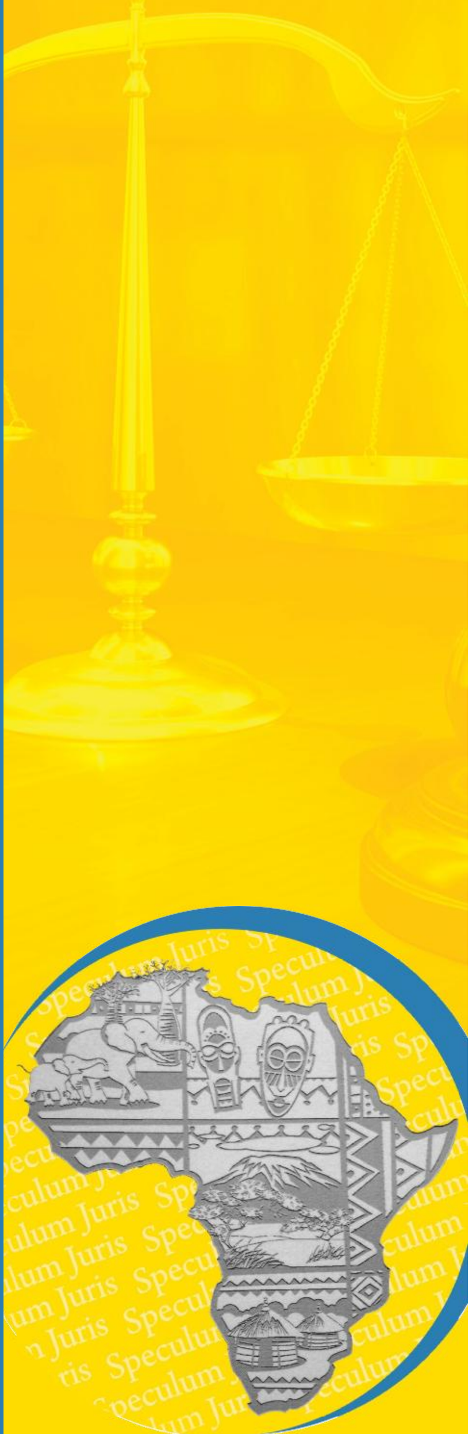
Article

Speculum Juris

Vol 40 No 1 (2026)
Published 31 August 2026

ISSN 2523-2177



Cite as: Masumbe "Unilateralism and Economic Shockwaves: Assessing the Implications of the United States of America's 2025 Tariffs on South Africa's Trade Sovereignty and Industrial Resilience" 2026 (40) Spec Juris 84–104

University of Fort Hare
Together in Excellence

Unilateralism and Economic Shockwaves: Assessing the Implications of the United States of America's 2025 Tariffs on South Africa's Trade Sovereignty and Industrial Resilience

Paul S Masumbe*
Associate Professor and Head of School of Law, Walter Sisulu University

Abstract

The purpose of this article is to examine the implications of the United States of America's 2025 unilateral tariff measures and their potential to disrupt South Africa's trade sovereignty and industrial stability. While South Africa's trade policy framework aims to safeguard its economic independence, the imposition of high tariffs by a major global trading partner has exposed vulnerabilities in both export competitiveness and domestic industrial capacity. This study argues that one-sided trade measures, such as the 30% tariffs imposed by the US, create immediate economic disruptions while also hindering long-term development objectives. The study will answer the following critical questions: (i) How do the United States of America's 2025 tariffs affect South Africa's trade sovereignty and industrial resilience, (ii) What is the impact of these tariffs on the resilience of key industrial sectors? (iii) What roles do the World Trade Organisation legal framework, African integration, and BRICS+ strategies play in mitigating these economic shocks? Using a qualitative research method and drawing on trade statistics, policy documents, and comparative

* LLB (Yaoundé), LLM (UWC), LLD (UFH).

international trade experiences, the author finds that South Africa's industrial base is particularly exposed in sectors reliant on US market access. It advocates a strategic blend of trade diversification, strengthened industrial policy, and diplomatic engagement to protect national interests. The author recommends urgent policy adjustments, targeted support for vulnerable industries, and proactive trade diplomacy to counteract the destabilising effects of unilateral trade measures.

Keywords: unilateralism; trade sovereignty; tariffs; industrial resilience; United States; South Africa trade relations; export competitiveness

1 INTRODUCTION

The year 2025 marks a pivotal moment in South Africa's economic journey, one where its trade sovereignty and industrial resilience are being tested by sweeping unilateral tariffs imposed by the United States (US).[1] Already facing structural inequalities and sluggish growth, South Africa now contends with a policy shift that threatens not only its export competitiveness but also the very autonomy of its trade strategy.[2] Kugler and Washington, in their study, further examined how African countries are navigating and responding to the wide-ranging new tariffs introduced by the Trump administration.[3] On 2 April 2025, the US introduced a universal ten per cent tariff on imports from 190 nations, followed shortly by country-specific levies ranging from eleven to fifty per cent. South Africa received one of the sharpest rate adjustments.[4] This abrupt move not only undermines established multilateral trade norms,[5] including those upheld by the World Trade Organisation (WTO), but also delivers a swift blow to South Africa's developmental aspirations.[6] The industrial consequences are already palpable across critical sectors. The South African Reserve Bank projects an erosion of economic growth (though modest in headline terms), which still signals diminishing export momentum and rising uncertainty.[7] South African goods entering the US are now hit with a hefty 30%thirty per cent tariff, the highest in Sub-Saharan Africa, after Pretoria failed to conclude a trade agreement with Washington before President Donald Trump's set deadline.[8] Particularly vulnerable are automotive manufacturers, agricultural producers, and mineral beneficiation industries, where exposure to the US market is most pronounced.[9]

1 The year 2025 was a critical period for South Africa as it navigated through economic challenges, including high unemployment and weak economic growth rates. The United States' unilateral tariffs are a significant factor in these challenges, impacting South Africa's trade sovereignty and industrial resilience. The country's economic situation is shifting from stagnation toward recovery, with improvements in fiscal discipline and growth performance. However, the high level of unemployment, particularly among the youth, and the integration of large segments of the population into the workforce are critical for boosting household consumption and ensuring social stability.

2 Kugler and Washington "How African Countries Are Responding to the New U.S. Reciprocal Tariffs" https://carnegieendowment.org/research/2025/06/africa-us-tariff-economy-agoa?lang=en (accessed 10-08-2025).

3 *Ibid*.

4 *Ibid*.

5 WTO Agreements create an international trade legal framework for 164 economies around the world. These Agreements cover goods, services, intellectual property, standards, investment and other issues that impact the flow of trade.

6 "State of U.S. Tariffs: August 1, 2025" https://budgetlab.yale.edu/research/state-us-tariffs-august-1-2025#:~:text (accessed 10-08-2025).

7 Gumbi "South Africa's Central Bank Sees only Modest Impact from US Tariffs" https://www.reuters.com/world/africa/south-africas-central-bank-sees-only-modest-impact-us-tariffs (accessed 10-08-2025).

8 *Ibid*.

9 Maleka "The Economic Impact of the 2025 Trump Tariffs on South Africa and Strategic Policy Responses" 2025 *International Conference on Business, Economics, Marketing and Management* 1.

The automotive sector alone was responsible for nearly two billion euros in US exports in 2024 and faces rising costs and a shrinking market, while citrus growers in regions like Citrusdal (Western Cape) fear devastating job losses, where livelihoods are deeply connected to this trade.[10] Beyond industry, the macro-economic repercussions echo more widely. Government officials estimate that as many as 30 000 jobs may be lost, worsened by already sky-high unemployment of nearly thirty-three per cent and staggering youth joblessness.[11] Simultaneously, the domestic currency wavered as markets processed the implications, prompting financial authorities to anticipate only small Gross Domestic Product (GDP)[12] contractions, an assessment that belies deeper structural risks.[13] Meanwhile, African sectors that depend on preferential access under programmes like the African Growth Opportunity Act (AGOA)[14] are facing a collapse of trade predictability, as scholars warn that long-standing preferences could be permanently undermined.[15] Politically and diplomatically, this moment demands swift responses. South Africa has activated an Export Support Desk, contemplated expanding its Automotive Production and Development Program, and sought urgent trade relief through exemptions, yet to date, punitive tariffs remain firmly in place, with limited diplomatic shift from Washington.[16] The government has invoked its minimal share of US imports, just 0.25 per cent and underscored that its exports serve as complementary inputs to US industry rather than competitive threats.[17] Yet, such assertions alone may not be sufficient. Furthermore, regional trade mechanisms, such as the African Continental Free

10 Rikhotso "Between Stagnation and Adaptation: South Africa's Trade Policy Response to the Trump Tariff Regime" https://www.rosalux.de/en/news/id/53629/between-stagnation-and-adaptation (accessed 10-08-2025). See also "Trump's beloved Afrikaners Now Face a Real Threat From Him" https://www.thetimes.com/world/africa/article/trumps-beloved-afrikaners-now-face-a-real-threat-from-him (accessed 10-08-2025).

11 Gumede "US Tariffs Put 30,000 South African Jobs at Risk, Officially Say" https://www.independent.co.uk/news/cyril-ramaphosa-south-african-donald-trump-johannesburg-china-b2801589.html (accessed 12-08-2025).

