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Foreign and Commonwealth Office

London SW1A 2AH

PO/84/23

13 January 1984

Dear John,

Hong Kong: Meeting with Governor of Hong Kong and EXCO Unofficials
16 January

I enclose a brief for the Prime Minister's meeting with the Governor and Unofficials on 16 January. The visitors will be having meetings with Sir Geoffrey Howe on the afternoon of 13 January and with Mr Luce on the morning of 17 January. These meetings will cover a good deal of detail and enable the Prime Minister to concentrate on the essential points. The Governor has advised that the Unofficials will be particularly interested in discussing:

- (a) the redefinition of our objective in the light of the assessment that we cannot realistically seek the continuation of British administration after 1997 in our negotiations;
- (b) the assurances which HMG would try to include in a package agreement with the Chinese in order to reassure Hong Kong that a deal would be honoured;
- (c) the strategy and tactics which we should adopt over the next few months.

It is likely that the senior Unofficial, Sir S Y Chung, will wish to make a statement. We may well know more of the line which the Unofficials will take after Sir Geoffrey's meeting with them on 13 January. We shall send an additional brief if necessary.

We discussed attendance at the meeting with the Prime Minister. I enclose a list of the names of the Hong Kong Unofficials who will be accompanied by the Governor and his Private Secretary, Mr Higginson.

/In



In addition to the Foreign Secretary, you agreed that the following should attend on our side: Mr Luce, Sir A Acland, Sir P Cradock, Sir R Evans and Mr Donald.

Yours ever,

Peter Ricketts

(P F Ricketts)
Private Secretary

A J Coles Esq
10 Downing Street

BRIEF

HONG KONG, MEETING WITH GOVERNOR AND EXCO UNOFFICIALS, 16 JANUARY 1984

EXCO's Role

1. Value EXCO's advice. Regular meetings essential.

State of Negotiations

2. Developments since last met in October have confirmed assessment of Chinese position. No possibility of negotiating continuation of British administration after 1997. But the move which we agreed on conditional basis to see whether we can build on Chinese proposals has produced results. Detailed discussion underway. Many points still to be argued. Chinese are listening to us and showing signs of flexibility. We have opportunity to influence them.

Objective

3. Our tactics still within conditionality. Reserve right to reject eventual package though would have to weigh consequences carefully. On that basis suggest redefine current objective as negotiation of the highest degree of autonomy for Hong Kong both internal and external consistent with the assumption by China of sovereignty and the right of administration, backed by the maximum assurances against interference in order to maintain domestic and international confidence.

Assurances

4. Understand Unofficials' concerns. Must tie Chinese down as much as possible.
5. There are three main areas in which to seek assurances:
 - (a) Blanket undertaking of non-interference for at least 50 years to be included in agreement binding on Chinese:
 - (b) Inclusion in agreement of detailed provisions against interference applying to specific areas, eg Advisory Commission to ensure continuity of laws;
 - (c) Action with foreign governments to put pressure on Chinese to respect Hong Kong's autonomy after 1997.

6. Do not believe Chinese would accept International Advisory Commission with authoritative powers. We could consider trying to get undertaking that variations on the "basic law" should only be made on Hong Kong's initiative but we should concentrate on pinning Chinese down to their statements that they envisage no change for 50 years.

7. Wrong to lay down precise list of assurances as requirements. We shall need to examine whole package. But suggest we discuss with EXCO during next few weeks text of possible draft agreement. This should be ready for presentation to Chinese when we ~~should be~~ calculate we need to sum up points of agreement and pin them down. We will be in touch with Governor about this.

Future Tactics

8. We should press on with substantive discussions on present conditional basis. Need to put in further working papers on central issues soon in order to influence Chinese before their positions harden. Must not be pressurised by September 1984 deadline but can take advantage of it to seek at least joint statement describing main elements of Hong Kong's autonomy after 1997. When the time is ripe to attempt a summing up we should be ready to propose our form of draft agreement.

Constitutional Development up to 1997

9. Crucial in ensuring solid basis for Hong Kong's autonomy later. Have seen paper you have discussed with Governor. On the right lines. Grateful for views.

