

SIXTY-EIGHTH REPORT

COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

MINISTRY OF HEALTH & FAMILY WELFARE,

MINISTRY OF AGRICULTURE & FARMERS' WELFARE
(DEPARTMENT OF AGRICULTURE, COOPERATION & FARMERS' WELFARE),

MINISTRY OF LABOUR & EMPLOYMENT,

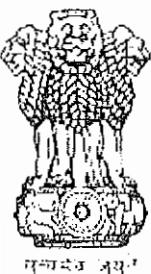
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE),

AND

MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES

(Presented to the Speaker, Lok Sabha on 9.3.2019)

(Laid in Lok Sabha on _____)



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COMPOSITION OF THE COMMITTEE ON PETITIONS
(2018-2019)

Shri Bhagat Singh Koshyari -Chairperson

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3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Dr. K. Gopal
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10. Shri Arjun Charan Sethi
11. Shri Kodikunnil Suresh
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13. Shri Rajan Vichare
14. Shri Dharmendra Yadav
15. Vacant

SECRETARIAT

- | | | |
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| 4. Shri Harish Kumar Sethi | - | Executive Officer |

SIXTY-EIGHTH REPORT OF THE COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Sixty-Eighth Report (Sixteenth Lok Sabha) of the Committee to the Speaker, Lok Sabha on the Representation of Shri Sanjay Bechan regarding saving the livelihood of millions of tobacco farmers, labourers employed in Kevda and Mentha farming/tobacco industry and harmonization of definition of 'Food' under the Food Safety and Standards Act, 2006.

2. The Committee considered and adopted the draft Sixty-Eighth Report at their sitting held on 28.2.2019.
3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions.

28 February, 2019
9 Phalgun, 1940 (Saka)

(v)

REPORTPART - ACHAPTER - IBRIEF BACKGROUND

REPRESENTATION RECEIVED FROM SHRI SANJAY BECHAN REGARDING SAVING THE LIVELIHOOD OF MILLIONS OF TOBACCO FARMERS, LABOURERS EMPLOYED IN KEVDA AND MENTHA FARMING/TOBACCO INDUSTRY AND HARMONIZATION OF DEFINITION OF 'FOOD' UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006.

Shri Sanjay Bechan forwarded a Representation dated 17.09.2016 before the Committee regarding saving the livelihood of millions of tobacco farmers, labourers employed in Kevda and Mentha farming/tobacco industry and harmonization of definition of 'Food' under the Food Safety and Standards Act, 2006 (Annexure-I).

1.2 Shri Sanjay Bechan, in his Representation, *inter-alia* stated that India is the second largest producer of tobacco in the world which produces 900 million kilogram of tobacco and exports over 200 million kilogram of tobacco per year. Tobacco is grown in majority of the States in the country and over 8 million people are involved in tobacco farming and Processing Industry. On the issue of banning tobacco in the country, the Representationist apprehended that if tobacco or any form of tobacco is banned, a legitimate business will be replaced with illicit trade of tobacco products across the country, leading way to tobacco *mafias*, thereby, jeopardizing livelihood of millions of farmers and labourers involved in the profession.

1.3 The Representationist further stated that the Food Safety and Standards Act, 2006 was established as an Act to consolidate the laws relating to Food and to establish the Food Safety and Standards Authority of India for laying down scientifically based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import to ensure availability of safe and wholesome food for human consumption and for matters connected therewith and incidental thereto. Hence, the Act *ibid* aims at Food Safety as a National Movement. The Representationist has contended that although the Act is for safety and standards of 'Food', the 'Food' itself has not been appropriately defined in the Statute Book, i.e., the Food Safety & Standards Act, 2006. The Representationist, therefore, requested the Committee to look into the matter and do the needful.

1.4 The Committee on Petitions took up the Representation for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the Representation received from Shri Sanjay Bechan was forwarded to the Ministry of Health & Family Welfare and the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) for furnishing their comments on the issues raised therein, in the first instance. Subsequently, a copy of the instant Representation was also forwarded to the Ministry of Commerce & Industry (Department of Commerce), the Ministry of Labour & Employment, the Ministry of Finance (Department of Revenue) and the Ministry of Micro, Small & Medium Enterprises for furnishing their comments on the issues raised therein.

1.5 In response thereto, the aforesaid Ministries/Departments furnished their comments on the issues raised in the instant Representation which have been detailed in the succeeding Chapter.

CHAPTER - II

Comments of various Ministries of the Government of India on the Representation of Shri Sanjay Bechan.

A. Ministry of Health & Family Welfare

2.1 The Ministry of Health & Family Welfare vide their communication dated 8 December, 2016 furnished the following comments:-

- "(i) *The Hon'ble Supreme Court of India, in the matter of Ankur Gutka vs. Indian Asthma Care Society & Ors. [SLP No.16308 of 2007] vide order dated 7.12.2010 directed the Ministries concerned to undertake a comprehensive analysis and study of the contents of gutkha, tobacco, pan masala and similar articles manufactured in the country and harmful effects of consumption of such articles. The Ministry of Health & Family Welfare pursuant to the above direction of the Hon'ble Apex Court, in consultation with the National Institute of Health and Family Welfare (NIHFW) constituted a Committee of Technical Experts and compiled a Health Report (NIHFW Health Report) on the contents of gutkha, tobacco, pan masala and similar articles and harmful effects of consumption of such Articles.*
- (ii) *The NIHFW Health Report indicated that there are over 3095 Chemical Components in Smokeless Tobacco Products, among them 28 are proven Carcinogen. The major and most abundant group of Carcinogens is the tobacco-specific N-nitrosamines (TSNA) and no safe level of this chemical has been ascribed, so far. Other Carcinogen reportedly present in Smokeless Tobacco include volatile N-nitrosamines, certain volatile aldehydes, polynuclear aromatic hydrocarbons, certain lactones, urethane, metals and radioactive polonium. Results from various studies have found high level of Nitrosamines in the branded Indian Smokeless Tobacco products in the market. A detailed available Laboratory Report on the constituents of different brands of Smokeless Tobacco available in India had reported substantive quantities of two potent Carcinogens [Nitrosamines and Benzo-a-Pyrene] and heavy metals in most of these Products. Other studies have also demonstrated presence of high levels of heavy metals (Lead, Cadmium, Chromium, Arsenic and Nickel) in these Products.*
- (iii) *The NIHFW Health Report further indicates a strong association between Smokeless Tobacco usage and incidence of oral, esophageal, stomach,*

pancreatic, throat (Pharynx and Larynx) and renal cancers. In addition to cancer, the Studies also show a close association between Smokeless Tobacco usage and different type of periodontal diseases, hypertension and cardiovascular diseases, nervous system diseases, metabolic abnormalities, adverse effects on reproductive health of both men and women including increased risk of fetal loss and higher incidence of pre-term and low birth babies.

- (iv) The Global Adult Tobacco Survey - India (GATS India) is the Global Standard for systematic monitoring of Adult Tobacco Use (Smoking and Smokeless) in the country. The Survey conducted in the year 2009-10 by the International Institute for Population Sciences (IIPS) Mumbai, revealed that more than one-third (35%) of adults in India used Tobacco in some form or the other. Among them, 21% adults use only Smokeless Tobacco, 9% only Smoke and 5% Smoke as well as use Smokeless Tobacco. Based on these, the estimated number of Tobacco Users in India was 27.49 crore, with 16.37 crore users of only Smokeless Tobacco, 6.89 crore only Smoke and 4.23 crore users of both Smoking and Smokeless Tobacco. The prevalence of overall Tobacco use among males was 48% and among females 20%, while the use of Smokeless Tobacco products among males (33%) was higher than among females (18%). 20.3% of adult women are using Tobacco Products and more than 90% of such women consume Smokeless Tobacco Products (a large number of these users are in the reproductive age group, thus exposing the new-born babies to risk). The quit ratio for the use of Smokeless Tobacco use was 5%. Many studies have also reported on the prevalence of Smokeless Tobacco Products amongst children and youths of the country. As per Global Youth Tobacco Survey, 2009, 9% of students in the age group of 13-15 years use Smokeless Tobacco products with figures of 11% among boys and 6% among girls.
- (v) The use of Tobacco is a prominent risk factor for 6 to 8 leading causes of death and almost 40% of the Non Communicable Diseases (NCD) including cancers, cardiovascular diseases and lung disorders are directly attributable to tobacco use. The number of deaths every year in India which is attributable to tobacco use is almost 8-9 lakhs (Tobacco Control In India Report, 2004) and 50% of cancers in males and 20% cancers in females can be directly attributed to tobacco use (ICMR Study). If the current trends continue and if effective steps are not taken to control Tobacco Consumption, it is estimated that by the year 2020, tobacco use will account for 13% of all deaths in India every year. Further, according to the WHO Global Report on "Tobacco

Attributable Mortality" 2012, seven percent of all deaths (for ages 30 and over) in India are attributable to Tobacco Use.

- (vi) *Besides being a major health risk, the use of Tobacco and the associated mortality and morbidity are a significant economic burden on the society. As per the findings of the study titled "Economic Burden of Tobacco Related Diseases in India" (2014) commissioned by Ministry of Health & Family welfare, the total Economic Costs attributable to Tobacco Use from all diseases in the country in the year 2011 for persons aged 35-69 years amounted to Rs.1,04,500 crore. This estimated cost was 1.16 % of the GDP and was 12% more than the combined State and Central Government expenditures on Health in 2011-12.*
- (vii) *The Expert Committee on use of Chewing Tobacco in pan masala and gutkha and its effect on public health in its 4th meeting on 23.09.1997, recommended, the prohibition on use of Chewing Tobacco in pan masala/gutkha or as an ingredient in any food item or as such, as consumption of these articles is injurious to Public Health. Further, the Central Committee of Food Standards in its meetings held on 26th and 27th of November 1997, after deliberating on the recommendations of Expert Group, unanimously opined to ban the use of Chewing Tobacco in pan masala/gutkha or as an ingredient in any Food Item or as such.*
- (viii) *The Food Safety and Standards Act, 2006 (hereinafter as the FSS Act, 2006), is enacted with the objective to consolidate the laws relating to food and for laying down standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.*
- (ix) *The word "Food" is defined under Section 3(j) of the FSS Act, 2006, as any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause 3(zk), genetically modified or engineered food or food containing such ingredients. Food includes infant food, packaged drinking water, alcoholic drinks, chewing gum and any other substance including water used in the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic psychotropic substances.*

- (x) The definition of food under section 3(j) of the FSS Act, 2006 is very wide and includes any substance, whether processed, partially processed or unprocessed, which is intended for human consumption, therefore Smokeless Tobacco Products such as gutkha, zarda, khaini (processed) and any other similar processed/flavoured Chewing Tobacco products are all Food Products within the definition of the word 'Food' under the FSS Act, 2006.
- (xi) The Hon'ble Supreme Court of India in the matter of State of Tamil Nadu vs. R. Krishnamurthy, (1980) 1 SCC 167, held, that all that is required to classify a product as Food is that it be commonly used for human consumption or in preparing human food.
- (xii) The Hon'ble Supreme Court in the Godawat Pan Masala Product I.P. Ltd., vs. Union of India (2004) 7 SCC 68, held gutkha, pan masala and supari as food articles. The Hon'ble Allahabad High Court in Manohar Lal vs. State of U.P., Criminal Revision No. 318 of 1982 and in Khedan Lal and Sons vs. State of U.P and Ors., 1980 CriLJ 1346, relying upon the judgement of State of Tamil Nadu vs. R. Krishnamurthy, (1980) 1 SCC 167, held "Chewing Tobacco" as an article of food.
- (xiii) The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011 was notified on 1 August, 2011, in exercise of the powers conferred under Section 92 read with Section 26 of the Food Safety and Standards Act, 2006. Clause 2.3.4 of the said Regulation expressly prohibits the use of tobacco and nicotine in all food products and reads as: "Product not to contain any substance which may be injurious to health: Tobacco and nicotine shall not be used as ingredients in any food products".
- (xiv) The FSS Act, 2006 defines the word 'Ingredient' and 'Food Additive' as:-
 - (a) 'Ingredient' means any substance including a food additive used in the manufacture or preparation of food and present in the final product.
 - (b) 'Food Additive' means any substance not normally consumed as a food by itself or used as a typical ingredient of the food, whether or not it has nutritive value. Hence, Clause 2.3.4 of the said Regulations 2011 extends to all food products where tobacco is present as ingredient in the final product, such as gutkha (tobacco mix with areca-nut and other flavouring agents) or zarda or chewing tobacco (where flavoring agents are added to tobacco to make it edible).

- (xv) The Ministry of Health & Family Welfare issued letter dated 25.04.2012 to the State Governments of Bihar, Kerala, Maharashtra, Rajasthan, Karnataka and letter dated 08.05.2012 to the State Governments of Uttar Pradesh, Assam, Andhra Pradesh, Jharkhand and also letter dated 27.08.2012, to the Chief Secretaries of all States/UTs to consider passing necessary orders for prohibiting the sale of Gutkha and Pan Masala (containing tobacco or nicotine), in view of the Food Safety and Standards Regulation 2.3.4 and the observations in Godawat Pan Masala case that 'Gutkha' is a food product. Subsequently, the State Governments/UTs of Madhya Pradesh, Kerala, Bihar, Himachal Pradesh, Rajasthan, Maharashtra, Chandigarh, Chattisgarh, Jharkhand, Haryana, Mizoram, Punjab, Delhi, Gujarat, Sikkim, Uttar Pradesh, Nagaland, Andaman & Nicobar, Arunachal Pradesh, Daman & Diu, Dadar and Nagar Haveli, Uttarakhand, Odisha, Andhra Pradesh, Manipur, Jammu & Kashmir and Assam, passed necessary orders for prohibiting the manufacture/sale of pan masala (containing tobacco and/or nicotine).
- (xvi) The Ministry of Health & Family Welfare vide letter dated 21.11.2012, requested the Chief Secretaries of all States/UTs to consider passing necessary orders for prohibiting the sale of zarda and other chewing tobacco at the State level in view of the Food Safety and Standards Regulation 2.3.4, judgement of the Hon'ble Allahabad High Court and State Government of Mizoram's ban order. The State Governments/UTs of Mizoram, Manipur, Maharashtra, Himachal Pradesh, Jammu & Kashmir, Andhra Pradesh, West Bengal, Dadar and Nagar Haveli, Bihar, Delhi, Himachal Pradesh and Haryana have issued necessary orders banning chewing tobacco zarda, khaini and other flavoured and processed chewing tobacco under Regulation 2.3.4 and/or Section 30 of the FSS, Act 2006. It is pertinent to mention that State Governments of Goa and Assam have included a ban on chewing tobacco products in their respective State legislations.
- (xvii) In the matter of Ankur Gutkha vs. Indian Asthma Societies and Ors (SLP No. 16308/2007) & Central Areca-nut Marketing Corporation & Ors Vs. UOI & Ors, TC No. 1/2010, the Ministry of Health & Family Welfare filed a written submission, categorically stating that gutkha, pan masala (with tobacco & nicotine), flavoured/scented chewing tobacco come within the definition of 'Food' and by virtue of regulation 2.3.4 are prohibited food products. The written submissions further stated that, to circumvent the ban on the sale of gutkha, and pan masala (with tobacco and nicotine), the manufacturers are selling gutkha in twin packs to be mixed as one instead of the earlier 'ready to consume' mixes.

- (xviii) *The Hon'ble Supreme Court after perusing the Ministry of Health & Family Welfare written submissions, vide its order dated 23 September 2016, directed the Statutory Authorities concerned to comply with the mandate of law and further directed the Secretaries, Health Department of all the States and Union Territories to file their affidavits before the next date of hearing on the issue of total compliance of the ban imposed on manufacturing and sale of Gutkha and Pan Masala with tobacco and/or nicotine in terms of Regulation 2.3.4.*
- (xix) *The stand of the Ministry of Health & Family Welfare and Food Safety & Standards Authority of India, before the Courts or otherwise has been consistent that gutkha, pan masala (with tobacco and nicotine) and flavoured chewing tobacco come within the definition of 'Food' and their use in pan masala/gutkha or as an ingredient in any food item or as such, is prohibited under the Food Safety & Standards Act, 2006 and Regulations framed thereunder.*

Considering the consistent stand of the Ministry of Health & Family Welfare on the issue and especially considering that the matter is sub-judice before various High Courts and the Supreme Court of India, the request of the Petitioner to align/adopt the definition of 'Food' under the Food Safety and Standards Act, 2006 in line with the definition of 'Food' as per International Food Standards adopted by the Codex Alimentarius Commission, cannot be agreed to, since it will have serious legal implications in the pending Court cases."

B. Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare)

2.2 The Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) vide their communication dated 3.7.2017 furnished the following comments:-

- "(i) *Tobacco area in India is 4.67 lakh hectares. The major tobacco area, nearly 50%, of total crop size is under Flue Cured Virginia (FCV) tobacco which is mainly grown in Andhra Pradesh, Karnataka and Gujarat States. Tobacco crop is mandated to Tobacco Board, Ministry of Commerce & Industry for promotion and its regulation. Tobacco use for cigarette, beedi, gutkha, khaini, etc., are not connected and monitored by the Department of Agriculture, Cooperation & Farmers' Welfare. The Department of Agriculture, Cooperation & Farmers' Welfare primarily focus on the welfare of farmers. The*

issues concerning the engagement of labourers, beedi workers, tendu leaf pluckers, traders, retailers do not come under the purview of this Department. Therefore, issues of tobacco, mentha and kevda labourers can appropriately be dealt by the Ministry of Labour & Employment. Similarly, This Department does not deal with the issues of aromatic plants products and derivatives of Mentha, Kevda and its Industry. The aromatic plants including Mentha and Kewda and its products are promoted by the Ministry of Micro, Small & Medium Enterprises through Fragrance & Flavour Development Centre (FFDC), Kannauj. However, the States can support farmers for aromatic plants cultivation under the Mission on Integrated Development of Horticulture (MIDH).

- (ii) *In so far as the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) is concerned, it is informed that the Directorate of Tobacco Development, Chennai of the Department has also been closed from 31.5.2014. This Ministry is supplementing the efforts of State Governments to shift the tobacco growers to other alternative crops/ cropping system under the Crop Diversification Programme (CDP), a sub scheme of Rashtriya Krishi Vikas Yojana. The Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) is primarily concerned with Agriculture and Horticulture Crops and Farmers' Welfare. The Scheme is being implemented in 2017-18 to encourage farmers to grow alternative crops/cropping systems in 10 tobacco growing States."*

C. Ministry of Commerce & Industry (Department of Commerce)

2.3 The Ministry of Commerce & Industry (Department of Commerce) vide their communication dated 9.7.2018 furnished the following comments:-

"About 15 States in the country grow tobacco. Flue Cured Virginia (FCV), Beedi, Hookah, Chewing, Cigar-Wrapper, Cheroot, Burley, Oriental, HDBRG, Sun Cured Country, Dark Western Fire Cured, Lanka, Pikka, Motihari, Jati, etc., are the different types of tobacco grown in the country.

Of the 11 varieties grown in India, only FCV tobacco (Flue Cured Virginia/Cigarette Tobacco) is under the purview of Tobacco Board. FCV tobacco cultivation is regulated by Tobacco Board as per the mandate given by the Tobacco Board Act, 1975.

This means that out of total 800 million kilograms (approximately) production of tobacco in India, only 250-300 million kilograms (31-37%) is under the administrative control of Department of Commerce. As there is no institutional mechanism at present to oversee the regulation of Non-FCV tobacco, the Department of Commerce has no reliable data on the economic significance of trade in terms of generation of employment, boost to consumption of other products from earnings of tobacco trade."*

** As per the Agriculture Glance 2016 published by the Directorate of Economics and Statistics of the Ministry of Agriculture & Farmers' Welfare.*

CHAPTER - III

Replies of various Ministries of Government of India on the List of Points formulated by the Committee on Petitions on the Representation of Shri Sanjay Bechan.

A. Definition of 'Food' as per various Acts/Rules, Regulations vis-a-vis the status of Tobacco

(i) Definition of 'Food' as per the FSS Act, 2006

3.1 On being asked by the Committee to furnish the details of Section 3(j) of the Food Safety & Standard Act, 2006, wherein, it has been explicitly provided that smokeless tobacco products such as gutkha, zarda, khaini (processed) and other similar processed/flavoured chewing tobacco products are all food products within the definition of the word 'Food' under Act ibid, the Ministry of Health & Family Welfare, in a written reply, submitted:-

"The word "food" is defined under Section 3(j) of the FSS Act, 2006, as any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause 3(zk), genetically modified or engineered food or food containing such ingredients. Food includes infant food, packaged drinking water, alcoholic drinks, chewing gum and any other substance including water used in the food during its manufacture, preparation, or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic psychotropic substances.

Though there is no explicit mention of tobacco products including smokeless Tobacco products in the definition of food, the definition of food under section 3(j) of the FSS Act, 2006 is very wide and includes products such as gutkha, zarda, khaini (processed) and any other similar processed/flavoured chewing tobacco products.

In this regard it is relevant to mention the following:-

- *The word food was defined under the Prevention of Food Adulteration Act, 1954 as any article used as food or drink for human consumption other than drugs and water and includes any article which ordinarily enters into, or is used in the composition or preparation of, human food.*

- *The Hon'ble Supreme Court of India in the matter of State of Tamil Nadu vs. R. Krishnamurthy, (1980) 1 SCC 167, while interpreting the above definition, held, that all that is required to classify a product as food is that it be commonly used for human consumption or in preparing human food.*
- *The Hon'ble Allahabad High Court in Manohar Lal vs. State of U.P., Criminal Revision No. 318 of 1982 and in Khedan Lal and Sons vs. State of U.P. and Ors., 1980 CriLJ 1346, relying upon the judgment of State of Tamil Nadu vs. R. Krishnamurthy, (1980) 1 SCC 167, held "Chewing Tobacco" as an article of food.*
- *The Hon'ble Supreme Court in the Godawat Pan Masala Products I.P. Ltd. vs. Union of India (2004) 7 SCC 68, held gutkha, pan masala and supari as food articles."*

3.2 The Committee, thereafter, desired to know the details of various stages of contemplations within the Ministries/Departments of the Government of India on the basis of which, on the one hand, packaged drinking water, alcoholic drinks, etc., were included within the definition of 'Food' in the FSS Act of 2006 and on the other hand, instead of including the 'tobacco products' within its ambit, only 'smokeless tobacco products' had been included. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"There is no explicit mention of tobacco products including smokeless Tobacco products in the definition of food. However the definition of food under section 3(j) of the FSS Act, 2006 is very wide and includes products such as gutkha, zarda, khaini (processed) and any other similar processed/flavoured chewing tobacco products.

Smoking Tobacco Products are smoked and therefore not covered under the definition of "Food" provided under Section 3(j) of the Food Safety and Standard Act, 2006."

The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 discourages tobacco use in general in the public interest and regulates the tobacco products to protect the public health. The Act under its preamble, further considers it expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by Article 47 of the Constitution."

(ii) Definition of 'Food' as per Prevention of Food Adulteration Act, 1954

3.3 On being categorically asked by the Committee as to whether the smokeless tobacco products such as gutkha, zarda, khaini (processed) and other similar processed/flavoured chewing tobacco products were included as food products within the definition of the word 'Food' under the Prevention of Food Adulteration Act, 1954, the Ministry of Health & Family Welfare, in a written reply, submitted:-

"In the definition of food under the PFA Act, 1954 there was no explicit mention of tobacco products including smokeless tobacco products.

