

REPUBLIC OF MADAGASCAR

**MINISTRY OF PUBLIC HEALTH
MINISTRY OF COMMERCE**

INTERMINISTERIAL ORDER No 14.762/2012

setting the procedures for the implementation 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. 2011-014 of December 28, 2011, concerning insertion in the internal legal ordinances of the Road Map signed by Malagasy political authorities on September 17, 2011;

In light of Law No. 2004-029 of September 9, 2004, authorizing the ratification of the Framework Convention for Tobacco Control of the WHO;

In light of Law No. 2011-002 of July 15, 2011 concerning the Code of Health;

In light of Decree No. 2005-0554 of August 30, 2005 modified by Decree No. 2006-0452 of July 11, 2006, concerning the creation of the National Office for Tobacco Control;

In light of Decree No. 2007-0837 of September 25, 2007, concerning the organization and functioning of the National Office for 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. 2011-653 of October 28, 2011, concerning the nomination of the Prime Minister, Head of the Transition Government of National Union;

In light of Decree No. 2011-0687 of November 21, 2011, as amended by Decrees No. 2012-0495 of April 13, 2012, and No. 2012-0496 of April 13, 2012, concerning the nomination of Members of the Transition Government of National Union;

In light of Decree No. 2009-0543 of May 8, 2009, as amended and supplemented by Decree No. 2011-0422 of August 2, 2011, setting the attributions of the Minister of Commerce as well as the general organization of his Ministry;

In light of Decree No. 2012-0132 of January 31, 2012, amending and supplementing certain provisions in Decree No. 2011-0737 of December 13, 2011, setting the attributions of the Minister of Public Health, as well as the general organization of his Ministry;

In light of Interministerial Order No. 18.171/2003 of October 20, 2003, setting the regulations concerning the industrialization, importation, commercialization and consumption of tobacco products in Madagascar, hereby

ORDER:

Section 1

GENERAL PROVISIONS ON PACKAGING AND LABELING

Article 1.- The provisions of this Order apply to the entirety of the territory of the Republic of Madagascar as of October 1, 2012, on which date all products commercialized by the tobacco industries must be in compliance with the new regulations in force concerning marking.

As of January 1, 2013, no more of the former packaging units corresponding to Order 18.171/2003 should remain anywhere in Malagasy territory.

Article 2.- Definitions:

For the purposes of the present Order, the following definitions shall apply:

- Pack: refers to a *container or receptacle or wrapping paper* in which tobacco products are sold or displayed for retail purposes;
- Carton: refers to a *container or receptacle or wrapping paper* containing a number of packs in which tobacco products are sold or displayed for wholesale purposes.
- Front surface of the pack: refers to *the largest directly visible surface of the pack and the one that is most exposed*.
- Rear surface of the pack: refers to *the largest directly visible surface of the pack and the one that is most exposed and on the opposite side from the front surface of the pack*.
- Lateral surface of the pack: refers to a surface of the pack seen from the side, exposed and visible between the front surface and the rear surface of the pack.
- Front surface of the carton: refers to *the largest part of the carton that is directly visible and the most exposed*.
- Misleading terms: refers to any terms that are fallacious, tendentious, misleading or likely to give a false impression regarding the characteristics, effects on health, risks or emissions of products, including terms, descriptions, trademarks, figurative signs or any others that give a direct or indirect false impression that one particular tobacco product is less harmful than others, for example, without limitation, terms such as “low in tar,” “light,” “ultra-light,” or “mild”...

Article 3.-

1.- For cigarettes:

a) On the lower part of the rear surface of each pack the text of the health warnings should appear on the harmful effects of tobacco use in the Malagasy language, and the surface provided for the printing of the health warning text should occupy fifty percent (50%) of the rear surface of each pack;

b) On the front surface of each pack there must appear a photo or image in color that corresponds to the text of the health statement indicated in Article 4 below, and it must occupy fifty percent (50%) of its surface area;

c) On the lateral surface of each pack the statement: “Amidy eto Madagasikara” must appear;

d) On the main surface of each carton of packaging of cigarettes there must appear the texts of health warnings indicated in Article 4-a) below and they must occupy fifty [percent] (50%) of its surface area;

e) Texts of health warnings and the corresponding photos or images must be positioned in such a way that none of the words in the health warnings, photos or images is broken up by the opening of packs or cartons;

(f) Texts of health warnings, images or photos must be printed in a prominent, unremoveable and indelible fashion;

(g) Texts of health warnings and their corresponding photos or images must be displayed in a manner pursuant to the templates approved by the office in charge of tobacco control at the Ministry of Health. Approved templates on electronic support media are to be made available to tobacco manufacturers. The approved templates are attached to the present Order, and no other images, photos or text of a health warning will be accepted.

