by TI disguised as Press and raised arguments in support of freedom of expression and right of choice of TI by tobacco users. In Burkina Faso, TI sent a group of communicators and advocates to meet the Ministry of Health to delay the implementation of the tobacco legislation.

Imani – Ghana, is a policy and education NGO and a front organization of BAT (Ghana) which opposed tobacco control policies at the parliamentary public hearing of tobacco Control, and defended TI in the media and radio discussions.

In Cameroon, the Federation of Tobacco Growers and other Food Crops (FTGFC) encouraged the Government, through the Ministry of Agriculture, to subsidize the cultivation of tobacco, and obtain support from the Highly Indebted Poor Countries (HIPC) fund. FTGFC also negotiated partnerships with companies

buying Cameroonian tobacco on the world market. In 2009, FTGFC signed an agreement with the German company, Hell Mering Koehne, to buy 100 tons of leaf per year.

Similarly in Nigeria, the TI continues to hide behind workers, farmers, retailers and front groups to obstruct any form of regulation. At the height of efforts to pass the NTCB in 2009, the Institute of Public policy Analysis (IPPA), BAT front group which has established a very cozy relationship with the media was visible in campaigns to thwart passage of the bill and if that failed a watered down version.

3.1.9 Smuggling

There is limited information on TI organized smuggling reported in the 12 countries given the clandestine nature of these activities. However, diverse foreign cigarette brands entering the countries clandestinely, and contrabands are common, especially along the country borders. Retailers of tobacco products sell smuggled products in small quantities, making it difficult to control this practice..

Cigarette smuggling into Uganda is not well documented; however, TI tends to exaggerate the figure, to discourage the government from increasing taxes on tobacco products. TI in Benin, Burkina Faso and Niger, have in the past organized the diversion of many of tobacco products on transit from West Africa to other African countries of West and North Africa. Many Importers in these countries are equally involved in organizing the smuggling racket.

TI claims to help in the fight against contraband of tobacco. For example, in Burkina Faso, the Industry denounces some fraudsters and put the logistics to track smuggling at the disposal of the National Commission for the Fight Against Fraud. The National Commission for the Fight Against Fraud is committed to destroy captured contraband cigarettes, or sell it to competitors.

3.1.10 Voluntary agreements with governments/voluntary self-regulation

In Benin, voluntary agreements exist between the TI and the government. The self-regulation is guided by a Memorandum of Understanding on smuggling and Illicit Trade, signed in October 2008, between BAT and the General Directorate of Customs and Excise. This agreement has not been disclosed to the public. In Burkina Faso and in Uganda, voluntary agreements exist between TI and government against direct advertising of tobacco products, while in Chad, there is a convention which grants tax rebates to TI, allowing TI to enjoy low excise duties of 10% instead of 25% as recommended by the Economic and Monetary Community of Central Africa (CEMAC). In Nigeria since 2001 Government signed an MoU with BAT on promotion and TI promoting its products using methods that are attractive to the youth.

3.1.12 Tobacco Industry targets

In Chad, TI targets children, adolescents and the youth through advertising at points of sale and by objects such as sunshades. Kiosks with brand colours are erected in most public places. In Burkina Faso, advertising appears at the gate of Manufacture Burkinabe des Cigarettes (MABUCIG) by brand surrogating, as well as in front and inside bars and nightclubs.

Air travelers are another ready target of the industry. The airports of all the 12 countries have duty free shops, where, cigarette packages are displayed openly.



Advertisement in bars and hotels in Burkina Faso : Promotion-Games s in Burkina Faso targeting minors



Concert held by TI in Koudougou/Burkina Faso

BAT Benin, organized, in 2010, a promotional evening, primarily for the youth, to introduce the new cigarette brand “Craven A” at Palais des Congrès in Cotonou/Benin and in Koudougou/Burkina Faso in 2006.

The TI uses cultural events effectively to promote tobacco products in the African countries. For example, in 2003, TI awarded prizes to winners at the international film festival (FESPACO) in Ouagadougou. The event was highly publicized by media and one of the prize winners continued to market the brand, which awarded him the prize for a long time. In Cote d’Ivoire prizes of similar nature and donations made by TI are broadly publicized by the media to reach the general public.

