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# EU envoy urges Pakistan to enforce competition laws

By Kalbe Ali

ISLAMABAD, May 29: The incoming government should enhance trade and business with India and implement competition laws to improve economic conditions in the country.

This was suggested by Ambassador of European Union to Pakistan Lars-Gunnar Wigemark on Wednesday at an international conference on the 'Role of Competition in fostering trade and investment'. The event was organised by Competition Commission of Pakistan (CCP).

"I have one message for the incoming government. Be inspired by the recent elections and create a truly level economic playing field for business in Pakistan," Mr Wigemark said, adding that the incoming government needs to enforce the existing competition laws in the country.

"Make the CCP as strong as the Election Commission of Pakistan, give it more resources and use it to the fullest," he said.

Improved competition will be a win-win governance issue, which will benefit Pakistan and all of its consumers, he urged.

"You have a strong political mandate. Use it and try to get rid of cartels, price-fixing, distorting subsidies and kick-backs. These are hampering both domestic economic growth and the inflow of foreign investment and trade," he said.

Mr Wigemark said that competition will also attract investment in innovative technologies and foster growth and development.

He said that EU is Pakistan's largest trading partner, at 8.2 billion euros, adding: "But Pakistan's largest trading partner should not be the EU, rather its neighbours, in particular India."

"To realise the potential for trade and investment in the region, a strong competition system will be essential," he added. The conference was attended by many international experts from India, Canada, USA, Europe and other regions.

Chairperson CCP Rahat Konain, welcoming the participants, expressed gratitude that their presence in the country under foray negative news, shows their confidence in the country and the efforts of CCP.

She said that competition in economy is essential to improve efficiencies and fair play.

"If you are pro-business, you have to be pro-competition and vice versa. This is the general rule but generating acceptability of this notion has been one of the most formidable challenges for the CCP in gradually winning over confidence of the business community," she said.

She highlighted the resistance to CCP by various lobbies and said: "Despite, the enactment of the law, our struggle continues - in one form or the other."

These issues include acute financial constraints, struggle for financial autonomy, coping with an ever increasing litigation portfolio and pursuing

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disposal of cases before the courts, she added.

Among the cases taken up by the CCP against business giants includes establishment of International Clearing House (ICH) in the Telecom Industry, which has been held in violation of the Competition Act. The various topics discussed in the conference included Detecting Cartels,

promoting advocacy, nexus with competition regime and the 'Public Procurement'.

Dr Gabriele Herlemann, Judge at public procurement tribunal, German Competition Authority also addressed the event.

"In Germany, three main and most important points of public procurement are substantive law regulating the award procedure are transparency, non-discrimination

and competition as the key principles for the award procedure," Dr Herlemann said.

Tenderers have the right to demand that provisions concerning the award procedure are complied with by the contracting authority, adding: "There are tribunal and civil courts that can be approached by the tenderers."

Meanwhile, speakers from Pakistan highlighted various

forms of collusive bidding in the public procurement procedures. They demanded the government to revamp the entire procedure to ensure transparency in public procurements.

Some of the speakers even criticised the courts for accepting all the appeals filed by the accused, following which the cases continue to linger for years without any outcome.

CCP should be strengthened

# EU envoy urges next govt to enhance trade with India

**RECORDER REPORT**

ISLAMABAD: Lars-Gunnar Wigemark, EU ambassador to Pakistan, on Wednesday expressed the hope that the incoming government will strengthen Competition Commission of Pakistan (CCP) to get rid of cartels, price-fixing, distorting subsidies and kick-backs, which are hampering both domestic economic growth and inflow of foreign investment and trade.

Speaking at the 3rd International Conference 2013 on 'Role of Competition in Fostering Trade and Investment,' organized by CCP, Wigemark said that the incoming government should create a truly level playing field for businesses in Pakistan.

He suggested the incoming government to enhance trade and business with India and implement the competition laws in country to improve economic conditions.

