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International Development
Committee

Government Response to the Committee's First Report:

Trade and Development at the WTO: Learning the lessons of Cancún to revive a genuine development round

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The International Development Committee

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Second Special Report

The International Development Committee reported to the House on Trade and Development at the WTO: Learning the lessons of Cancún to revive a genuine development round in its First Report of Session 2003-04, published on 11 December 2003 as HC 92. The Government Response to that Report was received on 10 February 2004 in the form of a memorandum to the Committee. It is reproduced as Appendix 1 to this Special Report. The Committee also received a response from Commissioner Pascal Lamy, Directorate-General for Trade, European Commission, on 8 March 2004, which we publish as Appendix 2 to this Special Report.

Appendix 1: Government Response

What happened at Cancún?

Paragraph 10 ‘We welcome this long overdue agreement on TRIPS and public health which removes one of the obstacles which poor people face gaining access to affordable essential medicines, and acknowledge the contribution made by the UK Government to securing agreement.’

We agree that resolution of this issue was a significant step forward in the run up to the Cancún ministerial. The Government will work with European Union (EU) partners to ensure that the World Trade Organisation (WTO) Decision taken in August is properly reflected in the Trade-related aspects of Intellectual Property Rights (TRIPS) Agreement. We will also work to make sure that EU member states (including the UK) make the necessary changes to existing flexibilities in their compulsory licensing and medicine authorisation arrangements to enable EU members, if requested to do so, to be exporters under these terms. (See response to recommendation 11).

But this important agenda is much broader. We are committed and will continue work to ensure greater access to medicines for the world’s poor. The Prime Minister’s high-level Working Group on Increasing Access to Essential Medicines in the Developing World reported in November 2002, with recommendations focusing on affordable pricing and the development of new medicines. A team has been established to take forward these recommendations and related areas of work.

We are working with the pharmaceutical industry, Non-Governmental Organisations (NGOs), developing country governments, the World Health Organisation (WHO), European Commission, G8 and other multilateral partners, to secure greater international commitment to making medicines more accessible, particularly through affordable pricing and the development of new medicines for diseases affecting the poor in the developing world.

Recent developments in the UK and internationally include:

- The G8 commitments on access to medicines made at Evian;

- WTO agreement on the outstanding issues on TRIPS and Public Health;
- The establishment of a WHO body to provide analysis of intellectual property rights, innovation and public health for diseases that disproportionately affect developing countries;
- The EU regulation on diversion, which is intended to encourage companies to offer their medicines at significantly lower prices to developing countries;
- UK support for the Global Fund to fight AIDS, TB and Malaria (GFATM);
- Significant UK support for research and development (R&D) to find new drugs and vaccines, e.g. through public-private partnerships (PPPs), such as the Medicines for Malaria Venture and the International Aids Vaccine Initiative;
- New UK Government fiscal incentives for R&D, including a tax credit in the 2002 Finance Act and additional tax credit from May 2003 for R&D into HIV/AIDS vaccines and products for TB and Malaria ;
- Ongoing UK support to strengthening health systems, with over £1.5 billion committed to partner countries since May 1997;
- Ongoing work in developing countries to build a country-level evidence base and improve developing country approaches to increasing access to medicines.

Paragraph 11 ‘We support Oxfam’s call for UK legislation to be amended to allow compulsory licensing for export. This should apply to all drugs for life-threatening diseases, for export to least-developed countries. The UK should also support similar changes to European pharmaceutical legislation.’

In accordance with the TRIPS and Public Health Decision made in the WTO on the 30 August 2003, the UK does intend to amend national patent legislation to allow granting of a compulsory licence for export of a copy of any patented medicine, if so requested in accordance with the terms of the Decision.

As the TRIPS agreement is an area of mixed competence, we are in the process of consulting with the European Commission on the requirements for any necessary EU legislation. The EC has already publicly stated that all WTO members ‘now have the responsibility to ensure that the right conditions are put in place which will allow the system set up by the Decision to operate efficiently’. We are encouraging the EC to move as rapidly as possible.

We are investigating what changes are needed to UK medicine licensing and regulatory procedures to allow generic manufacturers to export medicines to developing countries. There are no a priori restrictions on medicines or type of disease to which the Decision can apply. The Decision will be implemented in a manner supportive of developing and least developed countries’ rights to protect public health. This includes dealing with life threatening diseases. Use of the Decision by WTO members will be assessed by the TRIPS Council on a case-by-case basis.

Paragraph 12 ‘We see the collapse of Cancún as a major setback—not least for multilateralism.’

We agree. The UK shares the Committee’s view that the collapse of talks at the Cancún Ministerial was a serious setback to making progress on the Doha Development Agenda. The loss of momentum in the multilateral negotiations will affect the poorest developing countries most. Despite this setback, the UK is strongly committed to working with others to get the Doha round back on track. We need to make real progress to live up to the full ambition of the Doha Development Agenda launched in 2001. We are working closely with the other EU member states and the Commission to this end and also in dialogue with members of both the G20 and the African Union/Africa, Caribbean and Pacific (ACP)/Least Developed Countries (LDCs) alliance of poorer developing countries.

Paragraph 13 ‘Important progress has been made at Cancún, and more may have been made possible. But it is not possible to say with any certainty whether a good deal was in the offing, particularly because the unexpected closure of the ministerial meant that some countries and country groups had not played all their cards.’

We agree.

Process matters: Time, timing and organisation

Paragraph 17 ‘If Ministerials are to work better in future, and there is to be sufficient time for negotiations, then lessons must be learned about the effective use of limited time. There is little point in delegates wasting time rehearsing their well-established positions.’

