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VANUATU**

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ORDER

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PUBLIC ROADS ACT NO. 35 OF 2013

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TOBACCO CONTROL ACT NO. 19 OF 2008

- TOBACCO CONTROL (AMENDMENT)
REGULATION ORDER NO. 98 OF 2016



REPUBLIC OF VANUATU

TOBACCO CONTROL ACT NO. 19 OF 2008

Tobacco Control (Amendment) Regulation Order No. 98 of 2016

In exercise of the powers conferred on me by section 47 of the Tobacco Control Act No. 19 of 2008, I, the Honourable TOARA DANIEL, Minister of Health, make the following Order.

1 Amendments

The Tobacco Control Regulation Order No. 86 of 2013 is amended as set out in the Schedule.

2 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 19TH day of May, 2016.


Honourable TOARA DANIEL
Minister of Health



SCHEDULE

AMENDMENTS OF THE TOBACCO CONTROL REGULATION ORDER NO. 86 OF 2013

1 Clause 3

Repeal the clause, substitute

“3 Price notices

- (1) For the purpose of subsection 5(3) of the Act, a retailer may place within the retailer’s place of business a price notice which indicates the tobacco products available for purchase and their prices in accordance with the following:
- (a) the names and prices of tobacco brands or brand variants must not exceed 36 cm²;
 - (b) the name of the tobacco product (which may consist of or include brands or brand variant);
 - (c) the quantity in which the tobacco product is sold (whether by weight or number);
 - (d) the price of the tobacco product per quantity listed in paragraph (c);
 - (e) a health message as required by this regulation.”

2 Subclause 3(2)

Delete “(a)”, substitute “(1)(a)”

3 Subclause 3(3)

Repeal the subclause, substitute

- “(3) There may be no more than 2 price notices of the sort to which paragraph (1)(a) relates, displayed at any point of sale inside a retail outlet.”

4 Subclause 3(4)

Repeal the clause, substitute

- “(4) A price notice under clause (1)(a) must have a Health Warning posted immediately next to it in a manner equally visible to the price notice.”

5 Subclause 3(5)

- “(5) In addition to subclause (4), the Health Warning must carry:
- (a) 1 of the health messages specified in Schedule 1, in Bislama, English and French languages, centred at the top and in a text size that is at least double the text size of any other text on the price notice; and
 - (b) the health message’s corresponding pictorial image in full colour that is no less than 12cm wide by 18cm tall; and
 - (c) the attribution 'Ministry of Health Warning' in Bislama, English and French, printed at the bottom centre, provided that the print size of the attribution is no greater than one half the print size of the words that make up the health message.”

6 Clause 4

Repeal the clause

7 Clause 5

Repeal the clause, substitute

“5 Conduct of test for manufactured cigarettes

- (1) For the purpose of sections 19 and 24 of the Act, tests for the harmful constituents of brands of manufactured cigarettes and other tobacco products, and the respective quantities of those constituents present in the smoke, must be conducted with the standards specified under this Regulation.
- (2) All tobacco manufacturers, distributors and importers must:
 - (a) test all tobacco products annually per brand variant at a laboratory that is nominated by the Director General of Health; specifically,
 - (i) all 39 toxicants listed in the Annual Testing Report form in Schedule 2 must be tested in the smoke emissions except for ammonia and metals, which should be tested in contents only;
 - (ii) contents and emissions must be tested using analytical methods which have been evaluated by the WHO Tobacco Laboratory Network (TobLabNet) and demonstrated to