As per the Prevention of Food Adulteration Act, 1954: Section 7(v) "Food" means any article used as food or drink for human consumption other than drugs and water and includes, any article, which ordinarily enters into, or is used in the composition or preparation of, human food and any flavoring matter or condiments.

Under the PFA Act Chewing Tobacco (zarda, gutkha etc.,) was manufactured and sold as proprietary food. Further as per Rule 42(ZZZ) of PFA Rules, 1955, every package of chewing tobacco had to bear the following label, namely "Chewing of Tobacco is Injurious to Health".

(iii) 'Codex India' and the definition of 'Food' under Codex Alimentarius

3.4 The Committee, thereafter, desired to know about the details of Codex India and asked the Ministry as to whether it is a fact that 'Codex India', the National Codex Point (NCCP) for India, is located at the Directorate General of Health Services, Ministry of Health & Family Welfare to coordinate and promote Codex activities in India in association with the National Codex Committee to facilitate India's input to the work of Codex through an established consultation process. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The National Codex Contact Point (NCCP) of India was earlier located at the Ministry of Health & Family Welfare, New Delhi. However with the establishment of Food Safety and Standards Authority of India (FSSAI) at FDA Bhawan, New Delhi, the National Codex Contact Point of India (NCCP) is now located at FSSAI, FDA Bhawan, New Delhi.

FSSAI has established the National Codex Committee (NCC) and for each Codex Committee, a parallel Shadow Committee has been formulated that works for that particular Codex Committee. The various stakeholders for each Committee are the

representatives from different Ministries like the Ministry of Health & Family Welfare, the Ministry of Commerce, the Ministry of Women and Child Development, the Ministry of Agriculture & Farmers' Welfare, the Ministry of Food Processing Industries and the Department of Animal Husbandry and Dairying and Fisheries, representatives from educational institutions, representatives from Industry Associations like Confederation of Indian Industry and FICCI and experts/scientists from the areas concerned. The Shadow Committees provide a Forum for discussions and for the formulation of the national position(s) and of responses to codex proposals or policy.

Guidelines for finalising India's position in the Codex Committees have been laid down by the NCCP. There are ten General Subject Committees which carry out the work that has relevance for all Commodity Committees, seven Active Commodity Committees which develop standards for specific foods or classes of food and six regional Coordinating Committees, including one for Asia (CCASIA)".

3.5 On this issue, the Committee further desired the Ministry to give the definition of 'Food' under Codex Alimentarius and in this regard, the Committee also asked the Ministry as to how far the definition of 'Food' as per section 3(j) of the FSS Act. 2006 is different from that of Codex Alimentarius. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"As per Codex Alimentarius: Food means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.

The definition of "food" in Codex differs from that of FSS Act, 2006 in respect of specific exclusion of tobacco from food."

3.6 On being specifically asked by the Committee to furnish the comments of the Ministry about the compelling reasons on the basis of which the definition of 'Food' in Codex now differs from that of FSS Act, 2006 in respect of specific exclusion of 'Tobacco' from 'Food', the Ministry of Health & Family Welfare, in a written reply, submitted:-

The smokeless tobacco consumption is a phenomenon of South Asia and more particularly of India. Smoking is, however prevalent in other countries. In India also, smoking is not part of food. Considering the peculiarities specific to India, the Rules

and Regulations are framed. Therefore, in some cases, our position may differ with that of Codex."

3.7 In this connection, the Committee specifically desired to know from the Ministry as to whether it is a fact that the definition of 'Food' in the Prevention of Food Adulteration Act, 1954 was similar to that of Codex Alimentarius. The Committee further desired to know from the Ministry about the deliberations held on the basis of which smokeless tobacco products such as gutkha, zarda, khaini (processed) and other similar processed/flavoured chewing tobacco products were included in the definition of the word 'Food' under the FSS Act, 2006. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"There is no similarity in the definition of 'Food' under the Prevention of Food Adulteration Act, 1954 and that of Codex Alimentarius."

(iv) Amendment proposals to include 'Tobacco' as 'Food'

3.8 The Committee, thereafter, desired to know from the Ministry as to whether the Government propose to make amendment in the definition of 'Food' under the FSA, 2006 by way of including all tobacco products in place of smokeless tobacco, with a view to containing the health risk due to the use of tobacco and reduce the significant economic burden of tobacco related diseases in the country. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"No such proposal has been initiated at this stage. Further, the Food Safety & Standards Act, 2006 has defined the word "food" very comprehensively.

The interpretation given to the word "food" by the Hon'ble Supreme Court and Allahabad High Court, already considers certain smokeless tobacco products as food."

3.9 The Committee when asked the Ministry of Health & Family Welfare to furnish the definition(s) of 'Food' provided under Section 3(j) of the FSS Act, 2006 prior to and after laying down the provisions to the effect that "Tobacco or Nicotine cannot be used as ingredients in Food Products". The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The FSS Act, 2006 defines Food under Section 3(j) which reads that "food means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (zk), genetically modified or engineered food or food containing such

ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants, prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances.

The definition of 'food' under FSS Act, 2006 remains unchanged since the enactment of the Act in 2006."

3.10 The Committee further asked the Ministry of Health & Family Welfare to furnish the details of deliberations that took place in the Ministry on the basis of which it was decided that "*Smoking Tobacco Products are smoked and therefore not covered under the definition of 'Food' provided under Section 3(j) of the Food Safety and Standard Act, 2006 and not within the purview of the Food Safety and Standards Authority of India*" and also asked to indicate at what level the issue, in question, was deliberated upon and which Authority participated therein. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The findings/recommendations of the Expert Committee were given in the year 1997, i.e., before the enactment of the FSS Act, 2006 and was based on the scientific evidence on the impact of use of certain, smokeless tobacco products like pan masala, gutkha, etc,. However, it is relevant to mention that the definition of food under the Prevention of Food Adulteration Act, 1954 as any article used as food or drink for human consumption and which includes any article which ordinarily enters into, or is used in the composition or preparation of, human food, is to that extent pari-materia with the definition of food under the FSS Act, 2006 that reads as any substance, whether processed, partially processed or unprocessed, which is intended for human consumption.

The said Committee considered the prohibition on the use of tobacco in tooth-pastes/tooth-powders under the Drugs and Cosmetics Act, 1940 (Notification GSR 443(E), dated 30 April, 1992) and deliberated on the use of tobacco in food articles and the impact of use of certain food articles having tobacco like pan masala (with tobacco), gutkha, etc. The said Committee, after considering the scientific evidence available, recommended the prohibition on consumption of pan masala, gutkha and chewing tobacco as an ingredient in any food items as they are injurious to health.

While upholding the validity of the Government of India Notification for banning the addition of tobacco in toothpastes and tooth powders, the Hon'ble High Court of Rajasthan directed the Central Government to appoint a Committee of Experts on

the use of tobacco in pan masala and gutkha, etc., and its effect on public health, and to prohibit the manufacture of these products in case the Committee recommends that such things are injurious to health and accordingly, an Expert Committee was constituted on 17.08.1994.

It is evident that the scope of the said Order of the Hon'ble High Court of Rajasthan was limited to use of tobacco in pan masala, gutkha, etc. Further, it may be noted that Smoking Tobacco Products are smoked and therefore not covered under the definition of 'Food' provided under Section 3(j) of the Food Safety and Standard Act, 2006.

The minutes of meeting of the Expert Committee on Use of Tobacco in Pan Masala and Gutkha held on 23.09.1997 is enclosed (Annexure-II). The minutes of the meeting has stated that "On the basis of literatures/studies available so far on the adverse effects of consumption of pan masala containing tobacco/gutkha/chewing tobacco, the Experts strongly recommended that use of chewing tobacco in pan masala/gutkha or as an ingredient in any food item or as such, should be prohibited as consumption of these articles is definitely injurious to public health."

3.11 The Committee then desired to know as to whether the Ministry of Health & Family Welfare is agreeable to appropriately amend the relevant provisions of the Food Safety and Standard Act, 2006, Regulations, etc., to bring all forms of Tobacco Products within the purview of the definition of 'Food' in view of the fact that 'Tobacco' and 'Nicotine' are used as ingredients in both 'Smoking Tobacco Products' and 'Non-smoking Tobacco Products'. In this connection, the Committee also desired to know about the time-bound modalities to be adopted by the Government to effectively control the ill effects of use of Tobacco in the country having a mammoth economic cost amounted to Rs.1,04,500 crore which comes around as near as 1.16% of the GDP in the year 2011. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"As per the existing Laws and Rules under the Food Safety and Standards Act, 2006, the ban operates on the use of tobacco and nicotine as an ingredient in any food articles.

Smoking tobacco cannot be brought under the definition of 'food' as anything which is eaten through mouth or chewed can only be 'food' as per definition at Section 3(j) of the FSS Act, 2006, except, of course, a few items are specifically excluded. The Ministry of Health & Family Welfare are, however, open to suggestions/directions from the Committee in the interest of public health."

B. Court Cases and various Judgements pronounced

3.12 On the judgment of Hon'ble Supreme Court in the case of Ghodawat Pan Masala Products I.P. Ltd., wherein gutkha, pan masala and supari was held as food articles in view of the fact that under the FSS Act, 2006, chewing tobacco has been listed in the category of food items, the Committee asked the Ministry to furnish their comments in the matter. In reply thereto, the Ministry of Health & Family Welfare submitted:-

The Hon'ble Supreme Court of India in the matter of State of Tamil Nadu vs. R. Krishnamurthy, (1980) 1 SCC 167, while interpreting the definition under the PFA Act, 1954, held that all that is required to classify a product as food is that it be commonly used for human consumption or in preparing human food.

The Hon'ble Allahabad High Court in Manohar Lal vs. the State of U.P., Criminal Revision No. 318 of 1982 and in Khedan Lal and Sons vs. the State of U.P. and Ors., 1980 CriLJ 1346, relying upon the judgment of State of Tamil Nadu vs. R. Krishnamurthy, (1980)1 SCC 167, held 'chewing tobacco' as an article of food.

The Hon'ble Supreme Court in the Godawat Pan Masala Products I.P. Ltd. vs. Union of India (2004) 7 SCC 68, held gutkha, pan masala and supari as food articles.

The Hon'ble Supreme Court in the judgment of Ghodawat Pan Masala Products I.P. Ltd., has held gutkha, pan masala and supari as food articles based on the definition of "food" under the PFA Act in the year 2004.

The FSS Act was enacted in the year 2006 and under the new Act, the definition of food is much wider. The FSS Act also defines 'unsafe food' to include food(s) that are injurious to health and inter-alia prohibits its manufacture and sale.

The Ministry of Health & Family Welfare has been working in accordance with the Acts passed by the Parliament and the Rules/Regulations made thereunder and the Judicial Interpretations and directions issued by the several High Courts and Hon'ble Supreme Court.

3.13 In connection with the comprehensive examination of the instant Representation of Shri Sanjay Bechan, the Committee on Petitions thereafter took oral evidence of the representatives of the Ministry of Health & Family Welfare, the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) and the Ministry of Labour & Employment.

3.14 On the issue, during the sitting of the Committee on Petitions held on 11 October, 2017, the representatives of the Ministry of Health & Family Welfare deposed before the Committee as follows:-

"Before the enactment of the Food Safety and Standards Act, 2006, the Government of India in the year 1992, banned the use of tobacco in tooth-pastes/tooth-powders under the Drugs and Cosmetics Act, 1940. The Supreme Court upheld the ban and held it justified in public interest covered by Article 19(6) of the Constitution, though it offends the right to carry on trade guaranteed under Article 19(1) ibid. Subsequently, as directed by the High Court of Rajasthan, the Central Government constituted an Expert Committee on the use of Tobacco in Pan Masala, Gutkha, etc., its effect on public health and to prohibit the manufacture of these products, if required."

C. Tobacco cultivation in the country

3.15 As per the information furnished by the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), tobacco is one of the important commercial crops being cultivated all over the world and the major tobacco growing countries are China, Brazil, Indonesia, USA, Tanzania, Turkey, Malawi and Zimbabwe. In this regard, on being specifically asked by the Committee to furnish the details of major tobacco producing countries in the world in terms of their area of production, volume of production and yield, the Ministry, in their written reply, submitted:-

As per the Food & Agriculture Organization (FAO) statistics, area and production of tobacco in major tobacco growing countries from 2012 to 2014 are as under:-

Country	Area			Production			Yield		
	2012	2013	2014	2012	2013	2014	2012	2013	2014
China	15.97	16.23	14.63	34.07	33.74	29.95	2134	2079	2047
Brazil	4.10	4.05	4.16	8.11	8.51	8.62	1976	2099	2074
Indonesia	2.70	2.70	2.09	2.61	2.60	1.96	965	963	937
USA	1.36	1.44	1.53	3.36	3.28	3.98	2471	2280	2596
Tanzania	1.56	1.07	0.87	1.20	0.86	0.76	772	808	874
Turkey	1.08	1.33	0.99	0.73	0.93	0.75	681	700	753
Malawi	0.71	1.20	1.23	0.73	1.33	1.26	1018	1106	1026
Zimbabwe	0.58	0.74	0.79	0.86	0.73	0.77	1495	980	962
Total	41.44	42.06	39.63	75.41	75.48	71.77	1820	1794	1810

3.16 The Committee, thereafter, desired to know the details of tobacco growing States in the country. The Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in a written reply, submitted:-

"Tobacco is grown mainly in the states of Andhra Pradesh, Bihar, Gujarat, Karnataka, Maharashtra, Odisha, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal. The Different types of tobacco is grown in different States of India. The State wise pattern of tobacco cultivation is as under:-

S.No	Types of Tobacco	States
1.	Flue Cured Virginia (FCV Tobacco)	Andhra Pradesh and Karnataka
2.	Beedi Tobacco	Gujarat and Karnataka
3.	Cigar & Cheroot	Tamil Nadu & West Bengal
4.	Hookah Tobacco	Assam, West Bengal, Bihar and Uttar Pradesh
5.	Chewing & Snuff	Tamil Nadu, West Bengal, Bihar, Assam and Uttar Pradesh
6.	Natu, Burley, Lanka & Harvel De Bouxo Rio Grande (HDBRG)	Andhra Pradesh
7.	Pikka Tobacco	Odisha

Tobacco is mainly consumed for smoking, chewing or inhaling as snuff. In North India, and Persia, water-pipe or 'Hookah' is also used for smoking. At the present times, a major quantity of tobacco is consumed for making cigarettes."

3.17 In this regard, the Committee specifically asked the Ministry to furnish the State-wise details in terms of area of production, volume of production and yield of tobacco, in the country during last three years. The Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in a written reply, submitted:-

"The Area, Production & Yield of Tobacco in the country during 2013-14 to 2015-16 is as under:-

States	[Area ('000 ha), Production ('000 tonnes), Yield (Kg/ha)]								
	2013-14	2014-15	2015-16*	2013-14	2014-15	2015-16*	2013-14	2014-15	2015-16*
Andhra Pradesh	143.00	139.00	98.00	276.00	357.00	222.00	1930	2568	2265
Gujarat	137.00	166.00	198.00	240.00	236.00	326.00	1752	1422	1646
Karnataka	109.00	94.00	84.00	90.00	67.00	49.00	826	713	583
Uttar Pradesh	26.00	31.00	31.64	57.20	132.00	138.64	2200	4258	4382
West Bengal	12.57	12.00	15.07	22.29	16.50	25.34	1773	1375	1681
Bihar	12.11	10.59	9.10	23.01	18.67	15.81	1900	1762	1736
Telangana	7.00	6.00	6.00	16.00	16.00	15.00	2286	2667	2500

Tamil Nadu	3.73	5.49	3.35	5.69	8.38	5.11	1525	1526	1525
Odisha	1.69	1.59	1.60	1.01	0.95	0.95	598	597	594
Maharashtra	2.00	1.00	2.00	2.00	2.00	3.00	1000	2000	1500
Others	1.76	0.86	1.93	1.82	0.93	1.86	-	-	-
All India	455.86	467.53	450.69	735.02	855.43	802.71	1612	1830	1781

3.18 The Committee, thereafter also desired to know the details of cultivation of aromatic plants, viz., Kevda and Mentha in the country. The Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in a written reply, submitted:-

"The Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) does not monitor and maintain statistics of Kevda and Mentha area and production. Aromatic plants and its products are mainly promoted by the Ministry of Micro, Small and Medium Enterprises (MSME) involving the Fragrance and Flavour Development Centre (FFDC), Kannauj.

The available information suggests that mint is cultivated in an area of 3.00 lakh hectares with a production of 32,000 metric tons of mint oil. Commercial cultivation of natural mint is mainly confined to Uttar Pradesh and it contributes more than 90% of the production in the country. Kevda is commercially cultivated in an area of around 11987 acres and 90% of it is in Ganjam District of Odisha. Production of Kevda is around 360 lakh spikes annually.

The State Government can, however encourage farmers for holistic growth of the horticulture sector covering fruits, vegetables, root and tuber crops, mushroom, spices, flowers, aromatic plants, coconut, cashew, cocoa and bamboo under the Mission for Integrated Development of Horticulture (MIDH), a Centrally Sponsored Scheme of Department of Agriculture, Cooperation & Farmers' Welfare."

3.19 On being specifically enquired by the Committee as to whether the raw tobacco produced in the country is being used to manufacture 'smoking' (cigarettes, beedis, etc.) and 'smokeless' (gutkha, khaini, etc.) tobacco products and also about their percentage used out of total yield sold by the farmers, the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in a written reply, submitted:-

"The Flue Cured Virginia (FCV) tobacco is mainly used for cigarette and grown in Andhra Pradesh and Karnataka which contributes nearly 40-50% of total area and production. Tobacco crop and its use for cigarette, beedi, gutkha, khaini, etc.,

tobacco/beedi are not under the purview of Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare).

Ministry of Commerce and Industry through the Tobacco Board deals with the overall development of tobacco growers and the Indian Tobacco Industry as per provisions of Tobacco Board Act, 1975."

3.20 The Committee, thereafter, desired to know from the Ministry of Commerce & Industry (Department of Commerce) about the regulatory mechanism in relation to the tobacco production in the country. The Ministry, in their written reply, submitted:-

"There is no Institutional Mechanism, at present, to oversee the regulation of Non-FCV tobacco. Non-FCV tobacco production is monitored by the respective State Government. Non-FCV tobacco include, Beedi tobacco, Lalchopadia, Judy, Rustica, Hukkah Oriental, Burly, etc. The latest statistics on the area, production and productivity of Non-FCV tobacco, variety/type-wise and State-wise are not available. However, the total production of tobacco by FCV tobacco farmers during the year 2015-16 to 2017-18 in respect of Andhra Pradesh and Karnataka are as follows:-

(Quantity in million kg)			
Crop season	Andhra Pradesh	Karnataka	Total
2015-16	118.24	71.95	190.19
2016-17	105.35	98.72	204.07
2017-18	127.37*	106.89	234.26

* Estimated Production.

3.21 On this issue, during the sitting of the Committee on Petitions held on 24 July, 2017, the representatives of the Ministries of Health & Family Welfare and Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) deposed before the Committee as follows:-

"60 lakh farmers are involved in tobacco farming in the country. However, the number of people involved in tobacco farming, marketing and other allied activities runs in crore.

Production and yield of tobacco in the country during the period from 2012 to 2014 have increased in the country."

D. Tobacco Economy/Status of Tobacco, Kevda and Mentha Farmers and Labourers involved in Tobacco Industry

3.22 On being asked by the Committee about the details regarding estimated number of farmers and workers directly/indirectly engaged in the tobacco farming and the tobacco industry in the country (Farmers, Farm Labourers, Beedi Workers, Tendu Leaf Pluckers, Traders/Retailers, etc.), the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in a written reply, submitted:-

"The Department of Agriculture, Cooperation & Farmers' Welfare has not conducted any survey on the manpower engaged in tobacco farming and the tobacco industry. The Department of Agriculture, Cooperation & Farmers' Welfare does not deal with matters of labourers, beedi workers, tendu leaf pluckers, traders, retailers who are engaged, directly/indirectly, in the tobacco farming and the tobacco industry in the country. However, as per the Annual Report of Tobacco Board for 2015-16, it provides employment to 38 million people directly and indirectly. The Central Tobacco Research Institute (CTRI), Indian Council of Agricultural Research (ICAR) information indicates that there are 6 million tobacco farmers in the country who are mostly small and marginal farmers."

3.23 The Committee, thereafter, asked to furnish the details regarding estimated number of farmers and workers/labourers who are directly/indirectly engaged in the farming of aromatic plants, viz., Kevda and Mentha in the country. The Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in a written reply, submitted:-

"No such data is available. The Department of Agriculture, Cooperation & Farmers' Welfare does not deal with matter of workers/labourers directly/indirectly engaged in farming of aromatic plants, viz., Kevda and Mentha in the country."

3.24 On being specifically enquired as to whether the fact that tobacco is grown in semi-arid and non-irrigated lands where no other remunerative cultivation is possible as brought out by the Directorate of Economics and Statistics, the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in a written reply, submitted:-

"Unique feature of tobacco production in India is that varied styles of Flue-Cured Virginia (FCV) and different types of non-FCV tobacco are produced under diverse agro-ecological situations spread all over the country. Tobacco is grown mainly in the States of Andhra Pradesh, Gujarat, Karnataka, Uttar Pradesh, West Bengal,

Bihar, Telangana, Tamil Nadu, Odisha and Maharashtra. The cultivation of tobacco is not confined to only semi-arid and non-irrigated lands. Many others crops are also cultivated in tobacco growing areas/States/Regions. The fluctuation in the area coverage indicates the diversion of some area from tobacco to alternate crops and vice-versa. Thus, the agro climatic conditions of the tobacco growing areas are suitable for others crops as well. In areas where tobacco crop is being grown, other crops are also being sown.

The tobacco crop, by nature, is suitable for semi-arid, dry land rainfed conditions and can be grown in shallow soils with low fertility. The research work carried out by the Central Tobacco Research Institute (CTR), Indian Council of Agricultural Research (ICAR) revealed that no single crop is as remunerative as tobacco. However, a remunerative cropping system rather than a sole crop can be a viable alternative to sole tobacco crop. Alternative crops/cropping systems like maize, rice, wheat, ragi, cotton, soybean, mustard, castor, groundnut, black gram, chilly, chickpea, potato, ginger, sugarcane, jute, areca nut, banana, oil palm, eucalyptus along with dairy/poultry/fishery have been identified for the benefit of farmers and farm workers in tobacco growing areas in India.

