

Managing Successful Conclusion of the Third Biennial Review (March 2020), with the EU, Leading to Retention of Pakistan's GSP+ Status

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Introduction

European Union (EU) is a unique integration of economic and political cooperation between 27 member states. The EU is a supranational mechanism in which member states have given up some of their sovereign rights to strengthen the Union's structure. Acting as a group, EU has broadened its relations with non-European countries over the years. Pakistan has always enjoyed reasonably good relations with individual EU member countries at the bilateral level, as well as, with the collective EU mechanisms based in Brussels. This relationship has been moving on in an upward trajectory and encompasses leadership level interactions, high-level military contacts, parliamentary exchanges, agreements and dialogue frameworks. Trade, however, remains the central feature of Pakistan's relations with the EU; the latter serves as the top market for Pakistani exports, with almost one third of Pakistan's total exports going to EU member states.

In December 2013, the European Parliament approved a legislation, with a heavy majority, granting Pakistan Generalized System of Preferences (GSP) Plus status that allowed duty free access to Pakistani products on 66 percent tariff lines into the EU. This was, at that time, considered as major success for Pakistan and crucial to enhance its exports to the 27-member block. The facility started from 1st January 2014 and as a result, Pakistan-EU bilateral trade increased by 36 percent since EU's grant of GSP Plus status to Pakistan. Amongst the eight GSP Plus beneficiary countries, Pakistan's share of exports under the scheme is the largest.

While Pakistan has benefitted immensely from this facility, it has nonetheless, come with stringent conditions and reporting obligations. EU requires all GSP Plus beneficiary countries to submit reports on the implementation of 27 international conventions that they have signed and are implementing internally. Inter alia, these conventions relate to human and labour rights, anti-corruption and good governance activities and the environment. The European Commission (EC), the executive body of the EU, undertakes a very rigorous examination of the implementation reports submitted by the beneficiary countries and also sends monitoring missions to observe the follow-up on the ground. Subsequently the EU Commission submits a report to the

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European Parliament and recommends whether to continue allowing benefits of GSP Plus to a particular country or not. Final approval is given by the European Parliament.

This case study is an attempt to present the dynamics of the Biennial Review mechanism of the GSP Plus scheme and the pressures that Pakistan has had to face in order to respond to EU's probing, which at times goes beyond the responses submitted on implementation of the 27 Conventions. This process has never been an easy task either for the Ministry of Commerce (MoC), which is the main ministry dealing with this issue, or for the Ministry of Foreign Affairs (MoFA) that is responsible for the diplomatic side of the relationship with the EU. This study examines the manner in which Government of Pakistan (GoP) has acted to address the challenging issue of implementation of international conventions, with cross-cutting mandates, a process that has enabled submission of timely reports to the European Union thereby ensuring that Pakistan continued to benefit from the GSP Plus scheme.

The study deals with the third Biennial Review process carried out by the European Union that culminated in early 2020. It highlights how Director General (DG) Europe at MoFA carried out coordination with the MoC, Pakistani embassies in several EU capitals and relevant government departments (including relevant divisions within the MoFA) to ensure that Pakistan's responses to the issues raised by the EU were correct and submitted in a timely manner so as to ensure that Pakistan was able to successfully retain the GSP Plus status for another term of two years.

Scene Setter

DG Europe was assigned this task in July 2019. With previous experience of having served for many years in the Pakistan embassies in Athens and then at The Hague, he was considered the most suitable officer to head the Europe Division. This Division was as busy as any other desk at the MoFA. However, presence of a large number of European embassies in Islamabad and a similar number of Pakistani missions in Europe kept officers of this division very busy all year round.

Meeting foreign diplomats on a regular basis was part of the job. In August 2019 the European Union Delegation (EUD) in Islamabad had a new ambassador, a lady whose previous experience was in development and humanitarian sectors of the EU. That background meant that she was, at most times, very direct with her statements and not a person who minced her words. After arrival in Islamabad, she immediately started meeting people from across the social spectrum as would be normal for any ambassador. She was particularly focused on issues relating to human and labour rights. In October 2019, while meeting the business community in Islamabad, the newly arrived EU Ambassador stated that this time Pakistan's GSP Plus status was at risk if the government did not fully comply with the 27 international conventions. The very next day, these remarks of the ambassador were carried by all leading newspapers

of Pakistan and, not surprisingly, sent shock waves throughout the country generally and Islamabad more particularly.

The Europe Division of the Ministry of Foreign Affairs was the focal point for coordinating all the activities relating to the EU and Pakistan Embassy in Brussels. The DG Europe was called in by the Foreign Secretary (FS) to his room and was asked to see the report about the Ambassador's statement; he was also asked to comment as to why the Ambassador would have made such a remark. The FS had already received messages from the Commerce Secretary and the Prime Minister's office expressing concern on the Ambassador's statement.

