Introduction

The Pontifical Council for Justice and Peace has, over the years, prepared reflections on major events in international life, inspired by the principles of the social teaching of the Church.

The current reflections are presented on the occasion of the Seattle Ministerial Conference of the World Trade Organisation, but they deal with important questions concerning world trade which go beyond the specific discussions of the Seattle Conference itself.

The reflections are offered as a contribution to the search for new ways of strengthening a rules-based world system, in which trade and development are placed at the service of the global human community, especially in the fight against poverty.

While not constituting a formal document of the Pontifical Council, I am very pleased to offer them as a stimulus for reflection and would be very pleased to learn of any reactions readers may have.

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Some Reflections
of the Pontifical Council for Justice and Peace
on the Millennium Round

On the eve of the third WTO Ministerial Conference, the Pontifical Council for Justice and Peace wishes to express its appreciation for the work of the WTO to liberalise international trade within the framework of a rules-based system. As an observer, the Holy See has followed with great interest the ongoing debate on the scope and objectives of the upcoming Millennium Round negotiations. The Pontifical Council for Justice and Peace takes this opportunity to submit some concerns and suggestions on the issues at stake.
The initial implementation of the Uruguay Round agreements has shown that significant progress has been made by developing countries in adopting policies of market liberalisation. But poverty and marginalisation have not been defeated, and most developing countries as well as economies in transition still need time and assistance to fully join the global trading system. It is especially striking that the Least Developed Countries' (LDC) share of international trade is only half of one per cent, having declined since 1990. Further efforts are needed therefore to ensure that all partners have the opportunity to benefit from open markets and the free flow of goods, services and capital. As Pope John Paul II wrote in the Encyclical Letter *Centesimus Annus*: "The poor ask for the right to share in enjoying material goods and to make good use of their capacity to work, thus creating a world that is more just and prosperous for all. The advancement of the poor constitutes a great opportunity for the moral, cultural and even economic growth of all humanity" (N. 28).

In his message to the Global Forum for Poverty Eradication, the Director General of the WTO, Mr. Mike Moore, stated very clearly that from his perspective "the aims of trade, development and the alleviation of poverty are inextricably linked". "The objective of trade", he wrote, "must be the lifting of living standards". The fact that in today's world trade, development and the fight against poverty are so closely interlinked requires that the WTO should establish stronger working links with all those organisations which are working towards the establishment of a comprehensive development framework.

The Pontifical Council for Justice and Peace thus invites the participants at the Ministerial Conference to address the needs of developing countries and the difficulties they face in gaining access to international markets. Special and differential treatment in favour of developing countries, while providing them with technical, legal and financial assistance, constitutes a step in this direction. Viewed comprehensively, special and differential treatment goes beyond mere preferential tariffs and transition periods, and addresses key elements of economic growth and development - knowledge, technological skills and information. In particular, capacity-building assistance is needed in areas such as electronic commerce, environmental policy, competition policy, and financial and telecommunication services.

Some Members have proposed to extend the next round of WTO negotiations to new areas such as competition policy, investment, and environmental and workers' rights issues related to trade. The Pontifical Council for Justice and Peace shares the view that attention in the negotiations should first of all be focused on the full and effective implementation of the Uruguay Round Agreements and those rules that especially affect developing and least-developed countries. Priority should also be given to the open issues and concerns in the implementation of the Agreements under review process.

With reference to the proposed new issues, the Pontifical Council for Justice and Peace considers it more appropriate to undertake a careful analysis and an adequate preparation so that all Member States can play an active role in the negotiating process. Keeping in mind a deep concern for the needs of the poorest countries, the Pontifical Council for Justice and Peace offers some approaches to meet such fundamental needs.
Agriculture

Background:

Agriculture still represents a key sector in the economies of developing countries. In most of these countries, agricultural activities are a major source of livelihood and an essential dimension of local social cohesion and culture. They are carried on by small farmers in most cases with huge constraints (insufficient access to resources, infrastructure, credit, information and technology). Nonetheless, while two-thirds of world exports in primary commodities other than oil come from developed countries, developing countries are major exporters of a wide range of primary products on the world market. Most developing countries still derive two-thirds of their total export earnings from the selling of primary products other than oil. In some countries more than 75 percent of export earnings come from one or two primary commodities, and the greatest part of export of manufactures is still largely concentrated in a relatively small number of developing countries.

