

UCSF

WHO Tobacco Control Papers

Title

Tobacco Plain Packaging: Global Status Update

Permalink

<https://escholarship.org/uc/item/5kg1j3w9>

Author

World Health Organization

Publication Date

2018

Tobacco Plain Packaging

GLOBAL STATUS UPDATE



FCTC

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

SECRETARIAT



World Health
Organization

Tobacco Plain Packaging

GLOBAL STATUS UPDATE



FCTC

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

S E C R E T A R I A T



**World Health
Organization**

WHO/NMH/PND/NAC/18.9

© World Health Organization 2018

Some rights reserved. This work is available under the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 IGO licence (CC BY-NC-SA 3.0 IGO; <https://creativecommons.org/licenses/by-nc-sa/3.0/igo>).

Under the terms of this licence, you may copy, redistribute and adapt the work for non-commercial purposes, provided the work is appropriately cited, as indicated below. In any use of this work, there should be no suggestion that WHO endorses any specific organization, products or services. The use of the WHO logo is not permitted. If you adapt the work, then you must license your work under the same or equivalent Creative Commons licence. If you create a translation of this work, you should add the following disclaimer along with the suggested citation: “This translation was not created by the World Health Organization (WHO). WHO is not responsible for the content or accuracy of this translation. The original English edition shall be the binding and authentic edition”.

Any mediation relating to disputes arising under the licence shall be conducted in accordance with the mediation rules of the World Intellectual Property Organization.

Suggested citation. Tobacco plain packaging: global status update. Geneva: World Health Organization; 2018 (WHO/NMH/PND/NAC/18.9). Licence: CC BY-NC-SA 3.0 IGO.

Cataloguing-in-Publication (CIP) data. CIP data are available at <http://apps.who.int/iris>.

Sales, rights and licensing. To purchase WHO publications, see <http://apps.who.int/bookorders>. To submit requests for commercial use and queries on rights and licensing, see <http://www.who.int/about/licensing>.

Third-party materials. If you wish to reuse material from this work that is attributed to a third party, such as tables, figures or images, it is your responsibility to determine whether permission is needed for that reuse and to obtain permission from the copyright holder. The risk of claims resulting from infringement of any third-party-owned component in the work rests solely with the user.

General disclaimers. The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of WHO concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Dotted and dashed lines on maps represent approximate border lines for which there may not yet be full agreement.

The mention of specific companies or of certain manufacturers' products does not imply that they are endorsed or recommended by WHO in preference to others of a similar nature that are not mentioned. Errors and omissions excepted, the names of proprietary products are distinguished by initial capital letters.

All reasonable precautions have been taken by WHO to verify the information contained in this publication. However, the published material is being distributed without warranty of any kind, either expressed or implied. The responsibility for the interpretation and use of the material lies with the reader. In no event shall WHO be liable for damages arising from its use.

Contents

Executive summary	v
-------------------	---

Part 1. Introduction	1
-----------------------------	----------

Part 2. Global progress on implementation of tobacco plain packaging	3
---	----------

Part 3. Elements of plain packaging legislation	5
3.1 Enabling provisions	6
3.2 Objectives of plain packaging	6
3.3 Trademarks	6
3.4 Features to be standardized	7
3.4.1 Features of packaging to be standardized	7
3.4.2 Features of packaging to be prohibited	8
3.4.3 Features of products to be standardized	8

Part 4. Comparison of plain packaging laws	10
4.1 Standardized tobacco product packaging	13
4.2 Standardized appearance and labelling of tobacco products	14
4.3 Comparison of plain packaging laws in force	14
4.3.1 Commonalities	14
4.3.2 Differences	15
4.3.3 Comparison of standardized features of tobacco products	16

Part 5. Litigation	17
---------------------------	-----------

Annex: Examples of plain packaging of cigarettes	18
Endnotes	19

Executive summary

The World Health Organization Framework Convention on Tobacco Control (WHO FCTC)¹ obliges Parties to implement effective packaging and labelling measures (Article 11) and a comprehensive ban (or restrictions) on tobacco advertising, promotion and sponsorship (Article 13). Guidelines for the Implementation of Articles 11 and 13 recommend that Parties consider adopting plain packaging of tobacco products.

In 2012, Australia became the first country to require all tobacco products to be sold in plain packaging. Since then, France, Hungary, Ireland, New Zealand, Norway and the United Kingdom of Great Britain and Northern Ireland have implemented plain packaging laws, while Burkina Faso, Canada, Georgia, Romania, Slovenia and Thailand have passed enabling laws. As this update went to press, Uruguay also published plain packaging laws. A number of other governments have legislative proposals or publicly announced policy processes to introduce plain packaging.

Plain (or standardized) packaging is defined as “measures to restrict or prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and font style”.² The objectives of plain packaging include:

1. reducing the attractiveness of tobacco products;
2. eliminating tobacco packaging as a form of advertising and promotion;
3. eliminating misleading information by addressing package design techniques that may suggest that some products are less harmful than others; and
4. increasing the noticeability and effectiveness of health warnings.

These objectives contribute to the broader goal of protecting health by reducing demand for tobacco products.

Plain packaging is recommended to be introduced as part of a comprehensive approach to tobacco control, including large graphic health warnings and comprehensive bans on tobacco advertising, promotion and sponsorship. Plain packaging will not be able to solve the tobacco epidemic on its own, it should be introduced as part of a comprehensive tobacco control strategy, as proposed in the WHO FCTC.

Certain core elements form part of any plain packaging implementation strategy. This update provides:

- an overview of global progress on the implementation of plain packaging (Part 2);
- the key elements of plain packaging legislation (Part 3);
- a comparative analysis of the regulations of governments that have implemented plain packaging to date (Part 4);
- a brief outline of litigation to date on plain packaging laws (Part 5); and
- examples of plain packaging of cigarettes (Annex).

PART 1

Introduction

The WHO FCTC obliges Parties to implement a comprehensive package of tobacco control measures.

Demand-reduction measures are included in Part III of the WHO FCTC (Articles 6-14), and comprise price and tax measures, as well as non-price measures. Non-price measures encompass protection from exposure to tobacco smoke; regulation of the contents of tobacco products; regulation of tobacco product disclosures; packaging and labelling of tobacco products; education, communication, training and public awareness; tobacco advertising, promotion and sponsorship; and demand reduction measures concerning tobacco dependence and cessation.

On the packaging and labelling of tobacco products, Article 11 obliges each Party to adopt and implement *effective* packaging and labelling measures, as part of a comprehensive approach to tobacco control, consisting of:

- measures to prohibit misleading tobacco packaging and labelling; and
- health warnings and messages in the national language, describing the harmful effects of tobacco use, covering 50% or more (but no less than 30%) of the main display areas of tobacco packaging.

WHO FCTC Guidelines for Implementation of Article 11 “are intended to assist Parties in meeting their obligations under Article 11 of the Convention, and to propose measures that Parties can use to increase the effectiveness of their packaging and labelling measures.”³

The WHO FCTC Guidelines for Implementation of Article 11 include, at paragraph 45:

“Plain packaging

46. Parties should consider adopting measures to restrict or prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and font style (plain packaging). This may increase the noticeability and effectiveness of health warnings and messages, prevent the package from detracting attention from them, and address industry package design techniques that may suggest that some products are less harmful than others.”

The WHO FCTC Guidelines for Implementation of Article 11 also recognize that health warnings may disrupt brand imagery on packaging and decrease attractiveness of the package⁴.

Article 13 obliges Parties to undertake a comprehensive ban (or restrictions)⁵ on tobacco advertising, promotion and sponsorship. The phrase “tobacco advertising and promotion” is defined in Article 1(c) as “any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.”

The Guidelines for Implementation of Article 13⁶ recognize that:

“15. Packaging is an important element of advertising and promotion. Tobacco pack or product features are used in various ways to attract consumers, to promote products and to cultivate and promote brand identity, for example by using logos, colours, fonts, pictures, shapes and materials on or in packs or on individual cigarettes or other tobacco products.”

And recommend as follows:

“Packaging and product design are important elements of advertising and promotion. Parties should consider adopting plain packaging requirements to eliminate the effects of advertising or promotion on packaging. Packaging, individual cigarettes or other tobacco products should carry no advertising or promotion, including design features that make products attractive.”⁷

The Guidelines for implementation of Articles 11 and 13 were developed by Parties to the WHO FCTC and adopted by consensus by the Conference of Parties to the WHO FCTC. They are intended to assist Parties in meeting their obligations under the WHO FCTC and to propose measures that Parties can use to increase the effectiveness of their packaging and labelling measures.⁸ The Guidelines do not distinguish between different categories of tobacco products in respect of plain packaging.

