

# **A Vision for a Sustainable and Ethical Global Trade Order**

UNETZ as a successor of the WTO within the UN system

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There are strong reasons for a new attempt to build a multilateral trade order within the UN system, based on international cooperation and solidarity, human rights and democracy, ecological sustainability and peace. First, in a globalized world, it is better to have one set of rules aligned with international law under the umbrella of the United Nations, rather than creating a parallel rule system outside the UN (the WTO framework) or a piecemeal of plurilateral and bilateral agreements. The EU Treaty explicitly favours „multilateral solutions to common problems (...) in particular in the framework of the United Nations“ (TEU, Art. 21). Second, it would not be the first attempt to create an Ethical Trading Zone within the UN. Both, the ITO, stillborn sister of the World Bank and the IMF at the end of World War II, as well as UNCTAD, which came into existence in 1964, can be considered as attempts to build a multilateral trade order within the UN system. UNETZ would be the third initiative in this direction. Third, there is a stalemate in the WTO since its foundation in 1995. No major treaty has been achieved, as low-income countries do not see advantages for them in new rounds. The Doha Development round ended after endless negotiations with a poor result. Since 2020, the operability of the Dispute Settlement Understanding is in question as the US have refused to send a judge to the Appellate Body. Trade powers are side-tracking the multilateral body with pluri- and bilateral trade and investment treaties – a trend that turns international economic law into a patchwork ever more complicated.

For all these reasons, the moment has come to align trade with international human rights, labour rights, climate protection, environmental agreements, indigenous people’s rights, nature’s rights, protection of farmers’ own seed-reproduction capacity tax justice, and the like. If the citizens of countries were asked if they preferred trade being at the service of these goals and values, or an end in itself, without relating to these goals and values, probably in most countries the people would prefer a UN solution over the current model.

## **1. UNETZ and the ethical tariffs system**

The core of the present proposal is to replace the current system of multi-, pluri-, and bilateral free trade agreements – World Trade Organization (WTO), Free Trade Agreements (FTAs), and international and bilateral investment treaties (IITs and BITs) – by a single multilateral ethical trade zone within the United Nations (UNETZ). Countries that engage more for peace, human rights, climate stability, biodiversity protection, tax justice, and cultural diversity should trade more freely with each other than with countries that engage less or not at all for these goals. A group of willing countries could start a new international trading zone that does not obey the “free trade paradigm” but implements the “ethical world trade paradigm.” This zone and its regulating body would be placed within the UN family. Participants would trade with each other on more favourable terms than with non-members – leaving behind both extremes of free trade and protectionism.

Concretely, in UNETZ any failure to sign or ratify a UN agreement in defined relevant fields would be treated as a foul, as it gives the country in question an unfair competitive advantage and thus would make it liable to protective tariffs in return. In the end, foul play would have to cost global traders more, not less. The core of the ethical trade system might be an exhaustive list of every (existing, gestating, and planned) UN agreement under which non-ratifying countries were liable to pay customs duties to those that ratified it when their companies search for market access. Lower or higher protective tariffs might then be imposed according to the gravity and impact of the agreement. For example, the tariff might be set at:

- 20 percent in the case of a war of aggression
- 15 percent in the case of the refusal of ecological human rights (explained in section 10)
- 10 percent in the case of the refusal to abide by human rights pacts
- 5 percent in the case of environmental agreements / protection of cultural diversity
- 3 percent in the case of the ILO’s core labour standards
- 1 percent in the case of an ILO’s governance (priority) convention
- 0.1 percent in the case of a normal ILO convention

Of course, these figures can be stamped as arbitrary, but every new political system has to start somewhere – and will be adapted as time goes on.