But, unfortunately, “the international trade system today frequently discriminates against the products of the young industries of the developing countries and discourages the producers of raw materials,” as noted by Pope John Paul II in the 1980s (Encyclical Letter Sollicitudo Rei Socialis, N.43). Adjusted for inflation, the price index for commodities other than oil has fallen by more than 60 per cent since 1960. The populations of developing countries heavily dependent on one or two export crops have seen their real buying power decline by almost two thirds in the space of one generation. The trends in primary commodity trade, access to world markets and diversification of production have a decisive impact on developing countries, affecting the balance of payments, foreign debt, domestic budget and the success of savings and investment policies.

The Uruguay Round was a very important step forward in the liberalisation of the agricultural sector. Agriculture was brought into comprehensive, multilateral trade regulation aimed at improving access to markets and reducing domestic support and export subsidies.

But the implementation of the Agreement has not led to a substantial improvement of market access for developing countries’ exports. Liberalisation has been excessively slow in commodity areas where developing countries are most competitive. Tariffs are very high on goods like tropical agricultural products (cocoa, coffee etc.) and are still higher if applied to processed goods of special significance for developing countries, such as leather, oilseeds, textile fibres and beverages. Recourse to antidumping measures has increased in the last decade, by both developed and developing countries. Together with tariff escalation, persistently high subsidisation of production and exports in some industrialised countries has generated trade distortions on the world market, menacing small farming, self-reliance and local food production in poor countries by way of subsidised food imports.

The multifunctionality of agriculture has been mentioned as a relevant issue for both developed and developing countries. However, unfair competition from heavily
subsidised exports must not serve as protection for some rich countries at the expense of poorer regions of the world. Within developed countries, moreover, subsidies generally favour big agricultural enterprises rather than poor small farmers. While subsidies may have still an importance for the agricultural development of the poorest countries, as a provisional help to gain competitivity on international markets, they are no longer acceptable in their actual levels for developed countries. In these countries other measures like enhancement of quality production, promotion of a sustainable management of the environment and of agriculture-related rural activities could be taken to protect rural life and values.

Proposals:

- The negotiations on agriculture should bring about a renewed commitment to substantially reduce the obstacles to market access - tariffs, domestic support and export subsidies - for agricultural and processed goods from developing countries. Less-advanced developing countries should be granted "bound, duty-free access" to markets. Special and differential treatment should be more effectively applied in consideration of the varying structural conditions of the agricultural sector in developed and developing countries and with the aim of accelerating reforms as well as commercial integration of the latter countries. Some provisions of the Antidumping Agreement should be improved. In particular, the possibility of differential treatment in the case of imports from developing countries (article 9.1 on antidumping duties less than the margin of dumping; article 5.8 on the \textit{de minimis} clause). More transparency should be reached, furthermore, in the definition of the key notions of "like product" and "export price".

- Thanks to growing demand, but also to the tariff reductions resulting from the Uruguay Round, new trade opportunities have opened up for developing countries, especially for small and less-advanced ones, with regard to what are for them non-traditional products, like fruit or vegetables. The erosion of preferential treatment accorded to these countries by commercial agreements (for example the Lomé Convention) makes the attainment of competitiveness in non-traditional agricultural production still more urgent. To this end developing countries need to intensify diversification processes, to create infrastructures and to apply technologies that increase agricultural productivity in a sustainable way. Without international cooperation and a contribution from the private sector, it will be extremely difficult for them to attain such goals. The FAO Plan of Action approved at the Special Ministerial Conference of 12 March 1999 on Sustainable Development of Small Island Developing States (SIDS) has agricultural diversification among its main targets and programmes. In 1979 UNCTAD decided to establish, in the framework of the Common Fund, a second window to finance programmes of agricultural diversification. The Common Fund came into force only in 1989. Since then, financial contributions to the Common Fund have been very scarce. The negotiations could offer a unique opportunity for all WTO Member States to reinforce their commitment to help the poorest developing countries' efforts to diversify agricultural production, in keeping with Art. 2 v) of the Decision on Measures in Favour of Least-Developed Countries.