SCHEDULE

AMENDMENTS OF THE TOBACCO CONTROL REGULATION ORDER NO. 86 OF 2013

- have adequate sensitivity, selectivity, accuracy, and reproducibility for the products tested;
 - (iii) for smoke emissions, the smoke should be captured using both the ISO method and the WHO Intense regimen;
 - (iv) contents for nicotine, ammonia, and metals in the Animal Testing Report form in Schedule 2 must be tested;
 - (v) test results must be reported both as the specific analytical result and normalized per milligram of nicotine in order for it to be comparable across brand variants over time;
- (b) the cost of all required annual tests, as well as the verification required under paragraph (c) will be borne by the tobacco manufacturer, importer or distributor;
- (c) individual test results, a statistical summary of the results and accompanying quality assurance data including method validation data and results from analysis of quality control materials and reference products is to be given to the Ministry of Health, which must determine whether the tests were done in accordance with the standards;
- (d) as provided under subsections 19(4) and (5) of the Act, the Director General may require further verification testing, in addition to the tests mentioned in paragraph (a).
- (e) every manufacturer, importer or distributor of a tobacco product who fails to submit required test report required under this clause commits an offense and is punishable on conviction to a fine required under Schedule 4;
- (f) any manufacturer, importer or distributor of a tobacco product who submits incomplete, false, or inaccurate test submissions required under this clause commits an offense and is punishable on conviction to a fine required under Schedule 4.
- (3) In addition to subparagraph (2)(a)(ii), if
- (a) a TobLabNet standard method is unavailable, then either the ISO or CORESTA testing methods which have adequate sensitivity,

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AMENDMENTS OF THE TOBACCO CONTROL REGULATION ORDER NO. 86 OF 2013

selectivity, accuracy, and reproducibility for the products tested must be used;

- (b) standard methods do not exist for a specific constituent, analytical methods used must have been demonstrated to provide results which have adequate sensitivity, selectivity, accuracy, and reproducibility for the products tested.
- (4) In addition to paragraph (2)(c), only results of tests done within 60 days prior to the date of submissions will be accepted by the Ministry of Health.
- (5) In addition to paragraph (2)(d), the:
- (a) verification tests must be conducted in a laboratory nominated by the Director General of Health; and
 - (b) costs of the verification tests must also be borne by the manufacturer, importer or distributor.”

8 Subclause 6(2)

Repeal the subclause, substitute

- “(2) In addition to subclause 6(1), the results of all tests which have been conducted by a manufacturer or importer and submitted to the Director General not later than 31st day of January in each year must be in the following forms:
- (a) an annual report in a form as prescribed under Schedule 2; and
 - (b) a return in a form as prescribed under Schedule 3.”

9 Paragraph 8(a)

Delete “,” (second occurring), substitute “,”

10 After paragraph 8(a)

Insert

- “(aa) carry the statement “Sales only allowed in Vanuatu”; and”

11 Paragraph 10(a)

Repeal the paragraph, substitute

- “(a) occupy at least 90% of the principal display surface on the front with 30% being a textual health message; and

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AMENDMENTS OF THE TOBACCO CONTROL REGULATION ORDER NO. 86 OF 2013

- (aa) occupy at least 90% of the principal display surface on the back with 30% being a textual health message; and”

12 Paragraph 10(d)

Delete “Schedule 1”, substitute “Schedules 1 and 5”

13 Clause 11

Repeal the clause, substitute

“11 Display of textual health message and pictorial health message

- (1) Health messages and other information that is entirely textual in nature must:
- (a) be displayed using black letters on yellow background; and
 - (b) be printed in Helvetica bold type; and
 - (c) be in a pitch that results in it occupying not less than 60% of the area in which it is displayed under paragraphs 10(a) and (aa); and
 - (d) not be obscured by a flap, lid or other part of the package; and
 - (e) be clear and legible; and
 - (f) be printed so as not to be easily removable without significant destruction of the package.
- (2) The textual health messages in Bislama must appear on the front outer surface of the retail package.
- (3) The textual health messages in English and French must appear on the back outer surface of the retail package.
- (4) For the purposes of clause 11(3), the:
- (a) English element of the warning messages must comprise the top 50% of the text section of the warning message; and
 - (b) French element of the warning messages must comprise the bottom 50% of the text section of the warning message.

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- (5) A company logo or brand name may appear once only on the front principal display area of the package.
- (6) The inscription of company promotional statement, hotline, or advertisement, shall not appear in any package.
- (7) A person or entity who contravenes this regulation commits an offence under the Act and is punishable on conviction to the penalties provided therein.”

14 At the end of clause 12

Add

- “(3) A person or entity who contravenes this regulation commits an offence under the Act and is liable to the penalties provided therein.”