We agree. The Government has discussed a number of proposals for the reform of the WTO with our EU partners and the European Commission, including improvements to the functioning of the WTO, in particular WTO Ministerial meetings. These proposals are reflected in the Commission’s strategy paper, ‘Reviving the DDA Negotiations—the EU perspective’, which was endorsed by the European Council of Ministers on 8 December last year. It is vital that we learn the lessons from Cancún. However, reform of the WTO should not distract members from pursuing the Doha Development Agenda (DDA).

Paragraph 18 ‘If Ministerials are to be successful, the preparatory work must be done. Better progress must be made at Geneva, deadlines must be met, and decisions should not be simply postponed to Ministerials.’

We agree.

Paragraph 20 ‘In our view the closure of the Ministerial was premature as well as unexpected. Participants in WTO Ministerials must know when negotiations are set to conclude. Otherwise, negotiations are unlikely to work. Ministerials ought not to be extended as a matter of course, and, there should be clear mechanisms for making decisions about whether, exceptionally, to extend them. The decision to extend a Ministerial must not be in the hands of one person.’

As part of the process of lesson learning from Cancún (See response to paragraph 17) we believe that WTO members should agree some guidelines for the conduct of Ministerial Conferences, including on the role played by the Chairman.

Paragraph 21 ‘In a development round it was a serious mistake to prioritise negotiations on the Singapore Issues over agriculture, because agricultural reform is clearly of greater importance to most developing countries. It was wrong to attempt to make progress on agriculture a ‘reward’ that developing countries would receive if they agreed to include the Singapore Issues on the WTO agenda. Decisions as to the order in which negotiations proceed at Ministerials ought to be taken by the WTO’s membership as a whole, rather than being made by the Chairman in consultation with a small number of countries.’

We share the Committee’s view that progress on agriculture was a much higher priority for most developing countries than the Singapore issues. We also agree that progress on agriculture in the DDA should not be seen as a ‘reward’ for progress on the Singapore issues. We support the current proposals for the handling of the Singapore issues made by WTO General Council Chairman Perez del Castillo.

We think that any guidelines on the conduct of Ministerial meetings (see answer re paragraph 20) must address the question of responsibility for the sequencing of discussions. We suspect that it would in practice be unrealistic for detailed decisions on the scheduling of discussions to be subject to the explicit consensus of the entire WTO membership. But any process must be clear and transparent so it commands the confidence of the membership as a whole.

In the specific case referred to by the Committee, we understand that the decision to discuss the Singapore issues first—and at length—led to a misunderstanding among some WTO members that there were no plans to discuss agriculture at all, and that this misunderstanding contributed to the worsening of the atmosphere that culminated in the failure of Cancún. This mistake should not be repeated.

Paragraph 22 ‘The Government refers somewhat cryptically in its memorandum to the need for ‘better designed negotiating structures’. We invite the Government to clarify what it means by this phrase, and to outline what it is doing to ensure that negotiating structures are better designed in future. For the EU, which uniquely has one negotiator for a number of WTO member states, it is essential that trade ministers of Member States meet the EU Trade Commissioner regularly, at least daily, during WTO Ministerial meetings so that the Commissioner can base his negotiating position on policies agreed collectively by the trade ministers.’

There was regular contact between Commission officials and those of Member States throughout the Cancún Ministerial meeting. We are satisfied that these Commission officials spoke with the full authority of Commissioners Lamy and Fischler. We also fully appreciate the need for Commissioners Lamy and Fischler to spend as much time as possible in discussion with non-EU counterparts. We note also that Commissioners Lamy and Fischler were negotiating on the basis of a policy framework that had been discussed extensively with Member States, including at Ministerial level, in advance of Cancún.

That said, we agree with the Committee that there are lessons to learn from Cancún, in terms of the need to ensure an effective dialogue between the Commission and Member States at a political as well as at a technical level. We will pursue this with the Commission and other Member States before the next Ministerial meeting.

Paragraph 23 ‘The status of papers produced by Chairmen and facilitators of Working Groups, and the role of the WTO Secretariat in such processes, should be clarified.’

We think that it is useful for the Chairman of a group, or for a facilitator, from time to time to make proposals on their own authority. We do not see a problem with the involvement of the WTO Secretariat in the preparation of such proposals. The most important consideration is that no proposal can be adopted except by consensus of the WTO members. This being the case, a chairman or facilitator will tend to consult all WTO members with a key interest—developed and developing—in advance. We are not persuaded of the added value of detailed rules, which might hamper the flexibility with which potential solutions can be identified.

Geo-politics matters: New country-groups and the failure of brinkmanship

Paragraph 26 ‘The increased coordination and coherence between developing countries at the WTO, and their stronger voice was perhaps the most positive aspect of Cancún. We are pleased that the Government—in contrast to some of its developed country partners—shares this view. [...] The Government can be justly proud of its work in building the capacity of developing countries to enable them to have a more effective voice in international negotiations. This important work should continue—even if countries who receive assistance sometimes take up positions which conflict with the UK’s perceived interests—and should apply beyond the trade arena.’

We agree that the emergence of a much stronger developing country voice, particularly of the poorer developing countries was a very positive development. We welcome the Committee’s agreement on the principle of offering support to developing countries (with their varying interests) as they work on their negotiating positions, irrespective of how that might sit with the UK’s own position. We believe it is important that developing countries are able to work out what best suits their needs rather than have a position worked out for them, however well meaning that advice might be. For example, in the run up to Cancún, we contributed financial support to assist the African Union, ACP and LDCs to come together to discuss their common agenda for the WTO round. These 60 poorer WTO members subsequently found common ground, forming a new alliance for Cancún, the ‘G90’. We also believe that it is important for these negotiating groups to have consultation and discussion structures in place to enable them to agree positions with sufficient flexibility and speed to assist the negotiating process. As well as responding to requests for direct support to developing country governments, the UK will continue to provide funds and technical assistance to:

- Third parties (e.g. United Nations Conference on Trade and Development (UNCTAD), the Commonwealth Secretariat) who in turn provide direct support on key issues identified by a developing country;

- Organisations offering specialist advice or networking/support services (e.g. The Advisory Centre for WTO Law);
- Regional organisations (e.g. a trade facilitation programme with the South African Development Community (SADC));
- Multi-donor and agency initiatives to address trade issues in-country (e.g. the Integrated Framework, the World Bank/International Monetary Fund (IMF) Initiative to identify mechanisms to support developing countries in coping with the adjustment costs of transition to trade liberalisation)
- Research into key issues of concern to developing countries.