2. Sanitary and Phitosanitary Measures and Technical Barriers to Trade
**Background:**

The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and the Agreement on Technical Barriers to Trade (TBT) have substantially improved trade in agriculture. They have done so by encouraging international standards and measures that aim to protect health and security of agricultural and food products as well as to fight fraudulent practices that have dangerous effects on human health and the natural environment.

In the case of the SPS Agreement, respect for transparent and scientific norms (especially those contained in the *Codex Alimentarius* and in the Plant Protection Convention [IPPC] or those formulated by the International Office of Epizootics [IOE]) could drastically reduce the indiscriminate use of anti-tariff measures and trade barriers for health and security purposes and could even facilitate private investments in manufacturing industries of developing countries. But since the quality of food should be tested and ensured in the whole production chain according to evolving international standards, the implementation of the Agreement might bring about a substantial increase in production costs for industries in developing countries. Only with great difficulty can the poorest countries meet the cost of special skills and appropriate technologies necessary to comply with the international standards.

**Proposals:**

- SPS Agreement Article 9.1 calls for Member States to agree to provide technical assistance to developing countries to help them adjust to the requirements of the SPS Agreement. Efforts should thus be made to intensify and better coordinate technical assistance, so that international organisations like FAO, IFAD, the World Bank and regional development banks as well as other multilateral or bilateral donors can cooperate with governments and the private sector in developing a national control infrastructure on foodstuffs.

- Article 10.4 of the SPS Agreement states that members should encourage developing countries to take part in "relevant international organisations," referring especially to the standard setting process of the *Codex Alimentarius*, in which developing countries should be given the opportunity through technical assistance to play a more active role.

- In his address at a Congress on Environment and Health (24.3.97) Pope John Paul II stated: "The defence of life and the consequent promotion of health, especially among the poorest populations of developing countries, will be at the same time the benchmark and the fundamental criterion of the ecological horizon at a regional and world level".

In the light of this fundamental criterion, in the formulation of draft international standards as well as in the IPPC revision process trade matters should never be viewed as more important than human and plant health issues. Standards have to be scientifically sound. This is particularly important while formulating draft standards on genetically modified organisms (GMOs), whose trade has increased significantly in the last decades and whose impact on plant, animal and human health is still to be definitively tested according to internationally recognized standards. To this purpose the "principle of
precaution” contained in the Biodiversity Convention and risk assessments should be implemented.

3. Impact of Agricultural Liberalisation on LDCs and NFIDCs

**Background:**

The liberalisation process in agriculture may have a negative impact on the economies of LDCs and Net-Food-Importing Developing Countries (NFIDCs). Food import bills of these countries have been increasing since the beginning of the 1990s, due to the higher commodity prices (e.g., wheat) caused partly by a reduction of the volume of subsidised exports. Food price instability and a fall in surplus stock available for food aid are cause for growing concern. In 1997-98, food aid in cereals represented 23% of cereal imports of LDCs against 36% in 1993-94 and 64% in the mid-1980s. Reduction of food aid in cereals has been even more dramatic for NFIDCs: 22% in the middle of the 1980s; 7.6% in 1993-94 and 2% in 1997-98 (FAO - Comité des Produits, Evaluation de l'incidence du Cycle d'Uruguay sur les marchés agricoles, November 1998, doc.CCP 99/12, page 14).

In many of these countries, small-shareholder farmers could increase agricultural production and improve their livelihoods if they were given greater access to resources, credit, information and technologies. In the long term, food security problems will not be solved exclusively by increasing the food aid dependency of entire populations. In fact, food aid is now increasingly being used for emergency needs more than to address the problems of countries with structural food deficits. In his address at the opening session of the International Conference on Nutrition, Pope John Paul II has stated, “As regards food resources, (..) it is also important for the populations burdened by the effects of malnutrition and hunger to receive an education that prepares them to provide healthy and sufficient foodstuffs on their own” (FAO Headquarters, 5 December 1992, n. 4).