15 After clause 15

Insert

“15A Prohibition of misleading labelling

A person must not sell, distribute, display for sale or distribution, import or export any tobacco product in which the packaging or labelling includes misleading or false terms such as, but not limited to: “low tar”, “light”, “ultra-light”, “mild”, or similar words or descriptors; any graphics associated with, or likely or intended to be associated with such words or descriptors.”

16 At the end of Part IV

Add

“PART IVA SMOKE-FREE PREMISES

17A Smoke-free public place or work place and smoke-free areas

- (1) Smoking is prohibited in the following places:
 - (a) indoor workplaces; and
 - (b) health care facilities and grounds; and
 - (c) prisons; or
 - (d) education facilities and grounds; and
 - (e) government facilities; and

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- (f) restaurants and locations where food or drinks are served; and
 - (g) cafés, pubs, bars; and
 - (h) public transportation; and
 - (i) prescribed smoke-free building; and
 - (j) other prescribed smoke-free area.
- (2) The occupier and person in charge of any public place or workplace which is either indoors or is fully or partly enclosed must display at the entrance to such a place clearly and prominently display a sign prohibiting smoking in the area or premises.
- (3) The occupier and person in charge of any restaurant, place where food or drinks are served, café, pub, or bar must display on each table, a wall or other surface a sign clearly visible from all seats in the place, prohibiting smoking.
- (4) A person who fails to comply with this regulation commits an offence and is punishable on conviction to a fine required under Schedule 4.”

17 Clause 18

Repeal the clause, substitute

“18 Prescribed amounts for penalty notices

For the purposes of section 46 of the Act, the prescribed amount in respect of an offence committed under a provision of the Act listed in Column 3 of the Table in Schedule 4.”

18 Subclauses 19(1), (2), (3) and (4)

Repeal the subclauses, substitute

- “(1) Clause 3 comes into force on the expiry of 6 months after the date on which this Regulation is published in the Gazette.
- (2) Clauses 8, 10, 11 and 17A come into force on the expiry of 12 months after the date on which this Regulation is published in the Gazette.”

SCHEDULE





AMENDMENTS OF THE TOBACCO CONTROL REGULATION ORDER NO. 86 OF 2013

19 Schedule 1

Repeal the schedule, substitute

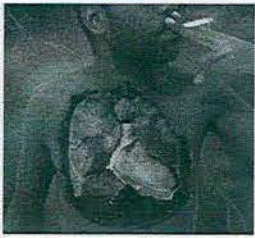
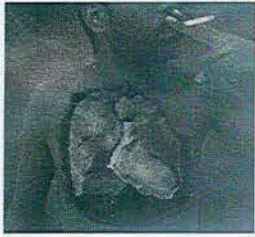



“SCHEDULE 1

**HEALTH MESSAGES AND OTHER INFORMATION
LABELING AND SPECIFICATIONS**

Item	Front outer surface	Side outer surface	Back outer surface
1	<p>EVERI PUL BLONG TABAKO I KILIM YU</p> <p><i>Ministry of Health Warning</i></p> 	<p>Smoking exposes you to more than 40 harmful chemicals.</p> <p>These chemicals damage blood vessels, body cells and the immune system.</p> <p>QUIT NOW to reduce your risk of chronic illness or premature death</p>	<p>EVERY PUFF OF TOBACCO SMOKE KILLS</p> <p>TOUTES LES BOUFFEES DU TABAC TUENT</p> 
2	<p>SMOKING I KOSEM PROBLEM LONG HAT</p> <p><i>Ministry of Health Warning</i></p> 	<p>Smoking exposes you to more than 40 harmful chemicals.</p> <p>These chemicals damage blood vessels, body cells and the immune system.</p> <p>QUIT NOW to reduce your risk of chronic illness or premature death</p>	<p>SMOKING CAUSES HEART DISEASE</p> <p>LE TABAC CAUSE LES MALADIES DE COEUR</p> 