Paragraph 27 ‘All participants in negotiations need to be flexible; otherwise agreement is impossible. Country-groups should, as far as possible, work out their positions prior to Ministerials. And, perhaps most importantly, the EU and the USA must realise that the geo-politics of the WTO have changed; they cannot expect to set the agenda. Further, given the significant barriers to South-South trade, negotiations and liberalisation between developing countries must form part of a development round. In this regard, we were interested to see the European Commission's somewhat provocative suggestion that the G20+ be invited to give preferential access to the poorest countries.’

There are substantial gains to be made from removing tariffs barriers to trade between developing countries, and thus increasing regional trade between developing countries. We fully support the commitment by the World Trade Organisation, made in the Doha Declaration in November 2001, to 'the objective of duty-free, quota-free market access for products from least developed countries', and the further commitment 'to consider additional measures for progressive improvements in market access for LDCs'. We encourage all members of the World Trade Organisation, including members of the G20+, to deliver on that commitment. The EU, through the Everything But Arms Agreement of February 2001 has already implemented this principle (subject to phasing in for full market access for bananas, rice and sugar).

Paragraph 29 ‘The members of the G20+ are not the very poorest countries, and they do have different interests, but they are a serious grouping—at Cancún the G20+ represented 63% of the world's farmers and 51% of the world's population—and should be treated with respect rather than contempt.’

We fully agree. The EU at the highest level is engaging with the G20, which we have strongly encouraged. The UK too is actively engaging with key G20 members.

Paragraph 31 ‘The EU's offer to unbundle the Singapore Issues, and to withdraw its demands for a start to negotiations on Investment and Competition, came far too late. The European Commission's strategy of brinkmanship was destined to derail Cancún, particularly given the complications introduced by the emergence of new country-groups. The timing of the Commission's offer to unbundle the issues left countries with little time to consider their positions, consult with their allies and respond constructively. The unexpected closure of the Ministerial reduced the time available still further.’

We stand by statements we made previously on this issue, as set out in the supplementary memorandum.¹

Substance matters most: The Singapore Issues, agriculture and cotton subsidies

Paragraph 35 ‘The insistence, by the EU and a small number of other countries, on the adoption of the Singapore Issues, in the face of overwhelming opposition from most developing countries, and the linkage made in the Derbez text between progress on agriculture and non-agricultural market access and progress on the Singapore Issues, were key factors in the collapse of Cancún. The EU’s decision to pursue negotiations on the Singapore Issues was a major error. The lesson is simple: developing countries’ concerns should be listened to carefully and taken seriously.’

We believe that that any WTO agreement must be development friendly. It is vital that the ‘new issues’ do not jeopardise overall progress on the Doha Development Agenda and imperil the other undoubted benefits of a successful Round.

Paragraph 36 ‘The timing of the agreement on CAP reform and the EU’s failure to agree on an absolute reduction in subsidies may well have made it difficult for the EU to sell its CAP reform plans to other members of the WTO. But the timing and extent of CAP reform was something that the EU’s member-states alone could determine. This was an own goal resulting from a lack of coherence between EU policies on trade, development and agriculture.’

We accept that the Common Agricultural Policy (CAP) reform timetable left relatively little time to prepare the ground for negotiations prior to and at Cancún. However, the Government believes that the extent of the reform was substantial enough to be conducive to a better outcome at the WTO. Shortly after the conclusion of the CAP reform deal, the EU and US, at the request of other WTO Members, agreed a joint paper published in August, which in turn generated various other proposals from the G20 and other groupings. The EC/US text formed the basis of the draft Cancún Ministerial text and subsequently the Derbez text produced during the Cancún Ministerial. We agree the EU needs to work harder to explain to many countries the longer term impact of both the CAP reforms agreed last year and to ensure that the continuing process of reform of other regimes takes proper account of their importance for the wider WTO agenda.

Paragraph 40 ‘Although trade policy has international repercussions, it is primarily the product of domestic politics. When international trade policy is the by-product of US electoral politics and rising protectionist sentiment, the USA’s trading partners, including developing countries, are the losers. In our pre-Cancún Report we suggested a general principle: the burden of adjustment should not fall on those countries who are least-equipped to deal with it. The same applies to the burden of non-adjustment.

¹ As the ‘Supplementary memorandum submitted by the Department for International Development and the Department of Trade and Industry, in response to further questions from the International Development Committee’ on 27 October 2003, states: ‘Lamy has told the European Parliament that an earlier move would have been premature in the light of the movement from other countries on issues in Cancún. It is not possible to be certain, with hindsight, whether or not this judgement was correct.’

We welcome DFID's ongoing work which aims to understand better the plight of the West African cotton producers, and encourage the UK and its EU partners to emphasise, in their dealings with the USA as well as with their own farmers, that the poor should not have to suffer the impacts of northern subsidies.'

The Government has commissioned further research on the impact, both absolutely and relatively of US (first as most important) EU, and Chinese cotton subsidies on West Africa. The WTO dimension needs also to be taken into account as the EU debates reform of the CAP cotton regime, which has seen EU production rise fourfold in recent years, even though minimal amounts are exported.

The European Commission and the EU's Member States: Mandate, communication, accountability and transparency

Paragraph 45 'In our view the Government should have done more to persuade the EU and the Commission to unbundle the Singapore Issues, and to drop Investment and Competition rather than simply make them less of a priority. The Government should not have left itself open to the charge that it failed to express its views about the Singapore Issues with sufficient force.'