"The new government has a set of competition laws but they need to be enforced, he said, adding the new government has a strong political mandate which should be used to get rid of cartels.

"Make CCP as strong as the Election Commission of Pakistan...give it more resources and use its professional staff to the fullest. Improved competition is a win-win governance issue, which will benefit Pakistan and all of its consumers," he maintained.

About the significance of competition, he said that a proper competition framework in the energy sector will also help tackle the circular debt issue and attract foreign direct investment in energy production, distribution and management.

He said that the international conference was significant as it held just two weeks after the historic general elections.

The ambassador observed that there has been much debate about the role of the Election Commission in the recent elections, but it is clear that without a strong Commission it would have been impossible to hold elections.

In fact, the ECP could have been even stronger and more transparent, he said.

He pointed out that a proper competition framework in the energy sector will help to tackle the circular debt issue and attract foreign direct investment in energy sector including generation, distribution and management.

The ambassador said that EU was Pakistan's largest trading partner as trade with EU accounted for about 20 percent of Pakistan's total trade in 2012. The EU received 21 percent of Pakistan's total exports whereas 17 percent of Pakistan's imports comprised of EU manufactured products, he said.

Pakistan's exports to EU are dominated by textiles (41.8 percent) and clothing (33.6 percent) products followed by

leather products accounting for 12 percent.

The main imports from the EU are mechanical and electrical machinery (48 percent) followed by chemicals and pharmaceuticals (13.5 percent) and telecommunication equipment (12.4 percent).

The current euro 8.2 billion EU-Pakistan trade has potentials for further expansion and it will be facilitated by fair competition and a transparent investment regime.

"Regional economic integration in South Asia is priority for the EU. The potentials for increased trade and investment in Sub-continent is enormous. Pakistan's largest trading partner should not be the EU, but it should be your neighbours, particularly India," he added.

The CCP is already tackling some of the distortions in Pakistan's economy and it has developed a substantial body of jurisprudence through the numerous orders it has issued. Pakistan now has not only an agency that enforces the law but also home-grown "knowledge" about the application of competition law principles to local conditions, he said.

The EU envoy said that for realizing the potential of trade and investment in the region a strong competition system was necessary. The CCP should seek to become a regional champion of competition, opening of borders for trade and investment, Wigemark added.



# EU sees India largest trade partner of Pakistan

By Mehtab Haider

ISLAMABAD: The European Union (EU) has said that India should enjoy the privileged status of being Pakistan's largest trading partner, not the EU.

"Pakistan should seek to become a regional champion of competition, opening its borders for trade and investment," said European Union Ambassador to Pakistan Lars-Gunnar Wigemark, adding that a strong competition system will be essential to realise the potential for trade and investment.

The EU ambassador said that the incoming government has a heavy political mandate, which should be used to get rid of practices that are hampering economic growth - as well as foreign investment and trade.

"The incoming PML-N-led government should purge the country of cartels, price-fixing, distorting subsidies and kickbacks," he said.

The ambassador went on to add that economic reforms in several sectors, including the en-

ergy sector, will have to be high on the agenda when the newly elected government takes up office.

"Everyone agrees that Pakistan must address these economic challenges, including the insufficient governance in many sectors of the economy," he said while addressing an international conference on the "Role of Competition in Fostering Trade and Investment" organised by the Competition Commission of Pakistan (CCP) here on Wednesday.

Meanwhile, CCP Chairperson Rahat Kaunain Hassan said the economy and politics, whether domestic or external, were linked. Hassan said that even though competition legislation witnessed resistance initially, it has picked up recently in shape of more financial autonomy.

The CCP chairperson said the organisation is now coping with an ever increasing litigation portfolio and pursuing the disposal of cases before the courts, citing the recent establishment

of the International Clearing House (ICH) in the telecom industry which has been held in violation of the Competition Act.