**Proposals:**

- At the Uruguay Round, ministers addressed food security concerns through the Marrakesh Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net-Food-Importing Developing Countries. Thanks to this Decision progress has been made in monitoring the level of food aid under the Food Aid Convention, as well as in the adoption of guidelines to ensure a sufficient level of food aid in full grant form. In the negotiations attention should also be drawn to a third very important target: the increase of agricultural productivity and infrastructure, diversification of production and self-reliance in the LDCs and NFIDCs themselves. Efforts should be made to establish coordinating mechanisms aimed at promoting technical and financial assistance for the concerned countries, as underlined by Point 3 (iii) of the Decision.

4. Textiles and Clothing

**Background:**
The textiles and clothing sector represents an important first step of industrialisation for developing countries. Before the Uruguay Round, countries exporting textiles and clothing were obliged, through the Multi-Fibre Agreement (MFA) of 1961 and its four successors, to limit their exports to specific quotas, above which high tariffs were applied. The Uruguay Round Agreement on Textile and Clothing provides for the phasing out of the MFA quotas and the reduction of tariffs over a 10-year period, but only to an average tariff of 12% - three times the average levied on industrial country imports. In the last few years, many developing countries have raised concerns about the slow implementation of the Agreement.

Industrial development in Textile and Clothing is for some poor countries one of the most important weapons to fight poverty and underdevelopment. It should also be noted that up to 90% of the workers in garment factories in some poor countries are women. Through their work in garment factories women provide the family’s main source of income.

**Proposals:**

· Major importing developed countries are urged to remove restrictions on such products from developing countries, that are still excluded from the existing liberalisation schedules.

**5. Transfer of Technology and Intellectual Property Rights**

**Background:**

In the long run the terms of trade tend to move towards skill-intensive manufactures and services. As cited in the 1996 UNDP Human Development Report, “Generally, the North’s manufactured exports to the South have greater skill content than the South’s export to the North. Even in services the North tends to export skill-intensive products, such as insurance, design and medical care, while the South exports labour-intensive services, such as shipping, tourism and routine data processing.” Technological innovation and knowledge are becoming the keys to world trade integration.

But free exchange by itself shall not be able to ensure widespread development. This can be achieved only through a massive investment in the human capacities of developing countries. Trade negotiations lacking long-term political and social goals and based on a development strategy that does not seek widespread human integral development would be destined to fail. The third WTO Ministerial Conference offers a unique opportunity to put the concern for widespread human and technological advance at the centre of trade negotiations.

In a paper published before the Rio Conference on Environment, the Holy See underlined that "In the field of technology, States, in accord with the duty of solidarity and giving due consideration to the rights of the developers of such technology, have an obligation to ensure a just and equitable transfer of appropriate technology which is favourable to sustaining the development process and protecting the environment” (Memorandum on

Some Articles from the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) refer explicitly to international transfer of technology (Art. 8, Para 2), especially to Least-Developed Countries (Art. 66, Para 2). In particular, Article 7 states that "The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge in a manner to social and economic welfare, and to a balance of rights and obligations."

The scope of this article is limited, however, by the global framework of the Agreement, which aims at reinforcing the protection of intellectual property to drastically reduce trade in counterfeiting goods. This makes the Article a “best endeavour” norm that has not been accompanied, until now, by concrete and effective actions.

**Proposals:**

- It is urgent to reflect, during the negotiations, on reinforcing juridical and operational means to promote the transfer of technology and of intellectual property rights, on reasonable terms, to developing countries, especially the least advanced. These countries should also be helped to establish the technical and administrative infrastructure necessary to comply with the obligations of the Agreement.

- Transfer of technological means is insufficient without the transfer of technological capacity and skills. Rapid technological development requires that the concept of Special and Differential Treatment provide means for less advanced countries to narrow the information and technological gap. As Mr. Rubens Ricupero said in his address at the High Level Symposium on Trade and Development (WTO, Geneva, 17 March 1999), "In the past technology was essentially embodied in machine. Technology is now embodied in human beings. We now require an incomparably greater effort to teach countries, particularly the least developed, the small, weak and vulnerable, how to produce and broaden their supply capability in goods and services: how to compete effectively and use modern, electronic means in an increasing demanding environment; how to take advantage of opportunities provided by the trading system."