We regret the perception that the Government failed to make its case on the Singapore issues within the EU with sufficient force. In addition to our public statements on UK priorities for the DDA, we were in regular private contact with the Commission at all levels to express our view. We are in no doubt that Commissioner Lamy understood clearly the UK view that investment and competition in particular should not be allowed to get in the way of progress on the DDA. For reasons of trust between UK Ministers and the Commission, the exact terms in which we set out the UK position must remain confidential.

Paragraph 46 'Although we welcome the EU's commitment to greater use of Sustainability Impact Assessments as a contribution to enhancing transparency and improving discussion of the impacts of trade policy, the UK Government should do more. They should clarify the legal status of the Article 133 Committee and explain its role in determining the aims of European trade policy and pursuing those aims in multilateral fora. The UK Government should also consider following Denmark's example by publishing the agendas of Article 133 Committee meetings when it next holds the presidency of the European Union in 2005. We share the Government's view that the policies pursued by its developing country partners should be determined through democratic and inclusive processes; the EU should make this case through example.'

The Government is happy to clarify the legal basis of EU trade policy. Article 133 of the EC Treaty establishes a common EU commercial policy. It provides for the Commission to propose negotiating directives to the Council and for the Council to decide these negotiating directives by qualified majority voting. It establishes a committee of representatives of Member States (hence 'the Article 133 Committee') to assist the Commission in the conduct of negotiations. So the Article 133 Committee per se has no decision-making role, although it is in practice the forum in which trade policy issues are discussed on a regular basis between the Commission and Member States, and it is the

Committee, which prepares any discussion in the Council of Ministers on any issue relating to international trade negotiations.

UK officials, in common with the officials of other Member States, speak on the basis of positions agreed with Ministers in advance and report to Ministers on the outcome of discussions. The Government seeks to develop UK positions following full and open consultation with interested stakeholders. We would therefore question the Committee's assumption that the process of developing UK input into EU trade policy is neither democratic nor inclusive.

We agree with the Committee that the Article 133 Committee should operate in as transparent a manner as possible, subject only to the fact that some communications between Governments on sensitive issues must remain confidential. We welcome the current practice of the European Commission in publishing a wide range of Article 133 Committee working papers on their website. We are open in principle to following the Danish practice of publishing the agenda of 133 Committee meetings in advance and will discuss this with our EU colleagues in the run up to our Presidency.

Governance, role and scope: The WTO and a development round

Paragraph 48 ‘Along with Pascal Lamy, many developing countries, and many NGOs, we are also concerned about the governance of the WTO, and specifically about the way in which Ministerials are run. As the World Development Movement put it, ‘for an organisation that creates so many rules, it is surprising that the WTO does not have any rules to guide its own negotiations and decision-making.’ The motivation for introducing new rules must be broader than one of efficiency; it must also be to ensure that multilateral negotiations are democratic, accountable and transparent. We were pleased therefore to hear Patricia Hewitt state that: ‘the fundamental principle of one member one vote must not be tampered with’. It seems likely that greater use might be made of mini-Ministerials, to try to reduce the pressure on Ministerials themselves. This, and other organisational improvements are suggested in a reflection paper produced by DG Trade of the European Commission for the consideration of the Article 133 Committee. We would be interested to hear the Government's response to the proposals mooted in this paper. Specifically, we invite the Government's comments: first, on what might be done to improve the effectiveness of Ministerials; and, second, on the likely impact of a greater use of Ministerials on levels of democracy, accountability, transparency and the participation of developing countries at the WTO.’

The Government supports the observations submitted to the WTO by the European Commission on behalf of the EU. These were discussed with Member States prior to submission.

We support in particular the ideas set out in the Commission paper on the scope for making better use of Ministerial conferences. For example, we think that the WTO could usefully clarify the respective roles of the Chairman and the Director General at Ministerial conferences.

We understand the Committee's second question to refer to the likely impact—in particular for developing countries—of a greater use of ‘mini-Ministerial’ meetings bringing together a subset of WTO members. We think that, in an organisation of the size of the WTO, it will sometimes be necessary for the Chairman of the General Council and the Director General to bring together small groups of members to attempt to identify potential solutions to particular issues. For such meetings to be effective, they have to bring together developing as well as developed countries (all mini-Ministerials in recent years have followed this practice, as have meetings of the ‘Green Room’ in Geneva and at Ministerial conferences). They are not a substitute for the need ultimately to secure the consensus of all WTO members for any proposed course of action.

Paragraph 50 ‘But in our view, rather than excuse the developed world from delivering on its promise of a ‘Development Round’ which involves developing countries, the appropriate response is to work harder to deliver a round that really does serve the developmental interests of the WTO's diverse membership. If trade and trade liberalisation is a positive-sum game, then it ought to be possible to ensure that all countries gain; for a development round, the gains for developing countries should be substantial.’

We agree.

Paragraph 51 ‘We would like to hear the Government's views about the implications for developing countries of a shift to plurilateral trade negotiations and agreements: might such a shift presage the emergence of a more flexible and development-friendly WTO; and, how could the interests of developing countries, and the priority afforded to poverty reduction, be protected?’

A strong, rules-based multilateral system is the best way of ensuring the interests of the weakest economies are secured. However we recognise that WTO members are at markedly different stages of development. Rather than promote a multi-speed WTO through adding to the few existing WTO plurilateral agreements, we should make Special and Differential Treatment provisions specific, operational and closely reflective of developing countries very different levels of economic development so that we can achieve the objective of fostering greater integration into the world trading system.