The EU ambassador also stressed for the need of an even stronger Election Commission of Pakistan (ECP). "The ECP could have been more transparent, for instance, in terms of the early publishing of all available results from polling stations," he said. However, Wigemark believed that even though there has been much debate about the ECP's role in the recent elections, it is clear that without a strong election commission it would have been impossible to hold elections.

"The electoral laws, rules and regulations under the supervision of the Election Commission provide a framework for the holding of competitive elections," he said, adding that the democratic system could be made stronger if this legal framework is made more transparent for all political actors including both political parties and voters.

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# Pakistan competition laws match int'l standards

STAFF REPORTER

ISLAMABAD—Chairperson Competition Commission of Pakistan (CCP) Ms. Rahat Kunnain Hassan said on Wednesday that Pakistan's competition laws are fair, transparent and match international standards to help promote economic growth by encouraging and enforcing competition in all spheres of economy. These laws "help enhance economic efficiency and protect consumers from anti competitive behavior and create

level playing field for business in the country", she said while addressing the participants of an International Conference on "Role of Competition in fostering trade and investment" here.

The two-day conference, organized by the CCP in collaboration with European Union, was attracting experts in competition laws from within and outside the country.

Lars -Gunnar Weigemark Ambassador and Head of delegation of the European Union and Eduar Perez Chair

of the International Competition Network (ICN) Steering Group and President of Mexican Federal Competition Commission also spoke during the inaugural session.

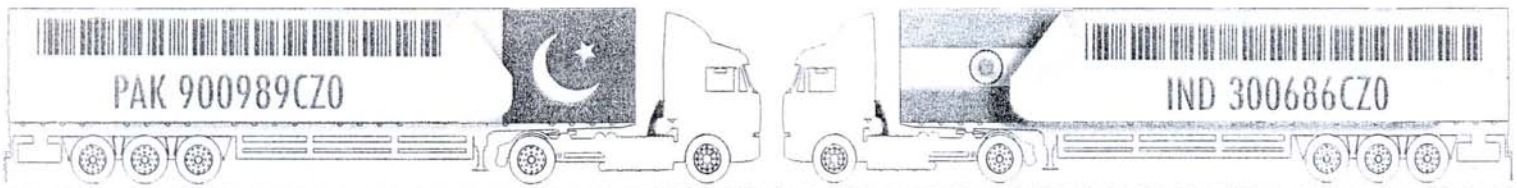
The Chairperson CCP Ms. Rahat Kunnain Hassan highlighting the aim, objective and performance of her organization said that essentially, a regulator and an enforcer of law, she would not delve into theories of how trade and development is fostered through competition.



The unlikely matchmaker

# EU envoy urges Pakistan to look to India for trade opportunities

Says India, not the EU, should be Pakistan's number one trading priority



By **SHAHBAZ RANA**  
 ISLAMABAD

Amid hopes that talks for the normalisation of trade with India will restart once the PML-N's pro-business government assumes power, the European Union (EU) urged Pakistan on Wednesday to review its policy of giving preference to trading with the EU and instead focus on trade with India.

"Pakistan's largest trading partner should not be the EU, it should be your neighbours - in particular, India," EU's Head of Delegation to Pakistan Lars-Gunnar Wigemark said while speaking at the third international conference on the role of competition in fostering trade and investment.

He also advised Pakistan to become a regional champion for competition by opening

its borders for trade and investment without harbouring any fears. Wigemark said Pakistan enjoys a unique position as it is located at the intersection of one of the oldest trading routes in the world, and is blessed with a "talented people, ready to work hard to realise their dreams."

The comments made by Wigemark came on the heels of would-be prime minister Mian Nawaz Sharif's stated resolve to improve relations with India. However, the military establishment is said to have advised Sharif to go slow on the issue.

The trade normalisation process, which was started early in 2011, was put on the backburner after the military establishment asked the previous government to link trade normalisation with composite dialogue. India's

Wigemark's comments came on the heels of would-be prime minister Mian Nawaz Sharif's stated resolve to improve relations with India.

reluctance to provide a level playing field to Pakistani exporters also silenced many pro-trade voices in Pakistan.

