LEGAL WATCH

THE NEW 21 % RECIPROCAL US TARRIF ON IMPORTS FROM COTE D'IVOIRE

APRIL 2025

On April 2, 2025, President Donald Trump issued an executive order implementing a "Fair and Reciprocal Plan" aimed at addressing trade imbalances by imposing tariffs equivalent to those levied by U.S. trading partners. This policy allegedly seeks to counteract non-reciprocal trading practice by adjusting U.S. tariffs to mirror those imposed by other countries on U.S. exports.

The executive order provides a 10 % minimal rate applicable as from April 5th and the reciprocal tariffs rates targeting trading partners listed in annex I. Those rates are applicable from April 9th.

Cote d'Ivoire is listed among the Countries targeted by the reciprocal tariffs. The goods imported from Cote d'Ivoire are subject to 21% tariff.

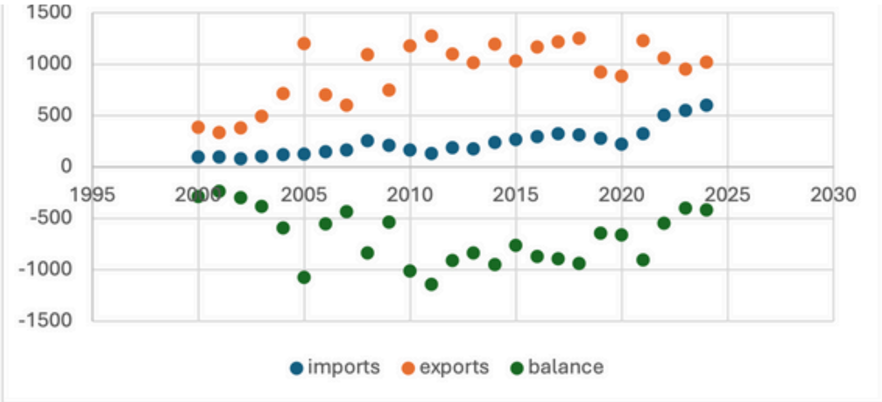
Côte d'Ivoire has also been a beneficiary of AGOA preferential regime granted unilaterally by Unites States of America (USA) in October 2011 on the ground of presidential proclamation of President Obama.

Section III of the executive order provides that "These country-specific ad valorem rates of duty shall apply to all articles imported pursuant to the terms of all existing U.S. trade agreements, except as provided below."

Even if AGOA affects international trade, it is not per se a trade agreement based on an international treaty or international law instrument. So as a domestic unilateral preferential regime granted by the executive branch it can be affected by other measures taken by the executive branch without even amending the AGOA regime itself. So, the executive order does affect all the imported goods whether they fall in the scope of AGOA or not.
The 21 % reciprocal tariff

BACKGROUND AND CONTEXT BEHIND THE TARRIF

On a per continent base, USA is currently the first trade partner of Cote d’Ivoire in the American continent. At least, since 2000, there has been a deep trend of increase in the bilateral goods (exports/imports) trade trough exports and imports between Côte d’Ivoire and the USA(TRADE). Since 2006, the volume of the TRADE has already reached 1 billion US dollars before the unilateral extension of the AGOA scheme to Cote d’Ivoire by US under President Obama’s administration in 2011.



	US EXPORTS	US IMPORTS	BALANCE (DEFICIT)
Moyenne	237	924	686
Médiane	206	1015	662
Ecart type	140	298	267
Minimum	76	333	237
Maximum	597	1271	1141
Plage	520	937	904

Besides the TRADE covers several sectors. The most important sectors evidencing a trade deficit for the USA are the agricultural products and the chemicals products.

In the last five years, up to 2024 the imports of the agricultural products accounts on average for 80 % of the total imports of goods from Côte d’Ivoire, while AGOA agricultural products represent roughly 10% of the same total imports. Many products from those sectors may be the most hurt by the 21 % reciprocal tariff.

However, other sectors even less important than the above mentioned show a trade surplus for the USA:

- Machinery
- Energy-related products
- Transportation equipment
- Forest products
- Electronic products
- Minerals and Metals

CONSEQUENCES

ven if the reactions are not voiced officially the impacts can be foreseen to some extent.

Reactions from industries

Up to now, neither the state of Côte d'Ivoire (President, Government, the Customs or Tax authorities) nor any major professional organization have officially reacted to the 21 % reciprocal tariff imposed by the USA on goods imported from Côte d'Ivoire on the ground of the executive order issued by President TRUMP on April 2nd, 2025.

We do expect reactions from professional organizations whose members will be impacted by the new reciprocal tariff to put some pressure on the government to take actions, namely through financial support.

But we do not expect a violent reaction from the Ivorian government which will prefer a soft approach to deal with the issue for efficiency and legal reason.