Domain	Additional tariff	Total for domain
<b>1 Peace</b>		<b>20%</b>
<b>2 Human rights</b>		<b>30%</b>
Civil Covenant	10%	
Social Covenant	10%	
Human Rights Court	10%	
<b>3 Labour rights</b>		<b>48%</b>
Core standards 1–8	3%	24%
Governance (priority) conventions	1%	4%
ILO convention	0.1%	20%
<b>4 Environmental protection</b>		<b>65%</b>
Each priority agreement	5%	45%
Ecological human rights	20%	
<b>5 Cultural diversity &amp; farmers' rights</b>		<b>20%</b>
UNESCO Convention	10%	
Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)	10%	
<b>6 Taxes</b>		<b>30%</b>
Participate in financial register with automatic exchange of information	10%	
1% HNWI tax (for UN funding)	10%	
Country-by-country reporting, unitary taxation, minimum tax rate, and assessment basis	10%	
<b>7 Global merger control</b>		<b>10%</b>
<b>8 Corporate obligations</b>		<b>25%</b>
Common Good Balance Sheet	10%	
Court for Corporate Crime	10%	
Nullification of ISDS	5%	

Table 1: Ethical tariffs in case of non-ratification and non-execution of diverse UN agreements

In order to enforce these new rules, UNETZ members would submit themselves to a UNETZ Tribunal under the signed agreement. It would be a “rule-based” system like the WTO, just with different rules (that align finally with the goals). Same as in the WTO, this dispute-settlement mechanism could only be used by states (state-to-state).

The UNETZ Tribunal could sanction violators of their commitments with e.g. a quarter of the custom duty for non-members. After four years of continuous violation, that member would lose its member status and be treated as a non-member.

## 2. Balanced trade

A multilateral and fair trade system is only beneficial for all members if every country has a more or less even trade balance. The sum of all trade balances globally is zero; a surplus in one country's balance is mirrored necessarily with another country's deficit. Trade imbalances can build up over time and plunge countries into economic crisis or even sovereign bankruptcy. If the idea that trade should serve “the universal good of the whole” (RICARDO: 81) is to be taken

seriously, it must logically provide for a compensatory mechanism for trade balances. The WTO does not foresee such a mechanism, although it was proposed by J. M. Keynes as early as 1943. The centerpiece of Keynes' idea, which was dismissed at the Bretton Woods Conference in 1944, was an international complementary currency to be used in trade calculations between states, via an International Clearing Union (ICU). Only the central banks of member states would have an account in this, which would show the balance of imports and exports for each country. A surplus would lead to a positive balance on the account, a deficit to a negative balance. Keynes called the reckoning unit "bancor"; today we might use a term like "globo" or "terra." Keynes provided consistently for a broad range of countermeasures in the event of imbalances – no matter if a country's trade balance deviated towards a surplus or a deficit. Both sides were called upon with the same vigour to restore equilibrium. The ICU could:

- adjust a country's exchange rate;
- impose controls on the movement of capital;
- fall back on the country's gold reserves;
- surplus countries could award credits to deficit countries with negative interest rates;
- withdraw the country's right to debit its account and declare it insolvent.

Keynes justified these astonishingly ambitious measures as follows: "We need a system possessed of an internal stabilising mechanism, by which pressure is exercised on any country whose balance of payments with the rest of the world is departing from equilibrium in either direction." (KEYNES: 28 und 20) With the mindshift triggered by the financial crash of 2008, leading economists and bankers finally took up Keynes' idea. In its report to the UN General Assembly, the team around Joseph Stiglitz described it as "an idea whose time has come." (UNITED NATIONS 2009: 110) The UNETZ founders could implement the plan and make it a cornerstone of its architecture.

### 3. Dancer's dress instead of political straitjacket

Free trade sounds nicely, but it brings along a severe loss of freedom for a country. One could even say that free trade law is a kind of protectionism of international traders and investors, whereas it is a "straitjacket" (Thomas Friedman) for everyone else. Under free trade rules, countries are not allowed to:

- treat their own companies better than foreign companies (GATT-WTO principle of "national treatment")
- treat companies from one country better than from another (GATT-WTO principle of "most favoured nation")
- treat products differently if they have been produced differently ("like products"), with few and highly restricted exceptions
- regulate investors, e.g. employing a minimum share of local workforce or reinvesting a minimum share of profits in the country (sometimes explicitly forbidden in FTAs and BITs)
- provide for public goods if they do not appear on a list of exceptions (approach in the failed extension of GATS)

From the perspective of domestic regulators and democratic self-determination, free trade laws make it more difficult for countries to pursue a broad range of policy objectives:

Policy field	Policy objective
Industrial policy	Development of "infant industries"
Structural policy	Diversification and resilience
Energy policy	Protection of ecosystems
Financial policy	Financial market stability
Environmental policy	Protection of the environment
Consumer protection policy	Protection of consumers' rights
Labour and social policy	Safe working places and social cohesion
Public services	Universal provision of the population

Technology policy	Sustainable development and democratic control
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Table 2: Domestic policy design objectives in conflict with “free trade”

Consequently, in the UNETZ the “free trade principles” would be eliminated altogether, leaving all member countries full freedom in their domestic policies: the straitjacket is replaced by a political dancer’s dress. No country is restricted in its regulatory competence, and every country can be as open or as protected as it wants to be: true “free” trade.

