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fo vk
bc Sir P Craddock

10 DOWNING STREET

From the Private Secretary

10 February 1984

Dear Robert,

Future of Hong Kong

The Prime Minister has seen the Foreign and Commonwealth Secretary's minute of 7 February and the accompanying Working Paper on constitutional arrangements and central government structures.

As I told you on the telephone this morning, the Prime Minister would like paragraph 4 of the Working Paper to be amended to read as follows: "The Government of the Hong Kong SAR would be composed of local inhabitants. Chief officials would be nominated by the SAR Government. The people nominated would then be appointed by the Central Government. Other officials would be appointed by the SAR Government."

With that amendment, the Prime Minister is content with the Working Paper.

The Prime Minister also considered whether we should insert in this paper wording to the effect that agreements reached between Britain and China would be incorporated in the SAR Basic Law. On reflection, Mrs Thatcher believes that this is a point of general application and that it would therefore be inappropriate to insert in a paper on a limited aspect of the future arrangements in Hong Kong. But she has asked me to state that she believes it essential that the eventual bilateral agreement between Britain and China contains a clear assurance that the agreements reached between the two countries on particular points in the course of the negotiations will be reflected in the Basic Law.

I am copying this letter to the other members of OD(K) and to Sir Robert Armstrong.

Yours ever
John Major

P.F. Ricketts, Esq.,
Foreign and Commonwealth Office.

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vk

MR COLINS ✓

See now my letter to F/C. A.J.C. 19/2 .

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FUTURE OF HONG KONG

Prime Minister's comment attached.

1. I stand by my advice that one working paper (which has no binding force) is not the place to try for a general assurance of this kind and that the attempt could be counter-productive.
2. If, however, the Prime Minister insists, it might be possible to rephrase the third sentence of paragraph 6 to read:

"The new provisions, reflecting the points agreed in negotiation between the British and Chinese Governments, would enshrine...."

This would by itself not achieve our objective, but would probably do no harm.

u
PERCY CRADOCK
9 February 1984

PRIME MINISTER

Ray h.

A decision is needed tonight on the attached Working Paper about the constitutional arrangements and central government structures for Hong Kong.

You minuted that we must have an assurance that agreements reached between Britain and China will be incorporated in the SAR Basic Law.

Sir P. Cradock argued (his minute attached) that we certainly need assurances of this kind but that the right place to insert it was in the bilateral agreement between Britain and China. He feels that it would not be appropriate to insert it in a single Working Paper about only one subject.

Would you be content for me to write to the FCO stating that you agreed with the Working Paper (with paragraph 4 as amended by you) but that it is essential that the bilateral agreement contains a clear assurance that the agreements reached by Britain and China on particular points in the course of the negotiations will be reflected in the Basic Law?

Failing that, the third sentence of paragraph 5 of the paper could be amended to say: "The new provisions, reflecting the points agreed in negotiation between the British and Chinese Governments, would enshrine the maximum degree of autonomy for Hong Kong, etc."

Agreed

ms

A. J. C.

9 February 1984



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Prime Minister.

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Agree Sir Percy Cradock's
comments?

Mr Coles ✓

*But we must
have these assurances. A.J.C. 8.
Could not some
reference be made to it
in this paper
no*

FUTURE OF HONG KONG: WORKING PAPER ON CONSTITUTIONAL
ARRANGEMENTS AND CENTRAL GOVERNMENT STRUCTURES

1. The Prime Minister asked for my comments. In general I am content with the working paper as drafted.

X
2. As regards the first amendment, this is obviously a most important point and one to which we are directing our attention. The Prime Minister will recall that in December when I saw the Chinese Prime Minister he agreed that the matters on which we had come to agreement in our working papers and the like would be reflected in the Basic Law. We shall obviously need further assurances in this sense. But this is a general matter affecting all the points so far agreed and is probably best tackled in the draft bilateral agreement which we are now preparing. It would not be appropriate to tackle it in the preamble to one working paper. Moreover, the first four paragraphs of the working paper simply set out the Chinese plan and we are always very careful in these opening paragraphs to confine ourselves to what the Chinese have actually told us their proposals are. It would therefore be tactically unwise to feed in this important general point in this place and could provoke hostile Chinese reactions to the whole idea.