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<p>3</p>	<p>SMOKING I KOSEM KANSALONG BASKET PULUM WIN</p> <p><i>Ministry of Health Warning</i></p> 	<p>Smoking exposes you to more than 40 harmful chemicals.</p> <p>These chemicals damage blood vessels, body cells and the immune system.</p> <p>QUIT NOW to reduce your risk of chronic illness or premature death</p>	<p>SMOKING CAUSES LUNG CANCER</p> <p>LE TABAC CAUSE LE CANCER DU POUMON</p> 
<p>4</p>	<p>SMOKING I MEKEM SIK SUGA I MOA NO GUD</p> <p><i>Ministry of Health Warning</i></p> 	<p>Smoking exposes you to more than 40 harmful chemicals.</p> <p>These chemicals damage blood vessels, body cells and the immune system.</p> <p>QUIT NOW to reduce your risk of chronic illness or premature death</p>	<p>SMOKING MAKES DIABETES WORSE</p> <p>LE TABAC AGGRAVE LE DIABÈTE</p> 
<p>5</p>	<p>SMOKING I MEKEM MAN I WANTEM SMOK MOA</p> <p><i>Ministry of Health Warning</i></p>	<p>Smoking exposes you to more than 40 harmful chemicals.</p> <p>These chemicals damage blood vessels, body cells and the immune system.</p> <p>QUIT NOW to reduce your risk of chronic illness or premature death</p>	<p>SMOKING IS ADDICTIVE</p> <p>L'USAGE DU TABAC EST ADDICTIF</p> 

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6	<p>SEKEN-HAN SMOK I KILIM MAN</p> <p><i>Ministry of Health Warning</i></p> 	<p>Smoking exposes you to more than 40 harmful chemicals.</p> <p>These chemicals damage blood vessels, body cells and the immune system.</p> <p>QUIT NOW to reduce your risk of chronic illness or premature death</p>	<p>SECOND-HAND SMOKE KILLS</p> <p>LE TABAGISME PASSIF TUE</p> 

”

20 Schedule 2

Repeal the schedule, substitute

“SCHEDULE 2

ANNUAL TESTING REPORT

Importer or distributor: _____

Laboratory: _____

Report number: _____

Date of test: _____

Emissions: As per clause (4)(a)(i), test results should be normalized to per milligram of nicotine in order for it to be comparable across brand variants over time. Under

Tobacco Control (Amendment) Regulation Order No. 98 of 2016

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each toxicant, the testing standard used should be specified. And for emissions, the report should certify that the WHO Intense Regime was used to capture the tobacco smoke.

Acetaldehyde	Acetone	Acrolein	Acrylonitrile
1-Aminonaphthalene	2-Aminonaphthalene	3-Aminobiphenyl	4-Aminobiphenyl
Butyraldehyde	Benzene	Benzo[a]pyrene	1,3 Butadiene
m-+p-Cresol	Carbon monoxide	Catechol	Hydrogen cyanide
o-Cresol	Crotonaldehyde	Formaldehyde	Hydrogen cyanide
Hydroquinone	Isoprene	N- nitrosoanatabine	Nicotine
Nitric oxide	N- nitrosoanabasine	Phenol	4- (methylnitrosamino) -1-(3-pyridyl) -1- butanone (NNK)
N'-nitrosonornicotine (NNN)	Nitric oxide (NOx)	Resorcinol	Propionaldehyde
Pyridine	Quinoline	Toluene	

Contents: As per clause (4)(a)(iv), test results should be normalized to per milligram of nicotine in order for it to be comparable across brand variants over time. Under each toxicant, the testing standard used should be specified.

Ammonia	Carbon monoxide	Nicotine	
Arsenic	Cadmium	Lead	Mercury

Description of sample(s):

SCHEDULE

AMENDMENTS OF THE TOBACCO CONTROL REGULATION ORDER NO. 86 OF 2013

I, _____ (Full name) of _____ (Address), certify that the report correctly records the results of all tests carried out at the laboratory by or on behalf of _____ (name of importer or distributor) during the year _____ (year) for the purposes of the Tobacco Control Regulations of Vanuatu.

Dated this _____ day of _____ 20____.”

