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Prime Minister
CDP 16/7.25

MR POWELL

16 July 1984

CDP 17/7

HONG KONG: OD(K) 17 JULY

1. There are two papers to be considered: Undertakings to Hong Kong people and Nationality.

Undertakings

2. The Foreign Secretary proposes that we give assurances of entry into the UK to three categories from Hong Kong:

a.

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b. At normal retirement age, to administrative officers, policemen of the rank of Inspector or above, unofficial members of Exco and Legco and certain other individuals (estimated 13,500);

c. As necessary, for those others in the public service or community who may become vulnerable (rough estimate 20,000).

3. The Home Secretary considers these proposals too generous and following discussions today with the Foreign Secretary it is now proposed that the paper be withdrawn so

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that officials can try again to work out an agreed Foreign Office/Home Office line, or at least refine differences.

The Home Secretary I believe sees category (a) as tolerable, category (b) as difficult but perhaps at the end of the day manageable, category (c) as extremely difficult.

4. My own view, and here the Governor agrees, is that in this unique case we must try to be generous and that we can offer no less than (a). (b). and (c). The reasons are considerations of honour (our moral obligation) and expediency (without these undertakings acceptance of an agreement by Hong Kong would be much more doubtful and the administration after an agreement could begin to unravel). The numbers involved in the proposal would be in all 40,000 but phased over a period from now until well into the middle of the next century. We might reckon on an entry of about 3,000 per year. This would compare with 53,000 immigrants accepted for settlement here in 1983.

5. As regards further official discussion, clearly a common Foreign Office/Home Office line would be ideal, but not if it severely mutilated the proposals above or if the discussions took up too much time. We have effectively a week before the Foreign Secretary's departure for Peking and before the summer break and decisions will be needed at the very latest before the agreement is unveiled. It would be useful if a deadline could be set for this further Foreign Office/Home Office round, perhaps 2 August.


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Nationality

6. This is a technical issue but a highly sensitive one in Hong Kong. What is before the Committee is a draft annex to be put to the Chinese. It has been fully agreed at our end with one exception, the question of transmissibility. The annex has been cast in an unusual fashion because of the differing Chinese and British positions: the first two paragraphs take the form of unilateral statements by the two sides on nationality. The Chinese declare that they consider Chinese born in Hong Kong to have Chinese nationality. The British state that Hong Kong British Dependent Territory Citizens will continue to hold a form of British nationality after 1997. We hope this reflects the fact that, although the Chinese could not formally recognise dual nationality, they might allow it to operate in practice by permitting Hong Kong residents to travel on British passports.

7. Then there is the question of how long British nationality could be transmitted after 1997. Although the Chinese have said they cannot accept transmissibility, it is just possible that they may turn a blind eye to it as part of a unilateral British declaration. There are five possible periods; the Foreign Secretary favours the second (transmissibility for one generation). I agree we should try for this: we need to be seen to be fighting for Hong Kong on this sensitive issue.


PERCY CRADOCK

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PRIME MINISTER

Hong Kong: OD(K) 17 July

The main issue for discussion was to be Undertakings by HMG to Hong Kong people. But Sir Geoffrey Howe and Mr. Brittan will suggest that substantive discussion should be deferred until they can reach a common position. Time is pressing and you will want to set a deadline for this.

C.D.P.

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cc/c

B.06804

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PRIME MINISTER

c Sir Robert Armstrong

OD(K): Undertakings by HMG to Hong Kong People

FLAG A

The brief for tomorrow's OD(K) on the above subject was necessarily drafted before the outcome of a meeting held this afternoon between the Foreign and Commonwealth Secretary and the Home Secretary, about the handling of the paper, was known. I understand that Sir Geoffrey Howe and Mr Brittan will report to you at the meeting that they consider there should be no substantive discussion of the paper pending further work by officials. As indicated in paragraph 3 of the brief, this would imply an early completion of the further work so that Ministers can address this subject and take the necessary decisions soon.

B G Cartledge

16 July 1984

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B.06803

~~PRIME MINISTER~~

c Sir Robert Armstrong

OD(K): Future of Hong Kong: Nationality

BACKGROUND


FLAGC

In his minute to you of 13 July, the Foreign and Commonwealth Secretary seeks the Sub-Committee's agreement to putting an Annex on Nationality to the Chinese. The draft Annex, which is attached to his minute, attempts to meet United Kingdom requirements while taking account of Chinese sensitivities. Subject to one caveat, it has been agreed by all concerned on the British side (i.e. officials from the Foreign and Commonwealth Office, Home Office, Hong Kong Government and HM Embassy in Peking). It was approved, subject to the same caveat, by the Hong Kong Executive Council on 9 July.

2. The sole unresolved question concerns the opening bid with the Chinese on the transmissibility of British nationality after 1997. Five alternatives are put forward (in square brackets in paragraph 2 of the Annex). The Foreign and Commonwealth Secretary favours option (b) (i.e. transmissibility limited to one generation), with option (c) as a fall-back (i.e. the retention of transmissibility for 50 years after 1997). EXCO want option (a) (i.e. transmissibility without a time limit).

HANDLING

3. You should invite the Foreign and Commonwealth Secretary to introduce the discussion. The main points to establish are -


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a. Would it be better tactics to make option (a) the opening bid, even though there is no prospect of the Chinese accepting it? Apart from presentational advantages, vis-a-vis EXCO, would this improve the chances of securing option (b)? The Foreign and Commonwealth Secretary should be invited to comment: and the Home Secretary should be asked to comment on any possible immigration implications.

