

# Trade Wars and Negotiations: What Strategies Should Africa Adopt?

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This paper examines the impacts of trade wars, particularly between major nations (the United States and China), on African economies in terms of supply chain disruptions, reduced foreign investment flows, and variability in the prices of raw materials on which African countries depend. It then evaluates the negotiation strategies that African countries can adopt to turn these challenges into opportunities. Symbolized by a resurgence of global trade tensions exacerbated since 2018 under the presidency of Donald Trump, the article draws on an analysis of economic and geopolitical dynamics to propose strategic approaches tailored to the African continent. In this context, an analysis of documentary reviews, an exploitation of global trade data and legal, economic and commercial arsenals will be mobilized to outline ways to make global trade fairer and more profitable for Africa.

*Keywords:* trade war, negotiation, African Continental Free Trade Area (AFCFTA), WTO

## Introduction

Undoubtedly, President Donald Trump's return to the US presidency in 2025 has reignited the intensity and recurrence of trade wars between major nations on the one hand, and between rich and developing countries on the other, in terms of access to international markets. The hyper globalization of the period 1990-2010, which saw international trade and financial investment flows grow at a rapid pace, has been halted by the strong comeback of customs duties. The international division of labor will not disappear, nor will the international movement of capital, but trade, economic, and financial disputes will lead to greater instability and a decline in international cooperation for the regulation of globalization.

Accounting for less than 4% of world trade, Africa must take into account the possibility of trade conflicts in order to avoid suffering their negative impacts on an ongoing basis. In this regard, it is clear that China and Russia are gaining ground in trade with the African continent at the expense of European Union countries.

Unlike China, which has become the main partner of many African countries, Russia has decided to target the defense sector to gain market share in Africa. Between 2020 and 2024, it was the main supplier of arms to Africa (21%), ahead of China and the United States. It has also become Africa's main supplier of cereals, a position formerly held by the European Union: \$7 billion worth of cereals were shipped to Africa in 2024, compared to €6.6 billion for the European Union. This dependence has been amplified since the outbreak of the Russian-Ukrainian war.

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In this context, the fundamental questions addressed in this paper are as follows:

1. Has globalization reached its decline?
2. Can trade wars waged by nation states be mitigated by prioritizing negotiation?
3. If not, what strategies should African countries implement to avoid continually suffering the consequences of trade disputes between the major powers and to attract investment to continue their development process?

### **Methodology**

Essentially, we will draw on the quintessence of documents from the World Trade Organization, the Center for Prospective Studies and International Information, based in France, and available statistics on the subject to support arguments related to the negative externalities of trade wars on the well-being of global consumers.

### **Literature Review**

In 2018, trade conflicts between the United States and China had international repercussions. They had a contagion effect, transforming global value chains and leading to a surge in strategic competition between these two major global trading partners. For African countries, considered victims of these trade disputes, this new situation poses a threat to their commodity-dependent economies and presents an exceptional opportunity to renegotiate their position. Some economists (Baldwin, & Evennet, 2020) have listed the negative consequences of trade wars on macroeconomic indicators in terms of a slowdown in global trade, a rise in the price of goods and services worldwide, and major disruption to value chains. Political scientists, notably Allisson (2017) and political economists such as Branstetter (2018), see the Sino-American conflict as part of a broader hegemonic rivalry based on technology (the semiconductor war and geo-economic supremacy in the 21st century).

This thesis demonstrates that the conflict has a global dimension because, by avoiding the vicissitudes of tariff wars, developing countries must reposition themselves by seizing opportunities. Studies by the Bretton Woods institutions, namely the International Monetary Fund (IMF, 2019) and the World Bank (2020), show that investment and trade flows have shifted towards Southeast Asia and Mexico.

This framework is relevant for understanding that Africa is not isolated but remains a player that is forced to evolve in an environment reshaped by the actions of other trading partners. In addition, theories of unequal exchange (Samir, 1974; Prebisch, 1950; Singer, 1950) and commodity dependence (Carmody, 2016) recommend that African countries structure their economies well in order to withstand external shocks and erratic fluctuations in the prices of agricultural and industrial products.

Independently, analyses based on African trade negotiations are structured around a number of agreements: (Economic Partnership Agreements), the African Continental Free Trade Area (AFCFTA). An African approach (Moghalu, 2019; Shaw, 2020) is ultimately developing, emphasizing the need to observe “total neutrality” or non-alignment when trade disputes arise between China and the United States on the one hand, and to diversify partnerships on the other. Finally, recent analyses (Adisu et al., 2022) suggest that some African countries may attract Chinese investment through relocation.

### **Discussions**

Since World War II, the multidirectional evolution of international trade has been evident. The unwritten rule of “every man for himself” has replaced the customs disarmament of the 1960s and the solemn condemnation of unfair trade practices between states, which were themselves reinforced by the implementation of general

negotiations. They remain dominated by industrialized countries despite the Asian invasion so often described by analysts. This context does not exclude the fact that we have moved from a period of stability to one of conflict. What is the trend? The answer to this question will focus on the causes of the conflicts and a presentation of some new disputes that are making headlines at the Geneva institution. Indeed, the years from 1960 to the end of the 1970s were marked by a genuine desire or a headlong rush on the part of states to pursue, if not fully comply with, the initial objectives of the GATT, namely the continuation of rounds of negotiations and the laborious drafting of anti-dumping codes and rules on subsidies. Subsequently, the 1980s and, even more so, the 1990s were marked by disputes and conflicts between countries, which were initially latent but then became open. In general, several factors have undermined the multilateral nature of the international trading system, which is still ardently but powerlessly defended by the Geneva-based institution. The latest Uruguay Round negotiations reflect this impasse and the deviation from the original GATT rules. Compared to other rounds, the multilateral negotiations have three specific negative features: the rise of protectionist pressures (the introduction of non-tariff barriers to trade, an increased trend toward regionalization, voluntary export restraint agreements linked to the strengthening of existing blocs (the Single European Act) and the emergence of new growth poles (NAFTA in 1994) and, finally, the use of state retaliatory measures paving the way for unilateralism in trade policy, known as unilateral trade activism (USA). Two major consequences arise from the practices listed above. In the United States, the famous Section 301 of the Trade Act of 1974, reinforced and amended in 1998 by Super 301 and the special provision on intellectual property rights violations, is a concrete example. The *de facto* creation of trade rules and practices that are supposedly temporary but which persist and are contrary to the principles of inclusive multilateralization of international trade relations.