10. Need to consider working paper for Chinese. Crucial issue will be local election of Governor/Chief Executive in some form. We shall discuss with you further.

Public Presentation

11. Understand discussed with Sir Geoffrey Howe. HMG must maintain strictly non-committal line in public statements in order to preserve the position on conditionality. Do we need to ~~give more detailed~~ ~~very line in~~ ~~non-attributable~~ ~~our forms of briefing~~ in order to prepare Hong Kong for possibility of agreement not involving British administration? Could you assist?



Σ

List of Unofficial Members of EXCO

James

Sir S Y Chung CBE
Mr O V Cheung CBE QC
Mr R H Lobo CBE
Mr F W Li CBE
Mr M G R Sandberg OBE
Mr T S Lo CBE
Miss Lydia Dunn CBE
Mr Q W Lee CBE
Mr S L Chen CBE
Miss Maria Tam

PA

FCS

Mr. Linn

Sir A. Ashford

Sir A. Evans

Mr. Donald

Sir P. Cudde

Mr. Coler

FUTURE OF HONG KONG: POLICY REVIEW: DISCUSSION PAPER FOR EXCO

COVERING NOTE

The attached paper and accompanying assessment review the course of negotiations with the Chinese. They discuss the position reached at present in which HMG, following the meeting with Unofficials in October, are examining in the negotiations whether satisfactory arrangements can be built on the basis of the Chinese proposals. These discussions are subject to the conditions spelt out to the Chinese side in the Prime Minister's letter of 10 March and her message of 14 October. The papers go on to examine the prospects for the way ahead, in preparation for the visit by Unofficial Members to London later in January.

FUTURE OF HONG KONG: POLICY REVIEW: DISCUSSION PAPER FOR EXCO

INTRODUCTION

1. The purpose of this paper is to help members prepare for their discussions with Ministers in January. It reviews the course of the negotiations since September 1982 and provides an up-to-date assessment of the Chinese position. It considers what alternative objective might be set if it is accepted that continuing British Administration after 1997 is no longer attainable and suggests that this should be full internal autonomy for Hong Kong consistent with the assumption by China of sovereignty and the right of administration. It identifies the essential elements of autonomy, and sets out the assurances which might realistically be sought. The paper then sets out two alternative policy options for consideration. In conclusion it seeks to identify the major questions of public presentation which will need to be covered in the review.

ASSESSMENT OF THE TALKS

2. A detailed assessment of the Chinese position in the negotiations and the degree of flexibility in it was contained in memorandum XCX (83) 79 of 23 November 1983. A revised and up-dated account which includes a summary account of the negotiations so far is annexed. It is clear from this assessment of the position taken by the Chinese in the talks, from Chinese discussions with other countries on the Hong Kong issue, from Chinese public statements and propaganda that they are adamant in their insistence that sovereignty and administration over the whole of Hong Kong must revert to China in 1997 and that no link of authority or accountability between Hong Kong and HMG will be acceptable to them after that date.

BRITISH ADMINISTRATION

3. In her message of 14 October the Prime Minister recorded the sincere view of the British side that a continuation of British Administration is the best and surest basis for the continued stability and prosperity of Hong Kong and stated that this view had not changed. However the experience of the past 15 months, and in particular of the seven rounds of formal talks since July, leads to

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the inescapable conclusion that the Chinese will not accept the continuation of British Administration after 1997 in any form. It is also clear that there is no prospect of changing that position through argument. Nor is it realistic to believe that the Chinese position could be changed by confrontation. They have made it abundantly clear that recovery of sovereignty is an overriding national objective, rooted in a deep historical sense of humiliation over the events which led to a part of Chinese territory being administered by a foreign power. They do not accept that achievement of this objective is inconsistent with continued stability and prosperity in Hong Kong. However genuine their attachment to the latter aim, in the event of a choice national reunification must take priority. The recovery of sovereignty over Hong Kong is thus more important to the Chinese leadership, whether under Deng Xiaoping or any conceivable successor, than the maintenance of the territory's stability and prosperity, and the economic benefits they gain from it.

