



Trade, Competition and Pricing of Commodities

CUTS International organised a side event on 'Trade, Competition and Pricing of Commodities' during UNCTAD XIII on April 25, 2012. A joint publication by CUTS International and Centre for Economic Policy Research (CEPR) entitled "Trade, competition and pricing of commodities" was also launched on the occasion by Pradeep S Mehta, Secretary General CUTS International and Hassan Qaqaya, Head, Competition and Consumer Policies Branch, UNCTAD.

Pradeep S Mehta, Secretary General made a comprehensive presentation on cartelisation in global markets for primary commodities. He talked about the nature of problems, their reasons, governance challenges, and the way forward.

Mehta presented five multilateral solutions to address the current lack of adequate governance of export cartels. These are: strict WTO disciplines on export restrictions; other possible WTO remedies against injury caused by export cartels, e.g. reverse antidumping; formation of countervailing buyer alliances; a multilateral agreement on trade and competition; and creation of an international competition authority.

Qaqaya stated that cartels are both exclusionary and exploitative. Their actions wipe out the benefits of trade liberalisation through collusive behaviour. Ironically, it was the US which allowed export cartels through their Webb Pomerene Act, whose goal was to promote trade at any cost. However, several European countries and



Hasan Qaqaya releasing the book, 'Trade, Competition and Pricing of Commodities' at UNCTAD XIII at Doha on April 25, 2012

Korea have now prohibited export cartels in realisation of their adverse impact on their own domestic economies.

According to him, countries need laws to deal with export cartels. In this regard, lessons can be drawn from the experience of consumer protection regimes in the world where cross border cooperation is quite advanced and effective.

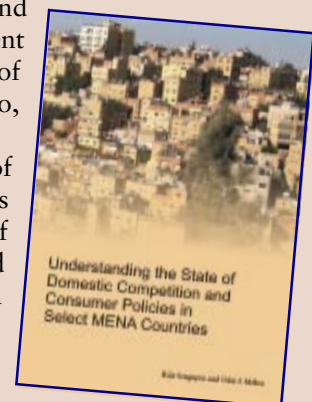
Some ideas for the way forward presented and discussed in the meeting include: an agreement on information sharing on cartels; capacity building and technical assistance to developing countries; diversification of exports away from primary commodities; and establishment of an International Competition Fund.

Understanding the State of Domestic Competition and Consumer Policies in Select MENA Countries

In order to develop a deeper idea (and a subsequent initiative on competition and consumer protection issues) CUTS, jointly with the Arab Network for Environment and Development (RAED), undertook a needs assessment mission in seven countries of the Middle East and North Africa (MENA) region (namely Algeria, Egypt, Morocco, Tunisia, Jordan, Lebanon and Syria).

A report collating the discussions and the information gathered over the course of the mission has been prepared which highlights both challenges and opportunities that exist in terms of promoting competition reforms and protecting the interest of consumers in countries. The report would be discussed and disseminated within and outside the region, so that a discourse on competition and consumer protection can emerge in some of these countries and the region.

The report will be released at the United Nations Conference on Trade and Development Intergovernmental Group of Experts (UNCTAD IGC) on Competition Law and Policy Twelfth Session at Palais des Nations, Geneva on July 10, 2012.



Demand Side Management and Renewable Energy in India



CUTS with the support of Shakti Sustainable Energy Foundation (SSEF), India has implemented an initiative, 'Demand Side Management and Renewable Energy in India: Capacity building of CSOs' over two years (2011-2012) in two states of India (Gujarat and West Bengal).

During the period, CUTS alongwith VIKSAT, State partner in Gujarat, organised a five-day State Level Training Workshop in Ahmedabad to build capacity and awareness of representatives of consumer organisations. A cadre of consumer organisations have been created to better comprehend issues and be able to advocate the need for RE/DSM and also build capacity of other consumer groups.

Further, 20 Consumer Interface Meetings (CIMS) were organised in each project state to reach out to different category of consumers at the state level and make them aware of the role that they need to play in advocating for implementation of renewable energy and demand side management.

As a logical follow up of the CIMS, Policy Advocacy meetings would be organised at the State and National level in order to communicate the findings to the policymakers and sensitise them, so as to ensure consumer interest is kept in mind while taking policy decisions, on behalf of consumers.

www.cuts-ccier.org/DREC

Consumer Protection Regimes in the World –A Civil Society Report

CUTS and Consumers International have initiated a project entitled, 'Consumer Protection Regimes in the World' (Consumer Regimes). The outcome of this project will be a report – a biennial volume, which will be a collection of about 40 odd country essays explaining the country-specific state of consumer protection regime across the globe. Volume I will be published by late 2012.