The DG had seen the statement by then. Moreover, he was aware of the way the European Union worked. For him there was no reason to raise an alarm, but, at the same time, he was a bit worried that the EU may take some harsh measures and suspend Pakistan from the GSP Plus scheme if the EU's diplomatic mission in Islamabad was not handled properly. He then explained his view point to the Foreign Secretary who was not comfortable with the way the Ambassador's statement had come out in the open. The FS asked the DG to immediately initiate close liaison with the MoC and the Office of the Attorney General of Pakistan (AGP) to work out a strategy for expediting implementation work on some of the conventions which were considered highly important by the EU and had been placed among the 10 priority areas conveyed to Pakistan in 2018. DG Europe was further directed to devise a strategy for the Pakistani embassies in EU capitals to reach out to their host governments to lobby them in order to ensure that the GSP Plus status was extended at the culmination of the review process.

Theoretical Framework

Given the complex nature of the GSP Plus undertaking and the Biennial Review Mechanism, no single government entity could have delivered on the reporting obligations that the GoP was put under by the EU in order to retain the GSP Plus status. There was an immediate need to involve several ministries and departments, both at the federal and the provincial levels. This study is therefore based on the concept of "Whole of Government Approach (WOGA)," a term first coined by the former Prime Minister of the UK, Tony Blair, as a strategic plan tool (Christensen & Læg Reid, 2007). The approach advocates for making the system organic by adopting a holistic strategy and laying emphasis on inter-organizational policy and implementation networks. The organic approach advocates for a system employing the local component in the decision making, especially in terms of public service delivery mechanisms.

The Review Mechanism

The EU is the world's largest exporter of manufactured goods and services and often conditions preferential access to its market on achievement of Non-Trade Policy

Objectives (NTPOs), such as sustainable development, human rights and good governance. For the EU, trade policy is its principal instrument of foreign policy. Through its trade policies, the EU “exports” its values to its trading partners. This idea is enshrined in the Treaty on European Union (TEU). Article 21 of the Treaty² states, “[t]he Union’s action on the international scene shall be guided by the principles which have inspired its own creation,” including democracy, the rule of law and human rights. It also refers to the pursuit of NTPOs such as international security and sustainable economic, social and environmental development.

Ursula von der Leyen, the current President of the European Commission, promised that under her leadership the Commission will further strengthen the use of trade tools in support of NTPOs. In her ‘Agenda for Europe’,³ she stressed, “Trade is not an end in itself. It is a means to deliver prosperity at home and to export our values across the world” including “the highest standards of climate, environmental and labour protection, with a zero-tolerance policy on child labour.”

It was in pursuit of this policy goal that the EU granted GSP Plus facility to non-EU member states. The EU’s current Generalized Scheme of Preferences was enacted in the form of Regulation No. 978/2012 of the European Parliament and Council of the European Union. The Scheme offers a three tiered system of incentives:

- (a) General Arrangement (commonly known as Standard GSP)
- (b) A special incentive arrangement for sustainable development and good governance (commonly known as GSP Plus) and
- (c) A special arrangement for the least developed countries (‘Everything But Arms or EBA’).

GSP Plus grants full removal of tariffs on 66 percent of product lines. In return, countries undertake to implement 27 international conventions. These conventions are related to human rights (seven), labour rights (eight), environment (eight), and good governance (four).⁴

The European Commission (EC) undertakes a continuous Biennial Review of the implementation of these 27 international conventions. The first step in this process is provision of a “List of Issues” to the beneficiary country. This list is based on the last report and any updates of the benefitting country (with respect to the implementation status of conventions). The list identifies areas for implementation in the following two years. The EC formulates the list of issues which are, inter-alia, based on the report of the previous Biennial Reviews, inputs from EU Delegation in Islamabad, civil society

² Treaty of the European Union available at https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF accessed on 27.01.2022.

³ Agenda for Europe available at https://ec.europa.eu/info/sites/default/files/political-guidelines-next-commission_en_0.pdf accessed on 27.01.2022.

⁴ Details of these may be seen at Annex-I.

organizations (CSOs) and exchanges during bilateral dialogues and country reports of international organizations.

For the third Biennial Review, the EC provided the “List of Issues” to Pakistan in 2018 to which responses were to be submitted by 2019. This was to be a very rigorous process and involved coordination of various government departments at the federal as well as provincial levels. Apart from response to the List of Issues, a Monitoring Mission of the EC visits Pakistan and discusses the progress in implementation of the 27 international conventions with not only government authorities but also the civil society.

