SRI LANKA

TRADE SUMMARY

U.S. goods exports in 2014 were $355 million, up 13.7 percent from the previous year. Sri Lanka is currently the 115th largest export market for U.S. goods. Corresponding U.S. imports from Sri Lanka were $2.7 billion, up 9.1 percent. The U.S. goods trade deficit with Sri Lanka was $2.3 billion in 2014, an increase of $181 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Sri Lanka was $102 million in 2013 (latest data available), unchanged from 2012.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Sanitary and Phytosanitary Barriers

Sri Lanka currently prohibits the sale of seeds derived from agricultural biotech or products containing biotech organisms intended for human consumption without the approval of Sri Lanka's Chief Food Authority. Sri Lanka does not appear to have a functioning approval mechanism and thus in effect imposes a *de facto* ban on sales of seeds and other agricultural products derived from biotech. Further, Sri Lanka requires all commodity imports to be accompanied by a certification that the commodity is "non-GE." The United States will continue to engage Sri Lanka on these issues.

In mid-November, the Health Ministry issued a directive requiring all consignments of imported milk powder be accompanied by a certificate from a "competent authority" of the exporting country certifying that the milk powder: does not contain any biotech material or material derived from biotech material; was not manufactured from the milk obtained by genetically engineered cows; nor made from the milk of cows fed with feed containing biotech material.

In 2014, Sri Lanka lifted a ban imposed on imports of U.S. bovine products, including beef, beef products, and beef genetics following U.S. government advocacy urging Sri Lanka to open its market to U.S. beef based on science, the World Organization for Animal Health (OIE) guidelines, and the United States' negligible risk status for bovine spongiform encephalopathy (BSE). Sri Lanka had previously banned imports of U.S. bovine products due to BSE concerns.

IMPORT POLICIES

The government continues to stress the need to promote import substitution policies, which distort the market. Sri Lanka's recent budgets emphasized the importance of agricultural self-sufficiency and import substitution.

Import Charges

Sri Lanka's main trade policy instrument has been the import tariff. According to the WTO, Sri Lanka's average applied agricultural tariff in 2012 was 25.7 percent, but its bound rates are significantly higher, averaging 50 percent. The compounded duty rates for imported agriculture products are routinely between 80 percent and 100 percent of the cost, insurance, and freight (CIF) value. In 2012, Sri Lanka's average applied tariff for non-agricultural goods was 9.9 percent. However, less than 30 percent of Sri Lanka's non-agricultural tariffs are bound under WTO rules.

Sri Lanka's import tariff structure consists of "bands" in which all products covered by a particular band are subject to the same tariff rate. The import tariff structure was simplified in June 2010 by reducing the number of tariff bands from five to four. The current tariff bands are: 0 percent; 7.5 percent; 15 percent; and 25 percent. There continue to be a number of deviations from the four-band tariff policy. Some items are subject to an *ad valorem* or a specific tariff, whichever is higher. For example, footwear, ceramic products, and agricultural products carry specific tariffs. There is intermittent use of exemptions and waivers.

In response to large current account deficits in 2011 and 2012, the government took several policy measures to inhibit import growth. For example, it depreciated the rupee and moved to a flexible exchange rate policy in early 2012. Sri Lanka also imposed a 100-percent deposit requirement on motor vehicle imports, requiring importers to pay upfront the full value of motor vehicles at the time of opening letters of credit with commercial banks. The 100-percent deposit requirement still continues.