In the overall, the country papers in the compilation provide a glimpse of the consumer protection scenario in the selected countries in simple language, and exhibit information under the following broad categories:

- Basic introduction and Country Profile;
- Analysis of Consumer Regime vis-à-vis UNGCP;
- Legislation(s) Pertaining to Consumer Protection;
- Institutional Framework for Consumer Protection; and
- The Way Forward.

Defining Role of Competition Authority and Sectoral Regulators

CUTS undertook the research study, *Evolving Effective Cooperation Between Competition Authority and Sector Regulators: Lesson From Indian and International Contexts* for the Ministry of Corporate Affairs, Government of India which began in July 2011. The study is a multi-jurisdictional one and looks at similar scenarios in Spain, South Africa, South Korea and Brazil in addition to India with a view to arrive at an algorithm to minimise and resolve regulatory conflicts. The respective country studies were undertaken by external researchers appointed by CUTS for this purpose.

During the period April-June, the overview chapter of the entire study was drafted and finalised by CUTS CCIER. The review of the overview chapter was done internally as well as externally. Furthermore, the country chapters were vetted internally to check for accuracy of information and data given therein as well as sent to external reviewers a second time for their comments.

The overview chapter has been finalised and comments are awaited from some external reviewers. The research report is expected to be submitted by first week of July 2012 following which it will be presented before the Ministry of Corporate Affairs which will mark the completion of the study.



Ministry of Corporate Affairs
Government of India

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Representations

Pradeep S Mehta spoke at the valedictory session of a Competition Commission of India (CCI) Annual Day Workshop on Competition Law and State-owned Enterprises jointly organised by CCI & United Nations Conference on Trade & Development, in New Delhi, on May 21-22, 2012.

Udai S Mehta participated in the 11th Annual Conference of the International Competition Network at Rio De Janeiro, Brazil during April 17-20, 2012. He delivered a presentation on, 'Explaining the benefits of competition to Public: Ways and Means'. Mehta also attended the Pre-IDRC event on April, 17, 2012 entitled 'The State as a Market player or a Market-Power Broker?'

CUTS Comments on Goods and Services Tax

The idea of Goods and Services Tax (GST) was first presented during 2007-2008 budget session by the then Union Finance Minister, P Chidambaram. It was presumed that GST will be a significant breakthrough towards initiating a comprehensive indirect tax regime, and if implemented, would be termed as the biggest tax reforms in India.

Among the major changes expected from rollout of GST is to reduce the indirect tax burden from the shoulder of Indian population. The implementation of GST will also allow Central as well as state governments to get rid of multiple layers of taxation that currently exists in India leading to the creation of single Indian market.

The date of implementation of GST has been set on August 2012, but as the Centre and states have not been able to arrive at consensus on various points, it might take some time. Given this, CUTS submitted a Memorandum to the Parliamentary Standing Committee on Finance raising few key issues, as given below that could be taken into consideration to facilitate effective implementation of GST reforms in India:

- **Revenue Neutrality:** It is very important for the government to devise a proper framework that will ensure equitable distribution of tax revenue among States and also mitigate any chance of fall in tax revenue for States, to the extent possible.
- **Compensation to States – Central Sales Tax (CST):** CUTS recommends the Central government to review its decision of not adequately providing compensation to States as funds are required to implement various state-level schemes.
- **Dispute Settlement between Centre and States:** CUTS recommend that both Centre and states should sit together to arrive at a consensus over creation of dispute settlement authority and also to settle other issues.
- **Negative List:** CUTS proposes the government to examine at all streams of income to determine if it could be considered as an income from “service” or not and then finalise its taxability with reference to the services covered by the negative list.
- **Technical Assistance and Capacity Building of States:** CUTS recommends that the most important task for government in this regard is to build adequate infrastructure (administrative as well as IT) that will cater to the requirements of collection of tax through GST system.

New Project

National Competition Policy and Economic Growth in India



CUTS with the support of British High Commission, New Delhi, India has implemented an initiative, “National Competition Policy and Economic Growth In India” over a span of 18 months starting from June 25, 2012. The objective of the project is to influence the Government of India to adopt necessary legislative changes for effective implementation of National Competition Policy (NCP) at the Central government level in line with the provisions of the NCP by December 2013. Further, as a result of the initiative, it is expected that the NCP would be adopted in India.

Competition enhances economic welfare particularly consumer welfare by lowering prices and providing better quality and a wide range of goods and services in the market. While a legal framework (competition law) exists in India, there is no documented policy on competition principles necessary to build a culture of competition across the country. India is; therefore, keen on adopting a NCP and in this regard, the Ministry of Corporate Affairs constituted a Committee on NCP and related matters in June 2011. CUTS was represented in that Committee.*

In December 2011, the Committee submitted its report on NCP. To further the agenda of the NCP, 13 sector-specific studies are being carried out which have reviewed and examined market distortive provisions in policies, laws, regulations, practices, etc. and has come out with recommendations to rectify the same. The 13 sectors are: (1) Agriculture, (2) Road Transport, (3) Pharmaceuticals, (4) Healthcare, (5) Government Procurement, (6) Civil Aviation, (7) Education, (8) Coal, (9) Railways, (10) Electricity, (11) Public Sector Units, (12) Goods and Service Tax and (13) Real Estate.