This brief does not address the evidence underpinning plain packaging, as it is presented in the earlier publication Plain Packaging of Tobacco Products: Evidence, Design and Implementation⁹ and in materials produced for World No Tobacco Day in 2016.¹⁰

PART 2

Global progress on implementation of tobacco plain packaging

Global progress on implementation of tobacco plain packaging is outlined in the table below. The dates of relevant legal instruments, the start date of the sell through period (where permitted) and the date of full implementation are included.

The sell through period is a transition period during which the legal instruments are in force but tobacco products manufactured or imported prior to this date can still be sold even though they do not meet new plain packaging rules. This allows retailers to phase out existing stock prior to full implementation when all packaging must adhere to the new rules. Upon full implementation, it is illegal to sell (at wholesale or retail) products not conforming to plain packaging laws.

Stage of legislative process	Country	Date legislation enacted	Date Regulations published	Start date of sell through period	Date of full implementation
Plain packaging regulations in force	Australia ¹¹	1 December 2011	1 December 2011	1 October 2012	1 December 2012
	France ¹²	24 November 2015	21 March 2016	20 May 2016	1 January 2017
	United Kingdom ¹³	13 March 2014	16 March 2015	20 May 2016	20 May 2017
	New Zealand ¹⁴	14 September 2016	6 June 2017	14 March 2018	6 June 2018
	Norway ¹⁵	9 December 2016	26 June 2017	1 July 2017	1 July 2018
	Ireland ¹⁶	10 March 2015	3 October 2017	30 September 2017	30 September 2018
	Hungary ¹⁷	20 May 2016	16 August 2016	20 May 2017	20 May 2019
	a) New brands/ variants on market registered after 30/4/16 and on market after 19/8/16 b) New brands/ variants registered after 30/4/16 and on market before 19/8/16 c) Existing brands			a) N/A b) 20 August 2016 c) 20 May 2017	a) 20 August 2016 b) 20 May 2018 c) 20 May 2019
Act passed, awaiting regulations and entry into force	Burkina Faso ¹⁸	27 December 2011			
	Romania ¹⁹	12 October 2016			
	Slovenia ²⁰	15 February 2017			
	Georgia ²¹	30 May 2017			
	Thailand ²²	2 April 2017			
	Canada ²³	24 May 2018			
	Uruguay ²⁴	6 August 2018*			
Legislative proposals tabled	Brasil				
	Chile				
	Ecuador				
	Panamá				
	South Africa				
Publicly announced policy process	Singapore				
	Sri Lanka				
	Mauritius				

* Uruguay issued a decree on 6 August 2018 and published an ordinance on 17 August 2018 as this update went to press. The ordinance is not yet in force and has not been analysed by WHO for the purpose of this publication.

PART 3

Elements of plain packaging legislation

In developing legislation for plain packaging, a number of issues are important to consider.

3.1 Enabling provisions

In most cases, governments have elected to amend existing tobacco control legislation in order to oblige or enable a relevant authority to issue regulations on plain packaging.

One issue that arises is how broad the enabling provision should be. Consistent with WHO FCTC Implementation Guidelines, WHO recommends that where plain packaging is in place, it covers all categories of tobacco products.²⁵ In this context, an enabling provision might:

- authorize or require a public agency to issue regulations or a decree;
- cover all categories of tobacco products (even if regulations will initially only cover some categories);
- authorize or compel standardization of product packaging; and
- authorize or compel standardization of the form of the actual tobacco product (e.g. how a cigarette can look).

Broad enabling provisions can empower the relevant authority to issue detailed regulations and to amend them as circumstances require. If in line with normal domestic processes, a broad delegation allows for amendments without seeking parliamentary approval and flexibility to react in a timely manner to changed circumstances. The breadth of the definition of “tobacco products” adopted for the purpose of the enabling provision should also be considered.

3.2 Objectives of plain packaging

Clearly setting out the objectives of plain packaging legislation is good practice and can strengthen a government’s legal position in the event of litigation challenging plain packaging laws²⁶. In this context, there is merit to setting out objectives officially during policy and laws making processes.

Some plain packaging legislation includes detailed objectives linked to Articles 11 and 13 of the WHO FCTC and the Guidelines for Implementation, including references to policy objectives as detailed in the Executive Summary.

3.3 Trademarks

As plain packaging laws would restrict the use of trademarks, governments may wish to explicitly address the relationship between the plain packaging law and trademark law. This could be done, for example, in the plain packaging legislation itself, or by amending trademark law. Whether this is desirable will depend on circumstances unique to each jurisdiction, including how the plain packaging law affects trademark law and vice-versa.

3.4

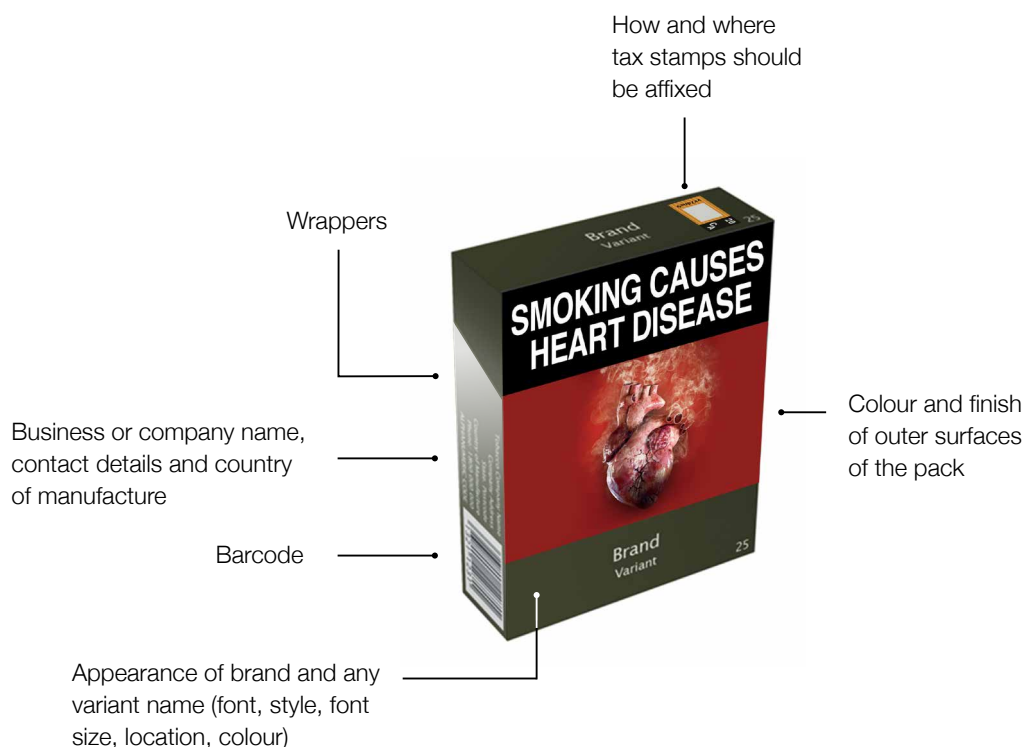
Features to be standardized

In plain packaging laws passed to date, specific features of packaging and products have been standardized or prohibited. Whether there is merit to standardizing or prohibiting these features in legislation, as opposed to regulations, will depend on domestic circumstances.

3.4.1 Features of packaging to be standardized

- Colour of outer and inner surfaces of the pack;
- Finish of colour of outer and inner surfaces of the pack;
- Appearance of brand and any variant name (font, style, font size, location, colour);
- Business or company name, contact details and country of manufacture;
- Materials and adhesives;
- Shape and size of the pack;
- Type of lid and how it opens;
- Pack linings;
- Wrappers;
- Barcodes;
- Health warnings (text and pictorials, size and location on pack, time and period of rotation); and
- How and where tax stamps should be affixed.

This is illustrated by the mock-ups of a standardized cigarette packet below.





In addition, standardization of packaging may apply differently to different categories of tobacco products. For example, standardized packaging for cigarette packets may require: that each packet have a flip top lid; that barcodes or certain text must not appear on the front or back surface; or that the packet must contain a minimum and/or maximum number of cigarettes. Those requirements would not generally apply to, for example, the packaging of hand-rolling tobacco, which instead may be required to be made of a specific material and for tabs for closing the package to be of a standardized material and colour. Further, where cigar tube packaging is standardized, the material, closing mechanism and placement of warnings required are likely to be different than for standardized packaging of a cigarette packet, hand-rolling tobacco package or a cigar box.

3.4.2 Features of packaging to be prohibited

Some laws include a general prohibition of any feature on tobacco packaging or products that is not authorized by law. Such a general clause prevents uncertainty where features not addressed explicitly by plain packaging laws are concerned and limits manufacturers' scope to introduce promotional features that circumvent the law. Features include:

- Embellishments on the pack;
- Pack inserts and onserts;
- Windows;
- Scents and sounds;
- Features designed to change after retail sale (e.g. inks designed to appear gradually over time, panels designed to be scratched off to reveal an image, or removable tabs); and
- Use of other communications technologies as part of the packaging.