4.1 Tobacco control partners/allies and their role

4.1.1 Definitions and perceived status of “tobacco industry” within government sectors

The definition of TI is varied slightly among the countries. Burkina Faso considers TI as “all manufacturing, wholesale distributors, importers and exporters of tobacco products “. Benin defines TI as “any organization, that deals with the manufacture, importation, distribution, promotion and marketing of cigarettes and other tobacco products in the country” and in Ghana “tobacco industry” means tobacco manufacturers, wholesale distributors and importers of tobacco products.

In Chad, TI is perceived to be a major economic earner for the state”, and in Niger as “an economic and financial partner”. In Cote d’Ivoire TI is seen as “an indispensable source of revenue (taxes) and a provider of employment”.

4.1.2 Understanding of the tobacco control agenda and strategies

In countries TC agenda focuses on domestication of FCTC through the passage of National Tobacco Control Laws and regulations and through the adaptation of the Administration and services within the Government (MoH) to allow the FCTC measures to be implemented at country level.

► holding the TI accountable and liable for any damaging practices

In Burkina Faso, legislation holds TI responsible for the damages it causes. The law (Article 7) provides that “Every individual or entity whose interest is adversely affected by the activities of TI can sue the industry in competent

courts.” In Benin, sanctions provided by law are limited to breaches of the provisions governing the business activities of TI (manufacturing, importation, distribution, promotion and sales). However, in Benin, a green tax has been introduced, which requires that TI pays for the adverse effects of tobacco on health and the environment.

► **requiring the TI to provide mandatory disclosure of contents and emissions of tobacco products**

Burkina Faso, Niger and Benin have introduced measures in their national laws that require TI to disclose content and emissions of tobacco products, pursuant to the TC laws. Similarly, the laws require TI to provide to the competent authorities information about its activities, including those relating to the production, distribution, promotion and administration.

In Ghana, the Public Health Act, 2012, makes provisions for mandatory disclosure of contents and emissions of tobacco products. Under Section 76, the Act states that, “The Minister, may in consultation with the Food and Drugs Authority by Legislative Instruments make Regulations to provide for:

- the manner or method to determine the quantities of hazardous constituents in tobacco products
- the returns, reports and other information to be submitted to the Food and Drugs Authority by manufacturers and importers of tobacco products”

Furthermore, the Minister of Health’s Directive of 2007 gives the Board the mandate for tobacco regulation,” where importers of tobacco are required to disclose information on their products to the Food and Drugs Authority (FDA) during the registration. The FDA-Ghana requires all importers to register their tobacco products with the agency and submit analytical reports on contents. For cigarettes, the ignition propensity test is also required. (Ref. Needs Assessment Report for the implementation of the WHO Framework Convention on Tobacco Control Ghana).

This requirement by the FDA is included on the “Application Form for the registration of a tobacco product”. Other requirements to be provided by importers include :

- information about the active ingredients and reasons for inclusion
- additional raw materials used but not in the final product
- constituents of whole/unburned tobacco
- toxic emissions in both mainstream and side stream smoke

The Ghana Standards Board (GSB) was established by the Standards Decree, NRC 173, 1973 to promote standardization in industry and commerce. Health and safety is taken into consideration for setting standards and conducting conformity testing. Tobacco products standard (GS 105-1:1992) has been established. It details the specifications for cigarettes, including tar and nicotine levels and the methods for sampling. (Ref. Needs Assessment Report for the implementation of the WHO Framework Convention on Tobacco Control Ghana)

In Nigeria the Tobacco Control Smoking Act of 1990 requires manufacturers to disclose the Nicotine and tar level in their Cigarettes.

► **promoting public access to information on TI**

According to the 2010 Burkina Faso law (Article 11), the State shall take steps to provide the public with information on the activities of TI “, however Regulations to guide the implementation of this Act were not available by the date of this report. Similarly, Article 8 requires the State to develop policies and multi-sectoral programs to reduce the consumption of tobacco and tobacco products, and to inform the public about the harmful effects of tobacco. The State is responsible for the establishment of a national committee to fight against tobacco; the development and implementation of strategies to promote information, education, communication, training and awareness among populations about the dangers of tobacco and tobacco products and to coordinate tobacco control. In Benin, information on tobacco control can be, obtained through the Ministry of Health. This information is available to civil society and, the media.

