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**UNITED ARAB EMIRATES – MEASURES RELATING TO TRADE IN GOODS AND SERVICES,
AND TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS**

REQUEST FOR CONSULTATIONS BY QATAR

The following communication, dated 31 July 2017, from the delegation of Qatar to the delegation of the United Arab Emirates and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

1. My authorities have instructed me to request the United Arab Emirates ("UAE") to enter into consultations concerning measures adopted in the context of coercive attempts at economic isolation imposed by the UAE against the State of Qatar ("Qatar") and detailed further in this document.

2. The request is made pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXIII of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), Article XXIII of the General Agreement on Trade in Services ("GATS"), and Article 64.1 of the *Agreement on Trade-related Aspects of Intellectual Property Rights* ("TRIPS Agreement"). For the avoidance of any doubt, consultations under the *TRIPS Agreement* are requested solely under Article XXIII of the GATT 1994 as elaborated and applied by the DSU, as that provision is made applicable to the *TRIPS Agreement*. Qatar intends that the first sentence of Article 4.11 of the DSU shall not apply to consultations in this dispute.

3. This request identifies the measures at issue in Section A, and indicates the legal bases for Qatar's complaint in Section B.

A. Measures at issue

4. The measures at issue in this request include all written and unwritten, published and unpublished measures adopted in the context of coercive attempts at economic isolation imposed by the UAE against Qatar. The measures individually and collectively affect trade in goods, trade in services and trade-related aspects of intellectual property rights.

5. In respect of goods, the coercive attempts at economic isolation entail acts and/or omissions through which the UAE bans, prohibits or otherwise restricts the import, export, sale, purchase, license, transfer, receipt and shipment of goods originating in, transiting through, towards or from, or with the destination of Qatar.

6. In respect of services, the coercive attempts at economic isolation entail acts and/or omissions through which the UAE bans Qatari nationals from travelling to and remaining in the UAE in order to provide services, as well as bans on the provision of services by Qatari service suppliers established in the UAE. They include bans on the supply of (digital and other) services from Qatar to consumers of the UAE as well as prohibitions on nationals of the UAE to travel to and remain in Qatar in order to consume Qatari services.

7. In respect of trade-related aspects of intellectual property rights, the coercive attempts at economic isolation entail interference with intellectual property rights enjoyed by nationals of

Qatar. Specifically, these measures include prohibitions or restrictions on displaying and accessing television content over which Qatari nationals hold copyrights and related broadcasting rights.

8. Without limiting the scope of the general description of the measures in the preceding paragraphs, the measures at issue include the following specific acts and/or omissions:

- (i) the UAE's closure of its maritime borders with Qatar, and prohibition on Qatari aircraft from accessing its airspace;
- (ii) the UAE's prohibitions on entry into its ports of (i) all ships owned by Qatar, Qatari individuals or Qatari companies; and (ii) all ships bearing the Qatari flag;
- (iii) the UAE's prohibition on the discharge in UAE ports of any goods shipped from Qatar;
- (iv) the UAE's prohibition on the loading in UAE ports of any goods destined for Qatar;
- (v) the UAE's prohibition on flights to and from the UAE operated by aircraft registered in Qatar; including prohibiting landing of Qatari aircraft at airports in the UAE;
- (vi) the UAE's closure of certain Qatari service suppliers' offices in the UAE;
- (vii) the UAE's blocking of access to certain Qatari service suppliers' websites, in the UAE;
- (viii) the UAE's removal of Qatari audio-visual service suppliers' channels from tourist facilities in the Emirate of Abu Dhabi and in the Emirate of Sharjah;
- (ix) the UAE's prohibition and restriction on the broadcasting and operation of certain Qatari service suppliers' media content in commercial establishments in the Emirate of Abu Dhabi;
- (x) the UAE's unilateral suspension of the handling of international mail items and parcels originating from or designated to Qatar Postal Services Company; and,
- (xi) the UAE's omission to publish certain measures of general application imposing the coercive attempts at economic isolation described in the paragraphs above.

B. Legal bases of the complaint

9. Qatar is concerned that the measures at issue taken by the UAE, as described in Section A of this request, are inconsistent with the UAE's obligations under the WTO covered agreements.

