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JOINT STATEMENT ON ELECTRONIC COMMERCE

COMMUNICATION FROM NEW ZEALAND

NON-PAPER

*TRANSPARENCY IN WTO NEGOTIATIONS AND APPLICATION
TO THE JSI E-COMMERCE NEGOTIATION*

The following communication, dated 9 October 2019, is being circulated at the request of the delegation of New Zealand.

1. New Zealand is a strong supporter of transparency in trade negotiations and the work of the WTO. We would like to see the principle of transparency also reflected in the work of the E-Commerce Joint Statement Initiative. Specifically, we request that Members consider making our future consolidated negotiating text available publicly, rather than being restricted only to WTO Members.¹ Our assumption is that such a text will contain brackets but will not carry any Member-specific attributions. (In this case this distinguishes the JSI process from a RTA negotiation where party-specific attributions are the norm, which thus disclose specific negotiating positions.)

2. We do not propose that there be any change to the handling of specific proposals from Members, where Members should continue to be free to determine if text proposals are restricted or publicly available.

3. The appropriate timing for operationalising this proposal will depend on how the remaining process in 2019 unfolds, but if we are in a position to move to working from a single consolidated text from early 2020 that could provide an appropriate moment to make a text public.

4. We are aware that there is broad stakeholder interest in the scope of this negotiation, from both business and civil society. This was most recently reflected in comments across the 2019 WTO Public Forum. We believe that this negotiation will benefit from stakeholders having a better understanding of the range of issues being considered in the process. Without such information, stakeholders will be left to speculate about what may be being discussed which could lead to incorrect assumptions being made and incorrect information may be circulated. Moreover, we would be able to benefit from their knowledge and perspectives.

¹ If released, the first consolidated text could be described as a compilation of all text proposals received from Members, with some edits made by the co-convenors under their own responsibility. This would be analogous to a "Chair's text".

5. While not all WTO Members have subscribed to the Joint Statement, negotiations are taking place within the wider WTO context, where there is a tradition of transparency in textual negotiations. In addition, in the context of the Doha Round negotiations, records of meetings and other documentation were also published, and the Secretariat regularly briefed NGOs and media.² For example, negotiating texts in the context of the Doha Development Agenda have been regularly issued by Chairs, while Members have been free to comment publicly on such texts in response. Examples include:

- During the negotiation of the Agreement on Trade Facilitation, the consolidated draft negotiating text (TN/TF/W/165) was revised 18 times over the course of the negotiations at appropriate intervals. The frequency reflected the pace of the process, with three iterations in 2011, two in 2012 and four in 2013 prior to conclusion.
- In the Agriculture and NAMA negotiations the draft texts and modalities were issued by Chairs at various intervals – for example the TN/AG/W/4/Rev.4 for Agriculture, and TN/MA/W/103/Rev.3/Add.1 for NAMA (which included both the tariff modality and draft NTB texts.)
- Regarding the Multilateral Register on Wines and Spirits Geographic Indications, while the working text was contained in a restricted JOB document (e.g. JOB/IP/3/Rev.1) this was subsequently made publicly available in an annex to the Chair's report in April 2011 (TN/IP/21).

6. We acknowledge that there have been constraints placed on strictly adhering to the above process for the JSI process, but we believe solutions could be found within the existing system available to us. For example, the INF/ECOM document series could also be used by the Co-Conveners to share an unclassified consolidated text with the public. The reports from both the Co-conveners and the Focus Group Facilitators that are currently posted on the portal could equally be made publicly available as INF/ECOM documents (perhaps in a consolidation following each group of meetings) – they are already anonymized and so do not disclose or prejudice the positions of any Members and leave it open for each participating Member to determine how it engages with its domestic stakeholders regarding its specific positions on each issue. In this way, official documents can be made available to the public, including through their inclusion on Members own websites.

7. We propose to discuss this non-paper in the October meetings of the Joint Statement, and look forward to receiving views of Members

² https://www.wto.org/english/tratop_e/serv_e/gats_factfictionfalse_e.htm.