During the review process, the EC shares a list of priority areas where it expects urgent actions. These are areas of high concern for the EU and are expected to be addressed immediately. The EC presents its report containing conclusions on the implementation on 27 international conventions to the European Parliament, through its committees. The report is then presented to the Council of the European Union for adoption.

In case of serious enforcement gaps, EU institutions may decide for a temporary withdrawal of the GSP+ status. Earlier the European Commission had published assessment reports on Pakistan’s performance in implementing UN conventions in 2016 and 2018. Both reports were satisfactory as the country showed significant progress in undertaking legislation and creating new institutions to meet the criteria of the conventions.

Coordination with all Stakeholders

Pakistan has generally obliged itself to adhere to and implement several international conventions that it has signed and regularly submits reports at various international forums overseeing the implementation mechanisms of these conventions. However, Pakistan’s reporting obligations to the EU and the subsequent review process are unique and come with consequences in case of shortcomings or failure.

Implementation of these conventions cuts across several departments at the federal level and in many cases at the provincial level also. It was therefore a complex, cross-cutting and challenging job to ensure implementation of the conventions. It needed a WOGA or “whole of government approach” and a person or authority with the clout to spearhead the oversight. In 2018 the Prime Minister had approved the establishment of a Treaty Implementation Cell (TIC) under the leadership of the AGP; the Ministry of Commerce was declared as its Secretariat. On their part, the provinces established respective “Provincial Treaty Implementation Cells” which reported to the central TIC in Islamabad. Since its establishment in 2018, this multi-stakeholder mechanism had been functioning successfully and the coordination process for ensuring compliance with the relevant international conventions has been expedited. The process in itself is

working well, but due to overall nature and inherent lethargy of the bureaucracy in the country, the implementation process has been slow.

MoFA plays an important coordination role as far as the EU and its member countries are concerned. The DG (Europe) acts as Ministry's focal person in this regard. Due to coordinated efforts under the umbrella of TIC, in which DG Europe played a key role, Pakistan was able to successfully retain the GSP Plus facility completing three review processes since 2016. The fourth review process is currently underway and is being managed through the TIC. The EU on its part has duly recognized the effective role of the TIC, which was reflected in the final report of Third Biennial Review Process published in February 2020(Commission 2020).

As noted above, monitoring of GSP Plus Scheme follows a set procedure whereby a list of issues is shared, priority areas are set out, monitoring missions visit the country and reporting obligations of different conventions are checked by the EC with inputs from different monitoring bodies. The conclusions in respect of countries benefitting from GSP schemes are then submitted by the EC to the European Parliament through parliamentary committees to the Council of the European Union. Although all this seems to be a straight forward and well defined step-by-step reporting process, but the fact is that it is never above political overtones.

Current priorities of the EU always have a significant role in actions and responses expected to be completed by the benefitting country. Such priorities are also reflected in the list of priority actions, focus of the monitoring mission, final conclusions of the EC and also the debates in the European Parliament. Besides human rights which is a cross-cutting issue and is championed by the EU, migration and climate change have been highly debated topics in the European Parliament. The DG apprised the members of the TIC about the issues arising in the EU and expectations from its trading partners.

It would be clear by now that the Biennial Review is not a stand-alone process. Responses furnished by GSP Plus beneficiaries are used as basepoints for the next review. Moreover, the report submitted by the EC to the European Parliament and Council of the EU is used as the reference in parliamentary debates (and also in other policy and academic fora). In this case, some points in the list of issues and 10 priority areas forwarded by the EC related to human rights and good governance but were not covered by the 27 international conventions. While Pakistan had taken action in these areas in its own interest, it was conveyed to the EC that these matters are beyond the jurisdiction of 27 international conventions and that our responses are manifestation of our commitment to the principles espoused by the EU. The main intent of highlighting our concern was to avoid future reporting obligations beyond the 27 international conventions so as to smoothen our way for the next review.

The DG thoroughly vetted the final report before its submission to the EC. It is essential to have such a review as the GSP+ issue is very sensitive. Ensuring that the report's language is compliant with diplomatic nuances and conveys the correct message is

essential. Occasionally line ministries forward the responses received from provinces or other subordinate departments without careful vetting. In some cases, these responses are not very clear or do not conform to diplomatic nuances – even though these may be correct. Thus, the role of the DG Europe is crucial in vetting all the responses and associated documents before their submission to the EU side.

Reaching out to EU Member Countries: Building Trust and Finding New Friends

Pakistan was placed as a “country of focus” during the 2nd Biennial Review in 2017. The AGP had to appear before the International Trade Committee (INTA) of the European Parliament to brief them about progress achieved by Pakistan in implementing the 27 international conventions. As is widely known, EU has always focused on some key areas such as human and labour rights. The visit of AGP to Brussels, in conjunction with hectic diplomatic efforts bore fruit, and Pakistan was able to successfully defend its position at the EU and was able to retain the GSP Plus status at the 2nd Biennial Review.