Paragraph 52 ‘Now is not the time for fundamental reforms which act as a distraction, and which postpone any progress on making trade work for poverty reduction. The question is whether there are some limited and useful reforms, which can be undertaken immediately to restart negotiations in a more transparent and efficient manner without stalling the process completely, whilst discussions about more fundamental reform go on in parallel. We invite the Government to comment on what immediate reforms it would like to see and what it is doing to secure such reforms, and also to tell us what input it is making into debates, including the work of the Sutherland Commission, about longer-term reforms.’

We are in regular contact with individuals from the Sutherland Commission and will continue to feed into the ongoing debate in Geneva.

Reviving a genuine development round

Post-Cancún prospects: Bilateralism, transatlantic relations and the Peace Clause

Paragraph 54 ‘The UK Government must ensure that its strong support for multilateralism is heard loud and clear by its European partners, and also that in the EU’s own bilateral relations—through for instance Economic Partnership Agreements with the ACP countries—its objective remains developmental partnership rather than bilateral arm-twisting.’

We agree and we will work to ensure that Economic Partnership Agreements (EPAs) are used as a ‘development tool’. EPAs should foster the smooth and gradual integration of ACP countries into the world economy thereby promoting sustainable development and contributing to poverty eradication. We are discussing the process and substance of EPAs with our colleagues in beneficiary countries and with civil society.

Paragraph 55 ‘We trust that the Prime Minister is using what political capital he has with President Bush to convince him that reviving the development round is an important front in the war on poverty, and that the war on poverty is complementary to the war against terrorism.’

The Prime Minister has been engaging with President Bush on these issues. The Prime Minister took the opportunity of President Bush’s visit to the UK in November 2003 to raise the issue of trade. In their Joint Statement of the 20th November, the Prime Minister and President Bush stated their commitment to ‘advance an open trade regime’. They went on to state ‘We are committed to an open, fair, and multilateral world trading system. Recognising that the WTO Ministerial in Cancún was a missed opportunity, we reaffirm our commitment to a successful conclusion of the WTO’s Doha Development Agenda. We will work with our international partners to achieve a successful conclusion to the Round that will benefit both developed and developing countries. We call for a resumption of the negotiations, and encourage all parties to make serious and substantial contributions to these important negotiations.’

Paragraph 56 ‘We would not want to see the WTO swamped by a flood of disputes, but clearly if the WTO is to be credible and effective, developing countries must be able to make use of its dispute settlement procedures to challenge trade-distorting agricultural subsidies wherever they are found. The Peace Clause should not be extended; backdoor efforts by the USA and the EU to extend it through re-interpretation of its expiry date must be resisted strongly.’

The Peace Clause expired on 31 December 2003 and has not been extended.

We support the EU proposal for a similar mechanism to be included in any new Agreement. The Peace Clause provided a valuable level of stability for WTO member countries complying with their Uruguay Round Agreement commitments. The Uruguay Round committed all member countries to an agreed level of reductions in agricultural support. Those reductions were to be phased in over 6 years and, once fully implemented, remain in force until a new agreement is reached. The rationale behind the Peace Clause is

that so long as members continue to comply with their WTO commitments, their support system should not be open to challenge.

What's on the table?: The Derbez text and the Singapore Issues

Paragraph 60 ‘If the Derbez text is to be the basis for negotiations, the Singapore issues must—with the possible exception of Trade Facilitation on which a explicit consensus seems near—be removed and the condescending language on cotton subsidies expunged. The Singapore Issues should be considered parallel to the round, with reports on possible ways forward made to the WTO's General Council by the start of 2005. A solution to the issues around cotton should be pursued within the agriculture negotiations, alongside efforts to tackle agricultural subsidies more generally.’

We have said clearly for some time that the ‘new issues’ should not jeopardise overall progress on the Doha Development Agenda and imperil the other undoubted benefits of a successful Round. As the Secretary of State for International Development told the United Nations General Assembly on 30th October we must ‘pick up from where Cancún left off, with investment and competition off the table’

Pursuit of progress on launching negotiations on both Transparency in Government Procurement and Trade Facilitation, while each have significant merits, must not be at the expense of moving the round forward. Multilateral agreements on these two issues have real potential for bringing benefits to developing countries in the form of increased efficiency in trade flows and value for money in government procurement. For example, in Mozambique an overhaul of customs management has led to a rise in customs revenue from US\$86m in 1996 to US\$198m in 1999 and to a record US\$236m in 2000—despite cuts in import duty in 1996 and 1999. We will play our part in addressing developing countries' negotiating capacity and wider constraints in implementing reforms.

On cotton, we agree that we must find a solution as an integral part of the WTO agricultural negotiations, whilst addressing in faster time what can be done to secure the livelihoods of thousands of cotton producers in the interim before US and EU subsidies are phased out. It is important as part of any coherent response on cotton to reduce the trade distorting nature of EU subsidies. We consequently will also push in EU negotiations for substantive reform of the cotton regime.

Paragraph 62 ‘We fail to understand how, having signed up to the Ministerial Declaration, the European Commission can perform a U-turn on the Singapore Issues and hope to retain its credibility. Such a manoeuvre shows no appreciation of the strength of feeling among developing countries about the Singapore Issues. If the Commission's about-turn looks shoddy to us, as parliamentarians of an EU member state, we can imagine how it must look to developing countries. This is not the way to rebuild trust and confidence in the EU's commitment to a genuine development round. Neither is it the way to revive the round or to work towards an equitable inclusive system of multilateral global governance. Credibility and trust, the essential lubricants of peaceful international relations, are quickly lost, but slowly regained. We look forward, in the interests of transparency and accountability, to hearing exactly what

position the Government has been taking at meetings of European trade Ministers and officials in the run-up to 15 December.'

UK Ministers and officials have on numerous occasions since Cancún made the UK position clear to the Commission and to other Member States. We have stressed that we do not want the Singapore issues to stand in the way of progress on other issues and that we do not think that the EU should continue to press for negotiations on investment and competition. As previously stated, we are content with the differentiated approach set out by WTO General Council Chairman Perez del Castillo for the handling of the Singapore issues.

