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**SAUDI ARABIA – MEASURES CONCERNING THE PROTECTION OF INTELLECTUAL
PROPERTY RIGHTS**

COMMUNICATION FROM QATAR

The following communication, dated 30 September 2020, was received from the delegation of Qatar with the request that it be circulated to the Dispute Settlement Body (DSB).

Subject: *Proposal for an appeal-arbitration arrangement under Article 25 of the DSU in Saudi Arabia – Protection of Intellectual Property Rights (WT/DS567)*

On 28 July 2020, Saudi Arabia notified the Dispute Settlement Body ("DSB") of the World Trade Organization ("WTO") of its decision to appeal the Report of the Panel in the aforementioned dispute (see document WT/DS567/7, "Saudi Arabia's Notice of Appeal").

Qatar has consistently conducted itself with a view to securing the prompt settlement of this dispute. Continuing in that effort, Qatar now proposes that the appeal in this dispute be submitted to resolution through arbitration under Article 25 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU").

As you are well aware, the Appellate Body of the WTO is currently unavailable to resolve appeals. Under these circumstances, arbitration under Article 25 of the DSU offers an alternative avenue to the resolution of appeals, which avoids frustration of a litigant's right to prompt settlement of disputes.

I request that you bring this proposal to the attention of Saudi Arabia and that this communication be circulated in the WT/DS567 document series. Qatar stands ready to make available representatives for the purpose of discussing the precise content of an agreement to refer the matter to Article 25 arbitration.

Qatar reserves its rights to take action consistent with international law to safeguard its interests, in the event this proposal does not result in an agreement to submit the appeal in this dispute to resolution through arbitration under Article 25.

Recognizing that, absent an agreement to refer the matter to Article 25 arbitration, it may be some time before Members become aware of Qatar's response to the matters raised in Saudi Arabia's Notice of Appeal, Qatar has made the Executive Summary of its Appellee's Submission in this dispute available at the following link:

[https://geneva.mission.qa/en/media/news/detail/1442/02/12/executive-summary-of-qatar-s-appellee-s-submission-\(wt-ds567\)](https://geneva.mission.qa/en/media/news/detail/1442/02/12/executive-summary-of-qatar-s-appellee-s-submission-(wt-ds567))

This document serves to highlight the key issues that would be promptly evaluated through Article 25 arbitration.¹

¹ Of particular importance, the Article 25 arbitration would evaluate whether to declare moot and of no legal effect all of the Panel's findings concerning application of the security exception in Article 73(b)(iii) to the measures at issue, including findings with respect to the existence of an "emergency" and the scope of the measures that Saudi Arabia "considers necessary" in the sense of the exception. See Executive Summary of Qatar's Appellee's Submission, Section V. The Panel made findings on the application of the exception despite the fact that Saudi Arabia did not invoke Article 73(b)(iii) in defence of any of the measures found by the Panel to violate the substantive provisions of the TRIPS Agreement. See Saudi Arabia Notice of Appeal, WT/DS567/7, para. 15 ("Saudi Arabia's appeal of this issue relating to the invocation of Security Exceptions under the WTO Agreements is of particular systemic importance in the context of this and other pending disputes. WTO panels have no basis to ignore Members' definition of the scope of invocation of WTO Security Exceptions.")