There was, however, an apprehension that EC may once again designate Pakistan as a “country of focus” during the Third Biennial Review process. This would have put Pakistan’s status of GSP Plus at risk. The arrival of new EU Ambassador who appeared to be much more focused on human and labour rights issues was a signal for some hard times in the making. Unlike the previous ambassador, she was very forthright and blunt in her communications both at the official level as well as in her interactions with the media. It was in this context that the FS had tasked DG Europe to come up with a plan to undertake a diplomatic campaign both at Islamabad as well as in European capitals to lobby with member countries and get them on Pakistan’s side. With the exit of the UK and its parliamentarians after the Brexit,⁵ Pakistan had lost a vital support base in the European Parliament. It was therefore necessary to find new friends within Members of the European Parliament (MEPs) who would support Pakistan whenever the country required it. In the past Pakistan had heavily relied on the British MEPs, particularly those of Pakistani origin.

While the Ministry of Commerce was actively involved in coordinating implementations on the 27 conventions through the TIC, the DG Europe drafted a roadmap for engaging resident EU ambassadors in Islamabad (numbering 16) as well as engaging the individual EU member countries through Pakistan embassies in their capitals.

As a first step, the roadmap proposed that the Foreign Minister (FM) host a working luncheon for the EU ambassadors in Islamabad and brief them on Pakistan’s efforts to

⁵ The UK voted to leave the EU in 2016 and officially left the trading bloc - its nearest and biggest trading partner - on 31 January 2020 <https://www.bbc.com/news/uk-politics-32810887>.

improve human rights related mechanisms and also inform them about other initiatives of the government. This was a first of its kind meeting wherein the ambassadors would have an opportunity to raise any issue with the FM. This luncheon was held in November 2019. The FM spoke to the ambassadors very candidly and they also responded freely and asked questions of their interest. The initiative was appreciated by all of them. Some of them, particularly those from smaller embassies such as Portugal, Romania, and Hungary called the DG and conveyed their gratitude for providing them this opportunity to freely interact with the FM.

The DG also ensured that the new Ambassador of the EU Delegation was kept in good humour so that she could share important information relating to her activities in Pakistan, including any observations related to GSP status of Pakistan. This strategy worked to a good extent as the ambassador was open about shortcomings in Pakistan's response and forthcoming in providing the required assistance.

The engagement strategy prepared by DG Europe also included a recommendation for Pakistani ambassadors in EU capitals to reach out to the MEPs from their host countries, the host governments, relevant think-tanks, CSOs and the media to brief them about progress achieved by Pakistan in improving the human rights situation in the country. The ambassadors were to particularly focus on recruiting new support bases for Pakistan within the European Parliament. Instructions were prepared and conveyed through a detailed cypher telegram⁶ to all ambassadors in EU capitals. They were asked to send regular reports on their engagements as conveyed. While Pakistan's embassy in Brussels was the focal mission to engage with EU institutions, the outreach campaign by the ambassadors in other EU capitals was equally important.

The responses from the EU capitals were compiled to create a scenario for the FS and other high-level officials of the government. MoFA was then able to reinforce efforts where they were most needed.

Since ambassadors of member states of the EU making up the Union in Islamabad shared notes with the Head of EU Delegation in Islamabad, both individually and collectively, and strived to increase trade and economic activities between Pakistan and EU member states, the DG ensured highlighting commitment of Pakistan to international conventions related to GSP Plus during his interactions with representatives of EU member states. This ensured that Pakistan's narrative was conveyed to EU by its member states at working and leadership levels as well.

The DG Europe visited Brussels to attend 10th Pakistan-EU Joint Commission and co-chaired its sub-Group on Democracy, Governance, Human Rights and Rule of Law in November 2019. Apart from briefing about actions taken by Pakistan for the effective

⁶ Cypher Telegram is communication method by which messages from the Foreign Secretary are sent to the embassies in a coded format. And the ambassadors also respond in similar way by addressing their messages to the Foreign Secretary.

implementation of 27 international conventions related to GSP Plus during the Joint Commission and its sub-Groups, discussions were held on the sidelines of the meetings with officials responsible for drafting the report of Biennial Review i.e. representatives of Directorate General of Trade of the EC. This too went a long way towards ensuring a positive document.

The proposed strategy also included visits by the FM and Advisor to PM on Commerce and Investment to Brussels. Due to changes in the EC after the new elections, the FM's visit could not take place in 2019. However, in January 2020, the Advisor on Commerce and Investment visited Davos and Brussels on the eve of the Third Biennial Review. The Advisor held several bilateral meetings to lobby for a successful outcome of the GSP Plus review. He met with EU Trade Commissioner and other influential MEPs, including the chairs and vice-chairs of influential parliamentary committees and heads of different political groups in the European Parliament.