3.4.3

Features of products to be standardized

In some jurisdictions the appearance of tobacco products themselves has been standardized in plain packaging regulations. Features that have been standardized include the following:

Cigarettes:

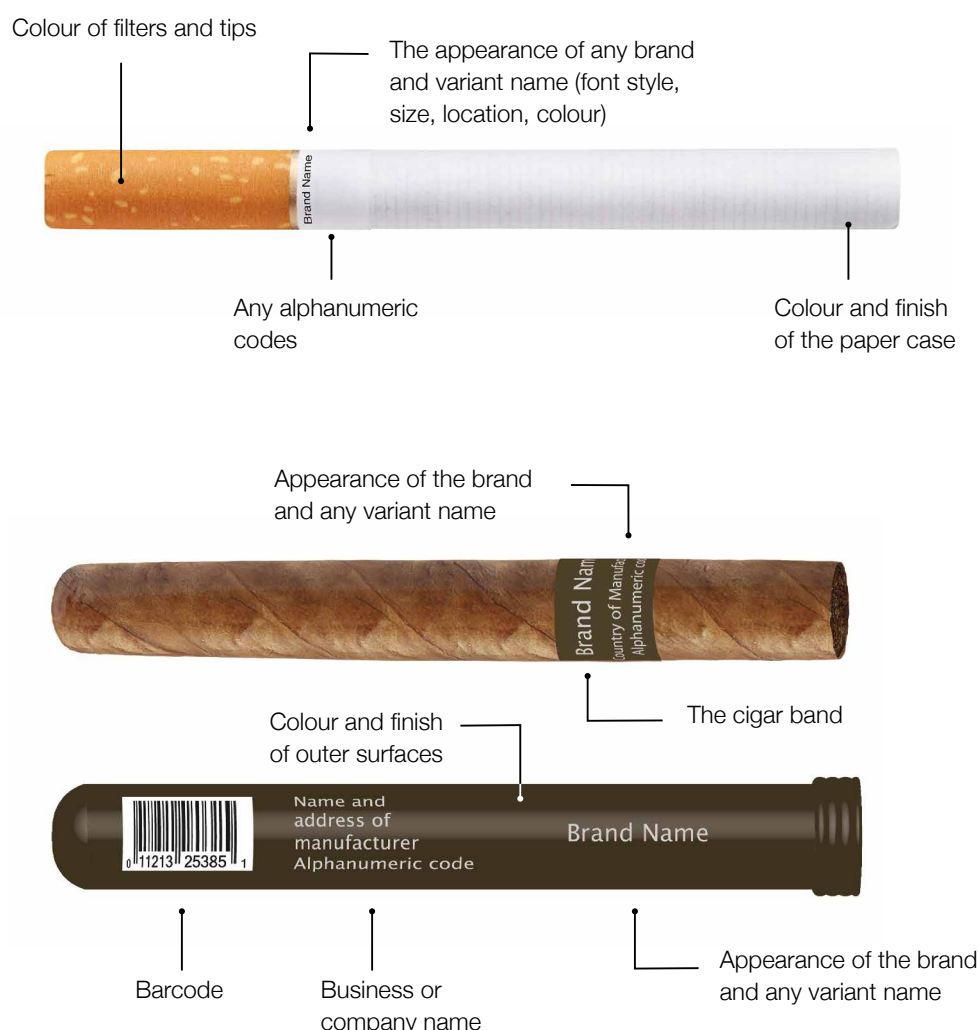
- Colour and finish of the paper case;
- Colour of filters and tips;
- The appearance of any brand and variant name (font style, size, location, colour); and
- Any alphanumeric codes.

Cigars:

- The cigar band; and
- Appearance of any brand and variant names on cigars (font style, font size, location, colour).

Hand-rolling tobacco:

- Colour and branding on roll-your-own tobacco paper



Source: Images of cigars based on Consultation on "Plain and Standardized Packaging" for Tobacco Products Potential Measures for Regulating the Appearance, Shape and Size of Tobacco Packages and of Tobacco Products. Document for Consultation, May 2016, p. 23, (text provided by WHO)

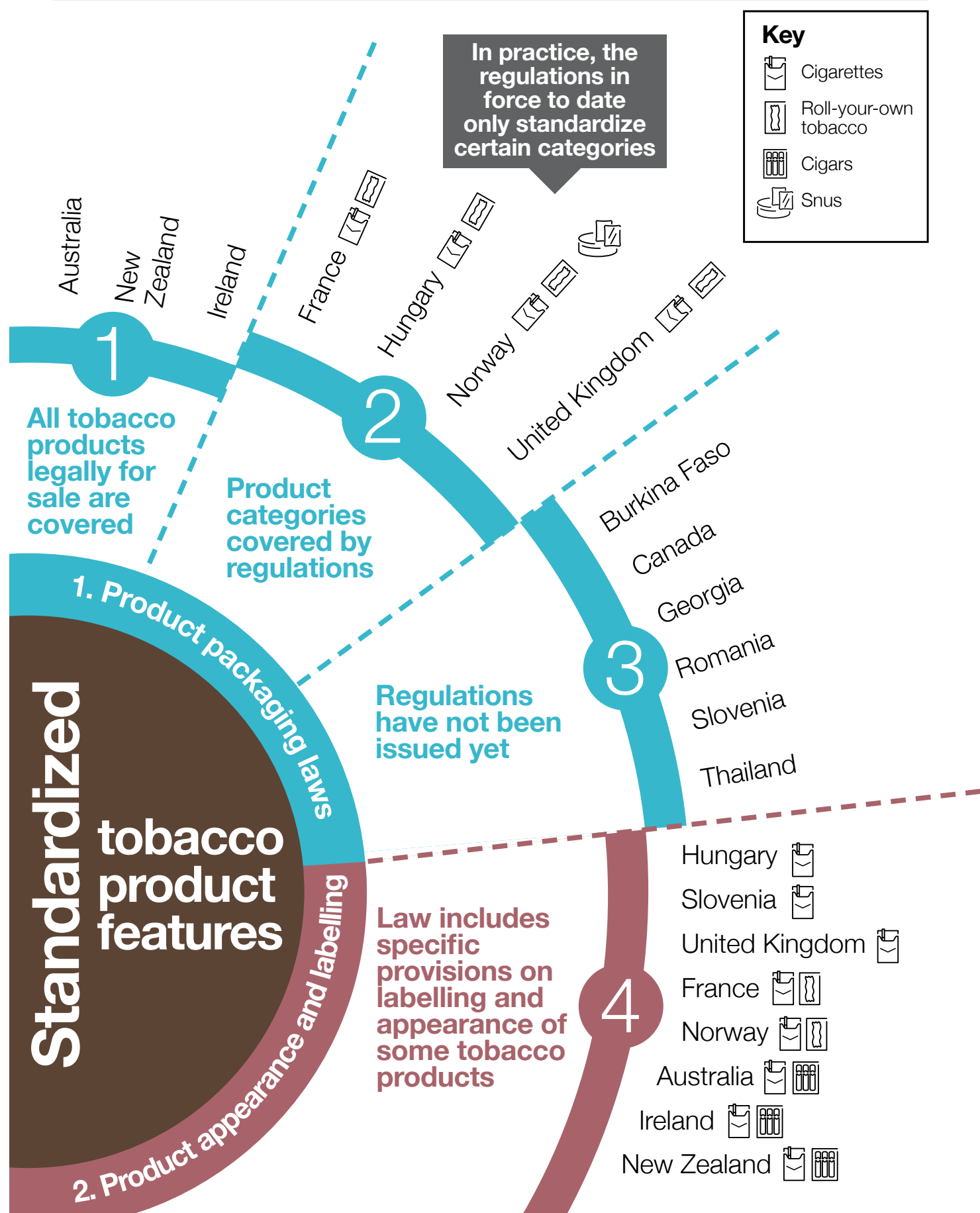
PART 4

Comparison of plain packaging laws

This section contains a brief comparative analysis of the plain packaging legislation and regulations (or other subsidiary legal instruments) in Australia, France, Hungary, Ireland, New Zealand, Norway and the United Kingdom. Where applicable, reference is made to the legislative texts of Burkina Faso, Canada, Georgia, Romania, Slovenia and Thailand, where enabling provisions have been enacted but regulations implementing plain packaging have not yet been adopted. At the time of going to press, Uruguay enacted an Executive Decree requiring plain packaging followed by a Ministry of Public Health Ordinance containing specifications for plain packaging. These laws have not yet been analysed by WHO and are not included in the comparison of laws in Part 4, but will apply in addition to existing laws including a prohibition on brand variants (single presentation requirement).

Comparison of plain packaging laws

A review of countries where plain packaging is in force or where enabling provisions have been enacted.



