

Supplementary File 1

In this Supplementary File, we provide (I) a brief profile of India in terms of tobacco consumption; (II) a brief overview of the two food laws including their specific provisions that have been used for regulating smokeless tobacco products; and (III) a chronology of regulatory orders issued under the food laws by various Indian states prohibiting certain forms of smokeless tobacco.

(I) Tobacco consumption in India

India is home to the second-largest number of tobacco users in the world, after China.(1) In 2017, an estimated 266.8 million adults (28.6% of the Indian population) reported using tobacco in some form or the other.(2) Smokeless tobacco is a dominant form of tobacco consumption in India, with its prevalence (21.4%) being double the prevalence of smoking tobacco (10.7%).(2) India accounts for over a million tobacco-related deaths, annually.(3–5) India ratified the WHO Framework Convention on Tobacco Control, enacted a national legislation, and continues to deploy and innovate regulatory measures to effectively control tobacco use with an aim to achieve 30% of the relative reduction in the prevalence of tobacco use by 2025.(6)

(II) The food laws and their specific provisions that have been used for smokeless tobacco regulations

The Prevention of Food Adulteration Act, 1954 (PFA)	The Food Safety and Standards Act, 2006 (FSSA)
<p>The PFA was one of the many food laws enacted by the Central Government to exclusively deal with the proliferation of adulterated food.</p>	<p>In an attempt to consolidate a plethora of laws concerning food (including the PFA), the Central Government enacted the FSSA by declaring its control over the food industry, expedient in the public interest. Inevitably, certain provisions of the PFA have been incorporated in the FSSA. However, the FSSA is a comprehensive enactment to deal with all aspects of food safety. Once the FSSA regulations were implemented, the PFA was repealed.</p>
<p>The definition of food under the PFA included any article used or consumed as food; and included articles commonly used in preparing food, flavoring matter/condiments.</p>	<p>The definition of food under the FSSA includes any substances intended to be consumed (by humans) and includes some inclusive and exclusive illustrative examples. This definition enables a wider and more comprehensive understanding of food. The inclusive illustrations demonstrate how articles like chewing gum that are not normally associated with food for nutrition or development of the human body, are to be read as food to be regulated by the FSSA.</p>
<p>Section 7(iv) of the PFA prohibited a person from manufacturing for sale/storage/distribution, any article of food deemed prohibited by the state Food Health Authority in the interest of public health.</p>	<p>Section 30(2)(a) of the FSSA empowers the Commissioner of Food Safety to prohibit the manufacture/ storage/ distribution/ sale of any article of food, within its jurisdiction, in the interest of public health.</p>
Prevention of Food Adulteration Rules, 1955	Food Safety and Standards (Prohibition and Restriction on Sales) Regulation, 2011
<p>Rule 44J requires food product not to contain any substances which may be injurious to health. Tobacco and nicotine shall not be used as ingredients in any food products.</p>	<p>Regulation 2.3.4: requires food product not to contain any substance which may be injurious to health. It is mentioned that tobacco and nicotine shall not be used as ingredient in any food product.</p>

(III) Chronology of tobacco-related regulations issued under the food laws in India*

Sr. No.	Issue date	State government	Products prohibited under the regulation
Orders issued under the Prevention of Food Adulteration Act, 1954			
1	November 2001	Tamil Nadu	Chewing tobacco, paan masala or gutka containing tobacco
2	February 2002	Andhra Pradesh	Paan masala (containing tobacco) and chewing tobacco/zarada/khaini
3	July, 2002	Maharashtra	Gutka or paan masala containing tobacco or not containing tobacco
4	January, 2003	Goa	Gutka or paan masala containing tobacco or not containing tobacco
5	March, 2003	Bihar	Gutka or paan masala containing tobacco or not containing tobacco
Orders issued under the Food Safety and Standards Act, 2006**			
6	March, 2012	Madhya Pradesh	Gutka containing tobacco and nicotine
7	May, 2012	Kerala, Bihar	Gutka and paan masala containing tobacco or nicotine
8	July, 2012	Himachal Pradesh	Gutka and paan masala, masher, khaini
10	July, 2012	Haryana, Maharashtra	Gutka and paan masala containing tobacco or nicotine
11	July, 2012	Rajasthan	Gutka and paan masala and other food products containing tobacco or nicotine
12	July, 2012	Chandigarh	Food items containing tobacco and nicotine
13.	July, 2012	Chhattisgarh, Jharkhand	Gutka and paan masala containing tobacco or nicotine
14.	August, 2012	Gujarat	Gutka and paan masala containing tobacco or nicotine
15.	August, 2012	Mizoram	Gutka, paan masala, zarda, and any other chewable product containing tobacco and nicotine
16.	September, 2012	Punjab	Gutka, paan masala and any other food product containing tobacco and nicotine
17.	September, 2012	Delhi; Sikkim	Gutka and paan masala containing tobacco or nicotine
18.	October, 2012	Nagaland; Uttar Pradesh	Gutka and paan masala containing tobacco or nicotine
19.	November, 2012	Andaman & Nicobar Islands;	Gutka and paan masala containing tobacco or nicotine

		Arunachal Pradesh; Daman & Diu; Dadar & Nagar Haveli	
20.	December, 2012	Uttarakhand	Gutka and paan masala containing tobacco or nicotine
21.	January, 2013	Andra Pradesh; Odisha	Gutka and paan masala containing tobacco or nicotine
22.	February, 2013	Manipur	Gutka, paan masala, zarda, khaini and other chewable, smokeless tobacco products containing tobacco or nicotine
23.	March, 2013	Assam	Gutka and paan masala containing tobacco or nicotine
24.	April, 2013	Tripura; West Bengal	Gutka and paan masala containing tobacco or nicotine
25.	May, 2013	Karnataka	Gutka and paan masala containing tobacco or nicotine

*Sources: ¹Reddy and Gupta(7); ²Information received from Mr. Gaurav Gupta of the Campaign for Tobacco-Free Kids (India); ³Copies of regulations issued by certain state governments available in the public domain, including the litigation surveyed for this study.

**This list is not exhaustive as a few remaining states issued similar regulations after May 2013.

References

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