The Prime Minister of Pakistan, met with the President of the European Parliament, Mr. David Sassoli at Davos in January 2020. The meeting proved productive in highlighting the progress made by Pakistan and soliciting the support of European Parliament for continuation of GSP Plus status.

Challenges and Pitfalls Encountered

It is important for a GSP Plus beneficiary country to constantly demonstrate strong commitment to the obligations emanating from implementation of the 27 International Conventions. Under the GSP Regulations, if at any time the EC has reasonable doubt that a beneficiary is not respecting its binding commitment to comply with the reporting obligations under the relevant international conventions, or to cooperate with the respective monitoring bodies and the EC, or to maintain ratification and ensure effective implementation of the relevant international conventions, then the Commission can initiate the procedure for a temporary withdrawal.

GSP withdrawal is an option of last recourse when other forms of dialogue and cooperation have not produced the desired improvements. A temporary suspension of GSP facility would have been disastrous for Pakistan's exports to the EU market. On the other hand, the implementation on several obligations was either slow or stuck in the approval processes for a long time. Since the Second Biennial Review, the EC had identified certain areas on which they had put special focus.

In a letter addressed to the Advisor on Commerce and Investment in November 2018, the European Commissioner for Trade had spelt out 10 priority areas on which the EU had a special focus and was interested in gaining progress in order for Pakistan to retain the GSP Plus status. These areas included the following:

- (i) ensuring freedom of expression;
- (ii) effectively addressing the issue of enforced disappearances;
- (iii) securing an enabling environment for NGOs;
- (iv) adopting and implementing a comprehensive anti-torture law;
- (v) restricting the application of the death penalty;
- (vi) enhancing the rights of women and children;
- (vii) combatting forced and child labour;
- (viii) ensuring freedom of association;
- (ix) ensuring collective bargaining and occupational safety and health;
- (x) strengthening cooperation with the United Nations;
- (xi) significantly increasing capacity (staff and skills) of the labour inspectorates, in consultation with ILO;
- (xii) strengthening independence of key institutions with adequate resources and statutory powers and
- (xiii) finalizing the interfaith harmony policy (the letter is placed at Annex).

In pursuance of the above areas identified by the EU, the Ministry of Commerce held a number of meetings to sensitize all relevant stakeholders, including the Provincial TICs, to expedite progress in these areas. DG Europe attended all the meetings on behalf of MoFA and informed the participants of the diplomatic efforts undertaken to garner support for Pakistan at the European Parliament. It was emphasized that full and effective implementation of the treaties and conventions already signed by Pakistan was in the national interest of the country. Progress achieved in these areas will strengthen the diplomatic effort being undertaken in the EU capitals.

The DG (Europe) also held a number of meetings with relevant officers of the MoFA to fine tune the inputs on important matters such as human rights, climate change and other multilateral related issues. The same was carried to meetings with other stakeholders of the federal government especially the Ministry of Human Rights and Ministry of Industries, where the most important aspects of the priority areas and the follow up questionnaire were emphasized. Another significant role played by DG Europe was the final vetting of all the replies and documents that were to be submitted to the EU. Although MoFA had been involved in the process of Biennial Review from

the start, the language of the final text needed to be watertight to ensure that Pakistan did not provide the EU with any leads that were outside of the 27 international conventions which were associated with the GSP regulations. The final vetting involved days of detailed scrutiny of the texts and removing any objectionable material that could cause a media frenzy or put Pakistan in hot waters at a later stage. This process also involved close cooperation with other departments of the government especially the provincial departments.

At one of the meetings of the TIC, DG Europe informed the participants that while EU was against the death penalty, due to hectic diplomatic efforts, they had come to understand Pakistan's position on the issue. However, they would like to see a reduction in number cases that are punishable by death. It may be noted that in Pakistan currently there are 33 offences⁷ punishable by death, of which some could easily be removed from the list by making amendments in the relevant laws. For example, 'perjury' under Section 194 of Pakistan Penal Code (PPC) is punishable by death.⁸ This section in the PPC could easily be amended and converted into life imprisonment. Another example is that of kidnapping for lust under section 367-A of PPC which is also punishable by death. This particular provision could also be dropped from the list by making an amendment in PPC.

