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INTERVENTION BY H.E. RAVINATHA ARYASINHA, SRI LANKA AMBASSADOR TO BELGIUM, LUXEMBOURG AND THE EU AT AN EXCHANGE OF VIEWS ON THE “GSP+ SCHEME AND SRI LANKA” AT THE EUROPEAN PARLIAMENT’S INTERNATIONAL TRADE COMMITTEE - 14 JANUARY 2010

The Government of Sri Lanka welcomes this opportunity to be heard on this important issue. We are deeply conscious of the importance attached by the members of this Committee, that beneficiaries of the EU GSP+ scheme uphold the high standards laid down in the 27 International Conventions relating to labour rights, environmental safeguards, good governance and human rights. While we appreciate the acknowledgement of our adherence to good labour practices including non-use of child labour and environmentally friendly and sustainable production, Sri Lanka takes very seriously all concerns expressed in relation to 3 of the 27 human rights related conventions under reference.

During a period of unprecedented turbulence in Sri Lanka’s contemporary history when the very existence of the state was at stake due to a severe terrorist onslaught, when in October 2008, the unusual vehicle of "investigation" was chosen to be used by the European Commission (EC) on Sri Lanka, we respectfully submitted to them that Sri Lanka will not participate in such a process as a matter of principle. We felt it to be both inappropriate and unnecessary, given the numerous on-going processes of constructive engagement between both Sri Lanka and the European Institutions, as well as between Sri Lanka and the UN system. We were conscious that there were some current GSP+ recipients who were not being subjected to similar “investigation” by the EC, against whom strictures had been passed by the relevant UN convention reporting bodies, whereas on Sri Lanka, there were none.

However, the charge being made that Sri Lanka was non-responsive to the concerns raised by the EC on effective implementation of the 3 conventions in question, is not accurate. While not submitting to the quasi-judicial process of “investigation”, in-keeping with the spirit of transparency and mutual respect that is appropriate to the historic and long standing relationship between Europe and Sri Lanka that spans more than 500 years, Sri Lanka continued to responsibly and diligently engage with the EC on the issues of concern through existing diplomatic channels - a fact acknowledged by the EC Report itself. In addition to the constant dialogue I maintain with all institutions of the EU including members of this Parliament, exchanges have been held on more than 10 occasions over the last 20 months in both Brussels and in Colombo, at Ministerial, Senior Official and Technical level. As acknowledged by the EC itself, outside the process of “investigation”, Sri Lanka also made available to the EC material which showed Sri Lanka’s compliance with the relevant conventions, refuted unfounded allegations and provided previous clarifications given on issues.

Sri Lanka believed that in an objective process, these actions should have sufficiently clarified any concerns the EC had and helped it ascertain firsthand the situation on the ground. It should also have contributed towards sensitizing the European Institutions to the reality that while their “investigation” was carried out during a period of extraordinary stress in Sri Lanka, as reflected in the purported findings, over time, the situation on the ground had improved significantly, particularly with the defeat of the LTTE in May 2009 and the rapid onset of normalcy.

Upon the process of “investigation” coming to an end, its contents being made public on 19 October 2009 and Sri Lanka being asked for its comments on the content of the EC Report, on 6 November 2009 Sri Lanka provided a comprehensive response. Sri Lanka’s observations established the following:

- a. The exceptional nature of the situation that Sri Lanka had to deal with during this period when the Government had to meet the challenging task of defeating LTTE terrorism;
- b. The fact that whatever derogations that were necessary during the period under reference were undertaken in full conformity with the ICCPR and other internationally accepted jurisprudence and governance norms;
- c. That the EC report made reference to issues that had already been resolved or were in the process of being resolved;
- d. Explained why some other issues raised could not be resolved in the short term, given the need to deal with any remnant elements of the LTTE that may be found and those involved in terrorism in custody who had to be prosecuted following the assessment of evidence;
- e. The measures adopted to safeguard human rights, while pointing out the further improvement of the situation with the end of LTTE terrorism and that with the rapid and progressive return to a situation of normalcy there being no room for allegations of “incidents” to be made;
- f. That while publicly proclaiming "the war and other internal matters are not an issue" to the GSP+ decision, much of the decision making process has been in Sri Lanka’s view motivated and prejudiced as reflected in the statements made by prominent members of both the Commission, as well as EU member states;
- g. That there had been a singular scrutiny of “values” and “benchmarks” in relation to Sri Lanka in a highly discriminatory manner, when compared to other beneficiary countries, clearly in violation of the letter and spirit of the Enabling Clause and other relevant practices of the WTO.