ALTERNATIVE OBJECTIVE

4. If continuing British Administration is no longer obtainable, the best possible alternative must clearly be sought. It is suggested that the objective should be full internal autonomy for Hong Kong, consistent with the assumption by China of sovereignty and the right of administration. This would include freedom for the territory to conduct its own external affairs in the economic, trade and cultural fields, backed by assurances against interference sufficient to maintain domestic and international confidence.

5. The key elements in arrangements for autonomy should include:

(a) The administration of the future SAR would have freedom to determine its own domestic policies.

(b) There should be evolution of the system of Government gradually over the years up to 1997 in a manner which would strengthen its ability to resist interference. This would be maintained after 1997 with only such changes as were essential to take account of the formal transfer of sovereignty and the right of administration to China.

(c) The present systems would be maintained. In particular the legal systems including the independent judiciary and the corpus of

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Hong Kong's laws would be unchanged, except that the final court of appeal would be in Hong Kong, that the legal instruments giving expression to the colonial link would be abolished, and that quote colonial unquote phraseology would be removed from the laws.

(d) The freedoms which all Hong Kong residents now enjoy would continue to be guaranteed by law. - *whose law?*

(e) There would be continuity in the Civil Service. Hong Kong civil servants serving on permanent and pensionable terms in 1997 would, if they wished, continue to serve in Hong Kong after 1997 until they reached the normal age of retirement. Overseas officers would continue to be employed: they would owe their loyalty to the Government of the SAR.

(f) While external defence would be the responsibility of the Chinese Government, no Chinese troops would be stationed permanently in Hong Kong: their absence would symbolize the Chinese intention to allow full autonomy. The Hong Kong Administration would be fully responsible for the internal security of the territory.

(g) Hong Kong would continue to have the right to determine its own external trade policies and maintain and develop economic relations with foreign countries and territories. The Hong Kong SAR would be free to join or continue membership of international organisations and to take part in multilateral and bilateral agreements in relevant fields in its own right. It would be free to maintain its own offices abroad for these purposes.

6. None of these elements is inconsistent with the recovery by China of sovereignty, including the right of administration. But the key to the maintenance of confidence will lie less in the statement of the proposed arrangements than in the additional elements which can be obtained to bolster confidence that the agreed assurances will in fact be maintained and that the Chinese will not interfere. If any link of authority must be ruled out, then the people of Hong Kong will look to:-

(a) The extent to which an arrangement with China commits the Chinese to respect the autonomy of the territory:

(b) The status of the UK in the matter of future observance of the terms of an arrangement:

(c) The degree of international backing which can be obtained for the new autonomous status of Hong Kong:

(d) The internal strength of the Government structure which it is

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proposed should exist in Hong Kong after 1997.

7. In the light of the Chinese position as described in the annexed assessment it can be said that:-

(I) on (a) in para 6, while the Chinese will not concede that the details of post-1997 arrangements are a matter for agreement between the two Governments it will be our aim to include in the bilateral arrangement as specific and substantive a declaration as possible by the Chinese side of their proposed arrangements for autonomy, and of the intended duration for 50 years. Where the form of arrangement is concerned, our preference would be for a formal, legally binding treaty, registerable at the United Nations as an international agreement. The constitutional and other implications of this are still under study.

(II) on (b), the UK could base its representations to the Chinese Government, and its appeal to the international community, on the undertakings contained in the bilateral arrangement, if those undertakings were not observed. In addition, since the Chinese maintain that British interests in Hong Kong will be protected, they may be ready to agree that there would be an official British representative in Hong Kong with the right to look after these interests. We shall need to examine carefully whether, and if so how far the British representatives responsibilities might be extended beyond consular, economic and trade matters.

(III) would put pressure on Hong Kong's major trading partners to make clear to the Chinese Government that they would maintain their bilateral trade agreements with the SAR, and give their backing to private trade and investment there only so long as Hong Kong's autonomy was respected by the People's Republic of China: and that the same would apply to Hong Kong's continued participation in international economic agreements such as the GATT and the MFA (assuming this is eventually agreed by all concerned). Failure to respect Hong Kong's autonomy would in consequence lead to a substantial reduction in foreign exchange income, (and in associated benefit for China).