Secondly, certain conclusions and positions have distorted or, above all, led to a marginalization of the influence of the former GATT in the pursuit of trade drift. A critical approach to market accessibility shows, for example, that the European Union is the most open area to the Americans and the Japanese. Asian countries lag far behind this trilateral universe. Overall, world trade is a veritable jungle in which almost anything goes, much like a famous Hollywood movie. As early as 1992, there were more than 85 complaints to the GATT relating to unilateral retaliation. Agreements on self-imposed national quotas (the US and Japanese case relating to semiconductors and the limited or zero quota on the rice market, which is vital for Japanese agriculture) are one example. Social dumping by developing countries, an allusion to unfair competition, has also grown, as has monetary dumping, characterized by a substantial increase in nominal interest rates to levels close to 3% to boost growth and reduce the overvaluation of their currencies. The purpose of the GATT was to identify these obstacles in order to better combat or circumvent them. Hence, the recurrence of conflicts is the logical manifestation of the existence of a multitude of contentious cases. Indeed, power struggles, clashes, and threats have become part of everyday trade relations. The numerous disputes on the WTO's agenda reflect the scale of this new trade war, which in our view has reached its peak. The agricultural issue, the cornerstone of trade negotiations, takes precedence over all others, as it is highly representative of the antagonisms between states. In this paper, we focus on current conflicts (between the United States and China, Japan, regional blocs, and certain developing countries) in particular, before explaining the methods used by the two institutions (GATT and then the WTO) to resolve them.

With this in mind, it is useful to define conflicts using a few old and new examples, then try to update the debate among economists and managers about the real existence of trade conflicts.

It is now clear that globalization has increased the pace of conflicts in many branches and sectors of the

international economy. For example, the trade conflict between Japan and the US stems from the trade deficit with Japan. It reflects the trend and scale of conflicts. One means used by the Americans to counter Japanese imports and reduce the deficit was to force the Japanese to revalue the yen to make Japanese products less competitive compared to American products.

A conflict is a situation in which a state or group of states, i.e., those with third-party interests in a matter, accuses another country or group of countries of unfair competition. This situation leads to the implementation of countermeasures by these economic entities, covering several facets of unilateral reactions: whether they be retaliatory measures, reciprocal measures, institutional sanctions, or measures to suspend or terminate a treaty. It is therefore important to define these concepts of war, which are linked to the existence of disputes, in order to better understand the scope of the issue, as there is a difference in acceptance between these three practices. Indeed, the definition most commonly accepted by lawyers with regard to the concept of retaliation is that adopted by the Institute of International Law.

Japan accepted this commitment, but Japanese companies set up car assembly plants in the US and continued to export spare parts and components. The US government responded by requiring Japanese factories to produce a certain percentage of components locally. They are defined as “coercive measures, derogating from the ordinary rules of international law, decided and taken by a State in response to unlawful acts committed to its detriment by another State and intended to compel the latter, through pressure exerted by means of damage, to return to legality”. This definition shows that reprisals violate an international obligation exercised by a State in response to the behavior of another State. This unlawful act constitutes the reason for resorting to reprisals. Indeed, the main objective of a reprisal measure is to actively contribute to a return to legality, whether to put an end to the violation of an international obligation or to compel compliance with the obligation to make reparation arising from the international responsibility of the State against which the reprisals are exercised. Retaliation, on the other hand, is defined as legal measures, but can sometimes become discourteous, harsh, and damaging. To better explain the nature of conflicts, we will disregard the legal distinction between these practices, as they have a single purpose. How common are trade wars? The concept of trade war has not always been clearly defined by public authorities in the past. In France, for example, the government has always found it difficult to take a position on this economic concept. Its frame of reference is already quite old, since it was a 1959 ordinance that defined the concept. The authors of this context assumed that economic defense applied primarily to a crisis situation, not an economic crisis as it would be logical to understand it in the current context, but rather an international crisis of an ideological or territorial nature, more in line with the text of the time. This view was heavily influenced by a military interpretation of historical events that did not take into account the emergence of new forms of conflict due to the forces of globalization. From this perspective, attempts at expansion in times of peace were ignored. Today, they are among the major problems facing most of the trade negotiations currently underway at the WTO. To cope with the proliferation of conflicts, some states have therefore introduced new instruments as part of their trade diplomacy. Currently in France, the administration distinguishes between peacetime, which is governed by competition, and wartime, when economic sanctions become a weapon complementary to military operations. By limiting the concept of economic defense to a context of international crisis, the 1959 ordinance left new forms of market economies in limbo. The offensive national economies that have emerged since the late 1960s have not Americanized their economies to imitate the strategy of the leading liberal country. They have assimilated its knowledge and know-how in order to better compete with it. This practice is known as the illusion of international trade war. This trend is symbolized by Paul Krugman (1987)