2- For chewing tobacco:

a) On the lower part of the rear surface of each packaging unit there should appear the texts of health warnings on the harmful effects of tobacco use in the Malagasy language, and they should occupy fifty percent (50%) of its surface area;

b) On the front surface of each packaging unit the statement: “Amidy eto Madagasikara” must appear.

3- For snuff:

- a) On the lower part of the rear surface of each pack there should appear the statements of the health warnings on the harmful effects of tobacco use in the Malagasy language, and the surface provided for the printing of the health warning text should occupy fifty percent (50%) of the rear surface of each pack;
- b) On the front surface of each pack there must appear a photo or image in color that corresponds to the text of the health statement indicated in Article 4 below, and it must occupy fifty percent (50%) of its surface area;
- c) On the lateral surface of each pack the statement: “Amidy eto Madagasikara” must appear;
- d) On the main surface of each carton of packaging of cigarettes the texts of health warnings indicated in Article 4-a) below must appear, and they must occupy fifty [percent] (50%) of its surface area;

Section 2 TEXTS OF HEALTH WARNINGS

Article 4.-

- a) For cigarettes and snuff:

the texts, images and or photo used, pursuant to the provisions of Article 3: 1-a), 1-b), 3-a) and 3-b) of this Order, are to be printed and surrounded by a black border with a thickness of at least one millimeter (1 mm) adjoining the surface provided for the warning, and not obstructing in any way the texts, images or photos, and adhering to the templates approved by the office for tobacco control of the Ministry of Health;

There must be eight (08) different texts of health warnings and their corresponding photos or images to be used for two (02) years, divided into two (02) lots of four (04) images and/or photos with the corresponding texts of health warnings, of which (01) 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 (04) images and / or photos corresponding to four (04) texts of health warnings on the harmful effects of tobacco use;

Each pack of cigarettes and snuff must display a photo or image corresponding to the texts of health warnings in Malagasy shown below:

- 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-DRA TSY NY TARANAKA IANAO
- MANAPOIZINA NY Hafa NY SETRO-TSIGARA

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

b) For chewing tobacco:

The texts of health warnings used as indicated by Article 3: 2-a) and 2-b) of this Order are to occupy fifty percent (50%) of the surfaces on which they are to be printed, and surrounded by a black border with a thickness of at least one millimeter (1 mm) adjoining the surface provided for the warning, not obstructing the texts, images or photos in any way, and adhering to the templates approved by the office for tobacco control of the Ministry of Health;

There must be four different texts of health warnings to be used for two (02) years, of which two (02) texts of health warnings are to be used for the first year, and two other texts for the second year for chewing tobacco;

Each pack of chewing tobacco must display the following texts of health warnings in Malagasy shown below:

- 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 each package of chewing tobacco there must appear the texts of health warnings indicated in Article 3: 2-a) and they must occupy fifty [percent] (50%) of its surface area. The approved templates are to be made available to tobacco manufacturers on electronic support media.

Section 3
PACKAGING OF CIGARETTES AND SNUFF

Article 5.- The first lot to be used for all packaging units of cigarettes and snuff during the first year consists of the following:

- 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 during the second year consists of the following:

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

These texts of health warnings must be accompanied by the corresponding images or photos for packs of cigarettes and snuff, and the texts of health warnings only for packs of chewing tobacco and cartons of tobacco products. The approved templates are to be made available to tobacco manufacturers on electronic support media. The approved templates are attached to the present Order;

The texts with photos or images must be used simultaneously in rotation, and will then be completely renewed at the end of two (02) years.

Section 4 PACKAGING OF CHEWING TOBACCO

Article 6.- The first lot to be used for all packaging units of chewing tobacco during the first year consists of the following:

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

The second lot to be used for all packaging units of chewing tobacco during the second year consists of the following:

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

The approved templates are to be made available to tobacco manufacturers on electronic support media. The approved templates are attached to the present Order;

These texts with photos or images must be used simultaneously in rotation, and will then be completely renewed at the end of two (02) years.

Section 5 PRINTING PROCEDURES

Article 7.-

1 - For cigarettes and snuff:

The texts of health warnings and the text “Amidy eto Madagasikara” on each pack of cigarettes and snuff must be:

- a) printed on a black background in the lower part of the rear surface of the pack of cigarettes with the writing in white letters in Calibri font, bold, centered, size at least eighteen (18), and all in upper case surrounded by a black border, with a thickness of one millimeter (01 mm) contained within the surface provided for the warning, and not obstructing the text of the health warnings in any way;
- b) printed on a black background with the writing in white letters in Calibri font, bold, centered, size at least eleven (11), and all in upper case for “Amidy eto Madagasikara” on a lateral surface of each pack of cigarettes and snuff;
- c) positioned in such a way that none of the words in the health warnings is broken up by the opening of packs or cartons
- d) prominently visible;
- e) displayed in a manner pursuant to the templates approved by the office in charge of tobacco control at the Ministry of Health. The approved template is attached to the present Order.