Paragraph 66 'There may well be value in optional participation and plurilateral agreements on the Singapore Issues, but unless developing countries' underlying concerns are addressed—including legitimate concerns about their policy space—the Commission's proposals will not, and should not, be accepted. Plurilateral optional agreements entered into by a sub-set of the WTO's membership are not problem-free; this approach was floated by the EU prior to Cancún and received, at best, a lukewarm response from developing countries. A plurilateral approach would leave developing countries with the unenviable choice of taking part in negotiations that they don't want, or not participating and facing pressure at a later date to sign up to an agreement they had no part in negotiating.'

Following discussion with Member States, the Commission continues to explore the option of taking a plurilateral approach to some or all of the Singapore issues. We strongly agree with the Committee that this will only work if the underlying concerns of developing countries can be addressed.

Paragraph 67 'We reiterate what we said prior to Cancún; The Singapore Issues are not a development Priority. Developing Countries have made this abundantly clear. Agreements on these issues should not, therefore, be pursued as part of the current round. This reasoning should apply to each of the issues, with the possible exception of Trade Facilitation, an issue on which explicit consensus seems near.'

We agree that these issues are not a development priority and must not jeopardise the progress of the round. However as we stated in our response to paragraph 60, Transparency in Government Procurement and Trade Facilitation, have real potential for bringing benefits to developing countries.

Paragraph 68 'A development-friendly agreement on agriculture must, at a minimum, pass two developmental tests: will it stop dumping? and, will it allow developing countries to protect themselves from any continuation of dumping? In addition, it must: reduce tariffs and tackle tariff peaks and escalation; extend duty-free and quota-free access to all LDC exports into all developed countries; ensure that tariff barriers are not replaced by other forms of protectionism; include binding timetables to reduce and in time eliminate domestic support and export subsidies of all types; and, compensate and assist current preference holders and ensure the food security of the net-food-importing developing countries and the LDCs.'

We agree on the need for reductions in the overall level of trade distorting subsidies over time, not just in the EU, but in all countries and particularly those in the developed world. However we do not agree that all domestic support should be eliminated, if it can be shown to be non- or minimally trade-distorting.

We believe strongly in the need to consider assisting current preference holders, but see this as transitional assistance to enable them to adjust to changes, rather than compensation.

We agree with the need to ensure food security. But we see food security as an issue that can affect poor households in all developing countries, not simply net-food importers and LDCs.

The European Union and agricultural reform

Paragraph 69 ‘We welcome the inclusion in the Derbez text of the EU-inspired proposal to ‘remove export subsidies for products of particular interest to developing countries’, and hope that developing countries will respond positively to this offer. This offer must remain on the table post-Cancún; there must be no backtracking. And it must be for developing countries themselves to determine which products are of particular interest to them.’

We welcomed this proposal when it was originally made by the EU in January 2003. Developing countries have yet to respond. We are working with the Commission to encourage developing countries to respond.

Paragraph 72 ‘The interests of European taxpayers and consumers, and most especially the farmers of developing countries who suffer the effects of the dumping of agricultural products, are poorly served by the EU's agreement on CAP reform. The reform may be substantial in terms of EU politics, but that does not mean that it will make a substantial difference to developing countries. Partially decoupled agricultural support will still keep European farmers in business at the expense of farmers in developing countries. If agricultural subsidies keep farmers in business, and their products are exported, then those subsidies are trade-distorting. This is self-evident.’

The Government regards the decoupling of subsidies as a significant step forward, but will continue to press for similar reforms in the CAP regimes under current discussion, and to ensure that domestic subsidies are at most minimally trade distorting.

Paragraph 74 ‘The question of whether or not particular forms of agricultural support fall into the Green Box must be based on objective assessments rather than political bargaining, as the EU itself seemingly recognised in its earlier proposal to review the Green Box criteria. This issue has become too politically divisive for it to be considered objectively at the WTO. We support the call made by CAFOD, Action Aid and others for an independent review—preferably conducted by the World Bank—of the Green Box criteria and the impact of different forms of subsidies on production and trade, and recommend that the UK Government support this proposal too.’

Our current view is that reopening the question of Green Box criteria runs the risk of enlarging, rather than narrowing, the range of exceptions, thereby exacerbating the potential for trade distortion.

Paragraph 75 ‘Multilateral trade negotiations at the WTO are supposed to be about providing a level playing field. The Common Agricultural Policy slants the playing field to the tune of \$50 billion per year. As Oxfam point out, you can defend multilateralism or defend the Common Agricultural Policy, but you cannot do both. The UK must continue to press for urgent and radical reform of the CAP, including full decoupling, rather than going along with an exercise which tries to hide trade-distorting subsidies in a different coloured box. If the EU wishes to support its farmers, or protect its environment, or improve animal welfare, this must be done in a manner which does not harm the interests of developing countries.’

The Government agrees that there is a clear link between progress on WTO agriculture negotiations at the multilateral level and progress on CAP reform within the EU. We pushed hard for the EU CAP reform deal agreed June last year, both because reform was much needed internally within the EU, but also because it would enable progress to be made in the WTO. This Government has long been a strong advocate for both CAP reform and multilateral trade negotiations and will continue to be at the forefront of arguing strongly for progress in both areas.

Dealing with difference: Preference erosion, SDT and coherence

Paragraph 80 ‘In response to our pre-Cancún comments on SDT, the Government acknowledged that ‘the WTO systems must be made more flexible and sophisticated to respond to widely differing needs’ and suggested that a first step in encouraging a constructive debate might be to establish an expert working group which would report to the WTO's General Council, this sounds like a good idea; we look forward to hearing what progress the Government has made with this proposal.’

