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EICC-2020 10 August 2020

Mr. Phil Hogan
EU Commissioner for Trade
European Commission
Rue de la Loi 200
1049 Brussels

Dear Commissioner, Mr. Hogan,

Re: **Financial Action Task Force and EU's GSP plus privilege to Pakistan**

I am bringing to your kind attention that the recent extension granted by the European Commission of European Union's Generalised Scheme of Preferences (GSP) plus trade privilege to Pakistan for another two years contradicts several founding principles and values of the EU and especially in view of the fact that despite several warnings issued by the Financial Action Task Force to Pakistan government to combat money laundering and terror financing, Pakistan has failed and as a result it continues to be in the "Grey List" of Financial Action Task Force. The letter also has reference to the exchange of communications during the tenure of your predecessor Ms. Cecilia Malmstrom's Cabinet and the Europe India Chamber of Commerce (EICC) on the issue of granting GSP plus status to Pakistan.

For well over a decade, Pakistan has been a country of particular concern to the FATF which has continuously monitored the country and found several deficiencies in its rules that still allow blatant terror financing and money laundering to go on. This is of concern in any country, but in case of Pakistan, it becomes even more critical as the nation continues to be the single biggest hotbed and exporter of terror. While India has been on the receiving end of terrorists trained and financed by Pakistan for decades, the EU may do well to remember that even its own people and borders have been infiltrated by terrorists that have found been trained or inspired by Pakistan. Even as recently as on February 21, 2020, the last physical and full meeting of FATF, Pakistan was maintained in the list of 'Jurisdictions under Increased Monitoring'.

The FATF meeting expressed grave concern over Pakistan's failure to meet its commitments to curb terror finance and said that unless Pakistan adhered to the action plan on addressing strategic deficiencies by next Plenary, which was to be held in June, FATF would put the country on the blacklist. The plenary has been postponed due to coronavirus pandemic and Pakistan has managed to escape the blacklist. But it cannot escape for long as there are numerous grey areas where the Pakistan government will not or cannot initiate action against terrorism.

In its report after the February 2020 meeting, the FATF has highlighted the deficiencies that Pakistan has in curbing terror finance.

"Pakistan should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) demonstrating that remedial actions and sanctions are applied in cases of AML/CFT violations, relating to TF risk management and TFS obligations;

(2) demonstrating that competent authorities are cooperating and taking action to identify and take enforcement action against illegal money or value transfer services (MVTS); (3) demonstrating the implementation of cross-border currency and BNI controls at all ports of entry, including applying effective, proportionate and dissuasive sanctions; (4) demonstrating that law enforcement agencies (LEAs) are identifying and investigating the widest range of TF activity and that TF investigations and prosecutions target designated persons and entities, and those acting on behalf or at the direction of the designated persons or entities; (5) demonstrating that TF prosecutions result in effective, proportionate and dissuasive sanctions (6) demonstrating effective implementation of targeted financial sanctions (supported by a comprehensive legal obligation) against all 1267 and 1373 designated terrorists and those acting for or on their behalf, including preventing the raising and moving of funds, identifying and freezing assets (movable and immovable), and prohibiting access to funds and financial services; (7) demonstrating enforcement against TFS violations including administrative and criminal penalties and provincial and federal authorities cooperating on enforcement cases; (8) demonstrating that facilities and services owned or controlled by designated person are deprived of their resources and the usage of the resources.

All deadlines in the action plan have expired. While noting recent and notable improvements, the FATF again expresses concerns given Pakistan's failure to complete its action plan in line with the agreed timelines and in light of the TF risks emanating from the jurisdiction. To date, Pakistan has largely addressed 14 of 27 action items, with varying levels of progress made on the rest of the action plan. The FATF strongly urged Pakistan to swiftly complete its full action plan by June 2020. Otherwise, should significant and sustainable progress especially in prosecuting and penalising TF not be made by the next Plenary, the FATF will take action, which could include the FATF calling on its members and urging all jurisdiction to advise their FIs to give special attention to business relations and transactions with Pakistan.''

Pakistan has not been able to significantly limit major terror outfits like Lashkar-e-Taiba (LeT) and Jaish-e-Mohammad (JeM) from funding, recruiting and training their fighters on its soil. Fighting some Jihadists while embracing others is self-defeating and shows that Pakistan has no real desire or no capacity to meet its commitments and fulfil its obligations. Pakistan has a long history of catching and releasing terrorists operating from its soil. In the international eyes, Pakistan is seen as a DNA of terrorism and home of all shades of darkness, and its neurotic behaviour has resulted in its decline to a nearly failed state with a very weak economy and a highly radicalised society. Pakistan took modest steps last year to counter terror financing and restrain India-focused militant groups from conducting large-scale attacks, however, the country has remained a safe harbour for other regionally focused terrorist groups.

