

**FCTC**WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

SECRETARIAT - KNOWLEDGE HUB

**icmr**INDIAN COUNCIL OF
MEDICAL RESEARCH**NICPR**NATIONAL INSTITUTE OF CANCER
PREVENTION AND RESEARCH**The Union**International Union Against
Tuberculosis and Lung Disease
Health solutions for the poor

Report on the National Consultation on “Effective Implementation of Measures for Control of Smokeless Tobacco (SLT) Use” held on 18th & 19th February 2020 at Patna, Bihar

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Background

India is the second largest producer and the third largest consumer of tobacco. Tobacco use is a major preventable cause of premature death and disease worldwide. In India, about 1 million people die every year due to tobacco use. According to the Global Adult Tobacco Survey (2016-17), approximately 27 crore adults in India use tobacco products, out of which 20 crore consume Smokeless Tobacco (SLT) including Pan Masala. 67% of the global SLT users reside in India, which led to huge health, social and economic burden.

To address the issue of regulating SLT comprehensively and to strengthen SLT control policies by providing technical support to high burden state of the country, the National Consultation on “Effective Implementation of Measures for Control of Smokeless Tobacco (SLT) Use” was organised on 18th & 19th February 2020 at Patna, Bihar by ICMR – National Institute of Cancer Prevention and Research, Indian Council of Medical Research (ICMR), Ministry of Health and Family Welfare, Govt. of India in collaboration with The Union.

Objectives

1. To examine the existing policies and laws on regulation of manufacture, sale, distribution etc. of smokeless tobacco products and,
2. To explore legal and policy provisions for Smokeless Tobacco control at the State and National Level

Full Report

The consultation was inaugurated by Sh. Mangal Pandey, Hon'ble Health Minister Bihar, Sh. Sanjay Kumar, IAS, Principal Secretary (Health) & Commissioner Food Safety, Sh. Manoj Kumar, IAS, Executive Director, State Health Society, Bihar, Sh. Kaushal Kishore, IAS, Additional Secretary, Health Department, Govt. of Bihar, Dr. L Swasticharan, Chief Medical Officer, Ministry of Health and Family Welfare, New Delhi, Sh. Deepak Mishra, SEEDS, Patna, Bihar and the Food Safety Commissioners and Assistant Commissioners from States of Gujarat, Tamil Nadu, Chhattisgarh, Madhya Pradesh, Jharkhand, Punjab, Nagaland, Sikkim, Kerala and Bihar along with the Food Safety Officers from different districts of Bihar.(List of participants Annex 1)

The participants to the Consultation after detailed discussions and deliberation on the existing policies and laws on regulation of SLT products at the State & National level, recommended the following:

1. The State Governments/UT`s shall issue notification/order of gutkha ban under clause 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011, that prohibits the use of tobacco and nicotine as ingredients in any food products and further care should be taken to avoid mentioning of time limit of one year when complying with the mandates of the Regulation. This would avoid uncertainties, inconsistencies and ambiguities in implementation of ban on gutkha and pan masala (with tobacco and nicotine) in line with the rules notified by the Food Safety and Standards Authority of India.
2. The State Government of Gujarat shall withdraw the exemption given to export unit for manufacture of gutkha and pan masala (with tobacco and nicotine). The said exemption is in contravention of Food Safety & Standard Act 2006 and its Regulations, as they apply to food products manufactured for export also.
[SJJ Exports Company v. Food Safety Commissioner, W.P. No. 2266/2012 & SJJ Exports Company v. Food Safety Commissioner-SLP No. 8432/2013]
3. The State Governments/UT`s shall issue appropriate notification/order under Clause 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011 to ensure that food or food additive in the form of scent/flavoring are not used as ingredient in chewing tobacco. It has been observed that food and its additives in the form of scent/coloring/flavoring such as spices, saffron, kewda, menthol, lime, water, oil etc, are extensively used as ingredient in the manufacture or preparation of chewing tobacco such as khaini, zarda etc. The addition of the said additives particularly flavouring or scenting ingredients to tobacco significantly increases their allure and intensifies the flavor of chewing tobacco which is otherwise unappealing in taste or texture, thus increasing its prevalence and dependence.
[State of Bihar Notification dated 25.10.2018]