There has been a disappointing lack of progress in addressing Special and Differential Treatment issues. We had hoped to see agreement in Cancún to at least an initial package of measures, however limited, which might then have opened the way to a wider dialogue on Special and Differential Treatment within the WTO. We will continue to press the case for Special and Differential Treatment within the WTO system which helps all WTO members integrate into the wider world trading system at a pace that is appropriate for them and to explore the possibility of the creation of an expert working group to move the debate forwards.

Paragraph 81 ‘The recognition by the international financial institutions, and the WTO, that the impacts of trade liberalisation vary by country, and that the timing and sequencing of a country's trade reforms matters is welcome and somewhat overdue. Such a recognition necessitates increased coherence between the various multilateral institutions. As such, we warmly welcome the IMF-World Bank adjustment assistance initiative as a concrete mechanism for strengthening and coherence between the WTO, the IMF and the World Bank, and applaud DFID for its role in promoting this initiative.’

We agree on the importance of progress in collaborative working between the IFIs and WTO. We have long recognised that there will be losers from trade liberalisation as well as winners, at least in the short to medium term in most WTO member states. Trade liberalisation policies should progress gradually and be complemented with other policies to help maximise economic opportunities for all and minimise short-term costs and their adverse effects. The Department for International Development and HM Treasury are working closely with the World Bank, IMF and others to develop effective mechanisms to respond to the adjustment needs of different developing countries.

Paragraph 83 ‘The IMF-World Bank initiative is potentially very significant; the UK must do its utmost to ensure that it is well-designed. Decisions about whether, when, how, on what basis, and to which countries assistance should be provided, must be based on the needs of developing countries. And the IMF-World Bank initiative must not be the sole preserve of the international financial institutions. Rather, its design and operation must be shaped by the expertise, knowledge and experience of developing countries themselves, UNDP, UNCTAD and bilateral donors, as well as the expertise and backing of the international financial institutions. As the Government states, adjustment assistance and mechanisms to deliver it must be built on sound analysis of the impacts of liberalisation on poverty.’

We agree that for this initiative to effectively address the needs of developing countries, they should be involved in the design process. The UK is also working with EU partners and US on this initiative. This is the best way to ensure coherence with trade policies is achieved. We will continue to work with the IMF and World Bank to encourage different stakeholders, including developing countries, to participate in the design of this initiative. We are also fully conscious of developing country concerns that this initiative needs to be developed in parallel with and not as a substitute for agreeing Special & Differential Treatment provisions as an integral part of the different agreements.

Political leadership

Paragraph 87 ‘Patricia Hewitt stated that: ‘Europe as one of the largest and leading players in the WTO does need to take a lead and put a great deal of effort into helping get the talks back on track in Geneva’. We fully endorse this. The EU was the primary architect of the Doha Development Agenda and could—by working with others including the G20+, the G90 and the G33—revive the round.’

We agree. Engaging with the G20, G90 and G33 is a priority for us. We are regularly meeting with members of these groupings on a bilateral and multilateral basis. For example the EU will be meeting with G20 representatives on 12-13 February.

Paragraph 92 ‘In summary, whilst it is very good news that the EU is going to re-engage with negotiations, and is prepared to be a little more flexible on the Singapore Issues, in other areas the Commission's paper does little more than re-state familiar positions. As the paper itself makes clear, the EU's objectives have not changed; rather what the Commission proposes are new strategies to refine and sharpen the EU's negotiating approach. As we have made clear, particularly on agriculture, this is not enough.’

We continue to work with the Commission and other Member States to move the negotiations forward and ensure developing country views are fully taken into consideration.

Paragraph 93 ‘The UK must continue to play its part, encouraging the EU in its support for multilateralism, pushing the EU further and faster on agricultural reform, and re-iterating that the Singapore Issues are not a developmental priority.’

We agree.

Paragraph 94 ‘If the legacy of Cancún is a genuine development round and a WTO more responsive to the diversity of developing countries, then the collapse of the Ministerial may be seen as a key episode in the emergence of a fairer system of global governance in which developing countries' voices are clearly heard. As an example of what can be achieved through multilateral co-operation, the delivery of a genuine development round would be hard to beat. That should be the aim.’

We fully agree and remain committed to the realisation of the promises made at Doha. We are working with our key international partners in pursuit of this goal. The Government will continue to be at the forefront of those pushing for an open and rules-based international trading system that fulfils its potential to contribute to the reduction of poverty in poorer countries.

Department for International Development

Department for Trade and Industry

10 February 2004

Appendix 2: Response from the European Commission

Learning the lessons of Cancún

Process matters: Time, timing and organisation

The Commission agrees on the importance of process. Although the failure of the Cancún ministerial was due largely to substantive differences amongst Members, important organisational and procedural shortcomings also contributed to the breakdown. What is needed is a modest but feasible set of organisational improvements to the WTO, focusing first and foremost on the preparation and management of Ministerial conferences, and other means to improve the efficiency and inclusiveness of WTO negotiations and the decision-making process. It is important that discussion of process does not become a distraction from the substantive negotiations.

In relation to the conduct of Ministerial conferences a key point is to ensure an earlier start of the negotiations: For future Ministerial meetings, the EU suggests that the informal negotiations at Ministerial level start immediately. We also want the structure for negotiations and the complete agenda to be set in advance of the Ministerial Meeting and in a way that all necessary time is given to the actual negotiation of texts.

We also need a clear delineation of the role of the Chairperson, the Director General and Members: The Cancún ‘experience’ suggests that key substantive decisions should be taken in a more collective way so as to reflect the will of the WTO membership. We also need to address the challenge for many members, in particular those that do not have resident representatives in Geneva, to cover the many issues on the WTO agenda.

With regard to the proposal that trade ministers of Member States meet the EU trade Commissioner regularly, at least daily, during WTO Ministerial meetings so that the Commissioner can base his negotiating position on policies agreed collectively by the trade ministers (paragraph 22), the EU trade Commissioner negotiates on the basis of a mandate agreed with Member States. There was very close contact between the Commission and Member States—both at the political and official level—before, during and after Cancún. Nonetheless a balance needs to be struck between internal discussions and contacts with third countries.