CTR has identified crops/cropping system for various tobacco growing States, as under:-

Tobacco Type	State	Crops/ Cropping Systems Identified
Chewing Tobacco	Tamil Nadu	Annual Moringa + Chilli Annual Moringa + Onion Maize-Sunflower
Chewing Tobacco	West Bengal	Potato Maize Wheat Mustard
Beedi Tobacco	Karnataka	Sugarcane Soybean-Sorghum Groundnut-Sorghum
Beedi Tobacco	Andhra Pradesh	Maize-Sunflower Maize-Blackgram Maize-Chickpea
Beedi Tobacco	Gujarat	Castor (K-R)*-Pearl millet (S)* Cotton (K-R)-Groundnut (S) Pearl millet (K)-Rajma (R)-Pearl millet (S)
Rustica Tobacco	Gujarat	Paddy (K)-Greengram (R)-Pearl millet (S) Soybean (K)-Maize(R)-Paddy (S) Pearl millet (K)-Mustard (R)-Greengram (S)

**K-Kharif, R-Rabi, S-Summer*

3.25 The Committee, thereafter, desired to know as to whether any concrete Action Plan is in place to undertake a comprehensive study to ascertain the total number of farmers and other persons involved in the farming, trading and sale of tobacco-related products who would be adversely affected after imposition of complete ban on all tobacco related products, the Ministry of Health & Family Welfare, in a written reply, submitted:-

"In order to encourage tobacco growing farmers to shift to alternate crops/cropping systems, the Department of Agriculture, Cooperation & Farmers' Welfare has extended its Crop Diversification Programme (CDP), an ongoing sub-Scheme of Rashtriya Krishi Vikas Yojna (RKVY), to 10 tobacco growing States, i.e., Andhra Pradesh, Bihar, Gujarat, Karnataka, Maharashtra, Odisha, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal w.e.f., 2015-16. Under the Scheme, assistance is being provided under four major components, viz., alternate crop demonstration, farm mechanization and value addition, site specific activities and contingency for awareness, training, implementation, monitoring, etc., through the State Department of Agriculture.

The States have reported that with the implementation of CDP, out of the total tobacco area of 4.67 lakh hectares in the country, about 29,998 hectares in 2015-16 and 51,713.1 hectares in 2016-17 have been diversified with alternative crops/cropping system.

Further, the tobacco growers are also growing other crops on the same land, therefore, alternative crops exist on the same farm and vicinity.

In order to encourage tobacco workers to shift to alternative vocations, the Ministry has collaborated with the Ministry of Labour & Employment to initiate 'Skill Development' Programme for beedi rollers to facilitate them to shift to alternative vocations which are equally remunerative. The programme has been launched on a pilot basis in the year 2017 in the 5 States, viz., Sambhalpur-Bhubaneshwar Region; Rajnandgaon-Raipur Region; 24 Pargana-Kolkata Region; Kasargod-Kannur Region; and Nizamabad-Hyderabad Region."

3.26 On being asked about the details of efforts made by the Ministry of Micro, Small & Medium Enterprises for the promotion of Aromatic Plants Industry, viz., Kewda, Mentha and its Products, the Ministry, in their written reply, submitted:-

"Ministry of Micro, Small and Medium Enterprises has setup MSME-Technology Centre 'Fragrance and Flavour Development Centre (FFDC), Kannauj' in the year 1991. FFDC aims to serve as an interface between essential oil, fragrance & flavour

industry and the R&D Institutions, both in the field of Agro-technology and Chemical Technology. The main objective of the Centre is to serve, sustain and upgrade the status of farmers and industry engaged in the aromatic cultivation and its processing so as to make them competitive, both in local and global market by:-

- a) *Assisting in adoption of agronomical practices to introduce aroma bearing plants of higher yields.*
- b) *Providing guidance on post-harvest technology, storage, packaging, sampling and marketing.*
- c) *Providing testing and quality control services for the raw materials and products.*
- d) *Providing complete application development equipped completely with all facilities for creation of fragrances and flavours.*
- e) *Establishing information and documentation services to cater to the industry needs and to bring latest developments to their notice.*

3.27 In this connection, the Committee further asked the Ministry of Micro, Small & Medium Enterprises to furnish the details of various financial incentives given by the Government in regard to making the Aromatic Plants industry, viz., Kewda and Mentha self-sustaining and profitable. The Ministry, in their written reply, submitted:-

"There is no specific scheme to incentivize the Aromatic Plant Industry."

3.28 The Committee further desired to know about the Performance Appraisal of Fragrance and Flavour Development Centre (FFDC), Kannauj in the promotion of Kewda and Mentha Industry in the country. The Ministry of Micro, Small & Medium Enterprises, in a written reply, submitted:-

"FFDC has been organizing various Awareness Programmes/Motivational Campaign/Kisan Goshthi for promotion of Mentha & Kewda industry in the country. The details of activities in this areas, for the last 10 years, is tabulated, as under:-

S.No.	Year	No. of Awareness Programmes/ Motivational Campaign/ Kisan Gosthi on Mentha & Kewda/ Training on Cultivation of Aromatic crops*	Total Participants
1.	2008-09	15	1670
2.	2009-10	21	1659
3.	2010-11	16	506

4.	2011-12	14	471
5.	2012-13	14	577
6.	2013-14	11	464
7.	2014-15	16	450
8.	2015-16	16	581
9.	2016-17	12	718
10.	2017-18	19	687
Total		154	7783

*The major mint producing area where the programmes were conducted are Barabanki, Barielly, Rampur, Sambhal, Badaun (U.P.), Nawada (Bihar), Godda (Jharkhand), Imphal (Manipur). The major Kevda producing area where the programme were conducted in Ganjam, Odisha.

FFDC is also imparting services to the Industry for analyzing the samples of Mint Oils through Multi Commodity Exchange, Mumbai since 2005 for promotion of Mint Industry/farmers in the country. The number of samples analysed for the last 10 years is as under:-

Year	Samples Analyzed
2008-2009	4781
2009-2010	3446
2010-2011	4601
2011-2012	3525
2012-2013	2460
2013-2014	3505
2014-2015	6771
2015-2016	5142
2016-2017	2583
2017-2018	2271
Total	39085

FFDC, Kannauj has set up its Extension Unit at Berhampur, Odisha, formerly named as Technology Support Centre, particularly for the promotion and development of Kevda Industry in the Region.

The details of the services rendered by FFDC Extn. Unit, Berhampur is as under:-

S.No	Year	Samples Analyzed	Training organized	Kisan Mela/Exhibition/ Seminar/ Workshop conducted/ participated	No. of Entrepreneurs/ Farmers benefitted
1.	2008-09	80	05	02	482
2.	2009-10	75	09	03	435
3.	2010-11	121	05	02	392
4.	2011-12	116	07	01	341
5.	2012-13	83	09	03	413
6.	2013-14	125	11	05	482
7.	2014-15	89	12	06	547
8.	2015-16	168	13	05	571
9.	2016-17	185	11	06	512
10.	2017-18	193	11	03	483
Total		1235	93	36	4658

3.29 The Committee, thereafter, asked the Ministry of Finance (Department of Revenue) to furnish the details of total amount of Central Tax collected on Tobacco and Kevda/Mentha products during the last three years. The Ministry, in their written reply, submitted:-

"The Central Excise duty and Customs duty collected on Tobacco and kevda/Mentha products for FY 2015-16 to 2017-18 is given below. It may be seen that from 01.07.2017, Goods and Services Tax (GST) is applicable on tobacco and kevda/Mentha products. Further, commodity wise GST revenue collection break-up data is not yet available."

Product Name	(in Rs. Crore)		
	Central Excise Duty paid in cash 2015-16	2016-17	2017-18 (Apr-Jun)
Unmanufactured tobacco: tobacco refuse	289.52	302.85	78.69
Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	17854.36	17933.90	4447.68
Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences including beedis	3084.13	3700.53	1482.60
Mint (including peppermint, spearmint oil, water mint oil, horsemint oil, etc.)	0.33	0.22	0.07
Keora water	0.45	0.74	0.29
Total	21228.79	21938.22	6009.32

**w.e.f. 01.07.2018 GST has been made applicable to these items subsuming Central and State levies. Item level breakup of tax paid in cash and through credit is being ascertained from GSTN.*

(in Rs. Crore)

Product Name	Customs Duty payable		
	2015-16	2016-17	2017-18
Unmanufactured tobacco: tobacco refuse	48.40	19.54	27.30
Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	18.28	36.82	6.66
Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences including beedis	26.60	27.17	61.32
Mint (including peppermint, spearmint oil, water mint oil, horsemint oil etc.)	7.05	14.37	16.29
Keora water	0.01	0.00	0.00
Total	100.35	97.90	111.57

3.30 The Committee, thereafter, specifically desired to know whether there is an increase in the domestic demand of Tobacco and Tobacco Products during the last three years as per Import and Central Excise data/details. The Ministry of Finance (Department of Revenue), in their written reply, submitted:-

"No specific study has been undertaken regarding change in the domestic demand of Tobacco and Tobacco products (based on Import and Central Excise data) during the last three years."

3.31 On being asked by the Committee to furnish the details of incidents of smuggling/black marketing of Cigarettes and other Tobacco Products reported in the country during the last three years along with the various measures taken/proposed to be taken by the Government to curb smuggling/black marketing of these products, especially when a ban on the 'Chewing/Smokeless Tobacco' products is imposed by various States/UTs. The Ministry of Finance (Department of Revenue), in their written reply, submitted:-

"The details of the cases of smuggling of Cigarettes and other Tobacco Products, during the last three years, are as follows:-

(Rs. in Crore)

Year	Value of Cigarettes and other Tobacco Products seized
2015-16	150.44
2016-17	130.13
2017-18	82.98

All the Directorates, Field Formations under the Central Board of Indirect Taxes and Customs have been alerted to be more vigilant and to conduct checks to thwart and

detect cases of smuggling of Cigarettes and other tobacco products. The officers dealing with anti-smuggling work have been sensitized be more vigilant through surveillance and by taking help of Container Scanners, Baggage Screening Systems and Advance Passenger Information System (APIS)."

3.32 The Committee when asked the Ministry of Labour & Employment to furnish comparative State/UT wise details of number of people engaged exclusively in farming, retailing, manufacturing and distribution of tobacco/tobacco products in the country, the Ministry, in their written reply, submitted:-

"As per the industry estimates, Indian tobacco industry provides livelihood to over 45.7 million people who belong to farmers, farm labour, merchant traders, processors, manufacturers, wholesalers and retailers across the supply chain, out of which more than 48 lakh workers are registered as beedi rollers under the Labour Welfare Organisation of the Ministry of Labour& Employment. State/UT wise number of the beedi workers are as follows:-

Sl.No.	Region	State/UT	Total
1	Ahmedabad	Gujarat	42008
2	Ajmer	Rajasthan	42813
3	Allahabad	Uttar Pradesh	450228
4	Bangalore	Karnataka	244412
5	Bhubaneswar	Odisha	157753
6	Hyderabad	Andhra Pradesh/ Telangana	412984
7	Jabalpur	Madhya Pradesh	1054652
8	Kolkata	West Bengal	1658401
		Tripura	13385
9	Guwahati	Assam	9154
10	Kannur	Kerala	32032
11	Nagpur	Maharashtra	188550
		Goa	-
		Daman (UT)	-
		Dadra & Nagar Haveli (UT)	-
12	Patna	Bihar	293916
13	Raipur	Chhattisgarh	18757
14	Tirunelveli	Tamil Nadu	79905
15	Ranchi	Jharkhand	113408
	Total		4812358

3.33 On the aspect of Skill Development Programme initiated by the Ministry of Labour and Employment for beedi workers and their dependents to shift them to alternative jobs, the Ministry in their written reply, submitted:-

"The Ministry of Labour & Employment has initiated a Skill Development Programme for the beedi workers and their dependents in collaboration with the Ministry of Skill Development/NSDC from April 2017. The actual cost on skill training is borne by the MoSD/NSDC out of their budget, whereas, the Ministry of Labour & Employment provides stipend and travelling allowances to the beedi workers and their dependents. Skill training has been provided to 2871 beedi workers and their dependents by the LWO office under the Ministry of Labour & Employment against which, more than 307 workers have been provided alternative job opportunities till 30.04.2018."

3.34 The Committee, thereafter, desired to know about the details of various Welfare Scheme in the field of Health, Housing and Education initiated by the Ministry of Labour & Employment for workers who are engaged in cultivation of Beedi and Aromatic Plants, viz., Kewda and Mentha. The Ministry of Labour & Employment, in their written reply, submitted:-

"The Ministry of Labour & Employment is implementing Welfare Schemes like Health, Housing and Education for the workers engaged in Beedi rolling industry. The details of the schemes are as follows:-

(i) Health Scheme

Besides providing health care facilities through 12 Hospitals and 286 Dispensaries across the country, the following assistance is given to certain categories of diseases:-

PURPOSE	NATURE OF ASSISTANCE
Tuberculosis	Reservation of beds in T.B. Hospitals and domiciliary treatment for workers. Subsistence allowance of Rs. 750/- to Rs. 1000/- per month is granted as per the advice of the treating physician
Heart Diseases	Reimbursement of expenditure up to Rs. 1,30,000/- to workers
Kidney Transplantation	Reimbursement of expenditure up to Rs. 2,00,000/- to workers
Cancer	Reimbursement of actual expenses on treatment, medicines and diet charges incurred by workers, or their dependents for treatment through Govt. recognized

	hospitals.
Minor surgery like Hernia, Appendectomy, Ulcer Gynecological diseases and Prostrate diseases	Reimbursement of expenditure up to Rs. 30,000/- to workers and their dependents

(ii) Revised Integrated Housing Scheme (RIHS), 2016

Revised Integrated Housing Scheme (RIHS), 2016 for Beedi Workers is being implemented in the country through offices of 17 Welfare Commissioners of the Labour Welfare Organisation of the Ministry. The housing subsidy of Rs. 1,50,000/- is disbursed in three instalments in the ratio of 25:60:15.

(iii) Educational Schemes

Scheme	Nature of Assistance			
	Group	Class	Rates	
Scheme for award of scholarships under Iron Ore, Manganese Ore, Chrome Ore Mines/ LSDM/Mica Mines Workers			Girls	Boys
Group I	Class I to IV	250	250	
Group II	Class V to VIII	940	500	
Group III	Class IX	1140	700	
Group IV	Class X	1840	1400	
Group V	Class XI to XII	2440	2000	
	ITI	10000	10000	
Group VI	Non Professional Degree Courses; Non Professional Post Graduate Courses; Two-three year Diploma Courses and BCA, BBA and PGDCA	3000	3000	
Group VII	Professional Degree Courses i.e. B.E./B.Tech./ MBBS/ BAMS/ BUMS/ B.Sc. (Agriculture) and MCA/ MBA	15000	15000	

3.35 On being enquired by the Committee about the details of total volume and value of tobacco trade generated from tobacco products, viz., Smoking tobacco and Smokeless tobacco in exports, Imports and domestic market during the last 3 years, the Ministry of Commerce & Industry (Department of Commerce), in their written reply, submitted:-

"As per Directorate General of Commercial Intelligence and Statistics, the details of tobacco Export and Import trade, volume-wise and value-wise, for the last 3 years (2015-16 to 2017-18) is as follows:-

(a) Year-wise Indian Exports of Tobacco & Tobacco Products

YEAR	Unmanufactured Tobacco (HS 2401)	Tobacco Products (HS 2402 & 2403)						Total		
		Smoking Tobacco Products		Smokeless Tobacco Products		Sub-Total for Tobacco Products				
		Qty	Val.	Qty	Val.	Qty	Val.	Qty	Val.	
2015-16	214763.118	4364.41	13905.923	1003.22	20065.241	1080.94	33971.164	2084.16	248734.282	6448.5
2016-17	205338.400	4270.73	13194.758	858.51	22398.165	1321.42	35592.923	2179.93	240931.323	6450.6
2017-18	185345.370	3828.02	10698.434	739.97	24045.285	1453.60	34743.719	2193.57	220089.089	6021.5

(b) Year-wise Indian Imports of Tobacco & Tobacco Products

YEAR	Unmanufactured Tobacco (HS 2401)	Tobacco Products (HS 2402 & 2403)						Total		
		Smoking Tobacco Products		Smokeless Tobacco Products		Sub-Total for Tobacco Products				
		Qty	Val.	Qty	Val.	Qty	Val.	Qty	Val.	
2015-16	2883.247	137.30	2313.639	192.91	26.454	1.01	2340.093	193.92	5223.340	331.2
2016-17	1969.029	77.21	2570.947	227.97	20.702	0.57	2591.649	228.54	4560.678	305.7
2017-18	1542.199	69.47	3435.147	185.52	7.582	0.40	3442.729	185.92	4984.928	255.3

3.36 The Committee, thereafter, asked the Ministry of Commerce (Department of Commerce) to furnish the details of economic significance of Tobacco Trade in the country in terms of the following attributes:-

- (i) Generation of employment;
- (ii) Increase in consumption of other products from the earnings of Tobacco Trade in relative terms; and
- (iii) Livelihood provided to farmers, farm labour, merchant traders, processors, manufacturers, wholesalers and retailers by Indian Tobacco Industry.

In reply thereto, the Ministry of Commerce (Department of Commerce), submitted:-

"There is absence of reliable data on the economic significance of trade in terms of generation of employment, boost to consumption of other products from earnings of tobacco trade. However, as per the industry estimates, Indian tobacco industry provides livelihood of over 45.7 million people including farmers, farm labour, merchant traders, processors, manufacturers, wholesale and retailers across the supply chain.

In so far as livelihood of FCV tobacco growers is concerned, about 89,000 farmers are involved in the production of FCV tobacco. India produces 250 to 300 m.kgs of FCV tobacco in states of Andhra Pradesh and Karnataka. In most of the families, the cultivation of FCV tobacco remains as a family tradition since generations sustaining livelihood from well-established curing facilities and supporting infrastructure."

- 3.37 In this connection, the Committee further asked to furnish the details of the economic value generated by the tobacco trade in the country. The Ministry of Commerce (Department of Commerce), in their written reply, submitted:-

"The exact details on excise/state revenue on domestic tobacco trade may be obtained from the Central Board of Indirect Taxes and Custom (CBIC)."

- 3.38 On being specifically enquired by the Committee as to whether it is a fact that for production of Tobacco in the country, permission is given by the Tobacco Board and also about the details of permission given by the Tobacco Board during the last three years in the tobacco cultivating states, the Ministry of Commerce (Department of Commerce), in their written reply, submitted:-

"As per Section 8(1)(a) of the Tobacco Board Act, one of the important functions of the Tobacco Board is to regulate production and curing of FCV tobacco. FCV tobacco is mainly cultivated in the States of Andhra Pradesh and Karnataka. This objective is sought to be achieved through crop planning and fixing crop size of FCV Tobacco for Andhra Pradesh and Karnataka separately every year and by registering commercial nursery men, tobacco growers and barn operators.

The permission given by the Board (crop size fixed) for production of FCV tobacco during last three years in the States of Andhra Pradesh and Karnataka are as follows:-

Crop season	Andhra Pradesh	Karnataka	(Quantity in million kg)
			Total
2015-16	120.00	100.00	220.00
2016-17	130.00	95.00	225.00
2017-18	136.00	99.00	235.00

3.39 On this issue, during the sitting of the Committee on Petitions held on 31 July, 2018, the representatives of the Ministry of Labour & Employment deposed before the Committee as follows:-

"The Ministry of Labour & Employment has been implementing various Welfare Schemes such as Health, Housing and Pension for the workers engaged in Beedi Rolling Industry and also providing stipend for the education of their children."

E. Tobacco vs. Alternate Crops and impact of shifting from tobacco to alternate crops

3.40 The Committee desired to know from the Ministry of Health & Family Welfare as to whether it is a fact that as a consequence of various Tobacco Control Programmes, it is the responsibility of the Government for promotion of appropriate economically viable alternatives for tobacco growers, workers whose livelihoods are affected/ would be affected and whether various Tobacco Control Programmes, including a blanket ban on 'smoke' and/or 'smokeless' tobacco products, ought to be in sync with the availability of economically viable alternatives for tobacco growers. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The Ministry of Health & Family Welfare has written to the Ministry of Commerce as well as to the Ministry of Agriculture & Farmers' Welfare to consider Schemes which are aimed at a time-bound and targeted reduction in FCV tobacco crop in the coming years and tobacco farmers who are willing to shift over to other alternatives could be provided with support, both monetary and technical, for some period so that they do not suffer losses.

The Ministry of Commerce, Government of India has proposed a "Barn Buyout" Scheme for the tobacco farmers.

The Tobacco Board in its 141st Board meeting held on 19.03.2016, at Bengaluru, has taken a policy decision to reduce tobacco production in a gradual and consistent manner so that the interest of farmers are not impacted in short term while achieving a significant reduction in production in the long run.

The Department of Agriculture, Cooperation & Farmers' Welfare has extended the Scheme of Crop Diversification Programme (CDP) under Rashtriya Krishi Vikas Yojna (RKVY) with effect from 2015-16, for replacing tobacco farming and to encourage tobacco farmers to shift to alternate crops/cropping system in 10 major tobacco growing States, viz., Andhra Pradesh, Bihar, Gujarat, Karnataka, Maharashtra, Odisha, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal. The expenditure of tobacco diversification will be shared on 50:50 between Central and State Governments. To start with, an area diversion of 25,000-50,000 hectare per-year from tobacco is being targeted in the country as a whole. The implementation of the aforesaid Scheme of Crop Diversification Programme (CDP) for encouraging tobacco farmers to shift to alternate crops/cropping system under the Rashtriya Krishi Vikas Yojna(RKVY) has been continued for the year 2016-17, with sharing pattern of 60:40 between Central and State Governments.

In the year 2017-18, an amount of Rs. 66.70 crore for replacing tobacco farming with alternate crops/cropping system) as a Central Share have been earmarked.

There are several measures accepted worldwide to reduce the demand as well as supply of tobacco like price and tax measures to reduce the demand for tobacco, non-price measures to reduce the demand for tobacco, protection from exposure to second hand tobacco smoke, tobacco content and product regulation, packaging and labeling of tobacco products, education, communication, training and public awareness, tobacco advertising, promotion and sponsorship, demand reduction measures concerning tobacco dependence and cessation, Illicit trade in tobacco products, sales to and by minors, and provision of support for economically viable alternative activities. Crop Diversification Programme is one of the measures to provide support for economically viable alternatives to tobacco growers."

3.41 On this issue, the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in their written reply, submitted:-

"Out of Gross Cropped Area (GCA) of 2000 lakh hectares in the country, tobacco is grown in 4.67 lakh hectares which is 0.233%. Alternative crops/cropping systems like maize, rice, wheat, ragi, cotton, soybean, mustard, castor, groundnut, black gram, chilly, chickpea, potato, ginger, sugarcane, jute, areca nut, banana, oil palm, eucalyptus along with dairy/poultry/fishery have been identified for the benefit of farmers and farm workers in tobacco growing areas in India. The States can also promote alternate crops and Cropping systems under various Centrally Sponsored Schemes like Rashtriya Krishi Vikas Yojana (RKVY), National Mission on Oilseeds

and Oil Palm (NMOOP), Mission for Integrated Development of Horticulture (MIDH), National Food Security Mission (NFSM), etc.

The Tobacco Control Programme and alternative livelihood for workers are not under the purview of Ministry of Agriculture. The Ministry of Health & Family Welfare is the Nodal Agency for the Tobacco Control Programme with respect to provision to Frame Work Convention of Tobacco Control (FCTC) treaty."

3.42 On being specifically enquired by the Committee as to whether the Ministry of Health & Family Welfare had sanctioned a Pilot Project entitled 'Alternative Crops of Beedi and Chewing Tobacco in different Agro-Ecological Sub-Regions' to ICAR - Central Tobacco Research Institute for the period 2008-2011 along its impact, till date, the Ministry of Health & Family Welfare, in a written reply, submitted:-

"The Ministry of Health & Family Welfare in collaboration with Central Tobacco Research Institute (CTR), Rajmundry, launched a Pilot project on developing "Alternative Cropping System to Beedi and Chewing Tobacco" in five different agro-ecological Regions in the country. The objective of this project was to find out viable and sustainable alternatives to Non-FCV tobacco (beedi/chewing) crops. The Pilot Project was carried out in different agro-ecological sub-Regions of Nandyal (Andhra Pradesh), Anand and Dhammaj (Gujarat), Nippani (Karnataka), Vedasandur (Tamil Nadu) and Dinhata (West Bengal). The study revealed that none of the mono-crops were as remunerative as tobacco. However, a combination of crops (two or more) was found to yield higher returns than solely tobacco."