10. *First*, it appears that certain of the measures at issue contravene provisions of the GATT 1994. Specifically, certain measures appear to violate:

- (a) Article I:1 of the GATT 1994, because, through the:
 - maritime border and airspace closure by the UAE;
 - prohibition on entry into UAE ports of (i) all ships owned by Qatar, Qatari individuals or Qatari companies; and (ii) all ships bearing the Qatari flag;
 - prohibition on the landing of Qatari aircraft at airports in the UAE;
 - prohibition on the discharge in UAE ports and airports of any goods transported from Qatar; and,
 - prohibition on the loading in UAE ports and airports of any goods destined for Qatar;

the UAE appears to fail to accord immediately and unconditionally to like products originating in, or destined for, Qatar relevant advantages, favours, privileges or immunities that are granted by the UAE to products originating in, or destined for, other countries;

(b) Article V:2 of the GATT 1994, because, through the:

- maritime border and airspace closure by the UAE;
- prohibitions on entry into UAE ports of (i) all ships owned by Qatar, Qatari individuals or Qatari companies; or (ii) ships bearing the Qatari flag;
- prohibition on the landing of Qatari aircraft at airports in the UAE;
- prohibition on the discharge in UAE ports and airports of any goods transported from Qatar;
- prohibition on the loading in UAE ports and airports of any goods destined for Qatar,

the UAE appears to deny freedom of transit through the territory of the UAE, via the routes most convenient for international transit, for traffic in transit to or from the territory of Qatar, and makes distinctions based on the flag of vessels and/or place of registration of aircraft, the place of origin, departure, entry, exit or destination or on circumstances relating to the ownership of goods, vessels or of other means of transport;

(c) Article X:1 and X:2 of the GATT 1994, because:

- through the omission to publish relevant measures affecting trade in goods; and,
- by enforcing such measures prior to publication,

the UAE appears to be in violation of the obligations under these provisions;

(d) Article XI:1 of the GATT 1994, because, through the:

- maritime border and airspace closure by the UAE;
- prohibitions and restrictions on entry into UAE ports of goods from Qatar shipped by (i) ships owned by Qatar, Qatari individuals or Qatari companies, or (ii) ships bearing the Qatari flag;
- prohibition on the landing of Qatari aircraft at airports in the UAE;
- prohibition and restriction on the discharge in UAE ports and airports of any goods transported from Qatar; and,
- prohibition and restriction on the loading in UAE ports and airports of any goods destined for Qatar,

the UAE appears to institute or maintain prohibitions or restrictions, other than duties, taxes or other charges, on the importation of products of the territory of Qatar, and on exportation of products to the territory of Qatar;

(e) Article XIII:1 of the GATT 1994, because, through the:

- maritime border and airspace closure by the UAE;

- prohibitions and restrictions on entry into UAE ports of (i) all ships owned by Qatar, Qatari individuals or Qatari companies; or (ii) ships bearing the Qatari flag;
- prohibition on the landing of Qatari aircraft at airports in the UAE;
- prohibition and restriction on the discharge in UAE ports and airports of any goods transported from Qatar; and,
- prohibition and restriction on the loading in UAE ports and airports of any goods destined for Qatar,

the UAE appears to apply prohibitions and restrictions on the importation of products of the territory of Qatar, and on the exportation of products destined for the territory of Qatar, without any corresponding prohibitions or restrictions on the importation of the like product of any other countries or the exportation of the like product to or from any other countries being similarly prohibited or restricted.

11. In addition to, and independently of, the multiple violations of obligations under the GATT 1994 identified above, Qatar considers that benefits accruing to Qatar directly and indirectly under the GATT 1994 are being nullified and impaired as a result of the application of the measures identified above, within the meaning of Article XXIII:1(b) of the GATT 1994.

12. *Second*, it appears that certain of the measures at issue contravene provisions of the GATS. Specifically, certain measures appear to violate:

(f) Article II:1 of the GATS, because, by:

- prohibiting Qatari persons, vessels and vehicles from crossing maritime borders with the UAE, or entering the UAE via airspace, to supply services, as well as persons from the UAE crossing maritime borders with Qatar, or entering Qatar via airspace, to consume services;
- prohibiting (i) all ships owned by Qatar, Qatari individuals or Qatari companies; and (ii) all ships bearing the Qatari flag, from entering UAE ports, which prevents Qatari service suppliers from supplying services;
- prohibiting the discharge in UAE ports and airports of any goods transported from Qatar, which prevents Qatari service suppliers from supplying services;
- prohibiting the loading in UAE ports of any goods destined for Qatar;
- prohibiting aircraft registered in Qatar from operating flights to and from the UAE, including prohibiting landing of Qatari aircraft at airports in the UAE, which prevents Qatari service suppliers from supplying services;
- prohibiting certain Qatari service suppliers from providing any service from their office(s) in the UAE;
- prohibiting certain Qatari service suppliers, from providing any service in the UAE and/or to consumers located in the UAE through their website;
- prohibiting Qatari audio-visual service suppliers, from providing services in certain parts of the UAE, such as in tourist facilities and commercial establishments, and/or to consumers located in the UAE; and,
- prohibiting Qatari service suppliers, such as Qatar Postal Services Company, from providing services in relation to mail items that are originating from or designated to Qatar,

the UAE fails to accord immediately and unconditionally to services and/or service suppliers of Qatar, in a variety of services sectors and through multiple modes of

supply, treatment no less favourable than that it accords to like services and service suppliers of any other country;¹

(g) Articles III:1-2 and III:3 of the GATS, because, through the:

- omission to promptly publish, or make otherwise available, relevant measures pertaining to or affecting the operation of the GATS; and,
- omission to promptly inform the Council for Trade in Services of the introduction of, or changes to, measures that significantly affect trade in services covered by the UAE's specific commitments under the GATS,

the UAE violates the transparency obligations enshrined in Article III of the GATS;

(h) Article XVI of the GATS, because, by:

- banning Qatari persons or vessels and vehicles from crossing maritime borders with the UAE, or entering the UAE via airspace, to supply services, as well as persons from the UAE crossing maritime borders with Qatar, or entering Qatar via airspace, to consume services;
- banning (i) all ships owned by Qatar, Qatari individuals or Qatari companies; and (ii) all ships bearing the Qatari flag, from entering UAE ports;
- banning aircraft registered in Qatar from operating flights to and from the UAE, including prohibiting landing of Qatari aircraft at airports in the UAE; and,
- banning Qatari service suppliers, such as Qatar Postal Services Company, from providing services in relation to mail items that are originating from or designated to Qatar,

the UAE appears to unduly restrict market access for Qatari services and/or service suppliers, thereby according treatment that is less favourable than that provided for under the terms, limitations, and conditions agreed and specified in the UAE's schedule of specific commitments.

13. The UAE thus fails to carry out its obligations and/or specific commitments under the GATS within the meaning of Article XXIII:1 of the GATS.

14. In addition to, and independently of, the multiple violations of obligations under the GATS identified above, the measures appear to nullify or impair benefits that Qatar could reasonably have expected to accrue to it under the UAE's specific commitments under the GATS within the meaning of Article XXIII:3 of the GATS.

15. *Third*, it appears that certain measures contravene provisions of the *TRIPS Agreement*. Specifically, certain measures appear to violate:

(i) Article 3 of the TRIPS Agreement, because, by:

- making it impossible for holders of licenses to copyrights, trademarks and other forms of intellectual property owned by Qatari nationals to honour their obligations under licensing agreements; and,
- making it impossible for Qatari owners of copyrights, trademarks and other forms of intellectual property, and their licensees, to use those intellectual property rights in the territory of the UAE,

¹ The UAE does not appear to have scheduled relevant exemptions in the sense of Article II:2 of the GATS. See GATS/EL/121, 2 April 1996, United Arab Emirates, Final List of Article II (MFN) Exemptions, p. 1.

the UAE appears to have failed to accord to the nationals of Qatar treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property.

(j) Article 4 of the TRIPS Agreement, because, by:

- making it impossible for holders of licenses to copyrights, trademarks and other forms of intellectual property owned by Qatari nationals to honour their obligations under licensing agreements; and,
- making it impossible for Qatari owners of copyrights, trademarks and other forms of intellectual property, and their licensees, to use those intellectual property rights in the territory of the UAE,

the UAE appears to have failed to accord, immediately and unconditionally, to the nationals of Qatar, advantages, favours, privileges and immunities granted by it to the nationals of other countries with regard to the protection of intellectual property.

16. This request for consultations also concerns any modification, replacement or amendment to the measures identified above, and any closely connected, subsequent measures.

17. Qatar reserves its rights to raise additional matters during the course of these consultations and in any future request for panel proceedings.

18. Qatar looks forward to receiving a reply from the UAE to this request within 10 days after receipt of this request, as contemplated by Article 4.3 of the DSU, and to fixing a mutually acceptable date for consultations.