To this purpose, the WTO Conference should agree to intensify and promote financial support for a "massive programme of trade-related technical cooperation". The positive initiatives taken in the framework of WTO technical assistance and in coordination with other international institutions like UNCTAD, ITC, UNDP, the World Bank and MIF are a good start for such a programme.

- Without a substantial financial increase of the regular WTO budget and of contributions for trade-related technical assistance, any commitment to a more complete integration of developing countries in world trade loses its credibility and efficacy. It would be contradictory for the international community to stress the importance of trade for the development of poor countries and to allocate at the same time only two per cent of technical cooperation to trade-related activities.
Financial support should also imply assistance to the poorest countries in their efforts to create a legal and infrastructural framework that makes them attractive for investments and especially for those promoting education, technological skills and research.

6. Intellectual Property Rights, Biotechnology and Farmers' Rights

Background:

In the review process of the TRIPS Agreement prepared by the TRIPS Council, attention will be drawn to the complex issue of protection of plant varieties. Article 27.3 (b) provides for the review of the provisions of patentability of plants and animals other than micro-organisms, and the protection of plant varieties as of 1999. In the provision, it was foreseen that Member States provide for the protection of plant varieties by way of patents, an effective *sui generis* system, or some combination of the two.

The impact of this provision will be critical for millions of farmers in the South. Historically, plant varieties have been exempted from the international patent regime in deference to farmers' traditional practices of saving and exchanging seeds. After the Second World War, the situation has changed and a certain form of protection has been developed, in particular under the International Convention on the Protection of New Varieties of Plants (UPOV), and more recently under the TRIPS Agreement.

Many actors (smallholder farmers, herders, artisanal fisherfolk) play a central role in preserving and enhancing agro-biodiversity through the nurturing of plant and crop varieties specifically suited to diverse local environments. In recent times, biotechnological research carried out by biochemical and agrobusiness in developed countries has developed new genetically modified seeds and plant varieties using in part the traditional knowledge of local communities and the biodiversity of the South. A tendency to restrict the flows of this knowledge through legal protection has followed. As a result, the price of patented seed compared to other seeds has increased, as has the dependency of farmers on private firms. This trend is now affecting other inputs, such as pesticides and fertilizers. There is a move to privatise agricultural research and to focus it on biotechnological research deeply connected with an industrialised, capital-intensive agriculture with phitosanitary, zoosanitary and commercial effects that still need to be carefully evaluated. Patents on plant varieties may also have significant impacts on the preservation of biodiversity, as patented varieties have the tendency to displace local varieties and to foster monocultures.

In his address to the Delegation of the "Jubilee 2000 Debt Campaign" on 23 September 1999, Pope John Paul II highlighted that "All too often, the fruits of scientific progress, rather than being placed at the service of the entire human community, are distributed in such a way that unjust inequalities are actually increased or even rendered permanent (...) The Catholic Church has consistently taught that there is a “social mortgage” on all private property, a concept which today must be also applied to “intellectual property” and to “knowledge”. The law of profit alone cannot be applied to that which is essential for the fight against hunger, disease and poverty”. 
Proposals:

- In the revision of Art. 27. 3(b), the Pontifical Council for Justice and Peace wishes to underline some ethical concerns based on the principle that the earth is ultimately a common heritage, the fruits of which are for the benefit of all. The Church has always underlined that "God intended the earth and all it contains for the use of all men and peoples, so created goods should flow fairly to all, regulated by justice and accompanied by charity. Whatever forms property may take according to legitimate custom and changing circumstances, this universal destiny of the earth's resources should always be borne in mind" (II Vatican Council, Constitution *Gaudium et Spes*, N. 69).

  a) A system of intellectual property rights should balance the need to provide incentives for innovation with the need of poor countries to share in the benefits of these innovations. Farmers from poor countries should not have to pay disproportionate production costs that undermine their livelihood and agricultural activity.

  b) As the generic and specific exceptions already provided by the TRIPS Agreement (Art.7 and 8) do not sufficiently protect local communities' knowledge and as patents are seen as inadequate to guarantee community intellectual rights, further consideration should be given to the establishment of a *sui generis* system as mentioned in Article 27.3 (b).