3.43 On being further asked by the Committee as to whether the intended objectives of Rashtriya Krishi Vikas Yojna (RKVY) to encourage tobacco growing farmers to shift to alternate crops/cropping systems have been achieved, the Ministry of Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare), in their written reply, submitted:-

"Department of Agriculture, Cooperation & Farmers' Welfare has extended Crop Diversification Programme (CDP), an ongoing sub-Scheme of RKVY to ten tobacco growing States, namely Andhra Pradesh, Bihar, Gujarat, Karnataka, Maharashtra, Odisha, Tamil Nadu, Telangana, Uttar Pradesh & West Bengal to encourage tobacco growing farmers to shift to alternative crops/cropping system w.e.f., 2015-16. Under the CDP, tobacco growing States have given flexibility to take suitable activities/interventions for replacing the tobacco to alternative crops/cropping system as per the cost norms approved under any Centrally Sponsored Scheme/State Scheme. Under the CDP, with a view to motivating the farmers, State may also

organize study tours/exposure visits and campaigns, etc., for highlighting the harmful effects of tobacco and long term benefits of alternative crops. An amount of Rs. 2500.00 lakh and 3000.00 lakh as Central Share under the CDP for replacing tobacco farming with alternate crops/cropping system has been earmarked for implementation of the programme during 2015-16 & 2016-17, respectively. Keeping in view slow pace of expenditure, an amount of Rs.667.00 lakh as Central Share have been tentatively allocated during 2017-18. In case, the States utilize the funds (Central Share) of previous and current year and demand additional funds for replacing tobacco farming under the CDP, the same may be considered at Revised Estimate stage to revise the allocation for diversifying the tobacco area. It is too early to assess the impact of the aforesaid sub-Scheme. Out of the total tobacco area 4.67 lakh hectares in the country, with the implementation of CDP, the States have reported diversion of 29998 hectares of tobacco areas in Andhra Pradesh during 2015-16. During 2016-17, the States have reported, so far, diversion of tobacco areas of 51509.6 hectares including Andhra Pradesh (49553 hectares), Bihar (147 hectares), Gujarat (348 hectares and West Bengal (1461.6 hectares) with alternate crops/cropping system. The tobacco growers are also growing other crops on the same land, therefore, alternative crops exist on the same farm and vicinity. The Department of Agriculture, Cooperation & Farmers' Welfare is supplementing the efforts of the States through implementation of various Crop Development Programme on Agriculture/Horticulture Crops."

3.44 The Committee, thereafter, enquired from the Ministry of Labour & Employment as to how far the Ministry have been successful in shifting the beedi workers and their dependents to alternative jobs by way of their Skill Development Programmes. The Ministry, in their written reply, submitted:-

"The Ministry of Labour & Employment initiated a Skill Development Programme w.e.f., 01.04.2017 for beedi workers and their dependants to shift them to alternative jobs/livelihoods for enhancing their income and livelihood. State/UT wise details of the beneficiaries are as follows. The Project is in the initial phase.

(as on 30.04.2018)

Region	Training Started						Placement Provided					
	No. of Batches			No. of Trainees			Till Dec'17		2018		Total	
	Till Dec'17	2018	Total	Till Dec'17	2018	Total	Male	Female	Male	Female	Male	Female
Ahmedabad	1	5	6	20	80	100	0	0	0	0	0	0
Ajmer	0	1	1	0	30	30	0	0	0	0	0	0
Allahabad	7	7	14	51	103	164	0	0	0	2	0	2
Bengaluru	5	2	7	129	51	180	0	0	0	25	0	25

Bhubaneswar	26	27	53	377	133	510	10	64	39	35	49	99
Guwahati	1	2	3	36	35	71	0	1	0	0	0	1
Hyderabad	6	15	21	41	164	205	0	0	1	1	1	1
Jabalpur	18	6	24	436	29	465	0	0	0	0	0	0
Kannur	3	0	3	35	0	35	3	3	0	0	3	3
Kolkata	14	1	15	292	221	513	0	12	4	6	4	18
Nagpur	3	10	13	63	238	301	0	0	0	0	0	0
Patna	7	10	17	48	74	122	2	1	0	4	2	5
Raipur	8	0	8	175	0	175	34	0	9	51	43	51
Ranchi	0	0	0	0	0	0	0	0	0	0	0	0
Tirunelveli	0	0	0	0	0	0	0	0	0	0	0	0
Total	99	86	185	1703	115	2871	49	81	53	124	102	205

3.45 On this issue, during the sitting of the Committee on Petitions, the representatives of the Ministries of Health & Family Welfare, Agriculture & Farmers' Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) and Labour & Employment deposed before the Committee, as follows:-

"Department of Agriculture is making efforts to discourage the farming of tobacco and the affected farmers are being encouraged to opt for alternative crops for earning a similar kind of income.

Out of 4.67 lakh hectare of tobacco cultivation area, approximately 75,000 hectares, (29,998 hectare in 2015-16 and 51,713 hectare in 2016-17) have been shifted from tobacco cultivation to other viable cultivations under the Crops Diversification Programme of the Ministry of Agriculture.

Skill training has been provided to 2871 Beedi Workers and their dependents by the Labour Welfare Organisation Office under the Ministry of Labour & Employment against which more than 307 workers have been provided alternative job opportunities, till 30.4.2018.

The Ministry of Labour & Employment has also been endeavoring to provide alternate job opportunities/livelihood for the Beedi Workers and their dependents who have been shifting from Tobacco Industry on account of a blanket ban on the manufacturing, distribution and sale of all kind of tobacco products through initiation of Skill Development Programme."

F. Health Effects of Tobacco use/Awareness Programmes

3.46 Keeping in view the fact that out of more than one-third (35%) of adults in India who use tobacco in some form or the other, 14% either smoke and/or also use smokeless

tobacco, the Committee enquired from the Ministry of Health & Family Welfare as to whether the Ministry consider smoking tobacco as harmful as the smokeless tobacco along with the reasons for emphasizing more on smokeless tobacco vis-a-vis smoking tobacco. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The Global Adult Tobacco Survey India (GATS India) is the global standard for systematic monitoring of adult tobacco use (smoking and smokeless) in the country. The Survey conducted in the year 2009-10 by the International Institute for Population Sciences (IIPS) Mumbai revealed that more than one-third (35%) of adults in India used tobacco in some form or the other. Among them, 21% adults used only smokeless tobacco, 9% only smoke and 5% smoke as well as use smokeless tobacco. It means out of 35% of adult tobacco user, 26% (21%+5%) are using smokeless tobacco products.

Based on these, the estimated number of tobacco users in India was 27.49 crore, with 16.37 crore users of only smokeless tobacco, 6.89 crore only smokers, and 4.23 crore users of both smoking and smokeless tobacco.

This Ministry considers tobacco in any form and quantity is harmful and does not emphasize on any particular form of tobacco products.

This Ministry has taken steps to regulate manufacture, sale and use of tobacco products, based on the applicable statutes and the Judicial interpretations and directions issued regarding them by the Hon'ble Supreme Court of India and various High Courts. The said Acts are as follows:-

- *The Drugs and cosmetics Act, 1940*
- *The Prevention of Food Adulteration Act, 1954.*
- *The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.*
- *The Food Safety and Standards Act, 2006."*

3.47 As per the stipulations made by the Ministry of Health & Family Welfare that many studies had reported on the prevalence of smokeless tobacco products amongst children and youth in the country and as per the Global Youth Survey - 2009, 9% of students in the age group of 13-15 years use smokeless tobacco products with figures of 11% among boys and 6% among girls, the Committee asked as to whether these studies have also reported on the prevalence of smoking tobacco in the country and also whether any similar studies

had been conducted to highlight the ill-effects of smoking tobacco in the country. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"As per the Global Youth Tobacco Survey, 2009, 8.1% of the youth in the age group of 13-15 years consume smoking forms of tobacco products with figures of 11.2% among boys and 3.7% among girls.

Some of the studies on ill-effects of smoking forms of tobacco products are:-

- *Tobacco Control in India Report, 2004.*
- *Beedi Smoking and Public Health-2008*

3.48 The Ministry of Health & Family Welfare had also submitted before the Committee that as per the Global Youth Tobacco Survey, 2009, 8.1% of the youth in the age group of 13-15 years consume smoking forms of tobacco products with figures of 11.2% among boys and 3.7% among girls.

3.49 The Committee, thereafter, specifically, enquired about the estimated number of youths in the age group of 13-15 years who consume smoking forms of tobacco products in the country. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"A total of 11,768 students participated in the Global Youth Tobacco Survey, 2009 in six Regions. The estimated number of youth is not available in the Report. However, the Report based on the representative sample survey has found that 8.1% of the youth in the age group of 13-15 years consume smoking forms of tobacco products with figures of 11.2% among boys and 3.7% among girls."

3.50 The Committee also enquired about the major findings of the study titled 'The Beedi Smoking and Public Health - 2008' relating to ill-effects of smoking forms of tobacco products. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"As per the study titled 'The Beedi Smoking and Public Health - 2008' conducted by the Center for Disease Control and Prevention, Office on Smoking and Health, USA and the Healis-Sekhsaria Institute of Public Health, Navi Mumbai, India, just like cigarette smoking, Beedi smoking causes vascular disease, lung disease and cancers. On standard smoking machines, Beedi produces equal or higher levels of nicotine, tar and other toxic chemicals, when compared to cigarettes. Findings from population-based cohort studies and case-control studies in India have established Beedi smoking as no less hazardous than cigarette smoking. Biological evidence complements these findings."

3.51 On being categorically enquired by the Committee as to whether the Ministry of Health & Family Welfare have ever emphasised the findings of studies titled 'Tobacco Control in India Report, 2004' and 'The Beedi Smoking and Public Health - 2008' relating to the ill-effects of smoking forms of tobacco products before the Hon'ble Supreme Court of India and various High Courts, the Ministry, in their written reply, submitted:-

"The Ministry has emphasized the findings of studies titled 'Tobacco Control in India Report, 2004' and 'The Beedi Smoking and Public Health - 2008' relating to the ill-effects of smoking forms of tobacco products before the Hon'ble Karnataka High Court in the court case Karnataka Beedi Association & Anr vs. Union of India (Writ Petition No. 53876/2015)."

3.52 The Committee, thereafter, desired to know from the Ministry of Health & Family Welfare as to whether the Health Report of National Institute of Health & Family Welfare (NIHFW) also examined the harmful effects of consumption of cigarettes and other smoking products. The Committee further desired to know as to whether the Ministry of Health & Family Welfare, during the hearing of the Petition of Ankur Gutka vs. Indian Asthma Care Society & Ors. [SLP No. 16308 of 2007] before the Hon'ble Supreme Court of India, intended to place before the Court, through a counter-affidavit or intervener or in any other form, that in the 'similar articles' category, they also wish to undertake a comparative analysis of the harmful effects of consumption of cigarettes, etc., in the country along with the current status of aforementioned court case. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The Court case Ankur Gutkha vs. Indian Asthma Care Society & Ors. (SLP No. 16308 of 2007) was filed by the manufacturers of Gutkha against the Order/Judgement dated 29.08.2007 of the Rajasthan High Court in Writ Petition No. 1966/2003, wherein the Hon'ble High Court directed the manufacturers of gutkha, tobacco and pan masala to pay fine on the basis of 'Polluter Pays Principle' on account of littering caused by the plastic sachets and further restrained them from using plastic sachets.

The Hon'ble Supreme Court of India, vide order dated 07.12.2010 directed as follows:-

The manufacturers of gutkha, tobacco, pan masala are restrained from using plastic material in the sachets of gutkha, tobacco and pan masala, with effect from 1 March, 2011.

The Ministry of Environment, Forest and Climate Change, in compliance of the said order notified Rules, banning storing, packing, and selling of gutkha, tobacco and pan masala in sachets using plastic material.

The Ministries concerned have to undertake a comprehensive analysis and study of the contents of gutkha, tobacco, pan masala and similar articles manufactured in the country and harmful effects of consumption of such articles.

The Ministry of Health & Family Welfare pursuant to the said order and on the direction of the Lt. Solicitor General, in consultation with the National Institute of Health and Family Welfare (NIHFW), constituted a Committee of Technical Experts to provide guidance on technical issues and help in collecting relevant scientific literature.

The Technical Experts Committee compiled a Report on the contents of gutkha, tobacco, pan masala and similar articles manufactured in the country and Areca-Nut or Betel Quid or Supari and harmful effects of consumption of such articles.

The NIHFW Health Report was submitted to the Court on 17.02.2011, the Hon'ble Supreme Court of India allowed all Parties to file affidavit in response to the Report.

The Hon'ble Supreme Court vide order dated 3.04.2013, observed that the Government of India has enacted Regulation 2.3.4 under the Food Safety & Standards Act that prohibits the use of tobacco and nicotine as ingredients in any food products and inter-alia bans Gutkha and Pan Masala (containing tobacco and nicotine). The Hon'ble Court further directed the Secretaries/ Administrators of the States/UTs to file affidavit on the steps taken to implement the ban on gutkha and pan masala (containing tobacco and nicotine) in their respective State/UTs.

The Hon'ble Supreme Court of India in another connected case, i.e., Central Areca-nut Marketing Corporation & Others vs. Union of India & Ors (Transfer Case (C) 1 of 2010) vide Order dated 23 September 2016, taking cognizance of Gutkha being sold in twin packs to flout the ban, directed the Secretaries, Health Department of all the States and Union Territories to file their affidavits on the issue of total compliance of the ban imposed on

manufacturing and sale of Gutkha and Pan Masala with tobacco and/or nicotine.

The court case Ankur Gutka vs. Indian Asthma Care Society & Ors. (SLP No. 16308 of 2007) is presently sub judice and at the stage of final hearings."

3.53 In his connection, the Ministry further furnished the following information:-

"The Hon'ble Supreme Court of India vide Order dated 07.12.2010 directed the concerned Ministries to undertake a comprehensive analysis and study of the contents of gutkha, tobacco, pan masala and similar articles manufactured in the country and harmful effects of consumption of such articles.

Accordingly, the Ministry of Health & Family Welfare, pursuant to the said Order and on the direction of the Lt. Solicitor General in consultation with the National Institute of Health and Family Welfare (NIHFW), constituted a Committee of Technical Experts to provide guidance on technical issues and help in collecting relevant scientific literature.

The Technical Experts Committee compiled a Report on the contents of gutkha, tobacco, pan masala and similar articles manufactured in the country and Areca-Nut or Betel Quid or Supari and harmful effects of consumption of such articles.

The NIHFW Health Report was submitted to the Court on 17.02.2011. The Hon'ble Supreme Court of India allowed all parties to file affidavit in response to the Report.

There was no direction by the Hon'ble Court to submit a Report on harmful effects of smoking form of tobacco products. There are several independent studies available in public domain that provides evidence on harmful effects of consumption of cigarettes and other smoking tobacco products. Some of the studies on harmful effects of consumption of cigarettes and other smoking tobacco products are:-

- *Report on Tobacco Control in India, 2004.*
- *Beedi Smoking and Public Health, 2008.*
- *Surgeon General Report.*
- *Million Death Study by Jha et al., in the New England Journal of Medicine, (Jha et al., 2008 - it was found that among women (30-69*

years), the risk ratio of death due to heart disease was 1.7 (1.3-2.1) among smokers, while among men (30-69 years), the risk ratio was 1.6 (1.5-1.8).

- *Inter-heart Study conducted in 8 hospitals in Delhi and Bangalore and the Report published in 2005.*
- *Effects of beedi smoking on all-cause mortality and cardio-respiratory outcomes in men from south Asia: an observational community-based sub-study of the Prospective Urban Rural Epidemiology Study (PURE) published in Lancet Journal, 2017."*

3.54 The Ministry of Health & Family Welfare had also submitted before the Committee that the Hon'ble Supreme Court *vide* Order dated 3 April, 2013, observed that the Government of India has enacted Regulation 2.3.4 under the Food Safety & Standards Act, that prohibits the use of tobacco and nicotine as ingredients in any food products and *inter alia* bans Gutkha and Pan Masala (containing tobacco and nicotine). The Hon'ble Supreme Court further directed the Secretaries/Administrators of the States/UTs to file affidavit on steps taken to implement the ban on Gutkha and Pan Masala (containing tobacco and nicotine) in their respective State/UTs.

3.55 On being categorically enquired by the Committee as to whether the averments made by the Ministry that "the Hon'ble Supreme Court *vide* Order dated 3 April, 2013, observed that the Government of India has enacted Regulation 2.3.4 under the Food Safety & Standards Act that prohibits the use of tobacco and nicotine as ingredients in any food products and *inter alia* bans Gutkha and Pan Masala (containing tobacco and nicotine); that the Ministry has banned Gutkha and Pan Masala (Containing tobacco and nicotine) or Regulation 2.3.4 under the Food Safety & Standards Act enacted by the Ministry prohibits the use of tobacco and nicotine as ingredients in any food products and therefore contains the provision of banning Gutkha and Pan Masala (containing tobacco and nicotine) or the Hon'ble Supreme Court has banned Gutkha and Pan Masala (containing tobacco and nicotine). In reply thereto, the Ministry of Health & Family Welfare, in a written reply, submitted:-

"The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011, Clause 2.3.4, expressly bans/prohibits the use of tobacco and nicotine in any food product.

The Hon'ble Courts while interpreting the definition of 'food' have held Gutkha and Pan Masala (containing tobacco and nicotine) as food articles. The Hon'ble

Supreme Court vide Order dated 03.04.2013, observed that the Government of India has enacted Regulation 2.3.4 under the Food Safety & Standards Act that prohibits the use of tobacco and nicotine as ingredients in any food products and inter-alia bans Gutkha and Pan Masala (containing tobacco and nicotine).

The Hon'ble Supreme Court of India in the connected cases, i.e., Central Areca-nut Marketing Corporation & Others vs. Union of India & Ors (Transfer Case (C) 1 of 2010) vide order dated 23rd September 2016, has directed the Secretaries, Health Department of all the States and Union Territories to file their affidavits on the issue of total compliance of the ban imposed on manufacturing and sale of Gutkha and Pan Masala with tobacco and/or nicotine.

Transfer Case (Civil) No.1 of 2010 tiled as Central Areca-nut Marketing Copn and Ors Vs UOI (Main Case) along with SLP No. 16308 of 2007 titled as Ankur Gutka vs. UOI is tentatively listed on 04.12.2017.

The Ministry of Health & Family Welfare has taken a consistent stand before the Courts by way of affidavits/written submissions on the scope and impact of FSS Regulation 2.3.4 on use of tobacco or nicotine as ingredients in food items, and therefore, the prohibition on sale of food items such as gutkha and pan masala containing tobacco or nicotine. However, as per existing statutes/rules, the provisions under The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 at present only empower the Government to regulate the smoking tobacco products including a ban on their sale to or by minors and within the radius of 100 yards of educational institutions."

3.56 The Committee, thereafter, desired to know as to whether any Expert Committee has ever been constituted by the Ministry of Health & Family Welfare or any other Ministry of the Government of India on the use of tobacco in any form and its effect on public health for recommending its prohibition in the country. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The Central Government constituted a Committee of Expert Committee to deliberate on the use of tobacco in food articles and the impact of use of certain, smokeless tobacco products like pan masala, gutkha, etc. The said Committee after considering the scientific evidence available recommended the prohibition on consumption of pan masala, gutkha and chewing tobacco as an ingredient in any food item or as such, are injurious to public health (Minutes of Meeting dated 23.09.1997).

The Central Committee of Food Standards after reviewing the evidences on the health impact of chewing tobacco unanimously opined to ban the use of chewing tobacco in pan masala/gutkha (minutes of meeting dated 26, & 27 of November 1997).

The aforesaid Committees also considered the ban of use of tobacco in tooth-pastes/tooth-powders under the Drugs and cosmetics Act, 1940 (Notification GSR 443(E) dated 30 April, 1992) and the judgment of the Hon'ble Supreme Court of India in the matter of Laxmikant vs. UOI & Ors., 1997(4) SCC 739, that upheld the ban.

The said Minutes/Recommendations have been included in the NIHFW Health Report and submitted to the Hon'ble Supreme Court in the matter of Ankur Gutka vs. Indian Asthma Care Society & Ors. [SLP No. 16308 of 2007]."

3.57 In this regard, the Committee further asked as to whether the said Expert Committee was constituted prior to or after amending the definition of 'Food' contained in the Food Safety and Standards Act, 2006. The Committee also asked to furnish the details of scientific evidences available before the said Expert Committee on the basis of which they had recommended the prohibition on consumption on pan masala, gutkha and chewing tobacco as an ingredient in any food item as they are injurious to public health and not considered similar prohibition on smoking tobacco products and also about the reasons on the basis of which the Central Committee of Food Standards after reviewing the evidences on the health impact of chewing tobacco unanimously opined to ban the use of chewing tobacco in pan masala/gutkha and not considering the health impact of smoking tobacco products. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The findings/recommendations of the Expert Committee, were given in the year 1997, before the enactment of the FSS Act, 2006, and was based on the scientific evidence on the impact of use of certain, smokeless tobacco products like pan masala, gutkha, etc. However, it is relevant to mention that the definition of food under the Prevention of Food Adulteration Act, 1954 as any article used as food or drink for human consumption and which includes any article which ordinarily enters into or is used in the composition or preparation of, human food, is to that extent pari-materia with the definition of food under the FSS Act, 2006, that reads as any substance, whether processed, partially processed or unprocessed, which is intended for human consumption.

The said Committee considered the prohibition on the use of tobacco in tooth-pastes/tooth-powders under the Drugs and Cosmetics Act, 1940 (Notification GSR

443(E), dated 30th April, 1992), and deliberated on the use of tobacco in food articles and the impact of use of certain food articles having tobacco like pan masala (with tobacco), gutkha etc. The said Committee, after considering the scientific evidence available recommended the prohibition on consumption of pan masala gutkha and chewing tobacco as an ingredient in any food items, as they are injurious to health.

While upholding the validity of the Government of India notification for banning the addition of tobacco to toothpaste and tooth powder, the Hon'ble High Court of Rajasthan directed the Central Government to appoint a committee of experts on the use of tobacco in pan masala and gutkha etc., and its effect on public health, and to prohibit the manufacture of these products in case the committee recommends that such things are injurious to health and accordingly, an Expert Committee was constituted on 17.08.1994.

It is evident that the scope of the said Order of the Hon'ble High Court of Rajasthan was limited to use of tobacco in pan masala and gutkha, etc. further, it may be noted that Smoking Tobacco Products are smoked and therefore not covered under the definition of "Food" provided under Section 3(j) of the Food Safety and Standard Act, 2006.

The minutes of meeting of the Expert Committee on Use of Tobacco in Pan Masala and Gutkha held on 23.09.1997 is enclosed. The minutes of the meeting has stated that on the basis of literatures/studies available so far on adverse effects of consumption of pan masala containing tobacco/gutkha/chewing tobacco, the Experts strongly recommended that use of chewing tobacco in pan masala/gutkha or as an ingredient in any food item or as such, should be prohibited as consumption of these articles is definitely injurious to public health."