#### 4. Put back the “development ladder”

The economic historian Paul Bairoch shows that all of today’s trade powers used protectionist measures in their own history to become successful traders. The German economist Friedrich List coined the metaphor of “pulling away the ladder” of development when ex-protectionists now enforce free trade upon low-income countries. The Cambridge economist Ha-Joon Chang advocates for allowing low-income countries to use the same ladder to climb over the wall of poverty – which means that they can protect their infant industries, or protect more than richer countries. Martin Kohr breaks it down into further detail: “Developing countries must have the ability, freedom and flexibility to make strategic choices in finance, trade and investment policies, where they can decide on the rate and scope of liberalization and combine this appropriately with the defence of local firms and farms.” (KOHR: 26-27)

With the proposed “political dancer’s dress”, this concern would be addressed. An additional proposal is to allow poorer countries a certain trade surplus without sanctioning them. This “positive discrimination” would allow poor countries to catch up with richer countries and close the global divide between countries. It would not be something completely new, but build on the GATT’s “special and differential treatment” mechanism. Keynes’ proposal could be fine-tuned in the following way:

- LDC could be allowed to build a superavit in their trade balance up to 10% of their GDP without suffering any sanction.
- MDC could be allowed to overdraft their trade balance up to 5% of their GDP.
- HDC could be allowed to go to a deficit of their trade balance up to 5% of their GDP with MDC and LDC, each.

#### 5. Technology transfer: DRIP instead of TRIPs

An ongoing controversial issue in international trade law is the protection of intellectual property rights, such as patents, copyrights, trademarks, or geographical indications. From a historical point of view, the legal protection of intellectual property is a comparatively recent phenomenon. Switzerland, homebase of globally operating pharmaceutical companies, which demand international protection of IP forcefully, was itself free from IP rights until 1907. The Netherlands introduced legal IP protections in 1817, but abolished them in 1869 (WAGENAAR), with the argument that they pose monopolies contrary to a free market order, and only reintroduced them in 1912 (STIGLITZ: 148). In the health sector, property rights came even later: in Germany in 1968, in Japan in 1976, in Switzerland in 1977, and in Italy, only in 1978.

It is all the more surprising that only 20 years later, with the start of the WTO, one of its pillars, the Agreement on Trade Related Intellectual Property Rights (TRIPS), includes protection rights on sensitive products such as medicine and living organisms. This system was proposed and pushed by the US, EU, and other developed countries.

Today, patent filings concentrate on five offices: USA, EU, Japan, China, and South Korea. The combined share of these top five grew from 75.2 percent in 2007 to 84.5 percent in 2017. By comparison, in the same period, the share of African countries went down from 0.8 to 0.5 percent, of Oceania from 1.9 to 1.1 percent, and of Latin America from 3.1 to 1.8 percent (WIPO: 26). Joseph Stiglitz concludes for the international level: “The protection of intellectual property does not really belong in a trade agreement. (...) By now, it should be clear that the TRIPS agreement was a mistake” (STIGLITZ: 155/169).

A more development-friendly and one-world approach that puts technology at the service of the common good rather than restricting it for monopolistic private interests could inverse the TRIPS logic accordingly. An agreement on “Development-promoting Rules for Intellectual Property” (DRIP) could promote know-how transfer from richer to more needy countries and simultaneously protect IPRs between countries of similar per capita income. Concretely:

- Countries with a yearly average per capita income below USD 10,000 could use international

intellectual property for free.