In addition to the import tariff, there are a number of supplementary taxes and levies on imports which make some imported food and consumer goods prohibitively expensive. Further, some supplementary taxes on selected products are increased regularly through annual government budgets, that appear most often aimed at protecting local industries. In general, the frequent changes—mostly upward—of these taxes and other levies have added unpredictability to foreign exporters' and local importers' cost calculations. Affected products from the United States include fruits, processed/packaged foods, and personal care products. Other charges on imports include:

- An Export Development Board (EDB) levy, often referred to as a "cess," ranges from 10 percent to 35 percent *ad valorem* on a range of imports identified as "nonessential" or competing with local industries. Locally manufactured products are not subject to the EDB levy. Most of the impacted imports are also subject to specific duties as well. Further, when calculating the EDB levy, an imputed profit margin of 10 percent is added onto the import price. In some cases, such as biscuits, chocolates, and soap, the levy is charged not on the import price, but on 65 percent of the maximum retail price. The government continues to increase the EDB levy. Most recently, the 2014 budget increased the EDB levy on a range of items, including dairy products, meat, fruits, vegetables, and confectionary. The EDB levy on biscuits increased from Rs 60 (approximately \$0.51) per kg in 2012 to Rs 80 (approximately \$0.62) per kg in 2013. The tax was increased further to Rs 100 (approximately \$0.76) per kg in 2014. The EDB levy on cheese was increased from Rs 100 (approximately \$0.86) per kg in 2012 to Rs 200 (approximately \$1.56) per kg in 2013 and to Rs 300 (approximately \$2.29) per kg in 2014. The EDB levy on butter and dairy spreads increased from Rs 100 (approximately \$0.86) per kg in 2012 to Rs 200 (approximately \$1.56) per kg in 2013 and to Rs 300 per kg (approximately \$ 2.30) in 2014.

- A Ports and Airports Development Levy (PAL) of 5 percent is applied on most imports. Locally manufactured products are not subject to the PAL.

- When calculating the Value Added Tax (VAT), an imputed profit margin of 10 percent is added on to the import price. Locally manufactured products are also subject to VAT, but not the imputed profit margin. The current VAT rate is set at 12 percent. The government reduced the VAT rate from 12 percent to 11 percent on January 1, 2015.

- Excise fees are charged on some products such as aerated water, liquor, beer, motor vehicles, and cigarettes. When calculating the excise fee, an imputed profit margin of 15 percent is added to the import price. The excise fee is applied on the price inclusive of other duties. Locally manufactured products are also subject to excise fees.

- A Nation Building Tax (NBT) of two percent is applied on most imports.

- As of November 21, 2011, a Special Commodity Levy (SCL) is charged on some imported food items including oranges, grapes, and apples. The SCL is Rs 65 per kg on oranges, Rs 130 per kg on grapes, and Rs 45 per kg on apples. The items subject to the SCL are exempted from all other taxes.

- In November 2011, the government introduced an all-inclusive tax under the EDB levy on imported textiles not intended for use by the apparel export industry, replacing the import tariff, the EDB Levy, the Ports and Airports Tax, the VAT, and the NBT. Currently, this all-inclusive tax is Rs 100 per kg (approximately $0.77.)

- Apparel imports are subject to the 15 percent import duty, the Rs 75 (approximately $0.57) per unit EDB Levy, the 12 percent VAT, the 5 percent PAL, and the 2 percent NBT.

- In October 2014, the government introduced an all-inclusive tax under the Excise Special Provisions Law on cars replacing the VAT, the NBT, the EDB levy, the import tariff, and the PAL. The new excise tax on cars range from 150 percent for small cars to 220 percent for large vehicles. Hybrid vehicles are taxed at lower rates.

Import Licenses

Sri Lanka requires import licenses for over 400 items at the 6-digit level of the Harmonized Tariff System, mostly for health, environment, and national security reasons. Importers must pay a fee equal to 0.222 percent of the import price with a minimum fee of Rs 1,000 (approximately $7.69) to receive an import license.

GOVERNMENT PROCUREMENT

Government procurement of most goods and services is primarily undertaken through a public tender process. Some tenders are open only to registered suppliers. Procurement may also occur outside the normal competitive tender process. The government publicly subscribes to principles of international competitive bidding, however, charges of corruption and unfair awards are common. In 2006, Sri Lanka published guidelines and a procurement manual to improve the public procurement process. However, in early 2008, the government disbanded the National Procurement Agency, which it had established in 2004, and shifted its functions to a unit in the Ministry of Finance. A special cabinet-appointed committee now reviews unsolicited development proposals and has considered high-profile infrastructure projects and investment proposals outside the tender process. These moves have raised concerns about the government's commitment to improve the transparency of procurements.