12 The South African economy's recent GDP contractions, which are only modest, are indicative of deeper structural risks that need to be addressed. The economy's performance is hindered by a combination of factors, including persistent macro-economic and policy uncertainty, a weak investment climate, and a challenging external environment.

13 Reuters "South African Rand Flat as Traders Await Tariff Updates After Ramaphosa-Trump Call" https://www.marketscreener.com/news/south-african-rand-softens-as-traders-await-tariff-updates-after-ramaphosa-trump-call-ce7c5edcde8ff020#:~:text=U.S.%20imports%20from%20South%20Africa (accessed 11-08-2025).

14 The African Growth Opportunity Act (AGOA) has been a cornerstone of U.S.-Africa trade for over two decades, offering duty-free access to the U.S. market for certain products from eligible sub-Saharan African countries.

15 Emont and Wexler "Why Poor Nations Got Hit With Higher Tariffs Than Rich Ones" https://www.msn.com/en-us/money/markets/why-poor-nations-got-hit-with-higher-tariffs-than-rich-ones/ar-AA1KbGnn (accessed 11-08-2025).

16 Dludla "South Africa Considering Auto Industry Incentives as Tariff Buffer" https://insidepolitic.co.za/south-africa-considering-auto-industry-incentives-as-tariff-buffer/#:~:text=South%20Africa (accessed 12-08-2025); Magwenya "South Africa Continues to Engage the US Government on the Reciprocal Tariffs" https://www.presidency.gov.za/south-africa-continues-engage-us-government-reciprocal-tariffs (accessed 12-08-2025).

17 Brand South Africa "South Africa's Response Measures to the US Tariffs" https://brandsouthafrica.com/179806/news-facts/south-africas-response-measures-to-the-us-tariffs/#:~:text=The%20unilateral%20tariffs%20have%20been%20implemented%20notwithstanding%2C%20South,mutually%20beneficial%20trade%20relations%20with%20the%20United%20States (accessed 12-08-2025).

Trade Area (AfCFTA)[18] and broader intra-African market integration,[19] offer viable pathways to reduce external dependency and build resilience, a shift strongly advocated by trade analysts and strategic thinkers alike.[20] In addition, aligning more robustly with emerging global partners, China, India, and the European Union can diversify export channels and buffer against punitive external shocks.[21] Moreover, South Africa's industrial policy must evolve. There is growing consensus that proactive measures incentives for value-added production, strengthened export support, and re-imagined industrial infrastructure are essential to cushion the economy in both short- and long-term horizons.[22] South African industries are likely to focus more on processing raw materials into higher-value finished products, aiding them to avoid tariff pressures while encouraging innovation to enhance profitability.[23] This shift aligns with the country's industrial policy goals of strengthening local manufacturing and expanding employment opportunities. Diplomatic engagement, too, must be assertive and multilateral, leveraging platforms such as the BRICS (Brazil, Russia, India, China, and South Africa)[24] to navigate protectionist turbulence, advocate for equitable trade norms, and resist economic coercion.[25] This study consists of five parts. Part I unpacks the implications of the 2025 US tariffs for South Africa's trade autonomy and industrial resilience. Part II deals with the impact of these tariffs on the resilience of key industrial sectors. Part III addresses the WTO legal framework governing tariffs and non-discrimination. Part IV discusses African integration and BRICS+ that strengthen South

---

18 The general objectives of the AfCFTA are to: (a) create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of "An integrated, prosperous and peaceful Africa" enshrined in Agenda 2063; (b) create a liberalised market for goods and services through successive rounds of negotiations; (c) contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and RECs.

19 The African Continental Free Trade Area (AfCFTA) and broader intra-African market integration are crucial for reducing external dependency and building resilience in Africa. These mechanisms aim to create a unified market for products and services, facilitate the free movement of funds and people, and support the formation of a continental Customs Union.

20 Asafu-Adjaye *et al. The Role of the AfCFTA in Promoting a Resilient Recovery in Africa*" 2021.

21 Andersson and Lindberg "National Perspectives on Europe's De-risking from China" 2024 *CEIAS* 1–166. Indeed, aligning more robustly with emerging global partners like China, India, and the European Union could indeed diversify export channels and buffer against punitive outside shocks. For instance, by diversifying export destinations, South Africa can target markets across Africa, Asia, Europe, the Middle East, and the Americas, reducing dependency on a single destination market for exports. This diversification supports South Africa's industrial strategy and reduces the risk of being hit by exogenous shocks. Additionally, leveraging the African Continental Free Trade Area (AfCFTA) to bolster intra-African trade fosters stronger regional economic integration and cooperation, contributing to a better Africa and the world.

22 South Africa's industrial policy needs a revamp to prioritise value-added production, enhance export support, and modernise infrastructure to bolster the economy in both the short and long term. This involves pro-active measures like targeted incentives, strategic investments, and improved coordination across government.

23 South African industries are likely to focus more on processing raw materials into higher-value finished products to help them avoid tariff pressures while encouraging innovation to enhance profitability. This shift is driven by the need to adapt to changing global market dynamics and to strengthen the resilience of the South African economy. See "South Africa's Strategic Adaptation to U.S. Tariffs: Advancing National Interests through Policy and Strategy" https://www.thedtic.gov.za/south-africas-strategic-adaptation-to-u-s-tariffs-advancing-national-interests-through-policy-and strategy (accessed 12-08-2025).

24 The objectives of BRICS are multifaceted and aim to address various global challenges and promote cooperation among its member states. BRICS seeks to create a geopolitical bloc capable of counter-balancing the influence of Western-dominated global institutions like the IMF and the World Bank. The organisation aims to create greater economic and geopolitical integration and coordination among member states. BRICS has implemented initiatives such as the New Development Bank (NDB) to fund development projects in emerging economies.

25 To address global challenges, diplomatic engagement needs to be assertive and multilateral, particularly by utilising platforms like BRICS. This approach can help navigate protectionist trade measures, advocate for fair trade practices, and counter economic coercion. See also SAIIA/ DIRCO Joint Seminar South Africa's Diplomacy in a Turbulent Geopolitical Era https://dirco.gov.za (accessed 12-08-2025).

Africa's trade sovereignty and examines the role of the WTO's rules on non-discrimination and dispute settlement, showing how they could be used to counter unfair trade practices. The final part considers how deeper collaboration within the Southern African Development Community (SADC), the African Union, and BRICS+ could open alternative markets, diversify trade opportunities, and reinforce long-term economic independence.

2 OVERVIEW OF THE 2025 US TARIFFS' IMPACT ON SOUTH AFRICA'S TRADE AUTONOMY AND INDUSTRIAL RESILIENCE

The imposition of unilateral[26] tariffs by the US in 2025 has revived debates on the fragility of South Africa's trade autonomy and the endurance of its industrial base. Rodrik widely agrees that the tension between multilateral commitments and vulnerability to the unilateral policies of dominant economies has historically shaped South Africa's external trade framework.[27] Trade sovereignty, understood as a state's capacity to determine its trade and industrial policy independently, has become increasingly difficult to exercise in a global context marked by rising protectionism.[28] Analysts note that South Africa's experience with the 2025 tariffs echoes earlier episodes in which global trade disruptions exposed the power asymmetry between developed and developing states.[29] The punitive tariffs of thirty per cent imposed on South African exports, especially in the automotive, agriculture, and mineral industries, have been described as among the most severe in Sub-Saharan Africa.[30] It has been stated that such tariffs diminish Pretoria's space to maneuver in shaping developmental trade policy, given that reliance on the US market had been strategically cultivated under programs like the AGOA.[31] The automotive sector is often cited as the most directly affected. Naudé explains that the export-led model of this industry has long depended on preferential access and cost competitiveness.[32] Tariff escalation

---

26 The General Agreement on Trade and Tariffs (GATT) was enacted as an attempt to reduce the number of tariffs and trade barriers and to foster international trade in the years following World War II. It was signed in 1947 by over 100 countries and has served the international community for decades. Under the auspices of the GATT there have been numerous rounds of trade negotiations on a variety of issues. Beginning in 1986, the Uruguay Round negotiations included the areas of tariffs, services and intellectual property. Over seven years of negotiations, the GATT agreements evolved into their current state. The Uruguay Round concluded in 1994 with numerous agreements to reduce trade barriers and institute more enforceable world trade rules. One of the major results of the Uruguay Round was the creation of the WTO, which officially began operations on January 1, 1995. The WTO is a multilateral organisation with the mandate to establish enforceable trade rules, to act as a dispute settlement body and to provide a forum for further negotiations into reducing trade barriers. According to the WTO website, there are 147 WTO member countries and observer countries.

27 Rodrik *The Globalization Paradox* (2011) 368.

28 The ability of states to independently determine trade and industrial policies, known as trade sovereignty, is facing increasing challenges due to the rise of protectionism globally. This trend makes it more difficult for nations to freely set their own trade and industrial policy direction, as they must navigate a landscape of increasing trade restrictions and barriers. See also Abboushi "Trade Protectionism: Reasons and Outcomes" 2010 *Competitiveness Review an International Business Journal incorporating Journal of Global Competitiveness* 384–394.