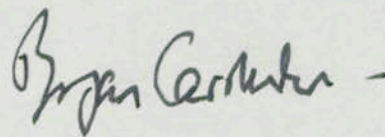
b. On the assumption that the Sub-Committee agree that an Annex on Nationality should be put to the Chinese, when should this be done? Should a text be handed over in advance of the Foreign and Commonwealth Secretary's visit to Peking from 27 to 31 July?

CONCLUSION

4. Subject to the points made in discussion, you might guide the Sub-Committee to the following conclusions:

(i) agree that the draft Annex on Nationality should be put to the Chinese in advance of the Foreign and Commonwealth Secretary's visit to Peking;

(ii) invite the Foreign and Commonwealth Secretary to incorporate in the Annex whichever formula on transmissibility the Sub-Committee has agreed to be preferable as an opening bid.



B G Cartledge

16 July 1984

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ODP 1717

B.06802

PRIME MINISTER

c Sir Robert Armstrong

OD(K): Undertakings by HMG to Hong Kong People

BACKGROUND

At their meeting on 3 May, the Sub-Committee had a preliminary discussion of the possible exercise of the discretionary power under Section 4(5) of the British Nationality Act 1981 whereby civil servants and others employed in government in Dependent Territories can be admitted to the United Kingdom following independence (OD(K)(84) 5th Meeting). It was agreed that further work needed to be done and the Foreign and Commonwealth Secretary was invited to bring a paper to the Sub-Committee on the matter. This he has done, under cover of his minute of 13 July to you.

FLAG-B

FLAG-C

2. Unfortunately, although the paper has been prepared in consultation with the Governor of Hong Kong, the Foreign and Commonwealth Secretary has not been able to discuss it with the Home Secretary, let alone clear it with him in advance. But in view of the time pressure, Sir Geoffrey Howe has still thought it right to circulate the paper to OD(K) "on a second reading basis". The Home Secretary is unhappy about this procedure and is opposed to the Sub-Committee considering the paper before he and Sir Geoffrey Howe and their officials have been able to discuss it further.

3. If it is agreed that the Sub-Committee should defer its discussion of undertakings to Hong Kong people, it is pertinent to ask when it should do so. The Foreign and Commonwealth Secretary takes the view that public servants in Hong Kong will want to know what their position will be

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in 1997 when the agreement with the Chinese is published in September and that failure to tell them could create uncertainty and start an exodus. If this view prevails, Ministers will need to address this subject, and take the necessary decisions, soon.

HANDLING

4. You should invite the Foreign and Commonwealth Secretary to introduce the discussion and the Home Secretary to reply. It would be logical to handle the ensuing discussion under the following main headings -

a. Principle of undertakings by HMG

It is unclear whether the Home Secretary (or indeed other members of the Sub-Committee) accept the need for undertakings of some kind to certain categories of Hong Kong people. It would be as well to establish at the outset whether there are objections of principle to such undertakings.

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b. Extent of undertakings

If the principle of giving undertakings is accepted, at least to this minimal extent, the Sub-Committee could go on to consider whether this should be spread more widely. The paper identifies (paragraphs 26-32), in addition to the intelligence community, two further categories of Hong Kong people who might be "specially at risk". The Foreign and Commonwealth Secretary



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should be asked to clarify the proposals concerning them: for example -

(i) so far as administrators and police officers are concerned, is it realistic to expect them to serve on after 1997 until they reach retirement age if they are admitted to be vulnerable to retribution? Would they not press for the grant of British citizenship before then and, if so, could we refuse to grant it if it has been accorded to their seniors who retire pre-1997?

(ii) The third category of public servants, etc. who may become vulnerable is enormous - about 800,000: on what basis is it assessed that only 20,000 will qualify for an offer of citizenship? Could not this figure become very much higher if the situation in Hong Kong were suddenly to deteriorate pre-1997? (The Home Secretary might be invited to comment.)

(iii) The Secretary of State for Defence will need to express a view on possible undertakings to locally employed staff working in Hong Kong for HM Forces, in particular members of the Hong Kong Military Service Corps. No indication is given in the paper of the numbers involved falling into this category.

c. Other modalities

A variety of other questions will need to be considered if and when it is decided that undertakings should be given to specific groups of Hong Kong people. When should the individuals concerned be informed? Will not knowledge spread that undertakings are being given,

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triggering a stampede to prove "vulnerability"?
How can a phased exodus be assured? Should the Chinese be informed? (Although in paragraph 7 of his minute the Foreign and Commonwealth Secretary argues that the Chinese should be informed, this would surely be difficult in the case of those who are given undertakings because of their activities in the intelligence field.) More generally, what is the right political balance to strike between our moral obligations and the constraints of our nationality and immigration policies?

CONCLUSION

5. You may be able to guide the Sub-Committee to the following conclusions:

(i)

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(ii) invite the Foreign and Commonwealth Secretary, in consultation with the Home Secretary, to consider the case for undertakings to other groups of public servants in Hong Kong who might be at risk after the handover of power to China and to report;

(iii) agree that, pending further discussion, nothing should be said about possible undertakings either to Hong Kong people to whom they may be offered (including those engaged in intelligence operations) or to the Chinese Government.

Bryan Cartledge

B G Cartledge

16 July 1984