



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  
32<sup>nd</sup> Standing Committee on Patents  
Item 7 – Patents and health  
*Geneva, 7 December 2020*

Mr. Chair,

At the outset, my Delegation would like to express its compliments to you for your election to this important Committee. We trust that its work will be advanced under your guidance. Our congratulations also go to the vice-chair(s) and to the secretariat for their efforts in preparation for this session, in such challenging times, and, in particular, for the preparation of the document SCP/31/5.

The Holy See supports the work of the Standing Committee on the Law of Patents (SCP) and attaches great importance to its mandate. A unique and historic crisis, such as the COVID-19 pandemic, underlines the importance of the issue of incentives for innovation, in this case the urgent need to develop new medical products, while ensuring supply and access, including to existing health technologies. Access for all to affordable medicines, tools, vaccines, diagnostics and treatment for Covid-19 is paramount for a recovery from the crisis: no one should be left behind. Since the start of the pandemic, there have been calls for coordinated efforts for the production of medical products, for sharing technology and for ensuring access to affordable treatments for everyone, especially the poor and those in vulnerable situations.<sup>1</sup> Many countries face shortages of medical products and access to diagnostics, testing and treatment.

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<sup>1</sup> Cf. Pope Francis, Video message of His Holiness to the seventy-fifth meeting of the General Assembly of the United Nations, 25 September 2020.

The UN General Assembly has on several occasions stressed the need for intensified international cooperation and multilateral efforts to contain, mitigate and defeat the pandemic, while fully respecting fundamental human rights.<sup>2</sup> Such cooperation includes the exchange of information, scientific knowledge and best practices and the expansion of manufacturing capacity to meet the increasing needs for medical supplies and ensuring that these are made widely available, at an affordable price, on an equitable basis, where they are most needed and as quickly as possible.

States also have human rights obligations to provide financial and technical support to uphold the right to access to health services, especially in the face of the global spread of the disease.<sup>3</sup> This may include the sharing of research, knowledge, medical equipment and supplies.<sup>4</sup>

Mr. Chair,

WIPO, since the beginning of the COVID-19 pandemic, has shown its willingness and capacity to face the challenges regarding innovation through the provision of a database, PATENTSCOPE. This platform provides information concerning over 80 million technology disclosures and a specially developed COVID-19 search and retrieval facility, dedicated to enhancing access to technological information disclosed in published patents concerning inventions related to the detection, prevention and treatment of COVID-19. Moreover, the establishment of some 900 Technology and Innovation Support Centers worldwide that provide access to patent and scientific data and publications as well as ancillary facilities for researchers in the least developed, developing and transition economies, represent some of the immediate actions put in place by this Organization.

It should be noted that the sudden growth of patenting activity has been interpreted as signalling an intensive, broad based and diverse practical response to

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<sup>2</sup> UN General Assembly Resolutions: on *Global solidarity to fight the coronavirus disease 2019 (COVID-19)*, UN Doc A/RES/74/270, 3 April 2020, <https://undocs.org/en/A/RES/74/270>, *International cooperation to ensure global access to medicines, vaccines and medical equipment to face COVID-19*, UN Doc A/RES/74/274, 21 April 2020, <https://undocs.org/en/A/RES/74/274>, and on a *United response against global health threats: combating COVID-19*, UN Doc A/RES/74/307, 15 September 2020, <https://undocs.org/en/A/RES/74/307>.

<sup>3</sup> WHO, *International Health Regulations (2005) Third Edition*, <https://www.who.int/publications/i/item/9789241580496>.

<sup>4</sup> UN Committee on Economic, Social and Cultural Rights' (ESCR Committee) Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights, paragraph 19. The duty of international assistance and cooperation also is highlighted in the International Covenant on Economic, Social and Cultural Rights (Article 2.1 and 11.1).

a potential health crisis. However, as was highlighted already in the 2007 paper “Patent issues related to influenza viruses and their genes”, commissioned by the WHO and prepared by the WIPO Life Sciences Program on patent issues related to influenza viruses, while the increase in research activity is welcome, there remain certain ethical concerns – in particular in relation to genetic material – about the accessibility of this research and potential obstacles this can create for the “freedom-to-operate”.<sup>5</sup>

Policy coherence in reaching the twin goals of access to medicines and medical innovation is more vital than ever. As we have experienced over the course of the sessions of this Committee, the contribution to society from the invention to be patented does not consist only in the invention as such, but also in the provision of technical information related to that invention. The global patent system requires ongoing improvement, striving especially for an 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 the legal and the policy level, by placing a multilateral trade agreement within a public health context, dealing directly with the interplay between public health policies and intellectual property.<sup>6</sup>

Mr. Chair,

As shown by the current pandemic and by the growing and unfortunate tendency, on the part of some States, to hoard the newly developed vaccines, the access to affordable medicines and vaccines no longer represents a challenge only for the least developed and other developing countries; it has also become an increasingly urgent issue for developed countries. The Holy See would like to recall once again that “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,”<sup>7</sup> and at the service of promoting integral human development.

In recognizing that the acceleration of the search for solutions to problems in the world, which the protection of intellectual property rights may promote, the

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<sup>5</sup> Cfr. Document SCP/31/5 [https://www.wipo.int/edocs/mdocs/scp/en/scp\\_31/scp\\_31\\_5.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_31/scp_31_5.pdf).

<sup>6</sup> WIPO-WHO-WTO, *Promoting Access to Medical Technologies and Innovation: Intersections between public health, intellectual property and trade*, Geneva, 2013.

<sup>7</sup> TRIPs Agreement, article 7.

Delegation of the Holy See would like to emphasize that intellectual property should be subordinated to the requirements of the common good. This implies the need for adequate control mechanisms to monitor the logic of the market. The common tragedy that the human family is facing this year should reawaken a sense of our interconnectedness as a global community. “[We are,] 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”.<sup>8</sup>

Thank you, Mr. Chair.

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<sup>8</sup> Pope Francis, Encyclical Letter “Fratelli tutti”, n. 32.