3.58 The Committee, thereafter, asked the Ministry of Health & Family Welfare to furnish the details regarding production and consumption (domestic sales) of cigarettes in the country during the last three years. In reply thereto, the Ministry, in their written reply, submitted:-

"Annual Production Estimates of Cigarettes (in Million Nos.) are:-

- 2014-15 - 94560.01
- 2015-16 - 86569.29
- 2016-17 - 80478.18 (provisional)"

3.59 On being enquired by the Committee as to whether the Ministry of Health & Family Welfare have any empirical data to show that with the initiatives taken by them under the COTPA Act, the consumption of cigarettes and/or other smoking articles have decreased to the extent that it is now not in the 'risk zone' vis-a-vis smokeless tobacco, since the use of tobacco in any form has serious effect on the health of individuals, restrictions have been imposed *inter alia* on the sale of cigarettes or any other tobacco product under the COTPA Act, whereas, in the case of smokeless tobacco, due to its inclusion in the definition of 'Food', complete ban on manufacture, storage, distribution or sale of food products containing tobacco or nicotine has been imposed. The Ministry, in their written reply, submitted:-

"Tobacco in any form and quantity is harmful. The application, scope and objective of the COTPA and the FSS Act, 2006 are different. The objective of COTPA 2003, as enshrined in its preamble is to prohibit the advertisement of, and to provide for the regulation of trade and commerce in, and production, supply and distribution of, cigarette and other tobacco products, with an aim to discourage the use or consumption of tobacco, while the objective of the Food Safety and Standards Act, 2006 is to ensure safe and wholesome food for the people. Hence the Government can ban a food item if it is not considered to be safe and is injurious to health.

The stakeholders are being made aware on a regular basis about the adverse effects of tobacco usage on health through various anti-tobacco campaigns vide different mode of communication including television, radio, print media, social media, films, train wrap, etc., by displaying awareness material in trade fair, mela, etc., and awareness campaigns in schools, colleges & other educational institutes, etc.

Government of India has notified rules to regulate films and television programmes depicting the scenes of tobacco usage to spread awareness. Such films and television programmes are statutorily required to run anti-tobacco health spots, disclaimers and static health warnings.

Further, to spread awareness on adverse impact of consumption of tobacco products, the size of specified health warnings on packages of tobacco and tobacco products has been increased to 85% w.e.f. 1st April, 2016.

The Ministry has started National Toll-free Helpline in 2008, with a primary aim to report violations under various provisions of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA 2003). In addition, this

Helpline provides information on harmful effects of consumption of tobacco, and on how to quit tobacco use, including the after effects of quitting tobacco.

The Ministry has also started National Tobacco Quitline to provide tobacco cessation services to the community and has launched a pan-India "mCessation" initiative to reach out to tobacco users who are willing to quit tobacco use and to support them towards successful quitting through text-messaging via mobile phones.

As per the study published in "International Journal of Cancer" in 2015, the annual number of Smokeless Tobacco attributable cancer cases was 49,192 for mouth (60% of all oral cancers), 14,747 for pharynx (51% of all pharyngeal cancers), 11,825 for larynx (40% of all laryngeal cancers), 14,780 for oesophagus (35% of all oesophageal cancers) and 3,101 for stomach (8% of all stomach cancers)."

G. Government's stand to ban Tobacco

3.60 The Ministry of Health & Family Welfare (Tobacco Control Division) vide their communication dated 17.7.2017 *inter alia* submitted before the Committee that they have taken steps to regulate manufacture, sale and use of tobacco products, based on the applicable statutes and judicial interpretations and directions issued regarding them by the Hon'ble Supreme Court of India and various High Courts. The said Acts are as follows:-

- (i) The Drugs and Cosmetics Act, 1949.
- (ii) The Prevention of Food Adulteration Act, 1954.
- (iii) The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.
- (iv) The Food Safety and Standards Act, 2006.

3.61 In this connection, the Committee further desired to know that out of the aforementioned Acts, whether any Act and Rules made thereunder impose a ban on the sale and manufacture of smoking tobacco products and also about the reasons for not including smoking tobacco products - containing tobacco and nicotine - especially in the definition of 'Food' under the Food Safety and Standards Act, 2006. The Committee further, asked the Ministry to furnish the details about the various aspects connected with the regulation of use of smokeless and smoke tobacco products in the Drugs and Cosmetics Act, 1949 and the Prevention of Food Adulteration Act, 1954. In reply thereto, the Ministry of Health & Family Welfare, in their written reply, submitted:-

"Steps have been taken to regulate manufacture, sale and use of tobacco as food articles, drugs and cosmetics, based on the applicable statutes and the Judicial interpretations and directions issued regarding "food" and "drugs" under the Prevention of Food Adulteration Act, 1954, the Food Safety and Standards Act, 2006 and the Drugs and Cosmetics Act, 1949.

Food is defined under the Prevention of Food Adulteration Act, 1954 as any article used as food or drink for human consumption and includes any article which ordinarily enters into, or is used in the composition or preparation of, human food. To that extent, it is pari-materia with the definition of food under the FSS Act, 2006, that reads as any substance, whether processed, partially processed or unprocessed, which is intended for human consumption.

Hon'ble Supreme Court of India in the matter of State of Tamil Nadu vs. R. Krishnamurthy, (1980) 1 SCC 167, while interpreting the above definition, held, that all that is required to classify a product as food is that it be commonly used for human consumption or in preparing human food.

Hon'ble Allahabad High Court in Manohar Lal vs. State of U.P., Criminal Revision No. 318 of 1982 and in Khedan Lal and Sons vs. State of U.P. and Ors., 1980 CriLJ 1346, relying upon the judgment of State of Tamil Nadu vs. R. Krishnamurthy, (1980) 1 SCC 167, held "chewing tobacco" as an article of food.

Hon'ble Supreme Court in the Godawat Pan Masala Products I.P. Ltd. vs. Union of India (2004) 7 SCC 68, held gutkha, pan masala and supari as food articles.

The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011, clause 2.3.4 expressly bans/prohibits the use of tobacco and nicotine in all food products and reads as:-

"Product not to contain any substance which may be injurious to health: Tobacco and nicotine shall not be used as ingredients in any food products."

The use of word 'shall' is indicative of the resolve to prohibit tobacco and nicotine for human consumption.

The Government of India, in the year 1992 banned the use of tobacco in tooth-pastes/tooth-powders under the Drugs and Cosmetics Act, 1940 (Notification GSR 443(E), dated 30th April, 1992). Hon'ble Supreme Court of India, upheld the ban and held that the view taken by the Government of India imposing total prohibition

on the use of tobacco in the preparation of tooth-powder and tooth-paste is justified in public interest covered by Article 19(6) of the Constitution, though it offends the right to carry on trade guaranteed under Article 19(1) of the Constitution. The imposition of total ban is in public interest (Laxmikant vs UOI & Ors., 1997(4) SCC 739).

In these circumstances, the above Statutes do not demarcate between smokeless and smoking form of tobacco products, but impose a ban on use of tobacco in food articles, drugs & cosmetics.

Smoking Tobacco Products are smoked and therefore not covered under the definition of "Food" provided under Section 3(j) of the Food Safety and Standard Act, 2006 and not within the purview of the Food Safety and Standards Authority of India."

3.62 The Committee, when asked as to what were the reasons for only regulating the consumption of smoke tobacco, especially, under the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and not considering banning these products, since the Ministry also considers tobacco in any form and quantity as harmful. The Ministry of Health & Family Welfare, in their written reply, submitted:-

"The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 discourages tobacco use in general in the public interest and regulates the tobacco products to protect the public health. The Act under its preamble, further considers it expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by Article 47 of the Constitution."

3.63 On being specifically enquired as to whether the findings/recommendations of the Expert Committee to ban the use of chewing tobacco in pan masala/gutkha would have varied if the definition of 'Food' as per section 3(j) of the FSS Act, 2006 included 'tobacco products' instead of 'smokeless tobacco products', the Ministry of Health & Family Welfare, in a written reply, submitted:-

"Para 6 of the OM dated 8 December, 2016, refers to finding/recommendations of the Expert Committee, which was given in the year 1997, before the enactment of the FSS Act, 2006, and was based on the scientific evidence on the impact of use of certain, smokeless tobacco products like pan masala, gutkha, etc. The said

Committee also considered the ban of use of tobacco in tooth-pastes/tooth-powders under the Drugs and cosmetics Act, 1940(Notification GSR 443(E), dated 30 April, 1992), which was upheld by the Hon'ble Supreme Court in the matter of *Laxmikant vs. UOI & Ors.*, 1997(4) SCC 739.

Section (3)(1) (j) of the Food Safety and Standards Act 2006, does explicitly mention the word tobacco products and smokeless tobacco products, however the definition of food under section 3(1)(j) of the FSS Act, 2006 is very comprehensive. Further the regulation 2.3.4 of the (Prohibition and Restriction of Sales) Regulations, 2011 specifies that "Product not to contain any substance which may be injurious to health: Tobacco and nicotine shall not be used as ingredients in any food products".

Thus the above mentioned section of the FSS Act and the regulation, read together, prohibits the use of tobacco and nicotine in any form in any food products."

3.64 The Committee, thereafter, desired to know as to whether the Government has imposed ban/proposes to impose complete ban on production and marketing of (a) Tobacco, (b) Flavoured Chewing Tobacco, (c) Gutkha, (d) Pan Masala (with Tobacco and Nicotine), (e) Pan Masala (without Tobacco and Nicotine), (f) Flavoured Supari, (g) Supari, (h) Khaini and (i) Any other tobacco product. The Ministry of Health & Family Welfare, in a written reply, submitted:-

"The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011, Clause 2.3.4 of the expressly bans/prohibits the use of tobacco and nicotine in all food products and reads as "Product not to contain any substance which may be injurious to health: Tobacco and nicotine shall not be used as ingredients in any food products."

The FSS Act, 2006 defines the word "ingredient" and "food additive" as "ingredient" means any substance, including a food additive used in the manufacture or preparation of food and present in the final product". 3(1)(y)

"Food Additive" means any substance not normally consumed as a food by itself or used as a typical ingredient of the food, whether or not it has nutritive value. 3(1)(k)

Thus, Clause 2.3.4 of the said Regulations 2011 extends to all food products where tobacco is present as ingredient in the final product, such as gutkha (tobacco mix with areca-nut and other flavouring agents) or zarda or chewing tobacco (where flavoring agents are added to tobacco to make it edible).

Presently all State Governments/UTs have issued necessary orders banning the manufacture and sale of gutkha and pan masala (with tobacco and nicotine), under Regulation 2.3.4 and/or Section 30(2)(a) of the FSS Act, 2006. The Hon'ble Supreme Court has passed order supporting the effective implementation of the said ban.

Further State Governments/UT's of Mizoram, Manipur, Maharashtra, Himachal Pradesh, Jammu & Kashmir, Andhra Pradesh, West Bengal, Dadar Nagar Haveli, Bihar, Delhi, Himachal Pradesh, Tamil Nadu and Haryana, etc., relying upon aforesaid FSS Regulation 2.3.4 and/or Section 30(2)(a) of the FSS Act, that empowers the Commissioner of Food Safety to prohibit in the interest of public health, the manufacture, storage, distribution or sale of any article of food, have issued orders for enforcement of ban on all forms of processed, flavoured, chewing tobacco such as zarda, khaini, kharra, etc.

Pan Masala (without tobacco and nicotine) is a food product which is standardized under Regulation 2.11.5 of the Food Safety and Standards (Food Products and Food Additives) Regulations, 2011. The Food Safety and Standards (Packaging and Labeling) Regulations, 2011, mandate that every package of Supari or Pan Masala and advertisement relating thereto, shall carry the warning, "Chewing of Pan Masala or Supari is injurious to health".

The State Governments of Maharashtra, Bihar, Haryana and Himachal Pradesh have banned pan masala and flavored/scented supari/betel-nut under the FSS Act and Regulations framed thereunder."

3.65 The Committee, thereafter, asked the Ministry to furnish any other information germane to the representation of Shri Sanjay Bechan, which the Ministry of Health & Family Welfare would like to submit before the Committee. The Ministry, in their written reply, submitted:-

"The issues/contentions raised in the representation of Shri Sanjay Bechan relates to the statutory interpretation of the provisions of the Prevention of Food Adulteration Act, 1954, COTPA, 2003 and the Food Safety & Standards Act, 2006 and Regulations framed thereunder.

Similar contentions/issues have been raised in several court cases filed before various High Courts and the Supreme Court of India challenging the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011, clause 2.3.4 and the enforcement orders issued by the Food Commissioner of State/UTs

under Regulation 2.3.4 and Section 30(2)(a) of the FSS Act, 2006, for banning manufacture and sale of certain smokeless tobacco products.

In this regard the Hon'ble High Court of Kerala, Patna, Bombay and Bangalore have upheld the order issued by the Commissioner of Food Safety, inter-alia banning gutkha/pan masala(having tobacco and nicotine). It is pertinent to mention here that the Hon'ble High Court of have also ruled in favour of the state orders imposing the ban on manufacture and sale of gutkha and pan masala (with tobacco and nicotine).

Further the Hon'ble Supreme Court of India in Central Areca-nut Marketing Corporation & Ors vs. UOI & Ors.,(TC No. 1/2010) and the Ankur Gutkha vs. Indian Asthma Societies and Ors., (SLP No. 16308/2007) and other connected cases, has also issued orders directing the Central and State Government for strict enforcement of regulation 2.3.4 and the ban on manufacture and sale of gutkha and pan masala (with tobacco and nicotine).

The Assam Health Act enacted in the year 2013, prohibits manufacturing, trade, advertisement, storage, distribution, sale and consumption of zarda, gutkha, pan masala etc., (containing tobacco and/or nicotine) and various types of smokeless and chewing tobacco or any of its derivatives in any form.

The Goa Public Health Act, 1985, was amended by the Public Health (Amendment) Act, 2005, and provisions related to prohibition on manufacture and sale of injurious food articles was included which inter-alia banned, the manufacture and sale of gutkha and other forms of chewing tobacco. The said Ban has been upheld by the Bombay High Court (at Goa) vide judgment dated 07.06.2006, in the matter, of Sai Traders vs. State of Goa and Ors.

The Highlights of the Global Adult Tobacco Survey conducted in the year 2016-17 are as follows:-

- 28.6% of adults (aged 15 years and above), i.e., 26.7 crore use tobacco in some form.
- Every fifth adult, i.e., 19.9 crore use smokeless tobacco.
- Every tenth adult, i.e., 10.0 crore use smoking form of tobacco.
- 3.2 crore adults reported dual use of tobacco.
- The prevalence of tobacco use has decreased by six percentage points from 34.6% in GATS 1 in 2009-10 to 28.6% in GATS 2 in 2016-17.

- 19.0% of men, 2.0% of women and 10.7% of all adults currently smoke tobacco.
- 29.6% of men, 12.8% of women and 21.4% of all adults currently use smokeless tobacco.
- 42.4% of men, 14.2% of women and 28.6% of all adults currently either smoke tobacco and or use smokeless tobacco.
- *Khaini and beedi are the most commonly used tobacco products. 11% of adults consume khaini and 8% smoke beedis.*
- *The number of tobacco users has reduced by about 81 lakh. GATS 2 show a relative reduction of 17% in prevalence of current tobacco use since GATS 1.*
- *The prevalence of tobacco use among the young population aged 15-24 has reduced from 18.4% in GATS 1 to 12.4% in GATS 2 which is 33% relative reduction. The prevalence of tobacco use among minors aged 15-17 and adolescents aged 18-24 has shown a relative reduction of 54% and 28% respectively. There is an increase of one year in the mean age at initiation of tobacco use from 17.9 years in GATS-1 to 18.9 years in GATS-2.*

The Food Safety and Standards (Health Supplements, Nutraceuticals, Food for Special Dietary Use, Food for Special Medical Purpose, Functional Food and Novel Food) Regulations, 2016 has been notified in the Gazette on 23.12.2016. The said Regulations in the Schedule IV related to List of plant or botanical ingredients contains Mentha and Kewda with their permitted range of usage for adults per day (given in terms of raw herb/ material) limit as follows:-

Mentha		
<i>Menthaspicata</i> L. <i>Menthaarvensis</i> L. / <i>M. aquatica</i> Linn		
Aerial part	Pudina (common name)	5-10 g
<i>Mentha</i> <i>piperata</i> L./ <i>Mentha</i> species	Peppermint/Sat pudina (common name)	10-30 mg
Kewda		
<i>Pandanusodoratissimus</i> L.f.		
Oil / Flower	Kewda(common name)	2-5 drops /2-5 g

3.66 On being specifically enquired as to whether it is a fact that as per the study conducted by the Indian Council of Medical Research (ICMR), 2006 titled 'Assessment of Burden of Diseases due to Non-Communicable Diseases' based on the analysis of published literature till 2004, the risk of diseases attributable to tobacco use was for stroke (78%), tuberculosis (65.6%), ischemic heart disease (85.2%), acute myocardial infarction

(52%), oesophageal cancer (43%), oral cancer (38%) and lung cancer (16%) respectively, the Ministry of Health & Family Welfare, in a written reply, submitted:-

"The Ministry of Health & Family Welfare considers tobacco in any form and quantity is harmful.

The Ministry of Health & Family Welfare has taken steps to regulate manufacture, sale and use of tobacco products, based on the applicable statutes and the Judicial interpretations and directions issued regarding them by the Hon'ble Supreme Court of India and various High Courts. The said Acts are as follows:-

- *The Drugs and Cosmetics Act, 1940*
- *The Prevention of Food Adulteration Act, 1954.*
- *The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003.*
- *The Food Safety and Standards Act, 2006.*

The Ministry of Health & Family Welfare has taken a consistent stand before the Courts by way of affidavits/written submissions in several cases stating that this Ministry considers tobacco in any form and quantity is harmful and does not emphasize on any particular form of tobacco products. However, as per existing statutes/rules, the provisions under the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 at present only empower the Government to regulate the smoking tobacco products including a ban on their sale to or by minors and within the radius of 100 yards of educational institutions."

3.67 When Article 47 of the Constitution of India which also relates to one of the Directive Principles that directs the State to raise the level of nutrition and the standard of living and to improve Public Health as among its Primary Duties and, in particular, to bring about prohibition of intoxicating drinks and drugs, what are the reasons that 'Tobacco and Tobacco Products' have been differentiated as 'Chewing/ Smokeless' and 'Non-Chewing/Smoking', thereby, "Banning" the former vide Food Safety Regulations issued in 2011 under the Food Safety and Standards Act, 2006 and only "Regulating" the latter through COPTA 2003. The Committee asked the Ministry to furnish their considered comments in the matter.

3.68 In addition to this, the Committee also contended that in case, the Ministry considers Tobacco in any form and quantity is harmful for Public Health and Consumption, then what

had been the plausible reasons for not including the "Smoking Tobacco" within the definition of "Food" under the Food Safety and Standards Act, 2006. The Ministry of Health & Family Welfare (Tobacco Control Division) *vide* their communication dated 8 December, 2016 had submitted before the Committee as follows:-

"Though there is no explicit mention of tobacco products including smokeless Tobacco products in the definition of Food, however, the definition of Food under Section 3(j) of the FSS Act, 2006 is very wide and includes products such as Gutkha, Zarda, Khaini (processed) and any other similar processed/flavoured chewing tobacco products."

"Section 3(1)(j) of the Food Safety and Standards Act, 2006 does explicitly mention the word tobacco products and smokeless tobacco products. However, the definition of food under Section 3(1)(j) of the FSS Act, 2006 is very comprehensive. Further, the regulation 2.3.4 of the (Prohibition and Restriction of Sales) Regulations, 2011 specifies that 'Product not to contain any substance which may be injurious to health: Tobacco and Nicotine shall not be used as ingredients of any Food Products.

Thus, the above mentioned Section of FSS Act and the Regulation, read together, prohibits the use of Tobacco and Nicotine in any form in any food products."

3.69 The Committee further desired to know as to what were the documentary material inputs available with the Ministry of Health & Family Welfare based on which only Smokeless Tobacco Products, viz., Gutkha, Zarda, Khaini (processed) and other similar Processed/Flavoured Chewing Tobacco products were included in the definition of 'Food', when there was no explicit mention of Tobacco Products in Section 3(1)(j) of the Food Safety and Standards Act, 2006. Also, what were the reasons for not prohibiting the use of smoke tobacco, viz., Cigarettes, Beedis, etc., by reading together the relevant Section of FSS Act and the Regulation *ibid*, if the Regulation 2.3.4 of the (Prohibition and Restriction of Sales) Regulations, 2011 specifies that 'Product not to contain any substance which may be injurious to health: Tobacco and Nicotine shall not be used as ingredients of any food products'. The Ministry of Health & Family Welfare, in their written reply, submitted:-

"The word "food" is defined under Section 3(j) of the FSS Act, 2006, as any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause 3(zk), genetically modified or engineered food or food containing such ingredients. Food includes infant food, packaged drinking water, alcoholic drinks, chewing gum and any other substance including water used in the food during its manufacture, preparation, or treatment but does not include any animal feed, live

animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic psychotropic substances. The definition of food under section 3(j) of the FSS Act, 2006 is very wide. Therefore smokeless tobacco products such as gutkha, zarda, khaini (processed) and any other similar processed/flavoured chewing tobacco products are all food products within the definition of the word 'food' under the FSS Act, 2006.

The Hon'ble Supreme Court of India in the matter of State of Tamil Nadu v R. Krishnamurthy, (1980) 1 SCC 167, held, that all that is required to classify a product as food is that it be commonly used for human consumption or in preparing human food. The Hon'ble Supreme Court in the Godawat Pan Masala Products I.P. Ltd. v Union of India (2004) 7 SCC 68, held gutkha, pan masala and supari as food articles.

The Hon'ble Allahabad High Court in Manohar Lal vs. State of U.P., Criminal Revision No. 318 of 1982 and in Khedan Lal and Sons vs. State of U.P. and Ors., 1980 CriL 1346, relying upon the judgment of State of Tamil Nadu vs. R. Krishnamurthy, (1980)1 SCC 167, held "chewing tobacco" as an article of food.

The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011 was notified on 1st August, 2011, in exercise of the powers conferred under Section 92 read with Section 26 of the Food Safety and Standards Act, 2006. Clause 2.3.4 of the said Regulation expressly prohibits the use of tobacco and nicotine in all food products and reads as: "Product not to contain any substance which may be injurious to health: Tobacco and nicotine shall not be used as ingredients in any food products. The use of word 'shall' is indicative of the resolve to prohibit tobacco and nicotine for human consumption. Smoking Tobacco Products are smoked and therefore not covered under the definition of "Food" provided under Section 3(j) of the Food Safety and Standard Act, 2006."

3.70 The Ministry of Health & Family Welfare (Tobacco Control Division) vide their communication dated 6 October, 2017 submitted before the Committee as follows:-

"The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011, Clause 2.3.4 expressly bans/prohibits the use of tobacco and nicotine in any Food Product. The Hon'ble Courts while interpreting the definition of 'Food' have held Gutkha and Pan Masala (containing tobacco and nicotine) as Food Articles. The Hon'ble Supreme Court vide Order dated 3 April, 2013, observed that the Government of India has enacted Regulation 2.3.4 under the Food Safety &

Standards Act, that prohibits the use of tobacco and nicotine in any Food Products and inter alia bans Gutkha and Pan Masala (containing tobacco and nicotine)."