21 Schedule 3

Repeal the schedule, substitute

“SCHEDULE 3

RETURN FORM

Importer or distributor: _____

Date of test: _____

Tobacco product class:

- Cigarette(s)
- Tobacco chewing
- Tobacco pipe
- Tobacco/cigars
- Tobacco/other please specify: _____

(a) Tobacco weight by product class:

(b) Weight of additives in total by product class:

(c) List of additives and quantities not exceeded for each brand and brand variant in this return:

Common botanical or chemical name	Quantity not exceeded (% by weight)

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(d) Brand information:

Brand and brand variant	Quantity released for sale	Price ¹

I, _____ (full name) of _____ (address),
 _____ (position held) certify that the information contained in this return is
 correct for the purposes of the Tobacco Control Regulations Vanuatu.

Dated this ____ day of _____ 20 ____”

22 Schedule 4

Repeal the schedule, substitute

“SCHEDULE 4

PENALTIES

Column 1 Item	Column 2 Provision of the Act	Column 3 Prescribed penalty amount (in VT) for offence	
		For an Individual	For a Corporate Body
1	Subsection 3(1) or (2) A person must not publish, display or arrange for any other	700,000	4,000,000

¹ Price sheets supplied by the manufacturer or importer to retailers during the calendar year of recommended prices for each brand and brand variant or an equivalent list may be attached to the return instead of including that information above.

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	person to publish any Tobacco product		
2	Subsection 6(1), (2) or (3) Failure to display a sign with the words "Smoking Kills" at the point of sale	7,000	40,000
3	Subsection 7(1) or (2) A person who uses brand stretching for advertisement	70,000	400,000
4	Subsection 8(1) A person must not reverse brand stretching of Tobacco product	70,000	400,000
5	Subsection 9(1) or (2) Tobacco sponsorship, scholarship, etc. prohibited	700,000	4,000,000
6	Subsection 11(1) Sale of tobacco to a person under 18 years of age	700,000	4,000,000
7	Subsection 11(3) Failure to display notice which states that sale of tobacco products to people who are under 18 years of age is prohibited	700,000	4,000,000
8	Subsection 12(1) A person must not sell or manufacture products that are designed in a manner that appeals to children or person under 18 years that evokes an association with a tobacco product	700,000	4,000,000
9	Subsection 13(1) or (2) Sale of loose cigarettes or loose tobacco; (a) sale of cigarettes in package that contains fewer than 20 cigarettes; (b) sale of loose tobacco in a package that contains less than thirty grams of	700,000	4,000,000

SCHEDULE

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	tobacco		
10	Subsection 14(1) or (2) A person must not promote a Tobacco product for chewing	700,000	4,000,000
11	Subsection 15(1) or (2) Prohibition of unsupervised sales of cigarettes through vending machine or post	700,000	4,000,000
12	Subsection 16(1) A person must not sell or distribute tobacco products in health care facilities or educational facilities	700,000	4,000,000
13	Subsection 17(1) or (2) A person must not distribute or supply any tobacco product free of charge, or as a gift	700,000	4,000,000
14	Subsection 18(1) Failure to comply with requirements regulating the additives, constituents of Tobacco product	700,000	4,000,000
15	Subsection 19(2) Failure to, at least once in each calendar year, conduct tests in accordance with the regulations	700,000	4,000,000
16	Subsection 20(1) Failure to submit results of all test before the 31 st of January each year	700,000	4,000,000
17	Subsection 21(1) Failure to comply with packaging requirements	700,000	4,000,000
18	Subsection 22(1), (2), (3) or (4) Failure to permanently affix compulsory health messages and other information on package of any Tobacco product	700,000	4,000,000

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19	Subsection 24(1) Failure to disclose constituents and additives required to be displayed on all Tobacco product package	700,000	4,000,000
20	Subsection 25(1) A person must not sale or distribute any Tobacco product that the package does not contain a package insert displaying information	700,000	4,000,000
21	Subsection 26(1) A person must not sale or distribute any Tobacco products that its labellings are misleading	700,000	4,000,000
22	Subsection 27(1) A person who has actual possession of a public place must not permit smoking in any part of that public place	700,000	4,000,000
23	Subsection 27(3) A person must not smoke in any place where smoking is prohibited	700,000	4,000,000
24	Subsection 28(2) or (3) Failure to provide seating designated for non-smokers or smokers	700,000	4,000,000
25	Subsection 28(4) A person must not smoke in a restaurant where seating is designated for non-smokers	7,000	
26	Subsection 29(2) Failure for licence to provide seating arrangement for non-smokers	700,000	4,000,000
27	Subsection 29(3) A person must not smoke in any licenced	7,000	