4. The State Governments/UT`s shall issue appropriate notification/order for implementation of ban on the use of tobacco in tooth powder and tooth paste under the Drugs and Cosmetics Act, 1940. The manufacture/sale of certain smokeless tobacco products like gudakhu, gul, mishri and red tooth powder used as tooth paste or tooth powder is prohibited by the Government of India Notification, GSR 443(E), dated 30th April, 1992, under Section 33(EED) of the Drugs and Cosmetics Act, 1940 and GSR 444(E), dated 30th April, 1992, under Section 26A of the Drugs and Cosmetics Act, 1940.
[Laxmikant vs UOI & Ors. (1997) 4 SCC 739]
5. The Ministry of Health & Family Welfare, Government of India in consultation and coordination with the Food Safety and Standards Authority of India (FSSAI) and Ministry of Environment, shall look into effective enforcement of the provisions of the Environment Protection Act 1986 namely the Plastic Waste Management Rules, 2016, that mandates:
“sachets using plastic material shall not be used for storing, packing or selling gutkha, pan masala and tobacco in all forms.” AND

“plastic material in any form including Vinyl Acetate, Maleic Acid, and Vinyl Chloride Copolymer, shall not be used for packaging gutkha, pan masala and tobacco in all forms.
[Ankur Gutkha Vs Indian Asthama Care Society & Others-SLP No. 16308/2007]
6. The State Governments/UT`s shall collect and test samples of Pan Masala for presence of nicotine, magnesium carbonate and other impurities/adulterants which render the food unsafe. Further appropriate follow-up action based on the test results shall be taken under FSS Act and other supplementing laws.
[Jitul Deka Vs State of Assam & Others-PIL No. 19 of 2020-Order dated 17.02.2020/State of Assam letter dated 20.02.2020/State of Bihar Notifications dated 30.08.2019 and 02.09.2019]
7. The Ministry of Health & Family Welfare, Government of India in consultation with FSSAI shall look into cancelling the licence/registration of Pan Masala companies found to be adding adulterants (magnesium carbonate. nicotine etc), misbranding and making misleading claims “no nicotine or 0% nicotine” on their packages in contravention of FSSAI laws.
8. The Ministry of Health & Family Welfare, Government of India in consultation with FSSAI shall look into including in the Food Safety and Standards (Safe food and healthy diets for School Children) Regulations 2019 provisions that prohibits the sale of pan masala and flavoured supari which are referred to as food injurious to health to school children in school canteens/mess premises/ hostel kitchens or within 50 meters of the school campus and further include prohibition on all direct or indirect advertisement of these products in school premises or within 50 meters of the School campus.

9. The Ministry of Health & Family Welfare, Government of India shall look into convening the meeting of the Steering Committee constituted to take cognizance and look into specific action regarding violations under Section 5 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003(COTPA), that prohibits direct and indirect advertisement of tobacco products.
10. The Ministry of Health & Family Welfare, Government of India in consultation with FSSAI, shall take effective steps to ensure, that the advertisement of food products shall:
 - (i) depict only the product being advertised and not tobacco products in any form or manner.
 - (ii) not make any direct or indirect reference to tobacco products, through their name/logo/presentation etc.
 - (iii) not contain any nuances or phrases promoting tobacco products.
 - (iv) not use particular colours/layout/presentations associated with advertising of tobacco products.
11. The Ministry of Health & Family Welfare, Government of India in consultation with FSSAI shall look into prohibiting direct and indirect advertisement of Pan Masala through all mediums, by making suitable modifications in the Food Safety and Standards (Advertisements and Claims) Regulations, 2018. This would be in the interest of public health as there is rampant direct and indirect advertisement in print, electronic and outdoor media, of pan masala by undermining the harmful and injurious nature of the product. In this context the Parliamentary Standing Committee on Health & Family Welfare, in its 110th Report on Functioning of Food Safety & Standards Authority of India, (presented on 9th August, 2018), has recommended action against misleading advertisements that promote unhealthy/injurious food habit in gullible consumers especially children.
12. The Ministry of Health & Family Welfare, Government of India in consultation with FSSAI, shall take steps to implement the recommendation of FSSAI Scientific Committee, for display of warning “consumption of pan masala is injurious to health”, covering 50% of Front of Pack of the label of Pan Masala by making suitable modification in the Food Safety and Standards (Packaging and Labelling) Regulations, 2011.
[Minutes of Food Authority 27th Board Meeting dated 04.02.2019]
13. The Ministry of Health & Family Welfare, Government of India shall examine and explore measures to delete/omit entry 6, 8, 9 and 10(pertaining to Chewing tobacco, Pan Masala or any chewing material having tobacco as one of its