29 Siddiqui, "Donald Trump's Tariffs: A Prelude to Global Trade Wars? The World Financial Review" (2025), The World Financial Review, 1–13. See also International Conference on Business, Economics, Marketing and Management (ICBEMM) 1 and Joint Media Statement on South Africa's response measures to US tariffs https://www.gov.za/news/media-statements/joint-media-statement-south-africas-response-measures-us-tariffs-04-aug-2025 (accessed 12-08-2025).

30 "The President's 2025 Trade Policy Agenda" https://ustr.gov/sites/default/files/files/reports-President%20 Trump (accessed 12-08-2025).

31 US tariffs "US Tariffs vs South Africa: A New Economic Era?" https://www.pwc.co.za/en/blog/us-tariffs-vs-south-africa.html (accessed 12-08-2025). AGOA aims to boost trade, encourage economic development, and promote good governance in the region. AGOA has been key in facilitating trade and reducing poverty in Africa, and it has been extended through 2025.

32 Naudé and Cameron "Export-Led Growth after Covid-19: The Case of Portugal" 2020 *SSRN Electron J* 5.

not only undermines profitability but also strains employment levels in an economy already battling a youth unemployment rate of nearly 60 percent.[33] Agricultural producers, particularly citrus growers, face a similar predicament, with AgriSA warning that reduced export volumes will have devastating regional socio-economic consequences.[34] The minerals sector, central to beneficiation strategies promoted by the Department of Trade, Industry and Competition (DTIC), is likewise disrupted, with reduced US demand shifting market dynamics in favour of less penalised suppliers.[35] The South African Reserve Bank has projected reduced growth and volatility in the South African rand currency (ZAR), signalling investor concern over long-term trade predictability.[36] Draper and Scholvin contend that these shocks underscore the declining effectiveness of multilateral dispute mechanisms, as the WTO's limited enforcement capacity fails to constrain unilateral action by major powers.[37] The erosion of AGOA preferences,[38] previously regarded as a cornerstone of US-Africa relations, compounds the uncertainty by weakening export confidence and narrowing developmental policy options.[39] From an industrial policy perspective, these tariffs threaten to derail South Africa's long-term restructuring agenda. Policy frameworks such as the Industrial Policy Action Plan (IPAP)[40] and the National

33 "Press Statement on the impact of US tariffs on youth employment and the way forward" https://fwdeklerk.org/press-statement-on-the-impact-of-us-tariffs-on-youth-employment-and-the-way-forward/ (accessed 12-08-2025).

34 "South Africa's Cases Against EU Citrus Measures move forward at WTO" https://www.thedtic.gov.za/south-africas-cases-against-eu-citrus-measures-move-forward-at-wto/ (accessed 12-08-2025).

35 The South African minerals sector, a key focus of the Department of Trade, Industry and Competition's (DTIC) beneficiation strategies, is facing disruptions due to reduced US demand, which is altering market dynamics in favour of suppliers not facing similar penalties, according to the DTIC. This shift is impacting the country's ability to implement its beneficiation strategies, which aim to add value to raw materials through processing and manufacturing before export. See also "Minerals" https://www.thedtic.gov.za/sectors-and-services-2/industrialdevelopment/minerals/#:~:text=To%20develop%2C%20support%20and%20implement,and%20employment%20in%20the%20sectors (accessed 12-08-2025).

36 "Financial Stability Review" https://www.resbank.co.za/content/dam/sarb/publications/reviews/finstab-review/2025/financial-stability-review/First%20Edition%202025%20Financial%20Stability%20Review.pdf (accessed 12-08-2025).

37 Hopewell "Trump & Trade: The Crisis in the Multilateral Trading System" 2020 *New Polit Econ* 1–12.

38 The erosion of AGOA preferences, which were once seen as a cornerstone of US-Africa relations, is causing significant uncertainty and concern among African policymakers. The agreement, which provided duty-free access to the US market for over 6 500 products from eligible African countries, has been crucial for economic growth and job creation. However, the expiry of AGOA could lead to a decline in African exports to the US, particularly in sectors like apparel, agriculture, and automotive, which rely heavily on AGOA's preferential treatment.

39 "Road to AGOA Reauthorization: The Future of US-Africa Trade and Investment" https://www.wilsoncenter.org/event/road-agoa-reauthorization-future-us-africa-trade-and-investment?gad_source=1&gad_campaignid=20397340047&gclid=Cj0KCQjw-4XFBhCBARIsAAdNOktvzy57BNrOLX9IKavdqlkbt7smNOjxp5qki8OCEHJicFl2B1jnRG0aAiNWEALw_wcB (accessed 12-08-2025).

40 The National Industrial Policy Framework (NIPF) is a key component of the South African government's industrial policy action plan. It aims to address the challenges of economic and industrial growth, race-based poverty, inequality, and unemployment. The NIPF aligns with the Industrial Policy Action Plan (IPAP) and focuses on key themes such as growing the economy, strengthening localisation efforts, enhancing export efforts, and building a competitive industrial environment. The NIPF also emphasises the importance of industrial finance and incentives to secure private sector investment and grow exports. It supports technology-intensive, value-adding beneficiation projects and optimises technology transfer and diffusion. The NIPF is a long-term commitment to building the economy's industrial capabilities and addressing the evolving technological landscape.

Development Plan[41] emphasise localisation, innovation, and value-addition as central to building resilience.[42] Magubane observes that recurrent external shocks undermine these efforts, locking South Africa into a cycle of vulnerability and reactive policy adjustment.[43] In response, scholars and analysts propose several pathways to restore a measure of resilience. Regional integration through the AfCFTA is identified as a crucial instrument to reduce over dependence on extra-African markets and to promote intra-African industrial value chains.[44] AfCFTA provides both a buffer and a platform for collective bargaining power against external economic coercion.[45] In parallel, diversification toward other global partners, notably China, India, and the European Union, is strongly advocated to stabilise export flows and reduce exposure to US market volatility.[46] At the same time, resilience must be generated internally. Trade and Industrial Policy Strategies (TIPS) emphasises the importance of innovation, skills upgrading, and incentives for higher-value production as ways to shield industries from tariff-based vulnerabilities.[47] South Africa's past liberalisation has not fully translated into competitiveness, and a more strategic approach to industrial upgrading is necessary.[48] The National Planning Commission has equally argued that crises such as the 2025 tariff shock should be used as catalysts for transformation rather than as triggers for further dependency.

3 THE IMPACT OF THE 2025 US TARIFFS ON SOUTH AFRICA'S TRADE AUTONOMY

The 2025 unilateral tariff regime imposed by the US represents one of the most significant challenges to South Africa's trade autonomy in the democratic era. Trade autonomy in this context refers not merely to a nation's formal right to set its trade policies, but to its practical ability to pursue an independent developmental path without external coercion.[49] In the case of South Africa, the steep thirty percent tariff levied on its exports, particularly in the automotive,

41 "The National Development Plan 2030: Our Future – Make it Work" (2012) is a comprehensive plan aimed at eliminating poverty and reducing inequality in South Africa by 2030. It is founded on six pillars that represent the broad objectives of the plan, which include building a united and democratic South Africa, able to take its rightful place as a sovereign state in the family of nations. The plan is divided into thirteen chapters that address the most pressing challenges facing South Africa and provide solutions in the form of proposals and actions. The NDP calls on all South Africans from all walks of life to join forces, uniting all energies towards the implementation of this plan.

42 "Industrial Policy & Strategy Review Transforming Vision into Action: Charting South Africa's Industrial Future" https://www.thedtic.gov.za/wp-content/uploads/dtic-industrial-policy-review.pdf (accessed 1208-2025).

43 Magubane "The Stability of the Financial Cycle: Insights from a Markov Switching Regression in South Africa" 2025 *JRFM* 76.

44 To bolster resilience in the face of global economic challenges, scholars and analysts suggest that regional integration, particularly through the African Continental Free Trade Area (AfCFTA), is vital. AfCFTA is seen as a key tool to reduce reliance on markets outside Africa and foster stronger, more integrated, and diversified industrial value chains within the continent. See also "The Role of the AfCFTA in Promoting a Resilient Recovery in Africa" https://acetforafrica.org/research-and-analysis/reports-studies/reports/the-role-of-the-afcfta-in-promoting-a-resilient-recovery-in-africa/?gad_source=1&gad_campaignid=12350879912&gclid=Cj0KCQjw-4XFBhCBARIsAAdNOkt131I8dW5bRKHFAUtrSJtrcyrSXkGz08XlWO3DMyUXPf-xyNVuOEEaAnGEEALw_wcB (accessed 12-08-2025).

45 *Ibid*.

46 "Navigating a Fragmenting Global Trading System: Insights For Central Banks." https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op365~362d801aee.en.pdf (accessed 12-08-2025).

47 https://www.tips.org.za/ (accessed 12-08-2025).

48 Edwards "South Africa's International Trade" Research on International Services and Manufacturing" (12-08-2025).

49 "Joint statement on US tariffs"; See also South Africa must adapt quickly in a turbulent trade environment. https://www.gov.za/blog/south-africa-must-adapt-quickly-turbulent-trade-environment (accessed 13-08-2025).

agricultural, and mineral sectors, reveals how quickly sovereign trade choices can be undermined by unilateral decisions of a dominant trading partner.[50] The tariffs hinder market access and obstruct development plans, emphasising the shortcomings of the rules-based system within the WTO and the necessity for increased diversification and regional robustness.