3. The second amendment, ie in paragraph 4 of the working paper, is a clarification and I agree should be adopted.

SIR PERCY CRADOCK

8 February 1984

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PM/84/24

PRIME MINISTER29
Prime Minister.

Content with working paper?

See list
amendments
Ask P.C.'s
advise
A.F.C. 2/2

Future of Hong Kong: Working Paper on Constitutional Arrangements
and Central Government Structures

1. In my minute of 9 January I referred to the preparation of working papers on the key issues relating to Hong Kong's future and emphasised that they would need very careful study. My officials have prepared these papers in close co-operation with Hong Kong and Peking. Mr Luce also discussed them in general terms at his meeting with the Governor and the Unofficial Members of EXCO on 17 January.
2. I now attach a draft working paper on Constitutional Arrangements and Central Government Structures, which takes into account the points made at this meeting and subsequent comments from the Governor and the Ambassador. This paper is one of the most sensitive that we have had to produce. It places great emphasis on the continuity of Hong Kong institutions and of their functions, powers and composition after July 1997, whilst recognising that some changes will be necessary as a result of the removal of colonial links. It stresses that the new SAR should itself be responsible for choosing its Chief Executive subject to formal agreement by Peking, and that the appointment of other principal officials and members of the Executive and Legislative Councils would be generated internally, in accordance so far as possible with procedures in force immediately prior to July 1997. We cannot at this stage spell out these procedures in detail because it would restrict the nature and extent of democratic change before 1997 and, as you know from separate correspondence on this issue we need to adopt a flexible and forward-looking approach.
3. I should be grateful to know if you are content with the working paper. I shall then ask the Governor to discuss it with the Executive Council. It should be possible for them to do this

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at their meeting on 15 February. We might be able to present it to the Chinese before the next round of talks on 22 February. I should not expect the Chinese, who will study this paper with particular care, to be ready with very substantive comments at that round. But I judge that we should do well to get our views in quickly on this key question.

4. I am copying this minute and draft working paper to the other members of OD(K) and to Sir Robert Armstrong.

GEOFFREY HOWE

Foreign and Commonwealth Office

7 February, 1984

WORKING PAPER ON CONSTITUTIONAL ARRANGEMENTS
AND CENTRAL GOVERNMENT STRUCTURES:

THE CHINESE PLAN

1. The Hong Kong SAR, directly under the authority of the Central Government, would be established in accordance with Article 31 of the constitution of the People's Republic of China.

2. The basic system of the Hong Kong SAR would be prescribed in the Basic Law and would continue for a period of at least 50 years. The Basic Law would be drafted and enacted by the National People's Congress. It would deal with such matters as the social and economic systems in the SAR, the relationship between the central authorities and the SAR, the powers of and relationships between the executive, legislature and judiciary of the SAR and the rights and obligations of its citizens. *Agreements reached on these matters between Britain China would be incorporated in the SAR Basic Law.*

3. The Hong Kong SAR would enjoy a high degree of autonomy. The laws, decrees and regulations currently in force would remain basically unchanged. The SAR Government could make its own laws which it would report to the Standing Committee of the National People's Congress for the record. The Central Government would not intervene so long as the SAR made laws within the sphere and limits of its authority as prescribed by the Basic Law and in accordance with the legal procedures.

4. The Government of the Hong Kong SAR would be composed of local inhabitants. Chief officials would be nominated by the SAR Government, *the people nominated would then be* and appointed by the Central Government. Other officials would be appointed by the SAR Government.