through his criticism of theorists who support the existence of trade conflicts. When asked whether economic competition between market economies has replaced Cold War competition, he retorts sharply that this remark is enough to perplex a professional economist, who would find it quite strange to consider international trade as a competition resembling military rivalry. This view maintains that conflicts do exist, but that there is a tendency to dramatize them because whenever one tries to provide figures, one is forced to conclude that the stakes are very low, in the order of a few tenths of a percent of national income, i.e., we are far from the life-and-death issue that is at stake in military competition. Paul Krugman (1987) personally offered three reflections to support this position, the content of which can be interpreted. First, the idea that trade is a quasi-military issue comes from politicians, captains of industry, and the most influential intellectuals, i.e., people whose opinions have an impact. It is not only that economists have lost control of the debate, but also that the theories found in traditional economics textbooks do not fit into this discourse. Second, the refusal to accept the conventional economic wisdom, according to which trade is generally harmless, does not stem, as one might think, from justified skepticism about the realism of standard economic models. On the contrary, there is commercial competition between agents who consider themselves sophisticated, even though their arguments are based on an inability to understand the simplest economic realities and concepts. Ultimately, like most debates among influential people, discussions on international trade issues are marked by profound ignorance, given that it must be understood that the risks of a real global economic confrontation stem not so much from the existence of real conflicts of interest between nations as from shadows and mirages. All in all, the real danger comes from the illusion of economic conflict, which has nothing to do with reality. Viewing the global economy as a battleground for markets and capital seems to be a misjudgment. In this regard, a number of criticisms can be levelled at these various analyses. Before outlining these harsh criticisms, we will highlight the differences in the approaches used by analysts. They differ in their views on trade wars. For example, Reich (1993) describes it as a struggle to attract a highly mobile pool of capital, while Thurow (1999) seems more concerned with establishing a list of strategic industries. They also differ in their emphasis on particular policy ingredients: Reich (1993) wants more education and training, while Thurow (1999) calls for the definition of an industrial policy. Others also recommend a more assertive foreign trade policy. As for similarities, they revolve around the notion of competition, which is perceived as a zero-sum game. In addition, military metaphors are numerous and a martial tone appears in these authors' textbooks. The lack of reference to international trade theories and the use of analyses borrowed from the business world are the main criticisms levelled at the theorists of trade war. We will now develop our analysis of the other school of thought, based on facts and some elements of economic theory.

We can identify conflicts related to market access, trade defense, anti-competitive practices, and those of geopolitical origin.

There are many conflicts related to market access. The access of foreign products to national markets faces tariff and non-tariff barriers. Generally, these barriers concern customs duties. However, the considerable reduction in customs duties since the establishment of the GATT has significantly reduced the weight of tariff barriers in international relations. As a result, these barriers now play only a negligible role in trade. Non-tariff barriers are public policy measures other than customs duties, which have the effect of restricting access for foreign products to a local market. The arsenal of non-tariff protectionist measures is particularly rich and diverse. Knowledge of international trade shows and helps to identify the most appropriate means and methods for restricting imports or creating other distortions in international trade. Some international organizations have identified more than 20,000 non-tariff barriers. The most commonly used are: unilateral quantitative restrictions,

voluntary export restrictions (VERs), abusive use of technical and social standards, and administrative harassment.

Trade defense disputes arise from the fact that all countries are accustomed to resorting to economic retaliation (countermeasures to protect themselves against what they consider to be unfair practices or simply to deal with temporary difficulties in a particular sector of activity, which they attribute to imports). Through a chain reaction, these practices can quickly become very damaging to international trade. Hence the need to regulate them. This was done in the 1947 GATT and significantly improved by the 1994 GATT. There are rules to deal with unfair practices by companies, such as dumping, and by states, such as subsidies. With regard to the emergency measures that states may be required to take in the event of market disruption, a specific agreement has been concluded on safeguards. The safeguard mechanism in this respect, it acts as a safety valve for the viability of multilateralism and, as such, is at the very heart of the international trading system. It reassures nations by allowing them, under certain conditions, to take urgent protective measures against imports that disrupt their markets and threaten to cause serious damage to their domestic production of similar goods. Safeguard measures often trigger hostile reactions from the countries affected (the metals dispute between the US and Europe). To see the scale of the conflicts caused by safeguard clauses, one need only look at the “hormone beef” dispute. This involved France, which was strict about meat quality, and the US, which threatened to restrict wine imports. As a result, French wine is frequently targeted by the US administration. The Food and Drug Administration conveniently discovered that French wine contained a harmful preservative. Similarly, the “mad cow” affair was interpreted by the British as a measure designed to protect French farmers.

Anti-subsidy (countervailing) duties refer to special duties levied by the importing country to neutralize the effects of subsidies granted, in its view, to the manufacture and export of a product. The aim is to restore conditions closer to normal competition. In practice, they are sometimes used as a particularly formidable protectionist weapon. It should be noted that importing countries tend to apply this measure to the most competitive products from the most dynamic countries. This practice is very widespread in the US. The concept of anti-subsidy duties is therefore directly linked to that of subsidies. What role do public authorities play in supporting investment and production? This question does not directly concern international trade relations. However, state subsidies for exports, tax and tariff advantages, preferential export credits, marketing assistance, reduction of social security contributions, etc. are one of the main sources of conflict between trading nations.

Anti-dumping duties consist of exporting products to foreign markets at a price below their normal value. The 1947 GATT provided that if this practice caused or threatened to cause significant damage to domestic production, the importing country could impose an anti-dumping duty, i.e., the difference between the export price of the product in question and its price on the domestic market of the exporting country, up to the dumping margin. The implementation of this provision had been difficult. The mechanism was improved in the WTO agreements through the introduction of numerous clarifications, particularly on the very concept of dumping. The resurgence of conflicts related to dumping and anti-dumping is one of the characteristics of international trade relations today.

Conflicts related to anti-competitive practices include currency dumping, social dumping, environmental dumping, piracy, counterfeiting, corruption, and anti-competitive practices by companies, which create significant tensions in international trade relations.

Currency dumping consists of manipulating monetary instruments to achieve commercial objectives. This is a long-standing practice. The lack of a proper international monetary system encourages this practice. From its

inception, the philosophy of the international trading system was linked to that of Bretton Woods, according to which only a system of fixed exchange rates could ensure the development of the multilateral trading system. The advent of the flexible exchange rate system for strong currencies has had a considerable impact on the way the global economy is regulated. Since the Jamaica Accords in 1976 relating to the reform of international monetary system, the coordinated management of exchange rates has been ensured primarily by the monetary authorities of the major industrialized countries. The Plaza Accord of September 1985, signed by the finance ministers of the G5 (United States, United Kingdom, West Germany, Japan, and France), and the Louvre Accord of February 1987 by the G7 organized genuine cooperation between the central banks and treasury departments of the major industrial powers. However, this cooperation can hardly replace the Bretton Woods system.