In its submission to the Commission, Sri Lanka further observed that it would be reasonable to keep action on the EC Report in abeyance, while the authorities of the EC and Sri Lanka continue a constructive engagement concerning the issues at hand.

Paralleled with this submission, the rapid improvement in the ground situation in Sri Lanka with respect to matters of concern highlighted in both the European Parliament's 'Urgency Resolution' of 22 October 2009 and the European Council 'Conclusions' of 27 October 2009, also provided a useful 'litmus test' of the direction in which post-conflict Sri Lanka was moving, which was evident at the time, and has improved even further since.

- Following extensive de-mining with the induction of flail machines, land had been cleared for re-settlement of IDP and engagement in livelihood, and the number of IDPs that remained in the Welfare Villages was dropping from its high of 284,000 in May 2009. Today it stands at less than 80,000.
- The IDP Welfare Villages had dropped from 37 located in 4 districts at its peak, to only 10 in Vavuniya and Jaffna Districts today and these too have been converted to 'open camps' with freedom of movement ensured.
- 68 recognized UN/INGOs/NGOs had been given unimpeded access to the welfare villages and the areas of re-settlement, while visits by media to the areas had increased.
- Following screening, former combatants were being released (the last batch of 712 on 9 January 2010), sent for rehabilitation or held back for closer investigation.
- All child combatants were being rehabilitated, some in fact being re-located in Colombo so that they could continue with their education in a prominent school alongside other children. According to UNICEF data, since December 2008 only one child is reported to have been recruited in Sri Lanka.
- After many years, in the North, the curfew was lifted, the A9 road opened, large tracts of land made available for cultivation and restrictions on fishing lifted.
- The Commission of Inquiry (COI) had handed over its report on alleged human rights violations, which was under review by the Attorney General, with a view to consider prosecution.
- A Presidential Inquiry had been ordered into allegations of human rights violations in the last phase of the conflict.
- There were no new reports of killings or disappearances. According to the UN Working Group on Enforced or Involuntary Disappearances there had been a downward trend, with 3 reported incidents in 2009, compared to 206 in 2006, 163 in 2007, and 120 in 2008. And may I hasten to add, that any one incident or report is one too many.

- With respect to attacks on media, the Reporters Sans Frontiers website listed only one alleged attempt to kidnap a journalist in the second half of 2009.
- Alleged cases of the past were being investigated with renewed vigor and there was clear commitment on the part of the Government to allow the judicial process to take its course with respect to those already pending trial or appeal.
- Political reconciliation amongst all communities in Sri Lanka was well underway. All Tamil parties in Sri Lanka are actively participating in the ongoing Presidential election process, dismissing demands by diaspora groups to “boycott” the election.

In short, clearly many of the concerns that had given rise to the European Commission’s psychological impetus to review Sri Lanka’s suitability for the continuance of the GSP+, had already been addressed on the ground.

Objectively speaking, a reasonable expectation was that due time would have been taken by the Commission to consider these changes on the ground and to fully weigh the serious ramifications that would result from the drastic step contemplated of suspending the GSP+ concessions to Sri Lanka. After all here was a decision which affects the livelihoods of over 1 million people (1/20th of Sri Lanka's population), would cause disruption and loss of market share that has contributed immensely to the 36% of Sri Lanka’s exports to the EU market (which had diversified and moved towards more value added commodities from new, growing and potential industries) and had helped Sri Lanka remain on course to reaching its Millennium Development Goals (poverty reduction, preventing migration to the cities, ensuring gender equality and empowerment of women and environmentally friendly sustainable development). Furthermore, according to Eurostat trade data sources, it must be noted that Sri Lanka was not just another recipient of GSP + benefits, in 2008 it emerged as the GSP+ recipient whose utilization of the facility was the highest - a clear success story for the entire GSP+ scheme.

