SRI LANKA

TRADE SUMMARY

The U.S. goods trade deficit with Sri Lanka was $1.6 billion in 2010, up $206 million from 2009**.** U.S. goods exports in 2010 were $178 million, down 22.4 percent from the previous year. Corresponding U.S. imports from Sri Lanka were $1.7 billion, up 9.7 percent. Sri Lanka is currently the 123rd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Sri Lanka was $139 million in 2009 (latest data available), up from $113 million in 2008.

IMPORT POLICIES

Despite an economy that is attempting to open to foreign trade and investment, the pace of reform in Sri Lanka has been uneven. President Rajapaksa's broad economic strategy focuses on poverty alleviation and steering investment to disadvantaged areas, large-scale infrastructure projects, developing the small- and medium-sized enterprise sector, promotion of agriculture, and expanding the already large civil service. President Rajapaksa has also set an ambitious goal to double GDP per capita from $2,000 in 2009 to $4,000 by 2016, which will require very high GDP growth rates.

The Trade, Tariff, and Investment Policy Division of the Ministry of Finance and Planning is charged with the formulation and implementation of trade and investment policies. The Trade and Tariff cluster of the National Council of Economic Development (NCED) also examines trade and tariff issues and sends recommendations to the Ministry of Finance and Planning. Based on the Presidential Taxation Commission's recommendations, the government simplified the tax structure in 2010, including eliminating some but not all supplementary charges on imports.

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 2010 was 25.4 percent, whereas its bound rates, *i.e.,* the rate that generally under WTO rules cannot be exceeded, are significantly higher, averaging 50 percent. However, the compounded taxes for imported agriculture products are routinely between 80 and100 percent of the cost, insurance, and freight (CIF) value. In 2010, Sri Lanka's average applied tariff for nonagricultural goods was 9.2 percent. However, less than 30 percent of Sri Lanka's nonagricultural tariffs are bound under WTO rules, meaning applied tariffs on those products can be increased to any level.

The import tariff structure was simplified in June 2010 by reducing the number of tariff bands from five to four. As a result, the current tariff bands are: 0 percent; 5 percent; 15 percent; and 30 percent. The highest duty band was increased from 28 percent to 30 percent in June 2010. Textiles, pharmaceuticals, and medical equipment, machinery, basic raw materials, software and selected consumer electronics, have a zero tariff. Semi-processed raw material tariffs are now 5 percent, while intermediate product tariffs remain at 15 percent. Most finished product tariffs have been raised to 30 percent, up from 28 percent. There continue to be a number of deviations from the new four-band tariff policy. Some items are subject to an *ad valorem* or a specific tariff, whichever is higher, and there is intermittent use of exemptions and waivers. Footwear, ceramic products, and agricultural products carry specific tariffs.

Recent changes to the tax structure have reduced but not eliminated a variety of taxes on a range of imported items that amount to between 60 percent and 100 percent of the CIF value of the product.

Specifically, in 2010 the government eliminated the 5 percent to10 percent Regional Infrastructure Fee for automobiles, the 1.5 percent Social Responsibility Levy, and the 15 percent general import surcharge. The Nation Building Tax on imports was reduced from 3 percent to 2 but remains in effect. In general, the frequent changes (mostly upward) of these rates have added unpredictability to foreign exporters' and local importers' cost calculations. Affected products from the United States include fruits, processed/packaged food, and personal care products. The United States continues to examine if these combined tariffs, levies, and taxes conflict with Sri Lanka's WTO commitments.

Other developments with regard to charges on imports include:

- An Export Development Board (EDB) levy, ranging from 10 percent to 35 percent *ad valorem* on a range of imports identified as "nonessential." Most of the items are subject to specific duties as well; for example, shampoo (35 percent or Rs 350 ($3.12) per kg), apparel (30 percent or Rs 75 ($0.65) per unit), biscuits (35 percent or Rs 60 ($0.52) per kg) and oranges (20 percent or Rs 15 ($0.13) per kg). Whichever levy is higher – *ad valorem* or specific rate – is applied. Also, when calculating the EDB levy, an imputed profit margin of 10 percent is added onto the import price. In some cases, such as on biscuits, chocolates and soap, the tax is charged not on the import price but on 65 percent of the maximum retail price. In 2010, the EDB levy on a range of consumer electronics and motor vehicles was completely removed while the levy on items such as oranges, apples and grapes was reduced. The rates on shampoo and cosmetics were increased in 2010. Locally manufactured products are not subject to the EDB.