**Social dumping:** This is based on the notion of unfair competition from countries whose participation in international trade is not accompanied by comparable development of social conditions. Under these conditions, the competitiveness of products from certain emerging countries would be based solely on very low wage costs, mainly due to non-compliance with social standards: freedom of association for employers and employees, the right to collective bargaining, the prohibition of child labor, and the prohibition of forced labor. Currently, Western powers want to introduce a “social clause” into the multilateral trading system. It aims to take trade measures to punish violations of employment standards.

**Ecological dumping:** Companies that do not incorporate ecological costs into their production activities can offer more competitive goods. When these goods enter international markets, they compete with those manufactured by companies that cannot ignore environmental considerations and therefore suffer financial constraints. Strongly denouncing this type of dumping, certain influential groups are calling for the introduction of an environmental clause in the trading system. This would involve applying trade sanctions to countries whose environmental costs have not been integrated into their export activities. With this in mind, only goods whose production complies with certain ecological criteria could be awarded “eco-labels” enabling them to benefit from the advantages of the international trading system.

**Counterfeiting:** The increasing opening of borders has also encouraged the development of piracy. This is particularly prevalent in the luxury goods sector. High-end copies manage to imitate the design, weight, label, etc. These counterfeits are often so perfect that they require in-depth examination by technicians from the brand that has been defrauded in order to detect the fraud. Generally, counterfeit products are sold at a price between 5% and 70% of the price of the authentic product. Crude products come from Southeast Asia, while more refined products come from Europe. It is a crime that infringes on various intellectual property rights. For companies that are victims of counterfeiting, the purchase of a counterfeit product replaces the purchase of the victim company’s authentic product. It is more serious and dangerous to public health because certain drugs are circulated and sold by certain countries.

**Corruption:** In international transactions, it hinders competition, distorts trade, and harms consumers and taxpayers.

**Anti-competitive practices by companies:** The scope of the international trading system extends only to inter-state relations. It therefore does not cover the practices of private companies, which are increasingly challenging trade liberalization by erecting private barriers that replace public tariff and non-tariff barriers. Successive waves of mergers and acquisitions and the acceleration of the process of corporate concentration on a global scale encourage the use of anti-competitive practices that escape national and regional regulations. Under these conditions, competition is restricted, prices are increased, and markets are divided up on the basis of illegal

agreements, to the detriment of consumers (captive trade). Among anti-competitive practices, intra-company trade occupies a prominent place. Despite their growing weight in international trade, multinational companies are largely exempt from international trade rules. In fact, a significant portion of trade (more than 30%) consists of intra-company flows between the parent company and its various subsidiaries. Subject to billing and overbilling practices, these “intra-company” flows obey rules that are very different from the usual principles of supply and demand. In addition, there are also trade conflicts of a geopolitical nature (boycotts and embargoes): Some conflicts go beyond the commercial sphere proper. The oil pipeline war in the Caspian region and the economic tensions linked to the adoption of extraterritorial laws are geopolitical in origin.

Boycotts and embargoes are imposed for reasons that are generally non-economic. They are total or partial restrictions on trade with a country or region of the world. Often presented by those who call for their imposition as essential to winning a point or resolving a problem, they are rarely effective. At worst, if effective, embargoes can exacerbate the conflict, as those being punished tend to go for broke.

Currently, the potential victims of trade wars are located on every continent, particularly countries that export their production to the United States following the unilateral and widespread increase in customs tariffs by the American administration. In this regard, certain African states will be negatively impacted by the questioning of the AGOA (African Growth Opportunity Act) mechanism.

The US economy will also not be spared, with retaliatory measures and a climate of uncertainty exacerbated by trade rivalries.

## Results

It is useful to find ways and means to avoid the escalation of conflicts. To do this, negotiation is required.

The need for a cooperative outcome through negotiation mechanisms is essential, given that confrontations between trading partners are on the rise due to the growth of global trade.

Cooperation here refers to joint action that benefits everyone. The term “benefit” has a specific meaning: it refers to each party gaining more than the maximum gain that they would be sure to achieve individually, i.e., without relying on their partner.

Therefore, negotiations most often take place in an atmosphere of tension (retaliation, counter-retaliation, deterrence, bluffing).

Various definitions have been given by authors reflecting the positive role of negotiation processes. Gross (in Zartman, 1988) defined negotiation from four different perspectives:

First, it corresponds to a charade in which each player seeks to discover a solution predetermined by the situation of the players or actors themselves;

Second, it corresponds to an art of skill, particularly in the way of establishing a relationship, marking the beginning rather than the end;

Third, it is equivalent to a bargaining process concerning the allocation of resources; and finally, it is similar to a process of discovery and sequential learning.

As for Touzard (1977), he defines negotiation as a mixture of problem solving, persuasion, and conflict. Beyond this persuasion, it reflects a confrontation between nation states or groups of people who more or less share a common project: reaching a trade agreement, for example.

Otherwise, negotiation specialists generally identify two types of negotiation: conflictual negotiation and cooperative negotiation.



**Conflictual negotiation**

Traditionally, this form of negotiation remains associated with a conflictual context. Moreover, it revolves around the conflict that justifies it, while presenting its own logic, which is not without impact on the conflictual field dominated by the parties to the conflict. It corresponds, of course, to a zero-sum game in which there is a winner and a loser.

Its characteristics are rivalry, competition, and mistrust. This is because the players involved in this form of negotiation generally see themselves as adversaries seeking to achieve different objectives. According to Bellenger (1995), “their mode of interaction is clearly oppositional” because they renounce perpetual confrontation while maintaining the threat of resorting to it during the negotiation process.