Thus, the project aims to take forward the agenda of the NCP, in general, and recommendations of sector studies, in particular to make them acceptable to the relevant policymakers in a phase-wise and calibrated manner. The purpose is effective implementation of the NCP and its principles. The project will demonstrate that reforms and concomitant economic growth can be achieved provided specific pro-competition legislative changes are adopted.

* *Tryst of CUTS in the journey of pursuing competition reforms in India, available at http://cuts-ccier.org/pdf/CUTS-journey_of_pursuing_competition_reforms_in_India.pdf*

Untangling Regulatory Overlaps

The Financial Express, June 19, 2012

Pradeep S Mehta

Nowhere in the world are banking mergers outside the remit of competition laws. The only exception is Turkey, where the central bank oversees banking mergers, but it is empowered to do so under their competition law and not banking laws. But exemptions do not prove the rule... ambiguities and overlapping jurisdiction often create confusion, as is happening in India currently. There are two proposals before the government to boost the competition culture in the country. First is to amend the Competition Act to ensure coherence and efficiency and second, to address a huge number of policy-induced competition distortions through a National Competition Policy.

www.cuts-ccier.org/Article-Untangling_regulatory_overlaps.htm

Improving Investment Sentiment

Economic Times, May 28, 2012

Pradeep S Mehta

When Coca Cola, among other foreign consumer goods manufacturers, was allowed to return to India in 1990s, it was not because we needed Coke, but to send the right signal to the world that we were interested in doing business with the whole world. Other than promoting healthy competition, our domestic capital availability was limited. We need foreign investment to meet our growing needs, for example, in the infrastructure sector. We would need over a trillion-dollar capital in the near future to sustain our growth. The problem is that many cannot see the big picture, or myopically pursue their self-interests.

www.cuts-ccier.org/Article-Improving_Investment_Sentiment.htm

Parallel imports: trademarked vs copyrighted

The Financial Express, June 12, 2012

Pradeep S Mehta

If we look at India, Hindustan Lever Ltd was able to get a stay order from the Bombay High Court a few years ago on import of Lux soaps by Indian traders from Indonesia. It was cheaper there because of the huge depreciation of their Rupiah. In jargon, this type of trade is termed parallel imports, which is basically a competition policy instrument and does not violate intellectual property laws. Alas, there has been much confusion about parallel imports, which has now been settled by the government. But the catch is that while trademarked or patented goods can pass through the filter, copyrighted goods (books, DVDs etc.) may not, due to bad politics and policy incoherence.

www.cuts-ccier.org/Article-Parallel_imports_trademarked_vs_copyrighted.htm

Unlevel playing field is wasteful

The Financial Express, May 21, 2012

Pradeep S Mehta

India is fraught with examples of distortion of competitive neutrality and wasteful subsidies and bailout packages. It is time we looked into the regulation of such grants as well, and wherever possible to provide cash support to the poor. The way forward is through the proposed National Competition Policy, which has addressed all these issues in depth. It is hoped that it will be adopted by the government sometime in not too distant a future.

www.cuts-ccier.org/Article-Unlevel_playing_field_is_wasteful.htm

Getting it Right about Green Energy

Infraline PLUS, June 2012

Udai S Mehta & Guarav Shukla

The renewable energy in India is evolving fast as globally high crude oil prices and dwindling domestic coal and gas resources have brought the issue of energy security under focus. As the scope of clean and 'green' energy is expanding certain mistaken notions linked to renewable energy are becoming clearer. This article sheds light on the importance of adapting to renewable energy. It also highlights the findings of a survey conducted by CUTS on the awareness of clean energy in India.

www.cuts-ccier.org/DREC/pdf/Article-Getting_it_Right_about_Green_Energy.pdf

CII echoes concerns on retrospective tax changes

Livemint, May 01, 2012

Not known for taking hard anti-government positions – no matter how justified – India's most powerful industry lobby, the Confederation of Indian Industry has closed ranks with foreign investors and objected to, in a draft note, the government's move to effect retrospective tax amendments and its failure to insert safeguards in the proposed general anti-avoidance rules. Pradeep S. Mehta, Secretary General, CUTS said that without going into the merits of the issue, he thinks industry lobby groups should have an independent view on such matters.

www.cuts-ccier.org/Media_CII_echoes_concerns_on_retrospective_tax_changes.htm