Wigemark said the economic benefits of regional integration are well-documented. He said Pakistan's trade with the EU accounted for about 20% of its total trade in 2012; the EU received 21% of Pakistan's total exports, whereas 17% of Pakistan's imports comprised of EU-manufactured products. The current volume of trade between the EU and Pakistan

stands at 8.2 billion euros.

Wigemark also had a message for the new government: "Be inspired by the recent elections and create a truly level economic playing field for business in Pakistan," he said. He said the new government enjoys a strong political mandate, which it should use to get rid of problems such as cartels, price-fixing, distorting subsidies and kickbacks.

Competition Commission of Pakistan (CCP) Chairperson Rahat Kaunain Hassan, on the occasion, warned that the establishment of the International Clearing House (ICH) in the telecom industry had reversed the gains achieved through deregulation of the telecom sector.

She said the ICH was in violation of the Competition Act, and said the arrangement is based on price fixing

and revenue sharing based on a pie-agreed quota, which is against competition laws.

"The country has reverted to a retrogressive policy due to the ICH," she observed. "The ICH fixed and raised the price of calls from an average 2.2 cents to a uniform rate of 8.8 cents. The sharing of revenues was based on a fixed percentage through quotas," she added. "For the Commission, this was an open and shut case of cartelisation," she said. The Commission had imposed a penalty equivalent to 7.5% of turnover on long distance international (LDI) operators, which is estimated to total over Rs10 billion.

She revealed that, based on data provided by the sector-specific regulator, there has been a huge reduction in the volume of incoming traffic.

However, despite the reduction in incoming traffic by 70% - from 1.9 billion minutes in September 2012, to 578 million minutes lately - the revenue of LDIs has increased by 308%.

Similarly, monthly revenues of the Pakistan Telecommunication Authority have decreased from \$24.4 million to \$16.7 million after the ICH arrangement. Kaunain warned that the ICH was resulting in an increase in gray traffic, and that the country was being isolated at the international front.

The US Federal Communication Commission has already ordered US companies to not pay any termination rates to Pakistani carriers in excess of the rates in effect prior to the ICH agreement.



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## مسابقتی کمیشن کے تحت کانفرنس شروع

اسلام آباد (خصوصی رپورٹر) مسابقتی کمیشن آف پاکستان (سی سی پی) کے زیر اہتمام بین الاقوامی کانفرنس وفاقی دارالحکومت کے مقامی ہوٹل میں شروع ہو گئی، کانفرنس کی صدارت چیئرمین سی سی پی ہا راحہ کونین حسن نے کی کانفرنس میں امریکا، بھارت اور جرمنی و دیگر ممالک کے مسابقتی کمیشن کے حکام اور وفد نے شرکت کی، کانفرنس میں 4 اہم سیشن منعقد ہوئے جن میں شرکانے اپنی اپنی پریزنٹیشن دیں اور اقتصادی ترقی کے لیے مسابقت کی اہمیت پر روشنی ڈالی۔

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UNFAIR PRACTICES

”Hassan: The country has reverted to a retrogressive policy due to the International Clearing House (ICH)

Competition Commission Pakistan  
Chairperson **Rahat Kaunain Hassan**  
on the ICH's effects

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# Call for fostering competition in public-sector procurement

## RECORDER REPORT

ISLAMABAD: Competition plays an important role in the economic growth of any country so the government should play its due role in promoting and creating awareness among the stakeholders to follow the rules and regulations set for checking imbalances in the economy.

This was the crux of a seminar titled "Role of Competition in Fostering Trade and Investment" organized by Competition Commission of Pakistan (CCP) here on Wednesday.

Speaking on the occasion, Rahat Kaunain, Chairperson of CCP, underlined the need for bringing competition in public sector procurements in Pakistan, which according to her, stands at 25 percent of the country's total procurement.

"The Competition Act, 2010 is a state-of-the-art law that adequately protects consumers from exploitative pricing collusion or other forms of cartelization, which is designed to prevent competition," the participants were informed.

