

[REPUBLIC OF MADAGASCAR]

**MINISTER OF PUBLIC HEALTH
MINISTER OF COMMERCE**

INTERMINISTERIAL ADMINISTRATIVE ORDER No. 28.540/2011
Setting the terms for the application of Decree No. 2010-1008 of December 14, 2010,
concerning the packaging and labeling of tobacco products for sale in Madagascar

**THE MINISTER OF PUBLIC HEALTH
THE MINISTER OF COMMERCE**

In light of the Constitution,
In light of Law No. 2011-002 of July 15, 2011 concerning the Code of Health;
In light of Law No. 2004-029 of September 9, 2004 authorizing the ratification of the Framework Convention on Tobacco Control of the WHO;
In light of Decree No. 2005-0554 of August 30, 2005, as amended by Decree No. 2006-0452 of July 11, 2006, concerning the creation of the National Bureau of Tobacco Control;
In light of Decree No. 2007-0837 of September 25, 2007, concerning the organizing and functioning of the National Bureau of Tobacco Control;
In light of Decree No. 2010-1008 of December 14, 2010, concerning the packaging and labeling of tobacco products for sale in Madagascar;
In light of Decree No. 2011-0137 of March 16, 2011, concerning the nomination of the Prime Minister, Head of the Government;
In light of Decree No. 2011-0140 of March 26, 2011, concerning the nomination of the members of the Government;
In light of Decree No. 2009-0543 of May 8, 2009, setting the duties of the Minister of Commerce, as well as the general organization of his Ministry;
In light of Decree No. 2010-0372 of June 1, 2010, setting the duties of the Minister of Public Health, as well as the general organization of his Ministry;
In light of Interministerial Administrative Order No 18.1711-2003 of October 20, 2003, determining the regulations for the industrialization, importation, commercialization and consumption of tobacco products in Madagascar, they do hereby

ORDER:

Section 1
GENERAL PROVISIONS ON PACKAGING AND LABELING

Article One.- The provisions of this Administrative Order apply to the entire territory of the Republic of Madagascar as of the date of its signature;

A period of 180 calendar days counting from the date of publication of this Administrative Order in the Official Journal of the Republic is granted to tobacco companies to remove from circulation old packages, and to apply the new regulations in force with respect to marking of packs;

The period of 180 calendar days indicated by this article may not be subject to any special dispensation no matter what the reason or interest at stake that is invoked to justify such a measure.

Article Two.- Definitions:

For the purposes of this Administrative Order the following definitions shall apply:

- Pack: refers to the *recipient* or *receptacle* or paper package in which a tobacco product is sold or displayed for retail sale.
- Carton: refers to the *recipient* or *receptacle* or paper package containing several packs in which a tobacco product is sold or displayed for retail sale.
- Box: refers to a *recipient* or *receptacle* containing several cartons in which a tobacco product is sold or displayed for wholesale sale.
- Front surface of pack: refers to the directly visible and most exposed largest surface of the pack.
- Rear surface of pack: refers to the directly visible and most exposed largest surface on the opposite side of the pack.
- Lateral surface of pack: refers to a surface of the pack seen from the exposed side, and visible between the front and rear surface of the pack.
- Front surface of carton: refers to the directly visible and most exposed largest surface of the carton.
- Front surface of box: refers to the visible and most exposed largest surface of the box.
- Misleading terms: refers to any false, tendentious or misleading element, or one that is likely to give a mistaken impression regarding the characteristics, health effects, risks or emissions of a product, including terms, descriptions, trademarks, figurative signs or other things that directly or indirectly give the mistaken impression that a particular tobacco product is less harmful than others, for example, without limitation, terms such as "low in tar," "light," "ultra-light," or "mild" ...

