



Foreign and Commonwealth Office

London SW1A 2AH

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18 May 1984

Dear John,

Hong Kong: Testing the Acceptability of an Agreement

I enclose a paper dealing with the question of how we might test the acceptability to the people of Hong Kong of an agreement reached with the Chinese. Sir Geoffrey Howe has seen the paper in a slightly earlier version and is generally content with it, although he has not seen the final form. I am, however, circulating it now for weekend boxes.

The question of testing acceptability is becoming more pressing. The UMELCO delegation which has been visiting London has raised it. It was a theme of the Commons debate on 16 May. We are of course stressing that the process of consultation has already begun, following the Foreign Secretary's statement in Hong Kong on 20 April. We need to emphasise as much as possible that opinions expressed in Hong Kong are being taken into account in the negotiations. But there is also keen interest in the means by which opinion on a draft agreement would be assessed after its publication. We cannot hold much longer to the line that we are still considering this.

The paper proposes a form of consultation using existing bodies in Hong Kong. It rules out a referendum. That echoes the view very widely expressed in the House of Commons during the debate on 16 May.

If the Prime Minister and colleagues are content with the approach suggested in the paper, Sir Geoffrey Howe would propose to ask the Governor to discuss the question with EXCO. We should then have ready an agreed line which could be made public at an appropriate time.

I am copying this letter and enclosure to the Private Secretaries of OD(K) members, and to Richard Hatfield (Cabinet Office).

Yours ever,

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Private Secretary

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HOW TO TEST THE ACCEPTABILITY OF ANY AGREEMENT WITH THE CHINESE IN HONG KONG

INTRODUCTION

1. HMG is committed to seeking an agreement with the Chinese Government on the future of Hong Kong which is acceptable to China, to Parliament and to the people of Hong Kong. This paper considers how we can best ascertain whether any agreement is acceptable to the people of Hong Kong prior to putting that agreement to Parliament.

2. A process of consultation with the people of Hong Kong has been under way since the beginning of the negotiations. The views and opinions of Hong Kong have been brought to bear on our conduct of the talks through consultation with EXCO, through Ministerial visits and through the information-gathering of the Hong Kong Government. Consultation has entered a new and more intensive stage since the Foreign Secretary's 'unveiling' statement in Hong Kong on 20 April. This initiated a fuller and more informed debate, which will probably pass through three phases:

- (a) The present phase, when the people of Hong Kong know the outlines of the likely agreement and have been told that a continuation of British administration after 1997 is not achievable;
- (b) (probably) in the summer, after a further Ministerial statement, when they are aware of more of the details both post and pre-1997;
- (c) September when a draft agreement with the Chinese has been published and prior to a full debate in Parliament, probably in November.

THE PERIOD UP TO SEPTEMBER

*No - 1/3
won't really work*

3. We need to develop as much as possible the concept that the process of consultation with the people of Hong Kong has been underway from the beginning of the negotiations. It is very

SECRET

important that HMG should not lay themselves open to the charge that they are trying to avoid taking account of Hong Kong ideas until too late. Our acknowledgement to the Chinese (and also, privately, to EXCO) that the agreement will not be susceptible to amendment after publication makes this all the more important. This is a point which has particular relevance in the Parliamentary context. We can expect close questioning about the efforts which were made to solicit Hong Kong opinion while the negotiations were still in progress.

4. These amount to strong arguments in favour of a positive soliciting of Hong Kong views even in advance of September. Such an approach also carries risks, however. The Governor has expressed the view that if Hong Kong people were asked to offer their views more actively on the unveiling statement of 20 April, we might find the general verdict to be that the prospect was not acceptable as it stood. Indeed the Hong Kong reaction to the unveiling statement has been steadily more critical as the message has sunk in. An associated risk is that Hong Kong people, encouraged to put forward proposals, might suggest elements for inclusion in an agreement which would be manifestly unattainable: that in turn could risk greater disappointment later on.

5. There is also the danger of adverse reaction on the Chinese side. It is the Chinese position (described in more detail in paragraph 10 below) that Hong Kong is an internal matter of national policy in which the people of Hong Kong do not have a decisive say. They do not recognise our right to consult the people of Hong Kong. They are prone to suspect that we are orchestrating anti-Chinese sentiment or colluding with public opinion to strengthen our position in the negotiation. Chinese principle and Chinese suspicion, however ill-founded both may be, must therefore be balanced against our political requirement to consult actively with the people of Hong Kong.

6. While the Chinese did not react unfavourably to the 20 April statement, and indirectly indicated their approval, their sensitivity to the idea that Hong Kong might have its own voice in negotiations on the future remains as acute as ever. The Ambassador

SECRET

in Peking has advised that while it might not cause difficulties if the Hong Kong Government sought views on the future in a more systematic and intensive manner, an invitation to Hong Kong's Councils and Boards to hold formal debates on the future could produce a strong reaction from the Chinese.

