SRI LANKA

TRADE SUMMARY

The U.S. goods trade deficit with Sri Lanka was $1.4 billion in 2009, down $315 million from 2008. U.S. goods exports in 2009 were $230 million, down 19.0 percent from the previous year. Corresponding U.S. imports from Sri Lanka were $1.6 billion, down 18.8 percent. Sri Lanka is currently the 112th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Sri Lanka was $114 million in 2008 (latest data available), up from $80 million in 2007.

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.

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. In July 2009, the President appointed a Presidential Taxation Committee to examine the entire tax system including import tariffs.

Import Charges

Sri Lanka's main trade policy instrument has been the import tariff. Under the WTO Agreement, Sri Lanka has bound (*i.e.*, agreed not to impose tariffs about a specified amount) only 37.8 percent of its tariff lines. According to the WTO, Sri Lanka's average applied agricultural tariff in 2008 was 25.5 percent, however its bound rates, *i.e.*, the rate that generally under WTO rules cannot be exceeded, for farm goods are significantly higher, averaging 50 percent. In 2008, Sri Lanka's average applied tariff for nonagricultural goods was 9 percent. Less than 30 percent of Sri Lanka's nonagricultural tariffs are bound under WTO rules, however, meaning applied tariffs on those products can be increased to any level.

Currently in Sri Lanka, there are five tariff bands: 0 percent; 2.5 percent; 6 percent; 15 percent; and 28 percent. Textiles, pharmaceuticals, and medical equipment have a zero tariff. Basic raw materials are generally assessed a 2.5 percent tariff. Semi-processed raw material tariffs are 6 percent, while intermediate product tariffs are 15 percent. Most finished product tariffs are 28 percent. There are also a number of deviations from the five 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.

In addition to tariffs, a variety of taxes introduced (see below) in the past several years have effectively increased Sri Lanka's tax rates on a range of imported items to between 60 percent and 100 percent of the cost, insurance, and freight (CIF) value of the product. The government has imposed these charges on imports primarily to raise revenue, to defray the costs of specific government services, or to promote local producers. Most of these charges are revised upwards annually. In addition, the government imposed a new Nation Building Tax of one percent on imports on February 1, 2009; it was increased to three percent on May 1, 2009. 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 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 175 ($1.52) 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. The EDB levy on most imports was increased by raising the specific tariffs (unit rate) in November 2008 and in 2009. Locally manufactured products are not subject to the EDB;

- An import surcharge of 15 percent on all dutiable imports (increased from 10 percent as of November 8, 2007).

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

- A VAT of 0 percent, 12 percent, or 20 percent. When calculating the VAT, an imputed profit margin of 10 percent (increased from seven percent on January 1, 2007) is added on to the import price. Locally manufactured products are also subject to VAT but not the imputed profit margin. The new VAT rate of 12 percent was introduced on January 1, 2009 replacing the VAT rates of 5 percent and 15 percent;

- Excise fees are charged on some products such as aerated water, liquor, beer, motor vehicles, and cigarettes. The list of products subject to these fees was expanded in 2007 to include certain household electrical items. When calculating the excise fee, an imputed profit margin of 15 percent (increased from 10 percent on October 11, 2007 and from seven percent on January 1, 2007) is added on to the import price. Locally manufactured products are also subject to excise fees;

- A Social Responsibility Levy (SRL), a surcharge of 1.5 percent assessed on the import duty to fund the National Action Plan for Children. This tax was increased from one percent as of November 8, 2007. SRL is charged on the total income of local manufacturers;

- A regional infrastructure fee of five percent, 7.5 percent or 10 percent (based on engine capacity) is imposed on automobiles. This tax, first introduced in January 2007 at a flat rate of 2.5 percent, was increased in 2008. Locally manufactured automobiles are not subject to the regional infrastructure fee; and

- 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

> Nation Building Levy of three percent, Ports and Airports Tax of five percent, Social Responsibility Levy of 1.5 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 Value Added Tax, a five percent Ports and Airports Levy, a 1.5 percent Social Responsibility Levy and a three percent Nation Building Tax.

The United States engaged in bilateral Trade and Investment Framework Agreement (TIFA) talks with the government of Sri Lanka in October 2009. The United States raised concerns about the effect of combined tariffs, levies, and taxes on many imports. Sri Lanka explained that it had established a Presidential Tax Commission to simplify its tax and tariff structure and to ensure that it was in compliance with international agreements. The United States also stressed the importance of reducing Sri Lanka's high tariffs on agricultural products and opening the Sri Lankan market for U.S. agricultural biotechnology products. The United States continues to follow up and press the Sri Lankan government to take action.

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 a fee equal to 0.1 percent of the import price 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. Examples of such procurement include agreements in 2006 with China to build a coal power plant and for two Chinese companies to build a new bulk cargo port in Hambantota, and an agreement with India to build a coal power plant.

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. The United States raised the need for more certainty and transparency in the government procurement process during the 2009 TIFA talks, but the government of Sri Lanka has yet to respond to these concerns.

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 90 percent of personal computers in Sri Lanka used pirated software in 2008 and retail revenue losses were estimated at around $97 million in 2008 due to software piracy. Further, 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, rightsholders 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 to have 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 the TIFA meetings in 2009, the United States urged Sri Lanka to integrate U.S. technical assistance into the government's overall IPR enforcement plan.

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. Sri Lanka allows 100 percent foreign ownership for locally incorporated insurance firms, but branching is not allowed. Although Sri Lanka's insurance regulatory body has the authority to establish minimum and maximum premiums for motor, fire and employers liability policies, in practice these premiums are not regulated. In early 2008, the Sri Lankan government implemented a new regulation requiring 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 $1 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 include shipping and travel agencies, freight forwarding, mass communications, deep sea fishing, local timber industries, mining and primary processing of natural resources, and the growing and primary processing of certain agriculture commodities. Foreign equity restrictions on foreign investment also apply in the air transportation, coastal shipping, lotteries, and gem mining sectors, as well as in "sensitive" industries such as military hardware.