Plain packaging laws in force

A comparison between Australia, France, Hungary, Ireland, New Zealand, Norway and UK (details in Part 4.3)

1 Commonalities in features that are:



Standardized

- Background colour
- Brand and variant name (Hungary - different colour)
- Matt finish for packaging
- Business or company name (Hungary - different colour)
- Bar code
- Producer name and address
- Wrapper
- Lid, lining and material (except Australia)
- Combined health warnings



Prohibited

- Embellishments inside and outside the pack
- Marks and trademarks (except NZ)
- Features designed to change after retail sale (except Hungary)
- Characteristic noises or scents of packs (except Hungary)
- Emission yield statements on packs

2 Differences in permitted/prohibited features

Different fonts



Health warnings differ in size, type of product and the surface where it appears



Origin marks



Locally made product statements



Fire risk statements



Consumer contact telephone numbers



For cigarette packs, the colour of inner surface



Display of qualitative information on relevant constituents and emissions.



Standardized features of tobacco products

Australia, France, Hungary, Ireland, New Zealand, Norway and UK

Australia, Ireland and New Zealand

Cigarettes



White casing colour (All countries)

Matt casing finish (Norway, France and UK)

Alphanumeric codes on cigarettes (Australia, New Zealand, France and UK)

Brand, variant, business or company names (Except not permitted in Australia and NZ)

Cigars



Cigar band characteristics (All countries)

Country of origin text (All countries)

Brand and variant names (Australia and NZ)

Business or company name (Australia)

Alphanumeric code (Australia and NZ)

Covert mark (Australia)

4.1

Standardized tobacco product packaging

The plain packaging legislation of Australia²⁷, New Zealand²⁸ and Ireland²⁹ covers all tobacco product packaging. Some general provisions govern all categories of tobacco product packaging. Other particular provisions govern specific product categories. For example:

- The Australian legislation contains requirements for standardization that are specific to the packaging of cigarettes and cigars³⁰.
- The Irish legislation includes specific requirements for standardized packaging of cigarettes and roll your own tobacco³¹.
- The New Zealand legislation includes specific requirements for cigarettes, loose and pipe tobacco and cigars³².

The enabling provisions contained in other legislation, which allow the introduction of plain packaging in Burkina Faso, Canada, Georgia, Hungary, Norway, Romania, Thailand and the United Kingdom, cover all tobacco product packaging³³.

There are differences in scope within enabling provisions. For example:

- The Norwegian Act allows the Ministry of Health to issue regulations prescribing requirements for corresponding standardization of tobacco equipment and tobacco substitutes and to exempt categories of tobacco products³⁴.
- The Slovenian Act applies broadly to all tobacco products but includes specific regulation of key elements of, and enables the Minister for Health to lay down detailed conditions for, the appearance of packaging for cigarettes and roll your own tobacco³⁵.
- The Romanian enabling provision allows regulations for plain packaging “where justified on public health grounds³⁶.”
- The Thai Act allows the Minister of Health to issue regulations on the advice of the National Tobacco Products Control Board³⁷.

In practice, not all governments have covered all categories of tobacco product packaging in regulations, even where the legislation makes provision to cover all tobacco products. The regulations in force to date in France, Hungary, Norway and the UK only standardize certain categories of tobacco product packaging:

- Hungary, France and the UK standardize only the packaging of cigarettes and roll-your-own tobacco³⁸.
- Norway standardizes the packaging of cigarettes, snus and roll-your-own tobacco³⁹.

Burkina Faso, Canada, Georgia, Romania, Slovenia and Thailand have not yet issued regulations.

Plain packaging requirements for smokeless tobacco product packaging (chewing tobacco, tobacco for nasal and oral use) are included in the legislation of Australia, New Zealand and Ireland (as smokeless tobacco products fall within the definition of “tobacco products” to which plain packaging Acts apply) and of Norway (which applies to snus).

A few governments regulate specific features of electronic cigarettes and herbal products for smoking. However, these products are not subject to plain packaging laws.

4.2 Standardized appearance and labelling of tobacco products

Some laws include specific provisions on the labelling and appearance of the tobacco products themselves, such as the colour of cigarette paper and filter or permitted text on cigarettes and cigars.

The legislation and/or regulations of:

- Hungary, Slovenia and the United Kingdom include provisions on the labelling and appearance of cigarettes, but no other tobacco products.
- France and Norway regulate the labelling and appearance of cigarettes and papers and filters for roll-your-own tobacco.
- Australia, Ireland and New Zealand regulate the labelling and appearance of cigarettes and cigars.

4.3 Comparison of plain packaging laws in force

Commonalities and differences of plain packaging laws in force in Australia, France, Hungary, Ireland, New Zealand, Norway and the United Kingdom are summarized below.

The Annex contains pictorial examples of plain packaging of cigarettes.

4.3.1 Commonalities

Australia, France, Hungary, Ireland, New Zealand, Norway and the UK require the following common standardized features of tobacco packages:

- Standardized background colour: Pantone 448C⁴⁰ (except Hungary where Pantone 448M is required)⁴¹
- Standardized brand name: maximum font size 14 and Pantone Cool Grey 2C⁴² (except Hungary where Pantone Cool Grey 1M is required)⁴³
- Standardized variant name: maximum font size 10 in Pantone Cool Grey 2C⁴⁴ (except Hungary where Pantone Cool Grey 1M is required)⁴⁵
- Matt finish for packaging⁴⁶
- Business or company name allowed⁴⁷ (except Hungary, allows only the registered name of manufacturer or distributor)

- Standardized bar code: may be printed on the pack⁴⁸
- Standardized producer name and address: may be printed on the pack⁴⁹
- Standardized wrapper: transparent, neither coloured nor marked, with a plain tear strip⁵⁰
- Cigarette packs may only have a hinged flip-top lid at the top and back, and they must have a lining consisting of a silver coloured foil with a white paper backing. Packs may be produced using carton or soft material (except Australia where packs must be manufactured from rigid cardboard)⁵¹
- Combined health warnings (concurrent use of textual and pictorial warnings) are required on the front and back of pack in colour in the national language(s)⁵²

Common prohibited features of tobacco product packaging include the following:

- Ban on embellishments inside and outside the pack⁵³
- Prohibition of marks and trademarks other than as regulated⁵⁴ (except New Zealand where there is no express prohibition of marks and trademarks other than as regulated)
- Prohibition of features designed to change after retail sale⁵⁵ (except Hungary whose regulations do not address such features)
- Prohibition of characteristic noises or scents of the pack⁵⁶ (except Hungary whose regulations do not address characteristic noises or scents of the pack)
- Prohibition of emissions yield statements on packs,⁵⁷ for example specific levels of tar, nicotine and carbon monoxide, (except New Zealand and France where there is no express prohibition, but emissions yield statements are not included in permitted text).

4.3.2

Differences

Differences in the required or prohibited features of tobacco product packaging include:

- Different fonts are required, either Lucida Sans (Australia, New Zealand⁵⁸) or Helvetica (France, Hungary, Ireland, Norway, United Kingdom⁵⁹)
- Health warnings must be of different sizes depending on the country, the type of product and the surface on which the warning appears.
- Origin marks are permitted and standardized (Australia, New Zealand⁶⁰), required but not standardized (Hungary, Norway⁶¹) or prohibited (France, Ireland, United Kingdom⁶²).
- Locally made product statements are permitted and standardized (Australia⁶³), prohibited (France, Hungary, Ireland, United Kingdom⁶⁴) or not addressed (New Zealand, Norway).
- Fire risk statements are permitted and standardized (Australia⁶⁵), prohibited (France, Hungary, Ireland, United Kingdom⁶⁶) or not addressed (New Zealand, Norway).
- Consumer contact telephone numbers are permitted and standardized (Australia, Ireland, Norway, France, United Kingdom⁶⁷), permitted but not standardized (New Zealand⁶⁸) or prohibited (Hungary⁶⁹).
- For cigarette packs, the colour of the inner surface must be white or Pantone 448C (France, Ireland, Norway, United Kingdom⁷⁰), only white (Australia, Hungary⁷¹) or is not regulated (New Zealand).
- Display of qualitative information on relevant constituents and emissions⁷² is required and standardized (Australia, France, Hungary, New Zealand, United Kingdom and Ireland⁷³) or not required (Norway).

4.3.3

Comparison of standardized features of tobacco products

Cigarettes

Legislation and/or Regulations implemented in Australia, France, Hungary, Ireland, New Zealand, Norway and the United Kingdom standardize the appearance and labelling of cigarettes as follows:

- Australia, New Zealand, Ireland, the UK, Hungary, Norway and France require the paper casing to be white or white with an imitation cork tip (on the filter at the end not intended for lighting)⁷⁴.
- Norway, France and the UK require the paper casing to have a matt finish⁷⁵.
- Australia and New Zealand do not permit brand, variant, business or company names appearing on cigarettes, which are permitted and standardized by the other governments⁷⁶.
- Alphanumeric codes on cigarettes are permitted and standardized by Australia, New Zealand, France and the UK, prohibited in Hungary and not addressed by Ireland or Norway⁷⁷.