But in terms of trade wars, what are the reasons that push nation states to renounce perpetual confrontation?

Firstly, strong interdependence limits their room for maneuver (the existence of reciprocal markets); pressure from the arbitrator (the WTO) to settle disputes based on strict compliance with its main agreements; and the existence of disputes causing both sides to raise tariffs and taxes and leading to a dramatic decline in exports.

However, the objective of conflictual negotiation for a state is ultimately to seek the greatest gain at the expense of its rival. States act as blocs and their deliberations are more like a trial of strength. Thus, the conflictual approach to negotiation is based on a logic of domination, as the parties try to defend their interests rigidly. In most cases, it ends in defeat for the weaker party.

**Cooperative Negotiation**

This differs from conflictual negotiation in that it is based on the notion of trust and a desire to reach an agreement without harming the other party. It is also called integrative negotiation in strict accordance with the formulation of game theorists, who note that in practice, players in “increasing-sum games” have the desire to increase the initial resource (the object of the game). The emphasis is on the concept of cooperation, knowing that it is the feeling of cooperation that gives this negotiation its truly constructive orientation.

In this context, the players who participate in this form of cooperation consider themselves partners.

The search for a mutually acceptable agreement and the desire to maintain a strong collaborative relationship characterize the negotiation process. It also highlights another benefit: the partners are inclined to seek to clarify the issues rather than impose their solution.

Broadly speaking, the theoretical contributions of negotiation theory and its objectives make it possible to construct a representative model of the negotiation process.

**The Contribution of Negotiation Theory**

Conflicts arise from a particular configuration of the respective interests of the actors. This situation gives rise to conflict when the two actors have an interest in acting together but have opposing interests regarding a particular agreement they would like to implement. To put an end to this logic of conflict, negotiation theory has suggested a number of approaches, following the example of several other disciplines.

In fact, it has been developed from several different perspectives.

Historically, negotiation has been studied in the humanities and political sciences (psychological, socio-psychological, sociological, and political theories), and then in game theory models. Game theory models are based on rationality and artificiality, while striving to reflect reality. In these models, negotiators seek above all to maximize their utility function.

Another classification was made later by Zartman (1988). Five schools are distinguished: structural approaches based on power, game theory, process approaches, behavioral approaches, and integrated approaches.

While it is useful to have an overview of this variety of approaches, which shows how negotiation has been applied in several disciplines, it would be difficult to highlight them all in an explanatory and scientific approach.

Therefore, in this work, we will focus only on the game theory approach. Its tools help to understand a negotiation situation (concepts of utility and efficiency).

From the perspective of this trend, nation states rarely consider submitting their disputes to a supranational structure. However, the willingness to share collective gains in bargaining and negotiation situations is therefore essential.

Conflict gives rise to interactions between nation states, the stakes of which are the sharing or distribution of the benefits associated with joint action.

Two approaches form the backbone of negotiation theory from a game theory perspective. On the one hand, we have the axiomatic (or normative) approach, and on the other, the strategic (or positive) approach.

The first approach is based on a list of properties that seem desirable for the solution and then demonstrates that these properties, taken as axioms, uniquely determine this solution.

The second approach consists of predicting the outcome of given situations based on specific rules of the negotiation process. The most robust solutions were first proposed by the axiomatic approach.

First, there was the formulation by Von Neumann and Morgenstern (1944), based essentially on rules of rationality: Pareto optimality.

As for Nash's (1950) axiomatic formulation of the two-player negotiation problem, it is based on the following implicit assumption. When two players negotiate, the allocations of gains they actually obtain must depend solely on the gains they can expect to receive if the negotiations fail and on the set of achievable gain allocations.

The search for a single solution to the conflict problem rather than a set of solutions led Nash (1953, p. 136) to add a few axioms to those of Von Neumann and Morgenstern (1944). Thus, the axioms proposed by Nash (1953) in a two-player negotiation game are:

Efficiency: the solution must be achievable and efficient in the sense that the total cooperative gain must be distributed between the players;

Individual rationality: a cooperative solution must be at least equivalent to the point of disagreement (the non-cooperative equilibrium), which then constitutes a credible threat to break off negotiations;

Symmetry: when bargaining is symmetrical, the solution to the negotiation must also be symmetrical (i.e.,  $U_1 = U_2$  in terms of the utilities of both players). Classically, symmetry exists when the point of conflict provides the players with the same utility on the one hand, and on the other hand, if the agreement  $(U_1, U_2)$  is feasible, then  $(U_2, U_1)$  must also be feasible.

Invariance: the scale and choice of cardinal utility function used to represent the players' preferences must not affect the negotiation problem.

Therefore, if the way utility is measured is changed, both players must remain identical in terms of physical possibilities.

Independence from irrelevant alternatives: eliminating achievable gains that would not have been chosen anyway must not affect the solution to the bargaining problem.

Sustained implementation of the AFCFTA is therefore required to enable the continent to increase its

bargaining power, as it is seen as a collective tool to increase Africa's weight in global trade.

Contrary to popular belief, liberalization is never total. There are always opportunities for flexibility that allow a country or group of countries (regional bloc) to protect themselves ("legitimate trade protection").

It must continue to be deployed strategically and remain close to the interests of its members.

### **Recommendations**

The WTO, as an arbitrator, attempts to bring countries to a negotiated solution (balance of interests). To achieve this goal, it will target the incentives put in place by the Dispute Settlement Body (DSB) to stop the momentum of international trade disputes. As a general rule, the WTO relies on its principle of reciprocity to choose the best balance, allowing the litigants to adopt a free trade policy rather than restrictive measures. When there are multiple balances, it is up to the WTO to choose the best balance that is most conducive to improving trade relations between members. The creation of balances is done by the members through trade. Then, through rounds of negotiations, the WTO invites members to find a balance that satisfies the concerns of each member. It promotes a balance that contributes to the development of trade. Any agreement that promotes protectionism is de facto canceled by the WTO. In short, it is the member states that provide balances, and then it is up to the arbitrator of last resort to select the best one. Its primary goal is to achieve cooperation between member states. From its point of view, this cooperation defends everyone's interests: it corresponds to a mathematical symmetry (fair sharing of the pie). Achieving this cooperation requires the omnipresence of a neutral institution capable of driving the liberalization of international trade. In this respect, the WTO is like a center for communication and coordination of trade negotiations. Despite its guidance, some countries continue to use non-tariff barriers in order to capture a large share of international trade. To eliminate these practices, which are tantamount to neo-protectionism, it must promote its incentive measures. These are essentially aimed at removing all tariff and non-tariff barriers and promoting the success of trade negotiations.