Sri Lanka is not a signatory to the WTO Agreement on Government Procurement and has indicated it has no plans to join despite its status as an observer to the WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Sri Lanka was not listed on the 2014 Special 301 Report. Although intellectual property rights (IPR) enforcement has improved in Sri Lanka, counterfeit goods continue to be widely available and music and software piracy are reportedly widespread. U.S. and other international companies in the recording, software, movie, clothing, and consumer product industries complain that inadequate IPR protection and enforcement is damaging their businesses. Although the government of Sri Lanka published a policy in

2010 requiring all government ministries and departments to use only licensed software, it has yet to put systems in place to monitor compliance with this policy.

Redress through the courts for IPR infringement is often a frustrating and time-consuming process, and police do not actively utilize existing authorities for IP enforcement. Some industry sectors, including apparel, software, tobacco, and electronics, have reported some success in combating trademark counterfeiting through the courts.

SERVICES BARRIERS

Insurance

Sri Lanka does not allow the cross-border supply of insurance, with the exception of health and travel insurance. In order to provide all other insurance services to resident Sri Lankans, insurance companies must be incorporated in Sri Lanka. Branch offices are not permitted. The Sri Lankan government requires all insurance companies to reinsure 20 percent of their insurance business with a state-run insurance fund.

Broadcasting

The government imposes taxes on foreign films, programs, and commercials to be shown on TV. Government approval is required for all foreign films and programs shown on TV.

INVESTMENT BARRIERS

Sri Lanka maintains foreign investment restrictions in a wide range of sectors. For example, foreign investment is not permitted in certain types of money lending activities, in the coastal fishing sector, and in retail trade for investments of less than $2 million (or $150,000 in the case of international brands and franchises). In other sectors, foreign investment is subject to case-by-case screening and approval when foreign equity exceeds 40 percent. These sectors include shipping and travel agencies, freight forwarding, mass communications, deep-sea fishing, timber industries, mining and primary processing of natural resources, and the cultivation and primary processing of certain agriculture commodities. Foreign equity restrictions also apply in the air transportation, coastal shipping, lotteries, and gem mining sectors, as well as in sensitive industries such as military hardware.

Sri Lanka prohibits the sale of public and private land to foreign nationals and enterprises with foreign equity exceeding 50 percent. Foreign companies engaged in banking, financial, insurance, maritime, aviation, advanced technology or infrastructure development projects identified and approved as Strategic Development Projects may be exempted from this restriction on a case-by-case basis. Also, this restriction does not apply to the purchase of condominium properties on or above the fourth floor of a building. The government also imposes a 15 percent tax on land and property leased to foreign investors, and the tax for the entirety of the lease period is due at the time the lease is signed.

In 2011, the government approved the Revival of Underperforming Enterprises and Underutilized Assets Act, which allows for the nationalization of assets belonging to 37 companies deemed by the government to be underperforming and not meeting lease conditions. Although many of the companies were defunct, several were operating businesses, including one that was owned by a prominent member of the opposition. The measure was passed under procedures that limited Parliamentary debate to one day. While the Central Bank noted that the enactment of the law was a “one-off” measure, the government subsequently announced plans to retake 25,000 hectares of tea plantation leased land that was not being fully utilized, and plans to acquire abandoned private paddy land. The law significantly increases investor uncertainty regarding property rights in Sri Lanka.

OTHER BARRIERS

Public sector corruption, including bribery of public officials, remains a significant challenge for U.S. firms operating in Sri Lanka and a constraint on foreign investment. While the country has generally adequate laws and regulations to combat corruption, enforcement is weak and inconsistent. U. S. stakeholders have expressed particular concern about corruption in large projects and in government procurement.