- Countries with a yearly average per capita income between USD 10,000 and 15,000 could introduce a compulsory licence regime on request, which allows public institutions and private actors to use international intellectual property on approval of their application; in return, they could be encouraged to realise a common good balance sheet (explained in section 8) or an equivalent sustainability reporting standard.

- Countries with a per capita income between USD 15,000 and 20,000 could introduce the same scheme, but *oblige* companies to present a common good balance sheet and require a minimum score of e.g. 500 points (or a comparable score of an equivalent sustainability reporting standard).

On the other hand, companies from countries with a per-capita income higher than USD 20,000 could be rewarded if they actively disclose the information necessary for reproducing their products or technologies by firms in poor countries. If they disclose this information globally, they could score even higher in their common good balance sheet (or alternative instrument).

## 6. GAPS instead of GATS

Whereas TRIPS is the third pillar of the WTO treaty system, the General Agreement on Trade in Services (GATS) is the second. A first version of GATS was implemented with the completion of the last GATT round (the Uruguay Round) and the foundation of the WTO in 1994. As this was just “a beginning,” business lobbies from industrialized countries pushed for a new GATS negotiation round with deeper and broader liberalization. Negotiations started in 2000 “to achieve a higher level of market opening” (WTO 2023a). Against this new offensive of free trade forces, broad criticism arose from civil society movements and developing countries. Negotiations came to a halt with the whole Doha Round in 2011.

This stalemate could be used as an opportunity to choose a different approach towards the (universal) provision of (basic) services to all people, not just for those with purchasing power. The most sensitive services are considered “public services” or “services of general interest”: supply of drinking water, electricity, sewage services, health and elderly care, education, IT and telecommunication, or public transport. Many scholars and international organisations consider them as (social, economic, and cultural) human rights and thus suggest to keep them off the market area with its profit logic. Furthermore, several of the 17 SDGs address the universal provision of all humans with these basic services. So, more important than creating new global markets for Western corporations is to provide those humans with these basic goods that as yet are excluded from (affordable) provision.

An according international agreement could be called General Agreement on Public Services (“GAPS”) (FELBER: 270-273). Willing countries could establish a collaboration platform and help out countries in need with technical, financial, and manpower assistance to establish their excellent public services. Revenues of a global HNWI tax could be used to finance this global cooperation.

## 7. Summarizing table of UNETZ structure

From a structural point of view, UNETZ – including GAPS and DRIPS – would not differ in any meaningful way from the system of WTO agreements, which relies on the three main pillars GATT, GATS, and TRIPS. For a better understanding of the proposed shift from outside the UN to inside the UN system, the following table summarizes the basic idea of a UNETZ that could replace the WTO free trade system.

	<b>Umbrella Agreement Establishing WTO</b>		
	Goods	Services	Intellectual Property
<b>Basic Principles</b>	GATT	GATS	TRIPS
<b>Dispute Settlement</b>	WTO DSU		
<b>Transparency</b>	Trade Policy Review		

Table 3: Basic structure of the WTO agreements (WTO 2023b)

	<b>Agreement Establishing UNETZ</b>		
	Goods & Services	Public Services	Intellectual Property
<b>Basic Principles</b>	UNETZ	GAPS	DRIP
<b>Dispute Settlement</b>	UNETZ Tribunal		
<b>Transparency</b>	Policy Coherence Committee		

Table 4: Basic structure of a future UNETZ

It would not be the first attempt to build an Ethical Trading Zone within the UN, nor would all countries have to be a member from the start. The ITO was negotiated between “only” 44 nations. UNCTAD was initiated by 36 developing countries, who turned into the “G77,” which today counts 134 members. The WTO was founded by 67 nations, which have increased to 164 until today. The two existing covenants on human rights came into force after just 35 states had ratified them. So, if the EU took initiative for a UN Ethical Trading Zone, it would presumably find easily a comparable group of willing partners. A “UN Ethical Trade Zone” might become effective if, for example, fifty UN member states were to ratify its founding charter. New members could join any time they want. In 2019, five states (Fiji, Iceland, New Zealand, Norway, and Costa Rica) launched an initiative towards a plurilateral “Agreement on Climate Change, Trade and Sustainability” (ACCTS) – possibly this initiative could become the core of the future UNETZ, once the EU joins it with the proposition of a larger scope, set of rules, and its own DSU.