3 1 Erosion of Sovereignty through External Dependence

South Africa's sovereignty in trade matters has historically been circumscribed by asymmetrical economic relations with the US and the European Union (EU).[51] The preferential access granted under AGOA, for example, enhanced South African exports of cars, citrus, and wine, but simultaneously entrenched dependence on the goodwill of the US Congress and executive branch.[52] This reliance, although advantageous in the short run, undermines South Africa's negotiating power by heightening its susceptibility to abrupt policy shifts from the US.[53] The 2025 tariff shock highlights not only economic fragility but also a fundamental sovereignty issue, as external factors increasingly define South Africa's industrial and trade policy decisions.[54] The unilateral nature of these tariffs contravenes multilateral trade norms enshrined in the WTO framework,[55] where disputes are supposed to be resolved through consensus and adjudication.[56] Howse and Langille noted that the global trend towards economic nationalism has weakened the capacity of the WTO to protect smaller states, thereby leaving countries like South Africa with limited recourse against coercive trade measures.[57] The WTO now finds itself at a critical turning point, facing mounting criticism while its once highly regarded dispute settlement system stands in serious doubt.[58] In this sense, trade autonomy is not only diminished by economic dependence but also by the collapse of international mechanisms designed to safeguard weaker economies from unilateralism.[59]

50 *Ibid*.

51 "South Africa and the European Union: Moving Beyond Asymmetry" https://saiia.org.za/research/south-africa-and-the-european-union-moving-beyond-asymmetry/ (accessed 13-08-2025).

52 "South Africa in AGOA: Impact, Potential and the-case for Renewal" https://www.tips.org.za/images/TIPS-COSATU_South_Africa_in_AGOA_Impact_Potential_and_the_Case_for_Renewal.pdf (accessed 13-08-2025).

53 Draper "South Africa's Trade Agreements and Relations with Developed Countries: A Strategic Perspective" 2013 *SAIIA* 1–24.

54 Maleka 'The Economic Impact of the 2025 Trump Tariffs on South Africa and Strategic Policy Responses" 2025 *ICBEMM* 1–26.

55 The WTO agreements are a set of legal frameworks that govern international trade between nations. These agreements cover various aspects of trade, including goods, services, intellectual property, standards, and investment. The WTO's legal instruments are designed to ensure compliance with these agreements and to facilitate trade. Here are some of the applicable WTO instruments and their respective provisions: (a) GATT: This agreement established the WTO and provided the framework for trade negotiations. It includes provisions on non-discrimination, national treatment, and transparency; (b) Agreement on Government Procurement: This agreement aims to ensure transparency and predictability in government procurement systems. It covers government procurement coverage schedules and appendices; (c) Trade Policy Review Mechanism (TPRM): This mechanism reviews the trade policies of members to ensure adherence to WTO agreements and promote transparency; (d) Dispute Settlement System: This system allows members to resolve trade disputes through a structured process, including consultations, panel proceedings, and appeals.

56 Principles of the trading system https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm (accessed 13-08-2025).

57 Howse and Langille "Continuity and Change in the World Trade Organization: Pluralism Past, Present, and Future" 2023 *AJIL* 1–47.

58 *Ibid.*

59 Unilateral Trade Practices, Measures Harm Most Vulnerable Nations, Speakers Say, as Second Committee Takes Up Macroeconomic Policy https://press.un.org/en/2018/gaef3498.doc.htm (accessed 13-08-2025).

Unilateral tariffs, or one-sided import tax hikes, violate fundamental WTO principles like (MFN) treatment (Article I GATT) by discriminating among members, and Tariff Binding Commitments (Article II GATT) by exceeding agreed-upon maximums without negotiation. Instead of using the WTO's established dispute settlement system, countries imposing such tariffs bypass multilateral rules, disrupting trade and undermining the WTO's purpose, though arguments for national security or trade remedies (like anti-dumping) are sometimes invoked as exceptions, as noted by Service. The main WTO Violations are as follows:

> **MFN Principle[60] (Article I GATT):** Unilateral tariffs often target specific countries, granting lower tariffs to some while imposing higher ones on others for similar products, directly violating the rule to treat all members equally and without discrimination, as seen in US actions against India and China.
>
> **Tariff Binding (Article II GATT):** WTO members «bind» their tariffs at a maximum level; raising them above this bound rate without multilateral renegotiation (Article XXVIII GATT) is a breach, says the European Parliament's IPOL Directorate.[61]
>
> **Non-Discrimination:[62]** These actions go against the core WTO goal of non-discriminatory trade, creating economic coercion and damaging the global system, according to CEPR and the Jindal Forum for International and Economic Laws.
>
> Exceptions & Justifications
>
> **Trade Remedies:** Countries can use anti-dumping (Article VI) or safeguard measures (Article XIX) against unfair practices, but these require specific findings and adherence to WTO procedures, notes the European Parliament.[63]
>
> **National Security (Article XXI GATT):** Some countries, like the US with its steel/aluminium tariffs, invoke national security exceptions, though this is controversial and subject to dispute, says the European Parliament.[64]

60 The MFN (Most Favored Nation) principle is a cornerstone of international trade, enshrined in Art I of the GATT. It mandates that any trade advantage granted by one WTO member to another must be extended to all other WTO members, ensuring non-discrimination in trade. This principle aims to create a level playing field among trading partners, promoting fairness and predictability in global trade. However, the MFN principle has faced challenges, such as unilateral tariffs targeting specific countries, which can violate this rule by imposing higher tariffs on similar products from other countries. For instance, the US actions against India and China illustrate how unilateral tariffs can undermine the MFN principle by not treating all members equally.

61 The European Parliament's IPOL Directorate states that WTO members must bind their tariffs at a maximum level, as raising tariffs above this bound rate without multilateral renegotiation is considered a breach of the GATT. This principle is crucial for maintaining predictability and stability in international trade, as it ensures that countries adhere to the commitments made in trade agreements. The bound tariff represents the upper limit on tariffs that WTO members can apply, and deviations from this level could lead to trade disputes and violations of the agreement.

62 Van den Bossche "Principles of Non-discrimination in *The Law and Policy of the World Trade Organization: Text, Cases and Materials*" 2008 320–400.

63 "Anti-Dumping, Countervailing, and Safeguard Duties" https://www.sars.gov.za/wp-content/uploads/Ops/Guides/Legal-Pub-Guide-CEQRG01-CE-Quick-Reference-Guide-on-Anti-Dumping-Countervailing-and-Safeguard-Duties.pdf (accessed 13-08-2025).

64 Pinchis-Paulsen *et al.* "The National Security Exception at the WTO: Should It Just Be a Matter of When Members Can Avail of It? What About How? World Trade Review" 2024 271–295. doi:10.1017/S1474745624000065.

3 2 Industrial Exposure and Policy Constriction

A second dimension of the impact lies in the way tariffs constrain domestic policy space. South Africa's trade strategy since the mid-2000s has prioritised industrial upgrading, value-added exports, and localisation through instruments like the Industrial Policy Action Plan (IPAP)[65] and the Automotive Production and Development Programme (APDP).[66] Yet, tariffs undermine these strategies by raising the cost of accessing external markets, thereby reducing incentives for industrial diversification.[67] The automotive sector illustrates this dilemma most clearly. South Africa's automotive exports worth nearly ZAR40 billion annually to the US were built on preferential trade frameworks and competitiveness in cost-sensitive markets.[68] With a thirty percent tariff, this comparative advantage erodes, limiting Pretoria's ability to direct industrial strategy through its chosen sectors.[69] Similarly, citrus growers, who account for almost ten per cent of South Africa's agricultural exports, now face diminished external demand, forcing policymakers to consider short-term relief measures that may conflict with long-term restructuring agendas.[70] In both cases, external tariff shocks reduce South Africa's policy autonomy by forcing reactive adjustments rather than enabling proactive developmental strategies.[71] Mineral beneficiation, another cornerstone of industrial policy, also suffers from this contraction in policy space. The beneficiation initiatives were already under strain due to electricity shortages and logistical bottlenecks; the imposition of tariffs exacerbates these weaknesses by shrinking export demand for processed minerals.[72] This undermines South Africa's ability to use its natural resource endowment as a springboard for industrialisation, a goal repeatedly emphasised in policy blueprints.[73]

3 3 Diplomatic and Regional Dimensions of Autonomy

Trade autonomy is not only economic but also diplomatic. Pretoria's dependence on AGOA preferences has historically constrained its foreign policy latitude, particularly in relation to

65 IPAP focuses on providing an economic analysis of global and domestic conditions, aiming to increase the economy's ability to produce complex and high-value-added products efficiently.

66 Stern and Ramkolowan "Understanding South Africa's Trade Policy and Performance" https://www.resbank.co.za/content/dam/sarb/publications/working-papers/2021/WP%202117.pdf (accessed 13-08-2025). For instance, APDP, launched in 2011, has disbursed ZAR20.7 billion to support automotive investment, generating over R76 billion in investment, with a significant multiplier effect. It replaced the Motor Industry Development Programme (MIDP) and is part of the broader South African Automotive Master Plan (SAAM) 2035, which guides the sector's development.