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	premises in seating designated for non-smokers		
28	Subsection 30(1) Smoking in correctional centers	700,000	4,000,000
29	Subsection 30(4) A person must not smoke in any place where smoking is prohibited	7,000	
30	Subsection 31(1) or (2) Failure to post 'No Smoking' signs in places where smoking is not permitted under this Act	7,000	40,000
31	Subsection 32(1), (3) or (5) A person must not smoke in any bus, taxi, ship or any other public transport	70,000	
32	Subsection 32(4) or (6) Operator of a public transport vehicle must ensure that no smoking signs are posted in the vehicle	700,000	4,000,000
33	Subsection 33 A person must not smoke in any aircraft carrying members of the public	70,000	
34	Subsection 34 (1), (2) Obligations of owners or operators of premises and owners or operators of public transport vehicles or aircraft	700,000	4,000,000

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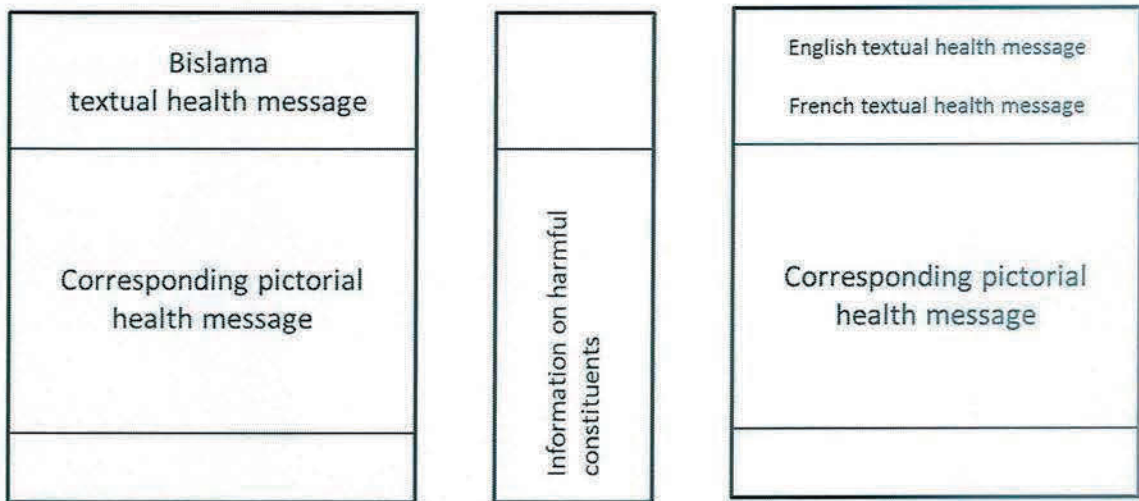
23 At the end of Schedule 4

Insert

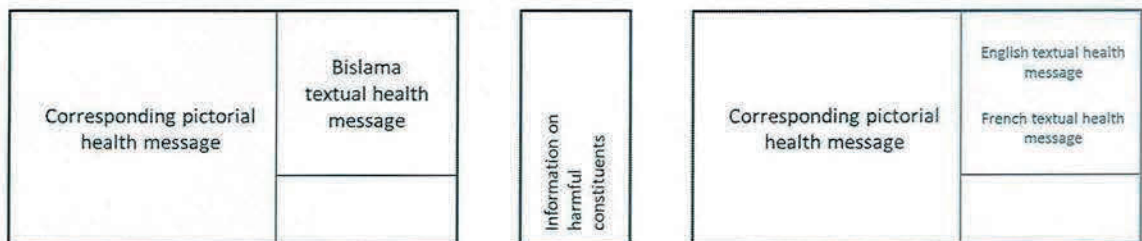
“SCHEDULE 5

TEXTUAL AND PICTORIAL HEALTH MESSAGE LAYOUT

(1) Cigarette packages and vertical packages generally



(2) Horizontal packages generally



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