Cigars

Legislation and/or Regulations implemented in Australia⁷⁸, Ireland⁷⁹ and New Zealand⁸⁰, standardize the appearance and labelling of cigars as follows:

- A single adhesive cigar band is permitted and its characteristics standardized.
- Text indicating the country of origin on the cigar band is permitted and standardized.
- In Australia, brand, variant, business or company names on the cigar band are permitted and standardized. New Zealand permits and standardizes brand and variant names and the Irish legislation does not address this.
- Australia permits and standardizes an alphanumeric code and covert mark on the cigar band. New Zealand permits an alphanumeric code only and Ireland does not address either of these features.

PART 5

Litigation

The plain packaging laws of Australia⁸¹, the United Kingdom⁸², France⁸³, Ireland⁸⁴ and Norway⁸⁵ have been challenged in judicial, arbitral or administrative proceedings. The grounds for these challenges have related to protection of tobacco company intellectual property rights (trademarks), freedom of trade, alleged breaches of international trade and investment agreements and alleged infringements of the human rights of tobacco companies. In each of the proceedings the tobacco industry claims and challenges have been dismissed or unsuccessful, thereby upholding plain packaging laws.

Most recently, in *Australia – Tobacco Plain Packaging*⁸⁶, a World Trade Organization (WTO) Panel found that Australia's plain packaging laws are consistent with WTO law. In this context, the Panel concluded that Australia's approach was contributing to the goal of reducing the use of and exposure to tobacco products. The Panel found that Australia's plain packaging law does not unjustifiably interfere with use of trademarks in the course of trade and is not more trade restrictive than necessary to protect human health. This has been the only challenge to plain packaging under WTO law. This Panel decision is currently on appeal.

It is also worth noting that governments have successfully defended tobacco industry claims on other tobacco control measures on similar grounds, which may be relevant to plain packaging.⁸⁷

Annex

Examples of plain packaging of cigarettes

United Kingdom



Source: Action on Smoking and Health

New Zealand



Source: © New Zealand Ministry of Health

France



Source: © Alliance contre le tabac

Australia



Source: © Commonwealth of Australia

Hungary



Source: FTC Implementation Database

Ireland



Source: Irish Cancer Society

Norway



Source: © Helsedirektoratet (Norwegian Directorate of Health)

Endnotes

1. World Health Organization Framework Convention on Tobacco Control, May 21 2003, 42 ILM 518 (2003) available at: <http://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf?sequence=1>
2. Guidelines for implementation of Article 11 of the WHO Framework Convention on Tobacco Control (decision FCTC/COP3(10)) November 2008 available at: http://www.who.int/fctc/treaty_instruments/adopted/article_11/en/
3. Guidelines for Implementation of Article 11 of the WHO FCTC, (see endnote 2), paragraph 1.
4. Guidelines for implementation of Article 11 of the WHO FCTC (see endnote 2), paragraph 16.
5. Restrictions proposed in accordance with Article 13.3 of the WHO FCTC (see endnote 1).
6. Guidelines for Implementation of Article 13 of the WHO Framework Convention on Tobacco Control, (decision FCTC/COP3(12)) available at: http://www.who.int/fctc/treaty_instruments/adopted/article_13/en/
7. Guidelines for Implementation of Article 13 of the WHO FCTC (see endnote 6), paragraph 17.
8. Guidelines for Implementation of Article 11 of the WHO FCTC (see endnote 2), paragraph 1.
9. World Health Organization, *Plain Packaging of Tobacco Products: Evidence, Design and Implementation* (2016) available at <http://www.who.int/tobacco/publications/industry/plain-packaging-tobacco-products/en/>
10. World Health Organization, World No Tobacco Day 2016 materials, available at: <http://www.who.int/campaigns/no-tobacco-day/2016/en/>
11. Australia Plain Packaging Legislation (implemented):
 - a. Tobacco Plain Packaging Act 2011 (Cth) available at: <https://www.legislation.gov.au/Details/C2013C00190>;
 - b. Tobacco Plain Packaging Regulations 2011 (Cth): <https://www.legislation.gov.au/Details/F2013C00801>;
 - c. Competition and Consumer (Tobacco) Information Standard 2011 (Cth) available at: <https://www.legislation.gov.au/Details/F2011L02766> introducing amended standards for health warnings on tobacco products consistent with plain packaging legislation; and
 - d. Trade Marks Amendment (Tobacco Plain Packaging) Act 2011 (Cth) available at: <https://www.legislation.gov.au/Details/C2011A00149> amending the trademark law to ensure consistency with the operation of plain packaging legislation.
12. France Plain Packaging Legislation (implemented):
 - a. Law No. 2016-41 of January 26, 2016, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000031912641&categorieLien=id> legislating for plain packaging as part of broader legislation to modernize the French health system.
 - b. Decree no 2016-334 of March 21, 2016, on the plain cigarette pack and certain tobacco products, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032276123&dateTexte=20170126> (original language) and <https://www.tobaccocontrol.org/files/live/France/France%20-%20Decree%20No.%202016-334%20on%20Std.%20Pkg..pdf> (unofficial English translation), implementing Article L. 3511-6-1 of the Code of Public Health, inserted by Article 27 of Law no 2016-41 of January 26, 2016. This decree defines the conditions for plain packaging of certain tobacco products and cigarette paper, as well as rolling tobacco. (Decree)
 - c. Administrative Order of March 21, 2016, on conditions for neutrality and uniformity of packaging and paper for cigarettes and rolling tobacco, available at: <https://www.legifrance.gouv.fr/eli/arrete/2016/3/21/AFSP1607269A/jo/texte> (original language) and: <https://www.tobaccocontrol.org/files/live/France/France%20-%20Administrative%20Order%20on%20Std.%20Pkg..pdf> (unofficial English translation, consolidated 31 May 2016), an Administrative order setting out the technical aspects of the plain packaging requirements, including colours, fonts etc.(Administrative Order)

-
- d. Order no 2016-623 of 19 May 2016 (Order no 2016-623) available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032547462&categorieLien=id> (original language) and <https://www.tobaccocontrolaws.org/files/live/France/France%20-%20Order%20No.%202016-623%20Transposing%20TPD.pdf> (unofficial English translation), concerning the transposition of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (EU Tobacco Products Directive), available at: https://ec.europa.eu/health/sites/health/files/tobacco/docs/dir_201440_en.pdf
13. United Kingdom Plain Packaging Legislation (implemented):
- a. The Children and Families Act 2014, available at: <http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted> containing enabling provisions for plain packaging regulations at section 94 - Regulation of retail packaging etc of tobacco products.
 - b. The Standardised Packaging of Tobacco Products Regulations 2015, available at: <http://www.legislation.gov.uk/uksi/2015/829/contents/made> Regulation 20 - Regulations do not apply to the supply before 21st May 2017 of a tobacco product produced before 20th May 2016 if the product complies with the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 at the date of supply.
 - c. Tobacco and Related Products Regulations 2016, available at: <http://www.legislation.gov.uk/uksi/2016/507/contents/made> with requirements re labelling and health warnings.
14. New Zealand Plain Packaging Legislation (implemented):
- a. Smokefree Environments (Tobacco Standardised Packaging) Amendment Act 2016 available at: <http://www.legislation.govt.nz/act/public/2016/0043/latest/DLM5821008.html>.
 - b. Smokefree Environments Regulations 2017, available at: <http://www.legislation.govt.nz/regulation/public/2017/0123/latest/whole.html>. Specific details on the requirements for retail packaging of tobacco products and the appearance of retail tobacco products. The Regulations allow a 6-12 week transitional period (6 weeks distributors, 12 weeks other retailers) from commencement date of Regulations provided in Schedule 1 of the Amendment Act.
15. Norway Plain Packaging Legislation (implemented):
- a. Law Amending the Tobacco Control Act (Implementation of Directive 2014/40/EC and standardised tobacco packs) (2016) amending the Tobacco Control Act 1973, available at: <https://lovdata.no/dokument/NL/lov/2017-02-10-5> (original language) and: <https://www.tobaccocontrolaws.org/files/live/Norway/Norway%20-%20Law%20Amd%27ing%20TC%20Act%20%282017%29.pdf> (unofficial English translation).
 - b. Amendments to the Regulations on content and labelling of tobacco products, available at: <https://lovdata.no/dokument/SF/forskrift/2017-06-22-942?q=Tobakksskadeloven> (original language) and <https://www.tobaccocontrolaws.org/files/live/Norway/Norway%20-%202017%20Regs%20Amd%27ing%202003%20Regs%20on%20Packaging.pdf> (unofficial English translation). The amended Regulations requiring plain packaging came into force at the manufacturer level on July 1, 2017 and full implementation at the retail level on July 1, 2018.
 - c. Regulation on transitional provisions to the Act of 10 February 2017, allowing sale of products non-compliant with 2017 Regulations until 1 July 2018, available at: <https://lovdata.no/dokument/SF/forskrift/2017-06-16-770?q=Tobakk>
16. Ireland Plain Packaging Legislation (implemented):
- a. Public Health (Standardised Packaging of Tobacco) Act 2015, available at: <http://www.irishstatutebook.ie/eli/2015/act/4/section/23/enacted/en/print.html>
 - b. Public Health (Standardised Packaging of Tobacco) Regulations 2017: <http://www.irishstatutebook.ie/eli/2017/si/422/made/en/print>. 12 month transition period provided under section 6 of the Act.
17. Hungary Plain Packaging Legislation (implemented):
- a. Act LXXVII of 2015 amending Act XLII of 1999 on the protection of non-smokers and on certain rules of consuming and distributing tobacco products available at: <https://www.tobaccocontrolaws.org/files/live/Hungary/Hungary%20-%20Consumption%20and%20Distribution%20of%20Tobacco%20Products%20-%20national.pdf> (original language) and: <https://www.tobaccocontrolaws.org/files/live/Hungary/Hungary%20-%20Consumption%20>