Undoubtedly, it appears to be the only international organization capable of restoring stability and security on the trade front. It has the experience required to achieve this goal because, from the time of the GATT until now, it has continuously organized negotiations to settle disputes. However, does it have the assets to become the regulator and arbitrator of trade disputes? This arbitration role consists of finding a balance between the divergent interests of countries. Therefore, it is the WTO that must judge and propose solutions when disputes arise between member countries. Over the past 50 years, it has played this role with some success. With the liberalization of trade, the growth rate of world trade has exceeded that of production. Thanks to its efforts, world trade has become more regulated and freer, and in any case better than in the 1930s (economic depression caused by protectionist measures). Today, it must continue to promote its incentives to restore calm, because globalization has led to a resurgence of disputes (steel conflict, subsidies, bananas, etc.). This work consists of bringing member states back into compliance with the rules of international trade by threatening bad players with sanctions in case of non-compliance. Its ultimate goal is to create a framework conducive to fair trade conditions: these rules and principles aim to ensure free competition in goods, services, and capital. In this way, it seeks to eliminate the causes of trade disputes. Restrictive practices have been the subject of negotiations in all rounds organized by the WTO. It strongly encourages nation states to seek its arbitration through the DSB rather than undertaking unilateral sanctions (criticisms of Section 301 of the US Trade Act). The WTO, as the main driving force, therefore provides a solid basis for removing uncertainty and disorder in the trading environment. The drive for stability and predictability in the trading environment is undoubtedly a means by which the WTO can

better control the international trading system. The continuation of negotiations is clearly aimed at establishing a stable environment characterized by fewer trade conflicts and restrictive practices. The introduction of the principle of non-discrimination aims to achieve the same results. Consequently, we conclude that incentives tend to reduce trade wars while promoting cooperation. Cooperation requires the presence of an arbitrator capable of setting the rules of the game. Therefore, in order to resolve disputes, the parties to the conflict must conduct a series of negotiations under the auspices of the WTO. However, despite its obvious successes, its arbitration is increasingly facing criticism. This criticism comes from member states, but also from academia, trade unions, and associations (globalization critics). Recently, a statistical analysis of disputes submitted to WTO arbitration has given rise to various interpretations (regarding the effectiveness of its arbitration system). Indeed, it is also relevant to point out the shortcomings of the dispute settlement system.

Notwithstanding the WTO's establishment of a dispute settlement procedure to pacify trade relations, certain unilateral measures persist. Some countries, such as the United States, have accepted the application of the general principles of transparency, reciprocity, most-favored-nation treatment, and transparency, but have preferred to retain their instrument of retaliation (Section 301). Sectors such as air and maritime transport, investment, and professional services are not covered by satisfactory regulations, leaving the door open to abusive and discriminatory practices. The methods used to calculate damages following the implementation of policies deemed unfair are contested by the countries in conflict. The same applies to the extent of the sanctions decided by the WTO at the end of a dispute. Retaliatory measures aimed at bringing the opposing party into compliance with trade rules have become genuine instruments of trade policy to strengthen bargaining power. To fully explain the limitations of the measures designed to mitigate and resolve disputes, we will outline the main criticisms of its dispute resolution system specifically and the structure of the WTO in general. While the rule of law was rarely applicable in trade before the creation of the WTO, the situation has changed today. Not only does it exist, but it is also applied and binding on member states. The law has become a leveler between large and small countries. As proof, the dispute settlement procedure that came into being in Marrakesh in 1994 and came into force in 1995 introduced significant changes compared to the old GATT system: the "negative consensus" rule (panels are automatically formed if consultations fail and their reports are systematically adopted unless all member states vote against them), and the setting of deadlines for the various stages of dispute settlement. However, this juridification of trade relations has some shortcomings.

The problem of choosing experts, the cost of the procedure, and the collection of information are often a challenge. For a country to file a complaint with the WTO, it must first know that a member is violating a trade rule.

This was the case for African cotton-producing countries regarding the nature of American and European subsidies over the last 50 years.

It is the exporting companies that report the information to their countries. This explains why and how the richest countries find themselves as the main complainants or defendants. The market in question must also be sufficiently lucrative to justify the cost of the dispute procedure. This is a more difficult condition for poor countries to meet, except for a small number of mega-markets that often account for the bulk of their exports. Some experts have raised the possibility of a simplified procedure (one expert, three months maximum) for markets that represent a significant share of the complaining country's exports (5% for example). Some members criticize the use of new experts. Panels, known as special groups, are formed on a case-by-case basis. Discussions are underway to form a continuously available group of 20 to 50 panelists. This professionalization of arbitrators

would undoubtedly guarantee independence and speed, as we often see delays in the settlement of certain disputes. There are limitations to this proposal: the formula seems costly in budgetary terms, and the composition of the panel risks creating tensions between members. Traditionally, a panel consists of three experts, or five if the states in conflict so wish. In theory, they cannot be nationals of the states involved in the dispute, but states are increasingly willing to tolerate exceptions to this rule. The experts are most often members of official delegations, but also officials from outside the WTO, international trade lawyers, academics, etc. Poor countries are under-represented due to a lack of national expertise and sufficient financial resources. When a dispute involves a poor country and a rich country, the WTO Secretariat requires that one member of the panel come from a developing country. As for the members of the Appellate Body, they are appointed for four years, with one member per continent.