67 Maleka "The Economic Impact of the 2025 Trump Tariffs on South Africa and Strategic Policy Responses" 2025 *International Conference on Business, Economics, Marketing and Management (ICBEMM)*. See also "Industrial Policy & Strategy Review" https://www.thedtic.gov.za/wp-content/uploads/dtic-industrial-policy-review.pdf (accessed 13-08-2025).

68 South Africa's automotive industry heavily relies on preferential trade agreements with the US, particularly the AGOA, for its exports. These exports, worth nearly ZAR40 billion annually, are crucial for the sector's competitiveness, especially in cost-sensitive markets. The potential loss of these preferential trade benefits, such as through the imposition of US tariffs, could significantly impact South Africa's automotive industry, potentially leading to job losses and reduced production. See "Question NW3022 to the Minister of Trade, Industry and Competition" https://pmg.org.za/committee-question/31174/ (accessed 13-08-2025).

69 South Africa's Response Measures to the US tariffs https://www.thedtic.gov.za/south-africas-response-measures-to-the-us-tariffs/ (accessed 13-08-2025).

70 South Africa's cases against EU Citrus measures move forward at WTO.https://www.thedtic.gov.za/south-africas-cases-against-eu-citrus-measures-move-forward-at-wto/ (accessed 13-08-2025).

71 Stern and Ramkolowan "Understanding South Africa's Trade Policy and Performance" https://www.resbank.co.za/content/dam/sarb/publications/working-papers/2021/WP%202117.pdf (accessed 13-08-2025).

72 Department of Trade, Industry and Competition https://www.thedtic.gov.za/wp-content/uploads/Revised-DTIC-Strat-Plan-2025-2030-13-June2025.pdf (accessed 13-08-2025).

73 *Ibid*.

positions on Iran, Palestine, and the International Criminal Court (ICC),[74] where US pressure has been felt.[75] The 2025 tariffs may, paradoxically, open up opportunities for South Africa to assert a more independent diplomatic posture by reducing the leverage Washington has traditionally exercised through trade incentives.[76] However, this potential autonomy comes at the cost of immediate economic pain, making it an uneasy trade-off.[77] Regionally, the AfCFTA offers a pathway for collective sovereignty. By deepening intra-African trade and building regional value chains, South Africa and its partners can reduce vulnerability to external shocks.[78] The African Union's 2024 AfCFTA report highlights that coordinated responses to global protectionism may enhance bargaining power and restore some degree of autonomy. Yet, as Edwards points out, implementation gaps and infrastructure deficits continue to limit the extent to which AfCFTA can offset losses in major global markets.[79]

74 South Africa's dependence on AGOA preferences has historically constrained its foreign policy latitude, particularly in relation to positions on Iran, Palestine, and the International Criminal Court, where US pressure has been felt. The proposed extension of AGOA to 2028 has been a contentious issue, with analysts warning that South Africa's full participation is far from guaranteed. The US House of Representatives approved the extension, but the Senate process could be more politically fraught for South Africa, given the Republican majority. International relations expert Oscar van Heerden cautioned against allowing US pressure to dictate South Africa's foreign policy choices, emphasizing the need for South Africa to maintain an independent foreign policy despite the US's growing influence.

75 South Africa's foreign policy has indeed been influenced by its dependence on AGOA preferences, particularly regarding its stances on Iran, Palestine, and the International Criminal Court (ICC). This dependency has led to perceived pressure from the United States, impacting Pretoria's ability to act independently on certain issues. See Baskaran "Quantifying the Impact of a Loss of South Africa's AGOA Benefits https://www.brookings.edu/articles/quantifying-the-impact-of-a-loss-of-south-africas-agoa-benefits/#:~:text=When%20AGOA%20first%20went%20into,to%20$1.8%20billion%20in%202013 (accessed 13-08-2025).

76 "President Ramaphosa Responds to US Tariffs Announcement" https://www.thepresidency.gov.za/president-ramaphosa-responds-us-tariffs-announcement (accessed 13-08-2025). See also "US Tariffs vs South Africa: A New Economic Era?" https://www.pwc.co.za/en/blog/us-tariffs-vs-south-africa.html (accessed 13-08-2025).

77 *Ibid*.

78 The African Continental Free Trade Area (AfCFTA) is one of the Flagship Projects of Agenda 2063 Africa's development framework. The AfCFTA was approved by the 18th ordinary Session of Assembly of Heads of State and Government, held in Addis Ababa, Ethiopia in January 2012, which adopted the decision to establish an AfCFTA and the Action Plan for Boosting intra-African trade as a key initiatives whose implementation would promote socio-economic growth development. The AfCFTA aims at accelerating intra-African trade and boosting Africa's trading position in the global market by strengthening Africa's common voice and policy space in global trade negotiations. The objectives of the AfCFTA are to: (a) create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of "an integrated, prosperous and peaceful Africa" enshrined in Agenda 2063; (b) create a liberalised market for goods and services through successive rounds of negotiations; (c) contribute to the movement of capital and natural resources and facilitate investments building on the initiatives and developments being undertaken by the State Parties and RECs;
(d) lay the foundation for the establishment of a Continental Customs Union at a later stage; Promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties; (e) enhance the competitiveness of the economies of State Parties within the continent and the global market; (f) promote industrial development through diversification and regional value chain development, agricultural development and food security; and (g) resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes. See "The African Continental Free Trade Area." https://au.int/en/african-continental-free-trade-area (accessed 13-08-2025).

79 Benedict and Oramah "African Trade Report 2024" https://media.afreximbank.com/afrexim/African-Trade-Report_2024.pdf (accessed 13-08-2025). See Edwards "South Africa's International Trade. Research on International Services and Manufacturing" https://commerce.uct.ac.za/sites/default/files/content_migration/commerce_uct_ac_za/869/files/PRISM%2520Working%2520Paper%25202021-1%2520-%2520Lawrence.pdf (accessed 13-08-2025).

3 4 The Currency and Macroeconomic Autonomy

An additional overlooked aspect of trade autonomy is the macroeconomic one, since external trade shocks can disrupt exchange rates, fiscal policies, and overall economic growth trajectories. The South African Reserve Bank reported that the rand depreciated significantly in the months following the tariff announcement, reflecting market uncertainty over export performance.[80] Currency instability not only raises inflationary pressures but also reduces fiscal policy space by increasing the cost of debt servicing.[81] This macroeconomic vulnerability further constrains South Africa's autonomy, as its domestic economic management becomes hostage to external trade shocks. In addition, trade autonomy in a globalised economy must be understood as a relative rather than an absolute concept. South Africa retains formal sovereignty over its trade policies but is, in practice, constrained by asymmetrical relations, external shocks, and multilateral weaknesses.[82] The 2025 tariffs thus serve as a case study in how trade autonomy for developing economies is less about independence than about managing interdependence under unequal conditions.[83]

4 THE WTO LEGAL FRAMEWORK ON TARIFFS AND NON-DISCRIMINATION

The principle of non-discrimination is fundamental to the (WTO), mainly reflected in the Most Favoured Nation (MFN) and National Treatment requirements, designed to encourage fair and just trade among member countries. At the heart of the multilateral trading system lies the WTO, which seeks to regulate tariffs and prevent arbitrary discrimination in global trade.[84] Its legal framework is built on three central principles: the MFN rule, the binding of tariff levels, and the national treatment obligation.[85]

80 Miao and Strik "Re-evaluating South Africa's Export Sophistication From a Value-added Perspective https://www.resbank.co.za/content/dam/sarb/publications/working-papers/2024/re-evaluating-south-africas-export-sophistication-from-a-value-added-perspective.pdf (accessed 13-08-2025).

81 Bishop "Inflation Outlook: Still Modest in South Africa for 2025". https://www.investec.com/en_za/focus/economy/sa-economics.html#:~:text=%E2%80%9CGlobal%20economic%20risks%20to%20South,capita%20and%20living%20standard%20outcomes (accesssed 13-08-2025).

82 While South Africa maintains formal control over its trade policy, its autonomy is significantly limited in the context of globalisation. This means that while South Africa can technically make its own trade decisions, it faces practical constraints due to factors like unequal power dynamics with other nations, unexpected global economic events, and weaknesses within international trade systems. See also Eaton "Global Trade Sovereignty and Subnational Autonomy" in Audretsch and Bonser (eds) *Globalization and Regionalization* (2002) 1–2.

83 "International Trade and Tariffs Insights & News" https://www.spglobal.com/market-intelligence/en/news-insights/topics/international-trade-tariffs (accessed 13-08-2025).

84 World Trade "World Trade Organization Understanding the WTO" https://www.wto.org/english/thewto_e/whatis_e/tif_e/tif_e.htm (accessed 15-08-2025).

85 Van den Bossche and Zdouc *The Law and Policy of the World Trade Organization: Text, Cases and Materials* 4 ed (2019) 307.