  Its general goal should be to promote the sustainable management of biological resources, by recognizing local community rights, the protection of those techniques being applied by farmers to enhance biodiversity and improve plant varieties and the sharing of benefits deriving from this work. A *sui generis* system should be based on non-monopoly rights. In the development of such a property rights system for plant varieties, due account should be given to the Convention on Biodiversity.

  c) The request of developing countries for more time in order to put in place a *sui generis* legislation responsive to the local concerns and needs should be positively addressed.

  d) The right to food security and to healthy and quality nutrition should always be put before commercial targets; there should also be substantial financial support for other types of agricultural research, such as in organic agricultural systems being already applied with success in various local communities.

7. Services

Background:

Negotiations relating to the review of GATS (General Agreement on Trade in Services) commitments will be a major area in the impending round. The Agreement itself (article XIX) envisages further rounds of negotiations to achieve greater liberalisation.

Currently, international trade in services is imbalanced, with most developing countries figuring as traders at the margin, and more as importers of services than as exporters.
This is particularly true for services that have high technological content. On the other hand, developing countries are often competitive in labour-intensive services.

**Proposals:**

- The Pontifical Council for Justice and Peace believes that negotiations should follow the guidelines offered by article XIX, para.2, granting developing countries appropriate flexibility, i.e. special and differential treatments.

- In the actual context, it is essential to achieve further commitments by Member States on services provided through the movement of natural persons, in particular skilled and semi-skilled workers. Although this mode of service supply is of great importance to developing countries, the Uruguay Round and subsequent negotiations have achieved only modest results.

- “Universal service” is another notion, well known to national economies, that could be particularly important in negotiations on sectors like financial services, telecommunications, transport services. It is essential that regions economically and geographically removed from trade centres have access to such services. The WTO could promote initiatives aimed at supporting those private service providers that commit themselves to supply essential services to rural and underdeveloped areas, also encouraging them to provide such areas with the necessary infrastructure. This is particularly necessary in the field of electronic commerce, because developing countries need infrastructure and technological means, especially in the poorest areas, to be able to fully participate in and share the benefits of this mode of trade.

- In liberalising audiovisual product markets, full account should be taken of the opportunity of encouraging the diffusion and preservation of the cultural identities of all peoples. Local audiovisual production should therefore be supported and protected, by way of international rules, for the fundamental contribution it gives to the circulation of ideas and the diversification of cultural expression. The Pontifical Council for Justice and Peace reiterates that the plurality of cultures and ideas constitutes part of the common heritage of mankind.

- In the field of financial services, a few lessons may be drawn from the financial crises of the past. In order to ensure the stability of national financial systems, liberalisation of trade in financial services must be complemented by efficient and prudential regulations, measures aimed at achieving more transparency and accountability in both the private and public sectors. National supervisors from developing countries should also be able to cooperate with similar authorities in other countries, given the sensitivity of financial markets. To fulfil this task, developing countries need legal and administrative advice and assistance which can be supported by international financial institutions (e.g. IMF, World Bank).

8. Competition

**Background:**
With regard to competition policy, it is often difficult to deal at the national level with anti-competitive conducts that have an international dimension: there are also many problems for the WTO in tackling such an issue. First of all, most of these practices involve private actors, while the WTO can bind only States. Cooperation between national antitrust authorities seems to achieve positive results in the exchange of information and notification procedures.

Secondly, most developing countries do not have strong antitrust legislation and enforcement authority. At an international level, control over global competition would be actually held by few antitrust authorities and cooperation among antitrust authorities solely from developed countries. This would not guarantee adequate global protection.

**Proposals:**

- A multilateral framework on some core principles on competition policy could provide more stability and transparency in international trade. Cooperation between national antitrust authorities could be encouraged and improved, in order to regulate anti-competitive conduct by multinational enterprises and to avoid conflicts related to the extraterritorial enforcement of national antitrust rules.

- As a first step towards the establishment of a set of international rules on competition, developing countries should be provided with legal and administrative advice, in order to develop, within a reasonable period of time, their own competition policy, at national or, in some cases more effectively, regional level. Meanwhile, the work of the Working Group on the interaction between trade and competition policy, established at the 1996 Singapore Ministerial Conference, should continue.

9. Investment

**Background:**

The Uruguay Round led to the Agreement on Trade-Related Investment Measures (TRIMs), which provides for a gradual elimination of those measures that violate Art. III or XI of GATT, thus improving the access and protection of foreign investment, while taking into account some legitimate developmental concerns of developing countries.

