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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 THE ESTABLISHMENT OF A PANEL BY QATAR

The following communication, dated 6 October 2017, from the delegation of Qatar to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

1. On 31 July 2017, the State of Qatar ("Qatar") requested consultations with the United Arab Emirates ("UAE") 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"). The request concerned all measures taken in the context of coercive attempts at economic isolation imposed by the UAE against Qatar.

2. On 10 August 2017, Qatar received a communication from the Chairman of the Dispute Settlement Body ("DSB") covering a communication from the UAE, stating that the UAE would not engage in consultations with Qatar. As a result of the UAE's refusal to engage in consultations with Qatar, the dispute has not been resolved.

3. Therefore, Qatar requests, pursuant to Articles 4.7 and 6 of the DSU, Article XXIII of the GATT 1994, Article XXIII of the GATS and Article 64.1 of the *TRIPS Agreement*, that the DSB establish a panel to examine the matter referred to the DSB by Qatar in this document, with the standard terms of reference provided by Article 7.1 of the DSU.

4. In the following sections, Qatar identifies the specific measures at issue and provides a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

A. Measures at issue

5. The measures at issue in this request include all written and unwritten, published and unpublished measures adopted in the context of coercive attempts at economic isolation imposed by the UAE against Qatar.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.

6. 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 destined for Qatar.

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

8. 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. They also include acts or omissions that limit or make it impossible for Qatari nationals to access civil judicial procedures, or to seek remedies, in respect of infringement of intellectual property rights owned by, or licensed to, them. Additionally, these measures include omissions to prosecute as a criminal violation commercial scale piracy of materials in which copyrights are owned by, or licensed to, Qatari nationals.

9. 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 (a) closure of its maritime borders with Qatar and its land borders for Qatari individuals; and (b) prohibitions or restrictions on Qatari aircraft from accessing its airspace;
- (ii) the UAE's prohibitions or restrictions on entry into its ports of (a) ships owned by Qatar, Qatari individuals or Qatari companies; and (b) ships bearing the Qatari flag;
- (iii) the UAE's prohibitions or restrictions on the discharge and/or loading in UAE ports of any goods shipped from Qatar;
- (iv) the UAE's prohibitions or restrictions on the discharge and/or loading in UAE ports of any goods destined for Qatar;
- (v) the UAE's prohibitions or restrictions on flights to and from the UAE operated by aircraft registered in Qatar; including the prohibition on aircraft registered in Qatar landing at airports in the UAE;
- (vi) the UAE's closure of Qatari service suppliers' offices in the UAE and/or refusal to renew Qatari service suppliers' licenses to provide services in the UAE;
- (vii) the UAE's blocking of access to Qatari service suppliers' websites in the UAE;
- (viii) the UAE's removal of Qatari service suppliers' audio-visual channels from tourist facilities in the Emirate of Abu Dhabi and in the Emirate of Sharjah;
- (ix) the UAE's prohibitions or restrictions on the broadcasting and distribution of Qatari service suppliers' media content in commercial establishments, and operation of Qatari service suppliers in the media sector, 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.
- (xii) the UAE's acts and omissions that make it impossible, or unduly difficult, for Qatari nationals to access civil judicial remedies, or to seek remedies, in respect of enforcement of intellectual property rights, including copyrights, broadcasting rights, trademarks and other forms of intellectual property rights;
- (xiii) the UAE's omission to prosecute, as a criminal violation, piracy on a commercial scale, of material in which copyright is owned by, or licensed to, Qatari nationals.

B. Legal bases of the complaint

10. Qatar considers 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.

11. *First*, certain of the measures at issue contravene provisions of the GATT 1994. Specifically, certain measures violate:

(a) Article I:1 of the GATT 1994, because, through the:

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

the UAE fails 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:

- land and maritime border and airspace closure by the UAE;
- prohibitions or restrictions on entry into UAE ports of (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;
- prohibitions or restrictions on the discharge in UAE ports and airports of any goods transported from Qatar;
- prohibitions or restrictions on the loading in UAE ports and airports of any goods destined for Qatar,

the UAE denies 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, by:

- failing to publish measures that entail requirements, restrictions or prohibitions on imports and exports from Qatar or that affect the sale, distribution, transportation or use of such imports and exports; and,
- enforcing such measures prior to publication,

the UAE fails to comply with the obligations under these provisions;

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

- land and maritime border and airspace closure by the UAE;
- prohibitions or 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;
- prohibitions or restrictions on the discharge in UAE ports and airports of any goods transported from Qatar; and,
- prohibition or restrictions on the loading in UAE ports and airports of any goods destined for Qatar,

the UAE institutes or maintains 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; and

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

- land and maritime border and airspace closure by the UAE;
- prohibitions or 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 applies prohibitions or 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.

12. 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

13. application of the measures identified above, within the meaning of Article XXIII:1(b) of the GATT 1994.