The MFN principle, contained in Article I of the General Agreement on Tariffs and Trade (GATT), requires that any trade concession granted to one country must automatically extend to all other WTO members without discrimination.[86] This prevents the selective targeting of individual states and ensures uniformity across markets. In the context of the US 2025 tariffs, if South African exports are subject to higher duties than those imposed on other WTO members, such measures could arguably constitute a violation of MFN obligations.[87] Closely tied to this is the concept of bound tariffs under Article II of the GATT.[88] Once members commit to maximum tariff ceilings in negotiations, they are prohibited from unilaterally raising them without renegotiation and compensation to affected members.[89] This creates predictability for exporters and investors who rely on tariff stability when planning cross-border production. For South Africa, which has heavily invested in agro-processing, automotive, and mineral export industries, the stability of bound tariff rates is critical to safeguarding industrial competitiveness.[90] The national treatment principle, contained in Article III of the GATT, further reinforces the idea of non-discrimination by requiring imported goods, once cleared at the border, to be treated no less favourably than domestic like products.[91] This prevents governments from indirectly undermining trade liberalisation by applying discriminatory taxes or regulatory burdens on foreign products. For instance, if US tariffs are accompanied by policies that advantage domestic manufacturers over South African goods, this could constitute a breach of national treatment rules.[92] Nonetheless, the WTO framework recognises limited exceptions. Article XX of the GATT allows members to adopt measures necessary for public morals, health, or environmental protection, provided such measures are not applied arbitrarily or as disguised protectionism.[93]

86 The GATT 1994 shall consist of: (a) the provisions in the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (excluding the Protocol of Provisional Application), as rectified, amended or modified by the terms of legal instruments which have entered into force before the date of entry into force of the WTO Agreement; (b) the provisions of the legal instruments set forth below that have entered into force under the GATT 1947 before the date of entry into force of the WTO Agreement: (i) protocols and certifications relating to tariff concessions; (ii) protocols of accession (excluding the provisions (a) concerning provisional application and withdrawal of provisional application and (b) providing that Part II of GATT 1947 shall be applied provisionally to the fullest extent not inconsistent with legislation existing on the date of the Protocol); (iii) decisions on waivers granted under Article XXV of GATT 1947 and still in force on the date of entry into force of the WTO Agreement1; (iv) other decisions of the CONTRACTING PARTIES to GATT 1947; (c) the Understandings set forth below: (i) Understanding on the Interpretation of Article II:1(b) of the GATT 1994; (ii) Understanding on the Interpretation of Article XVII of the GATT1994; (iii) Understanding on Balance-of-Payments Provisions of the GATT1994; (iv) Understanding on the Interpretation of Article XXIV of the GATT 1994; (v) Understanding in Respect of Waivers of Obligations under the GATT1994; (vi) Understanding on the Interpretation of Article XXVIII of the GATT1994; and (d) the Marrakesh Protocol to GATT 1994. See also Matsushita *et al*. *The World Trade Organization: Law, Practice, and Policy* (2015) 131.

87 Lester *et al. World Trade Law: Text, Materials and Commentary* 3 ed (2018) 211.

88 The GATT 1994 Art II.

89 Jackson *The World Trading System: Law and Policy of International Economic Relations* (1997) 441. See also Hoekman *et al*. *The Political Economy of the World Trading System: WTO and Beyond* 2 ed (2001) 9–46.

90 Edwards and Lawrence "South African Trade Policy and the Future Global Trading Environment" https://saiia.org.za/research/south-african-trade-policy-and-the-future-global-trading-environment/ (accessed 14-08-2025).

91 The GATT 1994 Art III. See also Van den Bossche and Prévost *Essentials of WTO Law* 5 ed (2021) 1220.

92 Japan-Alcoholic Beverages II WT/DS8,10,11/AB/R (1996).

93 The GATT 1994, Art XX. "Providing free trade conditions to all WTO Members, the GATT 1994 includes general exceptions to Article XX, which allows members to adopt trade and legislative restrictions and measures to promote values and interests and the protection of the environment."

The jurisprudence in US Gasoline confirmed that environmental justifications are permissible but must adhere to the chapeau of Article XX, ensuring consistency and fairness.[94] Similarly, in Brazil-Re-treaded Tyres, the Appellate Body upheld Brazil's restrictions on environmental grounds but cautioned against discriminatory application.[95] A more contentious provision is Article XXI of the GATT, the national security exception, which allows members to take actions necessary for the protection of essential security interests.[96] The 2019 panel ruling in Russia Traffic in Transit clarified that while members enjoy discretion, the provision is not entirely self-judging; panels may review whether the invocation of national security is made in good faith.[97] The United States has increasingly relied on this clause to justify unilateral tariffs, particularly in disputes involving steel and aluminium.[98] In this instance, excessive reliance on Article XXI risks undermining the predictability of the entire multilateral trading order.[99] For South Africa, challenging US tariffs may require not only demonstrating violations of MFN, bound tariff, and national treatment obligations, but also confronting potential US reliance on the national security exception.

4 1 Implications of WTO Tariff Rules for South Africa's Trade Sovereignty

Unilateral tariff hikes by the US present a direct challenge to South Africa's ability to protect and advance its trade sovereignty within the multilateral trading system.[100] A central safeguard of the WTO framework is the MFN principle, which obliges members to extend any trade concession granted to one state equally to all others.[101] For instance, if South Africa were singled out for higher tariffs than those faced by other WTO members, such action would amount to a clear breach of this principle, undermining not only the legal rights of South Africa but also the broader credibility of the WTO system as a whole.[102] Equally troubling is the possibility of US tariffs being raised beyond its "bound rates" under Article II of the GATT 1994. These bindings were created to lock in predictability and fairness in international trade.[103] If the US imposed duties on South African exports above these commitments, it would weaken the trust that countries place in the stability of global tariff schedules. For South Africa, whose economy relies heavily on secure access to global markets in sectors such as agriculture, automotive manufacturing, and mining, such unpredictability would constrain its sovereign ability to plan trade strategies and diversify export markets.[104] Concerns also arise under the national treatment principle. For instance, if US measures ended up favouring American producers at the expense of South African goods, this would directly contravene the obligation to treat imported and

94 US-Gasoline WT/DS2/AB/R (1996).

95 Brazil-Retreaded Tyres WT/DS332/AB/R (2007).

96 The GATT 1994, Art XXI.

97 Russia-Traffic in Transit WT/DS512/R (2019).

98 WTO "Brazil — Measures Affecting Imports of Retreaded Tyres" https://www.wto-ilibrary.org/content/reports/25189840/85 (accessed 14-08-2025).

99 The Conundrum of the Essential Security Exception: Can the WTO Resolve the GATT Article XXI Crisis and Save the Dispute Settlement Mechanism (November 2023) Working Paper.

100 Matsushita *et al*. 131.

101 The (MFN) principle, a central safeguard of the WTO framework, which mandates that WTO members must extend any trade concession-like reduced tariffs-granted to one country equally to all other WTO members, ensuring non-discrimination and fostering a level playing field in global trade.

102 Appellate Body Report, European Communities Regime for the Importation, Sale and Distribution of Bananas WT/DS27/AB/R (9 September 1997).

103 GATT 1994, Art II:1(b).

104 Edwards and Lawrence "A strategic view of South African trade policy in relation to the future global trading environment" 2012 *AJIA* 277–298.

domestic products equally.[105] In such circumstances, Washington might attempt to defend its actions by invoking the general exceptions under Article XX or the security exceptions under Article XXI of the GATT 1994. However, WTO jurisprudence shows that these defences are tightly circumscribed and require compelling justification supported by evidence.[106] Without meeting that standard, any US reliance on these exceptions would likely lack legitimacy, diminishing confidence in its compliance with WTO norms and directly threatening South Africa's autonomy in defending its trade interests.[107]

4 2 South Africa's Legal and Strategic Avenues under WTO Dispute Settlement

Countries should use the WTO's dispute settlement system (DSS) for legitimate grievances, as it is the proper forum for resolving trade conflicts, rather than resorting to unilateral actions. The 2025 unilateral tariff measures imposed by the US raise pressing questions about South Africa's ability to defend its trade sovereignty within the rules-based multilateral trading order.[108] While the WTO has historically served as the guardian of non-discrimination and predictability in trade, recent trends of unilateralism expose the fragility of this framework.[109] South Africa, a WTO member since 1995, has both rights and obligations under the GATT that may serve as legal recourse against discriminatory US actions.[110] Central to this debate is the principle of MFN, which obliges members not to discriminate between trading partners.[111]

In this regard, if the US imposed higher tariffs on South African goods than on those of other exporters, this would likely constitute an MFN violation.[112] Furthermore, any US tariff escalation that exceeds bound rates under its WTO schedule may constitute a breach of Article II of the GATT, undermining the principle of tariff predictability.[113] These breaches open the door for South Africa to lodge a dispute under the WTO's Dispute Settlement Understanding (DSU).[114] Although the DSU offers a rules-oriented framework for contesting unilateral tariff actions, especially when they violate fundamental commitments such as MFN treatment or established

105 ARTICLE III of the National Treatment on Internal Taxation and Regulation https://www.wto.org/pdf (accessed 16-08-2025).

106 WTO jurisprudence demonstrates that invoking general (Article XX) or security (Article XXI) exceptions under the GATT 1994 is challenging, requiring a member to provide strong evidence and compelling justification for why a trade-restrictive measure is necessary and fits within the specific conditions of the chosen exception. For Article XX, the measure must serve a legitimate public policy goal and not be applied arbitrarily, while Article XXI requires a demonstration that the measure is genuinely needed to protect essential security interests during a state of international crisis. See also Article XXI of the Security Exceptions.

