



Statement by H.E. Archbishop Ivan Jurkovič, Permanent Observer of the Holy See to
the United Nations and Other International Organizations in Geneva
at the World Trade Organization (WTO)
Trade Related Intellectual Property Rights (TRIPs) Council
Geneva, 19 October 2017

Item 13: Intellectual Property and the public interest: follow-up on compulsory licensing

Mr. President,

Since this is the first time my Delegation is taking the floor during the current session of the TRIPs Council, allow me to begin by congratulating you on your election as Chair and by assuring you of the full support of the Holy See Delegation.

Intellectual Property (IP) benefits public interest by providing incentives for innovation. An efficient intellectual property system can help all countries realize intellectual property's potential as a catalyst for economic development and social and cultural well-being. The IP system helps strike a balance between the interests of innovators and the public interest, providing an environment in which creativity and invention can flourish for the benefit of all. An equitable IP system, by definition, results from a delicate balancing act. As recalled by the WIPO Copyright Convention of 1996, there is *"the need to maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information"*. A flexible policy space, within the boundaries of the internationally agreed objectives, principles and standards, is necessary to allow each Member to develop and adapt more adequately the set of IP regulations for their particular needs and to ensure predictability and mutual confidence.

Intellectual property, as foreseen by Article 7 of the TRIPs Agreement, should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of users and producers of technological knowledge, in a manner conducive to social

and economic welfare and to balance rights and obligations. The search for a balance between the need, on the one hand, to protect IPRs and to provide incentives for Research and Development and the need, on the other hand, to address concerns about the potential impact of such protection on the health sector, in particular its effects on prices, has been continuously stated by the Holy See at this Council and other *fora*.

In line with the objectives and principles of the TRIPS as enshrined in Articles 7 and 8, a number of flexibilities have developed into an integral part of the TRIPS framework and they can be used to pursue public health objectives. However, to implement these flexibilities, action is needed at the domestic level by incorporating them into national IP regimes, keeping in mind each country's specific needs and policy objectives. WTO Members have the flexibility to interpret and implement TRIPS provisions in a manner supportive of their right to protect public health. The United Nations High Level Panel on Access to Medicine, in its report to the Secretary General, highlighted the importance of TRIPS flexibilities and, addressing the hoped for achievement of 3 Sustainable Development Goals which they regard, recommended their use.

The Delegation of the Holy See recognises that the acceleration of the search for solutions to problems in the world to which intellectual property rights protection may respond, has been accompanied by an acceleration in the influence of investment capital to transform IP from an economic asset and compensation for individual innovators into a capital asset or production factor for industry.

In an era of digitization and globalization, the needs of developing countries are even more critical. Access to knowledge goods, both to enrich human resources and facilitate economic growth, is an indispensable requirement for the international system. Developing countries have a role to play by actively implementing limitations and exceptions in a manner that best suits their domestic needs, especially the need to stimulate local creativity. In this sense, the efforts of developing countries to make greater use of flexibilities, limitations and exceptions to intellectual property to advance public policy objectives in areas such as health, education, agriculture, food,

and technology transfer could represent a tremendous step forward. The role of limitations and exceptions in promoting public welfare is a matter of importance not only for users of knowledge goods, but for creators as well. Without the appropriate balance between protection and access, the international IP system not only impoverishes the global public but, ultimately, it undermines its own ability to sustain and reward the creative enterprise for the long-term future.

In conclusion, Mr. President,

Respect for the exercise of intellectual property rights is clearly subordinated to the common good. It serves as a means to an end, rather than an end in itself. The knowledge economy is increasingly evolving into a driving force in the global economy. Thus, there is a need to protect intellectual property rights as an incentive for innovation and technology creation, yet it is also important to ensure broad access to technology and knowledge especially for low-income countries. The new goods derived from progress in science and technology are key to world trade integration and the use of the flexibilities by the less-developed countries could help them catch up and gain international trade competitiveness.

Thank you, Mr. President.