4.1.3 Disclosure of TI expenditure on advertising, promotion and sponsorship

In Burkina Faso, the law requires TI to declare the resources invested in promoting tobacco; however, to date such information is not available to the public. In Niger, spending on advertising at points of sale is not revealed and the law is silent. In Senegal, TI does not reveal this information either, although some government agencies reveal information on advertising expenses.

4.1.4 Existing legal mechanisms dealing with civil and criminal liability

Summary of legal action against the tobacco industry

Except for Burkina Faso, Niger and Kenya no other litigations against TI has been attempted in this direction in the countries. In Niger, Article 16 of the Law states, however, that manufacturers and distributors of tobacco products are liable for

damages caused by consumption of tobacco products. Therefore, the victims can sue the manufacturers. The manufacturer and / or distributor will be held liable when the product does not meet the standards laid down by law or regulation or where the victim or his representative presents scientific evidence that tobacco use is the sole cause of the damage.

Organizations or institution involved in tobacco control but with affiliation to TI

No country in this study has reported the existence of a tobacco control institution within Government affiliated or cooperating with TI.

Existing partnerships or agreements between TI and government

In Niger, tobacco companies have formal relations with the Ministries of Finance and Commerce, mainly to regulate tobacco taxes.

In Cote d'Ivoire and Burkina Faso, there are government technical commissions, which consult with TI. However, the information on the nature of the consultations is not available to the public.

PMI and BAT Ghana has signed memorandum of understanding (MOU) with Custom Excise and Preventive Services (CEPS) to fight illicit trade and smuggling of tobacco products.

In Nigeria there is a MoU between TI and Federal Government on the establishment of the Ibadan Factory, The TI had also signed MoUs with the Customs services, Standards Organization of Nigeria, Consumers Protection Council, Nigerian Media Merits Awards.

Chapter 3: Conclusion and Recommendations

Conclusion



The TI has always created a public impression that they were not averse to the enactment of Laws on TC, however the report shows that Africa is a terrain of increasing TI interest in the areas of CSR, advertisement, lobbying, promotion and other innovative activities to increase its profits. Consequently, Africa shall suffer increasing damages in the medium/long term if tobacco control is not intensified.

The analysis reveals weakness by government of the reporting countries in the implementation of FCTC-Article 5.3 and poor reaction to TI interference with TC programs at country level.

Some of the best practices in implementing WHO-FCTC Article 5.3 and activities carried out to circumvent TI interference include:

- Introduction of a green tax by the Government of Benin, which requires TI to pay for the adverse effects on the environment due to tobacco production.
- Opposing TI request to alter comprehensive regulations based on WHO-FCTC which regulate TI activities.
- Civil society exposing TI activities and tactics to frustrate the implementation of FCTC-Article 5.3. This was reported in all the thirteen countries.
- Civil society supporting an individual in litigation against TI in Kenya and capacity for NGOs to take legal action against industry in violation of the legislations (ie : Niger etc..)

Recommendations

For African governments

1. Provide both a legal framework for effective implementation of WHO – FCTC -Article 5.3 and as also resources (financial and human) to monitor and counter the TI interference.
2. Facilitate the Ministry of Health build capacity of other government sectors such as Agriculture, Finance, Trade to appreciate the Guidelines of FCTC-Article 5.3 and coordinate TI monitoring.

For WHO

1. Support Governments to monitor TI interference according to WHO –FCTC-Article 5.3.
2. Collaborate with partners and civil society in coordinating TIM in the African countries.
3. Support capacity building for Ministries of Health and focal points in other ministries, to effectively implement the provisions of WHO – FCTC-Article 5.3

For CTCA

1. Provide evidence through research, toolkits, Guidelines and expertise on TIM

For TC Partners

1. Support capacity building in Africa and share global experiences on TIM and implementation of WHO –FCTC-Article 5.3.
2. Build capacity of CSO at country level to effectively monitor and expose the TI tactics and strategy.
3. Support the adoption of the TIM tool by the rest of African countries

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