107 Alqadhafi "Reforming the WTO: Toward More Democratic Governance and Decision-Making".

108 WTO "Understanding the World Trade Organization (WTO)" https://www.wto-ilibrary.org/content/books/9789287044662c001(accessed 16-08-2025). However, countries should use the WTO's dispute settlement system (DSS) for legitimate grievances, as it is the proper forum for resolving trade conflicts, rather than resorting to unilateral actions.

109 Smrith and Nair "Exploring Exports- Legal Growth in India: A Multivariate Regression Analysis" 2024 *IOSR-JEF* 9–12.

110 The Marrakesh Agreement of 1994 is the culmination of the GATT's Uruguay Round, which was introduced in 1986 and led to the establishment of the WTO. 123 nations signed the Marrakesh Declaration on 15 April 1994 and the WTO came into being on 1st January 1995. See GATT 1994 "Marrakesh Agreement Establishing the WTO."

111 Matsushita *et al*. 155–178.

112 Van den Bossche and Zdouc 1220.

113 WTO "Tariff Bindings and Market Access." See also Campolmi et al "The Design of Trade Agreements Under Monopolistic Competition" https://fadinger.vwl.uni-mannheim.de/Research_files/TradeAgreements_final.pdf (accessed 17-08-2025).

114 WTO, Dispute Settlement Understanding (DSU) Art 3.

tariff obligations, its effective use has been greatly hindered by inherent limitations.[115] The paralysis of theAppellate Body has significantly diminished enforcement, enabling strong nations, such as the US, to avoid final resolution by obstructing appeals, thereby making panel decisions virtually non-binding. Another legal pathway concerns national treatment under Article III of the GATT, which prohibits policies that favour domestic producers over foreign exporters.[116] Again, if South African goods are disadvantaged in comparison to US domestic industries, South Africa could legitimately argue that the tariffs amount to protectionism inconsistent with WTO obligations.[117] However, the effectiveness of dispute settlement is complicated by recent challenges in the functioning of the WTO Appellate Body, which has been paralysed by US resistance to judicial appointments.[118] This institutional crisis raises doubts about whether South Africa could secure binding remedies, even if it succeeded in a legal challenge. Despite these limitations, pursuing WTO litigation may still hold symbolic and strategic value. Even without enforcement, initiating a case could demonstrate South Africa's commitment to the multilateral system, rally international support, and exert diplomatic pressure on Washington.[119] Moreover, aligning such legal action with broader coalitions in the Global South, particularly within BRICS+ or the African Group, could amplify its political impact. South Africa could also complement litigation with regional strategies, such as accelerating intra-African trade under the AfCFTA, thereby reducing reliance on the US market.[120] By combining legal recourse with strategic diversification, South Africa can position itself as both a defender of multilateralism and a proactive regional leader.[121]

4 3 Leveraging SADC for Economic Sovereignty and Resilience

South Africa's strategic engagement with the (SADC) has emerged as a crucial pathway to deepen regional integration and buffer against the economic shocks triggered by the US's aggressive tariff measures.[122] By reaffirming its commitment to multilateral trade and fair competition under WTO principles, the SADC signalled collective concern over the tariffs that could nullify AGOA preferences affecting members differently, with South Africa facing a hefty thirty-one

115 The Dispute Settlement Understanding (DSU) provides a rules-oriented framework for contesting unilateral tariff actions, particularly when they violate fundamental commitments like (MFN) treatment.

116 The GATT 1994, Article III.

117 Pauwelyn *Conflict of Norms in Public International Law* (2009) 25–88.

118 Mohanty and Madaan "Dispute Settlement Mechanism of WTO: Challenges and Solutions" 2025 *Legal Research & Analysis* 63–69.

119 *Ibid*.

120 Mlambo *et al*. "The African Continental Free Trade Area: Challenges and Possible Successes" 2022 *LAJTP* 1–106.

121 ACET For Africa "African Continental Free Trade | AfCFTA Agreement Information" https://acetforafrica.org/research-and-analysis/insights-ideas/commentary/the-afcfta-may-be-the-last-opportunity-for-africas-economic-transformation/? (accessed 17-08-2025).

122 On 8 April 2025, the SADC Secretariat issued a statement expressing "profound concern" over the United States' imposition of new tariffs on imported products from SADC member states, effective on 5 and 9 April 2025. The statement noted the tariffs' varied impact on member nations, with specific examples like Lesotho and Madagascar facing fifty per cent and forty-seven per cent reciprocal tariffs, respectively. The SADC reiterated its commitment to multilateral trade rules and announced that its Ministers of Trade and the Ministerial Task Force on Regional Integration would review a detailed assessment of the impact on the region and recommend a collective response.

per cent rate.[123] This coordinated regional posture is more than diplomatic flair — it serves as a legal and political bulwark to protect trade sovereignty while leveraging shared frameworks for response and adaptation.[124] Trade solidarity under the SADC carries tangible weight. Intra-SADC trade accounts for 23 per cent of the region's total trade, up from 19 per cent just a few years ago, illustrating a growing inter-connectedness that South Africa can tap into to diversify markets away from the US.[125] Further, the SADC's Industrialisation Strategy and Roadmap (2015–2063)[126] foregrounds six critical value chains, namely; (i) Agro-processing; (ii) Minerals Beneficiation and related mining operations; (iii) Pharmaceuticals; (iv) Consumer goods; (v) Capital Goods; (vi) Services where South Africa, as a regional economic anchor, can lead capacity building and regional value addition. Expanding these value chains enables South African producers to penetrate adjacent markets while strengthening domestic industrial resilience under tariff duress.

Infrastructure further strengthens this integration, and projects like the Maputo Corridor provide vital trade arteries linking South Africa's industrial heartlands of Gauteng, Limpopo, and Mpumalanga to ports in Mozambique, improving logistical efficiency for regional trade flows.[127] Such connectivity bolsters supply chains, reduces transportation costs, and enables South African firms to increase competitiveness both regionally and globally. Beyond mechanics, the SADC serves as a platform for forging narratives of trade justice. A high-level SADC parliamentary forum convened in mid-2025 to address the unequal tariff impacts on women and marginalised groups, spotlighting the broader equity implications of trade shocks.[128] This inclusive approach reinforces South Africa's narrative that sovereignty includes not just economic autonomy, but also participatory and equitable responses to external shocks.

123 South Africa, along with other countries like Angola and Botswana, faces a new thirty-one per cent punitive tariff from the US, which offsets the duty-free benefits previously provided by the AGOA. This tariff increase, among others ranging from twenty to sixty per cent was implemented in part due to issues with trade imbalances and aims to negotiate better terms for US trading partners, though it was delayed in April 2025 and then further adjusted in June 2025. While the overall impact on South Africa's GDP is estimated to be small, the tariffs are expected to negatively affect specific sectors, like agriculture, by increasing export costs and reducing competitiveness, leading to potential job losses and economic instability.

124 The SADC's commitment to the WTO norms and regional cooperation can be viewed as a defensive posture to improve economic stability and security, thereby insulating member states from external economic pressures and internal instability. By aligning with WTO rules for its Free Trade Area (FTA), SADC seeks to facilitate intra-regional trade, which indirectly strengthens member economies, making them more resilient against negative global economic shocks. Simultaneously, regional cooperation, as demonstrated by security operations like SAMIM, serves a defensive role by addressing transnational security threats and fostering a more stable regional environment, which is crucial for sustainable development and for shielding member states from internal unrest and external interference.

125 Increase in intra-SADC trade to twenty-three per cent from nineteen per cent noted in AU Regional Integration Report.

126 The SADC Industrialisation Strategy and Roadmap (2015–2063) is a long-term perspective aimed at accelerating industrialisation and increasing intra-regional trade within the SADC region. The strategy is aligned with national, regional, continental, and international dimensions and is anchored on three pillars: industrialisation as a champion of economic and technological transformation, competitiveness as an active process to move from comparative advantage to competitive advantage, and regional integration and geography as the context for industrial development and economic prosperity. The strategy focuses on overcoming development constraints and moving from factor-driven to investment-driven, then to efficiency-driven, and ultimately to high growth trajectory driven by knowledge, innovation, and business sophistication.

127 Description of the Maputo Corridor linking South Africa's production regions to ports.

128 The SADC Parliamentary Forum's "trade justice" dialogue focusing on tariff impacts on women and equity inclusion.

5 CHARTING SOVEREIGNTY THROUGH AFRICAN INTEGRATION AND BRICS+

South Africa stands at a crossroads, navigating the shockwaves of the US's 2025 tariff surge. In response, it is increasingly turning inwards: deepening ties within the African Union (AU) through the AfCFTA,[129] while simultaneously leveraging the BRICS+ cooperation framework. Both platforms offer crucial lifelines for reclaiming sovereignty over trade, diversifying markets, and reinforcing industrial resilience.