(IV) on (d), the governmental structure would, if it were developed along the lines envisaged, be a source of internal strength. Though they could not be eliminated entirely, the opportunities for interference would be minimised. The presence of a substantial

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numbers of overseas civil servants, including in the judiciary, would be an additional barrier against interference.

(V) In addition, it might be possible to secure agreement to the establishment of independent advisory commissions (for example in the legal and economic fields), and to obtain British representation on those commissions.

8. The fact that the Chinese still hope to reach an agreement with Taiwan at a later date might provide some additional degree of assurance, since if they violated an agreement with Hong Kong it would almost certainly rule out the possibility of a subsequent agreement with Taiwan for a long time thereafter.

OPTIONS

9. Against this background, two options are now available.

10. OPTION A. To decide now that the best package likely to be obtainable, including such assurances as can be negotiated on the lines of paras 6 and 7 above, would be insufficient to command confidence, and that there is therefore no point in continuing with the talks on the present basis. To tell the Chinese, in consequence, that their principles are unacceptable and that no package can be constructed on the basis of them that will ensure the future stability and prosperity of Hong Kong. On these grounds to insist either

(I) On full British Administration

or

(II) On a continuation of the British link of authority.

COMMENT

11. Either (I) or (II) would lead to immediate confrontation. In our judgement the Chinese would break off the talks. The propaganda campaign intensive would restart and there is a strong possibility that the Chinese would announce their plan immediately. If the resulting situation in Hong Kong became unstable, there is a chance that the Chinese would carry out their threat to take over control of the colony at an earlier date than 1997. This option would not

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win us international support. It would prevent HMG from doing anything to ameliorate the lot of Hong Kong inhabitants after 1997. It would make Hong Kong very difficult to govern in the transitional period. It would be likely to provoke a considerable outflow of Hong Kong inhabitants. To take such a course at this stage, moreover, having proposed full discussion of the Chinese plan and being only at an early stage of substantive discussion, would lead to Chinese accusations of bad faith, to which there would be no answer.

12. OPTION B. To continue the present process of exploration and quote construction unquote on the basis of the Chinese proposals in pursuit of the objective in para 4 above and subject always to the reservations in the Prime Minister's letter of March 10 and her message of October 14, and to do our utmost to obtain a satisfactory package, including assurances on the lines of paras 5 to 7 above. This would entail putting in the remaining working papers as quickly as possible in order to influence Chinese thinking in detailed areas while it is still in the formative stage. It would be necessary to submit soon a number of papers dealing with key issues, in particular constitutional arrangements, defence, internal security and the public service.

COMMENT

13. This course would enable the Council and Ministers to take an overall view of the outcome of the negotiations before assessing whether that outcome was acceptable. Conditionality would be retained: the ultimate right to reject the final package as unacceptable would remain. The decision would have to be taken by Ministers in the light of the circumstances at the time. Given the Chinese intention to make a formal announcement of their position in September 1984 a decision would be needed by the later Summer of 1984 so that HMG could determine whether they could agree to join with the Chinese in a joint announcement or not.

THE SEPTEMBER 1984 DEADLINE

14. As the annex makes clear, the Chinese are publicly committed to

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some form of announcement in September 1984. Its precise terms will no doubt depend on how much progress can be made by then. But at present the Chinese clearly envisage announcing their 12 point plan in September, perhaps with some elaboration, but without going into much detail. Should HMG then be unable to secure a definitive joint announcement on acceptable lines at that stage every effort should be made to persuade the Chinese not to couch any unilateral announcement in terms which could give the impression that they intended to impose a settlement irrespective of the views of HMG. In such circumstances we should seek to defuse the Chinese statement so as to make it as harmless as possible.

15. Ji Pengfei has now told us that talks would continue beyond an initial agreement. It is conceivable that the Chinese might be brought to agree, assuming that progress was being made, that a definitive joint declaration should come at a later stage than the September 1984 announcement. HMG would of course decide on the acceptability of the final package at the conclusion of the talks before subscribing to a final arrangement.