-
- and%20Distribution%20of%20Tobacco%20Products.pdf (unofficial English translation). The amendment to the Act enabled the issue of plain packaging regulations at section 6(1).
- b. Decree No. 239/2016 Amending Government Decree 39/2013 of February 14, 2013, available at: http://www.tobaccocontrollaws.org/files/live/Hungary/Hungary%20-%20Decree%20No.%20239_2016%20-%20national.pdf (original) and: http://www.tobaccocontrollaws.org/files/live/Hungary/Hungary%20-%20Regulation%20239_2016.pdf (unofficial English version) - Detailed rules of production, distribution and control of tobacco products, the combined warnings and the application of health protection fines. For the dates of application and sell through for various products, see amended Article 21/A.
18. Burkina Faso Plain Packaging Legislation (Enabling Legislation – Laws not yet in force):
- a. Decree No. 2010-823 /PRES --- promulgating Law No. 040-2010/AN November 25, 2010 concerning the Campaign against tobacco in Burkina, available at: <https://www.tobaccocontrollaws.org/files/live/Burkina%20Faso/Burkina%20Faso%20-%20Law%20No.%20040%20-%20national.pdf> (original language) and <https://www.tobaccocontrollaws.org/files/live/Burkina%20Faso/Burkina%20Faso%20-%20Law%20No.%20040-2010.pdf> (unofficial English Translation) – Article 13 ‘The manner of packaging, labelling and printing on the packs, cartons or cases, or any other form of packaging sold in Burkina Faso are to be set by regulatory provision’.
- b. Decree No. 2011-1051/Concerning the Packaging and Labelling of Tobacco Products, available at: https://www.tobaccocontrollaws.org/files/live/Burkina%20Faso/Burkina%20Faso%20-%20Decree%20No.%202011_1051%20-%20national.pdf (original language) and <https://www.tobaccocontrollaws.org/files/live/Burkina%20Faso/Burkina%20Faso%20-%20PL%20Decree.pdf> (unofficial English translation). Articles 6 and 7 contain the enabling provision to enact standardized packaging regulations.
19. Romania Plain Packaging Legislation (Enabling Legislation – Laws not yet in force): Law no. 201/2016 establishing the conditions for manufacture, presentation and sale of tobacco products, and related products and amending Law no. 349/2002 on preventing and combating the effects of tobacco products, available at: <http://lege5.ro/Gratuit/geztinxga4q/legea-nr201-2016-privind-stabilirea-conditiilor-pentru-fabricarea-prezentarea-si-vanzarea-produselor-din-tutun-si-a-produselor-conexe-si-de-modificare-alegii-nr-349-2002-pentru-prevenirea-si-combatarea-efectelor-tutunului> (original language) and: https://www.tobaccocontrollaws.org/files/live/Romania/Romania%20-%20Law%20No.%20201_2016.pdf (unofficial English translation). Law 201/2016 implements the EU Tobacco Products Directive and contains, in Article 24(2), the enabling provision based on which tobacco plain packaging regulations may be enacted by the government.
20. Slovenia Plain Packaging Legislation (Enabling Legislation and specific regulation – Laws not yet in force): Restriction on the Use of Tobacco Products Act, available at: <http://imss.dz-rs.si/imis/601ce03a35a0d00c2a33.pdf> (original language) and: <https://www.tobaccocontrollaws.org/files/live/Slovenia/Slovenia%20-%20TC%20Act%202017.pdf> (unofficial English translation). Implements the EU Tobacco Products Directive and articles 18 to 20 enable plain packaging regulations for cigarettes and roll-your-own tobacco.
21. Georgia Plain Packaging Legislation (Enabling Legislation – Laws not yet in force)
- a. Law of Georgia On Tobacco Control 2010, as amended 17 May 2017 by Law No. 859, available at: <https://matsne.gov.ge/ka/document/view/1160150> (original language) and at: <https://www.tobaccocontrollaws.org/files/live/Georgia/Georgia%20-%20TC%20Law%202010.pdf> (unofficial English translation) signed by the President on 30 May 2017, effective May 1, 2018 – Article 6(9) – (13) enables regulations implementing plain packaging.
- b. Law No. 860-IIC Amending the Law on Advertising, 30 May 2017, available at: <https://matsne.gov.ge/ka/document/view/3676238> (original language) and: <https://www.tobaccocontrollaws.org/files/live/Georgia/Georgia%20-%202017%20Amdts.%20to%20Law%20on%20Ads.pdf> (unofficial English translation). The amending Law restricts advertising, including on tobacco product packaging other than in accordance with the regulations.
- c. Law No. 861-IIS Amending the Code of Administrative Offenses of Georgia, 30 May 2017, available at: <https://matsne.gov.ge/ka/document/view/3677550> (original language) and <https://www.tobaccocontrollaws.org/files/live/Georgia/Georgia%20-%202017%20Amdts.%20to%20Code%20of%20Admin.%20Offenses.pdf> (unofficial English translation) creates an offence of ‘selling tobacco products in a packaging which does not correspond with the established requirements’.

-
22. Thailand Plain Packaging Legislation (Enabling Legislation – Laws not yet in force)
Tobacco Products Control Act 2017, available at: <https://www.tobaccocontrolaws.org/files/live/Thailand/Thailand%20-%20TC%20Act%202017%20-%20national.pdf> (original language) and: <http://www.tobaccocontrolaws.org/files/live/Thailand/Thailand%20-%20TC%20Act%202017.pdf> (unofficial English translation). Article 38 contains the enabling provision based on which tobacco plain packaging regulations may be enacted.
23. Canada: Plain Packaging Legislation (Enabling Legislation – Laws not yet in force)
Tobacco and Vaping Products Act S.C. 1997, c. 13 (as amended by Bill S-5 “An Act to amend the Tobacco Act and Non-Smokers’ Health Act and to make consequential amendments to other Acts” - enacted 24 May 2018): <http://www.parl.ca/LegisInfo/BillDetails.aspx?Bill=S5&Language=E&Mode=1&Parl=42&Ses=1>, Consolidated Act available at: <http://laws-lois.justice.gc.ca/eng/acts/T-11.5/> Section 33 allows the Governor in Council to make regulations to implement plain packaging. Draft Regulations had been published for public comment at the date of this publication.
24. Uruguay: Plain Packaging Legislation (Enabling Legislation – Laws not yet in force) Decree of the President of the Republic of Uruguay, dated 8 August 2018, available at: <https://www.tobaccocontrolaws.org/files/live/Uruguay/Uruguay%20-%20PP%20Decree%20-%20national.pdf> (original language) and Ministry of Health ordinance No. 696 dated 17 August 2018, available at: <https://www.tobaccocontrolaws.org/files/live/Uruguay/Uruguay%20-%20Ord.%20No.%20696%20-%20national.pdf> (original language) and <https://www.tobaccocontrolaws.org/files/live/Uruguay/Uruguay%20-%20Ord.%20No.%20696.pdf> (unofficial English translation)²⁵.
World Health Organization, Plain Packaging of Tobacco Products: Evidence, Design and Implementation (See Endnote 9) page 23.
26. *Ibid* pages 49-50.
27. Australia: Tobacco Plain Packaging Act 2011 (Cth) s4 (definition of tobacco product) and Part 2, s27 enabling regulations.
28. New Zealand: Smokefree Environments Act 1990, see in particular s31A (standardized packaging of tobacco products) and 39A (Regulations).
29. Ireland: Public Health (Standardised Packaging of Tobacco) Act 2015 - definition of tobacco product in s2(1) and Part 2.
30. Australia: Tobacco Plain Packaging Act 2011 (Cth) ss18(2)-(3), s19(1)(b) and s21(2)-(3); Tobacco Plain Packaging Regulations 2011 (Cth) Regulations 2.1.1, 2.1.2, 2.1.4, 2.2.1, 2.4.1, 2.4.3 and Part 3.
31. Ireland: Public Health (Standardised Packaging of Tobacco) Act 2015 ss7,8,9; Public Health (Standardised Packaging of Tobacco) Regulations 2017: Regulations 8-12.
32. Smokefree Environments Regulations 2017: Regulations 8-12, 19-21, 28, 42-53.
33. See Endnotes 18 – 24 for details of enabling provisions.
34. Norway: Tobacco Control Act 1973 (as amended), Regulations on amending the regulation on contents in and labelling of tobacco products 2017: Act s30.
35. Slovenia: See Endnote 20, Art. 18, 19.
36. Romania: See Endnote 19, Art. 24(2).
37. Thailand: See Endnote 22, Art 38.
38. Hungary: See Endnote 17, Act XLII of 1999, Art 6; Government Regulation 239/2016, Reg. 7 (6/B) and Reg 2 (definition of cigarettes and cigarette tobacco at 2(3)); France: See Endnote 12; Decree - Art.1, Administrative Order – Art 1; United Kingdom: See Endnote 13, The Standardised Packaging of Tobacco Products Regulations 2015 (Standardised Packaging Regulations), Part 2,3,4.
39. Norway: See Endnote 34, Reg. 17.
40. Australia: See Endnote 30, Reg. 2.2.1; New Zealand: See Endnote 32 Reg. 38; Ireland: See Endnote 31, Reg. 6; Norway: See Endnote 34, Reg. 18; France: See Endnote 13; Administrative Order – Art 1(a); United Kingdom: See Endnote 14, Standardised Packaging Regulations, Regs. 3(2), 7(2).