Article Three.- In application of the provisions of Decree No. 2010-1008 of December 14, 2010, concerning packaging of tobacco products of local and foreign manufacture intended for consumption in the territory of the Republic of Madagascar, such products must display the following statements and warnings:

1. For Cigarettes:

- a) On the upper part of the rear surface of each pack there must appear the health warnings on the harmful effects of tobacco use in the Malagasy language, and the surface area provided for the inclusion of the health message must occupy sixty-five percent (65%) of the rear surface of each pack;

- b) On the front surface of each pack there must appear a photo or image in color corresponding to the health warning indicated in Article 4 below, occupying sixty-five percent (65%) of its surface area;
- c) On the lateral surface of each pack there must appear the following statement: “Amidy eto Madakasikara”;
- d) On the principal surface of cartons and boxes packaging cigarettes there must appear statements of the health warnings indicated in Article 4-a) below, occupying sixty-five percent (65%) of its surface area;
- e) The health warnings and corresponding to photos or images must be positioned in such a way that none of the words in the health warnings, photos or images are torn when packs, cartons and boxes are opened; warnings and corresponding photos or images must be positioned in accordance with the manner and template approved by the Office for Tobacco Control of the Ministry of Health. Approved templates in digital media are to be made available to tobacco manufacturers. Approved templates are attached to this Administrative Order, and no other images, photos or health warnings will be accepted.

2. For chewing tobacco:

- a) On the upper portion of the rear surface of each packaging unit there must appear the health warnings on the harmful effects of tobacco in the Malagasy language, occupying sixty-five percent (65%) of its surface area;
- b) On the front surface of each packaging unit there must appear the following statement: “Amidy eto Madakasikara”.

3. For snuff

- a) On the upper portion of the rear surface of each pack there must appear the health warnings on the harmful effects of tobacco in the Malagasy language, and the surface provided for the health warning must occupy sixty-five percent (65%) of the rear surface of each pack;
- b) On the front surface of each pack there must appear a photo or image in color corresponding to the health warning indicated in Article 4-a) below, occupying sixty-five percent (65%) of its surface area;
- c) On the lateral surface of each pack there must appear the following statement in Malagasy: “Amidy eto Madakasikara”;
- d) On the front surface of each carton and box packaging cigarettes and snuff there must appear statements of the health warnings indicated in Article 4-a) below, occupying sixty-five percent (65%) of its surface area;

Section 2 STATEMENTS OF HEALTH WARNINGS

Article Four.-

a) For cigarettes and snuff:

Messages, images and/or photos used, pursuant to the provisions of Article 3: 1-a), 1-b), 3-a) and 3-b) of this Administrative Order, are to be printed and surrounded by a black border, with a thickness of at least three millimeters (3 mm) in addition to the surface provided for the warning, and not overlapping in any way with the messages, images or photos, adhering to the templates approved by the tobacco control office of the Ministry of Health;

There must be eight (8) different statements of health warnings and corresponding photos or images to be used for two (2) years, broken down in two (2) lots of four (4) images and photos with the corresponding health warnings, of which one (1) lot is to be used for the first year, and the second lot for the second year for cigarettes and snuff. Each lot is composed of [four] (4) images and/or photos corresponding to four (4) statements of health warnings on the harmful effects of tobacco use;

Each pack of cigarettes and snuff must display a photo or image that corresponds to the following statements of health warnings in Malagasy:

- MAHATONGA NY HOMAMIADAN'NY AVOKAVOKA NY SIGARA
- MAMONO MAHAFATY NY SIGARA
- MANIMBA NY ATIVAVA NY SIGARA
- MAHATONGA NY HOMAMIADAN'NY NONO NY SIGARA NA LAHY NA VAVY
- MANAFOHY NY ANDRO IAINANAO NY SIGARA
- MAHATONGA FAHASEMBANAN'NY ZAZA NY SETRO-TSIGARA
- RY MPIFOKA SIGARA!! MAMPIANA-DRATSY NY TARANAKA IANAO
- MANAPOIZINA NY Hafa NY SETRO-TSIGARA