ingredients (by whatever name called), Gutka and Tooth powder containing tobacco), from the schedule of COTPA. The said products have been considered as food and drugs in several judicial pronouncements and therefore stands banned under the Food Safety & Standards Act, 2006 and its enabling Regulations and the Drugs & Cosmetics Act of 1940. Further all States/ Union Territories have banned the manufacture and sale of gutka and pan masala(having tobacco) by invoking FSS Regulations and almost 14 States/UT`s have also issued notifications for banning chewing tobacco products zarda, khaini etc., under Section 30(2)(a) read with Regulation 2.3.4 of the FSS Act. However, the mention of said products in the schedule of COTPA, 2003, is creating unwarranted confusion as to the applicability of legislation with respect to these products. These banned SLT products are presently available in the market with the statement, we come under COTPA, 2003 in order to mislead the enforcement agencies.

14. The Ministry of Health and Family Welfare, Government of India in consultation with Department of Revenue Ministry of Finance, shall explore steps to bring the tax rates on SLT to global recommended levels and ensure that SLT manufacturers do not evade taxation by manufacturing from small and unregistered settings. Presently the exemptions given to business with annual turnover of less than 40 lakhs is misused by SLT industry to register multiple business and brands and avoid payment of taxes.
15. The Ministry of Health and Family Welfare, Government of India shall explore steps to implement Uniform Packaging of standard size/contents/display for tobacco products. Presently SLT products are available in various sizes and content, this lack of uniformity in packaging has resulted in weak enforcement of 85% SHW, there is no impact of taxation as price of SLT products is kept low by manipulating its size and content.

ANNEXTURE 1

AGENDA

Day 1: Feb. 18th 2020

5:30pm – 5:50pm	Registration of Participants	ICMR - NICPR
5:50pm – 6:00pm	Lighting of lamp	Dignitaries on the Dias
6:00pm - 6:15pm	Welcome & Objective of the consultation	Dr. Shalini Singh Director, NICPR, NOIDA
6:15pm - 6:25pm	Voice of Tobacco Victims	Dr. V P Singh, Director, Savera Cancer Hospital Kanakarbagh, Patna, Bihar
6:25pm - 6:40pm	SLT Burden in India: Initiative taken by Bihar	Shri. Deepak Mishra Executive Director, SEEDS, Patna, Bihar
6:40pm - 6:45pm	Address by Representative from Ministry of Health and Family Welfare	Dr. L. Swasticharan Chief Medical Officer (NTCP), Directorate General of Health Services, Ministry of Health and Family Welfare, New Delhi
6:45pm - 7:00pm	Address by Special Guest	Shri. Sanjay Kumar, IAS Principal Secretary (Health) cum Commissioner Food Safety, Govt. of Bihar
7:00pm - 7:15pm	Release of SLT facts sheets Bihar	Shri. Mangal Pandey & other Dignitaries Hon'ble Health Minister of Bihar
7:15pm onwards	Inaugural Speech by Chief Guest followed by Media Interaction	Shri. Mangal Pandey Hon'ble Health Minister of Bihar
	Vote of Thanks	Dr. Dinesh Kumar Scientist, ICMR NICPR
Group Photograph followed by Dinner		