The wide range of sanctions available is one of the points of criticism, even though the best way to compel a member who violates a rule has always been a concern for the WTO. Basically, the dispute settlement mechanism favors amicable settlements between the parties. Therefore, conciliation is possible at any time. If a compromise cannot be reached, the panel's ruling must be implemented. However, Article 22 of the Understanding on Rules and Procedures Governing the Settlement of Disputes is ambiguous: it does not say whether a party must amend a rule deemed inconsistent with international trade standards or whether it can simply grant compensation to the complaining state. The decision depends on a cost/benefit analysis of the violation of the standard. Generally, at the end of the "reasonable period" if the party concerned acknowledges that it has not amended the rule or practice invalidated by the panel, the complaining government may request compensation. If the party concerned continues to violate the standard and does not negotiate compensation within 20 days, the complaining state may take trade retaliation measures. This is therefore a system that reproduces the inequalities in bargaining power and economic power between states: a trade retaliation measure implemented by a small country carries little weight if it is exercised against a major trading partner such as the United States. The issue of power asymmetries taints the entire dispute settlement system. Developing countries are reluctant to file complaints with the DSB for fear of the reactions this may provoke. For example, they fear that preferential measures may be challenged or that there may be a gradual reduction in development aid. Finally, the dispute settlement procedure is also criticized for its lack of transparency, as the deliberations of the Appellate Body remain confidential.

Many non-governmental organizations, corporations, and trade unions wish to put forward their arguments without first having to convince their governments.

Now, it must be admitted that the WTO defends a concept of calm on the international trade front. This means that it encourages nation states to respect the commitments they have made. In simple terms, its function is to preserve cooperation. The negotiations conducted under its leadership have been remarkably successful: the Uruguay Round. Its jurisdiction now covers other areas that were not previously covered by the GATT agreement. It therefore seems surprising to mention its shortcomings. There are sectors which, while not strictly speaking commercial in nature, have a significant positive or negative impact on world trade. However, there are certain shortcomings that continue to be the subject of controversy, namely currency, employment, the environment, taxation, investment, and above all competition. The WTO is therefore criticized for not taking full account of economic reality. First, the statement on the WTO's contribution to greater consistency in the development of economic policies at the global level is very vague. Secondly, the absence of any effective regulation of monetary aspects is all the more regrettable given that exchange rate instability creates damaging disruptions. This is why

some countries want the WTO, in conjunction with international financial institutions, to develop effective measures to counteract speculative movements that destabilize national economies. While the issue of controlling international capital movements is not new, the recent financial crises (in Southeast Asia, Mexico, and Argentina) have made it more relevant. Unfortunately, this solution raises the issue of jurisdiction, as its purpose is primarily commercial. Therefore, extending the WTO's jurisdiction to all commercial and financial aspects that affect multilateral trade in goods and services would amount to turning it into a global international institution, devoid of specificity and encroaching on the jurisdictions of other well-established international organizations such as the IMF and the World Bank. Despite the constraints of globalization, such a scenario seems difficult to achieve. This has been the approach taken to determine the WTO's jurisdiction. It only has the capacity to deal indirectly with issues of currency, taxation, and employment. Other weaknesses are worth mentioning here because of their theoretical and practical importance. For example, no secondary legislation is provided for in the Uruguay Round Agreement. This situation means that there is no direct effect. It also has difficulty controlling the operations of multilateral firms. Absence of secondary legislation: It is deprived of the power to adopt binding unilateral acts. Unable to create secondary legislation, it remains under the control of the member states. The system does not suffer from an excess of law, but from a lack of it. There are areas of lawlessness that call for new regulations. The direct effect in question: During the approval process for the Uruguay Round agreements, the main trading partners, namely the European Union and the United States, indicated that these agreements would not have any direct effect.

The WTO is more interested in trade flows between nation states than those between large companies. A global competition policy would fill this gap and be all the more beneficial. In doing so, it would control the 265 companies that take unfair advantage of different competition policies by establishing themselves in poorly regulated markets. Otherwise, it is difficult for the WTO to quantify intra-firm flows, exclusivity arrangements, tied selling practices, and inter-company price agreements. After analytically demonstrating the negative impact of trade disputes on trade, and then highlighting the legal advances of the WTO settlement mechanism compared to that of the GATT, we develop a reflection on the future of global trade beyond the conflictual aspect. This work consists of raising the issues of unequal development between the North and the South, linked to the excesses of financial capitalism (Aglietta, & Reberlioux, 2004), and insisting on the implementation of global governance.

Generally, most questions about the future of trade focus on the inequalities caused by the expansion of global trade, while attempting to propose a number of solutions aimed at improving global governance. Thus, we will first list these inequalities and then suggest some ways in which the WTO could further integrate the least developed countries into international trade, in particular by strengthening their production and negotiating capacity.

In addition to the trade conflicts it has caused, globalization has also created enormous difficulties throughout the world. The threat is now economic, or more precisely geo-economic. Rivalries are shifting from the territorial sphere to the economic sphere, which requires investment in efficient production bases, as industrial supremacy depends on mastery of cutting-edge industrial technology. The mobilization of all strategies illustrates this reality. For example, the weapons of economic warfare are increasingly being used by nation states: anti-competitive practices, discriminatory regulations, etc. While the disputes concern developed countries, they also involve emerging countries. As a result, there are numerous conflicts between partners in globalized trade. Examples include the banana war, the softwood lumber dispute, the steel dispute, and the issue of genetically

modified organisms. Hence the objective of the current rounds of negotiations is to achieve global trade that is fair in at least three areas:

Commercial: gradually liberalizing the agriculture and services sectors and better defining intellectual property rights, since some believe that international competition has truly changed. Some economists, for example, “call for an economic arms race in which capital is firepower, policies and subsidies are ammunition, and military bases are replaced by market penetration”.

Institutional: ensuring that anti-dumping clauses do not lead to a resurgence of protectionism.