During several interactions both in Islamabad and in Brussels, it was conveyed to the EU that Pakistan is working on the list and the number of offences punishable by death would be reduced. This position was also conveyed to the EC in writing and in response to a letter of EU Trade Commissioner. The Ministry of Human Rights had undertaken a detailed study of the offences and sent its recommendations to the ministries of Interior and Law and Justice. However, due to bureaucratic bickering the issue remained unresolved. Neither the Ministry of Interior nor Ministry of Law and justice was willing to take the first step. Instead, they continued to throw ball into each other's courts. DG Europe reached out to Secretary Commerce and requested him to apprise the AGP so that he could intervene and make the relevant ministries work on the issue. This being a low hanging fruit was easier to achieve and would have conveyed a very positive message, not only to the EU, but also to the rest of the international community. Unfortunately, this did not happen until the review process was complete.

One of the other priorities identified by the EU Trade Commissioner was ensuring freedom of association, collective bargaining and occupational safety and health. The EU wanted Pakistan to ensure that trade unions and other employment legislation was fully applicable in Export Processing Zones (EPZ) and provide information on the state of play of extending the application of labour legislation to the Special Economic Zones (SEZ). This issue was raised in response to Ministry of Industries SRO 1004(I)/82, dated 10-10-1982, which had exempted the EPZs from the application of

⁷ Justice Project Pakistan available at <https://data.jpp.org.pk/en/document/ngo5vvasxsr?page=1> accessed on 23.01.2022.

⁸ Justice Project Pakistan available at <https://data.jpp.org.pk/en/document/ngo5vvasxsr?page=1> accessed on 23.01.2022.

labour laws related to ‘right to unionize’.⁹ At a dinner hosted for EU ambassadors in Islamabad in December 2019, Prime Minister’s Adviser on Commerce and Trade had promised to withdraw this SRO within days. However the relevant ministry was unable to do this till the filing of the GSP report by EC to the INTA committee of the European Parliament.

Despite all these challenges, Pakistan was able to convey strong messages of commitment to the EU side. Importantly the EU remained engaged with Pakistan and continued to work very closely on the implementation of 27 international conventions. Although the pace of progress on implementation was slow but the commitment of all government institutions involved in the process was firm. It was agreed that EU will not be given an impression that Pakistan lacks commitment. Such message of strong commitment was also conveyed by the Prime Minister to the President of the European Parliament, Mr. David Sassoli, when the two met in Davos, on the sidelines of the World Economic Forum, in January 2020.

Culmination of the Process: Pakistan Retains the Status

Despite being slow in achieving progress in a number of implementation areas, Pakistan never gave an impression to the EU side that it lacked commitment in ensuring compliance with its obligations. The coordinated efforts of the Ministry of Commerce and the Ministry of Foreign Affairs achieved the desired result and Pakistan was able to retain its GSP Plus status after the report was approved by the European Parliament. Only a minimum number of obligations were carried forward for the next review. Some of the key points of the report are given below:

- Pakistan was granted GSP+ in 2014 and has committed to maintain ratifications and meeting reporting obligations with respect to the 27 UN conventions.
- The new government has shown a keen interest in maintaining GSP+ for implementation of its agenda of economic growth, job creation, and fighting corruption and climate change.
- Reporting to the UN monitoring bodies has significantly improved.
- Notwithstanding positive measures in the area of rights of women, children and transgendered persons, implementation remains slow.
- Political will needs to be coupled with determined action for reform.
- Launch of a web portal by TIC in Punjab was significant step.

⁹ Export Processing Zones Authority available at <https://epza.gov.pk/wp-content/uploads/2020/07/sros-1.pdf> accessed on 23.01.2022.

- Improvements have been made in adopting legislation.
- Criminalization of enforced disappearances, would be a significant step forward.
- Situation of labour welfare has improved in some provinces.
- Pakistan has made a high-level political commitment in June 2018 to address these deficiencies in its AML/CFT regime by the implementation of FATF Action Plan.

Conclusion

This case study has showed that government departments at both federal and provincial levels are able to work together for a national cause and deliver results. The role of the TIC was very crucial in achieving the desired outcome as it provided a solid platform for all relevant government departments to come together and perform. The study highlighted that every department of the government in a “Whole of Government Approach” has an important role to play. In this case the role played by the DG Europe and MoFA was crucial in terms of guiding/briefing the TIC regarding requirements of the EU and launching a diplomatic campaign in support of Pakistan’s bid to secure a successful outcome at the Third Biennial Review of the GSP Plus. In case of failure the consequences would have been disastrous for the country as the exports to EU would have been badly hit.

Lessons Learned

After the successful culmination of the review process the following lessons were learnt for the future

1. While Pakistan is an Important Partner for EU, there is Always a Risk of their Institutions Taking Strict Action

For the EU their own values which are based on rule of law, democracy, governance and human rights are more important.

