**Written Submission to the Committee on Economic, Social and Cultural Rights (the “CESCR”)**

**STTACA, the Tunisian Society of Tobacology and Addictive Behaviours,** welcomes the opportunity to provide input on the draft General Comment on Science and Economic Social and Cultural Rights (“the Draft General Comment”). The right to enjoy the benefits of scientific progress forms an integral part of the international human rights framework, as enshrined in Article 15 of the International Covenant on Economic Social and Cultural Rights (“the Covenant”).[[1]](#footnote-1)

**STTACA** agrees on the fundamental nature of the right to enjoy the benefits of scientific progress and on the need to promote its full realization without discrimination.

**STTACA,** commends the Committee for the issuance of the Draft General Comment and welcomes this effort to provide clarity on the parameters of this right, as well as encourages states to fulfill their tripartite obligation to respect, protect, and fulfill this right.

As recognized in the Draft General Comment, the Covenant is a living document, and interpretations are necessary in order to reflect innovation, progress, and change. The adoption of a General Comment is required to elaborate on the normative content of state obligations, creating an authoritative source of interpretation for states to ensure that their national legal systems protect this right.[[2]](#footnote-2)

The publication of the Draft General Comment is also timely, given increased recognition that science, innovation, and technology are critical components to foster achievement of the Sustainable Development Goals (“SDGs”), including SDG 3 on health.[[3]](#footnote-3) In this connection, innovative technologies and products are being developed every day which can help solve public health challenges.[[4]](#footnote-4) It is therefore critical for member states to implement policies which protect the right of individuals to benefit from scientific progress which has allowed for the creation of these new technologies and products.

Within this framework, these comments will elaborate on the following: (i) interdependence of the right to enjoy the benefits of scientific progress and the right to the highest attainable standard of health; (ii) the critical role of information and communication on risks and benefits of new technologies and products; (iii) the importance of international cooperation and globally harmonized approaches for new technologies and products; and (iv) the importance of using the precautionary principle in a way that promotes scientific progress which is beneficial for humanity. In the end, the role of science is to challenge the status quo, and the precautionary principle is the moral justification of the status quo. If the precautionary principle would have always been applied in its strictest interpretation, the earth will still be flat. The way it is written the precautionary principle should not only be implemented in a practical approach should be challenged to the benefit of social impact and scientific progress made available to the many and not only to the rich.

*Interdependence of the right to enjoy the benefits of scientific progress and the right to the highest attainable standard of health*

The Draft General Comment recognizes that science is essential to foster the realization of many other rights, including the right to the highest attainable standard of health (para. 19).[[5]](#footnote-5) It is therefore critical for member states to adopt policies which allow for the use of newly innovative technologies and products to solve public health challenges.

In this connection, the United Nations General Assembly recognized that innovation is a component of resolving the challenges associated with non-communicable diseases.[[6]](#footnote-6) Member states should therefore be encouraged to allow people to have access to, and information on, new technologies and products that may reduce public health harms in relation to non-communicable diseases. This will have the impact of allowing individuals to benefit from scientific advancement.

*The critical role of information and communication on risks and benefits of new technologies and products*

The Draft General Comment provides that “information concerning the risks and benefits of science and technology should be accessible (para. 23).” The Draft General Comment also designates information as one of the four critical pillars of accessibility (para. 23).

**STTACA** agrees with this designation, and recalls that the right to information is also an interdependent human right.[[7]](#footnote-7) Providing people with information on new technologies and products is critical, to ensure that they are aware of the potential risks and benefits of these new technologies and products. Through providing risk related information, individuals will be able to make informed decisions to change behaviors, or to use less harmful products. This could ultimately lead to improvements in public health.

In some cases scientific innovation may create “imperfect information,” where information is unknown or contradictory.[[8]](#footnote-8) This could arise, for example, when the long term health effects of a product are unknown, or when scientific opinions differ about the health consequences of consumption.[[9]](#footnote-9) Even in those cases, states should be encouraged to take a policy stance which allows for providing the fullest information possible to individuals.The provision of information on new technologies and products will also have the impact of allowing individuals to benefit from scientific advancement.