Geo-politics matters: New country-groups and the failure of brinkmanship

The Commission recognises the importance of intensifying contacts with groupings such as the G20 and G90 and welcomes the Committee’s conclusion (paragraph 27) that ‘given the significant barriers to South-South trade, negotiations and liberalisation between developing countries must form part of a development round.’ Since the WTO General Council meeting on 15 December, where there was a clear expression by all WTO Members of their political will to continue the DDA negotiations, the Commissioner responsible for Trade has travelled to Brazil for a meeting with the G-20, to India,

Bangladesh, Indonesia, and Kenya, met the G90 in Geneva and attended the ACP-EU Joint Parliamentary Assembly in Addis Ababa as well as holding other meetings in Brussels.

Substance matters most: The Singapore Issues, agriculture and cotton subsidies

The Commission continues to believe that it is of crucial importance, for developed and developing countries alike, to create optimal conditions for cross border trade (trade facilitation), to encourage an attractive climate for productive foreign direct investment, to promote fair competition and the procurement of the best goods and services for citizens at decent prices. The EU sees no reason to abandon the fundamental and long run objective of creating rules for these four issues as key drivers of the global economy.

Support for Trade Facilitation and Transparency in Government Procurement is widespread and there is no reason why these issues should not remain part of the DDA Single Undertaking. By contrast, we recognise that there is insufficient support for the time being to pursue Investment and Competition within the single undertaking. Given that, one option is to allow those members that are interested in elaborating rules on these issues to forge ahead. No WTO member should be forced to participate in the negotiation process nor to subscribe to the results. But equally no one should block others from moving forward, if they want to do so.

On agriculture, the EU will continue to play a full and constructive role, including through its own internal reforms such as recent orientations for reform in cotton, sugar, olive oil, and tobacco. A successful outcome of the negotiations will however only be possible if other major players are ready to show the same degree of determination to arrive at a fair compromise. The Commission does not accept the Committee's view (paragraph 36) that there has been a lack of coherence between EU policies on trade, development and agriculture: our duty-free and quota-free access for least developed countries, the CAP reform decided in June 2003 which firmly puts agricultural support on a less trade-distorting path, our proposals in the DDA for market opening, disciplines on domestic support, elimination of export subsidies for all products of interest for developing countries, our support for a food security box in the WTO are all firmly oriented towards meeting the interests of developing countries. However, in addition to putting development questions at the heart of discussions on industrial tariffs and agriculture, there is a need for additional creativity in addressing the particular problems of the smaller and weaker WTO members including least developed countries, landlocked and small island developing countries.

The European Commission and the EU's Member States: Mandate, communication, accountability and transparency

With regard to the recommendation in paragraph 46 about publishing the agenda of the 133 committee, these agenda are already available on the website of the Council of the European Union at: <http://register.consilium.eu.int>

Governance, role and scope: The WTO and a development round

As noted above, the Commission agrees that there is scope for modest organisational improvements in the short term but that, as paragraph 52 of the Report says, now is not the time for proposals that might distract from making progress on the substance of the development round. In the medium to long term, attention needs to be paid to issues such as the size of the WTO secretariat, the role of its Director General, and greater involvement of Parliamentarians and civil society in the work of the WTO.

Reviving a genuine development round

Post-Cancún prospects: Bilateralism, transatlantic relations and the Peace Clause

The EU's objective in its bilateral relations, including Economic Partnership Agreements with the ACP countries is indeed developmental partnership (paragraph 54). Sustainability Impact Assessments represent an important instrument in ensuring that this is achieved.

With regard to the 'Peace Clause', comprehensive negotiations on agriculture, resulting in an agreement acceptable to all Members, risk being undermined if Members use litigation in an attempt to challenge subsidies granted consistently with the Agreement on Agriculture. A strategic choice has to be made, in particular by the export oriented WTO Members, between multilateral negotiations or WTO litigation.

What's on the table?: The Derbez text and the Singapore Issues

We do not understand the Report's reference to a 'U-turn' on the Singapore Issues (paragraph 62). As set out above, the Commission continues to believe that international rules on these issues would be advantageous for developed and developing countries alike. However it recognises that there is insufficient support to pursue all of them within the single undertaking at the current time. This should not prevent those countries that wish to move forward from doing so.

The European Union and agricultural reform

The EU's offer to 'remove export subsidies for products of particular interest to developing countries', does remain on the table (paragraph 69). It is unfortunate that, in the year since this proposal was made, no developing country has identified the products it would prioritise. Of course the EU's offer is conditional on the US and others' readiness to take equally comprehensive commitments on their own export support programmes, such as surplus disposal disguised as food aid, export credits, single desk arrangements or the like.

The criteria for determining what forms of support are included in the 'Green Box' are issues to be negotiated at the WTO because this classification is part of the WTO agreements. And support which causes little or no distortion of trade cannot be subject to any capping or reduction. WTO Members should retain the right to pursue key policy goals as animal welfare or environmental protection through such support.

Dealing with difference: Preference erosion, SDT and coherence

We are ready to support the establishment of a specific negotiating group on special and differential treatment, in line with the recommendation in paragraph 80 of the Committee's Report.

Political leadership

In response to the failure at Cancún, the Commission initiated an extensive process of reflection and consultation with Member States; with the European Parliament; with a broad range of civil society representatives (NGOs, business and trade union representatives); and with our third country partners, in order to better understand views and build a sense of what needs to be done if the process launched at Doha is to move forward again. It welcomes the Committee's Report as a useful contribution to the debate and looks forward to an ongoing dialogue as the DDA negotiations move forward.

Commissioner Pascal Lamy
Directorate-General for Trade
European Commission

8 March 2004