She said that maximum benefit could be provided to consumers by checking monopolists or cartelization behavior of the market players.

Eric Manes, senior Economist of the World Bank while taking part in the debate on promoting competition through advocacy said that advocacy played a critical role in promoting any product so the competition authority for the enforcement of competition law must use different means of advocacy. He said that competition is a must for creating a level-playing field for all businesses and ensuring economic growth by removing entry barriers and curbing anti-competitive practices in the

economy.

"The competition act of any country does not prevent business firms from having or gaining a large market share for their products or services," he maintained.

However, Fernando Furlan of Brazil said that the abuse of dominant position was anti-competitive and was strictly prohibited by the law. He said that to check cartelization related matters in Brazil many methods were being used including leniency, settlement and wire tapping and communication monitoring. He added that good institutions and good laws were necessary for a good nation as well as a country.

The participants were informed that CCP has organized numerous active sessions of advocacy so far while the commission plans to engage in more knowledge-based advocacy events to educate the stakeholders and encourage them to comply with the law voluntarily.

Recognizing that there was a long history of collusive business practices in certain sectors, they emphasised that the competitive bodies supports compliance-oriented approach, and were more interested in bringing out corrective behaviour in the business community, as these regulatory bodies role is not to scare businesses, but to discipline them.

The Seminar was also addressed by Hillary Jennings of France, Kasturi Moodaliyar of South Africa, Saad Amanullah Khan, Manuel Sebastiao of Portugal, John K Daina of Kenya and others from global competition agencies.

Earlier in her welcome address, Chairperson CCP Rahat Kaunain told the heads of leading competition agencies that the CCP demonstrated its independence

through fearless enforcement actions against sectors like sugar, cement, poultry, edible oil, LPG, banks, urea, telecom, professional bodies and state-owned entities.

She said that the commission demonstrated independence through fearless enforcement and CCP's focus of enforcement remains on activities not entities.

CCP Chairperson said that since July 26, 2010 when she took over CCP, not only the pace of enforcement was enhanced, but efforts were made to make CCP an internally robust institution.

"Our focus is certainly not imposition of high fines; they are only incidental to our work. We remain committed bringing about concrete and widespread corrective behavior. Our success is linked with making markets work, in a free and open environment which offers a level playing field to all players," she said.

Sharing the case of International Clearing House (ICH), CCP Chairperson informed the foreign delegates that the recent establishment of the ICH in the telecom industry was held in violation of Competition Act. "The ICH is an agreement amongst the LDIs to setup and provide one gateway for termination of incoming international traffic, reducing 14 players to one. The arrangement is based on price fixing and revenue shared based on pre-agreed allocated quota. The matter is subjective but the facts and decision of Commission taken is relevant to the subject at hand.

Latest data revealed that the teledensity, which was from 6.25 percent in 2003-2004, has gone up to 71.5 percent in 2013 and until recently Pakistan was on top of the list in offering competitive pricing. Post de-regulation five



ISLAMABAD: Chairperson Competition Commission of Pakistan (CCP) Rahat Kaunain speaking at the international conference on Role of Competition in Fostering Trade and Investment, organized by Competition Commission of Pakistan, here on Wednesday.

million mobile subscribers have increased to 121 million.

The ICH fixed and raised price from an average 2.2 cents to a uniform rate of 8.8 cents and the sharing of revenue was based on fixed percentage through quotas. Thus for the Commission, it was an open and shut case of cartelization, she added.

The Commission imposed a penalty equivalent to 7.5 percent of the turnover on the LDIs that is estimated to over Rs 10 billion. The Commission held the ICH agreement in patent violation of competition principles and the Competition Act. Attempt is being made to undermine the case by making it a matter falling outside the Commission's purview on the pretext that the higher prices are to be paid by customers living outside Pakistan.