3.71 While referring to a Starred Question No. 391, answered in Lok Sabha on 12 August, 2016, the Committee enquired as to whether the Apex Court has ordered a ban on sale, purchase and storage of all forms of Chewable/Smokeless Tobacco in the country. The Ministry of Health & Family Welfare, in their written reply, submitted as follows:-

"No such specific order has been given by the Apex Court. However, the Government of India has issued Regulations under the Food Safety & Standards Act, 2006 which lay down that tobacco or nicotine cannot be used as ingredients in Food Product."

3.72 In regard to the above stated communication and reply of the Ministry, the Committee desired to know as to whether there is a visible contradiction between the reply dated 6 October, 2017 given by the Ministry of Health & Family Welfare to the Committee on Petitions and the answer given by them in response to the Starred Question No. 391 and also about the reasons therefore along with the stated position of the Ministry of Health & Family Welfare *vis-a-vis* which Authority had actually imposed ban on Gutkha and Pan Masala (containing tobacco and nicotine). The Ministry of Health & Family Welfare, in a written reply, submitted:-

"There is no contradiction between the reply dated 6 October, 2017 given by the Ministry of Health & Family Welfare to the Committee on Petitions and the answer given by them in response to the Starred Question No. 391. The Hon'ble Supreme Court directed to implement the Regulation 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011 which stipulates that Product not to contain any substance which may be injurious to health: Tobacco and nicotine shall not be used as ingredients in any food products. Whereas, the reply of the said starred question is about specific order by the Apex Court regarding ban on sale, purchase and storage of all forms of Chewable/Smokeless Tobacco in the country."

3.73 On being categorically enquired as to what would be the impact on the employment of people if a Blanket Ban is imposed on the manufacturing, distribution, sale of all kinds of Tobacco Products in the country, the Ministry of Labour & Employment, in their written reply, submitted:-

"A blanket ban on the manufacturing, distribution and sale of all kind of Tobacco products would drastically hamper the source of livelihood for the workers engaged

in beedi industry. However, this Ministry is concerned with the issues mentioned/raised and has therefore, initiated a Skill Development Programme for beedi workers and their dependents to shift them from Tobacco industry to alternative jobs."

3.74 In this regard, the Ministry of Commerce & Industry (Department of Commerce), in their written reply, submitted:-

"Tobacco Board has informed that there are no alternative crops to FCV tobacco available to tobacco farmers purely on economic grounds in the tobacco growing zones which are predominantly rainfed with deficit rain fall. The impact of the blanket ban on manufacturing, distribution, sale of all kinds of tobacco products will be huge considering the vast number of people involved in tobacco industry. Besides, there will be compounding negative impact on other sectors also as the disposable incomes of people employed in tobacco industry will be reduced greatly.

As reported tobacco cultivation is highly labour intensive when compared to other crops. The industry estimate of rural employment in tobacco in India is about 40 million which comprises of 6 million farmers, 20 million farm labour, 6 million rural beedi factory workers, 4 million tendu leaf pluckers and 4 million rural trade retailers. The total employment generation including urban employment is estimated at 45.70 million. Policies for control of tobacco which have for reaching financial and employment implications, impacting lives of more than 45 million people in India.

About 89,000 farmers (excluding their family members) are involved in the production of FCV tobacco. India produces 250 to 300 M.kgs of FCV tobacco in states of Andhra Pradesh and Karnataka. If the production of the FCV tobacco declines drastically, it will not only effect the farm economy but also render the farm labourers jobless.

In most of the families, the cultivation of FCV tobacco remains as a family tradition since generations sustaining livelihood from well-established curing facilities and supporting infrastructures. Hence, shifting to alternate crop adversely affect the economics/employment of family labour contributing to farm management of tobacco cultivation and farm labour dependent on tobacco cultivation.

In India, the workers in FCV tobacco sector are getting higher wages than other crops. However, the developed countries like USA, Canada, Australia, Japan, South Korea, Italy etc have mechanized most of the operations in Tobacco cultivation using only few workers in their huge farms. In such a situation, once the workers are

diverted from the tobacco cultivation, the production of tobacco in India is expected to fall significantly and whereas the production in developed / industrialized countries may continue at the same levels without registering any declines.

In FCV tobacco, there is a practice of engaging of labour on contract basis as "teams" for operational convenience and to improve the efficiency in attending certain field operations like transplantations, harvesting of green leaf, leaf stitching, loading in to the barn for curing and unloading after curing. As such, a team of labour will be engaged by a group of farmers jointly and same team of labour will attend the contractual operations in rotation for the season for that group of farmers.

With view to continuity in work and completing the scheduled farm operations in time, the workers get handsome wages and also continuity in work during the season every year. Thus millions of people employed in grading, processing, stripping, threshing, packing and warehousing, render jobless affecting the rural employment.

The immediate annual loss to the Government revenue will be US \$ 900 million and about an estimated Rs. 30000 crores which is generated by Exports and Central/State taxes on tobacco & tobacco Products respectively. In addition, it will be difficult for the Government to implement the ban as curbing smuggling of these incoming goods across the border will be very difficult as seen from the present experiences in battling smuggled/counterfeit tobacco products."

3.75 On this issue, during the sitting of the Committee on Petitions, the representatives of the Ministries of Health & Family Welfare, Agriculture & Farmers Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) and Labour & Employment deposed before the Committee as follows:-

"It has been verified by the number of Reports that 'Tobacco' is harmful in all its forms. There is no difference between 'Smokeless and Smoking Tobacco' as far as their harmful effects on human beings are concerned as both are harmful to health and causes cancer and other related diseases. Approximately, 8 lakh deaths are reported, every year, due to cancer caused by use of tobacco.

The Expert Committee on 'Use of Tobacco in Pan Masala, Gutkha, etc.', in its meeting held on 23.9.1997, stated that, "On the basis of literatures/studies available so far on adverse effects of consumption of pan masala containing tobacco/gutkha/chewing tobacco, the Experts strongly recommended that use of chewing tobacco in pan masala/gutkha or as an ingredient in any food item or as

such, should be prohibited as consumption of these articles is definitely injurious to public health".

The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011, Clause 2.3.4 expressly bans/prohibits the use of tobacco and nicotine in all food products stating "Product not to contain any substance which may be injurious to health; Tobacco and nicotine shall not be used as ingredients in any food products". However, the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA) discourages tobacco use in the public interest and only regulates the tobacco products to protect the public health. This is a well thought out decision to regulate smoking tobacco so that its harmful effects could be reduced gradually.

As per the Screening Report on the non-communicable diseases such as diabetes, hypertension and common cancer, it has been found that most of the cases are of Oral Cancer followed by Breast Cancer and Cervical Cancer."

PART - BCHAPTER - IVOBSERVATIONS/RECOMMENDATIONSExcessive Delegated Legislation

4.1 The Committee note that under Section 3(j) of the Food Safety and Standards Act, 2006, the word 'Food' has been defined as follows:-

"Food means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (zk), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants, prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances."

4.2 The Committee also note that under Section 7(v) of the Prevention of Food Adulteration Act, 1954, the word 'Food' has been defined as follows:-

"Food means any article used as food or drink for human consumption other than drugs and water and includes, any article, which ordinarily enters into, or is used in the composition or preparation of, human food and any flavoring matter or condiments."

4.3 In this context, the Committee further find that the Codex Alimentarius Commission (CAC) was created in 1961-62 by the Food and Agriculture Organisation (FAO) of the United Nations and the World Health Organisation (WHO) to develop Food Standards, Guidelines and related texts such as Codes of Practice under the Joint FAO/WHO Food Standards Programme. The main purpose of this Programme

was to protect the health of consumers, ensure fair practices in the food trade, and promote coordination of all Food Standards work undertaken by the International Governmental and Non-Governmental Organisations. It is a collection of International Food Standards adopted by the Codex Alimentarius Commission. The Codex defines certain terms related to the processing of food. As per Codex Alimentarius, the word 'Food' has been defined as follows:-

"Food means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of "Food" but does not include cosmetics or tobacco or substances used only as drugs."

4.4 Similarly, as per the European Commission's definition of food, 'Food' (or 'Foodstuff') means any substance or product whether processed, partially processed or unprocessed, intended to be, or reasonable expected to be ingested by humans. 'Food' includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. It includes water after the point of compliance as defined in Article 6 of Directive 98/83/EC and without prejudice to the requirements of Directives 80/778/EEC and 98/83/EC. 'Food' shall not include feed live animals unless they are prepared for placing on the market for human consumption, plants prior to harvesting medicinal products within the meaning of Council Directives 65/EEC(21) and 92/73EEC(22); cosmetics within the meaning of Council Directive 76/768/EEC(23); tobacco and tobacco products within the meaning of Council Directive 89/622/EEC(24); narcotic or psychotropic substances within the meaning of the United Nations Convention on Psychotropic Substances, 1971, residues and contaminants.

4.5 In the context of definition of 'Food' under the Food Safety and Standards Act, 2006, the Prevention of Food Adulteration Act, 1954 and the Codex Alimentarius Commission, the Ministry of Health & Family Welfare have submitted before the Committee, as follows:-

"Though there is no explicit mention of tobacco products including Smokeless Tobacco products in the definition of food, the definition of 'food' under Section 3(j) of the FSS Act, 2006 is very wide and includes products such as Gutkha, Zarda, Khaini (processed) and any other similar processed/flavoured Chewing Tobacco products."

"In the definition of 'food' under the PFA Act, 1954, there is no explicit mention of Tobacco products including Smokeless Tobacco products."

"The definition of 'food' in Codex differs from that of FSS Act, 2006 in respect of specific exclusion of Tobacco from food."

4.6 Notwithstanding the fact that there was no explicit mention of Tobacco products including Smokeless Tobacco products in the definition of 'food', either in the FSS Act, 2006 or the PFA Act, 1954, the Smokeless Tobacco products such as Gutkha, Zarda, Khaini (processed) and other similar processed/flavoured chewing tobacco products were included as food products within the definition of the word 'Food'. The Committee, therefore, specifically enquired about the reasons for such inclusion. The Ministry of Health & Family Welfare had given the following reasoning for inclusion of Tobacco products such as Gutkha, Zarda and Khaini (processed) as food products within the definition of the word 'Food':-

- (i) *The Hon'ble Supreme Court, in the case of Ghodawat Pan Masala Products I.P. Ltd., held Gutkha, Pan Masala and Supari as food articles because under the FSS Act, 2006, chewing tobacco is listed in the category of food items.*

- (ii) *The Hon'ble Supreme Court, in the matter of State of Tamil Nadu vs. R. Krishnamurthy, (1980) 1 SCC 167, while interpreting the definition under PFA Act, 1954, held, that all that is required to classify a product as food is that it be commonly used for human consumption or in preparing human food.*
- (iii) *The Hon'ble Allahabad High Court in Manohar Lal vs. State of U.P., Criminal Revision No. 318 of 1982 and in Khedan Lal and Sons vs. State of U.P. and Ors., 1980 CriLJ 1346, relying upon the judgment of State of Tamil Nadu vs. R. Krishnamurthy, (1980)1 SCC 167, held "Chewing Tobacco" as an article of food.*
- (iv) *The Hon'ble Supreme Court in the Godawat Pan Masala Products I.P. Ltd. vs. Union of India (2004) 7 SCC 68, held Gutkha, Pan Masala and Supari as food articles based on the definition of "food" under the PFA Act.*
- (v) *In exercise of the powers conferred under Section 92 read with Section 26 of the Food Safety and Standards Act, 2006, the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011 was notified on 1 August, 2011. Clause 2.3.4 of the said Regulation expressly prohibits the use of tobacco and nicotine in all food products and reads as: "Product not to contain any substance which may be injurious to health: Tobacco and nicotine shall not be used as ingredients in any food products".*

4.7 Against the aforesaid backdrop, the Committee are astonished to find that the Ministry of Health & Family Welfare have not only relied upon the orders of various Courts including the Hon'ble Supreme Court of India to justify the inclusion of tobacco products in the definition of food under Section 3(j) of the FSS Act, 2006, but also referred to their notifying the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011; which expressly prohibits the use of tobacco and nicotine in all food products. In this connection, the Committee would like to point out that even though the various Courts of the country had interpreted the relevant Acts, thereby, prohibiting the use of tobacco and nicotine in all food

products, the act of Ministry of Health & Family Welfare by way of merely notifying the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011 for prohibiting the use of tobacco and nicotine in all food products, and not amending either the Food Safety and Standards Act, 2006 or the Prevention of Food Adulteration Act, 1954 is an exercise of excessive Delegated Legislation. The Committee would also like to mention that according to the traditional theory of Subordinate Legislation, the function of the Executive is to administer the law enacted by the Legislature, and in the ideal State like ours, the Legislative Powers must be exercised exclusively by the Legislatures who are directly responsible to the electorates. The Committee, therefore, strongly recommend that in case, the Ministry of Health & Family Welfare intends to further pursue the matter, they should work out modalities to amend the Food Safety and Standards Act, 2006 or the Prevention of Food Adulteration Act, 1954 for explicitly prohibiting the use of tobacco and nicotine in all food products and also bring about appropriate changes in the definition of 'Food' under the Act *ibid*. The Committee would like to be kept abreast of the steps taken by the Ministry of Health & Family Welfare in the matter.

Avoidance of narrow definition of 'Food' under the FSS Act, 2006

4.8 The Committee note from the submissions made by the Ministry of Health & Family Welfare that the use of Tobacco is a prominent risk factor for 6 to 8 leading causes of death and almost 40% of the Non Communicable Diseases (NCD) including cancers, cardiovascular diseases and lung disorders are directly attributable to tobacco use. The number of deaths every year in India which is attributable to tobacco use is almost 8-9 lakhs (Tobacco Control In India Report, 2004) and 50% of cancers in males and 20% cancers in females can be directly attributed to tobacco use (ICMR Study). If the current trends continue and if effective steps are not taken to

control Tobacco Consumption, it is estimated that by the year 2020, tobacco use will account for 13% of all deaths in India every year. Further, according to the WHO Global Report on "Tobacco Attributable Mortality" 2012, 7 percent of all deaths (for ages 30 and over) in India are attributable to Tobacco Use.

4.9 The Committee also note from the submissions made by the Ministry of Health & Family Welfare that besides being a major health risk, the use of Tobacco and the associated mortality and morbidity are a significant economic burden on the society. As per the findings of the study titled "Economic Burden of Tobacco Related Diseases in India" (2014) commissioned by Ministry of Health & Family Welfare, the total Economic Costs attributable to Tobacco Use from all diseases in the country in the year 2011 for persons aged 35-69 years amounted to Rs.1,04,500 crore. This estimated cost was 1.16 % of the GDP and was 12% more than the combined States and Central Government expenditures in Health Sector in 2011-12.

4.10 The Committee further note that keeping in view harmful effects of tobacco, Clause 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation, 2011 expressly bans/prohibits the use of tobacco and nicotine in all the food products. However, thereafter, another subjective distinction was made by the Ministry of Health & Family Welfare by way of confining the harmful effects of tobacco only to smokeless tobacco such as Gutkha, Zarda, Khaini and any other similar processed/flavoured chewing tobacco products and conveniently excluded the smoking tobacco. While giving reasons for advocating the proscription of only smokeless/chewing tobacco products and not the entire range of products containing tobacco and nicotine, the Ministry of Health & Family Welfare have reasoned that smoking tobacco cannot be brought under the definition of 'food' as anything is eaten through mouth or chewed can only be 'food' under the definition at

Section 3(I) of FSS Act, 2006. Given this backdrop, the Committee find it difficult to understand the logic behind making such a laughable distinction in view of the fact that the Ministry of Health & Family Welfare, in their submissions before the Committee, have themselves accepted not only the fact that the WHO Global Report on 'Tobacco Mortality Report 2012' had reached to the conclusion that seven percent of all deaths in the country are attributable to use of tobacco, but also revealed that the total economic cost attributable to tobacco use from all diseases in the country in the year 2011 amounted to Rs. 1,04,500 crore; which was 1.16 percent of the Gross Domestic Product (GDP) and was also 12 percent more than the combined States and Central Government expenditures in the Health Sector in 2011-12. Now that since the Committee have already recommended that in order to obviate excessive delegated legislation by way of amending the relevant provisions of the FSS Act, 2006, the Committee further recommend that the definition of 'Food' contained in the FSS Act, 2006 should not only include smokeless tobacco products but also all forms of products which contain tobacco and nicotine. The amendment in the Act *ibid*, should, therefore, explicitly prescribe that "the product not to contain any substance which may be injurious to health: Tobacco and Nicotine shall not be used as ingredients in any food product". The Committee would like to be apprised of the concrete action initiated by the Ministry of Health & Family Welfare, in this regard.

4.11 In this context, the Committee, after comprehending the various facets of reflective listening and submissions made by the Ministry of Health and Family Welfare, thereby, pointing towards the probable 'blind spots' as brought out in the foregoing paragraphs, are inclined to again refer to Clause 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales), Regulation, 2011 which expressly prohibits the use of tobacco and nicotine in all food products. In case, the Committee, momentarily, ignores the aspect of excessive delegated legislation, then,

in the context of said Regulation, the Committee find that when it has already been specified that 'Tobacco' and 'Nicotine' shall not be used as ingredients in any food products, then, what was the logic of continuous insistence on the part of the Ministry of Health and Family Welfare to consider Gutkha, Zarda, Khaini and other similar articles as 'Food Products' by way of interpreting the definition of 'Food' under section 3(i) of the FSS Act, 2006. The Committee are of considered view that there appears an inherent contradiction in Clause 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales), Regulation, 2011 *vis-a-vis* the definition of 'Food' under the FSS Act, 2006 which reverberate the non-usefulness of bringing various products such as Gutkha, Zarda, Khaini and any other similar chewing tobacco products as articles of 'Food'. The Committee, therefore, strongly recommend that the Ministry of Health and Family Welfare should redraw their entire strategy, with a pragmatic hypothesis of the need of imposing a complete ban or regulating the use of all tobacco products in the country and, thereafter, formulate a long term policy coupled with bringing out one-time, self-contained, legally tenable amendments in the Act(s) to insulate themselves from entering into yet another quagmire of legal complications/litigations and leveling of *poppycock* allegations from various, so called 'Lobbies'. The Committee would like to be apprised of the concrete action taken by the Ministry of Health and Family Welfare in this regard.

Imposing selective ban vis-a-vis enforcing regulation - A Case Study of 'Smokeless' and 'Smoking' Tobacco

4.12 The Committee note that during the oral evidence, the representatives of the Ministries of Health & Family Welfare, Agriculture & Farmers Welfare (Department of Agriculture, Cooperation & Farmers' Welfare) and Labour & Employment deposed before the Committee and unambiguously submitted that it has been verified by the

number of Reports that 'Tobacco' is harmful in all its forms. There is no difference between 'Smokeless' and 'Smoking' Tobacco as far as their harmful effects on human beings are concerned as both are harmful to health and cause cancer and other related diseases. The Committee was apprised that approximately, 8 lakh deaths are reported, every year, due to cancer caused by use of tobacco. The Committee have further been apprised that the Expert Committee on 'Use of Tobacco in Pan Masala, Gutkha, etc.', in its meeting held on 23.9.1997, stated that on the basis of literatures/studies available so far on the adverse effects of consumption of Pan Masala containing Tobacco/Gutkha/Chewing Tobacco, the Experts strongly recommended that use of chewing tobacco in Pan Masala/Gutkha or as an ingredient in any food item or as such, should be prohibited as consumption of these articles is definitely injurious to public health. The Committee have also analysed that imposing a ban or moving in the direction of proscribing all the activities connected with the manufacture, sale, consumption, etc., of all types of 'Smokeless/Chewing Tobacco' products is based on four premises, namely; (i) Leisure interpretation of definition of 'Food' under Section 2(j) of the FSS Act, 2006 by the Ministry of Health & Family Welfare; (ii) Taking out all types of 'Smoking Tobacco' products from the ambit of ban on the grounds that anything which is eaten through mouth or chewed can only be 'Food' as per the definition under the FSS Act, 2006; (iii) Ignoring the ill-effects of smoking tobacco on various vulnerable non-smoking classes, viz., women, senior citizens, children and other environmental hazards attributable to emission of hazardous/toxic chemicals while smoking which has always remained a serious aspect of concern in almost all the countries of the world; and (iv) Observations/ Interpretations/Orders of various Courts, including the Supreme Court of India, affirming 'Chewing Tobacco' as an article of food.

4.13 The Committee, on the other hand, are astonished to note that when Clause 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011 expressly bans/prohibits the use of tobacco and nicotine in all the food products, provisions contained in the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA) were invoked only to regulate 'Smoking Tobacco' and not to impose any ban on these tobacco products.

4.14 The Committee, after pondering over all the issues/aspects in detail, are of considered opinion that now it is high time that the Ministry of Health & Family Welfare should go in for an impregnable policy formulation either to consider that 'Tobacco' is harmful in all its forms and there is no difference between 'Smokeless' and 'Smoking' Tobacco as far as their harmful effects on human beings are concerned and impose a complete ban on all these products; or to regulate the trade and commerce, production, supply and distribution of all these products, i.e., both 'Smokeless' and 'Smoking' Tobacco in the country by way of implementing the provisions contained in the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 in an all encompassing and stringent manner and that too in effective co-ordination with State Governments and other stakeholders. In this connection, the Committee would also like to advise the Ministry of Health & Family Welfare that while going in for any of the aforementioned alternative, i.e., either imposing a complete ban on all 'Smokeless' and 'Smoking' items or only regulating these products, a two pronged strategy need to be adopted by them, i.e., firstly to work out concrete proposals for implementation of both the recommendations of the Committee contained at paragraphs 4.7, 4.10 and 4.11 of Chapter IV of the Report; and secondly, to formulate and submit appropriate averments, in the form of an

Affidavit, before the Court(s), where the matter is currently under their consideration. Notwithstanding the fact that this is an onerous task, the Committee desire that the Ministry of Health & Family Welfare should take all the necessary measures to achieve the intended objectives. The Committee would like to be apprised of the definite roadmap, including targeted dates for each of these activities, at the earliest.

Encouraging Tobacco Growing Farmers to shift to alternate Crops/Cropping Systems

4.15 The Committee note that 60 lakh farmers are involved in tobacco farming in the country and the number of people involved in tobacco farming, marketing and other allied activities runs in crores. As per the industry estimates, the Tobacco Industry provides livelihood to over 45.7 million people consisting of Farmers, Farm Labour, Merchant Traders, Processors, Manufacturers, Wholesalers and Retailers across the supply chain, out of which more than 48 lakh workers are registered as Beedi Rollers under the Labour Welfare Organisation of the Ministry of Labour and Employment. The Committee also note that in order to encourage tobacco growing farmers to shift to alternate crops/cropping systems, Department of Agriculture, Cooperation & Farmers' Welfare (DAC&FW), Ministry of Agriculture & Farmer's Welfare (MOAFW) has extended its Crop Diversification Programme (CDP), an ongoing sub-scheme of Rashtriya Krishi Vikas Yojna (RKVY), to 10 tobacco growing States, i.e., Andhra Pradesh, Bihar, Gujarat, Karnataka, Maharashtra, Odisha, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal w.e.f. 2015-16. Under the scheme, assistance is being provided under four major components, viz., alternate crop demonstration, farm mechanization & value addition, site specific activities and contingency for awareness, training, implementation, monitoring, etc. through State Department of Agriculture. The Committee have also been informed that with the implementation of Crop Diversification Programme, out of the total tobacco area of 4.67 lakh hectares in

the country, about 29,998 hectares in 2015-16 and 51,713.1 hectares in 2016-17 have been diversified with alternative crops/cropping system. Besides, in order to encourage tobacco workers to shift to alternative vocations, this Ministry have collaborated with Ministry of Labour & Employment to initiate 'Skill Development' programme for beedi rollers to facilitate them to shift to alternative vocations which are equally remunerative. The programme has been launched on a pilot basis in the year 2017 in the 5 States, viz. Sambhalpur - Bhubaneshwar Region; Rajnandgaon - Raipur Region; 24 Pargana - Kolkata Region; Kasargod - Kannur Region ; and Nizamabad - Hyderabad region.