## 8. Companies level

Especially the idea of ethical tariffs might appear for some readers as quite ambitious if not utopian. Some might object that the whole system could be another attempt of protectionism of rich countries who have signed more UN agreements. This has to be studied thoroughly. Nevertheless, the author was surprised that a country like the USA has not ratified the UN social covenant and 8 out of 10 ILO core labour standards. Maybe the “protectionist” argument does not apply.

Anyway, there is a less ambitious alternative to obliging countries to ratify UN agreements in order to trade freer with one another than with non-ratifiers. The same logic could be applied on the company level.

The principle is as follows: companies that contribute more to the defined policy goals of a UNETZ could enjoy an easier market access, whereas companies that care less about the global common good or even cause harm would face disadvantages. This is the exact inversion of today’s situation where the externalizers of costs – through strategic relocation, “regulatory arbitrage seeking,” and “ethical leakage” – enjoy lower costs, lower market prices and, consequently, a competitive advantage. This is nonsensical regarding the values and objectives of the international community.

Over the last years, a broad series of sustainability reporting frameworks have been developed: from the Global Reporting Initiative to the UN Global Compact to B Corporations, Future Fit Foundation Standard and the Common Good Balance Sheet. The EU is currently developing the European Sustainability Reporting Standards (ESRS) under the CSR Directive. The trend is going towards “Global Sustainability Reporting Standards”. One key feature of these reporting frameworks is a quantitative and comparable score to which positive and negative incentives could be linked, from public procurement and economic promotion to taxes and finance condition.

The future members of the UNETZ could require from all (major) companies of their territories to report on Global Sustainability Reporting Standard (GSRS), giving free market access to those companies who score the highest, but making market access more expensive for companies with a poorer score. This element would be an effective tool to prioritize climate-friendly, socially responsible and ethical firms over cost externalizers in social, ecological, and democratic terms.

## 9. World Court of Human Rights

On the occasion of the sixtieth anniversary of the Universal Declaration of Human Rights, the

human rights experts Manfred Nowak, Julia Kozma, and Martin Scheinin drew up a consolidated proposal for a World Court of Human Rights. They had noted that, despite the extensive obligations of governments and other bodies under international law, “the vast majority of human beings around the world have no access to effective domestic, regional or universal remedy against violations of their human rights and have no chance of being provided with adequate reparation for the harm suffered through these human rights violations.” The purpose of the proposed world court was to close this “enormous gap” between existing obligations and the lack of effective enforcement of human rights. Its decisions would be “final and binding” with regard to human rights violations by state and relevant non-state players, and provide for appropriate compensation to be paid to their victims (KOZMA / NOWAK / SCHEININ: 9-10). The legal basis for this was a list of twenty-one international agreements for the protection of human rights – from the Slavery Convention of 1926 through the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966) to the International Convention for the Protection of All Persons from Enforced Disappearance (2006). Complaints could be lodged with the court by any person, NGO, or group of individuals claiming to be the victim of a violation, provided that it had exhausted the national channels available to it.

The duty to uphold human rights would apply to states, but also to business corporations (Art. 4). The authors propose that, initially, corporations could voluntarily recognize the competence of the court (Art. 51). At a later stage, it would be enough that the state in which they had their headquarters recognized the court in order to hold them accountable (KOZMA / NOWAK / SCHEININ: 29). The World Court of Human Rights (WCHR) might be established in The Hague, alongside the International Court of Justice (the main jurisdiction under the UN Charter) and the International Criminal Court (the UN’s “war crimes court”). Human rights deserve no less. Members of the ethical UN trade zone could protect themselves by imposing a tariff of 10 percent on states for each of the two human rights covenants that they did not ratify, with a further 10 percent on states that did not recognize the competence of the World Court of Human Rights.

## **10. (Limited) individual ecological consumption budgets**

In 2022, “access to clean and healthy environment” was declared a universal human right by the General Assembly of the United Nations (UNITED NATIONS 2022). To assure this right for all members of the living and future generations, the individual consumption of ecological resources could be limited, e. g. through ecological per-capita budgets. For the calculation of ecological consumptions, an integral unit would be required, e.g. the “ecological footprint.” According to this widely known concept, each human being has 1.6 global hectares available to him or her each year (GLOBAL FOOTPRINT NETWORK 2023a).