*The importance of international cooperation and harmonized policy approaches for new technologies and products*

**STTACA** agrees with and fully supports the recommendations in the Draft General Comment concerning the importance of international cooperation to promote the right to benefit from scientific progress (para. 80). This obligation of cooperation should extend to all international fora and intergovernmental negotiations where policies are adopted on new technologies and products. This will ensure increased harmonization among member states, reduce fragmentation, and eliminate “governance gaps” in relation to new technologies and products (para. 77).[[10]](#footnote-10)

*Use of the precautionary principle in a way that promotes scientific progress that is beneficial for humanity*

**STTACA** agrees with and fully supports the provisions of the Draft General Comment in relation to the precautionary principle, in particular paragraph 61. The precautionary principle is a theory that may be used by regulators when adopting policies on innovative products and technologies. It is also a strategy that can be used to cope with scientific uncertainties in the assessment of risks related to health.

While regulators should exercise precaution in the face of scientific uncertainty, they should also seek to use the precautionary principle in a way that promotes scientific progress which is beneficial for humanity. In the public health context, for example, the precautionary principle can be used as a way to substitute harmful products with less harmful alternatives.[[11]](#footnote-11)

When scientific advancement and innovation has allowed for the creation of less harmful products, people should have access to, and information on, these products, even if the science is still at the nascent stages. This can have the impact of advancing the public good in the face of scientific uncertainty, which is the intended purpose of the precautionary principle.[[12]](#footnote-12)

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1. Article 27 of the Universal Declaration of Human Rights also refers to the “right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.” Article 15(1)(b) of the International Covenant on Civil and Political Rights is the focus of the General Comment. [↑](#footnote-ref-1)
2. *See* Yvonne Donders, the Right to Enjoy the Benefits of Scientific Progress: In Search of State Obligations in Relation to Health, Med. Health Care Philos, 2011 Nov; 14(4) 371-380, 1 May 2011, available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3190088/#CR14>. [↑](#footnote-ref-2)
3. See The United Nations General Assembly Resolution – the 2030 Sustainable Development Agenda (A/70/1), available at: <https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E> ; *See also* United Nations General Assembly Resolution on Science Technology & Innovation for Development (A/RES/72/228), available at: <https://undocs.org/A/RES/72/228> . Sustainable Development Goal 9 focuses on the importance of innovation and innovative technologies in fostering achievement of the goals. [↑](#footnote-ref-3)
4. [Note](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3190088/#CR14) 2, *supra*. For example, the development of vaccines and medications has helped improve diseases. Information technology and mobile phones have accelerated the flow of information throughout the world proving beneficial to developing countries. [↑](#footnote-ref-4)
5. *See* General Comment 14 on the Right to Health. General Comment 14 considers that “health facilities, goods and services must (…) be scientifically and medically appropriate and of good quality.” [↑](#footnote-ref-5)
6. Political Declaration of the High-Level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases (A/RES/66/2), 24 January 2012, at para. 57 (“Promote actively national and international investments and strengthen national capacity for quality research and development, for all aspects related to the prevention and control of non-communicable diseases, in a sustainable and cost-effective manner, while noting the importance of continuing to incentivize innovation;”). [↑](#footnote-ref-6)
7. Article 19 of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-7)
8. *Mandatory Labeling*, U.S. Dep't Agric., Econ. Res. Serv., <https://www.ers.usda.gov/webdocs/publications/41203/18890_aer793d.pdf?v=0> [https://perma.cc/SG86-WDZA]. [↑](#footnote-ref-8)
9. *Id.* [↑](#footnote-ref-9)
10. *See also* the United Nations Guidelines for Consumer Protection at section VI. [↑](#footnote-ref-10)
11. Merlin Chowkwanyun, et. al., Chapter 11 - Beyond the Precautionary Principle: Protecting Public Health and the Environment in the Face of Uncertainty. [↑](#footnote-ref-11)
12. Fairchild A, et al., Beyond the Precautionary Principle: Protecting Public Health and the Environment in the Face of Uncertainty, Chapter 11 in Bioethical Insights into Values and Policy (2016). [↑](#footnote-ref-12)