4.16 The Committee appreciate the various initiatives so far been undertaken by the Union Government, in coordination with the State Governments/UT Administration, to assist the farmers for adopting various alternative vocations or shifting to alternate crops/cropping systems. However, while analysing the statistical details of implementation of the Crop Diversification Programme in the country, the Committee have found that during 2015-16 and 2016-17, only 81,711 hectares of tobacco farming area have been diversified with alternative crops/cropping system, which is a meagre 17.49 percent of the 4.67 lakh hectares of total tobacco farming area in the country. On this issue, the Committee would like to clear their apprehension that had the Authorities concerned vehemently embarked upon the Crop Diversification Programme, especially for tobacco growing farmers earlier, i.e., before 2014-15, the results achieved would have been much more encouraging. The Committee, therefore, strongly recommend that the Ministry of Agriculture & Farmers' Welfare should give a renewed impetus to the entire Crop Diversification Programme, in co-ordination with the State Governments/ UT Administrations with a view to encouraging the tobacco growing farmers to shift to alternate crops/cropping

systems. The Committee would like to be apprised of the action taken by the Ministry in this regard.

Promotion of Aromatic Plants Industry

4.17 The Committee note that the Ministry of Micro, Small and Medium Enterprises have setup MSME-Technology Centre "Fragrance and Flavour Development Centre (FFDC), Kannauj" in the year 1991 with a view to serving as an interface between Essential Oil, Fragrance & Flavour Industry and the R&D Institutions, both in the field of Agro-Technology and Chemical Technology. The main objective of the Centre is to serve, sustain and upgrade the status of farmers and industry engaged in the Aromatic Cultivation and its processing, so as to make them competitive, both in the Local and the Global Markets. Besides, the FFDC has been organizing various Awareness Programmes/Motivational Campaign/Kisan Goshthi for promotion of Mentha & Kevda Industry in the country. The statistical data submitted by the Micro, Small and Medium Enterprises shows that during the last ten years, 154 Awareness Programmes on Mentha and Kewda/ training on cultivation of Aromatic Crops have been organised and 7783 persons have participated therein. The Committee further note that for promotion of Mint Industry/Farmers in the country, the FFDC is also imparting services to the Industry for analyzing the Samples of Mint Oils through Multi Commodity Exchange, Mumbai. During the last ten years, 39,085 Samples of Mint Oils have been analysed by the FFDC.

4.18 Notwithstanding the various initiatives taken by the Ministry of Micro, Small and Medium Enterprises for promotion of Aromatic Plants Industry, the Committee are constrained to specifically mention that till date, no specific Scheme to incentivize the Aromatic Plant Industry, viz., Kewda and Mentha has ever been

conceived and implemented by any of the Ministry of Government of India, viz., the Ministry of Agriculture & Farmers' Welfare, Ministry of Labour and Employment, the Ministry of Commerce and Industry, or the Ministry of Micro, Small & Medium Enterprises-leaving much to be desired on this count. The Committee, therefore, strongly recommend that a Quick Study, in co-ordination with the State Governments, should be initiated by the Government to take a call for the need for formulation of a specific Scheme to incentivize the Aromatic Plant Industry, viz., Kewda and Mentha. While analysing this, care should also be taken by the Government to ensure that the Scheme is implemented in the right earnest. The Committee would like to be apprised of the concrete action taken and the results achieved thereby within the next three months.

Efficacy of imposing 'Ban' on any Commodity/Product

4.19 The Committee note that the Central Excise Duty collected by the Government on various types of Tobacco products for the financial year(s) 2015-16 and 2016-17 were Rs.21,228 crore and Rs.21,937 crore respectively. In this context, the Committee intend to co-relate the total revenue generated by the Government by way of Central Excise Duty with the confabulations which are currently underway at various Fora on the aspect of imposing a ban on 'Smokeless Tobacco' products, or 'Smoking Tobacco' products or both vis-a-vis loss of revenue and *per se* direct loss to the Government Exchequer and at the same time, the efficacy of proscribing any commodity/product. In this connection, the Committee are of considered view that the past experience of imposing a 'ban' on any commodity/product in our country has failed to produce the intended objectives and on the other hand, it has not only affected the revenue generation of the Government, which could have otherwise utilised for

the betterment of masses through various Social Security Schemes/Welfare Programmes, but also paved way for black-marketing of the specific commodity/product, production of spurious and sub-standard commodity, mushrooming of unregulated '*Mafia*' and other corrupt practices by the Industry concerned with the active/passive involvement of various Enforcement Agencies. In this chronology, the Committee would like to remind the Government that a couple of years ago, a 'ban' on plastic bag(s) was imposed in almost all the States/UTs. Even though the efficacy of imposing ban on plastic bags could be a debatable issue, it is an irrefutable fact that plastic bags are being rampantly used at every nook and corner of the country for carrying goods and other commodities bought by households from the market place. In the opinion of the Committee, the non-existence of a delegated Enforcement Agency, other than Police, is one of the primary reasons for failure of effective implementation of imposing a ban. The Committee are, therefore, of firm opinion that in case, the Government intend to go ahead with the intention of imposing a ban on all the 'Tobacco Products' in the country, whether it is 'Smokeless/Chewing' Tobacco or 'Smoking' Tobacco or both, the Ministry of Health & Family Welfare should first of all, work out a fool-proof strategy for establishing a distinct Enforcement Agency, in coordination with various State Governments/UT Administrations to ensure its effective, fullest and tangible implementation. The Committee would like to be apprised of the action taken by the Ministry of Health & Family Welfare, in this regard.

NEW DELHI;

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions.

28 February, 2019

9 Phalgun, 1940 (Saka)

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ANNEXURE - I
**SMOKELESS TOBACCO
FEDERATION (INDIA)**

Date: 17 September, 2016

To,

Shri Bhagat Singh Koshyari
Chairman
Committee on Petitions
The Committee of Petitions (Lok Sabha)
Parliament of India
New Delhi – 110001

h/ (G. A. B. Ad. Dir / CPS 12)

**SUBJECT: PETITION TO SAVE THE LIVELIHOOD OF MILLIONS OF TOBACCO FARMERS
AND FARM LABOURERS, WORKERS EMPLOYED IN TOBACCO INDUSTRY,
RETAILERS EMPLOYED IN TOBACCO RETAIL BUSINESS, FARMERS OF KEVDA
AND MENTHA WHO ARE TOTALLY DEPENDENT ON TOBACCO INDUSTRY**

AND

**PETITION FOR HARMONIZATION OF DEFINITION OF "FOOD" UNDER THE FOOD
STANDARD AND SAFETY ACT 2006 IN LINES WITH THE DEFINITION OF "FOOD" AS
PER INTERNATIONAL FOOD STANDARDS ADOPTED BY THE CODEX
ALIMENTARIUS COMMISION**

Respected Sir,

India is World's 2nd largest producer of tobacco. India produces 900 million kgs of tobacco per annum. More than 200 million kgs of tobacco is exported per annum. Tobacco is grown in Gujarat, Andhra Pradesh, Telangana, Karnataka, Tamil Nadu, Bihar, Odisha, West Bengal, Uttar Pradesh, Maharashtra, Madhya Pradesh, Chhattisgarh and Assam, in fact. Tobacco is the Lifeline of Millions of Farmers and Farm Workers in India..

The Total Area under cultivation in India with respect to raw tobacco is 20,10,940 hectares (Twenty Lakhs Ten Thousand Nine Hundred And Forty Only) and the number of farmers directly/indirectly involved in its production is 60,00,000 (sixty Lakhs Only). The number of farm labourers employed in the production of raw tobacco is 20,00,000 (Twenty Lakhs Only). The statistics mentioned here is provided by Directorate of Economics & Statistics under Ministry of Agricultural.

Some Important Facts about Tobacco Farming

- Tobacco is grown in semi-arid and non-irrigated lands where no other remunerative cultivation is possible.

*"Given the existing level of technology, the possibility of an alternative crop to tobacco,
purely on economic grounds does not exist"*

(Report on Tobacco Control in India, Union Ministry of Health & Family Welfare, 2004)

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- Successive efforts by Central Tobacco Research Institute (CTR) to explore remunerative alternative crops have been unsuccessful.

"The Government is Responsible for Promotion of appropriate economically viable alternatives for tobacco growers, workers, whose livelihoods are affected as a consequence of Tobacco Control Programmes"

(Minister of State for Commerce & Industry in reply to
Lok Sabha, Unstarred Question No. 2179 dated December 5, 2014)

Other Significant Facts about Tobacco Industry

- Tobacco farmers are getting fair/market price for their produce. Unlike the farmers of other crops there are no reports of suicides by tobacco farmers.
- No Government subsidy or Minimum Support Price (MSP) is required.
- Tobacco products like zarda, chewing tobacco etc. are native to India.
- Tobacco is an Agro-based Industry with many tobacco products like chewing tobacco etc care in the Small Scale Industry (SSI) sector.
- Tobacco products are manufactured across India by over 2,000 manufacturers.
- All tobacco products are "Make in India" products, 100% swadeshi and mostly swadeshi brands.
- There are 72 lakh retailers who are self-employed entrepreneurs from the lowest strata of the society. They earn their livelihood with minimum investment without any support or subsidy from the Government.

Despite the enormous socio-economic significance of tobacco in India, it is unfortunate that the Government has ignored and not consulted the stakeholders whose lives will be adversely affected while formulating tobacco control policies. In fact, anti-tobacco NGOs are at the forefront in the formulation of tobacco control policies of the country. Adding to the woes of Indian Tobacco Industry, government plans to ban chewing tobacco under provision of Food Safety Act 2006.

Rise of the Tobacco Mafia

If the chewing tobacco and/or any form of tobacco is banned, a legitimate business will be replaced with mafia. Such steps would not in any way detriment the manufacture and distribution of tobacco products, rather would instigate sale of spurious tobacco and more and more smuggling, thus, leading catastrophic consequences. As per the Report titled "Illicit Tobacco Trade-Illegal Profits and Public Peril, October, 2008" published by Campaign for Tobacco free kids, India stood at 4th position in the year 2006 in terms of illicit cigarette consumption all over the world.

Owing to such illicit trade of tobacco products so rampant in the country, it is not even possible to assess the exact damage caused to the public health in India, besides being heavily detrimental to the exchequer of the country. In such a scenario, it is only the Tobacco Mafia, which will crop up and will be the major beneficiaries, which is at the grave cost of health of citizens of India as with the

legitimate product gone, they will indulge in sale of spurious products which will greatly endanger the life of the consumer. In addition to this, it will be a sizeable loss of revenue to the Central Government and various State Governments in the form of the loss of excise and custom duties, VAT / Sales Tax and other taxes. At this juncture, it is also relevant to point out that across the world, the smuggling of illegal tobacco products has been recognised as source of funds for organised crimes and outfits promoting terror.

The above revenue loss to the Government will be a net gain to the mafia, which will be over and above the huge profit margin they will be generating from sale of the spurious tobacco products, running into several of crores. Thus these outfits will be cash rich with huge funds at their disposal for their terrorists and other nefarious activities.

Food Safety and Standard Act 2006 was established as an Act to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import to ensure availability of safe and wholesome food for human consumption and for matters connected therewith and incidental thereto. The Act aims at food safety as a national movement.

It is submitted, herewith, that although the Act is for safety and standards of "Food", the "Food" itself has not been appropriately defined in the statute book i.e. Food Safety & Standard Act 2006.

The most commonly accepted definition of Food is "Edible or potable substance (usually of animal or plant origin), consisting nourishing and nutritive components such as carbohydrates, fats, proteins, essential mineral and vitamins, which (when ingested and assimilated through digestion) sustains life, generated energy, and provides growth, maintenance, and health of the body."

Various countries list a legal definition of food. They list food as any item that is to be processed, partially processed, or unprocessed for consumption. The listing of items included as foodstuffs include any substance intended to be, or reasonably expected to be, ingested by humans. In addition to these foodstuffs, drink, chewing gum, water, or other items processed into said food items are part of the legal definition of food. Items not included in the legal definition of food include animal feed, live animals (unless being prepared for sale in a market), plants prior to harvesting, medicinal products, cosmetics, tobacco and tobacco products, narcotic or psychotropic substances and residues and contaminants.

According to United States Food & Drug Agency, "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

According to European Commission's definition of food, "Food" (or "foodstuff") means any substance or product whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans. "Food" includes drink, chewing gum

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and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. It includes water after the point of compliance as defined in Article 6 of Directive 98/83/EC and without prejudice to the requirements of Directives 80/778/EEC and 98/83/EC. "Food" shall not include feed live animals unless they are prepared for placing on the market for human consumption plants prior to harvesting medicinal products within the meaning of Council Directives 65/65/EEC(21) and 92/73/EEC(22); cosmetics within the meaning of Council Directive 76/768/EEC(23); tobacco and tobacco products within the meaning of Council Directive 89/622/EEC(24); narcotic or psychotropic substances within the meaning of the United Nations Convention on Psychotropic Substances, 1971, residues and contaminants.

The Codex Alimentarius Commission (CAC) was created in 1961/62 by Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO), to develop food standards, guidelines and related texts such as codes of practice under the Joint FAO/WHO Food Standards Programme. The main purpose of this Programme is to protect the health of consumers, ensure fair practices in the food trade, and promote coordination of all food standards work undertaken by international governmental and non-governmental organizations. It is a collection of international food standards adopted by the Codex Alimentarius Commission. The Codex defines certain terms related to the processing of food.

Although the definitions in Food Safety & Standards Act, 2006 (FS&SA) are taken from the codex, food itself has not been appropriately defined in FS&SA, 2006.

According to the Codex Alimentarius, Food means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.

As against the above definition of Food under Codex, Food Safety and Standard Act 2006 under Section 3(i)(j) defines Food as any substance, whether processed, partially processed or unprocessed, which is intended for human consumption, and includes primary food to the extent defined in Clause (2k), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum and any substance including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants, prior to harvesting, drugs and medicinal products, cosmetics, narcotics or psychotropic substances.

It is noted that Codex Alimentarius has made exclusive distinction between "food", "cosmetics", "drugs" and "tobacco". In view of this, it is requested that the Committee of Petitions (COP) consider and deliberate on the issue of appropriate and correct definition of "food", "cosmetics", "drugs" and "tobacco" so as to facilitate the implementing authorities in checking adulteration.

The analogy in the definition of food is leading to complex issues being cropped up which further leads to unnecessary and unwanted litigation.

The Food Safety and Standards Authority of India, (Ministry of Health and Family Welfare) has been designated as the nodal point for liaison with the Codex Alimentarius Commission. It is also responsible for framing and implementation of the Prevention of Food Adulteration Act, 1954, now superseded by Food Safety and Standards Act, 2006, the statutory Act under which the quality and safety of food at the national level is regulated. The National Codex Contact Point (NCCP) has been constituted by the Food Safety and Standards Authority of India for keeping liaison with the CAC and to coordinate Codex activities in India.

In view of the above, it is respectfully prayed that this Hon'ble Committee may be pleased to align / adopt the definition of "Food" in Food Standard and Safety Act 2006, as defined by Codex Alimentarius to remove any analogy with international stands and with Codex, to which Food Safety and Standard Authority of India is also a member and signatory.

Petitioner

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Minutes of the 4th Meeting of Expert Committee on use of chewing tobacco in pan masala and gutka and its effect on public health.

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The 4th Meeting of the Expert Committee was held on 23.9.97 under the chairmanship of Dr.S.P. Agarwal, Director General Health Services. The list of participants is at Annexure I.

After extending a cordial welcome to the participants, the Chairman highlighted the developments taken place since the last meeting of the Expert Committee held in March'96. These are :-

1. Judgement delivered by Hon'ble Supreme Court of India in Laxmikant vs. UOI Civil Appeal No.3000 of 1997 decided on 11th April'97 upholding the Notification issued under Drugs & Cosmetics Act, 1940/vide GSR 443(E) dt. 30.4.92 prohibiting manufacture and sale of all Ayurvedic Drugs licensed as tooth pastes/tooth-powders containing tobacco on the ground of availability of sufficient scientific evidence about the ill effects on health due to use of tobacco. The Hon'ble Supreme Court while dismissing the appeal filed by the aggrieved party, has up-held the imposition of total ban on tobacco in such products in the public interest.
2. Consumption of pan masala containing chewing tobacco has shown a tremendous increase as it has been reported that pan masala industry growing from estimated Rs.200 crore in 1992 to well over Rs.1000 crore in 1997.
3. The declaration made by the judiciary in USA stating that Food and Drugs administration can regulate tobacco as a drug thereby imposing further restrictions

on use of tobacco including cigarette due to its adverse effect on health.

4. Ban imposed by the countries like Australia, Hong Kong, Ireland, Israel, Japan & Newzealand on import/ manufacture and sale of smokeless tobacco (as appeared in the WHO Technical Report series 773), 1986 presented by the representative from ITRC, Lucknow.

5. Concern expressed by the states like Maharashtra, Goa about adverse health implications of consumption of Gutka.

6. Studies carried out by different institutions on adverse effects of consumption of pan masala containing chewing tobacco/gutka. These are :-

(a) Publication appeared in the lancet of Sept. '96 wherein the studies carried out by National Institute of Nutrition, Hyderabad have reported that pan masala containing chewing tobacco have led to development of oral fibrosis after an average of 2.7 years of use. A total of 1790 patients admitted in Dental Hospital of Hyderabad has been studied out of which 136 cases of oral submucous fibrosis have been diagnosed. These patients have the history of chewing of pan masala/gutka.

(b) The study carried out by Dr. Babu Mathew of Regional Cancer Centre, Trivandrum in collaboration with John Hopkins University, USA, has shown mutagenic activities amongs the chewers of tobacco & pan masala with or without tobacco.

(c) A report from Chittaranjan National Cancer Instt., Calcutta showing that as per hospital cancer registry

during the year 1996, 31% malignant cases may be attributed due to tobacco.

(d) A communication received from Tata Institute of Fundamental Research, Mumbai, stating that chewing tobacco causes oral cancer and other health problems.

The Experts noted that tobacco chewing is a known cause of cancer of oral cavities, pharynx and oesophagus. It is also suspected to have a role in causation of coronary artery disease.

1.

The Experts also noted the findings on in-vitro & animal experiments on the mixture, and also some clinical studies on oral sub-mucous fibrosis patients. It was brought out that epidemiological studies linking oral cancer with the use of pan masala containing tobacco are currently not available. Since the habit of chewing pan masala containing tobacco is of recent origin and the suspected disease (Oral cancer) has a long incubation period (15 to 20 years), any epidemiological study carried out at this time would not be useful. Sufficient epidemiological information is however, available on the carcinogenicity of two mixtures similar in composition with pan masala containing tobacco. Chewing of Mainpuri tobacco (a mixture of mainly tobacco with finely cut arecanut, lime, camphor, and cloves) has been shown to be most important factor in the causation of oral cancer. Mawa (a mixture of mainly arecanut with tobacco and lime) has also shown to have a strong association with development of oral sub-mucous fibrosis. Oral sub-mucous fibrosis is a non-reversible condition with progressive restriction in opening of the mouth, when only symptomatic treatment may be possible in some cases. Histopathological as well as prospective studies have

shown that oral sub-mucous fibrosis to be a pre-malignant condition. The relative proportions of arecanut and tobacco in pan masala is between their relative proportions in Mainpuri tobacco and mawa. Thus, if Mainpuri tobacco and mawa habit are known to have same harmful effects on humans, it can be concluded that pan masala containing tobacco would also have same harmful effects. Experimental studies have shown that pan masala containing tobacco induces cytogenetic damage in Chinese hamster ovary cells; and induces significant increase in chromosomal aberrations and sister chromatid exchanges in peripheral blood lymphocytes and increase in micronucleated cells in buccal mucosa of human beings. It is accepted that mutagenic substances are more likely to be carcinogenic. Animal experiments also suggest the mixture to be carcinogenic. The clinical studies on pan masala and animal experiments on similar mixture suggest that the incubation period of oral sub-mucous fibrosis with use of pan masala containing tobacco may actually be shorter than the traditionally used betel quid with tobacco.

Study of the effect of individual constituents of pan masala containing tobacco and their likely effect in its combination also suggests the carcinogenicity of this mixture. The information on alkalinity of saliva after use of pan masala and release of higher quantity of arecholine with roasted arecanut (the form of arecanut in pan masala) as compared to boiled or soaked arecanut, further suggests higher toxicity of pan masala containing tobacco as compared to traditional betel quid with tobacco. Thus there is sufficient evidence to conclude that pan masala containing tobacco is carcinogenic to human beings.

The experts were also apprised of the fact that occurrence of oral submucous fibrosis which was earlier restricted to adult population, is now commonly seen among teenagers addicted to pan masala containing tobacco/gutka/chewing tobacco.

On the basis of literatures/studies available so far on adverse effects of consumption of pan masala containing tobacco/gutka/chewing tobacco, the Experts strongly recommended that use of chewing tobacco in pan masala/gutka or as an ingredient in any food item or as such, should be prohibited as consumption of these articles is definitely injurious to public health.

The Experts also held the view that in view of availability of enough scientific evidence on adverse effect of consumption of these items, any further study as outlined in the projects submitted by Gujarat Cancer Research Institute, Ahmedabad and PGI, Chandigarh is not considered necessary.

The meeting ended with a vote of thanks to the Chair and participants.

Annexure - I

LIST OF PARTICIPANTS

1. Dr. S P Agarwal
Director General Health Services.
New Delhi. — in Chair
2. Dr. (Ms.) Kamala Krishnaswamy,
Director, N.I.N., Hyderabad.
3. Dr. Kishore Chowdhary,
D.D.G., I.C.M.R.,
New Delhi.
4. Dr. (Ms.) D.V. Bala.
Epidemiologist.
Community Oncology.
Gujarat Cancer Research Instt.
Ahmedabad
5. Dr. Amit Trivedi.
Sr. Scientific Officer.
Gujarat Cancer Research Instt.
Ahmedabad
6. Dr. J. Chakraborty.
Senior Chief Technical Officer.
C.P.L., Calcutta
7. Dr. S.B.S. Mann.
Professor & Head, E.N.T. Deptt.
P.G.I. Chandigarh
8. Dr. S K Khanna.
Dir. Director, I.T.R.C., Lucknow

A small, circular portrait of a man with glasses, possibly the author, located in the top right corner of the page.

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9. Dr. P. Dasgupta,
Drug Controller General (India),
Dte. G.H.S., New Delhi.