The precise thinking here is as follows. The planet’s annual renewable endowment of resources to humankind could be shared among all persons and enshrined as the backside of the coin of the new ecological human right above mentioned in a UN environmental covenant, a third pact alongside the existing civil and social pacts. This individual budget would be equal for all humans: every person would get the right to use one eight-billionth of what nature gives us humans each year, without degrading the planetary ecosystem or significantly robbing other species of living space.

The goal is to prevent the planet from being exploited and overburdened by one species – man – but also to protect future generations of our species from over-consumption on the part of present generations. Currently, human beings consume the annual endowment of 1.75 planets in renewable and non-renewable resources and ecosystem services. Whereas inhabitants of low-income countries on average consume less than what they would be they would be entitled to under a globally just and sustainable distribution, the average inhabitant of an industrial country consumes two to eight times more (GLOBAL FOOTPRINT NETWORK 2023b).

The question is how usage could be measured and regulated. The idea is to introduce a “second (ecological) price,” indicated e.g. in “global hectares” (or joules or CO<sub>2</sub> equivalents). When we make a purchase with our debit or credit card, two prices would be charged on our accounts: the financial price on the cash account, and the ecological price on the ecological account. The annual consumption right could be logged as a “credit” on every person’s ecological account and used up in the course of the year – or saved for a later (larger) consumption. The ecological account could be electronically linked to everyone’s debit and credit cards, so that all non-cash purchases (90 percent of all purchases today in high-consumption countries) would be automatically included. We would thereby extend the system

of financial price marking to the recording of ecological consumption. As a precondition, each good and service offered for sale on the (global) market would have to show not only a barcode for the financial price, but also its ecological “price” (i.e. amount of resource use).

In the case that humankind – with all people living today having satisfied their basic needs – remained within the ecological limits of planet earth, a two-step model with further advantages might then be developed. We could leave the biological surplus reserves untouched. But we could also certify as non-negotiable and inalienable only the part of the endowment that is necessary to cover all basic needs: let us assume, 1.3 global hectares per person. The surplus reserve, comprising 0.4 hectares per person, and only that, would become a tradable commodity. This would have the following advantages:

- Poor people who lacked the (financial) purchasing power to use up their whole ecological budget might sell what was left to better-off individuals, to their mutual benefit.
- Today’s over-consumers would have a longer transitional period in which to adjust.
- Frugal individuals could give, or sell cheaply, additional eco-rights to other individuals or to common good-oriented NGOs or research institutions.

For the industrial countries, such an environmental pact would be an effective way into a “post-growth society” (SEIDL/ZHRNT), a “post-growth economy” (PAECH, JACKSON), or a “steady-state economy (DALY/COBB)”. Poor countries, on the other hand, that consumed even less per capita than the planet gave per person, would still be able to “catch up,” though only within the limits of global sustainability.

Today, in countries such as Myanmar, Chad, or Ecuador, people consume on an average 1.6 global hectares (GLOBAL FOOTPRINT NETWORK 2023b). This does not mean that all humans globally have to adjust to their lifestyles, but reduce (or are allowed to increase) their ecological consumption to a comparable level.

While the rich would have to lower their material life standard, this new benchmark does not mean at all that their life quality would sink. On the contrary: interdisciplinary research shows that a life rich in relationships, nature experience, internal wealth, and spiritual growth makes people happier than a materialistic lifestyle and an excess of things and stuff (DITTMAR, JACKSON 2022).

The definition, development, and implementation of ecological accounts could become a task of the United Nations Environmental Programme UNEP or the United Nations Development Programme (UNDP), or a joint venture of both. No new UN body would have to be created.

## **Conclusion**

The proposed new approach to an international trade order would overcome the “false dichotomy” of “free trade” vs. “protectionism”, proposing a systemic alternative. It would transfer the rule-setting body from outside the UN system within the center of international law. It would align international trade law with the goals and values of the international community of states, rather than prioritizing trade, investment and intellectual property rights that are all just means. Finally, it would provide a structural advantage for low-income countries that are disadvantaged in the current international economic relationships, especially allowing them to regain full freedom in their domestic policies.

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