Also, Pakistan was expected to fulfill certain commitments under international agreements in order to retain the benefit of holding the GSP plus status. A focal requirement of the EU regulation required Pakistan to ratify and effectively implement 27 international Conventions. The various Conventions deal with human rights issues, labour rights and environmental standards broadly. Some of these Conventions have been ratified by Pakistan, however these have not been implemented effectively. Passing the laws and other subordinate legislation is a low-hanging fruit on the path to compliance with global concerns when it comes to the misuse of Pakistan's financial system by terrorist groups. Generating higher numbers of prosecutions and convictions for terror-financing and money-laundering offences must go hand in hand with sustained action against designated entities. Furthermore, reporting and compliance mechanisms has not been helpful which may have helped the country to remain in the privileged list. In other words, Pakistan has failed in all yardsticks of compliances which includes attaining only 14 of the 27 targets.

Though the EU's GSP privilege to Pakistan was granted to Pakistan in 2014, the country did not bother to respect or fulfill its obligations under GSP benefits. Only after being placed under "Grey List", Pakistani government has this year acted on eight bills for legislation on anti-money laundering and terror financing with a view for Islamabad to move from the grey list to the white list.

What surprises us is that even though Pakistan’s status as a dubious jurisdiction in terms of terror finance and money laundering has been clear for long, and the country has stayed on the grey list of the FATF due to 'strategic deficiencies' in its anti-money laundering and terrorism financing regime, the 3rd Biennial Assessment of GSP of the EU was published by the European Commission on February 10, 2020, and the EU extended the GSP+ status to Pakistan till 2022. Does this mean that EU is not convinced about FATF’s observations or that EU is not concerned with the FATF observations or shall we say that FATF observations don't matter in the EU’s GSP policies? This is a serious matter and needs introspection and review. The global body took the decision based on a monitoring report of the International Cooperation Review Group (ICRG) and therefore this matter assumes importance and some serious thinking.

We believe that evolution of the EU anti-money-laundering (AML) and counter-terrorist financing (CTF) legislative framework, focusing on the relationship between the main international standards in the field and the newest EU legislation, is very promising. The FATF has been key to developing a body of soft rules on anti-money-laundering and counter-terrorist financing (AML/CTF). We also believe that international soft law norms in particular the FATF Recommendations have had a decisive influence on the latest development of legislation for countries that enjoy the GSP benefits. However, in the case of Pakistan it has not helped.

For over seven decades, Pakistan has managed to evade crisis and also as a failed state primarily because the international community, including the European Union through its special trade privilege, has consistently bailed it out. Pakistan is a significant beneficiary of the EU GSP policy. As a result of the duty-free access available to Pakistan in 27 EU member states, Pakistan’s exports to the EU enhanced from 4.538 billion euros in 2013 (before the GSP-Plus status) to 7.492 billion euros in 2019, registering an increase of 65pc. In 2018, Pakistan availed tariff concessions on exports worth 5.885 billion euros out of the total export of 6.739 bn euros to EU member states.

It would be anyone’s guess as to exactly what proportion of the EU’s largesse of almost 6 billion euros only in 2019 went on to be used for terror financing by Pakistan government or the various ‘non-state’ actors in that country. But it would not be wrong to say that at least some of it was indeed misused towards sponsoring terrorism. Something that the EU needs to seriously think over.

In the light of the European Commission's comprehensive approach to strengthen the EU’s fight against money laundering and terrorist financing, further enhancing engagement with third countries and ensuring greater cooperation with the Financial Action Task Force (FATF), where does this GSP plus benefit to Pakistan stand? We strongly urge the European Union to direct Pakistan to cooperate with FATF and global community to completely satisfy obligations failing which EU should take steps to terminate the privilege. If EU fails to act, continuing this privilege to Pakistan sends a wrong message to the present beneficiary countries of this scheme and to the countries who would in future seek such benefits.

It would therefore not be inappropriate to ask EU to set up an exhaustive independent Commission of Fact-Finding Investigations to review the progress made by Pakistan on the promises it has made during last six years to the EU specifically and the international community as a whole. We are confident that the Commission of Investigation would not find satisfactory progress by the country in the implementation of the UN human rights conventions which were related to the grant of benefits.

We would like to thank you for upholding EU's values and principles in the trade policies. As an apex chamber which promotes trade and economic relations between Europe and India, we believe it is our responsibility to bring to your kind attention the issues that affect trade and strategic relations between EU and India.

Should you or your Cabinet wish to discuss this matter further with me, I will only be too pleased to be available for a face to face meeting or through a video conference at your convenience.

With kind regards,

Yours sincerely,

Secretary General