IMPLICATIONS

CONSTITUTIONAL ARRANGEMENTS

5. Existing constitutional instruments relating to Hong Kong (eg the Letters Patent and the Royal Instructions) would be revoked. The provisions of those instruments which are relevant to the Government of the Hong Kong SAR would be replaced by similar

provisions in the Basic Law to be enacted by the National People's Council for the SAR or in subsidiary SAR legislation, with such amendment as might be necessary. The new provisions would enshrine the maximum degree of autonomy for Hong Kong (China) in respect of the exercise of executive, legislative and judicial functions. Continuing provision would be made for the separation of executive, legislative and judicial powers.

6. By virtue of the provisions of the Basic Law, the Government of the SAR would have powers to conduct autonomously all matters relating to the internal affairs of the SAR and to conduct autonomously economic and cultural external relations. The Central Government would be responsible for foreign policy and defence questions affecting Hong Kong, but would consult with the SAR Government on such matters.

7. In order to preserve stability and prosperity in Hong Kong, it will be necessary to preserve confidence. The preservation of confidence will require the maximum possible continuity of institutions and these institutions will need to be seen to exercise freely the autonomy provided for in the Basic Law. This implies that, while provision for Government structures will be made by the National People's Congress of the PRC as part of the Basic Law of the SAR of Hong Kong (China), they should involve a high degree of continuity.

8. The general structure of the Government that existed in Hong Kong immediately prior to 1 July 1997 would therefore remain essentially unchanged. This implies that there would be a Chief Executive, an Executive Council, a Legislative Council, Regional Councils and District Boards.

9. The functions of the Chief Executive as they existed immediately prior to 1 July 1997, would also remain largely unchanged, although some changes would be necessary as a result of the removal of constitutional links with the UK.

10. The Chief Executive and his Deputy would be elected in accordance with procedures approved by the Legislative Council. The

persons so elected would be formally appointed by the Central Government. They could be removed from office prematurely only on grounds of misbehaviour or infirmity and by a resolution of the Legislative Council.

11. Membership of the Executive Council and the Legislative Council would be selected by an elective process.

12. The Executive Council would decide all important matters of policy within the competence of the SAR as laid down by the Basic Law. The Chief Executive would preside at its meetings.

13. The Legislative Council, as the supreme organ of the SAR, would make laws within the competence of the SAR as laid down by the Basic Law. All proposals entailing the expenditure of public funds would require its approval.

14. Regional Councils would be concerned with the provision of local services. District Boards would provide a forum for public consultation and discussion at the district level, and would also have certain local executive functions.

15. The exact composition, functions, procedures, powers and duties and methods of appointment of all the above institutions would depend upon the evolution of Hong Kong Government structures in the period prior to 1 July 1997. They would remain unchanged on this date, except where changes were necessary as a result of the removal of constitutional links with the UK.

16. There would be a central secretariat together with departments and agencies with executive responsibilities. The secretariat, departments and agencies would continue to be staffed by members of the public service, who would, apart from any changes necessary as a result of the removal of any constitutional links with the UK, be appointed by the Government of the SAR according to the procedures in force immediately prior to 1 July 1997. All heads of departments and agencies would be responsible to the Chief Secretary for the efficient implementation of policy laid down by the Executive Council.

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17. The independence of the Audit Department and the Independent Commission Against Corruption would continue to be safeguarded by their Director and Commissioner respectively reporting direct to the Chief Executive of the SAR Government.

APPOINTMENT OF CHIEF OFFICIALS

18. The chief officials of the Government, eg the Chief Secretary, the Financial Secretary and Attorney-General, would be appointed in accordance with the procedures in force immediately prior to 1 July 1997 apart from any changes necessary as a result of the removal of any constitutional links with the UK . These appointments would be reported to the Central Government. [The appointments would be considered to have been confirmed unless written objections were received from the latter within [] days].

Hong Kong Department
3 February 1984

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H-K: Future: Pt 12



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