16. If nonetheless the Chinese insisted on a formal unilateral announcement in September 1984 of arrangements which were unacceptable to HMG it might be necessary to make it clear to the Chinese that while the talks had been valuable they had not so far produced results which HMG could endorse: that the British side were ready to continue talking but could not co-operate with the Chinese plan: and that in the meantime HMG would conscientiously carry out their responsibilities for the administration of the territory. This would in effect allow the Chinese to continue the process of deciding the future arrangements for Hong Kong alone. It would be necessary for HMG to give a public account of its position. There would be a grave risk of confrontation, even if it was not of our seeking.

17. The implications of confrontation, either as a result of a scenario outlined above or as a consequence of option A (paras 10-11), are examined in more detail in the annex to this paper. It also draws attention to the immediate risks involved in endorsing an agreement which did not contain sufficient assurances to command

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confidence in Hong Kong

PUBLIC PRESENTATION

18. The forthcoming review will need to cover the question of HMG's and HKG's public posture. The persistence of the Chinese in making known their own plans and seeking public support for them with no indication of HMG's objective is creating an increasing credibility gap in Hong Kong. The issues which will need to be covered therefore include:

(a) The advantages and disadvantages of maintaining the present low profile. The former include the maintenance of the present non-confrontational atmosphere: The latter include the danger that the talks will be increasingly perceived as irrelevant and that Hong Kong opinion will come to accept that the Chinese will decide unilaterally what will happen after 1997.

(b) The possibility of making known more at least in general terms what HMG's aims in the negotiations now are, on the lines of paras 4 and 7 above. The means available range from ministerial speeches or statements to unattributable briefings for reliable journalists. It would be necessary to weigh the advantages against the risk of acrimonious public debate with the Chinese. The more authoritative the statement the greater the impact in Hong Kong, but also the more likely that there would be an adverse reaction from the Chinese.

(c) In this context, whether the LEGCO members of UMELCO should be encouraged in future to speak their minds regarding future arrangements for Hong Kong, in particular the need for the people of Hong Kong to be given the best possible assurances that the present systems will be maintained and the present freedoms of Hong Kong people will be preserved. It would be important to respect their wish that their efforts should be co-ordinated, and with those of HMG and the HKG.

19. Subject to the decisions taken on the general strategy now to be pursued, it should be possible, and will probably be desirable to make known by these means the general objectives which HMG are pursuing. While discussions continue in Peking great care will be required not to present any public statement in a confrontational fashion. To do so would generate a public argument with the

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Chinese, sour the atmosphere of the Peking talks and thus reduce their chances of success.

HONG KONG DEPARTMENT

22 DECEMBER 1983

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AN ASSESSMENT OF THE CHINESE POSITION ON THE FUTURE OF HONG KONG.
CHRONOLOGY OF THE TALKS

1. Agreement for the talks was reached during the Prime Minister's September 1982 visit to Peking. A joint statement was approved announcing that the two sides would hold talks through diplomatic channels with the common aim of maintaining the stability and prosperity of Hong Kong. The Chinese leaders made it clear in their talks with the Prime Minister in September 1982 that they sought recovery of sovereignty and administration over all Hong Kong after 1997. Deng Xiaoping indicated that he considered this to be the premise for negotiations.
2. From the first contacts on the subject in October 1982, the Chinese pressed for UK affirmation of the premise for entering formal talks. The British position was that HMG would be prepared to consider recommending a transfer of sovereignty to Parliament if administrative arrangements were made which would command confidence and would be acceptable to the people of Hong Kong: and that the maintenance of confidence required the maintenance of British administration. Sterile wrangling ensued until the Prime Minister's letter of 10 March 1983 to Premier Zhao Ziyang which slightly strengthened her original assurance on sovereignty. She said that provided agreement could be reached between the UK and Chinese Governments on administrative arrangements which would guarantee Hong Kong's future prosperity and stability and would be acceptable to Parliament and to the people of Hong Kong as well as to the Chinese Government, the Prime Minister would be prepared to recommend to Parliament that sovereignty over the whole of Hong Kong would revert to China. The Chinese then agreed to open formal talks, but argument about the agenda caused further delay. The compromise reached placed post-1997 arrangements as the first item followed by arrangements in the period up to 1997 and finally questions relating to transfer of sovereignty.
3. During the first four rounds of talks (July to September) the British side argued steadily for continuing British administration, whilst the Chinese demanded explicit UK affirmation of agreement to transfer sovereignty and all associated administrative rights over