The photos or images corresponding to the texts of health warnings must be:

- a) Printed in color following the templates approved by the Ministry of Health;
- b) Surrounded by a black border with a thickness of one millimeter (01 mm) contained within the surface provided for the photo or image, and not obstructing the photo or image in any way;

2 - For chewing tobacco:

The texts of health warnings and the statement “Amidy eto Madagasikara” on each pack of chewing tobacco must be:

- a) printed on a black background with the text in white, in Calibri font, bold, at least size ten (10), 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 one millimeter (01 mm) contained within fifty percent (50%) of the surface adjoining the warning, and not obstructing in any way the texts of health warnings in the upper portion of the rear surface of the pack;
- b) printed on a black background with the text in white, in Calibri font, bold, at least size nine (09) 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 text of the health warnings is broken up by the opening of the pack;
- d) prominently visible;
- e) displayed in a manner pursuant to the templates approved by the office in charge of tobacco control at the Ministry of Health. The approved template is attached to the present Order;

Article 8. - For cartons of tobacco products

The texts of health warnings and statements identical to those on the packs of cigarettes, snuff and chewing tobacco must appear on the front surface of the carton of tobacco products, and must occupy fifty percent (50%) of their surface area;

Article 9.-

a) It is prohibited to affix adhesive stickers of any kind to texts of health warnings, photos and/or images corresponding to the texts of health warnings on any packaging units of tobacco products;

b) it is prohibited to use outer cases for any packaging units of tobacco products whatever their configuration may be;

c) all other kinds of packaging of tobacco products other than those specified in this Order, that is, packs and cartons, must be in compliance with the provisions in force with respect to marking;

d) it is prohibited to use other texts of health warnings and/or photos or images other than the texts of health warnings, photos or images approved by the Ministry of Health;

e) it is prohibited to use misleading terms on any packaging units of tobacco products such as, without limitation: "*light*," "*ultra-light*," "*mild*," "*low in tar*," "*aromatic*" in Malagasy or in other languages;

f) It is prohibited to affix labels of any kind or content onto photos, images or texts 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 Order are to be confiscated and destroyed without indemnification.

Article 11.- Agents of law enforcement and/or agents of the Ministry of Commerce 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 immediately to discover, remove and confiscate any tobacco products discovered that are in violation of the provisions of this Order. All activities must be documented in reports duly signed by the agents mentioned above and the offender.

In the event of the absence or refusal of the offender to comply, the report 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 report drafted in his presence.

Section 7
MISCELLANEOUS AND FINAL PROVISIONS

Article 12.- Texts of health warnings in correspondence with images or photos approved by the office of tobacco control of the Ministry of Health to be used for two years (02) are attached to the present Order, and the approved templates are to be made available to tobacco manufacturers on electronic 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;

Texts 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 interministerial Order are hereby rescinded, in particular:

- those of Article 3 of interministerial Order No. 18 171/2003 October 22, 2003, setting the regulations with respect to the industrialization, importation, commercialization and consumption of tobacco products in Madagascar.

- those of interministerial Order No. 28.540/2011 of September 30, 2011, setting the procedures for the implementation of Decree No. 2010-1008 of December 14, 2010, concerning packaging and labeling of tobacco products for sale in Madagascar.

Article 15.- Pursuant to the provisions of Article 4 of Ordinance No. 62-041 of September 19, 1962, concerning general provisions of domestic law and private international law, this administrative Order shall enter into force throughout the entire extent of the territory of the Republic as of the date of its signature once it has been disseminated via national radio and television broadcasts, in addition to its insertion in the *Journal Officiel de la République*.

The Minister of Commerce

RAMALASON Olga

[STAMP:] MINISTRY OF PUBLIC HEALTH
GENERAL SECRETARIAT
NATIONAL OFFICE OF TOBACCO CONTROL

Antananarivo, July 17, 2012
The Minister of Public Health

Dr. NDAHIMANANJARA Johanita

"FOR EXPANSION"

Antananarivo, July 17, 2012
Director of the National Office of Tobacco Control
of the Ministry of Public Health

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REPUBLIC OF MADAGASCAR

[illegible signature] Dr. Jacques ANDRIANOMENJANAHARINIRINA

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 ANDRO IAINANAO NY SIGARA
<i>Front surface</i>	<i>Back surface</i>

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

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

Second lot to be used for the second year

<p>[images]</p>	<p>MAHATONGA 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 TARANAKA IANA0</p>
<p><i>Front surface</i></p>	<p><i>Back surface</i></p>

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

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

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