In the last decades there has been an intensive work carried out not only by governments through bilateral investment agreements, but also by international organisations like the World Bank, the OECD and, more recently, the WTO.

The developmental and commercial relevance of this issue brought WTO Member States, during the first WTO Ministerial Conference at Singapore, to call for the establishment of a Working Group on the relation between trade and investment. This Working Group has produced a series of interesting analyses concerning various dimensions of this complex issue.
Some WTO Member States have proposed to negotiate investment issues during the Millennium Round in order to achieve a more comprehensive international investment agreement.

**Proposals:**

- The Pontifical Council for Justice and Peace recognizes that a supranational action is needed in order to facilitate investment flows as well as to define a legal environment for international business and corporate players.

Most host States are developing countries, which may largely benefit from the flow of productive capital.

- However, the Pontifical Council for Justice and Peace shares the view, already expressed by some countries, that the very complex developmental implications of an international investment agreement need to be carefully analysed before coming to negotiations. Developing countries should be given more time and technical assistance in order to elaborate a comprehensive negotiating position on the scope and objectives of an investment agreement that would have an enormous impact on their national development policies.

- In case of negotiations on investment, it would be important to address with priority the issue of foreign direct investments distinguishing it from that of portfolio investments.

It would be also fundamental for developing countries to be allowed to keep, at least for a transitional period, the right to take such “performance requirements” that can support their development, for example some domestic content requirements such as the obligation to use local commodities in the production process, some training obligations on multinational firms to improve the technical skill of citizens and requirements for domestic participation in joint ventures to facilitate the transfer of technology.

- An improved access and protection of foreign direct investment by host States should be accompanied by parallel obligations upon investors. In this regard, the OECD Guidelines for Multinational Enterprises, although non-binding, should be taken into account. An international agreement should be concerned not only with national and MFN treatment for foreign investments, but also with mechanisms for the regulation and accountability of international and global corporate power. Although the WTO does not have the power to impose binding obligations on private subjects, individuals or legal persons, norms binding the national States of the investors to enforce appropriate rules of correct behaviour and attributing full jurisdiction to host States on violations of local legislation committed by foreign investors should be carefully examined.

### 10. Trade and Environment

**Background:**
In the last years there has been a growing concern for environmental issues. This has opened up a debate on the relationship between multilateral trade negotiations and the promotion of sustainable development.

As Pope John Paul II observed, "The ecological crisis reveals the urgent moral need for a new solidarity, especially between the developing nations and those that are highly industrialised” (Message for the celebration of the World Day of Peace, 1 January 1990, N. 10).

**Proposals:**

- Developing countries should be assisted in their efforts to implement an environmental protection policy. A proposal should be, therefore, to eliminate restrictions on trade in environmental goods and services, in order to promote environmental technology transfer at lower costs towards developing countries.

- Setting international environmental standards, however, is not the task of the WTO; moreover, the abuse of unilateral trade measures aimed at the enforcement of national environmental standards may have harmful protectionist effects that will damage the economy of less developed countries. The Pontifical Council for Justice and Peace invites WTO members to strengthen the cooperation between the WTO and the international environmental organisations, such as UNEP and non-governmental organisations. The most effective way of dealing with environmental problems, which by their nature know no borders, is the conclusion of multilateral environmental agreements (MEAs). Though such agreements may raise problems of compatibility with provisions of WTO trade agreements through the introduction of other trade restrictions, coordination efforts under both categories of agreements should be made.

11. Labour Standards

**Background:**

The relation between trade and protection of workers' rights is a crucial issue and there has been an increasing interest in this subject at all levels, in different international, regional and national fora. This subject came up also at the II Ministerial Conference of the WTO and it has been proposed as one of the new issues to be tackled during the Millennium Round trade negotiations.