Politically: clarify the role of the WTO in relation to international agreements and public procurement.

In terms of social issues and intellectual property: find strategies to combat social dumping on the one hand, and to protect inventions and creations from piracy of all kinds on the other. Despite the existence of these negotiating strategies, significant difficulties remain. Thus, in contrast to the prosperity it has brought to the trading powers, globalization seems to be leaving the majority of countries behind. Developed countries are calling the shots, making or capturing most of the foreign direct investment. Three-quarters of world trade is carried out between these countries. Opening up to the world has differential effects, as it favors competitive (highly skilled) jobs, but penalizes exposed jobs and spares protected jobs (civil service). Everywhere, job losses are caused by waves of relocations. Hence, it can be said that unemployment has become very complex and that any policy aimed at curbing it must take into account the interdependencies associated with globalization. Global free trade continues to cause profound imbalances and countless disorders due to the global financial system, which is characterized by very high potential instability. The piracy of ideas and products is a huge but delicate issue. Global opinion has forced pharmaceutical companies to back down on 300 drugs considered essential by poor countries, including 16 that are patented. Thus, Maurice Allais (Nobel Prize winner in economics) in his 1999 book “Globalization: The Destruction of Jobs and Growth”, Clément Juglar, made the same observation: “Unemployment is a very complex phenomenon with various causes, which can essentially be analyzed in terms of five factors: chronic unemployment induced at the national level, independently of foreign trade, by the structure of social protection; unemployment caused by global free trade, exacerbated by an international monetary and financial system that is completely unregulated and generates imbalances; unemployment caused by immigration from outside the European Union; technological unemployment; cyclical unemployment.” Not only did these crises show that liberalization without precautions was dangerous, but they also had repercussions on developed countries. The loss of confidence that gripped the US financial markets in September 1998, prompting a massive injection of liquidity by the US Federal Reserve, demonstrated that global finance is subject to global crises. Systemic risk has now become a concern that transcends national borders. The stock market crash of 2000 and the turmoil caused by the corporate governance crisis in 2002 confirmed this diagnosis: financial globalization is challenging economic transformations. In global trade, exchange rates play a major role, since the price of any product from a foreign country depends on the exchange rate of that country’s currency. However, if exchange rates do not correspond to the balance of trade, free trade can only be harmful and disadvantageous to all participating countries, leading to unhealthy and fundamentally unstable situations. This is the case when overvalued and undervalued currencies coexist. The movement toward economic globalization must be rationalized. The nation-state now seems largely powerless in the face of this largely disruptive movement. These problems suggest that the WTO should be put back in its place. How significant is this place in global governance? Clearly, WTO members currently believe that the work undertaken to help establish a constructive relationship between trade, the environment, and sustainable development must continue. The global

environmental issue is particularly important because those responsible are often also victims. Hence the importance of addressing it in a comprehensive manner, which presupposes the participation of all countries and an international negotiation process. International environmental conventions (Kyoto Protocol) have an impact not only at the global level, but also at the regional and local levels. However, in order to strengthen the implementation of these conventions, it is necessary to include sanctions against defaulting states. Improving global regulation therefore requires greater involvement by the WTO. This contribution requires greater consistency and cooperation with other international organizations and clarification of the articulation of standards. Thus, the ILO (International Labor Organization), in conjunction with the United Nations Economic and Social Commission, the World Bank, the IMF, UNCTAD, and the WTO, must tackle the equally important issue of mobilizing the means and resources that will make it more effective to improve compliance with fundamental standards, without which we cannot speak of successful globalization. The consolidation of mechanisms designed to ensure greater equality of opportunity and equity among nations in the completion of the process of liberalizing various commercial activities must continue. One way forward seems to be to take into account the commitments made in terms of technical assistance and inter-institutional cooperation to meet the needs of developing countries. Strengthening the capacities of LDCs is desirable in order to accelerate the pace of integration of these countries, as they are not participating effectively in the WTO process. These countries face many challenges. They must ensure that the multilateral trading system and the investment framework can strengthen the trade sector and growth prospects. This can be achieved through the effective and more active participation of these countries in the design and implementation of the rules and institutional mechanisms that govern the global economy. Recognizing the vulnerability of these countries makes it possible to take appropriate measures to remedy their marginalization. In this context, better market access, more balanced rules, and well-targeted technical assistance and capacity-building programs with sustainable financing have a role to play. The training courses offered by the General Secretariat should be expanded with a view to strengthening the negotiating capacities of poor countries. The process is comparable to a competition in which the competitors are not on the same starting line. There is therefore an imbalance that translates into a lack of fairness to the detriment of the weaker parties (Stiglitz, 2000). Training sessions are organized in Geneva, while others take place in the countries concerned. A number of programs are also implemented jointly with other international organizations. When it comes to participating in international trade negotiations, the least developed countries must opt for coordination of national, subregional, and international initiatives.

### **Conclusion**

Current trade conflicts are significantly transforming the strategic environment in which African countries operate. Faced with these issues, the continent must implement a package of adaptive strategies, reflecting a gradual maturation of its economic, trade, and diplomatic approaches.

The acceleration of continental integration (African Continental Free Trade Area, AFCFTA), the diversification of trade partnerships, and the strategic exploitation of geopolitical rivalries are the cornerstones of this new African approach. Although these strategies are still in their infancy, they illustrate the continent's ability to adapt to changes in the international trading order.

However, the success of these strategies will depend entirely on the ability of African countries to overcome their structural constraints, strengthen their institutional capacities, and maintain effective coordination. The goal remains to transform African economies in order to reduce their vulnerability to external shocks and increase



their bargaining power on the international stage.

In this context, trade conflicts between trading powers may provide an opportunity for the African continent to redefine its place in the global economy, provided that it develops a coherent strategic vision and has the resources to implement it.

Ultimately, sustained use of the WTO's trade dispute resolution mechanisms is desirable as it would allow disputes to be resolved fairly.

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