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the whole of Hong Kong. Breakdown of the talks threatened by the end of September. Following consultations in London on 6-8 October the text of a message from the Prime Minister, delivered on 14 October, was agreed. The Prime Minister proposed, in pursuance of her earlier letter and without prejudice to any final agreement, that the two sides should examine the Chinese proposals to see if on that basis arrangements of lasting value for Hong Kong could be built. If the resulting package was satisfactory the British Government was prepared to recommend it to Parliament. It was subsequently made clear to the Chinese that for the purposes of discussion HMG were no longer insisting on British administration as a prerequisite.

4. Deep Chinese suspicions of British motives remained. The Chinese were then formally told on 28 November that in pursuing the discussions proposed in the Prime Minister's message of 14 October, HMG envisaged no link of authority or accountability between Britain and Hong Kong after 1997, would make no proposal conflicting with the Chinese premise and saw the UK role as one of assistance not authority. All of this was subject to the condition that a satisfactory agreement as defined above should be reached. The first substantial discussion of detail was thus made possible at the 7/8 round.

THE CHINESE POSITION

5. The following are the most important elements in the Chinese position. It is clear that they have been laid down from the top and that they are basic principles for the Chinese.
- (a) sovereignty and the right of administration over the whole of Hong Kong must revert to China by 1997. British administration or co-administration in any form are unacceptable;
 - (b) After 1997 Hong Kong will be established as a Special Administrative Region (SAR) of China under Article 31 of the Chinese constitution. The National People's Congress (NPC) will lay down a basic law for the Hong Kong SAR under that article.
 - (c) The Chinese 12 point plan (see appendix A) will form the basis of this law.

In addition the Chinese have made it clear that their policies and guidelines for Hong Kong after 1997 will be announced publicly not

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later than September 1984. The Chinese hope for agreement with the UK before then, but failing that will issue a unilateral statement.

6. Prior to the 7th round (7/8 December) deep Chinese mistrust of British ambitions and intentions regarding Hong Kong was clearly evident. These suspicions seem to have been largely dissipated by the Ambassador's clarificatory statement of 28 November about the future British role within the terms of the instructions which EXCO saw when they last visited No 10. As a result the rigid Chinese position of insistence upon explicit affirmation by the British side of the Chinese premise that sovereignty and the power of administration would revert to China in 1997 has been relaxed. The 7th round of talks showed the first real discussion of detail of the Chinese plan.

7. A number of points have become clearer as a result of the last round and discussions since then:

- (a) The Chinese 12 point plan as announced by Yao Guang on 14 November is at appendix A. A note detailing additional elements of Chinese policy as enunciated in subsequent discussion is at appendix B.
- (b) The Chinese have offered substantial comment on the first three working papers submitted. Inevitably not all the detail has been to our liking, but a number of points in our working papers have been accepted. (A list of working papers so far submitted is at appendix C and the texts of the first three working papers identifying those elements so far accepted by the Chinese at appendix D). The Chinese have told us that our working papers are helpful and have promised comment on outstanding ones. The charge that our working papers contained 'excessive detail' had not been repeated and we now have a good chance of discussing detailed arrangements over a wide area of Hong Kong's various systems. The Chinese are no longer drawing their earlier sharp distinction between those matters relating to Hong Kong's future which they considered their internal affairs and on which they will listen to HMG's comments but decide for themselves and those more limited areas affecting British interests in Hong Kong over which more genuine negotiation would be possible. Zhao Ziyang has told the Ambassador that anything can be discussed if it does not

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conflict with the premise, and that points of agreement will be reflected in the basic law.

