



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, 16 October 2020

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 assumption of the Chairmanship and by assuring you of the full engagement of the Holy See.

Mr. President,

Pope Francis has recently reminded us that “a worldwide tragedy like the Covid-19 pandemic momentarily revived the sense that we are a global community, all in the same boat, where one person’s problems are the problems of all. Once more we realized that no one is saved alone; we can only be saved together”.¹ As has emerged over the last months, and has been consistently recalled by this Delegation, “access to affordable medicines no longer represents a challenge just for the Least Developed and other developing countries; it has also become an increasingly urgent issue for developed countries”.²

In the context of the current global emergency, it is important for the international community as a whole, and for WTO Members in particular, to work together to ensure that intellectual property rights, such as patents, industrial designs, copyrights and the protection of undisclosed information, do not create “barriers to the timely access to affordable medical products including vaccines and medicines or to scaling-up of research, development, manufacturing and supply of medical products essential to combat COVID-19”.³

A well-designed intellectual property system must balance the private rights of inventors with the public needs of society. International intellectual property regulations reflect the premise, as stated in the Objectives of the TRIPS Agreement, that “...the protection and enforcement of intellectual property rights should

¹ Pope Francis, Encyclical Letter “*Fratelli tutti*”, n. 32.

² H.E. Archbishop Ivan Jurkovič, World Intellectual Property Organization 26 the Standing Committee on Patents Item 5 – Patent and health Geneva, 4 July 2017.

³ Cfr. Doc IP/C/W/669.

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 and in a manner conducive to social and economic welfare, and to a balance of rights and obligations".⁴ These rights need to be adequately recognized, insofar as they compensate investments in time and capital and encourage promising research. Furthermore, such rights promote the common good by accelerating the search for solutions that benefit all needy persons in the modern world. For example, in the pursuit of new medical treatments, special protections are needed to ensure that producers are able to recover their massive expenditures on research. These protections include the assurance of just wages for scientists and researchers, as well as measures to guarantee compliance with regulations regarding product safety. In this regard, the protection of intellectual property rights enables the search for solutions to global problems.

Nonetheless, it is important to note that intellectual property rights are not an end in themselves but rather a means to an end. In order to maintain their validity, they must be subordinated, therefore, to the requirements of the common good. This requires the implementation of control mechanisms to monitor and, when necessary, to correct the logic of the market. As St. John Paul II affirmed, the "law of profit alone cannot be applied to that which is essential for the fight against hunger, disease, and poverty".⁵ These words continue to ring true.

Policies and laws should maintain a perspective focused on the respect and the promotion of human dignity, in a spirit of solidarity within and among nations. This means that, while recognizing the importance of protecting intellectual property rights, we should focus on the purpose of such rights and strive to avoid the potential negative consequences of the current system, which can arise when the aforementioned rights are divorced from their inherent foundation in the pursuit of the common good and the dignity of the human person. When, for example, high-income countries excessively protect knowledge based on a rigid assertion of intellectual property rights, this leads to an imbalance that must be addressed. Let us not forget that health care should not be subordinate to private interests; thus, access to medicine should be guaranteed in accord with the principle of non-discrimination and in a spirit of equity, transparency, participation and accountability.

As Pope Francis has stated, "what is needed is sincere and open dialogue, with responsible cooperation on the part of all: political authorities, the scientific community, the business world and civil society".⁶ In order to promote constructive dialogue that might result in positive action, the principles of solidarity, subsidiarity, and concern for the common good must be applied. Solidarity would encourage us to be attentive to the needs and concerns of others as much as our own and

⁴ TRIPS Agreement, Art. 7.

⁵ Pope John Paul II, Address to 'Jubilee 2000 Debt Campaign', 23 September 1999.

⁶ Pope Francis, Address to the United Nations Office at Nairobi, Apostolic Journey to Kenya, Uganda and the Central African Republic, 26 November 2015.

subsidiarity would have us supply the technical expertise and manufacturing capacity to those communities that otherwise would not have access to them.

Mr. President,

In the midst of this global health crisis, we are all called to bring generously the best of our abilities to tackle the challenges of the current pandemic in all of its aspects and in every part of the world and to look to the future with creativity and hope. In this way, we will succeed in giving witness to the concrete solidarity that is indispensable to address the global challenges of our times. Almost 20 years ago, WTO members agreed to remove an important obstacle to affordable drug imports: they waived certain restrictions in the TRIPS Agreement regarding the import and export of generic medicines under compulsory license, so as to ensure ready and affordable access to these medications.

In a similar fashion, given these exceptional circumstances, the TRIPS Council could recommend to the General Council, as early as possible, to grant a waiver from the implementation, application and enforcement of Sections 1, 4, 5, and 7 of Part II of the TRIPS Agreement in relation to prevention, containment or treatment of COVID-19.

Policies and laws should maintain a perspective focused on the respect and promotion of human dignity, in a spirit of solidarity within and among nations. This implies, *inter alia*, that, while recognizing the value of protecting intellectual property rights, we should focus on the purpose of such rights and on the limitations and potential negative consequences of the current system. “It would be sad if, for the vaccine for Covid-19, priority were to be given to the richest! It would be sad if this vaccine were to become the property of this nation or another, rather than universal and for all”.⁷

Thank you, Mr. President.

⁷ Pope Francis, General Audience, 19 August 2020.