For the sake of efficiency, violent declaration will be a noise without a chance of success. Rather a soft approach showing that American goods can benefit from some preferential regime may contribute to a better outcome or avoid worsening the situation.

For instance, since 2024, a broad range of renewable energy goods and products can be imported in Côte under a duty-free regime.

From the legal side, the customs rules, in particular the rates, applicable in Côte d'Ivoire are set up by ECOWAS under the Common External Tariff. So, the state of Côte d'Ivoire does not have a free leeway to change unilaterally the rates or other rules. As of consequence, we do not expect a unilateral tax or non-tax countermeasure from the Ivoirian state.

It is important recall there is not a specific 40 %rate for the imports from USA. The rates applicable to the imports from USA are the same as those applicable to a third country which is not part of ECOWAS and does not benefit from a specific agreement.

Moreover, there is not a single rate. There are distinct categories of goods subject to different rates ranging from 0 to 35 %, plus ancillary taxes and duties.

Potential impacts on Côte d'Ivoire

Other things being equal, the 21 % reciprocal tariff will increase to some extent the final price of the goods for the US consumers. So, one can expect a reduction in their consumption and export, unless for goods which demands are price inelastic or which are out the scope of the tariff, like the goods mentioned in the annex II of the executive order or theU.S.-originating portion of goods meeting the 20 % US content or goods governed by rules of international trade agreements, meaning an international treaty rather than an unilateral U.S. trade preference program like the AGOA.

As to the goods listed by annex II, some categories of goods are excluded from the scope of the reciprocal tariff to avoid multiple taxation/tariff:

- Steel and aluminum and their derivatives that are already subject to tariffs imposed under Section 232 of the Trade Expansion Act of 1962.
- Automobiles and Automotive Parts, if they are already subject to additional tariffs under Section 232 (as detailed in Proclamation 10908 of March 2025) which targeted due to national security concerns, especially regarding the U.S. auto industry.

- Products from Countries with Column 2 Tariff Rates of Harmonized Tariff Schedule of the United States (HTSUS), as they are from g from countries subject to trade restrictions (e.g., countries that do not have a trade agreement with the U.S. or are subject to sanctions.
- Goods that may become subject to tariffs in the future under Section 232 of the Trade Expansion Act of 1962 which allows the U.S. to impose tariffs for national security reason

Other goods are excluded to ensure the continuous supply of the US market:

- National security-related goods, under article 50 U.S.C. 1702(b), which empowers U.S. government to exempt certain goods from tariffs if they are necessary for national security reasons or if they are related to ongoing national security efforts, like goods crucial for U.S. defense and security may be exempted from the new tariffs
- Copper
- Pharmaceuticals
- Semiconductors
- Lumber products
- Critical minerals (likely those vital for industries such as electronics, renewable energy, and defense)
- Energy and energy products (e.g., oil, gas, and renewable energy sources)

For those goods out of scope the 21 % reciprocal tariff, no shift in export destination from USA is expected. It is noticeable that some of those goods may be part of the current US imports from Cote d’Ivoire. This is the case for instance for wood and woods products or natural rubber.

For the goods in the scope of 21 % reciprocal tariff, there may be a progressive shift in export destination from US to any other place with friendlier treatment.

This includes without limitation European countries like Netherlands or Switzerland which are currently the most important trade partners of Cote d’Ivoire or Asian countries.

However, as to goods for which American enterprises have a market power as buyer in Côte d’Ivoire, like Cocoa, those enterprises may take action to participate in the shift in order to preserve their legitimate interests, by leveraging lawfully the substantial transformation rule, requiring more than a minimal processing.

For instance, a product from Côte d'Ivoire (e.g., raw cocoa beans) can be shipped to country not targeted by the reciprocal tariff with a production capacity, called X; there it can undergo substantial processing, namely grinding, mixing, refining into chocolate and exported to the USA. In this case the country of origin for the final product exported to the U.S. would be X because of the substantial transformation trough the processing. As X is not targeted by the reciprocal tariff, this shift in the export destination will escape the 21 % but still benefit the American enterprise and consumers.

More generally, one can expect markets participants unilaterally or trough cooperation between even competitors, to restructure their contracts, organizations, or operations to escape from or reduce the impacts of the reciprocal tariff as long the benefits including the tax savings exceeds the restructuring costs.

All this has started with a unilateral decision of US executive branch. It can also end with a decision of the same nature or through a bilateral and/or multilateral bargaining process.

However, it is still a good opportunity for Côte d'Ivoire and ECOWAS to reassess the customs policy.

As to Ivoirian enterprises, they should proactively take into account the new rules, design and implement the adequate plans of actions accordingly to avoid the negative consequences of the executive ordo.

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