5 1 The AU and AfCFTA: A Continent-Sized Buffer

At the heart of AU-driven integration is the AfCFTA, which has already unlocked a unified market spanning nearly all African nations, with a combined GDP that promises US$3 trillion in future gains.[130] Since its phase-based rollout, AfCFTA has enabled preferential trade by improving access and fostering regional value chains, especially in sectors such as manufacturing, energy, and pharmaceuticals.[131] Although intra-African trade remains below 20 per cent, lagging behind other regions, it is increasing, thanks to the AfCFTA and initiatives such as the Guided Trade Initiative, which began in 2022.[132] As South Africa grapples with a 30 per cent US tariff that threatens key industries like automotive and agriculture, the AfCFTA offers alternative outlets for critical export sectors.[133] Moreover, AfCFTA is not only about tariffs — its legal architecture offers investment protections, robust dispute resolution, and commitments to harmonise regulations.[134] These features create a rules-based shield for investors and exporters, making African markets more reliable as external market access falters.[135] For instance, if South Africa can tap further into intra-African demand against the backdrop of shrinking US opportunities, it secures both short-term market relief and long-term regional economic anchoring. The AfCFTA also aligns closely with the AU Agenda 2063, which envisions industrial corridors across sectors, including agro-processing, automotive, digital, and energy, in which South Africa continues to lead.[136] Meanwhile, the implementation of the Pan-African Payment and Settlement System

129 The AfCFTA aims to create a single African market for goods and services, increasing intra-African trade and reducing dependence on external partners, fostering industrialisation and job creation. BRICS+ provides a framework for diversified markets and industrial resilience, complementing the AfCFTA by offering platforms for collaboration and enhancing economic stability for African nations.

130 African leaders are pushing to speed up implementation of a continent-wide deal to boost trade as growing concerns over US tariffs. These include rates as high as fifty per cent for Lesotho, threatening to decimate industries and hit economic growth.

131 The 2030 Agenda for Sustainable Development recognises international trade as "an engine for inclusive economic growth and poverty reduction and contributes to the promotion of sustainable development." Driven by the AfCFTA, intra-African trade offers considerable opportunities for continent wide sustainable development.

132 "Intra-African Trade's Growth" https://www.brookings.edu/articles/intra-african-trade-and-its-potential-to-accelerate-progress (accessed 19-08-2025).

133 AP News "30,000 South African jobs at risk" https://apnews.com/article/tariffs-south-africa-trade-exports-trump-jobs (accessed 19-08-2025).

134 Reuters "Investment in Africa: Free Trade Area Agreement Powers Continent's Energy Future."

135 African Union "African Continental Free Trade Area https://au.int/en/african-continental-free-trade-area (accessed 14-08-2025).

136 AU Agenda 2063 references (implicit, aligned with AfCFTA goals).

(PAPSS)[137] promises faster, cheaper cross-border payments in local currencies, making trade more resilient and less US-dollar dependent.[138] As a continental vehicle, AfCFTA thus empowers South Africa to pivot from reliance on unilateral US trade terms, fostering sovereignty through collective integration and market diversification.[139]

5 2 BRICS+: Financing, Market Expansion, and De-risked Payments

Generally, complementing regional integration, BRICS+ offers South Africa another strategic channel. The bloc's expansion now includes states such as Egypt, Saudi Arabia, and Iran, which opens up new trade corridors for industrial, mineral, and agricultural exports beyond traditional markets. Notably, the New Development Bank (NDB), backed by BRICS, provides South Africa with infrastructure financing that buttresses productivity and connectivity, even amid tariff-induced uncertainty. For instance, a recent ZAR7 billion loan is accelerating key road corridors essential for domestic and regional trade.[140] BRICS+ also encourages local-currency trade settlements, minimising disruptiveness from volatile dollar markets.[141] This financial flexibility is increasingly critical as the US tariff shock escalates transaction risks and weakens investment sentiment. Politically, BRICS+ provides a multilateral platform to push back against protectionist pressures. South Africa, occupying a leadership role in the bloc, uses it to disseminate diplomatic messages opposing unilateral tariffs and to explore coordinated trade adjustments and lawful retaliations.[142]

5 3 Strategic Convergence: AU + BRICS+ as Dual Shields

The synergy between AfCFTA and BRICS+ is powerful.[143] The AU cluster strengthens demand-side options via African markets and regulatory protections, while BRICS+ fortifies supply-side networks through financing, currency resilience, and diversified export horizons. By integrating both, South Africa draws a safety net wide enough to maintain industrial operations, safeguard employment, and assert trade autonomy even while engaging the WTO and bilateral platforms to contest US tariffs.[144]

---

137 The Pan-African Payment and Settlement System (PAPSS) is a centralised financial infrastructure designed to facilitate the secure and efficient flow of money across African borders. It aims to minimize risks and promote financial integration within the continent. The PAPSS is particularly relevant to this study as it addresses the challenges of cross-border payments, such as high costs and lengthy processes, by enabling transactions in local currencies. This system is expected to reduce costs for businesses and enhance trade facilitation, which could lead to increased economic growth and job creation across Africa. In other words, the Pan-African Payments and Settlement System (PAPSS) is a centralised payment and settlement infrastructure for intra-African trade and commerce payments. This project is being developed in collaboration with the African Export-Import Bank, Afreximbank which will facilitate payments as well as formalise some of the unrecorded trade due to prevalence of informal cross-border trade in Africa.

138 AfCFTA n 130.

139 Reuters "We are on our Own" Trade Turbulence.

140 Arbisman *et al*. "Investment in Africa: Free Trade Area Agreement Powers Continent's Energy Future" https://www.reuters.com/legal/legalindustry/investment-africa-free-trade-area-agreement-powers-continents-energy-future-2025-01-17/ (accessed 04-08-2025).

141 Dludla and Peyton "The US-Africa Trade Programme Under Threat From Trump Tariffs" https://www.reuters.com/world/africa/us-africa-trade-programme-under-threat-trump-tariffs (accessed 14-08-2025); Business Insider coverage on BRICS de-dollarization https://africa.businessinsider.com/markets/brics-led-dedollarization-should-alarm-the-us-as-new-members-could-be-most-aggressive (accessed 14-08-2025).

142 Government statement on revised trade offers via BRICS channels.

143 The AfCFTA–BRICS+ synergy combines Africa's continental trade integration with BRICS' global market access, investment, and technology, creating opportunities for industrialisation, infrastructure growth, and diversified trade.

144 *Ibid*.

The AU's continental agenda and the global ambitions of BRICS+ provide South Africa with a rare and strategic platform to navigate external economic shocks. Through the AfCFTA, the AU seeks to deepen intra-African trade and reduce dependence on volatile external markets, giving member states greater collective bargaining power. At the same time, BRICS+ has advanced initiatives such as de-dollarisation and alternative trade financing arrangements, which are designed to counter-balance the dominance of Western-led institutions.[145] For South Africa, this convergence of regional and global strategies offers more than symbolic solidarity; it provides a practical framework for protecting its economic sovereignty.[146] By harnessing the AU's integration projects alongside BRICS+'s financial and political mechanisms, South Africa can shield itself from the destabilising effects of unilateral tariff measures, such as those imposed by the US. In practice, this means strengthening its participation in intra-African supply chains while also leveraging multipolar partnerships to reduce reliance on dollar-based transactions.

6 RECOMMENDATIONS

The study recommends that South Africa implement a unified, proactive approach to mitigate the negative impacts of the US's 2025 unilateral tariffs on its trade autonomy and industrial strength. In this regard, there is a need to diversify export markets by enhancing participation in regional and continental initiatives, especially SADC and the African Continental Free Trade Area (AfCFTA), to lessen reliance on the US market. Concurrently, the government needs to increase its industrial policy measures by encouraging value addition, localisation, and supply chain diversification in at-risk sectors like automotive, agro-processing, and mineral beneficiation. Harmonising trade and industrial policies are crucial for improving competitiveness and the ability to absorb external shocks. Additionally, South Africa needs to more actively employ multilateral tools within the WTO to contest unilateral trade actions, while taking advantage of strategic alliances within BRICS+ to reach alternative markets and funding options. These actions must be backed by active economic diplomacy and focused assistance for impacted industries, ensuring that immediate disruptions are addressed without compromising long-term development goals.

7 CONCLUDING REMARKS

The tariffs imposed by the US in 2025 revealed significant weaknesses in South Africa's trade autonomy and industrial stability, highlighting the disruptive consequences of unilateral actions in an imbalanced global trade framework. This research reveals that South Africa's reliance on foreign markets, especially in the automotive, agro-processing, and mineral industries, limits its capacity to pursue independent trade policies, thereby diminishing its trade sovereignty.

The tariffs demonstrate how foreign economic choices can surpass national policy goals with little ability for redress through multilateral organisations like the WTO. The results highlighted structural vulnerabilities, such as limited diversification, minimal value addition, and weak supply chains, all of which heighten susceptibility to external shocks. These limitations weaken the nation's ability to adapt to and respond to global economic disruptions.

145 African Union, Agreement Establishing the African Continental Free Trade Area (AfCFTA) (2018). See also BRICS, Johannesburg II Declaration (2023).

146 United Nations Conference on Trade and Development (UNCTAD) https://www.britannica.com/topic/United-Nations-Conference-on-Trade-and-Development (accessed 14-08-2025).

To tackle these issues, South Africa needs to implement a twofold approach. Like, improving trade sovereignty requires reducing dependence on conventional markets by fostering stronger ties with regional and continental structures such as the SADC and the AfCFTA and adopting a more proactive approach to multilateral systems. Enhancing industrial resilience requires specific reforms aimed at localisation, value enhancement, and supply chain diversification, backed by consistent alignment of industrial and trade policies. Lastly, adjusting both sovereignty and resilience would enable South Africa to mitigate external shocks and realign competitively within a multipolar global economy.