



**BEFORE THE
COMPETITION COMMISSION OF PAKISTAN**

FIRST PHASE REVIEW

**In the Matter of Merger/Amalgamation of Linde AG and
Praxair Inc.**

CASE: 903/Mergers/CCP/17

Commission

Ms. Vadiyya S. Khalil
Chairperson



Mr. Ikram Ul Haque Qureshi
Member

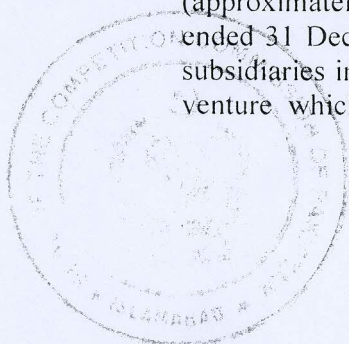
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I Background

- 1 On 15 June 2017, the Competition Commission of Pakistan (the "**Commission**") received a pre-merger application (the "**Application**") of a proposed merger and amalgamation pursuant to Section 11 of the Competition Act 2010 (the "**Act**") read with Regulation 6 of the Competition (Merger Control) Regulations 2016 (the "**Merger Regulations**") through which Linde AG (the "**Linde**", Germany) and Praxair Inc., (the "**Praxair**", USA) (collectively, the "**Merger Parties**") shall merge into a newly incorporated Irish holding company, Zamalight, plc, which shall be renamed as Linde plc (the "**Linde plc**").

II Merger Parties

- 2 Both Linde and Praxair offer a broad range of gases worldwide to customers in a wide variety of industrial, medical/healthcare and specialty usage. These gases cover standard industrial gases *such as* oxygen, nitrogen, argon; medical gases *such as* oxygen, nitrous oxide and specialty gases used for refrigeration, calibration mixtures, and helium. Linde is composed of three divisions: the main Industrial Gases and Healthcare Gases and Engineering divisions as well as a smaller Logistics Services Division namely, Gist. Gist designs and builds process plants for a variety of sectors (in particular petrochemical industries and industrial gases). It supplies gas plants to Linde Industrial & Healthcare division and to third parties (e.g. chemical or metals companies that have insured the production of gases). According to the Applicant, Gist is in the course of being divested. Similarly, Praxair has plant engineering capabilities but these are primarily directed towards its own gas business.
- 3 Linde and Praxair are publically listed on German Stock Exchange and New York Stock Exchange respectively. Their business operations are mainly focused on North and South America, Europe and Asia. In Pakistan, Linde is present through its two subsidiaries: Linde Pakistan Limited (the "**LPL** ") and BOC Pakistan Private Limited (the "**BOC**") (collectively "**Linde Pakistan**"). BOC is a dormant company while LPL is primarily active in the production and distribution of industrial, medical and specialty gases. Currently, Praxair does not supply any gases or home care services in Pakistan and thus has no presence in Pakistan.
- 4 In 2016, Linde achieved a worldwide turnover of EUR [REDACTED] (approximately, PKR [REDACTED]) of which EUR [REDACTED] (approximately, PKR [REDACTED]) were generated with customers in Pakistan. While its sales related to supply of plant components were EUR [REDACTED] (approximately, PKR [REDACTED]). Linde Pakistan's assets in the financial year ended 31 December 2016 were PKR [REDACTED]. Praxair has no turnover and/or subsidiaries in Pakistan. It holds a controlling minority stake in a European joint venture which is active in the engineering and supply of air separation and



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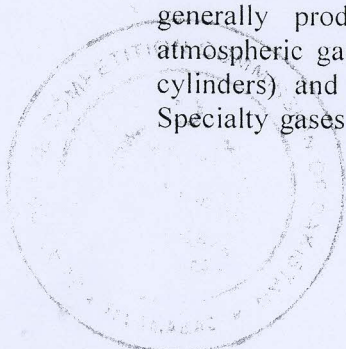
process plants/plant components to third parties. According to the Merger Parties, the said joint venture is not directly or indirectly active in Pakistan.

III Transaction:

- 5 On 1 June 2017, Linde and Praxair entered into a business combination agreement (the "**Agreement**"), pursuant to which they agreed to combine their respective businesses and become subsidiaries of Zamalight plc, to be renamed as Linde plc. Under the terms of the Agreement, Linde plc will make a public offer to exchange each issued and outstanding non-par value bearer share of Linde, pursuant to which each Linde share tendered and non-withdrawn and accepted will be exchanged for [REDACTED] ordinary shares of Linde plc (the "**Exchange Offer**"). Immediately following the completion of the Exchange Offer, Zamalight Subco Inc., an indirect wholly-owned subsidiary of Linde plc ("**Merger Sub**"), will merge with and into Praxair, with Praxair surviving the merger as a wholly owned indirect subsidiary of Linde plc (the "**Merger**", and together with the Exchange Offer, the "**Business Combination**"). In the Merger, each share of Praxair common stock will be converted into the right to receive one Linde plc ordinary share. Upon completion of the Business Combination, and assuming that all of the outstanding Linde shares are exchanged in the Exchange Offer, former Praxair shareholders and former Linde shareholders will each own approximately [REDACTED] of the outstanding Linde plc shares. The estimated value of the Business Combination or the proposed transaction is USD [REDACTED] (approximately, PKR [REDACTED]).
- 6 The transaction meets the notification thresholds prescribed in Regulation 4(2)(a), (b), (c) and (d) of the Merger Regulations, with merger parties combined assets valuing more than PKR 1 billion and turnover being more than PKR 1 million. The transaction value exceeds PKR 100 million and the percentage of shares to be acquired/exchanged also exceeds 10% of the total shareholding of the merger parties.

