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MR COLES

HONG KONG

OD(K) on Monday will have to take an important decision on strategy in the Hong Kong negotiations. Broadly the choice is between going only for a joint interim announcement this year or going for a bilateral agreement.

2. The Governor is strongly in favour of an interim announcement only. He doubts whether we can complete the work in time. In any event he considers that Hong Kong needs an extended period of reflection if an agreement is to be acceptable there. He wishes us therefore to seek Chinese concurrence in slowing down the process of negotiation and aiming only for a joint interim announcement in September. Thereafter he would like continued negotiation leading to a definitive agreement, presumably in 1985. His views are almost certain to be supported by EXCO.

S.A.R
4/12/77

3. On the other hand, the Foreign Secretary, supported strongly by the Ambassador in Peking, argues that we should not try to get the Chinese to change their timetable and that we should aim for a bilateral agreement in September. They believe we can complete the work in time, but if not we could fall back on something rather less formal than an agreement, ie a Heads of Agreement. They argue that the need to prepare Hong Kong opinion can be met by a Ministerial statement or White Paper in the late Spring or early Summer, which, while not pre-empting final decisions, would indicate the likely outcome if negotiations continued on the present course and would give some idea of the continuity and assurances we think might be obtained. Thereafter, when both sides had agreed the text of an agreement, there would be a period in which Hong Kong acceptance would be sought before Parliamentary approval (probably in November) and actual signature. Legislation to pass sovereignty and ratification would, of course, be delayed until we saw the text of the Basic Law.

4. I have thought a good deal about this and am convinced that our and Hong Kong interests would be best served by trying for an agreement in September, recognising we might have to fall back on a Heads of Agreement if we could not complete the task in time. My reasons are:

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a. There is no doubt at all of the Chinese intention to announce their decisions for Hong Kong in September, either in the form of an agreement with us or, if need be, unilaterally. All the evidence, from Deng's statements to _____, confirms this. Our job is to make whatever document issues in September as joint, as palatable and as binding as possible. At the present pace we shall probably have done the bulk of the work by the Summer. If we tell the Chinese we shall not even try for an agreement this year, we shall do ourselves and Hong Kong a great deal of harm. Either we shall have confrontation and the issue of a unilateral statement in September by the Chinese, which would be disastrous for confidence, or, after a nasty argument, we shall climb down. But in that case the atmosphere will be worsened, valuable time will be lost, and our chances reduced of getting the assurances we need.

b. What we need from the Chinese is detailed and binding commitments on post-1997 Hong Kong. We also need to make sure that the details we have negotiated with them and which we want in the bilateral agreement will be the Basic Law. These are going to be difficult things to achieve in the best of circumstances. But they will be much harder to get if we are not cooperating with the Chinese on timing; and they will be much harder to obtain in an interim announcement than in a bilateral agreement.

c. The idea of continuing negotiations on post-1997 Hong Kong after September, as the Governor would like, is probably illusory. The Chinese may well want to go on talking after September about the period up to 1997 and there could be advantages for us in this; but they will have said their say in September on post-1997 Hong Kong and we shall probably find there is no more scope for negotiation on that issue.

5. If we take this decision on timing, as I believe we must, we are then faced with the need to meet the Governor's justified concern

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about giving Hong Kong a reasonable period in which to reflect on the shape of things to come. I think a statement/White Paper would meet the need. It would need to be carefully drafted so as to point the way ahead but at the same time make clear that no final decisions had been taken. But it could be quite informative about the sort of assurances we are hoping to get. It would also do a great deal to meet the problem the Governor and EXCO face in any case, arising from the fact that we have had to remain silent over the negotiations so far and Hong Kong opinion lacks any steer. There would have to be some prior notice and agreement for this step with the Chinese, but, given a cooperative atmosphere, this should be obtainable. A visit by the Foreign Secretary to Peking in April might be the best occasion for this.

6. If this course of action is taken we shall not be taking issue with the Governor on substance, ie we should be assuring Hong Kong a good period for reflection before acceptance. All we should be doing would be bringing the timing forward and avoiding a clash with the Chinese.

7. A decision is needed urgently because of the consequential work. We need to start talking very soon to the Chinese about the timetable for the year as we see it and clearing up their misunderstandings about, for example, the Parliamentary timetable. We need to start talking to them about the possible shape of a bilateral agreement. We need also to tackle the difficult question of the Basic Law, trying to ensure that it will not diverge from the details we have negotiated and explaining to the Chinese that until we see it we cannot possibly ratify any agreement.

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PERCY CRADOCK
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