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**STATEMENT ON MINIMISING COVID-19 DISRUPTIONS
TO THE DISPUTE SETTLEMENT SYSTEM**

The following statement, delivered at the Dispute Settlement Body (DSB) meeting held on 28 September 2020 by Australia on behalf of Brazil; Canada; Ecuador; Guatemala; Hong Kong, China; Mexico; New Zealand; Norway; Peru; Singapore; Switzerland; Ukraine and the United Kingdom, is being circulated at the request of the above-mentioned delegations.

Australia delivers today's statement on behalf of Brazil; Canada; Ecuador; Guatemala; Hong Kong, China; Mexico; New Zealand; Norway; Peru; Singapore; Switzerland; Ukraine and the United Kingdom.

As Members well know, the COVID-19 pandemic is causing significant disruption across the globe and its impact could continue into the foreseeable future.

We wish to extend our sympathies to all Members and the WTO Secretariat for the loss of life, serious risks to health, and the major social and economic crises caused by the coronavirus.

As we have seen, the WTO dispute settlement system is not immune to the impacts of COVID-19.

It is encouraging that, since July, delegates have been able to resume DSB meetings at the WTO premises. However, ongoing restrictions affecting international travel and immigration place in question the feasibility of physical participation of panellists and capital-based delegates at meetings in Geneva into the future.

As it stands, we do not know when we will be able to resume the arrangements for work and travel that existed before the pandemic. Postponing substantive meetings with panels until conditions once again allow the physical attendance of our international colleagues could therefore mean placing disputes on hold indefinitely.

During 2020, we have witnessed governments, private sector organisations, and domestic and international adjudicative bodies throughout the world adapt their usual ways of working to continue operating in these difficult conditions.

We must ensure the WTO dispute settlement system does the same in order to remain functional and relevant.

We therefore urge panels to actively consider, in consultation with parties, flexible alternative arrangements to ensure new disputes and those currently under way can continue to progress in a timely manner despite the challenge of current restrictions.

We recall that Article 12.1 of the DSU affords panels discretion in the working procedures they adopt in individual disputes, after consulting with the principal parties. Panels therefore have the discretion to determine alternative arrangements that would best serve the satisfactory settlement of the matters they are examining, taking into account each dispute's unique context and factors.

In addition, Article 12.2 of the DSU requires that panel procedures provide sufficient flexibility to ensure high-quality panel reports while not unduly delaying the panel process. To this end, we call on panels to exercise their discretion bearing in mind the principles of prompt and positive settlement of disputes enshrined in Articles 3.3 and 3.7 of the DSU.

Some panels have already adjusted their procedures to hold substantive meetings virtually through video conferencing technology. We welcome these developments.

However, to ensure the equitable operation of the dispute settlement system, we must find solutions to enable all current and future matters to move forward in one way or another.

To facilitate this, we encourage the Secretariat to assist panels and Members by outlining a range of practical options for conducting substantive meetings through alternative arrangements that adhere to the requirements of the DSU, including with regard to the confidentiality of proceedings. In undertaking this, the Secretariat could consider the ways WTO panels and other international dispute settlement bodies have modified their hearing procedures.

We stress that we are not calling for any departure from the physical hearing format to become the default. We look forward with optimism to the time when we will be able to resume in-person substantive meetings free of the current, necessary restrictions. However, until that time, we must find temporary, alternative ways to conduct proceedings while we weather the ongoing disruptions arising from the coronavirus pandemic.

An effective, multilateral, dispute settlement system plays a vital role in preserving the rights and obligations of all Members under the covered agreements. We must therefore ensure that the current restrictions on our ability to meet in person do not prevent the proper functioning of the WTO dispute settlement system.