10. Dr. J.K. Jain,
D.D.G. (P), Dte. G.H.S., New Delhi.

11. Sh. Ashwini Kumar,
Jt. Drug Controller (India),
Dte. G.H.S., New Delhi

12. Dr. B.K. Tiwari,
Advisor (Nutrition),
Dte. G.H.S., New Delhi.

13. Sh. K. Thulsiraman,
Law Officer, Dte. G.H.S., New Delhi.

14. Smt. Debi Minkherjee
A.D.G. (PFA), Dte. G.H.S., New Delhi

15. Sh. S.C. Kathuria,
Research Asstt. (PFA), Dte. G.H.S., New Delhi

MINUTES OF THE THIRTY-EIGHTH SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)

The Committee met on Monday, 24 July, 2017 from 1500 hrs. to 1630 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Shri Chandra Prakash Joshi
7. Shri Chhedi Paswan
8. Shri Dinesh Trivedi
9. Shri Rajan Vichare

SPECIAL INVITEE

[Representatives of Smokeless Tobacco Federation (India)]

1. Shri Sanjay Bechan
2. Shri Manoj Gupta
3. Shri Vivek Kohli

WITNESSES

MINISTRY OF HEALTH & FAMILY WELFARE

1. Shri C. K. Mishra - Secretary
2. Shri Amal Pusp - Director
3. Shri. A. K. Jha - Economic Advisor

MINISTRY OF AGRICULTURE & FARMERS WELFARE
(DEPARTMENT OF AGRICULTURE, COOPERATION & FARMERS WELFARE)

1. Dr. B. Rajender - Joint Secretary (Crops)
2. Dr. P. Shakil Ahamed - Joint Secretary (MIDH)

- | | | | |
|----|----------------------|---|--------------------------|
| 3. | Dr. S. K. Malhotra | - | Agriculture Commissioner |
| 4. | Dr. D. Damodar Reddy | - | Director, ICAR |

SECRETARIAT

- | | | | |
|----|----------------------|---|---------------------|
| 1. | Shri Shiv Kumar | - | Joint Secretary |
| 2. | Shri Raju Srivastava | - | Additional Director |
| 3. | Shri G. C. Dobhal | - | Deputy Secretary |

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

[The representatives of Smokeless Tobacco Federation (India) were, then, ushered in]

3. After welcoming the representatives of *Smokeless Tobacco Federation (India)*, the Chairperson drew their attention to Direction 55(1) of the Directions by the Speaker regarding the confidentiality of the proceedings of the Committee and invited them to express their views on their Representation regarding saving the livelihood of millions of tobacco farmers, labourers employed in Kevda and Mentha farming/tobacco industry and harmonization of definition of "Food", under the Food Safety and Standards Act, 2006. The main issues that were put forth by the representationists, before the Committee, were as follows:-

- (i) There are two types of tobacco related business, i.e., (i) smokeless tobacco - chewing tobacco, zarda, supari, khaini, etc.; and (ii) smoking tobacco - cigarettes, bidis, etc.
- (ii) As per a Research undertaken by their Federation, 5 crore people, directly or indirectly, are involved in the tobacco-related business.
- (iii) As per the orders of the Supreme Court in 2010, a Report was presented to the Court, wherein, it was stated that there are 26 crore tobacco users in the country, out of which, 16 crore are 'Smokeless Tobacco' users, 7 crore are 'Smoking Tobacco' users and 3 crore users consume both i.e. 'Smokeless and Smoking Tobacco'. The said Report further states that 9 lakh tobacco users die every year, out of which 1 lakh die due to 'Smokeless Tobacco', while 8 lakh die due to 'Smoking Tobacco'. Details in respect of deaths due to 'Passive Smoking', are not included in the said Report.
- (iv) No action has been taken by the Government against the use of 'Smoking Tobacco'. However, around 29 States have misinterpreted the orders of the Court, and have taken steps to stop the use of 'Smokeless Tobacco' instead.

- (v) There is a continuous discussion in the public domain as to whether tobacco should be included in the list of 'Food Products' or not, as per definition prescribed in the relevant Acts, Rules, Regulations, etc.
- (vi) It is an undeniable fact that tobacco, in all its forms, are harmful for human consumption. Therefore, the Government should not take the shelter under the FSS Act, 2006 to impose a ban on the manufacturing and sale of Gutkha and Pan Masala with tobacco and instead impose a complete ban on all products coming under the category of 'Smokeless Tobacco' and 'Smoking Tobacco'.

[The representationists, then, withdrew]

[Thereafter, the representatives of the Ministries of Health & Family Welfare and Agriculture & Farmers Welfare (Department of Agriculture, Cooperation & Farmers Welfare) were ushered in]

4. After welcoming the representatives of the Ministries of Health & Family Welfare and Agriculture & Farmers Welfare (Department of Agriculture, Cooperation & Farmers Welfare), the Chairperson read out Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings of the Committee. The Committee heard the representatives of both the Ministries on the Representation received from Shri Sanjay Bechan regarding saving the livelihood of millions of tobacco farmers and labourers employed in Kevda and Mentha farming/tobacco industry and harmonization of definition of 'Food', under the Food Safety and Standards Act, 2006. The major issues put forth before the Committee by these witnesses, were as under:-

- (i) It has been verified by the number of Reports that 'Tobacco' is harmful in all its forms. There is no difference between 'Smokeless and Smoking Tobacco' as far as their harmful effects on human beings are concerned as both are harmful to health and causes cancer and other related diseases. Approximately, 8 lakh deaths are reported, every year, due to cancer caused by use of tobacco.
- (ii) India is the only country where approximately 27 crore people use tobacco, out of which, 23 crore use 'Smokeless Tobacco'.
- (iii) 60 lakh farmers are involved in tobacco farming in the country. However, the number of people involved in tobacco farming, marketing and other allied activities runs in crore.
- (iv) Production and yield of tobacco in the country during the period from 2012 to 2014 have increased in the country.

- (v) Department of Agriculture is making efforts to discourage the farming of tobacco and the affected farmers are being encouraged to opt for alternative crops for earning a similar kind of income.
- (vi) Regulation 2.3.4 under the Food Safety and Standards Act states that "*Tobacco and nicotine shall not be used as ingredients in any food products*". The Supreme Court has, specifically, directed the Department of Health to ensure the enforcement of aforementioned Regulation.
5. After hearing the views of the representationists and the representatives of the Ministries of Health & Family Welfare and Agriculture & Farmers Welfare (Department of Agriculture, Cooperation & Farmers Welfare), the Committee expressed their views, as follows:-

- (i) Whether the Ministries of Health & Family Welfare and Agriculture & Farmers Welfare (Department of Agriculture, Cooperation & Farmers Welfare) have prepared any Joint Action Plan to comprehensively deal with this matter *inter alia* by taking into consideration the farmers' interests vis-a-vis their means of subsistence?
- (ii) The basic reason for imposing a ban on the manufacture and sale of Gutkha and Pan Masala with tobacco and/or nicotine is, perhaps, due to amendment in the definition of 'Food' under the Food Safety and Standards Act, 2006. However since the Ministry of Health & Family Welfare also acknowledge that 'Tobacco', in all its forms, is harmful for human consumption, whether the Government intends to further amend the definition of 'Food' or relevant 'Regulation' contained in the Act *ibid* to include 'all products containing nicotine' so that a blanket ban is imposed on the manufacturing and sale of all tobacco products, viz., 'Smokeless and Smoking Tobacco' in the country?
- (iii) Notwithstanding the fact that in the definition of 'Food' under the FSS Act, 2006, there is no explicit mention of tobacco products including the smokeless tobacco products, the manufacturing and sale of Gutkha and Pan Masala with tobacco and/or nicotine are banned, whereas, in terms of relevant provisions contained in the Cigarettes and Other Tobacco Products Act (COTPA), 2003, the consumption of 'Smoking Tobacco' is regulated and not banned. Therefore, there is an urgent need to re-visit the relevant provisions of both the Acts to ascertain that tobacco in all its forms are banned in the country.
- (iv) A concrete Action Plan should be put in place to undertake a comprehensive study to ascertain the total number of farmers and other persons involved in farming, trading and sale of tobacco-related products who would be adversely affected after imposition of complete ban on all tobacco-related products.

- (v) The Government should also undertake concerted efforts to protect the farming of 'Kevda' and 'Mentha' as these items have medicinal/pharmaceutical values other than their use in chewing tobacco products.
- (vi) Since the subject matter under examination of the Committee is of immense public importance, various aspects connected with the Bidi workers, Kewda/Mentha production and its use, etc., are required to be discussed with the Ministry of Labour & Employment and the Ministry of Micro, Small & Medium Enterprises. Therefore, the Ministry of Health & Family Welfare should work out modalities on various aspects raised by the Members of the Committee and formulate a specific opinion relating to the policy formulation on the manufacturing and sale of all tobacco-related products, Kevda and Mentha farming in the country along with availability of alternative crops to the tobacco growing farmers so that all these matter could be discussed during another sitting of the Committee which would be convened in due course.

[The witnesses, then, withdrew]

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7. A copy of the verbatim record of the proceedings of the sitting of the Committee has been kept.

The Committee, then, adjourned.

**MINUTES OF THE FORTY-SECOND SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

The Committee met on Wednesday, 11 October, 2017 from 1230 hrs. to 1400 hrs. in Committee Room 'D', Parliament House Annex, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Ram Tahal Choudhary
4. Shri Chandra Prakash Joshi
5. Dr. K. Gopal
6. Shri Chhedi Paswan
7. Shri Dinesh Trivedi
8. Shri Rajan Vichare

SECRETARIAT

1. Shri Shiv Kumar - Joint Secretary
2. Shri Raju Srivastava - Additional Director
3. Shri G. C. Dobhal - Deputy Secretary

WITNESSES

MINISTRY OF HEALTH & FAMILY WELFARE

1. Shri C. K. Mishra - Secretary
2. Shri Arun Kumar Jha - Economic Adviser
3. Shri Pawan Kumar Agarwal - CEO, FSSAI
4. Shri Amal Pusp - Director
5. Shri Raj Singh - Consultant, FSSAI

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2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

[Thereafter, the representatives of the Ministries of Health & Family Welfare were ushered in]

3. After welcoming the representatives of the Ministry of Health & Family Welfare, the Chairperson read out Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings of the Committee. Recalling the discussion held during earlier meeting held on 24th July, 2017, the Committee further heard the views of the representatives of the Ministry on the Representation received from Shri Sanjay Bechan regarding saving the livelihood of millions of tobacco farmers and labourers employed in Kevda and Mentha farming/tobacco industry and harmonization of definition of food, under the Food Safety and Standards Act, 2006. The witness reiterated the following major issues which were already put forth by them before the Committee in the earlier meeting, as under:-

- (i) There are two types of tobacco related business i.e., (i) smokeless tobacco - used as chewing tobacco in the form of pan masala, gutkha, zarda, supari, khaini, etc.; and (ii) smoking tobacco - business related to cigarettes, bidis, etc.
- (ii) Before, enactment of the Food Safety and Standard Act, 2006, the Government of India, in the year 1992 banned the use of tobacco in tooth-pastes/tooth-powders under the Drugs and Cosmetics Act, 1940. The Supreme Court upheld the ban and held it justified in public interest covered by Article 19(6) of the Constitution, though it offends the right to carry on trade guaranteed under Article 19(1) *ibid*. Subsequently, as directed by the High court of Rajasthan, the Central Government constituted an Expert Committee on 'use of Tobacco in Pan Masala, Gutkha, etc.', its effect on public health and to prohibit the manufacture of these products, if required.
- (iii) The Expert Committee on 'Use of Tobacco in Pan Masala, Gutkha, etc.', in its meeting held on 23.09.1997, stated that, "*On the basis of literatures/studies available so far on adverse effects of consumption of pan masala containing tobacco/gutkha/chewing tobacco, the Experts strongly recommended that use of chewing tobacco in pan masala/gutkha or as an ingredient in any food item or as such, should be prohibited as consumption of these articles is definitely injurious to public health*".
- (iv) The Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011, Clause 2.3.4 expressly bans/prohibits the use of tobacco and nicotine in all food products stating "*Product not to contain any substance which may be injurious to health; Tobacco and nicotine shall not be used as ingredients in any food products*". However, the Cigarettes and other Tobacco Products

(Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COPTA) discourages tobacco use in the public interest and only regulates the tobacco products to protect the public health. This is a well thought out decision to regulate smoking tobacco so that its harmful effects could be reduced gradually.

- (v) Smoking Tobacco Products are smoked and therefore not covered under the definition of "Food" as provided under section 3(j) of the Food Safety and Standard Act, 2006 and thus not within the purview of the Food Safety and Standards Authority of India (FSSAI).
- (vi) There are 26 crore tobacco users in India - 20 crore are smokeless tobacco users and rest are of both i.e., smokeless and smoking tobacco users.
- (vii) Tobacco is harmful in any form for both i.e., smokeless and smoking tobacco users. There is no difference between smokeless and smoking tobacco as far as their harmful effects on human being are concerned as both are harmful to health and cause cancer and other related diseases. Approximately, 8 lakh deaths are reported every year due to cancer caused by tobacco use.
- (viii) As regards ban on chewing tobacco in the form of pan masala, gutkha, etc. containing tobacco and nicotine, the Government is trying hard to ensure that State Governments ban these items effectively as per Orders of the Supreme Court under the FSS Act, 2003.
- (ix) The Court case, namely, Ankur Gutkha Vs India Asthma Care Society & Ors. (SLP No. 16308 of 2007 is presently *sub-judice* and at the stage of final hearing. The case of Ankur Gutka Vs. UOI along with the Transfer Case (Civil) No.1 of 2010 titled as Central Arecanut Marketing Copn and Ors Vs UOI (Main Case), is tentatively listed on 04.12.2017 in the Supreme Court.
- (x) Out of 4.67 lakh hectare of tobacco cultivation area, approximately 75,000 hectare, (29,998 hectare in 2015-16 and 51,713 hectare) areas have been shifted from tobacco cultivation to other viable cultivations under the Crops Diversification Programme of the Ministry of Agriculture.

4. After hearing the views of the representatives of the Ministry of Health & Family Welfare, the Committee on Petitions, then, expressed their views as follows:-

- (i) The 'tobacco' and 'nicotine' in any form in any food article including pan masala, gutkha, etc., are banned under the FSS Act, 2003. The Act defines chewing tobacco as 'Food', whereas, smoking tobacco in the form of cigarettes, bidis, etc., is not banned and only regulated under the COPTA, in view of the fact that smoking tobacco is not treated as 'Food' under the FSS Act, 2003.

- (ii) Imposing ban on any product is not a permanent solution but it encourages parallel illegal system. Therefore, such types of products should be regulated on the lines of smoking tobacco under the COPTA.
- (iii) Awareness of harmful effects of tobacco will definitely play an active role to reduce the number of tobacco users, besides other steps being taken by the Government. The Ministry of Health & Family Welfare should take pro-active steps in this regard.
- (iv) As mentioned by the Ministry of Health and Family Welfare earlier, out of 4.67 lakh hectare of tobacco cultivation area, approximately 75,000 hectare, (29,998 hectare in 2015-16 and 51,713 hectare) areas have been shifted from tobacco cultivation to other viable crops under the Crops Diversification Programme of the Ministry of Agriculture. This shows that the entire area of tobacco cultivation would decrease in next 5 to 6 years provided the Ministry, in coordination with the other concerned Ministries, further augment their efforts in this direction without any lackadaisical approach.
- (v) The Committee do not agree with the Ministry of Health & Family Welfare that chewing tobacco is the only major cause of oral/other cancer related deaths as there are so many food habits-related cancers causing deaths including smoking tobacco. Moreover, 'alcohol' is more fatal and 'drink and drive' is one of the major reasons for road accident-related deaths and 'pollution' particularly 'air pollution' as well, than the deaths caused by the tobacco especially the chewing tobacco.
- (vi) The Government seems to be unfairly biased in favour of smoking tobacco industry/users by applying two yardsticks for smoking and non-smoking tobacco as eating tobacco has been banned but smoking has only been regulated is not. Notwithstanding the fact that the Ministry of Health & Family Welfare treat both smoking and chewing tobacco as harmful for human consumption, the Ministry never furthered their point of view before the Court to plead to ban both types of tobacco or ever persuaded the matter with a view to amending the relevant legislation in this regard.

5. The Committee on Petitions also sought further clarifications/information from the Ministry of Health & Family Welfare, on the following points:-

- (i) The details of smoking, non-smoking tobacco related deaths *vis-a-vis* deaths due to all other types of major cancer along with their cause.
- (ii) The data related to deaths due to tuberculosis and road accidents during the above period.

- (iii) The year-wise details of road accident deaths involving 'drink and drive' cases during the last decade.
- (iv) The target fixed for the next five years to convert the tobacco cultivation areas for other useful crops under the Crop Diversification Programme (CDP) along with the steps taken by the Government to shift the livelihood sources of poor and other stakeholders involving in tobacco cultivation and trade to, other sources of subsistence.
- (v) The details of Ankur Gutkha Vs India Asthma Care Society & Ors. and other connected cases listed in the Supreme Court on 04.12.2017 and the stand taken by the government on these Petitions.
- (vi) The details of major 'Awareness Campaigns' conducted by the Ministry of Health & Family Welfare with the help of other Ministries and State Governments concerned since the FSS Act, 2006 and the Rules/Regulation made thereunder come under force.

[The witnesses, then, withdrew]

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8. A copy of the verbatim record of the proceedings of the sitting of the Committee has been kept on records.

The Committee, then, adjourned.

**MINUTES OF THE FORTY-NINTH SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

The Committee met on Tuesday, 31 July, 2018 from 1530 hrs. to 1630 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Jitendra Chaudhury
4. Shri Ram Tahal Choudhary
5. Shri Chhedi Paswan
6. Shri Rajan Vichare
7. Shri Dharmendra Yadav

SECRETARIAT

1. Shri Shiv Kumar - Joint Secretary
2. Shri Raju Srivastava - Additional Director
3. Shri G. C. Dobhal - Deputy Secretary

WITNESSES

MINISTRY OF HEALTH & FAMILY WELFARE

1. Smt. Preeti Sudan - Secretary
2. Shri Sanjeeva Kumar - Additional Secretary
3. Shri Vikas Sheel - Joint Secretary
4. Shri Pawan Kumar Agarwal - CEO, FSSAI

MINISTRY OF LABOUR & EMPLOYMENT

1. Shri Heeralal Samariya - Secretary
2. Ms. Kalpana Rajsinghot - Joint Secretary
3. Shri N. K. Mandal - Deputy Director General

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

[The representatives of the Ministries of Health & Family Welfare and Labour & Employment were ushered in]

3. After welcoming the witnesses, the Chairperson drew their attention to Direction 55(1) of the Directions by Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee. Thereafter, the Committee heard the representatives of the Ministries of Health & Family Welfare and Labour & Employment on the Representation of Shri Sanjay Bechan regarding saving the livelihood of millions of tobacco farmers, labourers employed in Kevda and Mentha farming/tobacco industry and harmonization of definition of Food under the Food Safety and Standards Act, 2006. The main points that were put forth by the representatives of the above stated Ministries in relation to the matter under examination before the Committee were as follows:-

- (i) The definition of 'Food' under Section 3(1)(j) of the Food Safety & Standard Act, 2006 is very wide. Therefore smokeless tobacco products such as *gutka*, *zarda*, *khaini* (processed) and any other similar processed/flavoured chewing tobacco products are all food products within the definition of 'Food' under the said Act. However since Smoking Tobacco Products are smoked, therefore, they are not covered under the definition of 'Food'.
- (ii) As per Global Adult Tobacco Survey, prevalence of tobacco use has decreased by six percentage points from 34.6% in 2009-10 to 28.6% in 2016-17.
- (iii) Smoking Tobacco and Chewing Tobacco, both are harmful for the health of human beings.
- (iv) Indian Tobacco Industry provides livelihood to over 45.7 million people out of which more than 48 lakh workers are registered as Beedi Workers.
- (v) Skill training has been provided to 2871 Beedi Workers and their dependents by the Labour Welfare Organisation Office under the Ministry of Labour & Employment against which more than 307 workers have been provided alternative job opportunities till 30.4.2018.
- (vi) The Ministry of Labour & Employment has been implementing various Welfare Schemes such as Health, Housing and Pension for the workers engaged in Beedi Rolling Industry and also providing stipend for the education of their children..

- (vii) The Ministry of Labour & Employment has also been endeavoring to provide alternate job opportunities/livelihood for the Beedi Workers and their dependents who have been shifting from Tobacco Industry on account of a blanket ban on the manufacturing, distribution and sale of all kind of tobacco products through initiation of Skill Development Programme.
- (viii) As per the Screening Report on the non-communicable diseases such as diabetes, hypertension and common cancer, it has been found that most of the cases are of Oral Cancer followed by Breast Cancer and Cervical Cancer.

4. The Committee, thereon, opined on the following points:-

- (i) The definition of 'Food' under Food Safety & Standard Act, 2006 is very limited and therefore, it should be reviewed in a comprehensive manner to include all kinds of tobacco products - be it chewing or smoking.
- (ii) While taking a decision on imposing a blanket ban on tobacco products, a holistic approach taking into consideration the livelihood of tobacco farmers/producers on one hand and revenue earnings on the other hand, besides Government spending on health and social security aspects, should also be undertaken.
- (iii) Awareness Programme(s) in regard to harmful effects of tobacco use, besides Statutory Warning Labels on Chewing Tobacco Products should be initiated by the Government.
- (iv) A Comprehensive Study should be undertaken to analyse the ill effects of tobacco use and to devise ways and methods in respect of reducing the habit of using tobacco products amongst the people.

5. The Committee, thereafter, directed the representatives of the Ministries to furnish written replies to the queries which could not be orally responded to, such as comprehensive data related to number of patients suffering from oral cancer vis-a-vis oral cancer due to use of chewing tobacco and also the number of death cases related thereto, number of cases of farmers' suicide vis-a-vis cases of tobacco farmers' suicide during the last three years.

(The witnesses, then, withdrew)

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8. A copy of the verbatim proceedings of the sitting has been kept separately.

The Committee, then, adjourned.

MINUTES OF THE FIFTY-SIXTH SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)

The Committee met on Thursday, 28 February, 2019 from 1130 hrs. to 1300 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Jitendra Chaudhury
3. Shri Ram Tahal Choudhary
4. Dr. K. Gopal
5. Shri Dinesh Trivedi
6. Shri Dharmendra Yadav

SECRETARIAT

1. Shri Shiv Kumar - Joint Secretary
2. Shri Raju Srivastava - Director
3. Shri G. C. Dobhal - Additional Director

WITNESSES

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2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.
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8. The Committee, then, took up for consideration the Draft Report on the Representation of Shri Sanjay Bechan regarding saving the livelihood of millions of tobacco farmers, labourers employed in Kevda and Mentha farming/tobacco industry and harmonization of definition of 'Food' under the Food Safety and Standards Act, 2006.

9. After discussing the Draft Report in detail, the Committee adopted the same without any modification(s). The Committee also authorized the Chairperson to finalize the Draft Report and present the same to the Hon'ble Speaker as the House is presently not in Session, with the request for printing, publication or circulation of the Report of the Committee although it has not been presented to the House.

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11. A copy of the verbatim record of the proceedings of the sitting of the Committee has been kept on record.

The Committee, then, adjourned.