Approved templates on digital media are to be made available to tobacco manufacturers. The approved templates are attached to this Administrative Order;

b) For chewing tobacco:

Statements of health warnings used as indicated by Article 3:2-a) and 2-b) of this Administrative Order are to occupy sixty-five percent (65%) of the surface on which they are printed, and surrounded by a black border with a thickness of at least two millimeters (2 mm) in addition to the surface provided for the warning, not overlapping in any way with the health warning, and they are to be approved by the Office for Tobacco Control of the Ministry of Health;

There are to be four different statements of health warnings to be used for two (2) years, of which two (2) statements of health warnings are to be used for the first year, and two for the second year on packs of chewing tobacco;

Each pack of chewing tobacco must display the following statements of health warnings in Malagasy:

- MAHATONGA NY HOMAMIADAN'NY AVOKAVOKA NY PARAKY
- MAMONO MAHAFATY NY PARAKY
- MANIMBA NY ATIVAVA NY PARAKY
- RY MPIHINANA PARAKY! MAMPIANA-DRATSY NY TARANAKA-
IANAO

On the front surface of each carton and box packaging chewing tobacco, there must appear the statements of health warnings indicated by Article 3:2-a), occupying sixty-five (65%) of its surface. The approved templates are to be made available to tobacco manufacturers on digital media.

Section 3 PACKAGING OF CIGARETTES AND SNUFF

Article Five.- The first lot to be used for all packaging units of cigarettes and snuff for the first year is composed of the following statements:

- MAHATONGA NY HOMAMIADAN'NY AVOKAVOKA NY SIGARA
- MANAFOHY NY ANDRO IAINANAO NY SIGARA
- MAMONO MAHAFATY NY SIGARA
- MAHATONGA NY HOMAMIADAN'NY NONO NY SIGARA NA LAHY NA
VAVY

The second lot to be used for all packaging units of cigarettes and snuff for the second year is composed of the following statements:

- MANIMBA NY ATIVAVA NY SIGARA
- RY MPIFOKA SIGARAI! MAMPIANA-DRATSY NY TARANAKA IANAO
- MANAPOIZINA NY Hafa NY SETRO-TSIGARA
- MAHATONGA FAHASEMBANAN'NY ZAZA NY SETRO-TSIGARA

These statements of health warnings must be accompanied by the corresponding images for packs of cigarettes and snuff, and statements of health warnings alone for packs of chewing tobacco, for boxes and cartons of tobacco products; the approved templates are to be made available to tobacco manufacturers on digital media. The approved templates are attached to this Administrative Order;

These messages with photos or images must be used simultaneously on an alternating basis, and then they will be completely renewed at the end of two (2) years.

Section 4 PACKAGING OF CHEWING TOBACCO

Article Six.- The first lot to be used for all packaging units of chewing tobacco for the first year is composed of the following statements:

- MAHATONGA NY HOMAMIADAN'NY AVOKAVOKA NY PARAKY
- MAMONO MAHAFATY NY PARAKY

The second lot to be used for all packaging units of chewing tobacco for the second year is composed of the following statements:

- MANIMBA NY ATI-VAVA NY PARAKY
- RY MPIHINANA PARAKY! MAMPIANA-DRATSY NY TARANAKA IANAO

The approved templates are to be made available to tobacco manufacturers on digital media. The approved templates are attached to this Administrative Order;

These messages with photos or images must be used simultaneously on an alternating basis, and then they will be completely renewed at the end of two (2) years.