2. Whole of Government Approach Delivers Result

When the issues being addressed are complex in nature and involve multitude of stakeholders, then it is not possible for one government department to address these alone. ‘Working in silos’ type of approach, with limited coordination and cooperation of relevant departments, can never produce desired results. In this particular case study, a key takeaway was that when a coordination mechanism was placed under the overarching command of AGP, the pace of implementation was streamlined and it enabled Pakistan to demonstrate its seriousness in its commitments to the EU. For its

part, the EU duly recognized and praised the role of this central coordination mechanism.

3. Implementation of 27 International Conventions is in Pakistan's Own Interest

The key takeaway from this case study is that the country should not wait for outsiders to come and ensure that human rights situation in Pakistan is improved.

4. Do Not Give Out More Information than is Required

As the GSP review is a cyclical process and any reply submitted to the EU could be used in the follow-up procedures, it was necessary to ensure that Pakistan's reply restricted itself to the issues at hand. Any extra information supplied to the EU, beyond the scope of implementation of the 27 international conventions that formed part of the GSP regulation, was done so with a disclaimer. This allowed Pakistan to ensure that it would not become part of the next cycle.

Recommendations/Way Forward

When the news of Pakistan retaining its GSP Plus status for the next two years came from Embassy in Brussels, there was a sense of relief for all those who had worked tirelessly on this subject. The DG Europe was called in by the FS into his office to convey his appreciation to him and his team. The FS asked the DG as to what should be the next course of action for Pakistan in terms of preparations for the Fourth Review process which would be the last one before a new mechanism replaces the GSP Plus? The DG pointed to the Mid-Term Evaluation of the GSP Scheme which had been conducted by the EU in 2017. In the light of that evaluation, the EC had considered that implementation of the GSP Regulations could be improved in two important aspects: improving transparency in GSP monitoring and improved involvement of civil societies both in the EU and the beneficiary countries. Promoting greater awareness of GSP among the business community and CSOs in beneficiary countries was also important. He further informed the FS that the EC had launched preparatory work to support a possible review of the legal framework governing GSP. In this regard, the Commission had awarded a contract for a "Study in support of an impact assessment to prepare the review of the GSP Regulation" to BKP Development and Research Consulting GmbH, an economic research and consulting firm based in Germany.

The DG also informed the FS that based on the latest developments in the EU's internal structure and GSP regulations governance, the lessons learnt from previous exercises and the upcoming legislation for a new trade related scheme, the following proposals/recommendations are submitted:

- Engage actively with the EU and its institutions during the Biennial Review process with a view to demonstrate progress on the priorities identified by the EU and its commitment to the GSP Plus.
- Optimize benefits from the GSP Plus through diversification of exports to the EU. Since almost 75 percent of all exports from Pakistan to the EU were in textiles due to favourable tariffs being offered by the GSP Plus status, it was a worrying sign that the EU was steadily moving towards organic cotton and a carbon neutral regime, which would eventually put pressure on Pakistan's textile industry and its exports as well. Therefore, while GSP+ had allowed Pakistan to consolidate its overall exports to EU, the Ministry of Commerce needed to develop an action plan for this purpose together with relevant stakeholders to better project other sectors of Pakistan in the EU and encourage Pakistan's business to go for branding and product differentiation.
- Initiate an impact assessment of the European Green Deal on Pakistani exports and FDI's from European countries so as to calibrate our response. The European Green Deal is likely to have significant impact on imports into Europe as well as outflow of investments from European countries. These include additional tariffs restrictions, certification requirements or other NTBs to promote carbon neutrality of products. GSP is one of the instruments available for the EU to operationalize the deal in third countries. The Ministry of Commerce and Board of Investment need to get these assessments done asap.
- Expand cooperation with the EU institutions to enhance capacities of relevant institutions dealing with Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT).
- Learn from the latest studies being undertaken in the world as well as techniques being applied in the EU to produce, process, package, and market our agriculture and marine goods so that these could also be exported to the EU in large quantities. This engagement is especially important for large scale agriculturists with significant holdings.
- Enhance engagement with SMEs, businesses and industries to invest in Special Economic Zones and Export Processing Zones in Pakistan. Investments from Pakistani business-people living in the EU member states need to be encouraged.
- Recognize and act on the priority areas shared by the EU, particularly the national legislation to be brought in line with ILO Conventions and extending its applicability to EPZ and SEZs. In this regard, observance of the labour laws is of critical importance.
- Initiate our own assessment to assess Pakistan's participation in the post-2023 GSP scenario. GSP has proven to be an effective tool for the EU Foreign Policy, including

for advancing its human rights priorities and objectives in the beneficiary countries. The EU maintains that continued engagement and dialogue with beneficiary countries remain critical to achieve the desired objectives of the GSP regulations. While we await the publication of the study commissioned by the EU for the review of the GSP Regulations, it would be important to do our own homework, while taking into account political, economic and social dimensions.

