



Statement by His Excellency Archbishop Silvano Tomasi, Permanent Observer of the Holy See to the United Nations and Other International Organizations in Geneva  
at the 49<sup>th</sup> Series of Meetings of the WIPO General Assemblies  
Geneva, 27 September 2011

Mr. Chairman,

Let me start by presenting you our congratulations for your election as the chair of the General Assembly and I extend them to your two vice chairs. My Delegation is confident that under your leadership we will be able to reach a positive outcome.

Allow me also to express our support for the efforts of the Director General and his staff in encouraging innovation and creativity over the last year in all the regions of the world, while promoting a balanced and effective international intellectual property system.

In this and in other fora, the Holy See has argued that intellectual property deserves protection since it creates incentives for innovation. Such protection, however, must be tempered to allow the spreading of the benefits of innovation as widely as possible. The very creative and innovative impact that IP rights provide should aim primarily *at serving the common good of the human community*. Individual persons and associations are called to contribute to the cultural, economic, political and social life of the civil community to which they belong. Since all human beings should contribute to society, special attention is required to make possible also the participation of the most disadvantaged. For this reason, the poor should be helped “to acquire expertise, to enter the circle of exchange, and to develop their skills in order to make the best use of their capacities and resources.”<sup>1</sup> Education is the critical strategy to achieve this goal. In fact, it endows needy people with the basic knowledge which enables them to express their creativity and develop their talents. In this way they become active protagonists for their future and no longer merely passive elements in the social order where the human person “must be and must continue to be, its subject, its foundation and its end.”<sup>2</sup>

Since the last Assemblies, meaningful and hopeful progress has taken place in various substantive sectors of the Organization, such as the Standing Committee on the Law of Patents (SCP), the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore (IGC). The Strategic Realignment Program (SRP)

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<sup>1</sup> Pope John Paul II, *Centesimus Annus: On the Hundredth Anniversary of Rerum Novarum*, n.34; [http://www.vatican.va/edocs/ENG0214/\\_P6.HTM](http://www.vatican.va/edocs/ENG0214/_P6.HTM)

<sup>2</sup> 23. Cf. Pius XII, Radio Message, Christmas Eve, 1944, A.A.S. XXXVII, 1945, p. 12

has been refined and its progressive implementation shared through informative briefings offered by the Secretariat.

A major success of the Organization has occurred in the Standing Committee on Copyright and Related Rights (SCCR). After ten years of a stand-off, a positive and cooperative engagement by Delegations has led to the SCCR's recommendation to resume the failed 2000 Diplomatic Conference on a treaty for the protection of audiovisual performances. My Delegation looks forward as well to reaching an agreement on the visually impaired and on people with print disabilities. This agreement will make a significant contribution in mitigating the difficulty faced by more than 284 million visually impaired people worldwide<sup>3</sup>, about 90% of whom live in developing countries<sup>4</sup>. These are people with limited access to education and culture, not because they lack thirst of knowledge or because they lack aspiration to play their part in the material and cultural welfare of the world community, but because of their disability.

The rapid development of technology in the area of the media is surely one of the signs of advancement in today's society; it is also a challenge for the Member States of this Organization that have to undertake a particular effort to face it. The Holy See, as a practical demonstration of its commitment and recognizing the lead role played by Copyright, has updated its legislation in this field by adopting a new law<sup>5</sup>. Such a decision shows the significant role played by intellectual property in this State.

During the last biennium, the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore (IGC) undertook a tremendous effort towards the development of an international protection instrument and during the last session it has elaborated a proposal for a renewal of its mandate. The Holy See remains engaged in this Committee and would like to underline a few elements:

- intellectual manifestations of tradition or folklore deserve recognition first, because they constitute a means of constructing and projecting the identity of the members of the community concerned and, second, because they are a common asset of that same community, which has grown by small, anonymous contributions over many generations;
- many biological resources bearing great economic and social usefulness are located in territories inhabited since time immemorial by native communities within the jurisdiction of countries other than those where industrial development of genetic material takes place and patents are obtained. Those native communities already have some knowledge and make use of some of the

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<sup>3</sup> <http://www.who.int/mediacentre/factsheets/fs282/en/>

<sup>4</sup> *Id.*

<sup>5</sup> Law on the protection of copyright and related rights, March 2011 n.CXXXII.

biological properties protected by patents. Indigenous Communities' ancestral concern for the soil needs to be considered: it generates a right to its use and usufruct. This right extends also to the plants and animals of a territory. Consequently, the biological environment tends to be closely associated with the culture of local people, and constitutes an integral factor of their identity and social cohesion. Native populations' rights over the land and its fruits exist, and have to be protected, even where modern systems of property protection — both movable and immovable property such as intellectual property — do not foresee their recognition and protection to a sufficient extent.<sup>6</sup>

Mr President,

I would like to conclude by reaffirming the right to private property and in particular to intellectual property. This right is under a 'social mortgage,' for the satisfaction of essential human needs. It has an intrinsically social function, which is justified precisely by the principle of the universal destination of goods.<sup>7</sup> The universal destination of goods represents the sum total of social conditions which allow social groups and their individual members to arrive at their own fulfilment. The common good, however, is realized if solidarity prevails. In our globalized world, an equitable relationship with others is a must since we are all really responsible for all.

Thank you.

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<sup>6</sup> WIPO/GRTKF/IC/1/7 Cf. ILO, C-169, Articles 13 to 18. Cf. Pontifical Council "Justice and Peace" "Towards Better Land Distribution — the Challenge of Agrarian Reform," Vatican City 1997, paragraph 11. Pontifical Council "Justice and Peace," Indigenous Peoples in the Teaching of John Paul II, Vatican City 1993, p. 22.

<sup>7</sup> Pope John Paul II, *Sollicitudo Rei Socialis*, n.42.