



**Statement of H.E. ARCHBISHOP ETTORE BALESTRERO, APOSTOLIC NUNCIO
and Permanent Representative of the Holy See to the United Nations
and Other International Organizations in Geneva
at the WIPO Diplomatic Conference to Conclude an International Legal Instrument
Relating to Intellectual Property, Genetic Resources and Traditional Knowledge
Associated with Genetic Resources**

Geneva, 13 May 2024

Mr. President,

At the outset, the Holy See would like to thank WIPO for hosting this Diplomatic Conference, which marks the final stage of decades of concerted efforts aimed at ensuring an adequate and appropriate framework for protecting the intellectual property rights that are related to genetic resources (GR) and associated traditional knowledge (TK).

My Delegation congratulates the Chair on his election and wishes him every success, while thanking Director General Daren Tang for his great efforts and leadership in preparation for this important event.

Against the backdrop of a very troubling climate of international instability and fragmentation, a successful outcome at this Diplomatic Conference would offer a message of hope for the whole multilateral system.

In this perspective, the Holy See welcomes WIPO's efforts in furthering the work of the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore, which has led to this Diplomatic Conference.

GRs and associated TK constitute both real and potential added value for humanity. The protection of the inventions originating therefrom may be a source of development, contribute to the conservation of biodiversity, and promote economic advancement for many developing countries and communities.

My Delegation would like to reiterate that Intellectual Property (IP) rights must be considered within the broader, unitary framework of fundamental human rights. In this perspective, it is impossible and inappropriate to separate the question of ownership rights

from the more fundamental principle of social justice, which recognizes the universal destination of the earth's goods. This past January, Pope Francis, while referring to this upcoming Diplomatic Conference, stressed that "intellectual property is essentially directed to the promotion of the common good and cannot be detached from ethical requirements, lest situations of injustice and undue exploitation arise."¹ According to the Church's social teaching, intellectual property should not be regarded as an "absolute and untouchable"² right, but rather as an instrument to further the common good of humanity as a whole. Protection of IP should therefore focus on ensuring that all individuals have the essential freedom necessary to pursue their personal subsistence and advancement.³

GRs and associated TK tend to be closely associated with the culture of Indigenous Peoples and local communities and constitute an integral factor of their identity and social cohesion. Because of this, a human rights framework must form a crucial part of the context for the protection of these resources, while taking into account the needs and interests of the relevant individuals and communities.⁴ Any attempt at economic exploitation of GRs and associated TK should, therefore, be carefully regulated, in order to ensure full respect for the identity, rights, and freedom of Indigenous Peoples and local communities, including the right to be fully informed on any relevant decisions and the right to fair participation in the benefits.

In this context, intellectual property protection could provide exclusive property rights to these groups, enabling Indigenous Peoples and local communities collectively to exert control over the benefits arising from the commercial use of such rights. This would allow for these communities to more directly address misappropriation of resulting benefits, while at the same time fostering further innovation and preserving the cultural identity and values of these Peoples.

The task of this Diplomatic Conference, therefore, is to reconcile the various rights and interests at stake in such a way that legitimate economic interests do not compromise higher values, such as the social function of inventions and the rights of the Peoples from whom the knowledge and resources originate.⁵

The Holy See supports efforts to fill gaps in the intellectual property regime where GRs and associated TK lack sufficient protections and stresses the need for culturally appropriate rules at the international level.

In this regard, my Delegation would like to emphasize the following elements:

¹ POPE FRANCIS, Address to the members of the Diplomatic Corps accredited to the Holy See, 8 January 2024.

² PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *Compendium of the Social Doctrine of the Church*, n. 177.

³ Cf. WIPO/GRTKF/IC/1/7, April 26, 2001, "Document of the Holy See on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore", par. 8.

⁴ Cf. United Nations Declaration on the Rights of Indigenous Peoples (2007), art. 31.

⁵ Cf. WIPO/GRTKF/IC/1/7, par. 5-7.

- a) The adoption of a legal instrument would help complement efforts to forge common international standards to harmonize existing approaches, provisions, and examination processes that are already being used in several regional organizations and countries. The new instrument should therefore be fully integrated and consistent with the existing international provisions in a complementary manner.
- b) The Holy See shares the view that the instrument should reflect an appropriate degree of flexibility, so as to be able to respond to new technological advances – particularly digital sequence information – which could significantly increase the speed through which genetic resources are identified and differentiated.
- c) The instrument should guarantee the equitable economic participation of Indigenous Peoples and local communities in the benefits resulting from the commercial exploitation of GRs and associated TK, as well as the promotion of effective means of safeguarding respect for collective ownership.
- d) Finally, an effective instrument should provide for the free, prior, and informed consent of persons, Peoples, and States involved as a prerequisite for patenting inventions originating from such resources while ensuring that the resulting patents do not constitute an undue obstacle to innovation.⁶

Fair regulation of intellectual property is the result of a balance between the owner of the intellectual property rights and the need for benefits to flow to society. This not only entails an appropriate trade-off between protecting royalties *vis a vis* protecting indigenous communities against exploitation, but should also allow for the beneficial exchange of useful knowledge.

It is the hope of my Delegation that the important work that is taking place in this Diplomatic Conference may truly benefit the capacities of indigenous peoples and the international community as a whole to further development on a local, national and global level.

Thank you, Mr. President.

⁶ Cf. *Ibid.*, par. 10.