- (c) The Chinese have informally drawn our attention to Yao Guang's 8 December statement that it was not impossible that current practice in those areas for which the future SAR would be responsible could continue unchanged after 1997 until the SAR Government decided otherwise. This too is an important improvement on the earlier Chinese position that such discussion was impossible because all relevant decisions were for the future SAR to take. It may be possible to develop this.

MODIFICATIONS TO THE CHINESE POSITION

8. Since September 1982 the Chinese side, while remaining wholly inflexible on basic principle, has nevertheless modified its stance in response to UK argument on a number of occasions:

The Prime Minister's letter of 10 March persuaded the Chinese to enter formal talks although the Chinese demand for explicit affirmation of their premise was not met:

- (b) The Chinese revised their original position on the agenda to meet our wishes:
- (c) The Prime Minister's message of 14 October and the clarification about the future British role delivered on 28 November made possible detailed discussion at the seventh round despite the fact that the Chinese had earlier maintained that the British side should first explicitly affirm the Chinese premise.
- (d) It is impossible to assess the exact degree to which the Chinese may have modified their ideas on detailed arrangements as this detail was not made known to us before we expressed our own ideas. However discussion of the first three working papers submitted shows that a considerable number of points in those papers now figure in the elaborated Chinese plan. It is reasonable to suppose that this has to some extent been influenced in a direction favourable to us.
- (e) Recent contacts, though not yet entirely conclusive, tend to show that the Chinese are relatively open-minded and receptive to our ideas so long as our proposals do not conflict with fundamental Chinese principles. Zhao Ziyang said this explicitly recent discussion has shown signs of flexibility, eg over continuity in the civil service and appointment of judges.

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DEGREE OF FLEXIBILITY IN THE CHINESE POSITION

9. The Chinese are publicly committed to an announcement of their policies in September 1984. Some announcement at that time is now inevitable. Its precise terms will no doubt depend on how much progress is made in the talks in the meantime. But the Chinese clearly envisage announcing their 12 Point Plan in September. They are also keen to reach a bilateral agreement by then. There are however indications that failing conclusion of such an agreement, the talks could continue beyond the September announcement.

10. The Chinese have made clear that the basic elements in their position (see para 5 above) are matters of principle and not negotiable. All the evidence suggests that they mean this and our assessment is that they will not modify these basic elements. However there may well be scope for modification of some of the detail contained in the 12 Point Plan and subsequent Chinese explanations of its implications. We are however unlikely to establish this until the Chinese have reacted to our counter-suggestions. This process may take some rounds of discussions. This process may take some rounds of discussion. We are still at an early stage in that process.

IMPLICATIONS OF CONFRONTATION

11. In our judgement there is no possibility that the Chinese would back down on their principles if faced with confrontation. Indeed it would be political suicide for any Chinese leader to be seen to yield to British pressure on these points, to which the Chinese are already publicly committed. Deng Xiaoping has said repeatedly that he is not prepared to be another Li Hungzhang (the eminent Chinese statesman who signed the New Territories lease). If he were to give way it is questionable whether even he could survive. We see no prospect of any successor to Deng, whether supporter or opponent of his policies, taking a softer line on Hong Kong.

12. These considerations rule out any Chinese concessions resulting from confrontation. On the contrary confrontation would be likely

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to produce a hardening of the Chinese position to the point of total rigidity. Hostile Chinese propaganda would be resumed with more intensity and there is a strong likelihood that the Chinese would formally announce their proposals well before the September 1984 date, quite possibly immediately. In that event the scope for negotiations would be further reduced since the Chinese would almost certainly refuse to retreat from any points which had been included in a unilateral announcement. Confidence would collapse with resultant consequences for the economy. A considerable outflow of Hong Kong inhabitants would ensue. Local Government would become increasingly difficult. If the situation in Hong Kong became unstable, there is a chance that the Chinese would carry out their threat to take control of the territory before 1997.