7. The publication of the manifesto produced by the Unofficial Members of the Executive and Legislative Councils (UMELCO) and the hostile Chinese reaction illustrates the need for caution in stimulating debate. The manifesto did imply criticism of the 20 April statement and did express unrealistic expectation on the part of the Hong Kong people. The Chinese did take strong exception, in part because the EXCO Unofficials are privy to the negotiations and the Chinese suspected collusion with HMG.

8. Our experience with the UMELCO manifesto suggests that we need to move very cautiously in encouraging organised debate through representative bodies in Hong Kong. Debate is well underway, in part as a result of the manifesto's appearance. It is not particularly favourable to HMG, although some of the points raised can be used in negotiation to impress on the Chinese eg the need for a detailed announcement. Chinese hostility has already been aroused. This points up the urgent need to put firmly on record a description of our own case and of the constraints within which we work, so as to encourage greater realism and a more constructive approach in Hong Kong. A further Ministerial statement initiating a second phase of debate is all the more desirable. At the same time we are forced to bear in mind the likely strong Chinese objection to our saying anything which is too revealing of the content of the talks or to our soliciting too actively an expression of Hong Kong opinion.

ASSESSING THE ACCEPTABILITY OF AN AGREEMENT AFTER SEPTEMBER

9. The main options for assessing the acceptability of an agreement to Hong Kong, in descending order of formality are:

- (a) a referendum with universal franchise, possibly with some outside independent supervision;

- (b) opinion polls, either Governemnt sponsored or privately arranged;
- (c) an independent commission of outside experts appointed to take soundings in Hong Kong (cf the Pearce Commission in Rhodesia).
- (d) an indirect process of opinion sounding, involving circulation of the agreement to existing institutions including EXCO, LEGCO, District Boards, Advisory Committees, Kai Fong (neighbourhood welfare) associations, etc, who would be asked for their views;
- (e) a more passive approach by which the proposals were published as a Green or White Paper with an invitation to the public and representative organisations to debate them and make their views known, to be followed by an assessment compiled by the Hong Kong Government;
- (f) a combination of (d) and (e).

The Chinese Position

10. The Chinese position is that:

- (a) Hong Kong is and always has been part of China, that the population is 98% Chinese and that only the Chinese Government can represent the views of the people of Hong Kong;
- (b) it is not acceptable that the principle of the resumption of sovereignty and right of administration should be subject to public consultation in Hong Kong. The Chinese maintain that the views of the 1 billion people in China must take precedence over the views of 5 million Hong Kong Chinese on an issue of fundamental national policy;
- (c) they are prepared to consult the people of Hong Kong about the preparation of the Basic Law, but they propose to conduct this consultation themselves and do not envisage any role for the British or Hong Kong Governments. The more formal is the action taken by the British or Hong Kong Governments to determine the

SECRET

views of Hong Kong people, the stronger Chinese opposition is likely to be. The Chinese have moreover specifically ruled out a referendum.

British requirements and the Chinese attitude

11. To secure Parliamentary approval for any agreement we reach with the Chinese we must be able to demonstrate that it is acceptable to the people of Hong Kong. This will be politically hazardous. Given a free choice the majority of people in Hong Kong would choose the continuation of British administration. They remain intensely suspicious of the good faith of Peking. They believe that there is no guarantee that an agreement reached in 1984 will be observed by Chinese leaders in 1997. There is thus a danger of a rejection of any agreement with the Chinese by the Hong Kong population. HMG can scarcely co-operate with the Chinese in forcing it upon an unwilling population. There would be no alternative to returning to the Chinese with the demand that additional requirements should be met. The Chinese have already told us that an initialled agreement will represent their last word and that it is inconceivable that we should not go on to signature. If this was in doubt there is a danger that they might take steps to provoke a crisis. Moreover we have accepted, and indicated to the Chinese, that we do not expect that an agreement could be amended between publication as an initialled draft and signature. It would indeed be most unusual for a text to be varied between these stages.

Advantages and disadvantages of each form of consultation

12. In light of these factors the advantages and disadvantages of the various options are as follows:

- (a) a referendum is out of the question given Chinese opposition. The Chinese have the means to frustrate any attempt to hold one. The Foreign Secretary has already said publicly that a referendum would present very real drawbacks. This was broadly the view expressed in the House of Commons debate on 16 May.
- (b) an opinion poll overtly sponsored by the Government would be

SECRET

ruled out on the same ground. Covert encouragement of such a poll might be possible. But the phrasing of questions would be extremely difficult and the Chinese would be likely to maintain anyway that we were behind the move. Moreover in those circumstances we would not be able to demonstrate that we had ourselves taken adequate steps to assess acceptability.

