



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 Aspects of Intellectual Property Rights (TRIPs) Council
Geneva, 23 February 2021

Madam President,

“The Covid-19 pandemic unexpectedly erupted, exposing our false securities. Aside from the different ways that various countries responded to the crisis, their inability to work together became quite evident. For all our hyper-connectivity, we witnessed a fragmentation that made it more difficult to resolve problems that affect us all”.¹

As emerged during the recent Executive Board of the World Health Assembly, “the world is on the brink of a catastrophic moral failure – and the price of this failure will be paid with lives and livelihoods in the world's poorest countries”.² Over the last weeks, we have experienced how some countries and companies continue to prioritize bilateral deals, driving up prices and attempting to jump to the front of the queue. Pope Francis warned about the risk of prioritizing access to the vaccine 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”.³

On the one hand, most countries of the world are experiencing delays in vaccine rollout programmes. Such situations have resulted from insufficient product manufacturing and the consequent lack of availability of the required number of vaccine doses. On the other hand, in many countries, a large number of manufacturing facilities, with proven capacity to produce safe and effective vaccines, are unable to utilize those capacities, due, *inter alia*, to IP barriers.

The financing of research has been provided ~~from~~ by different sources, including investment of resources by States, and contributions from private entities. In the context of COVID-19, despite the billions of taxpayer dollars invested in R&D, and announcements that COVID-19 vaccines should be considered a public good, no government has openly made such a public commitment.

¹ Pope Francis, *Encyclical Letter Fratelli tutti*, para 7.

² Dr. Tedros Adanhom Ghebreyesus, Director General, World Health Organization, address to 148th meeting of the WHO Executive Board, 18 January 2021.

³ Pope Francis, General Audience, 19 August 2020.

Nonetheless, given the absolute necessity of COVID-19 vaccines during this global public health emergency, it is appropriate to consider such vaccines “as a good to which everyone should have access, without discrimination, according to the principle of the universal destination of goods highlighted by Pope Francis . ‘We [cannot] allow the virus of radical individualism to get the better of us and make us indifferent to the suffering of other brothers and sisters... letting the law of the marketplace and patents take precedence over the law of love and the health of humanity’”⁴.

The existing mechanisms for compulsory licenses under Article 31 and Article 31bis of the TRIPS Agreement contain territorial and procedural restrictions that make the practice of issuing product-by-product compulsory licenses a complex process, thus causing difficulties for collaboration among countries. TRIPS flexibilities allow limited policy space for public health, but they never were designed to address a global health crisis, such as the one we are experiencing at present. Even during “normal” times, the Article 31bis mechanism, which was established to support countries with insufficient or no pharmaceutical manufacturing capacity, has been widely criticised due to ~~its~~ cumbersome procedures. In addition, the fact that it was used only once since its inception, in 2006, gives ample evidence of the difficulties associated with its use.

Policies and laws should maintain a perspective that is focused on the respect for, 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.

Madam President,

In his *Urbi et Orbi* Christmas message, Pope Francis stated that vaccines, if they are “to illuminate and bring hope to all, need to be available to all... especially for the most vulnerable and needy of all regions of the planet”. The principles of justice, solidarity and inclusiveness, must be the basis of any specific and concrete intervention in response to the pandemic. The decision of granting 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 would be a strong signal demonstrating real commitment and engagement and thus moving from declaration to action in favor of the entire human family.

Thank you, Mr. President.

⁴ Note of the Vatican Covid-19 Commission in collaboration with the Pontifical Academy for Life “Vaccine for all. 20 points for a fairer and healthier world”, para. 7, 29 December 2020.