13. The implications of a confrontation are therefore grave. If the outcome of the negotiations was unsatisfactory, these implications would have to be balanced against the immediate consequences involved in accepting an agreement which did not command confidence in Hong Kong. These consequences would themselves include a rapid decline in the economy, serious and increasing difficulty in administering the territory and accelerated preparations for departure on the part of those people in a position to leave.

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SUGGESTED FORMS OF ASSURANCES FOR LASTING SETTLEMENT FOR HONG KONG

PROPOSAL

COMMENT

SOURCE

- | PROPOSAL | COMMENT | SOURCE |
|---|---|---|
| <p>1. A legally binding international agreement, registrable at the UN, (ie a treaty, whatever its name). Two Options (i) an agreement which described in detail the principles determining arrangements for administration of Hong Kong after 1997. (ii) an agreement in fairly general terms, but accompanied by a detailed Chinese statement (previously negotiated with us) describing continuity of systems, freedoms, laws. Each option would require Parliamentary endorsement of general package, but would not require immediate Parliamentary legislation on transfer of sovereignty.</p> | <p>Unlikely to be acceptable to Chinese Reasonable prospect of being acceptable to China.</p> | <p>Policy Review Paper " "</p> |
| <p>2. A joint declaration. Exactly the same as either of the options in 1 above, except that it would not be legally binding or registrable at the UN. Parliamentary implications identical to 1.</p> | <p>Less satisfactory than 1. At present, Chinese appear to be ready to accept an agreement but their eventual attitude could well alter, depending on the content of the arrangement.</p> | <p>" "</p> |
| <p>3. The power of the UK to ensure future observance of the terms of an arrangement.</p> | <p>This would depend on the form of the agreement, but would probably be limited to diplomatic representations.</p> | <p>" "</p> |
| <p>4. Canvassing international support for Hong Kong's autonomy. In some contexts (especially international economic relations eg GATT and MFA) Hong Kong's special status might be made conditional on maintenance of its autonomous status.</p> | | <p>" "</p> |
| <p>5. Development towards fully democratic structure for Hong Kong run up to 1997.</p> | <p>Would strengthen Hong Kong's indigenous political base and</p> | <p>Policy Review Paper and separate paper on Constitutional</p> |

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PROPOSAL

COMMENT

SOURCE

6. Changes in agreed constitutional arrangements for Hong Kong to be made only on Hong Kong initiative and then submitted to Peking for approval. If Peking wished to amend, agreement with Hong Kong necessary.

thus reduce to some extent scope of Chinese interference. Effectiveness would largely depend on degree of democratisation and bedding in of new arrangements

Development.

7. Any changes to SAR basic law to be initiated only from Hong Kong.

Sir S Y believes, erroneously, that such an arrangement currently applies to Macau. But may be worth trying.

Sir S Y Chung

8. Advisory Commission with international representation to approve any proposed constitutional changes before being put to Peking.

See 6. Chinese officials made 'non-committal' response.

HK observers
Dec 1983

Constitution-

9. Arrangements whereby any powers not specifically reserved for PRC Central Government should automatically reside with Hong Kong SAR.

Chinese very unlikely to accept external limit on their exercise of sovereignty. Some international participation in HK affairs might be possible but would probably be limited to advice on eg commercial matters.

Sir S Y Chung

10. Membership of any drafting committee for the SAR 'mini-constitution' (or 'basic law') to be determined by consultation with Hong Kong.

Chinese officials made a 'non-committal' response. This would in practice not amount to a real assurance.

HK observers
Dec 1983

Chinese officials indicated Hong Kong people would be consulted on list of candidates for membership but imprecise on methodology.

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SOURCE

11. Referendum in Hong Kong to test acceptability of any draft 'mini-constitution'.

Chinese officials said only that China would try its best to consult representative organisations. Agreement to a referendum is in fact very unlikely.

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12. Hong Kong/China relationship to be comparable to US/Puerto Rico one.

Not something which would appeal to us. Except in taxation matter US has same authority in Puerto Rico as it does in States of the Union. This would seem less favourable to Hong Kong than the Chinese 12 Point Plan.

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