- A Ports and Airports Development Levy of 5 percent on imports. Locally manufactured products are not subject to the Ports and Airports Development Levy.

- The Value Added Tax (VAT) rate of 20 percent was reduced to 12 percent on November 23, 2010. Also, from June 2010, a range of consumer electronics goods were exempted from the VAT. When calculating the 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.

- Excise fees are charged on some products such as aerated water, liquor, beer, motor vehicles, and cigarettes. In June 2010, the excise fee on motor vehicles was reduced, while that on some consumer electronics goods were removed. In November 2010, excise duties on some products were increased to compensate for the loss of income from the removal of certain other duties. When calculating the excise fee, an imputed profit margin of 15 percent is added on 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.

- As noted above, the Nation Building Tax (NBT) was reduced to 2 percent from 3 percent on January 1, 2011. The NBT is applied on the price inclusive of other duties. Local manufacturers also pay NBT.

Textiles and Apparel: Textiles have a zero tariff. There is an Export Development Board Levy (often referred to as a "cess") of 50 Rupees (approximately $0.45) per kilogram on imported textiles not intended for use by the apparel export industry. All textile imports are subject to a Ports and Airports Tax of 5 percent and a VAT of 12 percent. Currently, apparel imports are subject to a 15 percent import duty, a 30 percent or Rs 75 ($0.65) per unit Export Development Board Levy, a 12 percent VAT and a five percent Ports and Airports Levy.

Import Licensing

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 an increased fee equal to 0.222 percent of the import price with a minimum fee of Rs 1,000 (approximately $9) to receive an import license.

GOVERNMENT PROCUREMENT

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.

Government procurement of goods and services is primarily undertaken through a public tender process. Some tenders are open only to registered suppliers. Procurement is also undertaken outside the normal competitive tender process. Recent examples of such procurement include construction of a new bunkering facility in Hambantota and the purchase of port and railway machinery and equipment.

The government publicly subscribes to principles of international competitive bidding, but charges of corruption and unfair awards are common. In 2006, Sri Lanka published new guidelines and a new 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. This move has raised concerns about the government’s commitment to improve the transparency of procurements.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Weak IPR enforcement remains a problem in Sri Lanka. Piracy levels remain very high for sound recordings and software. According to an industry-commissioned study, as much as 89 percent of personal computers in Sri Lanka used pirated software in 2009 (down slightly from 90 percent in 2008) and retail revenue losses were estimated at around $77 million (down from $97 million) due to software piracy. Government use of unauthorized software continues to be a problem.

Redress through the courts for IPR infringement is often a frustrating and time-consuming process. While police can take action against counterfeiting and piracy without complaints by rights holders, they rarely do so. In the apparel sector, however, rights holders have had some successes in combating trademark counterfeiting through the courts.

The Sri Lankan Government’s Director of Intellectual Property, along with international experts, continues conduct IPR legal and enforcement training for customs, judicial and police officials. The U.S. Embassy, the United States Patent and Trademarks Office, and the American Chamber of Commerce of Sri Lanka are also working with the government of Sri Lanka and the private sector to improve enforcement, provide enforcement training, and enhance public awareness. Sri Lankan Customs has created a computer based Customs Trade Mark recordation system, although it is yet to be launched.

During October 2010 TIFA talks, the Sri Lanka government provided U.S. Government representatives with information regarding a new Information and Communication Technology Agency (ICTA) policy requiring all government departments to procure genuine software. The government of Sri Lanka also noted that a new IP unit has been established within the Criminal Investigative Division of the Sri Lankan police. The United States will monitor the effectiveness of these new programs.

SERVICES BARRIERS

Insurance

Sri Lanka does not allow 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. Branching is 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 movies, programs, and commercials to be shown on television, ranging from Rs 25,000 (approximately $220) for an imported English-language movie to Rs 90,000 (approximately $790) per half hour of a foreign-language program dubbed in the local language Sinhala. Foreign television commercials are taxed at Rs 500,000 (roughly $4,400) per year. Rates for non-English foreign programming are higher. Government approval is required for all foreign films and programs shown on television.

INVESTMENT BARRIERS

While Sri Lanka welcomes foreign investment, there are restrictions in a wide range of sectors. For example, foreign investment is not permitted in certain types of money lending activities, in coastal fishing, and in retail trade for investments of less than $2 million ($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 include shipping and travel agencies, freight forwarding, mass communications, deep sea fishing, local 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.