



Statement by H.E. Archbishop Ivan Jurkovič, Permanent Representative of the Holy See
to the United Nations and Other International Organizations in Geneva
World Intellectual Property Organization
26th Standing Committee on Patents
Item 5 – Patent and health
Geneva, 4 July 2017

Madam Chair,

At the outset, the Holy See would like to express its appreciation to you for your continuous guidance in this important Committee. We believe that we can advance our work under your guidance. Our thanks also go to the vice-chair(s) and to the secretariat for their efforts in preparation for this session and, in particular, for the preparation of the document SCP/26/5.

The Holy See supports the work of the SCP and attaches great importance to the mandate of this Committee. As highlighted in the Report, “the use of compulsory licenses, the factors that determine the individual use of such licenses are very complex”¹. As the UN Secretary-General has stated, despite the focused efforts and the promising results from the Millennium Development Goals, millions have been left behind; consequently, Member States have agreed on the Sustainable Development Goals (SDGs) targeting achievement by the year 2030. In his Encyclical Letter *Laudato Si'* Pope Francis recalls the troubling extent of exclusion in our world: “(...) there is little in the way of clear awareness of problems which especially affect the excluded. Yet, they are the majority of the planet's population, billions of people. “[49, 51]

Policy coherence in reaching the twin goals of access to medicines and medical innovation are vital to achieving the aim of the 2030 Agenda goal to improve the health and well-being of all people at all ages and are articulated in

¹ Doc. WIPO/26/5 para.53

in several SDG targets. SDG 3 specifically would require conducting more holistic situation assessments, prioritizing the most pressing public health needs by the funders of health R&D, equitable and sustainable financing, as well as more prudent and strategic use of public and private resources more carefully and strategically. The SDGs also illustrate the broader dimension of coherence for public health, including targets on nutrition and food security (SDG2) and poverty eradication (SDG 1), and setting the trade dimension of development within the context of strengthening the means of implementation and revitalizing global partnership for sustainable development and addressing “policy and institutional coherence” (SDG 17).

The contribution to society from the invention to be patented does not consist only of the invention as such, but also of the provision of technical information related to that invention. The global patent system requires ongoing improvement leading to increased transparency and efficiency. As clearly stated in the 2013 Trilateral study, the Doha Declaration has served as a catalyst for developing coherence at the international level, both at legal and policy level, by placing a multilateral trade agreement within a public health context, dealing directly with the interplay between public health policies and intellectual property². The Doha Declaration in paragraph 4 confirmed that “the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health” and that it “can and should be interpreted and implemented in a manner supportive of the right of WTO Members to protect public health and, in particular, to promote access to medicines for all”.

Madam Chair,

Access to affordable medicines no longer represents a challenge just for the Least Developed and other developing countries; it has also become an increasingly urgent issue for developed countries. The Holy See recognises that the acceleration of the search for solutions to problems in the world which intellectual property rights protection may promote, has been accompanied by an acceleration in the influence of investment capital to transform ‘intellectual property’ from an economic asset and compensation for individual innovators into a capital asset or production factor for industry.

Thus, the capacity of companies for scientific research and the corresponding legal protection of the intellectual heritage that results have become

² WIPO-WHO-WTO, *Promoting Access to Medical Technologies and Innovation: Intersections between public health, intellectual property and trade*, Geneva, 2013

one of the most important parameters governing their economic strength and their ability to attract investment. With particular regard to health policies, “patent rights should be exercised coherently with the objectives of mutual advantage of patent holders and users of patented medicines, in a manner conducive to social and economic welfare, [...]to a balance of rights and obligations”³ and able to promote an integral human development.

In conclusion Madam Chair,

The challenge of developing and implementing effective and equitable policy measures for innovation and access to meet public health needs is dynamic in nature, evolving with disease burden, progress in technology and diversification of innovation systems. Adaptive solutions will be needed to address changing and diversified needs. Moreover, my Delegation believes that regular reporting might assist a better understanding of the dynamic factors involved in making full use of flexibilities. As appealed by Pope Francis to the industry leaders who were convened at the Vatican last year, we have to continue our action on access to medicine “until we find the will, the technical expertise, the resources and the methods that provide access to diagnosis and treatment available to all, and not simply to a privileged few, for ‘there is no human life that is more sacred than another, as there is no human life that is qualitatively more significant than another.”⁴ Madam Chair let me assure you that you can rely on the constructive spirit and support of the Holy See during this session.

Thank you, Madam Chair.

³ TRIPs Agreement, article 7

⁴ Pope Francis, Greeting to Participants in the High level dialogue among leaders of the Pharmaceutical and Diagnostic Equipment Industries, Vatican, 14 April 2016.