IV Relevant Market

- 7 The merger parties are active in the production and distribution of industrial, medical/healthcare, specialty gases as well as related engineering and storage services. Industrial gases comprise all the gases and mixtures provided by gas suppliers for various industries and research applications. The most commonly used industrial gases are oxygen, nitrogen, hydrogen, argon, carbon dioxide, acetylene, carbon monoxide and helium as well as mixtures thereof, *such as* syngas, which is a mixture of hydrogen and carbon monoxide. Industrial gases can be obtained from the air (atmospheric gases) and from synthetic processes or natural sources (non atmospheric gases). These gases are used in metallurgy, steel, chemicals, electronics, food, buildings, automotive, glass, environmental monitoring system, metal working, and aerospace. Medical gases mainly consist of oxygen, nitrogen, carbon dioxide, and nitrous oxide. Specialty gases are generally produced through specific chemical processes as opposed to atmospheric gases and they are generally sold in smaller quantities (mainly in cylinders) and at significantly higher prices than standard industrial gases. Specialty gases are used for refrigeration, electronics, calibration and other gas



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mixtures. From consumer perspective i.e. demand side, industrial and medical gases are rarely substitutable or interchangeable from the product's pricing, characteristics, and intended use. Likewise, from supply-side perspective, different production processes and sources are used for the production of different gases and their storage. Therefore, industrial gases, medical gases, and specialty gases constitute three separate relevant product market.

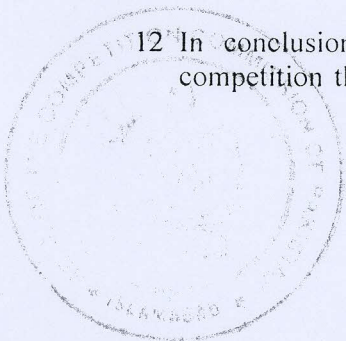
- 8 Since the gases produced by LPL are supplied on a national scale where the conditions of competition are sufficiently homogeneous, therefore, the relevant geographic market is determined as the whole of Pakistan.

V Findings of the Phase-I Competition Assessment:

- 9 The business of Linde and Praxair overlaps in the production and distribution of industrial, medical and specialty gases. Moreover, Linde is active in the engineering and construction of plants for the production of industrial gases. In Pakistan, Linde is active through Linde Pak in the gases market. While Praxair is not directly or indirectly active in the relevant market. Since the proposed transaction entails a cross-border merger, the transaction does not result in any horizontal or vertical overlaps in the relevant markets identified above.
- 10 According to the Economist, LPL's market share in the sale/supply of industrial gases in terms of sales value and volume for the preceding year remained approximately 40% while in the sale/supply of medical gases remained approximately 30%. The competitors of LPL in the sale/supply of industrial gases include Shangai Welding, Ghani Gas, Chitral Gases, Nizami, Aga and others with a market share of circa 10%, 11%, 9%, 2%, 3%, 1% and 1% respectively. In the sale/supply of medical gases, the competitors of LPL include Ghani Gas, Sharif Oxygen, Fine Gas and others with a market share of circa 15%, 10%, 5% and 2% respectively. In specialty gases, LPL's share in terms of value and volume remained at 40% and in hard goods i.e. engineering products remained up to 10%.
- 11 The proposed transaction will not result in the elimination of any competitor and the industry is likely to remain fairly competitive. As a consequence of the proposed transaction, LPL's share in the relevant markets identified is unlikely to change. The presumption of a dominant position (40% market share) prescribed under Section 2(1)(q) read with Section 3 of the Act is not met as a result of the proposed transaction. The market share of 40% held by LPL in the market for specialty gases which is beyond the threshold of 40%, preexists the proposed transaction and hence is not likely to impact the competitive dynamics in the said relevant market.

VI Conclusion

- 12 In conclusion, the proposed transaction is unlikely to substantially lessen competition through the creation or strengthening of a dominant position in the



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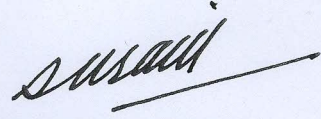
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relevant market. The proposed transaction is hereby authorized under Section 31(1)(d)(i) of the Act.

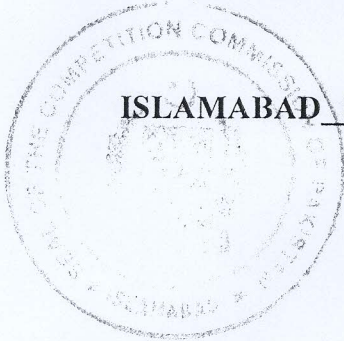
13 It is so ordered.



Vadiyya S. Khalil
(Chairperson)



Ikram Ul Haque Qureshi
(Member)



ISLAMABAD 18th AUGUST, 2017