Section 5 PRINTING PROCEDURES

Article 7.-

1. – For cigarettes and snuff:

The statements of health warnings and the message, “Amidy eto madagasikara” on each pack of cigarettes and snuff must be:

- a) Printed on a black background in the upper part of the rear surface of the cigarette pack in white characters in bold Calibri typeface, centered, size eighteen (18) at least, and all in upper case surrounded by a black border, with a thickness of at least three millimeters (3 mm) in addition to the surface provided for the warning, and not overlapping in any way with the text of the statement of the warning for statements of health warnings;
- b) Printed on a black background in white characters in a bold Calibri typeface, size of at least eleven (11), and all in upper case for “Amidy eto Madagasikara,” on one lateral surface of each pack of cigarettes and snuff;
- c) Positioned in such a way that none of the words in the health warning are torn when the pack is opened;
- d) Prominently visible;
- e) Positioned in accordance with the manner and template approved by the Office for Tobacco Control of the Ministry of Health. The approved template is attached to this Administrative Order.

Photos or images corresponding to the statements of health warnings must be:

- a) Printed in color pursuant to the templates approved by the Ministry of Health;
- b) Surrounded by a black border with a thickness of at least three millimeters (3 mm) in addition to the surface provided for the photo or image, and not overlapping in any way with the photo or image.

2. For chewing tobacco:

The statements of health warnings and the message, "Amidy eto madagasikara" on each pack of chewing tobacco must be:

- a) Printed on a black background in white characters in bold Calibri typeface, size ten (10) at least, all in upper case, centered on the surface on which the text is to be printed, parallel to the upper edge of the pack and surrounded by a black border with a thickness of at least two millimeters (2 mm) in addition to the sixty-five percent (65%) of the surface provided for the warning, and not overlapping in any way with the statements of health warnings in the upper portion of the rear surface of the pack;
- b) Printed on a black background in white characters in a bold Calibri typeface, size of at least nine (9) and all in upper case for "Amidy eto Madagasikara," on the front surface;
- c) Positioned in such a way that none of the words in the health warning are torn when the pack is opened;
- d) Prominently visible;
- e) Positioned in accordance with the manner and template approved by the Office for Tobacco Control of the Ministry of Health. The approved template is attached to this Administrative Order.

Article 8.- For boxes and cartons of tobacco products

On the front surface of boxes or cartons of tobacco products there must appear a statement of health warnings as well as statements identical to those on packs of cigarettes, snuff and chewing tobacco, and they must occupy sixty-five percent (65%) of their surface area;

Article 9.- The following things are prohibited:

- a) Affixing stickers of any kind for statements of health warnings, photos and/or images corresponding to statements of health warnings on any packaging unit of tobacco products;
- b) The use of cigarette case boxes for any packaging units of tobacco products, regardless of how they are positioned;
- c) The use of other kinds of packaging for tobacco products other than those specified by this Administrative Order, for packs, cartons and boxes;

- d) The use of other statements of health warnings and/or photos or images other than the statements of health warnings, photos are images approved by the Ministry of Health;
- e) The use of misleading terms on any packaging units of tobacco products, such as, without limitation, "light," "ultra-light," "mild," "low in tar," "scented"... in Malagasy or other languages;
- f) The affixing of labels of any shape or content on top of photos, images or statement of health warnings.

Section 6 ADMINISTRATIVE SANCTIONS

Article 10.- All tobacco products manufactured and sold anywhere in the national territory in violation of Articles 3, 4, 5, 6, 7 and 8 of the aforesaid Administrative Order are to be confiscated and destroyed without indemnification.

Article 11.- Agents of law enforcement, at the request of the Ministry of Health or the Director of the Office for Tobacco Control of the Ministry of Health, are obliged to undertake immediately to discover, remove and confiscate any tobacco products found to be in violation of the provisions of this Administrative Order. All activities must be documented in notices of violation duly signed by the agents mentioned above and the offender.

In the event of the absence or refusal of the offender to comply, the notice of violation is to be drawn up and signed by 2 (two) witnesses who know how to read and write. This has the same effect and same evidentiary weight as a notice drafted in his presence.