14. *Second*, certain of the measures at issue contravene provisions of the GATS. Specifically, certain measures violate:

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

- prohibiting or restricting (i) Qatari persons, vessels, vehicles, and aircraft from crossing maritime borders with the UAE, or entering the UAE via land or airspace; and (ii) persons from the UAE crossing maritime borders with Qatar, or entering Qatar via airspace or land, which prevents Qatari service suppliers from supplying services;
- prohibiting or restricting (i) ships owned by Qatar, Qatari individuals, or Qatari companies; and (ii) ships bearing the Qatari flag, from entering UAE ports, which prevents Qatari service suppliers from supplying services;
- prohibiting or restricting the discharge in UAE ports of any goods transported from Qatar, which prevents Qatari service suppliers from supplying services;
- prohibiting or restricting the loading in UAE ports of any goods destined for Qatar, which prevents Qatari service suppliers from supplying services;

- prohibiting or restricting aircraft registered in Qatar from operating flights to and from the UAE, including prohibiting landing (and discharging) of Qatari aircraft at airports in the UAE, which prevents Qatari service suppliers from supplying services;
- prohibiting or restricting Qatari service suppliers from providing services from their office(s) in the UAE;
- prohibiting or restricting Qatari service suppliers from obtaining and/or renewing a license to provide services in the UAE;
- prohibiting or restricting Qatari service suppliers from providing services in the UAE and/or to persons from the UAE through their website;
- prohibiting or restricting Qatari service suppliers from providing services, such as audio-visual services, in parts of the UAE, such as in tourist facilities and commercial establishments, and/or to persons from the UAE; and,
- prohibiting or restricting Qatari service suppliers, such as Qatar Postal Services Company, from providing services in relation to mail items that are originating from or designated to Qata

the UAE fails to accord immediately and unconditionally to Qatari services and/or service suppliers, in a variety of services sectors and through multiple modes of supply, treatment no less favourable than that it accords to like services and/or service suppliers of any other country;¹

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

- failing to promptly publish, or make otherwise available, relevant measures pertaining to or affecting the operation of the GATS; and,
- failing 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:1 to Article III:3 of the GATS; and

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

- banning or restricting (i) Qatari persons, vessels, vehicles, and aircraft from crossing maritime borders with the UAE, or entering the UAE via land or airspace; and (ii) persons from the UAE crossing maritime borders with Qatar, or entering Qatar via land or airspace, which prevents Qatari service suppliers from supplying services;
- banning or restricting (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;
- banning or restricting aircraft registered in Qatar from operating flights to and from the UAE, including prohibiting landing (and discharging) of Qatari aircraft at airports in the UAE, which prevents Qatari service suppliers from supplying services; and,

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.

- banning or restricting 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 unduly restricts 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.

15. 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.

16. In addition to, and independently of, the multiple violations of obligations under the GATS identified above, the measures 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.

17. *Third*, certain measures contravene provisions of the *TRIPS Agreement*. Specifically, certain measures violate:

(i) Article 3.1 of the *TRIPS Agreement*, because, by:

- making it impossible for Qatari owners of, and licensees to, copyrights, broadcasting rights, trademarks and other forms of intellectual property to enforce their intellectual property rights against licensees, sub-licensees and third parties; and
- otherwise making it impossible for Qatari owners of copyrights, broadcasting rights, trademarks and other forms of intellectual property, and their licensees, to use those intellectual property rights in the territory of the UAE,

the UAE fails to accord to the nationals of Qatar treatment no less favourable than that which the UAE 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 Qatari owners of, and licensees to, copyrights, broadcasting rights, trademarks and other forms of intellectual property to enforce their intellectual property rights against licensees, sub-licensees and third parties; and,
- otherwise making it impossible for Qatari owners of copyrights, broadcasting rights, trademarks and other forms of intellectual property, and their licensees, to use those intellectual property rights in the territory of the UAE,

the UAE fails to accord, immediately and unconditionally, to the nationals of Qatar, advantages, favours, privileges and immunities granted by the UAE to the nationals of other countries with regard to the protection of intellectual property;

(k) Article 41.1 of the *TRIPS Agreement*, because, by:

- making it impossible for Qatari owners of, and licensees to, copyrights, broadcasting rights, trademarks and other forms of intellectual property to enforce their intellectual property rights against licensees, sub-licensees and third parties,

the UAE fails to ensure that enforcement procedures as specified in Part III of the *TRIPS Agreement* are available under its law so as to permit effective action against any act of infringement of intellectual property rights owned by, or licensed to, Qatari nationals, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements;

- (l) Article 42 of the TRIPS Agreement, because, by:
- making it impossible for Qatari owners of, and licensees to, copyrights, broadcasting rights, trademarks and other forms of intellectual property to enforce their intellectual property rights against licensees, sub-licensees and third parties,
- the UAE fails to make available to right holders of Qatari nationality, civil judicial procedures concerning the enforcement of intellectual property right covered by the *TRIPS Agreement*; and,
- (m) Article 61 of the TRIPS Agreement, because the UAE fails to provide for criminal procedures and penalties to be applied in cases of copyright piracy on a commercial scale, where the copyrights are owned by, or licensed to, Qatari nationals.

18. This request for establishment of a panel also concerns any modification, replacement or amendment to the measures identified above, and any closely connected, subsequent measures.

19. Qatar asks that this request be placed on the agenda for the meeting of the DSB scheduled to take place on 24 October 2017.