It is in this context, that Sri Lanka was disappointed with the European Commission’s listing of “a proposal for termination of the GSP+ to Sri Lanka” in the agenda of the 17 November 2009 meeting of the GSP Committee of the Commission, three days before the deadline given by the Commission for the Sri Lanka to provide a response to the EC Report. It was as though, whatever Sri Lanka had to say, did not matter. The European Commission recommendation to the European Council on 15 December 2009 to temporarily suspend the GSP+ concession to Sri Lanka, which was also communicated to the European Parliament, was also done in a great hurry. The manner in which this announcement was made, on the eve of the nomination day in the ongoing Presidential election campaign in Sri Lanka, has regrettably led to certain perceptions being created regarding the timing.

Notwithstanding such distractions, Sri Lanka values its long-standing relations with the EU and is ready to continue its engagement with the European Institutions in order to help address issues of concern, in a manner that does not compromise Sri Lanka’s national

interest. However, such engagement needs to be undertaken on terms respectful of one another and with sincerity and purposefulness by both parties.

Sri Lanka expects the EU to do the same. There should be no setting of unattainable targets, no shifting of goal posts and no attempt to use Sri Lanka-EU relations to serve domestic political agendas.

If the 27 EU member states are to accept the European Commission's proposal for temporary suspension of the GSP+ concession to Sri Lanka, no doubt it will cause disruption to the livelihoods of the Sri Lankan people at a critical period in the country's history. It is the women in the labour force that would be most affected. The suspension will impact not just those engaged in the apparel industry, but other new growth sectors such as fisheries, ceramic/porcelain, footwear, rubber products, bicycles, tobacco etc. Ironically, notwithstanding the rhetoric one hears from the EU of wanting to help those affected by the conflict, persons who had even previously faced the wrath of the 2004 tsunami, it would be these very persons in the North and East of Sri Lanka who would be badly affected. They depend entirely on fisheries and agriculture for their livelihood – both potential areas of growth that has considerable scope to expand using the GSP+ concessions.

The people of Sri Lanka are resilient. We have survived and overcome with fortitude, a terrorist conflict which spanned three decades. Therefore, Sri Lanka is confident, that if compelled to, we will be able to surmount this challenge with equal fortitude. But would it be fair to unnecessarily place this extra burden on our shoulders, particularly at this juncture. This is the question this Parliament, the Commission and Council needs to decide on.

Sri Lanka believes that the termination of trade concessions such as GSP+ is not a mere mechanical process that can be done arbitrarily, but one that should be decided upon fully cognizant of its associated political and socio-economic ramifications at the time of doing it. At a time when the EU has shown considerable understanding and willingness to accommodate the practical difficulties faced by some current GSP+ recipient countries at variance from the norm with respect to the 27 UN conventions, and are willing to review the rules of the scheme to accommodate others, it is hard to understand why the same rubric is not being applied in the case of Sri Lanka. This is a question this Parliament, the European Commission and European Council owe an explanation on.

Sri Lanka remains hopeful that better sense will prevail upon member countries of the EU, who themselves have faced similar situations in their long history and are acutely conscious of the complexity of 'democracies fighting terrorism' – a phenomenon Sri Lanka, thankfully, has been able to overcome.

It is in the totality of the above circumstances, that I call upon the members of this Committee, who since the coming into force of the Lisbon Treaty have greater responsibility for the conduct of the European Union's international trade policy, to encourage the European Commission as well as the Member States represented in the European Council, to review this matter with the seriousness that it deserves. I thank You.