Section 7 MISCELLANEOUS AND FINAL PROVISIONS

Article 12.- Statements of health warnings in correspondence with images or photos approved by the Office for Tobacco Control of the Ministry of Health to be used for two years (02) are attached to the present Administrative Order, and the approved templates are to be made available to tobacco manufacturers on digital support media;

Article 13.- The Ministry of Health has the obligation to notify the public of the end of each period through all available means at least six months prior to the expiration of the period of (02) two years;

Statements of health warnings in correspondence with the images or photos of this Order are to be completely renewed at the end of two (02) years;

The new markings and labeling on all packaging of tobacco products are to be determined by means of an administrative order issued by the Minister of Health.

Article 14.- All prior provisions at variance with the provisions of this Administrative Order are hereby rescinded, in particular, those of Article 3 of Interministerial Administrative Order No. 18 171/2003 of October 22, 2003, determining the regulations with respect to the industrialization, importation, commercialization and consumption of tobacco products in Madagascar.

Article 15.- This Administrative Order is to be published in the *Journal Officiel de la République*, with notice to be given hereof wherever it may be needed./

Antananarivo, September 30, 2011

Signed:

Brigadier General Physician
RAJAONARISON Pascal Jacques

Rinarisoa Iréne Eva RAZAFIMANDIMBY

MINISTRY OF PUBLIC HEALTH
GENERAL SECRETARIAT
NATIONAL OFFICE FOR TOBACCO CONTROL

“FOR DISTRIBUTION”

to

No. 305 / -MSANP/SG/OFNALAT

(See Addressees)

Antananarivo, Oct. 12, 2011

Director of the National Office of Tobacco Control

of the Ministry of Public Health
[STAMP:] MINISTRY OF PUBLIC HEALTH
REPUBLIC OF MADAGASCAR

Dr. Jacques ANDRIANOMEN JANAHARINIRINA

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ANNEXES

**THE TWO LOTS TO BE USED FOR PACKAGING OF CIGARETTES AND
SNUFF**

First lot to be used for the first year

[images]	MAHATONGA NY HOMAMIADAN' NY AVOKAVOKA NY SIGARA
<i>Front surface</i>	<i>Back surface</i>

[images]	MANAFOHY NY ANDRO IAINANAO NY SIGARA
<i>Front surface</i>	<i>Back surface</i>

<p>[images]</p>	<p>MAMONO MAHAFATY NY SIGARA</p>
<p><i>Front surface</i></p>	<p><i>Back surface</i></p>

<p>[images]</p>	<p>MAHATONGA NY HOMAMIADAN'NY NONO NY SIGARA NA LAHY NA VAVY</p>
<p><i>Front surface</i></p>	<p><i>Back surface</i></p>

Second lot to be used for the second year

<p>[images]</p>	<p>MANIMBA NY ATIVAVA NY SIGARA</p>
<p><i>Front surface</i></p>	<p><i>Back surface</i></p>

<p>[images]</p>	<p>RY MPIFOKA SIGARA! MAMPIANA- DRATSY NY TARANA KAKA IANAO</p>
<p><i>Front surface</i></p>	<p><i>Back surface</i></p>

Unofficial Translation

[images]	MANAPOIZINA NY HAFA NY SETRO- TSIGARA
<i>Front surface</i>	<i>Back surface</i>

[images]	MAHATONGA FAHASEMBANAN' NY ZAZA NY SETRO-TSIGARA
<i>Front surface</i>	<i>Back surface</i>

PACKAGING OF CHEWING TOBACCO

1- ON THE REAR SURFACE OF EACH PACKAGING UNIT

First lot to be used for the first year

MAHATONGA HOMAMIADAN'NY AVOKAVOKA NY PARAKY

MAMONO MAHAFATY NY PARAKY

Second lot to be used for the second year

MANIMBA NY ATI-VAVA NY PARAKY

RY MPIHINANA PARAKY! MAMPIANA-DRA TSY NY TARANAKA IANAO

2- ON THE FRONT SURFACE OF THE PACK OF CHEWING TOBACCO

AMIDY ETO MADAGASIKARA