- (c) an independent commission is almost equally problematical. There could possibly be some pressure from Parliament for such an arrangement, but the Chinese would certainly regard any Pearce style commission as outside interference and seek to frustrate its work. The Pearce Commission is not an auspicious precedent and there was no pressure for one in the House of Commons debate. Such a commission would also be open to manipulation in Hong Kong by vociferous minority groups.
- (d) a period of public debate in representative and semi-representative bodies in Hong Kong as well as at grass-roots level, stimulated by an invitation to the public to express their views on a draft agreement, would produce a reasonable reflection of public attitudes after the earlier phases of less structural and less informed debate, . It would probably be less likely to provoke interference from the Chinese. The Chinese would however almost certainly still object on the grounds that it was not for the British to conduct any consultative process in Hong Kong. In Hong Kong, the UK and particularly in Parliament such a process might be open to criticism on the grounds that the present system in Hong Kong, however actively and carefully operated, is still not fully elective or fully democratic. But criticism on this score could probably be kept within acceptable bounds if the debate was conducted through a wide enough range of channels.
- (e) a passive sounding of public opinion would be less provocative to the Chinese but at the same time less credible as a means of gaining a clearer and authoritative picture of the views of the people of Hong Kong. It would be more difficult to demonstrate to Parliament that we had fully consulted the people of Hong Kong and any assessment of public opinion would be more

open to question.

(f) a mixture of (d) and (e) would provide a fairly representative sounding of opinion. It could be defended on the grounds that a mix of approaches (part stimulated debate, part receptiveness to volunteered opinions) exposed HMG to the widest practicable expression of views),

13. With options (d), (e) and (f), careful consideration would need to be given to the type of explanatory or commendatory statement which might accompany the publication of the draft agreement. We should ensure that public opinion in Hong Kong fully understood the constraints within which the negotiators had worked and the absence of any realistic alternative to what was on offer. (This process of explanation is already under way.) The more explicitly we were able to urge acceptance of the draft agreement by Hong Kong, moreover, the more likely it would be that the Chinese would be reconciled to the whole exercise. We cannot yet decide precisely in what way the draft agreement will be put to the Hong Kong people: but it is likely that both a document of explanation and a statement of commendation will be required.

CONCLUSIONS

14. Before the publication of the draft agreement we must seek to maintain what is demonstrably a process of active consultation with Hong Kong opinion. The active soliciting of views and in particular the organisation of formal debate could cause us problems both with the Chinese and with Hong Kong opinion: but we must in any case make use of Hong Kong views in negotiation with the Chinese where we judge that they will help in obtaining an acceptable agreement. It may be helpful to reveal more details of the likely agreement (if this can be done in a way tolerable to the Chinese) by means of a second Ministerial statement to put our position and its constraints more clearly on record.

15. For the final process of assessing the acceptability of a draft agreement we should use a mix of options (d) and (e) in para 12 above. We should encourage debate through existing bodies on the

basis of the published text of the draft agreement, together with covering explanatory and commendatory statements. The results, added to the monitoring of public opinion, would form the basis of advice from the Hong Kong Government to enable HMG to assess whether a recommendation to Parliament could be justified.

16. If this approach is agreed, we should probably not delay much longer in announcing how we intend to assess opinion. The question is increasingly asked and our reply that we have not yet decided is becoming less credible. If a second Ministerial statement were to be made within the next four to six weeks, that might be the right occasion. If it were to be delayed longer we might need to find another way of making the announcement, eg in answer to an inspired PQ or through a statement by the Governor.

EXCO AND LEGCO

17. The special position of these bodies will have to be taken into account. EXCO will probably expect to continue to be closely consulted. At the same time however, EXCO Unofficials may maintain or step up their present tactics of distancing themselves from HMG's position and taking up a public position at variance with it. A break with the Unofficials can by no means be ruled out. This would make very much more difficult our task of convincing Hong Kong opinion to accept the agreement negotiated. LEGCO has given notice that it will wish to debate the question when a draft agreement is published. The Chinese will be highly suspicious of this. It will be important to continue to represent LEGCO discussion as a part of the process of consultation not the key element, and to avoid any suggestion of a LEGCO veto.

Prime Minutes.

● Hong Kong.

2 important papers on:-

(a) testing acceptability

(b) a joint group in the
transition period.

Do you want there to be
discussed in OD (K)?

A.F.C. $\frac{18}{5}$.

Yes please
no

For this week's OD meeting.

A.F.C. $\frac{24}{5}$.