**Eswatini statement at the Informal TRIPS Council meeting, 20 November 2020.**

Madam Chair,

At the TRIPS Council meeting of 16th October 2020, the co-sponsors and many Members acknowledged that the COVID-19 pandemic is an exceptional situation and requires decisive action by governments. We argued that on the basis of such exceptional circumstances that the General Council grant a waiver on the basis of Article IX.3 of the Marrakesh Agreement in order to allow a temporary suspension of the application and enforcement of certain IP rights related to the containment, prevention and treatment of COVID-19 in respect of the IP rights specified. The waiver if granted will be available to all WTO Members, including developing Members, least developed Members as well as developed Members.

It is important to note that the adoption of a waiver at the international level does not obligate implementation of the waiver at the national level. Hence, countries that are of the view that they will not benefit from the waiver or do not need the waiver should not deny other countries this policy option and curtail the tools available to them to contain the pandemic.

Madam Chair,

In addition, national implementation of the waiver depends on a country’s political and/or constitutional arrangement. There is no one size fits all approach to national implementation. For instance emergency, disaster management legislations or any other relevant legislation may be relied upon for executive action to operationalise the waiver at the national level. We want to stress that the proposed waiver would be applicable only to COVID-19. The waiver is limited in scope and does not suggest a waiver from all other TRIPS obligations, nor does it suggest a waiver beyond what is needed for COVID-19 prevention, containment and treatment.

The waiver should continue until widespread vaccination is in place globally, and the majority of the world's population has developed immunity hence we propose an initial duration of [X] years from the date of the adoption of the waiver. The Waiver does not imply any change of the substantive treaty obligations; it only temporarily suspends their operation for a period to be agreed by Members and thus will be time-bound. As already indicated, our proposal demonstrates the existence of exceptional circumstance that justifies our request for a waiver decision.