- Engage with UK which has already announced that the GSP Plus beneficiary countries would continue to receive the same trade concessions as were part of the EU GSP Plus till 2023. Thus, in trade terms, Brexit will not have any immediate implications for Pakistan.

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Cypher Telegram is communication method by which messages from the Foreign Secretary are sent to the embassies in a coded format. And the ambassadors also respond in similar way by addressing their messages to the Foreign Secretary.

Export Processing Zones Authority available at <https://epza.gov.pk/wp-content/uploads/2020/07/sros-1.pdf> accessed on 23.01.2022.

Justice Project Pakistan available at <https://data.jpp.org.pk/en/document/ngo5vvasxsr?page=1> accessed on 23.01.2022.

The UK voted to leave the EU in 2016 and officially left the trading bloc - its nearest and biggest trading partner - on 31 January 2020 <https://www.bbc.com/news/uk-politics-32810887>.

Treaty of the European Union available at https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF accessed on 27.01.2022.

Annexure I

The Relevant GSP+ Conventions

PART A: Core Human and Labour Rights UN/ILO Conventions

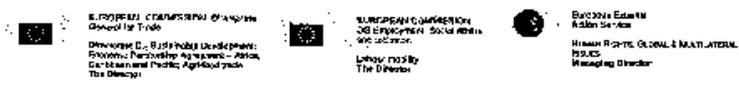
1. Convention on the Prevention and Punishment of the Crime of Genocide (1948)
2. International Convention on the Elimination of All Forms of Racial Discrimination (1965)
3. International Covenant on Civil and Political Rights (1966)
4. International Covenant on Economic Social and Cultural Rights (1966)
5. Convention on the Elimination of All Forms of Discrimination Against Women (1979)
6. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
7. Convention on the Rights of the Child (1989)
8. Convention concerning Forced or Compulsory Labour, No 29 (1930)
9. Convention concerning Freedom of Association and Protection of the Right to Organise, No 87 (1948)
10. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No 98 (1949)
11. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No 100 (1951)
12. Convention concerning the Abolition of Forced Labour, No 105 (1957)
13. Convention concerning Discrimination in Respect of Employment and Occupation, No 111 (1958)
14. Convention concerning Minimum Age for Admission to Employment, No 138 (1973)
15. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No 182 (1999)

PART B: Conventions Related to the Environment and to Governance Principles

16. Convention on International Trade in Endangered Species of Wild Fauna and Flora(1973)
17. Montreal Protocol on Substances that Deplete the Ozone Layer (1987)
18. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989)
19. Convention on Biological Diversity (1992)
20. The United Nations Framework Convention on Climate Change (1992)
21. Cartagena Protocol on Biosafety (2000)
22. Stockholm Convention on persistent Organic Pollutants (2001)
23. Kyoto Protocol to the United Nations Framework Convention on Climate Change(1998)
24. United Nations Single Convention on Narcotic Drugs (1961)
25. United Nations Convention on Psychotropic Substances (1971)
26. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)
27. United Nations Convention against Corruption (2004)

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Ref: Awa/2018/6000236 - 23/10/18



Brussels,
Trade D1/AVVH/b(2018)6439058

Mr Anwar Mansoor Khan,
Attorney-General for Pakistan

Mr Mohammad Younus Dagher
Commerce Secretary, Pakistan

Your Excellencies,

Dear Attorney-General Khan, dear Secretary Dagher,

In the context of the European Union GSP+ (Special Incentive Arrangement for Sustainable Development and Good Governance) monitoring process, a mission to Pakistan took place last month led by Trade Director Ewa Synowiec. It gave us the opportunity to engage openly on your new government's priorities and discuss how GSP+ could play a role in shaping the sustainable development of your country. We appreciate the useful and constructive encounters with you and your colleagues. At the end of our visit we shared a number of key suggestions for strengthening the implementation of the Conventions covered by the GSP+ scheme (attached).

9/11/18
23-11-18

Since Pakistan was granted GSP+ benefits, the country has done very well: exports to the EU increased by over 50% since 2013 to €6.7 billion, making the EU not only your largest export partner, but more than twice the size of your second largest market, the US. In 2017, 89% of all exports (€5.9 billion) from Pakistan arrived in the EU under GSP+, of which over €5 billion in the textiles sector. This makes Pakistan the main beneficiary under the GSP+, accounting for almost 75% of all GSP+ imports into the EU.

The provision of trade preferences under GSP+ is coupled with the obligation to effectively implement 27 core international conventions on Human and Labour Rights, Environmental Protection and Good Governance.

Without prejudice to our assessment in the next biennial report, Pakistan is making progress notably on some legislative issues (adoption of laws on women and children rights; on honour

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