The data provided by the sector-specific regulator revealed huge reduction in the volume of incoming traffic and despite reduction in incoming traffic by

70 percent (from 1.9 billion minutes in September, 2012 to 578 million minutes) the revenue of LDIs increased by 308 percent after ICH arrangement and the monthly APC received/receivable by PTA had decreased from \$24.33 million to \$16.7 million. The corner stone for the implementation of the ICH arrangement was to prevent evasion of APC payment, recover its dues and to curb the grey traffic. The demand shift from incoming to outgoing calls also shifts burden on consumers (in Pakistan).

The CCP had cautioned that anticompetitive arrangement as far reaching as ICH will make the Pakistani telecom market significantly less attractive to any foreign investment and also isolate Pakistan globally and can have far reaching implications. The CCP has already witnessed that US Federal Communication

Commission ordered not to pay termination rates to Pakistani carriers in excess of rates that were

in effect prior to ICH agreement, she added.

She pointed out that the CCP was the only regulatory body with lowest budget of Rs 200 million for the last 3 years and that had earned national and international recognition due to or sustained and focused performance.

During the seminar, leading Indian and Pakistani competition experts agreed to enforce strict laws to check collusive bidding and bid rigging in huge public procurement through effective enforcement of laws in both countries. Ratnesh Sahay, Advisor Competition Commission of India (CCI) and Ikram-ul-Haque Qureshi, Director General (Legal)/Registrar Competition Commission of Pakistan (CCP), made detailed presentations on the public procurement during the moot.

Both the experts talked about the training of procurement staff and education of Public Procurement Agencies at all lev-

els to ensure transparency in the public procurement. Ratnesh Sahay and Ikram-ul-Haque clearly hinted about the existing of corruption and collusion in public procurement taking place in India and Pakistan.

The representatives of the international competition agencies showed their concurrence to a proposal of Qureshi to develop a framework for cooperation between public procurement regulators and competition authority. The procurement planning, tender design and bidding process would reduce chances of rigging, Director General Legal CCP added.

Ratnesh Sahay said that the CCI was taking steps to ensure strict and effective enforcement of Competition Law in India to check problems of collusive bidding/bid rigging in public procurement.

He highlighted that the problems in the public procurement including collusive bidding or bid rigging, fraud/corruption, access to information, asymmetry of information, conflicts of interests, lack of transparency and denying a level playing field in India.

About trends of public procurements in India, he said that the magnitude of procurement was so high that bidders try to grab the contract by hook or by crook. The magnitude of procurement gives temptation to the decision maker.

During public procurement, he said that no differential/preferential treatment should be given to one area/sector/industry/class of enterprises over others.

Sharing problems in the Indian competition law, he said though, there is no distinction between a private enterprise and public enterprise in the Indian Competition Act, yet there is no clarity on "sovereign function"

and "commercial function".

Ratnesh Sahay said that the competitive neutrality means no undue competitive advantages or disadvantage, but state own enterprises (SOEs) enjoy competitive advantages simply as a consequence of their public ownership.

Major infrastructure facilities are now created in India through Public-Private Partnership (PPP) model. Under this model, contracts are awarded either on single nomination basis, direct Negotiations with concessionaires or through Competitive bidding. However, the manner in which the contracts are awarded, always raises controversy because of lack of transparency in the entire process of granting a contract and there is no uniform policy guidelines, he said.

Ratnesh Sahay, while sharing future plan to create a level playing field in public procurement, talked about the necessity for the Legislative and Regulatory Framework to be designed to allow sufficient flexibility. Other steps included strict and effective enforcement of Competition Law, education of Public Procurement Agencies at all levels of Government to help them design efficient procurement processes and designing auctions and procurement tenders in such a way to prevent collusive arrangements.

The Competition Authorities need to make efforts to increase awareness of the risks of bid rigging through advocacy programmes. The CCI should educate Public Procurement Officials about the cost of bid rigging to the Government and to the tax payers. The international best practices needs to be adopted in the procurement process to modify the existing policy guidelines, Advisor CCI added.