



Saudi Arabia faces another claim over Qatar blockade

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Doha (Credit: istockphoto)

A Qatari pharmaceutical company and its founder have lodged a treaty claim against Saudi Arabia, saying its investments have been destroyed as a result of the continuing blockade of Qatar by its Arab neighbours.

Qatar Pharma and Ahmed Bin Mohammed Al Haie Al Sulaiti, a Qatari national, filed their notice of arbitration on 28 March under the investment agreement of the Organisation of Islamic Cooperation (OIC).

The claimants says they sent Saudi Arabia a notice of dispute under the treaty in April 2018 but that the state did not respond and did not cease its unlawful conduct – giving them no choice but to file for arbitration.

Qatar Pharma and Al Sulaiti are represented by DLA Piper in New York and Ioannis Konstantinidis, an assistant professor of public international law at Qatar University.

The claimants have nominated Switzerland's Charles Poncet as their arbitrator to the panel that will hear the case.

It is unclear if Saudi Arabia has yet appointed external counsel. White & Case is acting for Saudi Arabia in two pending ICSID cases, but the firm said it had no information to provide at this time.

The dispute relates to Saudi Arabia's decision in June 2017 to cut diplomatic, trade and travel ties with Qatar, including restricting access by land, sea or air and expelling Qatari nationals. The actions were taken in coalition with the United Arab Emirates, Bahrain, Egypt and various other states who accuse Qatar of supporting terrorism and being too close to their regional rival, Iran – which Qatar denies.

Founded in 2006, Qatar Pharma calls itself the leading pharmaceutical company in the Arabian Gulf. The company imports the majority of its raw materials from Europe, manufactures its products in Qatar and distributes them in Qatar and elsewhere in the region. It has registered over 540 products for distribution in the Gulf region, including intravenous solutions, kidney dialysis treatments and topical drugs.

Prior to the blockade, Qatar Pharma said that it conducted extensive trade in Saudi Arabia. The country is the largest market for pharmaceutical products in the Gulf region and was an essential component of the company's growth plan.

It established two companies to facilitate its operations in the country and opened three warehouses in Riyadh, Jeddah and Damma. It also entered into eight long-term contracts with the Saudi Ministry of Health. By 2016, Saudi Arabia accounted for approximately 70% of Qatar Pharma's global sales.

Preparations had also begun over an intended initial public offering. Qatar Pharma instructed Deloitte to conduct a valuation of the company, which assigned a value of just under \$270 million.

In the wake of the June 2017 blockade, however, the investors say the Saudi ministry repudiated its tenders with Qatar Pharma and has refused to pay \$24 million for products it received under those contracts. The Qatar company has also been prevented from collecting \$3 million for products already supplied to private customers.

The measures allegedly forced the closure of Qatar Pharma's warehouses, prevented the import of raw materials from Europe and destroyed its prospects of an IPO.

The claimants say that Saudi Arabia's conduct amounts to an expropriation, a failure to provide adequate protection and security and a failure to grant most-favoured-nation treatment, in clear violation of the OIC agreement and international law.

It demands that Saudi Arabia pay compensation for its actions and cease its illegal activities. The company says it will quantify its extensive losses at a later stage in the proceedings.

Last October, Qatari state-backed sports broadcaster beIN lodged a billion-dollar claim against Saudi Arabia under the OIC agreement, seeking compensation for the state's failure to crack down on one of

the world's largest pirate television networks and other measures that followed the suspension of diplomatic relations between the two countries in 2017.

In January 2018, Qatar foreign ministry spokesperson Lulwa Al Khater said the country had begun moving internationally to seek arbitration or other legal recourse to end the blockade.

Qatar went on to secure provisional measures from the International Court of Justice in July last year requiring the United Arab Emirates to ensure the reunification of Qatari nationals and their families who have been separated as a result of the blockade. Konstantinidis is also part of the counsel team for Qatar on that case, alongside lawyers from Debevoise & Plimpton and Foley Hoag.

Qatar Pharma for Pharmaceutical Industries and Dr Ahmed Bin Mohammad Al Haie Al Sulaiti v the Kingdom of Saudi Arabia

Counsel to Qatar Pharma

DLA Piper

Partner Kevin Walsh and of counsel Kiera Gans, with associates Teale Toweill, Natalie Kanerva and Mason Hubbard in New York

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