**Proposals:**

- It is essential that respect for the dignity of the human being be shared by all countries, both developed and developing ones. To this end, the Pontifical Council for Justice and Peace strongly supports the work of the ILO, the competent international organisation in this field. The Pontifical Council for Justice and Peace welcomes the adoption of the 1998 ILO Declaration on fundamental principles and rights at work and of the 1999 ILO Convention on the prohibition and progressive elimination of the worst forms of child labour, and invites ILO Member States to comply with such international
commitments. At the same time, as the Head of Delegation of the Holy See has pointed out in his address to the 86th session of the General Conference of the ILO, "The Declaration does not provide for an automatic exclusion from world economic exchanges for countries that would not yet respect the standards provided for in the Declaration. In fact, economic sanctions and blocades, if they are not proportioned to the foreseen aims, as the Holy See has stated many a time, would only penalise those who are in the most extreme poverty ".

- The Pontifical Council for Justice and Peace is very much in favour of a strengthened institutional cooperation between ILO and WTO and of a stronger support of assistance programmes that involve the private sector (multinationals as well as national enterprises) in the promotion of the fundamental principles and rights at work and in the fight against the exploitation of child labour.

- The Pontifical Council for Justice and Peace invites the Working Group on the social dimension of international trade liberalisation, established in 1994 by the ILO Council, to pursue its studies and proposals on the matter.

12. Institutional Constraints for Developing Countries (especially LDCs)

Background:

The inability of developing countries, especially LDCs, to take full advantage of the opportunities provided by WTO Agreements include, among other problems, shortage of skilled personnel; complexity of WTO rules and working structures; lack of awareness and of full information on the rules; inability to upgrade domestic regulations and weak institutional infrastructure (especially in sophisticated areas, such as intellectual property law); and high cost of maintaining missions in Geneva.

So far, most developing countries have been unable to take full advantage of the dispute settlement mechanism because of their lack of financial resources and legal expertise.

Therefore, "it is necessary", as Pope John Paul II wrote in the Encyclical Letter Centesimus Annus, "that there be increased coordination among the more powerful countries, and that in international agencies the interests of the whole human family be equally represented. It is also necessary that in evaluating the consequences of their decisions, these agencies always give sufficient consideration to peoples and countries which have little weight in the international market, but which are burdened by the most acute and desperate needs, and are thus more dependent on support for their development “ (N.58).

Proposals:

- The human and institutional commercial constraints that especially LDCs face before, during and after trade negotiations should be addressed in a manner that allows the negotiating capacity of LDCs to be developed.
· With regard to the WTO Dispute Settlement System, Panels could be more representative, and should include panelists from developed, developing and least-developed countries. The proposed Legal Advisory Centre should be established without further delay in order to meet the needs of developing countries, especially LDCs, in terms of securing their rights through the use of the dispute settlement mechanism.

· Fast-track accession to the WTO, especially by the non-Member LDCs could also be an important part of the efforts. Clear and simplified procedures could be established for acceding countries so that their membership might be accepted within a year and not be subject to commitments that go beyond those of current LDC Members of the WTO. LDCs that are not Members of the WTO could be provided with means to increase their knowledge of the multilateral trading system, including the participation in sessions of WTO main organs.

· A further step towards strengthening of the negotiating capacity of developing countries would be possible if these countries make the effort to coordinate their action during the preparation and the negotiating process.

13. WTO and Civil Society

Background:

Civil society has become an important player in global governance. The WTO has undertaken a series of initiatives in order to make the work of the organisation more transparent and open towards civil society than it was under the GATT regime. However, the WTO has faced a series of constraints in this first phase of dialogue; among others, the lack of adequate personnel, funds and information for systematic contact with civil society groups; the precarious financial situation of many civic groups that risks bringing a preponderance of major business associations and think tanks at the expense of developmental NGOs or trade unions (most grassroots movements from developing countries were absent at the main events); and sometimes an excess of stress on the sovereignty norm that makes it difficult for civil society to play an active role in the WTO's ordinary work and trade negotiations.

Proposals:

· Looking towards the future, it would be important for the WTO to build a more systematic and constructive dialogue with representative civil society groups and to devise mechanisms for permanent accreditation and regular consultation. Sharing experiences made by other international organisations, especially the United Nations system, could also be helpful at this stage. Special efforts should be made to include civic groups from developing countries and ensure a more representative spectrum of organisations. NGOs could, for their part, stimulate debate on the issues at stake in the WTO and thus produce a more fruitful exchange at all levels.