Day 2: Feb. 19th 2020

9:00am - 9:05am	Recap of Day 1	Dr. Dinesh Kumar Scientist, ICMR NICPR
9:05am - 9:15am	Role of NTTLs in SLT regulation	Dr. L. Swasticharan Chief Medical Officer (NTCP), Directorate General of Health Services, Ministry of Health and Family Welfare, New Delhi
9:15am - 9:40am	Overview of Smokeless Tobacco Control (SLT) Legislations	Shri. Ranjit Singh, Consultant, WHO FCTC KH-SLT
9:40am -10:00am	<i>Pan Masala Ban – A Case Study of Bihar</i>	Shri. Kaushal Kishore, IAS Additional Secretary Health Department, cum Nodal Officer (Food Safety Programme), Govt. of Bihar
10:00am - 11:00am	Experience sharing on Status of state level policies to control / regulate SLT in high prevalence States (5-10 min. / state) (to be contd. after tea break)	Presentation by officials of States Food Safety Dept of following states: Gujrat / Tamil Nadu / Chhattisgarh / Madhya Pradesh / Jharkhand
11:00am - 11:15am	Mobility / Tea Break	
11:15am - 12:30pm	Experience sharing on Status of state level policies to control / regulate SLT in high prevalence States (5-10 min. / state) (followed by discussion)	Presentation by officials of States Food Safety Dept of following states: Punjab / Nagaland / Sikkim / Bihar / Kerala
12:30am - 1:30pm	Identification of gaps and challenges along with drafting of model policy for states	Shri. Pranay Lal, Sr. Technical Advisor, The Union / Mr. Ranjit Singh, Consultant, WHO FCTC KH- SLT
1:30pm - 2:30pm	Lunch Break	
2:30pm - 3:00pm	Valedictory Session & Certificate distribution	Shri. Sanjay Kumar, IAS Principal Secretary (Health) cum Commissioner Food Safety, Bihar
03.00pm	Vote of Thanks	Dr. Dinesh Kumar Scientist, ICMR NICPR

ANNEXTURE 2

LIST OF PARTICIPANTS

Sh. Mangal Pandey,

Hon'ble Health Minister, Bihar

Sh. Sanjay Kumar,

IAS, Principal Secretary (Health) &
Commissioner (Food Safety)

Sh. Kaushal Kishore,

IAS, Additional Secretary, Health Department,
Government of Bihar

Dr.L. Swasticharan,

Chief Medical Officer, Ministry of Health
and Family Welfare, New Delhi

Dr. Shalini Singh,

Director, ICMR-NICPR, Noida

Ms. Pooja Gupta

Consultant (Policy), MoHFW

Mr. Pranay Lal,

Senior Technical Advisor, The Union

Dr.Pradeep Das,

Director, RMRI, Patna

Sh. Deepak Mishra,

SEEDS, Patna, Bihar

Dr. Nishant Kumar,

State Nodal Officer, Bihar

Dr. Dinesh Kumar Singal,

Scientist-B & Nodal Officer (SLT Hub)
NICPR, Noida

Mr.Ranjit Singh,

Legal Consultant, NICPR, Noida

Ms. Kirti Ailani,

Project Officer, BI Project, NICPR, Noida

Ms. Anshika Chandra,

Project Coordinator, WHO FCTC KH SLT,
NICPR, Noida

Food Safety Officers

The Food Safety Commissioners and Assistant
Commissioners from 11 SLT burden states i.e. Gujarat,
Tamil Nadu, Chhattisgarh, Madhya Pradesh, Jharkhand,
Punjab, Nagaland, Sikkim, Kerala and Bihar (as per
GATS 2 report)

Sh. Ravindra Singh,

Food Safety Commissioner, Bhopal, Madhya Pradesh

Sh. Devendra Kumar Nagendra,

Joint Commissioner, Food Safety, Bhopal, Madhya
Pradesh

Sh. A R Ajay Kumar,

Food Safety Commissioner, Kerala

Sh. Anil Kumar,

Joint Commissioner Food Safety, Kerala

Sh. Hemant Koshia,

Food Safety Commissioner, Gujarat

Sh. Brijendra Bharti,

Food Safety Officer, Chhattisgarh

Sh. L.D. Thakur,

Assistant Commissioner (Food Safety), Himachal
Pradesh

Sh. U.C. Sinha,

State Nodal Officer, Jharkhand

Sh. Chiekroshuyi Tetseo,

State Nodal Officer, Nagaland

Sh. Manoj Khosla,

Assistant Commissioner (Food Safety), Punjab

Sh. Rinzing Bhutia,

Deputy Director (NTCP, BMW and Sanitation Cell),
Sikkim

Sh.Thiru C Jaikumar,

Assistant Public Prosecutor, Tamil Nadu

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