-
41. Hungary: See Endnote 28, Reg. 7(6/B(3)(a)).
42. Australia: See Endnote 30, Regs. 2.4.1, 2.4.2; New Zealand: See Endnote 32 Reg. 32; Ireland: See Endnote 31, Reg. 7; Norway: See Endnote 34, Reg. 29; France: See Endnote 13; Administrative Order – Art 2; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Sch. 1, Art. 1 and Sch. 3, Art. 1.
43. Hungary: See Endnote 28, Reg. 7(6/B(3)(fa), (4)).
44. Australia: See Endnote 30, Reg. 2.4.1; New Zealand: See Endnote 32 Reg. 32; Ireland: See Endnote 31, Reg. 7; Norway: See Endnote 34, Reg. 29; France: See Endnote 13; Administrative Order – Art 2; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Sch. 1, Art. 1 and Sch. 3, Art. 1.
45. Hungary: See Endnote 28, Reg. 7(6/B(3)(fb), (4)).
46. Australia: See Endnote 30, Act - s19(2); New Zealand: See Endnote 32 Reg. 38; Ireland: See Endnote 31, Act ss7(1)(a), 9(1)(a) and 10(1)(a), Reg. 6; Norway: See Endnote 34, Reg. 18; Hungary: See Endnote 28, Reg. 7(6/B(3)(a)); France: See Endnote 13; Administrative Order – Art 1(a); United Kingdom: See Endnote 14, Standardised Packaging Regulations, Regs. 3(2), 7(2).
47. Australia: See Endnote 30, Regs. 2.4.1 - 2.4.4; New Zealand: See Endnote 32 Reg. 35; Ireland: See Endnote 31, Act ss7(3)(4), 9(3)(4) and 10(3)(4), Reg. 7; Norway: See Endnote 34, Reg. 30; France: See Endnote 13; Decree (Public Health Code Art. R. 3511-26(I)), Administrative Order – Art 2; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Sch. 1, Art. 3 and Sch. 3, Art. 3.
48. Australia: See Endnote 30, Reg. 2.3.5; New Zealand: See Endnote 32 Reg. 34; Ireland: See Endnote 31, Act ss7(5), 9(5) and 10(5), Reg. 14; Norway: See Endnote 34, Reg. 23; Hungary: See Endnote 28, Reg. 7(6/B(11)); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-17(I) and 3511-19(II)), Administrative Order – Art 1(b) and (5); United Kingdom: See Endnote 14, Standardised Packaging Regulations, Sch. 1, Art. 4 and Sch. 3, Art. 5.
49. Australia: See Endnote 30, Reg. 2.3.8; New Zealand: See Endnote 32 Reg. 35; Ireland: See Endnote 31, Reg. 13; Norway: See Endnote 34, Reg. 30; Hungary: See Endnote 28, Reg. 6(6/1)(d) – registered name of manufacturer or importer only, no address); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-26(I)), Administrative Order – Art 2; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Sch. 1, Art. 3 and Sch. 3, Art. 3.
50. Australia: See Endnote 30, Reg. 2.5.1, 2.5.2; New Zealand: See Endnote 32 Regs. 36, 37; Ireland: See Endnote 31, Act ss7(8),(9), 9(8),(9) and 10(8),(9), Reg. 15; Norway: See Endnote 34, Reg. 22; Hungary: See Endnote 28, Reg. 7(6/B(8),(9)); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-19(1)), Administrative Order – Art 5; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Sch. 2, Art. 4 and Sch 4, Art. 4.
51. Australia: See Endnote 30, Act s18, Regs. 2.1.1, 2.2.1; New Zealand: See Endnote 32 Regs. 45, 46; Ireland: See Endnote 31, Act ss7(6), 11, Reg. 16; Norway: See Endnote 34, Reg. 27; Hungary: See Endnote 28, Reg. 6(6(4)); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-22 and Art. R. 3511-23), Administrative Order – Art 3; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Regs. 3(3), (4).
52. Australia: Competition and Consumer (Tobacco) Information Standard 2011 – Part 9; New Zealand: See Endnote 32 Regs. Part 1; Ireland: European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016, Part 3; Norway: Regulations no. 141 of 6 February 2003 on the contents and labelling of tobacco products (as amended), ss10-11 and see Endnote 34, Act s30; Hungary: See Endnote 28, Reg. 7(6/A, 6/D); France: See Endnote 13; Order n° 2016-623 of May 19, 2016, concerning transposition of Directive 2014/40/UE, (Public Health Code Art. L. 3512-22, s4); United Kingdom: See Endnote 14, The Tobacco and Related Products Regulations 2016, Part 2.
53. Australia: See Endnote 30, Act ss18, 23- 25, Regs. Div. 2.6; New Zealand: See Endnote 32 Regs. 36(2), 40, 41, 45; Ireland: See Endnote 31, Act ss7(1),(8), 9(1),(8) and 10(1),(8); Norway: See Endnote 34, Regs. 19-21; Hungary: See Endnote 28, Reg. 7(6/B(3)(c)-(e), (7), (8)); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-20, Art. R. 3511-22(III), 3511-24(III)), Administrative Order – Art 6; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Sch. 2, Arts. 1,2 and Sch 4, Arts. 1,2.

-
54. Australia: See Endnote 30, Act s20, Reg 2.3.1; Ireland: See Endnote 31, Act ss7(1)(c),(8)(d), 9(1)(c),(8)(d) and 10(1)(c),(8)(d); Norway: See Endnote 34, Reg. 22 in respect of wrappers, otherwise no express prohibition of marks and trademarks other than as regulated; Hungary: See Endnote 28, Reg. 7(6/B(3)(f) and 8(d)); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-17(I), Art. R. 3511-19(II), 3511-26)), Order n° 2016-623 (Public Health Code Art. L. 3512-21, s4); United Kingdom: See Endnote 14, Standardised Packaging Regulations - Limited exceptions to regulation 3(2) and (3) and 7(2) and (3) are detailed in those Regs and Schedules 1 and 3 respectively, trademarks and marks other than those prescribed are not permitted.
55. Australia: See Endnote 30, Act s25; New Zealand: See Endnote 32 Reg. 40; Ireland: See Endnote 31, Act s14(b); Norway: See Endnote 34, Reg. 26 and 34; France: See Endnote 13; Decree (Public Health Code Art. R. 3511-20(I)), Administrative Order – Art 6; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Reg. 12.
56. Australia: See Endnote 30, Act s24; New Zealand: See Endnote 32 Reg. 39; Ireland: See Endnote 31, Act s14(a); Norway: See Endnote 34, Reg. 25 and 34; France: See Endnote 13; Decree (Public Health Code Art. R. 3511-20(II)); United Kingdom: See Endnote 14, Standardised Packaging Regulations, Reg. 11.
57. Australia: See Endnote 30, Reg. 2.3.9(c)(iii); Ireland: See Endnote 31, Act s12; Norway: See Endnote 34, Act s 30(b); Hungary: See Endnote 28, Act s6/A(a) and Reg. 7(6/E(3)(a)); France: See Endnote 13; Decree (Public Health Code Art. R. R. 3511-17(I), Art. R. 3511-19(II), 3511-26), Order n° 2016-623 (Art. L. 3512-21, s4); United Kingdom: See Endnote 14, Standardised Packaging Regulations, Reg. 10(3)(a)(b).
58. Australia: See Endnote 30, Regs. Div. 2.3, 2.4, except health warnings which require Helvetica - Competition and Consumer (Tobacco) Information Standard 2011, Part 9 Div. 3; New Zealand: See Endnote 32, Regs. 19-21, 31, 33.
59. Ireland: See Endnote 31, Regs. 7-13; Norway: See Endnote 34, Regs. 29, 30, 32, 33; Hungary: See Endnote 38, Reg. 7(6/A(8), 6/B(4)); France: See Endnote 13; Administrative Order – Art 2,4,9,10,11; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Reg. 5, Sch. 1, Sch. 3, The Tobacco and Related Products Regulations 2016, Part 2.
60. Australia: See Endnote 30, Reg. 2.3.2; New Zealand: See Endnote 32, Reg. 35.
61. Norway: Regulations no. 141 of 6 February 2003 on the contents and labelling of tobacco products, s16; Hungary: See Endnote 27, Reg. 6(6(1)(e),(h)).
62. Ireland: See Endnote 31, Act ss7(1)(c),(5),(8)(d), 9(1)(c),(5),(8)(d), 10(1)(c),(5),(8)(d) – prohibit marks other than as permitted by the Regulations, which do not permit origin marks; France: See Endnote 13; Order n° 2016-623 of May 19, 2016 (Public Health Code Art. L. 3512-23 (I), s5); United Kingdom: See Endnote 14, Standardised Packaging Regulations - Limited exceptions to regulation 3(2) and (3) and 7(2) and (3) are detailed in those Regs and Schedules 1 and 3 respectively, origin marks are not prescribed and therefore not permitted.
63. Australia: See Endnote 30, Reg. 2.3.7.
64. Ireland: See Endnote 30, Act ss7(1)(c),(5),(8)(d), 9(1)(c),(5),(8)(d), 10(1)(c),(5),(8)(d) – prohibit marks other than as permitted by the Regulations. Locally made product statements not prescribed or included in permitted text; Hungary: See Endnote 27, Reg. 7(6/B(3)(f) and 8(d)); France: See Endnote 12; Decree (Public Health Code Art. R. R. 3511-17(I), Art. R. 3511-19(II), 3511-26); United Kingdom: See Endnote 13, Standardised Packaging Regulations - Limited exceptions to regulation 3(2) and (3) and 7(2) and (3) are detailed in those Regs and Schedules 1 and 3 respectively, locally produced statements are not prescribed are therefore not permitted.
65. Australia: See Endnote 29, Reg. 2.3.6.
66. Ireland: See Endnote 31, Act ss7(1)(c),(5),(8)(d), 9(1)(c),(5),(8)(d), 10(1)(c),(5),(8)(d) – prohibit marks other than as permitted by the Regulations. Fire safety statements not prescribed or included in permitted text; Hungary: See Endnote 28, Reg. 7(6/B(3)(f) and 8(d)); France: See Endnote 13; Decree (Public Health Code Art. R. R. 3511-17(I), Art. R. 3511-19(II), 3511-26; United Kingdom: See Endnote 14, Standardised Packaging Regulations - Limited exceptions to regulation 3(2) and (3) and 7(2) and (3) are detailed in those Regs and Schedules 1 and 3 respectively, fire safety statements are prescribed are therefore not permitted.

-
67. Australia: See Endnote 30, Reg. 2.3.9; Ireland: See Endnote 31, Reg. 13(1); Norway: See Endnote 34, Reg. 30; France: See Endnote 13; Decree (Public Health Code Art. R. 3511-26(l)(3)), Administrative Order Art.2; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Sch. 1 Art. (3)(1)(e) and Sch. 3 Art. (3)(1)(e).
68. New Zealand: See Endnote 32, Reg. 35(1)(a).
69. Hungary: See Endnote 28, Reg. 7(6/B(3)(f) and 8(d)).
70. Ireland: See Endnote 31, Act s7(1)(b), Reg. 6; Norway: See Endnote 34, Reg. 18; France: See Endnote 13; Decree (Public Health Code Art. R. 3511-18), Administrative Order Art. 3; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Regs. 3(3) and 7(3).
71. Australia: See Endnote 30, Reg. 2.2.1(3); Hungary: See Endnote 28, Reg. 7(6/B(3)(b)).
72. Examples of qualitative information are statements such as “Smoking exposes you to more than 60 cancer-causing chemicals”, or “smoke from these cigarettes contains benzene, a known cancer-causing substance”.
73. Australia: Competition and Consumer (Tobacco) Information Standard 2011 (various); New Zealand: Smoke-free Environments Act 1990 s32 and See Endnote 32, Regs. Part 1 and Schedule 2; Ireland: European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016, Reg 12(1)(b); Hungary: See Endnote 28, Reg. 7(6/A(1)(b), 6/E(1); France: See Endnote 13; Order n°623/2016 (Public Health Code Art. L. 3512-22.1.c), Ministerial Order on Health Warnings 19 May 2016 (art. 7); Tobacco and Related Products Regulations 2016 Arts. 7 and 8.
74. Australia: See Endnote 30, Reg 3.1.1; New Zealand: See Endnote 32, Reg. 42; Ireland: See Endnote 31, Act s8(1); Norway: See Endnote 34, Reg. 35; Hungary: See Endnote 28, Reg. 7(6/C(1)(d)(e)); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-21), Administrative Order – Art 4; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Reg. 5(2)(3).
75. Norway: See Endnote 34, Reg. 35; France: See Endnote 13; Decree (Public Health Code Art. R. 3511-21), Administrative Order – Art 4; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Reg. 5(2).
76. Australia: See Endnote 30, Act s26; New Zealand: See Endnote 32, Reg. 43; Ireland: See Endnote 31, Act s8(2), Reg. 8; Norway: See Endnote 34, Reg. 35; Hungary: See Endnote 28, Reg. 7(6/C(2), (3)); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-28), Administrative Order – Art 4; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Reg. 5(4),(5).
77. Australia: See Endnote 30, Reg. 3.1.2; New Zealand: See Endnote 32, Reg. 43; Hungary: See Endnote 28, Reg. 7(6/C(1)(c),(2)); France: See Endnote 13; Decree (Public Health Code Art. R. 3511-28), Administrative Order – Art 4; United Kingdom: See Endnote 14, Standardised Packaging Regulations, Reg. 5(4),(5).
78. Australia: See Endnote 30, Reg. 3.2.1.
79. Ireland: See Endnote 31, Reg. 12.
80. New Zealand: See Endnote 32, Regs. 52, 53.
81. *JT International SA v Commonwealth of Australia (Tobacco Plain Packaging Case)* [2012] HCA 43; *Philip Morris Asia Ltd vs the Commonwealth of Australia*, Award on Jurisdiction and Admissibility, 17 December 2015, PCA Case No. 2012-12.
82. *British American Tobacco (UK) v. The Secretary of State for Health* [2016] EWHC 1169 (Admin); Court of Justice of the European Union PRESS RELEASE No 48/16 Luxembourg, 4 May 2016 -Judgments in Cases C-358/14 Poland v Parliament and Council C-477/14 Pillbox 38(UK) Limited v Secretary of State for Health and C-547/14 Philip Morris Brands SARL and Others v Secretary of State for Health, available at: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2016-05/cp160048en.pdf>
83. *Société JT International SA, Société d'exploitation industrielle des tabacs et des allumettes, société Philip Morris France SA et autres (Le Conseil d'État*, 23 December 2016).

-
84. JTI v. Minister for Health, Ireland, and the Attorney General 2015/2530P - The claim was not pursued after the Court of Justice of the European Union ruled that the UK plain packaging legislation did not violate EU law by restricting free movement of goods and upheld the 2014 EU Tobacco Products Directive.
85. Swedish Match v The Ministry of Health and Care Services: Commercial Court Case No 17-110415TV-OBYP; and Court of Appeal Case No 18-004746ASK-BORG/04.
86. Panel Report, Australia – Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging, WT/DS435/R, WT/DS441/R, WT/DS458/R, WT/DS467/R, 28 June 2018, available at: https://www.wto.org/english/news_e/news18_e/435_441_458_467r_e.htm
87. For example: British American Tobacco Colombia v. Ministerio de Salud, Consejo de Estado (2015); British American Tobacco Panama S.A. et al. s/ nulidad del Decreto Ejecutivo 611 de 2010, Corte Suprema de Panamá (2016); Morris Brand Sàrl (Switzerland) & Others v. Oriental Republic of Uruguay (ICSID Case No. ARB/10/7).



FCTC

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

S E C R E T A R I A T



**World Health
Organization**